To: Nicola Pettifer (Senior Planning Officer)

cc: Lee Money (Environment Health Officer)
Emma Parkes (Head of HDC Development and Building Control)

Re: **Planning Application DC/23/2144**
Discharge of Pre-Commencement Conditions

Date: September 2nd, 2024

Dear Nicola

I note that the agent for the above development has made an application for approval of details reserved by conditions 6, 12, 13 and 36.

At the meeting on May 21st (when this application was approved) there was a question as to whether there would be Member oversight of the discharge of these conditions. As I understand the process there is apparently no requirement to consult with Members - nevertheless given the potential impact of this development it seems to me right and proper that they are kept fully informed. As such I intend to share this representation letter with relevant local councilors and submit an objection via the planning portal querying how the latest documents submitted as supporting statements on 16/08 2024 provide enough information to enable HDC to validate the application.

Condition 12 - Contamination

The Remediation Strategy submitted by Ground Condition Consultants Ltd contains very little new information other than an assertion in the final paragraph on page 9 to the effect that: 'The risks to controlled waters from leachable contamination within the landfill material have been assessed to be *very low* and are not considered to justify further investigation and assessment.' How does such a claim meet with the Council's original requirement for more investigation 'to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment' and as noted in paragraph 6.33 of the Planning Committee Report dated 21st May, 2024 a requirement for further work on deeper ground to properly assess risk…..'

I raised a number of questions in July asking what safety precautions would be required to protect residents adjoining the site when land remediation measures and construction works get under way. You advised that in the event of a contamination condition you would consult with your Environmental Officers for their professional opinion. I subsequently wrote to Lee Money who advised that responsibility for enforcing safe construction practices lies with the Health and Safety Executive. I am concerned about an apparent lack of HDC responsibility to ensure that the site has been investigated and developed safely.

Mr Money advised that you could provide further information in response to the questions I raised about the proposed approach to mitigating the risks associated with developing on this contaminated land where elevated levels of asbestos and ground gas have been found within the soil. Trying to decipher the many different technical reports is difficult and there is a lack of clarity about what method of capping, cover and construction system the Council will approve.

I would like it to be formally recorded that the Applicant has already undertaken a significant amount of soil movement works which have left a huge mound of uncapped soil on the site and meant that neighbours and users of the surrounding area (i.e. Sullington Warren) have been exposed to the elevated levels of the contaminants known to be prevalent in the soil for a number of months. This could give rise to longer term health issues. Concerns about such issues were reported to the HDC Planning team last year and were subsequently dismissed. I would like to highlight this again given the seriousness of such a potential oversight. The extensive earth movements mean in effect that the Applicant is technically already in breach of the pre-commencement Conditions for which I would ask that an explanation is provided.

Condition 7 - Levels and Condition 13 - ground stability

I am particularly concerned about the potential impact the developer's remediation and construction strategy may have on raising levels. (I note that you also stated that you had 'some major concerns about the resulting raising of the levels at the site' in an email to Mr Money dated April 29, 2024).

Any additional raising of levels will make the new houses even more overbearing and intrusive on the surrounding area and in particular the Grade 11 listed building of Chestnut Cottage. (i.e. Designated Heritage Asset). The proposed development is already unacceptable in heritage terms, by reason of its location, topography and unsympathetic design in very close proximity to the Designated Heritage Asset. The negative impact on the setting and architectural significance will be further exacerbated by proposed increases in site levels and the development would continue to fail to preserve and enhance a Designated Heritage Asset and would detract from its setting and significance causing substantial harm which would endanger the long term preservation. The Applicant has, therefore, failed to satisfy the statutory provisions set out at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which HDC have a legal duty to ensure are met.

The conclusion of the Site Investigation Report by Hemsley Consulting Ltd states that development of the site will require either stone columns or preloading the footprint of each house to induce settlement of fill prior to construction. The report further states that the process of pre-loading 'would comprise a 2.5 high mound of soil over an area slightly larger than the house.' Can you advise how increasing the levels in this way is compatible with the original planning permission? My concern is that even if the ground gets compacted over a period of time prior to construction the starting point for the foundations is going to be higher than the site was before earthworks commenced. As such will the houses be taller and therefore more visible?

As far as I can see the submitted information fails to showcase the existing and proposed site levels, nor a fixed datum level from which the change in levels will be monitored from. I am concerned that the earthworks already undertaken (noted earlier in this representation) have already meant that the existing levels the Applicant is using are not representative of the baseline position.

Could you therefore, for the record, please advise which of the proposed options you will be approving and how you will ensure that any development is in line with the levels agreed in the original approved planning application?

Can you further please advise if there will be a requirement to found the houses on reinforced concrete rafts and a methane resistant gas membrane and if the answer is yes what that will do to the levels and eventual final height of the buildings?

I note that paragraph 6.2.2 of the Remediation Strategy states it is possible, given the sloping topography of the site, that access ways may require low height earthworks to support the roads. Please could you advise if planning permission will be required to build retaining walls.

Condition 36 - Swept Path

I would like to point out that the document listed as 'Temp Road for Construction traffic' does not fulfill the pre commencement requirement for a swept path analysis showing the passage of how construction vehicles will access and egress the site from Water Lane.

As minuted at the 21 May Planning Committee members 'raised concerns in relation to construction access to the site' and Paragraph 36 of the Decision Notice dated 14/08/2024 states: 'no vehicles associated with the ground remediation or construction phases shall utilize the site's temporary construction access via Angell Sands until a swept path tracking diagram has been submitted to, and approved in writing by, the Local Planning Authority, demonstrating adequate vehicular access and egress can be achieved.

Paragraph 4 of that same document states 'No development shall take place, including any ground works within the site, until the access improvement works along Heather Way have been agreed with the relevant land owner(s) and completed in accordance with the submitted and approved Transport Report [Ref 7053/2.3 dated July 2020]. Has this agreement been secured?

Conclusion

I believe that if Members were given an opportunity to scrutinize the documents the Applicant has submitted in discharge of the Condition Application they would require further evidence that the conditions have been met.

I highlight that paragraph 6 of the Planning Committee Report states: No development, other than ground investigation and remediation works, shall commence until precise details (to include details shown on a plan) of the proposed slab levels, and existing and proposed external ground levels of the development in relation to nearby datum points adjoining the application site have been submitted to and approved by the Local Planning Authority in writing. Has this been done?

In conclusion I note in relation to paragraph 7 of that report that the requirement for providing a drawing showing all trees on the site to be retained is probably pointless as the developer has already wantonly chopped down the lovely mature trees at the highest level of the site. (I can provide photos from January 2022 showing the decimation.) This is completely at odds with Statutory Biodiversity New Gain legislation and HDC's planning policy objectives for ecological and biodiversity enhancement.

I thank you in advance for your attention to the issues I have raised and the information requested.

Yours sincerely

[redacted]
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