Walker Beak Mason Limited
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WBM ACOUSTIC CONSULTANTS

Email Note

To:	[redacted]	From:	[redacted]
Company:		Date:	**07 November 2024**
Email:	[redacted]	Ref:	**5327/2**
Copies to:		Page:	**1 of 6**
Subject:	**Buryhill Landscapes – Response to Horsham District Council Statement of Case**		

Good afternoon Mark,

Further to our earlier conversation regarding the comments relating to noise provided by Horsham District Council (HDC), I am emailing to provide my thoughts on the points raised.

The main points brought up by HDC that relate to noise are those regarding the proposed alterations to Conditions 10 and 13.

The extant Condition 10 states:

"10 Regulatory Condition: The extended yard area to the north, as referenced on plan drawing BLS/2020/MK2 shall be used for the storage of pallets and parked unladen vehicles only, and shall not be used for the storage of any finished or unfinished product or material. Any pallets stored/stacked in this area shall not exceed a total height of 3m.

Reason: To safeguard the amenities of the nearby neighbouring properties and in accordance with Policy 33 of the Horsham District Planning Framework (2015)."

The HDC comments:

"The purpose of this condition is to safeguard the amenities of nearby residential properties by limiting the activity taking place within the extended yard area. This condition was considered reasonable and necessary due to potential harm arising to nearby residential properties through noise and activity within the yard area.

The variation of the condition sought to allow the storage of finished and unfinished products and materials, as well as the storage of pallets and parked unladen vehicles within the yard area to the north. It was suggested that condition 5 of the planning approval, which seeks to limit noise when measured from the site boundary with the A281 to no greater than 55 dB LAeq, 1 hour (freefield).

No evidence was provided at application stage to demonstrate that the activities sought by the condition variation could be undertaken within the noise limitation of condition 5, and it had not therefore been demonstrated that the proposed activities would not result in adverse harm to the amenities of neighbouring properties."

As stated, the amenity of the residents is protected by the site noise limit stipulated in Condition 5 of the permission.

The storage of finished and unfinished product in the same area of the site as the pallets would not be detrimental to the amenity of the nearest residents if the site noise limit is complied with.

The proposed operation will not be markedly different from the permitted storage of pallets (albeit with softer material and therefore less likely to exhibit impact noises) and based on the measurements undertaken in July 2024 and presented in the WBM Technical Note dated 16 July 2024 (Ref. 5327/1), the use of the loading shovel for the depositing of finished and unfinished material will be no louder than the use of the telehandler for the management of the pallets.

The extant Condition 13 states:

"13 Regulatory Condition: No externally located plant or equipment shall be installed or operated without the prior written approval of the Local Planning Authority by way of formal application.

Reason: To safeguard the amenities of the nearby residential properties and users of land and in accordance with Policy 33 of the Horsham District Planning Framework (2015)."

HDC comments:

"*The purpose of this condition was to safeguard the amenities of nearby residential properties by restricting the installation and operation of externally located plant or equipment. This condition was considered reasonable and necessary to safeguard the amenities of nearby residential properties and users of land.*

The variation of condition sought to add reference to 'fixed' within the condition in order to allow moveable plant and machinery that the operation may require.

The condition in its current state was considered to serve a planning purpose as plant and machinery in the open air is likely to have distinctive acoustic noise signatures compared to broad band noise from road traffic which characterises the ambient noise environment. Retention of the condition was considered necessary to restrict distinctive noise signatures that would otherwise result in harm to amenities of nearby neighbouring properties.

The Appellant has now submitted a further Technical Noise Assessment by WBM Acoustics Ltd. It is outlined that the Technical Note presents the results of noise level measurements undertaken at the suggested monitoring location and considers the noise generated by activities on the site, including the operations that normally occur outside the bagging building. The Report outlines that the relevant activities, as measured from the suggested noise monitoring position, did not exceed the 55dB LAeq 1 hour (freefield) as required by condition 5 of the planning approval. The Report states that the existing bund would afford some noise attenuation to the nearby residential properties, with the relationship between the bund and the location of the outside bagging operations considered to further mitigate impact.

