

**HAVANT BOROUGH COUNCIL**  
**Town & Country Planning Act 1990**  
**Consultation on Planning Application**

**MEMORANDUM**

**From:** Environmental Health      **To:** Development Control

**Our Ref:** CONS/23/01614      **Your Ref:** APP/21/00405

**EH Case Officer Extn:** 44 6677      **Date:** 03 August 2023

**DC Case Officer:** David Eaves

**DC Case Officer Extn:** 44 6549

**Application Number:** APP/21/00405

**Site Address:** Langstone Technology Park, 2B Langstone Road, Havant, PO9 1SA

**Proposed Development:** Variation of Conditions 2, 3, 8, 18, 19, 22 and 25 of Planning Permission APP/19/00703 relating to the erection of the flexible use industrial units in the south-western corner of the site (Phase 1).(25.08.21). Request to discharge conditions 4,7,9,10,11,12,13,14 & 15 (06.09.21).Request to discharge conditions 5 & 6 (24.12.21). Request to discharge conditions 4, 5, 6, 7, 12, and 20 (received 15/08/2022). Request to discharge conditions 16, 17, 19 (received 30/08/2022).

**RECONSULTATION REQUEST : Condition 16**

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**Observations / Comments:**

These comments are an update on comments provided under our ref: CONS/22/03072 dated 14/03/2023. The text of that prior response has been used as a base, and comments follow a review of the rev.1 version of the ESL/SSF/101 (Watching Brief Verification Report), dated May 2023. The scope of the revisions is described as '*incorporating comments from JD*', assumed to be those referenced above (CONS/22/03072). These comments do not fully replace those made under CONS/22/03072; comments for which there is no material update have not been reproduced in full below.

Documents reviewed for the purposes of this application (grey text for reference);

- Envirotrat DJS/Hav/RMS/0 Feb 2022 Proposed Remediation Method Statement (received with ETL/DS/100 May 2022) (RMS)
- Envirotrat ETL/DS/100 May 2022 Interim Remediation Verification Report (I-VR)
- Envirotrat ETL/AN/043 Aug 2022 Ground Gas Risk Assessment (GG-RA)
- Envirotrat ESL/SSF/101 Sept 2022 – Watching Brief Verification Report (Sept'22 WB-VR)
- Envirotrat ESL/SSF/101 May 2023 – Watching Brief Verification Report (May '23 WB-VR)

It should be noted that the remediation strategy (RS) approved under the decision to discharge the related condition 9, remains the Clancy 10/1425/005 rev.01 document. The

above-referenced DJS/Hav/RMS/0 report has not been formally by the Council to date, and as a result, the content of the Clancy 10/1425/05/ rev.01 report for the time being still defines the elements which require verification under c.16.

### **Envirotreast DJS/Hav/RMS/0 Feb 2022 Proposed Remediation Method Statement (RMS)**

As noted above, the RMS describes the works that have been subsequently verified in the interim & watching brief reports, but was not formally approved by the Council prior to the execution of the works which are documented in the verification reports (I-VR & WB-VR).

It is also worth noting that the spatial scope of the RMS is limited, relating only to the area identified as 'Southwest' on Figure 3 of the Envirotreast ESL/SSF/101 Sept 2022 report. The strategy specifically states that the *'identified hotspot around WS2 is outside the proposed development area and is not considered further in this strategy'*. Section 5.4 of the May 2023 WB-VR report reinforces this, and is taken to mean that the WB-VR is not intended either to verify-, or to dismiss the requirement for-, this aspect of the approved RMS. It is simply deferred to a future phase of works, which we can of course agree.

I would reiterate that no in-principle objections arise in respect of the proposals of this alternative RMS, however I would also highlight that the revised documents subject to this reconsultation do not specifically address my previous comments in respect of the omissions from the Envirotreast RMS (i.e. omission of approved RMS measures). Where applicable, comments made previously in this respect are reproduced / addressed in the sections below.

### **Envirotreast ETL/DS/100 May 2022 Interim Remediation Verification Report**

See CONS/22/03072. No updates.

