

MC/21/0979

Date Received: 6 April 2021

**Location: Kingsnorth Power Station Power Station Access Road Hoo St Werburgh
Rochester Medway ME3 9NQ**

Proposal: Outline planning application with all matters reserved except access (to be taken from Eschol Road) for the construction of flexible EG (iii)/B2/B8 use class buildings, sui generis uses for energy uses and a lorry park, together with servicing, parking, landscaping, drainage, remediation, demolition and earthworks.

Applicant: Uniper Ltd

Agent Mr H Edwards, Barton Willmore

Ward: Peninsula Ward

Case Officer: TBC

Contact Number: TBC

Recommendation: Approval subject to:

- A. The applicant entering into a legal agreement under the terms of Section 106 of the Town and Country Planning Act 1990 to secure contributions towards the necessary highway improvements, and Framework Travel Plan as set out within the report below.
- B. Together with the necessary conditions as agreed at the previous Planning Committee meeting on the 18 November 2022.

Background

On the 16 November 2022, Members resolved to grant outline planning permission for the construction of flexible EG (iii)/B2/B8 use class buildings, sui generis uses for energy uses and a lorry park, together with servicing, parking, landscaping, drainage, remediation, demolition and earthworks.

At that meeting, Members requested that details of the S106 Agreement be reported back prior to the determination of the application, for their agreement.

Since November, there have been significant discussions with the applicant to resolve the outstanding matters, which relate primarily to highways improvements, with the Heads of Terms now agreed for debate and determination.

This report sets out the Heads of Terms, that will enable Members to make an informed decision with regard to what physical works would take place and, if these do not happen (for reasons beyond the applicant's control), what financial contributions would be made.

The Heads of Terms have been negotiated and comply with the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 which set out that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (a) necessary to make the development acceptable in planning terms;

- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

It is not possible to request works or contributions that go beyond this scope, or to delay decision-making on the basis of uncertainty around other development that may lead to alternative mitigation being required. It is on this basis, that officers have sought to provide as much clarity as possible, in terms of the physical works and/or contributions sought, but have also allowed for some flexibility to account for changes either in the policy landscape, or physical alterations to the site's surrounds.

Hoo Peninsula

As Members will be aware, the Committee Report presented to you in November highlighted that the Council are seeking to proceed with significant highways works on the Hoo Peninsula, with funding secured through a Housing Infrastructure Fund (HIF) bid to undertake a new road network. This would see the creation of new highways as well as significant improvements to a number of existing highways and junctions on the Peninsula and through Chattenden and towards Wainscott.

These proposals and plans were highlighted within the original officer report to the November meeting.

However, these works rely on two key elements being supported:

- 1) The Council's strategy for significant housing and employment growth on the Peninsula coming forward as part of their emerging Local Plan.
- 2) Planning Applications being submitted and approved by Members for the highway works to be completed alongside the Local Plan progression.

Whilst the Council have secured the funding, the Council do not yet have certainty over the emerging Local Plan, or the Planning Applications (which are yet to be submitted) for the highway works. As such, there is no certainty that the HIF works can be relied on to deliver all of the necessary highway improvements.

It is on this basis that negotiations have taken place to ensure that this proposal does secure, through a legal agreement a suitable mechanism for appropriate works to be forthcoming for the following scenarios:

- 1) No HIF scheme with no other development in the area.
- 2) No HIF scheme but with other development also coming forward.
- 3) A HIF scheme - but with additional works to facilitate the growth from this site.

Because of the uncertainty of which scenario will ultimately be delivered, the S106 agreement will be designed to provide for a 'cascade' mechanism to ensure that if the applicants do not deliver the mitigation themselves, appropriate contributions will be provided to the Council to spend on an alternative scheme.

This report sets out this mechanism which is hoped will provide Members with certainty that mitigation will be provided at the correct point in time, to ensure that there is no severe impact on the highway network as a result of this proposal.

