

# PLANNING APPLICATION REPORT



**ITEM: 04**

**Application Number:** 11/01209/FUL

**Applicant:** Wolf Minerals (UK) Ltd

**Description of Application:** Alterations to approved Hemerdon Mine link road junction

**Type of Application:** Full Application

**Site Address:** LAND NORTH OF WEST PARK HILL PLYMPTON PLYMOUTH

**Ward:** Plympton St Mary

**Valid Date of Application:** 21/07/2011

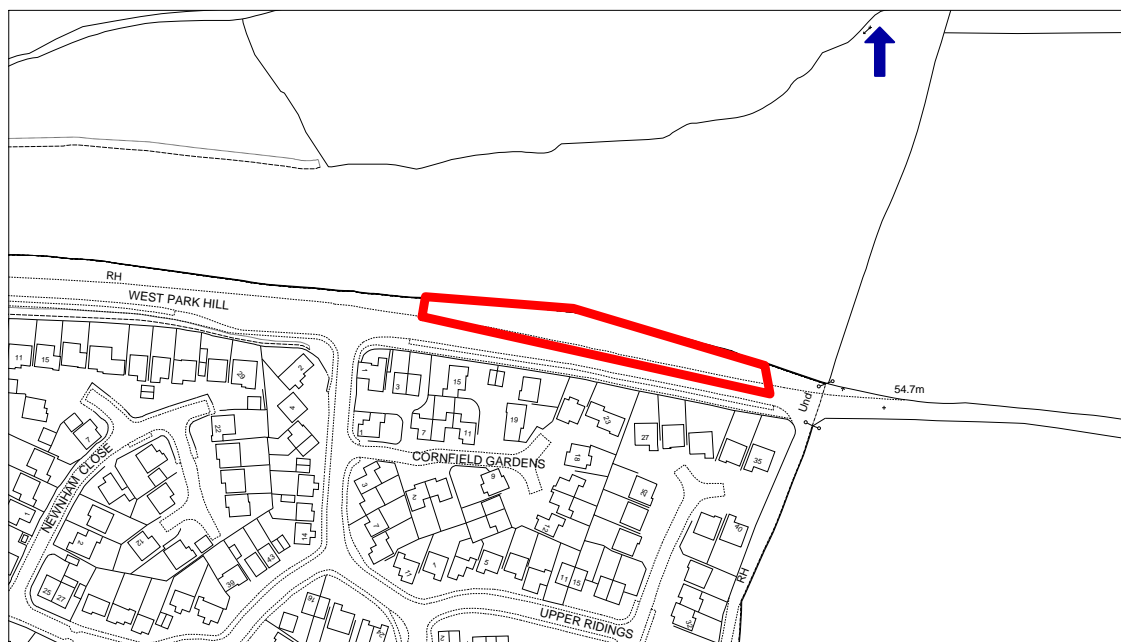
**8/13 Week Date:** **15/09/2011**

**Decision Category:** Member Referral

**Case Officer :** Robert Heard

**Recommendation:** Grant Conditionally subject to the Secretary of State not issuing a direction under Section 77 of the Town and Country Planning Act 1990 for the application to be referred to him for determination

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## Update

Members will recall that this application was deferred at the previous planning committee for:

- fuller consultation with residents at public meeting on 30<sup>th</sup> September 2011;
- to consider further mitigation in terms of traffic movements;
- to consider further mitigation in terms of landscaping;
- to enable further negotiation on the code of practice for construction.

In relation to the issue regarding fuller consultation with residents, a public consultation meeting was held on the 30th September and was attended by local residents and Councillors Nicholson and James. Three representatives from the applicants, Wolf Minerals, were present and the purpose of the works and the application was explained to residents. The comments and views of residents were noted and any specific comments on mitigation were also noted. The applicants have subsequently engaged with Planning Officers and Highways Officers of Plymouth City Council to consider the specific mitigation measures identified and to address what other mitigation measures may help to meet residents concerns.

In relation to the issue of traffic movements, information on, and surveys of, traffic movements are currently being collected. Whilst this information is not available now it will be available prior to the Planning Committee meeting and presented to members in an addendum report. In relation to the impact of traffic movements, the applicants are considering with Highways Officers various mitigation measures, details of which will also be available prior to the Planning Committee and reported in an addendum. Any agreed works will be encompassed within a S278 agreement.

