DEVELOPMENT CONTROL COMMITTEE - Date: 11th August 2010

Report of the Executive Head of Planning and Transportation.

Ref: D2010/62850/FUL	WARD: WALLINGTON STH	Time Taken: 10 weeks, 5 days

Site: Prologis Park 140-142 BEDDINGTON LANE Beddington CR0 4TD

Proposal: Application to vary condition 6 of planning approval D2000/46759/DET for Details of siting, design, landscaping, external appearance and means of access of three buildings for uses falling within Class B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) of the Town and Country Planning (Use Classes) Order 1987, together with ancillary office accommodation, service areas, car parking and access from Beddington Lane and Therapia Lane (details pursuant to App. No. D99/45387/OUT). Variation of condition to read: " Site Investigation and Remediation Strategy: the development site, shall be remediated in accordance with the measures outlined within the groundwater Monitoring Report and the remediation measures as approved on 30 March 2010 pursuant to condition 6 of outline planning approval D99/45387/OUT."

Applicant: Prupim Ltd/

Agent: Ms Eve Campbell

Recommendation:

GRANT PERMISSION FOR VARIATION OF CONDITION

Reason for Report to Committee: The application is a Major development with a recommendation for approval.

Reasons for Granting Planning Permission:

The application proposal to vary condition 6 is in accordance with the Environment Agency and the Council's Environmental Protection requirements, would not result in an unreasonable impact on the groundwater quality within the site and the level of risk to controlled waters is acceptable.

1.0 BACKGROUND

1.1 Site:

1.2 The application site relates to the former Beddington Landfill Tip, a large rectangular shaped plot located to the east of Beddington Lane (B272), Beddington. The application site currently contains a group of three similar commercial buildings comprising 22,000m², 20,500m² and 1,700m² gross floor space, within the uses classes B1, B2 and B8, including ancillary offices, service areas and landscaping. These buildings have been built in the last 7-8 years and are served by a new access road (Greenland Way) that provides vehicular and pedestrian connections to Beddington Lane and Therapia Lane.

1.3 **Surroundings:**

1.4 The site is adjoined by various industrial / warehouse units and open storage/parking areas. A number of two storey terrace houses are situated on the adjacent north side of Therapia Lane and part two part three storey detached houses are located to the west side of Beddington Lane.

1.5 **Site Specific UDP/ LDF Designation:**

1.6 The site lies within an area defined in the Sutton Unitary Development Plan (the UDP) as a Preferred Location for High-Tech, Light Industry, General Industry and Warehousing Uses and an Archaeological Priority Area. Beddington Lane is a classified road (B272) and forms part of the borough cycle network.

1.7 **Relevant Planning History:**

1.8 Outline planning permission (ref. 99/45387/OUT) was granted in October 2000 for the erection of 3 buildings for uses falling within Class B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) of the Town and Country Planning (use Classes) Order 1987 together with associated servicing, parking facilities and access from Beddington Cross, Therapia Lane and Beddington Lane.

1.9 Condition 6 stated:

> Before the development is commenced, a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of contamination of soil, groundwater and surface water present on the site, and to determine its potential for the pollution. The method and extent of this site investigation shall be agreed with the Local Planning Authority prior to the commencement of work. Details of appropriate remediation measures to deal with any contamination of soil, groundwater and surface water, including the provisions for monitoring, shall then be submitted to and approved by the Local Planning Authority before development commences. The development shall then proceed in accordance with the measures approved.

1.10 In March 2010, the groundwater monitoring report and the remediation measures submitted in relation to condition 6 were approved.

1.11 Permission was granted for the reserved matters application (ref. 00/46759/DET) relating to this outline permission in February 2001. No restrictions were placed on the use of the building within the classes for which permission was granted.

1.12 Condition 6 approved the:

> "Site Investigations and Remediation Strategy: Approval of Details of Site Investigation and Remediation Works (Conestoga-Rovers & Associates, July 2000), the proposed remediation measures, as set out in the letter of 5 January 2001 from Conestoga-Rovers & Associates to the Environment Agency, and the monitoring procedures, as proposed in the facsimile of 12 January 2001 from the Environment Agency to Michael Sparkes Associates."

1.13 Full planning permission (ref. 05/53987/FUL) was granted in June 2005 for the use of the building for uses falling within Class B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) of the Town and Country Planning (use Classes) Order 1987, in 3 sections, each with office accommodation at mezzanine level, new covered loading area, entrance lobby and alterations to elevations.

1.14 A certificate of lawfulness (ref. 05/54581/CPU) was granted in August 2005 for use of the building as a data storage centre.

1.15 Planning permission (05/54724/FUL) was granted for the erection of two external plant enclosures, provision of acoustic fences, external staircase and alteration to elevations.

