

PLANNING COMMITTEE – 4 AUGUST 2020

Application No: 20/00999/FUL

Proposal: Development of one temporary construction access point (resubmission)

Location: Land at Ollerton Road, Edwinstowe

Applicant: Harworth Group Plc

Agent: Pegasus Group – Mr Steve Lewis-Roberts

Registered: 12 June 2020

Target Date: 07 August 2020

Link to application file: <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QBQZDWLBHQRO0>

This application is referred to the Planning Committee given that it relates to the resubmission of a scheme that was recently refused by the Planning Committee. Ward member, Cllr M Brown, has also explicitly referred the application to committee on highway safety grounds and requested a site visit be undertaken by Members.

The Site

The application site relates to an area of land adjacent to the A6075 Ollerton Road in Edwinstowe, immediately adjacent to Phase 2 of the wider redevelopment. It comprises an existing agricultural access point between hedgerows.

Extract: Google Street View (prior to enabling works beginning)



Officer Photo taken 22.07.2020



Relevant Planning History

The most relevant applications are, in brief, as follows:

19/02159/FUL – Development of one temporary construction access point. This was **refused** contrary to officer recommendation by Committee in March 2020 for the following reason:

In the opinion of the Local Planning Authority the proposed temporary construction access was considered likely to lead to conflicts between vehicles utilising it and other traffic using

the highway, particularly given the speed of traffic along Ollerton Road. When considering this likely highway conflict and the lack of robust justification regarding the need for such a temporary construction access given the width and adequacy of the existing main access already in situ, it was considered that the application was unnecessary, harmful and contrary to Policies SP7 (Sustainable Transport), ShAP4 (Land at Thoresby Colliery) of the adopted Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 (Design) of the Allocation and Development Management DPD, adopted 2013 which together form the relevant parts of the Development Plan.

APP/B3030/W/20/3253579 - An appeal (written representations method) against this decision has been lodged and validated. By agreement with the appellant and PINS, the appeal statement is due on 12th August 2020. The appeal would be withdrawn if this resubmission were to be approved.

16/02173/OUTM – Outline planning permission for a residential development up to 800 dwellings, a 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, containing a mix of leisure, commercial, employment, community, retail health, and residential uses, a primary school, open space and green infrastructure together with associated access works including the details of the primary access junctions into the site from Ollerton Road. Approved March 2019 subject to 51 conditions and a S106 Planning Agreement which secured a range of developer contributions.

19/00674/RMAM – Reserved Matters for the ‘enabling infrastructure phase’ of the comprehensive development. The approved works included the provision of a new ghost island at the junction of the existing colliery access with Ollerton Road, a new main spine road to serve the first two phases of the residential development which utilises the existing colliery access drive together with its associated highway drainage, surface water and foul infrastructure drainage systems, landscaping and earthworks. It also included the approval of an air quality assessment which covered the whole of the site and all phases of development. This was granted in July 2019 under delegated powers.

19/01016/RMAM - Reserved matters application for Phase 1 (Harron Homes Ltd) residential development comprising 143 dwellings with access gained from the primary, central spine road. This was approved 4th December 2019. Development has commenced on site.

19/01865/RMAM –Reserved Matters for Phase 2, submission for 219 dwellings with access gained from the primary, central spine road (permitted under 19/00674/RMAM) including open space, landscaping (soft and hard) and associated internal road infrastructure was approved by Planning Committee in June 2020. No development has commenced on site yet.

The Proposal

This application is an identical resubmission of the refused scheme. However this time more justification for its need from their planning Agent has been provided in their letter dated 10th June 2020 and within their email received 1st July 2020.

Full planning permission is sought for the erection of a construction access to serve Phase 2 of the Thoresby Colliery redevelopment from Ollerton Road.

The access is to be for a temporary period during the construction period of Phase 2 only which

would be removed and replaced with a permanent pedestrian link and associated landscaping.