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Following consultation with the Council's Environmental Health Officer, the site has a history of industrial noise complaints which demonstrate that, despite the proximity of the A281, noise from commercial activities at the site has the potential to be intrusive to neighbouring occupiers. This is principally due to the character of commercial noise which is different to the predominantly broadband noise associated with passing traffic. The need to account for acoustic features of industrial noise such as tonality, impulsivity and intermittency are recognised in BS 41422014+A1:2019 "Methods for rating and assessing industrial and commercial sound". The conditions as imposed were intended to allow the Appellant to develop the business, while at the same time resolving the conflict with residential amenity that had occurred in the past. Since the application was permitted, a new residential development has been allowed on appeal to the south of the application site at Lower Broadbridge Farm, Billingshurst Road, Broadbridge Heath. The Noise Assessment for this later development assumed that the current planning restrictions would be maintained. The nature of the noise environment, and the relationship of the site with the nearby residential properties and road, are material considerations relevant to the assessment of the proposed variation of conditions.

The noise limit of 55 dB LAeq was designed to be applied in conjunction with the conditions that seek to control the external activity at the site. The LAeq metric is an average value and only considers one element of commercial or industrial noise. As noted, the assessment of commercial or industrial noise also requires consideration of acoustic character, including tonality, impulsivity, and intermittency. If the conditions are to be varied, the change in noise should be assessed using the procedures set out in BS 4142:2014+A1:2019.

Although noise and dust can be dealt with as a statutory nuisance, it is important to note that nuisance is a basic safeguarding standard and does not equate to amenity as considered under the planning framework. Businesses have a legal defence against proceedings for statutory nuisance which require that the business undertake reasonable steps to limit any nuisance. However, businesses are not obligated to prevent nuisance. As such, conditions attached to planning consents afford a greater level of protection against the impacts of commercial development.

It is recognised that the bund affords a better perception of noise attenuation, but the degree of protection is dependent on the plant used and its location on the site. For example, large screening machinery may be taller than the bund and so any benefit from the bund would be reduced or even negated. While locating the mobile plant adjacent to the bund would optimise noise attenuation, this cannot be guaranteed and would not be considered a reasonable requirement that could be enforced by condition. It was for this reason that condition 13 was imposed. This condition is not prescriptive and does not prevent the operator from conducting their business, and only requires the Appellant to provide details of the plant so that any issues can be identified and resolved at an early stage.

Appendix D to the Technical Note gives details of operational noise levels from existing plant in use at the site. These show that even at moderate distances the operational noise would be significant.

For example, at 35 metres, noise from the screener and loading shovel would measure 79 dBA Lmax. This demonstrates and justifies why the condition is not limited to static plant only. This is considered reasonable and necessary to ensure that the operations do not have an adverse impact on the amenities of nearby residential properties and users of land. Condition 9 was imposed to work alongside these other conditions in order to control the environmental impacts of activities undertaken in the open air, including noise and fugitive dust emissions.

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The conditions as imposed are considered appropriate in order to control potential noise arising from operational activities within the site, including within and outside of the buildings. These conditions were imposed following consideration of the noise generating activities and the context of site, including the noise character of the site and wider surroundings, the relationship to the nearby residential properties, and the relationship with the A281. The conditions as imposed are considered to secure an appropriate level of protection to avoid adverse impacts on the amenities of nearby neighbouring properties and users of land."

The proposed amendment to the condition to specify fixed plant would result in no additional external plant over that which is currently permitted and operated (i.e. the Edge TRT620R screener and the McClosky screener that are located to the north-east of the bagging shed.)

The addition of the word "fixed" would allow for the use of external mobile plant such as the loading shovel and telehandler that are essential to the operation of the screens and storage of pallets (as well as potentially finished and unfinished product), whilst preventing the operator from installing other larger fixed plant without permission from HDC.

HDC then states "*plant and machinery in the open air is likely to have distinctive acoustic noise signatures compared to broad band noise from road traffic which characterises the ambient noise environment*". This would be a valid observation when related to fixed larger plant, but the mobile plant such as the telehandler and the loading shovel would be producing generally broadband noise due to diesel engines and would not have distinctive characteristics over and above the road traffic noise acknowledged as characterising the ambient noise environment as there would be no tonal or impulsive element to the use of the mobile plant.

Broadband reversing alarms rather than reversing bleepers would also reduce the potential for distinctive acoustic features .

Potentially, there could be an impulsive element to stacking of pallets, but as this is already a permitted operation, this is not relevant to the altering of the condition.

