The Planning Inspectorate

Appeal Decision

Hearing held on 14 and 15 January 2021
Site visit made on 18 January 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021

Appeal Ref: APP/V0510/W/19/3243700
Land off Wisbech Road, Littleport, Cambridgeshire CB6 1RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by F P McCann Limited against East Cambridgeshire District Council.
- The application Ref 16/01121/FUM, is dated 25 August 2016.
- The development proposed is change of use of agricultural land to industrial (Class B2) use and erection of a concrete manufacturing facility, with associated engineering and accommodation works and extension to an existing building and travelling crane rails.

Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land to industrial (Class B2) use and erection of a concrete manufacturing facility, with associated engineering and accommodation works and extension to an existing building and travelling crane rails at land off Wisbech Road, Littleport, Cambridgeshire CB6 1RA, in accordance with the terms of the application, Ref 16/01121/FUM, dated 25 August 2016, subject to the conditions set out in the Schedule attached to this Decision.

Applications for costs

2. Two applications for costs have been made, one by F P McCann Limited against East Cambridgeshire District Council and the other by Mr Peter Preston against F P McCann Limited. These applications are the subject of separate Decisions.

Background and Main Issues

3. The planning application was originally made some four and a half years ago. The case was reported to the Council's Planning Committee on 1 February 2017, which resolved unanimously to grant approval. The planning permission, issued on 3 February 2017, was then subject to a successful claim for judicial review and quashed by the High Court on 23 May 2017. This was on the ground that the Council had failed to comply with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) through not providing a full screening opinion. In an attempt to

remedy this failing, two subsequent EIA screening opinions[1] were commissioned by the Council. Both have screened out the requirement for this proposal to be the subject of an EIA.

4. Notwithstanding its position over the matter of EIA, it is evident that, since the quashing of the original decision, the Council has sought a substantial amount of additional information from the applicant, most notably in respect of noise. Following a Freedom of Information request, which had raised the applicant's concerns over the manner in which the noise issue was being addressed by the Council, the appeal against a failure to determine was made on 20 December 2019.

5. The Council confirmed a putative reason for refusal. This was on the grounds of the proposal being unsatisfactory in failing to provide sufficient safeguards to ensure that the amenities of neighbouring residents would be protected from unacceptable levels of noise, in conflict with policies EMP 2 and ENV 9 of the East Cambridgeshire Local Plan 2015 and paragraph 180 of the National Planning Policy Framework (the Framework).

6. In response to this appeal, interested parties referred to objections from the Environment Agency (EA) and Cambridgeshire County Council as Lead Local Flood Authority (LLFA) over a separate application made by the appellant in early 2020, relating to part of the site covered in this scheme[2]. In the light of these representations and after careful consideration, it was decided that a Hearing was necessary to explore these further issues in the context of this scheme.

7. Subsequent to the decision to hold the Hearing, the EA had confirmed an objection over inadequate information to demonstrate that the risks of pollution posed by this proposal to water quality could be safely managed. The LLFA also confirmed an objection over a lack of assessment of the surface water flood risk to the surrounding area posed by the land raising involved. The Council endorsed both these objections as two further putative reasons for refusal.

8. On 4 December 2020, the Inspectorate responded to an earlier interested party EIA screening opinion request. It was directed, on behalf of the Secretary of State, that this proposal is not an EIA development under Regulation 5(6)(b). Should evidence arise from this appeal to indicate subsequently that an EIA might be necessary, Regulation 14(2) requires that question be referred to the Secretary of State and the appeal not be determined, except by dismissal, before a further screening direction is made. This matter is addressed later in the decision.

9. On the basis of the foregoing, and the wider evidence before me, the main issues in the appeal relate to whether the proposal would be acceptable with regard to its effects on:

    - the living conditions of residential occupiers in the surrounding area, with respect to noise;
    - surface water flood risk; and
    - water quality.

[1] WYG April 2018 and Barton Willmore December 2019
[2] Council reference 20/00232/FUM - extension to existing precast concrete manufacturing business (part retrospective). Yet to be determined at time of writing.

The proposal

10. The site is on the edge of Littleport, a small town in the Cambridgeshire Fens. It is proposed to extend an existing B2[3] industrial operation which currently manufactures a range of precast concrete products for the construction sector. The proposal relates to roughly 7.5 hectares of land adjacent to the appellant's existing production site.

11. The development proposed includes a production building with an associated concrete batching plant with silos, together with associated engineering and accommodation works, including hardstanding for the open storage of concrete products. It is also proposed to extend an existing building and travelling crane rails on the current factory site.

12. A landscaped buffer, including planting on a three-metre-high bund, would be provided along the undeveloped sides of the site, both along Little Marefen Drove and the open northern boundary. Vehicular access would be via an extension to the existing industrial estate road off the A1101 Wisbech Road that serves the adjacent Thurlow Nunn Standen Littleport business.

Policy Framework

13. The East Cambridgeshire Local Plan (LP) was adopted in April 2015. LP Policy GROWTH 1 makes provision for a deliverable supply of employment land in the period 2011 to 2031. The majority of this is to be focused on the market towns of Ely, Soham and Littleport, as established by LP Policy GROWTH 2.

14. The appeal site includes part of the 4.77 hectares of land allocated for employment development (B1/B2/B8 uses) by LP Policy LIT 4. Some of this allocation is part of the operational F P McCann site. The rest forms the part of the appeal site that lies immediately beyond the proposed new access. The remainder of the appeal site is farmland that lies adjacent to the LIT 4 allocation. Here, LP Policy EMP 2 permits the principle of existing businesses expanding in the countryside, subject to character and appearance, traffic and residential amenity considerations.

15. LP Policy ENV 9 requires that all development proposals should minimise, and where possible, reduce all emissions and other forms of pollution, including light and noise, and ensure no deterioration in air and water quality. All applications for development where pollution is suspected must contain sufficient information to enable a full assessment of potential hazards and impacts.

