



Report to Planning Committee 16 March 2023
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Clare Walker, Senior Planner, ext. 5834

Report Summary			
Application Number	23/00030/VAR106		
Proposal	Application to vary Section 106 Agreement pursuant to planning application 16/02173/OUTM - to allow increased residential occupations (to 655) by delaying release of employment land		
Location	Former Thoreby Coliery, Ollerton Road, Edwinstowe		
Applicant	Harworth Group	Agent	Not applicable
Submitted	10 th January 2023	Target Date	Not applicable
Recommendation	Agree to variation		

The application has been referred to the Planning Committee by Cllr A Freeman to enable Members to understand the economic implications of such a decision.

1.0 The Site

The site of the former Thoresby Colliery is identified as a strategic site for housing and employment as noted in the Council’s Amended Core Strategy. The site lies close to Edwinstowe village in the Sherwood area. The site is currently being redeveloped.

Background and Relevant Planning History

Outline planning permission was granted in March 2019 for:

16/02173/OUTM – ‘Residential Development up to 800 dwellings (Class C3), Strategic Employment Site comprising up to 4,855 sqm Class B1a, up to 13,760 sqm Class B1c, and up to 13,760 sqm Class B2, a new Country Park, a Local Centre, "The Heart of the New Community" containing a mix of leisure (to include zip wire), commercial, employment, community, retail (up to 500 sqm), health, and residential uses, a Primary School, Open Space and Green

Infrastructure (including SUDS), and associated access works including the details of the primary access junctions into the site from Ollerton Road.'

This was approved 12th March 2019, subject to 51 conditions and a section 106 Agreement which secured the following:

- *Affordable Housing of 7.5% of total number of dwellings, subject to a review mechanism half-way through the development*
- *Primary Education contribution, 1.3ha of land and £3,600,000 for new school*
- *Healthcare contribution of £786,096*
- *Sports Pitch contribution £590,176*
- ***Ollerton Roundabout contribution of £1,198,000****
- *Library contribution of £35,130*
- *Community Facility contribution of £607,256*
- *Open Space of 11.89 ha of land comprising;*
 - *Sustainable urban drainage;*
 - *Multi-use games area;*
 - *Public open space;*
 - *Children's and young people's space comprising 2 x locally equipped area for play and 1 x neighbourhood play area;*
- *Maintenance of the open space/country park and monies to do so.*
- *Review of viability prior to occupation of 400th dwelling*

The s.106 obligation is a trilateral agreement between the District Council, NCC and the Harworth Group.

*As originally drafted, the contribution of £1,198,000 was to be paid to NCC towards the cost of improving Ollerton roundabout at the A614/A616/A6075 junction, at the earliest of either (a) 20 working days of receiving County Council's notice of the occurrence [of works progressing] or (b) prior to occupation of 151 dwellings. The obligation (at Schedule 2) prevented occupation of any more than 150 dwellings and no more than 25% of the employment site unless (a) the contribution was paid and (b) the roundabout works had been materially completed.

Deed of Variation: Ref: 20/01860/VAR106 – An application was sought to modify the s.106 agreement relating to Schedule 2 (Ollerton Roundabout Contribution) to allow the developers to pay NCC Highways Authority the full contribution and have the obligation removed. This was not agreed but it was varied to allow the residential occupations to increase from 150 to 500 in advance of the roundabout works being 'practically completed'. The 25% of employment land permitted to be occupied in advance of Ollerton Roundabout improvements remained the same. The Deed of Variation was signed and sealed on 24.11.2020. Harworth Group plc, in order to assist NCC colleagues in securing match funding towards the Ollerton Roundabout have paid the £1.198m in full early.

The master developer, Harworth Group plc, has already undertaken enabling works to facilitate residential phases to be delivered by other house builders on already serviced parcels of land. Development is well advanced on Phase 1 by Harron Homes (for 143 houses)

and Phase 2 (by Barratt/David Wilson Homes for 219 new homes) with applications now lodged for residential Phases 3 (22/01922/RMAM for 74 dwellings) , 5 (22/01934/RMAM - 99 dwellings) and 6 (22/02228/RMAM - currently c160 dwellings) and for the Primary School (22/01846/RMAM) which is also subject to a live planning application.

2.0 The Proposal

The application submitted seeks a further amendment to the Planning Obligation to allow continued progress and investment on site and prevent any danger of mothballing given the current occupations restrictions linked to Ollerton Roundabout. The applicants request an increase in the number of residential occupations allowed before Ollerton Roundabout is secured. Two options are presented:

- 1) An increase from 500 to 655 residential occupations. In order to manage net traffic effects it is proposed there be a corresponding decrease (based on traffic TRICS rate data) in the release of the employment land such that this could not come forward until the Ollerton Roundabout works are progressed; or
- 2) An increase from 500 to 608 residential occupations. In order to manage net traffic effects it is proposed there be a corresponding decrease (based on traffic TRICS rate data) in the release of the employment land from 25% to 7.5% occupations.

3.0 Consultations

Edwinstowe Parish Council – No response to date.

NCC Highways Authority – Formal comments yet to be received.

