

ITEM 9

PROJECT	Delivery of an acoustic fence adjacent to the A303 in association with the Andover Business Park. Update.
CASE OFFICER	Mr Jason Owen
Background paper (Local Government Act 1972 Section 100D)	

1.0 INTRODUCTION

1.1 This report is submitted to Northern Area Planning Committee to update Councillors on the progress made in the delivery of fencing associated with the development of employment opportunities at the Andover Business Park, and to report that there are sections of the road that it is not possible to provide acoustic fence.

1.2 The report seeks NAPC agreement that in respect of those areas of land that acoustic fencing cannot be provided, the Local Authority decides that no further action is taken.

2.0 BACKGROUND

2.1 On the 26th August 2009 planning permission, under reference 07/01951/OUTN, was granted for:

*Erection of Business Park with both Outline and Full details comprising :
Outline - Plots 1, 2, 3 and 5 for uses comprising business (Class B1), storage and distribution (Class B8), hotel (Class C1) and community building (Class A1/D1), biomass plant and associated works, and Full - Unit 4 for uses comprising storage and distribution (Class B8), access roads, vehicle maintenance building, car and lorry parking, landscaping, fuel island, vehicle wash, weigh axle reader and associated works (Amended description)*

This planning application made provision for a building that was to be occupied by named occupier on part of the site (Tesco) and for other, speculative, employment uses across the remainder of the approx. 50Ha, mainly greenfield, site.

2.2 The planning permission was granted subject to a range of conditions and Obligations (the latter contained in the legal agreement). One provision of the legal agreement (Schedule 8, Part 2) was for the applicant to (summarised):

*Approve and install acoustic fence prior to first occupation of the development, or
pay the Council a sum representing the cost of installing the fence, prior to first occupation.*

2.3 Following the grant of planning permission the applicant (Goodman) and Tesco parted company. This planning permission was not implemented.

- 2.4 The applicant, shortly after, submitted a further planning application that sought permission for:

“Erection of business park with both outline and full details comprising: Outline - Plots 1, 2, 3, 5 and 6 for uses comprising business (Class B1), storage and distribution (Class B8), hotel (Class C1) and community building (class A1/D1), biomass plant and associated works and Full Permission for Plot 4 for uses comprising storage and distribution (class B8), access roads, vehicle maintenance building, car and lorry parking, landscaping and associated works”

This planning application made provision for a similar type and scale of employment development to that which had gained planning permission previously. That said, the building that was to be occupied by a new named occupier as a result of this permission (the Co-Op) differed in both height and length to that of the ‘Tesco’ scheme, and resulted in a change in both the number and profile of vehicles that would be using the road network as a result. The other, speculative employment uses identified across the site, remained the same.

- 2.5 Planning permission ref. 09/02392/OUTN was issued on the 19th March 2010 and was accompanied by a legal agreement. The terms of the Agreement were identical to the earlier permission, and, for the purposes of this report, reiterated the terms for the acoustic fence as they have been summarised above in para 2.2.
- 2.6 Following the grant of planning permission the applicant subsequent sought, and gained, approval of a specification of acoustic fencing work from the Local Planning Authority, that would allow them to construct the various sections of fencing adjacent to the A303. This plan is attached at **Appendix A**.
- 2.7 The planning application was accompanied by an Environmental Statement. Section 10 of the ES contained “*Table 10.12: Predicted traffic noise levels with and without [sic] scheme of noise barriers*”. This is contained at **Appendix B**. The noise levels referred in this Table were modelled based on the Business Park being fully occupied and operational (during 2013) for the activities that formed the planning application at the time. It should be noted that there have been changes in (anticipated) occupiers operating from the Business Park in the intervening period, and the Business park is not, at present, fully occupied.
- 2.8 It is also noted that during 2014 the HE installed thinner surfacing to the carriageway of the A303 in this location. This surface is acknowledged to have noise reducing properties. The HE advise that this surface is expected to last 10-15 years and it has been emphasised that the noise reducing capabilities are a “*secondary benefit*”.

- 2.9 Preparatory and construction work commenced on site in anticipation of the Co-Op occupying the new building and, when the applicant sought agreement from the Highways Agency, (now since renamed Highways England – referred to in this report as the ‘HE’), to erect the fence it transpired that the HE’s, hitherto, unknown policy for not permitting fencing on their land became evident and permission was, effectively, denied. Attempts to resolve this directly with the HE, including contributions from the former Leader of Test Valley Borough Council, Cllr Carr and the former Member of Parliament for North West Hampshire, Sir George Young MP. These discussions were unsuccessful and the HE’s policy remained in place.
- 2.10 The effect of this HE policy was that Goodman could not fulfil their Obligation to build the fence, and instead invoked the ‘fall-back’ terms of the legal agreement that required them to pay the Borough Council a sum of money equivalent to the cost of delivering the fence. A sum of money was agreed and this was transferred to the Borough Council prior to first occupation of the building by the Co-Op. It should be noted that had the Co-Op occupied the building prior to delivery of the fence, or payment, then the LPA would have had to take legal action to prevent this from taking place.
- 2.11 Despite absolving themselves of any direct, legal, involvement in the fence Goodman, nevertheless, continued to provide support and logistics to TVBC in delivering fencing in locations that broadly equated to the approved scheme – albeit now reliant on land close to the original locations that were in other private and public (TVBC) ownership, to do so. This resulted in significant levels of the fencing being provided. As each section of fence was delivered, the Borough Council reimbursed Goodman of the costs incurred from the financial contribution referred to in Para 2.8. A sum of money remains un-spent from the total contribution received. Any money not spent on the fence is required to be paid back.

