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Mr Andrew Banks
Planning Services
Herefordshire Council
Franklin House
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Hereford
HR1 2BB

24th January 2017

Dear Mr Banks,

Re: Planning Application Reference P150930/O – Proposed Development of Approximately 250 Dwellings Including Affordable Housing, Public Open Space and Associated Works on Land at Hildersley Farm, Ross-on-Wye, Herefordshire

I write, on behalf of the Secretary of State for Defence, in connection with the above planning application.

Following a further review of this planning application on Herefordshire Council's website, it is the MoD's understanding that the Agent, RPS Planning & Development, has now submitted additional and amended documentation in support of the Applicant's planning application. This documentation includes: Drawing No. 503 Rev H (Concept Plan – dated 30th November 2016); Drawing No. 505 Rev B (Land Budget Plan – dated 9th December 2016); Drawing No. 508 Rev B (Access and Movement Parameter Plan – dated 9th December 2016); Drawing No. 506 Rev B (Density Parameter Plan – dated 9th December 2016); Drawing No. 507 Rev B (Building Heights Parameter Plan – dated 9th December 2016); a letter reference KG/JCD0078 dated 16th December 2016; a Technical Note for noise dated 2nd December 2016 (prepared by Sharps Gayler); a Landscape & Visual Appraisal Technical Note (reference OXF10013 – prepared by RPS) and an Ecological Technical Note (dated December 2016 – prepared by RPS).

In view of the above, it is the purpose of this letter to provide the Secretary of State for Defence's formal consultation response in respect of this additional and amended documentation. However, please be advised that this consultation response should be read in conjunction with our previous consultation responses dated 5th June 2015, 24th June 2015, 6th July 2015, 15th October 2015, 17th December 2015, 29th March 2016, 8th June 2016 and 29th September 2016 respectively.

RPS Letter Reference KG/JCD0078

With regard to the letter reference KG/JCD0078, the Secretary of State has the following comments:

- The Agent, within paragraph 1 on page 1 of the letter, outlines that the indicative 'Concept Plan' (Drawing No. 503 Rev D), and subsequent amended versions of this drawing, which were submitted in support of this planning application, has been amended (now in version Rev H). By virtue of amending the original and subsequent amended versions of the 'Concept Plan', this would perhaps suggest that the Applicant acknowledges that the issue of noise remains a significant concern in respect of the proposed development, and that the proposed development (as previously proposed) would not be acceptable. However, the Applicant has still failed to demonstrate that the revised proposal will indeed be acceptable.

- Within paragraph 2 on page 1 of the letter, the Agent refers to the amended indicative 'Concept Plan' and outlines the proposed amendments to the proposed development scheme; which includes a landscape buffer of up to 150 (assumed to be metres) in width, albeit no evidence has been submitted to demonstrate that a 150m wide landscape buffer would be sufficient in this case. Having done so, the Agent states *"More importantly, however, it means that the proposal does not introduce any housing closer to the firing range than already exist at The Mead, or as have been permitted at Rossleigh under planning permission P/161659."* Unfortunately, the Agent has not substantiated this conjecture.

In respect to the Agent's reference to *"Rossleigh"*, it is worth highlighting to the Local Planning Authority, and the Applicant, that the Defence Infrastructure Organisation (DIO) were not consulted by the Local Planning Authority in connection with Planning Application reference P/161659, in which case we were not aware of this application and were not provided with an opportunity to submit comments in connection with the proposed development. Had we have been consulted, it is suggested that the Secretary of State for Defence would have raised an objection to this application; for similar grounds raised in connection with this planning application.

Notwithstanding the above, it is again worth highlighting to the Local Planning Authority that the development of the application site in any case would result in a significant number of the proposed dwellings being located closer to the firing range, especially in context of the particular firing positions (100, 200, 300, 400 yard firing positions) within the range, than those existing located on The Mead. Therefore, it is the MoD's contention that the statement made by the Agent is inaccurate and significantly misleading.

