

From:Driver, Jonathan
Sent:09 Oct 2018 05:33:29
To:Rachel.Ballam@havant.gov.uk,
Subject:APP-13-00317 - Yachthaven - c.20 & 24
Attachments:IM180920sen001 EH Resp. Re_c.20-22 & 24 (CL & CMP) APP-17-00317 Yachthaven.pdf,

Rachel,

Further to the attached, and the below (which I gather Emma forwarded to you directly) – I have had a conversation with Alpine Homes (a Mr. Ian Fields). Mr. Fields highlighted the problem that both c.20 & c.24 are pre-commencement conditions, and that if the development is not begun in November the extant consent will expire. Mr. Fields also indicated that you'd interpreted my comments (attached) as a 'hard no' on commencement. I have re-read my comments (I'll apologise for the drafting & typographical / proofing errors that are obvious upon a second reading), and your assessment is not inaccurate - I do indeed indicate that I am unable to support the discharge of those conditions at this time.

Mr Fields is also (however) not in error in concluding that there may be room in my comments for a partial discharge. My comments were made on the basis of the application being for whole condition discharge, amounting to a request for approval of commencement without limit (i.e. to progress to completion). My comments were also made without regard for the reasonableness of the implication of refusal under the circumstance where it places the deliverability of the current consent in jeopardy. Considering the hiatus of the expiry date, I would agree with Mr. Fields' interpretation that it may be reasonable for the Council to agree a limited commencement. I don't presume to address any issues other than those considered in the attached response (pursuant to c.20-22 & 24), so the preceding statement should of course be taken under the caveat '...notwithstanding any other / overriding outstanding matters...'.

Addressing specifically the barriers to agreement of commencement;

- C.24 – amendments are required to the CEMP to account for risks of release of solids, liquids associated with construction activity to the harbour, and prevention of sediment &/or contaminant impacted runoff from site entering a controlled water. This could in theory be turned around relatively quickly as it is just bolstering the provisions of what is intended to be a living document. If planning are minded to be amenable, the document could be approved explicitly as a live document, on the understanding that these provisions be added / incorporated. If that is not an acceptable approach, it strikes me that allowing commencement amounting to a foundation or service trench (strictly for the purpose of keeping the consent alive, and not to amount to a green light for 'works to progress to completion') could be technically acceptable if the agreed work is located at a suitable distance from the foreshore (i.e. somewhere in the Northern end of the site, maximising opportunities for pollutant interception & retention).
- C. 20 – the only outstanding matter as regards the residential area of the site is the potential contribution that it may make to dissolved-phase metals in leachate (limiting exposure to Lead by means of a clean cover system is agreed to be adequate to address the human risks). The residential area is acknowledged not to be small, and the contribution of that area may well be material. However, it is envisaged that the most appropriate mitigation strategy (as regards the mobile metals / ecological receptor pollutant linkage) may well comprise one of interception and/or stabilisation, which might (or at least could) occur outside the residential area. As with- and on the same basis as described above for- c.24, limited commencement for the purpose of keeping the consent alive should not be material (should not materially hamper-) progress with the outstanding issues around site characterisation and development of a holistic remedial / risk mitigation strategy.

Mr. Fields / Alpine Homes had requested that I make this position clear. I am happy to do so on the basis above – the issues outstanding are not insurmountable, and it was not intended that my consultation response serve to block the development – I was seeking the achievement of the aims of these conditions for the purposes for which they were imposed. The 'prior to commencement' clause is in place to ensure that progress with development does not prejudice the achievement of these aims. As Mr. Fields has correctly inferred from my formal response, there is sufficient room to permit a limited commencement without prejudicing the achievement of the condition aims, provided that it remains of limited and agreed scope until the outstanding matters are addressed.

In this way, if development control are minded to assist the applicant, and of course notwithstanding any unrelated barriers to commencement that may exist - I believe proceeding on the above basis to be defensible.

Best Regards,

Jon

Jonathan Driver
Environmental Control Officer

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From: Driver, Jonathan
Sent: 20 September 2018 15:00
To: Chisnall, Emma <Emma.Chisnall@havant.gov.uk>
Subject: APP-13-00317 - Yachthaven - c.20 & 24

Hi Emma,

Please see attached consultation response. Please accept my apologies for the length – this site has a long history, and contamination & pollution has been a bit of a contentious issue. The attached is intended to present a detailed rationale for our position for the benefit of the public record, and for guidance to the applicant on the issues that are considered necessary to address in order to move forward. The applicant can neither address nor challenge our position if they are not given a rationale for it.

It is my intention to be helpful, not obstructive, but we obviously need to meet the objectives of planning policy and the relevant condition. I'd not support discharge of any of the above conditions at this stage, but improving the CMP submission is fairly straightforward, and I don't envisage that further intrusive investigative works are required to address c.20 and to be able to facilitate the removal of the barrier to commencement. Any problems, just give me a shout.

Best Regards,

Jon

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