Town & Country Planning Act 1990

Rebuttal Proof of Evidence of Mike Richardson
London Borough of Havering

Appeal Site: Frog Island, Ferry Lane, Rainham, Essex, RM13 9YH

Public Inquiry: 14th – 16th May 2024
Appeal by S Walsh & Son Limited

Planning Inspectorate References:
APP/B5480/C/22/3305409

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1. Introduction

1.1 My name is Michael Richardson. I am Senior Public Protection Officer at London Borough of Havering. I have a BSc in Physics with Acoustics, a Masters in Environmental Management (Pollution Control), and a Post Graduate Diploma in Acoustics. I have been working in Environmental Health and related disciplines since 1998.

1.2 Having received and read the proofs of evidence from the appellant, in particular the proof of Nigel Mann dealing with Air Quality, Dust, Odour & Fumes, Noise and Vibration, Greenhouse Gases and Glare, I feel it has been necessary for me to prepare this rebuttal proof and to appear at the Inquiry as the Council's witness.

1.3 In effect, the information provided in the proofs amounts to the necessary supporting documentation to accompany a planning application for a development of this scale and nature with information that has not been available to the LPA or the Public Protection team a consultee to such applications before now.

1.4 I am also familiar with the site having visited in September 2021 with the Environment Agency to look at complaints about dust issues, and being aware of complaints made to the Council regarding dust from the site 2018, which have been referred to the EA to investigate as the primary enforcing authority.

1.5 I therefore provide commentary on Nigel Mann's Proof, addressing only the key points that we wish to bring to the Inspector's attention at this time.

2. Commentary on Air Quality/Dust Issues

2.1 The proof correctly assesses the impact of the development against the national air quality objectives. However, I consider that the report is flawed in that it does not recognise or assess the issue of dust deposition from the site in the near vicinity and how this has been monitored.

2.2 Three reports were produced by Tetra Tec in September 2022 to support the application. The first was relating to air quality impacts from the site from transport and building emissions from the operation of the site. This demonstrates (and is agreed) that the impact of the site on the National Air Quality Objectives will not be significantly impacted regarding the impact of PM10 and PM2.5 on air quality.

2.3 The second report was modelling of the impact of the site regarding PM10 and PM2.5, which again indicated that the emissions from the site did not exceed the National Air Quality Objective requirements.

2.4 The third report was to support the appeal/application involved real time monitoring at 2 locations for 3 weeks in May and June 2022, and was compared to the IAQM “Guidance on Air Quality Monitoring in the Vicinity of Demolition and Construction Sites” (2018). Whilst no exceedances of the “red” levels were recorded, this would deal with significant levels of PM10 and PM2.5 caused by the site, and does not address the impact of any dust deposition that may occur due to the activities on the site.

2.5 Similarly, whilst the proof indicates that further monitoring was carried out on 14 March 2024, this was only a one day snapshot, and does not reflect the complaints that the Council have received (and referred to the Environment Agency to investigate and enforce, as they are the primary enforcing authority, as the site is subject to an Environmental Permit by them). These complaints have related to plumes of dust coming from the site and the deposition of dust/particles on cars and equipment at the industrial units to the north east of the site.

2.6 The guidance regarding the use of the MCERTS sampling (see Exhibit MR1) would suggest that such sampling is used primarily for air quality monitoring purposes, and not to measure the impact from the deposition of particles, which is subject to different monitoring requirements.

2.7 It should be noted that size of the particles deposited in the area are likely to be greater than PM10. PM10 and PM2.5 significant health impacts, as they are drawn deep into the lungs of people. They are 10 and 2.5 micrometres (microns) or less in diameter respectively. Dust from this type of site (which cause the soiling and "nuisance") is likely be in the region of 10-100 microns in diameter, and are therefore unlikely to be accurately measured by the monitoring equipment used to support the reports, unless the soiling is being caused by the amalgamation of these smaller particles.

