



Dealt with by: Environmental Health

Our Ref: smd/2022/0076

Direct Dial: (01538) 395400

Your Ref: smd/2022/0076

Email: EHealth.Consultation@highpeak.gov.uk

Date: 19th December 2024

MEMORANDUM: PLANNING CONSULTATION
--

LOCATION

Land Off Bemersley Road, Brown Edge

PROPOSED DEVELOPMENT

Construction of a temporary 49.35MW battery storage facility, to include a compound, a DNO control room, a customer substation, security fencing, landscaping and other associated infrastructure.

Potential Areas Of Environmental Concern.

1. Construction Impacts (Condition)
2. Noise – Plant and Machinery (Objection)
3. Unexpected Contamination (Condition)
4. Lighting (Condition)
5. Battery Maintenance(Condition)

Comments – Environmental Health have updated its comments due to new information being submitted by the applicant and new technical information being supplied to us.

A revised noise assessment has been submitted with the appeal, it has been undertaken by BWB (ref. Ball Green farm MCA2212 August 2024). It is issue 4 of the original submission. Final comments prior to Council decision was based on issue 1-3. There is no clear advice or indication set out in as to what changes have been made in the technical aspects or predictions in the assessment.

Executive Summary Changes – The installation proposes an increase in plant numbers and removal of an acoustic barrier which was proposed to reduce impacts to NSR. It notes a change from PCS container to MVS containers.

Introduction – As above, change in plant but also a change in layout is set out in section 1.8. No acoustic barrier and or bund appears on site layout fig. 1.3.

Standards and Guidance – BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings is used in this assessment to demonstrate that noise impacts caused by the development would not exceed the criteria for new residential buildings. It is important to note this guidance should not be used to assess the impact of noise caused by a new industrial installation on existing residents.

WHO 1999: Guidelines for Community noise is referred to but there is no mention of its advice regarding Low frequency noise (LFN).

Consultation with Stoke on Trent City Council: Environmental Health have no record of being consulted on this application, we would have recommended our standard advice for new developments such as this. This relates to compliance with BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound and a requirement to limit daytime exceedance over existing background sound levels and cause no exceedance to night time levels as set out below –

“The rating level of sound emitted from any fixed plant and/or machinery associated with the development or industrial activities at the use hereby approved shall not exceed background sound levels by more than 5 dB(A) between the hours of 07.00–23.00 (taken as a 15 minute LA90 at the nearest sound-sensitive premises) and shall not exceed the background sound level between 23.00–07.00 (taken as a 15 minute LA90 at the nearest/any sound-sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142 (2014 + A1:2019) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Note: Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed upon in writing with the LPA.”

It is noted in section 2.15 that this assessment considers new equipment with a lower noise output.

Baseline Noise Survey – No new survey has been undertaken and the levels at MP1 and MP2 can be accepted though the detailed results (Laeq, La90 and Lamax levels) which have provided data to compile figures B1 and B2 should be supplied.

Noise Modelling of the Proposed Site –

Noise Model - Section 4.2 advises PCS cabinets have been modelled, though the site layout plan and revised application indicates MVS Containers will be replacing them in the amended submission. This section refers to a site already in operation but no actual data appears to have been provided, clarification required. An in-situ assessment would support the opinions set out in the assessment.

Noise from the Proposed Site – Section 4.4 indicates this is a potential noise impact

assessment and there is no advice that in-situ data has been used to support the modelling.

The noise contours in figure 4.1 and 4.2 appear to indicate reduced noise levels in the close to the vicinity site.

Table 4.4 of the assessment has been amended to demonstrate noise reductions compared to previous assessment.

We have set out the table below to compare the September 2023 to the August 2024 NIA.

Predicted Specific noise impacts Levels 2023 an 2024 Comparison

Receptor	Period	Predicted Specific Noise Level (dB) Sept2023	Predicted Specific Noise Level (dB) Aug 2024
1	Day	33	33
1	Night	35	34
2	Day	36	35
2	Night	36	36
3	Day	38	33
3	Night	40	33
4	Day	29	28
4	Night	37	32

The levels at some properties have reduced, NSR 3 day and night and NSR 4 at night. There is no explanation for this and NSR 1 and 2 remain relatively unchanged. It is understood the barrier is removed and batteries of a lower noise level but inconsistencies at receptors is not explained. Why have they all not reduced?

