

## **Planning and Rights of Way Committee**

**24 April 2024**

### **Minerals Planning Application (County Matter)**

**WSCC/045/23 - Erection of a rail fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking (Variation of condition No. 6 of Planning Permission WSCC/052/19 to allow 24 hour operations at the site, Monday to Friday, for a period of five years) at Land at Crawley Goods Yard, Brett, Gatwick Road, Crawley, West Sussex, RH10 9RE**

#### **Report by Head of Planning Services**

**Local Member: Brenda Burgess**

**Electoral division: Three Bridges**

**District: Crawley Borough**

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### **Summary**

In April 2020, planning permission (ref. WSCC/052/19) was granted to allow Brett Concrete at the Crawley Goods Yard, Crawley to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. This report concerns a new application to allow 24-hour operation of the concrete batching facility at Brett Concrete, Crawley Goods Yard, Crawley under the same restrictions for a temporary period of five years. The proposal would be subject to the same controls as the extant planning permission, including those relating to lighting, noise, and dust management.

This report provides a generalised description of the site and a detailed account of the proposed development and appraises it against the relevant policy framework from national to local level.

The main development plan policies of relevance to this application are Policies M8, M10, M15, M18 and M22 of the West Sussex Joint Minerals Local Plan 2018 and Policies SD1, EC1, EC3, EC4, ENV11, and ENV12 of the Crawley Borough Local Plan 2015-2030.

Although there have been no objections from statutory consultees, 15 third party representations have been received objecting to the application; concerns include dust, light and noise pollution, impacts on physical and mental health, road safety and impacts on the highway, and cumulative impacts.

### **Consideration of Key Issues**

The main material planning considerations in relation to the application are:

- need for the development; and
- impacts on public health and amenity.

### ***Need for the Development***

The principle of temporary overnight operations has previously been accepted on the application site and at another site in the Goods Yard. It is considered that the need for such operations to take place for a temporary five-year period has been justified due to the economic benefits. Accordingly, the acceptability of the proposal is about whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors, which is addressed below. Therefore, it is considered that there is a need for the development in accordance with national and local policy, which attracts great positive weight in the planning balance.

### ***Impacts on Public Amenity and Health***

Although the proposal is acceptable in principle, there is a need to determine whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors. This includes taking account of the changed context since the granting of planning permission WSCC/052/19 in April 2020, primarily the construction of houses as part of the Forge Wood development to the east of the railway corridor. No changes are proposed to the permitted lighting on the development site and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on amenity of surrounding residential receptors. The findings have been agreed by the EHO, who raises no objection to the application subject to the imposition of the previously-approved controls. A temporary period of five years would allow the acceptability of the noise impacts of overnight working on the amenity and health of local residents to be assessed. Overall, it is considered that the proposals accord with national and local policy and that the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance.

### **Overall Conclusion**

In April 2020, planning permission WSCC/052/19 was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The permission introduced limitations during overnight operations and was permitted subject to the provision of an acoustic fence along the northern site boundary. Due to the cost of the works during the Covid pandemic, the operator did not subsequently implement or progress with the approved temporary extended operating hours.

The acceptability in principle of night-time operations at the site was established under planning permission WSCC/052/19. The only material change in the current application is the request for a temporary five-year period, rather than the previously-approved temporary three-year period. The controls and operative restrictions as detailed within the extant permission would be retained.

The applicant has demonstrated that there is an economic need for the proposal, which includes ensuring the long-term sustainability of the business, which supplies material required for the long-term development of Crawley and the wider surrounding area.

Even though the proposal is acceptable in principle, there is a need to ensure that there are no significant adverse impacts on the health or amenity of nearby sensitive receptors. Since the granting of planning permission WSCC/052/19 in April 2020, build out of the Forge Wood development to the east of the railway corridor has continued. Therefore, the context at the application site has changed and there are potentially more residents in the area that could be affected by the proposed temporary nighttime operations.

No changes are proposed to the lighting and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on the amenity of surrounding residential receptors. No changes are proposed to HGV numbers.

A temporary period of five years would support the applicant's investment in the acoustic barrier and allow the noise impacts of overnight working on the amenity and health of local residents to be assessed.

Overall, it is considered that the proposed development accords with the statutory development plan when read as a whole. Furthermore, there are no material considerations in this case that indicate a decision other than in line with the statutory development plan. In favour of the proposal, the need for the development carries great weight. Against the scheme, the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance. Therefore, on balance, it is considered that the benefits of the proposal outweigh the disbenefits and, as such, the proposed development constitutes sustainable development (as defined in paragraphs 7 and 8 of the NPPF).

## **Recommendation**

That planning permission be granted for planning application ref. WSCC/045/23 subject to the conditions and informatives set out at **Appendix 1**.

