

APPENDIX 1.5
SANG SCREENING DIRECTION REQUEST

BY EMAIL

National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham,
B3 2PW

Our Ref: 31729/A5/ScreeningDirection
23rd October 2020

Dear Sir/Madam,

RE: LAND AT THE FORMER WISLEY AIRFIELD – APPLICATION FOR ENABLING WORKS FOR PHASE 1 OF SANG REQUEST FOR SCREENING DIRECTION UNDER REGULATION 6 OF THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017 (AS AMENDED)

This letter requests that the Secretary of State adopts an EIA Screening Direction for the enabling works to facilitate the first phase of Suitable Alternative Natural Greenspace (SANG) for the future redevelopment of the former Wisley Airfield (FWA). The local planning authority, Guildford Borough Council (GBC) has adopted the Opinion (GBC ref. 20/S/00003) that the proposals are EIA development and the Applicant, Taylor Wimpey Ltd, does not agree.

A request for a Screening Opinion was submitted to GBC on 24th August, with the Screening Opinion due by 14th September. The Screening Opinion was delayed while GBC appointed a consultant to advise on screening matters. Meanwhile, the Applicant submitted a planning application for the works in question on 2nd October. A request for further information and an extension of time for the Screening Opinion was received from GBC on 8th October. The Applicant granted an extension of time and submitted the further information requested on 12th October. GBC's Screening Opinion was issued on 16th October.

As per the provisions of Regulation 7 of the *Town and Country Planning (Environmental Impact Assessment) Regulations 2017*¹ (as amended), this submission is accompanied by the following information:

- A red line plan which is attached to the Screening Opinion Request Report at Appendix A;
- GBC's request for further information at Appendix B;
- The letter providing further information at Appendix C;
- GBC's adopted Screening Opinion at Appendix D; and
- A Landscape & Visual Impact Technical Note at Appendix E;
- Soft Landscaping Plan at Appendix F;
- Ecological Impact Assessment at Appendix G; and
- Flood Risk Assessment at Appendix H.

¹ SI 2017/571 as amended by SI 2018/695



This letter has been copied to GBC in accordance with Regulation 7 of the EIA Regulations.

The points of contention from the Applicant's point of view are summarised below:

- The proposals that are the subject of the Screening Opinion (for which a planning application has now been submitted) can be delivered independently and without reliance on any other future development;
- GBC should consider the application before them without contemplation of potential future applications as the Applicant intends to undertake the proposed works regardless of any future application/permission for development;
- The proposals would not give rise to likely significant effects on the environment during construction or once complete. There would be no built development with the works comprising the construction of landforms, drainage basins, vegetation clearance, ecological mitigation and planting. GBC acknowledge in their Screening Opinion that they do not consider the landforms to be out of character with the area. Mitigation measures would be implemented to prevent significant effects from arising during the construction phase. The technical reports submitted with the planning application including Ecological Impact Assessment (EcIA) and Flood Risk Assessment (FRA), Construction Environmental Management Plan (CEMP) and Site Waste Management Plan (SWMP) describe these in detail. The submitted Soft Landscaping Plan demonstrates how the works would appear once complete.

The proposed works

A full description of the site and proposed development are provided in Appendix A. The site includes some hardstanding and agricultural land and extends to 30.91 hectares (30.77 ha was quoted in the submitted screening report and the red line changed slightly in the time between preparation of the Screening Report and submission of the planning application). The proposed enabling works for part of the northern Phase 1 SANG, which would all take place on agricultural land comprise:

- Ecological mitigation works;
- Vegetation clearance;
- Landform alterations;
- Creation of drainage basins;
- Ground preparation; and
- Advanced landscaping.

The works themselves do not change the use of the land, however a permission is required so that a European Protected Species Mitigation Licence (EPSML) can be sought from Natural England (NE) for translocating Great Crested Newts (GCN) from the site to the adjoining habitat to the north.

It is anticipated that the changes in ground level on site will be up to approximately 4m above existing ground level in parts of the site with earthwork changes ranging from -2m to +4m.

The proposal does not fit neatly into a category of the EIA Regulations. The best fit would be category 10 of Schedule 2, 'Infrastructure Projects', sub-section (b) 'Urban Development Projects' where the site area threshold above which EIA screening should be undertaken is five hectares. However, the EIA Regulations have a wide scope and broad purpose, so a screening exercise was completed with the aim of demonstrating to GBC that the development is unlikely to result in significant environmental effects alone or cumulatively. Planning Practice Guidance (PPG) (Paragraph 018 Reference ID: 4-018-20170728) states that, "*only a very small proportion of Schedule 2 development will require an Environmental Impact Assessment*". Given the nature of works proposed, which are principally earthworks and engineering operations without any built development on a former airfield, the Applicant was not expecting GBC to adopt the Opinion that EIA is required.

Background to project

The FWA site is allocated within the Guildford Borough Local Plan under allocation A35 for approximately 2,000 homes (C3), approximately 100 sheltered/ Extra Care homes, 8 Gypsy and Traveller Pitches, and approximately 6500 sqm of flexible floorspace (B1a, B2, B8, A1, A2-A5, D1), a two-form entry primary school and a four-form entry secondary school. Policy requirement (13) states the need for “*a bespoke SANG to avoid adverse effects on the integrity of the SPA*”. The Applicant controls a large majority of this allocated site.

