

Planning and Regulation Committee – 15th April 2019
PN7 – Asphalt Plant Banbury – Addendum

Further noise assessment work

1. Following the publication of the report, the applicant has stated that they will undertake further noise assessment work to gather further technical information to inform the detailed wording of conditions. They have some concerns about some of the additional conditions set out on page 54 of the committee report.
2. In particular, the applicant is concerned about the 4th and 5th conditions on the list. They consider that the principle of these conditions may be acceptable, but they would like the detailed wording to be agreed following further noise assessment work.
3. It is considered that conditions to limit noise levels, control train movements and specify the number of nights per year that the site can operate overnight are necessary to ensure that the development is carried out as proposed and does not cause unacceptable impacts on amenity. However, it is also considered that it is appropriate to take into account any further assessment work in determining the detailed wording of these requirements. The detail in the additional conditions on page 54 was taken from the noise assessment submitted with the application.
4. The survey work should be undertaken by the date of this committee meeting, however, there is unlikely to be sufficient time for the applicant to analyse the findings and for agreement to be reached on detailed wording, prior to committee.
5. Therefore, it is recommended that the application is approved subject to an updated list of additional conditions, with the detail removed from the three conditions of concern, to allow agreement to be reached following consideration of the additional noise assessment.
6. The report sets out on page 51 that condition 3, which sets out the permitted operating hours, can be removed as requested by the applicant. The requirements of this condition should be retained for days other than the up to 180 days per year where overnight working would take place.
7. There is an error in the proposed additional condition limiting night time working hours to 6pm-4am (7th condition on the list on page 54). This should read 7pm-4am as working until 7pm is already permitted for this site and the additional hours sought through this permission are 7pm-4am.
8. Therefore, the list of proposed additional conditions on page 54 is amended as follows There are amendments to the 4th, 5th and 7th conditions and an additional 11th condition. New text is shown underlined and deleted text is struck through.

- i) An additional condition is required for a planting scheme to mitigate the vegetation removal necessary for the relocation of the office.
- ii) Details of protection measures for vegetation to be retained should be provided.
- iii) Full details of the noise barrier should be submitted, approved and implemented prior to the commencement of night time operations
- iv) Condition to ~~confirm that train movements and unloading are restricted to daytime hours only with a maximum of 3 per week~~, restrict times and frequency of train movements and unloading, to be agreed following consideration of additional noise assessment work, with records kept ensuring that compliance can be monitored
- v) ~~Night-time noise limits of 1 decibel above background noise, as set out in submitted noise assessment~~ to be agreed following consideration of additional noise assessment work
- vi) Developer to monitor night time noise levels and submit details to Minerals Planning Authority upon request
- vii) A condition stating that overnight working (between ~~6pm~~ 7pm and 4am) shall only take place on up to 180 nights per calendar year
- viii) A condition for records of night working to be kept and provided on request, to ensure that the condition above can be monitored and enforced
- ix) An additional condition should be added to confirm the list of approved plans
- x) No external lighting, except in accordance with a scheme which has been submitted and approved by the Minerals Planning Authority.
- xi) Existing operating hours for days that are not subject to 24 hour working (04.00-19.00 Mondays to Saturdays and 08.00-17.00 on Sundays.)

9. These changes are set out in an amended Annex 2 below. The recommendation is amended to refer to this, also as set out below.

Further consultation response – Cherwell District Council

10. Since the publication of the committee report, Cherwell District Council have provided confirmation of their view on this application. This further response states that they object to the following:
 - the removal of conditions relating to working hours leaving the ability for 24 hour operating due to the potential for objections to be raised by local residents in respect to environmental matters.
 - to the removal of condition 5 as there must be a process in place to deal with any complaints received.
11. They also make the following recommendations:
 - That hours are imposed relating to HGV movements restricting these to daytime only
 - That the application should be linked to the legal agreement imposed on the original permission.
12. This response does not raise any new issues, and the points raised are addressed in the report. Assessments submitted with the application have demonstrated that, subject to conditions, there would not be adverse amenity or environmental impacts. There would still be a mechanism for complaints to be addressed as conditions are recommended which would set noise limits and require noise monitoring. The purpose of the application is to allow the plant to supply contracts requiring the overnight provision of asphalt so it would not be reasonable to impose a condition preventing HGVs from leaving

at night. If night time HGV movements are considered to be unacceptable the application should be refused. However, it is not considered that night time HGV movements would cause an unacceptable impact, subject to the recommended routeing provisions. These would require a new routeing agreement.