1.16 An application (06/56867/FUL) for the erection of a 3.5 metre high security fencing and gates and revised landscaping was approved in January 2007.

2.0 APPLICATION PROPOSALS

2.1 The details of the contaminated remediation measures approved in 2010 pursuant to condition 6 of the outline planning permission 99/45387/OUT (see paragraph 1.10) differ from those approved in 2001 pursuant to condition 6 of reserved matters approval 00/46759/DET (see paragraph 1.12).

2.2 The remediation measures approved in 2001 pursuant to 00/46759/DET included the provision of a bentonite wall (a clay and volcanic ash barrier set in the ground) between the old landfill and the stream i.e. the stream to be outside the bentonite wall, in order to ensure the leachate does not enter the stream. However, site investigation of the groundwater quality within the site, carried out in 2009 and 2010 on behalf of the applicant (and agreed by the Environment Agency) concluded that the bentonite wall has not functioned effectively as the groundwater quality is of poor condition both inside and outside the wall.

2.3 Accordingly, In March 2010 (see paragraph 1.10) the Council agreed with the applicant a groundwater monitoring report and remediation measures submitted pursuant to condition 6 of outline planning permission 99/45387/OUT.

2.4 These measures (which have already been implemented) are:

- Groundwater Containment System:
  - In ground barrier – comprising a bentonite slurry wall surrounding the entire site to divert groundwater flow and to contain groundwater within the site;
  - Leachate/ Groundwater collection system – for the collection of leachate and groundwater within the betonite wall;
  - Active pumping system – to recover and treat leachate and groundwater from boreholes linked to the collection system. Treated water is subsequently disposed of via foul sewer.

- Gas Protection System:
  - Active gas protection beneath the three units to prevent infiltration of ground gas into buildings and structures.

2.5 The current application is seeking the approval of a variation of condition 6 of reserved matters application 00/46759/DET so that it is reworded to accord with the wording and requirements of condition 6 of outline planning permission 99/45387/OUT to read:

> *"Site Investigation and Remediation Strategy: The development site shall be remediated in accordance with the measures outlined within the groundwater Monitoring Report and the remediation measures as approved on 30 March 2010 pursuant to condition 6 of outline planning approval D99/45387/OUT."*

2.6 **Significant amendments to application since submitted:**

- There have been no amendments to the proposal.

3.0 **PUBLICITY**

3.1 **Adjoining Occupiers Notified:** Yes

3.2 **Method of Notification:**

- This application was advertised by way of letters sent to the owners/ occupiers in Beddington Lane, Therapia Lane and Beddington Farm Road, a site notice posted on site on 11 June 2010 and a press notice.

3.3 **Number of Letters Received:** None

3.4 **Addresses of letters:** Not applicable

3.5 **Summary of material responses:** Not applicable

3.6 **Non-Material Responses:** Not applicable

3.7 **Official Consultation**

3.8 **Internal:**

3.9 <u>Land Contamination Officer (Environmental Officer):</u>

- "I can confirm that I have no objections to you changing of the wording 'to reference the groundwater quality report', as described. We are satisfied that no further investigation or remedial works are required for the site and that the previous requirements regarding groundwater, requested in the reserved matters application, condition No.6 ref. 00/46759/DET are unachievable and are now not realistic. This has been proposed and confirmed by the Environment Agency, who in correspondence, held in our 'Special File' No. 6, confirm the groundwater in the area is of a poor condition and therefore the groundwater conditions previously requested can be discharged."

3.10 **External:**

3.11 Environment Agency: No objection.

3.12 **Councillor Representation:** None

4.0 **MATERIAL PLANNING POLICIES**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:

(1A) The London Plan (originally adopted 2004, amended version, consolidated with alterations, adopted February 2008).

(1B) The London Plan: Consultation draft replacement plan, October 2009.
This document, which will eventually replace the existing consolidated version of the London Plan, was published for public consultation until 12 January 2010. A public Examination is likely to be held in Summer/Autumn 2010. Although the draft replacement plan will not supersede the existing London Plan until after it has been formally adopted, the draft plan will be a material consideration that should be taken into account in deciding planning applications and will gather increasing weight the further into the replacement process.

In the event that there are discrepancies between the adopted CPS, SDP and Replacement London Plan, legal guidance indicates that the latest adopted document prevails.

(2) The Sutton Unitary Development Plan (UDP) (adopted April 2003). Some of the UDP Policies have now been replaced by the Core Planning Strategy Policies.

