

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/21/02526	Your Ref:	APP/21/00200
EH Case Officer Extn:	44 6677	Date:	28 July 2021
DC Case Officer:	David Eaves		
DC Case Officer Extn:	44 6549		
Application Number:	APP/21/00200		
Site Address:	32 New Lane, Havant, PO9 2NG		
Proposed Development:	Demolition of existing buildings and redevelopment of site comprising erection of distribution warehouse (class B8) with ancillary offices and related facilities, vehicle storage deck, new access, landscaping and associated infrastructure. RECONSULTATION REQUEST for revised plans and/or documents received		

Observations / Comments:

Further to the comments provided 27/04/2021, I have now had opportunity to review;

- Supplementary Transport Assessment (July 2021),
- Delta Simons Response to HBC EH comments on Air Quality (20-1275.03 24/05/2021),
- Drainage Strategy Report (27/05/2021)
- EPS Ltd. Outline Remedial Strategy & Implementation Plan (UK20.5052D Iss.2.1, 24/05/2021)
- EPS Ltd. Phase II Geo-Environmental Assessment (UK20.5052b Iss.1, 24/03/2021)

In addition to the above, I have reviewed the comments of relevant consultees, inclusive of the Highways Authority comments which follow review of the Supplementary Transport Assessment referenced above.

Air Quality – Impact of Development Transport Demand (Delta Simons Response, Supplementary Transport Assessment)

The key concluding comments following review of the Delta Simons Air Quality Assessment Report Ref: 20-1275.01 iss.2 (April 2021) are reproduced below;

“It would seem to me to be irrational to accept the conclusions of an air quality assessment which is based upon a baseline scenario which is poorly justified, and a development impact scenario which has not been agreed to be reasonable...In the event that the justification for the baseline scenario cannot be agreed, or that the Highways Authority will only agree a development impact scenario which differs significantly from that accounted for within the air quality report, it may be necessary to update the air quality assessment. Otherwise, following receipt of those assurances it may be possible to accept the report.”

Delta Simons Response to [EH] ‘Comment 3’ addresses the baseline scenario, and ‘Comment 4’ the development impact scenario.

The response to Comment 3 confirms the source of traffic flow figures to be a WYG Air Quality Assessment undertaken for another development (APP/18/00244). Figures appear to have been taken from this source in preference to available DfT figures, and in general, the figures used are conservative relative to the DfT values (available for Petersfield Rd, New Road, New Lane)

The authors refer to both conservative traffic flows & conservative emissions assumptions, and point out that the verification correlation was close to real-world monitoring values. I am not sure I understand the latter comment; my understanding was that the ratio referred to followed the application of a correction factor that was required to adjust for under-prediction occurring despite the conservative values adopted.

I would stand by the comments regarding the 'crudeness' of baseline figures. By 'crude', I am referring to identical AADT flow values being used for multiple road links (e.g. New Lane/Eastern Road/ Leigh Road/Elmleigh Road/Crossland Drive; or Park Road North/Petersfield Road), which is unlikely to reflect real-world conditions. This is not necessarily a reason to reject the report in & of itself, however it is notable that two of the roads affected by the uncertainty in traffic flow figures are adjacent to the verification points used, and that the greatest degree of under-prediction of road contribution NO_x is at the monitoring position adjacent to the sensitive receptor I identified in my prior comments that was not considered in the report (see 'response to Comment 5, below).

The response to Comment 4 serves to demonstrate the 'fluidity' of estimates of transport demand which I have previously referred to, highlighting that the most recent demand estimates (presented in the supplementary Transport Assessment) amount to a net increase in transport demand from the site of reduced magnitude to that included within the Delta Simons Air Quality report. At the time of writing, the Highways Authority was understood to remain unsatisfied with the estimates of net change relative to the extant site (in it's wound-down state, i.e. the real world impact), and I had for this reason intended to reiterate comments made previously. However, the applicant has today forwarded further comments from the Highway Authority, which I have now reviewed. This response is amended to reflect those comments.

It is understood that the Highways Agency has now agreed a degree of 'netting' of traffic for the purpose of junction capacity modelling. Whilst it is implicit from the Highways Agency response that it has agreed figures for 'traffic net-change', the net change in AADT transport demand associated with the site is not specified within the consultation response, and is not specified in either the Supplementary- or Addendum- Transport Assessment.

The purpose of the air quality assessment is to estimate the net change in air quality as a result of the development – the 'net change in transport demand associated with the development land' must be known / agreed to be reasonable. It appears that the gross demand of ~/<2500 AADT is agreed, however I remain unclear as to whether the final agreed net change estimate is significantly greater than the value assumed within the Delta Simons Air Quality Report (or not).

