Bundle 4- Rebuttal Evidence

APP/PCU/CPOH/C1055/3249056

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

SUMMARY

STATEMENT OF EVIDENCE

ON BEHALF OF

TARMAC TRADING LIMITED

CMS Cameron McKenna Nabarro Olswang LLP

1 – 3 Charter Square

Sheffield S1 4HS

United Kingdom

TARMAC TRADING LIMITED

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

SUMMARY OF STATEMENT OF EVIDENCE

1. INTRODUCTION

1.1 All defined terms are as set out in the Statement of Evidence.

1.2 The Objector is the leasehold proprietor of the Property pursuant to the Lease, which is a protected tenancy under the '54 Act.

1.3 The Objector expected the lease to be renewed at the end of the current term in December 2021 and had negotiated terms for a new lease and formal documentation had been prepared for signature by the parties.

1.4 The Outline Permission was granted on 8 February 2013 for development of the Scheme.

1.5 The Acquiring Authority made the Order in March 2020 and is now seeking confirmation of the Order by the Secretary of State.

1.6 CMS submitted an objection to the Order on behalf of the Objector on 3 April 2020.

1.7 The Acquiring Authority prepared a Statement of Case dated 20 August 2020 in connection with the Order in which it stated that it was in discussions with the Objector for the relocation of the Objector's business.

1.8 The Acquiring Authority acquired the landlord's interest referred to in the Lease on 6 November 2020 and has ceased all meaningful discussions with the Objector regarding the relocation of its business.

1.9 The Acquiring Authority has stated that it intends to rely on its rights under the '54 Act to obtain possession of the Property on the basis that it believes it can oppose the grant of a new tenancy.

2. SUMMARY OF OBJECTION

2.1 In summary, the Objector objects to the Order on the following grounds:

2.1.1 the absence of need for the Property;

2.1.2 the absence of a compelling case in the public interest and failure to comply with the European Convention on Human Rights;

2.1.3 failure to grasp the operations and requirements of a ready mixed concrete plant and the consequences for the Objector's business of extinguishing its current operations;

2.1.4 failure to consider the PPG on safeguarding existing sites contrary to advice in the NPPF; and

2.1.5 prematurity.

3. ABSENCE OF NEED

3.1 The Acquiring Authority has failed to demonstrate why the Property is needed now, and why the Objector should be deprived of its interest in the Property without adequate compensation.

3.2 Furthermore, the actual position on the ground shows that the development proposals are proceeding more slowly than the Acquiring Authority estimated and are unlikely to reach phase 4 (which includes the Property) until a date much later than originally anticipated.

4. ABSENCE OF A COMPELLING CASE IN THE PUBLIC INTEREST

4.1 It is unclear from the Acquiring Authority's Statement of Case why the construction of houses justifies the displacement of the current commercial and industrial occupiers and / or how there is a compelling case in the public interest to do so.

4.2 Phase 1, part of phase 2 and phase 3 of the Scheme were granted approval on the basis that they could be carried out whilst the Objector's business continued. That being the case it is unclear why the Objector's business must now be extinguished from the Property.

5. FAILURE TO UNDERSTAND THE OBJECTOR'S BUSINESS OPERATIONS

5.1 The effect of the removal of the Objector's business from the Property (unless it is relocated to an equivalent site), will be to extend journey times and distances making it impractical to sustain the business requirements of existing customers and the importation of materials for processing from the Objector's alternative plants.

5.2 The loss of the Objector's business at the Property would necessitate the market being supplied from an alternative existing site operated by the Objector; most likely the Objector's Lockington ready-mix operation. The distance and time taken, not only to reach the market but also return to site, would make planning vehicle utilisation very problematic and also may require the inclusion of additives to enable the concrete to remain in a workable state for when it reached its destination. Both of these factors would have cost implications, which would likely give current competitors an advantage as they would be able to service projects at a more attractive rate and with a greater guarantee of the quality of the concrete as a result of it being transported over a shorter period / distance.

5.3 The Property operates with two full time staff, who may have to be made redundant. The four trucks based at the Property, and consequently their drivers' jobs, would also be under threat. As the Property is managed on an area basis, the loss of the plant would also have an impact on the viability of other jobs within the Objector's overall business; for example, sales, shipping and administrative staff.

6. FAILURE TO ADEQUATELY ADDRESS THE NPPF AND THE PPG AND INCONSISTENT APPLICATION OF LOCAL PLANNING POLICY

6.1 In making the Order, the Acquiring Authority has failed to adequately address the NPPF and the PPG.

6.2 Furthermore, the emerging Derbyshire and Derby Minerals Local Plan, Towards a Minerals Local Plan: Spring 2018 Consultation dated December 2017 recognises the importance of safeguarding and draft policy covers the issue.

6.3 Should the Objector's facility be removed during the Plan period or it can be proved that is no longer required, this will be taken into account when considering a proposal on or in the vicinity of the facility.

6.4 Notwithstanding the grant of the Outline Permission in 2013, emerging policy has been informed by an evidence base of existing sites including ready-mix concrete plants (the one on the Property

amongst them) and up to date national policy has identified the need for safeguarding of these facilities.

7. COMMUNICATIONS WITH THE ACQUIRING AUTHORITY

7.1 The Acquiring Authority's willingness to discuss the Property has changed markedly since it acquired the freehold at the beginning of November.

7.2 Despite diligent enquiry the Objector, aided to a limited extent by the Acquiring Authority, has been unable to identify a suitable relocation site. Any acquisition of the Property will therefore result in the closure of the Objector's business in this location with consequential impacts on their business and the wider economy including a loss of jobs and environmental impacts.

8. PREMATURITY

8.1 The Property is manifestly not needed now.

8.2 The Acquiring Authority has acknowledged that the Property is not needed now and public statements regarding the phasing of the Scheme underlying the Order suggest that it will not be needed for a considerable period of time.

8.3 The Acquiring Authority has not exhausted attempts to acquire the Property by private treaty, indeed it has not made any offer to buy the Objector's interest in the Property.

8.4 The history of the matter shows that the Acquiring Authority's attempts to negotiate with the Objector have been virtually non-existent.

8.5 It would appear that the Acquiring Authority has estimated that any compensation payable under the provisions of the '54 Act would be a very small proportion of the compensation payable under a compulsory purchase acquisition. Given the Acquiring Authority's confidence in its '54 Act remedies it should not be afforded the option of choosing between the statutory procedures at this stage but should instead exhaust its remedies under the '54 Act before seeking to rely on compulsory purchase powers.

8.6 Only if the Acquiring Authority fails to secure the Property under the '54 Act should compulsory purchase powers be contemplated.

9. THE SCHEME

9.1 A s.73 planning application has not yet been determined and there is no guarantee that consent will be granted in the timescales sought thereby adding further delay to the whole Scheme and compounding the prematurity of the acquisition of the Property.

10. BUSINESS LEASE RENEWAL PROCEEDINGS

10.1 The Objector reserves its position as to its course of action under the '54 Act following receipt of the s.25 Notice. However, the Objector submits that if it is the Acquiring Authority's position that it can regain possession of the Property under the '54 Act, it would not appear to be necessary to include the Property within the land to be subject to the Order.

11. CONCLUSION

11.1 Having initially indicated that it would support the relocation of the Objector's business the Acquiring Authority now intends to secure possession under the '54 Act. The Objector submits that that would be a serious misuse of statutory powers, and it reserves its position in the event that the Property is included in the confirmed Order.

11.2 This being the case the confirmation of the Order in respect of the Objector's interest is unnecessary.

11.3 Furthermore, if the Acquiring Authority is confident to proceed against the Objector under the '54 Act (and take advantage of the limited compensation regime available under that legislation) it should be content to forego the additional powers available under compulsory purchase order legislation (where the compensation regime would be more generous).

11.4 For all the reasons set out above the Inspector is respectfully asked to exclude the Objector's interest in the Property from the Order and leave the Acquiring Authority to pursue its rights under the '54 Act.

CMS Cameron McKenna Nabarro Olswang LLP

4 January 2021

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THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

STATEMENT OF EVIDENCE

1. INTRODUCTION

The Objector and its interest

1.1 Tarmac Trading Limited (company registration number: 00453791) of Portland House, Bickenhill Lane, Solihull, Birmingham B37 7BQ (the "**Objector**") is the leasehold proprietor of Derby RMX, John Street, Derby, Derbyshire DE1 2LU (the "**Property**") pursuant to a lease dated 24 December 1996 and made between (1) Cromford Group Limited and (2) Tarmac Quarry Products Limited (the "**Lease**").

1.2 The Lease is a protected tenancy under the Landlord & Tenant Act 1954 (the "'**54 Act**") and will continue under the '54 Act after its contractual expiry in December 2021 provided that the Objector remains in occupation unless or until it is determined in accordance with (or by means permitted under) the '54 Act.

1.3 The Objector expected the lease to be renewed at the end of the current term in December 2021 and had negotiated terms for a new lease and formal documentation had been prepared for signature by the parties.

The Scheme and the Order

1.4 Outline planning permission reference 05/12/00563 was granted on 8 February 2013 (the "**Outline Permission**") for development of the Castleward Urban Village (the "**Scheme**").

1.5 Derby City Council (the "**Acquiring Authority**") made The Derby City Council (Castleward) Compulsory Purchase Order 2020 (the "**Order**") in March 2020 and is now seeking confirmation of the Order by the Secretary of State.

1.6 The Order includes the Property which comprises plot number 15 on the Order Map. Contrary to the schedule to the Order, the Objector has no interest in plot number 29.

Objection to the Order

1.7 CMS Cameron McKenna Nabarro Olswang LLP ("**CMS**") submitted an objection to the Order on behalf of the Objector on 3 April 2020.

1.8 The Acquiring Authority prepared a Statement of Case dated 20 August 2020 in connection with the Order in which it stated that it was in discussions with the Objector for the relocation of the Objector's business.

The current position

1.9 The Acquiring Authority acquired the landlord's interest referred to in the Lease on 6 November 2020 and has ceased meaningful discussions with the Objector regarding the relocation of its business since that date[1].

1.10 The Acquiring Authority has stated that it intends to rely on its rights under the '54 Act to obtain possession of the Property on the basis that it believes it can oppose the grant of a new tenancy.

1.11 Given the Acquiring Authority's position (that it does not require compulsory purchase powers to acquire the Property), the inclusion of the Objector's interest in the Order would appear to be unnecessary and therefore the Property should be excluded from the Order as there is no compelling case in the public interest for the use of compulsory acquisition powers.

2. SUMMARY OF OBJECTION

2.1 In summary, the Objector objects to the Order on the following grounds:

2.1.1 the absence of need for the Property;

2.1.2 the absence of a compelling case in the public interest and failure to comply with the European Convention on Human Rights;

[1] The Acquiring Authority provided a list of relocation sites on 11 November 2020 (most of which duplicated sites already considered) and there was a subsequent discussion on 12 November when the Objector further expressed its concerns about finding a suitable site. A formal response was issued to the Acquiring Authority once it was clear that none of the site owners had any interest in agreeing terms with the Objector. Subsequent correspondence has been expressed to be without prejudice.

2.1.3 failure to grasp the operations and requirements of a ready mixed concrete plant and the consequences for the Objector's business of the extinguishment of its current operations;

2.1.4 failure to consider Planning Policy Guidance (the "**PPG**") on safeguarding existing sites contrary to advice in the National Planning Policy Framework (February 2019) (the "**NPPF**"); and

2.1.5 prematurity.

3. ABSENCE OF NEED

3.1 The Acquiring Authority has failed to demonstrate why the Property is needed now, and why the Objector should be deprived of its interest in the Property without adequate compensation.

3.2 The Acquiring Authority has also asserted that it will rely on the '54 Act to secure possession of the Property in which case compulsory purchase powers are not needed as a "last resort" to acquire the Property and the use of such powers is *unnecessary*.

3.3 Furthermore, paragraph 3.19 of the Planning Statement which accompanied the planning application for the Outline Permission set out the anticipated phasing of the Scheme as follows:

Phase	**Anticipated Start**	**Anticipated End**
1	2012	2016
2	2016	2019
3	2019	2023
4[2]	2023	2026
5	2026	2029

[2] The Property lies in Phase 4.

3.4 However, the actual position is as set out at **Annexure 1**, which shows that the development proposals are proceeding more slowly than this and are unlikely to reach phase 4 (which includes the Property) until a date much later than indicated above.

3.5 The compulsory acquisition of land so far in advance of the dates when development requires it is unnecessary (and premature).

4. ABSENCE OF A COMPELLING CASE IN THE PUBLIC INTEREST

4.1 It is unclear from the Acquiring Authority's Statement of Case why the construction of houses justifies the displacement of the current commercial and industrial occupiers and / or how there is a compelling case in the public interest to do so.

4.2 The Acquiring Authority has failed to address why the extinguishment of the business use on the Property is outweighed by the Scheme underlying the Order.

4.3 Phases 1, part of phase 2 and phase 3 of the Scheme were granted approval on the basis that they could be carried out whilst the Objector's business continued.

4.4 Furthermore, Section 5.4 of the Castleward Derby Area C4 – Noise Assessment dated November 2019 prepared by Ecus Ltd, which was submitted in respect of part of Phase 3 of the Scheme and is appended at **Annexure 2**, states:

"Assuming that the industrial units to the west of John Street including the [Cemex depot][3]are retained, a mitigation package to affected façades would be required to achieve the internal noise criteria of BS 8233, including:

- *For living rooms overlooking the [Cemex][4] site during the day, a sound reduction of 35dB is required at the façade…"*

4.5 This suggests that the Objector's operations and the proposed residential uses could co-exist. That being the case it is unclear why the Objector's business must now be extinguished from the Property.

[3] This is believed to be an error: the reference to "Cemex Depot" is understood to be a reference to the Objector's operation on the Property

[4] As above: the reference to "Cemex Depot" is understood to be a reference to the Objector's operation on the Property

5. FAILURE TO UNDERSTAND THE OBJECTOR'S BUSINESS OPERATIONS

Overview of Objector's business operations

5.1 The principal purpose of the Property is the production, supply and distribution of ready mixed concrete, mortars and screeds, and similar products for delivery to locations across Derby; mainly to the North and West, within a radius of approximately 15 miles from the Property.

5.2 The concrete is delivered in specially designed trucks incorporating a revolving drum, which both mixes and maintains the concrete in a state ready for use at the point of delivery. From initial production at the Property, the concrete has a lifespan of approximately two hours for it to be transported and laid as required under the appropriate British Standard.

5.3 The Objector has been operating at the Property for almost 25 years, which is strategically located on the transport network, in a location which is necessary to enable not only importation of raw materials for concrete production but also delivery to market.

5.4 The constituents to produce concrete are cement, gravel, sand and water. The relative percentage (%) quantities required to make a cubic metre of standard concrete weighing approximately 2.5 tonnes are 10%, 40%, 30% and 20% respectively. All of the raw materials required to produce concrete are delivered via the road network; sand and gravel normally using 30 tonne capacity HGVs at a rate of approximately 10 per day; cement deliveries using the same method at a rate of one per day together with additives, which would add an average one further HGV per week.

5.5 Deliveries of sand and gravel are stored in bays in the open, but cement is stored in pressurised covered silos as is the case with additives. A wheeled loading machine is used to move the sand and gravel from the stock bays to a conveyor, which transfers the material up into the main body of the plant itself with cement being fed by an enclosed system of pipes.

5.6 The materials are weighed in the plant to ensure the correct mix design is achieved, then dropped into the back of a ready-mix lorry (a specially designed vehicle with a rotating barrel). Water is also added directly into the barrel which is then rotated to thoroughly mix the constituents to produce concrete. This mixture is then delivered to site where the revolving barrel direction is reversed, and the material is pushed from the barrel and allowed to be deposited via a chute. An average day would result in 10 approximately 32 tonne loaded vehicles leaving and delivering the concrete and then returning empty to the Property to be washed and then 're-filled' as required.

Importance of distribution distances and central locations

5.7 By its nature concrete batching has maximum distribution distances beyond which it is not possible to supply concrete: central locations such as that found at the Property are essential to the efficient and effective supply of ready mixed concrete.

5.8 The effect of the removal of the Objector's business from the Property (unless it is relocated to an equivalent site), will be to extend journey times and distances making it impractical to sustain the business requirements of existing customers and the importation of materials for processing from the Objector's alternative plants.

5.9 The explanation for this is that concrete has a limited time within which it must be placed on site from the time it is produced; the appropriate British Standard requires this to be within two hours. Following production i.e. in this case once it has been placed in the ready-mix truck for mixing it then has to travel to its destination be unloaded and the concrete placed. If journey times were extended, this window is shortened and there would be a possibility that additives would be required to extend the 'workability' of the product to cover any delays etc. during the journey. Any adding of additives however may affect the agreed specification required by the client and therefore would count against the Objector successfully bidding for accepting jobs. There would also be additional cost implications and consequent price increases to the customer, which again could impact on the probability of the Objector being successful in winning business.

Ultimately, such business could be lost to a competitor. The cost to the business being further affected by additional fuel costs for the delivery trucks.

Feasibility of relocating plant outside of Derby

5.10 Moving the concrete plant out of the City would mean some of the work relating to key projects, an example being the A38 Derby junction scheme, would be difficult to supply. To be able to meet this demand would require additional trucks being brought into the City from further away potentially adding to congestion, or the Objector would simply be unable to service the contract.

5.11 An example of work that has been completed was for the Castleward School Project undertaken by Morgan Sindall where a 200m3 pour utilised four trucks from Derby. If this market had to be met from elsewhere; for instance, the Objector's Lockington ready mixed concrete plant (located near to the M1 at Junction 24A) then eight trucks would have had to be used. This would be due to turnaround time creating longer distances and the greater likelihood of delays, use of more fuel together with the impact on other markets which the additional trucks may have been able to service.

