



Havering
LONDON BOROUGH

**Strategic Planning
Committee
7 October 2021**

Application Reference:	P0290.20
Location:	Dovers Corner industrial Estate, including the Rainham Trading Estate, New Road, Rainham
Ward:	South Hornchurch
Description:	Section 73 Application (Minor Material Amendment) to vary Condition 44 (Traffic Light Management System) of Planning Permission P0922.15 dated 16 October 2017 for the demolition of existing structures and the phased redevelopment to provide 394 residential dwellings, car parking, bicycle parking, substation, public open space and pedestrian/cycle infrastructure, works and improvements (including de-culverting of Pooles Sewer, relocation of gas main, minor alterations to access from New Road and closure of existing secondary accesses, formation of emergency access onto Lamson Road and other associated works).
Case Officer:	John Kaimakamis
Reason for Report to Committee:	Call-in application by ward councillor. The application is of strategic importance and therefore must be reported to the Committee

1. BACKGROUND

- 1.1 The application relates to the development site to the south west of the Dovers Corner roundabout on the A1306 (New Road). The Section 73 application seeks to vary the wording of Condition 44 of Planning Permission Reference P0922.15 that was granted consent on 16 October 2017 for the demolition of existing structures and the phased redevelopment to provide 394 residential dwellings,
- 1.2 The original application was presented to Havering's Regulatory Committee in November 2016 and it was resolved to grant planning permission subject to conditions and a section 106 legal agreement.
- 1.3 Condition 44 was requested by Members of the Committee and sought details of a Traffic Light Management System to the approved priority junction that provided access to and from the site.
- 1.4 This application seeks to remove the requirement of providing a signalised junction but maintain a non-signalised priority junction for access to the application site.

2 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 2.1 The proposed amendment to the consented scheme would be acceptable in highway terms and it is not considered that the proposed development would result in highway safety issues.
- 2.2 It is considered that installation of traffic signals at the application site junction would be located close to the existing pedestrian crossing and will have the tendency to create a stop and go mechanism in traffic flow. Further, it is considered that amending the signalised junction to a priority junction is justified as the Beam Parkway development has progressed extensively and any further inclusions into this project is likely to have knock on effect on the current measures that are in progress.
- 2.3 The technical details of the access priority junction have been agreed with the Council's Highways Team in the form of a section 278 legal agreement having regard to the integration of the junction within the wider New Road improvement measures to create Beam Parkway.
- 2.4 Finally, the application is supported by a revised capacity analysis to compare a priority junction with a signalised junction. The modelling work takes on board the improvement works that have been undertaken along New Road and concludes that a non-signalised priority junction arrangement would operate within capacity and more efficiently, and therefore remove the risk of queuing traffic affecting the operation of the Dovers Corner roundabout.

- 2.5 The proposed development is subject to appropriate conditions that were previously imposed which seek to facilitate the development and mitigate its potential impacts. Obligations and financial contributions that were secured towards environmental, infrastructure and services required to facilitate and also mitigate potential impacts of the proposed development have been retained.

3 RECOMMENDATION

- 3.1 That the Committee resolve to GRANT planning permission subject to:
- Any direction by the London Mayor pursuant to the Mayor of London Order
 - Conditional upon the prior completion of a Deed of Variation pursuant to Sections 106A and 106 of the Town and Country Planning Act 1990 to the existing legal agreement of Deed of Planning Obligation made under section 106 and of the Town and Country Planning Act 1990 dated 12 October 2017 to secure the planning obligations in that agreement to a planning permission issued pursuant to this planning application.
- 3.2 That the Assistant Director Planning is delegated authority to negotiate the legal agreement indicated above and that if not completed by the 30 April 2022 the Assistant Director of Planning is delegated authority to refuse planning permission or extend the timeframe to grant approval.
- 3.3 That the Assistant Director Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

Conditions

1. In Accordance With Amended Drawings
2. Accordance with Environmental Statement and Mitigation Measures
3. Phasing
4. Condition Discharge Plan
5. Materials
6. Hard and Soft Landscaping
7. Gas Pipeline Relocation
8. Gas Pipeline
9. De-Culverting Works
10. Car Parking
11. Electric Vehicle Charging Points
12. Energy Efficiency

