

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/21/00753	Your Ref:	APP/21/00189
EH Case Officer Extn:	44 6677	Date:	19 April 2021
DC Case Officer:	Ms Lesley Wells		
DC Case Officer Extn:	4 223		
Application Number:	APP/21/00189		
Site Address:	Broadmarsh Playing Field, Harts Farm Way, Havant, PO9		
Proposed Development:	Outline application for the development of new employment units to provide up to 29,000 sq m (gross internal area) for flexible use across use classes E (light industrial), B2 and B8 with ancillary offices, car parking, service yards, drainage works, landscaping and associated works to prepare the site for development. All matters are reserved except the primary means of access to the site.		

Observations / Comments:

Drainage / SuDS & Pollution

It is noted that the application supporting documents conclude that the use of SuDS not feasible, and similarly that the LLFA has indicated that it is comfortable with an unrestricted discharge to the Hermitage. The LLFA has sought a comprehensive Grampian condition to secure a detailed layout. The Condition proposed includes reference to C753 Chapter 26 pollution protection, however for the avoidance of doubt, given the direct connection to the Hermitage and the proximity to sensitive controlled waters, I would expect service yard areas to drain via a suitable proprietary interceptor unit (or units, as appropriate) in order to prevent uncontrolled downstream discharge of pollutants following leaks or spills, or as a result of aggregated small inputs via surfacewater runoff.

It may be helpful to add the following provision to the condition wording proposed by the LLFA: "There should be a presumption against disposal by means of infiltration drainage unless compatible with the contamination assessment 'site conceptual model' & remedial / risk mitigation scheme"

I would also note the Environment Agency objection to foul sewerage disposal proposals (via an on-site small sewage treatment plant, discharging to the Hermitage). It is a planning question as to whether the issue with serving the plot/plots with mains foul drainage is likely to be material to the *principle* of development (i.e. the outline consent), or whether a positive determination which defers foul drainage arrangements to Reserved Matters applications would be a rational planning decision.

I have no further comments to make at this stage.

Highways – Air Quality

I note that the respective highways consultees have made substantive comment in respect of sustainable travel options, and improvements to local pedestrian & cycling infrastructure. It is evident that the highways authority expects the transport assessment / travel plans to explore options to improve the sustainable travel options to reach the site, and proposes a condition to secure a full travel plan with future reserved matters applications.

Sustainable travel has potential to contribute significantly to meeting the requirements of Air Quality policy E23, offsetting the emissions of developments, and the comments and suggestions of the highways authority are supported on this basis.

I note that both the Highways Authority & Highways England have raised a holding objection pending submission of an addendum Transport Assessment which addresses the various technical issues highlighted. These issues are relevant to both highways matters (e.g. access road design, and junction assessment) and to the broader assessment of transport demand and the traffic distribution model which ultimately underpins the air quality assessment. It should be noted that any substantial revisions to either the base transport demand, traffic distribution, or concentration of demand could affect the validity of the air quality assessment, and any conclusions drawn from it.

Given the expectation of an addendum transport assessment being required, that the framework travel plan is broadly acceptable to the Highways Authority, and that a condition is likely to require a tailored and detailed travel plan form part of reserved matters applications coming forward; I have no further comments at this stage.

Air Quality Assessment

Comments relate to the Delta Simons Air Quality Assessment Ref: 19-2099.03 Dated February 2021.

The assessment appears to correspond broadly to the 'B2' development scenario, accounting for a development transportation demand of 1070 total Vehicles AADT and 8.6% development traffic as HDV's (against a transport assessment B2 scenario of 1186 total vehicles AADT & 8.5% HDV). It appears that no other scenario has been modelled.

The transport assessment indicates that the B8 development scenario 609 total vehicles AADT & 33.9% HDV.

Conservative parameters have been selected in respect of vehicle emissions factors, but it is not clear that the B2 scenario represents the conceptual 'emissions worst case' scenario, and as only the B2 scenario has been modelled / presented, the difference in impact between these two scenario's is not clear. It should be noted that the 'emissions-' and 'highways-' worst-case scenario's may be different, and that the baseline transport demand estimates have been broadly agreed by the Highways Authority, but remain subject to some specific objections, in particular in relation to the demands of ancillary office floorspace.

Air Quality Impacts, Human Health;

I am mindful that the development land is not proximal to 'air quality sensitive' locations. Impacts are therefore broadly derived from the development's contributions to traffic growth on the local and strategic road networks. I would agree with the assessment conclusion that the development is unlikely to have a significant impact upon human receptors. Assuming that the

trip distribution model is broadly representative, it is considered that there is an adequate margin of safety as not to be significantly affected by the limited range of assessment scenarios tested.

