

Dear Members of the Local Plan Committee and Democratic Services,

As a local resident of Rushey Close in Ashby-de-la-Zouch, I am submitting this written briefing in advance of the upcoming Local Plan Committee meeting on **Wednesday 30 July 2025**. I understand that it is no longer possible to speak at the meeting, *as informed by a sitting councillor on 26.07.25*, but I respectfully request that this statement be circulated to committee members and recorded for the meeting file.

Re: Site A27, Land South of Burton Road / Rushey Close, Ashby-de-la-Zouch

I am writing to express serious ongoing concerns regarding the proposed allocation of **Site A27** in the emerging Local Plan. Despite prior objections and an FOI now submitted to NWLDC, this site remains within the draft plan, raising unresolved issues related to legal compliance, environmental harm, consultation failures, and evidence transparency.

Key Issues:

- **Lack of Reassessment of HS2-Related Land:** Previously safeguarded HS2 Phase 2b land, now released, not reconsidered as a more sustainable alternative to Site A27. This may breach SEA regulations requiring assessment of reasonable alternatives.
- **SAC and Nutrient Neutrality Concerns:** A27 lies within the **River Mease Special Area of Conservation (SAC)** catchment. No lawful or complete **Habitats Regulations Assessment (HRA)** has been disclosed. Reliance on **Severn Trent Packington Pipeline** remains speculative and potentially non-compliant with the Conservation of Habitats and Species Regulations 2017.
- **Consultation and Transparency Failures:** Several Ashby residents (including myself) unaware of the A27's inclusion during the **Regulation 18 consultation in early 2024**. A sitting councillor confirmed **the council failed to consult on the additional allocation**.
- **Post-Deadline Objections:** The report for this Committee says **17 objections** were made to A27, with **1 submitted after the deadline**. Were these formally reviewed as valid material considerations and will they receive a substantive response before Regulation 19.
- **Flooding, Undocumented Infrastructure & Legal Risks:** Residents identified undocumented & leaking drainage infrastructure running through A27 into the National Forest. There's also concern that **phosphate levels used to justify Severn Trent's pipeline** may have been influenced by this unmitigated flooding. If so, this raises questions about the pipeline's evidence base and credibility.
- **Equality, Sustainability & Consultation Gaps:** A27 relies on access via **unadopted roads with private estate charges**, raising issues under the **Consumer Protection Law, Equality Act 2010**, and **CMA 2022 guidance**. The community was not informed or consulted as required under the Council's **Statement of Community Involvement (SCI)**.

Requests to the Committee

1. Please formally acknowledge concerns raised by Ashby residents; especially related to legal and environmental compliance.
2. Ask officers when & how objections to A27 (including the post-deadline objections) will be responded to in writing.
3. Request clarity on consultation record for A27; particularly whether Ashby residents on the consultation database were directly notified.

4. Seek legal advice regarding the status of A27 in light of incomplete environmental evidence & potential breaches of SEA and HRA regulations.

Thank you for your time and attention. I would welcome the opportunity to provide further information, including FOI records, ecological concerns, and correspondence with statutory bodies.

Yours sincerely,
Abigail Kingaby

To: Local Plan Committee Members & Substitutes; Planning Officers; Democratic Services
From: Abigail Kingaby (33 Rushey Close, Ashby-de-la-Zouch)
Date: 18 September 2025

Why a short pause protects the Council

National mood may be “*build, baby, build*”, but decisions still live or die on **lawful evidence** - especially habitats and road safety. Pushing A27 without the missing documents invites legal challenge and reputational harm; a tidy **deferral** for evidence is safer and sounder.

1. Mitigation not secured or operational (River Mease).

The scheme leans on future wastewater/nutrient solutions that are not operational now. Under Habitats law you cannot count speculative mitigation at decision time.

Legal: Habitats Regs Reg 63 - mitigation must be secured, deliverable, enforceable at decision (not “coming later”). (Govt is expanding nutrient-credit routes, but credits still have to underpin a lawful HRA/AA for this site.)