Reasons

Noise

16. At the time of the application, it would appear that noise had been an ongoing concern, as complaints over the current F P McCann operations had been received from nearby residents. However, there is no evidence of 'statutory nuisance' having been found under the Environmental Protection Act 1990, insofar as current noise might be prejudicial to public health. The Committee

[3] The Town and Country Planning (Use Classes) Order 1987 – B2 being the use for the carrying on of an industrial process other than one falling within class B1 (B1 being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

application report stated that, following extensive discussions with the applicant, the Environmental Health Officer (EHO) was now satisfied that none of the neighbouring residents would suffer unacceptable levels of noise disturbance from the new premises proposed. This had been based on the applicant's assessment identifying the main noise sources as cement and aggregate deliveries and on-site forklift truck movements.

17. The High Court's quashing of the planning permission related to faults in statutory EIA procedure, and was not specifically related to noise. However, further issues had arisen which prompted the Council to re-visit its original conclusions. A noise report[4] commissioned by an interested party had challenged the findings of Hoare Lea Associates (HLA), the appellant's acoustic consultants. In July 2017, the Council instructed Acoustic Associates (Peterborough) (AAP) to comment on the original planning application. HLA has since responded to successive reviews by AAP, leading to an iterative sequence of noise reports.

18. Both AAP and HLA acknowledge the inherent uncertainties in predicting the level of noise from future proposals. Therefore, there can be no absolute certainty over the noise implications of this development. In this particular case, the existing F P McCann operation provides some basis for assessing the likely noise impact of the proposal. I am mindful, however, that the design and configuration of the new operations could lead to relatively reduced noise, when compared to the older, extant plant. In addition, both noise experts acknowledge that, whilst not accounted for in their calculations, the focus of stockpiling of concrete products could be along sensitive boundaries to further contain sound. At my visit, a substantial amount of such concrete product storage was evident.

19. In coming to a view on this matter, I am also mindful of the site context. The proposal is partly allocated in the LP for Class B1, B2 and B8 uses. Only a Class B1 business use[5] is defined as that which can be carried out in any residential area without detriment to amenity from noise. Therefore, the LP clearly anticipates that development on that part of the appeal site allocated potentially for B2 or B8 uses might, by definition, not necessarily be without detriment to amenity in a residential area due to noise.

20. The site is adjacent to the appellant's existing concrete product manufacturing plant, the noise from which forms a part of the existing sound environment in this area. In addition to the noise from this and other industries, there is that generated by road traffic on the A1101 Wisbech Road and A10 Littleport bypass. The existing employment area is next to these main roads, where vehicular traffic makes a significant contribution to background noise levels.

21. Littleport's main residential areas lie on the other side of the A10 bypass and are a significant distance from the development proposed, with predominantly industry and employment in between. There is only a small amount of long-established housing near to the appeal site, from where noise was assessed at three representative locations. Of these, the bungalow at Silver Birches, fronting Wisbech Road just beyond the proposed site entrance, represents housing closest to the appeal site. The other two noise receptors assessed are both somewhat further away, beyond intervening farmland, comprising the

[4] Create Consulting Engineers Independent Review of Acoustic Reports September 2017.
[5] Town and Country Planning (Use Classes) Order 1987

small groups of dwellings to the west at Marefen Drove and to the north on Little Marefen Drove.

22. The noise reports applied British Standard BS 4142:2014[6] (BS 4142), used to assess the noise impact from industrial sources in mixed use residential/industrial areas. On this basis, the Council was of the view that the 'rating level' of the noise from the proposal should not exceed the existing background noise level by more than 5 dB.

23. BS 4142 states that when making assessments and arriving at decisions it is essential to place the sound in context and that a difference of around +5 dB is likely to be an indication of an adverse impact, and one of +10 dB a significant adverse impact. As further context, BS 8233:2014[7] provides guidance for acoustic requirements in and around new buildings. For residential gardens this states that it is desirable that a steady noise level does not exceed 50 dB $L_{Aeq,T}$, whilst a level of 55 dB $L_{Aeq,T}$ would be acceptable in noisier environments.

24. Weekday background noise levels of 46 dB L_{A90} at Silver Birches, 37 dB L_{A90} at Marefen Drove and 35 dB L_{A90} at Little Marefen Drove had been calculated and agreed by AAP and HLA. It is evident that Silver Birches experiences the highest background noise levels. However, whilst closest to the existing F P McCann operations, road traffic on the Wisbech Road remains the dominant noise source here. The homes in Marefen and Little Marefen Droves, not unsurprisingly given their greater distance from the main road, are calculated to experience comparatively lower background noise levels.

25. Both consultants have estimated noise levels of the various components of the proposed development, such as lorry and forklift truck movements and concrete batching operations. The main reason for the difference between the two consultants' conclusions is the significantly higher noise level attributed by AAP to forklift truck movements. In the most pessimistic scenario, as estimated by AAP during the noisier periods when concrete batching is occurring, the + 5 dB excess of rating level would be reached at Silver Birches and rise to +8dB at the Marefen and Little Marefen Drove receptors. The respective estimates of HLA are +1dB excess over background at Silver Birches and +2dB at the Droves.

26. National policy, as expressed in the Framework, Planning Practice Guidance (PPG) and Noise Policy Statement for England[8] (NPSE), is to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life.

27. The NPSE acknowledges the inevitability of some noise in society, which for some can be an unwanted intrusion that adversely impacts on quality of life, affecting health and wellbeing. The PPG provides more detailed advice over applying the aims of the NPSE to planning. This emphasises that while noise can override other planning concerns, the NPSE and the Framework do not expect it to be considered in isolation and separately from the economic, social and other environmental dimensions of proposed development.