13. Air Quality
14. Land Contamination
15. Land Contamination (2)
16. Land Contamination (3)
17. Refuse and Recycling
18. Cycle Storage
19. External Lighting
20. No Additional Flank Windows
21. Removal of Permitted Development Rights
22. Boundary Treatment
23. Landscape Management Plan
24. Non-Road Mobile Plant and Machinery
25. Secured by Design
26. Hours of Construction
27. Vehicle Cleansing
28. Construction and Demolition Management Plan
29. Noise Insulation
30. Wheelchair Accessibility
31. Details of Emergency Access
32. Details of Cycleways and Footpaths
33. Visibility Splays
34. Highway Agreements
35. Fire Hydrants
36. Archaeology
37. Foundation Design and Method Statement
38. Water Efficiency
39. Ecological Survey Prior to De-Culverting Works
40. Habitat Creation Works
41. Car Parking Management Strategy
42. Access Details
43. Stage 3 Road Safety Audit
44. Priority Junction Details

Informatives

1. NPPF Positive and Proactive
2. Mayoral CIL
3. Planning Obligations
4. Temporary Use of Highway
5. Changes to the Public Highway
6. Highway Approval Required
7. Secured by Design
8. Working in the Vicinity of Gas Pipelines
9. Working in Proximity to Railway
10. Essex and Suffolk Water
11. Considerate Constructors Scheme

- 12. Sustainable Construction Strategy
- 13. Protection of Species
- 14. Control of Dust and Emissions
- 15. Archaeology

4. SITE AND SURROUNDINGS

- 4.1 The application site lies to the south west of the Dovers Corner roundabout on the A1306 (New Road), approximately 250 metres from Rainham village centre. The site, which amounts to 5.85 hectares, lies to the north of the C2C and High Speed 1 railway lines, with Rainham Creek to the east and a drainage ditch, known as Pooles Sewer to the west. The main access is on to New Road, with a secondary access onto Bridge Road. The site is lower than New Road, but generally level with a fall southwards towards the railway lines.
- 4.2 The site was previously occupied by a number of industrial estates which included a range of light industrial and commercial uses comprising B1, B2, B8 and sui generis use classes. The site is located within Flood Zone 3 and has a PTAL of 3.
- 4.3 To the south of the railway lines is the Rainham sewage works beyond which is the A13 and further industrial areas. To the west of the site is the new Passive Close development and Havering College, where new development is proposed.

5 PROPOSAL

- 5.1 The proposal seeks the variation of Condition 44 (Traffic Light Management System) of Planning Permission P0922.15 dated 16 October 2017 for the demolition of existing structures and the phased redevelopment to provide 394 residential dwellings, car parking, bicycle parking, substation, public open space and pedestrian/cycle infrastructure, works and improvements (including de-culverting of Pooles Sewer, relocation of gas main, minor alterations to access from New Road and closure of existing secondary accesses, formation of emergency access onto Lamson Road and other associated works).
- 5.2 Condition 44 of the original planning permission was as follows:

*“Unless alternative implementation programme is agreed in writing with the Local Planning Authority, no part of any phase of the development hereby permitted as specified in condition 4 above shall be occupied until a **traffic light management system** has been installed at the junction of the new access road with the A1306 in accordance with details that shall have been submitted to and*

approved in writing by the Local Planning Authority. The traffic light system shall be implemented in accordance with the approved details.

Reason: Traffic light controls are considered necessary at the entrance and exit from the development prior to first occupation to ensure highway safety and that the development accords with the LDF Development Control Policies Development Plan Document Policy DC32.”

5.3 The application seeks to vary Conditions 44 as follows:

*“Unless alternative implementation programme is agreed in writing with the Local Planning Authority, no part of any phase of the development hereby permitted as specified in condition 4 above shall be occupied until a **priority junction** has been installed at the junction of the new access road with the A1306 in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. The priority junction shall be implemented in accordance with the approved details.*

Reason: The priority junction is considered necessary at the entrance and exit from the development prior to first occupation to ensure highway safety and that the development accords with the LDF Development Control Policies Development Plan Document Policy DC32.”

