

Email from agent (NWS Planning) to HBBC 17/07/26

Section 1: Planning Balance

Lodders characterise the comments of Ed Stacey on the planning balance as “mistaken and misleading and [that they] must be corrected both orally and in the Officer’s Report to the July meeting”. Ed Stacey said the following:

I thought I'd just help members understand I think the planning balance side of it and it follows on from what Chris has just said. we've got a scheme in front of us and we've got a highway mitigation proposed and it's acknowledged that the proposals will result in a degree of impact on an existing business and that's obviously not uncommon happens all the time.

That's part of planning decisions to consider that the NPPF helpfully sets out a sort of test if you like and that sets out that decisions should ensure that new developments can be integrated effectively with existing businesses and community facilities and there should not be unreasonable restrictions placed upon these existing businesses.

In the officer's report, we've set out that we don't believe this development results in an unreasonable impact on this existing business. It is an impact, but it is not unreasonable. That is evident from the plan in front of you in that their access onto the A5 is not being blocked up entirely. There is only a minority of their trips that /will be affected and will not be prevented but will just have a short delay.

Even if members were to go against officers on that particular aspect and think “you know what, I think this is going to be an unreasonable impact” that doesn't mean that we stop there. That means we then have to finish off the planning balance and you'd basically conclude that there was some harm as a result of paragraph 200 of the NPPF. The question that you have to then work through is whether the harm to that business is outweighed by, just for one example, the 2500 jobs that this scheme would allow.

And it's officers' opinion and my professional advice is that in if you're in that scenario, the significant economic benefits of this proposal would outweigh that harm

even if you were to consider it unreasonable, which officers do not. So just to give you a bit of a help, I think on the process that we need to kind of go through when considering this application.

Ed Stacey's summary sets out the appropriate test and acknowledges that Members may come to a different view than that put forward by officers. He only mentions the jobs as one other matter that could be taken into account in considering the planning balance. We are not sure that he has misled the committee but in any event this can be dealt with when the matter is reported back to committee.

Lodders say that, *"It is now accepted that there is a viable and deliverable alternative highways solution which can avoid the harm to Our Client's business whilst also enabling the MIRA scheme to proceed"*. To say, "it is now accepted" is misleading. Even with the availability of the land for the objectors' preferred solution now apparently confirmed, this does not mean that National Highways (NH), Warwickshire County Council (WCC) and Leicestershire County Council's LCC) concerns with the impacts of it on the road networks has changed and all three highway authorities, from what we understand, still object to the traffic lighted solution. Just because it may be technically possible doesn't make it right or acceptable - and there are other objections to signals on that junction from the Parish, and local residents that would need to be overcome. The associated traffic calming measures needed to ensure the route doesn't become a rat run through Fenny Drayton have also not been designed and may not be viable or deliverable.

Furthermore, Lodders are trying to suggest that their preferred solution has not been properly considered by the consultees, ("With the viable, deliverable and safe alternative which is now under consideration, it is open to the Council to make a decision in the public interest which secures both"), but we do not think that that is the case. The objector has offered up the land to enable their preferred solution, but the lack of offering up that land was not the main reason why these consultees had concerns; they did not think that it was practical and were concerned with the potential impacts on their respective networks. This remains the position.

Section 2: Consultation with LCC and WCC as County Highway Authorities (CHAs)

The Lodders advice misleads the Council by implying that NH are supportive of the alternative scheme. National Highways reviewed the alternative junction design and

reiterated their objection to it and support for the LILO. NH and the CHAs worked together to assess the MIRA proposals using the PRTM modelling to inform the junction designs and given this, we do not consider it is necessary for the CHAs to consider the alternative junction design when NH has already done so and maintained its support for the LILO proposal.

We're not aware of any expectation for statutory consultees to consider every alternative proposal put forward if it is already supportive of an applicant's scheme. Otherwise, every objector could expect the CHAs to appraise alternatives with the obvious cost implications and delay to the planning system this would cause. Whilst we hope HBBC will go along with NH and the CHAs support for the proposals given the rigorous transport modelling and extensive consultation over the last 5 years, it retains the ability to refuse the grant of permission if it considers the scheme put forward by the applicant to not be appropriate. This is the mechanism in the system which would then allow the CHAs to consider an alternative junction design if one subsequently came forward.

Section 3: Synchronised signalisation at Drayton Lane and Woodford Lane

Lodders take issue with you advising members that National Highways said that there would be additional delays on the A5 if the objectors' preferred scheme came forward, noting that this assertion "*requires careful qualification in the Officer's Report to the July meeting*", because it should be acknowledged that NH said that, "*NH agrees with the DTA assessment that it is technically possible to signalise Drayton Lane without causing undue congestion or safety risks*". As an immediate point, you explicitly quoted that NH agreement in introducing your comments on the additional delays, so it is inaccurate to suggest that this was not properly qualified:

If I can draw your attention to appendix two of the report. So, page 54 of the report. So, this is the National Highways Review. So, this is effectively the reason we're back here this evening. So, this is the November 2025 National Highways Review. So what this changed is that national highways then take the view, on reviewing it, that the proposal for signalization is technically feasible. So technically it is possible to design and construct, is what they say subject to other things as mentioned by the objector, particularly in terms of land ownership.