An application for the redevelopment of the FWA site is likely to be submitted in 2021. The Applicant submitted a planning application for the northern section of the site for the Phase 1 SANG enabling works on 2nd October 2020 on a 30.91ha site, which is situated on “white land” to the north of allocation A35. As explained above, no change of use has been applied for. This application was made so that the works could be undertaken independently, in advance of, and regardless of, any future application or permission for residential development or SANG at the wider FWA site. The application has been submitted so that permission can be granted to allow time critical ecological mitigation works including translocation of Great Crested Newts under European Protected Species Licence (EPSL), to be undertaken in the appropriate seasonal survey windows. This is necessary to allow the first housing occupations in line with GBC’s housing trajectory (2023). This is explained in the Applicant’s further information submission at Appendix C.

The FWA site is also adjacent to the site of Highways England’s M25 Junction 10/A3 Wisley Interchange Development Consent Order (DCO) scheme, which is at Examination and due to be decided in January 2021. The Environmental Statement (ES) submitted with the application provided for the future residential development of the FWA site in its modelling as a local plan allocation. Access to the wider FWA site would be taken from the A3/Wisley Interchange in future.

The following sections cover the points in GBC’s Screening Opinion that are contested by the Applicant, followed by analysis and information for the Secretary of State to consider in its Screening Direction.

GBC’s Screening Opinion

Characteristics of the development – (1) size of the development

GBC considers that although the changes in landform would not be out of context with the existing setting, the proposed landforms (between 2m and 4m above existing ground level) would give rise to likely significant landscape and visual impacts.

Following receipt of the Screening Opinion, a technical note on landscape and visual impact matters has been prepared (Appendix E) to demonstrate that the enabling works would not give rise to likely significant effects on the environment. The impacts are considered short term and reversible resulting in a naturalised undulating meadow landscape, not out of character with the wider landscape and providing biodiversity and visual experiences.

Characteristics of the development – (2) Accumulation with other development

GBC disagrees with the Applicant that the proposed development is a discrete project. The Secretary of State will note from the enclosures at Appendices C and D that case law has been referenced in the Applicant’s further information submission and GBC’s Screening Opinion. The Applicant contests that GBC should consider the proposed enabling works as inevitably part of a more substantial development. The following points are key:

- The proposals could, and would, be delivered independently, regardless of whether an application is submitted, and permission obtained, for residential- led development at the wider FWA site. The only development before GBC for consideration (submitted on 2nd October

with a suite of plans and technical reports) is the part Phase 1 SANG enabling works application;

- Any future application for residential development and SANG at the FWA would be supported by an Environmental Assessment that would assess the totality of development proposed. The Applicant is not splitting a project up to avoid EIA;
- There is good reason for a planning application for the enabling works to be submitted independently of any future proposals on the wider FWA site (timetabling reasons to allow sufficient time for ecological mitigation works to be undertaken in the appropriate seasonal survey window), which is described in full in the further information submission at Appendix C.

The Applicant maintains that this position is supported by case law. *Swale*, *Candlish* and *Burridge* are of particular relevance in that:

- A planning authority should consider the development before them in screening decisions rather than any possible future applications (*Swale*, *Candlish* and *Burridge*);
- The Applicant is not intending to salami slice development in a deliberate ploy to avoid EIA and there is good reason why an early application for enabling works is being made (in *Candlish* the application was made to "meet deadlines").

GBC states in their Screening Opinion in Appendix D that, "*without the housing development there is no reason to undertake the [enabling] works*". However, the Judge in *Candlish* ruled that the above arguments stand even if "*the development which is ostensibly the subject of the planning application has no meaningful existence or purpose independent of a wider project*".

i.e. GBC should consider the application before them for screening purposes. There is no intention to "salami slice" and avoid EIA being undertaken for any future development proposals. There is good reason for the application for enabling works application to be made and the Applicant can, and would, implement it regardless of whether it has meaningful existence without a wider project.

Location of the Development – c) absorption capacity of the natural environment

GBC's Screening Opinion states that it is unclear how much of the Ockham and Wisley Commons Site of Special Scientific Interest (SSSI), and, as an extension, the Thames Basin Heaths Special Protection Area (SPA) are hydrologically connected to the site. GBC states that there is potential for direct or indirect impacts on the statutory nature conservation designations through changes to groundwater flows. Since the request for a Screening Opinion was submitted, a suite of documents has been prepared and submitted to GBC with the planning application. This includes an Ecological Impact Assessment (EcIA) and Flood Risk Assessment (FRA). With respect to the statutory nature conservation designations and hydrology, these reports demonstrate that:

- The SPA and SSSI fall outside the zone of influence of the proposals (being 63m at its closest point from the SSSI);
- The proposals would result in a modest betterment in downstream flooding and water quality and that management of runoff has been a key consideration in the design so there would be no detrimental impacts downstream on the SSSI and SPA; and
- Groundwater monitoring is ongoing at the site and will inform the detailed design of the proposed ponds so that they are sized to avoid altering groundwater patterns adversely.