Air Quality Impacts, Ecology;

In terms of the Ecological Impact, Predicted Environmental Concentrations (PEC's) for Nitrogen Oxides (NOx) exceed environmental quality standards (EQS's) in both 'do minimum' and 'do something' scenarios (Table G4 of the report). The assessment is reliant upon common screening benchmarks derived from the environmental permitting regime to conclude that the impact of development is 'not significant', and that 'no further assessment' is necessary.

Even if this assessment is accepted at face value, it should be nevertheless be recognised that the development will have a material net-negative impact at a SSSI site where applicable air quality standards are already exceeded.

The industry guidance quoted allows this kind of 'managed-rate' deterioration, however emerging local policy (E23 c.) seeks a 'hold the line' approach, aiming to mitigate deterioration of local air quality, especially where there are existing or expected breaches of EQS's. In this way, the local policy departs from commonly accepted industry guidance, and it is expected that a proportionate response be made within the design & specification of schemes coming forward. The assessment recognises policy E23, but does not present a recommended design response.

It is unlikely that this divergence could amount to an 'in principle' objection to an outline consent, but I would highlight that it would be expected that the reserved matters applications will address policy E23 (a. & c.). [*- notwithstanding highways objections in respect of transport demand & the assessment of network baseline traffic flow]

Notwithstanding the above comments in respect of NOx, it would appear that the figures presented in Table G6 (Acid deposition) may be inconsistent with the conclusions of the report.

Table G6 appears to identify PEC's of 228.4 – 228.7 (as keq/ha/yr), against a critical load (table 4) of 4.558 (as CLMaxN, keq/ha/yr). This table also expresses the PEC as a proportion of the respective critical load at levels between 21.9-22%. As they are presented, I don't understand these values. Taken at face value, it would appear that the reported PEC is 5000% the critical load, and the development contribution 6.6% of the Critical Load.

At this stage it is assumed that there is a drafting error within table G6 which is causing confusion. This should ideally be resolved, as a 6.6% development contribution is contrary to the statement being relied upon at 5.3.27 of the report (the development contribution below the screening level of >+1% long term environmental standard, represented by the critical load). If accurate, this would mean that the development impact at a sensitive habitat is of significant magnitude, at a location where extant deposition rates exceed EQS's by more than an order of magnitude. In such a scenario, I would expect a detailed consideration of the significance of these results by an ecologist.

Air Quality Impacts, Dust;

The air quality assessment concludes that following the effective implementation of the dust mitigation measures suggested, the impacts of construction dust will be 'not significant'. I would agree this broad assessment, and would consider the measures described as section 6.0 & 6.1.2 to be acceptable. I would suggest that it would be prudent to require a CEMP as a condition of

consent for both enabling works, and as a requirement of reserved matters applications coming forward in future. Suggested wording below:

Condition [1]: Construction/Environmental Management Plan

No development shall commence on site until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. Unless otherwise agreed with the Local Planning Authority, the plan shall include: -

- (a) Details of transport logistics in accordance with section 6.1.2 of the Delta Simons Air Quality Assessment Report Reference 19-2099.03.*
- (b) Procedures for managing deliveries & collections at the site, including parking, loading, materials handover and transport to secure storage areas, and the means of minimising the risk of release of fuel and other materials capable of causing harm to health or the environment*
- (c) Provisions for the segregation & storage of wastes destined for treatment, recycling or disposal, alongside details on how leachate generation from stockpiles will be minimised &/or appropriately managed so as to prevent cross contamination of materials or release of leachate to controlled waters.*
- (d) Measures to ensure safe pedestrian movement on the public highway & footpaths*
- (e) The means of minimising dust, smoke and fume emissions from the site during construction works, including minimising dust emissions from vehicles transporting materials or waste from the site.*
- (f) The means of preventing track-out of mud & spoil on to the highway, and preventing runoff from the site adversely impacting adjacent surface waters.*
- (g) The means of minimising noise and vibration arising from construction processes*
- (h) Details of the training of site operatives to follow the Construction Management Plan requirements.*

Reason: *To ensure that the construction process is carried out in a manner which will minimise disturbance, pollution & nuisance to neighbouring properties and the public realm more generally, and prevent pollution of nearby surface waters. To avoid inappropriate parking practices, and turning and manoeuvring of construction vehicles which adversely impact either the use- or safety- of the public highway. This condition is imposed having due regard to policies DM10 & CS15 (Havant Borough Local Plan (Core Strategy) 2011), and the National Planning Policy Framework 2018.*

Air Quality Assessment, Summary;

The Air Quality assessment concludes that the development phase will not result in any significant adverse environmental impacts in the short-term, provided suitable mitigation measures are implemented to prevent escape of dust or significant trackout. Given the proposed waste processes associated with site preparation, a comprehensive condition is proposed to include the broader construction impacts – it is intended that the suggested wording (and so the CEMP-) should be of sufficient scope as to minimise impacts upon local air quality, highways, amenity and controlled waters.

