



THE IVERS

PARISH COUNCIL

45B, High Street
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Submission to Buckinghamshire County Council Development Control Committee

Appl. No. CM/19/17: The importation, storage and onward distribution of rail borne aggregates together with the erection and use of a concrete batching plant and associated infrastructure.

The Ivers Parish Council strongly objects to the proposed application on the grounds that:

1. It contravenes permitted development rights for the site and the clear legal advice provided by Counsel for Bucks CC;
2. It is inappropriate development on a Green Belt site;
3. It would produce unacceptable levels of noise pollution 24 hours a day;
4. The Applicant has not provided a convincing Statement of Need for the construction of a concrete batching plant;
5. The proposed operation would add to existing excessive levels of atmospheric pollution in a designated Air Quality Management Area.

1. Permitted Development

In 2010, approval was granted to DB Schenker under the terms of a General Permitted Development Order (GDPO) for a Lawful Development Certificate for the import and re-export of inert waste material at the Thorney Mill Sidings (Ref. 10/00739/CM). The conditions attached to that Order state specifically that "*Development is not permitted by Class A if it consists of or includes (c) the construction or erection otherwise than wholly within a railway station of (i) an office, residential or educational building, or a building used for an industrial process.*" Further, it goes on to say that "*For the purposes of Class A, references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected.*"

Legal advice on the application was sought from Counsel to Bucks CC. Provided as Appendix 1 to the Head of Planning's report to the Development Control Committee on 27th July 2010, this informed the Authority's decision and is particularly pertinent to the present application. Paragraph 16 of Counsel's advice states:

"On the other hand, the Minister held that "the delivery to the site by road of cement and the use of the plant for the storage of the cement and for mixing it with gravel from the storage bins on the site, before discharge into mobile concrete mixer trucks for delivery of mixed concrete to construction sites" was not permitted development.

The words of the Order:

"do not extend to permit the carrying out of industrial processes on railway operational land by virtue only of the fact that the materials used in the process have been brought to the site by rail and, as in this case, that it is more convenient and more economic to carry out the manufacture there than to transfer the material to another site."

Granting approval for a concrete batching plant would undermine the terms of the GDPO and would set a precedent that prejudices future safeguarding of the site and its position in the Green Belt.

<p>The application does not comply with the conditions of permitted development and should be refused.</p>

2. Change of Use

A subsequent application, 12/00634/CM (Proposed change of use of land to mixed use of railway sidings and the use of land for processing inert waste, including the crushing of hardcore the screening of hardcore and soils and movement of waste by road in association with the lawful use for the importation and deposit of material required in connection with the movement of traffic by rail), was **refused** by Bucks CC on the grounds that:

1. *"The applicant has failed to demonstrate that the development would not have an adverse effect on the local highway network or on the local amenity through the impact of HGVs accessing and egressing the site therefore it would be contrary to policies 28 and 30 of the Buckinghamshire Minerals and Waste Plan (MWLP), policies TR5 and TR10 of the South Bucks District Local Plan (SDLP) and policy CP7 of the South Bucks District Core Strategy (SBCS).*

2. *The applicant has failed to demonstrate that very special circumstances exist to justify ...the erection of plant and machinery in the Green Belt therefore the development would be contrary to policy GB1 of the SBDLP and policy MW27 of the MWLP.*”

The draft Bucks CC Minerals and Waste Plan (October 2018) – Sustainability Report reiterates this principle in stating *“The construction of new buildings is inappropriate development in the Green Belt”*.

As with the application described above, the present application, if granted, would be contrary to established policies of both Bucks CC and South Bucks District Council.

<p>The Applicant has failed to demonstrate that very special circumstances exist to justify the proposed development in the Green Belt.</p>
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3. Disturbance from HGV Traffic and Other Noise Generators

In considering an appeal lodged against the refusal to grant approval for extended operating hours on the adjacent Link Park Site (Ref. CM/16/17; increase from 06:00-18:00 weekdays, 07:00-14:00 weekends to 05:00-22:00 weekdays, 05:00-15:00 weekends), the Inspector was not convinced that the proposed operations would not give rise to unacceptable levels of noise and disturbance at sensitive times to residents of properties near the intended lorry route. The appeal was dismissed.

