
Colne Valley Wetland

1 message

Smith, Thomas D (London) <thomas.d.smith@aecom.com>

31 January 2018 at 16:02

To: "ithynne@hillington.gov.uk" <ithynne@hillington.gov.uk>

Cc: "Matt Dormer (Matt.Dormer@hs2.org.uk)" <Matt.Dormer@hs2.org.uk>, "Caroline Hutson <caroline.hutson@fusion-jv.com> (caroline.hutson@fusion-jv.com)" <caroline.hutson@fusion-jv.com>, Sean Cuniffe <Sean.Cuniffe@hs2.org.uk>, Karl Dafe <KDafe@hillington.gov.uk>, Kimberley Royer-Harris <Kimberley.Royer-Harris@hs2.org.uk>, Rajesh Alagh <ralagh@hillington.gov.uk>, "Benyon, Paul" <paul.benyon@aecom.com>, "Simmons, John" <john.simmons02@aecom.com>, "Iain Williamson (iain.williamson@fusion-jv.com)" <iain.williamson@fusion-jv.com>, "Paul Gilfedder (paul.gilfedder@hs2.org.uk)" <paul.gilfedder@hs2.org.uk>

Dear Ian,

Further to our recent email exchanges on the Sch17 submission for the Colne Valley Wetland ecological mitigation site, I am able to provide further information in relation to the issues of archaeology and ecology as follows:

Archaeology

The Generic Written Scheme of Investigation (GWSI) Historic Environment Research and Delivery Strategy (HERDS) sets out the project mechanisms for designing works, undertaking evaluation, delivering investigations, undertaking post excavation assessment, and archive deposition that will be adopted for the design and construction of Phase One of High Speed Two (HS2). It can be viewed here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/642655/hs2_phase_one_historic_environment_research_and_delivery_strategy.pdf

This document sets out that, before enabling works and construction works begin, the archaeological research undertaken for the Environmental Statement will be reviewed. Where required, for the purposes of delivering investigation and recording additional detailed desk-based assessment and/or field evaluation will be carried out and this will inform the development of location specific investigation and recording works (a location specific Written Scheme of Investigation (WSI)).

These documents will be developed in consultation with Historic England and the relevant local authority and will follow the objectives set out in the GWSI: HERDS. Works may include the protection and preservation of assets in-situ, investigation and recording in advance of enabling and construction works, and/or the implementation of investigation and recording during enabling and construction works. It may be preferable in some instances to preserve heritage assets where they are found, which may be achieved through design.

Ultimately, if archaeological investigation identifies assets which should be preserved in-situ which 'clash' with proposed works (e.g. earthworks in this instance) those works would need to be redesigned accordingly and, potentially, a new Sch17 submission made to cover this.

The HS2 Schedule 17 Statutory Guidance (attached for ease of reference) confirms that when determining a request for approval a planning authority must only consider the grounds relevant to that approval. Therefore requests may only be refused, conditions be imposed, and modifications to submissions or additional information requested, where they relate to the grounds specified for determining the request for approval. Further information on this is provided in Section 7 of the Guidance.

In the case of the proposed earthworks, the relevant grounds to archaeology are that the design or external appearance of the works ought to, and could reasonably, be modified to preserve a site of archaeological or historic interest; or that If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

This is reiterated in Paragraph 7.7.2 of the HS2 Planning Memorandum (also attached for ease of reference) which states that where the authority's decision in relation to the determination of plans and specifications has been reached on the ground that some aspect of the operation or work ought to be modified and is reasonably capable of being modified, or that the development ought to be and could reasonably be carried out elsewhere within the relevant limits, the authority shall include an explanation of why and how it considers the modifications should be made.

It should be noted that paragraph 4.4 of the HS2 Schedule 17 Statutory Guidance states that Schedule 17 should not be used to modify or replicate controls already in place such as the Environmental Minimum Requirements (EMRs). Furthermore, paragraph 10.3 of that Guidance states that when determining any request for approval, conditions should not be imposed which conflict with controls or commitments contained in the EMRs. This is because these controls would have been considered necessary or sufficient by Parliament when it approved deemed planning permission for the railway. Accordingly, as the HERDS process (as part of the EMRs) has to be followed, the design or external appearance of the works do not need to be modified to preserve a site of archaeological interest. This is a fundamental point which has perhaps not been effectively conveyed to you to date.

In this instance, Fusion has reviewed the available baseline data to determine the known and potential archaeological resource, assessed the construction impacts for each habitat site and have designed a programme of geophysical survey which will be followed and ground truthed by trial trench evaluation. If significant archaeological remains are identified we will either recommend relocation of the ponds, or mitigation works in the form of controlled machine excavation and archaeological recording of the pond locations as appropriate.