- The Agent, within paragraph 3 on page 1 of the letter, outlines that the number of units proposed on the application site has been further reduced and would now stand at up to 212 no. This represents a further reduction of 12 no. units from the Applicant's previous amendment, and a total of 38 no. units from the Applicant's original proposal. The MoD supports this position; albeit it is suggested that the technical matter of noise has still failed to be addressed by the Applicant. Accordingly, it remains unclear as to whether or not up to 212 no. residential units will be appropriate for the application site.
- The list of bullet points under Paragraph 4 does not include the technical matter of noise as a separate bullet point. It is listed under the fourth bullet point *"Flood Risk Assessment & Drainage Noise."*
- Paragraphs 1 and 2 on page 2 of the letter refers to the Herefordshire Local Plan Core Strategy 2011-2031, which was adopted on 16th October 2015, in particular Policy RW2.

The Agent, within Paragraph 2 on page 2 of the letter, states *"the Core Strategy identifies the application site as being suitable for a sustainable urban extension of a minimum of 200 new homes under Policy RW2."*

Policy RW2 states:

"The strategic residential development on land to the south east of Ross-on-Wye at Hildersley will be required to include the following to deliver a comprehensively planned sustainable urban extension of the town:

- ...
- *Appropriate mitigation measures to be implemented, which ensure that acoustic and safety issues relating to the proximity of the adjacent firing range are satisfactorily addressed.*
- ..."

It is the MoD's contention that whilst the principle of residential development on the application site is established under Policy RW2, residential development on the application site will not be acceptable unless appropriate mitigation measures are implemented which satisfactorily address the technical matters of noise and safety, and other material considerations, in connection with the MoD's firing range at Ross-on-Wye, which adjoins the application site.

The MoD's position in respect of this planning application is well documented within this, and our previous consultation responses.

It remains the MoD's contention that the Applicant has, thus far, failed to demonstrate that the issue of noise can be satisfactorily mitigated. In addition, the MoD continues to have concerns as to whether or not this issue can indeed be satisfactorily mitigated in any case.

Furthermore, it is suggested that the Applicant has, thus far, also failed to demonstrate that the MoD's concerns with regard to the issues of national security, public safety and flood risk can be satisfactorily addressed.

Accordingly, the MoD considers that the proposed development would not be in accordance with Policy RW2 of the adopted Core Strategy (N.B. an assessment of the proposed development against other adopted planning policies has not been undertaken as part of this consultation response). In this case, it is suggested that it would be appropriate for the Local Planning Authority to refuse planning permission in connection with the proposed development.

- Within paragraph 3 on page 2 of the letter, the Agent refers to the Council's housing land supply position. In view of the fact that the Council can only demonstrate a 4.49 years' supply of housing land, as per the Council's Hereford Five Year Housing Land Supply Interim Position Statement (September 2016), the Agent has outlined the position of Paragraph 49 of the National Planning Policy Framework (NPPF) (March 2012). The MoD do not dispute this position; however, do have concerns in respect of the Agent's statement "*the shortage of housing land within Herefordshire is, therefore, a material consideration that should be given considerable weight in the determination of this application in accordance with the NPPF's advice on adequately planning for local housing need.*" It is suggested that whilst the housing land supply position should be given appropriate weight, the application should be considered on balance in respect of all material planning considerations.
- The Agent, within paragraph 1 on page 5 of the letter, states "*the application site is located within close proximity of a firing range.*" It is the MoD's contention that this statement is slightly misleading. The MoD firing range is not just within close proximity of the application site, it immediately adjoins the western boundaries of the application site.

The Agent continues to state "*the frequency and duration of when the firing range is used varies from week to week and some weeks it is not used at all.*" The MoD do not dispute this position. However, for a more accurate picture of the historic use of the MoD rifle range, unlike the picture presented by the Applicant, please refer to our previous consultation responses.

