



**Planning Committee**  
**Monday, 4th September, 2017 at 9.30 am**  
**in the Assembly Room, Town Hall, Saturday Market**  
**Place, King's Lynn PE30 5DQ**

**Reports marked to follow on the Agenda and/or Supplementary Documents**

- a) Decisions on Applications (Pages 2 - 13)

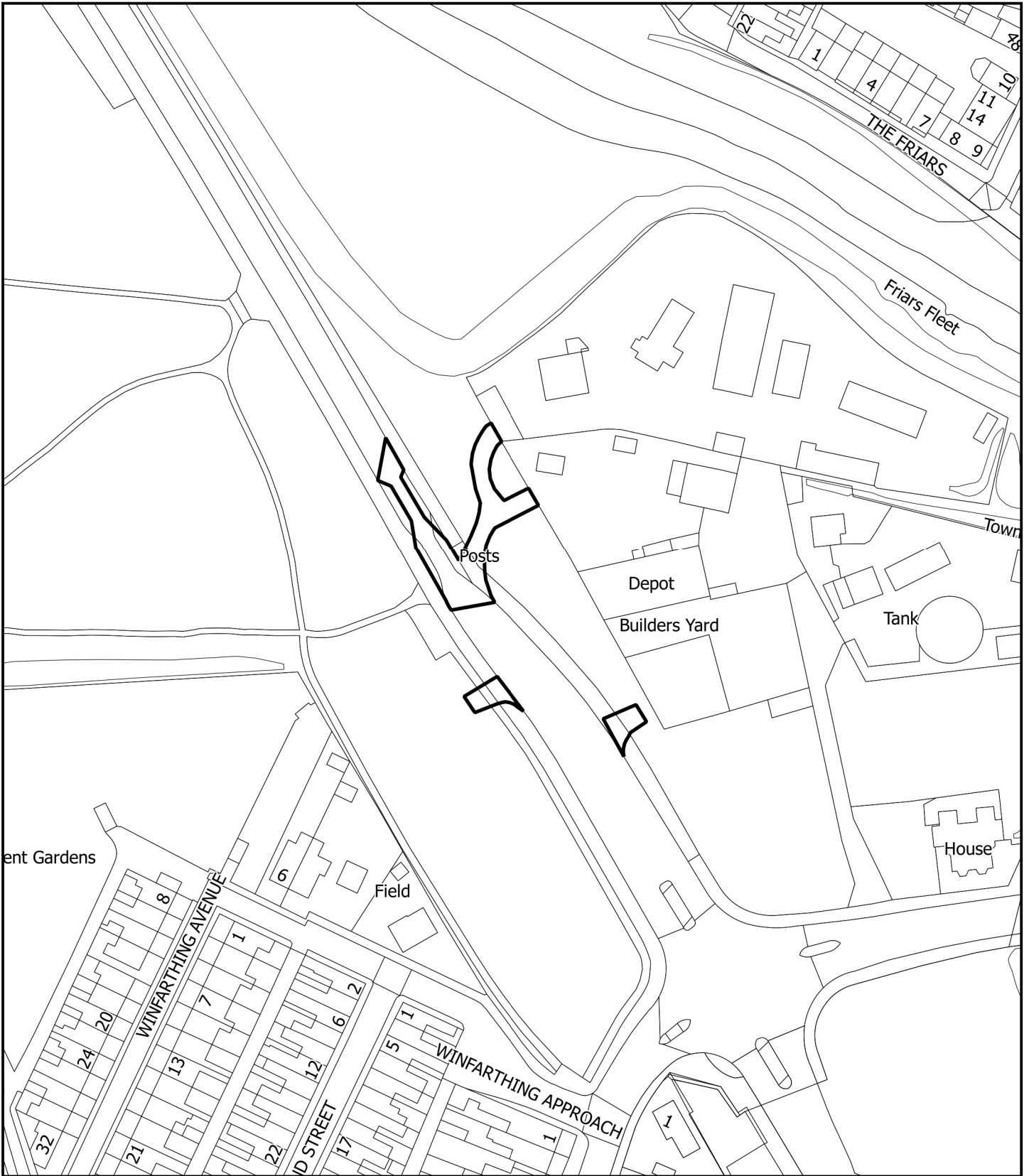
To consider and determine the attached Schedule of Planning Applications submitted by the Executive Director.