GLAAS has been consulted during the preparation of the LSWSI for the geophysical survey and Sandy Kidd's comments have been considered and have informed our project design. The Fusion archaeology team are continuing to liaise closely and share information with Mr Kidd about the archaeological investigations for the area and will continue to do so until completion. I have attached an email containing the latest correspondence for your information.

Ecology

As part of the proposed ecological mitigation works, earthworks are proposed and LB Hillingdon should consider the acceptability of those earthworks against the grounds in Schedule 17. Accordingly, to refuse the application, LB Hillingdon would need to demonstrate that the earthworks for which Schedule 17 approval is sought ought to, and could reasonably, be modified to preserve the local environment and/or a site of nature conservation value. Again, I refer you to the attached Sch17 Statutory Guidance and Planning Memorandum.

In addition, please be aware that para 7.7 of the Guidance confirms that planning policy and other considerations material to planning applications under the Town and Country Planning Act 1990 are only material to the determination of a request for approval under Schedule 17, insofar as they relate to the matter for approval and the grounds specified for determining the request for approval.

To assist with your consideration of the proposals against the grounds in Schedule 17, I have attached a memo from the Aecom qualified ecologists whose input has been fundamental to the design of the mitigation site. Please note that this confirms that the site was, in fact, last ploughed in 2016 (rather than 2017 as I had previously understood and advised). I trust that this addresses your perception that the ecological implications of the proposals have not been properly considered.

I hope that the above and attached information is helpful and will enable you to revise your recommendation to one of approval, as we are keen to avoid the unnecessary expense and time associated with an appeal.

Best regards, Tom

Thomas Smith

Town Planning Manager



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From: Matt Dormer [<mailto:Matt.Dormer@hs2.org.uk>]

Sent: 29 January 2018 11:09

To: Smith, Thomas D (London)

Cc: Iain Williamson (iain.williamson@fusion-jv.com); Benyon, Paul; Caroline Hutson <caroline.hutson@fusion-jv.com> (caroline.hutson@fusion-jv.com); Sean Cuniffe; Ricardo Arroyo; Noah Bold

Subject: RE: Colne Valley Wetland

Tom –

My comments on Paul's note:

- State purpose of note.
- I'm not clear what the screen shots are saying – labels/ titles would be helpful.
- *'from aerial photography, the field within which the Mitigation Site is located has been managed to a greater or lesser degree over recent years'*. Are you happy to be indicating we are relying on aerial photography? LBH would probably use this to argue we don't know the site history.
- Likewise including the photo Ian Thynne took implies to me we haven't done our homework.
- We reference a site visit on 3 April 2017 restricted to footpaths. Ricardo thought that ETM probably did a survey. Has this been checked? If not, should a survey have been done?
- Note that we have consulted LBH on the wet grassland seed mix.
- The statement *'It is concluded from the information available that there would be no significant effect on the nature conservation status of the SMI...'* is weak. The obvious rejoinder from LBH is that we don't have enough information to justify the conclusion. I feel there needs to be a more robust case as to why the survey information collected is adequate and how HS2's EMR commitments have been met. I'm still unclear if we've met the EMRs or not.
- Paul needs to add his professional qualifications.

Comments on your note:

- Archaeology. Obviously Sandy Kidd needs to issue a non-objection.
- I feel your note needs to focus on the grounds in Sch 17 ie why the design or external appearance of the works do not need to be modified to preserve a site of archaeological interest.
- Use the statement in the Statutory Guidance that Planning authorities should not use Sch 17 to modify or replicate controls already in place such as the Environmental Minimum Requirements.
- Paras 7.7 and 10.3 of the SG are also relevant.
- Do we have to state that Cadent Gas' works will reduce the ecological value? It will be a red rag to a bull.
- Likewise is there a less incriminating way of saying we are engaging with HE than saying Sandy Kidd is frustrated?
- Please can you delete the statement about earthworks not requiring Sch 17 consent. HS2's legal position is on this is still unclear – I am expecting legal advice in the next 2-3 days. If LBH continue to insist that topsoil spreading does comprise an earthwork, they could issue an approval for what we have applied for and not in the decision notice that topsoil spreading of the amount contemplated requires an approval.