If one was to undertake a BS4142 assessment of the operations under the proposed revised condition, one could add an acoustic feature correction for "other sound characteristics" IF acoustic features would be/are audible at the receiver location. Considering the overall measured noise level in July at the measurement location stipulated within the approved NMP for the site (52 dB $L_{Aeq,\ 1\ hour\ free\ field}$), this would result in a BS4142 Rating Level that still complies with the site noise limit at that location of 55 dB $L_{Aeq,\ 1\ hour\ free\ field}$ in Condition 5.

The baseline sound level data presented in the WBM Technical Note dated 28 July 2020 (Ref. 5057) showed sound levels by the properties in Charrington Way controlled by road traffic noise (during which site activity was generally inaudible) were 62 dB $L_{Aeq,\ T}$ (ambient) and 47 dB $L_{A90,\ T}$ (background).

It should be noted that these measurements were undertaken during lockdown for the COVID-19 pandemic when road traffic (and subsequent road traffic noise levels) were significantly reduced and it is expected that the ambient and background levels at this location under normal circumstances would be markedly higher..

It is therefore considered to be likely that any distinctive features of the operations on site under the proposed revised condition (i.e. the use of mobile plant) would not be readily audible at the properties on Charrington Way and compliance with the site noise limit of 55 dB $L_{Aeq,\ 1\ hour\ free\ field}$ in Condition 5 would provide adequate protection for the amenity of those residents.

This would also be the case for the new residential development referred to by HDC that were designed taking that limit into account.

Should that limit be exceeded, HDC would be able to take enforcement action against the site, but based on the information available, this should not be necessary.

HDC refers to a history of complaints relating to the site, but it is understood that the complaints regarding Buryhill Landscapes were generally related to plant that is no longer in use and the removal of which has been conditioned.

The more distinctive elements of noise such as impulsive noise from falling material could also be related to the permitted operation of the adjacent Horsham Stone & Reclamation Ltd (HSRL) site due to the type of material and operation at that site.

HDC then makes the following statement relating to the noise measurements undertaken by WBM in July 2024:

"*at 35 metres, noise from the screener and loading shovel would measure 79 dBA Lmax. This demonstrates and justifies why the condition is not limited to static plant only".*

It should be noted that the properties on Charrington Way are at least twice the 35 metre distance stated and also benefit from the presence of the bund between the site and the dwellings (as opposed to the unshielded measurement presented). The measured maximum sound level at Charrington Way (due to non-site related sources) during lockdown in July 2020 was 73 dB $L_{Amax,f}$. As such, it is not expected that the operations will produce maximum noise levels that are notably different from existing maximum noise levels due to local or A281 road traffic.

It should also be noted that the site noise limit is related to the continuous equivalent average level (L_{Aeq}) from the site rather than maximum noise levels. This parameter (L_{Aeq}) would be used for a BS4142 assessment and the use of a maximum (L_{Amax}) noise level for conditioned site noise limits is problematic for a number of reasons including the ability to reliably monitor and enforce it.

The measurements undertaken in July 2024 and presented in the WBM Technical Note dated 16 July 2024 (Ref. 5327/1), in which compliance with the site noise limit was demonstrated, included the use of mobile plant outside the bagging plant building. If one was to consider a Rating Level with the additional of a +3 dB acoustic feature correction for "other" character to the overall measured noise level (including extraneous noise), this would still comply with the site noise limit in Condition 5.

Hence, the revision of Condition 13 has been shown to have no detrimental effect on the amenity of the nearest dwellings.

In conclusion, the concerns of HDC relating to the proposed revision of the wording of Conditions 10 and 13 can be addressed when the permitted activities and the site noise limit are considered. So long as the site noise limit is complied with, there should be no reason to oppose the altered wording of the conditions and the alteration to Condition 13, in particular, is essential to allowing the continuing permitted operations on the site as without the use of external mobile plant to service the permitted screeners, this would be impossible.

The final statement from HDC refers to the intention of the conditions being to "*secure an appropriate level of protection to avoid adverse impacts on the amenities of nearby neighbouring properties and users of land*". This goal is still achieved with the revised wording of the conditions as the protection of amenity is achieved by the site noise limit in Condition 5 that can be enforced, if necessary.

As the main concern of HDC appears to be related to the character of the noise, the site noise limit in Condition 5 could be altered to allow for the limit to relate to a Rating Level (including any required character corrections).

Regards,

Dr Robert Storey
Senior Consultant

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