As noted under (2) above, application 12/00634/CM (change of use) was also refused on the grounds of adverse impact on the local highways network.

In correspondence relating to the present application, the Applicant has sought to provide reassurance on the impact of noise associated with HGV movements during ‘sensitive’ hours. The Applicant asserts that there is no method for making such an assessment. (This contradicts a statement in the Applicant’s own Noise Assessment Report (18th January 2017; Appendix A) which states that $L_{A01,T}$ and $L_{A10,T}$ values provide an indication of the upper level of a fluctuating noise signal, and the latter *“...is often used to describe road traffic noise”*). Instead, the Applicant has given figures for the notional average increase in noise level, hourly impact, L_{SAeq} , on Thorney Mill Road and Richings Way of 0.2-0.8 dB. This is a meaningless statement. Residents do not perceive noise as an hourly average. Rather, it is the impact of individual, large variations in noise level that cause disturbance. HSE figures put the typical noise level from a heavy vehicle at 7 metres distance of 95-100 dB. Put into context, continuous exposure to this level of noise energy for 15 minutes per week risks permanent damage to hearing.

It is now accepted by the Chief Medical Officer that sleep disturbance has a significant detrimental impact on health. As a minimum, residents would risk disturbance to sleep, on average, every ten minutes during 'sensitive' hours. This is an intolerable imposition on their lives.

It should be noted that unloading of trains would occur **at any time** throughout the period 07:00 on Monday to 16:00 on Saturday. The Applicant uses averaged noise levels to argue the case for the development but does acknowledge the concept of *Dominance or audibility of the specific sound*. In the Noise Assessment Report (p18), the Applicant states that "As the site is not yet operational, it is not possible to present subjective impressions, but the train off-loading operation is likely to be audible, particularly at night". This activity is estimated to generate 105 dB (Applicant's figure) as well as light pollution. This is a further, unacceptable intrusion on the lives of local residents, especially during 'sensitive' hours.

Previous applications for extended working hours at this location have been rejected on the grounds of disturbance to residents, a view upheld by the Planning Inspectorate. The present application would result in unacceptable levels of disturbance to residents at unsocial hours and should be rejected.

4. The Developer's Need Statement

The Applicant states that "The need for the concrete batching plant at the Site is also vital to the need for concrete products to be supplied to the local construction industry within the area." It goes on to say that "The development plan documents identify the need to reduce HGV movements within the County, as such by positioning the concrete batching plant within the Site, *this will aid in reducing the amount of HGV movements on the local road network*." Five examples of major potential developments that might require concrete are given (p5). None of these is within Buckinghamshire, but all would involve increases in HGV movements through The Ivers Parish.

The statement provides examples of a further dozen smaller projects having planning permission from SBDC, four of which are within The Ivers Parish. However, one of them is already complete, and two are under construction. Of the remaining examples, the large majority are to the north of the parish with the implication of additional HGV movements along overloaded roads through The Ivers Parish. The Applicant's assertion that positioning the concrete batching plant within the site will aid in reducing the amount of HGV movements on the local road network is manifestly untrue.

In any event, CEMEX will be operating a concrete batching plant on the North Park site, less than 1.5 miles to the west, and London Concrete operates a plant less than 4 miles to the north on the Iver Heath/Denham border.

As noted under (1) above, the Minister has determined that convenience and economic benefit are not considerations that justify non-permitted development and so the Applicant's Statement of Need fails to provide grounds for approval of the application.

5. Air Quality

We welcome the fact that the Applicant has now recognised the designation of a parish-wide AQMA in The Ivers and that its proposed activities will add to gaseous and particulate atmospheric pollutants. Already, the nearby junction of Thorney Mill Road / Thorney Lane South / Richings Way has nitrogen dioxide levels that exceed EU limits (SBDC figures) and so the Applicant's proposed operations would only serve to exacerbate the problem. What is not acknowledged is that the residents of Thorney Mill and Richings Park would bear the brunt of the adverse effects of the development from atmospheric pollution (exhaust emissions and dust) associated with site operations in addition to the impact from road traffic, a fact ignored in the consideration of apportionment of proposed mitigation.

It is clear that the proposed development would contribute to further deterioration of air quality in The Ivers Parish which has a parish-wide Air Quality Management Area in place.