Estimated costs associated with relocating / acquiring new plant

5.12 As no replacement site has so far been identified, it is not possible to provide a fully itemised cost schedule to relocate or replace the Objector's concrete batching plant. However, following the principles in *Tamplins Brewery Ltd v County Borough of Brighton* (1971) 22 P. & C.R. 746, a compulsory purchase compensation case, an estimated cost is set out overleaf:

Item	Description	Estimate (£)	Total (including contingency) (£)
1	Pre-Sanction	-	-
2	Estates	120,000	120,000
3	Project Management	26,549	26,549
4	Consultants	55,000	62,000
5	Civils	437,000	485,200
6	Electrical	175,000	201,250
7	Mechanical	830,000	873,000
8	Contingency	n/a	127,950
9	Health, Safety & Environmental	5,000	5,500
10	IT Equipment	20,000	23,000
	TOTAL	**1,668,549**	**1,796,499**

5.13 This estimate was provided to the Acquiring Authority on 9 July 2020 and is similar to the initial high-level estimate provided at the first meeting with the Acquiring Authority on 20 June 2019.

5.14 Whilst this Inquiry is not concerned with the measure of compensation that might be paid on a compulsory acquisition of the Property, the *scale of the cost* of the effect of the use of compulsory purchase to a business that is required to relocate or shut down, one of the clear disbenefits of the Order, *is or should be a material consideration* for the confirming authority.

Objector's profits from its operations at the Property

5.15 Over the previous three years the Objector's concrete batching plant business has been highly profitable.

Impact of the Order

5.16 The loss of the Objector's business at the Property would necessitate the market being supplied from an alternative existing site operated by the Objector; most likely the Objector's Lockington ready-mix operation. The distance and time taken, not only to reach the market but also return to site, would make planning vehicle utilisation very problematic and also may require the inclusion of additives to enable the concrete to remain in a workable state for when it reached its destination. Both of these factors would have cost implications, which would likely give current competitors an advantage as they would be able to service projects at a more attractive rate and with a greater guarantee of the quality of the concrete as a result of it being transported over a shorter period / distance.

5.17 The Property operates with two full time staff, and whilst alternative employment opportunities within the business would be sought for them, redundancy cannot be ruled out. The four trucks based at the Property, and consequently their drivers' jobs, would also be under threat. As the Property is managed on an area basis, the loss of the plant would also have an impact on the viability of other jobs within the Objector's overall business; for example, sales, shipping and administrative staff.

5.18 The economies of the Property also relate directly back to upstream contribution (i.e. the sand, gravel and cement required in producing the concrete and the buying power for additives). The reduced amount of required supply would have impacts both in relation to staff requirements to produce the quantities involved, the drivers of vehicles servicing the Property and the ability to gain advantageous rates relating to economies of scale when purchasing those constituents which the Objector does not produce itself.

5.19 Furthermore, an increase in the distance of deliveries of the constituent parts of concrete and the actual delivery of the concrete could put pressure on the legal requirements for maximum driving hours. In addition, at certain times of the year, this could limit the window within which deliveries to customers could be made as most customers require early deliveries to allow time for the product to cure / dry. In winter periods, there is the

added issue of limited daylight hours to make deliveries, which would be impacted by the distances travelled. With many larger projects, the essential requirement is to have a constant flow of deliveries to maintain the required specification of both material and scheme, which would again be affected by the increased distance / travelling time involved.

5.20 The loss of the Objector's plant would result in a reduction in competitiveness in tendering for business leaving the market reliant on the remaining plants in Derby.

5.21 At the present time there are only three other ready-mix concrete plants located in Derby:

5.21.1 Breedon concrete batching plant at Chequers Road, Derby DE21 6EN;

5.21.2 Aggregate Industries – Douglas Concrete Aggregates Ltd, Megaloughton Lane, Spondon, Derby DE21 7BR;

5.21.3 a concrete batching plant operated by Cemex UK Materials, Megaloughton Lane, Spondon, Derby DE21 7BR.

5.22 Customers are much more likely to purchase material from a local supplier offering the advantages of time and distance to supply, the ability to add or reduce amounts required more effectively / quickly, the possibility of lower pricing, material requiring no additive(s) unless specified and wider delivery time options.

6. FAILURE TO ADEQUATELY ADDRESS THE NPPF AND THE PPG AND INCONSISTENT APPLICATION OF LOCAL PLANNING POLICY

6.1 In making the Order, the Acquiring Authority has failed to adequately address the NPPF and the PPG.

6.2 Contrary to the advice at Paragraph 204(e) of Chapter 17 to the NPPF for planning policies to safeguard existing sites for the processing of minerals, the manufacture of concrete and concrete products, and the processing and recycling of secondary aggregate material, the compulsory acquisition of the Property will cause such activities

and a viable business to cease. Furthermore, two full time and four part time employees are likely to be redundant, contrary to Paragraph 80 of the NPPF, which provides that:

"[p]lanning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development".

6.3 In addition, the Statement of Case fails to have regard to the Department of Housing, Communities and Local Government's Planning Practice Guidance (Minerals) that planning authorities should safeguard existing storage, handling and transport sites (Paragraph 006, Reference ID: 27-006-20140306 (March 2014)). Accordingly, the Acquiring Authority will fail to ensure that the land used by the Objector will remain available for the current mineral processing purposes, and as a result will fail to prevent sensitive or inappropriate development that would conflict with the Objectors' mineral processing business.

6.4 The emerging Derbyshire and Derby Minerals Local Plan, Towards a Minerals Local Plan: Spring 2018 Consultation dated December 2017 recognises the importance of safeguarding and draft policy covers the issue. Section 5.3 to 5.5 of the Background Paper Safeguarding of Minerals Related Infrastructure appended at **Annexure 3** explicitly refers to concrete batching plants and in particular section 5.4 states:

"The numbers and distribution of the sites involved do not suggest that any individual plant is critical in its own right; each would appear to serve its own relatively limited local area."

6.5 Policy SG3: Safeguarding Minerals Related Infrastructure contained in Chapter 10 of the consultation draft and appended at **Annexure 4**. states:

"Existing, planned and potential rail heads, rail links to quarries, sites for concrete batching and processing and distribution of recycled and secondary aggregate within

quarries are safeguarded to ensure that they are taken into account when other forms of development are planned in or around the facility". (emphasis added)

6.6 Furthermore, chapter 10.2.22 states that:

"All the relevant local authorities have been involved in developing an approach to mineral infrastructure safeguarding under the Duty to Cooperate…"

6.7 Should the Objector's facility be removed during the Plan period or it can be proved that is no longer required, this will be taken into account when considering a proposal on or in the vicinity of the facility.

6.8 Notwithstanding the grant of the Outline Permission in 2013, emerging policy has been informed by an evidence base of existing sites including ready-mix concrete plants (the one on the Property amongst them) and up to date national policy has identified the need for safeguarding of these facilities.

7. COMMUNICATIONS WITH THE ACQUIRING AUTHORITY

7.1 The timeline provided at **Annexure 5** sets out significant contacts between the Objector and the Acquiring Authority.

7.2 The Acquiring Authority's willingness to discuss the Property has changed markedly since it acquired the freehold at the beginning of November.

Relocation

7.3 It is evident from the Acquiring Authority's response at paragraph 5.44 of the Statement of Case that it does not understand that site location is a key factor in the operation of a successful concrete batching plant and that the Objector has not been able to identify a suitable replacement site despite 18 months of diligent enquiries.

7.4 At paragraph 7.4 of the Statement of Case, the Acquiring Authority sets out a summary of its apparent contact with the Objector. However, the Objector does not have any record of contact from the Acquiring Authority until a letter dated 27 March 2019 titled

"*The Castleward Urban Village Regeneration Scheme, Derby, Land referencing and property related enquiries*" arrived.

7.5 The Objector notes that this was followed by a letter dated 3 April 2019 enclosing "*Service of Notice pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976"* giving the Objector 14 days to complete a lengthy questionnaire.

7.6 At paragraph 15.6.4 of the Statement of Case, the Acquiring Authority sets out its response to ground 2 of the Objection. However, the Objector does not have any record of any site visit conducted by the Acquiring Authority's agent, Thomas Lister Limited (the "**Agent**"), and neither has it been provided with the results of the valuation exercise despite numerous requests. In fact, despite the assurances made by the Acquiring Authority, it has not made any, or any serious attempt to acquire the Objector's interest in the land by private treaty.

7.7 The Objector first met with the Agent on 20 June 2019. At this meeting the Objector indicated that the cost of relocating/replacing its ready-mix plant (in accordance with the principles in *Tamplins Brewery Ltd. v County Borough of Brighton* (1971) 22 P. & C.R. 746) would be in the order of one million eight hundred thousand to two million pounds (£1,800,000 to £2,000,000). The Agent indicated that they had received similar valuation advice from The Wood Group (however, this advice has not been disclosed to the Objector despite several requests for it).

7.8 The Objector also indicated the cost of total extinguishment of its business under the "Compensation Code". This is in accordance with paragraph 5.46 of the Acquiring Authority's Statement of Case which states: "*Any businesses that are unable to be relocated will be eligible to receive compensation in accordance with the Compensation Code."*

7.9 Following the meeting on 20 June 2019, the Agent provided information relating to:

7.9.1 land to let within a 15-mile radius of Derby; and

7.9.2 land for sale within a 15-mile radius of Derby.

7.10 These documents were updated on 12 September 2019 with the search radius being widened to 20 miles. The documents were updated again on 2 December 2019 and 23 April 2020.

7.11 In addition, the Acquiring Authority has provided information relating to available sites and the Objector (or representatives on its behalf) has also conducted its own searches, the results of both are set out in **Annexure 6**. Regrettably despite several virtual meetings and diligent enquiry it has to date not been possible to identify a suitable relocation site for one or more of the following reasons:

7.11.1 the Objector has held a leasehold interest in the Property for 24 years and is not in a position to acquire a freehold interest in any site;

7.11.2 the freehold owners of a number of the proposed sites did not want to let the site for use as a concrete batching plant;

7.11.3 due to the Acquiring Authority's planning policies the proffered sites was unlikely to be granted planning consent for use as a concrete batching plant;

7.11.4 one of the sites was to be developed for flood defence purposes and the remaining area would not accommodate a concrete batching plant;

7.11.5 the freehold owner of one particular site did not want the site to be developed piecemeal; however, it would have been willing to consider a more comprehensive development plan if the Acquiring Authority was to bring this forward;

7.11.6 the rent was excessive for the proposed concrete batching plant use; or

7.11.7 the site was in an unsuitable location.

7.12 In total, 28 potential sites have been reviewed and discounted by the Objector for reasons that are entirely justified.

7.13 Concrete batching operations are generally conducted on an open site. In order to allay potential landlords' reservations regarding these operations the Objector has suggested to the Acquiring Authority that it might be possible to locate the concrete batching plant

within a building. The cost of constructing or leasing a suitable building would increase the cost of relocating/replacing the operations.

7.14 The Objector has suggested to the Acquiring Authority that they could use their compulsory purchase or other powers to acquire a suitable site which they could then lease to the Objector. This arrangement proved successful in similar circumstances elsewhere in the country but has been rejected by the Acquiring Authority in this case.

7.15 Despite diligent enquiry the Objector, aided to a limited extent by the Acquiring Authority, has been unable to identify a suitable relocation site. Any acquisition of the Property will therefore result in the closure of the Objector's business in this location with consequential impacts on their business and the wider economy including a loss of jobs and environmental impacts.

8. PREMATURITY

8.1 The Property is manifestly not needed now.

8.2 The Acquiring Authority has acknowledged that the Property is not needed now and public statements regarding the phasing of the Scheme underlying the Order suggest that it will not be needed for a considerable period of time.

8.3 The Acquiring Authority has not exhausted attempts to acquire the Property by private treaty, indeed it has not made any offer to buy the Objector's interest in the Property.

8.4 The history of the matter shows that the Acquiring Authority's attempts to negotiate with the Objector have been virtually non-existent.

8.5 The Acquiring Authority has informed the Objector that it intends to acquire possession of the Property by exercising its rights under the Lease in reliance on the '54 Act. If that is the intention of the Acquiring Authority, there is no need to include the Property in the Order.

8.6 It would appear that the Acquiring Authority has estimated that any compensation payable under the provisions of the '54 Act would be a very small proportion of the

compensation payable under a compulsory purchase acquisition. Given the Acquiring Authority's confidence in its '54 Act remedies it should not be afforded the option of choosing between the statutory procedures at this stage but should instead exhaust its remedies under the '54 Act before seeking to rely on compulsory purchase powers.

8.7 Only if the Acquiring Authority subsequently fails to secure the Property under the '54 Act should compulsory purchase powers be sought.

9. THE SCHEME

9.1 As noted above, the Scheme underlying the Order was approved in 2013 pursuant to the Outline Permission.

9.2 The Scheme is being implemented by a developer, Compendium Living.

9.3 The development of the Scheme has been subject to a number of variations and amendments over the years; most recently proposed by way of a planning application pursuant to section 73 of the Town and Country Planning Act 1990 to vary certain conditions of the Outline Permission. This planning application has not yet been determined and there is no guarantee that consent will be granted in the timescales sought, thereby adding further delay to the whole Scheme and compounding the prematurity of the acquisition of the Property.

10. BUSINESS LEASE RENEWAL PROCEEDINGS

10.1 The Objector was in contact with Mr Peter Milner, the agent representing the Objector's former landlord prior to the Acquiring Authority's acquisition of the freehold interest in the Property. Mr Milner contacted the Objector via email on 2 July 2019 to which the Objector responded on 3 July 2019. Further contact was then made on 29 August 2019 regarding an update on the Order process.

10.2 On 28 January 2020, the Objector met at Mr Milner's offices to discuss the situation, following which confirmation of the day's discussions and the intention to agree a reversionary lease was stated. A reversionary lease is one granted before the termination

of the existing lease, but which would have permitted the Objector to remain in possession after that termination for an agreed term. Correspondence was exchanged on 7 February 2020 and during various times in April through May 2020 resulting in Heads of Terms being agreed.

10.3 Subsequently, it was challenging to make contact with Mr Milner, largely due to COVID 19 restrictions, but the Objector continued to liaise with Mr Milner over the following months. The parties' solicitors also exchanged correspondence over the lease detail resulting in the preparation and negotiation of a draft lease, which was ready to be circulated for signature as of 22 October 2020 subject only to a minor issue relating to the application of the EPC[5] regime to the plant on the Property.

10.4 The Objector received an e-mail on 2 November 2020 from it former landlord's solicitor stating that it had "received instructions from [its] client that [they] should no longer proceed with the grant of a further lease to [the Objector]".

10.5 Following this, the Objector was served with a s.25 Notice dated 4 December 2020 by the Acquiring Authority (acting in its capacity as the Objector's landlord).

10.6 The s.25 Notice gives notice that the Acquiring Authority intends to end the Objector's tenancy on 3 December 2021 and that it opposes an application to the court to order the grant of a new tenancy pursuant to ground F of section 30(1) of the '54 Act.

10.7 The Objector reserves its position as to its course of action under the '54 Act following receipt of the s.25 Notice. However, the Objector submits that if it is the Acquiring Authority's position that it can regain possession of the Property under the '54 Act, it would not appear to be necessary to include the Property within the land to be subject to the Order.

[5] Energy Performance Certificate

11. CONCLUSION

11.1 Having initially indicated that it would support the relocation of the Objector's business the Acquiring Authority now intends to secure possession under the '54 Act. The effect of this strategy is that, whilst the Acquiring Authority wants to use powers of compulsory acquisition, it also wants to avoid paying compensation for either the costs of relocating the Objector's business, or the loss of that business, if it has to close down. The Objector submits that that would be a serious misuse of statutory powers, and it reserves its position in the event that the Order is confirmed so as to include the Property.

11.2 This being the case the confirmation of the Order in respect of the Objector's interest is unnecessary.

11.3 Furthermore, if the Acquiring Authority is confident to proceed against the Objector under the '54 Act (and take advantage of the limited compensation regime available under that legislation) it should be content to forego the additional powers available under compulsory purchase order legislation (where the compensation regime would be more generous).

11.4 For all the reasons set out above the Inspector is respectfully asked to exclude the Objector's interest in the Property from the Order and leave the Acquiring Authority to pursue its rights under the '54 Act.

CMS Cameron McKenna Nabarro Olswang LLP

4 January 2021

ANNEXURE 1
PROGRESS OF THE SCHEME

Phase	Statement of Case	Planning position
Phase 1	Completed	Completed in 2016 comprising 164 residential units (based on the Statement of Case)
Phase 2	Currently in progress	Phase 2A (54 residential units) is due to complete late Autumn 2020 (based on the Statement of Case)
		Phase 2B is subject to a resolution to grant outline planning permission for a further 180 residential units Phase 2B is also subject to two pending applications (94 residential units) and (174 residential units)
Phase 3	Reserved matters to be obtained by 30 April 2020 (this date has been revised in agreement with Homes England)	Phase 3A (82 residential units) is subject to a reserved matters approval
		Phase 3B awaited
		Phase 3C awaited
Phase 4[6]	31 March 2023 (in accordance with the Council's grant agreement with Homes England)	Phase 4 awaited
Phase 5	31 March 2027	Phase 5 awaited

[6] This is the phase that includes the Property

ANNEXURE 2
CASTLEWARD DERBY AREA C4 – NOISE ASSESSMENT

Castleward Derby Area C4 – Noise Assessment

Lovell Partnerships Limited

Report prepared by:
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November 2019

Ecus Ltd

Report to:	**Lovell Partnerships Limited** **Unit 3, Turnberry Park** **Gildersome** **Leeds** **LS27 7LE**
Report Title:	**Castleward Derby Area C4 – Noise Assessment**
Version:	**1.0**
Issue Date:	**November 2019**
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Originated By:	**Angela Hornby (MZA Acoustics)** **Technical Director** Date: November 2019
Reviewed By:	**Fergus Taylor** **Senior Environmental Consultant** Date: November 2019
Approved By:	**Paul Stephenson** **Head of Environment** Date: November 2019

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Version	Author	Description	Date
0.1	AH (MZA)	Draft	11th November 2019
1.0	FT	Version 1	13th November 2019

Contents

Executive Summary

This report provides the noise impact assessment for the development of a brownfield industrial/commercial site to residential use in the Castleward area of Derby City Centre.

Consideration has been given to the impact of remaining industrial/commercial uses adjacent to the development site, and of road traffic noise, on future sensitive receptors. The whole area is subject to a regeneration scheme and whilst the remaining industrial/commercial uses may be temporary in nature, the timescale of the redevelopment of this area is not confirmed and therefore the businesses are assumed to be permanent sound sources in order to provide a conservative assessment of noise impact. In reality, the long-term noise climate is likely to change in a positive way for the future residents of the scheme hereby described.

A baseline noise survey has been undertaken to establish the current levels of noise incident at the site and considers these in relation to the relevant planning policy / noise assessment guidance. Where mitigation is considered necessary, appropriate measures have been recommended to preserve the amenity for occupants of the new development.

Assessment of the suitability of the site taking into consideration prevailing ambient conditions has been undertaken.

With suitable façade mitigation measures, the proposed development is considered to be suitable and noise should not be a determining factor in consideration of planning.

1. Introduction

1.1 Introduction

1.1.1 Ecus Ltd has been appointed by Lovell Partnerships Limited to undertake a noise impact assessment in relation to a proposed residential development on land between John Street and Canal Street, Derby (the 'Site'). The Site identified in Figure 1 is currently occupied by predominantly vacant industrial and commercial units and associated off-road parking and is part of the ongoing Castleward Regeneration area identified within Derby City Council's 'Derby City Centre Masterplan 2030' dated July 2016.

1.1.2 The noise assessment is required to support a planning application for the development of residential dwellings at the Site in terms of the existing industrial and transportation noise and demonstrate residential suitability.

1.1.3 The proposed development layout[1] is illustrated in the indicative layout drawing in Figure 2.

1.1.4 This report presents:

- details of the sound measurement surveys undertaken around the Site to establish prevailing ambient and background sound levels, and
- the subsequent assessment to determine the noise impact incident at the Site and resulting Site suitability for the proposed sensitive development.

1.1.5 The report occasionally employs technical terminology. In order to assist the reader, a glossary of terms is presented in Appendix A.

[1] TA Deign LLP drawing SK190731.001

2. Site Description

2.1 Site Location and Local Environment

2.1.1 The proposed Area C4 Site is within a regeneration area approximately 850m to the south east of Derby City Centre just beyond the inner ring road, approximately centred at grid reference SK359357.

2.1.2 The ongoing regeneration of the area has resulted in a mixed industrial / commercial and residential area, although it is noted that many of the industrial and commercial buildings in the vicinity are vacant, a number are still operational.

2.1.3 The Site is pinpointed in Figure 1 and is approximately 300m from the mainline train station.

Figure 1: General Site Location

(Aerial imagery courtesy GoogleMaps)

2.1.4 The Site is bound on three sides by public roads, and on the fourth side by the rear elevation of existing light industrial/commercial units. The majority of units on Canal Street which form the eastern site boundary are trade counters and similar light industrial and commercial units with opening times typically observed as limited to daytime hours between 7am to 5pm.

2.1.5 To the north of the Site is New Street which provides a reasonably busy thorough-fare to the various commercial units, and to offices and residential premises, with a vehicle repairs garage facing the Site. Further north are Siddals Road and the main A6.

2.1.6 The premises opposite the Site to the west, along John Street, are predominantly

associated with storage and distribution, and most significantly a Cemex batching plant which is the predominant source of noisy activity in the vicinity of the Site. To the rear of the Cemex site is the Derby County Council's Highways depot and workshop accessed from Liversage Street, and an area of surface pay and display car parking (although the latter does have a planning application in for a proposed residential development of up to 180 dwellings and is known as Plot C3).

2.1.7 John Street is stopped up at its southerly junction with Castleward Boulevard which is one-way to motorised vehicles in a westerly direction allowing access to a 'restricted parking zone' for permit holders and short term pay and limited duration ticket display parking, and traffic flow is therefore light.

Figure 2: Site Location

(Aerial imagery courtesy Google Earth Pro)

2.2 Development Proposals

2.2.1 The proposed indicative Site layout is presented in Figure 3 and in full in Appendix 2 and consists of 5 blocks of residential properties including 1 and 2 bed apartments and houses.

Figure 3:Indicative Layout

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3. Policy and Guidance

3.1 National Planning Policy

National Planning Policy Framework (NPPF, 2019)

3.1.1 The NPPF sets out the Government's economic, environmental and social planning policies for England and *"The purpose of the planning system is to contribute to the achievement of sustainable development."*

3.1.2 The core principals of sustainable development are based on economic, social and environmental objectives which are all relevant to noise generating and noise sensitive development, and the emphasis is placed on achieving well-designed places. This would include the application of good acoustic design to promote health and well-being, with a high standard of amenity for existing and future users.

3.1.3 With respect to noise, Paragraph 180 states that *"Planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or wider area to impacts that could arise from the development."* With specific reference to noise, they should:

- *"Mitigate and reduce to a minimum potential adverse impact resulting from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*
- *Identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason,"*

3.1.4 The guidance contained within the NPPF further determines that consideration should be given to the Noise Policy Statement for England (DEFRA, March 2010).

Noise Policy Statement for England (NPSE, March 2010)

3.1.5 The NPPF is consistent with the Noise Policy Statement for England (NPSE, 2010), which states three policy aims are as follows:

"Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life.*

The long term policy vision and aims are designed to enable decisions to be made regarding what is an acceptable noise burden to place on society."

3.1.6 The NPSE Explanatory Note provides further guidance on defining 'significant adverse effects' and 'adverse effects' using the following key phrases.

NOEL – No Observed Effect Level

3.1.7 This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level

3.1.8 This is the level above which adverse effects on health and quality of life can be detected.

3.1.9 Extending these concepts for the purpose of this NPSE leads to the concept of a significant observed adverse effect level.

SOAEL – Significant Observed Adverse Effect Level

3.1.10 The level above which significant adverse effects on health and quality of life occur.

3.1.11 The NPSE recognises that it is not possible to have single objective noise-based measures that define the SOAEL, LOAEL and NOAEL that are applicable to all sources of noise in all situations. The levels are likely to be different for different noise sources, receptors and at different times of the day.

3.1.12 The NPPF and associated NPSE provide the concepts for defining various levels of effect, but do not translate these into actual noise levels. Instead it is up to individual Local Authorities to interpret the concepts of the NPPF and NPSE and translate them into noise level criteria for development to be applied in their area.

Planning Practice Guidance – Noise (PPG, updated December 2014)

3.1.13 The Planning Practice Guidance for noise (updated December 2014) broadly considers the same issues as demonstrated within both the NPPF and the NPSE with regards to noise within the planning realm.

3.1.14 The information detailed within the PPG indicates that noise should be considered when:

- New developments may create additional noise; and/or,
- New developments would be sensitive to the prevailing acoustic environment.

3.1.15 The guidance indicates that Local Planning Authorities should take account of the acoustic environment and in doing so consider:

- Whether or not a significant adverse effect is occurring or likely to occur;
- Whether or not an adverse effect is occurring or likely to occur; and,
- Whether or not a good standard of amenity can be achieved.

3.1.16 The impact of noise is rated within the policy document in terms of the relative 'Observed Effect Level', defined in line with the criteria summarised within paragraph 3.1.15 above. Based upon this the Planning Practice Guidance provides a matrix of likely average response, replicated below in Table 1.

Table 1: Planning Practice Guidance – Noise Exposure Hierarchy

Perception	Example of Outcomes	Increasing Effect Level	Action
Not noticeable	No effect	No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.	No Observed Adverse Effect	No specific measures required
Lowest Observed Adverse Effect Level			
Noticeable and Intrusive	Noise can be heard and causes small changes in behaviour and/ or attitude, e.g. turning up volume	Observed Adverse Effect	Mitigate and reduce to a

Perception	Example of Outcomes	Increasing Effect Level	Action
	of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.		minimum
Significant Observed Adverse Effect Level			
Noticeable and Disruptive	The noise causes a material change in behaviour and/ or attitude, e.g. avoiding certain activities during periods of intrusion: where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in character of the area.	Significant Observed Adverse Effect	Avoid
Noticeable and Very Disruptive	Extensive and regular changes in behaviour and/ or an ability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/ awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable Adverse Effect	Prevent

3.2 Technical Guidance

3.2.1 A number of British Standards, International Standards and Codes of Practice contribute to the methodology of noise impact assessment. Those relevant to this impact assessment are summarised below.

BS 7445-2:1991 'Description and Measurement of Environmental Noise'

3.2.2 BS 7445-2:1991 'Description and Measurement of Environmental Noise - Part 2: Guide to the acquisition of data pertinent to land use' defines parameters, procedures and instrumentation required for noise measurement and analysis. Together with associated guidance within the documents referenced below, this Standard has been used to ensure the survey and data are fit for purpose.

British Standard 4142:2014

3.2.3 BS 4142:2014 'Methods for rating and assessing industrial and commercial sound' (BS 4142) provides a methodology for rating and assessing sound associated with both industrial and commercial premises. The purpose of the Standard is clearly outlined in

the opening section where it states that the method is appropriate for the consideration of:

- Sound from industrial and manufacturing processes;
- Sound from fixed installations which comprise mechanical and electrical plant and equipment;
- Sound from the loading and unloading of goods and materials at industrial and/or commercial premises; and
- Sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes, such as that from forklift trucks, or that from train or ship movements on or around an industrial and/or commercial site.

3.2.4 The Standard is based around the premise that the significance of the noise impact of an industrial/commercial facility can be derived from the numerical subtraction of the background noise level (not necessarily the lowest background level measured, but the typical background of the receptor) from the measured/calculated rating level of the specific sound under consideration. This comparison will enable the impact of the specific sound to be concluded based upon the premise that typically *"the greater this difference, the greater the magnitude of the impact"*. This difference is then considered as follows:

- A difference of around +10dB or more is likely to be an indication of a significant adverse impact, depending on the context;
- A difference of around +5dB is likely to be an indication of an adverse impact, depending upon context; and
- The lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact.

3.2.5 BS 4142 further states that *"where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact"*; again, depending upon the specific context of the site. The Standard further qualifies the assessment protocol by outlining conditions to the comparative assessment and stating that *"not all adverse impacts will lead to complaints and not every complaint is proof of an adverse impact"*, thus implying that all sites should be assessed on their own merits and specifics.

3.2.6 The Standard quantifies the typical reference periods to be used in the assessment of noise, namely:

Typical Daytime	07:00 – 23:00	1-hour assessment period
Typical Night-time	23:00 – 07:00	15-minute assessment period

3.2.7 The Standard outlines methods for defining appropriate 'character corrections' within the rating levels to account for tonal qualities, impulsive qualities, other sound characteristics and/or intermittency. These are a) the Subjective Method, b) the Objective Methods for tonality and c) the Reference Method. It is noted by the Standard that where multiple features are present the corrections should be added in a linear fashion to the specific level.

3.2.8 The Subjective Method is based on the corrections presented in Table 2:

Table 2: Acoustic Feature Corrections Defined in BS 4142:2014

Level of Perceptibility	Tonal Correction	Impulsivity Correction	Correction for "Other Sound Characteristics"	Intermittency Correction
No perceptibility	+0 dB	+0 dB	Where neither tonal nor impulsive but clearly identifiable +3 dB	If intermittency is readily identifiable +3 dB
Just Perceptible	+2 dB	+3 dB		
Clearly Perceptible	+4 dB	+6 dB		
Highly Perceptible	+6 dB	+9 dB		

British Standard 8233:2014

3.2.9 British Standard 8233:2014 'Guidance on Sound Insulation and Noise Reduction for Buildings' (BS 8233) provides guidance for the control of noise in and around buildings which may affect sensitive receptors. The guidance provided within the document is applicable to the design of new buildings or refurbished buildings undergoing a change of use but does not provide guidance on assessing the effects of changes in the external noise levels to occupants of an existing building.

3.2.10 The guidance provided includes appropriate internal and external noise level criteria, which are applicable to dwellings exposed to steady external noise sources. It is stated that it is desirable for internal ambient noise levels not to exceed the criteria set out in Table 3 below.

Table 3:Guideline Indoor Ambient Noise Levels Defined in BS 8233:2014

Activity	Typical Situations	Guideline upper limit LAeqT dB	
		07:00 to 23:00	23:00 to 07:00
Resting	Living Rooms	35	--
Dining	Dining Room / Area	40	--
Sleeping (daytime resting)	Bedroom	35	30

3.2.11 Furthermore, Table 4 of BS 8233 states:

> *"Regular individual noise events (for example, scheduled aircraft or passing trains) can cause sleep disturbance. A guideline value may be set in terms of SEL or $L_{Amax,F}$, depending on the character and number of events per night. Sporadic noise events could require separate values."*

3.2.12 With regards to individual noise events, BS 8233 states that:

> *"A guideline value may be set in terms of SEL or $L_{Amax,F}$, depending on the character and number of events per night. Sporadic noise events could require separate values."*

3.2.13 The superseded version of the standard (1999 version) suggested a night time level of '45dB $L_{Amax,\ fast}$' which should not 'normally' be exceeded, and which concurs with current World Health Organisation guidelines.

3.2.14 It is recognised within the standard that where development is desirable *"these criteria may be relaxed by up to 5dB and reasonable internal conditions still achieved"*.

3.2.15 BS 8233 also advises on external noise limits in areas of a property such as gardens or balconies as follows:

> *"For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB $L_{Aeq,T}$, with an upper guideline value of 55 dB $L_{Aeq,T}$ which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure developments needs can be met, might be warranted."*

The World Health Organisation Guidelines for Community Noise (1999)

3.2.16 The World Health Organisation's (WHO) 'Guidelines for Community Noise' report for external environmental noise levels states that;

> *"4.2.7 Annoyance responses*
>
> *During the daytime, few people are seriously annoyed by activities with L_{Aeq} levels below 55dB; or moderately annoyed with L_{Aeq} levels below 50dB. Sound pressure levels during the evening and night should be 5-10dB lower than during the day, ..."*

3.2.17 For night-time noise sources the WHO guidelines recommend a night-time (23:00 – 07:00) 8-hour noise level of 30dB L_{Aeq} inside bedrooms (for reasonably steady noise source) to avoid sleep disturbance. However, this has been somewhat superseded by the more recent Night Noise Guidelines for Europe (2009) as detailed in Section 2.7.

3.2.18 For internal noise levels during the daytime and evening period it is suggested that a noise level of 35dB $L_{Aeq,16hr}$ (07:00 – 23:00hrs) be achieved within habitable rooms to avoid adverse speech intelligibility impacts and moderate annoyance.

World Health Organisation: Night Noise Guidelines for Europe (2009)

3.2.19 The 'Night Noise Guidelines for Europe' were published by the WHO in 2009 and works in association with the 2000 Guidelines for Community Noise.

3.2.20 The guidance states that;

> *"Considering the scientific evidence on the thresholds of night noise exposure indicated by $L_{night,\ outside}$ as defined in the Environmental Noise Directive (2002/49/EC), an $L_{night,\ outside}$ of 40dB should be the target of the night noise guidelines (NNG) to protect the public, including the most vulnerable groups such as children, the chronically ill and the elderly."*

3.2.21 The document accords well with the 'Good' internal design criteria as defined within BS 8233 when windows are open for ventilation.

Professional Practice Guidance on Planning and Noise (ProPG)

3.2.22 The document ProPG: Planning & Noise – Professionals Practice Guidance on Planning & Noise', provides guidance to practitioners on the recommended approach to the management of noise within the planning system in England.

3.3 Consultation with Derby City Council

3.3.1 Direct contact with the Environmental Protection Team at DCC has not been established prior to the noise survey and assessment, however in recent consultations

for similar schemes within the City Centre masterplan, the assessment methodology and criteria required are summarised to be:

- BS 8233:2014 design criteria should be applied in relation to general environmental noise intrusion into the proposed dwellings.
- BS 4142:2014 criteria should be applied in relation to sound from any retained industrial and commercial plant activity affecting the new dwellings. Given the nature of the location DCC may accept +5dB as an upper limit, but ideally would aim for a Rating value equal to or less than background.

3.3.2 It is noted that the BS8233 guidelines are suitable for steady continuous noise sources such as traffic and would be appropriate for the predominantly future residential area, however, due to the proximity of fringe commercial activity of the City Centre the L_{AMax} criteria from WHO Night Noise Guidelines for Europe regarding sleep disturbance should also be considered. The LOAEL would be considered to be equitable to an internal daytime level of 35dB $L_{Aeq,16hours}$ and 30dB $L_{Aeq,\ 8hours}$ at night time.

3.3.3 Furthermore, where Rating value in terms of BS4142 exceeds the background noise level, the temporary nature of the surrounding industrial and commercial activity is likely to result as the phases of the regeneration masterplan progress, and as a temporary basis, a level of around +5dB would be deemed acceptable and would be considered to be equitable to the LOAEL.

3.4 Discussion and Proposed Criteria

3.4.1 Based on the above guidance and Standards, and in line with previous noise impact assessment within the Authority, it was determined that the appropriate approach to assessment of the potential impact from the proposed development of the Site would include:

- A full BS 4142:2014 noise assessment should be undertaken to quantify the potential impact of existing industrial and commercial sound sources on future sensitive receptors across the Site; and
- Where necessary inform mitigation requirements, which should be considered as part of the application.

3.4.2 When considered in relation to the noise exposure hierarchy, the impact effect outcomes in the context of this BS 4142 assessment are as defined in Table 4, below.

Table 4: Relationship of BS 4142 assessment outcomes and the Impact Effect Level

Difference in Rating Level $L_{Ar,Tr}$ over Background Level $L_{A90,\ T}$	Impact	Effect Level
A level below, equal to or around the measured $L_{A90,\ T}$	Low Impact	NOAEL
A difference of around +5dB or more	Adverse Impact	LOAEL
A difference of around +10dB or more	Significant Adverse Impact	SOAEL
A difference of around +15dB or more	Unacceptable Adverse Impact	UAEL

3.4.3 Considering the above, a fully attended baseline survey has been undertaken to establish sound levels incident at the Site during typical daytime and overnight periods. The last hour period of the night time was selected for measurement as a worst case to allow for increasing early morning traffic noise in the vicinity.

3.4.4 The noise impact assessment described in the following sections describes the likely effect on amenity at the future noise sensitive receptors based on current activity at surrounding land uses.

4. Existing Acoustic Environment

4.1 Introduction

4.1.1 Baseline environmental sound monitoring was undertaken at the Site on 23rd October 2019 to assess the prevailing sound levels in the area during the daytime and overnight periods.

