

Date: 10<sup>th</sup> February 2022  
Your Ref: 21/04157/F  
Our Ref: 15222c



Ms Sarah Greenall  
Senior Planning Officer  
Cherwell District Council  
Development Management  
Place & Growth Directorate  
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Dear Sarah,

**PLANNING APPLICATION REFERENCE 21/04157/F: USE OF THE SITE FOR THE STORAGE OF OPERATIONAL VEHICLES, TOGETHER WITH ELEVATIONAL AND SITE ALTERATIONS, ASSOCIATED PARKING, WELFARE FACILITIES, VEHICLE BARRIER AND ASSOCIATED INFRASTRUCTURE**

**BANBURY 200, SOUTHAM ROAD, BANBURY OX16 3AE**

On behalf of Lysander (the 'Applicant') we have prepared this letter in relation to our full planning application at the above site (LPA ref: 21/04157/F) in response to the air quality comments raised by the Environmental Health Officer, Mr. Neil Whitton.

The Environmental Health Officer considered the Air Quality Assessment prepared by Delta Simons as being acceptable. However, they have suggested a prior to occupation condition requesting a commitment on timescales to when all LGV's at the site will be Euro 6 compliant and then 100% EV.

No policy basis has been put forward for this request and we do not consider that such a condition meets the necessary tests for conditions for the reasons set out below.

**Planning Policy**

The statutory development plan for the application site comprises of the:

- Cherwell Local Plan 2011-2031 (Part 1) (July 2015); and
- Cherwell Local Plan 1996 - Saved Policies (September, 2007).

Local Plan (July 2015) Policy ESD 10 (Protection and Enhancement of Biodiversity and the Natural Environment) sets out that air quality assessments will also be required for development proposals that would be likely to have a significantly adverse impact on biodiversity by generating an increase in air pollution.

**Partners**

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The Air Quality Assessment submitted has been considered acceptable and the above adopted development plan documents do not make reference to requiring timescales for electric vehicle use for non-residential developments when considering air quality.

### **Recent Decisions**

On part of our application site, the most recent planning consent (related to the Banbury 200 site) proposed a similar development (the storage of operational vehicles) which was approved under planning application reference 21/00503/F. There was no condition related to air quality requiring a commitment on timescales for when all LGV's at the site will be Euro 6 compliant and then 100% EV.

Another van storage scheme was also recently approved in June 2020 under planning application reference 20/00530/F at Symmetry Park in Ambrosden. Of the 157 no. van storage spaces, 16 no. comprised of electric vehicle charging bays (10%). The car park serving this development also had 178 no. car parking spaces, comprising of 10 no. electric vehicle charging bays (11%). The Environmental Health Officer had no objection and made no request for a prior to occupation condition requesting a commitment on timescales for EV usage in relation to air quality, stating:

*"I am pleased to see a large provision of EV charge points for a range of vehicles in the application documents along with ducting in place to expand this capacity in the future as part of the companies commitment to expanding it's carbon neutral fleet. I have read the AQA provided and am satisfied with its contents"*

### **Practical Application**

The commitment to providing Euro 6 compliant vans and 100% passive EV provision is a very significant investment in monetary and resources terms. With regards to the EV provision, this is far greater than the limited number of active spaces secured on other scheme discussed above. These are proposed not because planning policy compels the Applicant to, but because of a commercial imperative to move to a fleet to Euro 6 compliant and electric vans, as set out in our Planning Statement. However, it would be unreasonable for these aims to be subject to a planning condition merely because the objectives that our client is working to is desirable from a planning perspective.

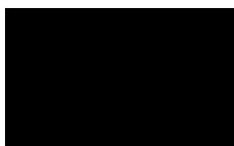
To compel a commitment on timescales for the use of Euro 6 compliant vans and then 100% active EV provision would be unreasonable, not only because of the lack of adopted guidance requiring this proportion, but also because there are a wide variety of factors that influence the ability to roll out Euro 6 compliant vans and for the site to achieve 100% EV, not all of which are within the control of the Applicant. It would not be possible for the LPA to take enforcement action when the Applicant cannot control the circumstances surrounding this transition and, in this respect, it would look to be unenforceable.

Given that the Environmental Health Officer considered the Air Quality Assessment as being acceptable, we hope that Cherwell will support our application.

### **Summary**

In reflection of our above points, we do not consider that it is necessary that a commitment on timescales for Euro 6 compliant and 100% EV vans should be sought for our application. Should you have any queries before then please do not hesitate to get in touch.

Yours sincerely,



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