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# 17/01008/F

## Hardings Way Kings Lynn



<b>Parish:</b>	<b>King's Lynn</b>	
<b>Proposal:</b>	<b>Construction of three new access roads off the southern end of Hardings Way and relocation of bus gate</b>	
<b>Location:</b>	<b>Hardings Way King's Lynn Norfolk</b>	
<b>Applicant:</b>	<b>Borough Council of King's Lynn And West Norfolk</b>	
<b>Case No:</b>	<b>17/01008/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Mrs H Morris</b>	<b>Date for Determination: 28 July 2017 Extension of Time Expiry Date: 8 September 2017</b>

**Reason for Referral to Planning Committee** – The applicant is the Borough Council and there have been objections to the proposed development. The application has also been called-in by Cllr Joyce.

### **Case Summary**

The application relates to land at the southern end of Hardings Way, King's Lynn, close to its junction with Wisbech Road.

Hardings Way is a single two-way carriageway which reduces to single 'give way' carriageway for a short length. It has a Traffic Regulation Order (TRO) which currently restricts its use for buses and cycles only.

The application seeks full planning permission for the construction of three new access roads off the southern end of Hardings Way and relocation of the existing bus gate 15m further north. Hardings Way to the north of the bus gate will continue to be a bus only route. A revised drawing (dwg no. PK6062-HP1-002B) was received on 17th July 2017 in order to address comments raised by Norfolk County Highways.

### **Key Issues**

The key issues identified in the consideration of this application are as follows:

Principle of development;  
Highway safety;  
Other considerations; and  
Crime and disorder

### **Recommendation**

**APPROVE**

## THE APPLICATION

The application seeks full planning permission for the construction of three new access roads off the southern end of Hardings Way and relocation of the existing bus gate 15m further north.

The purpose of the application is to provide access to Council land for potential development and additionally provide an access to land belonging to Overtons. Two of the proposed new access points would be for potential future residential use only and the third access would be for potential future residential, but enabling access for HGV's into the existing Overton's site.

A revised drawing (dwg no. PK6062-HP1-002B) was received on 17th July 2017 in order to address comments raised by Norfolk County Highways.

Hardings Way is a single two-way carriageway which reduces to single 'give way' carriageway for a short length. It has a Traffic Regulation Order (TRO) which currently restricts its use for buses and cycles only. Although the TRO will need updating, Hardings Way to the north of the bus gate will continue to be a bus only route.

## SUPPORTING CASE

Limited information has been submitted in support of this application however the agent has advised that NCC development and operations team were contacted at an early stage and advised that from their perspective the use of Harding's Way and the requirements for it to be used by buses only is for Network purposes.

Harding's Way to the north of the bus gate will continue to be a bus only route. From a safety perspective, the scheme will be subject to a safety audit where all users needs are considered.

## PLANNING HISTORY

10/00264/FM – Provision of new public transport route (CIF 2 Route) from Wisbech Road to Boal Street: Variation of condition 17 of planning permission 09/01441/FM to allow tree felling in advance of April to avoid nesting birds and preliminary site clearance at southern end of the transport route outlined in supporting documents. Approved, 17th May 2010.

09/01441/FM – Provision of new public transport route (CIF 2 Route) from Wisbech Road to Boal Street. Approved, 5th November 2009.

## RESPONSE TO CONSULTATION

**Norfolk County Highways: NO OBJECTION** subject to specified conditions in relation to the accesses, visibility splays, construction management plan, off-site highway improvement works and TRO.

The Highway Authority is aware of local opposition regarding the use of Hardings Way by all traffic. This application seeks to relocate the bus gate and to provide access to parcels of land which are before the bus gate is reached. The application retains the bus gate and

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therefore Hardings Way after the bus gate will remain a bus only route and will not be open to all traffic as a result of this application.

The concerns of the Highway Authority ensuring that access to the development sites is prevented once the stubs have been constructed have been addressed by the provision of secure fencing both across the stubs and up to and including the new location of the bus gate. The Highway Authority considers that such measures should ensure that it would be difficult for any vehicle to access Hardings Pits from Hardings Way. This will also need to apply during construction when fenced and secure boundaries will need to be in place at all times. In addition a footway/cycleway has been provided along the eastern arm which ties into existing provision.

**Norfolk County Public Rights of Way (PROW): NO OBJECTION** subject to the appropriate measures being adhered to.

The plans show that the footpath will be crossed by one access route, at a later date to become an access to redeveloped land - a better time to sort out the footpath in all probability.