2.8 Whilst, on the whole, it is unlikely that the site significantly affect the National Air Quality Objectives in relation to transport and site emissions, there is a serious question around the loss of amenity to the local businesses due to the dust coming from the site.

2.9 I made a visit to the site in September 2021 with an officer from the Environment Agency. The main aspect from my visit in 2021 (and this is key with respect to the visit by the air quality consultant in March this year) is that we were informed that S Walsh and Sons would only normally operate their dust suppression systems with wind speeds over 13mph (which is about 6m/s). From this, it can be assumed that for the monitoring that occurred on 14 March 2024, with wind speeds of 4-5 m/s, the dust suppression systems would not have been normally operating. This I understand is reflected in their current dust management plan, and therefore it would appear that the report reflected "not normal" operating practices.

2.10 The monitoring on 14 March occurred at probably the furthest distance from the activities “up wind” possible whilst remaining in close proximity to the site at measurement point MP 1. The downwind location at MP2, which was closest to the dust generating activities, would not have any impact on meaningful measurements from the site, as demonstrated in the report as a background level. This is shown in P9 of the main report.

2.11 Area 3 is the worst dust generating location, but MP1 is approximately 70m further away from the closest receptor. This would affect levels of any dust measured off site. From my previous visit to the site, the area to the south west of Area 4 was where significant dust generation was occurring, from the movement and sorting of the material on site.

2.12 I am aware that the EA made a visit to the site on 2nd April 2024 and as a result issued a Compliance Report (see Exhibit Rebuttal 1 appended to Simon Thelwell’s Rebuttal Proof). Within the EA compliance report, they noted breaches of the environmental permit of the site, which related to dust migration and control. From the contents of the report, it apparent that issues from dust emanating from the site were observed beyond the site boundaries to the business premises to the north east of the site. In addition, dust suppression was not in use and practices such as maintaining stockpile heights and drop distances from the crushing machinery were not in accordance with the requirements of the Dust Management Plan. Given that this was less than 3 weeks after the consultant visited on 14th March, it is difficult to give significant credence to the proof that has been produced regarding operating practices.

2.11 In conclusion, I am not convinced that the proof adequately covers the issues of dust soiling from the site, and the impact on the amenity of local business, particularly to the local businesses to the north west of the site. The proof provided reflects “non standard” operating practices, with dust suppression being used when it would not normally be used. Similarly, the reports concentrate on the impact of the site on the Nation Air Quality Objectives (which is not significant), rather than the impact on the amenity of local

businesses in the area, and the impact of this on Policy 34 of the Local Plan (Managing Pollution).

2.12 From the complaints and evidence that have been submitted to the Council over the last number of years, it would appear that either the current dust management plan is inadequate to prevent the dust from the site impacting on the amenity of the local businesses; it is not being implemented correctly, or that due to the inherent nature of activities on the site, dust will escape from the site and affect the amenity of the area. The final scenario would not be acceptable by either the EA or the Local Authority, and should be mitigated sufficiently so as not to cause “significant pollution” to the local area.

2.13 From the complaints that have been sent to me, it would appear that the dust soiling from the site impacts on the amenity of the local businesses, by way of soiling on vehicles and stock/materials stored temporarily outside as well as the track out of mud/dust onto the immediate local road network. This impact on the amenity can cause issues to the quality of the stock/material stored outside as well as damage to the private property of the local businesses. There is also concern regarding the impact of dust on the health of the local workers, where dust and grit can affect these people.

2.14 As the primary enforcing authority, these issues should be directed to the Environment Agency to investigate, so it is difficult for me to fully comment on the monitoring and action taken by them to date. However, from the recent inspection by the Environment Agency, it would appear that the site do not adhere to the requirements of their EMS and DEMP, particularly in relation to damping down, netting along the boundary and the drop height of material when processing it, and therefore the EA are considering if further enforcement action is warranted.