



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

REGUALTORY - PLANNING COMMITTEE

6 November 2023

Report of the Executive Director - Place

- 1 The Proposed Installation of an Above Ground Pipe Located on the Highway Verge of the Road Bridge approximately 40m North-East of the Road Access Point into Mercia Marina, Findern Lane, Willington, South Derbyshire, DE65 6DW
Applicant: Severn Trent Water Limited
Code No. CW9/0723/16**

9.1611.1

1. Introductory Summary

- 1.1 This application is for the installation of an above ground pipe crossing at Findern Lane, required as part of Severn Trent Water's operational improvements. The pipework is required above ground level as there is insufficient space to install the pipework under the road level on the canal crossing there. The pipe is to be sited on highway land comprising grassland on a verge between an existing Armco crash barrier and a post and rail fence on the canal crossing road bridge at Findern Lane. A kiosk on the verge is also proposed, to house a valve along the pipework. There are two footbridges either side of the road bridge which would not be impacted by the proposed works and a hedgerow either side of the canal crossing.
- 1.2 Objections have been submitted by Willington Parish Council and one member of the public. The consultation responses and objections are summarised in this report. I am satisfied that any environmental and amenity impacts would not be unacceptable and can be satisfactorily mitigated. The proposal would accord with the policies of the development plan and the National Planning Policy Framework. The

application is therefore recommended for approval, subject to planning conditions.

2. Divisions Affected

2.1 Willington.

3. Purpose

3.1 To enable the application to be determined by the Regulatory - Planning Committee.

4. Information and Analysis

The Site

4.1 The application site is located along Findern Lane, Willington, OS Reference: SK 30222 29368 (Easting: 430222, Northing: 329368).

4.2 The nearest designated ecological site to the works is Willington Grassland which is located 200m to the south.

4.3 The site is situated within Flood Zone 1, which means there is a low probability of flooding.

4.4 The nearest permanent residential property is located approximately 180m north-east along Willington Road, although moorings to boats, providing temporary accommodation, are within approximately 50m of the site.

4.5 The site is not within a Conservation Area, although the whole length of the Trent and Mersey Canal, approximately 200m to the south, is a designated Conservation Area. The nearest known designated heritage asset to the site is Willington Hill Farmhouse (Grade II listed) which is located approximately 800m to the west of the site.

4.6 There are no public rights of way in close proximity to the site which are considered likely to be affected by the works.

Planning History

4.7 Derbyshire County Council's planning records show there are no previous planning applications made to the Council for this site.

Proposed Development

The Proposal

- 4.8 Severn Trent Water (STW) is currently implementing its Asset Management Plan (April 2020 to March 2025), which is the mechanism by which the regulator OFWAT defines a five-year capital expenditure programme for all water companies. Investment during this period is in response to a number of key challenges including population growth and the importance of protecting the environment. This seeks to build the resilience of water supply, reduce leakage and pollution incidents. The proposals form a small part of that programme. The above ground pipe would consist of a ductile iron pipe of approximately 220 millimetre (mm) diameter, coated in red and installed within a black PVC sleeve, which would be approximately 13.23m in length. The maximum height of the pipe would be approximately 0.6m above ground level. The pipe would be supported by a below ground concrete pad foundation either side of the crossing.
- 4.9 Planning permission is required for the pipe crossing as it would be situated above ground level. An air valve, required as the pipeline is coming above ground, would be located on the south side of the crossing. A kiosk, measuring 2.08m in height by 1.22m in width by 1.00m in depth, would enclose the valve. The kiosk would therefore be small in scale, compared to the 29m³ volume limit for development consisting of the installation in a sewerage system of a valve house that constitutes permitted development (under Class B of Part 13 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015). The valve and associated kiosk have been designed to be as small as possible to fulfil operational requirements. The kiosk would be coloured dark green and be constructed of glass reinforced plastic (GRP) to blend into the existing landscaping as far as is practicable.
- 4.10 In order to carry out the proposed works, the northern side of Findern Lane, closest to the proposed pipe crossing, would need to be temporarily closed for a period of approximately four weeks, and temporary traffic lights would be in place for this period. All spoil would be loaded directly onto a wagon and dumper and removed from site. No spoil would be stored in the grass banking area. Volumes would be relatively small (less than 20 tonnes). No structures need to be permanently removed to facilitate the proposed works. The area between the Armco cash barrier and the new pipe crossing would be returned to a grass verge on completion of the works.

