

DERBYSHIRE COUNTY COUNCIL

REGULATORY – PLANNING COMMITTEE

15 February 2016

- 1 APPLICATION FOR PERMISSION FOR THE LAYING OUT AND CONSTRUCTION OF A PROPOSED MULTI-USER TRAIL (PHASE 3) FROM CHURCH ROAD, DARLEY DALE TO HARRISON WAY, DARLEY DALE, WITHOUT COMPLIANCE WITH CONDITION 5 OF PLANNING PERMISSION CD3/1214/122 TO ENABLE WORKING 0700 HOURS TO 1200 HOURS ON SATURDAYS
SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990
APPLICANT: DERBYSHIRE COUNTY COUNCIL
CODE NO: CD3/1015/99**

3.1723.7

(1) Purpose of Report To enable the Committee to determine the application.

(2) Information and Analysis Planning permission CD3/1214/122, for the layout out and construction of a proposed multi-user trail, forming Phase 3 of the Matlock to Rowsley section of the wider White Peak Loop extension, was granted on 7 May 2015, subject to a number of conditions. This application seeks a permission which does not require Condition 5 of that permission to be complied with. This is in order to amend the hours of operation on Saturdays from 0900 hours - 1700 hours to 0700 hours - 1200 hours. The hours of operation Monday to Friday would remain 0730 hours - 1800 hours. The application states that the amended Saturday working hours are required in order to fit in with the appointed contractor's hours of operation.

Consultations

Local Member

Councillor Wild has been consulted with a request for comments by 30 October 2015.

Derbyshire Dales District Council

Derbyshire Dales District Council (DDDC) raised no objection but had the following comments to make.

'The neighbouring residents at Station Road and Willow Way should be consulted given the potential for noise nuisance. It is also recommended that no machinery be used until 9.00 am at the earliest.'

Derbyshire Dales District Council's Environmental Health Officer

DDDC's Environmental Health Officer (EHO) raised no objection to the proposal.

Darley Dale Town Council

'Objection on grounds of impact of noise on residential properties on a Saturday morning (between hours of 07.00 and 9.00).'

Northwood and Tinkersley Parish Council and Rowsley Parish Council

Comments were requested by 30 October 2015.

Peak Rail

Peak Rail has no objection to the proposal but made the following comments.

'We have no objections in principle to the proposed changes to working times but would ask that both the contractors and the Council's contract supervisor maintain close liaison with Peak Rail while work is being undertaken in the vicinity of the Rowsley South site to ensure that there is minimum inconvenience to the railway and its customers on days that trains are running. This will be particularly important when we are running special events such as the Santa Specials when the car park becomes extremely busy.'

Environment Agency, Natural England and the Lead Local Flood Authority

No comments.

Derbyshire Wildlife Trust

Comments were requested by 30 October 2015.

Publicity

The application has been advertised by site notice and by press notice in the Matlock Mercury with a request for comments by 20 November 2015. As a result of the publicity, one letter of representation has been received expressing concern about the potential for the users of the trail to cut across the Church Lane allotments.

Comment: The principle of the use of the land as a multi-user route in this location has already been assessed and found to be acceptable during the determination of planning permission CD3/1214/122. Whilst the comments are therefore noted, they are not directly relevant to the consideration of the current application. Nevertheless, the comments have been passed to the applicant for their information.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the saved policies of the adopted Derbyshire Dales Local Plan (2005). The National Planning Policy Framework (March 2012) is also relevant. The principal planning policies relevant to this grant of planning permission are:

The National Planning Policy Framework

The National Planning Policy Framework (NPPF) states that local authorities taking decisions on planning applications should consider issues relating to good design, and conserving and enhancing the historic and natural environment. The relevant policies in the NPPF are:

Paragraph 28: Sustainable rural tourism and leisure developments.
Paragraph 29: Reducing the need to travel.
Paragraph 30: Sustainable modes of transport.
Paragraph 35: Priority to pedestrian and cycle movements.
Paragraph 75: Protecting and enhancing public rights of way and access.
Paragraph 118: Conserving and enhancing biodiversity.
Paragraph 123: Noise.