GBC state in their Screening Opinion that Natural England (NE) may require screening for a Habitats Regulations Assessment (HRA). NE has been consulted on the FWA proposals, including the enabling works application, during a meeting on 12 June and site visit on 21 September 2020. NE has confirmed that they have no issue with the principle of the enabling works application and would not raise objection. NE has also confirmed via their EPSML pre-screening service that the relevant tests of derogation under the Habitats Regulations would be likely to be met such that the necessary GCN Licence can be obtained.

GBC also states in this section of their Screening Opinion that there could be likely significant effects on views from Elm Corner and Hatchford End looking south across the former airfield and for users of the existing Public Rights of Way (PRoW) that cross the site. The site is considered of such a scale that can accept the proposed landforms without creating an unnatural feature or experience. Any adverse effects are temporary and short term (2 months). Other comments are made of the potentially significant cumulative effects on landscape with the proposed M25 Junction 10/A3 Wisley Interchange DCO scheme if the enabling works are considered part of a future application for housing. As set out above, the Applicant could deliver the enabling works without reliance on any future development, so should not be considered as part of a wider development and this point is contested.

Characteristics of potential impact – (a) extent and nature of the impact and (c) Magnitude and complexity of the impact

GBC considers that there is potential for hydrological impacts to extend beyond the site to the Thames Basin Heaths SPA and Ockham and Wisley Commons SSSI. This is discussed in the submitted Flood Risk Assessment and measures would be put in place through detailed design of the drainage features to prevent adverse impacts in terms of groundwater. As mentioned above, ongoing groundwater monitoring will inform the detailed design. The proposed works would reduce the existing surface water runoff from the site, not exacerbate it. NE has been consulted on the enabling works and has raised no objection.

Characteristics of potential impact – e) Duration, frequency and reversibility of the impact

GBC considers that likely significant effects on landscape and views are likely to last for an extended period of time, particularly if considered in cumulation with the proposed housing development. It should be noted here that there is no consented housing development on the wider FWA site that would fall within the definition of "existing and approved development" referenced within the EIA Regulations and Planning Practice Guidance, which are required to be considered for potential cumulative effects. Neither is there a live application awaiting determination by GBC that could be considered to be reasonably foreseeable. The only application for consideration by GBC is for the Phase 1 SANG enabling works. The Applicant has stated its intention to assess all works required for the residential development of the FWA site in a single ES at the appropriate time.

The Applicant's Landscape Consultant does not consider the effects of the landforms to be significant (see Appendix E and above for further information). GBC acknowledges that impact on the hydrology of the SPA may be possible to avoid or minimise but may require further design and assessment to confirm. The FRA and EcIA submitted with the planning application and discussed above, provide this certainty and demonstrate that no likely significant effects would arise.

Further information provided by the Applicant

This section of GBC's Screening Opinion refers to the summary of case law provided (see Appendix C) and the Applicant's justification that the proposed enabling works should be considered in their own right for screening purposes. The key point from the *Candlish* case stands as discussed above. The works can be delivered without reliance on any future development. The fact that a future application for residential development on the FWA site would require the enabling works (and future creation of SANG itself) is not contested by the Applicant and would be assessed in its totality through EIA. However, the enabling works themselves do not require residential development or SANG itself to come forward.

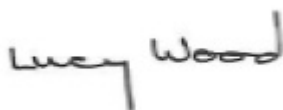
With regard to mitigation measures, GBC references the case *R (oao Champion) v North Norfolk [2015] UKSC 52*. The 2017 EIA Regulations make provision for standard mitigation measures to be committed to that would avoid effects that might otherwise be significant. The Screening Report contained outline principles and committed to the control documents to be submitted with the planning application. As the Screening Report was prepared in August, more than two months prior to submission of the planning application, the planning application reports themselves were not

available. Between submission of the screening request in August and receipt of the Screening Opinion in October, detailed technical reports were prepared and submitted with the planning application. They set out full details of the mitigation measures that would be implemented during the enabling works. Many of these are standard, best practice measures and are included in the submitted CEMP, SWMP and EcIA.

New evidence is therefore available in the submitted planning application documents. This provides certainty of all necessary controls to ensure no likely significant effects on the environment. Key documents are included with this request for a Screening Direction to be taken account in the Secretary of State's decision.

We trust this letter and the attached information are sufficient for you to adopt an EIA Screening Direction and look forward to receiving your response within the statutory timeframe as set out in the EIA Regulations. If you have any queries in the meantime, please do not hesitate to contact me.

Yours sincerely,



Director – Infrastructure & Environmental Planning

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Enclosed:

- Appendix A Screening Opinion Request
- Appendix B GBC's request for further information
- Appendix C Further information provided by the Applicant
- Appendix D GBC's adopted Screening Opinion
- Appendix E Landscape & Visual Impact Technical Note
- Appendix F Soft Landscaping Plan
- Appendix G Ecological Impact Assessment
- Appendix H Flood Risk Assessment

Copy: Tim Dawes and Hannah Yates (GBC)
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