

Havant Borough Council
Civic Centre Road
Havant
PO9 2AX

16 May 2024
Project Ref: APP/19/01226

Dear Sir/Madam,

Proposal: Application under Section 73 for the variation of condition 2 (approved plans list) and removal of condition 21 (acoustic fence details) relating to planning application APP/19/01226

Land west of Coldharbour Farm Road, Emsworth

Please find attached a completed electronic Section 73 application relating to application APP/19/01226, which was granted planning permission on 22 March 2024, for the construction of 44 dwellings with access, open space, landscaping and the diversion of footpath No. 71.

This Section 73 application seeks to remove condition 21 which is set out in full below, and amend condition 2 which relates to the approved plans list to delete reference to drawing number 5314/006 H.

Condition 21

Prior to the occupation of the development, the acoustic fence hereby approved under Drawing No. 5314/006 H shall be carried out in accordance with the Acoustic Fence Detail unless otherwise agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained in a wholly sound and effective condition.

The measures relating to noise mitigation have been secured by condition 5 of this approval, which requires the development to be carried out in accordance with the Noise Assessment dated 20 August 2020. Condition 21 is therefore considered to be a duplicate condition which did not need to be imposed as condition 5 already secures the appropriate noise mitigation measures which includes enhanced glazing, a ventilation strategy and 2.4 metre high fence along the southern perimeter of the site. Condition 21 also relates to a highway related drawing, rather than the drawing linked to the noise assessment.

Delivering the acoustic fencing in line with the 2020 Noise Assessment was envisaged in the case officer report, which clearly stated that all noise mitigation should be provided in accordance with this document.

Paragraph 55 of the National Planning Policy Framework makes it clear that planning conditions should be kept to a minimum, and only used where they satisfy certain tests, these include being necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

Condition 21 is a duplicate condition which is not considered to be necessary or reasonable given that condition 5 secures all the necessary noise mitigation measures, including the acoustic fence along the southern perimeter of the site. This s73 application therefore seeks removal of condition 21 and variation of condition 2 which relates to approved plans list, to enable the removal of the corresponding plan 5314/006 H. Plan SK02 within the Noise Assessment (August 2020) shows the position of the 2.4 metre high Acoustic Barrier location and this is resubmitted as part of this Section 73 application for reference.

If you have any queries, then please do let me know.

Yours sincerely,

Rebecca Tier MRTPI
Senior Planner, Henry Adams LLP