[6] BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound - 31 October 2014.

[7] BS 8233:2014 Guidance on sound insulation and noise reduction for buildings – 28 February 2014.

[8] Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).

28. In line with the NPSE, the PPG refers to decisions identifying whether the overall effect of the noise exposure would be above or below the *significant observed adverse effect level* (SOAEL) and the *lowest observed adverse effect level* (LOAEL) for the given situation. SOAEL is the level of noise exposure above which significant adverse effects on health and quality of life occur. LOAEL is the level of noise exposure above which adverse effects on health and quality of life can be detected.

29. Based on the noise exposure hierarchy table[9] in the PPG, should noise from this proposal be shown to be above LOAEL but below SOAEL, my decision should be based on the means to mitigate for this noise and reduce it to a minimum. Noise levels above SOAEL might indicate avoiding planning permission being granted. However, I am mindful of the following advice, that the subjective nature of noise means that there is not a simple relationship between levels and the impact on those affected, which will depend on how various factors combine in any particular situation[10].

30. The HLA assessments indicate a relatively low noise impact from the proposal. The AAP results suggest adverse impacts, mainly during the noisier times when batching is occurring. Even in the worse-case situation, predicted noise levels are where it would be appropriate to mitigate and reduce to a minimum potential adverse impacts. The acoustic reports do not provide compelling evidence of noise exposure above SOAEL, that might otherwise constitute a reason for dismissing this appeal.

31. Operational times between 0700 and 1900 are proposed, which would avoid any additional disturbance during more unsocial night-time hours. The evidence provides no clear substantiation over the proposal giving rise to significant adverse impacts on the health and quality of life of any nearby residential occupiers, given the existing background daytime noise levels from existing business operations and road traffic.

32. For the nearest Wisbech Road residents, who currently experience the greater background noise levels, the increase resulting from the proposal would be the least. Residents in Marefen and Little Marefen Droves currently experience comparatively low background noise levels, where the increase due to the proposal would be greater than on Wisbech Road. There are no national noise levels that have to be met. However, the likely noise levels arising from this proposal would be below the maximum levels indicated as suitable in new residential gardens in BS 8233:2014.

33. The evidence points clearly to this proposal giving rise to, at most, adverse rather than significant adverse noise impacts, so there is no justification for avoiding these by dismissing the appeal. Instead, measures[11] to mitigate and reduce to a minimum the potential adverse impacts from noise, such as shrouding the batching plant and conveyors, locating noisy plant where shielded by permanent structures and using forklift trucks with the quieter white noise reverse alarms, might be required through a noise management plan.

[9] Paragraph: 005 Reference ID: 30-005-20190722 Revision date: 22 07 2019
[10] Paragraph: 006 Reference ID: 30-006-20190722 Revision date: 22 07 2019
[11] For example, as listed in the AAP report of October 2019 – part 5 recommendations.

34. LP Policy LIT 4 lends support by allocating part of the site for employment, including potentially a B2 use such as proposed. Noise impacts would be capable of being satisfactorily addressed, such that the proposal as a whole would satisfy LP Policy EMP 2. This is insofar as it permits the principle of existing businesses expanding in the countryside subject to any intensification of use not detracting from residential amenity.

35. LP Policy ENV 9 would be satisfied through the potential to minimise and reduce noise pollution arising from the proposed development. In this regard this proposal would not need to be considered an exceptional case, given its compliance with policies LIT 4 and EMP 2, although measures to mitigate and reduce to a minimum potential adverse noise impacts would nevertheless be appropriate. The scheme would thus avoid unacceptable levels of noise pollution and comply with paragraphs 170 and 180 of the Framework.

36. Planning decisions are matters of judgement and, in this case, the evidence demonstrates that noise levels from the proposal would not be significantly greater than might reasonably be expected for a use within a general industrial area and where further land is allocated for such purposes. Any noise effects could be adequately mitigated to a level sufficient to make the proposal acceptable in planning terms. On this basis, and subject to the imposition of appropriate planning conditions, the proposal would preserve acceptable living conditions for residential occupiers in the surrounding area, with regard to the likely levels of additional noise.

Surface water flood risk

37. In common with large parts of the Fens, the appeal site is within Zone 3a as identified in the EA flood maps. This denotes areas at the highest risk of flooding. Government policy for planning and flood risk is set out in the Framework. Inappropriate development in areas at high flood risk should be avoided by being directed elsewhere through the application of a sequential test. Where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposal in lower flood risk areas. Should the sequential test be passed, an exception test may have to be applied.

38. This proposal is supported by a Flood Risk Assessment[12] (FRA). The Council had needed the flood risk sequential test to be applied due to part of this proposal lying outside the LP Policy LIT 4 allocation. Buildings proposed for general industry are deemed 'less vulnerable' to flood risk in the PPG and can be appropriate in Zone 3a, obviating a need to also apply the exception test. When applying the sequential test, the PPG requires a pragmatic approach be taken on the availability of alternative sites. For example, in considering planning applications for extensions to existing business premises, it might be impractical to suggest that there are more suitable alternative locations elsewhere.

39. There are a number of reasons the proposal might be considered an extension to the existing factory. These include it involving an extension to the operational building, the shared staff welfare facilities and the access between the sites.

[12] Flood Risk Assessment prepared by EWE Associates Ltd Final Report Rev H October 2017

40. Interested parties consider that the proposal could operate independently and so utilise reasonably available sites in areas with a lower flood risk. However, as the Council's report outlines, a search yielded only six such sites in the District, which were inadequate either due to size or suitability for a B2 use. On the basis of this information, either considering the scheme as an extension to the existing site or taking the pragmatic approach to availability of alternatives recommended in the PPG, I share the Council's view that the appeal proposal satisfies the flood risk sequential test.