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### **1. Introduction**

- 1.1 Planning permission was granted in 2016 for the use of land at the Crawley Goods Yard, Crawley for the "*Erection of a rail-fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking*" (ref. WSCC/053/16/CR). Condition 7 controlled hours of operation, limiting them to between 07:00 and 19:00 Monday to Friday and 07:00 and 13:00 on Saturdays.
- 1.2 In April 2020, planning permission (ref. WSCC/052/19) was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The revised condition introduced limitations during overnight operations and was permitted subject to the provision of an acoustic fence along the northern site boundary.
- 1.3 This report concerns an application to allow 24-hour operation of the concrete batching facility at Brett Concrete, Crawley Goods Yard, Crawley under the same restrictions for a temporary period of five years.

## 2. Site and Description

- 2.1 The application site extends to approximately 0.31 hectares in area and is located on the eastern side of Gatwick Road, within the Crawley Goods Yard industrial site. Crawley Goods Yard comprises an area of rail-fed aggregate processing and handling facilities and is safeguarded for this use in the Joint West Sussex Minerals Local Plan (2018) (JMLP). The safeguarded use is also recognised in the Crawley Borough Local Plan (2015) (CBLP) and the emerging Crawley Local Plan (2024).
- 2.2 Crawley Goods Yard is located 2.8km to the north-east of Crawley Town Centre. Gatwick Airport is located 1.5km to the north of Crawley Goods Yard and the railway line between Three Bridges and Gatwick Airport runs north-south immediately adjacent to the eastern boundary of the industrial site. It forms part of the wider Manor Royal Employment Area, as identified in the CBLP, which extends to the north and west of the Goods Yard (see **Appendix 2: Site Location Plan**).
- 2.3 The application site is situated centrally within the Goods Yard and comprises three cement silos, a batch control cabin and mixer tower, a batch conveyor with aggregate storage bins running east to west across the site (see **Appendix 3: Site Layout Plan**). There is a washout pit, washout bay and drying bay located along the eastern boundary, while the southern end of the site plant comprises an aggregate fed hopper. The remainder of the site comprises the service yard and parking/access areas and the office/mess facility, which is located on the northern boundary. The entire site is laid down to hardstanding and fed by train via the rail sidings to the east of the site. The site is accessed via a shared access along the northern boundary of Crawley Goods Yard.
- 2.4 The wider area is characterised by the industrial and employment land uses to the north and west, which form the Manor Royal industrial site located between Crawley Town Centre and Gatwick Airport. Residential areas are located to the east of the site, beyond the railway line, at Forge Wood, and to the south along Tinsley Lane.
- 2.5 The nearest residential property to the site, Bowthorpe House, is 65m north of the site entrance and approximately 200m north-west of the main operational area (see **Appendix 4: Noise Assessment - Survey Locations** and **Appendix 5: Noise Assessment - Bowthorpe House**). The use of Bowthorpe House was changed to residential under 'permitted development' rights (CBC Ref. CR/2014/0543/PA3, issued 3 October 2014), without requiring consideration of whether measures were needed to mitigate noise, transport, flooding or contamination impacts being considered. The property is likely to be affected by noise from the railway corridor located 230m to the east (albeit it is separated from the railway by large industrial buildings) and noise from Gatwick Airport located 2km to the north.
- 2.6 The Forge Wood development is located to the east of the railway corridor (see **Appendix 4: Noise Assessment Survey Locations**). It comprises housing units primarily along its northern boundary and within the central western part of the site, while the land uses along the western boundary of the estate parallel to the railway corridor are characterised by industrial and employment buildings and landscaping. The closest dwellings to the application site are those located on Honour Way, 200m to the north-east and Moore Road, 230m to the east. They are separated from the application site by the railway line

and industrial units serving Sterling Park, another industrial estate located immediately to the north-east of the Goods Yard, and by the landscaping and vegetation on the western boundary of the Forge Wood Estate and the railway line.

- 2.7 There are also residential properties on Tinsley Lane, 360m to the south-west, beyond large industrial buildings (see **Appendix 4: Noise Assessment Survey Locations**). In addition, a planning application is currently being considered by Crawley Borough Council for 138 residential units on land east of Tinsley Lane, 500m directly south of the site (Ref. CR/2021/0355/OUT). This area is separated from the application site by the southern part of Crawley Goods Yard, and an area of Ancient Woodland (Summerveres Wood) which lies 380m south of the site.
- 2.8 The application site is not located within any area subject to landscape, ecological or historic designations, and is not within an area at increased flood risk.
- 2.9 An Air Quality Management Area (AQMA) is located 850m to the southwest of the application site, at the southern end of Gatwick Road. The AQMA has been designated because of increased nitrogen dioxide (NO<sub>2</sub>) levels associated with road transport; vehicles from the application site pass through the AQMA.