In relation to landscaping, some further landscape mitigation is proposed to the south of the junction. The precise details of the planting scheme have not yet been agreed. In this circumstance it is recommended that a Grampian condition stating that no works can be undertaken until a scheme of planting and maintenance has been agreed with the Local Planning Authority be attached to any grant of planning permission. As this planting will be in the verge of the public highway the actual works will be encompassed and secured within the S278 agreement.

In relation to the Code of Practice, the original officer's report to Planning Committee (below) included under condition 5 a standard format condition requiring the submission of a construction Code of Practice. Whilst the details of the construction programme cannot be finalised until confirmation of the alterations to the planning application, in order to satisfy members' concerns it is recommended that the condition is amended so that the Code of Practice is required to be submitted and approved in writing by the Local Planning Authority prior to development commencing, and strictly adhered to thereafter.

A late letter of representation has been received from the South West Local Enterprise Project, stating support for the application due to it's:

- strategic contribution to the growth of the economy;

- and its potential to create a strong element of both direct and indirect economic benefit which will include links to a local supply chain and offer good quality skills, productivity growth and training opportunities.

The report below is the original report presented to the Planning Committee on the 22<sup>nd</sup> September 2011 with the amended and additional conditions listed.

***This application is being reported to Planning Committee following a referral by Councillor Patrick Nicholson on the grounds that “the original application was approved by Devon County Council before much of the Newnham Downs housing estate was built and the impact on this estate could be assessed. As there are potentially considerable impacts on 400 houses neighbouring this proposal and considerable public interest it is inappropriate for the planning application to be decided under delegated authority.”***

### **Site Description**

The land affected by this proposal that is within the Plymouth City Council boundary comprises of a small area of land that is approximately 0.14 hectares in size. It is located on West Park Hill in Plympton, which is just to the north of an existing housing estate built in the 1980s and often referred to as Newnham Downs.

### **Proposal Description**

This application proposes to alter an already-approved junction that formed part of an approved application for the construction of a new link road between West Hill Road and Lee Moor Road, in connection with a grant of consent to win and work tungsten and tin from land at Hemerdon Mine. These applications were dealt with by Devon County Council in the 1980s, being the authority at that time responsible for highways development in the City and County.

This application relates only to the southern junction of the link road and proposes a new junction alignment to change the priority so that traffic using the new link road has priority over traffic travelling east on West Park Hill, the minor road leading east to the villages of Hemerdon and Sparkwell. Whereas before, traffic travelling north towards the mine would have to stop and turn at the junction, this application seeks permission to change the junction arrangement so that traffic wishing to keep travelling in an easterly direction has to stop and turn at the junction.

This means that the majority of the traffic would not be required to stop, therefore reducing the noise of gear changes and air brakes affecting those properties on the southern side of West Park Hill (which were not built when the planning permission was granted). The prioritisation of the new road will also make it less likely that Heavy Goods Vehicles (HGVs) would accidentally carry on through the narrow lane leading to the villages.

At the request of the Environment Agency, the applicant has extended the red line (on the Devon County Council side) around the original application site to incorporate a surface water management (or SUDS) pond to the west of the new road and the north west of the junction.

The applicant has also agreed (along with interested landowners) to enter into a voluntary legal agreement (or Unilateral Undertaking) with Devon County Council to provide, on adjacent land, a bridle path between Stoggy Lane and Hemerdon Lane, as well as the planting of native broadleaved woodland on either side of the bridle path. Additionally, the agreement volunteers to improve the landscaping of the road itself by the provision of hedgerows and tree screens. This landscaping is a considerable enhancement on that required by the original permissions.

### **Relevant Planning History**

Planning permission for the link road (ref: 0543/85) between West Hill Road in Plympton and the B3417 Lee Moor Road which would provide improved access to the Hemerdon Mine was originally granted in June 1986 at the same time as, but separately from the Hemerdon Mine permission (ref: 0542/85). In 1991, a revised planning application (9/49/0405/91/3) was submitted which slightly altered the line of the road and planning permission was granted on 29 May 1991. The applicant subsequently carried out works in the highway at the northern junction between Lee Moor Road and the proposed link road to implement this consent. The County Council confirmed by letter that sufficient works had been undertaken to safeguard the permission in July 1993.