### **Envirotreast ESL/SSF/101 May 2023 – Watching Brief Verification Report (May '23 WB-VR)**

The revisions to the WB-VR principally comprise the following:

- A. Clarification that the WS2 area is outside of the scope of the verification document (at sections 5.4 & 5.5)
- B. Clarification that verification that is anecdotally reported in the vicinity of WS2 comprised (only) the observation of two small drainage excavations for visual & olfactory evidence of contamination alongside PID screening, to demonstrate suitability for reuse (section 9)
- C. Clarification that formation level sampling was not undertaken in the Southwestern Area. Soils were observed by Envirotreast for visual & olfactory evidence of contamination (only) (section 8)
- D. Verification of the precautionary installation of protected potable water supply pipework (Section D.)
- E. Verification of the origin, quantities and quality of imported materials (Section E)

In respect of B. (above) it is noted that the PID screening results are not provided, and so the record comprises an anecdotal compliance statement only. I do not dispute the report (i.e. no evidence of gross contamination-), as the photographic evidence that is included does not show any indication of grossly stained soils etc. Given A. (above), that the WS2 is outside the principal area to which the WB-VR relates, that the WS2 hotspot area falls outside of the scope of the Envirotreast RMS, and that the previously submitted I-VR does not address stabilisation works in the vicinity of WS2 (or the approved remedial measure, in concept); it is assumed that the submitted reports are not intended to specifically address the aspects of the Approved RMS which relate to the WS2 area.

The clarification described at C. (above) means that in practice the Local Planning Authority is

in practice being asked to agree a modification to the approved RMS *insofar as it relates to the Southwest Area (identified on Figure 3 of the WB-VR)*, to omit the quantification of contaminants present at the (reduced) formation level.

The WB-VR does not suggest that the decision not to test in-situ soils resulted from a risk-based decision-making process, and the report does not present any retrospective structured rationale for the omission. I had previously referred to the omission of the verified clean cover from the Envirotreat RMS, and had suggested that this may be reasonable, subject to the results of the formation level sampling.

I note that the revised WB-VR refers to the provisions of the Envirotreat RMS, but I would reiterate that the Clancy RMS is the approved RMS. In principle, if the Council is to agree a lesser standard (i.e. no physical verification samples from formation level, and no clean cover), then a structured argument should be made as to why the Council should agree that the previously proposed and approved risk mitigation measures exceeded a reasonable interpretation of policy requirements.

Formation level sampling provided additional empirical evidence to address the suspicion that an as-yet undiscovered source of contamination may be present within the wider site, leading to elevated concentrations of contaminants in groundwater at significant distances from the identified hotspots in the west of the site. It was also an acknowledgement that commercial GAC do exist, and that future employees operating at the site do form relevant receptors. I would agree that it is probably not necessary to do both (sampling and cover), and I would favour cover over sampling, due to the controlled waters risk driver and the additional confidence that supplementary sampling would provide.

Additional sections covering potable supply pipework specification and imported materials (D. & E.) address previous comments, and are accepted.

The following comprises an update on the previously approved remedial actions & notes on how these have been covered by the submitted I-VR & WB-VR documents – see the table & subsequent notes below.

| <b>Approved RS Requirement</b>                                                                                                                    | <b>How addressed in the Envirotreat documents (RMS, I-VR &amp; WB-VR)</b>                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [2] (RS) Removal of Hotspot around WS2                                                                                                            | RMS – recommends delineation of TPH/PAH/Heavy Metals around WS2, and use of stabilisation in preference to removal<br><br>I-VR – WS2 outside of scope<br>WB-VR – WS2 broadly outside of scope, qualitative compliance statement relating to limited intrusive works only. <i>Further Comment below.</i> |
| [3] (RS) Collection & Analysis of soil samples from formation level across the site                                                               | RMS – omits this element without explicit discussion of why the omission is justified.<br><br>I-VR – action not reported<br>WB-VR – action not reported. <i>Further Comment below.</i>                                                                                                                  |
| [4] (RS) Provision of 300mm clean soil cover to formation level in all soft landscaped areas<br>(minimum 150mm topsoil, anti-mix & no-dig layers) | RMS – omits this element without explicit discussion of why the omission is justified<br><br>I-VR – action not reported<br>WB-VR – action not reported                                                                                                                                                  |

|                                                                            |                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [5] (RS) Verifying quality of imported materials                           | RMS – omits this element without explicit discussion of why the omission is justified.<br>I-VR – action not reported<br>WB-VR – reports quantities only for building aggregates and topsoil. Source, supplier certification or verification samples not provided for topsoil. |
| [7] (RS) Protection of Potable Supplies                                    | Successful completion documented (WB-VR)                                                                                                                                                                                                                                      |
| [8] (RS, RMS) Watching Brief...during groundworks in general / development | I-VR – not reported, document covers hotspot removal only<br>WB-VR – enabling works only, not construction activity                                                                                                                                                           |