- Within paragraph 2 on page 5 of the letter, The Agent states "*Notwithstanding the infrequent use of the firing range, following discussions with the Local Planning Authority, the scheme has been revised to ensure that the impact of the firing range, when in use, on the future occupants of the proposed dwellings is mitigated against.*"

The Agent has not outlined the nature of the discussions had with the Local Planning Authority. Notwithstanding this, it is the MoD's contention that the Applicant has failed to submit any evidence in support of his/her planning application that would demonstrate to the Local Planning Authority, and the MoD, that the proposed development has been amended to ensure that the impact of noise associated with the MoD rifle range can be mitigated against. This will be discussed in further detail later on within this consultation response, below.

- Potential mitigation measures are outlined within paragraph 3 on page 5 of the letter, which the Agent advises are discussed in further detail within the Technical Note for noise dated 2nd December 2016, which has been prepared by Sharps Gayler. These mitigation measures will be discussed in further detail later on within this consultation response, below.
- Within paragraph 4 on page 5 of the letter, the Agent states "*The technical note advises that the positive result of the amended concept masterplan is that the proposal does not now introduce houses significantly closer to the firing range than already exist at the Mead, or as have been recently permitted at "Rossleigh".*" This statement appears to conflict with the Agent's statement made within paragraph 2 on page 1 of the letter, which states "*the proposal does not introduce any housing closer to the firing range than already exist ...*" Perhaps the Agent can provide further clarification in respect of the Applicant's position in connection with this matter.

Notwithstanding the above, as outlined above, and outlined within our previous consultation responses, the development of the application site, in any case, would result in a significant number of the proposed dwellings being located closer to the MoD firing range, especially in context of the particular firing positions (100, 200, 300, 400 yard firing positions) within the range, than those existing residential properties located on The Mead. Therefore, it is the MoD's contention that the statement made by the Agent is inaccurate and significantly misleading.

Furthermore, each application should be considered on its individual merits. Therefore, whilst planning permission has been granted in connection with Planning Application reference P/161659, this would not automatically suggest that planning permission should be granted for this application.

In respect to the Agent's continued reference to "*Rossleigh*", it is again worth highlighting to the Local Planning Authority, and the Applicant, that the Defence Infrastructure Organisation (DIO) were not consulted by the Local Planning Authority in connection with Planning Application reference P/161659, in which case we were not aware of this application and were not provided with an opportunity to submit comments in connection with the proposed development. Had we have been consulted, it is suggested that the Secretary of State for Defence would have raised an objection to this application; for similar grounds raised in connection with this planning application.

- The Agent, within paragraph 5 on page 5 of the letter, suggests that by virtue of the amended Site Concept Plan, which is indicative in nature and is not reflective of the final site layout design which will form part of the 'Reserved Matters' planning application, the proposed dwellings would not be located within the 95 dB LA_{max} noise contour (based on the evidence previously submitted by the MoD, prepared by Amec Foster Wheeler Environment & Infrastructure UK Limited). The Applicant has failed to submit any evidence that would demonstrate this to be case. Indeed, the Applicant's latest position appears to rely on the MoD's evidence base which had been prepared in context of previous design schemes (the original and previously amended indicative Site Concept Plan) and has not been updated to reflect this latest amendment. Therefore, in view of the fact that the Applicant has failed to submit any evidence to support the Agent's position, this statement cannot be confirmed.
- Within paragraph 6 on page 5 of the letter, the Agent again refers to the operation of the MoD rifle range, specifically during the night-time. It states "*the technical note also notes that whilst firing does not generally take place at night, the AMEC report sets out a position, whereby firing could take place at night (as there are no restrictions which would prevent it). In those instances, the AMEC report proposes a position whereby noise levels in bedrooms must achieve 45 dB LA_{max} in order to prevent sleep disturbance were firing to take place at night (based on the recommended guidelines for residential accommodation set out (sic) BS8233:2014). The Noise technical note advises that with mitigation measures in place this can be achieved for the proposed development.*"

The technical note appears to contradict the Agent's statement. Paragraph 4 of the Technical Note states, in context of the 45 dB LA max guideline value, "... *this would seem, in our view (Sharps Gayler), to be a very stringent requirement in addressing noise from an activity that does not (but could) take place at night.*" Sharps Gayler appear to be suggesting that the MoD rifle range is not in use at night, which is clearly not the case.