BS4142 Assessment

The revised noise rating assessment indicates no exceedance over existing background sound levels during the day, where the noise rating level is the specific sound level at a receptor plus any acoustic correction e.g tonal or intermittent characteristics to the noise. No acoustic corrections have been made in either assessment for day or night noise.

Night time exceedances remain at all properties. With significant exceedances showing at NSR 1 and 2 while NSR 3 and 4 indicate potential adverse impact depending on context. NSR 3 and 4 have shown reductions in the level of night time impacts but these exceedances remain a concern and would alter the local sound environment of the area.

A further main concern is the lack of acoustic correction as set out in Section 5.3, it indicates no acoustic correction despite intermittency being advised in section 3.5 and the potential for tones to be caused by plant and levels of industrial type noise being introduced into a rural residential area with low background sound levels. The plant proposed in this development including sub-stations, fan cooling can contribute to tonal and low frequency noise. We do not agree that no acoustic penalty should be applied. Given intermittent operation of the site over 24 hours and the high exceedance of noise over background there should be intermittency and a just perceptible tonal penalty imposed, +3dB and +2dB respectively would be our proposal. These are low level acoustic corrections but in our opinion valid given the advice set out here and in alternative applications.

Using the data submitted by the applicant, we have set our own BS4142 calculations based on our proposed corrections above.

Staffordshire Moorlands DC proposed BS4142 assessment – Daytime (September 2023)

Descriptor	NSR1	NSR2	NSR3	NSR4	BS4142 Clause
Specific Sound Level	33 Ls 1hr	36 Ls 1hr	38 Ls 1hr	29 Ls 1hr	7.3.5
Acoustic corrections	I +3 T +2	I +3 T +2	I +3 T +2	I +3 T +2	9.2
Rating Level	38	41	43	34	9.2
Background Sound Level	35 La90 1hr	35La90 1hr	33La90 1hr	33La90 1hr	8
Excess over Background	+3	+6	+10	+1	11
BS4142 Impact	Low	Adverse	Significant Adverse	Low	1
Compliance With SMDC Condition	Y	N	N	Y	

Note: Tonal – T , Intermittency -I

Staffordshire Moorlands DC proposed BS4142 assessment – Night Time (September 2023)

Descriptor	NSR1	NSR2	NSR3	NSR4	BS4142 Clause
Specific Sound Level	35 Ls 15m	36 Ls 15m	40 Ls 15m	37 Ls 15m	7.3.5
Acoustic corrections	I +3 T +2	I +3 T +2	I +3 T +2	I +3 T +2	9.2
Rating Level	40	41	45	42	9.2
Background Sound Level	22 La90 15m	22 La90 15m	25 La90 15m	25 La90 15m	8
Excess over Background	+18	+19	+20	+17	11
BS4142 Impact	Significant Adverse	Significant Adverse	Significant Adverse	Significant Adverse	1
Compliance With SMDC Condition	N	N	N	N	

Note: Tonal – T , Intermittency -I

Staffordshire Moorlands DC proposed BS4142 assessment – Daytime (August 2024)

Descriptor	NSR1 (dB)	NSR2 (dB)	NSR3 (dB)	NSR4 (dB)	BS4142 Clause
Specific Sound Level	33 Ls 1hr	35 Ls 1hr	33 Ls 1hr	28 Ls 1hr	7.3.5
Acoustic corrections	I +3 T +2	I +3 T +2	I +3 T +2	I +3 T +2	9.2
Rating Level	38 La 1hr	40 La 1hr	38 La 1hr	33 La 1hr	9.2
Background Sound Level	35 La90 1hr	35La90 1hr	33La90 1hr	33La90 1hr	8
Excess over Background	+3	+5	+5	0	11
BS4142 Impact	Low	Adverse	Adverse	Low	1
Compliance With SMDC Condition	Y	Y	Y	Y	

Note: Tonal – T , Intermittency -I

Staffordshire Moorlands DC proposed BS4142 assessment – Night time (August 2024)

