

## ITEM 7

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<b>APPLICATION NO.</b>	16/01512/OBLN
<b>APPLICATION TYPE</b>	DISCHARGE/MODIFY OBLIGATION - NORTH
<b>REGISTERED</b>	22.06.2016
<b>APPLICANT</b>	Goodman Real Estate (UK) Ltd
<b>SITE</b>	Andover Business Park, Monxton Road, Andover, <b>ABBOTTS ANN / PENTON MEWSEY / ANDOVER TOWN (MILLWAY) / MONXTON</b>
<b>PROPOSAL</b>	Modify the planning obligation associated with Planning Permission 09/02392/OUTN by removal of Part II of Schedule 6 regarding HCV Traffic Demand Management systems
<b>AMENDMENTS</b>	
<b>CASE OFFICER</b>	Mrs Laura McKay

Background paper (Local Government Act 1972 Section 100D)

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### 1.0 INTRODUCTION

- 1.1 This application is referred to Planning Control Committee because the Northern Area Planning Committee (NAPC) at their meeting on 17 November 2016 was minded to refuse the proposed modification for a reason that the Head of Planning and Building advised could not be properly substantiated and would likely result in a risk of an award of costs against the Council if the applicant should lodge an appeal.
- 1.2 A copy of the Officer report to NAPC on 17 November 2016 is attached at Appendix A. A copy of the Officer Update Paper to NAPC on 17 November 2016 is attached as Appendix B.

### 2.0 PLANNING CONSIDERATIONS

- 2.1 Planning permission was granted in 2006 for the Business Park, with a revised application in 2007 (07/01951/OUTN), which would have included Tesco on site, and another in 2009 (09/02392/OUTN) proposing Co-op on site instead of Tesco. The s106 agreement for the 2009 application is the subject of the current application.
- The application only relates to the HCV (Heavy Commercial Vehicle) Demand Management System, and no changes are proposed to any other obligations in the agreement, so the Barred Routes and all other requirements would remain unaltered.
- 2.2 The proposal seeks to remove an obligation from the s106 agreement for the outline permission for Andover Business Park which limits HCV movements exiting the park to 85 per hour. The obligation was originally imposed at the request of the Highways Agency (now renamed Highways England) who sought to ensure that the volume of HCV's from the site would not have a detrimental effect on the safe and efficient operation of the A303, given the very close proximity of the A343 to the A303 slip road. The relative distance

between the end of the eastbound on-slip road from the Hundred Acre junction and the start of the off-slip road serving the A343 junction was identified as a significant physical constraint and concern had been expressed about the potential conflict between traffic entering the A303 from the Hundred Acre interchange with those wishing to leave the A303 at the A343 junction. The relative movements of such vehicles, changing lane to come off the slip road, or to enter into the next slip road, are known as “weaving”. In response to this physical constraint the applicant, the Highways Agency and HCC Highway Authority agreed at time of the 2007 application that it was wholly appropriate (in light of national policy advice at the time, and in considering the level of traffic that could be implemented under the extant outline permission) that a fixed hourly cap of 85 HCV’s could be allowed to use the network without giving rise to a highway safety issue.

- 2.3 The legal test to be applied in this application is whether the obligation continues to serve a useful purpose. This may be the purpose for which it was originally designed, or another purpose. If it does, then it will be necessary to refuse to modify the obligation. If it does not, then the obligation should be removed.
- 2.4 NAPC heard representations from Abbots Ann Parish Council at the meeting on the 17 November 2016. Concerns were raised by the Parish Council that removing the cap on HCV movements leaving the Business Park could result in congestion on the Hundred Acre roundabout through an increase in traffic and removal of the “stagger” created by the HCV Demand Management system. The Parish Council was concerned that such congestion would put people off using the roundabout and that they would instead choose another route, leading to traffic being displaced onto local roads as “rat runs”.
- 2.5 NAPC considered that the HCV cap regulated HCV movements exiting the Business Park and entering onto A303, and that in this it still served its original purpose. NAPC also considered that the HCV cap served a useful purpose in regulating traffic onto the local road network at the Hundred Acre roundabout. For this reason NAPC concluded that the proposed modification should be refused.
- 2.6 In their comments on the 2007 application for the Business Park, Highways England raised the proposal for an HCV cap. In proposing that obligation they took into account the level of traffic that could be implemented under the then extant outline permission granted in 2006, and the traffic modelling for the 2007 application. The HCV cap was set above the forecast level of HCV movements exiting the Business Park.
- 2.7 Those permissions are no longer extant as only the 2009 application was implemented. The application to modify the obligation includes up to date traffic modelling, including actual data from traffic surveys on surrounding roads. It reflects the existing uses of the Business Park and forecasts traffic levels for the Park when fully occupied, taking into account the existing planning permissions for the unoccupied and vacant plots. This modelling forecasts a peak of 41 HCV movements exiting the park in any one hour.

Because of the nature of the permitted uses at the Business Park, HCV movements are spread throughout the day, rather than clustered at peak traffic times elsewhere on the road network. For example, the Co-op distribution centre (which forms the bulk of HCV movements) would see a peak of HCV movement exiting the park between 5am and 6am, reflecting the nature of their business supplying food to supermarkets and convenience stores. The modelling therefore forecasts that the HCV movements exiting the Business Park would not reach the 85 per hour limit, and indeed would be less than half that amount at its peak.

- 2.8 It should be noted that the HCV Demand Management System does not regulate HCV movements throughout each hour, it only limits the total number per hour. It prevents more than 85 HCV's leaving the Business Park each hour by holding any excess at a red light until the next hour commences, so any excess would queue and all be released at once. It does not stagger their leaving during that hour, so a cluster of HCV's could all leave at the same time onto the roundabout and then onto the A303. The cap does not therefore create a staggered release to the road network.
- 2.9 There is no indication in the modelling that the removal of the cap would increase traffic numbers or HCV numbers overall, in fact the forecast figures, taking into account actual traffic associated with occupied plots, are lower than predicted when considering the original outline permission. This indicates that the 2007 application overestimated future traffic flows. The updated modelling now submitted also takes into account traffic associated with the Army HQ development. The concerns of the Parish Council are sincerely held but there is no evidence that removal of the cap would increase traffic volumes associated with the Business Park.
- 2.10 Plot 5 and parts of Plot 1 of Andover Business Park remain vacant and full planning applications would now be required when these come forward, as the time period to submit reserved matters applications under the outline permission has expired. The scale and nature of development on those plots, and the consequent traffic impacts, would be considered at the time of the applications in cumulation with permitted and existing developments. If the resulting traffic generation were to exceed the capacity of the local road network or the A303 then appropriate mitigation measures could be included in any new planning permission. The traffic implications of future development on the Business Park are therefore under the control of the Local Planning Authority.
- 2.11 The Hundred Acre roundabout was redesigned to accommodate traffic from the Business Park as proposed in 2007, including a substantial Tesco site, plus some additional capacity. This redesign carried forward to the 2009 application and has been implemented. The roundabout is therefore designed to accommodate greater levels of vehicular flow (including HCV's) than were forecast in 2007, which in themselves were greater than are currently forecast. Therefore while there is no evidence that traffic would increase beyond what is currently forecast, if it were to happen in the future the roundabout is capable of accommodating this increase without detriment to the local road network.