4.0 Comments of the Business Manager – Planning Development

It is widely accepted that works to Ollerton roundabout are needed to increase highway capacity and to ease congestion. This has been identified by NCC and the works to remedy this are a priority, as captured in the Non Strategic Roads Network Funding being secured from the Department for Transport (DfT). Ollerton Roundabout is one of 6 junctions which is part of this process, with the Outline Business Case (OBC) having been approved by DfT. A Full Business Case (FBC), which effectively unlocks the grant funding and would allow the Ollerton Roundabout works to mobilise, cannot be approved until any Compulsory Purchase Order (CPO) Process and any required Public Inquiry has concluded. This is expected this summer, with any FBC submission and approval in late 2023/early 2024.

Further development at the Thoresby Vale will further impact on the highway situation in the area, hence the Ollerton Roundabout works having been identified as critical and the developer being required to provide the Ollerton Roundabout Contribution. The developer was obligated to pay £1.198m which they have accelerated by paying 3 years earlier than required (£1.3m due to indexation) in order to assist in its progression. This is only part of the requirement, with the overall restriction of occupation still remaining until such times as funding is secured and works substantially concluded. The Ollerton Roundabout improvements have moved on. Design works are complete, the OBC is agreed and NCC are

progressing the CPO and FBC. It is understood there are outstanding objections to the CPO which may require a Public Inquiry in the summer.

I note a previous agreement was reached to allow further residential occupations in advance of Ollerton Roundabout improvements (allowing the sale of the Phase 2 land to Barratt Davild Wilson Homes). This was done in anticipation of funding from DfT having been secured. It is now clear that DfT funding will not be secured before further residential land parcels would need to be transacted. In other words, Harworth would not be able to sell to housebuilders if there was a restriction on occupation.

I have some sympathy for the situation with which the applicant finds themselves. They have paid an Ollerton Roundabout contribution early and in full in anticipation that NCC and DfT would be able to conclude necessary processes to release funds thus removing all occupation restrictions. This is not the case. Whilst formal written comments are awaited, NCC have made clear that a restriction on occupation of the Thoresby Vale site needs to remain. It is expected that NCC will agree to a further level of residential occupation alongside a corresponding reduction of employment land occupation such that there is a net nil impact on traffic movements. A further increase of 155 residential units (655 occupation in total) would mean no employment land coming forward in advance of the Ollerton Roundabout works. An increase of 108 residential occupations (608 occupations in total) would allow 7.5% of employment land to also still come forward. NCC are still to formally advise, but it is expected that the latter option will be appropriate in highways terms. For the avoidance of doubt both scenarios would facilitate the majority of the currently live residential applications (of phases 3, 5 & 6) which would total 695 total occupations (as currently presented), subject to reserved matters approval.

I have no objection in principle to a 'swapping' of greater residential occupations than employment occupation. Indeed, the applicant advises that they do not have plans to release the employment land for development within the next 18 months due to the fact that it was always the case that some residential parcels would come forward earlier given the cut and fill operations required across the site. Moreover, the residential releases will continue to fund the remediation of the colliery to the north for use as a country park.

Nottinghamshire County Council have yet to formally confirm their position but the lead officer has informally advised that in principle they agree with the methodology presented based on traffic movements and are minded to agree to an additional 108 residential occupations subject to their Cabinet approval expected 27th February 2023 and then the expiry of the 5 day call in period. This would amount to the second option of 108 additional occupations of dwellings and corresponding limit to the amount of employment able to come forward to 7.5%. I am comfortable with this approach.

The applicants states that the deed of variation would:

- Enable the accelerated delivery of all remaining affordable homes along with Build to Rent homes as an alternative tenure type within Phase 6 which is already subject of a planning application. Without the restriction being lifted this development if approved would be stalled.

- Enable the creation of central open space adjacent to the retained workshop and in turn help generate the footfall required to enable the workshop building and local centre to be progressed;
- Assist with supporting the advancement of the Primary School – there is a risk that the school (if built) will fill from elsewhere with an occupation restriction in place;
- Allow for future homes research projects to create affordable homes to 2025 building regulations standards in partnership with Barratt/David Wilson Homes and a research institution to analyse homes and use for educational purposes to understand the green technologies and materials.

The applicants have showed commitment to progressing with the redevelopment of the site, and have continued at their own risk, by accelerating their portion of the improvement costs for Ollerton roundabout with no certainty that the number of residential occupations can exceed 500 dwellings. It is considered (subject to confirmation that NCC agree) that swapping a proportion of the employment development for residential occupations is a practical short term solution to allow the site to progress whilst the FBC is finalised. It is therefore considered there are benefits to the variation and it is recommended that it agreed.

5.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

6.0 Recommendation

That subject to confirmation from NCC Highways Authority that they agree, the s.106 Planning Obligation is varied to allow:

- An additional 108 dwellings to be occupied in advance of the Ollerton roundabout works being commenced/contract being let; and
- A decrease from 25% to 7.5% (unless otherwise advised by NCC) of employment land allowed to be brought into use prior to the roundabout works being commenced/contract being let.

BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.