Consultations

Local Member

- 4.11 Councillor Ford has been consulted on the application and no comments have been received.

South Derbyshire District Council - Planning

- 4.12 South Derbyshire District Council (SDDC) Planning has been consulted and no comments have been received.

South Derbyshire District Council – Environmental Health Officer

- 4.13 SDDC Environmental Health Officer (EHO) has no objections to the application but proposed the following condition:

“During the period of construction, no ground or construction works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.”

Willington Parish Council

- 4.14 Willington Parish Council was consulted and responded on 14 September 2023 with the following comments:

- *“The siting of the sewage pipeline above road and canal level creates a pipeline high point, making air accumulation likely. This is evidenced by the inclusion of an air vent, for pressure relief. It is understood that this vent will be automatic and release noxious gases in a populous area with unknown regularity. Mercia Marina is a popular tourist and residential area; such noxious gas releases would be undesirable.*
- *Siting of the sewage pipeline above road and canal level will make the pipeline prone to damage accidentally (i.e., car impact on adjacent armco crash barrier) and maliciously (i.e., vandalism). Any damage to this pipeline, could prevent access to Mercia Marine from sewage falling into the canal above the canal access point as well as causing a safety hazard on the adjacent road.*
- *The proposal includes a cabinet, to house a pump and air valve. Having viewed the site, the Council note that the cabinet will obscure the vision of drivers leaving the main Mercia marina car park. The siting of the cabinet is therefore a road safety concern.*

- *Siting of the sewage pipeline above the road and canal level will create an eye sore in a popular tourist location.*
- *Paragraph 2.4 of the planning, Design and Access Statement, prepared by Fisher German LLP says that there are no Conservation Areas within 5km of the proposed location. In fact, there are several conservation areas closer than 5km with the Trent and Mersey Canal, located only 100m away being one, and is clearly within view of the proposed pipe. The Council do not consider this sewage pipeline compatible with a Conservation Area.*

All the above points become irrelevant should the sewage pipe be buried, beneath the canal. The Council note that only the impracticality of burying the sewage pipe beneath the road has been considered, and rejected.

It is for these reasons that Willington Parish Council object to this planning application. In favour of a design burying the sewage pipeline beneath the canal.”

The Environment Agency

- 4.15 The Environment Agency (EA) has raised no objection to the proposed development as submitted. The EA confirmed that the site is in a Flood Zone 1 area and, as such, there were no concerns of fluvial flood risk and no other environmental constraints associated with the application.

Lead Local Flood Authority

- 4.16 The Lead Local Flood Authority (LLFA) made the following comment:

“as this is a minor application the Lead Local Flood Authority (LLFA) has no formal comment to make”

The Canal and River Trust

- 4.17 The Canal and River Trust (CRT) has confirmed that it has no comment to make in this instance

Highway Authority

- 4.18 Derbyshire County Council, as the Highway Authority required details of a Construction Management Plan (CMP) to be adhered to throughout the demolition/construction period which should include but not be restricted to:

- *“Parking of vehicle of site operatives and visitors*
- *Any proposed temporary traffic management*
- *Hours of working*

- *Locations for loading/unloading any storage of plant, waste and construction materials*
- *Method of preventing mud and dust being carried onto the highway*
- *Arrangements to receive abnormal loads or unusually large vehicles.”*

4.19 The applicant responded (27 July 2023) with submission of a CMP.

4.20 On the basis of the above information, the Highway Authority responded on 31 July 2023 to state that it was satisfied with the content of the CMP.

Public Rights of Way

4.21 The Public Rights of Way Team (PROW) was consulted and confirmed that there were no objections to the proposals as the closest footpaths (numbers 8 and 12) would be unaffected by the proposed works. It did advise that *“there should be no encroachment on the paths and they must remain unobstructed and on their legal alignment, consideration should be given to the safety of members of public during the works.”*

Publicity

4.22 The application was advertised by site and press notices (Derbyshire Times) with a request for comments by 17 August 2023.