### **3. Relevant Planning History**

- 3.1 The wider Goods Yard has a long history as a rail-fed aggregate depot, separated into a number of sites operating under various permissions.
- 3.2 Planning permission was granted in 2016 for the "*Erection of a rail-fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking*" on the application site (Ref. WSCC/053/16/CR). The permission was approved subject to 11 conditions relating to dust management, cycle parking, air quality (AQMA) mitigation, noise surveying and mitigation (if required), lighting, and surface and foul water drainage. Condition 7 controlled the hours of operation, limiting them to between 07:00 and 19:00 Monday to Friday and 07:00 and 13:00 on Saturdays.
- 3.3 In April 2020, planning permission (ref. WSCC/052/19) was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The revised condition was permitted subject to the provision of a 6m high acoustic fence along the northern site boundary and restrictions on movement types and plant operational restrictions.
- 3.4 The applicant did not subsequently implement or progress with the approved extended operating hours, citing the cost of the acoustic fence as the reason for not doing so (due to the Covid 19 pandemic).
- 3.5 It should be noted that Cemex submitted a similar application in relation to the concrete batching plant located immediately to the north of the application site, to allow a variation of Condition No. 5 (hours of operation) of Planning Permission Ref. CR/22/81 to allow extended hours of operation of the site between 18:00 and 07:00 on Mondays to Fridays, up to a maximum of 12 times per calendar month, for three years. The application was approved under delegated powers in July 2018 (Ref. WSCC/043/18/CR).

## **4. The Proposal**

- 4.1 The current application seeks to vary Condition 6 of planning permission WSCC/052/19 to allow 24-hour operation of the concrete batching facility, Monday to Friday, for a temporary period of five years. The proposed wording is as follows:

### *6 - Overnight Operations (Temporary)*

*For a period of **five** years from the date of this permission, on a maximum of 12 nights per calendar month, the site may operate between 1900 and 0700, Monday to Friday inclusive. During these periods, the site will be subject to the following controls:*

- no more than 18 HGV movements each night (9 HGVs entering/leaving the site);*
- no more than 4 HGV movements per hour (2 HGVs travelling to/from the site);*
- no material being fed into the concrete batching plant;*
- no deliveries of cement;*
- no audible alarms/sirens being used; and*
- A record shall be kept of the occasions on which overnight operations take place, and the number of HGV movements during these operations. The records shall be made available to the County Council on request.*

*Reason: to minimise the off-site noise impact of the overnight operations, for a temporary period only to test the acceptability of the additional hours in terms of impacts on local residents.*

- 4.2 Accordingly, the restrictions and limitations on night-time working set out in planning permission WSCC/052/19 would be retained. Furthermore, a 6m close-board wooden acoustic fence, extending 29.2m across the northern site boundary, would also be provided as per Condition 9 of that permission.
- 4.3 A temporary period of five years has been proposed to justify the expense of the investment in the acoustic barrier and to test the acceptability of the impacts of overnight working on the amenity and health of local residents.
- 4.4 An updated noise assessment was submitted with the application. It included new survey locations, for example, to take account of the build out of the Forge Wood development since the granting of the extant planning permission.

## **5. Environmental Impact Assessment (EIA)**

- 5.1 The need for EIA has been considered in relation to this application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations').
- 5.2 The proposal is not of a type or scale that falls within either Schedule 1 or Schedule 2 of the EIA Regulations and is not considered to have the potential for significant effects on the environment within the meaning of the EIA Regulations. Therefore, EIA is not considered necessary.

## **6. Policy**

### **Statutory Development Plan**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the statutory 'development plan' unless material considerations indicate otherwise (as confirmed in paragraph 2 of the National Planning Policy Framework (NPPF)). For the purposes of this application, the following documents form the statutory development plan: the West Sussex Joint Minerals Local Plan (2018), and the Crawley Borough Local Plan (2015).
- 6.2 The key policies in the development plan, which are material to the determination of the application, are summarised below. In addition, reference is made to relevant national policy and Planning Practice Guidance, which guide the decision-making process and are material to the determination of the application.

### **West Sussex Joint Minerals Local Plan (July 2018, Partial Review March 2021) ('JMLP')**

- 6.3 The JMLP was adopted in July 2018 and covers the period up to 2033. Following a Soft Sand Review of the plan, formal revisions were adopted in March 2021. It is the most up-to-date statement of the County Council's land-use planning policy for minerals. It accords with the approach taken in the NPPF and should be given significant weight when considering this application.
- 6.4 Policy M8 relates to the processing of minerals at mineral sites and Policy M10 relates to the safeguard of mineral supply infrastructure, including existing permitted mineral processing sites and the infrastructure, such as wharves and railheads, that serves them.
- 6.5 The following Development Management policies are relevant in that they seek to support the Strategic Objectives of the JMLP and ensure that there is no unacceptable harm to the amenity, character, and the environment or any other material considerations as a result of minerals development: Policy M15 relates to the impacts of development on air and soil; Policy M18 seeks to protect and, where possible, enhance the health and amenity of residents, businesses and visitors; and Policy M22 seeks to ensure that the cumulative impact(s) of successive and/or concurrent developments on the environment and communities (e.g. through noise, dust, increased traffic, and landscape impacts) are addressed.

### **Crawley Borough Local Plan 2015-2030 (December 2015) ('CBLP')**

- 6.6 The CBLP was adopted in December 2015. The key relevant policies include: SD1 (Sustainable Development), which sets out the presumption in favour of sustainable development; EC1 (Sustainable Economic Growth), which seeks to ensure that Crawley's recognised economic role and function is maintained and enhanced; EC3 (Manor Royal), which supports development that is compatible with the area's economic function; EC4 (Employment Development and Residential Amenity), which notes, among other things, that "*Where residential development is proposed within or adjacent to Main Employment Areas, the principal concern will be to ensure that the economic function of the area is not constrained.*"; and ENV11 (Development and Noise), which notes that people's quality of life must be protected from unacceptable noise impacts by managing

the relationship between noise sensitive development and noise sources. Policy ENV12 (Air Quality) seeks to ensure that development proposals do not result in a material negative impact on air quality.