Descriptor	NSR1	NSR2	NSR3	NSR4	BS4142 Clause
Specific Sound Level	34 Ls 15m	36 Ls 15m	33 Ls 15m	32 Ls 15m	7.3.5
Acoustic corrections	I +3 T +2	I +3 T +2	I +3 T +2	I +3 T +2	9.2
Rating Level	39	41	38	37	9.2
Background Sound Level	22 La90 15m	22 La90 15m	25 La90 15m	25 La90 15m	8
Excess over Background	17	19	13	12	11
BS4142 Impact	Significant Adverse	Significant Adverse	Significant Adverse	Significant Adverse	1
Compliance With SMDC Condition	N	N	N	N	

Note: Tonal – T , Intermittency -I

The noise rating tends to indicate the level of noise, type of noise, discrete characteristics and assist when considering potential for disturbance to be caused to existing residents. When the rating levels show significant exceedance over background sound levels then there is a potential for amenity to be adversely impacted and complaint caused. Our predictions using precautionary though low level acoustic corrections indicate very high exceedances to night time levels using data from both submissions, although residents may

tend not to be using their gardens, this noise as predicted will change the sound environment of the local area in our opinion

Mitigation –September 2023 Section 6 of the assessment recognised the significant adverse impacts of the night time BS4142 assessment without mitigation. A barrier optimisation exercise was undertaken. A 3.5 m high acoustic barrier with specific density, sealing, absorption and maintenance requirements was proposed and modelled.

This modelling predicted daytime rating levels to reduce to low impact at NSR1, 2 and with adverse impact at NSR 3. Night time rating showed low level reductions but significant adverse impacts remain.

Context – September 2023 NIA explains significant adverse impacts should be considered in context which seems to summarise as –

Absolute levels are more relevant due to low rating and background levels.

If receptors are already sensitive to noise they will have already installed measures to mitigate this noise.

WHO Noise Guideline levels are external 50db Laeq 16hr.

BS8233:2014 considers an open window gives -15dB which would result in compliant BS8233:2014 new building internal sound levels.

An internal prediction is set out for all properties relevant to BS8233:2014 and allowing -15db attenuation showing new building criteria would be complied with.

Mitigation–

The new assessments seem to negate the proposal for an acoustic barrier as offering negligible attenuation due to topography yet previously it was required. It indicates newer battery technology offering up to 7db improved noise reduction at some properties though negligible at others. No other mitigation appears to be proposed.

Context - August 2024

As per context comments in NIA September 2023.

Environmental Health Comments re: Submitted context and mitigation

Mitigation: The change of plan in mitigation which although minor did reduce levels slightly. This has now been dismissed due to topography which does tend to concern us how suitable is this site for this development. The change in equipment also tends to indicate a large set of unpredictable issues with noise emissions from this developing technology.

Context: This is an industrial complex predicted by the applicant to cause loud emissions into a rural area. The Noise Policy Statement Of England recognises a need to protect areas with quiet areas and times –

“The third aim of the Noise Policy Statement for England - Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development. 2.25 The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.”

The receptors assessed currently live in the area and so the use of BS8233:2014 as supporting evidence for granting permission is incorrect, as a guide useful but that is the limit for BS8233:2014 in regard to this application.

The use of a -15db sound reduction for an open window is also optimistic, we have found -12dB to be more relevant though lower reduction levels have been reported. Sound levels inside bedrooms in this area could be currently as low as 18dBA. Looking at the August 2024 assessment and our rating levels we would expect internal levels to be approx. NSR1 -27dBA, NSR2 – 29dBA, NSR3-26 and NSR4- 25dBA. Although these levels would be under the proposed BS8233:2014 criteria, these residents would experience a change in their internal amenity and sleep disturbance with related effects could be caused ref. (WHO: Community Noise Guidelines).

The applicant raises WHO: Community Noise Guidelines relating to external noise as 50dBA. These are maximum daytime levels and don't relate to pre-existing residents in a rural/residential area with low external sound levels.

We would advise the WHO: Community Noise Guideline documents recognises the impacts of low frequency noise in 4.2.3 on sleep disturbance, where low frequency noise is significant then a lower criteria value than 30dBA should be considered. The applicant has not considered LFN despite the proposal being dominated by industrial plant including transformers and fans which are susceptible to causing LFN.