4.23 One representation has been received objecting to the proposal. The comments made are (in summary):

- The size and mass of the kiosk. A request that a smaller kiosk and shorter air valve be used to reduce the “excessive” clear height or “a lower rail on the Armco barrier” be used to “drop the pipe height to reduce the overall height.” The height was thought to be “detrimental to the architectural merit of the Marina’s award-winning built environment as viewed from Findern Lane.”
- Position of the Air Valve and Kiosk request to be placed at the furthest point from the Marina entrance to reduce the “potential impact to our business and other businesses on the site.”
- Obstruction to sight lines from the size and bulk of the kiosk to vehicles exiting the Marina.
- A request for the Traffic Management Proposal signs be repositioned to maintain a clear access and egress.
- Concerns that sewage smells may be emitted from the air release valve and assurance that sufficient filtration is installed to the nearby Marina cafe boat, external picnic benching and main footpath to the wildlife walks for visitors.

- 4.24 Where material to the determination of this application, these concerns are addressed in the report.

Planning Considerations

- 4.25 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the relevant development plan elements comprise the saved policies of the Derby and Derbyshire Waste Local Plan (DDWLP) (2005), the South Derbyshire Local Plan (SDLP) Part 1 (2016) and Part 2 (2017). There is no Neighbourhood Plan in this area. The NPPF (Revised September 2023), the Planning Practice Guidance (PPG), along with the National Planning Policy for Waste (NPPW) (2014); and the Waste Management Plan for England (2021) are also material policy considerations.

The Development Plan

4.26 **Derby and Derbyshire Waste Local Plan (2005)**

W1b: Need for the Development.
W5: Identified interests of environmental importance.
W6: Pollution and Related Nuisances
W7: Landscape and Other Visual Impacts.

4.27 **South Derbyshire District Local Plan (Part 1) (2016)**

S2: Presumption in favour of Sustainable Development
SD1: Amenity and Environmental Quality.
SD2: Flood Risk.
SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure
BNE3: Biodiversity.
BNE4: Landscape Character and Local Distinctiveness
INF2: Sustainable Transport

4.28 **National Planning Policy Framework (Revised September 2023)**

The National Planning Policy Framework (NPPF) provides guidance on material considerations in the context of determining planning applications. It states that the purpose of the planning system is to help deliver sustainable development and adds that there should be a presumption in favour of sustainable development. The term sustainable development is not defined as such but is said to have economic, social and environmental aspects. The economic aspect is to provide sufficient land for the right type of development, in the right place at the right time. The social role is to support strong and vibrant communities by providing for the needs of the community whilst fulfilling the

environmental role of protecting and enhancing the natural, built and historic environment.

- 4.29 Those parts of the NPPF which are particularly relevant to this proposal are:

Chapter 2: Sustainable Development.

Chapter 14: Meeting the challenge of climate change, flooding and coastal change.

Chapter 15: Conserving and Enhancing the Natural Environment

Other National Guidance

- Planning Practice Guidance (PPG).
- National Planning Policy for Waste (NPPW) (2014).
- Waste Management Plan for England (WMPE) (2021).

Main Issues to Consider

- 4.30 The main issues to consider with regard to this application are:

- The Need for Development
- Visual/Landscape considerations
- Amenity considerations
- Highways considerations

Need For Development

- 4.31 The works are required as part of STW's operational improvements in currently implementing its Asset Management Plan between April 2020 to March 2025. The proposed work is part of a wider scheme in which Findern Sewage Treatment Works is to be decommissioned and a new pipeline is to be installed to divert flows to another catchment area (Clayton Mills). Policy W1b of the DDWLP states that development will be permitted if the development would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management.
- 4.32 Policy SD3 of the South Derbyshire Local Plan (SDLP) states that SDDC will work with Derbyshire County Council, water companies, developers, and other authorities and relevant stakeholders to ensure that South Derbyshire's future water resource needs, wastewater treatment and drainage infrastructure are managed effectively in a co-ordinated manner by:

“(i) Ensuring that adequate water supply, sewerage and drainage infrastructure needed to service new development is delivered in tandem with identified growth.”