4.1.2 The survey consisted of attended monitoring at four locations around the Site boundary, as illustrated in Figure 4. The choice of positions was based both on accessibility and in terms of collecting representative noise data in relation to the future occupiers of the Site. Measurement Locations are described in detail in Appendix 3.

4.2 Noise Measurement Locations

4.2.1 The noise measurement locations are identified in Figure 4 below.

Figure 4:Noise measurement positions

Daytime noise climate

4.2.2 Noise levels were obtained at all 4 locations during the daytime period. The measurements at Locations 1, 2 and 3 were undertaken for 1 hour at each.

4.2.3 Measurement at Location 1 was dominated by distant traffic noise and HGVs on John Street accessing the Cemex site approximately 90m from the measurement location. Forklift trucks and other loading sounds were also noted from Derby Timber Supplies which is located within the Development Site boundary and will not be a future noise source.

4.2.4 Forklifts were also operating from the industrial unit immediately south of the Cemex site. Typical sounds audible at location 1 therefore included tonal reversing alarms, and general intermittent metallic bangs and crashes, and John Street is currently described as a vibrant place with lots of people around talking and working. Train noise was not discernible.

4.2.5 At location 2, the key noise source is local road traffic on John Street and Siddal Road with more continuous noise from road traffic on the A6 approximately 70m to the north. HGV movements are frequent from the Cemex site heading towards Siddals Road and similar industrial sounds to Location 1 are present. No train movements were audible. This position was chosen to be clear of any noise activities generated on the development site.

4.2.6 At location 3 the key noise source is from activity at the Cemex site. Lots of industrial sounds from machinery in use including alarms and HGV movement in and out of the Cemex site. Fork lift trucks were regularly in use on the site and in the street with frequent tonal reversing alarms. Noise from the tipping of aggregate from a lorry was also observed.

4.2.7 The noise climate observed at location 4 was more dependent on traffic movements on New Street and Canal Street, with a lesser contribution of industrial type noise from John Street. No obvious industrial sound was considered to be emanating from the individual buildings facing Canal Street which are predominantly trade counters and a brief snap shot of the noise climate over 15 minutes was measured for comparison to John Street.

4.2.8 A measurement further south on Canal Street was not possible due to atypical noise from an active construction site on the corner of Canal Street and Castleward Boulevard which was not considered to be representative of the future sound scape for the proposed development Site.

4.2.9 Key noise sources during the daytime are therefore local and more distant road traffic noise, and industrial activity from units on John Street, particularly at the Cemex batching plant.

Night time noise climate

4.2.10 Commercial and industrial premises in the area were noted to be closed during the night time period, and therefore the only concern was noise from road traffic sources, with measurements being undertaken at locations 1 and 2 only.

4.2.11 Local road traffic was minimal on all roads surrounding the Site during the survey with no traffic observed on John street or Castleward Boulevard for the duration of the night time surveys. Road traffic is not considered to be significant at Location 1 during the night time, however distant road traffic on Siddals Road and the A6 was audible in the background during the night time survey. No industrial sounds were audible at this location and the only other sound of note was from two aircraft passing overhead following take off from East Midlands Airport some 12km to the south east of Derby.

4.2.12 Overnight noise measurements at Location 2 were dominated by road traffic on Siddals

Road and the A6 rather than John Street which is very quiet to traffic at night with no passing vehicles for the duration of measurements. A low-level hum was audible during the overnight period assumed to come from the green industrial unit opposite the measurement location. However, the noise was not audible at the corner of the Site and no additional night time measurements were required in the otherwise quiet area.

4.3 Measurement Equipment

4.3.1 The equipment used during the survey is summarised in Appendix 3. The sound level meter was field-calibrated before and after each measurement period. Field-calibration showed a drift of less than 0.5dB over the duration of all attended surveys which is within acceptable tolerances. Moreover, the calibrator and sound level meter have been calibrated within the past year and in the past two years respectively, in accordance with the requirements of BS 4142. Calibration certificates are available by request.

Weather Conditions

4.3.2 During the daytime measurements on Wednesday 23d October 2019, the skies were 100% cloudy though no rain fell and the air temperature was noted to be 10°C. The roads surrounding the site were dry, with the exception of the north-bound side of John Street as wetted down HGVs existed the Cemex Site causing the road to be damp. Windspeeds throughout the daytime survey were less than 5ms^{-1} in a south easterly direction.

4.3.3 During the night time period of measurement, skies were clear with 0% cloud cover and road surfaces were dry. There was no rainfall during the survey, and air temperatures were around 6°C for the duration. The light breeze was noted to be less than 5ms^{-1} and in a south easterly direction.

4.4 Summary of Measured Noise Levels

4.4.1 Full details of the measured noise levels are presented in Appendix 3 and levels are summarised for each period in the following table.

Table 5: Summary of measured Sound Levels

Measurement Location	Measurement Period	Duration	Measured Sound Levels			
			$L_{Aeq,T}$	L_{AFmax}	$L_{A90,T}$	$L_{A10,T}$
Loc 1	Daytime	60 minutes	54.9	73.3	45.4	57.1
	Night time	30 minutes	41.1	52.3	37.7	43.0
Loc 2	Daytime	60 minutes	65.7	85.5	56.1	68.2
	Night time	30 minutes	51.5	71.4	38.5	53.0
Loc 3	Daytime	60 minutes	64.8	80.8	52.6	68.8

Measurement Location	Measurement Period	Duration	Measured Sound Levels			
			$L_{Aeq,T}$	L_{AFmax}	$L_{A90,T}$	$L_{A10,T}$
Loc 4	Daytime	15 minutes	60.4	75.4	52.2	63.6

5. Site Suitability Assessment

5.1 Introduction

5.1.1 In this section of the report, ambient noise levels are presented and discussed according to the BS 8233:2014 criteria for internal noise, and free-field values for external amenity area of the proposed development with reference to the WHO Community Noise Guidelines.

5.1.2 Sound from those industrial activities likely to be retained after construction of the proposed residential development have been considered in terms of BS 4142:2014.

5.2 Site Context

5.2.1 The prevailing sound climate is demonstrated to be dominated by road traffic noise and industrial noise during the daytime and road traffic noise to a lesser extent during the night time period.

5.2.2 The proposed development is divided into 5 residential Blocks. The noise levels measured at location 1 is deemed most representative of future noise levels at Blocks 1, 2, 3 and 5, in the absence of activity from the timber yard.

5.2.3 Noise levels at location 3 are representative of future noise levels at Block 4, assuming that activity at the Cemex facility persists beyond the redevelopment of Area C4.

Internal noise levels

5.2.4 The measured ambient sound levels at the Site boundary indicate a free-field noise level at the John Street elevation of Blocks 1, 2 and 3 of 55dB $L_{Aeq,T}$ during the daytime and 41dB $L_{Aeq,T}$ at night time.

5.2.5 Allowing a typical 15dB reduction for a partially open window in accordance with BS 8233, the expected internal noise levels within these Blocks would be 40dB $L_{Aeq,T}$ during the daytime and 26dB $L_{Aeq,T}$ overnight.

5.2.6 With reference to Table 3, sensitive rooms facing John Street in Blocks 1, 2, and 3 would meet the overnight noise criteria for bedrooms. However, the daytime internal noise criteria would be exceeded by around +5dB and mitigation measures may be required, depending on finalised internal layouts.

5.2.7 The position of Block 5 was not accessible for the purposes of noise measurement and as such as a worst case it is assumed that prevailing noise levels of the built form will be no worse than those currently experienced at Location 1. The Block is set back from John Street, and will also receive at least partial screening from the building mass of Blocks 1, 2, 3 and 4 and so in reality the noise levels will be significantly lower than those measured and may also require some façade mitigation for the daytime period, depending on the future land use of neighbouring sites and the screening provided by the wider development.

5.2.8 Further consideration of the internal noise climate should therefore be given based upon the measured ambient noise levels at the Site boundary. The provision of façade mitigation is likely to reduce dependant on the number of storeys proposed for the development.

5.2.9 Noise levels measured at the north western Site boundary, representative of Block 4 are likely to be around 65dB $L_{Aeq,T}$ at the elevation overlooking John Street and the Cemex depot during the daytime and up to 52dB at worst during the overnight period, based on measurements at Locations 3 and 2 respectively.

5.2.10 Internal noise levels, assuming a 15dB reduction for a partially open window would exceed the criteria for living rooms during the day 15dB, and 7dB at night. Internal

noise levels with windows closed, and suitable acoustic trickle vents would achieve the night time criteria, however, façade mitigation achieving a 30dB sound reduction would be required to achieve suitable internal noise levels, based on the current level of activity on John Street. Should this become a purely residential street in the future, the degree of mitigation could be relaxed.

5.2.11 Further consideration of the internal noise climate should therefore be given based upon the measured ambient noise levels at the Site boundary. The provision of façade mitigation is likely to reduce dependant on the number of storeys proposed for the development.

External noise levels

5.2.12 The proposed layout has minimal provision of outdoor amenity space, restricted to rear gardens for properties within Blocks 2 and 3, and communal landscaped provision to the rear of Blocks 1 and 4.

5.2.13 Measured ambient noise levels at Location 1, representative of Blocks 1, 2, 3, and 5 are within the daytime noise criteria recommended in BS 8233 and the WHO guidelines, and building mass of the proposed development would ensure that noise levels within private and communal amenity spaces are well within the criteria for external amenity, and no additional mitigation measures are required.

5.3 BS 4142 Assessment

5.3.1 The current surrounding land uses are primarily industrial and commercial in nature, and separate consideration should be given to the impact of these activities on any future sensitive development at the Site.

5.3.2 The measurement of industrial activity incident at Location 3 are representative of industrial activity affecting the proposed development site, in particular Block 4, and to a lesser extent Block 3. Industrial activity only occurs during the daytime period and therefore a reference period of 1 hour has been selected in accordance with BS 4142.

5.3.3 The noise level 65dB $L_{Aeq,T}$ obtained over the 1-hour period at Location 3 is considered to be representative of the specific sound level of typical operations across the whole working day at the future receptor and no adjustment to these average values presented in Table 5 is required.

5.3.4 A penalty of 2dB for tonality and 3dB for intermittency is applied to derive a reasonable worst case rating level of 70dB.

5.3.5 The background sound level attributable in the absence of the prime industrial activity of the Cemex depot is taken to be the average $L_{A90,T}$ sound level measured at Location 1, 45dB.

5.3.6 The difference between the rating level and the background sound level determines the impact that existing industrial operations would have at the proposed residential development. The outcome is +25dB and would be considered to be a "significant adverse impact, depending on the context" according to BS 4142, and would produce a SOAEL effect level response, which should be avoided.

5.3.7 The LPA's upper criteria for industrial noise impact is L_{A90} +5dB. For this Site, this level would be 50dB at the nearest residential boundary.

5.3.8 Mitigation would therefore be required to achieve a minimum reduction of 20dB at the nearest noise sensitive boundary. However, consideration should be given to the context of the proposed development.

5.3.9 Receptors who may be affected by noise from retained industrial operations on John Street, would ordinarily be within the proposed dwellings during the daytime operations. Therefore, the recommended mitigation measures identified in paragraph

5.2.10 would be increased to a glazing sound reduction specification of 35dB, and would be sufficient to achieve the internal noise criteria of BS 8233, as described above, and to also achieve the LOAEL outcome required for the BS4142 assessment and control the impact of industrial generated noise for future residents directly overlooking the Cemex site.

5.3.10 Again, given the wider masterplan proposals it is considered that the Cemex depot at some point will relocate. Should this occur before the development proceeds, mitigation measures can be relaxed.

5.4 Summary of Mitigation Requirements

5.4.1 Assuming that the industrial units to the west of John Street including the Cemex depot are retained, a mitigation package to affected façades would be required to achieve the internal noise criteria of BS 8233, including:

- For living rooms overlooking the Cemex site during the day, a sound reduction of 35dB is required at the façade.
- Windows would be required to remain closed to achieve the internal noise levels and therefore an alternative form of passive ventilation would need to be incorporated into the façade.
- As windows would be required to remain closed during typical daytime operations, consideration should also be given by the design team to the issue of thermal gain and risk of overheating of frontline properties.
- Windows should be openable for situations requiring fast purge, such as to allow the release of cooking odours or paint fumes.

5.4.2 However, it is also deemed likely that in time, the whole of the Castleward area will be regenerated from industrial and commercial use for residential land use, in line with the DCC masterplan to promote a living city.

5.4.3 Where the timescale for development coincides with the redevelopment of adjoining industrial land, such a prescriptive mitigation scheme would not be required and it is likely that standard thermal double glazing of all windows would be acceptable at all façades.

6. Conclusions and Recommendations

6.1.1 Ecus Ltd have been appointed by Lovell Partnerships Limited to undertake an assessment of noise impact on the proposed re-development of the brownfield industrial site to the east of John Street, Derby, part of the Castleward regeneration area, known as Area C4, for residential purposes.

6.1.2 This report summarises the baseline environmental sound monitoring undertaken on Wednesday 23rd October 2019 at four locations around the Site boundary. The results of the survey have subsequently been used to undertake the noise impact assessment following the methodology of BS 4142, and the internal and external noise design criteria of BS 8233.

6.1.3 The result of the assessment indicates that whilst the majority of the site would not be adversely affected by noise, based on the prevailing ambient noise levels of the area, sensitive rooms overlooking John Street, particularly in Block 4, and to a lesser extent Block 3 would be exposed to undesirable levels of industrial and traffic noise during the daytime operations of industrial units to the west of John Street.

6.1.4 An outline of necessary mitigation measures has been recommended in order to achieve good quality internal noise levels during the daytime period, which assumes that the current industrial operations remain the same. Where it is likely that the source of the noise impact is unlikely to be a long term feature of the development site, due to the incorporation into the wider regeneration area of Castleward, it may be decided that the phasing of the construction and or occupation of the Site known as C4 is sufficient mitigation to allow approval in terms of noise to be made.

Appendix 1: Glossary of Acoustic Terminology

Acoustics and Noise

Acoustics is the branch of physics concerned with the properties of sound, including ultrasound, infrasound and vibration. A scientist or engineer who works in the field of acoustics is an acoustician or acoustic engineer.

Sound can be measured by a sound level meter or other measuring system. Noise is related to a human response, and is routinely described as unwanted sound, or sound that is considered undesirable or disruptive.[2] Care has been taken in this document to use the most relevant of these terms (whereby 'sound' is used predominantly), however, in most reference documents, and, indeed, generally, 'sound' and 'noise' are used interchangeably. Consequently, just because the term 'noise' is used doesn't necessarily mean a negative effect exits or will occur, and the context of the accompanying text should be taken into account.

Human hearing is able to respond to sound in the frequency range 20 Hz (deep bass) to 20,000 Hz (high treble), and over the audible range of 0 dB (the threshold of perception) to 140 dB (the threshold of pain).

The ear does not respond equally to different frequencies of the same magnitude; but is more responsive to mid-frequencies than to lower or higher frequencies. To quantify sound in a manner that approximates the response of the human ear, a weighting mechanism is used, which reduces the importance of lower and higher frequencies in a similar manner to human hearing.

The weighting mechanism that best corresponds to the response of the human ear (though not necessarily perfectly) is the 'A'-weighting scale. This is widely used for environmental sound measurement, and the levels are denoted as dBA, dB(A) or L_{Aeq}, L_{A90} etc. according to the metric being measured or determined (see the Definitions over leaf).

The decibel scale is logarithmic rather than linear, and hence a 3 dB increase in sound level represents a doubling of the sound energy present. Judgement of sound is subjective, but as a general guide a 10dB increase can be taken to represent a doubling of loudness, whilst an increase in the order of 3dB is generally regarded as the minimum difference needed to perceive a change under normal listening conditions. Where other changes occur (associated with the change in sound level), such as additional vehicle movements on a road, which can be seen, then these may result in changes in sound level being more noticeable than they might otherwise be.

Further to such visual clues, and any other non-acoustical factors that affect people's response (such personal characteristics, and social, residential or environmental factors), the subjective response to a sound is dependent not only upon the sound pressure level and component frequencies, but also its intermittency. Consequently, various metrics have been developed to try and correlate people's attitudes to different sounds with the sound level and its fluctuations. The metrics used in this document, as per the relevant guidance, are defined overleaf.

