

PLANNING COMMITTEE MEETING – 19th September 2024
Amendment/De-brief Sheet

MAJOR PLANNING APPLICATIONS

Circulation: First Item: 4
Reference Number: 23/04590/OUT
Address: Land South of Coldham's Lane, Cambridge

Attached at appendices A and B are separate legal opinions provided by Richard Turney KC for the applicants and Martin Edwards KC for the Council concerning the use of conditions in respect of land contamination.

The opinions are released following a Freedom of Information Request made to the Environment Agency (EA), the deadline for a response to which falls a day later than the 19th Sept Planning Committee. The FOI request relates to the removal of the EA's objection on the grounds of land contamination and the context around this decision which includes the Counsels' opinions. In the interests of transparency, both the Council and the applicants have agreed to the release of the legal opinions, both of which are consistent in terms of the advice given and which should provide confidence for members in understanding the EA's position and the robustness of the officer recommendation.

Background summary

To Note:

The EA's decision to remove its holding objection was a unilateral action. Officers from the Local Planning Authority (LPA) and City Environmental Health Team have been working closely with the EA for some months since the application was submitted to ensure that:

- a) the proposed foundation design options and their associated risks to groundwater has been adequately understood by all parties; and
- b) appropriate risk prevention and monitoring measures are available and can be implemented at all stages of the development (pilot/test stage, construction and operational stages).

The basis for the EA's original objection mainly related to its view that planning conditions would not provide sufficient control in dealing with the potential risks of development on the groundwater environment. To satisfy its concern in this respect it recommended that the Applicant/Developer should carry out a separate stage of onsite test trials which would identify the efficacy of their proposed

approach to pollution risk management. In practical terms, the EA's recommended approach for test trials to take place first (in advance of consideration of the current planning application) was considered by the Council (and Applicant) to be unreasonable and unjustified in that it would constitute a separate development operation for which a separate planning application and permission would be needed. The Council requested its own independent legal advice from Kings Counsel following the Applicant/Developer's own Barristers Advice, and both clearly confirm that the use of planning conditions in these circumstances would represent a robust and acceptable approach to take.

Therefore, a number of planning conditions are being recommended by officers to control the risks of groundwater and air pollution at every stage of development (including test stage and future operational stages). These include: Nos. 41, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 and 58. The scope and wording of these planning conditions have been developed in consultation with technical input from the City Environmental Health Team and EA.

Additional update to the lab/office demand/supply evidence position:

Paragraphs 13.47 and 13.48 of the committee report refer to the applicant's evidence of November 2023 regarding an undersupply in lab and office development in the period to 2041, and concludes at 13.51 "that the current proposals should be supported in order to close the current gap between growing demand and undersupply".

Amendments to Text:

The Greater Cambridge Growth Sectors Study: Life science and ICT locational, land and accommodation needs (Final Report, September 2024) updates the lab and office demand/supply evidence position, noting that, given permissions in the last couple of years, the supply for wet lab space through 2025-2030 is now substantial, but that there may remain a shortfall in smaller scale-up space provision; and that there is likely to remain a shortfall in wet lab commitments overall to 2041, which can be met through the emerging Local Plan (paragraph 9.2).

As a result, officers note that there is no longer an undersupply in the total amount of lab space in the short term, but that this proposal will help meet the shorter-term shortfall for smaller scale-up provision, as well as helping provide a flexible supply overall.

Cambridge Past, Present and Future – Additional representation received 17/09/24

Comments made have been covered in paragraphs 11.6-11.8 (pages 42 and 43) of the committee report.

None

Pre-Committee

Amendments to
Recommendation:

Decision: