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To: Planning, Town Hall, Long Eaton **Cc:**
From: Environmental Health **Your ref:** ERE/0722/0038
Date: 25th May 2023 **Our ref:** LW/116911

APPLICATION NUMBER	ERE/0722/0038
PROPOSED DEVELOPMENT	Outline Application for up to 196 dwellings with all matters reserved other than the means of access.
LOCATION	Land North West Of 1 To 12 Sowbrook Lane Stanton By Dale Derbyshire

Further to our comments dated 11th August 2022, I understand that the above application was refused planning permission and an appeal against that decision has now been made. As part of this appeal, a further technical note and supporting information has been submitted that we have been requested to review.

The following documents have been considered:

- Technical note: Land Northwest of 1-12 Twelve Houses, Sowbrook Rd, Stanton by Dale, Derbyshire, Reason for Refusal #6 of Application Ref: ERE/0722/0038 (Hepworth Acoustics ref: P21-283-TN01v3 dated 16th February 2023)
- Statement of Case, Section 78 Appeal, Land at Sowbrook Lane, Stanton by Dale (Harris Lamb Planning Consultancy ref: P1763 dated 23rd March 2023)

Noise

The technical note has been produced to further consider the noise from the adjacent Stanton Park which is under development. Since this technical note was produced, a reserved matters application has been submitted for Plot 1 Unit 1 of the site which is opposite the proposed development site (ERE/0423/0018).

The noise from external loading/unloading has been considered as the principal issue for consideration as the technical note has concluded that it is generally straightforward to control noise from fixed plant.

Assumptions have been made within the technical note in terms of the type of loading docks that will be constructed. The majority are assumed to be dock levelling bays where most unloading is, in effect, internal as the HGV reverses up to the bay and forms a seal to control external noise. Approximately 15% of the loading bays are assumed to be roller shutter door type with associated forklift activity. 1 HGV has been assumed to enter and exit the site every hour for each loading bay in Units 1-6 24 hours per day. A BS4142 assessment has then been carried out with assumptions of some mid-range corrections added to represent intermittency and impulsiveness. Background sound levels have been used that were presented during the noise assessment submitted during the planning application for the Stanton Park application.

I note that, for the Plot 1 Unit 1 reserved matters application, the number of proposed dock door bays is 4 compared to 36 roller shutter doors with an estimated 80 HGV's entering and exiting the site between 20:00-02:00 which is significantly higher than that estimated within the submitted technical note if the other units are similar when they come into use. In addition, for this plot, trailer parking for 40 trailers is proposed as well as an external vehicle wash area. At present, we do not have any specific details for the other units/phases of the site.

The submitted assessment within the technical note shows that, in the evenings and night-time, that there will be additional noise produced at the Stanton industrial estate that would be considered potentially adverse/significantly adverse during the late evening/night. The technical note further reports that additional mitigation would be required at properties at night, although implies that it would be only 2dB above the required criteria internally with windows open.

However, a second factor is the noise from the adjacent road which has been considered separately within the technical note. As reported within the technical note, the road is busy and, particularly at night, the noise is likely to be significant with HGV's passing by in much closer proximity to the proposed properties. The technical note further reports that the predicted road noise is approximately 10dB higher than the specific sound level used for the BS4142 assessment and considers that this will dilute the impact of the sound from the adjacent industrial estate. The technical note further reports that this noise assessment of transportation noise and measures proposed have been accepted by the Council and therefore represents an acceptable living environment for residents.

Subsequently, the technical note considers additional measures, such as acoustically rated glazing and alternative ventilation measures that could also control noise. No specific details are provided, although the technical note identifies that a suitable condition could be agreed to ensure the measures are suitable. No recommendations regarding potential site layout arrangements have been considered to reduce the noise levels within habitable rooms or similar.

Whilst we would concur with much of the report's recommendations, we would still have concerns regarding the additional assessment that has been carried out. No assessment of external amenity sound has been provided and the proposed development does bring residents significantly closer to the new industrial estate than previously considered within the noise assessment carried out for that development. The noise assessment submitted within the technical note is likely to underestimate noise levels as there is a heavy reliance on a lack of external working and dock door bays which would appear not to be the case for the proposed use currently under consideration.

We would also caution that Environmental Health had significant concerns regarding the noise assessment that had been carried out for the adjacent industrial estate at the time of submission, as it was considered that there could potentially be an underestimation of the overall noise levels for the site. In addition, whilst sensitive receptors were identified within the noise assessment, this did not include the proposed development as that would not have been identified as a potential receptor at the time.

No consideration of maximum noise levels has been carried out (L_{Amax}) within the submitted technical report, which are a good indication as to whether or not sleep is likely to be disturbed as a result of the external noise environment. It is likely that the L_{Amax} levels would potentially drive the mitigation measures required, particularly considering the monitored and modelled noise levels. It is therefore reasonable to conclude that mitigation measures will be required, particularly to achieve appropriate internal noise levels at night or external amenity levels. In addition, no further consideration of the noise from other sources has been included within this technical review, including the adjacent Sateba premises.

As we concluded within our initial response to planning, good acoustic design could ensure that a suitable amenity is achieved. However, we would remain cautious in terms of the level of noise that is likely to be achieved externally and the degree of mitigation required to achieve internal noise levels. In the event that windows are required to remain closed, it is likely that passive ventilation measures such as acoustic trickle ventilation, will be inadequate during warmer weather and therefore, mechanical ventilation is likely to be required to prevent occupants having to choose between thermal comfort and a suitable acoustic environment. Alternatively, further design considerations could minimise sensitive rooms such as bedrooms, from directly facing the road or industrial estate, but this may be complicated and reduce the number of dwellings that could be accommodated on site. In addition, the acoustic mitigation or design alterations could impact on the potential viability of the scheme which has not been mentioned within the documents submitted to us.