The Delta Simons response to EH Comment 4 is noted (rather than disputed), and is considered to form the context within which the 'transport net change' values ultimately agreed with the Highway Authority will be considered in terms of the associated transport emissions.

The Air Quality Response document also addresses Environmental Health's comment that it considers the residents of Cardinal House to be the most sensitive human receptors in air quality terms – as 57% of development traffic will be carried by the Park Road North>Park Road South link.

Delta Simons seeks to dismiss this concern by asserting that the greatest proportional change (in air quality, associated with development traffic emissions-) will be in the immediate vicinity of the site where the impact of it's transport demand will be most concentrated. I would however highlight that 'significance' of a material change in Air Quality *at the receptor* is proportional to both the existing ambient concentration and to the distance between the receptor and the

carriageway kerbside (pollutant source). Cardinal house is in a location with high baseline ambient concentrations, especially at the junction with Elm Lane, and the receptor is within 5m of the kerbside. In this sense, it is more sensitive to the same degree of change than would be a receptor with a lower extant ambient air quality, and where the receptor is set back from the carriageway (as is the case in the vicinity of the development). For these reasons, I still consider the residents of Cardinal House to be the most sensitive receptors to net change in local levels of traffic derived air pollution.

In light of the above, I do not feel able at this stage to recommend approval of the air quality report – this remains to a significant extent depend upon the outcome of discussions with the Highway Authority in respect of the view of net change that balances the need to acknowledge a theoretical consented transport demand, and the real-world change relative to the actual existing site use. In the first instance, clarity on the transport net change scenario agreed to be representative of the site (as AADT values) should be sought in order to frame consideration of the Air Quality assessment.

Supplementary Transport Assessment

Table 6.5 provides an assessment of the net impact of the development. It is not immediately obvious whether this is based upon a TRICS estimate derived from extant floorspace, or whether these figures refer to existing actual usage (in wound-down state). It is similarly unclear whether these represent figures agreed by the Highways Authority given that it undertook independent modelling of the B2149/Crossland drive junction, as a direct result of the conceptual contradiction between development traffic volumes at the Eastern & Western Ends of Crossland drive – not explicitly explained by a significant change in traffic routing via Old Copse Road.

In terms of traffic flows – I note that that section 9.5 refers to the inclusion at Appendix G of Manual Classified (turning) Counts at both ends of Crossland Drive. The data presented appear to be from two no. 7-day Automatic Traffic Count points positioned both north & south of Crossland Drive on New Lane. Given this, it strikes me as odd that the air quality report is reliant upon a third party air quality assessment for traffic figures where both bespoke survey data & DfT values are available for comparison/to support both the road network & air quality impact assessments. It is not clear why the ATC's have not been referred to, or whether the omission of the manual counts is likely to be material – it is understood that the relevant figures have been made available to the Highway Authority and have informed it's response.

I note that Table 6.2 provides corrected values, and has maintained the 1% allocation of development traffic to New Lane South. Paragraph 10.5 refers to an 'operational management plan' (OMP) that will include a 'traffic distribution' section that will state that all traffic will use Crossland Drive with the exception of employees living locally and parcels being delivered to local Havant Residents. 10.7 envisages this plan, alongside it's implementation-, being secured by condition, and indeed the Highways Authority proposes such a condition, and it's conclusion substantially relies upon it's effect.

Concerns have been raised by other's in respect of the possibility of 'rat running' via local roads, and these sections of the report aim to address those concerns.

I have previously considered the concerns raised, and find that routing eastbound via the National Trunk Road Network would derive distance & journey time benefits by using local roads. This applies most strongly via the Fairfield Road route (which the OMP aims to prohibit), but also to a lesser extent, via the Old Copse Road / Lavant Drive which may fall outside the scope of the proposed restrictions. Benefits are also likely to apply during periods of peak congestion in Havant Town Centre (by avoiding the Petersfield Road / New Road roundabout for Eastbound or Westbound trips via the A27. The OMP seeks to prohibit such journeys despite the likely economic benefit of utilising these local routes, and despite the ultimate legality of using road-legal vehicles on the local adopted highway network.

My understanding is that enforcement of this aspect of the OMP would be difficult, if not infeasible in practice as a planning matter. Certainly, the condition wording proposed by the Highways Agency would not achieve the objectives upon which the Agency would ultimately wish to rely upon, notably [where the occupier wishes to operate in a manner which differs from that assessed at planning stage, the OMP-] *'will need to be varied and will therefore require a re-assessment which the Highway Authority must agree ...'* and that the OMP *'would need to be formally varied to allow a different occupier to use the site'*.

