

<u>APPLICATION NO:</u>	22/00783/FUL	<u>CASE OFFICER:</u>	Jo Sheridan
<u>WARD:</u>	Halewood South	<u>PARISH:</u>	Halewood Town Council
<u>LOCATION:</u>	Former Site Of The RSPCA, (Miller Homes Development Site), Higher Road, Halewood		
<u>PROPOSAL:</u>	CONSTRUCTION OF 1.NO TEMPORARY VEHICULAR ACCESS TO FINCH LANE (IN CONJUNCTION TO PLANNING PERMISSION 19/00104/FUL)		

Site Description

The site subject of this application is the land that was formerly occupied by the Liverpool branch of the RSPCA. The site is bound to the east by Finch Lane, the south by Higher Road and the west by Baileys Lane. The north of the site is bounded by land owned by Bellway Homes who are developing the land under permission 20/00063/FUL. The site is being developed by Miller under planning application 19/00104/FUL (see Site History). The particular nature of the application relates to the eastern boundary of the development site with Finch Lane.

Proposal

The application seeks the construction of a vehicular access to Finch Lane. This would include the removal of a length of 15m hedgerow and the lowering of the hedgerow to 1m for 10 m either side of the entrance.

Consultations

Highway Authority: No objection subject to the temporary use of the access and that it must be reinstated.

Arboricultural Team Leader: In this situation with the mitigation of improving the condition of the hedgerow through:

- Laying the hedgerow the length of the site
- Replanting of the gaps in the hedgerow at the end nearest Higher Road
- Removal of the old field gate and pallets
- Removal of the ivy and elder at the end nearest Higher Road
- Replanting the removed hedgerow with more developed plants min height: 150cm

It is considered that the improvement to the overall hedge condition is worth the temporary loss of hedgerow to create the access onto Finch Lane.

MEAS: No objections subject to a condition to protect breeding birds.

Halewood Town Council: No comments received.

Representations

This application has been publicised by neighbour notification letters and by site notice. One email of objection has been received following the publicity given to the application which raised the following issues:

- This should have been identified in the original Design within CDM Regs;
- Finch Lane is narrow and at the moment has returned to two way traffic -Everton Training Academy has a number of vehicles accessing our site between 8:00 a.m. and 9:00 p.m. bringing male and female players from the age of five upwards to the training complex in various forms of transport along Finch Lane. There is no mention of any additional traffic control measures in the application also why two years for a temporary access?
- A much safer route would be to take the road shown on the Site Plan within the site running from North to South out onto Higher Road which is a dual carriageway and would be a safer option.

Planning History

19/00104/FUL: Demolition of existing buildings and erection of 162 no. dwellings together with landscaping, infrastructure and associated works
Decision: 7 April 2021

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

Policy Context

NATIONAL PLANNING POLICY FRAMEWORK 2021
PLANNING PRACTICE GUIDANCE DCLG
NATIONAL DESIGN GUIDE

THE JOINT MERSEYSIDE AND HALTON WASTE LOCAL PLAN 2013
WM8 - Waste Prevention and Resource Management
WM9 – Sustainable Waste Management Design and Layout of New Development

SAVED POLICES – KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)
T5 – Location of Major Traffic Generating New Development.
DQ3 – Gateway Sites and Corridors
DQ4 – Trees and Development

KNOWSLEY LOCAL PLAN: CORE STRATEGY POLICIES (2016)
SD1- Sustainable development
CS1 – Spatial Strategy for Knowsley
CS2 - Development Principles
CS4 – Economy and Employment

SUPPLEMENTARY PLANNING DOCUMENTS

Trees and Development SPD (2016)

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Assessment

Principle of the creation of a vehicular access along Finch Lane:

The applicant has stated that the access is necessary to allow construction and delivery vehicles to access via Finch Lane so not disturbing the completed and occupied western part of the development site, whose access is from Baileys Lane. The applicant cites health and safety as a reason for requiring the access. The covering letter submitted with the planning application states the following:

“The Public Open Space area is open to Baileys Lane and there is no footway separating the POS from the main road. There is also substantially more footfall around the entrance which will increase once the footpath/cycleway is complete. There are therefore concerns regarding pedestrian and construction vehicle conflict, especially given no footway is in place currently. The primary concerns the imminent increase in public activity within the POS area and increased footfall around the site entrance with construction traffic.”

Further supporting information as submitted with the application which stated that Miller are currently utilising a temporary access to the south on Higher Road. The information states that “Once the temporary access from Higher Road is closed, it will leave us with one site access of Baileys Lane. Although not unusual we would be remiss to not consider how we can best reduce/eliminate interface between residents and contractors on site. The primary concern is the imminent increase in public activity within the POS area and the increased footfall around the site entrance with construction traffic.”

Limited weight is given to the health and safety concerns of the developer. If the primary concern is the POS then there are other options open to the developer such as temporary fencing could be constructed and additional safety signage as examples.