(3) The Local Development Framework (LDF) which is to replace the UDP in due course as the official Development Plan for the Borough. At present it comprises two main documents (additional ones for specific areas such as Sutton Town Centre will be produced):
-(a) The Core Planning Strategy (CPS) which sets out the Council's long term vision, spatial strategy and core policies for shaping the future development in the Borough and managing change over the next 15 years in line with the principles of sustainable development. Following public consultation and a formal public examination by Government Inspectors the final version of the CPS was adopted by the Full Council on 7.12.09. The adopted CPS replaced a number of the UDP policies and is a material consideration in the determination of planning applications.
-(b) The Site Development Policies Development Plan Document (DPD) which identifies sites for future development (outside Sutton Town Centre) and sets out detailed development management policies to be used to help decide planning applications. The DPD has been through two stages of public consultation and was approved by the Full Council on 7.12.09 for submission to the Secretary of State. A

further public consultation was carried out in January - March 2010. The DPD is likely to be the subject of a formal public examination by Government Inspectors next year. The DPD is now accorded substantial weight by the Council in determining planning applications (and is a material planning consideration.)

4.2 Also a material consideration in determining planning applications are:

(a) National Planning Guidance in the form of Planning Policy Statements and Planning Policy Guidance documents.

(b) Adopted London Borough of Sutton Supplementary Planning Guidance documents.

4.3 National Planning Guidance:

- PPS1 Sustainable Development
- PPS4 Planning for Sustainable Economic Growth
- PPS10 Planning for Sustainable Waste Management
- PPS23 Planning and Pollution Control
- Circular 11/95 'Use of Conditions in Planning Permissions'.

4.4 The London Plan (originally adopted 2004, amended version, consolidated with alterations, adopted February 2008):

- 3B.4 Industrial locations
- 4A.22 Spatial policies for waste management
- 4A.26 Number and types of recycling and waste treatment facilities

4.5 The London Plan Spatial Development Strategy for Greater London (October 2009) Proposed Submission:

- 2.17 Strategic Industrial Locations
- 5.21 Contaminated Land

4.6 Sutton Unitary Development Plan

- G/EM4 Strategic Industrial Locations
- EM4 Preferred Location for 'High –tech' Industry, Light Industry, General Industry and Warehousing or Similar Industrial Uses
- G/PNR1 Environmental Protection
- PNR2 Water Pollution

4.7 Core Planning Strategy Policies

- PMP4 Main Locations for Industries

4.8 Site Development Policies – Proposed Submission

- DM2 Protecting Amenity
- DM9 Water Supply, Water Quality & Sewerage Infrastructure
- DM11 Contaminated Land
- DM33 Strategic & Established Industrial Locations

5.0 PLANNING CONSIDERATIONS

5.1 The principal consideration (including whether any material planning objections have been reasonably addressed) in relation to this application is whether the proposal to vary condition 6 of planning permission ref. D2000/46759/DET is acceptable in terms of remediation of contamination on the site.

5.2 The proposal to vary condition 6 in relation to contamination remediation measures is acceptable to both the Environment Agency and the Council's Environmental Health Officer.

5.3 The findings of the site investigations to the groundwater quality within the site, carried out in 2009 and 2010 by WSP Remediation Ltd on behalf of the applicant and reported to and agreed with the Environment Agency (March 2010) subsequently concluded that the Bentonite Wall had not functioned effectively as the groundwater quality is of poor condition both inside and outside of the filled area.

5.4 As a result of these investigations WSP Remediation Ltd and the Environment Agency concluded that, under the circumstances, the level of risk to controlled waters (principally the river Wandle) is acceptable. In addition, the Environment Agency has confirmed that no permissions are required under current environmental legislation to protect groundwater locally.

6.0 CONCLUSION AND RECOMMENDATION

6.1 It is considered that the proposed variation of condition 6 under s.73 of the Town and Country Planning Act 1990 is acceptable, as it would not result in an unreasonable impact to the groundwater quality within the site and the level of risk to controlled waters is acceptable.

6.2 The application is therefore recommended for approval.

Background Papers: D2010/62850/FUL
Drawings and other documents can be viewed on line –
1) Go to page: http://82.43.4.135/FASTWEB/welcome.asp
2) Enter Planning Application Number: **D2010/62850**
3) Click on Search and View Current Applications
4) Click on View Plans & Documents

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D2010/62850/FUL

DRAFT

WARNING: It is in your interests to ensure you obtain the approval of the Local Planning Authority, where the conditions require that to occur. Failure to comply with the following conditions may lead to enforcement action to secure compliance.

FIRST SCHEDULE

Prologis Park 140-142 BEDDINGTON LANE Beddington CR0 4TD

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SECOND SCHEDULE

INFORMATIVES.

(1) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985. An appointment can be made for this purpose by telephoning 020 8770-5070.

(2) This application has been assessed against the relevant policies of the Sutton Unitary Development Plan. The proposal is generally in accordance with Section 38(6) of the

Planning and Compulsory Purchase Act 2004 (as amended) and for this reason planning permission is granted.

(3) The drawing no(s). relating to this decision is LBS1.