### **Crawley Local Plan Review (2024-2040) (May 2023)**

- 6.7 A draft revision of the Crawley Local Plan was formally submitted to the Secretary of State for independent examination in July 2023 and is at the Proposed Modifications stage. The following policies from the draft revision are considered to be relevant to the proposal: Policy EC2 (Economic Growth in Main Employment Areas), Policy EC3 (Manor Royal), Policy EC11 (Employment Development and Amenity Sensitive Users), Policy H2 (Key Housing Sites), Policy EP4 (Development and Noise), and Policy EP5 (Air Quality). As the Local Plan Review has not adopted, full weight cannot be attributed to it.

### **Tinsley Lane Development Brief (Adopted April 2017)**

- 6.8 Land at Tinsley Lane, Crawley has been allocated for residential, sports and open space use in the adopted Crawley Local Plan (Policy H2). The Development Brief forms an adopted non-statutory planning guidance document and is a material planning consideration against which decisions can be made in relation to proposals for development of this site. It seeks to address the issue of noise and ensuring the housing allocation does not prejudice or constrain the economic function of the wider employment area and the safeguarded minerals operations of the Crawley Goods Yard. Key Policy Direction 5: Noise (page 31) expressly states that development proposals will be required to protect future residents from unacceptable exposure to noise from road, rail, aircraft, and industry sources, including Crawley Goods Yard. Proposals should seek effective mitigation to ensure that the noise impact for future users is made acceptable.

### **National Planning Policy Framework (December 2023) ('NPPF')**

- 6.9 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF does not form part of the development plan but is a material consideration in determining planning applications.
- 6.10 The key relevant paragraphs of the NPPF relevant to the proposed development include: 11 (presumption in favour of sustainable development), 47 (determining applications in accordance with the development plan), 55-58 (planning conditions and obligations), 85-87 (building a strong competitive economy), 191 (ensuring development is suitable for its location with regards to health, living conditions and the natural environment), 192-194 (control and processing of emissions being subject to separate pollution control regimes), and 215-218 (facilitating the sustainable use of minerals).

### **Planning Practice Guidance (PPG)**

- 6.11 PPG is a web-based resource that sets out the Government's planning guidance to be read in conjunction with the NPPF. Although it does not form part of the development plan, it is a material consideration in determining planning applications. The most relevant sections of the PPG to this application are Noise (July 2019) and Conditions (2014).

## **7. Consultations**

- 7.1 **Crawley Borough Council Planning:** No comments received.
- 7.2 **Crawley Borough Council Environmental Health Officer (EHO):** No objection. Their consultation response details the subsequent development at Forge Wood since the previous 2019 application, and identifies the layout of the Forge Wood estate, namely the row of employment buildings along the western boundary of the estate as a buffer for the residential areas of the High Wood development. This, in conjunction with good operational practices at the Crawley Goods Yard and the installation of the acoustic fence, leads the EHO to concur with the findings of the acoustic report submitted with the application that the proposal would not lead to any significant noise impacts on surrounding residential receptors. Consequently, they offer no objection subject to the retention of existing conditions being imposed for both day and night-time operations, including the provision of an acoustic fence along the northern site boundary to the benefit of residents at Bowthorpe House.
- 7.3 **Environment Agency:** No comments received.
- 7.4 **NATS (National Air Traffic Services) Safeguarding:** No objection, as proposal does not conflict with safeguarding criteria.
- 7.5 **Naturespace:** No objection.
- 7.6 **Network Rail:** No comments received.
- 7.7 **WSSC Highway Authority:** No objection. The proposal would result in one two-way movement every 30 minutes or one two-way movement every 90 mins, which would not which generate any issues from a highway capacity or safety point of view. The site access is suitable for use by the additional HGVs. Although the site is located near to an AQMA, the increase in overnight HGVs is not considered to have any air quality impact.
- 7.8 **WSSC Councillor Brenda Burgess:** No comments received.

## **8. Representations**

- 8.1 The applications were publicised in accordance with The Town and Country Planning (General Development Procedure) (England) Order 2015. This involved the erection of site notices located at the application site, advertisement in the local newspaper, and forty neighbour notification letters.
- 8.2 Representations were received from 15 third parties, all of which object to the development. In summary, the main material issues raised are:
- Existing dust, light and noise pollution from aggregate yard;
  - Concern that emissions from site have both mental and physical impact on the health of surrounding residences (noting silicosis etc. from concrete batching operations) and nearby community facilities;
  - Cumulative impact of emissions when combined with the adjacent highway M23;
  - Highways safety issues around increase in HGVs and their impact on the road network (damaging roads etc.);
  - Negative impact on local wildlife; and

- Visual impact of a large facility.