Proposed Mitigation

Scenario 1: Direct Mitigation for the Development

In this first instance, this report will address the 'No-HIF' scenario, with no other development. This will effectively see the developers bring forward a scheme in isolation that would mitigate their own impact, but would allow no additional future growth. This mitigation would see alterations made to the Four Elms Roundabout and the Main Road Hoo Roundabout. The proposals are set out within the diagrams below:

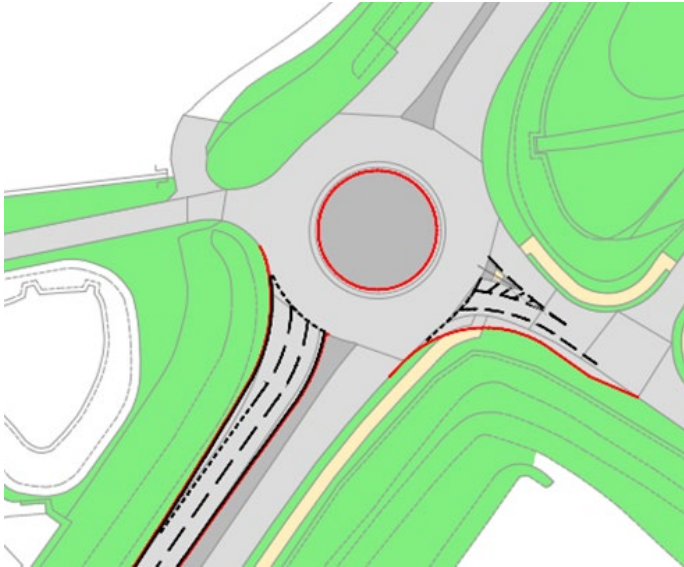


Figure 1: Four Elms Roundabout

The works to the Four Elms Roundabout would consist of realigned kerbs, amended slip/relief arm, as well as new lines within the roundabout. This re-alignment has been considered by Medway's Highway Officers and it has been agreed that this would provide additional capacity at this junction – which is already heavily congested at peak times.

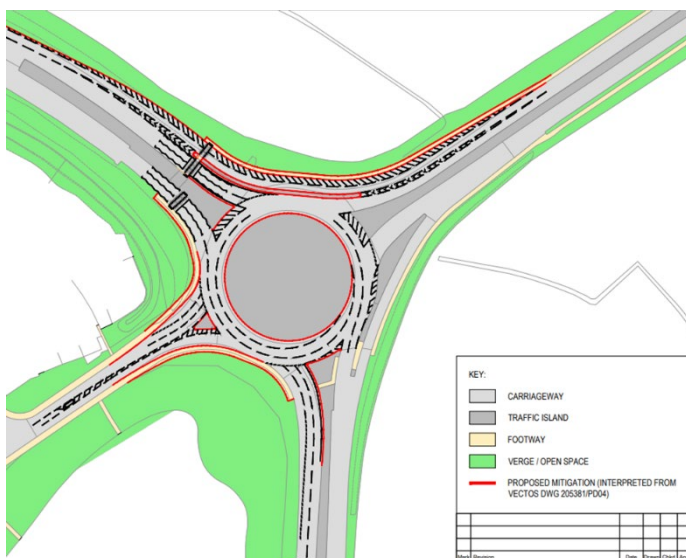


Figure 2: Main Road Hoo Roundabout

Again, the proposed works to this roundabout would consist of alterations to the kerbing around two arms of the junction, and the widening of the highway on the roundabout. This

would facilitate additional lanes and a greater throughput of traffic at peak times. Again, these works have been agreed with Medway's Highway Officers.

It is intended that should no other works be required that the applicants would undertake this work themselves as part of S278 works – as all fall within land owned by the Highway Authority. The applicant has received a cost estimate for undertaking this work, which would then be the contribution sought should any other works be required.

