

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/20/00004	Your Ref:	APP/19/01166
EH Case Officer Extn:	44 6677	Date:	21 May 2020
DC Case Officer:	David Eaves		
DC Case Officer Extn:	44 6549		
Application Number:	APP/19/01166		
Site Address:	Colt International Ltd, New Lane, Havant, PO9 2LY		
Proposed Development:	Reserved matters application following Outline Planning Permission APP/18/00244 relating to access, appearance, landscaping, layout and scale for residential development of 95 dwellings and discharge of requirements of conditions 15 (vehicular access points) and 16 (pedestrian and cycle links).		
	[Reconsultation on revised documents received]		

Observations / Comments:

I have reviewed all revised documents submitted in support of this application. I will briefly update comments on transport / Air Quality. Where no specific comment is made in this revised response, it should be assumed that the comment made in the earlier response (dated 14/02/2020, ref: CONS/2-/00004) remains applicable.

Transport / Air Quality (and related policy)

Enhancements to off-road hard-surface specification, refuges & signage are noted as positive 'Air Quality relevant' features.

I also note that the landscaping amendments provide enhancements to the both density, structure & distribution of planting, also increasing the proportion of Urban Tree Air Quality Score listed species – in particular the stand of Betula Pendula along Bartons Road. These enhancements are supported.

With respect to comments offered previously on the response to emerging policies, I would take this opportunity to highlight that emerging local policies aim to communicate the Council's interpretation of National framework requirements, taking into account the supporting evidence base & National Plans of broader scope (e.g. 25 year plan, emissions reduction strategies etc.). The 2019 revision of the NPPF appended the phrase '*...and decisions*' to '*planning policies...*', and the same strategies and nationally derived evidence base still applies. In this way, there is legitimacy in interpreting adopted national through along the lines of the emerging local policies. Perhaps more so in respect of carbon, climate & transport policy than is the case with other combustion emissions / Air Quality; the wording of existing locally adopted policy is compatible with such interpretations. Otherwise, I've nothing specific to add.

SuDS / Drainage Provision (Pollution Control)

The landscaping amendments include reference to the creation of a more natural surface water management by means of a landscape-integrated Swale with monsoon drain retained to manage both exceedance flows and normal swale out-flows. This represents a modest enhancement over previous proposals. I have no material comments to make, and recommendations relating to the commercial phase of development remain applicable.

Contamination & Hydrogeological Risks - General & Assessment

Revised documents comprise a geotechnical ground investigation report, and a 'phase 5' supplementary site investigation under the banner of a 'remediation verification report' and 'additional contamination risk assessment' (Ref: GWPR3514/VR/March 2020 – 'the VR report').

The geotechnical report is indirectly relevant to Contamination Risks, but does not present any additional sampling or risk assessment. It does add to the weight of evidence in supporting dismissal of risks to the principal aquifer.

I am a little perplexed at the title of the VR report – it does not report the completion of a number- (arguably any-) of the proposed remedial measures previously agreed in principle, and does not provide any compelling additional data to bolster the qualitative risk assessment & conceptual site model previously challenged by Environmental Health.

This model is re-stated again in the latest report, and reliance is placed upon its veracity to underpin the implicit conclusions. It is not at all clear that the report accepts that previously proposed remedial measures are still required – the report omits a 'conclusions' section and acknowledges a 'low-moderate' risk to perched groundwater.

It is possible that the report is intended (only) to justify a spatially limited strategy of ground raising with inert waste (risk mitigation) in favour of source removal + clean cover (remediation) in the elevated NE section of the site. If this is the case, then the authors accept that there are several outstanding remedial requirements, and use of the phrase 'verification' [of remedial measures] is a little misleading & certainly premature.

It is also worth noting that I had raised some concern over the possibility that the elevated area of the site could be more seriously contaminated than the reports suggest (identified hotspot of a greater extent than anticipated), and that a flexible approach should be taken to its removal. The 'cover & raise strategy' could be taken as having been designed to avoid any excavation & inspection of soils in this area, and I would point out that available results leave open the possibility that hydrocarbon contaminants on the elevated land may be migrating to lower lying land within the site.

If this model is correct, the contaminants would be migrating beneath the planned location of the SuDS Swale, which could represent either a mechanism for attenuation / treatment, or for rapid migration to the Lavant via the monsoon drain under period exceedance flow conditions. Not addressing the identified hot-spot leaves a good deal of uncertainty as to the appropriate level of concern.

Contamination Hot-Spot Removal

The Phase 4 investigation report (and implicit remediation method statement; Ref: GWPR3192/CAR/Oct 2019 v1.02. 'the RMS') concluded that at least two contamination 'hot-spots' required treatment or removal due to exceedance of either or both residential landuse and commercial landuse generic assessment criteria (GAC).