- 2.12 It is noted that there is no restriction on the number of HCV's which can enter the Business Park from the A303 or using other parts of the Hundred Acre roundabout (other than those subject to Barred Routes). The Business Park has been in operation for several years now and no evidence has been presented that the unfettered HCV movements entering the Park has had any undue or unforeseen traffic operational impact at the roundabout.
- 2.13 The Hundred Acre roundabout is signalised and changes to signal timings and hatching could change the performance of individual approach arms and the junction operation as a whole. This lies within the control of HCC and Highways England, and is a tool available to manage traffic on the roundabout. Therefore if there were to be an increase in queue lengths on a particular arm of the junction, this could be managed by changing signal timings. This would mitigate congestion issues at the roundabout.
- 2.14 Both Highways England and HCC as Highway Authority have scrutinised the modelling submitted in this application and are satisfied that it is robust. The modelling does not demonstrate any adverse impact on either the strategic road network (the A303(T)) or the local road network if the 85 HCV cap were to be removed. HCC conclude that there would be no material impact on the local road network and Highways England conclude that there is no need for the cap.

### 3.0 **CONCLUSION**

- 3.1 Having regard to the information submitted in the application and the technical advice of statutory highway consultees, it is considered that the HCV Demand Management System no longer serves a useful purpose in terms of managing traffic entering the A303. Furthermore the modelling of traffic from the Business Park when fully occupied does not forecast that HCV movements will exceed the numbers which the Hundred Acre roundabout was designed to accommodate. It actually forecasts traffic movements well below those expected when the previous planning permissions were granted.
- 3.2 The HCV Demand Management System does not stagger HCV flows onto the local road network or A303 as it allows for HCV movements at any time within any one hour, potentially all clustered together. It is noted that there are no restrictions on HCV movements coming into the Park, and their existing impact on the roundabout has not raised any highway safety concerns. Measures are available to improve operation of the roundabout were any congestion to occur, and these are within the control of HCC and Highways England. The HCV Demand Management System is not therefore necessary to manage the operation of the roundabout. As such it is considered that the HCV Demand Management System does not serve a useful purpose in regulating the impact of HCV traffic on the local road network, or in managing congestion on the roundabout.
- 3.3 It is therefore considered that the HCV Demand Management System does not serve a useful purpose either for its original or any other purpose, and that its removal would not have material impacts on the local or strategic highway networks. As such it is recommended that the obligation be removed.

**4.0 RECOMMENDATION OF NORTHERN AREA PLANNING COMMITTEE**

**4.1 REFUSE to modify planning obligation for the following reason:**

- 1 The planning obligation continues to support its original purpose of managing HCV traffic entering onto the A303, and also has a purpose in managing the impact of HCV traffic on the local road network by regulating traffic onto the Hundred Acre roundabout, thereby managing congestion and reducing the likelihood of traffic being displaced to other routes.**

**5.0 RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING**

- 5.1 Delegate to the Head of Planning and Building to agree MODIFICATION of the legal agreement for permission 09/02392/OUTN to remove Part II of Schedule 6, which relates to HCV Traffic Demand Management.**
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## **APPENDIX A**

### **Officer Report to Northern Area Planning Committee on 17 November 2016**

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<b>PROPOSAL</b>	Modify the planning obligation associated with Planning Permission 09/02392/OUTN by removal of Part II of Schedule 6 regarding HCV Traffic Demand Management systems
<b>AMENDMENTS</b>	01.09.16 – Additional modelling data submitted
<b>CASE OFFICER</b>	Mrs Laura McKay

Background paper (Local Government Act 1972 Section 100D)

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#### **1.0 INTRODUCTION**

- 1.1 This application is referred to the Northern Area Planning Committee as the application, in the opinion of the Head of Planning and Building, raises issues of more than local interest.

#### **2.0 SITE LOCATION AND DESCRIPTION**

- 2.1 The Andover Business Park was formerly Andover airfield, and had permission in 2010 for erection of a business park. Various parts of the business park have now been built out, including the Co-op distribution centre, a warehouse building and pub. There are a care home and hotel currently under construction.

#### **3.0 PROPOSAL**

- 3.1 This application is made under S106 A of the Town and Country Planning Act 1990 (as amended) which sets out the provisions by which the planning obligations within a S106 agreement can be modified or discharged. S106A(6) sets out that when an application is made, the LPA may determine:
- a) that the planning obligation shall continue to have effect without modification;
  - b) if the obligation no longer serves a useful purpose, that it be discharged; or
  - c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the obligation, that it shall have effect subject to those modifications.

- 3.2 Outline permission was granted in 2006 for a business park on the site, together with hotel and conferencing facilities. The application site was also allocated in the 2006 Local Plan for the development of a Business Park. The policies of the Local Plan required provision of employment land for class B1 (office, R&D and light industrial), B2 (general industrial) and B8 (storage and distribution) uses, and required various landscaping, on-site and off-site transport measures to be provided as part of the development.
- 3.3 Part outline and part full permission for the Business Park was applied for in 2007 (07/01951/OUTN - granted in 2009), with Tesco as a potential occupier of a large warehouse unit on the site. A second application (09/02392/OUTN) was then made in 2009 with Co-op taking the large unit, which was then granted in 2010. The latter permission has been implemented.
- 3.4 Both permissions were granted subject to conditions and planning obligations set out in a S106 agreement. The agreement was originally produced for the 2007 application and was then secured for the 2009 application as well. The S106 secured the following obligations related to traffic management and highway safety:
- Financial contribution towards improvements to the highway network;
  - Off-site highway works including improvements to the Hundred Acre roundabout to increase the capacity of the junction, a vehicular bridge over the A303, pedestrian and cycle improvements;
  - Site Travel Plan;
  - HCV Traffic Demand Management System, meaning a “cap” of 85 HCV’s per hour exiting the site and a dedicated traffic lane for HCV’s leaving the site, with a traffic signal phasing system;
  - Barred Routes, monitored and managed through an automatic number plate recognition (ANPR) system;
  - A limit of 7 HCV movements on the A338 within Hampshire per hour
- 3.5 The site is now allocated in the 2016 RLP for employment uses (Classes B1, B2 and B8) under policy LE9.
- 3.6 This application seeks to modify the S106 agreement by removing Part II of Schedule 6, which relates to Heavy Commercial Vehicles (HCV – those vehicles over 7.5 tonnes maximum laden weight) Traffic Demand Management.

Part II requires that details of an HCV Traffic Demand Management System (TDMS) be submitted to the Council, then that the system be constructed and implemented, and that all HCV’s leaving the site do so via the HCV TDMS. It also requires that no more than 85 HCV’s shall be permitted to leave the site in any one hour. Measures for an alternative temporary measure if the HCV TDMS is contravened are also set out in the obligation.

- 3.7 The applicant has submitted a detailed assessment of the background to the planning obligation and their case for its removal, summarised as follows:
- The clause arose from discussions with the Highways Agency (now Highways England) and was intended to control slip road capabilities and impacts on weaving due to the proximity between the Hundred Acre Corner interchange and the A303/A343 Salisbury Road junction to the east;

- The clause addressed an issue associated with the trunk road network (managed by Highways England) and not the local road network (managed by Hampshire County Council);
- The A303 slip road and weaving issues have been reviewed in more detail recently, taking into account the passage of time and the substantial improvements to the Hundred Acre Corner interchange that have taken place. More detailed and up-to date information is now available to inform consideration of these issues;  
*[Officer note – the details of the A303 slip road and weaving issues raised by the Highways Agency previously are set out in paragraph 8.7 below]*
- The case for the modification is that the existing obligation does not serve a useful purpose for the following reasons:
  - The slip roads comply with relevant standards and there is an ample margin for increased traffic flows on each link;
  - The lanes for weaving provided on the A303 comply with the weaving width requirements of the relevant standards with at least a 25% reserve for increased traffic flows;
  - The existing layout is amply sufficient for all weaving between the junctions;
  - In practice the majority of HCV's would not be weaving and there is significant capacity for the network to accommodate additional traffic in this location.
- A microsimulation model of the junctions has been prepared. The inclusion of development traffic does not have any material impact on the merge and diverge onto the A303, in either a westbound or eastbound direction.
- The modelling confirms that the HCV Traffic Demand Management restriction has no benefit in the context of the operation of the trunk road network.