3.0 AREAS WITH FENCING

- 3.1 By reference to the approved plan (**Appendix A**) fencing has been provided in:
- Sections A/B: Approximately 205m on land adjacent to Gallaghers Mead
 - Section D: Approximately 311m on land adjacent to Floral Way
 - Section E: Approximately 256m on land adjacent to Leyton Way, Balksbury Hill
 - Section F: Approximately 500m on land between Barlows Lane and the A3057 (Winchester Road).

4.0 AREAS WITHOUT FENCING

- 4.1 By reference to the approved plan (**Appendix A**) fence in “Section B and C” are not being provided:
- Barrier B1 – Approximately 226m between the A303 and the existing dwellings associated with Army HQ;
 - Barrier B2 – Approximately 134m between the existing dwellings associated with Army HQ; and
 - Barrier C - Approximately 276m between the A303 and existing dwellings in the area of Shaw Close, Spruce Close and Cypress Grove on the Gallaghers Mead estate.

5.0 **ACTIONS AND OUTCOMES UNDERTAKEN IN THE AREAS WITHOUT FENCING**

5.1 In the context of the sections of fencing referred to in Para 4.1 above, the main focus was to seek a solution for the delivery of Barrier C.

5.2 Barrier C

This section of fence runs alongside part of the eastbound on-slip road to the A303 from its junction with the Hundred Acre interchange, to a position adjacent to, but not on, the railway bridge. When travelling along this length of road in a west-to-east direction, the level of the carriageway rises relative to the adjacent land to ensure clearance of the road over the railway line. This level change is explained by the presence of a bridge and revetments and a very long and steep embankment within the HE boundary. The HE land, including the embankment has some vegetation and small tree coverage. The land immediately to the north of the HE boundary comprises a woodland area under the sole control and management of the Gallagher's Copse Management Company (GCMC). This is a private company owned by residents on the Gallagher's Mead estate.

5.3 Discussions between Officers of TVBC and the Directors of the GCMC began in January 2014. The aim was to identify a solution that enabled a fence to be achieved on the GCMC land. Officers met on multiple occasions following that initial meeting, and a final response setting out their position was obtained from the GCMC at their AGM in April 2018.

5.4 Two potential solutions were put forward and Officers assessed the relative merits of each in conjunction with the GCMC and HE:

- (i) To provide a fence solely on GCMC land.
- (ii) To provide infill material to raise the height of the embankment adjacent to the A303, to allow for the fence to be set back further from the carriageway. This solution would only relate to land in HE control.

5.5 A fence solely on GCMC land

Following initial meetings with the Directors of the GCMC Officers sought to quantify what a potential solution on their land might comprise, what effect that solution might have on the trees that currently exists on the site, where site construction compounds might be located during the construction period, and the routes likely to be taken by any contractors/machinery through the woodland during the construction period – and their effect.

5.6 Officers commissioned the TVBC Engineers to provide a schematic drawing showing how these questions might be achieved and at the same time deliver the principle objective that a solution should achieve a comparable noise benefit, to that which was originally approved. **Appendix C** shows the indicative layout of the area and **Appendix D** shows indicative cross section and elevation details of a solution. The solution includes scope for a fence to be placed on top of an earth bund. The siting of the bund/fence cannot be placed closer to the HE boundary than that shown on this plan to reflect advice from the HE.

5.7 Officers also commissioned an independent Arboricultural Consultant (Technical Arboriculture (October 2017) to visit the woodland and assess the effect of the works detailed in Appendices C and D. A copy of the report is not appended to the agenda paper, but the consultants opinions are summarised as follows:

- Area provides informal recreation inc. dog walking
- Mature Ash and Beech trees, Horse Chestnut and Sycamore regeneration
- Understory birch and hazel also present
- Some benefit to thinning to achieve woodland management objectives – not recent activity
- Range of tree categories (Cat B, C and U) for individual trees – typical of woodland
- Overall woodland would be Category B
- Three sections of fencing assessed:
 - Approx 50m from existing fence on TVBC open space
 - Approx 100m from the end of Section 1
 - Remaining distance to the railway line fence

Section 1

- Installed at ground level
- Impact on two large trees (Beech and Sycamore)
- Reasonable adjustment of alignment and excavation possible to not impact on trees
- Some loss of small trees
- Loss of these trees could represent reasonable woodland management
- Regeneration in time would occur from cut stems or seed-bank in soil.

