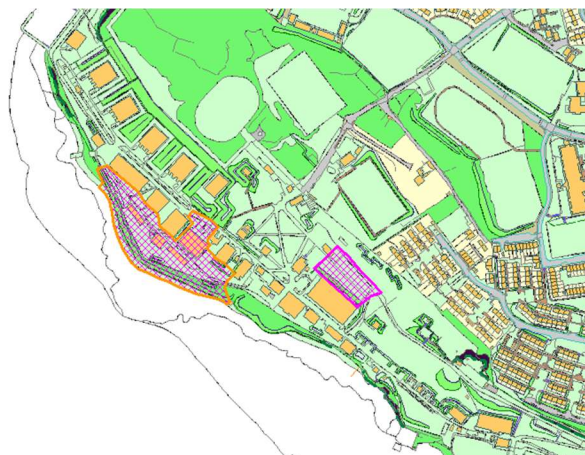


# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	18/01947/CDM	<b>Item</b>	<b>02</b>
<b>Date Valid</b>	15.11.2018	<b>Ward</b>	ST BUDEAUX
<b>Site Address</b>	Kinterbury Point Hmad Bullpoint HMNB Devonport Plymouth PL2 2BG		
<b>Proposal</b>	Condition Discharge: Conditions 3, 4, 5 & 7 of application 15/01271/FUL		
<b>Applicant</b>	Mr Steffan Shageer		
<b>Application Type</b>	Condition Discharge Request		
<b>Target Date</b>	<b>10.01.2019</b>	<b>Committee Date</b>	<b>14.02.2019</b>
<b>Extended Target Date</b>	<b>N/A</b>		
<b>Decision Category</b>	Service Director of SPI		
<b>Case Officer</b>	Mr Chris King		
<b>Recommendation</b>	Agree to discharge Condition 7		



The Condition Discharge Application has been referred to Planning Committee by the Service Director for Strategic Planning and Infrastructure (SP&I) due to public interest reasons following the inclusion by members of Condition 7 by Planning Committee in the planning consent for application 15/01271/FUL

Members will note that this Condition Discharge Application relates to multiple conditions attached to planning permission 15/01271/FUL. However, this Condition Application has been referred to Planning Committee for consideration of Condition 7 – Noise Monitoring Scheme at Riverside Primary School only.

This report does make reference to Conditions 3, 4 and 5 however these are not the subject to consideration in this report. The information submitted in relation to them is either considered satisfactory or still being negotiated. The Local Planning Authority has not received any 3rd party objections to their discharge.

### **I. Relevant Planning Permission**

This Condition Discharge Application refers to following planning permission:

#### 15/01271/FUL

Proposed helipad and forward operating base to service the Fleet Helicopter Support Unit, comprising construction of helicopter landing site, demolition of three existing buildings, modification of part of an existing building, relocation of security fencing, construction of a new building to replace those demolished, and construction of a fuel bowser park.

#### Other Relevant Applications

#### 18/02099/AMD

Non-material Amendment application for 15/01271/FUL to amend the wording of Conditions 3, 4, 5 and 7.

Planning application 15/01271/FUL expired on the 4th February 2019 and although the applicant has submitted an application to discharge the pre-commencement conditions (18/01947/CDM), it is unlikely that they will be discharged in time to allow the development to commence before it expires.

The purpose of the Non Material Amendment (NMA) is to allow demolition of buildings BP003, BP004 and BP044 which can be reasonably undertaken in the timeframe thus allowing the development to commence and remain extant whilst the pre-commencement conditions are resolved satisfactorily.

No other works relating to the development will be able to take place until the conditions are formally discharged.

Officers have reviewed the NMA to vary the wording of Condition 3, 4, 5 and 7 of planning permission 15/01271/FUL to allow demolition and consider this acceptable on the following grounds:

- A Construction Environment Management Plan (CEMP) has been submitted and approved by the Lead Local Flood Authority meaning the water environment will be protected during the demolition phase
- The works are fairly limited and have Scheduled Monument Consent
- Officers will monitor the demolition and any works other than that required for the purposes of the demolition will result in enforcement action by the Local Planning Authority.

