

Agreed Note on the Proposed Noise Condition

1. The proposed noise condition agreed between the Appellant and the LPA provides as follows:

“The rating level (as defined in BS4142:2014+A1:2019 'Method for rating and assessing industrial and commercial sound') of noise emitted from the site shall not exceed the existing background noise levels by more than 5 dB during the day (0700-2300 hours) or night (2300-0700 hours). The rating level shall be determined in accordance with the procedure set out in BS4142:2014+A1:2019 for the residential properties located at 28, 44, 46, 80 and 90 Rochdale Road Sowerby Bridge and 'Bank House' and 'Bank Cottage', Long Lane, Norland, Sowerby Bridge. Only if it is not possible to measure noise at those residential properties, or if measurement at those properties would not satisfy the methodology set out in BS4142:2014+A1:2019, it shall be measured at another location to be prior-agreed with the council with the results of that assessment extrapolated by calculation to represent the rating level at those residential properties. The assessment period shall be one hour during the day and fifteen minutes at night. This condition shall replace condition 4 of Planning Permission 04/02712/FUL which condition shall no longer have effect.”

2. In framing the above condition, weight has been given to the following six tests for the condition:

- a) Necessary;
- b) Relevant to planning;
- c) Relevant to the development to be permitted;
- d) Enforceable;
- e) Precise; and
- f) Reasonable in all other aspects.

3. The proposed noise condition regulates noise emitted from the operation of the facility at the appeal site by an assessment carried out in accordance with the objective assessment methodology of BS4142:2014+A1:2019 at specified residential receptor points which are considered to be representative. The Appellant and the LPA agree that in this case that is to be preferred to a boundary condition. The whole point of the exercise is to protect the sensitive receptors. No harm is done by a noise level of X or Y being exceeded at the boundary if it does not have an adverse impact at the sensitive receptors, when assessed in accordance with BS4142 and planning guidance.

4. This approach accords with BS4142 which provides that one should '*Choose outdoor measurement locations that will give results that are representative of the ambient sound and residual sound at the assessment location(s).*'
5. BS4142 goes on to state '*Where it is necessary to undertake measurements above ground floor level, choose a location which is approximately 1 m from the facade on the relevant floor of the building if it is not practical to make the measurements at least 3.5 m from the facade at this elevation*'. Further, '*In some cases, measurements can be supplemented by calculations. Calculations are often more reliable than a single short-term measurement when long-term averages are to be determined and in other cases where it is impossible to carry out measurements because of high residual sound levels. In case of the latter, it is sometimes convenient to carry out the measurements closer to the source and then use a calculation method to estimate the specific sound level at the assessment location(s).*'
6. There are no noise sensitive receptors at the boundary. To the contrary, the noise sensitive receptors are located at a distance from the boundary with intervening topography between them and the site. The site boundary in this case is elongated and in some parts lies close to activities taking place at the site. Measurements along those parts of the boundary will necessarily, therefore, fail to take into account noise attenuation and corrections afforded by distance and topography which reduce noise levels at the receptors.
7. In addition, any reasonable noise condition in this case should take into account the ambient noise climate at the residential receptor locations which can only be accomplished by an assessment in accordance with the BS4142 methodology.
8. It is, therefore, neither useful nor proportionate to measure at points along the boundary and wholly impractical to require measurements along the entirety of the boundary as the existing noise condition provides not least because a substantial part of the boundary is delineated by the river.
9. Although in some cases one comes across boundary noise conditions which specify a single measuring point on the boundary, in the circumstances of this case it would not be possible to find a single measuring point or even a couple of measuring points which would be reasonably or reliably indicative of whether there is an adverse impact on sensitive receptors.
10. The sensitive receptors identified in the proposed noise condition are the residential properties located at 28, 44, 46, 80 and 90 Rochdale Road Sowerby Bridge and 'Bank House' and 'Bank Cottage', Long Lane, Norland, Sowerby Bridge. It is considered that taken together they are representative. The condition however, allows measurement at other locations if it is not possible to measure at the agreed

locations in order to undertake a BS 4142:2014 assessment or if measurement at the agreed locations would not satisfy the methodology set out in BS4142:2014.

11. UK guidance (BS8233:2014, BS4142:2014) defines the daytime period as 0700-2300 hrs and the night-time as 2300 to 0700 hrs and those periods have been incorporated into the proposed noise condition.
12. The proposed condition is framed to protect nearby noise sensitive receptors whilst allowing reasonable site activities which are already authorised by the existing planning permissions and the existing environmental permit together with those associated with the proposed SWIP operations. This is reflected in the proposed noise condition which the Appellant and the LPA have agreed.
13. There are a number of objective and subjective methods stated in BS4142:2014 that address the issue of penalties for tonal, impulsive and intermittent sounds. These methods can be applied by **actual** measurements. BS4142:2014 gives clear guidance on measurement of such sounds and the penalties that can be applied.
14. In practice, the LPA and the Appellant would endeavour to agree a noise measurement/protocol of the tonal/impulsive/intermittent noise from the appeal site. In addition, in the case of any remaining issue it is quite common for local authorities and operators to conduct joint measuring and that may be expected to result in agreement in accordance with the BS4142:2014 guidance and methodology.

This Note has been agreed by the Appellant and the LPA.

22nd November 2019