

HAMPSHIRE COUNTY COUNCIL**Decision Report**

Decision Maker:	Regulatory Committee
Date:	17 September 2014
Title:	Variation of Condition 10 of planning permission 84776 (noise) at Manor Farm Recycling Facility, Pennington, Lymington SO41 8QZ. (Application No. 14/10255) (Site ref: NF042)
Reference:	6109
Report From:	Head of County Planning

Contact name: Kristina King

Tel: 01962 846496

Email: kristina.king@hants.gov.uk

1. Executive Summary

- 1.1. Planning permission is sought for the variation of Condition 10 of planning permission 84776 (noise) at Manor Farm Recycling Facility, Pennington.
- 1.2. The main issue is the control of noise from the operations at the site impacting on users of the locality and local residents. In considering conditions the Planning Practice Guidance – Use of Conditions states that planning conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 1.3. Therefore the points for consideration are (i) the existing noise limits for the site as stated in Condition 10 of planning permission 84776, (ii) the precision and enforceability of the existing condition (iii) noise limits in the proposed variation of condition, and (iv) the precision and enforceability of the proposed condition.
- 1.4. In conclusion, it is recommended that a variation to condition is approved, although in different terms to that proposed by the applicant. Consequently it is recommended that the following conditions should replace condition 10 of planning permission 84776:
 - The operator shall comply with New Milton Sand & Ballast Manor Farm – Pennington NOISE MANAGEMENT PLAN Issued: 23rd August 2014.
 - The level of noise emissions from the site ‘Manor Farm – Pennington’ when measured in accordance with BS 4142:1997 at the noise monitor location (431221, 93738) shall not exceed either:

59dB $L_{Aeq,1hour}$

or

69dB L_{AFmax} on more than two occasions in any one hour period.

- The operator shall measure and record operational noise levels in accordance with BS 4142:1997 at the noise monitoring location (431221, 93738) as detailed on plan PEN-0814-A and local automated weather station records for the site (wind direction, wind speed and precipitation) shall be recorded half hourly and available for retrieval on a daily basis. The recorded noise levels and weather station records shall be made available to the Planning Authority in a suitable format within one week of any written request from the Waste Planning Authority.

2. Site

- 2.1. The 4.5 hectare site, as shown on the attached plan, is currently operating as a permanent Recycling Facility. The site is bounded to the north and east by a bund measuring between five and six metres in height. To the south east of the site there is a small copse of trees and scrub. To the west the site adjoins the haul road that serves Efford Household Waste Recycling Centre, Pennington Wastewater Treatment Works and the former Efford landfill site. The haul road provides access to the Recycling Facility from the A337 to the north. RoW footpath 84b runs alongside the haul road. RoW footpath 81 runs east to west approximately 260m to the north of the centre of the site.
- 2.2. The closest house (Manor Farm House; Grade II Listed Building) to the north east of the site is approximately 405m from the centre of the site to the Manor Farm House garden boundary, to the house it is approximately 450m. To the north of Manor Farm House there is a housing development served by Newbridge Way, the nearest property boundary here is approximately 460m from the centre of the site. Houses to the east/south east are beyond approximately 485m from the centre of the site.
- 2.3. The site lies approximately 550m north of the Solent and Southampton Water Special Protection Area (SPA) and Hurst Castle & Lymington River Estuary Site of Special Scientific Interest (SSSI). It is also approximately 550m to the north east of the Solent & Southampton Water RAMSAR Site. The site lies within the South West Hampshire Green Belt. The New Forest National Park is located approximately 630m to the east of the site at the nearest point and 630m to the north.
- 2.4. The range of waste currently handled at the site is construction/demolition waste, soils, skip and commercial wastes. At present the site sorts, separates, crushes and screens the incoming waste. There is material left following processing that cannot be easily sold for re-use due to it being mixed with soils or clay bound materials that do not screen well. This has historically been used for local restoration projects or sent to landfill.