41. The main risk of flooding in this location relates to the River Great Ouse overtopping its embankments. The FRA concludes that this proposal would have a low vulnerability to such a flood risk event, subject to following personnel evacuation procedures. On this basis, the EA was satisfied with the proposal in respect of flood risk.

42. The EA surface water flood map shows the appeal site to be at low risk, with run-off being satisfactorily accommodated within the surrounding watercourses. Whilst not a concern of the EA, the LLFA had revised its view over surface water flood risk due to becoming aware of the actual level of land raising involved in this proposal.

43. The FRA refers to the only land raising proposed being to a maximum of 500mm in some areas to remove low spots. Revised plans submitted prior to the Hearing indicate a maximum 500mm height of hardcore across the entire site to provide a safe and stable surface. Discussion at the Hearing suggested this increased height might, in practice, be lower due to the need for topsoil stripping, which would be used to form the bunds.

44. The land raising would address isolated pockets within the appeal site where rainwater collects. The development proposed would not sever any drainage routes crossing through the appeal site, nor impede any flows, all of which form part of a much wider pumped system operated under the auspices of the Littleport and Downham Internal Drainage Board (IDB). Compared to the water runoff from the existing farmland, the development would provide betterment in terms of storage and attenuation of discharge rates.

45. The LLFA had no objections in principle to the surface water drainage arrangements. The proposal is subject to IDB by-laws and consents required under the Land Drainage Act 1991. Any outstanding requirements in these respects are separate to planning control. The appellant referred at the Hearing to any land raising being stepped back from the IDB controlled watercourses so as not to impinge upon their drainage functionality, which was a concern of the LLFA. Interested parties have referred also to the appellant's failure to maintain existing drainage on the site. However, this might be a separate enforcement matter and has limited bearing on the merits of this particular proposal.

46. Having heard the verbal evidence at the Hearing, including from the LLFA and the appellants, I am satisfied that the maximum 500mm level of land raising proposed across the site would be insufficient to have a significant impact in terms of increased surface water flood risk in the local drainage system.

47. Any approval would need to be conditional upon agreement to and implementation of a detailed surface water drainage scheme for the development. However, subject to this, I conclude the proposal would be

acceptable with regard to fluvial and surface water flood risk and, in this regard, complies with LP Policy ENV 8 and the Framework.

Water quality

48. The EA had originally agreed to the FRA, the calculations of which were predicated on the assumption that the completed development would be water impermeable throughout. However, parts of the site are shown to be surfaced in crushed stone which, unless underlain with an impermeable membrane of some kind, might allow some surface water to percolate into the ground and lead to uncontrolled run-off.

49. Although there was no firm evidence provided to substantiate this, the EA had concerns that the routine movement and storage of newly manufactured precast concrete products outdoors on an industrial scale had the potential to contaminate rainwater. This was, for example, where dust or residue might wash off the products, or yard surface, and dissolve within rainwater, changing its chemical composition and perhaps causing a pH increase.

50. By the time of the Hearing, the EA had revised its position to one of objection over the lack of a water quality risk assessment. This was on the basis that any liquid discharge to the environment, other than clean, uncontaminated rainwater, would require an environmental permit in order to be legal. In response to this, the appellant confirmed that it had no objection to the site entirely containing surface water, so that it all drained to a single discharge point and was thus better controllable under the Environmental Permitting Regulations[13] (EPR).

51. The PPG advises that conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning, and that the use of informatives to remind the applicant to obtain further planning approvals and other consents may be more appropriate. However, as discussed in respect to flood risk, final details of surface water drainage might appropriately be addressed through a planning condition. This would also provide the means to agree a suitably contained surface water drainage system so as to prevent any uncontrolled run-off which might otherwise be a source of water pollution.

52. Subject to such a condition, also necessary in connection with managing surface water flood risk, the proposal would be acceptable for planning purposes with regard to its effects on water quality, thereby satisfying LP Policy ENV 9 and paragraph 180 of the Framework.

Other Matters

Air quality

53. During the building phase, air quality impacts might be addressed through a condition requiring adherence to an approved Construction and Environment Management Plan (CEMP), setting out measures to ensure any impacts from dust were mitigated.

54. Regarding the operational stage, the cement product manufacture would be subject to the EPR. Public Health England (PHE) had no significant concerns

[13] Environmental Permitting (England & Wales) Regulations 2016

regarding risk to the health of the local population, providing the developer took all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice. PHE recommended that the Council's EHO be consulted over matters relating to impact upon human health, including odour, dust and other nuisance emissions. The EHO had commented similarly, noting also that there are other batching plants in close proximity to residential dwellings within the District, although this proposal involved a slightly different process with greater activity occurring on site.

55. Having considered the evidence, I consider that air quality issues, such as dust emissions from the proposed operations, would be matters appropriately dealt with through the EPR. Subject to the requirement of a CEMP to address the constructional stage, I find no planning grounds for this proposal to be considered unacceptable in respect of air quality. In this regard, the proposal complies with LP Policy ENV 9 and paragraph 170 of the Framework.

Scale of proposal and visual impact

56. I have had regard to the Landscape and Visual Appraisal[14] accompanying the application. The appeal site lies partly within an area shown in the LP as a Green Infrastructure Network and is partly allocated employment land by LP Policy LIT 4. The site is not designated landscape of any special value and is rather featureless.

57. The tree-planted bunds, proposed along the northern and western site boundaries, would screen the extensive storage areas either side of the new concrete factory building. This new building would be both large and of a modern utilitarian design, not unlike a particularly substantial farm building. The flat Fens landscape, with the lack of elevated views, would moderate the degree of visual impact from further distances away, where the building would be screened by intervening development in many directions.

58. However, the structure would be prominent in closer views from the less developed areas to the far sides, including along Little Marefen Drove. In this regard, the planted bund would not fully screen this tall structure. However, it would be viewed against the backdrop of existing industrial and other buildings which would ameliorate its actual impact to a material degree. The predominantly grey cladding would also merge with a regular sky hue, further diminishing the visual impact of the building's scale.