[2] Taken from the Foreword to BS 4142:2014 *Methods for rating and assessing industrial and commercial sound.*

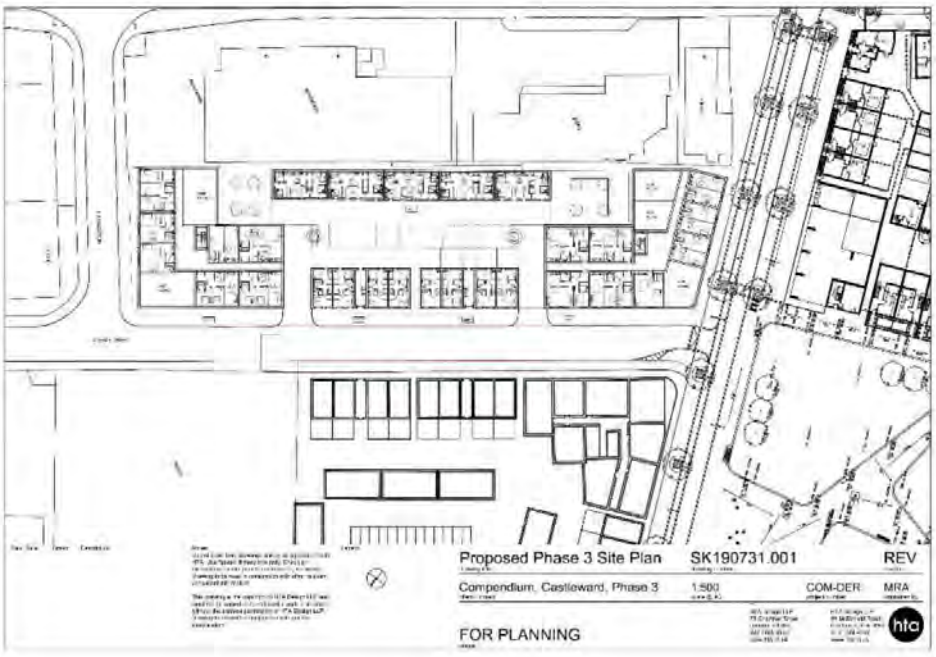
Table B1: definition of metrics used in this report

Metric	Description
Airborne Sound	Sound that reaches the point of interest by propagation through air.
Ambient Sound	Sound from all sources at any given time, form both near and far. Usually measured in terms of LAeq.
A-Weighting	The unit of sound level, weighted according to the A-scale, which takes into account the increased sensitivity of the human ear at some frequencies.
Background Sound Level	The A-weighted sound pressure level that can be considered the baseline in the absence of any noise from a specific source of sound under assessment. Measured in terms of LA90, T.
Calibration	The measurement system/ chain should be periodically calibrated, within a laboratory, against traceable calibration instrumentation, to either National Standards or as UKAS-Accredited, as required. The calibration of the system should also be checked in the field using a portable calibrator before and after each short-term measurement, and periodically for longer term monitoring.
Class 1	The Class of a sound level meter describes its accuracy as defined by the relevant international standards – Class 1 is more accurate than Class 2. The older standard IEC 60651 referred to the grade as "Type", whereas the new standard IEC 61672 refers to it as the "Class". The most accurate meters used in the field (as opposed to a laboratory) are Class 1, as required by BS 4142:2014, for example.
Decibel	A scale for comparing the ratios of two quantities, including sound pressure and sound power. The difference in level between two sounds (s1 and s2) is given by 20 log10 (s1/s2). The decibel can also be used to measure absolute quantities by specifying a reference value that fixes one point on the scale. For sound pressure, the reference value is 20 Pa.
Fast time Weighting (F)	Averaging time used in sound level meters. Defined in BS EN 61672-2:2013 Electroacoustics. Sound level meters. Pattern evaluation tests.
Free-field / Façade	Far from the presence of sound reflecting objects (except the ground), usually taken to mean at least 3.5 m away.
IoA	The Institute of Acoustics is the UK's professional body for those working in acoustics, noise and vibration. It was formed in 1974 from the amalgamation of the Acoustics Group of the Institute of Physics and the British Acoustical Society (a daughter society of the Institution of Mechanical Engineers). It is a nominated body of the Engineering Council, offering registration at Chartered and Incorporated Engineer levels. All our consultants/

Metric	Description
	engineers are individual Members.
LAF90, T	The A-weighted sound pressure level that is exceeded by the residual sound at the assessment location for 90% of a given time interval, T, measured using time fast time-weighting (F). Generally used to describe the 'background' sound conditions.
LAFmax	The maximum A-weighted sound pressure level during a given time period. Lmax is sometimes used for the assessment of occasional loud sounds, which may have little effect on the overall Leq noise level, but could still affect the sound environment. Unless described otherwise, it is measured using the fast time-weighting (F).
Leq, T	A sound level index called the equivalent continuous sound level over the time period T. This is the level of a notional steady sound that would contain the same amount of sound energy as the actual, possibly fluctuating, sound that was recorded. Where the value is A-weighted, is will be presented 'LAeq,T' or 'dBA Leq,T', otherwise is should be an un-weighted (or linear) value.
Lp	See Sound Pressure Level
Noise	Related to human response to sound. Unwanted sound, or sound that is considered undesirable or disruptive.
Octave Band	Frequency ranges in which the upper limit of each band is twice the lower limit. Octave bands are identified by their geometric mean frequency, or centre frequency.
Line Source	An idealised way of modelling a sound source, consisting of a uniform, flat plane.
Point Source	An idealised way of modelling a sound source, consisting of an infinitesimally small point, radiating sound equally in all dimensions
Sound Level Metrics	Sound levels usually fluctuate over time, so it is often necessary to consider an average or statistical sound level. This can be done in several ways, so a number of different metrics have been defined, according to how the averaging or statistics are carried out.
Sound Power	In a specified frequency band, the rate at which acoustic energy is radiated from a source. In general, the rate of flow of sound energy, whether from a source, through an area, or into an absorber.
Sound Power Level	Of airborne sound, ten times the common logarithm of the ratio of the sound power under consideration of the standard reference power of 1 pW. Expressed in decibels.
Sound Pressure	Sound, or sound pressure, is a fluctuation in air pressure

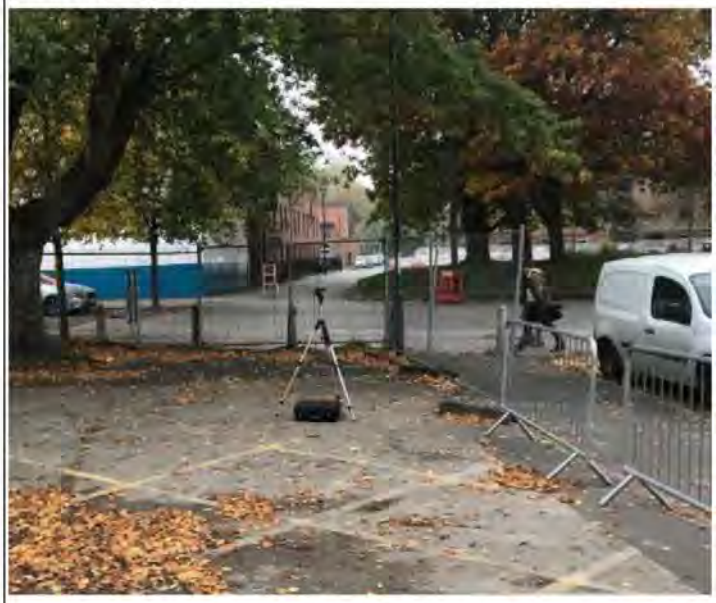
Metric	Description
	over the static ambient pressure.
Sound Pressure Level	The sound level is the sound pressure relative to a standard reference pressure of 20 Pa (20x10-6 Pascals) on a decibel scale.
Specific Sound	The sound source being assessed in a BS 4142:2014 assessment.
UKAS	United Kingdom Accreditation Service, recognised by government to assess organisations that provide certification, testing, inspection and calibration services against internationally agreed standards.

Appendix 2: Indicative Layout


Proposed Phase 3 Site Plan
SK190731.001
REV
Compendium, Castleward, Phase 3
1:500
COM-DER
MRA
FOR PLANNING
hta

Appendix 3: Baseline Environmental Noise Survey

Appendix Table 1: Description of Measurement Positions

Position	Description
MP1	The microphone was mounted on a tripod approximately 1.5m above local ground height and more than 3.5m away from any other reflecting surface – meeting the conditions for free-field measurements. The tripod was positioned approximately 3m from Johns Road, and 6m from Castleward Boulevard, within the security fencing of the development Site.  The nearest commercial unit is 'Bustler Market' which only operates as a street food market once a month so no activity was observed. The unit is within the re-development site and would not contribute to the future noise climate and therefore noise levels are representative of the proposed dwellings located to the south of the Site which are least affected by road traffic. No activity was observed at the light industrial unit directly opposite, but roller doors suggest loading and unloading of HGVs may take place intermittently.

MP2	The microphone was mounted on a tripod approximately 1.5m above local ground height and more than 3.5m away from any other reflecting surface – meeting the conditions for free-field measurements. The microphone was located adjacent to the boundary fence of residential apartments of Castle House which face Johns Road, approximately 3.5m from the kerb.  Noise levels measured at this location are considered most representative of traffic movement along John Street, which is busiest in its northern section, although there was nowhere suitable to locate the noise meter closer to the Site boundary. The road is not a through-road, so the same flow of traffic does not currently pass the full site, and most vehicles were attending the Cemex site opposite monitoring location 3. There was no obvious sound emitting from the ducts located on the industrial unit opposite which is understood to be storage for an educational supplies distributor, and is open 8am to 5pm Monday to Friday. At night time there is little local traffic on John Street and the dominant source of noise is road traffic on Siddals Road, and the A6.

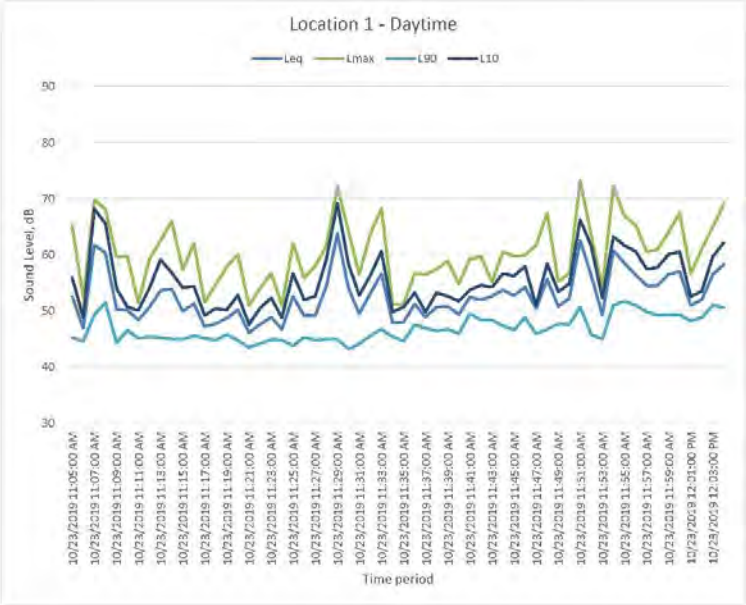
MP3	The microphone was mounted on a tripod approximately 1.5m above local ground height and more than 3.5m away from any other reflecting surface – meeting the conditions for free-field measurements. The tripod was positioned on the pavement adjacent to the northwest extent of the Site, close to the junction of Johns Road and New street, and immediately opposite the entrance to the Cemex facility. The Cemex operations were the key daytime noise source with frequent HGV movements in and out of the site. The Cemex site is understood to operate from 7am to 5pm Monday to Friday and 7am to 11:30 am on Saturdays, and noise levels measured at this position are used for the BS4142 assessment. 

MP4	The microphone was mounted on a tripod approximately 1.5m above local ground height and more than 3.5m away from any other reflecting surface – meeting the conditions for free-field measurements. The tripod was positioned on the pavement adjacent to the site boundary of the industrial units to the rear of the proposed development Site. There was no access to the rear of the units to identify the location of any fixed plant, and was dominated by road noise from local traffic on Canal Street and New Street, and the area was free of obvious industrial type sounds. 

Noise measurement Equipment employed for the environmental noise survey described in this report is summarised below:

Equipment	Model Type	Serial Number	Calibration Due Date
Sound Level Meter	01dB Metravib FUSION	11704	08/07/2020
Pre-amplifier	01dB Metravib PRE22	1707136	
Microphone	GRAS 40CD 1/22" Pre-polarised free-field	331728	
Calibrator	01dB Metravib CAL31	83395	07/04/2020

Noise level data measured at each location described above is presented in the following figures.


Location 1 - Daytime
Leq
Lmax
L90
L10
Sound Level, dB
Time period

32


Location 2 - Daytime
Leq
Lmax
L90
L10
Sound Level, dB
Time period

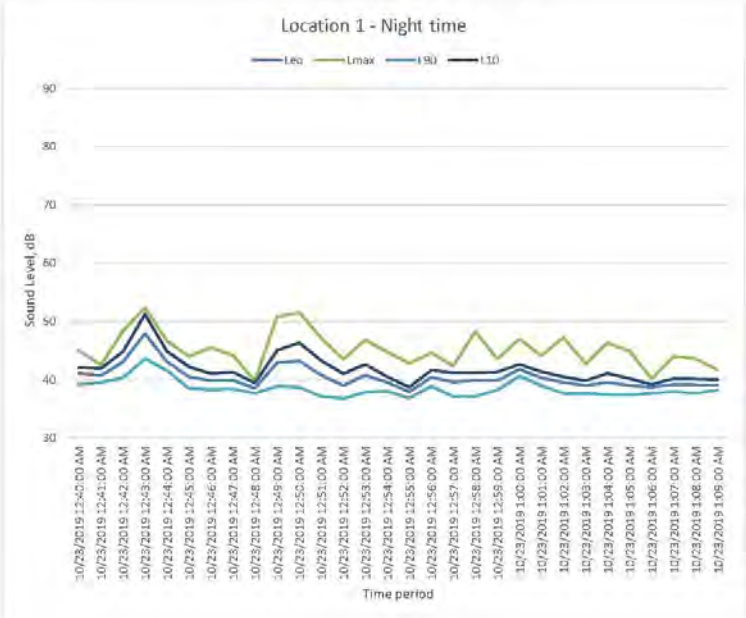
33


Location 3 - Daytime
Leq
Lmax
L90
L10
Sound Level, dB
Time period

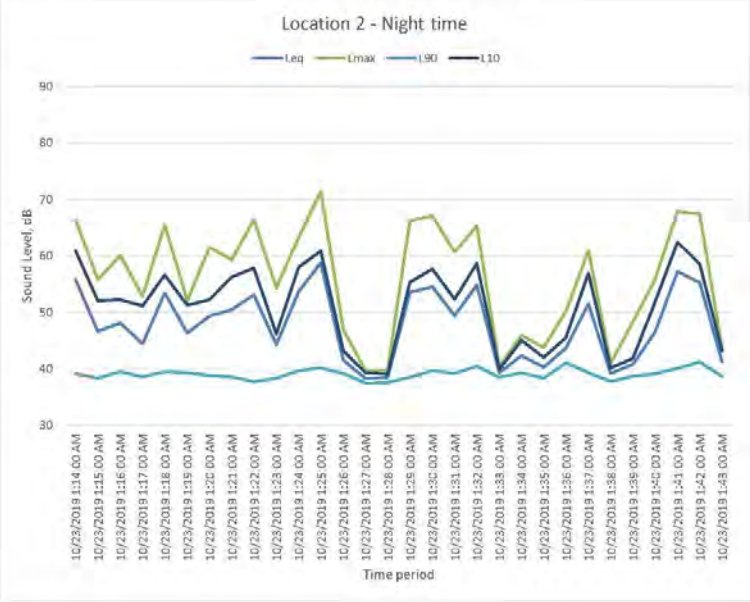
34


Location 4 - Daytime
Leq
Lmax
L90
L10
Sound Level, dB
Time period

35


Location 1 - Night time
Leq
Lmax
L90
L10
Sound Level, dB
Time period

36


Location 2 - Night time
Leq
Lmax
L90
L10
Sound Level, dB
Time period

37

Appendix 4: Uncertainty, Controls and Limitations

Uncertainty

Uncertainty is an unavoidable feature of measurements in the field, which can be subject to many factors; the weather typically being the most significant of which with respect to the measurement of sound. Uncertainty is also unavoidable in the prediction of sound levels, where naturally, before the scenario being considered becomes a reality, a number of assumptions need to be relied upon. There is also the uncertainty of people's reactions, which can be influenced by a number of factors, not just the magnitude or character of the sound in question.

In keeping with the scale of each project, therefore, it is our aim to minimise uncertainty at each stage as far as reasonably practicable. With this is mind, and where it is within our control, the control measures listed in this Appendix are followed, which have been derived from the guidance within BS 4142:2014 and the experience of our technical specialists.

Crucially, it has been determined that environmental noise measurements have been undertaken by suitably qualified staff, using in calibration equipment, in a number of locations, over a representative period, and avoiding adverse weather conditions.

The predictions have also been undertaken by suitably qualified staff, whilst using the best available information, an industry standard calculation method, and the most applicable calculation procedures.

Notwithstanding this, naturally some uncertainty remains. Given the sheer number of factors involved, however, it is not feasible to place a value on the level of uncertainty, without resulting in an unhelpful range of possible outcomes. It is our professional position that uncertainty has been kept to a realistic minimum and that the outcome of this assessment is sufficiently representative.

