

ON BEHALF OF HARLEYFORD AGGREGATES LTD

RESPONSE TO REGULATION 25 REQUEST

EXTRACTION OF SAND & GRAVEL

LOWER HALL FARM

SAMLESBURY

LANCASHIRE

Objections of South Ribble Borough Council

Mineral & Resource Planning Associates Ltd

October 2023

INTRODUCTION

This is a response to the objection by South Ribble Borough Council (SRBC) to the above application (LCC/2021/00012) at Lower Hall Farm (LHF). It deals with the full submissions of SRBC (namely the recommendation from the Planning Committee and the detailed consultation response of the EHO) and those as referenced in the Regulation 25 letter from Lancashire County Council of 18 May 2021.

The objection from SRBC raises a number of concerns but draws particularly on comments provided by the SRBC Environmental Health Officer in relation to specifically (i) supposed non-compliance with the SRBC “Low Emission Strategy” (sic); and in association to (ii) noise and air quality issues in general; and (iii) as regards to the date of surveys.

AGE OF SURVEYS

It is claimed that all the relevant surveys are too old. The extent to which age may have made such surveys irrelevant is not identified.

There is no statutory requirement that sets out time limits on survey data or that makes surveys automatically irrelevant merely due to their age. The relevant requirement is that the survey data is relevant to the current status of the site and is of adequate quality. This requirement has been confirmed in ‘Girling’.

The location and the nearest properties to the operations at LHF, are totally dominated in terms of air quality pollution and noise pollution by traffic from the combined M6 and A59, although other such sources from the Red Scar Industrial Estate (current and planned) add to this burden. This M6/A59 source essentially provides the ‘normal’ background pollution for both air quality and noise throughout the day (the operating period of LHF) and particularly at night, when commercial activities at RSIE are mostly inactive.

This section of the M6 is one of the busiest sections of road in the UK with commensurate high levels of noise and air pollutants which spread across the site at LHF and adjacent land and property.

The relevant highway assessments at LHF cover the period immediately pre-Covid. Traffic levels are variably recovering from Covid and currently latest road traffic statistics (2022

survey data from Department of Transport at this date [October 2023]) at relevant survey points (between junction 31 and 31A on the M6, and opposite the stone showroom on the A59) show that traffic on the M6 and the A59 is still respectively circa 90% and 80% of immediate pre-Covid levels.

The relevant surveys therefore describe both the potential situation more realistically and a 'normal' level of impacts. Using more recent surveys would underestimate the background levels and is not desirable.

It is also important to consider if there have been any significant changes in the site and surroundings since the surveys which might either mitigate or increase background levels. If significant changes have occurred then new surveys may be justified.

There have been no physical changes in the site or the surrounding area other than the gradual decline of hedgerows and the insignificant impact of Ash Die-back. New surveys are neither justified or required.

The dates of survey represent 'normal' traffic levels and sources of air pollution and noise. The surveys are relevant and of adequate quality. No significant changes have occurred in the locality.

AIR QUALITY

The "Low Emission Strategy"

The main major objection of SRBC and the EHO is that it is stated that the application does not comply with the "published" SRBC "Low Emission Strategy".

No such "Low Emission Strategy" exists or has been published by SRBC.

The Planning Advisory Note

However, a Planning Advisory Note (PAN), dated September 2020, on low emissions and air quality has been produced by the Environmental Health Dept and it is understood that it is this document that the SRBC objection relates to.

The PAN is not a Strategy or Policy of the Council nor is it SPD. It has never been ratified or adopted by the Authority or been the subject of any public consultation. It is not identified

in any Local Plan policy or planning advisory document and during the preparation of the application at LHF and the consideration of the application by officers and members of SRBC, it was not available on or from the council website. It has been placed on that website subsequently.

The PAN is patently not a “Low Emission Strategy”, nor any form of ‘strategy’ or ‘policy’. The PAN merely sets out a procedure to assess likely air quality impacts in urban areas and as may affect residential development and areas.

It was proposed in the PAN that the PAN will be formalised into SPD via the local plan process. That has not been progressed. There is apparently currently no proposal to formalise the PAN. The PAN has limited if any weight in the determination process.

At the time of concluding its objection (April 2021) the PAN was not available on or from the SRBC website.

A copy of the PAN has been provided to HAL by the EHO Department. The PAN is dated September 2020. The purpose of the PAN is stated to be to encourage developers to support action to (i) improve air quality and (ii) lower transport emissions.

The significant level of tree planting at LHF from day 1 and the provision of ponds will help to improve air quality locally and offset existing and additional air quality impacts from nearby sources and development, such as from the M6/A59, Red Scar Industrial Estate and the urban area of Preston; and including any expansion of the RSIE, the recently permitted incinerator, the urban area, or new urban development. The development at LHF will therefor comply with and support this purpose of the PAN.

