

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/20/02411	Your Ref:	APP/20/00441
EH Case Officer Extn:	44 6677	Date:	08 September 2020
DC Case Officer:	Ms Lesley Wells		
DC Case Officer Extn:	4223		
Application Number:	APP/20/00441		
Site Address:	Land to rear of superstore, Hulbert Road, Havant, PO9		
Proposed Development:	Outline planning application with all matters reserved except access for the development of up to 120 dwellings and associated improved site access, landscaping, footpaths, SuDS and other associated works on land to the west of Hulbert Road, Havant.		

Observations / Comments:

I have reviewed the supporting information to this application, and would like to make some comments in respect of potential contamination (and risk management), air quality (development as source, emerging policy, and development as receptor), and land drainage arrangements (pollution). There are material synergies between these subjects and other planning matters – in particular, ecology, landscapes, noise mitigation & design quality.

Principle of development

I note that the applicant has sought to make a case for determination under the presumption in favour of sustainable development and has made reference to a recent development of similar form (APP/13/00266, Havant Retail Park Portsdown Hill Rd).

Determination under the presumption in favour places a focus on the matter of ‘sustainable development’, and it is considered that strong environmental sustainability should be required to justify a consent for development outside that tabled by the Council to demonstrate it’s 5 year housing supply.

The APP/13/00266 development is relevant in it’s approach to development adjacent to the A3(M) and the management of noise, amenity & air quality issues.

It is understood that the applicant is seeking outline consent for 120 units with ‘all matters reserved’ save for site access – it is regarded (however) that the application seeks to define the maximum quantum (i.e. the upper limit on unit numbers is not a reserved matter) and must therefore demonstrate that 120 units can be delivered in an environmentally sustainable way.

The site masterplan is drawn to ‘development parcels’ level only; the curtilage of individual units is not defined. The site set-back from the A3(M) is similarly not clearly defined. Fitting the site indicative masterplan to GIS would appear to indicate a set-back of approximately 38m from the kerbside of the A3(M), however, text in the supporting documents would suggest an intended set-back of less than 25m. given the masterplan resolution, it is unclear whether the quantum sought might be accommodated at the site without relying upon the lower set-back distance.

With reference to APP/13/00266, the development set-back (as built) exceeds 30m, and in addition, the apartment buildings were required to benefit from a mechanical ventilation system drawing air from the Eastern façade (or other non-road facing walls in the 'emissions lee' of the building). This served internal amenity purposes, ensuring internal noise mitigation standards and securing reliable indoor air quality.

It is worth noting that the development referenced as design precedent represents the closest building line relative to the Eastern kerbside of the A3(M) within the borough, and that concentrations of NO₂ have been modelled to be within 95% of the statutory air quality objective – which if permitted would represent one of the poorest 'at receptor' concentrations within the borough. Given modelling uncertainty, and the substantial difference distance from source can make to concentrations over very short distances – the distance between the kerbside of the A3(M) and the façade of the closest proposed units is considered to represent a significant material factor in demonstrating sustainability of the site.

It is unclear whether the quantum of development can be sustainably delivered at the site if the site does not propose units 'more at risk' (from this road-emissions source-) than any existing property in the borough (i.e. if a minimum 30m buffer is applied from the kerbside of the A3(M) carriageway, and if the applicant does not propose to protect the internal amenity & air quality of affected units).

I would highlight the comments of the Traffic Team, Highways England, and in particular, the Landscapes consultee, who requires "(a) significant landscape buffer...to the West for noise, views & ecological connectivity". These latter comments are supported, and as described above, and as highlighted by the Traffic Team – these matters may be material to quantum and as a result it may not be appropriate to defer these issues to the reserved-matters stage.

Flood Risk Assessment & Drainage Design

Surface drainage is to be achieved via a filter drain & permeable surfaces. Sustainability enhancements such as rainwater harvesting & landscaping bioretention are acknowledged to be viable options, but these features are not proposed.

Attenuation capacity is to be provided by means of two no. substantial below ground tanks (900 cu.m) and within a detention basin at the topographic low point. Sequential hydrobrakes are proposed to limit discharge rates to greenfield rates, and final discharge is to the ordinary watercourse to the SE of the development land.

Given that the receiving watercourse lies within a SINC, it is considered that the draft scheme misses an opportunity for ecologically valuable conveyance of surface water (e.g. via a swale), however strictly from a pollution-attenuation perspective;

- the draft scheme provides sufficient attenuation for a residential development
- the draft maintenance schedule is appropriate

No objections to the FRA or drainage design. I expect the LLFA to comment on aspects of the scheme concerning the contribution of the site to downstream flood risk.

Contamination Assessment

The assessment & conclusions of the WYG Phase 1 Geoenvironmental Assessment (Desk Top Study) Ref: A096474 are generally agreed to be appropriate.