So is it technically possible to deliver signalisation? Yes, is what national highways say. However, they then go on to say that they remain of the view that the left in left

out is appropriate mitigation. So, the applicant doesn't need to go further than left in left out from the point of view of the highway network. They also reference in their report, as well, that putting traffic lights to both Woodford Lane and Drayton Lane will increase delay on the A5. So, that's what National Highways do say.

So there will be additional delay and then the further concern as the objector set out, how it's quantified isn't there, but there is certainly a concern by national highways and particularly by LCC as well as Warwickshire County Council about the rat running. So effectively what national highways do say and the county council do say is by signalising Drayton lane it becomes a more attractive route for people to take rather than left in left out naturally because it's an "all singing and dancing junction" for want of a better word rather than left in left out.

So therefore the idea being is that more people will cut across through Fenny Drayton to use that junction that wouldn't otherwise do so because it's left in left out. So it is likely or very likely to increase traffic through Fenny Drayton through the signalized junction and therefore that's why the discussion around traffic calming being needed comes into play as well. So that's the difference effectively between the two.

So like I said it comes back to whether the impact on the business is reasonable or unreasonable in relation to the NPPF. So it's our view as set out in the report and your view as planning committee taken last time around that that restriction isn't unreasonable. So therefore the paragraph 200 test is met in that sense. and therefore we moved forward previously with the left in left out junction.

In addition to this, the CHAs noted that the LILO restrictions provided a greater good to residents of Fenny Drayton by reducing traffic along Drayton Lane and retaining traffic on the strategic network. Traffic Calming along Drayton Lane would cause delay and inconvenience to many people including people using the ERSS facility. In this context, the re-routing of ERSS traffic through the village is a minor inconvenience.

Section 4: Inaccuracies relating to affected journeys to ERSS

We don't agree that there are inaccuracies in the journey information we presented, and Officers will need to express both the Objectors and Applicants position, like

they discussed in the Committee Report in June 2025. The Objectors take the view that a diverted trip through Fenny Drayton village will cause impact. We consider the difference in duration of trips from the south and east having to travel through the village to be limited. It adds less than 1 minute to the journey time. This is why we only consider 11% of trips to be notably affected.

We have already commented on why the Auto Surveys Ltd counts do not provide a definitive basis for calculating ERSS traffic movements (Milestone Response 9/6/25) as it is unclear what trips are being counted. What is clear is that the level of trips being stated is not reflective of a) the numbers purported to be generated by the business when seeking planning permission in 2023; nor b) consistent with the Drayton Lane junction trip data used in the wider Leicestershire PRTM transport model.

Moreover, the journey times of the road network will be substantially improved by the off-site road improvements being proposed including the new Redgate roundabout.

We recognise the threat of legal challenge by Lodders on this point but the evidence presented by Lodders and DTA is in conflict with the Leicestershire PRTM model. Provided the Council is aware of both positions, it is reasonable for the Council to make a judgment on the information in front of them (even if this is not in accordance with the objectors [unclear] evidence).

Section 5: Economic and Commercial Impact on ERSS

This section seeks to open up a point about quantifying the impacts on the objectors' business. This was not part of the reason for the deferral and, so far as we are aware, the objectors are not providing any new evidence on these impacts. We submitted a rebuttal to their evidence at the time which I attach for ease of reference. We stress though that Members previously granted the scheme with this evidence in mind, as it was dealt with as part of the first committee approval.

Section 6: Grampian Condition

This cannot be supported as there is no basis to assume that the signalisation of Drayton Lane (and associated traffic calming measures required) will be acceptable

to the CHAs. Accordingly, the condition wouldn't meet the planning tests as it would not be 1) necessary; 2) reasonable (in the context there are standing objections to traffic signalisation from the CHAs and Parish); and 3) disproportionate (as the viability and deliverability of the traffic calming works is unknown)

Section 7: Traffic Reassignment through Fenny Drayton

This attempts to deal with the effects of the objectors' solution on Fenny Drayton. Lodders are effectively pushing for further measures to be added to monitor and mitigate any impacts from the objectors' solution, which acknowledges that they recognise the adverse implications that would arise from having traffic signals at Drayton Lane/A5 junction. They are also potentially adding another detail of their preferred solution for the consultees to consider, after the fact. It is unreasonable for the objector to draw out the approval process in this manner when the CHAs have already set out their comments on MIRA's preferred solution and deem that this provides appropriate mitigation. To be clear, The MIRA proposals have been informed by the Leicestershire PRTM model and discussions with highway authorities over many years. LCC's application response confirmed that traffic lights give rise to unacceptable levels of traffic along Drayton Lane.

Section 8: Conclusion

The Lodders letter is detailed in its analysis of why the Council should consider the alternative junction design as appropriate. However, the position remains that no statutory consultee supports the alternative scheme. In addition, local residents and the Parish also objected to signalisation of the junction, leading to the change in the MIRA proposals to the LILO solution.

The feasibility of delivering the alternative junction design is a distraction to the main issue of whether the MIRA scheme would lead to an unreasonable restriction on the ERSS business. If the Council conclude, like they did in July 2025, (and like NWBC did), that the MIRA scheme does not lead to unreasonable restrictions on the ERSS business, there is no need to consider the appropriateness or otherwise of this alternative junction design.

Regards