This is a rural area and as evening and night begins so background levels will reduce, the MP1 and MP2 evening levels reduce to lower than the submitted background levels, assessing figures B1 and B2 levels reduce to approx. 30dB LA90. The daytime rating levels from the applicant in both submissions would exceed these levels at NSR 1-3. Using our BS4142 predictions there would be exceedance at all NSR.

Other Comments –

Methodology –ref. BWB Noise impact Assessment MCA2212 September 2023 Ball Green Farm, Land at Ball Green Farm, Ball Green and for the appeal Ref. BWB Noise Impact Assessment MCA2212 August 2024 Ball Green Farm, Land at Ball Green Farm, Ball Green

(I) Council Methodology agreement - Referring to Noise assessment dated September 2023 2.12 – 2.14 The consultation reported was with Stoke-on-Trent City Council on 14/12/21 - "A baseline noise survey at strategic locations representative of the existing sensitive receptors shall be undertaken, covering a typical weekday period, to establish and quantify background noise levels in the daytime (07:00-23:00) and night-time (23:00-07:00) periods; We will assess the impact of fixed plant and equipment associated with the development on the existing sensitive receptors, in accordance with BS4142:2014+A1:2019: Methods for rating and assessing industrial and commercial sound, and any criteria reasonably agreed with SOTCC; and Where impacts from the sources are identified, consideration will be given to appropriate mitigation measures to reduce the noise to within acceptable levels at the existing receptors."

This is not the precise criteria used by Staffordshire Moorlands District Council (SMDC) for this type of development i.e one with potential for noise impacts caused by plant, machinery, commercial, industrial, nor do we have any record of being consulted . We would have requested a site specific noise assessment be undertaken in compliance with the above mentioned BS4214:23014+A1:2019 relatively similar to the above requirements.

But crucially the standard requirement for this Council is - The rating level of sound emitted from any fixed plant and/or machinery associated with the development or industrial activities at the use hereby approved shall not exceed background sound levels by more than 5 dB(A) between the hours of 07.00–23.00 (taken as a 15 minute LA90 at the nearest sound-sensitive premises) and shall not exceed the background sound level between 23.00–

07.00 (taken as a 15 minute LA90 at the nearest/any sound-sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142 (2014 + A1:2019) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Note: Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed upon in writing with the LPA.

This criteria is not achieved at any location at night in either assessment, and exceedances could be higher if acoustic corrections would need to be made.

We have adopted this position regarding the rating level against background from Riams (RH Environmental Limited trading as RHE Global) it has proven effective in protecting residential amenity and ensured new commercial and industrial developments can operate without complaint.

We cannot answer why no response was received from SOTCC but it might have been prudent to contact the person providing the methodology response to confirm agreement prior to commencing the assessment. We understand the Planning Officer consulted Stoke-on-Trent City Council. As the development site is in SMDC area, so methodology should also have been agreed with this Council but we also understand why SOTCC should be consulted.

The new assessment dated August 2024 has amended 2.14 to indicate consultation was made with SOTCC – “Following the submission of the noise report that accompanied the planning application SMD/2022/0076, a technical note (AD/Environment/MCA2212) and a revised Noise Assessment (MCA2212 September 2023), in each case the dealing EHO at SOTCC continued to recommend refusal. The application was subsequently refused, with noise impacts on residents cited in Reason 2 of the Case Officer report: Page | 13 BALL GREEN FARM NOISE IMPACT ASSESSMENT August 2024 MCA2212 “2. There are a number of residential properties close to the site. The predicted night time noise levels set out in the updated Noise Assessment would exceed current night time background noise levels in this rural area. It is considered that this has the potential to adversely impact on the amenity of nearby residents in conflict with Policy SD4 of the Staffordshire Moorlands Local Plan and advice in the NPPF.”

This does appear to indicate possible confusion with the acoustician between SOTCC and SMDC.

Acoustic Corrections – we would normally expect an acoustic correction to be applied to a development where there might be plant with fan noise operating and starting up causing increases in noise levels. In the two assessments submitted no tonal or intermittency penalty has been applied to the noise rating. Ref section 5.3 of both assessments, none has been applied as intermittency would not likely be perceptible at the NSRs due to distance despite operational noise being intermittent through a 24 hour period and the predicted increases in noise levels at receptors when the BESS would begin operating, intermittency should receive a +3dB correction.