6 PLANNING HISTORY

6.1 The following planning decisions are relevant to the application:

- **U0002.08** - Demolition and mixed use redevelopment of 735 dwellings comprising 95 houses and 640 apartments, retail (A1-A4) and commercial floorspace (B1 & D1), car parking, public open space, de-culverting of Pooles Sewer, alterations to access to New Road, closure of accesses to New Road and Bridge Road, formation of emergency-only access to Lamson Road - **Approved on Appeal.**
- **P0922.15:** Demolition of existing structures and the phased redevelopment to provide 394 residential dwellings, car parking, bicycle parking, substation, public open space and pedestrian/cycle infrastructure, and other works and improvements (including de- culverting of Pooles Sewer, relocation of gas main, minor alterations to access from New Road and closure of existing secondary accesses, formation of emergency access onto Lamson Road and other associated works) at Dovers Corner Industrial Park, Rainham Trading Estate and Boomes Industrial Estate, New Road, Rainham. – **Approved with Legal Agreement, 16/10/2017**

7 STATUTORY CONSULTATION RESPONSE

7.1 A summary of consultation response are detailed below:

- **Transport for London:** No comment and is happy for LBH to determine it as it sees fit.
- **Greater London Authority:** The GLA have assessed the details of the application and concluded that given the scale and nature of the proposals the amendments do not give rise to any new strategic planning issues. Therefore, under article 5(2) of the above Order the Mayor of London, the application does not require any further consultation with the GLA and the Council may proceed to determine the application without further reference to the GLA.
- **Historic England (GLAAS):** No comments are raised as the proposals do not affect the archaeological condition relating to the permission.
- **Natural England:** No comments.
- **London Fire and Emergency Planning Authority:** LFEPA have conformed that no additional hydrants are required and content for works at the site to go ahead as planned.
- **LBH Highways:** No objections on the layout and operation of the priority junction, and consider that amending the signalised junction to a priority junction is justified as the Beam Parkway development has progressed extensively and any further inclusions into this project is likely to have knock on effect on the current measures that are in progress; installation of traffic signals at the above junction would be located close to the existing pedestrian crossing (i.e. located immediately to west side of the Dover's Corner roundabout) and will have the tendency to create a stop and go mechanism in traffic flow. Have also recommended inclusion of a condition that a Road Safety Audit, Stage3 must be carried out independently by Road Safety Auditors as soon as the highways works are carried out.

8 LOCAL REPRESENTATION

8.1 The application was advertised via a Press Notice and Site Notice displayed at the site for 21 days between 28 February and 20 March 2020.

8.2 A formal neighbour consultation was also undertaken with 364 neighbouring properties being notified of the application and invited to comment. Comments have been received from 1 neighbour.

8.3 The following local groups/societies made representations:

- None.

8.4 The following Councillor(s) made representations:

- The application has been called in by a Ward Councillor as Condition 44 was originally imposed by Members when a resolution was made to grant consent at Havering's Regulatory Committee in November 2016.

8.5 The following neighbour representations were received:

- 1 objector
- 0 comments.
- No petitions have been received.

8.6 A summary of neighbour comments is given as follows (as only material comments can be considered as part of the application assessment, these comments have been divided into "material" and "non-material" comments):

Material Representations

Objections

- Shouldn't be providing more new homes without a primary and secondary school.
- Local hospital has long waiting list.
- Current infrastructure cannot cope with development
- Traffic can be quite bad around Dovers Corner and further homes will add to this.

Support

- None.

Officer Response: The above objections relate to considerations that were assessed during the original planning application. None of the proposed amendments under this submission would alter the delivery of the consented homes.

Non-material representations

8.7 Below is a summary of comments received from neighbours that do not represent material planning considerations for the determination of the application. This is because they fall outside of the remit of planning. This

includes the marketing of properties, purchases of the properties, neighbour disputes and the value of properties.