The extraction of mineral from LHF will also improve air quality in comparison with haulage of construction materials from greater distances and lower net transport emissions It will enable the local supply of construction aggregate to this part of Lancashire rather than require long distance haulage from other parts of Lancashire or beyond. Development at LHF is therefore also in compliance with this purpose of the PAN

Planning Policy

The PAN is stated to relate to planning considerations as set out in the relevant development plan and particularly Policy 30 in the Central Lancs Core Strategy (CS) and draft Policy DM28 in the South Ribble Local Plan (LP).

Policy 30

Policy 30 is stated in the PAN to require that development will not “adversely affect areas already suffering the most air pollution” and to “improve air quality”.

However, the PAN erroneously quotes the supporting paragraphs to Policy 30, not the requirements of Policy 30 itself. Policy 30 actual states: “Improve air quality through delivery of Green Infrastructure initiatives and through taking account of air quality when prioritising measures to reduce traffic congestion”. These are two specific actions relating to the provision of new Green Infrastructure and reduction of traffic congestion only.

Significantly Policy 30 provides no general background policy support for the production or application of the PAN.

The supporting paragraphs of Policy 30 address the policy requirements of the Policy actions but specifically in relation to AQMAs and Green Infrastructure.

There are no designated AQMAs on or near the site at LHF.

Those supporting paragraphs also identify the opportunity for improvements in air quality such as “encouraging the planting of more trees where opportunities exist”.

The development at LHF complies with the specific requirements of Policy 30 as it provides significant new Green Infrastructure, including the planting of numerous trees and other air quality ‘improving’ actions. Issues of road “traffic congestion” do not arise from LHF or at the immediate adjacent routes.

The development therefore does not conflict with the objectives of Policy 30 and supports those objectives in relation to Green Infrastructure.

Policy DM28

The 2015 adopted SRBC LP predates the PAN and does not include any policy relating to matters set out in the PAN.

The PAN references draft Policy DM28 in the LP. No such draft policy exists. The LP has not been reviewed.

The development cannot be in conflict with a policy that does not exist.

The PAN Decision Tree

The PAN sets out guidelines for treatment of sites via a decision tree appraisal. The PAN is however primarily focussed on built development and mainly in urban areas and not applicable to mineral working outside such areas.

Nevertheless, an assessment using the parameters set out in that decision tree has been undertaken to demonstrate that there is no non-compliance as claimed.

The PAN process classifies sites into 6 types based on size of potential impact on people and the possibility of potential new residential exposure to existing levels of poor air quality.

The PAN considers mitigation (but again mainly in an urban context). Mitigation proposed at LHF is fully described in the application. This considerably exceeds that suggested in the PAN.

Step 1 Location

This first and primary decision tree step addresses the direct relationship to AQMA areas, or the indirect relationship to such an area where a development may have a negative impact on air quality in such AQMA areas. The need to reduce any further deterioration in air quality in an AQMA is a major objective of the PAN.

The AQMA areas are shown in the PAN by hatching on map extracts.

The PAN states that development outside such defined areas will not usually have an impact on areas of existing poor air quality.

The site at LHF is not within a hatched area and is at a considerable distance from such defined areas. It will not affect air quality in any AQMA. This step is not relevant to LHF.

Step 2 Size

This decision step then addresses the size of the development by allocating it to either 'small' or 'large' according to gross floor area or people with different thresholds for AQMA or non-AQMA areas. The minimum threshold for a site to be defined as a 'large' site outside an AQMA hatched area (as LHF) is a building of 1,000 sq metres, or 100 resident people, or 100 housing units. No other parameters are considered. The spatial extent of the application area is not a relevant consideration.

The site at LHF is well below these thresholds (where relevant) and would therefore be classified as a 'small' site, although it is also well below all and any relevant thresholds for a 'small' site.

Step 3 Traffic Generated

This decision step addresses traffic generated. It is only applicable to the increase in traffic in terms of AADT within 'large' sites.

As LHF is a 'small' site, this step is therefore not relevant.

Step 4 New Occupants

This decision step considers if new (residential) occupants of the site would be exposed to poor air quality where the development is within an AQMA or a hatched area or where air quality is a concern.

The PAN confirms that occupational exposure is not a relevant consideration.

Exposure at LHF would be occupational exposure which is specifically excluded from consideration. This step is therefore not relevant to LHF.

Step 5 Provisional Classification

On the above basis LHF would be classified as “Small”, “Plain” and no “New Exposure” and would fall within “Site Type 1” (the lowest category) where only standard mitigation may (my underlining) be required.

Mitigation

Given the above site classification the relevant mitigation as set out in the PAN is defined as no more than ‘Standard Provision’.