13. There is no change to the recommendation as a result of this additional consultation response.

REVISED RECOMMENDATION

Subject to a new routeing agreement first being entered into to secure the existing routeing provisions with additional restrictions to the route for night time HGV movements, it is **RECOMMENDED** that planning permission for Application MW.0117/18 be approved subject to conditions as set out in Annex 1 as amended by amended Annex 2 to this report.

Amended Annex 2

Annex 2 - Amended Conditions

The applicant has proposed changes to conditions 2, 3, 4, 5, 8, 12, 13, 16

Condition 2

The applicant has applied to vary condition 2, which states that the development should be carried out in accordance with the approved plans. These are listed on the first page of the decision notice, rather than within the condition.

Existing wording - The development hereby approved shall be carried out solely in accordance with the details submitted with the application except as modified by conditions of this permission unless otherwise agreed by the local planning authority in writing.

Applicant proposed change – The approved plans should be updated to include the new plans showing the locations for the relocated office, canteen and WC, and remove superseded plans.

Officer comments – The proposed change is acceptable. Condition 2 should be updated to list all approved plans, in line with current practice.

Condition 3

The applicant has applied to vary condition 3, which sets out the operating hours for the plant.

Existing wording - Except with the prior agreement of the local planning authority in writing, no operations authorised or required by this permission shall be carried out and plant shall not be operated, other than: Between 0400 and 1900 hours Mondays to Saturdays and 0800 hours to 1700 hours on Sundays.

Applicant proposed change – The applicant has applied for this condition to be removed so that the plant can be operated at any time, without the need to seek prior agreement from the local planning authority.

Officer comments – The proposed deletion of this condition is acceptable should the application be approved.

Condition 4

The applicant has applied to delete condition 4, as it only applied until the end of 2003 and therefore is no longer needed.

Existing wording - That between the hours of 0400 and 0600 in the period up to 31 December 2003 only, no lorries shall enter or leave the site.

Applicant proposed change – The applicant has applied for this condition to be removed.

Officer comments – The deletion of this condition is considered acceptable as it no longer applies.

Condition 5

The applicant has applied to remove condition 5, which relates to operating hours.

Existing wording - That should any justifiable complaints be received about the operations of the site within the hours hereby extended i.e. 0400 to 0600 hours and 1800 to 1900 hours Mondays to Fridays; 0400 to 0600 hours and 1400 to 1900 hours on Saturdays and 0800 to 1700 hours on Sundays, the site shall cease operations and the applicant shall submit for written approval by the local planning authority, details of measures to overcome those complaints. Site operations shall not recommence until such measures have been approved and implemented.

Applicant proposed change – The applicant has applied for this condition to be removed.

Officer comments – Concerns have been raised about the removal of this condition as residents are concerned that there should still be a mechanism to respond to noise complaints. However, it is considered that the current wording of the condition is not precise or enforceable. It is considered that the need to respond to complaints about excessive noise at night would be best dealt with through a new condition requiring the applicant to monitor noise and submit details further to any request by the Minerals Planning Authority. This request would be made if complaints were received about night-time noise levels. It would be used in conjunction with another new condition setting night-time noise levels. If the monitoring showed that the approved levels were not being achieved operations would need to cease until the problem had been resolved. This would ensure that noise mitigation operates as anticipated and night time working would not cause unacceptable impacts on amenity. Details of these additional conditions are set out below. Therefore, this condition can be deleted.

Condition 8

The applicant has applied to vary condition 8, as this refers to an approved plan which would be superseded through the approval of this application.