Uncertainty Control Measures	Applicable?	Adopted?/Comments
Measurement		
Only use in calibration Type/Class 1 equipment and check (and record) calibration level before and after measurements	✓	Yes
Measurements were taken using the time and frequency weighting specified by the relevant standard	✓	Yes
Detailed notes were made, including details of the equipment, weather, survey positions (including approximate distances), contributing noise sources, presence of screening etc.	✓	Yes
Take photographs, and record survey locations using GPS if possible	✓	Yes
Avoid standing waves/interference – listen for effects, take spatial average from several locations or conduct a sweep	×	N/A
Take measurements at different distances to	×	N/A

Uncertainty Control Measures	Applicable?	Adopted?/Comments
establish propagation		
Take measurements at different heights where relevant	×	N/A
Don't just measure at the "noisiest" parts of site, but establish how "quiet" it is, too, where relevant to the assessment	✓	Yes
Measure under different operating conditions relevant to your assessment / adopt worst case if known	✓	Yes
Measure more than one cycle/ event (ideally at least three)	×	N/A
Determine state of repair of any associated source, where relevant	×	N/A
Use a windshield and avoid windy conditions (i.e. gusts regularly exceeding 5 m/s)	✓	Yes
Avoid wet conditions (particularly in terms of rain on the windshield/mic and on neighbouring surfaces)	✓	Yes
Avoid electrical and electromagnetic interference (such as from power cables and radio transmitters)	✓	Yes
Avoid extreme temperatures – traffic conditions can be different in freezing conditions, whilst meters can overheat and fail in a case when in direct sunlight during the summer.	✓	Yes
Make measurements during different weather conditions (particularly relevant in terms of wind direction for sites affected by aircraft movements, but also for sites affected by other distant, but significant, sources of noise, in different directions	×	N/A
Where one source is dominant (such as a main road), as a minimum, measure during conditions favourable to propagation (i.e. when wind direction is within +/-45° of the line between the source and receiver or during temperature inversion, such as on clear calm nights)	×	N/A
Avoid tree/leaf (movement) sound where possible – ideally take measurements the same distance from sources of such sound as any receptors of interest	✓	Yes

Uncertainty Control Measures	Applicable?	Adopted?/Comments
Avoid dawn chorus sound where possible – ideally take measurements the same distance from trees and bushes as any receptors of interest	✓	Yes
Measure outside the receptor in question where possible; however, it is worst case typically to measure under free-field conditions and apply +3 dB correction to convert to "façade" where applicable – for most planning (new residential development) assessments, free-field is preferable	✓	Measured at approximate boundary of proposed development
Where it is not possible to install a meter outside the receptor in question, install a meter elsewhere and undertake additional attended measurements, either outside the receptor or at a representative location (when not adequately covered by the installed meter)	✓	Yes
Avoid atypical traffic conditions (such as during school holidays and road works – road traffic incidents can significantly affect flows, but which can't be predicted, and their occurrence can't always be established after the survey – check the data for anomalies)	✓	Yes
Avoid presence of you and/or the microphone resulting in atypical conditions (e.g. people stopping to talk, workers on site adjusting their way of working, etc.)	✓	Yes
Data handling		
Download data immediately after survey and process promptly whilst details are fresh in your head	✓	Yes
Use digital transfer methods wherever possible, double check data read-off manually	✓	Yes
Look at the time-history (in as fine a resolution as possible) for any unexpected events – preferably with active spectral data (i.e. in dBTRAIT)	✓	Yes
If removing any data (due to an atypical event, for example), 'save as' a new file and provide a note to the data within the corresponding Excel file	-	N/A
Prediction		
Use measurement data at different	×	N/A

Uncertainty Control Measures	Applicable?	Adopted?/Comments
distances to verify propagation		
Use measurements at different heights to verify screening effects, where relevant	×	N/A
Use propagation calculation procedure relevant to source and distance	×	N/A
Use detailed traffic flow data applicable to the assessment methodology	×	N/A
Use detailed sound source data (including octave-bands levels), accounting for size, height and directivity, where known	×	N/A
Use detailed topographical data and base mapping	×	Not modelled
Identify different ground types	×	Not modelled
Apply an order of reflections of at least one	×	Not modelled
Use 3D view feature of the modelling software to check the accuracy of the model	×	Not modelled
Produce contour plots as a further means of identifying any abnormalities or errors in the model	×	Not modelled

Limitations to This Report

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ANNEXURE 3
DERBYSHIRE AND DERBY MINERALS LOCAL PLAN – SPRING 2018 CONSULTATION BACKGROUND PAPER – SAFEGUARDING OF MINERALS RELATED INFRASTRUCTURE

DERBYSHIRE AND DERBY MINERALS LOCAL PLAN

Towards a Minerals Local Plan:
Spring 2018 Consultation

Background Paper
Safeguarding of Minerals Related Infrastructure

December 2017

DERBYSHIRE County Council

Derby City Council

CONTENTS

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1 Introduction and Background

1.1 Mineral safeguarding is a planning term used to describe the process of ensuring that both natural mineral resources (e.g. the surface coal resource) and built development associated with their extraction and use (e.g. a concrete batching plant or a rail freight line) are not sterilised unnecessarily or prevented from operating by other types of development. It ensures that the minerals which are produced are supplied to the market in the format required (such as concrete or coated road stone), and that the potential is maintained to transport them in sustainable ways, including by rail or water.

1.2 In terms of the natural mineral resource, mineral safeguarding is carried out through the identification of Mineral Safeguarded Areas (MSAs) and Mineral Consultation Areas (MCAs). This is the subject of the Mineral Safeguarding Paper. This paper will concentrate on how the minerals related infrastructure might be safeguarded.

1.3 Safeguarding these types of infrastructure would ensure that the minerals planning authority is able to comment on, and resist any future developments which may be considered to have a negative impact on the existing operations.

2 National Planning Policy

2.1 National guidance for the extraction of minerals is set out in the National Planning Policy Framework, (published in March 2012).

2.2 As set out in Paragraph 142 of the NPPF, the Government believes that, "Minerals are essential to support sustainable economic growth and our quality of life. It is important, therefore, that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation."

2.3 In Paragraph 143, the NPPF sets out that, "...local planning authorities should...safeguard:

- existing, planned and potential rail heads, rail links to quarries, wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, including recycled, secondary and marine-dredged materials; and
- existing, planned and potential sites for concrete batching, the manufacture of coated materials, other concrete products and the handling, processing and distribution of substitute, recycled and secondary aggregate material."

2.4 As such, the safeguarding of minerals infrastructure is something that must be addressed in the Minerals Local Plan.

2.5 The NPPF also states, in Paragraph 22 that, "planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

2.6 In terms of transport infrastructure, the NPPF, in paragraph 41 states that, "local planning authorities should identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice."

3 National Planning Policy Guidance (NPPG)

3.1 This states that Mineral Planning Authorities should safeguard existing, planned and potential storage, handling and transport sites to:

- ensure that sites for these purposes are available should they be needed; and
- prevent sensitive or inappropriate development that would conflict with the use of sites identified for these purposes.

3.2 In areas where there are county and district authorities, responsibility for safeguarding facilities and sites for the storage, handling and transport of

minerals in local plans will rest largely with the district planning authority. Exceptions will be where such facilities and sites are located at quarries or aggregate wharves or rail terminals.

3.3 Planning authorities should consider the possibility of combining safeguarded sites for storage, handling and transport of minerals with those for processing and distribution of recycled and secondary aggregate. This will require close co-operation between planning authorities.

4 Description of Relevant Infrastructure Types

Railheads

4.1 A railhead is a structure at the end of a rail line at which freight can be loaded and unloaded.

Rail links to quarries

4.2 This refers to the portion of the rail line that is devoted specifically to mineral freight traffic for the use of one or more quarries.

Wharfages

4.3 A wharf (or quay) is a structure on the bank of a river or canal where river vessels may dock to load and unload freight.[i]

Concrete Batching Plants

4.4 A concrete plant, also known as a batching plant, is a facility that combines various ingredients to form concrete, and then delivered to where it is required. Some of these inputs include sand, water, aggregate (rocks, gravel, etc.), fly ash, potash and cement. There are two types of concrete plants: ready mix plants and central mix plants. A typical tower type concrete batching plant consists of a feed hopper and conveyor, which is used to transport aggregates to a series of storage hoppers which are normally a free standing separate item, but at some plants are located at the main structure. The main tower will usually consist of a cement silo with small aggregate hoppers located below. The batch weigher, with the delivery chute leading from it, is mounted beneath the aggregate hoppers and silo. The mixer vehicle will normally take up position beneath the

plant for loading with the required quantity of concrete mix. At many plants, additional cement silos have been added alongside the batching tower.[ii]

Coated Material Plants

4.5 This type of plant is used for the manufacture of asphalt, macadam and other forms of coated roadstone.

4.6 The manufacture of coated roadstone demands the combination of a number of aggregates, sand and a filler (such as stone dust), in the correct proportions, heated and finally coated with a binder.[iii]

4.7 The temperature of the finished product must be sufficient to be workable after transport to the final destination. A temperature in the range of 100 - 200 degrees Celsius is normal.

4.8 Increasingly, recycled asphalt pavement (RAP) is used as part of the mix. The binder used is flammable, and the heaters are large liquid or gas fired burners. RAP is introduced after the heating process and must be accounted for in the overall mix temperature calculations.

4.9 There are three main classes of plant: batch heater, semi-continuous and continuous (or "drum mix"). The batch heater has the lowest throughput, the continuous plant the highest at up to around 500 tonnes per hour.

Other Concrete Product Facilities

4.10 This category of development would include any other facility manufacturing a product made from concrete (e.g. pre-cast concrete and paving slabs).

Substitute, Secondary and Recycled Aggregate Plants

4.11 For more information on these facilities, please see the Secondary and Recycled Aggregates Supporting Paper.

5 Infrastructure Located within the Plan Area which could be Safeguarded

Transport Infrastructure

5.1 There are currently three known operational railheads, three known non-operational railheads, four rail links to quarries and no wharves in Derbyshire and Derby (see Appendix A for a list of the sites and a map of their locations). These already benefit from the safeguarding of the host quarry.

5.2 The authorities are not aware of any current proposals for any more of the above infrastructure types.

Concrete Batching Plants

5.3 We undertook research to determine the location of concrete batching plants in the Plan area. We contacted mineral operators and met with district/borough council representatives to find this information. This research found 35 concrete batching plants in the Plan area. (see Appendix B for a list of the sites). We sent letters to the operators of each of these facilities asking for information to inform the preparation of the paper. Response to this was very low. We sent a follow up letter in September 2015, to which only a small number of responses have been received.

5.4 As can be seen from the list, some are located on existing mineral workings whilst others are standalone facilities on industrial estates in urban areas. The numbers and distribution of the sites involved do not suggest that any individual plant is critical in its own right; each would appear to serve its own relatively limited local area.

5.5 It can be beneficial where the batching plant is located within a quarry as the host operation often supplies a large proportion of the raw materials for the manufacture of concrete or asphalt. Other concrete plants are situated within industrial estates. Large development sites build their own temporary concrete plants to supply the contract.

Coated Stone Plant (Asphalt)

5.6 Asphalt is a vital product as it is used in many different applications. These include road construction and maintenance, pavements, airport runways, school playgrounds, car parks, footpaths and cycleways, and the roofing of buildings.

5.7 Our research so far has determined that there are four coated stone plants in the Plan area. These are listed in Appendix B. Two are within quarries and two are in industrial estates. Letters were sent to the operators of these facilities in 2013 to gather information on the facilities. Response was very low and a follow up letter was sent in September 2015 to gather further information to enable us to assess whether the sites should be safeguarded, in particular in this respect to determine the size and output of the facility and the geographical area which it serves.

Appendix A: Railheads and Rail Links in the Plan Area

Please note, the list of developments in this category is at an early stage of collation and requires input from a number of different organisations.

Infrastructure Type	Location	Operational?	Comment
Railhead	Tunstead Quarry	Yes	
Railhead	Dowlow Quarry	Yes	
Railhead	Doveholes Quarry	Yes	
Railhead	Hillhead Quarry	No	
Railhead	Whitwell Quarry	No	
Railhead	Hindlow Quarry	No	Active for imports from Tunstead Quarry only
Rail Link	To Former Oxcroft Disposal Point	No	Rail lines removed. Future reopening depends on viability
Rail Link	Whitwell Quarry	No	
Rail Link	Buxton to Dowlow Quarry	Yes	
Rail Link	Buxton to Chapel-en-le-Frith via Tunstead and Dove Holes Quarries	Yes	

Appendix B: Other Minerals Related Infrastructure in the Plan Area

Infrastructure Type	Location	Currently Operational?	Part of Existing Mineral Site?	Comment
HIGH PEAK				
Ready Mixed Concrete	Peak Works, Eldon Lane, Peak Forest, Buxton, SK17 8EW	YES	NO	
Ready Mixed Concrete	Northern Concrete, 200 Hadfield Rd, Glossop, SK13 2EP	YES	NO	
Ready Mixed Concrete	RBS Concrete, The Old Goods Yard, Off Midland Road, High Peak, Chapel-en-le-Frith, SK23 9RE	YES	NO	
Ready Mixed Concrete	1, Harpur Hill Business Park, 34A Cedar Ave, Buxton, SK17 9JL	YES	NO	
Ready Mixed Concrete	46, Elnor Lane, High Peak, Derbyshire, SK23 7EU	YES	NO	
Ready Mixed Concrete + Coated stone	Cemex, Dove Holes Quarry, Dale Rd, Buxton, SK17 8BH	YES	YES	Strategic
Ready Mixed Concrete	Ernest Hinchliffe, Dowlow Works, Buxton, SK17 9QF	YES	YES	Strategic
CHESTERFIELD				
Ready Mixed Concrete	Brimington Road, Chesterfield S41 9BE	YES	NO	
Ready Mixed Concrete	Sheepbridge Industrial Estate, Broombank, Chesterfield Road, Chesterfield, S41 9QJ	YES	NO	
Ready Mixed Concrete	Unit 11, Armytage Industrial Estate, Chesterfield, S41 9ET	YES	NO	

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Coated Stone	Chesterfield Macadam, 49 Brimington Road, Chesterfield, S41 9BE	YES	NO	
Ready Mixed Concrete	Cemex, Chesterfield Plant, Storforth Lane, Chesterfield, S40 2TU	YES	NO	
DERBYSHIRE DALES				
Ready Mixed Concrete	Chestnut House, 183 The Hill, Cromford , DE4 3QU	YES	NO	
Ready Mixed Concrete	Ryder Point Rd, Matlock, Derbyshire, DE4 4HE	YES	NO	
Ready Mixed Concrete	Unit 1, Wellington Place, Blenheim Rd, Ashbourne, Derbyshire, DE6 1HA	YES	NO	
NORTH EAST DERBYSHIRE				
Ready Mixed Concrete	Holmewood Industrial Park, Park Road, Chesterfield, S42 5UY	YES	NO	
DERBY CITY				
Ready Mixed Concrete	John St, Derby, DE1 2LU	YES	NO	
Ready Mixed Concrete	Aggregate Industries Megaloughton Lane, Derby, DE21 7BR	YES	NO	
Ready Mixed Concrete	Chaddesden Quarry, Chequers Road, Derby, DE21 6EP	YES	NO	20,000 cubic metres annual output
Ready Mixed Concrete	Warren Lane, Derby, DE74 2RG	YES	NO	
AMBER VALLEY				
Ready Mixed Concrete	Midland Industrial Estate, Belper, DE56 2HX	YES	NO	
Ready Mixed Concrete	Pye Bridge Industrial Estate, Alfreton, DE55 4NX	YES	NO	

SOUTH DERBYSHIRE				
Ready Mixed Concrete	90, Donisthorpe Lane, Swadlincote, DE12 6BB	YES	NO	
Ready Mixed Concrete	Swarkestone Quarry, Twyford Road, Swarkestone, DE73 7HA	YES	YES	Strategic
Ready Mixed Concrete	Shardlow Quarry, Aston Lane, Weston on Trent, DE72 2SP	NO	YES	Strategic
Ready Mixed Concrete	Elvaston Quarry			
Ready Mixed Concrete	Bridge St, Swadlincote, DE11 8EL	YES	NO	
EREWASH				
Ready Mixed Concrete	Cemex, Slack Lane, Heanor, DE75 7GX	YES	NO	

[i] http://en.wikipedia.org/wiki/Wharf, accessed 08/09/17

[ii] http://www.voa.gov.uk/corporate/Publications/Manuals/RatingManual/RatingManualVolume5/sect285/b-rat-man-vol5-s285.html, accessed 08/09/17

[iii] http://en.wikipedia.org/wiki/Asphalt_plant, accessed 08/09/17

ANNEXURE 4
DERBYSHIRE AND DERBY MINERALS LOCAL PLAN – SPRING 2018 CONSULTATION
CHAPTER 10

DERBYSHIRE AND DERBY

MINERALS LOCAL PLAN

Towards a Minerals Local Plan:

Spring 2018 Consultation

CHAPTER 10

10.1 Safeguarding Mineral Resources

December 2017

DERBYSHIRE County Council

Derby City Council

Introduction

10.1.1 Minerals provide essential raw materials for developing and sustaining our society – whether this is for construction, manufacturing, agriculture or energy production. Minerals are a non-renewable resource, and can only be worked where they occur. To protect these valuable resources for the long term and to ensure that they are available for use by future generations, it is important that they are not sterilised by non-mineral development being built over, or in close proximity to, them, such as housing, retail or industry.

10.1.2 Mineral Safeguarding Areas (MSAs) are designated to provide long term protection to areas of proven mineral resource that are considered to be of local and national importance.

10.1.3 The designation of MSAs does not convey any presumption that mineral extraction is acceptable; nor do they preclude other development from being permitted; their purpose is to provide a policy tool to ensure that mineral resources are taken into account alongside all other considerations when they are at risk from being lost to other forms of non-mineral development. There is also no presumption against mineral extraction in areas that are not safeguarded, as MSAs may not necessarily capture every viable resource.

Vision and Objectives

10.1.4 The Vision will help to define the direction of the Plan by stating where we want to be in terms of mineral development by the end of the Plan period. It will set out what the Plan area will be like in terms of mineral development in 2030 if the policies and proposals of the Plan have been delivered successfully over the Plan period. The Objectives will set out how the Vision will be delivered and implemented.

Objective 1 - Ensuring a Steady and Adequate Supply of Minerals
Objective 2 - Delivering Sustainable Minerals Development
Objective 4 – Safeguarding Mineral Resources and Facilities
Objective 6 - Protecting the Natural and Built Environment

10.1.5 The following objectives are relevant to this chapter:

Of these, Objective 4 is particularly relevant to this chapter. This sets out that mineral resources and the facilities which are used to process and transport extracted minerals will be protected from inappropriate development that would impair their availability and use for future generations. This will include the identification and safeguarding of surface and underground mineral resources of local and national importance, important aggregates supply and transport infrastructure such as rail heads, coating and concrete plants and effective co-operation with the district and borough councils in the area.

Evidence Base

10.1.6 Derbyshire County Council and Derby City Council obtained information on safeguarding of minerals from a variety of sources as a foundation for preparing the new Minerals Local Plan as a replacement for the adopted Derby and Derbyshire Minerals Local Plan, 2000. A summary of the information obtained is presented below.

British Geological Survey: Good Practice Guidance

10.1.7 The British Geological Survey (BGS) published the document "Minerals Safeguarding in England: Good Practice Advice" in September 2011. This complements the NPPF by supporting and facilitating MPAs in their implementation of national policy with respect to the safeguarding and prior extraction of minerals. It provides independent advice and a step by step methodology on how to define MSAs to prevent the needless sterilisation of minerals, as required by the NPPF. It advises that in most cases, MSAs should cover the full extent of mineral resources considered to be of economic importance and that they should also cover urban areas under which mineral resources lie.

National Planning Policy Framework

10.1.8 Government policy in the National Planning Policy Framework (2012) sets out that mineral resources should be considered equally alongside all other natural

assets when determining planning applications for new development. It requires, therefore, that all mineral planning authorities define Mineral Safeguarding Areas (MSAs) so that known locations of specific mineral resources of local and national importance are not needlessly and unnecessarily sterilised by non-mineral development.

National Planning Practice Guidance

10.1.9 This guidance was published in 2014. In terms of safeguarding of minerals, it states that minerals are a non-renewable resource, and that safeguarding ensures that non-minerals development does not needlessly prevent the future extraction of mineral resources, which are of local and national importance. It states that minerals should be safeguarded in designated and urban areas where considered necessary, and that policies may be included that encourage the prior extraction of minerals if it is necessary for non-mineral development to take place in Mineral Safeguarding Areas. It explains also that Mineral Planning Authorities (MPAs) should determine the extent of MSAs using the best available information on the location of all mineral resources in the authority area. This, it states, may include the use of British Geological Survey maps, as well as industry sources.