There is some apparent inconsistency in the report text and tabulated results for acid deposition rates which should be resolved. The report has not tested an 'HDV worst case' scenario or made an argument that the 'LDV & traffic volume worst case' represents the 'emissions worst case'. The assessment is based upon figures in respect of which the Highways authorities have sought additional justifications.

The report concludes that no mitigation is required for operational phase impact. I would highlight that this fails to recognise or respond to the requirements of E23 (general emissions offsetting, and proportional mitigation of impacts).

I think it unlikely that an *in-principle* objection to the award of outline consent could be said to be justified. However, I would expect a response to emerging policy E23 in future Reserved Matters applications coming forward in future.

Ground Conditions, Contamination Assessment

Comments relate to the Delta Simons Preliminary Geo-Environmental Risk Assessment Ref: 19-2099.01 Dated 15th February 2021.

The report concludes that contamination impacts that are significant in a regulatory context are unlikely, but recognises that the site may be contributing to 'sub significant' adverse effects on local controlled waters in particular, and that soil gas may pose an unacceptable risk to the development (buildings, and future occupants).

In a planning policy context, the burden of proof is on demonstrating that harm is unlikely, rather than the regulatory context, which must demonstrate that harm is occurring. The assessment criteria are essentially the same, but the policy context is more onerous to demonstrate and tends to lead to more conservative assessments. For this reason, the report concludes that additional assessment work is necessary (understood to be underway), and that risk mitigation and works aiming to achieve a degree of site betterment are likely to be appropriate.

I would agree with the broad conclusions of the report, and would concur that there are no grounds for an in-principle objection to the current outline proposals (i.e. the mitigation requirements are not considered likely to materially harm the feasibility of the outline scheme).

It should be noted that factors related to contamination &/or environmental permitting for waste activities could in principle impact the developable area of the site. This is most appropriately considered at a reserved matters stage.

Assuming that it is possible to positively determine future reserved matters applications with conditions, it may not be necessary to propose a Grampian condition at the outline stage. The purpose of the policy underpinning such a condition is to assess and mitigate any unacceptable contamination risks associated with the development, and to address any contamination issues that may arise within the lifetime of the development that would be precluded by the development. Neither of these factors apply to establishing the principle of development, or the construction of site access points. I am mindful that the risks of other enabling works (e.g. the cut & fill operation) are likely to be subject to additional regulation (Environmental Permitting), and so fall within scope of NPPF para. 183. Irrespective, risks associated with those operations could be regarded to be construction risks, which should be covered by the CEMP condition proposed above if falling outside of the environmental permitting or waste regulation regimes (e.g. through the Definition of Waste Code of Practice protocols).

I am content to defer further consideration of contamination issues to the reserved matters stage. I expect that the results of the recommended additional intrusive investigations may be available for submission with the reserved matters application(s), and any outstanding requirements can be dealt with by means of a bespoke condition that responds to the results of that assessment.

If it is necessary to apply a condition to the outline proposal to establish the need for contamination issues to be addressed at the reserved matters stage, I would recommend the following wording:

Condition [2]: Contamination [Standard, tailored – based upon submitted 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), an assessment of the nature and extent of contamination at the site, whether originating from within or outside the curtilage, shall be submitted to and approved in writing by the Local Planning Authority.

The assessment may comprise separate reports as appropriate, but shall be undertaken by competent persons and unless specifically excluded in writing by the Local Planning Authority, shall include;

- 1) An intrusive site investigation based on the proposals outlined within the Delta Simons Preliminary Geo-Environmental Risk Assessment Ref:19-2099.01; to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to all identified receptors.*
- 2) The results of an appropriate risk assessment based upon (1), and where unacceptable risks are identified, a 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.*
- 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out any Remediation Strategy required under (2) are complete, identifying any requirements for longer-term monitoring of pollutant linkages, maintenance of engineered mitigation measures, and arrangements for contingency action.*

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

Reason: *The site comprises a former municipal solid waste landfill site where contamination is present across the majority of the site. The development could affect or create new pathways for contaminants to reach sensitive receptors. Unacceptable risks could arise in respect of buildings, services, future occupants, ecology, landscaping, and/or controlled waters. This condition is in line with DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014], and paragraphs 178-180 of the National Planning Policy Framework."*

Verification (Standard) [3]

*Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with **condition [2]** 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: *The site comprises a former municipal solid waste landfill site where contamination is present across the majority of the site. The development could affect or create new pathways for*

contaminants to reach sensitive receptors. Unacceptable risks could arise in respect of buildings, services, future occupants, ecology, landscaping, and/or controlled waters. This condition is in line with DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014], and paragraphs 178-180 of the National Planning Policy Framework."

Mr. Jonathan Driver
Environmental Control Officer