59. This proposal would bring about a change in land use from arable fields to industrial, but not of a kind unprecedented in the Fenland landscape, nor of a nature that might be unexpected around the edge of an existing industrial area on land allocated in part for industrial development in the LP. The visual impacts of this proposal on the surrounding rural landscape, beyond the immediate site area, would not be significant due to the limited visibility of the site. Where visible, the development would appear as an extension to existing development. In this context, the scale and visual impact of the proposal would be acceptable and in compliance with LP policies ENV 1, ENV 2, EMP 2 and LIT 4.

[14] By PDP Associates July 2016

Means of access, highway safety and capacity

60. The site is located off the A1101 Wisbech Road and the proposal would be served by the extension of the existing estate road serving Thurlow Nunn, with internal connections to the present F P McCann site. The application was the subject of transport assessments (TA) and junction modelling, and a further traffic note addressing concerns raised by interested parties, all of which[15] have been considered.

61. The access onto the A1101 is a short distance from a roundabout junction onto the A10 and so the proposal would be well-related to a primary distribution road. The TA has calculated the morning and afternoon peak hour traffic volume and distribution generated by the proposal, in terms of employee cars, sub-contractor vehicles and heavy good vehicles, factoring in future growth from elsewhere. The effects at the site access onto the A1101, and at the A10 roundabout junction, were modelled. The results show both junctions have the capacity to operate satisfactorily with the increased traffic from this proposal, which would not result in any unacceptable increase in queuing on the public highway.

62. The local highway authority has no objection to the proposed access and parking arrangements, conditional upon implementation of a Travel Plan. Whilst below the maximum standard for this category of development, the car parking proposed would be adequate for the demands of this particular operation and far away enough from the site entrance as not to generate roadside parking on surrounding roads.

63. Notwithstanding local concerns over the existing 60mph speed limit along this part of the Wisbech Road, the TA accounted for published data over actual incidents, which does not reveal this to be an unsatisfactory location with regard to highway safety.

64. The nearest footpath terminates about 350m from the proposed site entrance and only a two-hourly bus service is available from the town. However, as the appeal site is partly allocated as an extension to an existing employment area and is a relatively short distance from the main town of Littleport, any deficiencies in accessibility by non-car modes would be relatively minor and would not weigh significantly against the site's suitability for the additional jobs created.

65. Anecdotal evidence was provided at the Hearing in relation to heavy good vehicles veering to the opposite side of the Wisbech Road immediately before making the turning manoeuvre into the site. However, the appellant's evidence included a swept path analysis showing that the size of heavy good vehicles that would serve the development are capable of turning in and out of the access without the need to overrun the opposite side of the carriageway. In the unlikely event of the proposal generating larger vehicles or abnormal loads, then appropriate procedures would apply.

66. The proposal would be provided a satisfactory means of access and be acceptable in terms of highway safety and capacity. As such the scheme would comply with LP Policy COM 7, insofar as this requires safe and convenient access, efficient deliveries and adequate highway network capacity.

[15] All prepared by ADL Traffic and Highways Engineering Ltd

On-site biodiversity

67. The appellant's most up-to-date ecological appraisal[16] records the site as dominated by intensely managed arable land and poor semi-improved grassland, along with small areas of tall ruderal vegetation, hardstanding, dense scrub and bare ground. These habitats are of limited botanical and ecological interest and as such their loss would not result in significant adverse impacts to nature conservation within the local area.

68. The boundary tree line, and the ditches within and around the site, would be largely retained and appropriate planting along the external site edges could enhance biodiversity. The site and ditches are not shown to be suitable habitat for statutorily protected or any other notable species. There is no evidence the site supports a wide range of wildlife and so there would be relatively little harm to biodiversity. In this respect, the proposal would satisfy both LP Policy ENV 7 and the Framework.

Light pollution

69. The development would only be illuminated during operational hours and the layout has been designed to ensure that this would be directed over the works area, without light spillage towards adjoining residential properties. In the context of this being an extension to an existing business on the edge of a built-up employment area, a degree of illumination would be both a reasonable expectation and necessary for the operations.

70. Subject to conditions requiring compliance with the submitted lighting assessment, and restricting floodlighting to when required during operations, the proposal would limit the impact of light pollution upon the adjacent countryside to a degree that would satisfy the relevant requirements of LP policies ENV 1 and ENV 9.

Recreational amenity

71. Residents, dog walkers, horse riders and birdwatchers all use the Droves adjacent to the appeal site for leisure purposes. This includes a green corridor linking Mare and Little Mare Droves. This proposal would impinge on the quiet enjoyment these areas provide. However, the site is already partly zoned for general industry and would lie adjacent to established employment uses on the edge of town, just beyond the busy perimeter A10.

72. The proposal is on farmland and would not result in the actual loss of accessible green space and the adjacent areas are not shown to be the only such recreational resource in the general area. When assessed against the relevant parts of LP Policy ENV 1, any impact of the proposal upon the unspoilt nature and tranquility of the area, public amenity and access would be small and localised.

Loss of agricultural land

73. The Fens comprise a large proportion of high-grade agricultural land, which the LP will have accounted for in planning development growth. This proposal, including the expansion beyond the Policy LIT 4 allocation, would result in a relatively small loss of high-grade farmland, which in this area is difficult to

[16] FPCR Ecological Appraisal November 2019

avoid. Harm for this reason would therefore be small and outweighed by the requirement to provide sites for employment.

Climate change

74. Whilst there are national and local commitments towards addressing climate change these have, where applicable to land use planning, been progressed through adopted policies. There are no reasonable grounds for resisting this proposal simply on the basis of cement product manufacture being a large emitter of CO_2. The effects upon climate change would be the same wherever this proposal was to be located and there is clearly no national blanket ban on the manufacture of such widely and commonly used products.

