

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/23/00306	Your Ref:	APP/22/01231
EH Case Officer Extn:	44 6677	Date:	14 July 2023
DC Case Officer:	Ms Arleta Miszewska		
DC Case Officer Extn:	6513		
Application Number:	APP/22/01231		
Site Address:	Land at, Palk Road, Havant		
Proposed Development:	Redevelopment of a brownfield site to include the provision of 4No. Apartment blocks comprising of 90No. residential dwellings (including 27 affordable units) (Use class C3 residential), parking, public open space, landscaping and other associated works, including demolition of existing buildings on site, with access from Palk Road		

Observations / Comments:

Air Quality – Development as Source; Offsetting of emissions

Given the current status of Havant Borough Council's Local Plan 2036/7, Havant Borough Council no longer has a formal air quality policy which carries specific material weight for local planning decisions. However, given the Council's inability to demonstrate that it can meet an independently assessed 5 year housing supply, the adopted local plan 2011-2026 is widely considered to be out of date, with it's policies carrying reduced weight as a consequence of the NPPF paragraph 11 *'when assessed against the policies in [the NPPF] taken as a whole'*.

The NPPF 2021 provides substantial policy support for the principles of the withdrawn Air Quality Policy (E23), which may be directly applied to decisions where the presumption in favour of sustainable development applies, as it does presently. Please refer to the appended summary for a full justification. Comments regarding emissions reductions are made principally on this basis.

Sustainable Travel

It is noted that comments from the landscape architect noted poor pedestrian access. Any factors which impair the perception of safety, comfort or convenience would act as a barrier to using zero-emission modes of sustainable & active travel, especially for very young or other vulnerable users. The call for off-road footpaths from each block to the existing Palk Road footway is therefore supported on Air Quality grounds.

I also note that the policy consultee refers to the proposal to include charging facilities for electric vehicles, specifically referring to 'each dwelling'. The Design & Access Statement does include the text *'...the proposal includes the provision of electric vehicle charging infrastructure*

for each apartment', with similar notation included on the parking plan. However, the Planning Statement clarifies that this infrastructure will be provided '*in accordance with criterion f) of the Havant Housing Delivery Position Statement.*', which only requires links this provision to new residential units '*with private off-street parking*'. With reference to the parking plan, the proposal is therefore to provide a maximum of 15 EV charging units, not the 90 (1 per dwelling) implied.

The planning application documents do not make clear that the development will deliver the level of charging provision that the planning authority might expect. In support of sustainable zero-emission-at-point-of-use transport, with the potential for travel using renewable power – it is considered that the provision of EV charging facilities is desirable.

It is my understanding that Part S of the Building Regulations is now in force and will apply to this development. This would require the provision of EV charging infrastructure to be delivered in accordance with S1(2)(b) [*The number of associated parking spaces which have access to electric vehicle charge points must be-] '...equal to the total number of dwellings contained in the residential building, where there are the same number of associated parking spaces as, or more associated parking spaces than, there are dwellings'*; i.e. 90 of 96 residential spaces plus preparatory cabling for the balance under S1(3)(b).

With reference to the principles of para. 188, it is assumed that this is now no longer a material planning matter; nevertheless, I would draw the applicant's attention to this requirement.

Where my reading of the applicability of this requirement proves to be incorrect, it may be desirable to secure the specific quantum of EV charging points, which I would suggest ought to exceed the number of allocated spaces.

Heating, Ventilation & Dwelling Emissions

There is similar ambiguity within the application documents in regards to heating & ventilation. Specifically, I note that there is a commitment to achieve -31% of the target dwelling emissions rate under Part L, but it does not appear that the applicant has included within the application pack the detailed assessment demonstrating how this is to be achieved.

Page 46 of the Planning Statement explains that this should be achievable without 'bolt on' renewables, indicating that 'hot water heat pumps' (taken to mean 'Air-to-Water' type ASHP) 'are envisaged'. This would be supported on air quality grounds, but I would highlight the vague terms used, and the lack of any firm proposal to demonstrate how the required dwelling emission rate is to be achieved. It is not clear that in the absence of a suitable condition that the approval of the current plans will be sufficient to secure the use of heat pumps at the proposed units.

I would also point out that the elevations do not illustrate where heat pumps would be mounted, which means that the planning authority cannot assess the visual impact of the installation of these heat sources. I note that roof plans are omitted, and it is possible that roof mounting is feasible – this may however increase the apparent height of the buildings proposed.

I also note that the noise assessment does not include the impact of heat pump units, which suggests that this aspect has not been given significant thought in the design process. Wall mounting of heat pump units on balconies (for example) might have a material impact on noise exposures, and therefore the required glazing specification.