If the planning is approved and the development goes ahead then the actual physical work to create the access road will technically affect the ability to use that part of the route, so the proper procedure would be for the landowner to apply to NCC for a temporary closure order while the construction takes place. The footpath will run up to and cross that bit of road, so it would be wise to put in dropped kerbs just in case that bit of the route stays there in the long term.

In the short term the footpath will legally continue to cross over the roadway with just a change of surface type on that section across the road, but would remain open to use for the time being. Once further development takes place the opportunity should arise to sort the whole path out in a more satisfactory manner and clear up past issues with obstruction elsewhere along it, so the section of footpath in question may no longer exist on that alignment by virtue of a formal legal process further down the line.

If the path can be; and is left on the current alignment, then assuming the roadway is eventually adopted, at that point the highway rights on the footpath will be subsumed under a higher highway status ( road) and the Legal Orders and Registers team at County Hall can do a Legal Event Order ( LEO) to remove the short section of the footpath off the legal document where it is concurrent with the adopted highway.

**Environmental Health & Housing – Environmental Quality: NO OBJECTION** - We are concerned that any development close to the King's Lynn Air Quality Management area does not give rise to unacceptable levels of air pollution due to traffic emissions. I understand that this proposal at the southern end of Hardings Way will provide access is to existing development and access to sites which are proposed for development in the future. No new traffic is being allowed up Hardings Way beyond the re-located bus gate as part of this proposal.

While the remainder of the land is undeveloped this proposal serves existing development only and does not have a significant air quality impact in itself. Therefore we have no objection to this application on air quality grounds. We would however require an air quality screening assessment as a minimum when subsequent separate proposals for development are submitted.

**Environmental Health & Housing – Community Safety and Neighbourhood Nuisance (CSNN): NO OBJECTION**

**KLACC planning sub-group: OBJECT** on the following grounds:

- Concerns about the safety of the bus route frequently used by pedestrians and cyclists, and the impact upon the Wisbech Road junction;
- Object to the movement of the bus gate further north;
- NCC current comments contradict previous comments made on the safety of the road if fully open to traffic, by an NCC Senior Highway Engineer; and
- Concerned over future use of the land.

**King's Lynn Civic Society: OBJECT** on the following grounds:

- The Highways recommendation to create a pedestrian/cycle facility along the north-eastern side of Hardings Way with some form of fencing/barriers provided across each access 'stump' to prevent casual traffic from entering the sites will do nothing to prevent air pollution in this vital open space for South Lynn.
- The application states that it does not interfere with any public footpath. This is not true. This application must not be allowed to further compromise Footpath 23 which crosses the site.
- An Environment Impact Assessment is missing. Why - because it will show that opening up this road to more traffic will have a detrimental effect on the air quality, and the local environment in general.
- This is the thin end of the wedge to enable the Council to open up Hardings Way to all traffic and is strongly opposed by the Civic Society.

**Open Spaces Society: OBJECT** for the following reasons:

- Concerned by the fact that the proposal would necessitate a diversion or extinguishment of the historic alignment of King's Lynn Footpath No.23, thereby causing significant harm to the public's enjoyment of the path.
- We recognise the great value of the Harding's Pit Doorstep Green to the amenities of residents of, and visitors to, South Lynn, and are concerned about the potential adverse impact of this proposal, upon the public' enjoyment of this amenity, in terms of increased air pollution and noise.
- We also share concerns that have been expressed about the potential of the proposal to enable vehicles to enter onto the site.

**Campaign to Protect Rural England (CPRE): OBJECT** on the following grounds:

- This application appears to be the first step towards opening Harding's Way to all traffic and enabling further development. To do that would ruin the current ambience and usage of this route, bringing safety concerns to those who use it as a route to school, work, shops and for recreation, in addition to issues of increased noise and air pollution.