The link road will join West Park Hill in Plympton with the B3417 Lee Moor Road which currently carries traffic on the approved HGV route to the Lee Moor, Shaugh and Headon China Clay Quarries to the north as well as local traffic heading north to Dartmoor National Park and the villages and settlements along its southern and south western boundary.

The principle of this link, to bypass Loughter Mill, was accepted by the Government Inspector at the time of the original Public Inquiry into the Tungsten Mine where he noted that *'it is essential that the proposed link road from West Park Hill be provided before any significant development takes place at the mine site...because the existing Lee Moor Road in the vicinity of Loughter Mill is inadequate.'* The improvement of access to the mine from the Plymouth area - both for use by the China Clay traffic and also during the construction phase of the mine - was perceived at the time to be of great public benefit.

Once completed, the road would be adopted by the County Council to provide improved access to the north and a diversion around the "pinch point" at Loughter Mill adjacent to the Newnham Park Estate entrance on the existing road. The existing B3417 from West Park Road to the point where the link road would join it is essentially a country lane with passing places. It is evident from inspection of this road that there is damage to the verges caused by HGVs and the new road would alleviate this narrow section of the B3417 and provide a safe, modern link to the tungsten mine and the China Clay Quarries at Lee Moor/Headon to the north.

The original road permission comprised of a two-lane highway with post and rail fence leading from the right-angled bend in the B3417 dropping south across fields and crossing the Smallhanger Brook then climbing to a T-junction with West Park Hill just to the west of the point at which it becomes a narrow country lane leading to the villages of Hemerdon and Sparkwell.

On 7<sup>th</sup> September 2011 Devon County Council's Development Management Committee considered planning application DCC/3240/2011 "Alteration to previously approved junction layout and additional surface water management and flood alleviation measures to Hemerdon Mine Link Road, Land north of West Park Hill, Plympton, Plymouth". Conditional planning permission was granted at this Committee. However a letter dated 8<sup>th</sup> September 2011 was issued to Devon County Council which stated that the Secretary of State under Article 25 of the Town and Country Planning (Development Management Procedure) Order 2010 directs Devon County Council not to grant permission on this application without specific authorisation. This direction was issued to enable him to consider whether he should direct under Section 77 of the Town and Country Planning Act 1990 that the application should be referred to him for determination.

In light of the direction made by the Secretary of State and the expectation that the Secretary of State will issue the Article 25 Direction if Planning Committee is minded to approve this application, the recommendation for Members is worded accordingly.

## **Consultation Responses**

### **Highways Officer**

Supports, subject to conditions, and comments as follows:

The creation of a new haul road to serve the proposed tungsten mine workings at Hemerdon was a requirement of a planning condition attached to a grant of planning permission which dates back to 1986. Therefore the principle of the construction of the haul road in this location has already been established.

This current application is a result of changing the priority of the junction of where the new haul road meets West Park Hill. The current layout proposes a give-way junction layout at the top of the haul road where it meets West Park Hill, with priority to traffic movements on this road (West Park Hill). However due to the uphill incline on the approach to the junction, it is likely that this former layout would have given rise to noise and air quality issues for the properties located directly opposite the junction in Cornfield Gardens as loaded HGVs would have to both stop at the junction and then pull-away on the handbrake resulting in engines being heavily revved etc.

In order to address the noise and air quality concerns associated with the approved give-way junction layout, it is now proposed to change the priority here to the new haul road so that there is now a bend where there was previously a junction.

In addition to helping address the noise and air quality issues mentioned above, the new layout will also help reduce the speed of traffic travelling back towards

Plymouth from Sparkwell as there is currently a tendency for vehicles to speed-up as they leave the narrower lane into the wider section of West Park Hill. A combination of both the width of the road and good visibility leads to high vehicle speeds along this section of West Park Hill which has resulted in this road being classified as a mobile speed camera enforcement site. Changing the layout of the junction of the Haul Road with West Park Hill and the associated junction priority will result in vehicles approaching from the Sparkwell direction having to stop and give-way to those using the Haul Road.