LP policy in respect of the location

75. Interested parties have referred to the LP objectives for providing more skilled jobs with opportunities for homeworking in this District, to seek to reverse increasing levels of out-commuting, with its associated implications for adding to congestion and pollution. It is argued that the proposal would conflict with these aspirations and, moreover, deliver a low density of jobs in this location. However, concrete product manufacture is long established on this site and the nature of such an operation requires space for storage and certain skills from its workforce. I find no planning objection to this proposal on the grounds of either low job density or low skills.

76. I have no reason either, to dispute the appellant's estimate of this proposal providing around 90 new jobs. However, this is not a policy requirement and meeting this estimate or otherwise has no bearing on the acceptability of this proposal in principle. Neither do I find any firm evidence that this proposal would cause harm through deterring other businesses from locating within this industrial area.

77. Other than in satisfying the flood risk sequential test, which is dealt with separately, this company does not need to justify its expansion in this location, rather than developing elsewhere. I find no fault with a business seeking to expand in its established location. Overall, the use of land proposed is acceptable for the purpose sought and, as such, is in general conformity with the development plan.

78. As the locational strategy is to focus development into main towns such as Littleport, I find no basis for any material conflict with LP Policy GROWTH 2, which clearly supports both the scale and principle of what is proposed. LP Policy GROWTH 4 applies the land allocations made in the LP, including that relevant to this case in Policy LIT 4. None of these policies set any firm employment density requirements, which will vary with different kinds of enterprise. Although part of this proposal is outside the employment allocation provided by LP Policy LIT 4, Policy EMP 2 permits the principle of existing businesses expanding in the countryside, subject to satisfying detailed criteria.

Habitats Regulations Assessment (HRA)

79. The appeal site is located around four kilometres from the Ouse Washes. This is a *Natura 2000* site with combined European nature conservation designations as a Special Protection Area (SPA), Special Area of Conservation (SAC) and

Ramsar site. The Council completed a HRA[17] of the proposal in August 2019, signed jointly with Natural England.

80. The need for the HRA arises from the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). This is required for a plan or project which, either alone or in combination with other plans or projects, is likely to have a significant effect on a European site, in this case the Ouse Washes.

81. With the United Kingdom's exit from the European Union, Government has made the changes necessary to the Habitats Regulations to ensure these operate effectively. This has been done through the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Most of these changes involve transferring functions from the European Commission to the appropriate authorities in England and Wales. All other processes or terms in the 2017 Habitat Regulations remain unchanged and existing guidance is still relevant.

82. The Ramsar designation reflects the nature conservation value of the Ouse Washes as a wetland habitat, including for nationally rare plants and animals. The Ouse Washes SPA reflects the traditional management of this seasonally flooded area as a breeding and wintering habitat for important assemblages of wetland bird species, particularly wildfowl and waders. The SAC designation relates particularly to the habitat provided for particular species.

83. With the appeal, the role of undertaking the HRA passes to myself as the competent authority under the Habitats Regulations. The appeal site forms a part of a much wider area of farmland, outside the actual *Natura 2000* area, which supports the winter feeding of wildfowl, including geese and swans. Development within this wider area needs to be considered under the Habitats Regulations as it is functionally linked to the designated Ouse Washes in providing a feeding resource for its qualifying species.

84. From the evidence it would appear that wildfowl might make use of the appeal site. However, there are substantial areas of farmland in this area which include fields cropped to offer more productive winter feeding for these birds. Much of this area would provide wildfowl feeding habitat relatively less disturbed by the road traffic and development activities on the edge of Littleport. Therefore, the evidence is that this proposal would not be likely to have a significant effect on the SPA by reducing the winter-feeding resource of qualifying species.

85. The other potential indirect effect would be in relation to water quality. However, in view of my previous conclusions on this matter, this proposal would not be likely to have a significant effect indirectly upon the Ouse Washes in this respect. Therefore, as competent authority, I have adopted the previous conclusions of the Council and find that, taking all the factors into account, it can reasonably be concluded that there would be no likely significant effects on the Ouse Washes, alone or in combination, as a result of this scheme.

[17] Habitat Regulation Assessment for planning application ref 16/01121/FUM – Land north of 190 Wisbech Road, Littleport – prepared by East Cambridgeshire District Council August 2019.

EIA Regulations

86. Under EIA Regulation 14(2), should evidence arise through the appeal process whereby I consider that this proposal is an EIA application, I must refer that question to the Secretary of State and not determine the appeal, except by dismissing, before a further screening direction is made.

87. Following the decision on behalf of the Secretary of State not requiring this proposal be the subject of an EIA, correspondence on behalf of an interested party[18] has raised a number of points over the legitimacy of this opinion. Many of these points are addressed adequately through the conclusions reached in the various issues discussed in this decision.

88. In the main letter, a number of specific points of dispute are highlighted over the EIA screening matrix (SM) supporting the decision made on behalf of the Secretary of State. Regarding SM paragraph 1.1, in respect of the land raising involved in the development, the appellant had submitted plans prior to the Hearing which had corrected an error evident on the proposed drawings submitted in August 2016 and in later revisions. These had erroneously indicated higher land raising in parts of the site than were actually intended. The appellant had corrected the plans and confirmed that the proposed ground levels for the storage areas would be no more than 500mm above those of the existing site levels, solely to facilitate the provision of a safe and stable surface. In terms of physical changes to the topography of the area, the environmental effect of this would not in my opinion be significant.

89. Regarding SM paragraph 3.4, over noise complaints, my decision acknowledges there have been a number made to the Council in respect of the current site, and not just from a single receptor. However, with regard to the proposed development, based on the technical evidence before me, my finding is that noise would not give rise to significant adverse impacts on health and the quality of life of any nearby resident such that the appeal should fail in this regard.

