

14th December 2023

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Dear Lisa

Proposed extraction of sand and gravel, with restoration to grazing land and recreation using imported inert restoration materials, the erection of associated plant and infrastructure and the creation of a new footpath and access onto Hamble Lane (Application No. CS/22/92277)

Hamble Parish Council representations following submission of further information by Cemex received 3 November 2023 (in response to Regulation 25 (2nd round) request 24th August 2023).

General Observations

Unlike most sites allocated for sand or gravel extraction Hamble Airfield is sited within a busy and thriving community. It is adjacent to places of education, business and of course residential property and accessed by a road which the County Council has agreed on multiple occasions is not fully fit for purpose. The quarrying operation would have a significant impact throughout its operation and for many years after that by way of its restoration and future use. This application was received nearly two years ago and has caused the community immense stress and uncertainty. We appreciate the diligent approach by officers of the local planning authority but we hope you will agree that by any reasonable measure this process has now gone on long enough. The applicant has had time to provide all of the information which should be needed and consultees enough time to make fully informed responses. We hope the application will now be brought before the Regulatory Committee for a decision as soon as possible. **The Parish Council remains resolutely of the view that the correct decision would be to refuse permission.**

In relation to the further information which has been submitted by Cemex following the second Regulation 25 request issued by the local planning authority on the 24th August 2023 we have the following comments.

Highways Mitigation

The Parish Council has not had time to properly consider the responses from Cemex received today (in order to meet this deadline) regarding engaging with any of the concerns

raised about highways impact and safety. However, it seems there is very little detail and it still appears they will only react to the pressure applied by the highway authority.

The Parish Council therefore reiterates its very considerable concern at the way in which the highway authority has approached assessing the impact and the mitigation requirements for this proposal. We also maintain that the effect of the defects in their approach is to compromise the local planning authority's ability to properly determine the application.

To briefly restate our position¹:

The highway authority has not placed on the planning register any consultation response in which it sets out its assessment of the impact of the development on Hamble Lane. It has informed the local planning authority of a requirement for a mitigation payment of £500,000 without any explanation of why this amount (rather than a larger or smaller amount) is necessary, to fund works which are themselves unspecified. The information gathered by Hamble residents through Freedom of Information requests has reinforced the absence of detail or justification lying behind the highway authority's response.

This gives rise to two issues:

Firstly, whilst the local planning authority is entitled to rely on the advice from a statutory consultee to a reasonable degree, it has no evidence to hand of how the highways impact of the proposal has been determined and nothing other than an assertion that the sum of money requested by the highway authority is the necessary and sufficient amount to fund the (unspecified) works of mitigation. Without this evidence it cannot reasonably be satisfied that the application is in accordance with the relevant policies of the development plan as required by law.

Secondly, the local planning authority cannot conclude that the planning obligations being sought will meet the test set out in S122 of the Community Infrastructure Levy Regulations 2010 to the extent that they are necessary, and fair and reasonable in scale and kind. The fact that an applicant is willing to make a payment is clearly not sufficient to satisfy this test. The regulations are designed just as much to ensure that applicants cannot agree to 'overpay' contributions as a means of obtaining a favourable consultation response as to prevent them from being unfairly penalised.

No evidence has been provided that the impact of the proposal on the operation of Hamble Lane and the safety of pedestrians and cyclists using highways infrastructure has been properly assessed by the highway authority. On the County Council's own published figures Hamble Lane was in need of investment vastly in excess of £500,000 before the impact of this development was factored in. We recognise that it is not possible to require an applicant for planning permission to make good previous deficiencies and failures to deliver highways improvements. But proposals must be assessed against the reality of the highway network, not its theoretical capacity or condition, and the reality is that nothing short of the

¹ Previously set out in our letter of the 1st August 2023

full upgrade promised by the County Council over many years could have made this application acceptable.

Public Rights of Way/Active Travel Provision

As set out in your letter of the 24th August 2023, the Hampshire County Council rights of way team maintains its position that the additional 'footpath'² proposed to the east of the site should in fact be constructed as a bridleway (which means it will be useable by cyclists), and formally dedicated as part of the public rights of way network.

The purpose of dedication is to ensure that it cannot be closed or diverted at the whim of the landowner as will be the case if it is merely permissive. The local planning authority recognises this risk by identifying that the offer of permissive paths will not carry the same weight as dedicated rights of way in the development plan.³ Cemex say in their response posted on 3 November 2023:

"Cemex are not the landowners and it will not be possible to formally dedicate the path at this time, nor provide a bridleway."⁴

In itself, this statement is a non-sequitur. The fact that Cemex is not the owner of the land makes no difference as to whether this can or should be a requirement of any planning consent. The proposed new footpath/bridleway is located entirely on land within the red line boundary of the application and it can be presumed that the applicant has the ability to satisfy this requirement if it is necessary to make the application acceptable.

If this is not achievable, a requirement should be included in any Section 106 agreement upon which a planning consent relies that it be kept open and in good condition throughout the operational period and for the entire period of restoration management. Such agreement will, of course, have to be signed by and will therefore bind the landowner.