As outlined in DIO's email correspondence to the Local Planning Authority dated 5th September 2016, the range was in use during night-time hours (defined as 23:00 to 07:00 hours) on 30th August 2016, between 18:00 and 00:30 hours. This use of the range was well documented as it is understood that Herefordshire Council received at least 1 no. complaint from a member of the public in connection with the Army's use of the range on this occurrence. Therefore, for Sharps Gayler to suggest that the range is not in use during the night-time is completely unfounded and significantly misleading.

Notwithstanding the above, the Applicant has failed to submit any evidence that would demonstrate that the suggested mitigation measures (identified within the Technical Note) would indeed ensure compliance with the guideline values of British Standard (BS) 8233:2014 or the World Health Organisation's (WHO) 'Guidelines for Community Noise' 1999 in connection with night-time noise levels internally within the bedrooms of the proposed dwellings.

In addition, it would appear that the Applicant has failed to consider the internal or external noise levels to the proposed dwellings, other than for bedrooms. Furthermore, the Applicant has failed to submit any evidence that would demonstrate compliance with the guideline values of British Standard (BS) 8233:2014 or the World Health Organisation's (WHO) 'Guidelines for Community Noise' 1999 in respect of internal or external noise levels to the proposed dwellings.

Accordingly, the acceptability of the proposed development in context of the adjoining MoD rifle range is unclear.

- The Agent, within paragraph 7 on page 5 of the letter, in context of the mitigation measures proposed within the Technical Note, states "... *these represent a reasonable and robust approach to noise from a firing range ...*" The Agent has failed to submit any evidence that would substantiate this conjecture.
- Within paragraph 8 on page 5 of the letter, the Agent states "*In summary ... the proposal does not now introduce dwellings in closer proximity, or exposed to higher noise levels, than already exist ... and the new properties would, given the mitigation measures set out in the Noise technical note, be better protected from noise than the vast majority of existing dwellings.*" For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.
- The Agent, within paragraph 9 on page 5 of the letter, states "*it is our view that, with the masterplan amendments and mitigation measures set out, future noise levels for residents within BS8233 and WHO guidelines can be achieved.*" For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.

The Agent continues to state "*It can be concluded, therefore, that the development could proceed, with mitigation measures, without significant impact on future residents or on the ability of the firing range to continue as is.*" Again, for the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.

- Within paragraph 1 on page 6 of the letter, the Agent states "*we trust that armed with this revised submission you will now be in a position to proceed with the determination of the application because any relevant concerns have been addressed by the amended Concept Masterplan.*"

For the reasons outlined above, and below, and as per our previous consultation responses, it is the MoD's contention that the Local Planning Authority are not in a position to proceed with the determination of this application, unless it is the Authority's intention to refuse planning permission.

Technical Note for Noise

- Within paragraph 2, Sharps Gayler state "*the positive result of the amended masterplan is that the proposal does not now introduce residences significantly closer to the firing range than already exist at the Mead, or as have been recently permitted at "Rossleigh."* Sharps Gayler do not define what they consider 'significant' to represent. Perhaps Sharps Gayler can, therefore, provide further clarification in respect of their understanding of 'significant' in this case.

For reasons previously outlined, above, it is the MoD's contention that this statement is inaccurate and particularly misleading. The development of the application site, in any case, would result in a significant number of the proposed dwellings being located closer to the MoD firing range, especially in context of the particular firing positions (100, 200, 300, 400 yard firing positions) within the range, than those existing located on The Mead.

In respect of Sharps Gayler's reference to "*Rossleigh*", it is again worth highlighting to the Local Planning Authority that the DIO were not consulted in connection with Planning Application reference P/161659, in which case we were not aware of this application and were not provided with an opportunity to submit comments in connection with the proposed development. Had we have been consulted, it is suggested that the Secretary of State for Defence would have raised an objection to this application; for similar grounds raised in connection with this planning application.