Adopted Derbyshire Dales Local Plan

SF4: Development in the Countryside.
SF5: Design and Appearance of Development.
SF8: Catering For The Needs Of People With Disabilities In Development And Redevelopment.
EDT17: Tourist Attractions.
NBE6: Trees and Woodlands.
NBE8: Landscape Character.
NBE10: Flood Risk And Surface Water Discharge.
NBE14: Light And Noise Pollution.
NBE26: Landscape Design In Association With New Development.
NBE27: Crime Prevention.
TR 1: Access Requirements And The Impact Of New Development.
TR4: Safeguarding The Reinstatement Of Railway Lines.
TR6: Pedestrian Provision.
TR7: Cycling Provision.
TR8: Parking Requirements For New Development.

Whilst the above policies are all relevant to the development as a whole, the principle of the development has already been established and this application seeks only to vary the proposed working times for the construction phase of the proposal. Therefore, I consider the most relevant policy against which to

assess this proposal is NBE14: Light And Noise Pollution, as the key planning consideration for this application is noise.

Noise

The proposed amended working times would have work starting two hours earlier than is currently permitted on Saturdays. I note that Darley Dale Town Council has objected to the proposal on the grounds of impact of noise on residential properties between the hours of 0700 hours and 0900 hours. However, the majority of the route of this phase of the development is away from residential properties. The exceptions to this are the south-eastern end of Phase 3, which is close to properties on Church Road and Butts Road, and the north-western end of the Phase, which is close to properties on Dale Road North.

I consider that the proposed amended working times are, in general, unlikely to have a significant adverse impact on local amenity. However, I consider that there is potential for localised impacts to occur in the areas mentioned above which are in close proximity to residential dwellings. I therefore consider that, subject to the imposition of a condition limiting working of specific areas within these vicinities to after 0900 hours on Saturdays, the proposal would be in accordance with Policy NBE14 of the adopted Derbyshire Dales Local Plan.

Conclusion

I consider that the proposal would accord with development plan policies, subject to the conditions outlined, and therefore, the application is recommended for approval.

(3) **Financial Considerations** The correct fee of £195 has been received.

(4) **Legal Considerations** This is an application submitted under the terms of the Town and Country Planning General Regulations 1992 for development which the Authority itself proposes to carry out.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

(6) **Background Papers** File No. 3.1723.7

Application form dated 7 October 2015 and Planning Statement. Consultation responses from the Environment Agency dated 12 October 2015, DDDC's EHO, Landscape and Tree Officer dated 13 October 2015, the Highways Authority dated 15 October 2015, Darley Dale Town Council dated 16 October 2015, Peak Rail dated 19 October 2015, Natural England dated 21 October 2015, Public Rights of Way dated 23 October 2015, Design Quality dated 26 October 2015, the Lead Local Flood Authority dated 27 October 2015, DDDC dated 9 November 2015 and a letter of representation dated 3 November 2015.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission is **granted** subject to the following conditions:

- 1) The development shall be undertaken in accordance with the details submitted in respect of the planning application CD3/1214/122 dated 18 December 2014 and approved 7 May 2015 comprising Planning application form dated 18 December 2014; Planning Statement; Arboricultural Assessment Report and associated Tree Survey Report; Heritage/Archaeological Assessment Report; Landscape and Visual Impact Assessment Report; Flood Risk Assessment; Extended Phase 1 Habitat Report; Ecological Impact Assessment Report; Red Line Boundary Plan (47069970/DWG/PA/22); Detailed Route Plans (47069970/DWG/PA/04, 47069970/DWG/PA/14, 47069970/DWG/PA/15 and 47069970/DWG/PA/17); additional information dated 17 February 2015 incorporating traffic speed survey and plans 47069970_DWG_PA17 C and 47069970_DWG_PA02 D; and additional information dated 31 March 2015 incorporating Church Road crossing - highways statement and drawings 47069970/DWG/PA28, 47072695/SS/WS-01 and 47072695/SS/WS-02, subject to the amendments provided by the application for this permission CD3/1015/99 comprising application form dated 7 October 2015 and planning statement.

Reason: To clarify the details approved.

- 2) The development shall not be put into public use until the date for its opening has been submitted to and approved in writing by the County Planning Authority. Thereafter, the route shall only be open for use by the public in accordance with the approved opening date.

Reason: To enable the County Planning Authority to monitor the development in the interests of highway safety and local amenity.