Existing wording – Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 as amended, or any order revoking and re-enacting that order the access to the development hereby permitted shall not be other than from the point marked 'site entrance gates' on approved plan B29/11

Applicant proposed change – It is proposed to update the plan reference.
Officer comments – The updating of this condition is acceptable should the application be approved. The reference to the permitted development order should also be updated.

Condition 12

The applicant has applied to vary condition 12, which includes reference to an approved plan which would be superseded through the approval of this application.

Existing wording - The existing hedgerow and trees on the embankment as shown on approved plan B29/11 shall be retained and maintained in good condition.

Applicant proposed wording – It is proposed to update the plan reference.
Officer comments – The updating of this condition is acceptable should the application be approved.

Condition 13

The applicant has applied to remove condition 13, which requires the removal of portacabin buildings.

Existing wording - At the expiration of five years from the date of this permission the temporary portacabin buildings shall be removed from the site and the land shall be restored to its former condition on or before that date unless plans and details of buildings of permanent construction have been approved by the local planning authority in writing in which case these buildings may replace the temporary ones

Applicant proposed wording – it is proposed to delete the condition.
Officer comments – The buildings have been removed and therefore this condition is no longer required and it is acceptable to delete it.

Condition 16

The applicant has applied to vary condition 16, which restricts the use of portable offices shown on an approved plan so that they can only be used as offices.

Existing wording - Notwithstanding Class 81 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any order revoking or re-enacting that order only those offices marked as 'portable offices to be used as area offices for Redland Land and Development Dept.' on approved plan 829/11 or any permanent offices that may be agreed in accordance with condition 11 shall be used as area offices for Lafarge Aggregates and for no other purpose whatsoever. In any event the offices shall not exceed 72 square metres floor space. PN7

Applicant proposed change – It is proposed to delete this condition.
Officer comments – The buildings have been removed and therefore this condition is no longer required and it is acceptable to delete it.

Other changes to conditions

The remaining conditions on consent CHN.45/90 have been checked to see if any further changes are needed.

- Condition 1 is not required as the development has already commenced

- Condition 6 requires signage to be put up to instruct drivers that the agreed lorry routes for 'additional hours' (6pm-6am and 2pm-6am on a Sunday) is direct to the M40 via Hennef Way. The signage referenced in condition 6 is not present on site. The more restrictive route for night time lorry movements is better dealt with through the new routing agreement. However, the condition should be retained so that there is signage on site to remind drivers of the requirements. The wording should be adjusted to ensure that it is precise.
- Update reasons for the conditions to include reference to relevant current policies
- Condition 11 should be updated as it requires the submission of details on reversing beepers, which have already been provided
- Plan references need to be updated where old plans will be superseded. In addition to the conditions identified by the applicant, this also applies to condition 7, 17
- The wording 'unless otherwise agreed in writing by the local planning authority' should be removed from conditions 18, 19 and 20 to ensure that it is precise.
- Condition 21 should be updated as the site has already been surfaced, but this should be maintained to prevent pollution.

Additional conditions

- i) An additional condition is required for a planting scheme to mitigate the vegetation removal necessary for the relocation of the office.
- ii) Details of protection measures for vegetation to be retained should be provided.
- iii) Full details of the noise barrier should be submitted, approved and implemented prior to the commencement of night time operations
- iv) Condition to restrict times and frequency of train movements and unloading, to be agreed following consideration of additional noise assessment work, with records kept ensuring that compliance can be monitored
- v) Night-time noise limits to be agreed following consideration of additional noise assessment work
- vi) Developer to monitor night time noise levels and submit details to Minerals Planning Authority upon request
- vii) A condition stating that overnight working (between 7pm and 4am) shall only take place on up to 180 nights per calendar year
- viii) A condition for records of night working to be kept and provided on request, to ensure that the condition above can be monitored and enforced
- ix) An additional condition should be added to confirm the list of approved plans
- x) No external lighting, except in accordance with a scheme which has been submitted and approved by the Minerals Planning Authority.
- xi) Existing operating hours for days that are not subject to 24 hour working (04.00-19.00 Mondays to Saturdays and 08.00-17.00 on Sundays.)