- Sharps Gayler, within paragraph 3, state "*the principle established by the Rossleigh permission (Ref: 161659) was that properties would not be exposed to LAMAX levels from firing in excess of 95 dB.*"

In respect to Sharps Gayler's reference to "*Rossleigh*", the MoD's comments in connection with paragraph 2 of the Technical Note (the above bullet point) are considered to be equally relevant in this case.

Each planning application should be considered on its individual merits. Therefore, whilst planning permission has been granted in connection with Planning Application reference P/161659 ("*Rossleigh*"), this would not automatically suggest that planning permission should be granted for this application. The same can be said in context of 'principles' that may or may not have been established in respect of Planning Application reference P/161659.

Notwithstanding the above, Sharps Gayler suggests that by virtue of the amended Site Concept Plan, which is indicative in nature and is not reflective of the final site layout design which will form part of the 'Reserved Matters' planning application, the proposed dwellings would not be located within the 95 dB LAmax noise contour (based on the evidence previously submitted by the MoD, prepared by Amec Foster Wheeler Environment & Infrastructure UK Limited). The Applicant has failed to submit any evidence that would demonstrate this to be case. Indeed, the Applicant's latest position appears to rely on the MoD's evidence base which had been prepared in context of previous design schemes (the original and previously amended indicative Site Concept Plan) and has not been updated to reflect this latest amendment. Therefore, in view of the fact that the Applicant has failed to submit any evidence to support Sharp Gayler's position, this statement cannot be substantiated.

- Within paragraph 4, Sharps Gayler refers to the operation of the MoD rifle range, specifically during the night-time. Initially, Sharps Gayler state "*It is understood that firing does not generally take place at night*"; however, they appear to then change their position given that they state, later on within this paragraph, "*...an activity that does not (but could) take place at night.*" The two statements contradict one another, and the latter statement further contradicts the Agent's statement outlined within the above letter.

Historically, prior to 30th August 2016, there had been no recent (within the previous 5-years) night-time use of the MoD rifle range; however, by virtue of the night-time use of the range on 30th August 2016, this position has now changed.

As outlined in DIO's email correspondence to the Local Planning Authority dated 5th September 2016, the range was in use during night-time hours (defined as 23:00 to 07:00 hours) on 30th August 2016, between 18:00 and 00:30 hours. This use of the range was well documented as it is understood that Herefordshire Council received at least 1 no. complaint from a member of the public in connection with the Army's use of the range on this occurrence.

Accordingly, for Sharps Gayler to suggest that the range is not in use at night is completely unfounded and factually incorrect, which in turn is significantly misleading.

Notwithstanding the above, there is evidence of recent weekend live-firing activity on the range, in addition to night-time usage, as previously confirmed to the Local Planning Authority. This material change in the usage of the MoD rifle range should be reflected within the Applicant's consideration and assessment of the technical matter of noise.

- The MoD's comments in connection with paragraph 3 of the Technical Note are considered to be equally relevant in context of Sharps Gayler's statement made within paragraph 5.

Notwithstanding the above, in respect of the 500 and 600 yard firing positions at the MoD rifle range, whilst these are the closest firing positions to "*Rossleigh*", these are not the closest firing positions to the application site. Firing positions 100, 200, 300 and 400 yards are more appropriate in this case. Furthermore, Sharps Gayler have failed to provide any reference to the effects of the directivity of the noise; the prevailing wind direction and wind speed; and the reverberation of the noise from the cliff at the far end of the application site. Accordingly, the MoD would question the relevant use of the 95 dB LAmax noise contour in this case.

- Sharps Gayler have failed to provide any evidence to substantiate their position outlined within paragraph 6.
- In respect of paragraph 7, and the potential design solution including "*whole-house mechanical ventilation heat recovery (MVHR)*" (as an alternative ventilation to opening a window) as a method of mitigating the internal sound pressure levels of a building in order to ensure compliance with the appropriate guideline values of the WHO 'Guidelines for Community Noise' and British Standard (BS) 8233:2014, it is the MoD's contention that this would not result in an acceptable design solution. It is suggested that the requirement for windows to remained closed, a consequence that would arise from the proposed development in order to avoid undesirable exposure to noise (from the MoD rifle range)

within the proposed dwellings, would result in an undesirable internal living environment for the future occupants of the proposed development. Such a 'sealed box' solution would detract from future occupants' quality of life.