These works would be carried out at an appropriate point, once the impact on the network indicated necessary. Because the planning application requires for a monitor and manage approach to traffic (due primarily to the impact on J1 of the M2), there will be a constant review of the highway network and the impact of the development upon it. At present, it is anticipated that the highway improvements would be carried out at 30% of the total development traffic generation for Four Elms roundabout and 60% for the Main Road Hoo roundabout, as assessed within the agreed Transport Assessment.

Scenario 2: No HIF but Additional Growth

Should the HIF scheme not be forthcoming, but there is additional growth within the area, it will be necessary for Medway Council to consider the cumulative impact of all future development within the vicinity.

This is likely to be more intrusive works than those proposed as direct mitigation (above) and as such, it has been agreed that the applicant would (in this case) make financial contributions that equate to the cost of undertaking the works required to directly mitigate their impact.

The Council would then be able to design a scheme where all developments that need mitigation contribute proportionately to deliver a meaningful and justified package of mitigation. At present, there is no scheme designed, and therefore it has been requested that the applicant calculate the cost of scenario 1 – as this would mitigate their impact. This therefore meets the requirements of Regulation 122.

Should this scenario occur, the amount payable to the Council would be: **£3,016,292.00**, with the payments to be made in two tranches, the first at 30% total development traffic generation, and the second at 60% total development traffic generation. These tranches would be each be 50% of the amount set out above.

Scenario 3: HIF Development

The Council has secured significant funding for highway improvements on the Hoo Peninsula, to unlock significant housing growth. Should the planning permissions for the transport infrastructure be permitted and the housing growth come forward there would remain the need for additional capacity to be provided to ensure that the 'MedwayOne' development was mitigated (as this additional growth had not previously been factored into the modelling for the successful bid).

At this point in time, there is no scheme on the local or strategic highway network that the applicants are able to fund or contribute towards, and officers are therefore of the view that the contribution should be as shown for Scenario 2 (above) to a maximum of £3,016,292.00. Subject to the Council providing appropriate scheme justification, the payments would be made in the same manner (in two tranches with the same trigger points).

Wording of the S106

Given the three possible scenarios, it will be important that the final legal agreement is worded appropriately to allow for a 'cascade' mechanism to be provided to ensure that whatever scenario occurs, the Council will have secured suitable mitigation, either through physical works taking place, or through the provision of contributions that equate to the cost of these works.

Framework Travel Plan

In addition to the works required to the road network, it has also been agreed that a Framework Travel Plan (Condition 33) is required that would allow for modal shift for those working at the site. Through negotiations with the applicant, it has been agreed that this would include a bus service from the site, running to Rochester Railway Station (direct) during the key working hours.

Because the end users of the site are not yet known (and as such, their working patterns remain uncertain) it is intended that the S106 will include a review mechanism that will allow for the bus provision to be reconsidered every three years – up to a period of 10 years (years 0, 3, 6 and 9) and amended at that stage.

The initial proposal would see the provision of a service that ran from 07.00 to 09.55 and from 15.00 to 18.45, with each journey time from the station to the site being approximately 25minutes. It is intended that this be provided as a bespoke service rather than extending an existing bus route, as it allows for the developer to be 'in control' of its delivery, and also by running as a direct route the patronage is likely to be higher than utilising a bus service with a high number of stops – it effectively runs as a direct shuttle.

The applicants have identified the cost of this provision as being approximately £400,000 for a period of 10 years. Again, the review mechanism will allow for contributions to be made if, at a later stage, that will provide for a more *sustainable* solution.

It is considered that this proposal is acceptable and would meet the requirements of Regulation 122 as set out at the beginning of this report.

Conclusions

This report seeks to provide detail on the requirements placed upon the applicants to ensure that the impacts of their proposal are appropriately mitigated. Members requested at the November Planning Committee to have full details of the likely mitigation or funding, and this report sets out what would be provided dependent upon the scenario most relevant at the point of construction and occupation.

Officers consider that the proposals would result in suitable mitigation, and therefore recommend that Members give these favourable consideration, and agree to the completion of the S106 Agreement as per the requirements set out within this report.