The developer is in quite a unique position whereby the site is bounded by three highways. The main route into the site will always be via Baileys Lane. There is a temporary access to Higher Road which is going to be stopped being used because it does not have planning permission and also the Council are about to embark on major highway works along Higher Road and the immediate vicinity and so will be unable to be used but its continued use would also conflict with the proposed highway works. Usually, a developer would not have a ‘third’ option which in this case is a temporary access proposed from Finch Lane.

Under the hedgerow regulations 1997, this hedgerow is classed as an important hedgerow as it is 20m without gaps and is over 30 years old. The applicant has checked the status of the hedge in respect of its protection and noted that whilst it is not subject to a TPO, and instead appears to be protected under the Hedgerow Regulations 1997, it is of note that whilst the hedge is of some value to wildlife, the hedgerow is monoculture, so its overall value to wildlife will be less than that of a

traditional native mixed hedgerow.

Following a meeting with the Council's Tree Officer it was considered that an advantage in allowing the creation of the vehicular access for a period of 24 months would be to secure the 'laying' of the hedgerow. The existing hedgerow is high and if left would grow higher which will weaken the lower part of the hedgerow. The hedgerow will develop gaps and trees will be lost.

The applicant has agreed to 'lay' the hedgerow. This would have three advantages. First, it would give the hedgerow longevity; second to allow laying the hedgerow would allow it to become more maintainable and manageable and third, it would widen the footpath along Finch Lane, as it is currently overgrowing onto the already narrow footpath. It is this advantage that swings the planning balance in favour of the proposed development.

The applicant has also agreed to improve the overall length of the hedgerow by infilling gaps and removing ivy. The LPA have worked extensively with the applicant to agree the details within the planting plan to ensure the improvement and longevity of the hedgerow.

The applicant has confirmed that Miller are happy to agree to a condition securing hedge laying across the entire eastern site boundary. This is seen as a real benefit in the balance, noting the lack of uniformity of the existing hedgerow and the poor quality/gappy nature of some sections of the hedgerow. Hedge laying would secure the health and quality of the hedgerow, thereby providing an improvement in the long term. This benefit could be delivered immediately, with a contractor lined up ready to go in advance of the bird nesting season if the application was to be approved (see 'Ecology').

One of the main concerns of the arboricultural officer is that the temporary access would be made permanent. Under no circumstances would a permanent access be granted on Finch Lane, and this has been reiterated to the applicant. A condition (condition 2) will be attached to the planning decision notice, should the application be granted that requires the removal of the access after 24 months and for the hedgerow to be planted as per the approved planting plan.

Ecology:

The applicant submitted a 'Nesting bird Survey' which showed that on 3rd March 2023, the hedgerow was not constrained by nesting birds. The report concluded that if the commencement of works is delayed beyond 7th March 2023, then a reinspection of the vegetation must be carried out to ensure that the works are informed by an accurate account of the nesting bird status at the site. A condition (condition 7) will be attached to the planning decision notice, should the application be granted that requires the removal of the access after 24 months and for the hedgerow to be planted as per the approved planting plan.

Highways

Highways have no objection for this access to be formed with the maximum of 15m of hedge to be removed and replaced on completion. Highway requested that a further 10m of hedge in both directions must have a maximum height of 900mm to assist on visibility, and on review, if any issues do arise, temporary traffic signals must be provided on the request of Knowsley MBC Highways Engineer. The decision to use traffic control by way of Temporary signals will be determined on evidence and number of complaints received during the use of the access. The imposition of traffic lights is under powers outside of the planning system.

As the hedge is to be laid at 1.2m, Highways have since advised that they can accept 1.2m given it is only for HGV access, but if they start to allow cars and small vans use it, we will action traffic signals to control access due to lack of visibility. A condition can be imposed restricting the use of the access to HGVs only.

The use of any access onto Higher Road is not permitted as per planning earlier planning conditions, due to planned works to remove the access as part of wider junction improvements. The stopping up of the temporary access will be undertaken on the final dwelling being built, all hedges must be replaced, any evidence of the temporary access is removed and made good.

Conclusion

To allow the temporary vehicular access would be include the removal of a 15m stretch of hedgerow, which is not ideal, particularly since the applicant could utilise the main existing vehicular access from Baileys Lane, however, given that the entire length of hedgerow along the Miller development site is to be planted where required and laid which will ensure the longevity of the hedgerow, on balance, the proposal is considered acceptable.

The proposal would comply with Saved Unitary Development Plan Policy DQ4 'Trees and Development' which states that proposals for new development should include appropriate planting of trees or other soft landscaping, the location and details of which should be determined as an integral part of the development and which shall have regard to the character of the surrounding area. The LPA have worked extensively with the applicant to agree the laying of the hedge and the overall improvements of the hedgerow which will be of great benefit to the character of the area.