- 4.33 I am satisfied that the works are required in order for STW to meet the requirements of its operational programme and in order to effectively provide waste-water infrastructure. In principle, the proposal accords with the aims of the NPPF, the NPPW, Policy W1b of the DDWLP and Policy SD3 of the SDLP, as there is a need for this type of waste infrastructure to meet the expectations of the waste hierarchy and it would contribute to sustainable development objectives.

Design/Landscape Considerations

- 4.34 Policies W7 of the DDWLP and BNE4 of the SDLP are concerned with protecting the landscape. The pipe crossing as proposed would be located on highway verge on Findern Lane over the canal road bridge. The pipework would be partly screened by the Armco barrier adjacent, and it is noted that there is no footway here at the highway. This would limit the immediate visual presence of the pipework in the main to passing vehicles. The pipework would be visible from the adjacent footbridge but, given the modest height of 0.6m above ground level and modest length of approximately 13m, together with existing fencing adjacent to the canal at this point, the pipework would be partially screened and, in itself, would not create a significant visual presence or impact.
- 4.35 The kiosk element would have a greater visual presence, however, this would not be to an unacceptable level given its modest size of approximately 2.08m in height, 1.22m in width and 1.00m in depth. The kiosk would also be painted in a recessive dark green, assisting in further mitigating any minor visual impact which would be limited to the immediate area given its very modest size. Whilst concerns have been expressed by the Parish Council and a single other objector with regard to visual impact, the site is not within any sensitive landscape or heritage designation. It is in close proximity to the popular Mercia Marina development, it is on the highway approach, rather than within the main area of that complex. It is also notable that the kiosk element would, if undertaken in isolation as a new valve house installation on an existing sewerage system, be a type of permitted development. None the less, as part of the overall proposal, I do not consider that the very limited visual impact that would result, when balanced against the public benefit of this necessary infrastructure provision, warrants refusal of the application. I consider that the proposal with regard to visual/design and landscape considerations is in accordance with Policy W7 of the DDWLP and Policy BNE4 of the SDLP.

Amenity Considerations

- 4.36 Policy W6 of the DDWLP and Policy SD1 of the SDLP are concerned with effect control and mitigation of potential amenity impacts, such as air and noise pollution.
- 4.37 Policy W6 of the DDWLP states that, *“Waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects to: people or communities; the site of the development; nearby land uses; or the wider environment”*.
- 4.38 Policy SD1 of the SDLP states that, *“The Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.”*
- 4.39 The nearest residential property (permanent dwelling) is located approximately 180m north-east, along Willington Road. The Mercia Marina, which can accommodate up to 600 boats, is within 50m of the site and a number of holiday lodges are within 150m (to the north-west). There is potential for noise levels to increase temporarily during construction, although any potential impacts are anticipated to be relatively minor and local to the site. They would also be temporary and short term for the duration of construction (anticipated to be a period of approximately four weeks). A condition restricting working hours in line with the comments of the EHO is recommended. Once operational, the proposed development would not generate any significant noise.
- 4.40 With regard to odour, whilst an air valve would be located within the valve housing kiosk, the applicant has confirmed that there will not be a direct discharge of noxious gases. Whilst concerns have been raised by the Parish Council and one member of the public, with regard to potential odour/gas emissions, the EHO (South Derbyshire) has not objected to the proposals and has not raised any concerns with regard to potential odour effects.
- 4.41 I am satisfied that those elements would not have a significant impact upon amenity issues, such as noise and odour, and that in this regard the application is in accordance with Policy W6 of the DDWLP and Policy SD1 of the SDLP.

Highways Considerations

- 4.42 Policy INF2 of the SLDP requires that development proposals should not have a detrimental impact upon highway safety. I note concerns raised by Willington Parish Council and from a single member of the

public with regard to obstruction to visibility of motorists and highway safety. All of the development would be within the highway verge, at approximately 30m north-east from the vehicular access to the Mercia Marina development, on a stretch of Findern Road with good visibility. The Highway Authority has therefore raised no objections to the proposal with regard to highway safety.