Because the highway authority has not provided details of the works which are considered necessary to mitigate the development it is unclear whether bridleway status, and therefore use by cyclists, is considered essential as part of the active travel measures the highway authority has it in mind to promote. This further reflects the unsatisfactory lack of clarity in the advice it has provided. The Parish Council strongly supports the creation of a new and permanent active travel route. If this is to suitably constructed and maintained for shared use it would also support its provision as a bridleway (because this then be used safely by cyclists alongside pedestrians).

We note that Cemex do not consider that additional funding should be provided to be used for the maintenance or upgrade of this right of way (whatever its final status) over and above their highway mitigation payment. We obviously disagree, but in the absence of any information provided by the highway authority about the use of that funding it is difficult to make any further observations.

² As described by the applicant

³ Hampshire Minerals and Waste Plan 2013 Para 4.42

⁴ 'Cemex clarification response to Countryside Rights of Way response January 2023' (Cemex document is undated and no author identified)

Flood Risk

The applicant has submitted further details of its strategy for ensuring that surface and ground water pose no flood risk to neighbouring properties or infrastructure. This seems intended to resolve the problem identified by various consultees, including the Parish Council, of how it would be possible to ensure that imported fill material is sufficiently permeable to ensure that water can infiltrate at the intended rate. The solution proposed is to create infiltration features with appropriate capacity which are independent of the imported material.

We expect to see the local planning authority obtain independent verification that the assumptions made and engineering solutions proposed in this strategy will provide the level of assurance that residents reasonably require.

Air Quality, Noise and Health Impact

We recognise that the Health Impact Assessment and the further information provided by Cemex in relation to air quality and public health risks do try to engage with the questions raised in the Section 25 request and the concerns raised by the UKHSA in their consultation response. However, Cemex acknowledge that they cannot supply much of the comparative data and monitoring information requested because in effect 'we have never been asked to do it anywhere else'. That is a circular argument which will not reassure our residents.

Hamble Airfield would be different from many other sand and gravel quarries in that there are sensitive receptors in much closer proximity than would usually be the case. This places a greater onus on the local planning authority to be sure that the impact on those receptors is both properly assessed and that the levels of exposure the local planning authority accepts are indeed safe.

It is therefore welcome that you are seeking independent advice on this issue, and we look forward to the publication of that evidence for scrutiny as soon as possible.

Restoration and Management Proposals

The information provided by Cemex sets out some relatively small changes to the details of the proposed structure and content of the restoration process and the restored airfield site. It is not entirely surprising (bearing in mind the future ambitions of the landowner, Persimmon Homes) that they are careful to avoid clear commitments regarding long term management, but this makes it all the more important that the local planning authority is robust in its negotiations. It is disappointing to note that the biodiversity net gain attributed to the site even after restoration would be less than 10% and therefore below the minimum legally defined requirement for applications received after January 2024 were the application being assessed on that basis. This serves to show how important it is that every aspect of the proposed site restoration is achieved and retained.

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Natural England has pointed out that the restored site has potential to provide 'SPA supporting habitat' as part of the functionally linked network of sites in and around the Solent SPAs. But that potential can only be realised (and therefore can only be given any weight in the decision-making process) if the site is to be protected in full during and in the long-term after restoration.

The Parish Council's position is that the restoration proposals for the site (should consent be given) should operate on a basis analogous to those which will be compulsory once the requirements for biodiversity net gain come into effect at the beginning of next year. Any consent should be subject to a Section 106 agreement which requires the parties to restore and then maintain **the whole site** in that restored condition preferably in perpetuity, but certainly for at least 30 years. Anything less would not provide the mitigation which is being claimed by the applicant. Although it is not possible to prevent by condition one of the parties from promoting another use of part of the site for other planning purposes, or making a planning application in respect of some part of the site, it is possible (under contract) for the parties to be bound not to make any changes to the site which disturbs or alters the works which were considered necessary as mitigation in respect of this planning application. If that is not acceptable to a party who will be required to sign the Section 106 agreement then planning consent should be refused.

Summary

The latest submissions from Cemex have provided only very limited additional information, and for the most part focused on defending the approach they have taken to the application from the outset. Once again, they have made no attempt to engage directly with us or the community. We are also extremely disappointed by the way that the highway authority, as the most important single consultee, has provided no support to residents and businesses to explain its mitigation proposals or strategy for delivering those works. A great deal of the workload created by Freedom of Information requests and responding to legitimate enquiries on highways issues could have been avoided had there been more openness and transparency in their approach.

On behalf of residents, businesses and visitors to the peninsula we urge you to bring this application to the Regulatory Committee as soon as possible for a decision and to recommend refusal.

Yours sincerely

Helen Robinson

Helen Robinson
Clerk

Ben Clifton – Strategic Highways Manager HCC
All members of the Regulatory Committee

Hamble Parish Council, Parish Office, 2 High Street, Hamble, Southampton SO31 4JE

Executive Members – Adult Health and Care, Childrens Services, Universal Services, Hampshire 2050 and Corporate Services, HR, Performance, Communications and Inclusion and Diversity.

Cllr Tonia Craig – Chair Local Area Committee

Paul Holmes MP