## **2. Description of Condition Discharge Application**

This Condition Discharge Application seeks formal discharge of the Conditions 3, 4, 5 & 7 of application 15/01271/FUL, and following the approval of application 18/02099/AMD (outlined above) they are worded as follows:

### **CONDITION 3: SURFACE WATER DISPOSAL**

No development other than the demolition of buildings BP003, BP004 and BP044 shall take place until details of the proposals for the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development hereby permitted is first brought into use.

Disposal of surface water details shall include, but not be limited to:-

- A Flood Risk Assessment for the site should provide evidence that the proposed drainage system including attenuation, can provide a 100 year return period (1% AEP) standard of protection plus a 30% allowance for climate change. Calculations and modelling data should be produced in support of any drainage design showing that the drainage system is designed to the required standard
- As a brownfield site, the PCC Local Flood Risk Management Strategy (LFRMS) requires that rate of discharge from the site is limited to greenfield rates for a 1 % AEP (1 in 100 year return period) event with a 30% allowance for climate change. An un-attenuated surface water discharge to tidal waters maybe considered subject to controls and Environment Agency approval.
- The owner/manager (I would highlight that this maybe a public sewer and SWWW will need to be consulted) of the existing surface water and combined sewerage system should be consulted regarding any final proposal to connect surface water into the existing surface water/combined system. Evidence of agreement to connect to the existing surface water system should be submitted before the drainage proposals are accepted.
- A CCTV condition survey of the existing drainage system should be undertaken where it is being utilised.

Details are required of exceedance flow routes and how these flows are to be intercepted and contained on site within the proposed system. Exceedance flows should be directed away from public access areas.

- Opportunities to eliminate pollution from surface water run off should be taken. To minimise pollution being discharged into the sewer network, separate systems for roof and highway drainage is recommended. Surface water runoff from areas exposed to vehicles and fuel storage should be discharged via an interceptor or other method to remove potential pollutants.
- A construction environment management plan incorporating method statements should be submitted to demonstrate how the new drainage system and water environment is protected during the demolition and construction phases.
- The surface water drainage system including manholes and pipes should be designed in accordance with Sewers for Adoption 7th Edition (WRc 2012) where appropriate.
- A drainage pipe and manhole schedule will be required confirming pipes and materials.
- Details should be provided of the proposed silt traps and interceptors and the interconnecting drainage pipe material.
- As built record information will be required for the proposed drainage system including attenuation and interceptor systems.

Reason:

To enable consideration to be given to any effects of changes in the drainage regime on landscape features in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 94 and 100-103 of the National Planning Policy Framework 2012.

Justification: To ensure the drainage provisions within the development are adequately provided for before development commences and does not cause undue problems to the wider drainage infrastructure.

#### CONDITION 4: EXTERNAL MATERIALS

No development other than the demolition of buildings BP003, BP004 and BP044 shall take place until full details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS03 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

Justification: To ensure that the development can reasonably accommodate external materials those are acceptable to the local planning authority.

#### CONDITION 5: PROGRAMME OF ARCHAEOLOGICAL WORK

No development other than the demolition of buildings BP003, BP004 and BP044 shall be commenced until the applicant (or their agent or successors in title) has completed a programme of archaeological work, in accordance with a written scheme of investigation that has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme.

Reason:

The site is considered likely to contain archaeological deposits that warrant appropriate investigation and/or recording in accordance with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 131, 132 and 133 of the National Planning Policy Framework 2012.

Justification: To ensure that important archaeological features are properly protected / recorded before construction commences.