3.8 The applicant has submitted assessments and modelling information, along with the background data for the traffic modelling.

3.9 For clarity, this application only refers to Part II of Schedule 6 of the S106 agreement relating to the HCV Traffic Demand Management System. No other modifications are proposed and therefore all other obligations, including those related to barred routes, would remain unaffected by this proposal.

#### 4.0 **HISTORY**

4.1 TVN.06096/8 - Outline - Business development for Class B1, B2 and B8 (office, light and heavy industrial and storage and distribution) uses, together with hotel and conferencing facilities. Outline permission granted. August 2006.

4.2 07/01951/OUTN - 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)  
PERMISSION.

- 4.3 09/02392/OUTN - 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 – PERMISSION.
- 4.4 14/00485/OBLN - Modification of Schedule 6; Part IV of the planning Obligation attached to planning permission 09/02392/OUTN for the 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, to allow cars to access development located within Plot 1 of the Business Park (as defined by the Framework Plan Drw.No.14961/A1/461) via Monxton Road, and for Heavy Commercial Vehicles (HCVs) to access development located within Plot 1 (as defined by the Framework Plan Drw.No.14961/A1/461) via roads that are currently defined as 'barred routes'. REFUSED; APPEAL DISMISSED.
- 4.5 14/02875/FULLN - Erection of three storey 66 bedroomed care home for older people with associated car parking and landscaping, bin store, garden store/electric meter storage and cycle shelter- Granted Permission (16.10.2015).
- 4.6 15/02138/FULLN - Proposed 76 bedroom hotel with associated car parking and landscaping – Granted Permission (10.12.2015).
- 4.7 16/00008/OBLN - Modify part IV Schedule 6 of the planning obligation associated with 09/02392/OUTN to remove cars accessing Plot 1 via Monxton Road from the current regime of restrictions. UNDER CONSIDERATION (Resolution to approve at NAPC 21/04/16).

## 5.0 CONSULTATIONS

### 5.1 Highways England – No objection

Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the strategic road network. In this case our interest relates to the A303(T).

We have reviewed the additional evidence that has been submitted by the transport consultant in support of the modification of the planning obligation. They have confirmed that, “It is correct that the site is not projected to exceed the 85 [movements] cap”. Due to commercial reasons the occupiers are seeking the removal of the cap [*Officer note: the commercial case made by the applicant is set out in paragraph 8.9 below*]. In terms of the safe and efficient operation of the A303, the forecast trip generation from already permitted development at the site will unlikely have a significant impact, therefore we would not object to the removal of the cap. However, we would strongly recommend consideration of additional measures to minimise trips during peak periods, this might be through a travel plan or similar.

Having examined the application, we do not offer any objections to this condition being removed. We would be concerned if there were any proposals to expand the site over and above already permitted development without consideration of a targeted package of mitigation measures.

We have no evidence to suggest the 85 cap is needed (or was) to maintain a safe and efficient A303.

## 5.2 HCC Highways – No objection

The Andover Business Park has seen a range of associated planning applications since 2007, both in outline for the overall business park, and as part of applications for specific plots. As details of these have come forward, specific trip rates for each of the individual plots have been utilised, all within those originally derived under planning applications 07/01951/OUTN and 09/02392/OUTN. Furthermore, some plots on the business park have been occupied.

The applicant has provided an update to traffic derivation on which to consider the impact of the 85 cap removal. This includes survey of an existing plot, update to reflect forecasts for plots currently under construction, and forecasts for potential uses on vacant plots consistent with data derived from currently occupied plots. Overall the forecast trips are lower than originally considered in the 2007 and 2009 applications. This updated approach is considered appropriate in the context of the Business Park being partly occupied, and subsequent updated applications for individual plots which all utilised standard methodologies for forecasting trips.

Other routes are restricted by the Automatic Number Plate Recognition (ANPR) system as obligated within the S106 so are not considered to see any material change of HCV flow associated with the proposed removal of the 85 HCV cap.

The applicant has updated the traffic modelling previously undertaken for the Hundred Acre junction. The assessment demonstrates that the junction is forecast to operate within capacity. It has been tested further with greater than forecast HCV flows, in line with the sensitivity test Highways England requested and the junction still remains in capacity, although could require slight modifications to the existing signal timings. This is consistent with the junction modelling originally undertaken with the 2007 and 2009 applications. It should be noted that the junction has been designed to accommodate greater than forecast HCV trips.

The 85 HCV cap obligation was principally implemented to mitigate Highways Agency (now Highways England) concerns regarding the weaving distance between the A303 eastbound on-slip for the Hundred Acre junction and the A303 off slip, serving the S343. This was fulfilled by capping the quantum of HCVs egressing the Business Park. Indirectly this would also limit the number of HCV's leaving the site on to other parts of the highway network, albeit it provides no restriction on the number of HCV's on the highway network accessing the site. The restrictions on HCV movements with regard to the highway network were captured by the Barred Routes obligations.

The applicant has provided an assessment of the junction with consideration of a fully occupied Andover Business Park and has identified no material impact associated with the removal of the cap based on the evidence presented to HCC. This is consistent with the forecast situation at the time of the original application.

By permitting the proposed modification to the Section 106 Agreement this would still ensure that the Barred Routes obligations remain in place for all plots on the Andover Business Park site, including the existing distribution centre.

6.0 **REPRESENTATIONS** Expired 15.09.2016

6.1 **Andover Town Council – Objection**

The Traffic Management System should be maintained to protect the adjacent villages

6.2 **Abbotts Ann Parish Council – Objection**

It has previously been agreed by the applicants (appeal for refusal of 14/00485/OBLN) the purpose of the obligation in its entirety was twofold; (i) to ensure HCV's would use the strategic road network on their way to and from the site recognising that the local road network could not cope with the level and profile of vehicles using the site and (ii) to prevent employees of the site "rat running" along the Monxton Road and through the local villages. Further the refusal to modify the obligation in this instance sited a third reason, to protect the living conditions of residents living in close proximity to the carriageways.

Removing the Schedule 6 part II obligation to restrict HCV traffic to below 85 per hour and to monitor the same has the following direct effect:- to increase the traffic entering the 100 Acre roundabout potentially at any time of day or night. This would be especially prevalent at peak times. The 100 Acre roundabout is already congested at peak times, adding further traffic will cause additional delays at this junction. This indirect effect is that this congestion will give a greater incentive to employees and visitors to the site to use the local road network through the local villages including the parish of Abbotts Ann as a "rat run", the additional noise and air pollutions would be a detriment to the living conditions of residents living in close proximity to the carriageways, and further increase the volumes of HCV traffic inadvertently using the local road network.