## **9. Consideration of Key Issues**

9.1 The main material planning considerations in relation to the application are:

- need for the development; and
- impacts on public health and amenity.

### **Need for the Development**

- 9.2 The National Planning Policy Framework (NPPF) identifies the importance of minerals infrastructure and states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Of particular relevance is Paragraph 216(e), which states that policy makers should safeguard existing, planned and potential sites for the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material.
- 9.3 Consistent with these aims, Strategic Objective 4 of the West Sussex Joint Minerals Local Plan (JMLP) seeks to protect and maintain existing mineral development sites and infrastructure, including capacity for the import of minerals via the ports of Littlehampton and Shoreham and the railheads at Chichester, Crawley and Ardingly. Accordingly, the site is safeguarded for its minerals transportation and operations under Policy M10 of the JMLP.
- 9.4 In addition to this, Crawley Goods Yards and the minerals operations there are safeguarded under Policy EC3 of the adopted Crawley Borough Local Plan (2015).
- 9.5 Given the extant planning permission for the mineral processing use on the application site, which is located within an area allocated for that use, it is established that the existing operations at the site are acceptable in principle.
- 9.6 The acceptability in principle of night-time operations at the site was established under planning permission WSCC/052/19. It was noted at that time that the use of the site for the production of concrete over an additional period of time accorded with Policy M8 of the JMLP, which supports mineral processing at minerals sites, including rail depots, to ensure a steady and adequate supply, subject to there being no significant adverse impacts on residents.
- 9.7 The only material change is the request for a temporary five-year period, rather than the temporary three-year period granted under planning permission WSCC/052/19. The controls and operative restrictions as detailed within the extant permission would be retained.
- 9.8 The applicant provides justification for the increase from three to five years in that the additional capital expenditure associated with the installation of the acoustic fence (deemed a necessary addition to the site in order to mitigate any amenity impacts arising from night-time operations) would be offset by the revenue generated by the additional temporary timeframe.
- 9.9 The site benefits from being rail-fed by a safeguarded railhead and is strategically located within the main industrial and employment area of Crawley. It is understood that the additional revenue generated by nighttime

operations at the site would promote its long-term sustainability as a business, which in turn would allow the continued supply of material required for the long-term development goals of Crawley and the wider surrounding area.

- 9.10 It is noted that temporary night-time working hours have previously been approved on another site in the Goods Yard (the Cemex site to the north under Ref. WSCC/043/18/CR) as the impacts on residents were deemed to be acceptable.
- 9.11 In conclusion, the principle of temporary overnight operations has previously been accepted on the application site and on another site in the Goods Yard. It is considered that the need for such operations to take place for a temporary five-year period has been justified due to the economic benefits. Accordingly, the acceptability of the proposal requires consideration of whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors, which is addressed below. Therefore, it is considered that there is a need for the development in accordance with national and local policy, which attracts great positive weight in the planning balance.

### **Impacts on Public Amenity and Health**

- 9.12 The concrete batching plant and associated ancillary structures and facilities is safeguarded for that purpose under the NPPF and Policy M10 of the JMLP. In general, the nature of industrial activities in relation to mineral processing is such that they have the potential to give rise to disturbance to neighbouring amenity through noise, dust, and lighting emissions.
- 9.13 In accordance with Policy M18 of the JMLP, proposals for mineral development should only be permitted when lighting, noise, dust, odours, vibration, and other emissions, including those arising from traffic, are controlled to the extent that there will not be an unacceptable impact on public health and amenity. Policy ENV11 of the CBLP states that noise generating development will only be permitted where it can be demonstrated that nearby noise sensitive uses (as existing or planned uses or development) will not be exposed to noise impact that will adversely affect the amenity of existing and future users. Policy ENV12 of the CBLP states that proposal should not result in a material negative impact on air quality.
- 9.14 Third parties have highlighted that the proposed development would result in an established mineral use operating during night-time hours with the potential to exacerbate or increase impacts on neighbouring amenity.
- 9.15 As identified above, even though the proposal is acceptable in principle, there is a need to ensure that there are no significant adverse impacts on the health or amenity of nearby sensitive receptors. Since the granting of planning permission WSCC/052/19 in April 2020, build out of the Forge Wood development to the east of the railway corridor has continued. Therefore, the context has changed at the application site and there are potentially more residents in the area that could be affected by the proposed temporary nighttime operations. Accordingly, there is a need to assess the impact of the proposal based on the current context, rather than that existed when the current permission was granted.

## ***Lighting***

- 9.16 The lighting at the site is already controlled under Condition 9 of planning permission WSCC/053/16/CR, which seeks to ensure that the lighting is orientated so as to ensure that there is no light spill above the horizontal, and no detrimental impact on the safe operation of the adjacent railway network. The current application does not propose any changes to the permitted lighting and it is not considered that there has been any contextual change with regard to potential adverse impacts from lighting on nearby sensitive receptors since the granting of planning permission WSCC/052/19. Therefore, it is considered that the proposed temporary nighttime operations would not have any unacceptable impacts on public amenity and health due to lighting.