No further assessment of emission mitigation is required.

Standard Provision consists of the adoption of a Construction Environmental Management Plan (CEMP) and infrastructure for recharging of electric vehicles originating on site.

The provision of a CEMP is included in the submitted application.

No vehicles will originate from or be stationed at LHF and the recharging provision is not relevant. Electric charging of suitable extraction machinery is not technologically viable at this time or in the foreseeable future.

The extensive tree planting at LHF from day 1 of operations will make a significant contribution to removing air pollution from the surrounding urban area.

This is significant additional mitigation which is not recognised in the PAN although is an objective in CS policy 30.

The PAN states in para 4.2 that small sites (such as at LHF) “do not require substantial submissions by the developer” and do not require a “formal ‘impact assessment and mitigation report’”.

The suggestion by the EHO that such further assessment is required is therefore contrary to the provisions in the PAN.

Summary

No “Low Emission Strategy” as referenced in the objection by SRBC exists or has been published by SRBC.

A Planning Advisory Note (PAN) on low emissions and air quality has been produced by the Environmental Health Dept. This is not a Strategy or Policy of the Council nor is it SPD. It has never been ratified or adopted by the Authority or been the subject of any public consultation.

The PAN has little if any policy weight or bearing on a decision.

Applying the decision tree assessment outlined in the PAN to LHF demonstrates that LHF would fall into Type 1 where 'standard mitigation' as described is adequate.

The development at LHF provides considerable air quality mitigation well beyond 'standard mitigation' as set out in the PAN.

In accordance with the PAN, and contrary to the statement by the EHO, the development at LHF does not require additional air quality assessment.

The development at LHF complies with or exceeds the obligations of Policy 30 in the CS. There are no relevant policies in the Local Plan. The development is in accordance with the adopted development plan.

Dust

Claims by the EHO that impacts from other sand and gravel operations (presumably at HBQ) affected properties nearby are neither evidenced nor proven. They would in any event be relevant only to those other workings and operating conditions at those sites where operations at HBQ were taking place immediately on the other side of the Ribble and upwind of numerous properties.

Apparently, despite the near location and the claims of nuisance or harm by such residents, no actual nuisance or harm was demonstrated.

Those claims are irrelevant to any decision at LHF.

Noise

The whole area is dominated by noise from the M6/A59 as shown on the England Noise Map. I have already dealt with noise at the nearest residential properties (The Brambles and Bezza Villa) in my previous response to the Regulation 25 letter and specifically the

submissions made by a resident of one of those properties, including a survey undertaken by that resident, which recorded an average daytime noise of 51.7dB. Night noise levels are not relevant to the development at LHF but as demonstrated in survey work at Brockholes and in the England Noise Map, existing night noise levels are significant and intrusive.

As noted above, in the application and as shown on the England Noise Map the relevant area is dominated by high noise levels day and night from the M6/A59. This provides the consistent background noise level on site and at adjacent properties.

The noise levels identified in the England Noise Map represent the long-term background and as they are linear assessments and are based on 2017, and are pre-Covid, they represent the 'normal' background in comparison with point source and/or short-term measurements that would be undertaken today.

That Map shows that the average noise, which is in effect the background noise, at the 2 semi-detached properties at the junction of Potters Lane and Dean Lane (The Brambles and Bezza Villa) is (i) during the day (07.00-23.00) circa 50-55 dBA and (ii) at night (23.00-07.00) circa 45-50 dBA.

The noise report in the application is based on notional noise levels from generic mobile and processing plant and mitigation of noise through the provision of a screening bund. This suggests that noise from the operations at LHF at the 2 nearest properties noise would be contained below 50dB LAeq. However, this should be seen in the context of actual noise at those properties actually exceeding 50dBA as noted in the England Noise Map and in measurements undertaken by a resident. Given that it is suggested that the target noise limit for noise from LHF at those properties (and other property) should be 55 dB LAeq.

Further it should be noted that there exists significant further scope for mitigation, which was not taken into account in the noise report, including the use of acoustic fencing and the use of lower plant.

In any event a Noise Impact Assessment can be conditioned (as noted by the SRBC EHO) which will enable various mitigation works and clearly overcome the objection of SRBC.

The noise/visual impact screening bund around the processing area will incidentally help to reduce the high night-time noise levels from the M6/A59 at The Brambles and Bezza Villa during operations.

GREEN BELT

As demonstrated in the application (and on cross sections on plan PL47) the 8 metre bund is of no visual consequence in the landscape and is itself screened by the wood at the Nursery and along Bezza Brook.