- 3) Construction work on the development, including the movement of plant/machinery, shall only be carried out between the hours of:

0730 hours to 1800 hours Monday to Friday;
0700 hours to 1200 hours Saturdays.

There shall be no construction work on Sundays, Bank Holidays or other Public Holidays.

Reason: To clarify the hours of operation and in the interest of local amenity.

- 4) No construction work on the development shall be carried out in the areas highlighted on drawing numbers WPL1 and WPL2, which are attached to this permission, before 0900 hours on Saturdays.

In this condition only, construction work does not include the movement of plant/machinery.

Reason: In the interest of protecting local amenity in accordance with Local Plan Policy BNE14.

- 5) No trees, hedgerows, gritstone squeeze stiles, gritstone walls/gateposts shall be cut/taken down, damaged, destroyed or removed during the development, other than in accordance with the details as approved by the County Planning Authority on 8 November 2015 under reference SD2776.

Reason: To ensure that these features are properly maintained and managed for the duration of the development in the interest of visual amenity and local landscape character.

- 6) Within two months of the date of this permission, a landscaping scheme shall be submitted to the County Planning Authority for its approval in writing. The landscaping scheme, which shall include the information set out at points i) – vi) below, shall then be implemented as approved. The scheme shall include:
- i) the retention/reuse of existing gritstone squeeze stiles, and gritstone walls/gateposts;
 - ii) the proposed location and species type of trees and boundary hedges to be retained and replanted;

- iii) amended fencing details for the boundary between the trail and the Peak Rail car park near Firth Rixson (drawing no 47069970/DWG/PA/15 Rev C);
- iv) construction specification and proposed route of the multi-user trail through the woodland that has been protected with a District Tree Preservation Order to the rear of Northwood Depot;
- iv) landscaping five year aftercare management plan details; and
- v) a programme of implementation

Reason: In the interests of local amenity.

- 7) All works to trees, shrubs and hedgerows shall be undertaken in accordance with the Arboriculture Method Statement, as approved by the County Planning Authority on 8 November 2015 under reference SD2777.

Reason: To ensure that these Arboriculture features are properly maintained and managed for the duration of the development in the interest of visual amenity and local landscape character.

- 8) The proposed development shall not be put into public use until the highway safety scheme, approved by the County Planning Authority on 24 September 2015 under reference SD2778, has been implemented as approved.

Reason: In the interests of highway and public safety.

- 9) Where relevant, the construction phase of the development shall be undertaken in accordance with the requirements of the scheme for highway safety during construction, as approved by the County Planning Authority on 24 September 2015 under reference SD2779.

Reason: In the interests of highway and public safety.

- 10) No gates, including any part of their opening arc, shall be permitted to open outwards over the adjoining public highway.

Reason: In the interests of highway and public safety.

- 11) A scheme of monitoring shall take place in the vicinity of the access/egress points to ascertain any hazardous on-street parking problems as a consequence of the development. The monitoring shall take place over an 18 month period, following the opening of the route to the public and, if associated parking problems are highlighted during this period, the applicant shall submit a scheme to address the issues to the County Planning Authority for approval. The works shall then be

implemented in accordance with the approved details in a timescale to be agreed with the County Planning Authority.

Reason: In the interests of highway and public safety.

Statement of Compliance with Article 35 of the Town and Country (Development Management Procedure) (England) Order 2015

The Authority worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Footnotes

- 1) This permission, granted under Regulation 3 of the Town and Country Planning General Regulations 1992, is for the sole benefit of Derbyshire County Council and can only be implemented by that Authority.
- 2) The Highway Authority recommends that the first 5 metres of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc).
- 3) Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- 4) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- 5) Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Street works Act 1991, prior notification shall be given to the Department of Economy, Transport and Environment at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of

access works within the highway limits is available via the County Council's website:

www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, or via email:

ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

- 6) Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting this Authority via email - es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- 7) No works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.
- 8) The application site may affect existing public rights of way. These routes must remain unobstructed and on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
- 9) Construction works are likely to require Traffic Management and advice regarding procedures should be sought from the Economy, Transport and Environment Department's Traffic Management Section, telephone 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Council's website; relevant forms are available via the following link:
www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp.

Mike Ashworth
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**Committee Plan - White Peak Loop Phase 3
CD3/1015/99**