No advice is made explain to the position on tonal noise. The acoustic penalties which subjectively might be imposed for developments such as this can range from 0 to +6db for tonal noise (+2dB just perceptible, +4db clearly perceptible, +6db highly perceptible) . There is no in-situ assessment of an already operating scheme to support this lack of tonal correction. It could be argued that a maximum penalty might be applied but certainly a precautionary +2db as a minimum should have been considered this development would contain a significant number of plant and associated fans in addition to the predicted high

exceedance noise impact levels over background.

The type noise producing plant including transformers, plant cooling systems, electrical inverters and sub-stations all of which can all generate distinct noise. The number of fans operating at any one time as will be the case for this BESS is likely to produce tones. The likelihood of tones has been disregarded in this assessment.

Further to this we are aware of a relatively similar development being installed in the Walsall area with almost identical plant and distances to receptors where BWB has imposed a +3db acoustic correction for intermittency.

SMDC - NSR 1 – 250m from site, NSR2 235m, NSR 420m, NSR4 410m. (para 1.1)

WALSALL – NSR1 -230m from site, NSR 270m, NSR3 280m, NSR4 345m. (para 1.8)

(Noise Assessment Chapel Lane, Great Barr MCA2206 August 2023)

BS8233:2014 Criteria - The use of BS8233:2014 in section 2.9 to 2.11 and 6.7 is used by the acoustician to demonstrate predicted noise impact levels inside properties would allow reasonable amenity in line with a criteria for new buildings. This is not relevant to this application, as the amenity of current residents when a new noise source is introduced into an area is of concern here. It does not provide guidance on assessing the effects of changes in external noise levels to occupants of existing buildings. The current residents enjoy low sound levels and these should be protected. The criteria levels in BS8233:2014 are a general average taken over an 8 hour period at night with no consideration for unusual noise e.g tonal noise, intermittency etc. A more relevant consideration should be made to WHO: Guidelines for Community Noise which makes recommendations specifically relevant to this application – in regard to sleep disturbance and specific health effects (vii-viii) a recommendation is made that for noise with a significant LFN a lower threshold value than 30dBA is recommended. The predicted noise attenuation caused by an open window of 15dB is optimistic at best and typically set at 12dB but this depends on a partially open small window, this level of attenuation could further be reduced if window openings are increased.

Uncertainty statement – There is no value or explanation provided to address uncertainty in the BS4142 assessment. As there have been 4 versions of the NIA so there are always potential issues which may skew figures.

Recommendation –

1. Environmental Health are concerned about the methodology and lack of acoustic correction given the type of noise and level of noise which is predicted. The Environmental Health modest acoustic corrections show this development has significant potential to cause significant adverse noise impacts in to this area and its residents.
2. The applicant has submitted a new noise assessment removing a proposed acoustic barrier while increasing the number of units. The topography of the site has made mitigation difficult. The proposal to use lower noise batteries has not significantly improved noise reduction at some receptors. There is a concern if noise became an issue what mitigation could be used.
3. The site is in a rural area with rural/suburban neighbours, based on the figures provided there is significant risk this area will be impacted by a new constant industrial noise through the evening and night. This does not appear consistent with a rural site.
4. The low background sound levels and corresponding internal sound levels could be compromised by changes in the type of noise which this BESS is predicted to cause in our calculations.

5. The use of gardens by residents in the evening would be significantly compromised and complaint would be likely.

6. An aim (3) of the Noise Policy Statement of England is to provide protection of quiet times and places, this application would not comply with that requirement.

Recommended Conditions

1. Construction & Demolition Impacts:

- I. During construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary;
- II. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. All waste transfer records should be retained for inspection by officers of the Local Planning Authority;
- III. No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely affect adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the Local Planning Authority

Reason: *To protect the amenities of the area during construction*

Construction & Demolition works: Time of operations

2. Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy activities shall be restricted to the following times of operations.
 - **08:00 - 18:00 hours (Monday to Friday);**
 - **08:00 - 13:00 hours (Saturday)**
 - **No working is permitted on Sundays or Bank Holidays.**

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

Reason: *To avoid the risk of disturbance to neighbouring dwellings from noise during unsocial hours.*

3. Report of Unexpected Contamination

In the event that contamination, including surface coal measures and any suspected asbestos containing materials (e.g. bonded cement), is found at any time when carrying out the approved development or is found at any time when carrying out the approved

development it must be reported in writing immediately to the Local Planning Authority. Development should not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, and is subject to the approval in writing of the Local Planning Authority.