Thanks,

Matt

Matthew Dormer | Senior Town Planning Manager, Area Central | HS2 Ltd

Mobile: 07960753576 | Matt.Dormer@hs2.org.uk | Facebook | Twitter | LinkedIn

From: Smith, Thomas D (London) [<mailto:thomas.d.smith@aeacom.com>]

Sent: 26 January 2018 16:22

To: Matt Dormer

Cc: Iain Williamson (iain.williamson@fusion-jv.com); Benyon, Paul; Caroline Hutson <caroline.hutson@fusion-jv.com> (caroline.hutson@fusion-jv.com); Sean Cunniffe; Ricardo Arroyo; Noah Bold

Subject: Colne Valley Wetland

Hi Matt,

Please see below suggested response to Ian Thynne. This will include the attached memo from Paul which has been amended following Richard's comments - do you (or anyone else) have any further comments? I'm keen to send it on Monday if possible.

Many thanks, Tom

Dear Ian,

Further to our recent email exchanges, I am able to provide further information in relation to the issues of archaeology and ecology for the Colne Valley Wetland mitigation site as follows:

Archaeology

The Generic Written Scheme of Investigation (GWSI) Historic Environment Research and Delivery Strategy (HERDS) sets out the project mechanisms for designing works, undertaking evaluation, delivering investigations, undertaking post excavation assessment, and archive deposition that will be adopted for the design and construction of Phase One of High Speed Two (HS2). It can be viewed here:

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These documents will be developed in consultation with Historic England and the relevant local authority and will follow the objectives set out in the GWSI: HERDS. Works may include the protection and preservation of assets in-situ, investigation and recording in advance of enabling and construction works, and/or the implementation of investigation and recording during enabling and construction works. It may be preferable in some instances to preserve heritage assets where they are found, which may be achieved through design.

Ultimately, if archaeological investigation identifies assets which should be preserved in-situ which 'clash' with proposed works (e.g. earthworks in this instance) those works would need to be redesigned accordingly and, potentially, a new Sch17 submission made to cover this.

As the HERDS process has to be followed, archaeology should not lead to refusal of, or delay to Sch17 submissions. Nor should conditions be attached to Sch17 approvals relating to this matter. This is a fundamental point which has perhaps not been effectively conveyed to you (or GLAAS) to date.

In this instance, Fusion has reviewed the available baseline data to determine the known and potential archaeological resource, assessed the construction impacts for each habitat site and have designed a programme of geophysical survey which will be followed and ground truthed by trial trench evaluation. If significant archaeological remains are identified we will either recommend relocation of the ponds, or mitigation works in the form of controlled machine excavation and archaeological recording of the pond locations as appropriate.

GLAAS have been consulted during the preparation of the LSWSI for the geophysical survey and Sandy Kidd's comments have been considered and have informed our project design. The Fusion archaeology team are continuing to liaise closely and share information with Sandy Kidd about the archaeological investigations for the area and will continue to do so until completion. I understand that Mr Kidd has some ongoing frustrations regarding the programme for investigations. Whilst these are recognised, they are not material to the determination of the Sch17, having regard to the above principles.

Ecology

The ecological mitigation site is included within the ES and is required to mitigate the impact of the HS2 project. For the avoidance of doubt, the use of the site for ecological mitigation should not be in question.

In order to achieve this, earthworks are proposed and LB Hillingdon should only consider the acceptability of those earthworks against the grounds in Schedule 17 (rather than against development plan policy). Accordingly, to refuse

the application, LB Hillingdon would need to demonstrate that the earthworks subject to the Schedule 17 submission ought to, and could reasonably, be modified to preserve the local environment and/or a site of nature conservation value.

As previously advised, HS2 considers that spreading of soil does not constitute an earthwork, and the only earthworks for which we are seeking Schedule 17 approval are those specified in the submission. A legal opinion on this matter will be provided by HS2 under separate cover.

To assist with your consideration of the proposals against the grounds in Schedule 17, I have attached a memo from Paul Benyon, an Aecom ecologist whose input has been critical to the design of the mitigation site. Please note that this confirms that the site was, in fact, last ploughed in 2016 (rather than 2017 as I had previously advised). I hope that this addresses your perception that the ecological implications of the proposals have not been assessed and understood.

As an aside, it should be noted that the site will be affected by the Cadent Gas works which will occur prior to the ecological mitigation works and these are likely to further limit any existing ecological value.

I hope that the above and attached information is helpful and will enable you to revise your recommendation to one of approval, as we are keen to avoid the unnecessary expense and time associated with an appeal.