It is further noted that the ANPR system maintained by HCC is inoperative and has been for 12 months, therefore there has been and is no monitoring or protection from this system for the local road networks and should therefore not be considered as a mitigation until such time as a fully working and proven reliable system for traffic monitoring along the Monxton road is in place.

6.3 **Monxton Parish Council – Objection**

The data on traffic movements in the supporting documents cannot be correct as the AMPR cameras have not been working for over a year. The Parish Council has questioned why the system has not been working for so long and has not yet been fixed.

The additional volume of traffic on the roundabout will cause further congestion and will inevitably send traffic through Monxton High Street.

**6.4 Penton Mewsey Parish Council – Objection**

We believe there are too many assumptions and not sufficient detailed information provided at this time to be able to put this proposal forward for consideration. For example appendix A, the Weaving Assessment Report and in particular the reference to the volume of HCVs and proximity to and substandard distance between Hundred Acre Interchange and A303/A343 Junction. In the absence of a clear explanation for the original requirement, the removal of the system cannot be justified.

The formal views of Highways England as to the effect on A303 is not yet known.

HCC are stating that more information is needed on traffic/trip generations for the whole development and the effect on Hundred Acre Interchange. Figures for undeveloped plots 2 and 5 are assumed. In any event figures in the Scoping Report suggest a 25% increase in hourly outward movements of HCV. The increase would be from 85ph (1.4 per minute) to 105ph (1.75 per minute).

PMPC is very concerned that the requested relaxation would have an adverse and “knock on” effect on the traffic conditions in the area of the Business Park and the environment generally. In addition, we are particularly concerned that the increase in traffic at Hundred Acre roundabout would force local traffic to seek “rat runs” to avoid. Hence the amount of traffic coming along Foxcotte Road in both directions from Weyhill and Charlton would cause a massive increase of traffic flow along the Pentons. Likewise the use of Monxton Road would see considerable increase in traffic movements.

We firmly believe that this Clause should not be deleted in its entirety and perhaps an adjustment to the figure of 85 only should be considered. Finally and most importantly, PMPC are very concerned that removal of this Clause without compelling justification would create a dangerous precedent for other conditions and terms of the S106 agreement which was specifically put in place to secure the future of this Business Unit and the surrounds.

**6.5 Appleshaw, Penton Grafton, Fyfield, Grateley and Quarley Parish Councils – Objection**

The Parish Councils agree that the application contains data that cannot be correct as the AMPR Cameras have not been working for over a year. The volume of traffic on the surrounding village roads will increase as commuters find alternative routes to avoid the congestion at the roundabouts to access the site.

**6.6 34 letters of objection from:**

Newcott, Holly House, The Owls, The Stables, Monxton Mill, The Stables, Meadow Lodge, The Chesters, Saddlers Cottage, Orchard House, Lilac Cottage, The School House, Dingley Dell, Monxton;

Robins, Red Gables, Willow Cottage, The Cottage on The Green, South View, Amport;

Pennymarsh, Little Ann;

11 Farm Road, Upper Cottage, Norfolk House, 5 St Mary's Meadow, Lane Cottage, Yew Tree Cottage, Abbots Ann;

20 Kingsmead, Anna Valley;

17 Sunnybank, Red Post Farm, Elmsleigh, Red Post Bridge, Andover

Raising the following issues (summarised):

- Adverse impacts from the volume and size of traffic using Monxton to access Army HQ and the Andover Business park site as well as Andover town;
- Increased traffic as more businesses occupy the Business Park;
- Continuing and apparently increasing congestion at the Hundred Acre Roundabout at peak times and at A303 intersections;
- Highway safety concerns about traffic on the Hundred Acre roundabout;
- Congestion displaces traffic through Monxton and along Red Post Lane. Any increase in traffic will further displace more traffic, especially at peak times;
- Number of HCV's using Monxton Road to find Andover Business Park;
- Safety concerns in Monxton village;
- Impact on Monxton Conservation Area
- Any data from the last year with regard to the ANPR is inadmissible as it has not been operating for a year and only operates in daylight hours. This has removed any sanctions on breaches for that period;
- Concern about an increase in lorries in Monxton;
- Concern about condition of roads: presence of potholes, damage to verges;
- Chalkpit Lane already used as a cut-through and any increase in traffic along this narrow lane is to be discouraged;
- Request that all information from the ANPR system be published on the Council's website;
- Now that the Business Park is generating the volumes of traffic which we all feared, the Councils need to maintain their agreement that the volume of traffic and the routes used would be restricted and monitored;
- Traffic situation hasn't changed since this was put in place so it cannot be removed;
- There were very good reasons for imposing traffic restrictions in the first place; do not see there is any evidence that these reasons were incorrect and that the restrictions should therefore be modified;
- Potential movement of over 85 large lorries each hour, 24 hours a day, to and from this site, is ridiculous – road infrastructure is incapable of supporting it;
- Increased threat from HCV's to pedestrians and cyclists;
- Traffic remains a big issue in Abbots Ann. New signage does seem to have ameliorated the situation somewhat but still have stray lorries going through the village and the roads are used as a rat run;
- At the time of the 2009 application guarantees were offered on the volume of traffic. This increase in the number of lorries allowed would go against these guarantees. This guarantee should be respected;

- The original applications included studies of traffic impacts. The volume of traffic proposed at the time was deemed to be acceptable however the overall volume of traffic has increased over time so the added pressure of even more lorries entering and leaving the site can only aggravate tailbacks on the surrounding roads;
- Similar to an application turned down some years ago when Tesco were planning to build a warehouse and should be turned down for the same reasons;
- We need to protect our villages and roads;
- The original application set out traffic control requirements to minimise the impact on local residents. Why would it be fair or appropriate to go against the original decision?
- If the Council cannot control the traffic at current levels how will it be if it allowed for further increases in volumes;
- Figure of 85 HCVs was arrived at by TVBC and HCC after very careful consideration of the surrounding road network limitations. The surrounding road network has not changed since, but local traffic to the Business Park has increased and is about to increase further with the opening of the home for the elderly and the hotel, with further future increases when other development is occupied;
- Concerns about lorries getting lost and inadequate places for turning around, causing chaos and danger, noise and pollution;
- Damage to the countryside due to increased traffic;
- Air quality will suffer from additional large scale vehicle emissions;
- Increased peak noise for people living close to Hundred Acre roundabout and A303 slip roads;
- Not clear whether Goodman intend to increase the total daily flow of HCVs as well as the maximum flow rate;
- Unclear from the submission whether the current traffic movements already exceed the existing limit;
- Object to any relaxation of the restrictions unless adequate and reliable monitoring, operating 24 hours a day, 365 days a year, is installed and sanctions are imposed for violations;
- Since permission was granted there has been a huge increase in traffic from the Army HQ enlargement, from illegal HGV movements inside the width restricted zone adjacent to the applicants site and a steady stream of misdirected HGV's travelling to and from the site along forbidden routes, with no enforcement or monitoring, so the original safeguards are even more appropriate than they were then;
- The narrow lanes and tight radii at the Hundred Acre junction put car drivers at considerable risk when caught between long vehicles and more HGV's would obviously aggravate this situation;
- Scoping Report does not measure or mention "near misses" yet comes to the rather sweeping and subjective conclusion that "it operates safely without having caused risk";
- Suggest that the Planning Authority has a duty to ensure that the safeguards and conditions explicitly laid out in the original permission are adhered to and enforced before considering an application to remove them, otherwise there would seem to be little point in applying them in the first place;