#### CONDITION 7: NOISE MONITORING AT RIVERSIDE COMMUNITY PRIMARY SCHOOL

No development other than the demolition of buildings BP003, BP004 and BP044 shall take place until a scheme for monitoring and reporting noise from the Helicopter Landing Site is submitted to and approved in writing by the Local Planning Authority. The focus of the noise monitoring shall be at Riverside Community Primary School, whereby noise levels shall not exceed 58dBLAeq (30min) during normal school term-time opening hours of 8.40am to 3.20pm Mondays to Fridays (excluding school break and lunch periods) when measured at the approved monitoring location.

The scheme shall include how noise will be recorded, and subsequently reported to the Local Planning Authority. The scheme will also state the frequency and duration of the monitoring scheme. The noise monitoring equipment shall be positioned in a suitable location, either at the School, or at a location deemed representative of the School, to accurately record noise associated with helicopter movements that have derived from the development hereby approved.

Furthermore, the scheme shall identify what methods for mitigation will be implemented if noise tolerances are exceeded on a regular basis to protect Riverside Community Primary School.

Reason:

To protect and reduce harm to Riverside Community Primary School caused by the helipad operations in accordance with Policy CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007; and paragraph 17 of the National Planning Policy Framework 2012.

Justification: To implement a suitable and robust noise monitoring programme to adequately protect the Riverside Community Primary School from any harmful effects of noise associated with the approved development

### **3. Relevant Policy Framework**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007)

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the Core Strategy and other Plymouth Development Plan Documents as the statutory development plan for Plymouth once it is formally adopted.

Annex I of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For Plymouth's current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- For the JLP which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage of preparation having been submitted to the Planning Inspectorate for Examination, pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations. On 15 August 2018 the JLP Councils received a Post Hearing Advice Note from the Planning Inspectors. The inspectors state that "at this stage we consider that the JLP is a plan which could be found sound subject to main modifications" and, provided their views on further work and potential main modifications needed. The Council have prepared a schedule setting out the proposed Main Modifications and these are available for consultation until 3rd December 2018. It is therefore considered that the JLP's policies have the potential to carry significant weight within the planning decision, particularly if there are no substantive unresolved objections.

Other material considerations include the policies of the Framework itself, guidance in National Planning Practice Guidance (NPPG).

### **4. Analysis**

#### **Introduction**

I. 22. Planning permission 15/0271/FUL was presented to Planning Committee on 17th December 2015. Following a deferral by the Committee to add an additional Noise Monitoring Condition the Local Planning Authority was able to issue planning permission on the 4th February 2016.

2. The MOD has applied to discharge the pre-commencement planning conditions so that the helipad can be brought forward. Following the approval of the NMA application (18/02099/AMD) members are advised that contractors are on site and two of the three buildings earmarked for demolition have been demolished, with the third to be demolished in due course once a bat licence has been granted. The Local Planning Authority can confirm a material start on site therefore the planning permission is now extant.

### Noise Monitoring Proposal

3. Condition 7 requires the submission of a scheme for monitoring and reporting noise from the Helicopter Landing Site. The primary focus of this condition is to protect Riverside Community Primary School to ensure that noise levels associated with the helipad Landing Site do not exceed 58dDLAeq (30min).

4. Public Protection has advised officers that current acoustic design standards for a new school building sets the limit at 60dDLAeq (30min) when measured externally, which exceeds the tolerances set by this planning permission.

5. The school is located south east of the Helicopter Landing Site however due to its elevated position it could be adversely impacted by flight activity. The flight path, as set out in the approved Environment Statement (ES) is along the Tamar River heading southwest towards Wilcove and Millbrook in Cornwall.

6. Since the submission of the application the Local Planning Authority has sought to negotiate a scheme that is acceptable to all interested parties. The current scheme that has been submitted proposed the following measures:

7. Noise monitoring shall be undertaken on a continuous basis throughout the first two years of opening.

8. In addition to the monthly reporting the results of this monitoring shall be reviewed at the following stages, and meetings held to discuss the findings:

- One month after the commencement of operations at the facility. Subject to agreement of all parties (the operator, school and Plymouth City Council), this meeting may be postponed by one month to allow collection of more representative data should operations during the first month not be considered representative.
- Six months after the commencement of operations at the facility;
- One year after the commencement of operations at the facility;
- eighteen months after the commencement of operations at the facility; and
- At the end of the second year of operations.