With reference to the table above,

- [2] Outside of scope of the stated spatial scope of both the I-VR & the WB-VR, and therefore still required as part of this development, under a separate spatially limited condition discharge application. **Requires either;**
- i) this action to be dismissed by structured & evidenced argument (in line with implicit Envirotreat position on the risk posed by this identified hotspot feature) , or
  - ii) removal or stabilisation works to be undertaken and verified in line with the approved RS.
- [3] Not covered by the WB-VR. The WB-VR seeks to dismiss the need for this item, with the authors deferring this aspect of surveillance to the 'contamination watching-brief' process. A previous comment on this item is reproduced below:
- “The success of remedial works in the absence of a specific controlled waters risk assessment (under a strategy of general betterment) is necessarily reliant upon appropriate expertise in the operation of oversight & active management of both the remedial works (and their verification), and the watching brief (referred to on pg.7). I am content for this to be picked up as a condition 16 matter but for the benefit of the applicant, I would highlight that condition discharge issues might arise where appropriate expertise is not exercised in the application of Appendix II values during remedial works and groundworks phases of the development.”* (my emphasis)
- The purpose of this item was in part to inform 'need' (or otherwise) for risk mitigation item [4] (to avoid unnecessary remedial actions being undertaken), and through a more formalised documentation of the cut & fill exercise, to address uncertainty about un-documented sources (not found during prior investigation phases) which we have reason to suspect may be present. **The planning authority is being asked to accept a compliance statement in lieu of an evidenced process which confirms the quality of formation-level soils against previously agreed screening criteria.**
- [4] The purpose of this item is to protect human health, for the same reasons as [3] above (protect employees). This provision was previously modified following Environmental Health comments, to ensure efficacy and use only where necessary. **The approves RS makes omission of this measure contingent on evidence from item [3]. This item is therefore subject to the same approach by the authors of the WB-VR (implicit opinion on need, in lieu of evidence-based structured argument).**
- [5] this provision was primarily for the protection of human health, to ensure good discipline in materials management (e.g. with respect to material from identified hotspots,

previously to be excavated). It is less relevant under the stabilisation/solidification remedial strategy for hotspots, and where clean cover is not pursued. In this way, this remedial measure is intrinsically linked to items [3] & [4].

Quantities of imported topsoil are confirmed within May '23 WB-VR, but no quality assurance record is provided via either stockpile samples, post-placement samples, or supplier certification (e.g. by supplier samples, or BS compliance certification).

Ticket numbers are given but no copies (or examples) are provided, so we are unable even to identify the supply route (i.e., as purchased from supplier, and not directly imported by site-to-site transfer that could result in deposit of inappropriate soils).

Given commercial setting, it is unlikely that purchased imported soil would be problematic for human health, however, given controlled waters risks (metals & hydrocarbons in groundwater, controlled waters receptor adjacent to wider site boundary, contaminants not limited to development area-), there is a risk that imported soils that are compliant with human health criteria for this setting might still contribute to existing pollutant loading of local groundwater bodies, and by extension (given indications of mobility of contaminants-) also to the local surfacewater body.

- [7] Installation of suitable barrier-pipe has now been demonstrated.
- [8] This measure is included in both the approved RS & the proposed alternative RMS, so is expected to have been retained within any amended scope of works. **The updated WB-VR has not expanded its scope in respect of this item, omitting construction groundworks phases.**

## Conclusions;

- As previously advised, the appropriate time to seek discharge of c.16 would be upon completion of all construction groundworks within a given development phase (at which time a VR report (e.g. an updated version of the WB-VR) would be capable of addressing this part of the approved RS (or any replacement to it that might be accepted under the c.9 compliance clauses).
- **Condition 16 should remain in place until a statement &/or any applicable evidence can be included within the/a WB-VR in respect of item [8]**
- It may also be necessary to retain c.16 until there is clarity on other aspects of the spatial effect of decisions and the developer's intentions in respect of the items related to items [2], [3], [4] (& where applicable, [5]).

## Additional Comments;

It should be noted that the site investigation documents cover land falling outside of the planning red-line, but within the planning blue-line boundary. Groundwater monitoring has identified dissolved phase contaminants consistent with those found at the WS5 & WS2 hotspot locations, but at locations over 100m distant and not in association with local soil contamination. The site conceptual model (CSM) has not identified any specific alternative potential sources for this groundwater contamination, and until an alternative source has been identified, it must be assumed that the identified hotspots could be the source of that distant contamination, and that there may be a degree of continuity between the water of the shallow aquifer and the adjacent controlled water receptor.