I note that the Environment Agency has also accepted the report, and has recommended a comprehensive suite of conditions to address contamination risk at the site as a material matter to the residential development of this land (i.e. relevant to the OA application). The wording of

the proposed conditions does not acknowledge the A096474 report, and risks duplication at the conditions-discharge stage.

The works recommended at 10.2.1-10.2.3 of the A096474 report are appropriate, and I would recommend that a more refined condition be imposed in place of that proposed by the Environment Agency, omitting the need for an environmental desk study, and requiring additional assessments to be based upon the proposals of the A096474 report.

Contamination (Standard – omitting EDS, based upon submitted EDS proposals) [1]

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 WYG Phase 1 Geoenvironmental Desk Study Report Ref: A096474; 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: *Contamination may be present at the site as a result of both previous land uses (&/or activities) that could pose a risk to future occupants or ecological receptors. This 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."*

Environment Agency proposed conditions 2-4 are generally appropriate and should function as intended with the proposed wording for condition 1 (above).

Air Quality – Development as Receptor

The WYG Air Quality Assessment concludes that the projected air quality at the nearest-to-source proposed (new) air-quality-sensitive receptors is predicted to be compliant with the air quality objective, and that no exposure mitigation is therefore required.

As indicated in the 'principle of development' section above, the modelled result (if accurate) would represent some of the highest 'at receptor' concentrations in the borough.

The modelling result is regarded as a 'modelling best estimate', with a reasonably wide margin of +/- error. The modelling result was with prescribed standards of error, and so was not (did

not need to be-) adjusted, but it is notable that the result is within the margins of expected modelling error.

The WYG monitoring within the curtilage of the site has returned a monthly result in excess of the air quality objective (AQO) value. The monitoring period is unclear as the report Appendix A contains the construction phase (dust) risk assessment, and not the details of monitoring indicated at section 4.1. It is worth highlighting that;

- Results from period 1 & period 2 significantly differ, indicating that they may not be consecutive 4-5 week period monitoring.
- The location map presented is of insufficient scale to determine the distance of monitoring points from the kerbside of the nearest roads
- No photographs of monitoring points are shown for local context, and no specific description of the mounting is given.

As a result of the above, it is difficult to draw a conclusion based on the monitoring presented, however in the absence of any additional details it would be appropriate to consider that it demonstrates that within-curtilage exceedance of the AQO is possible and that that exceedance probably relates to a location between 15 & 20m from the kerbside of the A3(M).

Modelling is poor at accounting for the built environment, trees and topography, essentially assuming free-field. Significant differences can occur where barriers (such as new buildings) are introduced.

I am uncomfortable with accepting that “no air-pollution exposure mitigation is required” at the western side of the development where

- modelled results are so high, being within modelling error of the AQO
- local monitoring indicates that monitoring period exceedances are possible despite the (mitigating) vegetation buffer to the site
- monitoring data is difficult to interpret in relation to distance from source, period & duration of measurement (relative to seasonality) and
- the development would exceed current precedent for proximity of sensitive receptors to this (down-prevailing-wind) side of the A3(M)

I would consider that either;

- i) the modelling & local monitoring data need to be refined to show that concentrations at the proposed ‘building line’ (facades relative to the A3(M) kerbside – being the hard shoulder, not the running-lane) are acceptable to within a reasonable margin of safety (e.g. at least modelling error),
- ii) the development layout should adopt a building line of at least 30m from the kerbside of the A3(M) (in line with local precedent) or,
- iii) the proposed apartment buildings in the West of the site should be protected in a similar way to the equivalent blocks on the APP/13/00266 development referenced (as precedent) in the design & access statement.

It would represent a significant failure of planning for an AQO exceedance to arise at a building constructed post-publication of the NPPF 2019. It is unclear whether the applicant has done enough to demonstrate that the quantum sought can be sustainably delivered at this site. The planning service may take this response to be a holding objection pending clarification.

Air Quality – Development as Source

I note that the applicant has sought to make a case for determination under the presumption in favour of sustainable development, and that an argument is given for the LP2036 carrying

substantially limited weight. I would highlight that the text of Policy E23 (LP2036) represents the Councils view of how NPPF Para.181 ('...identify opportunities to improve air quality or mitigate impacts...') should be met. It should be noted that the interpretation making E23 more material than might be suggested by the current status of the LP2036 is likely to apply to a number of other key emerging policy areas. Where relevant to Environmental Health's remit, a case will be made for the emerging policies to be regarded as carrying non-negligible weight by virtue of the 2019 wording amendments to the NPPF (extending the effect of clauses from being a directive for formulation of local policy to apply in addition directly to 'decisions').