- None

Procedural issues

8.8 No procedural issues were raised in representations.

MATERIAL PLANNING CONSIDERATIONS

9.1 The main issues arising from this proposal relate to:

- Acknowledgement of the scope of what may and may not be considered under Section 73 of the Town and Country Planning Act 1990
- Nature of the variation and whether the change(s) materially/adversely alter the nature of the scheme
- Any significant material alterations since the original grant of planning permission.

Scope of the Consideration of the Case under Section 73 of the T&CPA

9.2 Section 73 of the Town and Country Planning Act 1990 concerns 'Determination of application to develop land without compliance with conditions previously attached'. It is colloquially known as 'varying' or 'amending' conditions. Section 73 applications also involve consideration of the conditions subject to which planning permission should be granted. Where an application under s73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.

9.3 It is important to note that when assessing s73 applications the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.

9.4 Alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the previous paragraphs and the applicant's ability to complete the originally approved development.

The Variation

- 9.5 Planning Permission Reference No: P0922.15 granted consent for the demolition of existing structures and the phased redevelopment to provide 394 residential dwellings, car parking, bicycle parking, substation, public open space and pedestrian/cycle infrastructure, and other works and improvements (including de-culverting of Pooles Sewer, relocation of gas main, minor alterations to access from New Road and closure of existing secondary accesses, formation of emergency access onto Lamson Road and other associated works) at Dovers Corner Industrial Park, Rainham Trading Estate and Boomes Industrial Estate, New Road, Rainham.
- 9.6 The application seeks to vary the wording of Condition 44 of the planning permission to delete the reference to the traffic light management system and revert to the original priority junction (non-signalised) form of site access.

Principle of Development

- 9.7 The principle of development has already been established under Planning Permission Ref: P0922.15. The amendment sought above would not impact on the delivery of the above housing numbers secured by the consent.

Design

- 9.8 The proposed amendment does not change the built form and as such there are no design considerations that arise from the proposal.

Parking and Highways Issues

- 9.9 Policies CP9, CP10 and DC32 require that proposals for new development assess their impact on the functioning of the road hierarchy. The overriding objective is to encourage sustainable travel and reduce reliance on cars by improving public transport, prioritising the needs of cyclists and pedestrians and managing car parking.
- 9.10 The proposed development includes a single point of access from New Road and the existing primary site access junction on New Road would be modified to serve the new development and the existing ghost right turn into the site would be retained. Since the proposal was presented to Havering's Regulatory Committee in November 2016 there have been improvements to New Road as part of its transformation into Beam Parkway. The Beam Park Masterplan and Planning Framework of 2016 sought to transform New Road from a traffic dominated road into an attractive green corridor, the Beam Parkway, to provide quality walking and cycling route and a series of pocket parks which will transform the image of the area.
- 9.11 Measures were included to reduce through traffic on New Road, reduce carriageway space and transforming it into an attractive street that is easier to cross. As a result of funding secured by the Council from the Mayor of London and TfL, a consultation was undertaken in July 2018 on a proposed scheme for Beam Parkway. With regard to the section of New Road in proximity to Dovers

Corner, the proposed scheme sought to retain the existing signalised pedestrian/cycle crossing on New Road located to the east of the access to Dovers Corner and before the roundabout, narrow the carriageway and also to form an uncontrolled crossing point in New Road located to the west of the site access/egress to Dovers Corner.