Best regards, Tom

Thomas Smith

Town Planning Manager



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----- Forwarded message -----

From: Iain Williamson <iain.williamson@fusion-jv.com>

To: "Kidd, Sandy (Sandy.Kidd@HistoricEngland.org.uk)" <Sandy.Kidd@historicengland.org.uk>

Cc: Jay Carver <jay.carver@fusion-jv.com>, "Smith, Thomas D (London)" <thomas.d.smith@aecom.com>, Caroline Hutson <caroline.hutson@fusion-jv.com>

Bcc:

Date: Mon, 29 Jan 2018 16:14:19 +0000

Subject: Colne Valley Viaduct South Embankment Wetland Ecological Mitigation Site - Schedule 17 Application 73263/APP/2017/3838

Dear Sandy,

Re: Colne Valley Viaduct South Embankment Wetland Ecological Mitigation Site - Schedule 17 Application 73263/APP/2017/3838

Many thanks for your time on Wednesday afternoon to discuss the planned archaeological works and current Schedule 17 application for the Colne Valley Wetland habitat mitigation site.

The Colne Valley Wetland habitat mitigation site is currently being submitted to LB Hillingdon's planning committee with an outstanding objection regarding the lack of archaeological evidence to support an informed assessment of the sensitivity and therefore suitability of the pond location set out in the Schedule 17 submission.

The current situation is that we have reviewed the existing baseline archaeological resource as presented in the HS2 Phase 1 Environmental Statement, have identified a need for geophysical survey at this site and have already committed to confirming the veracity of the geophysical survey results through trial trench evaluation of the pond location (and wider Dews Farm area). HE GLAAS have been consulted during the preparation of the project plans and LSWSIs for these works, although I understand you may not have received the final Code 1 documents via HS2's SharePoint site.

The geophysical survey of the Colne Valley Wetland site was planned for August 2017 as part of a wider programme of geophysics across the area surrounding Dews Farm. Due to various landownership and access issues, and despite several attempts to undertake the survey, we have to date not been able to complete the works. It is this delay to our survey programme which has resulted in the apparent lack of archaeological evidence to support the Schedule 17 submission.

Do rest assured that the geophysical survey, trial trench evaluation, critical review of the results and any recommendation to move the pond or implement archaeological mitigation works will be completed before construction of the habitat site begins in 2019. This is not optional; these works must be undertaken in advance of construction in accordance with the EMRs and GWSI:HERDS process.

Our approach and archaeological strategy being employed for the Colne Valley Wetland habitat mitigation site complies with the direction provided in the EMRs, particularly the Heritage Memorandum and guidance set out in the GWSI: HERDS for designing works and delivering archaeological evaluation, investigation/recording and post-excavation assessment.

I think this point lies at the heart of this issue. The EMRs and GWSI:HERDS provide the requirement to undertake appropriate archaeological evaluation *and* to reduce the impact of the scheme on heritage assets; either by the

protection and preservation of heritage assets in situ, or, through appropriate investigation and recording designed in consultation with HS2's stakeholders such as HE GLAAS.

Ultimately, at the Colne Valley Wetland site, if archaeological investigation identifies assets which should be preserved in-situ and which 'clash' with proposed pond location, the habitat site will need to be redesigned and, potentially, a new Schedule17 submission made.

As the GWSI:HERDS process has to be followed, archaeology should not lead to refusal of, or delay to the Schedule 17 submission. Nor should conditions be attached to the Schedule17 approval.

During our conversation we also discussed the seemingly piecemeal nature of HS2's works across multiple sites and contractors in the Dews Farm area. You also requested copies of the Project Plans, LSWSI and geophysical survey reports relating to these sites.

The documents currently available are attached namely the LSWSI for Geophysical Survey, Project Plan for trial trenching at Dews Farm AC/100-3 with plan showing the proposed pond location and greyscale results for the geophysical surveys completed in the area to date (the full report will be forthcoming when all the surveys have been completed).

I'd like to reiterate that we are considering the Dews Farm area as a whole and that our programme of geophysical survey and trial trench evaluation extends across three habitat mitigation sites and the intervening land. It is unfortunate that the Area Central/Area South section boundary is formed by Harvil Road, however, we are working with the Area South Enabling Works contractor to coordinate our respective archaeological works and to share results. In particular the forthcoming Cadent gas diversion works in the area.

I hope that the above is helpful and that it enables you to withdraw any objection to the Schedule17 submission. As mentioned above this matter has become urgent with the imminent consideration of the Schedule 17 application by the planning committee.

Yours sincerely

Iain

Iain Williamson, BA (Hons) ACIfA

Historic Environment Manager (Archaeology)

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7 attachments



HS2 Schedule 17 Statutory Guidance.pdf
280K



1EW03-FUS-EV-REP-CS01_CL01-001818 1 AWH Stage 1 Project Plan for TT at Dews Farm.zip
9171K



1EW03-FUS-EV-REP-C000-000293 P01 - UW1 WSI for Geophys Bucks Incl Herts and GLA.pdf
3917K



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