## ***Noise***

- 9.17 Planning permission WSCC/052/19, which this application seeks to vary, includes conditions to limit and monitor noise from the operation of the application site. These include Condition 4: Plant/Machinery Noise and Dust Control; Condition 6: Overnight Operations (temporary), which this application seeks to vary; Condition 7: Noise Management (complaints); Condition 8: Noise Management and Condition 9: Acoustic Fence.
- 9.18 The applicant has submitted an updated Noise Assessment Report, which includes an updated BS 4142 assessment of the overnight operations on site. The report considered both existing and proposed residential receptors (see **Appendix 4: Noise Assessment – Survey Locations**) and concluded that there would be no significant impact upon the amenity of surrounding residential receptors with regards to noise.
- 9.19 A temporary period of five years would allow the acceptability of the noise impacts of overnight working on the amenity and health of local residents to be assessed. As per the extant permission, noise complaints would be monitored under Condition 7 and a noise survey would be undertaken within three months of nighttime operations commencing under Condition 8.
- 9.20 The CBC EHO has reviewed the report and raises no objection to the proposed five-year temporary overnight operations subject to the provision of the acoustic fence along the northern boundary of the site, the retention of operational restrictions during the overnight operations, and the retention of existing conditions to control and monitor noise. Furthermore, the EHO notes that the layout of the Forge Wood estate, namely the row of employment buildings along the western boundary of the estate, acts as a buffer for the residential areas that have been built since the granting of the extant planning permission.
- 9.21 Therefore, subject to the retention of existing noise management and monitoring conditions and provision of the acoustic fence along the northern boundary, it is considered that the proposed temporary nighttime operations would not have any unacceptable noise impacts on public amenity and health.

## ***Dust***

- 9.22 Third party representatives have also raised concerns about the potential health impacts associated with the concrete batching operations that are currently undertaken on site, as well as the additional operations that will be introduced

during overnight working hours, which would introduce up to 18 HGV movements each night, with up to four HGV movements per hour.

- 9.23 Given the nature of the proposed activities, the operations on the site have the potential to give rise to dust, arising from the deposit and storage of materials in stockpiles, operation of the concrete batching plant and the disturbance of dust by moving plant and vehicles.
- 9.24 The potential for dust generation is controlled via the approved plans as detailed in Condition 1 of planning permission WSCC/052/19, which include an approved Dust Management Plan and Air Quality Mitigation Statement and Strategy. The requirements of these plans would continue to be implemented during overnight operation for the temporary five-year period.
- 9.25 The principle for the introduction of additional vehicle movements was established under planning permission WSCC/052/19 and no changes to the previously-approved HGV numbers are proposed.
- 9.26 Accordingly, the operations within the site, including at nighttime, would continue to be managed in accordance with the conditions of the existing permission and it is not considered that there has been any contextual change with regard to potential adverse impacts from dust on nearby sensitive receptors since the granting of planning permission WSCC/052/19. Furthermore, the site is subject to an Environmental Permit, the requirements of which would also apply to the overnight operations.
- 9.27 Therefore, subject to the retention of the existing dust management controls, it is considered that the proposed temporary nighttime operations would not have any unacceptable impacts on public amenity and health due to dust.

### **Summary**

- 9.28 Although the proposal is acceptable in principle, there is a need to determine whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors. This includes taking account of the changed context since the granting of planning permission WSCC/052/19 in April 2020, primarily the construction of houses as part of the Forge Wood development to the east of the railway corridor. No changes are proposed to the permitted lighting on the development site and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on the amenity of surrounding residential receptors. The findings have been agreed by the EHO, who raises no objection to the application subject to the imposition of the previously-approved controls. A temporary period of five years would allow the acceptability of the noise impacts of overnight working on the amenity and health of local residents to be assessed. Overall, it is considered that the proposal accords with national and local policy and that the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance.

### **Other Material Matters**

- 9.29 The following material matters are considered to be neutral factors in the planning balance.

- 9.30 **Highway Capacity and Road Safety:** the proposal would not result in any changes to the number of HGV movements previously permitted at the application site under planning permission WSCC/052/19. The Highway Authority raises no objection to the proposals. As a result, it is not considered that the proposed development would give rise to any unacceptable impact on highway capacity or road safety.
- 9.31 **Cumulative Impacts:** Third party representations have raised concerns about potential cumulative impacts at the site when combined with other operations at Crawley Goods Yard. These include impacts arising from noise, dust, and light emissions.
- 9.32 Policy M22 of the JMLP states that proposals for minerals development, including the intensification of use, will be permitted provided that an unreasonable level of disturbance to the environment and/or to residents, businesses and visitors will not result, either individually or as a cumulative effect (simultaneously and/or successively) alongside other development and allocations.
- 9.33 Although planning permission has previously been granted for temporary overnight operations at another minerals site within the Goods Yard, it has expired and no overnight activity is currently permitted. That notwithstanding, the applicant's Noise Assessment Report notes that during the June 2023 survey, there was overnight activity at other operators' sites in the Goods Yard, including a delivery of materials by train and operation of some plant.
- 9.34 As noted in paragraphs 9.18 and 9.20 of this report, the Noise Assessment Report concluded that there would be no significant impact upon the amenity of surrounding residential receptors with regards to noise and the EHO has raised no objection subject to the imposition of the same controls as per the extant permission.
- 9.35 Therefore, it is not considered that permitting operations on a temporary basis at the application site would result in any cumulative impacts at nighttime that would cause disturbance to the environment or residents.