Notwithstanding that the planning condition may prove to be unenforceable, there is no provision in the proposed condition wording to require that the required OMP be adhered to in perpetuity, or that any operational change requires reassessment or re-approval.

In principle, other instruments available to the Council could be applied which use the OMP as a benchmark of 'reasonableness' in order to enforce a prescribed routing prohibition, however enforcement could still be high risk (given the inherent legality of activity referred to above) and would depend upon the will of the Council to enforce such conditions & defend that enforcement in the event of issues arising.

My preference would be to consider the appropriateness of the proposed development at the proposed site as a planning matter – i.e. to determine whether it's likely net impacts are acceptable (or not). In principle, around 15% of routine trips (approx. 375 gross development demand) would be expected to have an origin or destination accessed via the A27 East, and so which may be expected to utilise a materially shorter 'rat run'.

These impacts are likely to be of greater concern with respect to local amenity, and to highway capacity of these narrow local roads than they would be in respect of air quality – however it should be noted that residents already have air pollution concerns related to both the controlled rail crossing and to traffic congestion associated with the Fairfield Infants School. Perceived routing concerns may be particularly relevant for this development given the likelihood of a large fleet of branded delivery vehicles, and so the visibility of road use to local residents.

Rather than seeking to restrict use of certain routes / local roads via instruments of arguably questionable efficacy, it may be more robust to seek to characterise a 'permitted route' scenario using the agreed transport demand model, and to consider the acceptability (or otherwise) of it's impacts. Consideration could be limited to 'conceptual' only, or could be quantitative in terms of highway &/or air quality impact. Similarly, it could be something that HBC is equipped to consider in making it's decision, or it may be something that it requires be undertaken by the applicant. Avoidance of congestion scenario's are expected to be non-routine, and probably need not be considered.

I would not go so far as to object in the absence of such an assessment on air quality grounds – rather, I would consider this to be a planning matter which cuts across a number of development impact related issues, of which air pollution (and perceived air pollution impact – irrespective of actual impact) is just one. Highlighted for information only, being aware of the scale of local opposition to this development, that rat-running forms a key element of those objections, and that the Highways Agency is relying upon a condition that is unlikely to be capable of delivering the intended effect.

The package of highway improvement schemes referred to within the transport assessment are supported – in particular the provision of a formalised crossing point on Crossland Drive to facilitate access to local schools, to sports & play facilities, and local food retail outlets via sustainable modes of travel (and so assisting to divert trips from private motor car, and so improve & sustain local air quality).

Drainage Strategy Report

I have briefly reviewed the revised documents, and have not identified any changes that would

be material to the advice given previously – the scheme represents best practice pollution control, and can be supported.

Ground Contamination Assessment & Remediation (UK20.5052D Iss.2.1 & UK20.5052b Iss.1)

The additional phase 2 site investigation (UK20.5052b Iss.1) did not find any soil contamination considered to be significant against a human health commercial landuse scenario. The investigation was however unable to target areas of the site known to be ‘of potential concern’ (“AOPC”), and vapour monitoring identified light-fraction hydrocarbons quite widely across the site, indicating that there is a source of relatively ‘fresh’ (non-degraded) contaminants within soils at the site that has not been captured by the soil sampling undertaken to date.

Section 6.3 includes a vapour phase risk assessment which concludes a low-negligible risk to a sensitive commercial receptor (female employee), claiming on the strength of this assessment that the off-site migration risk is also low-negligible. Whilst it is accepted that it is possible that this interpretation may ultimately prove to be reasonable; in the absence of clarity on whether a separate CLEA assessment has been undertaken to determine an appropriate benchmark for a residential receptor, this conclusion is not considered to be well supported by the data at this stage.

Section 6.2 includes a groundwater risk assessment, concluding that screening criteria (GAC) are not exceeded in groundwater samples. However, I note that there is no GAC given for Chromium within Appendix J, and the GAC selected for Nickel is substantially greater than the EA’s ‘priority hazardous substances’ environmental quality standard (EQS). Contrary to the conclusions of the report, exceedances are noted of CrVI EQS-AA (total Chromium results are not speciated) and Ni EQS-AA (max. recorded dissolved phase Ni results approximate to the EQS maximum allowable concentration, EQS-MAC). Similarly, one Ali C5-C6 result is approx.. 400% of the Appendix J GAC.

