

### **Cemex clarification response to Countryside Rights of Way response January 2023:**

1. Paragraph 100 of the NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. Appendix A of the HMWP states that for this site, development considerations include the safeguarding of the adjacent public rights of way (Footpath no 1 and the path to the south-west) and maintaining and managing existing informal recreational use of the site.
2. Policy 10: Protecting public health, safety and amenity of the Hampshire Minerals and Waste Plan 2013 states that: Where minerals or landfill sites are located close to or affect a public right of way footpath network, measures should be put in place to protect or divert (for a temporary or permanent period, as appropriate) the route. This is considered under Policy 5 (Protection of the countryside). The provision of alternative public access where relevant should not prejudice any mitigation land provided or planned to offset impacts on European sites. Where nearby European sites are sensitive to pressure from public access, improving public access through restoration should be carefully considered because although it may produce a benefit for people, it could significantly affect European sites. It may be inappropriate to allow public access across landfills and in areas where there are vulnerable plant, machinery or other infrastructure associated within minerals and waste development.
3. Strategic Policy S12 of the Eastleigh Borough Local Plan 2016-2036 states that new development should integrate with existing routes and public rights of way, and wherever possible maintain, protect and enhance their function. Development that would sever, obstruct or otherwise have a detrimental impact on the existing or proposed network of green routes as shown on the policies map will not be permitted.
4. It is noted that the northern length of Footpath 1 is within the application site, although this appears to be largely abandoned as there is no access from the northern end of the footpath out onto Satchell Lane, and instead pedestrians use the adjacent footpath 1 to the east which leads out onto Satchell Lane. However, the proposal will not affect the definitive line of Footpath 1 within the site, as it lies outside the bunds and proposed fence line, so will be available throughout the development and upon restoration for access.
5. It is noted that the Rights of Way team would prefer that the proposed new footpath is dedicated as a Public Bridleway rather than a permissive footpath. However, Cemex are not the landowners and it will not be possible to formally dedicate the path at this time, nor provide a bridleway. Whilst the response from the Rights of Way team states that the status as a permissive footpath provides no guarantee as to the length of time a path may be available to the public, the path is shown on the restoration plan and as such a revision to this plan via a planning application would be necessary to change this. This therefore provides certainty that it will be available for public use. The new public access area in the north-east corner is also accessible only via this permissive footpath and as such, a significant change to the restoration plan would be required to change this, at which time the Local Planning Authority and the Rights of Way team again would have a chance to comment and are able to refuse any such further applications. Therefore this does provide certainty that the footpath

will be provided, which is different from other permissive paths which may not be formalised via any planning permission.

6. The footpath sections A to E would be provided at the start of the development, however it will be necessary to establish bund and tree screening at the beginning of the process and from a health and safety perspective it is necessary to have this in place prior to the opening of the footpath to the public. However, it will be open as soon as possible at the start of the development as bunds around the site are to be provided at the start and not on a phased basis. As stated, lengths A-I and G-H would only be provided upon restoration for health and safety reasons as these cross the site access point. It is noted that section D-E is parallel to the existing Footpath 1, however at present this part of the site is used for walking in addition to footpath 1, so merely provides an alternative route should the public wish to use this. The permissive footpath provided would be quite different in terms of visual experience to the existing footpath 1, which is fairly narrow, hard surfaced and enclosed.
7. It is noted that a financial contribution is requested to support upgrading part of the existing Hamble Rail Trail for cycle access. It is not clear if this is requested only if the path is designated as a Public Bridleway, which is not proposed. However, Cemex have agreed to provide a significant sum of £500k to County Highways, which Cemex understand is to be used for sustainable transport measures, i.e. walking and cycling. The detail of where this is to be spent will be a matter for County Highways, however it is considered that the applicant therefore has already agreed to provide a significant sum for such measures which could potentially be used for the Rail Trail. This will be secured via the S106 agreement.
8. It is noted that a “safe alternative to Satchell Lane for cyclists” is requested, however Satchell Lane will not be impacted by the proposals as routing of HGVs, which will be secured via S106, will ensure that HGVs only use Hamble Lane to access the site. As such, this request to provide an alternative to Satchell Lane is not necessary to make the development acceptable, nor is it directly related to the development, nor fairly and reasonably related in scale and kind to the development, as required by paragraph 57 of the NPPF. Provision for vulnerable highway users and peak flows has been considered in terms of the preventing of vehicles exiting the site during peak times when the school opens and closes each day, which is expected will be secured via planning condition (see Technical Note – Vehicle Movement Condition). It is not considered that there is any clear policy requirement for a dedicated cycle route to be provided on site as part of the proposals.
9. The proposed footpath within the site will provide a safe, off-road route to link Hamble School and the station with the houses at the south and east of the site, (and west once restored) and will encourage walking where previously people may have driven to the school. Whilst some people currently use the site for recreation, there is no clear or easily accessible way out at the north-west corner of the site without having to climb through gaps in fences and vegetation, and as such the path will be clear benefit in this regard and will encourage those who may have not used the site previously due to the lack of accessibility in this corner, or its private status, to make use of the site for walking.
10. It is considered therefore that the proposal will result in improved public access and encouragement to use sustainable transport measures via the creation of the permissive

footpath and public open space on the site. This will make the site more accessible to pedestrians via a clear and accessible walking route, linking houses at the south and east of the site to the school and station in the north-west, and upon restoration will have additional links along the western side. This is a clear benefit in terms of public access, and whilst no dedicated footpath or bridleway can be provided at this time, the permissive path and public open space is secured through the planning permission and will require a planning application to change the approved plans.

11. In addition, the significant financial contribution being provided by Cemex is understood to be proposed to be used to enhance sustainable transport measures, i.e. walking and cycling in the vicinity of the site, and will be secured via S106 agreement. This therefore can potentially be used for the Hamble Rail Trail as requested, subject to County Highways requirements.
12. It is considered therefore that the proposal is in line with the above policies, none of which require specifically a dedicated public bridleway to be provided on the site. The proposal provides enhanced public access and public rights of way via the proposed provision on site and the financial contribution, and protects the line of the existing footpath without requiring any diversion.