One treatment area comprised a region of the SE of the (wider-) site (WS16), and the other an area in the NW of the topographically 'low' portion of the site (WS1). Treatment was to

comprise: *“Excavation and removal/remediation of the Made Ground for a 16m radius around the WS16 hotspot in the residential area of site (which would also remove BH2), and the WS1 hotspot in the commercial area”*

This recommendation is acknowledged in the VR report as a prior conclusion. However, it is unclear whether it is proposed to take either of these actions forward. The verification report does not evidence completion of this action, and no specific argument has been made to support the cover system as being adequate without removal of hotspots.

Similarly, the report also relies upon previous surface water & monsoon drain spot sampling alongside one water sample from a newly installed well at BH5 in concluding that an impact to the Lavant is ‘unlikely’. This was previously challenged on the basis of the inherent difficulty of demonstrating an absence of impact in a dynamic environmental medium, and betterment was sought.

No specific implication is outlined which follows from this qualitative risk assessment, leaving proposals somewhat ambiguous with respect to the fairly-well evidenced hotspot in the vicinity of WS1, in close proximity to the Lavant Channel.

Clean Cover, former carpark (and industrial storage) area, elevated land in NW of site

The strategy for this area was driven largely by a statistical ‘population exceedance’ of GAC for Lead across the entire area. Ancillary to this, it was also considered prudent to address significant concentrations of hydrocarbons identified in prior investigations.

Treatment proposed was to comprise *“a reduced dig of the Made Ground with regard to site levels over the north-western car parking area of site, with placement of a geotextile membrane and 750mm clean capping across all residential garden areas.”*

‘Reduced dig’ does not specify a depth, but it is implicit from the RMS that the intention is to remove *some* contamination impacted soils – referring to maximum excavation depths of 1m, and provisions to cease reduced dig on encountering confirmed clean natural soils. Referral is also made to ‘sufficient room’ for required capping implying that overall levels / relative building heights may be a material planning consideration.

Similar to the ambiguity in the term ‘reduced dig’; ‘clean capping’ might be generally taken to comprise ‘sub-soil & topsoil’, but does not specifically preclude ‘chemically inert construction & demolition waste’ (e.g. site-won 6f2 fill) as an alternative.

It is considered that this is the element that the report seeks to verify. Works described include the removal of ~200mm macadam surface (wearing, binder & base- courses), post placement verification of thickness of placed 6f2 fill, and chemical suitability of the material (confirmation that it is not itself ‘contaminated’).

An average of ~300mm 6f2 fill has been placed in the NW area of the site, so around 450mm cover (subsoil & topsoil) may be expected to be placed over as a suitable growing medium for amenity purposes. Reliance is placed upon the 6f2 material serving as both a ‘deter to dig’, and ‘capillary break’. It is reported to be placed upon a terram geotextile, though no photographic evidence is included, and no pit logs are presented.

I agree that the material is chemically suitable, but it won’t be possible to regard the risk mitigation measure as verified until the cover soils have been imported and demonstrated to be both suitable & placed to an adequate depth.

With respect to the 'reduced dig' being of insufficient depth to actually remove any soils identified as being impacted by PAH & Pb, there is no site betterment with respect to leachable components which contribute to the 'moderate' risk to perched waters (and to downstream surface water receptors, represented by the Lavant Channel).

With respect to human health, the approach falls short of expectation, but is acceptable. The verification report is insufficient to dismiss the need for any ongoing planning control(s).

Placed Cover, topographically low residential area, 'main' site

The area of the site at lower elevation has also received the same cover with site-won 6f2 fill (of up to 700mm depth, with reference to the Geotechnical Report position TP9), but laid without a Terram geotextile. A minimum +400mm clean soils are proposed for garden areas. The planning implications for levels are unclear, but would be a matter outside the scope of these comments.

It should be noted that no specific need for clean cover or a capillary break was considered necessary (following hot-spot removal in the vicinity of position WS16), and the placement of material this did not form a specific remedial proposal under the RMS. It is accepted that this material might be helpful in the short term as a stable platform for the piling rig, but it is unclear that the material is 'required' in the long-term (e.g. to achieve target ground levels). This may be relevant to the use of waste under an applicable exemption (e.g. a U1) or under the CL:AIRE Definition of Waste Code of Practice. It is not clear either of these apply – given that the RMS did not identify a need for this material in this area, its placement could be regarded as a 'disposal'.

Gas Protection of Buildings

The RMS proposed '*precautions up to a Characteristic Situation 2, in accordance with BS8485 (2015)*' be installed within the proposed buildings. No spatial distinction was made across the site other than proposals applying to 'Residential Houses' only.

Under BS8485 (2015), both a ventilated sub-floor void and a gas resistant membrane were considered to be required.

The verification report could not include any material facts to verify installation, as buildings need to be constructed to at least 'above FFL' for this to be possible.

The VR report does however include a slightly confusing schematic at Figure 7, entitled 'Anticipated Garden Construction / Finished Levels' but including annotation relating to road construction, and appearing to show a 'typical piled foundation slab detail' which does not conform to the gas protection requirements outlined elsewhere in the report (or within the RMS).