The same section of the Planning Statement also refers to '*energy efficient ventilation*' & air-tightness. This implies that a heat recovery system is envisaged. This would be supported on air quality grounds, but as with ASHP provision, the proposal is implicit only and approval of the plans will not be sufficient to secure such desirable features. Given the totality of air quality,

energy efficiency and climate policies within the NPPF, it may be prudent to apply a suitable condition to secure the delivery of such measures. The most efficient way to do this might be to require prior approval of the plan to achieve the proposed -31% dwelling emissions rate. Given the potential for a material impact of ASHP's on the exterior of the building however, it would probably be inappropriate in planning terms to defer these considerations to post-decision point in time.

Noise

I note that paragraph 3.34 of the noise assessment quotes ProPG: *"Where mechanical services are used as part of the ventilation or thermal comfort strategy for the scheme, the impact of noise generated by these systems on occupants should also be assessed."*

In line with the Air Quality section above, neither ASHP's or MVHR has been included in the noise assessment. Proposals should be clarified, and the consequential design amendments be secured as appropriate.

Contamination

The Enzygo Geoenvironmental Report CRM.1668.023.GE.R.001.B has been reviewed in detail. It's conclusions are considered to be perhaps overly conservative in nature, particularly in relation to the exposure scenario considered, and the consequential recommendations for clean cover. The gas data would suggest that the sources are not likely to generate significant volumes, but basic protections are required for radon, and would be good practice given the proportion of CH₄ identified in the trail hole wells during monitoring.

Given the relatively small number of trail holes is relative to the site area, I would also agree that there is potential for unidentified contamination hotspots to exist in association with the extensive and heterogeneous made ground, and so it is sensible to maintain a formalised watching brief (to comprise a duty to maintain diligence for-, and to report- & manage- suspected contaminated soils/deposits).

The report is broadly accepted as is, and it is appropriate to secure the proposed remedial measures by condition. I would structure the condition in such a way that the authors are free to amend/adjust the remediation & risk mitigation measures, in particular to avoid committing the applicant to the provision of 400mm clean cover across the entire public open space area.

For clarity, and for the benefit of the applicant, Environmental Health consider that private gardens with plant uptake is too conservative an exposure scenario for these development proposals. Similarly, Environmental Health considers that active material screening and statistical assessments are appropriate elements of a remedial and risk mitigation strategy, particularly given the sustainability benefits that can be delivered by ensuring that unnecessary works, materials use, or disposals are avoided.

Contamination [1] (Bespoke – omitting EDS, based upon basic Phase 2 SI proposals)

Prior to the commencement of any specific phase of development approved by this planning permission (other than demolition, site clearance, or any other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to address contamination at the site shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall be prepared by competent persons, take account of the findings of the Enzygo

Geoenvironmental Report Ref: CRM.1668.023.GE.R.001.B, and unless specifically excluded in writing by the Local Planning Authority, shall include;

- 1) Remediation Strategy that includes;
 - appropriately considered remedial objectives,
 - an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;
 - clearly defined proposals for mitigation of the identified risks.
- 2) A formalised contamination discovery strategy which;
 - identifies parties responsible for each material aspect
 - includes a duty to report any discoveries to the Local Planning Authority, and
 - an risk management strategy for any discoveries which provides for investigation, assessment, and appropriate treatment/remediation; and
- 3) A verification plan which specified the data that will be collected to demonstrate that the works set out in the Remediation Strategy required under (1), and any actions required under the discovery strategy (2), are complete.

All elements shall be adhered to unless agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from- or adversely affected by-, unacceptable levels of contamination, in line with policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014], and paragraphs 183-185 of the National Planning Policy Framework 2021. Contamination may be present at the site as a result of both previous & current land uses (&/or activities) that could pose a risk to the proposed buildings, future occupants and/or to controlled waters."

Verification (Standard) [2]

Prior to the occupation of any relevant part of the permitted development, a verification report which documents the required works undertaken in accordance with **[condition 1]** shall be submitted to and approved in writing by the Local Planning Authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan and must demonstrate that site remediation criteria have been met. Where longer-term monitoring of pollutant linkages is identified as being necessary, the report shall clearly set out plans for monitoring, provision for maintenance, relevant triggers and contingency actions (a "long-term monitoring and maintenance plan").

The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that the development does not contribute to-, and is not put at unacceptable risk from- or adversely affected by-, unacceptable levels of contamination, in line with policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014], and paragraphs 183-185 of the National Planning Policy Framework 2021. Contamination may be present at the site as a result of both previous & current land uses (&/or activities) that could pose a risk to the proposed buildings, future occupants and/or to controlled waters."