The applicant's agent has confirmed that no trees have been removed nor are required to be to reflect the locations of the existing agricultural access points.

The Submission

The application is accompanied by the following:

- **Letter from agent dated 10th June 2020 outlining the need for the access**
- **Email received 1st July 2020 offering reassurances over member concerns**
- Drawing 17109-S184-P2-1100-001 Rev A (S184 Construction Access, Phase 2, Kerbing and Drainage)
- Drawing 17109-S184-P2-1200-001 Rev A (S184 Construction Access, Phase 2 Road Markings and Signing)
- Drawing No. 17109-S184-P2-0000-001 Rev C (S184 Construction Access Phase 2 General Arrangement)
- Drawing No. 190572-CA-SK01 Rev C (Construction Access Signing and Lining)
- Drawing No. 17109-S184-P2-0200-001 Rev A (S184 Construction Access Phase 2 Site Clearance)
- Drawing No. 17109-S184-P2-0700-001 Rev A (S184 Construction Access Phase 2 Earthworks and Surface Finishes)
- Drawing No. 024/THS/MAJ/A2, Layout 1
- Stage 1 Completion of Preliminary Design - Road Safety Audit, Feb 2020 by Via

Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy
Spatial Policy 2 - Spatial Distribution of Growth
Spatial Policy 5 – Delivering Strategic Sites
Spatial Policy 6 – Infrastructure for Growth
Spatial Policy 7 - Sustainable Transport
Core Policy 6 – Shaping our Employment Profile
Core Policy 9 -Sustainable Design
Core Policy 10 – Climate Change
Core Policy 12 – Biodiversity and Green Infrastructure
Core Policy 13 – Landscape Character
Core Policy 14 – Historic Environment
ShAP 4 - Land at Thoresby Colliery

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy
DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM9 – Protecting and Enhancing the Historic Environment
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance

Consultations

Edwinstowe Parish Council – No response to date

Cllr M Brown – (05.05.20) ‘I still have major concerns due to the topography of the site now as the land of phase 2 is now 15-20 feet lower than the road personally this needs reassessment from NCC highways and as it’s so close to the bend leaving the village and the 50mph sign which still hasn’t been changed from NCC highways meaning the dangerous area were the road is wanted is too bad for the area. Can NCC reassess and can or this please be brought before the committee personally a site visit is needed for this so members can assess for themselves is they think it’s as dangerous as it looks from the road.’ *(NCC’s response to these concerns are set out below dated 06.07.20)*

NCC Highways Authority –

(06.07.20 in response to Cllr Brown’s email above)

‘Progress is being made to reduce the speed limit to 30mph if indeed it has not already occurred. The access arrangement has been assessed and safety audited and the Highway Authority has no objection. The issue of land levels being reduced would not appear to be a problem since this authority would be requiring road gradients to match minimum highway guidance standards. This should not affect visibility splays or safety.’

(29.06.2020) Substantive comments:

The proposal is a resubmission of a scheme previously put forward under planning application 19/02159/FUL. The highway details have been technically reviewed and safety audited and are acceptable to this Authority.

No objections are raised subject to the following conditions:

NCC then go on to recommend 3 conditions and 1 informative which are repeated (and strengthened to make more robust) in the conditions section of this report.

Representations from 2 local residents have been received objecting to the application. These can be summarised as follows:

- This re-submission of application 19/02159/FUL which was rightly refused planning permission by the planning committee. The applicant has clearly stated that refusal was "the wrong decision" and is now demonstrating that they have little regard for the

planning process and earlier objectors. When an application is approved, objectors have no right to appeal yet the applicant can either appeal or simply re-submit the application.

