

Planning Committee 30 March 2017 – Tabled Paper

Item 2.2 land north of High Street, Newington 16/501266/FULL - Update

For Members information, Officers have been informed of the High Court's decision to allow the appellant for the Pond Farm appeals to proceed with the Judicial Review. The challenge is on the grounds of the Inspector's consideration of air quality.

Air Quality

Comments from Medway Council's Environmental Protection Officer have been received in respect of the revised air quality assessment which includes an assessment of the impacts on the Rainham AQMA. They suggest that Swale's Environmental Health Officers look again at the methodology used to calculate the concentrations of air pollution in Newington. In response, the Environmental Health Manager at Swale states: *"The modelling is the best scientific attempt at making sense of the complex dispersal of pollutants and how they will be present. The most important thing is that the modelling has followed the current DEFRA guidance, which is the case."*

The Medway Environmental Protection Officer notes that the revised Air Quality Assessment over predicts the nitrogen oxide concentrations in the Rainham AQMA and is very conservative in its methodology which leads him to conclude that the impacts presented would be the worse case scenario. He goes on to state that: *"even modest improvements to vehicle emissions will outweigh the moderate predicted nitrogen dioxide increases in the Rainham AQMA in the opening year of the development"*. They withdraw their objection to the scheme subject to two matters being addressed. These are:

1. A revised damage cost assessment which monetises the impacts of both nitrogen oxides (NO_x) and particulate pollution (PM10). This will likely result in a higher figure than currently submitted (£132,951) – *Members should note that a revised AQA assessment has been submitted following this request and the revised damage cost calculation has now increased to £143,347.* Medway have commented on the revised figure and accept it;
2. A condition requiring an air quality mitigation statement which details how the damage cost will be spent. This should demonstrate that all of the damage cost contribution will be utilised and that it should be spent on mitigation measures over and above the standard measures set out within the Kent & Medway Air Quality Planning Guidance. – *Members should note that I have recommended that the mitigation measures are to be included as an obligation within the section 106 agreement. This would be more appropriate than applying a condition in my view. The distribution of the damage cost calculation figure (£143,347) is set out in table 9 of the submitted 'Development and Air Quality Update.'*

Table 9 – Schedule of Mitigation Measure Costs

Type of Mitigation	Unit Price	Cost to provide
Cycle Sheds including bases to every house (111 plots).	£475	£52,725
Cycle Vouchers to be provided to each (first) new resident. One voucher per household.	£150 per household	£18,450
Electric charging points for potentially all new dwellings inc. 111 houses, 12 for flats (provided as 3 dual EV points for each block) and 10 dual EV points on visitor bays. Total EV points = 143	£300	£42,900
Travel Plan including welcome	£30,000	£30,000

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packs and ongoing monitoring for 3 years after final occupation (equivalent to circa 5 years) + promotion of car sharing and electric cars.		
Eco Driver Training – Contribution towards each household who completes a certified eco-driver training course. To be paid upon receipt of completion. Details of which will be included within the Welcome Packs.	£50	£6,150
Low emission boilers of less than 40 NOx.	Provided as standard	Nil
Cycle Shelter for Newington Railway station.	£5000	£5000
Air Quality Mitigation Validation Report.	£3,750	£3,750
Directional signage within development highlighting the facilities available (including walking or cycling distances and/or times).	£750	£750
Financial contribution towards LPA's continual annual monitoring costs.	Single one-off payment	£15,000
Total		£174,725

Members will note that the total cost of mitigation (£174,725) significantly exceeds the damage cost calculation (£143,347) and the developer is committed to all of the mitigation measures set out above.

The Environmental Health Manager at Swale has confirmed that the £15,000 one-off payment as referred to above can be used to supplement the existing monitoring in Newington AQMA, specifically the particulate pollutants (PM₁₀).

The table below is extracted from the applicant's most up-to-date Air Quality Assessment and should be read as part of the wider evidence on air quality. This shows the levels of Nitrogen dioxide (NO₂) at certain locations (receptors) within the Newington and Rainham AQMAs. Members will note that the 2nd column gives the predicted NO₂ levels *without* development in 2021. The 3rd column gives the predicted NO₂ levels *with* development in 2021 and the 6th column gives the predicted change in %. These figures determine the impact on air quality. Members will note that for Newington, the National objective level of 40µg/m² (referring to the Air Quality Strategy 2007) is not exceeded (1st & 2nd columns) either with or without the development in place. For Rainham however, the objective level is predicted to be exceeded for 6 out of the 8 receptors even without the development in place and so even though the % change would be less than 1%, the impact must be considered as moderate.