Specifically, the typical construction detail includes reference to use of 'pecavoid 225/ 10/15' – which product information indicates is suitable for NHBC 'clear void' requirements of 150mm. Reference to NHBC guidance does not return results for the term 'clear void', instead referring to 'void former' to protect against ground heave, and a '150mm ventilation void' requirement in addition beneath pre-cast suspended floors.

The indicative construction details provided do not make clear that a clear / unfilled ventilation void of at least 150mm is to be provided, nor does it show that a gas resistant membrane is to be specified. The VR report similarly omits any specific information on cross ventilation, ventilation free-areas, membrane jointing, or the method of verifying installation.

The verification report is insufficient to dismiss the need for any ongoing planning control(s).

Soil Strip - North Boundary (Asbestos Mitigation)

No works are documented in the VR report relating to the excavation, screening or removal of material at the North Boundary.

With reference to Appendix B, it appears that this area is likely to have been covered with placed site-won 6f2 material, probably to a depth of between 200mm & 420mm. As such, it is unclear whether the applicant still intends to undertake this previously proposed remedial measure, or whether it is intended to rely upon a 'cover & raise strategy', as is implied for other areas of the site (above).

As asbestos is not mobile within the soil matrix, a 'leave in situ' beneath a 'deter to dig' layer and a suitable level of amenity soil is potentially acceptable. With reference to definitions above, it would appear that the applicant is seeking approval of consumption of around 60% of the proposed 500mm clean cover with site won 6F2 material, leaving cover levels averaging around 200mm – it is unclear how this strategy will accommodate the landscape planting schedule without penetrating the 'deter to dig' layer to provide sufficient space for healthy root systems.

Contamination & Hydrogeological Risks - Recommendations

The phase 5 report poses as many questions as it resolves and is by any measure insufficient to verify a complete scheme of remediation or risk mitigation.

I am minded to recommend that the phase 5 & VR report (GWPR3514/VR/March 2020) be omitted from the list of approved documents on any positive determination of this application, in favour of the phase 4 & RMS report (and all other preceding reports).

This would have the effect of requiring the proposed hotspot removals report, as well as the precautionary gas protections proposed in the RMS.

My previous recommendation in respect of fleshing out the ACM discovery strategy may remain applicable, depending on the intended piling method (the Geotechnical report does not confirm. The critical element will be whether any arisings are produced (e.g. augered piles, compared with 'no arisings' displacement piles).

A decision that the implicit 'cover & raise strategy' (and piling method) dismisses the need for a more robust ACM discovery strategy & verification plan is also dependent upon the 'existing cover + growing medium of suitable thickness' amounting to acceptable site levels (as a related planning matter).

The text below (highlighted) is reproduced from the CONS/20/00004 consultation response dated 14/02/2020, for ease of reference. It is considered that this advice still applies;

Subject to the enhancement of the outline discovery strategy presented at 4.8 of the Phase 4 Report (GWPR3192v1.02) in respect of ACM, and the caveats outlined in the sections above [referring to text of the CONS/20/00004 response]; the body of documentation submitted to the Council to date essentially satisfies Condition 8 of the outline consent.

I assume that the detailed consent requires transposition of conditions, in the interests of clarity. In this respect, c.8 of APP/18/00244 may be omitted [from the reserved matters consent]. c.10 of the outline consent should be transposed. I would recommend that the condition below ('Condition A') is included on any consent granted in relation to this application, as a substitute to outline condition 9.

The informative is recommended as a guide to interpretation.

Condition A - Verification of Approved Works (in place of outline condition c.9)

"Prior to the occupation of any specific phase of development approved by this planning permission, a soil-contamination remediation & risk mitigation verification report shall be submitted to- and approved in writing by- the local planning authority.

The report shall be in general accordance with the Ground & Water Ltd. Report No. GWPR3192/CAR v1.02 (November 2019) and shall document the management of contamination-impacted soils and the effectiveness of the remediation achieved through the works set out in sections 4.5-4.6 of the GWPR3192/CAR v1.02 report.

Reason: *To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. 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."*

Informative - Soil-Contamination Remediation & Risk Mitigation

"The Council recognises the need to respond to site conditions encountered during groundworks, and the inherent uncertainty in defining works based upon results of a finite sampling strategy. The execution of remedial works described in the GWPR3192/CAR v1.02 report- and their subsequent verification- are expected to take account the comments and requirements of relevant consultees, where given (* The Environment Agency, Portsmouth Water Company, and Environmental Health). The GWPR3192/CAR v1.02 report describes validation / verification proposals in various sections of the report, and does not present a comprehensive stand-alone verification plan. The Council accepts a degree of 'fluidity' in response to conditions encountered, but will expect the report to include: i) results of sampling and monitoring ii) a photographic record of source removal works and iii) any other documentary evidence which describes the works (which may comprise documentation of any or all; the evidence-based decision-making processes, the definition of 'completion points', on-site waste material pre-treatment / characterisation, the movements and destination of contamination-impacted soils, and the characterisation of imported soils for cover systems). The Council will not accept a report which verifies a rigid interpretation the remedial works where this would leave an unacceptable degree of residual uncertainty."*

Mr. Jonathan Driver
Environmental Control Officer