- The reasons for objecting are the same as for application 19/02159/FUL.
- The applicant still hasn't given any sound justification for this access road and access to the site is already available via the spine road.
- Direct access from the site onto Ollerton Road will result in excessive soiling of the highway and hinder the flow of traffic. It could be argued that wheel-washing facilities will overcome this issue, however, I have seen a number of sites where they were claimed to be present but, based on the amount of mud on the highway, were not actually used. Road sweepers are slow moving and would therefore restrict the flow of traffic.
- Access and egress should be via the spine road and as far as possible from Ollerton Road. By taking this approach, the vast majority of soiling will be on the spine road rather than on the public highway and road sweepers will be able to operate without obstructing traffic using Ollerton Road.
- Ingress & egress will be difficult and dangerous to control without the provision of Traffic Lights as there will be no segregated lanes for right turners. Traffic flow will be restricted with detrimental effect to vehicles travelling east, having restricted vision, as they approach, even though they are in a 30/50 MPH area. A known fact this stretch of road has had fatalities along its boundary with this development!
- Wheel-washing has historically been un-workable, with the probability of road sweeping, with "the why should we attitude" causing expense that more than likely won't be policed. Either way will be detrimental to traffic users by actually creating more obstacles along the road, whether detritus or slow moving hazards.
- The Developer has been granted permission to access both the Western and Eastern sites from the main "Avenue"; surely with their attitude to legislation, common sense says this application for another temporary, really means permanent? Why else would they go to so much trouble and pointless expense?
- Don't that that previous objections have been read
- Concern that planning regulations are being ignored and the NCC Highways are willing to object because they don't live in the area

Comments of the Business Manager

Principle

The site is identified in the Development Plan as a strategic site for housing and employment uses as well as other leisure and community uses. Indeed outline permission exists for this and reserved matters approvals have so far been issued for 362 dwellings (phases 1 & 2) as well as some enabling infrastructure work. Policy ShAP4 (Land at Thoresby Colliery) sets out a framework for the expectations of this development; one of which (point 12iii) is to 'minimise the impact of the development on the existing transport network'.

This proposed access would serve Phase 2 which has recently been granted reserved matters approval for 143 dwellings and relates to the part of the site located closest to Edwinstowe which is currently served by an existing agricultural access.

It may assist Members to put into context existing access arrangements for the wider strategic site. As part of the outline consent, two permanent accesses were approved; 1) the western (central) access which utilises the former main Colliery access road and 2) the eastern access which will be a new entrance in to the site serving the 20 acres of land allocated for employment

use. Conditions 23 and 24 of the outline consent provides for the delivery of these accesses to be phased, prior to 1st/400th occupations respectively.

Extract from approved plan - showing approved access points

Nb – Phasing has since changed (Phase 3 annotated below is actually now Phase 1 whilst Phase 1 annotated is now actually Phase 2)



The applicant has sought to provide further justification for the need for the temporary construction access given that the main central access was previously intended to serve both construction and pedestrian access following the committee decision to refuse the application. This justification is included below in full:

“The planning application seeks to utilise and upgrade the existing agricultural access point as a temporary construction access for use by the developers of Phase 2 (Barratt David Wilson Homes), for constructing that phase of development. Following completion of Phase 2, the temporary access would be removed and reinstated as a permanent pedestrian link with associated landscaping. The junction is only required for 5 years from the grant of planning permission and Harworth is content to have this restriction secured by condition.

The development of a separate construction access for the Phase 2 developer (Barratt David Wilson Homes) is required for safety reasons, in order to support overall management of construction traffic from the residential sites to manage and mitigate dust, mud and noise for future residents of the wider Thoresby Colliery site. This will assist Harworth in the management of the wider site from a health and safety perspective, allowing for clearly defined entrance points for each contractor. The temporary access would assist by reducing conflicts between construction traffic and household traffic once the Phase 1 dwellings are occupied.