- 4.43 A CMP and Temporary Traffic Lights Plan has been submitted by the applicant which is considered acceptable by the Highway Authority. Temporary traffic lights would be in place in close proximity to the access to Mercia Marina (traffic to stop before the access point, with lights just beyond access point) for the period of works, anticipated to be approximately four weeks.

Conclusion

- 4.44 I consider that a need has been demonstrated which justifies the proposed installation of an above ground pipe. I do not consider that the pipe installation would lead to any unacceptable significant impacts, singularly or cumulatively, and the application is considered to be in accordance with national and local planning policy. The application is therefore recommended for approval subject to conditions

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers File No. 9.1611.1

- 6.1 Application documents and correspondence received from Fisher German, acting as Agent for Severn Trent Limited. All consultation correspondence received with regard to the application.

Documents

- Application Form dated 3 July 2023.
- Planning, Design and Access Statement prepared by Fisher German LLP dated 3 July 2023.
- Construction Management Plan received 27 July 2023.

6.2 Plans

- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08001 PO3 Proposed Rising Main Canal Crossing – Site Location Plan.

- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08002 PO3 Proposed Rising Main Canal Crossing – Existing Site Layout.
- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08003 PO3 Proposed Rising Main Canal Crossing – Proposed Site Layout.
- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08004 PO3 Proposed Rising Main Canal Crossing – Proposed Elevations.
- Updated Traffic Management: Traffic Lights, dated 10 August 2023.

6.3 Consultation Responses

- Local Highways dated 11 July 2023.
- Environment Agency dated 13 July 2023 and 31 July 2023.
- Public Rights of Way dated 18 July 2023.
- Canal and River Trust dated 21 July 2023.
- South Derbyshire District Council EHO dated 24 July 2023.
- Local Flood Risk Management dated 16 August 2023.
- Willington Parish Council dated 13 September 2023.

7. Appendices

7.1 Appendix 1 - Implications.

7.2 Appendix 2 – Site Plan.

8. Recommendation

8.1 That the Committee resolves that planning permission for the development proposed under Application Code No. CW9/0723/16 be **granted** subject to:

Commencement

- 1) The development hereby permitted shall be commenced before the expiry of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

Approved Plans and Documents

- 2) The development shall be carried out in accordance with the details set out in the application for planning permission dated 3 July 2023, the Planning, Design and Access Statement prepared by Fisher German LLP dated 3 July 2023 and other accompanying documentation which, for the avoidance of doubt, comprise:

Documents

- Application Form dated 3 July 2023.
- Planning Design and Access Statement by Fisher German dated 3 July 2023.
- Construction Management Plan received 27 July 2023.

Plans and Drawings

- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08001 PO3 Proposed Rising Main Canal Crossing – Site Location Plan.
- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08002 PO3 Proposed Rising Main Canal Crossing – Existing Site Layout.
- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08003 PO3 Proposed Rising Main Canal Crossing – Proposed Site Layout.
- Drawing reference no.533360-NOD-WWT-WWT-DR-C-08001_08004-533360-NOD-WWT-WWT-DR-C-08004 PO3 Proposed Rising Main Canal Crossing – Proposed Elevations.

Reason: To ensure conformity with the details of the application that is approved and to clarify its scope.

- 3) During the period of construction, no ground or construction works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 hours and 1800 hours Monday to Friday and 0800 hours and 1300 hours on Saturdays. There shall be no construction work (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and to control the scale of the operation.

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

The Council, as Waste Planning Authority (the “Authority”), worked with the Council as applicant (the “applicant”) in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article.

Chris Henning
Executive Director - Place

Implications

Financial

1.1 The correct fee of £462 has been received.

Legal

2.1 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 report.

Human Resources

3.1 None.

Information Technology

4.1 None.

Equalities Impact

5.1 Not applicable.

Corporate objectives and priorities for change

6.1 None.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 **Environmental and Health**
As indicated in the report



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