

From: Driver, Jonathan
Sent: 16 April 2020 13:59
To: Wells, Lesley
Subject: FW: Coldharbour Farm Road

Good Afternoon Lesley,

Thank you for forwarding those comments. The comments appear to have been intended for the applicant, but it may be helpful for me to respond to each from a planning / consultation perspective;

- *'no further comment is necessary regarding the [Air Quality] exposure assessment and no changes are needed to the report'* – Agreed / accepted.
- *'EV charging is unlikely to be allowed to contribute towards the damage cost[...]'* – This comment is in line with the thrust of my comments, but it is not necessarily quite this clear-cut; I would highlight one of my original comments – namely *'It would be acceptable to 'consume' this value on items covered by other policy, provided that is allocated to elements which go beyond the requirements of policies governing the minimum provision required for that policy purpose'*. This is further slightly complicated by the present status of emerging policies, and the extent to which we can interpret existing policy 'through the lens' of the refreshed (emerging) policies & the revised NPPF. I'd regard this as a planning call, and see my role as being one which seeks the best possible planning outcome in line with both existing (local & national) policy - having regard to the NPPF para 38 & direction of travel with respect to emerging local policy. In this way, I cannot 'demand' or 'strictly require' changes at this stage, but I can advise the planning service of a reasonable policy interpretation and highlight areas where the proposals on the table are likely to fall short.
- *'EHO will require some firm commitments as to what/how these [suggested AQ Mitigation measures] will be implemented at the development'* – The comment in the point above v/v the role of EH as a consultee is relevant. Nevertheless, this is a fair interpretation of my recommendations – I was highlighting that the provisions in the application wouldn't be material to the particulars of the consent, and so at risk of being omitted from the delivered scheme for commercial reasons. I was highlighting that either an amendment to proposals, or the imposition of a specific condition would be required in order to secure these desirable features/provisions.
- *'The 'Mitigation of Construction Activities' (detailed in Table 16, p. 32 of the AQ report) should be included in your Construction Management Plan'* – Agreed. I would also recommend that the expectations listed in my previous response are also included (best practice wheel washing on exit, road sweeping, and monitoring to include Coldharbour Farm Road in the vicinity of site access). I was highlighting that nuisance provisions don't necessarily extend to dust soiling of property left in the street (e.g. vehicles), and won't cover annoyance or temporary loss of amenity due to vehicles using Coldharbour Farm Road. In the absence of planning controls, Antisocial Behaviour provisions may be the only enforcement options in the event that significant problems arise. My intention is only to highlight the likely issue, which derives principally from the existing character & built form of Coldharbour Farm Rd. Obviously it is a planning decision whether to require submission of a CMP / CEMP – we could require it by means of a suitable condition (I can suggest wording if helpful), but I am similarly aware that the team leaders may regard this as the LPA acting *ultra vires* (CEMP's appear to be a subject of some disagreement between different planners, and I've never managed to find a reliable & definitive answer to whether the LPA should be requiring CEMP's or not).

- *'The 'Additional Mitigation' measures (section 6.5, p. 33) should be included in the finalised Travel Plan.'* – It is very common for planning to approve a framework travel plan (FTP), with the 'final' travel plan being authored at some point prior to first occupation, after appointment of the plan coordinator. In this way, no amendment to the FTP is required, and it is not a barrier to a positive determination. However, it is unclear to what extent delivery of provisions included in a document not listed on the planning consent could be regarded as enforceable (so subject to an 'impetus to deliver'), and where these include physical provisions (e.g. provision of EV charge points), whether it is appropriate to include these provisions within the travel plan and not within the approved development scheme. Similarly, the first point of 6.5 refers to low emission domestic-heating provision, which is not related to mitigating the impacts of travel – it is instead related to mitigating the emissions from dwellings.
- Contamination – Acknowledges EH comments, no response needed.

Planning Implications / Response

- Contamination – no response needed beyond that recommended in CONS/20/00238 24/02/20
- Air Quality, mitigation of exposure – none.
- Air Quality, mitigation of emissions – Delivery of EV charge points, specific travel plan provisions, specification of low NOx or other Low-Emission / LDC domestic heating, provision for unattended deliveries, or expenditure of the proposed emissions cost mitigation sum is not considered likely to be controlled as a planning matter (specifically subject to consent) in the absence of some form of imposed control or scheme amendment. I'd recommend that the Planning service consider i) whether it is appropriate / sufficient to include EV infrastructure provision within the Travel Plan only, ii) whether the Council wishes to pursue expenditure of the 5-year 'new transport emissions' cost on positive mitigation measures (in line with emerging policy E23 a), NPPF para's 38 & 181), and iii) whether it is appropriate to either a) require amendments to the proposed scheme prior to determination, b) draft a suitable condition which requires the scheme of expenditure of the proposed sum to be agreed by the LPA, and implemented as proposed; or c) to impose no such requirements. I'm happy to discuss condition wording or specific amendments in the event that the Council does wish to seek to secure delivery in a more formal manner. The applicant is likely to be expecting this, on the back of the Lustre email.
- Dust – I'd recommend that the Planning service consider whether it is appropriate / acceptable to require by condition the submission of a CEMP prior to commencement, and if so, draft a suitable condition. If not, no action is required – the comments set out expectations against which consideration of enforcement legal tests may be undertaken (whether by Planning, EH, or Community team(s)). As above, I'm happy to suggest condition wording if helpful.

I hope that the above is helpful –

Best Regards,

Jon

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