Harworth currently have between 4 and 6 significant live works contracts on site, plus a tenant, all with their own subcontractors accessing the site. Additionally, Harron Homes (Phase 1) have a number of live sub-contractors, deliveries and consultants using the access. Harworth want to avoid mud, dust and debris on Ollerton Road. Whilst Harworth can proactively manage use of the access, it is not always possible to enforce if it is not clear who is causing the issue. The situation will be exacerbated once the Phase 2 developer starts development and when residents start moving onto the site. The development of a

temporary construction access for Phase 2 will promote good site management, control and security, through clearly defined points of access.

The enabling works are being undertaken by C R Reynolds who are acting as the Principal Contractor, and they manage and control traffic at the existing single site entrance. The installation of this temporary construction access will allow Barratt David Wilson Homes to operate under their own Construction Design and Management (CDM) Regulations, which simplifies the monitoring and management process, and any remedies required.

The reason for refusal expressed concerns about the speed of traffic on Ollerton Road however, in accordance with the recommendation from the Highways Authority, a proposed condition requires a 30mph speed limit to be in place along this section of Ollerton Road prior to the development being brought into use. Put simply, the temporary construction access is required to improve site safety and highway safety.

Representatives from Harworth met with Parish Councillors and District Councillors on site on 5th June 2020, and the need for this temporary access was explained. Members were shown around the site and the points raised at the Planning Committee meeting were discussed further. Harworth have agreed to set up regular site meetings with members, and they now have a direct contact point for any issues going forward.

An appeal against the refusal of this application has also been lodged, however the applicant would withdraw this, subject to receiving planning permission promptly for this 'free go' application.

In summary the construction access is required for a temporary period for reasons of highway safety and health and safety. It should be emphasised that the County Council as Highways Authority has no objection to the proposal, and Harworth are content to accept a condition requiring its removal and reinstatement as a pedestrian link after 5 years."

My understanding is that the master developer intends to use the capital receipt from the sale of the land to Barratt (the prospective developer for Phase 2 already approved) to bring forward the payment of their contribution for the much needed Ollerton roundabout improvement works. However I also understand that without the temporary access the land deal with Barratt Homes would be in jeopardy. Whilst this is not for the planning system or decision makers to remedy, it is important to understand the context and how this all fits together.

The justification now provided makes clear the reasons for its need and I am satisfied that the temporary access would improve the environment by reducing conflicts between construction traffic and household traffic once the Harron Homes in Phase 1 are occupied as well as making the ability to manage construction impacts, such as mud and dust, easier.

The applicant has previously indicated they are prepared to accelerate the construction of the eastern most access/junction in order to try to address concerns raised during the previously refused application process whereby the direct access to serve Phase 1 was omitted from the scheme due to highway safety concerns.

Members may recall that I was not previously convinced that there is a clear need for the temporary access. However with the justification now submitted I am satisfied that this access would bring about overall benefits that would improve the experience of users of the highway

through enabling better management during the construction phase, accountability for any issues and a more pleasant access for occupiers of Phase 1 which are expected towards the end of this year.

Highway safety

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development. Spatial Policy 7 encourages proposals to provide for safe convenient and attractive accesses for all and provide links to the network of footways etc to maximise their use, be appropriate for the highway network in terms of volume and ensure the safety, convenience and free flow of traffic are not adversely affected.

The proposal would involve the creation of a new access to allow for construction traffic to enter Phase 2 without having to enter and exit via the existing approved access. In highway safety terms this access has been through safety audits and NCC Highways Authority advise they have no objections subject to 3 conditions which seek to 1) not allow the access to be used until the speed limit is reduced to 30 mile per hour; 2) to implement measures to be agreed to prevent the deposit of debris (mud/soil etc) on the public highway and 3) to require the temporary access to be removed and reinstated as a pedestrian link once Phase 2 is complete. These conditions are in my view reasonable and necessary. Subject to the imposition of these conditions there would be no identified highway safety harm.