**REPRESENTATIONS**

County Councillor Kemp **OBJECTS** to the application. Her expressed concerns can be summarised as follows:

- County has consistently opposed the opening-up of Hardings Way to traffic on the grounds of safety. This application to move the bus gate and build 3 new accesses is a symptom of the misallocation of resources in the public sector.
- Instead of taking congestion off Vancouver Avenue with a Weight Restriction which residents want and are told cannot be afforded at £15k, this Application would create congestion on Hardings Way at a cost of £15k to vary the Bus Order.
- The access onto Hardings Way for waste vehicles would encroach on the peace and quiet of Harding Pits Doorstep Green and contravenes the 25 year covenant with the Borough and Hardings Pits Association and will cause further dust and noise from the commercial operation to local residents.
- It will affect a public right of way.
- There is no Environment Impact Assessment omitted as it will show this application is unfeasible.
- Wrong place, wrong accesses, wrong idea. If the Borough approves it, it will have a place in local history comparable to the 60's destruction of treasured buildings from the heart of Lynn. But this time there will be no excuse, as it will have been warned but have failed to learn the lessons of the past.
- The revised plans are a red herring and clearly form part of the Borough's mistake in its Waterfront Plan to open up Hardings Way to all traffic.
- A senior County Highways Planner is on record writing to former Councillor Mark Back, who represented the Friars, that is not safe to open up to Hardings Way to general traffic. It is not wide enough for two vehicles to pass. It is not wide enough for a separate bus lane and cycle track without encroaching on Hardings Pits or Friars Walk and it would be a retrograde step to place general traffic on the bus lane.
- As the Lead Flood Authority, Norfolk County Council should be heeding the facts of recent local flood history and firmly oppose the clear purpose of this application, which is to build 500 new homes in the flood plain. Hardings Way Bus Lane was flooded in the storm surge of 2013, houses and businesses on the South Quay were flooded and indeed, these buildings form the town's flood defences. So the Borough is choosing to fly in the face of common sense and pioneer major housing development much closer to the river, amidst increased flood risk from climate change and more frequent extreme rainfall events. This is simply not fair on the people who would live in them.
- Building on the waterfront is against Government policy which will not make Flood Re-Insurance available to homes built after 2008, because Councils should not be building new homes in the flood plain.
- This application is literally the wrong direction of travel for sustainable development in Lynn as it will lead to bottlenecks on Wisbech Road when traffic queues to turn right into Hardings Way. We will see the same bottlenecks in South Lynn that we had before the Saddlebow Road Bus gate stopped the rat run from the Hardwick Interchange.
- The only wise and sensible policy is to respect Lynn's historic cultural spaces, encourage walking and cycling for future Public Health and a healthy environment for South Lynn and the Friars and for visitors, and keep traffic, noise and pollution off Hardings Way.
- This application is very much about broken promises, as Whitefriars school was assured by the County Council that this key safe walking route to school would never be opened up to general traffic.

- This application is the first nail in the coffin to open up all of Hardings Way to traffic. A clear disaster for common sense. Time to turn it down and look for sustainable places to build instead.

**9 OBJECTIONS** have been received from local residents and King's Lynn and West Norfolk Bike Users Group (KLWNBUG) in relation to this application. Their expressed concerns can be summarised as follows:

- Safety of cyclists and pedestrians. The new access will introduce HGV traffic onto the southern end of Harding's Way.
- There are currently no development proposals for this site which currently already has access from Winfarthing Avenue so this proposed access is unnecessary.
- The introduction of HGV traffic will negatively impact on air quality on the adjacent Harding's Pits Doorstep Green. This is the only large green area in the south of the town and is ecologically rich, as well as being a 'green lung' for South Lynn and The Friars.
- Opening an access to Winfarthing Wood and moving the bus gates further to the north could allow vehicular access to Harding's Pits.
- Fears this could be a precursor to opening the route to general traffic which is opposed by the vast majority of locals on air quality, safety and amenity grounds.
- Allowing cars to use Hardings Way will force many cyclists and pedestrians into vehicles thus exacerbating the issues with traffic that King's Lynn already suffers.
- Many pupils currently use Hardings Way as a safe route to Whitefriars Primary Academy. Opening it to more traffic would increase the likelihood of accidents. As the dangers of using the road increase, this could lead to an increase in children being driven to school by anxious parents.
- It is clearly contrary to borough, county and national planning policies, as well as contrary to past assurances from both councils, plus it is completely unnecessary and it endangers road users.
- This intensification of an existing junction and addition of further junctions is also particularly disappointing for this location because South Lynn was the second-worst electoral division in Norfolk for road casualties, according to the last Norfolk Insight Health and Wellbeing Profile we have which shows the ranking (2013).
- This application acts directly contrary to the Air Quality Action Plan measure "Improved cycling and walking provision" by downgrading existing provision.
- By changing the access to Hardings Way to allow access to HGVs etc there will be a significant loss of amenity and exposure to significantly increased traffic for local residents and all those using the route to cycle or walk including children on route to school. This is contrary to many past assurances by both councils that this route would never be opened to traffic.
- It appears to be contrary to the Local Transport Plan policies 9 Travel Choice, 12 Tackling poor accessibility and 13 Access to Town and Urban Centres 11 reducing casualties and 14 Sustainable Tourism and Leisure, and 6.9 which states that new developments are designed to encourage people to cycle and walk. At national level it is contrary to policy 124 that planning policies should sustain compliance with and contribute towards EU limit values of national objectives for pollutants.
- Neither parcel of Borough owned land needs access from Harding's Way because both abut other highways, while the industrial yards have existing access.
- At a technical level, the corner radii and kerbs are simply inappropriate and dangerous for the crossings, allowing small vehicles to turn at extreme speeds and present hazard to anyone walking and cycling across the junction mouth. The radii should be very tight and no kerbs should be used.