Furthermore at present most vehicles exiting High Glen Drive do so turning left towards Plymouth. Therefore reducing the speed of traffic approaching this junction from the right (Sparkwell direction) will help improve safety at this junction. Changing the priority of the junction will also improve 'way-finding' as HGVs accessing the Tungsten Mine or China Clay Works would do so travelling along one continuous route and would not have to turn-off. This should prevent such vehicles from taking 'wrong' turns and the associated safety issues that would arise with such vehicles driving along the single carriageway width section of West Park Hill.

In view of the above-mentioned comments I would not wish to raise any highway objections to this application. However the applicant will be required to enter into a Section 278 Agreement with the Local Highway Authority in order to secure the alterations to the existing highway. As part of the new junction also falls within land that is in jurisdiction of DCC, they will also have to be party to any such Legal Agreement.

Furthermore an application will also need to be made by Plymouth City Council / Devon County Council to a slight change in the classification of the B3417 to now run along West Park Hill and the new Haul Road.

### **Public Protection Service (PPS)**

**Land Quality** - PPS states that it has no comments it wishes to make in respect of land quality.

**Air Quality** - There has been no air quality data submitted with the application, however PPS advises that it does not trigger any requirements for undertaking an air quality assessment. Although this application does not require the formal submission of an air quality assessment, PPS has assessed the potential impact on surrounding residents during the construction and operational phases.

With regard to the construction phase PPS advises that the site preparation and clearance works could potentially give rise to short term elevated levels of dust etc which may impact in terms of nuisance upon surrounding residents. Therefore it requests that a condition be applied that a construction management plan for the construction phase be submitted and approved prior to commencement of works.

With regard to the operational phase PPS has assessed the baseline air quality in the area through monitoring data provided by South Hams District Council and the National Background Maps provided by Defra. The pollutants of concern are

Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>10</sub>). PPS has concluded that neither pollutants will adversely impact on the residents in the area.

Furthermore the redesigned junction where it is now proposed to change the priority to the new haul road will mitigate any potential short term air quality impacts.

**Noise impact** – PPS has also assessed the impact of noise both from the construction and operational phases. With regard to the construction phase ground preparation and construction works are a potential source of noise nuisance and therefore PPS has advised that the applicant should submit a detailed construction management plan which will detail how the impact of construction noise on nearby residents will be controlled and mitigated.

With regard to the operational phase PPS can only look at the impact of traffic using this junction on local residents (rather than traffic generated on the highway itself). PPS considers that impact to residents will be negligible. In addition and as with the air quality, the redesigned junction, where it is now proposed to change the priority here to the new haul road, as detailed in the Transport and Highways Service formal response, will help mitigate any potential short term noise impacts.

### **Representations**

40 letters of representation have been received, all in objection to the application.

These objections have been made by residents of the adjoining residential estate to the south of West Park Hill. Some of these properties were already built in 1991, a number were under construction at that time, and some were built after the planning permission was granted.

Most of the objections relate to the principle of the road itself rather than the current application, which is only for the minor amendment to the road junction.

Residents to the south of West Park Hill who reside within the boundary of Plymouth City Council appear to have been generally unaware of the original permission and that it had been legally implemented. Additionally, there is local concern that the road was not discovered in Land Charges searches relating to their property purchases. Whilst neither of these are material to the actual proposal, the Land Charges section within the County Council has advised that the likely reason for the problem related to searches is that the existence of a permission for a private road is an additional question that must be specified and paid for separately.

The principal planning concerns of local residents are increased HGV movements on West Park Hill, noise, dust and danger to pedestrians although comments have also been made on the visibility of the proposed junction with the new road from the Sparkwell Road and the concern that the new line would allow speeds to be increased.

The applicant has engaged with the highway officers from both Devon County and Plymouth City Councils to agree the design of the proposed layout and junction and the Highway Authority (for Devon County Council) has raised no objection subject to a combined Section 38/278 Agreement for works adoptable and on highway, to be in place prior to commencement of on-highway works.

Objections have also been raised over the validity of the original Devon County Council planning permission for the mine and road access.

### **Analysis**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

The principle of the provision of the link road has already been established following the permission granted by Devon County for the re-opening of the Tungsten Mine (the original permission being back in 1986) and provision of the new link road (applications 0542/85 and 0543/85). The applicant subsequently carried out works in the highway at the northern junction between Lee Moor Road and the proposed link road to implement this consent. The County Council confirmed by letter that sufficient works had been undertaken to safeguard the permission in July 1993.

