DERBYSHIRE County Council

Response provided under the delegated authority of the Executive Director for Place

Planning Manager
Amber Valley Borough Council
PO Box 15, Town Hall, Market Place
RIPLEY
Derbyshire
DE5 3XE

Highway Officer: Steve Dudhill
Our ref: AVBC/2026/018694
Your ref: AVA/2026/0427
Date: 8 September 2026

Dear Ms Graham,

TOWN AND COUNTRY PLANNING ACT 1990
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015
ARTICLE 18 CONSULTATION WITH HIGHWAY AUTHORITY

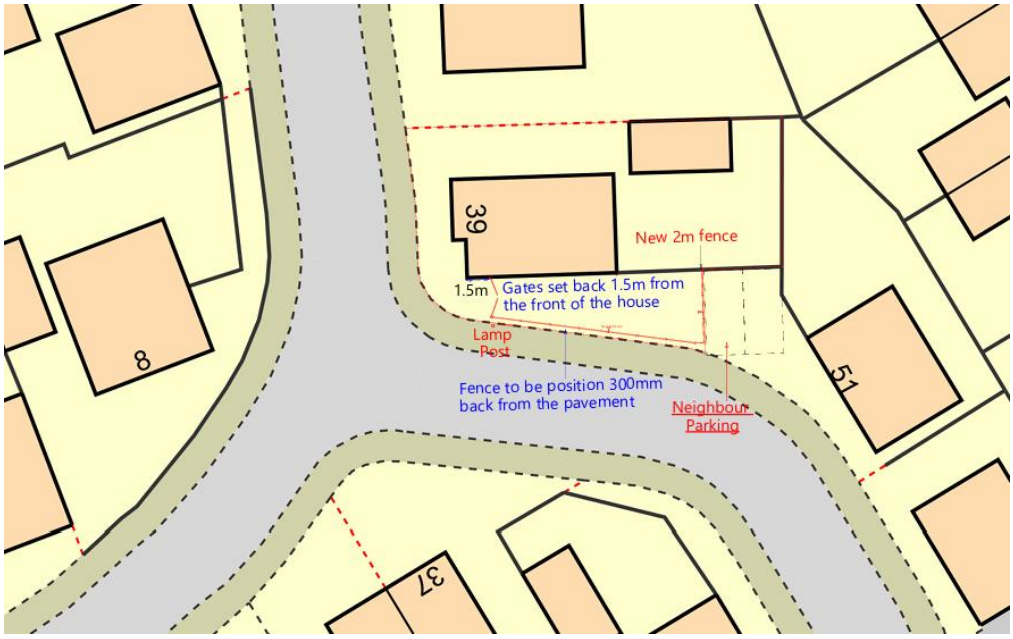
PROPOSAL: Erection of fence along southern boundary with security gates adjacent to footpath and road

LOCATION: 39 LOWE AVENUE SMALLEY ILKESTON DE7 6LZ

Derbyshire County Council, the Highway Authority acting in its role as Statutory Consultee, has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, has no objection to this planning application subject to a recommended planning condition being attached to the decision notice should planning permission be granted.

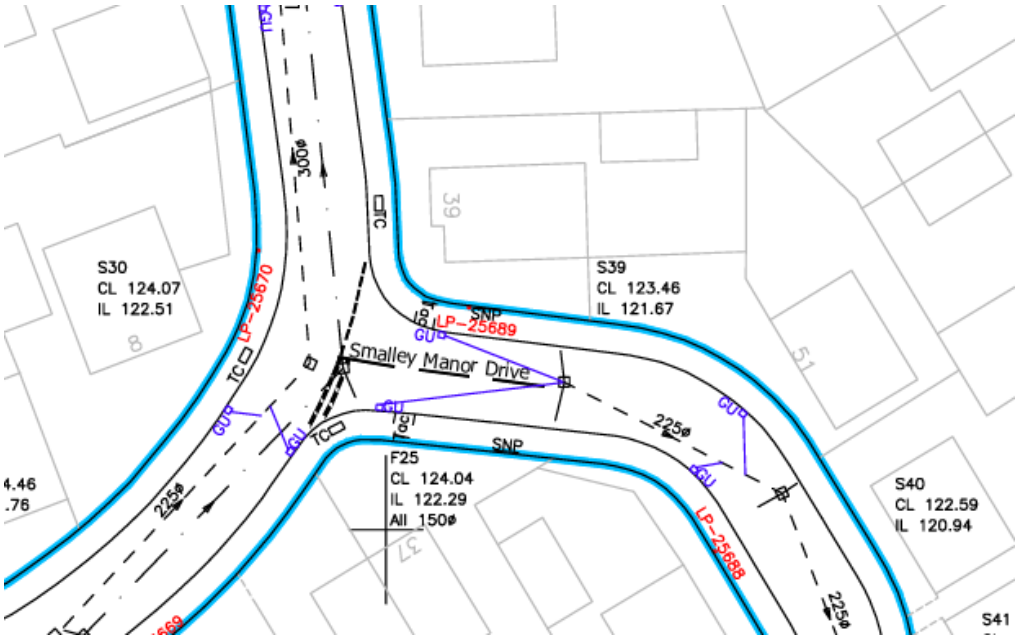
Background

This planning application seeks permission for the erection of a fence along the southern boundary of 39 Lowe Avenue, Smalley, Ilkeston, as shown on the following copy extract from the applicant's proposed site layout plan.



Highway Extents

Lowe Avenue is subject to a Section 38 Agreement (S38) but has yet to be adopted as public highway. The extent of the intended highway is illustrated by the blue lines on the following copy extract from the highway adoption plan submitted in relation to the S38.



The application form confirms that the applicant owns the land which is proposed to be enclosed. That land would not form part of the adopted highway on completion of the S38 process.

Assessment

The proposed fence would have no impact on the intended highway.

Security gates are proposed at the western end of the fence, 1.5m to the east of the front face of the dwelling. The gates would have an opening width of circa 2.5m.

Car parking is on the driveway to the north of the existing dwelling. There is no existing vehicular access to the land to be enclosed, with no dropped kerb footway crossing available to provide access to the gates.

The applicant shows no proposal to provide a new vehicular access or car parking within the enclosed area. The submitted plans show no change to the surface detail on the land to the west of the gates, which currently comprises loose material. It is therefore assumed that the proposed gates are not intended to provide vehicular access to the enclosed land.

The centre of the proposed gates would lie circa 4m from the back of footway to the west of the gates. The southern end of the proposed gates would be closer to the intended highway. The highway authority's Planning, Streets, and Places (PSP) guidance stipulates that gates which serve driveway accesses should be set back at least 5m from the edge of carriageway to prevent obstruction by vehicles waiting at the gates. The proposed gates cannot satisfy that requirement over their full width. Vehicular access via the gates would not comply with the PSP guidance and would therefore be objectionable.

Conversely, if no vehicular access is to be taken via the proposed gates, the highway authority would have no objection to this planning application. This requirement can be controlled by planning condition.

Conclusion

Having regard to the above, the highway authority would have no objection to this planning application subject to the following recommended planning condition being attached to the decision notice should planning permission be granted.

Planning Condition

> The gates hereby permitted at the western end of the fence shall be used solely for pedestrian and cycle access, and no vehicular access or egress shall take place through those gates at any time.
>
> **Reason**: In the interest of road safety.

SD; DCC TDM; 8/9/26.