- The junction crossing priorities are old-fashioned and inappropriate for this location, so must be reversed to give people cycling and walking priority, with the give-way markings to the outside of the footway.
- The removal of the "BUS AND [CYCLE] ONLY" markings from Wisbech
- Road and the mouth of the cycle route will surely increase the number of motorists turning into the road mistakenly, especially when following sat navs that still don't recognise this turning correctly. In the frequently-occurring situation of the bollards being in the down position, a number of these motorists will continue northbound, where they pose a danger to users of National Cycle Route 1, the Nar Valley Way, school children and the historic Whitefriars' Gate, especially if the northern bollards are operating correctly and vehicles perform turns near the gate and school. As an absolute minimum, a "BUS AND [CYCLE] ONLY AHEAD" marking should be placed in all existing locations.
- This route is greatly valued by South Lynn residents as the only clean air route to the town, being generally traffic free apart from a few buses.
- Harding's Pits Doorstep Green is one of South Lynn's few great assets and is the only large green open space left. The extra noise from open vehicular access to Harding's Way would have a major negative impact on its tranquillity, as would the increasing pollution from vehicles.

A letter of representation from The Harding's Pits Community Association Ltd also makes the following points:

- Because of our concern that the construction works might/will make easier access onto the proposed development area south of Harding's Pits and thus the doorstep green itself, can we be assured that fenced boundaries will be maintained during these proposed works and thereafter.
- When Harding's Way was built some 'ecological mitigation' works were requested. They were implemented on Harding's Pits without the prior knowledge nor agreement of HPCA. If any such works are proposed for the present scheme, HPCA wishes to be fully consulted.
- HPCA does not want any work to be undertaken within the doorstep green area without being consulted.

## **NATIONAL GUIDANCE**

National Planning Policy Framework – sets out the Government's planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS03** - King's Lynn Area

**CS08** - Sustainable Development

**CS11** - Transport

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

### **DM2 – Development Boundaries**

#### **PLANNING CONSIDERATIONS**

The key issues identified in the consideration of this application are as follows:

- Principle of development;
- Highway safety;
- Other considerations; and
- Crime and disorder

#### **The Principle of Development**

The application proposal seeks approval for the construction of three new access roads off the southern end of Harding's Way together with relocation of the existing bus gate.

The application site lies within the development boundary of King's Lynn and West Lynn as defined by Inset E1 of the Site Allocations and Development Management Policies Plan (SADMP) (2016). Within this area the principle of creating three new access points and the requirement to re-locate the existing bus gate is generally considered acceptable in planning policy terms, provided that it would not have any detrimental impact on highway safety.

#### **Highway Safety**

A revised plan (drawing no. PK6062-HP1-002B) was received on 17th July 2017 in order to address comments initially made by Norfolk County Highways. They wanted to make sure that access to the potential development sites is prevented once the stubs have been constructed and this has been addressed by the provision of secure fencing both across the stubs and up to and including the new location of the bus gate. The Highway Authority considers that such measures should ensure that it would be difficult for any vehicle to access Hardings Pits from Hardings Way. This will also need to apply during construction when fenced and secure boundaries will need to be in place at all times. In addition a footway/cycleway has been provided along the eastern arm which ties into existing provision.