This current application needs to look at the highway works on their own merits, but having regard to the fact that a consent has already been granted for a new road. This relates both to the junction design and the effect the works will have on nearby properties in terms of disturbance, noise and air quality.

There have been a number of objections related to air quality and noise impacts for residents of neighbouring properties. These impacts have been assessed by the officers from Council's Public Protection Service. Their view is that the impacts to residents will be negligible.

It is considered that changing the geometry and priority at this already-consented road junction would be of benefit to both users of the highway and nearby local residents. The benefits of permitting the road with the access as proposed are that the traffic will not be required to give way at the junction with West Park Hill which will reduce the noise of lorries having to brake at the junction and wait on the hill to turn right towards Plymouth. This is considered to be a safer and more environmentally-friendly solution that has less impact than the consented scheme on the amenities of nearby residential property occupiers.

The redesign of the junction has been agreed with the Highways Officers of both Plymouth City and Devon County Councils and is a more up-to-date design in terms of safety and visibility.



## **Section 106 Obligations**

None required

## **Equalities & Diversities issues**

None

## **Conclusions**

It is considered that the proposed amendments will result in a junction that is an improvement in terms of the highway alignment with respect to both highway safety and the amenity of the surrounding area. However a final decision on this application may need to be deferred to the Secretary of State if a direction is made under Section 77 of the Town and Country Planning Act 1990 referring the application to him for determination.

## **Recommendation**

In respect of the application dated **21/07/2011** and the submitted drawings 9025.503B, 9025.582A, 9025.581A, 9025.038.530G, supporting statement, it is recommended to: **Grant Conditionally subject to the Secretary of State not issuing a direction under Section 77 of the Town and Country Planning Act 1990 for the application to be referred to him for determination**

## **Conditions**

### **DEVELOPMENT TO COMMENCE WITHIN 3 YEARS**

(1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

### **APPROVED PLANS**

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9025.503B, 9025.582A, 9025.581A, 9025.038.530G.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

### **DETAILS OF NEW JUNCTION**

(3) Development shall not begin until details of the junction between the proposed haul road and the highway have been submitted to and approved in writing by the Local Planning Authority; and the haul road shall not be used until that junction has been constructed in accordance with the approved details.

Reason:

To ensure that an appropriate and safe access is provided in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## SIGNING STRATEGY

(4) No works shall commence on-site until a signing strategy has been submitted to and approved in writing by the Local Planning Authority. The said strategy shall sign the alternative route for Heavy Goods Vehicles accessing Hemerdon Mine and the existing China Clay works along the new haul road and those signs shall be erected prior to the commencement of the use of the new haul road.

### Reason:

To ensure that the HGV routes are adequately signed in the interests of highway safety and convenience in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## CODE OF PRACTICE

(5) Prior to the commencement of development approved by this planning permission the developer shall submit a Code of Practice for the site that outlines how they intend to prevent or control any nuisance arising from any work carried out. The Code of practice must comply with all sections of the Public Protection Service, Code of Practice for construction and demolition sites, with particular regards to the hours of working, crushing and piling operations, control of mud on roads and the control of dust. All sensitive properties surrounding the site boundary shall be notified in writing of the nature and duration of works to be undertaken, and the name and address of a responsible person, to whom an enquiry/complaint should be directed. The Code of Practice shall be approved in writing by the Local Planning Authority prior to any works commencing and the development shall be undertaken in strict accordance with the approved Code of Practice.

### Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during construction works and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## LANDSCAPE DESIGN PROPOSALS

(6) No development shall take place until full details of landscape works and a programme for their implementation and maintenance have been submitted to and approved in writing by the Local Planning Authority, and these works shall be carried out as approved.

### Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## INFORMATIVE: SECTION 278 AGREEMENT

(1) The applicant will need to enter into a Section 278 Agreement in order to undertake the alterations to the existing public highway.

## **Statement of Reasons for Approval and Relevant Policies**

Having regard to the main planning considerations, which in this case are considered to be the transport and other impacts of the proposed changes to the junction

design, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (1) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS28 - Local Transport Consideration

CS34 - Planning Application Consideration