- HGV movements onto Hundred Acre roundabout not signal controlled, and have to cross three lanes of traffic – movements result in accidents and near misses;
- Directional signs on Hundred Acre roundabout are difficult to understand which adds to confusion and leads to additional congestion, drivers in wrong lanes, changing lanes and large vehicles getting lost. The extra number of vehicles will inevitably add to this problem;
- Increased chances of accidents;
- Increase the huge amount of damage already done to the roads and infrastructure of the local countryside and villages;
- Lorries do U-turns on the Monxton crossroads frequently without a co-driver to exercise the basic levels of traffic control and safety;
- Claims made in the scoping report are seriously flawed because in part the capacity of the local road system is based upon old data and no two locations are identical and thus cannot be realistically compared;
- Goodman have the wrong plan for the Park. It cannot cope with more warehouses and thus HGVs, but needs smaller and aspirational businesses;
- Beginning of a slippery slope that will no doubt result in further requests for other elements to be removed, which must not be allowed to happen;
- Traffic has increased through Monxton as a combination of the closure of the gap in the A303 at the top of Sarson Lane, the removal of weight restrictions on the railway bridge at the Red Post Lane junction, the arrival of Army HQ and the development of the old airfield into a Business Park;
- Proposed increase will result in an almost 50% increase in lorry movement since the original application;
- When there are problems on the A303 HGVs are constantly using Monxton Road and Sarson Lane as diversions to the Business park;
- Companies on the Business Park are not doing everything they can to help HGV drivers deliver to the correct address;
- No S106 monies or ANPR fine monies have been forthcoming for Monxton;
- Failure to adhere to the original planning restrictions should be enforced against.

## 7.0 **POLICY**

### 7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

### 7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

T1 – Managing Movement

LE9 – Andover Airfield Business Park

E8 – Pollution

LHW4 – Amenity

E5 – Heritage

## 8.0 **PLANNING CONSIDERATIONS**

8.1 This application seeks to remove the HCV Traffic Demand Management System clauses (hereafter referred to as the “85 cap”) from the agreement. As set out in paragraph 3.1 above S106A(6)(b) of the Town and Country Planning Act 1990 (as amended), sets out tests to be met. It is considered that the 85 cap clauses form a single planning obligation within the S106 agreement which is separate from the other obligations relating to highway matters. Therefore the test to be applied is whether the obligation continues to serve a useful planning purpose. If it does, then it will be necessary to refuse to modify the obligation. If it does not, then the obligation should be discharged.

8.2 It is noted that an application was refused in 2014, and dismissed on appeal, for modification of the Barred Routes obligation by removing Plot 1 from its requirements. The Council and later the Inspector there applied the test in S106A(6)(c) i.e. whether the obligation would serve its purpose equally well if it had effect subject to the modifications proposed. That was the appropriate test to apply in that application because the proposal was to modify that particular obligation rather than to remove it. The current application seeks to remove an obligation in its entirety and therefore the relevant test is whether it continues to serve a useful purpose.

8.3 In considering this matter it is first necessary to ascertain the reason that the obligation was required in the first place, and then to consider whether there have been any changes in policy or circumstance that would mean that it no longer serves a useful purpose.

8.4 The main considerations to determine whether the obligation still serves a useful planning purpose are:

- Impact on the highway network
- Economic impacts
- Pollution and amenity impacts
- Heritage impacts

### **Impact on the highway network**

8.5 Policy T1 of the RLP sets out that development will be permitted subject to various criteria. Those relevant to this proposal are:

b) measures are in place to minimise its impact on the highway and rights of way network and pedestrian, cycle or public transport users;

d) it does not have an adverse impact on the function, safety and character of and accessibility to the local or strategic highway network or rights of way network; and

e) provision is made to support and promote the use of sustainable transport, including the submission of a site travel plan where appropriate.

8.6 The 2007 application for development of a business park was accompanied by extensive modelling of traffic movements, which were agreed with the Highways Agency (now Highways England) and HCC as Highway Authority. It was considered that the modelling was a, “*robust assessment of the amount of traffic that might be expected by this development*”. The modelling included an assessment of the traffic to be generated by the Business Park development

itself plus other committed development in the area – the new Army HQ and development in and around the Portway Business Park.

This modelling informed the assessment of the impact of that development on the highway network and the mitigation measures required to accommodate the traffic from the Business Park development.

- 8.7 The Highways Agency in their response to that application sought to ensure that the volume of HCV's from the site would not have a detrimental effect on the safe and efficient operation of the A303, given the very close proximity of the A343 to the A303 slip road. The relative distance between the end of the eastbound on-slip road from the Hundred Acre junction and with the start of the off-slip road serving the A343 junction was identified as a significant physical constraint. The Highways Agency referred to this feature as the "weaving element" and concern had been expressed about the potential conflict between traffic entering the A303 from the Hundred Acre interchange with those wishing to leave the A303 at the A343 junction. In response to this physical constraint the applicant, the Highways Agency and HCC Highways Authority agreed that it was wholly appropriate (in light of national policy advice at the time, and in considering the level of traffic that could be implemented under the extant outline permission) that a fixed hourly cap of 85 HCV's could be allowed to use the network without giving rise to a highway safety issue between the existing weaving feature. This figure related to out-bound HCV movements only. This obligation was replicated on the 2009 application, and is now sought to be removed.
- 8.8 The "85 cap" was therefore imposed solely because of potential impacts on the A303, which is part of the strategic road network. The other obligations in the S106 dealt with impacts on the local road network, including the Hundred Acre roundabout, and are not proposed to be modified under this application. It is therefore necessary to consider whether the reasons for the "85 cap" remain relevant and whether it continues to serve a useful planning purpose.
- 8.9 The applicant advises that the obligation is problematic commercially, as it requires them to apportion of the HCV movements to individual plots so that each occupier has an "allocation" of HCV movements sufficient for their business. The applicant advises that essentially, more HGV slots have already been apportioned to implemented plots than are required in practice e.g. the pub has been allocated one HCV movement per hour but actually attracts a tiny fraction of that traffic over the course of a week. The applicant advises that this is resulting in commercial difficulties for the final plots to be developed as in contractual terms the slots have been "used up". The economic impact of the proposal is set out later in this report.
- 8.10 The applicant has submitted detailed traffic modelling as part of this application, including further modelling and data requested by Highways England. The modelling deals with the A303, Hundred Acre roundabout and relevant parts of the local road network, taking into account the improvements made as a result of the Business Park development. It takes into account all existing and committed development on the Business Park, so includes traffic generated/to be generated by the care home and hotel under construction, the pub, Co-op distribution centre, Stannah development and vacant warehouse.

The modelling also forecasts traffic movements for the empty plots taking into account the uses granted outline permission.