- 9.12 The proposed Beam Parkway Framework scheme detailed a priority junction for site access to and from the Dovers Corners site and did not envisage a signalised junction. This design since the consultation has now been finalised with works anticipated in 2021. It should also be noted that the legal agreement signed with the original planning permission secures a £500,000 s106 obligation towards New Road improvements (A1306 Pedestrian/Cycle Works Contribution) which will assist in funding the proposed Beam Parkway Framework scheme.
- 9.13 Council's Highway officers have confirmed that amending the signalised junction to a priority junction is justified as the Beam Parkway development has progressed extensively and any further inclusions into this project is likely to have knock on effect on the current measures that are in progress. Further, they consider that the installation of traffic signals at the application site junction would be located close to the existing pedestrian crossing (i.e. located immediately to west side of the Dover's Corner roundabout and earmarked as retained within the Beam Parkway Framework scheme) and will have the tendency to create a stop and go mechanism in traffic flow.
- 9.14 Furthermore, since the proposal was presented to Havering's Regulatory Committee in November 2016, technical details of the access priority junction have been agreed with the Council's Highways Team in the form of a section 278 legal agreement. These technical details were agreed in consultation with the Highways Team having regard to the integration of the junction within the wider New Road improvement measures to create Beam Parkway.
- 9.15 The s278 legal agreement details a non-signalised priority junction for access to and from the Dovers Corner application site. The signalised crossing point to the east of the junction (and west of the roundabout) is to remain, which complies with the Beam Parkway Framework scheme. In coming to the above s278 arrangement with Highways it was considered that the existing toucan crossing west of the roundabout facilitated safe pedestrian and cycling movement between Rainham Rd and Bridge Rd. The potential removal and replacement of this crossing further west and closer to the application site's junction would deflect from the existing north-south crossing and potential lead to unsafe crossing movements. Therefore, it was considered to retain the existing toucan crossing in its current form and supplement this with an uncontrolled pedestrian crossing with refuge as per the Beam Parkway Framework scheme.
- 9.16 In addition to the above, the applicants have also conducted a revised capacity analysis to compare a priority junction (as approved in accordance with the details secured in the s278 highways agreement) with a signalised junction that is sought under the approved wording of Condition 44. The modelling work takes on board the improvement works that have been undertaken along New

Road and concludes that a non-signalised priority junction arrangement would operate within capacity and more efficiently, and therefore remove the risk of queuing traffic affecting the operation of the Dovers Corner roundabout. Council's Highway Team have reviewed the modelling and raised no objections to its conclusions.

- 9.17 Council's Highway Officer has also recommended a condition for a Stage 3 road safety audit to be carried out independently by Road Safety Auditors as soon as the highways works are completed, should permission be granted. Subject to the above, the proposal would be acceptable in highway terms and it is not considered that the proposed development would result in highway safety issues.

Planning Obligations, Conditions, Community Infrastructure Levy and local finance considerations

- 9.18 The conditions of the previous decision notice shall be re-imposed to the decision notice.
- 9.19 Condition number 1 of the original permission relates to the timeframe for implementation. Usually this is a 3-year time frame from the date of issue in accordance with Section 91(1)(a) of the Town and Country Planning Act 1990 (as amended). In this instance the development has already commenced on the 18 June 2018 and therefore the condition is no longer required.
- 9.20 Since the approval of the original application scheme some of the detail required by condition have been approved. In the interest of completeness the condition list would be updated to make reference to those approvals.
- 9.21 The original application was subject to a legal agreement to mitigate against the impacts of the development. As this application requires the issue of a new/fresh planning permission the applicant has agreed to re-apply the agreed Heads of Terms of the original legal agreement to the new planning permission. This is important as it ensures those obligations originally agreed are met in the case of the implementation of the current application.
- 9.22 The application would be subject to a Deed of Variation to the original section 106 legal agreement.

Other Matters

- 9.23 This application does not represent an opportunity to revise or reconsider the original grant of planning permission under P0922.15. This application only relates to the consideration of the variation of condition 44 as set out above.

SUMMARY AND CONCLUSION

Summary

- 9.24 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires the Council to determine any application in accordance with the statutory development plan unless material considerations indicate otherwise. All relevant policies contained within the London Plan and the Development Plan, as well as other relevant guidance and material considerations, have been carefully examined and taken into account by the Local Planning Authority in their assessment of this application.
- 9.25 The changes sought through this S73 application are considered to be relatively minor and do not raise any significant issues already considered.
- 9.26 The proposed development is subject to appropriate conditions that were previously imposed which seek to facilitate the development and mitigate its potential impacts. Obligations and financial contributions that were secured towards environmental, infrastructure and services required to facilitate and also mitigate potential impacts of the proposed development have been retained.

Conclusion

- 9.27 It is recommended that planning permission be granted subject to conditions and deed of variation to link the application to the s106 legal agreement heads of terms for the reasons and details as set out in the resolutions of Section 3 of this Report.