**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 247**

**STOPPING UP OF HIGHWAY AT MACKLIN STREET AND COLYEAR STREET**

**STATEMENT ON BEHALF OF SJS (4) LIMITED**

# INTRODUCTION

## SJS (4) Limited (**SJS**) has submitted an application to the Secretary of State for Transport (**SoS**) to stop up a section of the highway located to the west of Colyear Street, shown hatched black on the plan at Appendix E.

## This statement explains why the closure is necessitated by the development of the Becketwell area of Derby City Centre.

# BACKGROUND

## SJS is working in partnership with Derby City Council to deliver the comprehensive regeneration of the Becketwell area in Derby. The project is the most significant scheme in the city since the Westgate Shopping Centre was delivered.

## SJS (Derby) Limited obtained a hybrid planning permission on 4 September 2020, pursuant to application reference 19/01245/OUT, for:

*"Full Planning Permission – demolition of United Reform Church and associated ground floor units and the creation of a new public square with associated works. Outline Planning Permission - Phased demolition of remaining buildings and structures (with the exception of those fronting Green Lane and the former stable block to the rear of Green Lane). Erection of a phased mixed-use development (Use Classes A1, A2, A3, A4, A5,B1, C1, C3,D1, D2 - or equivalent Uses Classes, for any Uses that have been re-classified under the Use Classes Order 2020), with all matters reserved for future consideration with the exception of access"* (**Hybrid PP**)

## The Hybrid PP was granted in respect of a wider parcel of land, enclosed by Macklin Street, Green Lane, Victoria Street and Becket Street. The Hybrid PP is attached at Appendix A.

## SJS obtained full planning permission on 20 October 2021, pursuant to application reference 21/01312/FUL, for the:

 *"Demolition of unretained buildings and structures, renovation and alterations to retained building, erection of a performance and entertainment venue, service yard, vehicular and pedestrian access, highway infrastructure amendments, landscaping, public realm, and associated works" (***2021 Performance Venue PP***).*

## The 2021 Performance Venue PP is attached at Appendix B. The construction of the performance and entertainment venue is a significant regeneration project in Derby City Centre and the completed building will be owned by Derby City Council.

## Following the grant of the 2021 Performance Venue PP, SJS sought to amend the approved plans. An application was submitted under section 73 of the Town and County Planning Act 1990 (**1990 Act**) for the:

## "*Variation of condition 2 of previously approved planning permission code no. 21/01312/FUL to amend the approved plans".*

## Planning permission was subsequently granted on 2 March 2023 (under application reference 22/01765/VAR) (**2023 Permission**). The decision notice is attached at Appendix C.

## Condition 2 of the 2023 Permission sets out the approved plans. This includes the: (i) Landscape General Arrangement Plan (ref BEKRFM-PV-00-DR-L-0001 Rev P20) (**Landscape Plan**); (ii) Becketwell Site Illustrative Masterplan (Complete) (ref 0857-RFM-XX-00-DR-L-0004 Rev P08) (**Masterplan**); and the (iii) Site Plan (ref BEK-COR-PV-00-A-331 Rev P08). These plans are attached at Appendix F, G and H.

## The performance and entertainment venue is being constructed under the 2023 Permission. Construction works commenced in June 2023.

# ANALYSIS

## The test under section 247 of the 1990 Act is whether the stopping up is necessary in order for the development to be carried out in accordance with the relevant planning permission.

## This therefore requires a conflict between the planning permission and the highway – albeit, the highway itself does not need to be obstructed by a physical development to justify a stopping up order.

## The pedestrian entrance to the venue will be taken from Colyear Street. The Landscape Plan highlights that steps and a ramp will be installed to facilitate access, various landscape features will be installed to the north-west and west of Colyear Street and a Yorkstone flag paved area will create a space for safe queuing before entry to the venue that is clear of the highway.

## This requires Colyear Street to be narrowed, such that it would be one way only. The advantage of this approach, which has been discussed and agreed with the local highway authority and other agencies including the police, is that Colyear Street can, for health and safety and anti-terror reasons, be temporarily closed to traffic when large events are hosted at the arena.

## The plan attached at Appendix D, shows an overlay of the proposed stopping up area on top of the planning application boundary for the 2023 Permission, with the site boundary edged red and the existing highway boundary edged blue.

## Point A to C of the proposed stopping up order is in conflict with the 2023 Permission, as this is the area in which the steps and ramp need to be constructed, the landscape features are to be constructed and the Yorkstone flagged paved queuing area is to be installed. The Landscape Plan and the Masterplan clearly highlight the conflict between the existence of the highway, between points A and C, and the 2023 Permission.

## By reference to the stopping up plan at Appendix E, it can be seen that point A is the narrowest part of the public highway to be stopped up, at 0.91 metres. The width of highway to be stopped up is generally 4.2 metres, but it is slightly wider in some places. At its widest, at point D, it is 4.9 metres. The distance from point A to C is 63.4 metres. The width of land to be stopped up narrows at the southern tip of the area hatched black on the plan at Appendix E. The total area to be stopped up is 257.15 sqm.

## The area that will formerly have been highway, should the stopping up order be made, shall become part of an enlarged public realm in front of the arena. The development, pursuant to the 2023 Permission, is predicated on this part of the highway being stopped up.

# CONCLUSION

## The construction of the performance arena, under the 2023 Permission, will bring significant economic benefits to the region.

## There is a conflict between the 2023 Permission and the sections of the adopted highway, shown hatched black on the plans at Appendix D and E, on Colyear Street. For the reasons explained in paragraph 3 above, we request that the SoS make an order under section 247 of the Act as soon as reasonably practicable.

## If it is helpful to discuss any aspects of this application, please do not hesitate to contact Josh Kitson, of Walker Morris LLP, on the contact details set out in section A of the application form.

**Appendix A:** Hybrid planning permission reference 19/01245

**Appendix B:** 2021 performance venue planning permission reference 21/01312/FUL

**Appendix C:** Section 73 permission reference 22/01765/VAR

**Appendix D:** Approved site layout plan (with red edged site boundary and blue edged highway boundary);

**Appendix E:** Stopping Up Plan (highways stopping up boundary shown hatched black) (which, is A3 based on OS, and drawn to a scale of 1:500);

**Appendix F:** Landscape Plan;

**Appendix G:** Masterplan; and

**Appendix H:** Site Plan.