90. In respect of SM paragraph 4.1 and the revised concerns of the LLFA over surface water flooding, these were addressed in detail at the Hearing and my conclusion on this issue does not indicate this would amount to a significant effect.

91. Regarding SM paragraph 4.1, and the cumulative effects with other land uses, my conclusion in dealing with the appeal is also that the extended use of the site would not cause any significant effects on existing uses of the land or community facilities.

92. I have considered the other comments on the EIA SM set out in Appendix 1 of the letter and find there to be no further matters raised that, following my consideration of the appeal evidence and holding of the Hearing, indicate that significant environmental effects might arise from this proposal. Under Regulation 14(2), nothing has arisen in dealing with this appeal which indicates to me that this proposal should have been an EIA application.

[18] From Richard Buxton Solicitors dated 29 December 2020.

Planning Balance

93. The proposal is well separated from the main residential areas in Littleport by the A10 bypass, although I recognise that there is a relatively small amount of long-established housing within and near to this employment area. However, the principle of this proposal gains strong support from being an extension to an existing pre-cast concrete production facility on land partly zoned for further employment purposes, within a wider area which is predominantly in business and industrial use and that has reasonably direct access to main distributor roads. These factors limit the degree of any adverse environmental impacts on the resident population as a whole. Moreover, the proposal lies adjacent to a main employment area on the edge of Littleport and so provides a relatively sustainable location in respect to offering further job opportunities for the town's inhabitants.

94. There would be some adverse environmental impacts and risks arising from what is proposed. However, these are capable of being mitigated to an acceptable degree or otherwise addressed through planning conditions. Subject to these, the broad LP policy compliance in respect of this proposal and the general suitability of the use in this location, along with the economic benefits provided, would outweigh any residual environmental harm that might arise. As discussed, the proposal would accord with the LP taken as a whole, whereby Policy GROWTH 5 requires approval wherever possible without delay, unless material considerations indicate otherwise. As the latter is not shown to be the case, the development gains the support of the presumption in favour of sustainable development provided by this policy and that of the Framework.

Conditions

95. I have considered the conditions provided by the main parties in the light of the advice in paragraph 55 of the Framework. This states that these should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have amended those found necessary in some cases, mainly for simplicity and succinctness.

96. In addition to the standard condition on commencement (1), another is necessary in the interests of certainty which requires compliance with the plans approved (2). As external materials for the buildings are specified in the application, another condition securing this is unnecessary. In the interests of the living conditions of neighbours, the lighting of the site shall be as agreed in the Lighting Assessment (3). In the interests of on-site biodiversity, a condition is necessary requiring the carrying out of the agreed ecological mitigation measures (4).

97. Agreement and implementation to a detailed surface water drainage scheme is necessary (5). This is to reduce surface flood risk, by ensuring the satisfactory storage/disposal of water from the site, in accordance with LP Policy ENV 8, and also to facilitate effective environmental permitting and ensure that only clean, uncontaminated water enters the surrounding environment, in accordance with LP Policy ENV 9. This condition is pre-commencement as its requirements are so fundamental to the development permitted that it would otherwise be necessary to dismiss the appeal. The same applies to a condition (6) necessary to secure a programme of archaeological excavation, due to a

high potential for interest in this regard[19], and another requiring the application of an agreed CEMP (7), to address any potentially unneighbourly environmental impacts.

98. Regarding noise, the main parties had agreed a condition that set rating levels emitted from the site at the three receptor locations. As discussed at the Hearing, such a condition might not meet the test of enforceability due to the difficulty in separating the noise generated by the development from other sources. Noise monitoring at the actual boundary of the proposal would be a more practical means to assess and apply noise levels for the development. AAP and HLA agree that the specific sound level from the development should not exceed 52 dB $L_{Aeq,1\ hr}$ on the western boundary of the site and 48 dB $L_{Aeq,1\ hr}$ on the northern boundary. Considering all the evidence submitted about noise I am satisfied that these limits would be appropriate. As intimated at the Hearing, the suggested condition for boundary noise monitoring could be addressed as part of the other condition requiring adherence to an approved Noise Management Plan (NMP). On this basis, I have applied a single noise condition securing an approved NMP (8), which specifies the requirements over monitoring, mitigation and boundary limits, along with provision for any noise assessments necessary to ensure compliance with these limits during the lifetime of the development (given that the monitoring points would not be publicly accessible). This condition is necessary to safeguard the reasonable living conditions of neighbouring occupiers, in accordance with LP Policy ENV 2.

99. In the interests of highway safety and to accord with LP policies COM 7 and COM 8, a condition (9) is necessary requiring the car parking and cycle storage to be provided and kept. A condition is needed to ensure that the trees on site are adequately protected (10), to safeguard the character and appearance of the area in accordance with LP policies ENV 1 and ENV 2. For the same reasons, and to ensure the longevity of the landscaping scheme, a condition (11) is necessary requiring the creation of the landscaped bund. In accordance with LP policy ENV 2, conditions (12, 13 and 14) restricting construction times and deliveries, operational times and deliveries and floodlighting periods are all necessary in the interests of the satisfactory living conditions of neighbouring occupiers, in accordance with LP Policy ENV 2. To promote safe and healthy travel, a condition is necessary applying the measures set out in the submitted Travel Plan (15). In the interests of visual amenity, outside storage is conditional upon not exceeding four metres in height (16).

Conclusion

100. Subject to the conditions described above and set out below, having considered all further matters raised and for the reasons I have given, I conclude that the appeal should be allowed.

Jonathan Price

Inspector

[19] Per memorandum from the Historic Environment Team of Cambridgeshire County Council dated 21 September 2016.