2. Unlawful without a site-specific Habitats Regulations Assessment (HRA) and Appropriate Assessment (AA).

There is no published A27 HRA/AA showing no adverse effect on the River Mease SAC with the actual mitigation in place.

Legal: Habitats Regs 2017, Reg 63 - conclusions must be certain; unproven measures cannot be relied upon. (National build targets don't disapply this.)

3. Neighbourhood Plan conflict (outside Limits to Development).

A27 sits outside the made NP's boundary. The NP is part of the development plan now and keeps weight until replaced. With A27 projected for ~2027, it falls within the NP period (to 2031) anyway. An emerging 2042 Local Plan carries limited weight at Reg-18 stage.

Legal: PCPA 2004 s38(6) (decide in accordance with the plan unless material considerations indicate otherwise).

4. Reasonable alternatives now exist (post-HS2 land releases).

Recent HS2 land releases locally increase the pool of deliverable alternatives (additional site, Packington Nook, removed from Local Plan for this very reason). Before pressing the most sensitive edge site in the Mease SAC catchment, the Council should evidence a Strategic Environmental Assessment (SEA) comparison of these sites (transport capacity, flood risk, biodiversity/National Forest gains, nutrient neutrality) and publish why site A27 would outperform them.

Legal: Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regs — duty to assess reasonable alternatives with reasons for selection, e.g., Regs 8 & 12); PCPA 2004 s19(5) (Sustainability Appraisal/SEA for plans); NPPF tests of soundness (plan must be justified and effective).

5. Town-centre safety evidence missing (live risk + precedent).

After a recent serious pedestrian collision on an Ashby approach, there is still no cumulative transport & road-safety addendum (incl. Money Hill) and no Stage 1/2 RSAs published. Precedent: on 14 Sept 2025 HBBC refused 58 homes at Barlestone (Newbold Rd) on highway-safety grounds even without a County Highways objection. Members can go beyond “wait and see” when the risk isn’t convincingly addressed.

Standards: NPPF (safe/suitable access), DMRB GG 119 (Road Safety Audit), Manual for Streets.

6. Access/deliverability not proven.

The estate links are private/unadopted. Without s38/s278 agreements, LLFA consents, and audited visibility, A27 cannot rely on these routes. Net-zero & mode shift: If the case leans on walking/cycling, secure a public, adoptable greenway (*not private paths*) and publish a simple carbon/mode-share statement; otherwise, the scheme conflicts with local net-zero/active-travel aims.

Legal: Highways Act 1980 s38/s278; Land Drainage Act 1991 s23.

7. PRoW & estate links are fragile (and already failing locally).

A27 would send pedestrians off the field-edge PRoW onto a private, unadopted path by the play area to Bishop Hall Rd. Private links can be altered/closed unless first legally secured/adopted. On the same estate, a different private link (Wilkinson Close ↔ Burton Rd) is already stopped-up; town-wide, Footpath O89 is closed under a TTRO - proof that walking routes can vanish overnight.

Bottom line: don’t rely on any estate link until (i) s38/s278 or easements are executed, (ii) RSAs (Stage 1/2) are published, and (iii) any ditch/culvert works have LLFA s23 consent.

Legal: T&CP Act 1990 s257 (PRoW orders), RTRA 1984 s14 (TTRO), Highways Act s38/s278, Land Drainage Act 1991 s23.

8. Flood/egress work needs updating.

Post-Jan-2025 realities aren’t reflected in an updated FRA or CTMP (safe emergency access/egress). Water resources (*separate to nutrients*): Confirm potable water/network capacity and any upgrade timing via the IDP - publish before site A27 moves on.

Unrecorded drainage/ditch risk (potential pathway to Mease).

Residents have recorded an undocumented ditch with continuous flow near the hedgerow (between the PRoW and Bellway’s private footpath link) and unmapped pipework in the same vicinity. Until this is surveyed and verified, any FRA/CTMP and HRA conclusions are unsafe because the pathway and receiving outfall are unknown.