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Table 15 – Comparison of Predicted Annual Mean NO₂ Concentrations (µg/m³), 2021

Receptor	Future Baseline (2021)	Future Baseline + Development (2021)	% of AQ Objective	Change (2021)	% Change	Impact Descriptor
Newington						
N1	28.7	28.9	72.3%	0.2	0.7%	Negligible
N2	36.2	36.5	91.3%	0.3	0.8%	
N3	29.6	29.8	74.5%	0.2	0.7%	
N4	35.2	35.4	88.5%	0.2	0.6%	
N5	34.6	34.9	87.3%	0.3	0.9%	
N6	28.6	28.8	72.0%	0.2	0.7%	
N7	35.5	35.8	89.5%	0.3	0.8%	
N8	29.5	29.7	74.3%	0.2	0.7%	
N9	29.0	29.2	73.0%	0.2	0.7%	
N10	29.5	29.7	74.3%	0.2	0.7%	
N11	28.1	28.3	70.8%	0.2	0.7%	
N12	28.6	28.8	72.0%	0.2	0.7%	
Rainham						
R1	44.6	45.0	112.5%	0.4	0.9%	Moderate
R2	44.1	44.4	111.0%	0.3	0.7%	Moderate
R3	28.3	28.5	71.3%	0.2	0.7%	Negligible
R4	42.8	43.2	108.0%	0.4	0.9%	Moderate
R5	58.9	59.4	148.5%	0.5	0.8%	Moderate
R6	42.8	43.2	108.0%	0.4	0.9%	Moderate
R7	51.7	52.1	130.3%	0.4	0.8%	Moderate
R8	39.1	39.4	98.5%	0.3	0.8%	Slight
Objective	40.0					

Additional notes on the difference between Pond Farm and this scheme –

1. For both Pond Farm schemes, impacts on 3 receptors (with development assuming that there is no improvement in air quality) would be “substantial adverse”. The highest impact for no. 99 High St would be “moderate adverse”.
2. Modelling for pond farm was considered to be too optimistic about the improvements in technology for vehicle emissions. 99 High St does not assume any improvements in this respect and so the results really are worst-case.
3. For Pond Farm, exceedances of the national target of 40µg/m³ were likely in Newington as well as Rainham. 99 High Street would only add to an existing exceedance in Rainham by less than 1%. Even for the smaller Pond Farm scheme, the predicted change as a result of the development was between 2-5% for 6 receptor sites.
4. The damage cost calculations (contributions) for Pond Farm were based on what was considered to be the over-optimistic assumptions about future emissions. The Inspector concludes that the mitigation measures would not therefore go far enough.

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The damage cost calculations for 99 High Street are not based on an improvement in future emissions and are instead based on the worse-case scenario. They are therefore highly likely to reflect the true damage cost of the scheme. In addition, the developer is willing to commit to mitigation measures for which the cost would exceed the damage cost calculation by approximately £30k.

5. *99 High St is clearly more sustainable than Pond Farm being within such close walking distance from local amenities, the primary school, train station and bus stops;*
6. *The TA confirms that 40% of traffic would turn right out of the site i.e. through the center of Newington and on to Rainham) with the majority (60%) turning left towards Sittingbourne and avoiding the AQMA in Rainham and the majority of the AQMA in Newington.*

Other matters

A revised Flood Risk Assessment and drainage strategy has been submitted by the applicant to address the comments of the KCC SUDS team. Their further comments are awaited.

Kent Highways and Transportation have commented on the amended plans. They note the increase in visitor parking spaces across the site and advise that this will help to address their concerns in respect of tandem parking. Although they do note that there may still be some instances of on-street parking within the site. They are satisfied with the revised depth of the crossovers to the main road and the additional footway to serve plots 19 and 65.

A further comment of objection has been received from a resident backing onto the western boundary of the application site. They are concerned about the three storey properties proposed to be sited along the western boundary in terms of intrusion and overlooking. *The distance between the closest proposed dwelling (which is 2.5 storeys in height) from the properties to the west is over 80m and the landscaping plan shows that there would be extensive boundary vegetation planted and reinforced along the western boundary.*

I ask that condition 34 is deleted as it is no longer necessary further to the receipt of amended plans reducing the fencing to allow badgers to access the grassland and scrub area.

Condition 37 should be amended to include a requirement that the approved methodology for the removal of any branches to tree 20 must be implemented.

The recommendation is for approval subject to:

The conditions set out within the report but with delegation to add, amend or exclude conditions if reasonably necessary, further comments from KCC Sustainable Drainage and any additional conditions suggested by them and a section 106 agreement requiring contributions and obligations as set out in paragraphs 9.52 and 9.53 of the report with delegation to amend the section 106 as required by the Head of Legal Services.