9. The applicant has added that 'If noise exceedances occur 10 times during the second year of operations at the facility, then continuous noise monitoring will continue for an additional year.'

10. The submitted report states that 'Noise monitoring shall be carried out by a suitably qualified, independent acoustic specialist. Monitoring will be carried out in accordance with the methodology specified in British Standard BS 7445 'Description and Measurement of Environmental Noise'. Good acoustical practice will be followed, care being taken to avoid the effects of local acoustic screening and acoustic reflections (i.e. at least 3.5 metres from any reflecting surface apart from the ground).'

11. It adds further that 'The instrumentation will log the LAeq parameter in 30 minute contiguous periods, whilst also logging shorter period time-history data (such as LAeq,1s) to aid in the identification of sound sources. The instrument should also record audio, triggered when high levels of sound are logged. The level of this trigger will need to be set by the acoustic specialist so that

suitable data to identify helicopter passbys is recorded whilst minimising unnecessary recording of spurious events.'

12. Following a meeting at the site with relevant stakeholders it was agreed that the noise monitoring equipment is to be located on the West facing side of the school buildings. The precise location of the monitoring equipment would be agreed in discussion with Riverside Community Primary School upon its installation and availability of a suitable power supply.

#### Mitigation

13. Condition 7 requires a mitigation strategy to be put forward. Section 7 of the submitted Noise Monitoring Scheme (Version 4) states that:

14. "Where the results of the monitoring indicate that the noise limit is exceeded and analysis indicates that this was due to operations from the Fleet Helicopter Support Unit, the Fleet Helicopter Support Unit will be notified and efforts shall be made to identify the causal factor(s). These factors and any remedial actions shall be discussed between the Fleet Helicopter Support Unit, the Local Planning Authority and the Riverside Community Primary School, with the aim of identifying operational changes which could be made to avoid future exceedances. Such remedial actions taken to avoid future exceedances shall be logged and reported to the Local Planning Authority.

Should the noise limit be exceeded after the initial monitoring period, a complaints procedure (as is conditioned by Condition 8 Pre-Operation Complaints Procedure planning permission 15/01271/FUL), will be in place. The procedure will be submitted and agreed by all stakeholders prior to operation of the helipad. This complaints procedure will have a mechanism for determining the need for further monitoring.

In the case that the condition has been breached more than 10 times in a calendar year and noise has exceeded 58 LAeq (30min), a monitoring and reporting regime similar to the regime for the initial year will be instigated for a period of 1 year, if during this year there are less than 10 breaches then the requirement for continuous monitoring will cease, however the complaints procedure will be in place for the operation life of the scheme. Based on the monitoring results, appropriate mitigation will be agreed upon between the Fleet Helicopter Support Unit, the Local Planning Authority and the Riverside Community Primary School and implemented."

#### Officer Assessment

15. As part of this Condition Discharge Application process Public Protection (PPS) has reviewed the submitted documentation. PPS were involved in the original planning application and provided advice at that stage to planning officers.

16. PPS have been involved throughout this Condition Discharge process including attending meetings with the applicant and have formally written notifying the Local Planning Authority that they do not object to the proposed Noise Monitoring Scheme that has been submitted.

17. Condition 7 does not set a minimum or maximum period for monitoring. There have been numerous versions of the Noise Monitoring Scheme submitted for review, and at this point officers have managed to negotiate a 2 years continuous monitoring, with fall-back positions for following years.

18. Ultimately the best scenario is that Noise Monitoring at Riverside Primary School continues in perpetuity. However, there is a cost associated with this and the longer this goes on the greater the expense. Officers have been advised in conversation that a scheme for 2 years of continuous monitoring as set out in the Noise Monitoring Scheme will cost the MOD approximately £45,000.