10.1.10 The British Geological Survey (BGS) published the document "Minerals Safeguarding in England: Good Practice Advice" in September 2011[1]. This complements the NPPF by supporting and facilitating MPAs in their implementation of national policy with respect to the safeguarding and the prior extraction of minerals. It provides the most up to date, independent advice on an approach to defining MSAs.

Consultations Undertaken and Comments Received

10.1.11 The development of the new Minerals Local Plan has included a series of consultations to ascertain the views of relevant local authorities, organisations and bodies with an interest in mineral development and the potential

[1] Minerals Safeguarding in England: Good Practice Advice, September 2011.

implications of mineral development and the people of Derbyshire and their representatives.

Stakeholder Workshop 2009

10.1.12 In July 2009, Derbyshire County and Derby City Councils held a workshop for key stakeholders. This helped to identify the key issues and themes that people thought the Minerals Local Plan should address and sought the input of stakeholders in developing the vision and objectives for the Plan. The outcomes of the workshop were published on the Council's website and in a newsletter that was circulated to stakeholders. Safeguarding was identified by stakeholders as a key issue which should be addressed in the MLP in the preparation of the Plan.

Issues and Options 2010

10.1.13 In the Issues and Options Paper (2010), two issues were included relating to the safeguarding of mineral resources. The first asked people how they think we should define mineral safeguarding areas. Responses indicated support for an approach which safeguards all proven mineral resources of local and national importance (83%). This approach is broadly in accordance with national policy and guidance and with the approach to safeguarding set out in the 2011 BGS guidance on minerals safeguarding, which is the most recent up to date guidance regarding mineral safeguarding.

10.1.14 The second issue set out an initial policy approach to safeguarding. 94% (16 out of 17 responses) thought that we should continue broadly the approach set out in Policy MP17 of the adopted Minerals Local Plan. One response disagreed, saying that Policy MP17 is inadequate because it merely says that proposals for development which would sterilise minerals will be resisted and does not constitute an effective means of safeguarding those resources. It goes on that there should be a presumption against competing development, conveyed by policies in the Development Plan, which will only allow permission to be granted in exceptional circumstances as defined by those policies. The emerging policy has been drafted to address this comment.

Towards a Minerals Local Plan – Rolling Consultation 2015/2016

10.1.15 The draft proposals set out in the Issues and Options exercise were prepared prior to the introduction of significant changes in international and national planning policy, notably the publication of the National Planning Policy Framework. Other emerging local policies and strategies and new evidence were also taken into account in the formulation of the vision, objectives and policies for the new Plan, including the approach of the Plan to the safeguarding of mineral resources.

10.1.16 There were 43 responses to this part of the document from 20 individuals or organisations. The following is a summary of the main issues raised:

- One comment suggests that the high grade industrial element of the Permian Limestone should be safeguarded separately to distinguish them from the aggregate grade mineral.
- Three consider that safeguarding of building stone should not be as restrictive and it should cover all the resource. One of these refers also to clays and Sherwood sandstone
- Most agree that urban areas should be washed over but one considers it impractical except for shallow coal or sand and gravel.
- One asks whether the policy can safeguard non- designated minerals for example on the line of proposed HS2.
- It is suggested by the Coal Authority that there may be cases where deep coal could be safeguarded so as not to conflict with sensitive surface land development.
- The opinion regarding the definition of buffer zones is split. The MPA states that we should build the buffers into the MSAs in accordance with good practice rather than use the MCA. It is also stated by others that there should be no set buffer zones but that they should be determined on a case by case basis and only where absolutely necessary.
- There are 11 comments of support for the overall approach as proposed and for the minerals which are proposed to be safeguarded.

- Support is expressed for the exempt categories of development but to include also applications for Listed Building consent and revised to ensure that any alterations/intensifications of use does not increase sensitivity.
- There are other comments requesting wording changes.

A full report on representations is available in Towards a Minerals Local Plan: Spring 2018 Consultation, Report of Representations.

Assessment of Comments and Outcomes for the Plan

10.1.17 The following is the Councils response to the issues raised above. All comments received have been used to determine the content of the Plan.

- The Councils do not have the same detailed information available regarding the specific grades of mineral in the Permian Limestone deposit.

- The proposal to safeguard only parts of the sandstone/gritstone resource resulted from the fact that this resource is so extensive and only small areas are found to be of sufficient quality to use as building stone. Safeguarding those areas which are known to contain good quality resources (i.e. existing building stone quarries) and the area around these quarries is considered to be a pragmatic approach.

- BGS guidance advises that MSAs should be defined to cover all urban areas, in order to highlight the potential for extracting significant quantities of mineral which can exist beneath urban regeneration projects and brownfield sites, and which may otherwise be overlooked. A series of exemptions will apply so that district councils will not have to consult the MPA on minor developments in these areas.

- The County Council will be consulted on the final route for HS2, and the issue of mineral sterilisation will be one of the issues that we will raise at that time.

- There is no requirement in the NPPF or Planning Practice Guidance to safeguard deep coal resources. The only issue of mineral sterilisation that needs consideration in relation to deep coal resources is whether licensed underground coal workings may become operationally sterilised by non-mineral surface development.

- BGS Good Practice sets out that it will be appropriate to include buffer zones beyond the mineral resource to address potential risks from incompatible development. The buffer zones will be determined according to the particular mineral and these, together with the mineral resource, will form the Mineral Safeguarding Area. This whole area will also be the Mineral Consultation Area and this will be used to ensure that district/borough councils consult the mineral planning authority on non-mineral planning applications that may affect the mineral.

- Noted.

- Changes made as appropriate.

Duty to Cooperate

10.1.18 National Planning Practice Guidance sets out that in planning for minerals extraction, mineral planning authorities are expected to cooperate with other authorities on strategic cross boundary matters.

10.1.19 In order to obtain as much relevant information as possible about safeguarding of mineral resources, Derbyshire County Council and Derby City Council has engaged in meetings and discussions with relevant authorities. We have also corresponded with organisations and individuals with relevant knowledge to develop our evidence base for the 2015/2016 consultation exercise and for developing the approach set out below.

10.1.20 The safeguarding of mineral resources is considered to be a strategic cross boundary matter by virtue of the fact that minerals are of national and local economic importance, which straddle administrative boundaries and are often transported significant distances to where they are used. It is important, therefore, to ensure that a co-ordinated approach is taken to the safeguarding of minerals which cross administrative boundaries and to ensure also that safeguarding policies are compatible between authorities. We have liaised with, and will continue to liaise with, adjoining MPAs regarding this issue.

Further detail is included in the Duty to Cooperate Paper, December 2017.

Sustainability Appraisal

10.1.21 The Sustainability Appraisal process is a way of testing the impact of the Plan against a series of Sustainability Objectives. Where the process recommends improvements to the Plan, these will be incorporated. A sustainability appraisal was undertaken on all the Papers that constituted the Towards a Minerals Local Plan Rolling consultation 2014-2017, including those concerning safeguarding of mineral resources. The following is a summary of the report regarding safeguarding.

The proposed approach would have positive implications by ensuring a steady supply of minerals for economic development. It would also help to ensure that the need for mineral imports was minimised, which would reduce carbon emissions. Larger development will need to demonstrate that resources cannot be extracted as part of the development. This could discourage the redevelopment of some sites but also provide the opportunity to extract resources which could partially fund the development. An uncertain effect is predicted for economy and housing, although it is not expected that significant effects would occur as the policy ought to take account of the viability and feasibility of resource extraction.

The full appraisal is set out in the following document:

Interim Sustainability Appraisal Report 2017

The Proposed Approach

10.1.22 Taking account of comments received and all other considerations referred to above, the following approach to safeguarding of mineral resources is proposed.

Minerals to be Safeguarded

10.1.23 The following minerals will be safeguarded to ensure that they are taken into account in proposals for non-mineral development:

- Glaciofluvial sand and gravel.
- Carboniferous limestone (aggregate, industrial and building stone grades).
- Fluorspar (found within the carboniferous limestone).
- Permian limestone (industrial and aggregate grade).
- Surface mined coal.
- Namurian sandstone (building stone).
- Sherwood sandstone.
- Fireclay (found within the coal measures).
- Brick clay.

10.1.24 For this Plan period, it is proposed to safeguard the entire resource of the Carboniferous Limestone (including associated Fluorspar) Permian Limestone, alluvial sand and gravel and surface mined coal (including associated Fireclay). These areas are shown on the maps in Appendix 1.

A more selective approach is proposed for resources of sandstone/gritstone used for building/roofing purposes, other clays and Sherwood Sandstone, for which it is proposed to only safeguard those resources within existing quarries and disused quarries with known remaining resources and potential areas for

extension around these quarries. The precise areas of these resources will be published shortly.

Development Close to Mineral Resources

10.1.25 Development which is close to, but not actually within, a mineral resource may also lead to the sterilisation of part of the resource. For example, if a house was built in this zone close to a mineral resource, a quantity of the resource may not be able to be worked (it would be sterilised) as the property would lie within the area that could be affected by the effects of mineral working to an unacceptable degree. To take account of such risks and to also account for the inexact nature of mapped geological boundaries, particularly for more scarce resources, it has been considered whether it will be necessary to extend the MSA beyond the actual resource boundary, using a buffer zone. Responses to this approach have not provided a clear steer either way. We have to rely on national guidance and BGS Good Practice therefore, which supports an approach which includes buffer zones. It is considered to be a pragmatic and appropriate approach to this issue, which is also used by many other mineral planning authorities. In accordance with recent examples of good practice, for resources where blasting is not required, this buffer zone has been set at 250m. The use of blasting requires the buffer zone for crushed rock resources to be greater and has therefore been set at 500m.

10.1.26 It may well be the case that, with modern blasting techniques, the issue can be resolved satisfactorily and development can take place close to mineral workings with neither party being affected to a significant extent, but at least this approach will ensure that the issue can be considered at an early stage in the process of determining a planning application, hopefully at pre-application stage.

10.1.27 The resource, together with the additional buffer zone, is designated as the Mineral Safeguarding Area to ensure that the mineral is afforded the

appropriate protection from non-mineral development. Because Derbyshire is a two tier area, this area will also be the Mineral Consultation Area. In areas covered by this designation, the District/Borough Planning Authorities will be required to consult the Mineral Planning Authority on planning applications within this area.

Further more detailed information regarding the background to the approach taken to mineral safeguarding is available in the Background Paper on Mineral Safeguarding, December 2017.

Policy SG1: Safeguarding Mineral Resources

The following mineral resources and associated buffer zones will be safeguarded from other forms of surface development to protect the resource for the future:

i) All crushed rock resources (Carboniferous (with associated Fluorspar) and Permian Limestone) with an additional 500m buffer;

ii) All sand and gravel and shallow coal resources (with associated fireclay) with an additional 250m buffer;

iii) Safeguarding of resources of sandstone/gritstone for building and roofing purposes, Sherwood Sandstone and clays will be limited to existing quarries and disused quarries with known remaining resources and potential areas for extension around these quarries with an additional 250m buffer.

Development within Mineral Safeguarding Areas

10.1.28 There will be cases where non-mineral development can take place within mineral safeguarding areas. The following policy shows when this will be possible. Where it can be shown to take place, to prevent the unnecessary

sterilisation of mineral resources, there may be opportunities for extraction of the mineral prior to or as part of the development. The developer will be required to provide the necessary justification.

10.1.29 The extraction of mineral prior to or as part of the redevelopment of the site may be of economic advantage due to the availability of mineral on site for the development proposed or the shorter distance to market if sold. There will be different issues regarding prior extraction depending on the mineral involved, but it is most likely to be viable for shallow resources such as sand and gravel and surface coal. In the case of coal, in particular, prior extraction can help to rectify issues associated with land stability.

10.1.30 As a two-tier planning system exists in the planning authority area, the District and Borough councils in that area will be responsible for ensuring that development proposals that they determine in Safeguarding Areas are assessed appropriately. This will be done by using defined Minerals Consultation Areas, within which the District/Borough Councils would consult with Derbyshire County Council, as minerals planning authority, before decisions are taken on certain forms of non-mineral development which could sterilise minerals resources.

Exempt Development

10.1.31 Given that the majority of planning applications are submitted for development within urban areas, the designation of MSAs covering urban areas could potentially lead to a large amount of unnecessary notification between district planning authorities and mineral planning authorities. To overcome this, we have included a list of exempt developments, which will have no significant implications for mineral safeguarding and therefore on which the district planning authority will not be required to consult the mineral planning authority. These are set out below.

- Applications for householder development (extensions).

- Applications for alterations and extensions to existing buildings and for change of use of existing development, unless intensifying activity on site.
- Applications for advertisement consent.
- Applications for reserved matters, including subsequent applications after outline consent has been granted.
- Development which is in accordance with the development plan where the plan took account of the prevention of mineral sterilisation and determined that prior extraction should not be considered when applications in a MSA/MCA came forward.
- Prior notifications (telecoms, forestry, agriculture, demolition).
- Certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development.
- Applications for works to trees.
- Applications for temporary planning permission.
- Applications for Listed Building Consent

Policy SG2: Development within Mineral Safeguarding Areas

Within a Mineral Safeguarding Area, non-mineral development will only be permitted where:

a) It can be shown that it would not sterilise the mineral or prejudice future extraction; or

b) it constitutes exempt development (as defined in the Safeguarding Exemption Criteria list, above) or

c) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or

d) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource; or

e) The non-mineral development is of a temporary nature that does not inhibit extraction within the timescale that the mineral is likely to be needed or;

f) it can be shown that the proposal for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations, or;

g) where it is necessary for non-minerals development to take place, the mineral will be extracted prior to the development (where this can be achieved in practicable and economic terms without unacceptable impact on the environment or local communities and having regard to the benefits of the restoration of the site),

Applications for development other than mineral extraction in Minerals Safeguarding Areas must include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

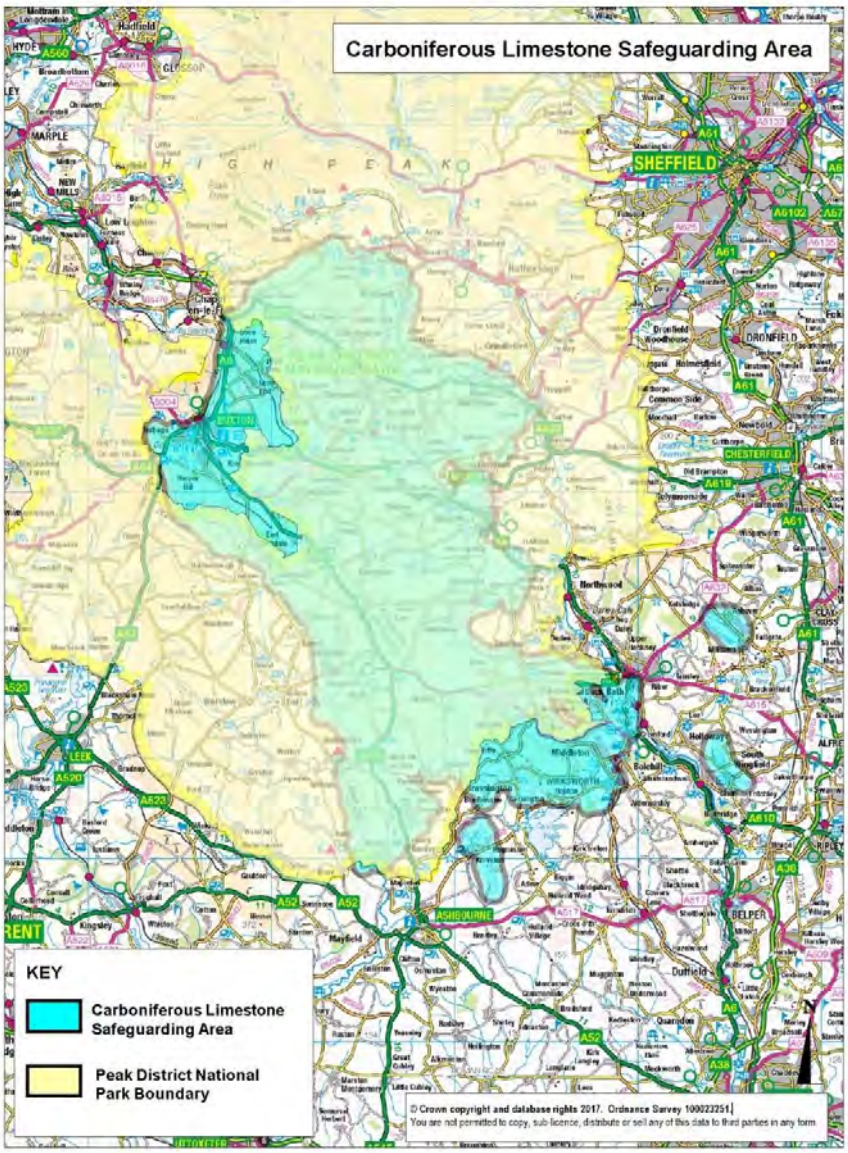
Monitoring

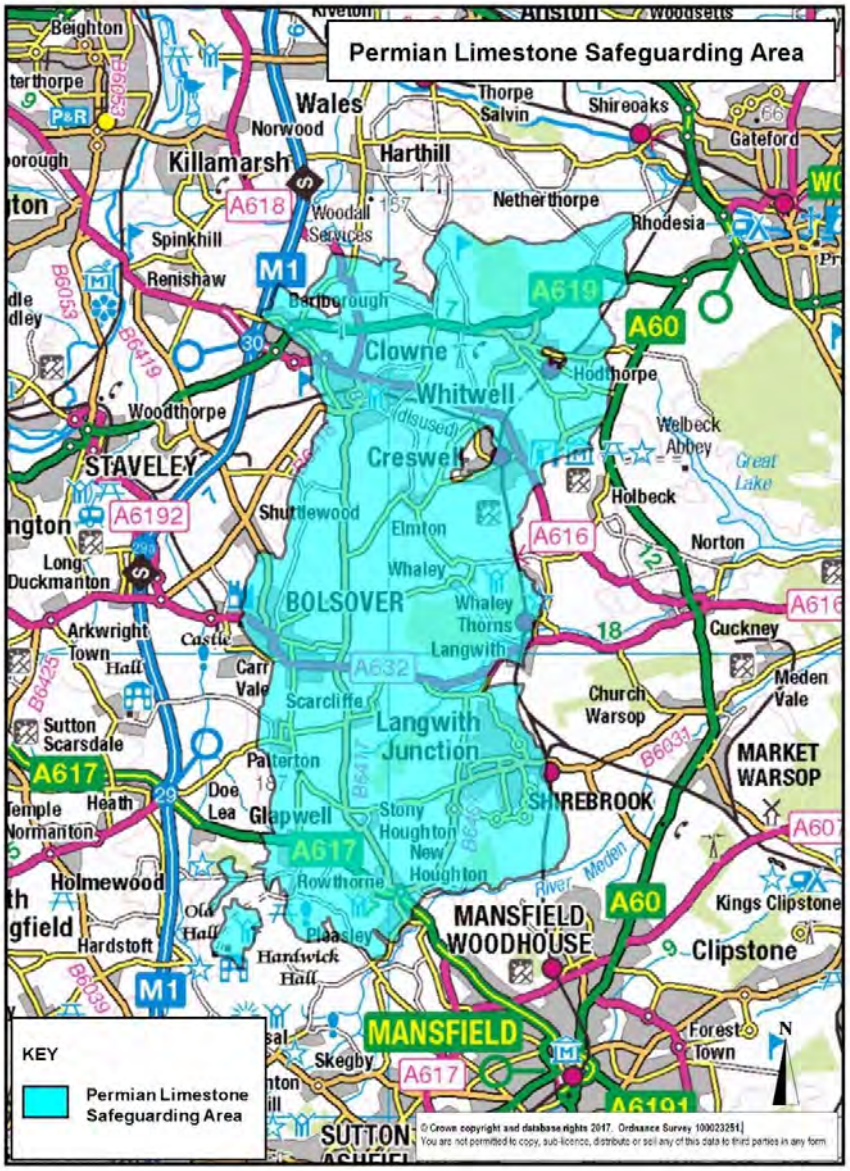
10.1.32 The Plan, as set out at in Chapter 3, will contain a number of objectives to be achieved over the Plan period, in order to achieve the Plan's overall Vision.