- 8.11 A weaving assessment has been submitted and concludes that:
- The A303 slip roads comply with relevant standards and there is an ample margin for increased traffic flows on each link;
  - The lanes for weaving provide don the A303 comply with the weaving width requirements of the relevant standards with at least a 25% reserve for increased traffic flows;
  - The existing layout is sufficient for all weaving between the junctions and complies with the minimum values calculated using relevant standards, including sensitivity tests of 25% uplift in weaving movements;
  - In practice the majority of HCVs would not be weaving and there is significant capacity for the network to accommodate additional traffic at this location
- 8.12 The modelling has been scrutinised by HCC and Highways England, who requested some further information and data, which has been submitted and assessed. Highways England asked for “sensitivity testing” whereby the modelling was tested using higher than predicted HCV flows, which has also been carried out. HCC and Highways England who have examined the background data and are satisfied that the modelling is acceptable.
- 8.13 Concerns have been raised that this proposal would result in more than 85 HCV’s leaving the site per hour. The applicant advises that this modification does not seek to increase the number of HCV’s from the site but is for commercial reasons (as set out above). The modelling does not predict that more than 85 HCV movements per hour would occur. Using updated traffic data, and taking into account additional development not part of the original Business Park permission (e.g. the care home) the modelling forecasts fewer trips resulting from the site than were originally considered in the 2007 and 2009 applications.
- 8.14 While traffic has increased on the local road network since the 2009 application was considered, this was forecast, expected and assessed at the time of determining the previous applications. The works to the highway network secured under the 2009 application were designed to accommodate the predicted traffic flows with some additional capacity built in. The updated modelling now undertaken does not predict any further increase in traffic, and in fact forecasts lower overall numbers. As such the measures already in place are sufficient to deal with the forecast traffic flows from the Business Park.
- 8.15 Concerns have been raised that up to 50% more HCV’s would exit the site than the current cap allows. This may be a misunderstanding of the sensitivity testing carried out i.e. not only has the impact of the forecast traffic numbers been modelled, the model has also been run using numbers well above those forecast, in order to test the performance of the road network with considerably more HCV’s than are expected. The model was tested using 240 to 250 two way HCV trips to and from the park in peak hours, which is well in excess of

what is forecast, at less than 85 HCV trips out of the park each hour. The conclusion reached is that there would be no adverse impact on the road network even with higher figures.

- 8.16 Highways England has confirmed that they have no evidence to suggest that the 85 cap is needed to maintain a safe and efficient A303, which was the reason that the obligation was imposed. HCC conclude that the assessment does not identify any material impact associated with the removal of the cap. As such, there is no evidence that the removal of the cap would have an adverse impact on the function, safety and character of the strategic highway network, in accordance with criterion d) of policy T1 of the RLP.
- 8.17 The other works associated with the 85 cap comprise the additional lane beside the access road and the signal which limits HCV's exiting the site. These would no longer be required but no works are proposed to change this area of the site.
- 8.18 Highways England suggests that if the 85 cap is removed, other measures should be put in place to minimise traffic movements at peak times e.g. a travel plan. There is already a travel plan for the site designed to encourage access by means other than the private car, and various pedestrian and cycle facilities were provided as part of the outline permission. Travel plan measures relate to staff movements and would not have any significant effect on HCV movements. The obligation considered in this application relates only to managing HCV movements and not car movements and it is noted that Highways England have not raised any objection to the removal of the obligation on traffic and highway safety. As such it is considered that there are appropriate demand management measures in place to manage other types of traffic from the site. The ANPR system and Barred Routes would manage HCV movements from the site.
- 8.19 All other highway obligations in the S106 agreement would be retained under this modification, and as such measures to safeguard the local highway network, minimise the impact of the development on the highway and support and promote sustainable transport would remain. As such the proposal would comply with criteria b) and e) of policy T1.
- 8.20 Concerns have been raised about the operation of the ANPR system and the ineffectiveness of sanctions in relation to use of Barred Routes. It is understood that the ANPR system was inoperable for some time but is now in place and captures number plates during the day and at night. The ANPR system and Barred Routes obligations would remain unchanged under this application and the proposal to remove the cap on HCV movements would not result in additional traffic along these routes.
- 8.21 Concerns have also been raised that modification of this agreement would set a precedent. NAPC has previously resolved to modify the agreement to remove cars accessing properties on Plot 1 (hotel, care home, pub etc.) from the Barred Routes obligation (April 2016). Any application to modify the agreement would be considered against the relevant legal tests and would stand or fall on its own merits.

- 8.22 The outline permission granted in 2009 set a 5 year time period within which any reserved matters applications had to be made for the detail of the individual plots. This time period has now expired, and therefore all new applications for development on the Business Park will be full planning applications. The Council will therefore be able to consider all impacts of future development, including their traffic generation, and where necessary, will be able to require further traffic modelling to assess cumulative impacts with other existing development. Therefore, should permission be sought in the future for a development that would generate traffic above that currently forecast, the Council would be able to consider this and determine whether it would have any adverse impacts, and if appropriate grant permission subject to any conditions and obligations necessary to make the development acceptable in planning terms.

The supporting text to policy LE9 of the RLP (which allocates the site for business uses), states that, “Any further improvements necessary to deliver the remainder of the site would need to ensure that any impact on the highway network is minimised” (paragraph 6.46).

- 8.23 It is considered, having regard to the advice of Highways England and HCC, that there is no evidence that the obligation still serves a useful planning purpose in terms of highway safety.

#### **Economic impacts**

- 8.24 The Business Park is allocated in the RLP for business uses and is named as a Strategic Employment Site in Annex E of the RLP. The preamble to policy LE9 states that it is intended to provide employment for a significant number of people. There are some occupied plots, some with planning permission and some without any detailed permission. There is a clear emphasis in local and national planning policy to support economic growth and employment. Paragraph 6.49 of the RLP identifies that strategic employment sites will be safeguarded against their loss to other uses, and policy LE10 seeks to limit redevelopment for other uses unless it would not have a significant detrimental impact on the continued primary use of the site for employment.
- 8.25 RLP policies are therefore clearly designed to retain this and other strategic employment sites for business uses, and as such there is a clear economic benefit from removing an obligation that creates commercial difficulties in getting occupiers into the Business Park. This weighs in favour of removal of the obligation, given that it has already been identified that the highway safety reason for its imposition is no longer in evidence.

#### **Pollution and amenity**

- 8.26 Concerns have been raised about air quality and noise impacts of an increase in HCV movements. The traffic model forecasts fewer traffic movements than were originally predicted in the 2007 and 2009 applications and does not predict any increase in HCV movements if the obligation were to be removed. As such there is no evidence to support any additional noise or air quality impacts as a result of this modification.

- 8.27 The cap was not imposed due to air quality or noise impacts and there are other measures in place as part of the scheme (such as the A303 fence) which mitigate impacts from activities and traffic movements on site and traffic movements off site.

### **Heritage**

- 8.28 Concerns have been raised about the impact of increased HCV movements on Monxton Conservation Area. These concerns appear to stem primarily from use of Barred Routes by HCV's in apparent breach of the S106 obligations. As set out above, the ANPR system is now in operation and the obligations can be enforced, which should address this problem. As the evidence submitted with this application does not identify any increase in HCV movements the removal of this obligation would not result in additional impacts on the Conservation Area.