19. Officers have been advised that the equipment cannot be left sitting idle collecting data in the event that a complaint needs investigating after the 2nd year. The equipment will need to be maintained and calibrated; as if it is not calibrated the data cannot be relied upon. As has been set out under separate cover, the LPA has been advised that each subsequent year of monitoring would cost approximately £30,000 and the MOD is unable to commit to such an expense in perpetuity. Offices are mindful that this could have an adverse, counter-productive impact on the Flag Officer Sea Training (FOST) programme.

20. In the event that complaints are made of excessive noise following the 2 year period further monitoring will be required. This is set out in Section 7 of the Noise Monitoring Scheme (Version 4) and will be further bolstered when the applicant seeks discharge of Condition 8 – Complaints Procedure. Members are advised that the Helipad cannot become operational until condition 8 is successfully discharged.

21. Officers therefore need to consider what is 'reasonable' within the parameters of the imposed condition and the planning permission. Protecting amenity, health and wellbeing is a fundamental part of the planning process and during the planning application this was considered fully. However the ongoing viability of the Dockyard and its economic impact is a consideration given its importance locally, regionally and nationally.

22. The purpose of this condition is to ensure that when operational the tolerances are not exceeded. The planning permission restricts the number of flights to 100 per month/1000 per annum. Two years of monitoring is considered a reasonable time frame to assess the impact of the helipad in terms of noise levels at the school. Officers, in consultation with PPS are of the view that this period is likely to capture any particular intensive periods when the navy are training or on exercise.

23. The fall-back position following two years is the complaints procedure which is yet to be discharged, and will focus on the requirement to carry out further monitoring should a justified complaint be made. For clarity, and as set out in the report, a justified complaint refers to one or more helicopter movements at the time of the alleged occurrence where the noise limit (58 dBLAeq (30 min)) is exceeded. This can be verified by the LPA who will be supplied with all relevant data.

24. Officers are aware of the concerns raised by the School in relation to the proposal put forward. However, officers consider that the two year scheme, coupled with the mitigation and forthcoming complaints procedure, suitable safeguards are in place to ensure that the School and its pupils are not adversely impacted by this important military facility.

## **5. Human Rights**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **6. Equalities and Diversities**

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability. Officers consider that local residents and users of Riverside Community Primary School are not discriminated against due to the monitoring imposed through condition 7 coupled with the complaints procedure required through condition 8.



## **7. Conclusions and Reasons for Decision**

In assessing this Condition Discharge Application, a balance has had to be found to protect Riverside Community Primary School and its students but also allow the MOD to effectively operate one of its many, nationally important roles. Officers have taken account of the relevant information submitted, the advice of Public Protection Officers and the concerns of Riverside Community Primary School and have concluded that the submitted Noise Monitoring Scheme (Version 4) is acceptable. Therefore, the recommendation is to 'Agree to the Discharge of Condition 7' of planning permission 15/01271/FUL.

Officer can confirm that Conditions 3, 4 and 5 are discharged (either in full or in part) in line with usual officer delegation process.

## **8. Recommendation**

In respect of the application dated 15.11.2018 it is recommended to Agree to discharge Condition 7.

## **9. Conditions / Reasons**

The development hereby permitted shall be carried out in accordance with the following approved plans:

### **I      CONDITION 7: NOISE MONITORING SCHEME - DISCHARGE AGREED**

The Local Planning Authority has been provided with a Noise Monitoring Scheme (Version 4) with respect to Condition 7 of planning permission 15/01271/FUL. Both the Public Protection Service and Planning Officers have reviewed this document which sets about a clear scheme for recording and monitoring noise, as well as outlining the methods for mitigation in the event that Helipad operations do not comply with set noise limit of 58dBLAeq (30 mins). The details are considered a satisfactory and reasonable approach therefore the Local Planning Authority can confirm that Condition 7 is discharged. The development shall therefore be carried out in strict accordance with the following document:

**NOISE MONITORING SCHEME - VERSION 4 - 1ST FEBRUARY 2019**