- 2.5. At present approximately 120,000 tonnes of inert waste is delivered to the site per annum. The site currently exports around 54,000 tonnes per annum of semi processed inert waste product to the Caird Avenue aggregates processing facility in New Milton to be recovered through the use of the washing plant. In return around 17,000 tonnes of fines from washing both primary and secondary aggregates is received back from Caird Avenue. Around 66,000 tonnes of inert, processed material is sold off site or sent to recovery operations or for disposal. The daily average for HGV loads is 47 from the Manor Farm Recycling Site. In addition inert waste can be brought to the site by customers in small, non HGV vehicles. These movements have not been included within the HGV daily averages. It is stated that at present approximately 80% of the waste that enters and products that leave the site are carried in 21 tonne loads (8 wheelers). The remaining 20% is carried into and out of the site in 17 tonne loads (6 wheelers).
- 2.6. The Caird Avenue aggregates site receives around 52,000 tonnes per annum of primary, as dug aggregates in addition to the 54,000 tonnes per annum of semi processed inert waste from Manor Farm, Pennington. There are on average 33 HGV loads from Caird Avenue.

3. Site History

- 3.1. Planning permission was granted in 2005 for the retention and development of an existing waste recycling management and composting facility (84776). The site was granted permanent permission. The planning permission was granted subject to conditions. Condition 10 of the permission restricts noise levels:

“10 – Noise from operations on site including the plant and machinery and vehicles related to it shall not exceed 35dB LAeq 1 Hour when calculated on the nearest boundary of Manor Farm House to the site. In addition, the noise when calculated at the above location shall at no time exceed 50dB LAm_{ax}. The operators shall take such measures as may be necessary, including sound insulation of buildings and plant, the silencing of vehicles and machinery to ensure that the noise level is not exceeded.

Reason: In the interests of local amenity”

- 3.2. In 2007 when the operator (New Milton Sand and Ballast (NMSB)) came to erect smaller buildings on the site it was demonstrated that Condition 10 could be achieved prior to construction taking place.
- 3.3. The Waste Planning Authority began receiving noise complaints from the residents of Manor Farm House in September 2012. Prior to this New Forest District Council (NFDC) Environmental Health received isolated complaints directly from the residents of Manor Farm House and a councillor, these complaints were logged in 2005 and 2007. In December 2012 noise measurements were undertaken by NFDC Environmental Health, results of the monitoring were not made available until July 2013. Analysis of the results concluded that the noise when calculated at the nearest boundary of

Manor Farm House exceeded 50 dB L_{Amax} . During the intervening period discussions had been on going with NMSB regarding the reduction of noise levels at the site. NMSB implemented some restrictions on operations within the site on a voluntary basis (such as the installation of cover chains on skip trucks with rubber, change to the drag beams from metal to wood, attenuation of loader fan noise, and installation of a DON'T "bang and clatter" sign at the weighbridge) and submitted noise reports dated February 2013 and July 2013 which indicated that the site was in accordance with Condition 10. At a meeting in August 2013 a list of improvements proposed by NFDC Environmental Health was agreed with NMSB, the majority of the improvements were implemented between August and October 2013. However, noise complaints were still being received by the Waste Planning Authority. Therefore NFDC Environmental Health undertook another round of noise monitoring in September 2013, again it was concluded that the maximum level of noise was being exceeded. Consequently, in February 2014 a Breach of Condition Notice was served by the Waste Planning Authority. At the end of February 2014 a further improvement was made on the site which comprised of the erection of a straw bale wall on top of stockpiles around the area where the Fuchs Grabber operates. Following this an isolated noise complaint was received at the end of March 2014 and then complaints started to be received again from the start of August 2014.

4. **Proposal**

- 4.1. Planning permission is sought for the variation of Condition 10 of planning permission (noise) 84776 at Manor Farm Recycling Facility, Pennington, Lymington SO41 8QZ.
- 4.2. The applicant states the reasons given for applying for a variation to the current noise condition are that the limit of 35dB $L_{Aeq, 1hour}$ is generally below the background level and significantly below the ambient level. Consequently direct measurement of the site's noise level at the position identified in Condition 10 is not possible. In addition to this it is stated that extraneous noise sources such as aircraft, sirens, birdsong etc. exceed the maximum noise level of 50 dB L_{Amax} at the nearest noise sensitive receptor. They are therefore of the opinion that the condition cannot be appropriately enforced and so the condition does not meet the requirements of Planning Practice Guidance – Use of Planning Conditions – Paragraph 003 Reference ID: 21a-003-20140306 in terms of precision and enforceability.
- 4.3. The applicant recognises the need for a noise condition and states that their proposed condition seeks to ensure the condition is unambiguous and directly measurable whilst ensuring that there is no further increase in noise emissions from the site. Further to this it is stated that a revised condition would ensure that the operator is not burdened with unduly onerous obligations.