### **9.0 CONCLUSION**

- 9.1 The obligation in the 2009 application requiring the HCV Traffic Demand Management System and cap on the number of HCV movements per hour resulted from the requirement of Highways England to ensure the safe and effective operation of the A303 and strategic road network. It was based on traffic modelling and forecasting which has now been updated taking into account completed and permitted development on the Business Park. The updated modelling forecasts fewer traffic movements than originally predicted, and does not predict there being more than 85 HCV movements per hour even once the Business Park is fully occupied. Having regard to the evidence submitted, Highways England and HCC as Highway Authority have raised no objection to the proposed removal of the obligation and do not identify any highway safety concerns.
- 9.2 The obligation is creating difficulties in attracting occupants for the vacant parts of the site and its removal would address this, supporting the RLP policy aims of achieving significant employment on the Business Park site, and economic growth generally.
- 9.3 The modelling provided does not forecast an increase in traffic as a result of the proposed modification and as such would not have additional impacts on amenity or heritage assets.
- 9.4 Having regard to the information available, it is considered that the obligation no longer serves a useful planning purpose and can be discharged.
- 10.0 **RECOMMENDATION**  
**Delegate to the Head of Planning and Building to agree MODIFICATION of the legal agreement for permission 09/02392/OUTN to remove Part II of Schedule 6, which relates to HCV Traffic Demand Management.**
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**APPENDIX B**

**Officer Update Report to Northern Area Planning Committee on 17 November 2016**

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<b>APPLICATION NO.</b>	16/01512/OBLN
<b>SITE</b>	Andover Business Park, Monxton Road, Andover, <b>ABBOTTS ANN PENTON MEWSEY ANDOVER TOWN (MILLWAY) MONXTON</b>
<b>COMMITTEE DATE</b>	17 November 2016
<b>ITEM NO.</b>	7
<b>PAGE NO.</b>	11-29

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**1.0 CORRECTIONS**

- 1.1 The main Agenda Report contained the incorrect drawings for this application. The correct drawings were emailed to the Committee members on 9 November 2016 and they are also attached to this Update Paper.

**2.0 PLANNING HISTORY**

- 2.1 For information, the Appeal decision for application 14/00485/OBLN (to remove the Barred Routes provisions) is attached to this Update Paper. As set out in paragraphs 8.1 and 8.2 of the Agenda Report, the legal test to be applied in this application is different to that which was applied in the appeal as that proposal was to modify an obligation, whereas the current application is to remove an obligation.

**3.0 RECOMMENDATION**

As set out in the Agenda Report.

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## Appeal Decision

Hearing held on 2 December 2014

Site visit made on 1 December 2014

by **P W Clark MA MRTPI MCI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 December 2014

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**Appeal Ref: APP/C1760/Q/14/2224521**

**Andover Business Park, Andover, Hampshire SP11 8EZ**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to modify a planning obligation.
  - The appeal is made by Goodman against the decision of Test Valley Borough Council.
  - The development to which the planning obligation relates is the erection of a business park comprising plots 1, 2, 3, 5 and 6 for business (class B1), storage and distribution (Class B8), hotel (Class C1) and community building (class A1/D1) uses, biomass plant and associated works, plot 4 for storage and distribution (class B8) uses, access roads, vehicle maintenance building, car and lorry parking, landscaping and associated works.
  - The planning obligation, dated 19 March 2010, was made between Test Valley Borough Council and Hampshire County Council and Goodman Management (Jersey) Limited and Lady Olivia Ann Clark, John Haydon Jackson and Duncan Alan Clark.
  - The application Ref 14/00485/OBLN, dated 21 February 2014, was refused by notice dated 14 August 2014.
  - The application sought to have the planning obligation modified so that Plot 1 shall not be bound by Part IV of Schedule 6.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. Before and at the Hearing applications for costs were made by Goodman against Test Valley Borough Council and by Test Valley Borough Council against Goodman. These applications are the subject of separate Decisions.

### Procedural matters

3. An unaccompanied visit to the site was made prior to the Hearing. At the Hearing, both parties agreed that a further, accompanied visit was unnecessary.
4. Although the planning obligation which is the subject of this appeal derives from the development described above, there has also been a subsequent permission for the erection of a pub restaurant (Use Class A4) with manager's accommodation at first floor level (Use Class C3) with associated car parking and landscaping on part of plot 1. This was itself accompanied by a planning obligation dated 10 December 2012 between Test Valley Borough Council and Goodman Management (Jersey) Limited and Marston's Property Developments Limited. Amongst other matters, this requires the owner of the land to comply

with the covenants set out in Parts II, III and IV contained in Schedule 6 of the original obligation in so far as they relate directly, fairly and reasonably to the use of the land for the pub restaurant.

5. The effect of the modification proposed would be to remove the following types of vehicle from the current regime of restrictions on movement to and from the site; cars accessing plot 1 via Monxton Road and; Heavy Commercial Vehicles (HCVs) accessing plot 1 via a "barred route".

#### **Main Issues**

6. The criterion for determining the appeal is defined in subsection (4) of s106A of the Town and Country Planning Act 1990. It is whether the purpose of the obligation would be served equally well if it had effect subject to the proposed modification.
7. Both parties are agreed that the original purposes of the obligation were twofold; (i) to ensure that Heavy Commercial Vehicles (HCVs) would use the strategic road network on their way to and from the site, recognising that the local network in the immediate vicinity of the site could not adequately cope with the level and profile of the vehicles likely to arise and (ii) to prevent employees of the business park "rat running" along Monxton Road. The Council's reasons for refusing to modify the obligation recognise a third purpose, namely to protect the living conditions of residents living in close proximity to the carriageways of routes otherwise likely to be used by HCVs in terms of noise and air pollution.

#### **Reasons**

##### *Background*

8. Schedule 6 of the planning obligation makes arrangements for transportation, travel and access measures in connection with the development of the business park. Part I (not the subject of this appeal) establishes a Travel Plan for the site. Part II (again, not in contention) establishes a mechanism to control the rate at which HCVs depart from the business park onto the highway network. Part III (not in contention) guarantees a right of access to the Business Park and overnight parking for HCVs with business there. Part V (not in contention) puts into effect a numerical limitation on the frequency of use of the A338 by HCVs to and from the site.
9. Part IV of Schedule 6 is the part of the obligation which is in contention. This establishes a system, based on cameras and computers, of Automatic Number Plate Recognition of vehicles entering or leaving the business park, entering or leaving each plot within the business park and entering or leaving a number of "barred routes" in the vicinity of the site. The "barred routes" are chosen to confine affected HCVs to the A303 in their journeys to and from the business park. Use of the "barred routes" generates a demand for payment per vehicle journey to the costs of the Andover Town Access Plan and other highway improvement or traffic management works. The scheme allows exceptions for vehicles on an "HCV White List" and for "HCV visitors", records of which have to be compiled manually by occupants of the site and loaded on to the computer system within five days of the vehicle trip in question being made.
10. Over and above the "barred routes" system for HCVs, part IV of Schedule 6 also provides that no vehicle of any description shall enter or leave the site via

Monxton Road. A three times repeated contravention generates a demand for payment to the costs of the Andover Town Access Plan and other highway improvement or traffic management works. Again, there are exceptions for vehicles on a manually-compiled "Non HCV White List", which is defined in such a way as to encompass customers of businesses on the park. Again, this list has to be compiled manually and recorded on the computer system within five days of any relevant journey.

11. The appellant contends that these complicated arrangements with open-ended financial consequences deter potential investors in and occupants of the business park but no evidence is produced in support of that assertion. On the contrary, despite the business park being commenced and laid out during a deep recession, one large plot has been built out and is occupied and a development of a public house has also occurred on part of plot 1, the subject of the current appeal. In any event, the criteria for determining this appeal do not encompass the desirability or otherwise of entering into the obligation in the first place but simply, whether it continues to serve a useful purpose.
12. I can understand that it would be burdensome for the tenant or manager of the public house to have to record the vehicle number plates of customers in order to compile the "Non HCV White List" so as to secure exemption from the financial consequences of the ban on vehicles accessing the premises via Monxton Road. But that was what was voluntarily signed up to, both in the original obligation and in the subsequent planning obligation applying the original to the specific development of the pub. My consideration is limited to whether those arrangements continue to serve a useful purpose. I now turn to that.