The reduction of the speed limit along this section of Ollerton Road requires a Traffic Regulation Order (TRO) to be made by Nottinghamshire County Council as the highway authority. This is a separate process to the determination of the planning application, and I understand that Harworth are already in discussions with the County Highway Authority, who have indicated that the reduction in the speed limit will be supported. The formal application for the TRO has, I understand, now been made and the necessary consultation will be undertaken by the County Council. It is expected that the TRO will be issued in September 2020.

If planning permission were to be granted for the temporary construction access, the reduction in the speed limit would be in place approximately 5 years sooner than originally set out in the access strategy approved as part of the outline planning permission (condition 24 of the outline planning permission requires the eastern access to be open prior to the occupation of the 400th dwelling). It should also be noted that the current traffic restrictions on Ollerton Road act to reduce to traffic speed, and these are likely to be in place until September 2020.

The applicant has advised that they anticipate that the Barratt phase (proposed to be served by the temporary access) would take approximately 4 years to build out, and therefore a temporary permission of up to 5 years is required to ensure the safety measures remain in place during the construction period.

Other Issues

There are no trees that need to be removed to facilitate this development; whilst some trees and hedgerows have already been felled and pruned these were approved by the enabling infrastructure phase. The visual impact will be minimal and is temporary in any event.

Conclusion

The conclusions that Members drew previously related to the lack of a justified need coupled with the perceived highway harm, particularly given the speed of traffic along Ollerton Road. It is fair to say that officers were also previously unconvinced of the 'need' for the construction access albeit found no resulting harm hence the recommendation for approval. With the justification now submitted I am now satisfied that the need for the access has been demonstrated and would lead to benefits such as being better able to effectively manage construction impacts which would benefit all users of the highway network. Members need to be aware that the highway reason for refusal is not corroborated by NCC Highways Authority who are the technical experts in such matters and resistance of this ground would be difficult to defend at appeal and is likely to lead to an award of costs for unreasonable behavior if this cannot be substantiated. It should be noted that members concerns regarding the speed of traffic could be mitigated by the imposition of conditions to slow the traffic down.

In summary the principle of a temporary access is acceptable in principle, the need for it now fully and robustly demonstrated and there are no highway safety issues that can be corroborated following a safety audit, subject to mitigating conditions. No other harm has been identified.

RECOMMENDATION

That planning permission is approved subject to the conditions and reasons shown below:

Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in accordance with the following approved plans:

17109-S184-P2-1100-001 Rev A (S184 Construction Access, Phase 2, Kerbing and Drainage),
17109-S184-P2-1200-001 Rev A (S184 Construction Access, Phase 2 Road Markings and Signing),
17109-S184-P2-0000-001 Rev C (S184 Construction Access Phase 2 General Arrangement),
190572-CA-SK01 Rev C (Construction Access Signing and Lining),
17109-S184-P2-0200-001 Rev A (S184 Construction Access Phase 2 Site Clearance), 17109-S184-P2-0700-001 Rev A (S184 Construction Access Phase 2 Earthworks and Surface Finishes),
024/THS/MAJ/A2, Layout 1,
Stage 1 Completion of Preliminary Design - Road Safety Audit, Feb 2020 by Vi,

unless otherwise agreed in writing by the Local Planning Authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development hereby permitted shall be brought into use until the extension to the 30mph speed limit on Ollerton Road has been approved and implemented in accordance with details shown on drawings to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

04

Prior to any works or development commencing on site, details of measures to prevent the deposit of debris upon the adjacent public highway shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and maintained during the lifetime of the development in accordance with the approved scheme.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

05

By no later than the completion of the final dwelling on the adjacent 'Phase 2' residential development, or five years from the date of this permission, whichever is the sooner, the temporary construction access will be removed and reinstated as a permanent pedestrian link with associated landscaping in accordance with details to be first agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety and to promote sustainable travel.

Note to Applicant:

01

The development makes it necessary to construct a vehicular crossing over a footway/verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at: <https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

BACKGROUND PAPERS

Application case file.

For further information, please contact Clare Walker on ext 5834.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/00999/FUL