Given the revised plan that was submitted, Norfolk County Highways have raised no objection to the proposed development on highway safety grounds subject to the imposition of conditions relating to access and visibility, construction management plan, off-site highway improvement works and the Traffic Regulation Order (TRO).

The majority of the objections received raise concerns in relation to the opening up of Harding's Way to all types of traffic. However, Hardings Way will not be open to all traffic as a result of this application. The application seeks to relocate the bus gate 15m further north and provide access to parcels of land which are before the bus gate is reached. The bus gate would be retained and beyond it would remain a bus only route. As a result it is not considered that the proposal would result in any significant detrimental impact on highway safety or prejudice existing users of Hardings Way.

## **Other Considerations**

One of the proposed access routes would cross public footpath FP23. However, Norfolk County PROW officer has raised no objection to the proposed development provided the correct procedure is followed. This would require an application being made to NCC for a temporary closure order while the construction takes place.

Several of the objections received raise concerns in terms of a negative impact on air quality. However, the Council's Environmental Quality team have considered the application proposals and raise no objection to the proposed development. The proposed new accesses will serve existing development as well as sites which may be proposed for development in the future. While the remainder of the land is undeveloped this proposal serves existing development only and does not have a significant air quality impact in itself. No new traffic is being allowed up Harding's Way beyond the re-located bus gate as part of this proposal.

A number of comments raised by County Cllr Kemp relate to potential future development of the land which the proposed accesses relate to. However, it is only the proposed access roads and re-location of the bus gate which are for consideration under the current proposals. Whether or not the adjoining land is suitable for residential development or any other purpose is not within the remit of this application.

It has also been queried why an Environmental Impact Assessment (EIA) has not been carried out for this application. However, the proposal is not EIA development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

There are no other material considerations relevant to this application.

## **Crime and Disorder**

There are no crime and disorder issues raised by this proposal.

## **CONCLUSION**

The principle of creating three new access roads and re-locating the existing bus gate on Hardings Way is considered to be acceptable and would not result in any detrimental impact to highway safety. As a result the proposal complies with Policies CS01, CS03, CS08 and CS11 of the Borough Council of King's Lynn and West Norfolk's Core Strategy (2011), Policy DM2 of the Site Allocations and Development management Policies Plan (2016) as well as the provisions of the National Planning Policy Framework (2012). It is therefore recommended that planning permission be approved subject to conditions outlined below.

## **RECOMMENDATION:**

**APPROVE** subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. PK6062-HP1-002B and PK6061-HP1-004.
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: No works shall commence on the site until such time as detailed plans of the roads, footways, cycleways, foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. All construction works shall be carried out in accordance with the approved plans.
- 3 Reason: To ensure satisfactory development of the site and a satisfactory standard of highway design and construction.
- 4 Condition: No works shall be carried out on roads, footways, cycleways, foul and surface water sewers otherwise than in accordance with the specifications of the Local Planning Authority.
- 4 Reason: To ensure satisfactory development of the site and to ensure estate roads are constructed to a standard suitable for adoption as public highway.
- 5 Condition: Prior to the use of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan (drawing no. PK6062-HP1-002B) in accordance with the appropriate highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 5 Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.
- 6 Condition: Prior to the commencement of the use hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
- 6 Reason: In the interests of highway safety.
- 7 Condition: Prior to the commencement of any works a Construction Traffic Management Plan which shall include information regarding the secure fencing to be used and retained at all times during construction to stop any access to Hardings Pits shall be submitted to and approved in writing with the Local Planning Authority in consultation with Norfolk County Council Highway Authority.
- 7 Reason: In the interests of maintaining highway efficiency and safety.
- 8 Condition: For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan and use only the Construction Traffic Access Route and no other local roads unless approved in writing with the Local Planning Authority.
- 8 Reason: In the interests of maintaining highway efficiency and safety.
- 9 Condition: Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for

the off-site highway improvement works as indicated on drawing number PK6062-HP1-002B and to include information regarding secure fencing have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

- 9 Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor.
- 10 Condition: Prior to the commencement of the use hereby permitted the off-site highway improvement works referred to in condition 9 shall be completed to the written satisfaction of the Local Planning Authority.
- 10 Reason: To ensure that the highway network is adequate to cater for the development proposed.
- 11 Condition: No works shall commence on the site until the Traffic Regulation Order for the amendment to the bus only route has been secured by the Highway Authority.
- 11 Reason: In the interests of highway safety.