4.4. The proposed condition reads:

- (i) *The operator shall comply with the Manor Farm – Pennington Noise Management Plan “DH May 2014”,*
- (ii) *The operator shall measure and record operational noise levels in accordance with BS7445 at the Noise Monitoring Location shown on Plan Number 107/NC1 in the Noise Management Plan (or such other location as may be agreed in writing with the Planning Authority),*
- (iii) *The operator shall maintain local weather station records for the site and the noise monitoring records for any consecutive 12 month period. The operator shall make the records available to the Planning Authority in a suitable format within two weeks of any written request from the Planning Authority,*
- (iv) *The level of noise emissions from the waste recycling and composting operations at the site when measured in accordance with BS7445 at the noise Monitor Location shall not:-*
 - a) *Exceed 59dB $L_{Aeq(1-hour)}$*
 - or*
 - b) *Exceed 74dB L_{Amax} on more than 10 occasions in any consecutive five hour period.*

4.5. The proposed noise levels stated within the condition above were based on noise monitoring that was undertaken by SLR in May 2014. The noise levels were measured on the bund at the point identified on plan number PEN-0814 (Noise Monitor Location A) and they were taken when the site was operating. The noise monitoring location (grid reference 431243, 93728) is stated as being 138.4m from the centre of the site (grid reference 431133, 93644) and 318.6m from the façade at Manor Farm House. At the monitoring location point it is stated that the bund is 6.05m in height with the meter’s microphone being installed approximately 1.5m above this.

4.6. The lowest noise level measured was 42.5 dB $L_{Aeq,1hour}$ and the highest measured level was 59.8 dB $L_{Aeq,1hour}$ with the site operational. During both measurements it was noted that a ‘full range’ of activities were being undertaken with an average wind speed of 5.3mph in an easterly direction. Whilst not operational the measured noise levels ranged from 41 dB to 45 dB $L_{Aeq,1hour}$ with an average wind speed of 3.5mph in a south south easterly wind direction.

4.7. A permanent noise monitoring location is proposed at grid reference 431221, 93738 where the bund height is 6.20m and the microphone height would be 7.8m; 1.6m above the bund. This monitoring location is 129.3m from the centre of the site and 323.2m from the façade at Manor Farm House. A noise attenuation factor of 19 dB has been calculated between the proposed noise

monitoring location on the bund and the boundary of Manor Farm House using the noise model CadnaA. Ground absorption was not taken into account in the noise model as it is stated that this is because ground attenuation and barrier effect shouldn't be combined. The total was said to be based on a distance and barrier attenuation. Therefore taking into consideration the proposed noise levels and the 19dB noise attenuation figure, the noise levels at the nearest boundary of Manor Farm House would be 40dB_{LAeq(1-hour)} with an instantaneous maximum noise level of 55dB_{LAmax}.

- 4.8. Submitted alongside the planning application was a noise impact assessment dated February 2014; this was completed by SLR. A summary of the current background noise levels measured over a 30 minute period when the site was shutdown was provided. The lowest background noise level measured was 34.8 dB $L_{A90, 30mins}$ and the highest was 43.4 dB $L_{A90, 30mins}$ with ambient noise levels during the survey ranging from 37.4 dB $L_{Aeq, 30 mins}$ and 44.9 dB $L_{Aeq, 30 mins}$ (measured at the noise monitor location A – Plan PEN-0814).
- 4.9. A noise management plan has been submitted, this is attached at Appendix 2. The plan outlines the methods by which the operator proposes to systematically assess and minimise the potential impacts of noise generated at the site. The plan identifies the potential sources of noise, mitigation measures, noise control measures, noise monitoring measures, management control measures, and noise complaint investigation.
- 4.10. The noise monitoring measures set out within the noise management plan include:
- Airport style wind sock to enable all site staff to see the wind direction;
 - Weather station to record the weather conditions 24 hours a day;
 - Continuous noise monitoring;
 - Location as detailed on plan PEN-0814-A at grid reference 431221, 93738;
 - Environmental noise levels to be measured using sound level meters conforming to type 1 or better of the latest versions of British Standard EN 61672-1:2003 *Electro-acoustics-Sound Level Meters, Specifications*.
 - The sound level meters shall be field-calibrated before use; at least every month and after any period where it is shut down using an acoustic calibrator conforming to the latest versions of British Standard EN 60942:2003 *Electro-acoustics-Sound Calibrators*.
 - Monitoring equipment to be calibrated to a traceable standard by a UKAS accredited laboratory, or equipment;

- “Live LEQ” system reporting up to date web based monitoring results derived from the noise monitor, backed up by emailed potential exceedance warnings to the TCM and his Deputy. The alert levels for the system will be set with sufficient margin to trigger internal alarms before the noise limits in the planning permission are breached due to site generated noise. Daily site Activity/Environmental log.