Therefore, whilst we would concur that we have recommended a suitable condition, it is considered that this could prove challenging to achieve in reality. However, this would be at the applicant's risk and they should be aware that this could impact on the financial viability of the site. At present, the end use of the neighbouring industrial estate is largely unknown and noise levels could well exceed that currently modelled within the technical note, thus making mitigation more challenging. The noise from the road traffic is already at a higher level than that considered to be acceptable close to residential receptors and it is for the planning authority to determine whether this development, with suitable mitigation, is an appropriate use of this site. The presence of residents closer to the industrial estate could also impact on the future use of the site and what uses are deemed acceptable if phases are brought forward following granting for residential planning permission on this site.

However, in the event that the appeal is successful, we would recommend that our previously recommended conditions be attached to any planning permission granted. These are reproduced below:

- Prior to the commencement of development hereby approved a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would

not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms	30 dB LA _{eq} (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms	35 dB LA _{eq} (15 Minutes) (0700 hrs – 2300 hrs)
All Other Habitable Rooms	40 dB LA _{eq} (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LA_{max} to occur no more than 10 times per night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 55 dB LA_{eq} (1 hour) (0700 hrs – 2300 hrs)

For the properties facing Sowbrook Road or where the substation is the dominant sound, the following criteria will be achieved with the ventilation operating:

Bedrooms	24 dB LA _{eq} (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms	29 dB LA _{eq} (15 Minutes) (0700 hrs – 2300 hrs)
All Other Habitable Rooms	34 dB LA _{eq} (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LA_{max} to occur no more than 10 times per night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 49 dB LA_{eq} (1 hour) (0700 hrs – 2300 hrs)

The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and retained thereafter.

In addition, due to the proximity of local residents and the size and nature of the development, there is the potential for long term disturbance to the amenity of existing local residents as a result of the construction phase of the development, particularly in the event that piling is required.

We would therefore recommend that a construction environmental management plan is required via condition to ensure that best practicable means are employed in controlling noise, dust and vibration from the site as well as ensuring that a suitable waste management plan and working hours are in place for the duration of the construction works.

We would suggest that the following wording for a condition:

- Prior to the commencement of each phase of development, a construction environmental management plan shall be submitted and approved in writing that details how dust, noise and vibration resulting from the development hereby approved will be controlled and mitigated. This shall include, but not be restricted to, suitable working hours, details of the proposed communication strategy, any monitoring required and a waste storage and removal strategy. The agreed plan will be implemented and maintained throughout the course of the construction of the development.

Due to the close proximity of local residents, we would advise that our recommended working hours would be as follows:

- In order to minimise noise disturbance to the occupiers of adjacent residential property construction work and deliveries to the site should only be permitted between the following hours:

7.30 am and 6.00pm, Monday to Friday,
8.00am and 1.00pm Saturday, and
no work on Sundays, Bank and Public Holidays

- No burning of any waste should be carried out on site.

We would further recommend that any construction environmental management plan has due regard to BS5228 – Code of Practice for Noise and Vibration Control on Construction and Open Sites and Guidance on the assessment of dust from demolition and construction (IAQM 2014)

Contaminated Land

I note within the appeal documentation listed above, it is stated that a Phase 2 intrusive investigation has been carried out and has identified that, whilst remediation of the site is necessary, there are no significant issues that would prevent residential development of the site.

This Phase 2 assessment has not been submitted to this office and therefore, we are unable to comment further with respect to the conclusions reached. We have only had sight of the Phase 1 desk based study which indicated that further investigations were required.

Any remediation required will need to be included in any financial viability considerations for the site.

Our comments therefore are unchanged from our previous response and we would recommend the following conditions in the event that the appeal is successful and planning permission is granted:

1. Notwithstanding any information previously submitted, the development shall not commence until a contaminated land assessment to identify and control any environmental risk, including that posed by ground gases, is submitted to and agreed in writing by the Local Planning Authority. This will include a Phase I Desk Study and where potential risks or pollutant linkages are identified, an intrusive investigation (Phase II Investigation) will be undertaken as required. The assessment will be carried out by a competent person in line with current guidance and will consider all risks to potentially sensitive receptors, including human health, groundwater, buildings and ecological systems. In reaching its decision to approve such proposals the Planning Authority will have regard to currently pertaining government guidance including *Environment Agency Guidance - LCRM (Land Contamination Risk Management)*.
2. Where the site investigation identifies potentially unacceptable levels of contamination, a Remediation Strategy detailing the requirements to deal with any environmental risks associated with this site shall be submitted and approved by the Local Planning Authority prior to commencement of the remedial works. The Strategy should be written by a competent person in line with current guidance. All requirements shall be implemented according to the schedule of works indicated on the Remediation Strategy. The Remediation Strategy shall include a Discovery strategy which details

how any unexpected contamination identified during development will be dealt with and verification details for any soil to be imported to site to demonstrate that it is suitable for the intended use. As a minimum, the remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Prior to the development first being brought into use, a Verification Report must be submitted to, and agreed in writing by, the Local Planning Authority. The report shall provide verification that the remediation works have been carried out in accordance with the approved Remediation Strategy and that the Remediation Objectives have been achieved.

Reasons: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Please note: Any ground gas assessment will need to have regard to the Good Practice for Risk Assessment for Coal Mine Gas Emissions (CL:AIRE 2021) when carrying out the coal mining assessment.

Lucy Withers
Contaminated Land Officer
Environmental Protection Team