Section 2

- Fence on earth bund – widening along length
- HE requirement for bund base to be 2.8m back off boundary
- Difficult to identify ‘weaving’ through tree so some tree loss likely – woodland management(?)
- Soil depth greater than 200-300mm would impact on root function – limit gaseous exchange (unless mitigated)
- Root damage and tree death likely when soil depth exceeds 1m
- Coppicing on A303 side of fence – no benefit to woodland users

Section 3

- Width of bund (5m – 15m), set back distance off HE boundary = construction impacts to woodland (landscape and amenity value)
- Direct loss of trees – “significant numbers of good quality woodland trees”
- Indirect loss of trees (root suffocation)
- Loss of Cypress trees – not native? Value?
- Opportunities for replacement planting
- Existing path covered by bund – re-routing?

Other impacts

- Compound access – tracks narrow, trees limit manoeuvrability – damage to remaining trees likely
- Ground protection needed

5.8 A copy of the plans and the Arboricultural Consultants report were provided to the GCMC in December 2017. This was in advance of the AGM in April 2018. The Development Manager (South) attended the AGM and also provided an overview of the case. A vote of the AGM members in attendance was taken and a unanimous vote to not allow TVBC to utilise the GCMC land, was recorded. A final written response from the Chairman of the GCMC was provided on the 25th April 2018 to confirm the outcome.

5.9 This option is not therefore deliverable due to the landowner not willing to progress. It is on this basis that Officers consider that this option cannot be progressed.

5.10 Infill embankment and erect fence on HE land

Advice received from the HE to this suggested potential solution was that: *“In broad terms you would need to consider the potential adverse impacts from the construction of a significant bund adjacent to the A303 or other significant groundworks and would require further information in accordance with Standard HD 22/08, which is required in order for us to determine if there is likely to be any significant impact on the A303. Additional information will need to have sufficient detail about height of the bund, distance from the toe of the bund to the highways boundary, information about how the run-off will be dealt with/drainage system, slope stability analysis etc.”* and *“Given that the options could be for the construction of a significant bund adjacent to the A303 or other significant ground works, we would expect supporting information to include documentation in accordance with Standard HD22/08 – Managing Geotechnical Risk. Supporting information should also include ground investigation works and slope stability analysis”*.

5.11 This option requires the deposit of material on an existing incline that supports an elevated and bridged (over the railway line) section of a major Trunk Road. It is also in very close proximity to the Salisbury to London railway line. The HE set out, in very general terms the nature of the work required to support an application to undertake such work on the highway network. Reference to understanding the scope and nature of groundworks needed, any height of the bund and fence, management of surface water and drainage from the bund, the effect on existing surface water management from the A303 carriageway and slope stability analysis, have been made. These studies are all required, and the results known in advance of an application to the HE, before the HE can consider the desirability of the work being undertaken. If one were to simply disregard the DfT Guidance referenced by the HE the cost associated with the preliminary work – needed before the HE could make any judgement on the acceptability of the work, would not be insignificant. In discussions with the HE this option is not a viable or realistic prospect. It is on this basis that Officers consider that this option is not a viable proposition.

5.12 Barrier B1 and B2

For reasons related to the possible effect of noise deflection occurring as a consequence of putting fencing on the Army HQ side of the A303 (Barriers B1 and B2), a solution here was not progressed pending Officers finding a viable solution for the Gallagher's Mead section (Barrier C). For the reasons that are set out above it is not possible to deliver a fence on the Gallaghers Mead side of the A303. Consequently, it is recommended that Barriers B1 and B2 are not progressed.

6.0 **CONCLUSION**

6.1 Officers have sought to deliver the Council's aspirations for acoustic fencing to be installed alongside the A303 following the grant of planning permission for the Business Park in 2010. Issues associated with the HE's policy, and balancing another key Council objective to ensure the delivery of jobs and economic development meant that TVBC was provided with a sum of money to deliver the fence itself. Although Goodman continued to assist the Council each new section of fence proposed required a bespoke solution involving either the Council's own land or on land in private ownership. In some areas identifying, and subsequently delivering, the solution proved easier than others, and where this was the case fencing has been provided.

6.2 However this report also sets out that there is not a viable or available solution to provide an acoustic fence in the Gallaghers Mead area. Consequently progressing a fence on the Army HQ side of the A303 in the absence of a scheme on the GCMC land, may exacerbate the noise impact on those residents and as such it is not appropriate to progress these barriers.

6.3 During the intervening years, and as a consequence of liaising with local landowners and the HE it is considered that there remain no further, alternative options the Council could progress to deliver fencing in areas identified. Consequently it is recommended that the Council decides that it takes no further action to deliver the outstanding section of off-site fencing.

7.0 **RECOMMENDATION**

7.1 That **no further action** be taken to deliver the outstanding sections of, off site fencing.