4.11. The noise complaint investigation procedures set out within the noise management plan include:

- Shutting down processing plants as appropriate if a noise level is exceeded to be followed by an investigation with the processing plants only being restarted when the noise issue is considered resolved.
- Should a noise complaint be received the site’s External Complaint Procedure will be followed and this is laid out in the company’s ISO 14001:2004 Environmental Management System. In addition:
 - In the event of a noise complaint being received by NMSB either directly or being made aware by the EA, the EHO, or the WPA, the Site Manager must inform the Environmental Manager outlining what has happened;
 - The EMS form 01 must be completed as soon as practicable by the TCM or his deputy, giving all relevant information, together with what action has been taken. The investigation will take place within 48 hours of the complaint or incident. An action plan will be drawn up with time scales, responsibilities and completion dates. This will ensure site achieves continuous improvement in line with ISO:14001:2004. Appendix B.
 - The Environmental Manager will then pass on the completed EMS form 01 to the Managing Director for comment, again this will be within the 48 hour period.
 - The company will use best endeavours to inform any complainant on the outcome of the investigation and possible remedial action within five working days. Should this not be possible for any reason the complainant will be regularly updated as to progress towards the resolution of the complaint.
 - Company resources will be considered to be available to prevent further complaints.
 - All complaints are reviewed as part of the EMS Review Meeting every 6 months.

4.12. Details of the “Live LEQ” system have been provided. The RION NL52 Class 1 sound level monitor that is to be installed on the bund to enable continuous

noise monitoring has an associated noise monitoring software system. This system enables a live web link to be available which will give the applicant access through the internet to both the L_{Aeq} and L_{Amax} levels. The software enables trigger and warning levels to be set to facilitate live warning via the website to the site office, it can also be configured for email alerts to mobile phones. It has been confirmed by the applicant that this has been ordered and it estimated that a reasonable time period for installation is three months from Mid July. The system is currently being developed to enable replay of audio files corresponding with measured peaks via the web based version.

5. Hampshire County Council Noise Consultant

- 5.1. The Waste Planning Authority employed a noise consultant (WSP) to consider the planning application documents, the advice from Environmental Health and the comments from local residents and their consultant MAS. An unattended baseline noise survey to characterise and quantify the ambient and background noise at the nearest boundary of Manor Farm House was undertaken between Friday 21 March and Tuesday 26 March at two locations. This was supplemented by several attended observation and measurement surveys on 21, 25 and 26 March and 1 April 2014. It was concluded from the results that a robust set of $L_{A90, 1hour}$ background noise level data was provided that is comparable with that measured by SLR.
- 5.2. In August 2014 WSP advised that on the basis of the data within their report the '*representative value of the background noise level*' could be argued to be between about 38 dB and 40 dB $L_{A90, 1hour}$. When comparing both the WSP and SLR data the '*reasonable lowest background noise level measured*' was 35 dB $L_{A90, 1hour}$.
- 5.3. Advice was provided regarding a monitoring location on the bund that surrounds the site. It was stated that the location would have the advantage that an observer stationed near to the monitoring location would be able to observe activity on the recycling centre site and correlate the noise measurements results with those. Furthermore extraneous noise from off-site, as well as being of less significance should be more readily identified as not originating from the site. The reduced distance between the sources of noise within the site and the monitoring point also will serve to reduce the influence of meteorological conditions on the measurements at that location. It was advised that the original location of the monitoring point could be compromised by the erection of the washing plant (should planning permission be granted) and therefore an alternative monitoring position was proposed by the applicant.
- 5.4. WSP used CadnaA noise modelling software to model the situation for the position of a source at the centre of the Site and the position and height of the modelling location. For the purpose of modelling a height of 1.5m at the nearest boundary of Manor Farm House was set as that height is usually taken as representative of a receptor in a garden or for the ground floor of a noise sensitive building. WSP advised that it is appropriate to model a noise

