

Deferred Planning Application S/0204/16/CW

1.0 Introduction

Barrington Parish Council understands that the above application by Cemex to fill the Haslingfield Road Quarry was deferred so that further consideration could be given to a number of issues of concern raised by councillors.

BPC welcomes the opportunity to provide a further response in relation to the issues raised.

2.0 BPC's submission re the application

2.1 Barrington Parish Council originally responded to the application with several points including:

- *Current planning conditions that apply to the rail operations between Foxton Siding, through Barrington and to the site should be properly enforced and future conditions in relation to noise should be no less onerous and should have a view to preserve the amenity of residents along the track. Reaching the SOAEL is unacceptable.* (para 6.1.1)
- *The negative impact of planned operations upon the amenity of Barrington residents and likely future residents at the Redrow housing site on Haslingfield Road is a major concern. Consideration should be given to further restricting, not relaxing the timing and number of train movements.* (para 6.1.3)

3.0 Officer's Assessment and Interested Parties' Issues

At the Committee Meeting on 6th September, the Committee were given a presentation on the application by the County's planning officer (Assistant Director Environment and Commercial).

Following this Cllr Kemp pointed out that the County Council Officer's own assessment was that:

"It is considered that the benefits of the proposed restoration of the quarry by importing inert waste using the BLR over a period of 15 years **just** outweigh the level of disturbance that would be experienced by local residents from the passage of trains." (para 8.76 – emphasis added)

Cllr Kemp pointed out that this phrasing ("just") was uncommon and therefore under the circumstances the balance of the decision depended upon key conditions regarding noise and amenity being met. Also, that while past performance of the operator was not a material consideration, the effectiveness of conditions to be applied to a consent was a matter for consideration by the Committee.

4.0 County Councillors' Discussion

In discussion, County Councillors concerns related to:

- Number of train movements (there was a debate as to whether a maximum of 4 train movements was really needed and whether Cemex had demonstrated a commercial need or not for the requested number of movements)

- Number of train movements per hour
- Timing of train movements, generally, but especially in the arrival / departure times at Foxton Sidings
- Noise abatement – generally but specifically:
 - Limiting the time allowed for engine Idling at Foxton Road
 - Signage for drivers / shunters to remind them of those limits
 - Engine specification – especially in relation to using more modern, less polluting engines
 - Truck specification
- Enforcement of conditions with respect to complying with the Barrington Light Railway Operating Manual – specifically to avoid stopping between Foxton Sidings and Haslingfield Road
- How the agreed cycleway along the route of the railway between Haslingfield Road and Foxton is to be guaranteed (and done safely).
- Noise abatement for the New Redrow Development residents and
- Alternative noise abatement possibilities for Wilsmere Down Farm

5.0 Views of other Interested Parties

BWRA is strongly of the view that four movements a day (2 in and 2 out) is the maximum that is tolerable to residents and is understood to have already obtained a petition from residents alongside the track in Bendyshe Way and Malthouse way to that effect.

The corollary of this is that the quarry will take longer to fill but there is evidence that BWRA residents accept that because they do not believe Cemex would fill the quarry within its current proposed timeline anyway.

Mr and Mrs Pow have argued for similarly reduced numbers of trains, stricter control over timing of access to and from Foxton sidings, and strict control over idling of engines.

6.0 Observations

- 6.1 BPC understands that under the 2011 permission the development was to be completed within 5 years and the planning permission expires on 31 December 2018. Cemex had estimated that it will take until September 2019 to achieve the restoration profiles approved under the 2011 permission. However, due to the short remaining duration of the current planning permission Cemex have indicated that they are finding it difficult to secure contracts. Cemex suspended operations in mid-July.
- 6.2 The current proposal is to extend the area and length of operations out to 15 years plus 2 years restoration. BPC has seen the BWRA calculations and argument that Cemex is unlikely to fill the void (and thereby comply with the planning permission) within the 15 years requested.

7.0 Barrington Parish Council Response to Issues Raised by County Councillors

- 7.1 BPC agrees with the County Planning Officer's assessment that the decision is finely balanced.
- 7.2 In such circumstances, the balance can only be improved to the benefit of affected residents, and thereby made tolerable, by having effective conditions attached to the permission.
- 7.3 Planning conditions need to be reasonable and enforceable, but it must also be "reasonably foreseeable" that they *will be* both effective and enforceable. If planning conditions are felt unlikely to be effective and enforceable, then the balance shifts back against permitting the development.
- 7.4 The only conditions that will *definitely* reduce the negative impact upon the amenity of Barrington residents (Area B in Figure 1) relate to the reducing the cause of the harm – i.e. the number of daily train movements. If this view is accepted, then the allowed number of daily train movements needs to be reduced.
- 7.5 BPC notes that it is *the duration of the permission* period that is referred to as a constraint by the County Council Officers at para 1.3 of their report, not the *rate* by which inert waste can be accepted.
- 7.6 BPC have seen no detailed economic or viability arguments from Cemex to the effect that their contracts are constrained by the daily / monthly / quarterly or annual *rate of disposal* into the Quarry.
- 7.7 Some practical, physical measures such as noise abatement screening and bunding *may* be viable at certain locations but these are "second order" improvements that do not aid the Barrington residents most affected currently. Physical measures along the Bendyshe Way – Malthouse Way section (Area B) are not feasible. Noise abatement screening at Foxton sidings / Barrington Road (Area A), bunding for Wilsmere Down farm and bunding or other physical measures as appropriate for the new housing development at the Redrow site (Area C) may be feasible.
- 7.8 "Third order" conditions that go to reducing the negative impact on amenity relate to the behaviour of the operator.
- 7.9 Acceptable behaviour relates to the timing, speed, management of train movements, restriction on idling engines, and setting standards for the age and condition of engines and rolling stock. This depends upon the Barrington Light Railway (BLR) Operating Manual being followed and enforced. However, the reliability for such conditions having an effect on the balance between benefit and harm is questionable.
- 7.10 In other words BPC is not of the view that "third order" planning conditions guarantee good operator behaviour, even with improved monitoring to check and report upon adherence to said conditions. Indeed, it is reasonably foreseeable that "third order" planning conditions restricting BLR operations will in fact fail and will be very difficult to enforce.