## **10. Overall Conclusion and Recommendation**

- 10.1 In April 2020, planning permission WSCC/052/19 was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The permission introduced limitations during overnight operations and was permitted subject to the provision of an acoustic fence along the northern site boundary. Due to the cost of the works during the Covid pandemic, the operator did not subsequently implement or progress with the approved temporary extended operating hours.
- 10.2 The acceptability in principle of night-time operations at the site was established under planning permission WSCC/052/19. The only material change in the current application is the request for a temporary five-year period, rather than the previously-approved temporary three-year period. The controls and operative restrictions as detailed within the extant permission would be retained.
- 10.3 The applicant has demonstrated that there is an economic need for the proposal, which includes ensuring the long-term sustainability of the business,

which supplies material required for the long-term development of Crawley and the wider surrounding area.

- 10.4 Even though the proposal is acceptable in principle, there is a need to ensure that there are no significant adverse impacts on the health or amenity of nearby sensitive receptors. Since the granting of planning permission WSCC/052/19 in April 2020, build out of the Forge Wood development to the east of the railway corridor has continued. Therefore, the context at the application site has changed and there are potentially more residents in the area that could be affected by the proposed temporary nighttime operations.
- 10.5 No changes are proposed to the lighting and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on the amenity of surrounding residential receptors. No changes are proposed to HGV numbers.
- 10.6 A temporary period of five years would support the applicant's investment in the acoustic barrier and allow the noise impacts of overnight working on the amenity and health of local residents to be assessed.
- 10.7 Overall, it is considered that the proposed development accords with the statutory development plan when read as a whole. Furthermore, there are no material considerations in this case that indicate a decision other than in line with the statutory development plan. In favour of the proposal, the need for the development carries great weight. Against the scheme, the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance. Therefore, on balance, it is considered that the benefits of the proposal outweigh the disbenefits and, as such, the proposed development constitutes sustainable development (as defined in paragraphs 7 and 8 of the NPPF).
- 10.8 Therefore, it is **recommended** that planning permission be granted for planning application WSCC/045/23 subject to the conditions and informatives set out at **Appendix 1**.

## **Factors taken into account**

### **11. Consultations**

- 11.1 See Sections 7 and 8.

### **12. Resource Implications and Value for Money**

- 12.1 Not applicable.

### **13. Equality and Human Rights Assessment**

- 13.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposals would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposals were required to make them acceptable in this regard.

- 13.2 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the County Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 13.3 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. The applications have been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 13.4 The Committee should also be aware of Article 6, the focus of which (for the purpose of this committee) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision-making process as a whole, which includes the right of review by the High Court, complies with Article 6.

#### **14. Risk Management Implications**

- 14.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the determination of planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise. If this is not done, any decision could be susceptible to an application for Judicial Review.

#### **15. Crime and Disorder Reduction Assessment**

- 15.1 Not applicable.

#### **16. Social Value and Sustainability Assessment**

- 16.1 Not applicable.

### **Michael Elkington**

Head of Planning Services

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### **Appendices**

Appendix 1: Conditions and Informatives

Appendix 2: Site Location Plan

Appendix 3: Site Layout Plan

Appendix 4: Noise Assessment – Survey Locations

Appendix 5: Noise Assessment – Bowthorpe House

**Background papers**

See Section 6.

## **Appendix 1: Conditions and Informatives**

### **Approved Plans and Documents**

1. The development hereby permitted shall not take place other than in accordance with the particulars of the application, the approved plans and documents:
  - Planning Application Boundary (ref. CRW/006 Rev. A);
  - Site Layout Plan (ref. CRW/005 rev. H);
  - Elevations of Proposed Concrete Batching Plant (ref. CRW/008 Rev. A);
  - Indicative Plan and Elevations of Office, Mess Room/WC and Store (ref. CRW/011 Rev. A);
  - High Level Lighting Plan (ref. CRW/012);
  - Dust Management Plan (Brett Concrete Ltd., December 2016
  - Proposed 6m High Acoustic Fence (ref. CRW/41 Rev. A);
  - Plan Showing Position of Cycle Parking (ref. CRW/034);
  - Air Quality Mitigation Statement and Strategy (Brett Concrete Limited, January 2017);
  - Surface and Foul Water Drainage Details and Strategy (Brett Concrete Limited, 18 July 2017);

save as varied by the conditions hereafter.

*Reason: to secure a satisfactory development.*

### **Cycle Parking**

2. The cycle parking shown on 'Plan Showing Position of Cycle Parking (drawing CRW/034) shall be maintained in a useable state throughout the operation of the development hereby approved.