Reason *To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.*

4. Lighting Condition

The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation. Details of all artificial lighting to be installed under this permission should be submitted to and approved by the Local Planning Authority prior to development commencing.

Reason: *To protect the local amenities of the local residents by reason of excess of illuminance.*

5. Maintenance of Batteries

All equipment and infrastructure associated with this development must be constructed and maintained throughout the life of the development so as to prevent any discharges or spillage that may cause pollution of the surrounding land, underground strata or watercourses .

Reason: *To prevent pollution of the Environment*

6. Noise Conditions TBC

Advisory Note/ Informative:

Please be aware that the responsibility for safe development and secure occupancy of the site rests with the developer.

- Any approved noise scheme and measurements should pay due regard to British Standard BS8233: Sound insulation and noise reduction for buildings (Code of Practice), BS4142:2014 Methods for rating and assessing industrial or commercial sound and/or the Building Regulations 2010 Document E or other appropriate guidance.
- The granting of planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.

- During any demolition and construction activities (including landscaping) the contractor shall take all reasonable steps to prevent dust formation and prevent any dust formed from leaving the site boundary.
- If required, contamination risk assessments shall be carried out in accordance with UK policy the Land contamination risk management framework (LCRM), published by the Environment Agency
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
 - Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.
 - The Local Planning Authority will determine the acceptability of reports on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post development, where the applicant had prior knowledge of the contamination, the applicant is likely to be liable under Part II (a) of the Environmental Protection Act 1990 and as such become an “appropriate person”. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.
 - Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this, the applicant or those acting on behalf of the applicant will be liable under part II (a) of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.
 - During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public property and the environment are protected against noise, dust, odour and fumes
 - The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of in an appropriately licensed landfill site.
 - Staffordshire Moorlands District Council is keen to liaise with all stakeholders involved in this application. As such, we recommend that a proposed scope of works is forwarded to the Environmental Health Department and agreed in principle prior to site investigation works being undertaken. The Environmental Health Department is also prepared to review draft copies of reports prior to final submission to the Planning Department in order to ensure that works undertaken are sufficient to discharge the contaminated land conditions.

Regards,
Environmental Health

Previous Comments and Conditions - Based On Noise Impact Assessment BWB MCA 2212 versions 1-3

Comments 30th January 2024 ref: BWB Noise Assessment MCA2212 September 2023

1. The updated noise assessment includes a mitigation scheme in section 6. This appears to reduce noise impacts at the boundary during night time hours to approx. 50.0-54.9 dBA. This results in the BS4142:2014+A1:2019 assessment in tables 6.1 and 6.2. The predictions indicate daytime noise impact levels would not adversely impact daytime sound levels and would comply with the standard environmental health condition but significant night time exceedances remain at all NSRs and so the standard condition would not be met. This is likely to cause an audible noise outside the properties during the night.
2. The assessment in 6.10 makes the point that during the night residents are likely to be inside their properties and so are less likely to be adversely impacted by noise from the site. The requirements of BS8233:2014 Guidance on sound insulation for buildings would be readily complied with.
3. It is noted there is no noise penalty applied despite the report clearly predicting noise levels exceeding background by up to 13db and the introduction of plant noise into a rural low background noise location.
4. Based on the latest acoustic report, if this development is permitted it is unlikely normal residential amenity will be significantly adversely impacted inside properties but there will clearly be a new industrial type noise audible in the vicinity of the site and outside some residential properties during the night.
5. Many of our points set out below remain valid especially the use of gardens in the evening and the introduction of an industrial type noise into a rural area. This does appear to be an industrial type development being placed into a rural area.

Comments 21st March 2023

This development from a noise perspective is industrial in nature, it has the potential to introduce a low level industrial noise into an area with current low evening and night time sound levels.