Policy: NPPF + PPG Flood Risk; LLFA duties (Flood & Water Management Act 2010).

Legal: Land Drainage Act 1991 s23 (consent for works to an ordinary watercourse), Environmental Permitting Regs 2016 (discharges), Water Industry Act 1991 s104 (sewer adoption records), Habitats Regs Reg 63 (can’t rely on uncertain assumptions in the Mease SAC catchment).

9. FOI/EIR transparency gap.

The Council’s response was late and missing items it said were included (ecology/BNG, 17 objections, NE/EA responses, Project Board, GovDelivery logs). *Legal: EIR Reg 5(2), Reg 7, Reg 9 (and FOIA s10/s16 where relevant).*

10. SCI/consultation compliance unclear.

Residents report no invites/updates; no published SCI checklist proving A27 visibility at Reg-18. It was also stated in an FOI to NWLDC, that the Local Plan Database email (*which should inform residents of any local plan updates; but they also have to know about it, to know to sign up to it*) both “was inaccessible” but also “contained no person(s) from Rushey Close” – those two statements appear inconsistent. As a resident of Rushey Close AND signed up to the database, I have still received zero emails from the database (*nothing*

relating to Reg18/ LPC meetings involving decisions or updates/ Packington Nooks' removal etc.) Members shouldn't proceed without the complete evidence pack and confirmation that residents have had fair involvement as per the Statement of Community Involvement.

Legal: PCPA 2004 s18 (SCI), Local Planning Regs 2012 (Reg 18/19).

11. Public mandate against A27.

543 verified signatures oppose the site - public interest weighs toward caution.

12. Plan soundness & deliverability.

For A27 to sit in the emerging plan it must be justified and effective with a clear delivery trajectory (when/what triggers), plus an updated Infrastructure Delivery Plan (IDP) showing how highways, flood, schools, health and utilities are funded and timed. If that isn't published, the only safe step is deferral.

13. National Forest edge / Public Open Spaces safety.

Sales/POS drawings show paths to an "Open Fields" edge; basin fencing/safety concerns persist.

The ask (proposed resolutions and alternative)

That Site A27 is deferred unless and until the Council publishes:

- a. a site-specific HRA/AA demonstrating no adverse effect on the River Mease SAC with operational, secured mitigation;
- b. a cumulative transport & road-safety addendum for Ashby (including Stage 1/2 RSAs);
- c. proof of deliverable access (Highways Act s38/s278, LLFA s23, and visibility to MfS/DMRB); and
- d. a complete FOI/EIR/SCI evidence pack (including the currently missing items).
- e. Include as-built drainage records, CCTV/dye-trace survey, and LLFA/Severn Trent sign-off confirming:
(i) whether the ditch is an ordinary watercourse; (ii) any s23 consents and EPR permits; (iii) ownership/maintenance; and (iv) that the feature is reflected in the FRA and HRA.
- f. a short alternatives appraisal (SEA-style) including HS2-released parcels (e.g., Packington Nook area) to demonstrate why A27 should proceed now over less constrained options.
- g. **Commission a short options appraisal to repurpose A27 as strategic green infrastructure that funds itself and unlocks housing elsewhere: a BNG habitat bank and nutrient-mitigation wetlands, wrapped by National Forest woodland and an upgraded PRow greenway. Secure via conservation covenant/S106, fund through credit sales & commuted sums, and publish the management plan so Members and residents can see the benefits are real and long-term.**

Notes:

*National push for delivery does not waive Habitats/road-safety tests. **Recent local precedent: HBBC refusal at Barlestone (14 Sept 2025) on safety and neighbourhood plan limit grounds alone.***

Nutrient-credit routes may expand, but they still must underpin a lawful HRA/AA for this site. A tidy deferral for evidence is safer than proceeding on incomplete information.

Thank you for your time,

Abigail Kingaby
Resident of Rushey Close