As concluded by the Supreme Court in Samuel Smith Old Brewery (February 2020) a mineral extraction operation may be as equally effective in maintaining 'openness' as farmed land or forest. The use of bunds in that context may or may not harm the visual impact of a development (but does not produce harm here) but does not harm the Green Belt in terms of harm to 'openness'.

EXTRACTION AND THE ACCESS

There is a desperate need for the release of new sand and gravel reserves to enable construction activities in the area. The operations are short-term and will provide a valuable long-term environmental and amenity asset for the community.

The traffic on the access road is negligible in all respects and its impact similarly negligible.

The new access road will be supported by planting and landscaping and provide additional landscape and biodiversity assets for the location. It will be removed at the cessation of operations and restored to woodland creating further enhancement.

The traffic assessment demonstrates that the additional traffic movements on the A59 are negligible.

LISTED BUILDINGS

The relevant listed buildings are set within operational farm complexes. The operations at LHF will not produce further harm to those settings (see Policy G17 below). The landscaping and associated works will enhance the setting.

AMENITIES

The development will be distant from all but two properties. The mitigation will protect the amenities of those properties and mitigate other external impacts on those properties from the M6 and industrial and waste management operations.

POLICY G17

Policy G17 relates to design criteria. Provisions (a), (b) and (c) relate to the design of buildings etc in the urban area and are not relevant to temporary mineral operations.

Provision (d) relates to heritage assets. It states that “where substantial harm or loss” of a heritage asset might arise then permission would be granted where substantial public benefits outweigh that harm or loss. No substantial loss or harm arises.

The NPPF notes that ‘great weight’ should be given to the provision of minerals which therefore meets the test of “substantial public benefit” outweighing any incidental harm to the settings of such assets at LHF.

Provision (e) relates to the need to avoid detrimental impacts on landscape features. The development at LHF will enhance the landscape.

FOOTPATHS AND CYCLE ROUTES

No footpaths are diverted or closed. The existing cycle routes will remain undisturbed. Use of both footpaths and cycle routes by walkers, riders and cyclists is negligible. The impact of the proposed operations at LHF where traffic will cross such routes will be negligible.

ECOLOGY

As demonstrated in the ES the impact on protected species is negligible in terms of any harm but significantly positive in the provision of new habitat.

CONDITIONS

The primary objections of SRBC are related to amenity considerations of air quality and noise as identified via the EHO.

The EHO however concludes that objections can be overcome by conditions. The EHO therefore does not suggest that the objections are so fundamental that the development should not be granted consent. Such conditions as deemed suitable by the EHO are attached to the EHO report. Conditions can enable development to proceed where it would otherwise have been necessary to refuse consent. Given that conditions can overcome the objection there is no basis for maintaining the objections set out by the EHO.

It is agreed by HAL that the primary amenity objections can be overcome by conditions similar to those scheduled by the EHO. HAL accepts those conditions, except as proposed to be modified as below:

1 *Operating Hours*

The operating hours as proposed include from 7am on Saturday and Saturday afternoons. The EHO suggests that no operations shall take place early on Saturday or on Saturday afternoons. The typical justification for this is that a location may be relatively quiet on such times due to a reduction in commercial activities. That may have been the historical situation but the general location at LHF is not a quiet and peaceful residential or rural area but a working part of the urban fringe dominated by activity and high noise levels from transport and commerce at all hours of the day and night. Nearby residencies (of which there are very few – less than 5) therefore do not enjoy any better quality of amenity on for example Saturday afternoons that they enjoy on any weekday afternoon and any amenity impacts from the operations at LHF are going to be no more intrusive on Saturday afternoons than on a weekday, although activity on site will in all probability be less throughout Saturday than on a weekday.

The additional operations at LHF on Saturday will have no discernible impact on amenities or the environment and there is no amenity or other planning justification for the proposed restriction. The condition should not restrict operating hours which as proposed are in keeping with the prevailing amenity conditions in the location.

2 *Hours of Construction*

As above.

3 *Noise*

See discussion above. Accept

4 *Vibration*

No blasting will arise. The condition is not needed.

5 *Waste*

In so far as this relates to waste other than mineral waste this is acceptable.

6 *Lighting*

Accept

7 *Site Compound*

This relates to the construction site compound. Accept

8 *Dust Management Plan*

Accept

9 *Wheel Wash*

Given the length of the private access road there is no justification for a wheel wash. This condition should be reworded to create an obligation on the developer not to permit mud or material to be deposited on the public highway and enabling the operator to use such methods to control such matters as necessary.

10 *Air Quality*

See discussion above. In so far as I have demonstrated above that the development complies with the development plan policies and with the PAN this matter has been dealt with and this condition is not required.

11 Invasive Species

The condition should be re-worded to deal with “invasive plant species”. Accept.

Burning

Accept

John Cowley for Harleyford Aggregates Ltd, 31.10.23