## [2] – Hotspot in the region of WS2

Because of the above-described CSM, in the absence of a material update to the CSM based upon new data or analysis, it must be considered necessary to remediate the identified

contamination hotspot in the vicinity of WS2 in order to eliminate this as a potential contributor to the contamination of the local groundwater.

The authors are clear that the WS2 area falls outside of the current scope of the discharge application, which applies ostensibly to 1 of 5 separate red-line areas (only). I make no objection to an approach conditions discharge which addresses discrete spatial areas under separate applications, however I would caution that this item risks being overlooked as development works progress, which may cause problems in securing discharge of c.16 at a later date, or indeed if it is later identified that c.16 remains outstanding (e.g. via future due-diligence connected with a land transaction). This is a particular risk for this item given the authors comments at 5.5 (WB-VR);

*'None of the additional borehole installations indicated any significant hydrocarbon contamination, indicating that any contamination located at WS2 as being small in volume and isolated. In addition, the laboratory testing of WS2 indicated the absence of short chain (mobile) contaminants. Therefore, presenting a low risk to groundwater'*

It is unclear whether these comments are intended to confirm that WS2 should rightly be regarded as an isolated hotspot (which has already been accepted-), or are intended to challenge the need for remediation. This notwithstanding, section 5.5 does not address all of the relevant delineation results available, or the groundwater results from the wider site investigation.

If development management are minded to approve this application on a spatially-defined basis, I would recommend that a plan be appended to the decision to graphically identify the red-line area within scope of the decision. I would recommend reproducing AWW drawing no. 0105 rev F 10.12.19 and to simply identify each discrete red-line area (e.g. A – E), rather than relying upon descriptive terms (e.g. 'Southwest') that might risk smaller areas of the site being overlooked, such as the WS2 hotspot area (which might otherwise be described as 'Northwest of the Southeast' area – illustrating how easily confusion might arise).

### **[3] – Formation Level Sampling**

With respect to human health, the approved RS would permit this measure to be omitted in favour of implementing precautionary clean cover in all soft landscaping areas, to include measures to counter bioturbation over time. I suspect that this would be unnecessary for the majority of the development area, and so be contrary to the condition requirement to have 'due regard to sustainability' (as previously highlighted).

With respect to controlled waters however (as an ancillary target of this measure-), I would highlight that not all contaminants present would be possible to reliably identify by visual / olfactory means, or by PID screening (e.g. metals). As the CSM is unresolved both in terms of linking identified groundwater contamination with a soil source, and in terms of quantifying & dismissing the risk to the sensitive receptor (secondary aquifer or local watercourse) as being 'acceptably low'; omission of physical sampling undermines certainty against NPPF para 183.

Where the Council accepts the implicit alternative approach (that no formation sampling necessary as formation-level soils have been inspected and are considered to appear clean-), then in policy terms the Council will be reliant upon the professional indemnity of the authors and NPPF 2021 para 184 in the event that future investigation identifies a APP/21/00405 red line area as a continuing source of groundwater contaminants, and the Council's approach to the planning condition might form the basis for an appeal against a remediation notice.

#### **[4] – Clean Cover**

I would expect contamination likely to be material to human health under a commercial exposure scenario to be readily identifiable by visual or olfactory means. Clean cover is generally permeable, and so is not relevant as a mitigation to controlled waters risks.

I am content to defer the need for precautionary cover to the advice of the authors, but I would expect for completeness against policy requirements that the authors make a specific case for omission which refers to previous investigative works (e.g., present summary statistics comparing results from 'existing ground level (EGL) at the time of investigation' and '1m below formation level (BFL)' against commercial GAC, excluding remediated hotspot areas).

If implemented on a precautionary basis, verification would need to include demonstrating cover depths achieved, and quality of imported topsoil ([5])

#### **[5] – Imported Material**

Need not include purchased construction aggregates. Should include a description of the *origin* of topsoil, with indicative quality assurance, for completeness. The principal purpose of this measure is for surety that the origin site is not inappropriate for the post-remediation CSM, rather than being anything more onerous.

#### **RMS**

It is recommended that the applicant seek approval of a revised Envirotreat RMS which accounts for the above comments, with the intention that this supersede the Clancy RS and then comprise the approved RS against which all future spatially limited condition discharge applications will be assessed. I would expect this to simplify both future applications, and any future due diligence work.

**Mr. Jonathan Driver**  
Environmental Control Officer