Schedule of Conditions

1) The development hereby permitted shall begin no later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: PD-01 Site Location Plan 8 August 2016; PD-02 Overall Layout Rev G 17 December 2020; PD-02-1 Layout 1 Rev G 17 December 2020; PD-02-2 Layout Rev G 17 December 2020; PD-02-3 Layout 3 Rev G 17 December 2020; PD-03 Proposed Building Floor and Roof Plans Rev C 19 October 2018; PD-04 Proposed Building Elevations Rev C 19 October 2018; PD-05 Existing Shed Extensions 9 August 2016; PD-06 Fencing and Lighting Details 9 August 2016; PD-07 Indicative Cross Sections 9 August 2016; 1395-01 Tree Survey Plan and Landscaping Proposals July 2016.

3) The lighting of the site shall be carried out as specified in the Lighting Assessment dated 21 August 2017.

4) The ecology mitigation measures as specified in the Environmental Appraisal and Water Vole Assessment document dated September 2017 shall be adhered to before, during and after construction. The required nest boxes shall be erected on the buildings prior to the commencement of the use hereby approved.

5) The development hereby permitted shall not commence until a detailed surface water drainage scheme for the site, based on the Flood Risk Assessment prepared by EWE Associates (Rev H) dated October 2017, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of measures to manage all drainage and run-off from the site to facilitate effective environmental permitting and ensure that only clean, uncontaminated water enters the surrounding environment. The approved details shall be put in place prior to the first operation of the development hereby permitted and thereafter be maintained for the lifetime of the development.

6) The development hereby permitted shall not commence until a written scheme of investigation (WSI) of archaeology has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI which shall include: the statement of significance and research objectives, the programme and methodology of site investigation and recording and nomination of a competent person or organisation to undertake the agreed works, the programme for post excavation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

7) No development shall take place, until a Construction and Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

   i) the parking of vehicles of site operatives and visitors;

   ii) loading and unloading of plant and materials;

   iii) storage of plant and materials used in constructing the development;

iv) wheel washing facilities;

v) measures to control the emission of dust and dirt during construction;

vi) a scheme for recycling/disposing of waste resulting from construction works.

The approved CEMP shall be adhered to throughout the construction period for the development.

8) Prior to the bringing into operation of the development hereby permitted a Noise Management Plan (NMP) shall be submitted to and approved in writing by the local planning authority. The NMP shall include details about noise mitigation measures for buildings, fixed plant and mobile plant. Details of a noise monitoring and reporting programme for a period of six months shall be included in the NMP. The NMP shall also include details to provide for any noise assessments necessary to ensure compliance with the following limits during the lifetime of the development hereby permitted. The specific sound level emitted from the development hereby permitted shall not exceed 52 dB $L_{Aeq,1\ hr}$ at an approved monitoring point on the western boundary of the site and shall not exceed 48 dB $L_{Aeq,1\ hr}$ at an approved monitoring point on the northern boundary of the site. The NMP shall include precise locations for the monitoring points on the western and northern boundaries of the site having regard to the indicative locations shown at paragraph 5.4 of the AAP noise report dated October 2019. The specific sound level shall be assessed in accordance with British Standard 4142:2014+A1:2019 except that the microphone position shall be at a height of four metres above the ground level. The approved NMP shall be adhered to during the lifetime of the development hereby permitted.

9) Prior to the bringing into operation of the development hereby approved the parking and cycle provision shown on plan No PD-02-2 Layout Rev G 17 December 2020 shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and thereafter retained for that specific use.

10) Development shall not commence unless and until the tree protection measures shown on drawing number C-1395-01 have been installed in accordance with the approved details. The measures installed shall be retained until completion of development. Within the root protection areas, the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas, they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

11) The three-metre-high bund and all soft landscaping works shown on drawing number C-1395-01 shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the site for the development hereby approved, or in accordance with a programme agreed in writing with the local planning authority. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally

planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

12) Construction times and construction deliveries shall be limited to the following hours: between 0800 - 1800 each day Monday - Friday, between 0800 - 1300 Saturdays and not at all on Sundays, Bank Holidays or Public Holidays.

13) Operation of development hereby permitted, including of plant and machinery, shall take place only between 0700 - 1900, and deliveries 0700 - 1700, Monday to Saturday and not at all on Sundays, Bank Holidays or Public Holidays.

14) The onsite floodlighting shall only be turned on when required between the hours of 0700 - 1900 each day Monday to Saturday and not at all on Sundays, Bank Holidays or Public Holidays.

15) The operations shall proceed in accordance with the measures set out in the Travel Plan August 2016.

16) Any outside storage of goods or materials shall not exceed four metres in height above ground level.

APPEARANCES

FOR THE APPELLANT:

Paul Hamill BSc PG Dip Urban MRTPI	Estates Manager for FP McCann
Mr Andy Williams Dip TP MRTPI	Advance Land & Planning Ltd
Mr Adrian McCordick MIOA, ANC Registered Member, BSc (Hons) Audi Technology	Senior Acoustics Engineer for Hoare Lea Acoustics
Mr Lea Favill	Drainage Engineer, Owner/Director of EWE Associates Ltd
Mr Amol Pisal, MSc Transport and Planning, B.E. Instrumentation Engineering	Director at ADL Traffic & Highways Engineering Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Keith Hutchinson	Planning Consultant for East Cambridgeshire District Council
Barbara Greengrass MSc MRTPI	Team Leader, Planning Department of East Cambridgeshire District Council
Sean Sullivan MIOA MIDiagE	Acoustic Associates Peterborough
Hilary Ellis MSc MCIWEM C.WEM	Principal Sustainable Drainage Officer, Cambridgeshire County Council
Elizabeth Mugova MRTPI,	Environment Agency
Tim Wojcik BSc (Hons)	Environment Agency

INTERESTED PERSONS:

John Bosdet	Local resident
Peter Preston	Local Resident