Recommendation

Grant temporary planning permission subject to the following conditions:

Temporary planning permission

1. This permission is granted for a limited period which will expire on 15 March 2025. At the expiration of this period the development for which permission is hereby granted, the use shall be discontinued and:

- i. the footpath shall be reinstated to its former condition in accordance with a restoration scheme to be submitted to and approved in writing by the Local Planning Authority; the reinstate scheme to be submitted within one month of the date of this decision;
- ii. the hedgerow shall be replanted in accordance with Drawing No. 206 Rev D during the first available planting season following the cessation of use of the vehicular access hereby permitted.

REASON: The development is of a temporary nature only and is not considered acceptable on a permanent basis.

Approved plans

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

Improvement of the hedgerow

3. The hedgerow shall be improved in accordance with Drawing No. 206 Rev D. For the avoidance of doubt, these details include:

- Replanting of the gaps in the hedgerow at the end nearest Higher Road
- Removal of the old field gate and pallets
- Removal of the ivy and elder at the end nearest Higher Road

- Replanting of the removed hedgerow with more developed plants min height: 150cm (with the growing tip removed to allow for the plant to bush out) The approved works must be implemented in accordance with the approved details within six weeks of the date of this decision notice.

REASON: It is in the interests of visual amenity and in accordance with the duty of the Council under Section 197 of the Town and Country Planning Act 1990 in respect of the planting and preservation of trees.

Five days notice

4. Five working days written notice shall be given to the Local Planning Authority prior to the removal of the hedgerow and five working days written notice shall be given to the Arboricultural Officer prior to the replacement of the hedgerow

Reason: For the avoidance of doubt and to comply with the application.

Tree death

5. In the event that any of the trees/plants that are planted as part of the replacement hedgerow planting scheme as per the details secured under condition 2 and 3 of this permission which die, become diseased, damaged or are removed within 5 years of planting shall be replaced with trees/plants of similar sizes and species or as may otherwise be agreed with the Local Planning Authority in the first available planting season thereafter. Should replacement planting be necessary, the Council shall be notified in writing at least 7 days prior to the planting taking place. Notification shall include details of the problem with the implemented scheme and the specification and timing of the replacement planting.

REASON: It is in the interests of visual amenity and in accordance with the duty of the Council under Section 197 of the Town and Country Planning Act 1990 in respect of the planting and preservation of trees.

Laying of the hedgerow

6. The hedgerow along the entire eastern site boundary, as illustrated on Drawing No. BLHW/LP/02 Rev A, shall be laid in accordance with the details outlined in the email dated 08.02.23 (details of hedge laying) and 09.03.2023 (which states that the hedge will be laid at a height of 1.2m) hereby approved. The hedgerow must be laid in accordance with the approved details within six weeks of the date of this decision notice.

REASON: To improve the hedgerow and the character of the local area in accordance with Saved Unitary Development Plan Policy DQ4.

Breeding birds

7. No works to the hedgerow hereby permitted can take place within the breeding bird season 1st March until 31st August unless a nesting bird check has been carried out within 24-hours prior to such works commencing. In the event that nesting birds are recorded within the works area, a scheme of mitigation shall be submitted to and approved by the local planning authority. The works to the hedgerow shall be carried out in accordance with the approved mitigation measures.

REASON: Breeding birds, their nests and eggs are protected under the Wildlife and Countryside Act.

Landscape management

8. Within three months of the date of this decision, a hedgerow management scheme for the entire eastern boundary shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the timescale, programme and the body responsible for its implementation. The approved scheme is to be implemented in perpetuity. Any successors to the original body responsible

for its implementation shall be notified to the Local Planning Authority in writing within one month of any such change occurring.

REASON: The Council wishes to ensure that these areas are appropriately managed in the interests of visual amenity.

No parking on Finch Lane

9. No vehicles will be permitted to wait for any length of time on Finch Lane, and therefore must be able to access site on arrival without delay, any reports of such issues will be investigated, and the use of a temporary access revoked on safety grounds.

REASON: Highway safety.

HGV only using temporary access

10. Given the reduced visibility splay, the temporary access hereby permitted shall be used by construction vehicles only and no other vehicles (including vans and cars). The use of the access by other vehicles may result in the temporary access being closed.

REASON: Highway safety.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
07/03/2023	02/18	Rev D	Finch Lane Temporary Site Access Setting Out information & Details
18/01/2023	706.16	Rev G	Arboricultural Impact Assessment
08/03/2023	BLHW/L/LP/02	Rev A	Temporary Access Location Plan
10/03/2023	206	Rev D	Planting Plan – Replacement Hedgerow Proposals
23/12/2022		Rev 5	Construction Environmental Management Plan
08/03/2022	BLHW/ESP/01	Rev A	Existing Site Plan

Signed Case Officer¹: Jo Sheridan

Signed Authorising Officer²:

K Foster

Date:

15 March 2023

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

Appendix 1 – Site Photographs



View towards Higher Road



View towards Finch Farm