- Sharps Gayler have failed to provide any evidence to substantiate compliance with the appropriate guideline values of the WHO 'Guidelines for Community Noise' 1999 and BS 8233:2014 in respect of day-time internal sound pressure levels to be experienced within the proposed dwellings.
- With regard to external sound pressure levels experienced within private amenity spaces of the proposed dwellings, these should not exceed the guideline noise levels outlined within BS 8233:2014 and WHO's 'Guidelines for Community Noise' 1999. Should the Applicant not be in a position to demonstrate compliance with the guideline noise levels of these documents, then it is suggested that this would result in an undesirable external living environment for the future occupants of those dwellings, and would detract from future occupants' quality of life.

Sharps Gayler have failed to demonstrate that the proposed development, including the mitigation measures identified within paragraph 10, will ensure compliance with the BS and WHO guidance in respect of external sound pressure levels.

- For the reasons outlined above, and as per the DIO's previous consultation responses, it is the MoD's contention that Sharps Gayler have failed to substantiate their conjecture made within paragraph 11, i.e. that *"the mitigation measures ... represent a reasonable and robust approach to noise from a firing range"*.
- Within paragraph 12, Sharps Gayler state *"the proposal does not now introduce dwellings in closer proximity, or exposed to higher noise levels, than already exist ... and the new properties would, given the mitigation measures set out above, be better protected from noise than the vast majority of existing dwellings."* The MoD's comments in connection with paragraph 5 of the Technical Note are considered to be equally relevant in context of Sharps Gayler's statement made within this Paragraph.

For the reasons outlined above, and as per the DIO's previous consultation responses, the Applicant has failed to submit any evidence that would substantiate this conjecture.

- Sharps Gayler, within paragraph 14, state *"it is our view that, with the masterplan amendments and mitigation measures set out, future noise levels for residents within BS8233 and WHO guidelines can be achieved."* For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.
- Following the above statement, Sharps Gayler, within paragraph 15, state *"It can be concluded, therefore, that the development could proceed, with mitigation measures, without significant impact on future residents or on the ability of the firing range to continue as is."* For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.

In view of the above, and the MoD's previous comments, the Secretary of State for Defence does not consider that the technical evidence base, submitted by the Applicant, concerning the technical matter of noise to be sufficient, and fails to fully address the issue of noise in connection with the MoD firing range which adjoins the application site. Accordingly, it is the MoD's contention that this Planning Application should be supported by a new/revised Noise Impact Assessment.

Notwithstanding the above, in the absence of this information, the Secretary of State for Defence does not believe that the Local Planning Authority are currently in a position whereby they can fully consider the impact of noise in connection with the live-firing activities associated with the MoD firing range on the proposed development. In addition, it is the Secretary of State for Defence's contention that the Applicant has, thus far, failed to demonstrate that the issue of noise has been sufficiently considered and can be satisfactorily mitigated accordingly; however, the Secretary of State for Defence has concerns as to whether or not the issue of noise can be satisfactorily mitigated in any case.

In summary of the above, it is the Secretary of State for Defence's contention that it would not be unreasonable for the Local Planning Authority to refuse planning permission in this case.

Accordingly, the Secretary of State for Defence wishes to reinforce the MoD's extant objection to this planning application and in doing so respectfully request that the Local Planning Authority refuse planning permission for the proposed development.

The Secretary of State for Defence will leave the above for the Local Planning Authority's consideration.

Should you wish to discuss the above comments further, please do not hesitate to contact me.

Yours sincerely,

(Signed by electronic transmission)

Jeremy Eaton MRTPI
Town & Country Planner

on behalf of the Secretary of State for Defence