Although the nearest residential properties are reasonable distances from the site the noise impacts are predicted to be significantly adverse. The predicted operational night time noise impact levels will exceed current background sound levels by +10db at 5 Woodhouse Lane and Old Woodhouse Farm, +12 dB at 276-278 Bemmersley Road and +17dB at 1 Heather View (though our calculation indicates a +13dB at 1 Heather View). The predicted rating level when measured at Noise Sensitive Receptors which is the noise impact level plus any acoustic feature will be approx. 34 - 35dB. This could be considered relatively low for industrial noise and if this development was in an industrial estate for example then our concerns would be different. But this is a rural/residential area which as table 2.2 shows has

very low background sound levels approx. 22-25dBA. If this development is granted permission then based on the predictions in Table 2.2 of the technical note 17th August 2022 the noise environment for the nearest residential properties will change in the evening and at night.

The applicant argues context should be considered for low background levels ref BS4142:2014 which could be accepted if this was a primarily mixed use industrial/residential area but it is not, it is a rural/residential area and it is our opinion these should be protected as per the Noise Policy Statement of England.

The applicant also submits this development would not compromise the internal sound levels and would be compliant with BS8233:2014 Guidance on Sound Insulation and Noise reduction for Buildings. This is correct but the primary concern here is for external areas. The nearest residents as assessed under NSRs 1-4 currently enjoy low background sound levels in their outside living spaces in the evening and at night. This development could introduce a low level background industrial noise into their outside living spaces. Background levels according to figures B1 and B2 of the main noise impact assessment show that from approx. 18:00 to 07:00 background sound levels at receptor properties reducing to approx. 30-32dBA. It is our opinion these should be protected where possible. Argument could be made that external night time levels are not relevant when so low but residents should be able to enjoy quiet evenings in their gardens as currently exist.

In consideration of the area in the immediate vicinity of the site although not a primary Environmental Health consideration it would be worth noting this is rural in nature with no commercial/ industrial units close by so our expected night time sound levels would be extremely low, as per NSRs1-4 or lower. The noise in the immediate vicinity of the site according to the noise contours will be 50-60db while operating, this is not consistent with a rural area at night and would be typical of a night time industrial unit in operation.

In summary this development does not appear appropriate for this location. It will potentially emit a noise which is not characteristic for the area. It will position loud industrial plant in agricultural fields and certainly according to the noise assessment change the noise environment for a significant number of local residents. The levels of noise will be low but would be noticeable especially on still evenings and nights.

We recommend refusal of this application but in the event permission is granted then the conditions below should be considered to reduce the impacts of the development.

17th October 2022 (Updated Information) Technical noise notes MCA2212

The applicant has provided updated information and clarification to the earlier submitted noise report. The additional information contains mitigation to reduce noise impacts. There continues to be a predicted noise increase over background at the nearest noise sensitive properties. The applicant predicts a noise rating level of between 34- 35dBA at the nearest sensitive receptors and a corresponding 25dBA level inside those properties. The assessment does not include an acoustic feature correction (due to distance between

source and receptor 235m).

There are two impacts which should be considered based on the updated information–

7. The **amenity** of the nearest residents could be adversely impacted by the increase in noise, although daytime levels are not a significant concern, there is potential that noise from the battery operation will be noticeable in living areas in the evening and at night as background sound levels reduce.

The predicted internal noise levels will be compliant with BS8233:2014 (Guidance on Sound insulation and noise reduction for buildings) but this does not mean noise will be inaudible. Though these are low levels and sleep should not be significantly adversely impacted for most residents, there will be a change to the local sound environment when background sound levels are low. Noise in outside living areas (gardens) will be likely audible based on the predictions. The increase in night time noise levels will vary from +10db to +17db. These are significant levels of noise increase although at relatively low levels.

Normally we would recommend the following condition restricting night time noise impacts to not exceed pre-existing background levels but this would not be complied with based on the predictions, an alternative boundary condition is advised if permission is granted.

“The rating level of sound emitted from [any fixed plant and/or machinery associated with the development] [industrial activities at the use hereby approved] shall not exceed background sound levels by more than 5 dB(A) between the hours of 07.00–23.00 (taken as a 15 minute LA90 at the nearest sound-sensitive premises) and shall not exceed the background sound level between 23.00–07.00 (taken as a 15 minute LA90 at the nearest/any sound-sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014 + A1:2019) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.”