I am cautious to agree that the site is unlikely to pose a significant risk to groundwater given that results indicate the likely presence of a low-solubility denser-than-water (DNAPL) hydrocarbon, which may be present within the topographic low-points of gravel lenses of the river terrace deposits (noted to be present at the site). This is a similar conceptual model to that which applied at a nearby site where similar materials were identified to have migrated in free-phase over distances of several hundred meters.

Section 2.2. refers to previous investigations and quantitative risk assessments undertaken by Golder associates – notably including a quantitative detailed groundwater risk assessment. The Council has not had opportunity to review this document, and it’s content may be material to the current application. The Golder reports (or the key sections of them) should be made available for context if the Council is to be able to account for their reported content.

The overall conclusion of the report is presented in the summary of findings, and the recommendations given at section 6. (broadly agreed). No refined conceptual site model (CSM) is presented at section 6.5, as “[the] *contaminant linkages presented in the Conceptual Site Model all require the dataset for the whole site prior to re-evaluation. As this is not yet available, a refined CSM cannot yet be presented*”. The recommendations at 6.7 seek to obtain the data which section 6.5 concludes to be necessary to support a re-evaluation of the CSM.

The Outline Remedial Strategy & Implementation plan takes this recommendation forward by outlining the additional data collection required to support a comprehensive risk assessment, and development of remedial or risk mitigation options when a more refined CSM is available. In this sense, the works outlined do not amount to remediation, rather they represent proposals for further investigation.

The rationale and content of the report is broadly agreed, however I highlight concern with the reference within the remedial strategy table presented at section 3 to the application of GAC as 're-use criteria'. I would expect the 'no soils containing free-phase product' to take precedence over the hydrocarbon GAC, and I would expect DoWCOP procedures to apply to soils clearly contaminated with high concentrations of low-toxicity substances.

I would also highlight that verification of the proposed source reduction works in the vicinity of BH03 is to demonstrate 'effective removal' of phthalates, but no standard appears to be proposed to define 'effective removal' at this stage, whether in terms of total Phthalates, total VOC, or a substance-specific value for Benzylbutyl Phthalate. The additional works proposed should define a standard for 'adequate remediation' for this purpose. It may be that the Golder reports proposed such a value/concentration/standard.

In light of the above, there is no need to substantially alter the approach previously proposed – it remains appropriate to secure the proposed additional investigation / assessment by condition, and to respond appropriately to the results of that assessment. This does however require a minor revision to the previously proposed condition, and again I would reiterate that demolition should not be considered to constitute 'commencement' for the purposes of this condition.

Condition 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 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) Further intrusive site investigation & monitoring based on the proposals given within the EPS Ltd. Phase II Environmental Assessment Report Ref: UK20.5052D iss.2.1 (24/05/2021); 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 in the Remediation Strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

All elements shall be adhered to unless agreed in writing by the Local Planning Authority

Reason: *Prior assessment has indicated the likely presence of contaminants within areas of the development land that have not previously been investigated. The site is above the secondary superficial aquifer which would be considered a moderately sensitive controlled water receptor. The chalk principal aquifer and associated SPZ1c occurs at depth beneath the site under a layer of London clay. The chalk would be considered a highly sensitive controlled water receptor. Alongside the health of future occupants of the development land, and the health of occupiers of adjacent land, these receptors could potentially be impacted by contamination present on this site. To ensure that the development does not contribute to-, and is not put at unacceptable risk from- or adversely affected by-, unacceptable levels of contamination, in line with policy 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."*

There is no need to amend the other conditions previously proposed by the Environment Agency, save for the amended 'reason' previously recommended. Reproduced below for Convenience.

Condition 2

[As Environment Agency wording, with 'reason' substituted with that given below]

Reason: *To ensure that the development does not contribute to, and is not put at unacceptable risk from- or adversely affected by-, unacceptable levels of contamination, in line with policy 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."*

Condition 3

[As Environment Agency wording, with 'reason' substituted with that given below]

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 policy 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."*

Condition 4

[As Environment Agency wording, with 'reason' substituted with that given below]

Reason: *To ensure that the proposed Piling or other deep foundation does not harm groundwater resources, in line with policy 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."*

Recommendations

Seek clarification of a definitive estimate of net-change in transport demand associated with the development. The value should be acceptable to- / supported by- the Highway Authority and be expressed as AADT. This is necessary to inform the acceptability or otherwise of the existing Air Quality assessment, and to provide context to the substance of objections of other consultees around transport-related impacts (amenity, highway capacity & air quality).

Apply ground contamination conditions 1-4 on any consent that Development Management is minded to recommend / grant.

Mr. Jonathan Driver
Environmental Control Officer