Mr. Jonathan Driver
Environmental Control Officer

Appendix – Local & National Policy Context; Air Quality

The submission local plan 2036 included an air quality policy (E23). Whilst the plan has been temporarily withdrawn to make amendments recommended at the examination stage, it should be noted that;

- The issues raised in respect of the submission draft related to a failure to adequately demonstrate the sustainability of several development allocations, affecting the ability to demonstrate a 5-year land supply with the requisite margin of safety
- No specific concerns or objections have been raised in respect of policy E23, either at the consultation stage or, to the best of my knowledge, at examination.
- The text of policy E23 represents the councils view of how the requirements of NPPF paragraphs 93 b), 105, 119, 130 a) & f), 174 e) 185 & 186 should be met, insofar as these provisions relate to air quality.
- The NPPF paragraphs 93, 119, 130, 174, 185 & 186 apply to decisions where the presumption in favour of sustainable development applies, as it does presently
- The Government recognises the WHO assessment that the balance of evidence suggests that there is no safe level of air pollution, with all levels of exposure contributing to accumulating harm to health, and;
- Specifically with respect to paragraph 185, which concerns the cumulative effects of pollution on health; it is noteworthy that in 2021 the WHO guidelines have been substantially tightened for several pollutants (including headline reductions in exposures to Nitrogen Dioxide & PM2.5 by 75% & 80% against current UK air quality limit value). These values refer to 99th percentile values rather than the average exposure benchmark used by the current UK air quality limits, meaning that in reality the recommended reductions are significantly greater than the headline values would suggest. The government is currently consulting on reducing the statutory PM2.5 limit value by 60% against the current limit value.

Given the points above, the relevance of the provisions of draft policy E23 has increased (rather than having diminished-) since it was written, and irrespective of the status of the draft local plan, the *principles* are afforded full weight under adopted national policy. The specific provisions of policy E23 are expected to be retained in the revised draft local plan, and it remains an appropriate guide as to how the above-referenced NPPF policies should be applied to air quality (and the health impacts of relevant emissions to air).

Paragraph 174 e) requires development to improve local air quality, in accordance with opportunities identified under para. 186. Paragraph 105 refers specifically to travel emissions, but the link between air quality and public health holds irrespective of the source and is reinforced by the principles of para's 93 & 130. Given the generalities of para's 174 & 186, considered alongside both the social & environmental objectives of the planning system (para. 8); there is no need to limit assessment or design response/emissions mitigation options to emissions from transport sources. Direct emissions from domestic combustion are considered to be within scope, in addition to indirect emissions associated with domestic energy use which relies upon combustion-derived energy for either primary-generation or peaking-supply.

Relevant NPPF 2021 provisions/principle's,

- Para. 93 b): *'support...local strategies to improve health'*
- para. 105: *'reduce...emissions, and improve air quality and public health'*

- para. 119: *'meeting the need for homes... while safeguarding and improving the environment and ensuring safe and healthy living conditions'*
- para. 130: [developments should] *'a) ...add to the overall quality of the area...over the lifetime of the development', and 'f) ...create places that...promote health and wellbeing'*
- para. 174 e): *'Development should wherever possible, help to improve local environmental conditions such as air... quality'*
- para. 185 *'new development [should be] ...appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health...and the natural environment'*
- para. 186: *'[new development] ...should sustain and contribute towards compliance with relevant limit values [and] national objectives for pollutants...' and 'opportunities to improve air quality or mitigate impacts should be identified'*

Planning Practice Guidance (Air Quality), para. 001, ID: 32-001-20191101;

- *'The 2008 Ambient Air Quality Directive sets legally binding limits for... major air pollutants that affect public health such as particulate matter (PM₁₀ and PM_{2.5}) and nitrogen dioxide (NO₂).'*
- *'The UK also has national emission reduction commitments for overall UK emissions of 5 damaging air pollutants [including] ...fine particulate matter (PM_{2.5}) [and] Nitrogen Oxides (NO_x)'*
- *'As well as having direct effects on public health, habitats and biodiversity, these pollutants can combine in the atmosphere to form ozone, a harmful air pollutant (and potent greenhouse gas) which can be transported great distances by weather systems.'*
- *'Odour and dust can also be a planning concern, for example, because of the effect on local amenity'*

The third quote above highlights the link between air pollutants which have health & ecosystem effects with climate change and climate objectives. It also establishes the principle of long-range impacts, and the consequence of this is that makes a link between activities directly associated with development land (e.g. direct emissions) with impacts elsewhere. A logical extension of this principle is that there may be a direct link between activities at development land with non-local emissions which cause regional harm. An example would be energy use at the completed development which is reliant upon combustion for either primary-generation or peaking-supply will lead to emissions elsewhere.

The fourth quote uses the phrase *'also...be a planning concern'* which confirms all the above as material planning matters.

The Air Quality PPG provides support to the text of policy E23 in confirming that PM_{<10}, NO_x, NO₂ are relevant pollutants, that national reduction targets are material planning concerns (and that consideration of air quality should be limited to consideration of threshold limit values), that impacts upon ecology is a material concern in addition to the health impacts, and that non-local effects & emissions may be material to planning provided there exists a credible link to the development.

This latter point brings energy efficiency enhancements, public sustainable & active travel infrastructure, and electric vehicle charging infrastructure within scope of air quality mitigation, through targeting reductions in demand for non-local combustion.