It is clear that the applicant regards air quality as a 'threshold' issue only – i.e. the applicant has sought to assess the material change in concentrations of pollutants arising from the operational phase of the development, and to mitigate any unacceptable impact. While the assessment acknowledges that traffic emissions represent less than 50% of total Nitrogen Dioxide concentrations, it has only considered the impact of traffic demand, and has not considered domestic sources. E23 seeks an 'offsetting emissions' approach to all major development which applies irrespective of any 'material change' in any specific pollutant at any specific receptor location, and aims to reduce regional 'upward pressure' on local air quality as a cumulative effect of development. It is appropriate to consider this as a matter deferrable to the reserved matters stage, but it may be material to the question of whether the proposed development is 'sustainable development'. I would encourage the applicant to consider reasonable emissions offsetting as an integral part of the detailed design and to do this at an early stage so that features identified to be economically implementable may be used to improve the environmental sustainability credentials of the outline scheme.

I would also encourage the applicant to consider a design response to policy IN3 j) (provision of electric vehicle charging infrastructure), and E12 (low carbon design) – both of which have synergies with an objective of offsetting development emissions on an 'all sources' basis.

Transport Assessment & Framework Travel Plan

The priority given to the shared pedestrian / cycle link South to link the development to existing routes at Purbrook Way is agreed to be appropriate – this is considered to be a very important element to support sustainable modes of travel for short/frequent journeys (to local services, and commuter access to bus & rail)

I welcome the inclusion of a route north to link the development with the Dunsbury Hill Farm roundabout, but note that it is only proposed to bring this forward on condition of around 620m of additional footpath/cycleway being constructed by others to complete the link into the employment area. Traffic monitoring data for Hulbert Road indicates 85%ile vehicle speeds & levels of HGV traffic that are likely to be prohibitive to all but the most confident cyclist, so off-road routes are preferred if they can be secured.

I note that the parking provision is proposed to be in line with adopted SPD. Given the characteristics of the site, I would be reluctant to support a >SPD provision (as this would disincentivise car dependence). No reference is made to policy IN3, and as above, I would encourage the applicant to consider a design response at the reserved matters stage – this is considered material to all limbs of the definition of sustainable development, and is in line with NPPF policies 102 d) & 110 e), and on this basis may be material to the credentials of the scheme for an outline determination.

In respect of the accessibility assessment – assuming that good quality infrastructure is in place, sustainable journey's to the South to a range of local amenities will be feasible. Journeys to the North by sustainable modes be hampered by the need to traverse J3 of the A3(M) and the lack of infrastructure on the Hulbert Road to the West of J3, towards Waterlooville. It is

considered that linking the development to the major employment area at Dunsbury Hill Farm is an appropriate and important measure for encouraging sustainable travel to work – where replacing short distance journeys has the greatest emissions-offsetting benefit.

I note that the travel plan objectives omit aiming to increase car-share or encourage sustainable private motor car use (e.g. supporting uptake of electric vehicles), or supporting use of delivery services (e.g. providing secure unattended parcel drops). Travel plan targets are deferred, and are proposed to be set in consultation with HCC. Indicative targets presented are considered to be unambitious, and basic – with the mode-shift target sought being so low as to likely fall within the standard deviation of the survey results (i.e. difficult to demonstrate success). A doubled mode shift target would be appropriate, alongside an expansion of the proposed measures – which in the draft plan comprise essentially the provision of route information only (no forums, lift-share matchmaking services to be signposted, no organised social groups, cycling equipment discounts, cycle proficiency training, or public transport ‘try’ incentives such as travel vouchers or negotiated ticketing discounts etc.).

Few active measures are proposed, and in addition, there are no ‘back on track’ measures if the unambitious targets missed.

Conclusion

Most issues raised above could be deferred to the reserved matters stage. This is particularly the case where the quantum sought ‘could’ be delivered sustainably, and the applicant will need to demonstrate that the detailed scheme brought forward at the reserved matters stage is sustainable. The detail of this response is intended to steer the evolution of the detailed scheme.

Where issues might affect the ‘carrying capacity’ of the site (i.e. the quantum sought-) these are regarded as being material to this application. This would apply in particular to noise mitigation, air quality (development as receptor-), ecology, landscapes, and parking – as all measures might be affected by the need to incorporate a minimum landscape buffer in the west of the site (which for air quality purposes, should not be less than 30m from the kerbside of the A3(M)). These issues may require resolution prior to determination at outline.

Environmental Health raises a holding objection on this basis, pending the details referred to above (clarification of modelling and monitoring details, or a precautionary design response to limit exposures & mitigate the risk of a need for future regulatory intervention as a result of this development).

An alternative, more specific-, contamination condition is proposed in the even that the planning service is minded to make a positive determination.

Mr. Jonathan Driver
Environmental Control Officer