*Reason: to provide alternative travel options to the use of the car in accordance with current sustainable transport policies.*

## **OPERATIONAL CONDITIONS**

### **Hours of use**

3. With the exception of the overnight operations permitted by Condition 6, there shall be no operations associated with the development hereby permitted, which shall include the use of plant, vehicles and machinery, outside the hours of:
  - 07:00 and 19:00 on Monday to Friday inclusive; and
  - 07:00 and 13:00 on Saturdays

No operations shall take place on Sundays, Bank Holidays or Public Holidays.

*Reason: in the interests of the amenity of the locality and of local residents.*

## **Plant/Machinery Noise and Dust Control**

4. All plant and machinery operated within the development hereby permitted, including during construction, shall be fitted with noise reduction/silencing equipment and dust control measures to a standard not less than the manufacturer's standard UK specification for the equipment and operated with that equipment in good working order at all times.

*Reason: to avoid noise and dust giving rise to significant adverse impacts on the health and quality of life of the local population and visitors to the locality.*

## **Lighting**

5. No external lighting other than that approved (ref. High Level Lighting Plan (ref. CRW/012)) shall be installed at the site without the prior approval in writing of the Minerals Planning Authority. All lighting shall be directed to ensure that there is no light spill above the horizontal, and no detrimental impact on the safe operation of the adjacent railway network.

*Reason: to maintain the safe operation of London Gatwick Airport and the railway network, and to protect residential amenity.*

## **TEMPORARY OVERNIGHT OPERATIONS**

### **Overnight Operations (temporary)**

6. For a period of five years from the date of this permission, on a maximum of 12 nights per calendar month, the site may operate between 19:00 and 07:00, Monday to Friday inclusive. During these periods, the site will be subject to the following controls:
  - no more than 18 HGV movements each night (nine HGVs entering/leaving the site);
  - no more than four HGV movements per hour (two HGVs travelling to/from the site);
  - no material being fed into the concrete batching plant;
  - no deliveries of cement;
  - no audible alarms/sirens being used; and
  - a record shall be kept of the occasions on which overnight operations take place, and the number of HGV movements during these operations. The records shall be made available to the County Council on request.

*Reason: to minimise the off-site noise impact of the overnight operations, for a temporary period only to test the acceptability of the additional hours in terms of impacts on local residents.*

### **Noise Management (Complaints)**

7. Prior to the first overnight operation, as approved on a temporary basis by Condition 6, the applicant will submit to, and have approved in writing by the Minerals Planning Authority, detailed procedures for recording and responding to complaints. Once approved, the procedures shall be implemented in full throughout the overnight operations approved under Condition 6.

*Reason: to ensure local residents have a mechanism by which to raise concerns about noise impacts directly with the operator, and for these to be responded to, to protect residential amenity from noise impacts.*

### **Noise Management (Noise Survey)**

8. Within three months of the first overnight operation, as approved on a temporary basis by Condition 6, a Noise Survey shall be undertaken by the developer in accordance with BS 4142:2014 between the hours of 19:00 and 07:00 at the boundary to Bowthorpe House and be submitted to the Minerals Planning Authority. The Survey shall also measure all L<sub>Amax</sub> events associated with arriving and departing vehicles associated with the site. The Survey shall:
  - a. demonstrate that the rating level (L<sub>A,r</sub>, Tr) of the concrete batching plant does not exceed the background sound level when higher than 48 dB L<sub>A90</sub>, T and does not exceed 48 dB L<sub>A,r</sub>, Tr when the background sound level is 48 dB L<sub>A90</sub>, T or lower.
  - b. If the Survey does not demonstrate such compliance, then the report must include measures to reduce noise, and a timescale for implementing them, which shall be agreed in writing by the Minerals Planning Authority. Compliance shall be demonstrated by a follow-up Survey, undertaken in accordance with the above details, which must be submitted to the Minerals Planning Authority within three months of the measures being implemented.
  - c. If subsequent monitoring demonstrates operations do not comply with the requirements of part (a) of this condition, then the report shall identify corrective actions and/or additional measures to reduce noise, the monitoring to be repeated, and the associated timescales, which shall be agreed in writing with the Minerals Planning Authority.
  - d. From the point at which compliance is demonstrated, monitoring of noise at the boundary of Bowthorpe House shall thereafter be undertaken at regular intervals of no less than six months throughout the temporary operations approved under Condition 6, and the results submitted to the Minerals Planning Authority within one month of the survey being completed.

*Reason: to ensure noise emissions are within acceptable limits, to protect the living conditions of local residents.*

### **Acoustic Fence**

9. Prior to the operation of the site overnight permitted by Condition 6, the acoustic fence shown on drawing CRW/41 Rev. A shall be installed as approved and maintained throughout the duration of such operations.

*Reason: to protect residents of Bowthorpe House from noise emissions from the overnight operations and the resulting detriment to residential amenity.*

### **INFORMATIVES**

- A. In accordance with the National Planning Policy Framework, the Minerals Planning Authority has approached the determination of this application in a positive and creative way, and has worked proactively with the applicant, consultees, and local residents to negotiate an acceptable scheme. As a result, the Minerals Planning Authority has been able to recommend the grant planning

permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.