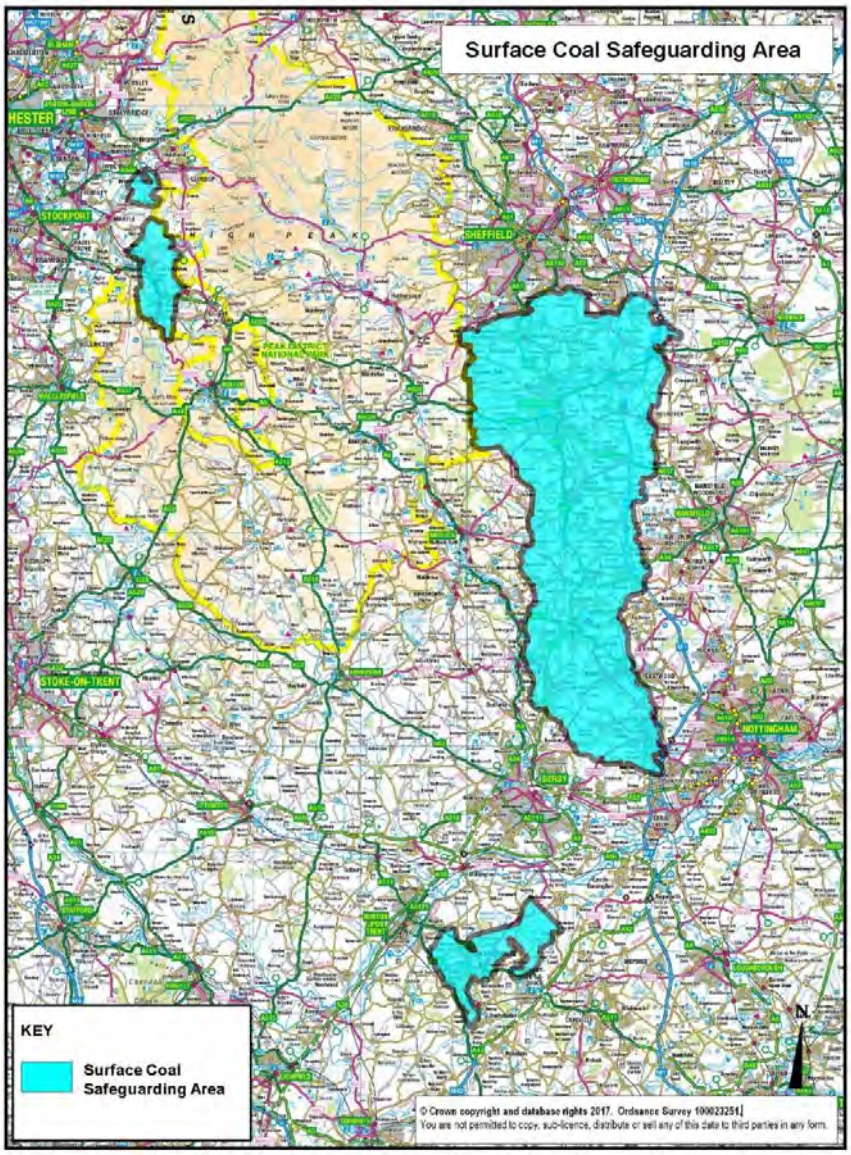
The effectiveness of the Plan's polices and proposals, put in place to meet those objectives, will be monitored so that, if necessary, issues can be identified and addressed through a revision of the Plan, either in whole or part.

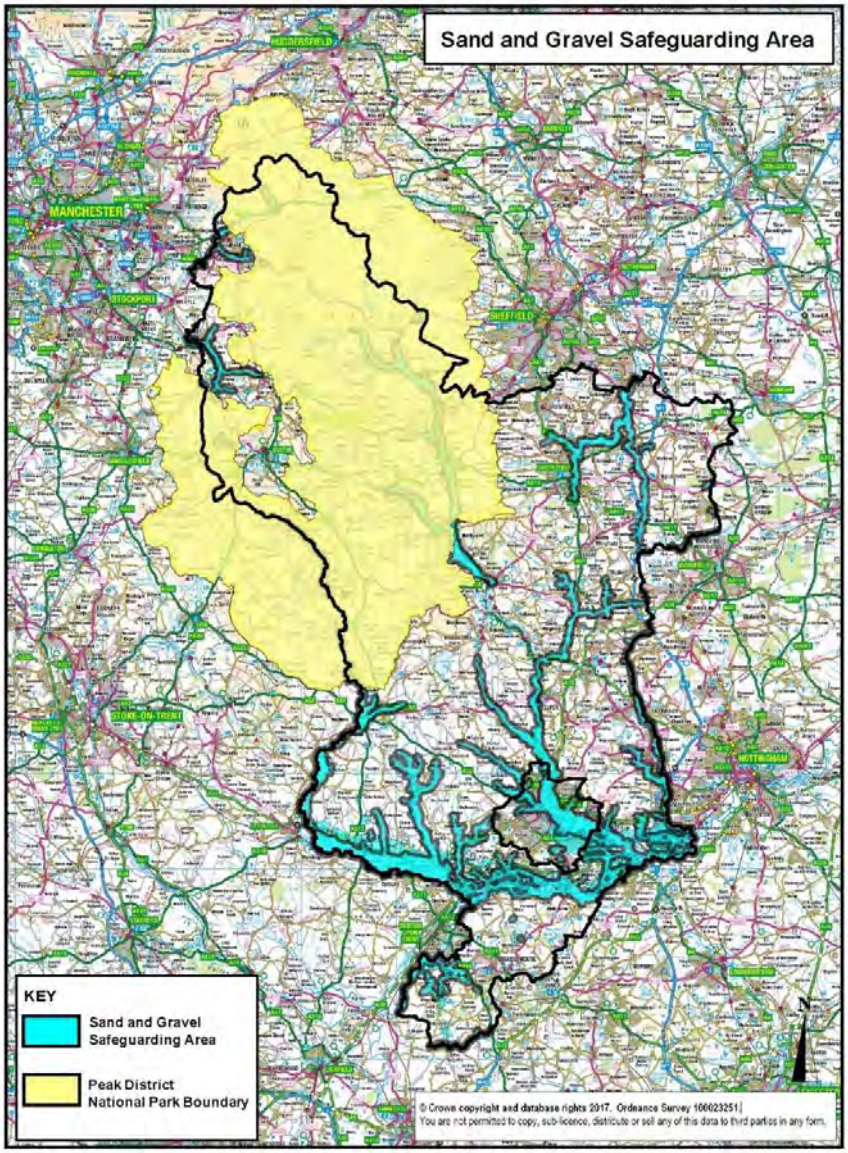
Do you have any comments on the proposed approach to safeguarding mineral resources, as set out in this Chapter?

APPENDIX 1









ANNEXURE 5
CONTACT BETWEEN THE ACQUIRING AUTHORITY AND THE OBJECTOR

Date	Parties	Contact	Description
27/03/2019	Acquiring Authority Objector	Letter	First contact by the Acquiring Authority regarding land referencing and property related enquiries
03/04/2019	Acquiring Authority Objector	Letter	Service of Notice pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 Acquiring Authority will endeavour to enter into discussion with landowners affected by the Castleward scheme and to acquire land by negotiation. REQUEST FOR INFORMATION QUESTIONNAIRE: THE CASTLEWARD URBAN VILLAGE REGENERATION SCHEME, DERBY
17/04/2019	Objector Ardent Management	email Letter	Completed request for information questionnaire returned
20/06/2019	Acquiring Authority Objector 	Meeting	Initial meeting with Thomas Lister Objector mention relocation costs likely to be circa £2.0M & Total Extinguishment significantly in excess of this Thomas Lister indicate that they have high level advice from Wood Group indicating similar relocation costs (but have never disclosed this)
24/06/2019	Acquiring Authority	email	Details of land to let within 15-mile radius of Derby

Date	Parties	Contact	Description
	Objector		Details of land for sale within 15-mile radius of Derby
12/09/2019	Acquiring Authority	email	Updated details of land to let within 15-mile radius of Derby
	Objector		Updated details of land for sale within 15-mile radius of Derby
19/09/2019	Acquiring Authority	Letter	Refers to delay to proposed CPO
	Objector		Acquiring Authority committed to acquire land by agreement but compulsory purchase powers being sought
			Refers to letter dated 10/07/2019 (not seen)
01/11/2019		Letter	Refers to information event held on 09/10/2019
	Acquiring Authority		Acquiring Authority prefers to acquire land by agreement
	Objector		Acquiring Authority offers reasonable assistance in identifying suitable alternative premises
			Offers appointment to meet Thomas Lister
13/11/2019	Acquiring Authority		Acquiring Authority resolved to make CPO
02/12/2019	Acquiring Authority	email	Updated details of land to let within 20-mile radius of Derby
	Objector		Updated details of land for sale within 20-mile radius of Derby
05/03/2020	Acquiring Authority		THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020
09/03/2020	Acquiring Authority	Letter	Notice of Making of the CPO
	Objector		Acquiring Authority Statement of Reasons for making the CPO.

Date	Parties	Contact	Description
03/04/2020	Objector National Planning Casework Unit		Objection to The Derby City Council (Castleward) Compulsory Purchase Order 2020
23/04/2020	Acquiring Authority Objector	Email	Email from the Acquiring Authority suggesting that the conference call on 24 April 2020 should also consider the progress made by the Objector's agent in connection with alternative relocation sites
24/04/2020	Acquiring Authority Objector	Telecon	General update re relocation opportunities
04/05/2020	Ministry of Housing Objector	Letter	Notice that letter dated 03/04/2020 has been registered as a remaining objection to the Order
29/04/2020	Acquiring Authority Objector	email	List of possible relocation sites
26/05/2020	Acquiring Authority Objector	Telecon	General update re relocation opportunities
09/07/2020	Acquiring Authority Objector	Telecon	General update re relocation opportunities
14/07/2020	Planning Inspectorate	email	Notice of public Inquiry

Date	Parties	Contact	Description
	Objector		
20/08/2020	Acquiring Authority	email	Acquiring Authority CPO Statement of Case
28/08/2020	Acquiring Authority Objector	email	Marketing particulars for 13 & 15 Victory Park, Derby
24/09/2020	Acquiring Authority Objector	Telecon	General update re relocation opportunities
12/10/2020	Acquiring Authority Objector	email	Acquiring Authority provide Severn Trent contact details
13/10/2020	Wood Group Objector	email	Requesting details of site suitability
28/10/2020	Acquiring Authority	email	Appendix 3 - Funding the scheme Shown as HIF land is funded by a mix of Homes England HIF, unringfenced Right to Buy receipts and deferred land receipt
05/11/2020	Planning Inspectorate	email	Pre-Inquiry meeting agenda
09/11/2020	Planning Inspectorate	email	Pre-Inquiry meeting

Date	Parties	Contact	Description
	Objector		Inspector's notes
10/11/2020	Acquiring Authority	email	Acquiring Authority notify Objector that they acquired the freehold interest in the John Street site on 06/11/2020
	Objector		Land Registry information indicates purchase price was £542,000
11/11/2020	Acquiring Authority	email	Acquiring Authority list of potential relocation sites
	Objector		
12/11/2020	Acquiring Authority	Telecon	General update re relocation opportunities
	Objector		Acquiring Authority first mention that they do not intend to pay CPO compensation but intend to refuse to grant new lease under Landlord & Tenant Act 1954
12/11/2020	Acquiring Authority	email	Acquiring Authority provide Leavesley Group contact details
	Objector		
12/11/2020	Acquiring Authority	Telecon	Acquiring Authority first suggest that they may refuse grant of new lease
	Objector		
17/11/2020	Acquiring Authority	Telecon	Acquiring Authority confirm their intention to refuse grant of new lease
	Objector		
04/12/2020	Acquiring Authority	Letter	Landlord & Tenant Act 1954 s25 Notice to terminate tenancy
	Objector		

ANNEXURE 6
SITES PROPOSED BY THE ACQUIRING AUTHORITY FOR RELOCATION OF THE OBJECTOR'S BUSINESS

Site Address	**Proposed Rent (per annum)**	**Reason for unsuitability**
Albert Looms, Megaloughton Lane, DE21 7ND		Area required too large; timescales too long; the directors of the business have no interest in letting to the Objector
Leavesley Group, Raynesway, DE21 7BF		Planning policies unlikely to allow concrete batching plant operations in this location
Trebor Developments, Mega Point, Megaloughton Lane, DE21 7ND	Asking rent £244,874.50	Unrealistic rent: approximately eight times more than the current rent
Severn Trent Raynesway/Spondon, DE21 7BE		Owner is unable to commence discussions at the present time
Network Rail Chaddesden Sidings, DE21 6NZ		Awaiting confirmation of flood defence proposals from the Acquiring Authority

Site Address	Proposed Rent (per annum)	Reason for unsuitability
Rolls Royce, Osmaston Rd, DE23 8JS		Unable to progress due to insufficient interest from other parties
Northedge, Alfreton Rd, DE21 4AP		Owner would not accept concrete batching plant operations on the site
Units D & E Kingsway Industrial Park, DE22 3FT	£85,000	Acquiring Authority has not indicated that it would accept the additional costs of locating plant within a building
Unit 2 Bemrose Park, DE21 6XQ	£78,000	(Includes buildings) Acquiring Authority has not indicated that it would accept the additional costs of locating plant within a building
Units 13 & 15 Victory Park, Victory Road, DE24 8ER		Owner is unable to accommodate the Objector's requirements
1Stores Rd DE21 4BG		Site has been let

Site Address	Proposed Rent (per annum)	Reason for unsuitability
Land and Buildings, 9 Thirsk Place, Osmaston Park Industrial Estate, Derby, DE24 8JJ	For sale with a guide price of £1,500,000	For sale only; under offer but still available
St Modwen Park, Wyvern Way DE21 6NZ		Large scale 50-acre development. Agents for St Modwen reported that their client's view was that if it was one of the last parcels of land on the scheme, they'd probably be interested but given they're just starting out their view was that, at this stage, the use would not be suitable
Sinfin Commercial Park DE24 9GL		Owner is unable to accommodate the Objector's requirements
Precision Park, Bateman Street, Derby, Derbyshire DE23 8JQ		Access via Bateman Street is unsuitable due to narrow road and offices not needed

Site Address	Proposed Rent (per annum)	Reason for unsuitability
Derby Pride Parkway, DE24 8JH		Unsuitable due to sensitive neighbouring properties (car dealerships and other prime users) and unlikely to be granted planning consent as the area is a gateway into Pride Park
Locomotive Way, DE24 8PU		Unsuitable due to sensitive neighbouring properties (car dealerships etc.) and unlikely to be granted planning consent due to nature of highway network and unsuitable HGV routing
Uttoxeter New Road DE22 3EA		Unsuitable due to sensitive neighbouring properties and unlikely to be granted planning consent as not in a designated employment area
Asher Ln - Open Storage Land - Ripley, DE5 3SW		Insufficient land available (0.37 acres)

Site Address	Proposed Rent (per annum)	Reason for unsuitability
Centrum Way - Design & Build Site - Burton On Trent, DE14 2SY		Outside area of interest
2 Hallam Fields Road - Storage Land Rear of 2 Kensington Works, Ilkeston, DE7 4BR		Insufficient land available (0.4 acres)
Land at Hollygate Lane - Nottingham, NG12 3JW		Outside area of interest
Littlewell Ln, Stanton-By-Dale, DE7 4QW		Outside area of interest
Lows Ln - Foundry Works, Ilkeston, DE7 4QU		Outside area of interest
Private Road No 3 - Open Storage Land Nottingham, NG4 2BA		Outside area of interest
Welshcroft Close - Summit Colliery Nottingham, NG17 8GJ		Outside area of interest
Wiltshire Road DE21 6EZ		Residential road; totally unsuitable location