It is further a concern that a correction for tonality has been dismissed. The application should have taken a precautionary approach to the noise impact caused by an unusual new noise being caused. Similar applications have used a +2db correction. If imposed the noise rating levels would increase by a further +2dBA.

As the nearest properties are in Stoke-on-Trent so we would advise that local authority is consulted. They were consulted pre-application.

8. The **local sound environment** in the vicinity of the site will change. The current

lowest background sound levels at the site will be approximately 22-25dB Laeqt, these would be increased to 60-65db Laeqt at the boundary according to our reading of the noise assessment. This will by effect change the noise nature of the area from rural to an industrial type area during the evening and night, it will be an approximate +40dbA increase in noise levels. As previously stated – “The Noise Policy Statement of England recognises the need to protect the low sound levels found in quiet rural areas. This development would compromise the intentions of that policy in this area.”

If permission was to be granted then it maybe prudent to condition boundary levels. These levels should be clarified with the applicant.

Recommendation

Environmental Health recommend refusal but would advise the following conditions if permission is granted.

Recommended Conditions

9. Construction & Demolition Impacts:

- IV. During construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary;
- V. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. All waste transfer records should be retained for inspection by officers of the Local Planning Authority;
- VI. No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the Local Planning Authority

Reason: *To protect the amenities of the area during construction*

Construction & Demolition works: Time of operations

- 10.** Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy activities shall be restricted to the following times of operations.

- **08:00 - 18:00 hours (Monday to Friday);**
- **08:00 - 13:00 hours (Saturday)**
- **No working is permitted on Sundays or Bank Holidays.**

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

Reason: *To avoid the risk of disturbance to neighbouring dwellings from noise during unsocial hours.*

11. Report of Unexpected Contamination

In the event that contamination, including any suspected asbestos containing materials (e.g. bonded cement), is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development should not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, and is subject to the approval in writing of the Local Planning Authority.

Reason *To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.*

12. Noise Limits (Confirm specific levels with applicant if required)

The level of noise emitted from the site shall not exceed 55db Laeq (15mins) at any time when measured at any point on the boundary of the site.

Reason:- *To safeguard the amenity of local residents and that of the surrounding area from noise disturbance.*

13. Lighting Condition

The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation. Details of all artificial lighting to be installed under this permission should be submitted to and approved by the Local Planning Authority prior to development commencing.

Reason: *To protect the local amenities of the local residents by reason of excess of illuminance.*

14. Maintenance of Batteries

All equipment and infrastructure associated with this development must be constructed and maintained throughout the life of the development so as to prevent any discharges or spillage that may cause pollution of the surrounding land, underground strata or watercourses .

Reason: *To prevent pollution of the Environment*

Advisory Note/ Informative:

Please be aware that the responsibility for safe development and secure occupancy of the site rests with the developer.

- Any approved noise scheme and measurements should pay due regard to British Standard BS8233: Sound insulation and noise reduction for buildings (Code of Practice), BS4142:2014 Methods for rating and assessing industrial or commercial sound and/or the Building Regulations 2010 Document E or other appropriate guidance.
- The granting of planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.
- During any demolition and construction activities (including landscaping) the contractor shall take all reasonable steps to prevent dust formation and prevent any dust formed from leaving the site boundary.
- If required, contamination risk assessments shall be carried out in accordance with UK policy the Land contamination risk management framework (LCRM), published by the Environment Agency
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
 - Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.
 - The Local Planning Authority will determine the acceptability of reports on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post development, where the applicant had prior knowledge of the contamination, the applicant is likely to be liable under Part II (a) of the Environmental Protection Act 1990 and as such become an "appropriate person". In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.
 - Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this, the applicant or those acting on behalf of the applicant will be liable under part II (a) of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.
 - During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public property and the environment are protected against noise, dust, odour and fumes
 - The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of in an appropriately licensed landfill site.
 - Staffordshire Moorlands District Council is keen to liaise with all stakeholders involved in this application. As such, we recommend that a proposed scope of works is forwarded to the Environmental Health Department and agreed in principle prior to site investigation works being undertaken. The Environmental Health Department is also prepared to review draft copies of reports prior to final submission to the Planning Department in

order to ensure that works undertaken are sufficient to discharge the contaminated land conditions.

Regards,
Environmental Health