*HCVs*

13. All parties agree that the "barred routes" are appropriately chosen. If there was any doubt, photographic evidence demonstrates their unsuitability for use by HCVs. Data has not been collected for 2014, when the pub now developed on plot 1 has been operational, because of a system malfunction which has not been repaired, but no reliable inference can be drawn from that. Data generated by the system records contraventions in 2012 and 2013, declining in numbers, suggesting that the enforcement system would be both necessary and effective, if maintained, so the obligation overall continues to serve a useful purpose.
14. The appellant argues that most, if not all, HCVs serving plot 1 would be eligible for inclusion in the "HCV White List" because they would be making several deliveries to other locations in the "Local Delivery Area" and so, exclusion of plot 1 from the provision of the obligation would make no practical difference. But there is no evidence to support that assertion even though the pub developed on part of plot 1 has been in operation for about a year.
15. I also note that the definition of "Local Delivery" precludes any vehicle with an origin or destination outside the Local Delivery Area, even if making other deliveries within it, so I am not convinced by this argument. For the rest of plot 1, which remains undeveloped and without any detailed approval for development, the argument is supposition in any event; there has been no occurrence to invalidate the transport assessment made at the time planning permission was given for the business park as a whole, including the application of the obligations to plot 1.

16. It is also argued that HCV generation in connection with plot 1 would be minimal; amounting to 1.6% of the total HCV generation from the Business Park as a whole. But the significance of plot 1 within the whole hasn't changed since the permission for the Business Park as a whole was given, with the inclusion of plot 1 within the arrangements set up by the planning obligation. The obligation currently applies to 100% of the HCVs serving the Business Park. Reducing that to 98.4% would serve the purposes of the obligation nearly as well as the original. But, in order to allow this appeal, the purpose of the obligation must be served "equally well" not "nearly as well".
17. The Council volunteers the information that it is about to start consultation on a proposal to introduce an area-wide Heavy Goods Vehicle (HGV) ban covering land bounded by the A303, A343, B3084 and Old Stockbridge Roads with a view to implementation in 2015. Within the area covered, this is likely to be more effective in securing the objectives of the planning obligation than is the obligation itself. But; it is not yet in place and; it does not cover all the areas protected by the "barred routes", so I cannot yet say that this would serve the purposes of the obligation relating to HCVs equally well.

*Monxton Road*

18. There is clear provision in the definition of "Non HCV White List Vehicle and Non HCV White List Vehicles" on page 14 of the planning obligation that customers' vehicles may be exempted from the control on the use of Monxton Road. It follows that there is no substance in the assertion that the existing obligation requires the appellant to pay £50 every time a customer of the Chalkhill Blue pub uses Monxton Road, although the arrangements for avoiding that payment may be cumbersome.
19. So far as customers are concerned therefore, the proposal would equally well serve the objectives of the original obligation. But it is clear from the construction of the planning obligation, particularly paragraph 5 of the "Positive covenants" part of section C of Part IV of Schedule 6, that its objective is to control the movements of employees, not customers, to and from the business park and to prevent them from using Monxton Road.
20. Evidence was provided and not contradicted that the number of employees on plot 1 would only amount to 2-3% of the total on the Business Park when it is fully built out. But, for similar reasons to those set out above when considering HCVs, this does not amount to a justification for excluding plot 1 from the provisions of the obligation; I have to be satisfied that the purpose of the obligation must be served "equally well" not "nearly as well".
21. On the other hand, it is recorded that the Highway Authority has not enforced the provisions of the obligation in respect of employees' cars using Monxton Road since the inception of the business park. This suggests that officialdom does not regard the obligation as serving a useful purpose at all in terms of protecting Monxton Road from the traffic volumes generated at the present stage of development of the business park.
22. I note that table 8 of the appellant's Transport statement assigns less than 4% of the total traffic which would be generated by the business park to Monxton Road. I note that the Parish Council and at least one of the Borough Council's committees was not averse to releasing the developer from this part of the obligation, so it may be that this part alone does not serve a useful purpose at

all and could be discharged but, that is not what has been applied for. Evidence was submitted to the effect that I have no power to vary the terms of the application so as to effect a “split decision” but must consider the application in the form in which it is made.

*Living conditions*

23. There is no indication within the planning obligation that its purposes include the protection of living conditions in terms of noise or air pollution of those people living in close proximity to the carriageways of roads on the “barred routes”, although, that would be a side-effect of the HCV routeing scheme. Indeed appendix 1 to the planning obligation, which is an extract from a Council committee report on the original application, notes that off-site noise generated by the additional traffic from the development would not be perceptible under normal conditions and does not raise any concerns in relation to pollution. Noise barriers provided through the planning obligation were to provide attenuation of existing unacceptable conditions rather than any consequent on the development.
24. Evidence provided by the appellant at the appeal confirms that noise from HCVs serving plot 1, if released from the obligation, would be imperceptible and so, the original obligations serves no useful purpose in terms of protecting living conditions from noise and pollution. The modification proposed would therefore make no difference in that respect but this consideration cannot be separated from its other purposes.

*Conclusions*

25. In addition to the arguments discussed above, the appellant’s original statement of case asserted that the obligation the subject of the application does not meet the requirements of the National Planning Policy Framework or the CIL regulations. But, as noted above, there is agreement that the “barred routes” are appropriately chosen and evidence provided that enforcement in the way provided by the obligation is necessary. The exceptions, in the form of the HCV and Non HCV White Lists demonstrate that the obligation is fairly and reasonably related in scale to the development. The appellant’s reasons for seeking the modification demonstrate that it is directly related to the development. The obligation as a whole therefore complies with the NPPF and CIL regulations.
26. From the evidence discussed in earlier sections, I conclude that the purposes of the obligation do not include the protection of living conditions of those living close to the carriageway of “barred routes” and that the provisions relating to the control of employees cars using Monxton Road have served no useful purpose but that the provisions relating to the routeing of HCVs continue to serve a small useful purpose which the proposed modification would not serve equally well. The proposed modification therefore fails to meet the criteria of the Act and the appeal is therefore dismissed.

*P. W. Clark*

Inspector

Appeal Decision APP/C1760/Q/14/2224521

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**APPEARANCES**

FOR THE APPELLANT:

Simon Flisher MA(Hons) MRTPI Director, Barton Willmore  
AIEMA  
Simon Tucker BSc(Hons) MCIHT Director DTA Transportation  
Robert Peirce BSc(Hons) CEng Director, Tree Environmental  
MIOA

FOR THE LOCAL PLANNING AUTHORITY:

Jason Owen BSc(Hons) DipTP Principal Planning Officer  
MFRTPI  
Ray Alborough MCIHT Senior Transport Engineer

INTERESTED PERSONS:

John Moon Abbotts Ann Parish Council  
Graham Stallard Ward Councillor

**DOCUMENTS**

1. Suggested Deed of Modification and associated plan, wording of determination in the event of appeal being allowed and observations from Hampshire County Council solicitor.
2. Andover Vehicle Identification System Scheme Proposal report
3. Plans annexed to original planning obligation
4. Walker Engineering Transport Statement August 2012
5. Accident analysis of barred routes
6. Handout prepared by Tree Environmental; traffic data; noise levels and noise descriptions