source in the open yard area of the site using the algorithms of BS 5228-1:2009+A1:2014 *Code of practice for noise and vibration control on construction and open sites – Part 1: Noise*. Within their advice it is noted that the European method set out in ISO 9613-2:1996(E) *Acoustics – Attenuation of sound during propagation outdoors – Part 2 General method of calculation* is also appropriate. The significant difference between the two methods is that the ISO method is based on downwind propagation from source to receiver where ‘downwind’ is defined as wind from a direction within 45° of the direction of a line connecting the source and receiver. BS 5228 makes no specific provision for the effects of wind direction. Both methods were modelled to see whether the results are significantly different. Further to this it was advised that the effects of the relative sound absorbency of the ground between source and receiver have an effect, even though in theory if one is accounting for the effects of a barrier, one should not additionally allow for the effects of ground absorbency. Three scenarios were assumed: entire area between source and receiver is acoustically soft; that the entire area is acoustically soft except for an acoustically hard parcel of land representing the Site area to the south west of the bund and that the entire area is acoustically soft except for a parcel of land representing the Site area to the south west of the bund that is 50% hard in terms of its acoustic reflectivity. The results showed that using BS 5228-1:2009+A1:2014 the attenuation figure was between 18 dB and 20 dB. When using ISO 9613-2:1996(E) the attenuation figures were constantly 16 dB. When considering the ISO and taking different wind directions into account the predicted attenuation results range from 16 dB to 22 dB with an average value of 18 dB. WSP therefore advise that the 19 dB figure is not an outlying prediction.

6. Development plan

- 6.1. The Hampshire Minerals and Waste Plan (2013) and the New Forest Local Plan Part 1: New Forest District (outside the National Park) Core Strategy (2009) and Part 2: Sites and Development Management (2014).
- 6.2. The appropriate policy for consideration within the Hampshire Minerals and Waste Plan is Policy 10 (Protecting public health, safety and amenity).
- 6.3. The National Planning Policy Framework (NPPF) is a material consideration, in particular paragraph 109, 120, 123, 176, 203-206.

7. Consultations

- 7.1. **Councillor England** is aware of the planning application and has visited the site and nearest local resident. No formal comments have been received.
- 7.2. **New Forest District Council Planning Department** raise objection as the proposed variation would cause harm to the amenity of adjoining occupiers, contrary to the provisions of Policy CS2 of the Core Strategy, which seeks to ensure that development has an acceptable relationship to adjoining buildings in terms of noise pollution and to attenuate other adverse impacts.

7.3. **New Forest District Council Environmental Health** object to the proposed condition and consider that given the current complaint situation and concerns that the extant condition is not being met it is counter intuitive to allow a relaxation in the condition along the lines proposed. The condition applied at the time of the original planning application was agreed with the acoustic consultant employed by NMSB at that time (ISVR) and was not subsequently appealed. This condition was written taking into account that the predicted noise levels should not have been measurable and therefore a calculated noise level would have to be extrapolated from noise data taken closer to the source (i.e. a proxy measurement position). As the noise level limit is calculated, there should be no boundary or access issues. I would therefore have no issue with a proxy location being used by NMSB to gauge compliance with the boundary noise condition but cannot agree to the limits suggested as (based on the predicted 19dB attenuation) this would result in an exceedance of the extant condition. To date we still have not been provided with the details of how the 19dB attenuation has been derived. It is usual practice for such data to be requested and provided. In order to remove the concerns raised over clarity and enforceability of the condition it is suggested that it could be amended and a suggested form of words is indicated below.

Noise Management Plan

Section 3 Mitigation Measures – Compliance – *‘In the event that compliance ...at the site shall be immediately shut down and not restarted until directed by the site manager...’* This should be amended to ‘shut down and not restarted until the reason for the non-compliance is identified and rectified to ensure compliance with the stipulated noise limits (or words to that effect).

Section 6 – Noise Monitoring Measures – The penultimate bullet point refers to the ‘live’ monitoring system. Further detail is required expanding on how and at what level the alerts are to be set and what actions will follow and by whom in the event of a warning being received. This is touched on in the ‘noise complaint investigation’ section but no reference is made to the data obtained from the live monitoring system, only ‘if the noise levels are exceeded’. I note the additional information provided on the nature of the proposed noise monitoring software. Live monitoring with audio information is required due to the sporadic nature and the character of the noise produced.

Section 7 Management control measures – Mention is made that quiet activities will start at 07:00 hours, but no detail is given when this ‘quiet’ period will end. A finish time needs to be added and 08:00 hours would seem to be reasonable. Bullet point 6 reads *‘The Technically Competent Manager (TCM) will stop any operations that cause excessive noise or are likely to cause exceedance of the planning permission immediately ... In the event of the latter, operations will not be permitted to recommence for at least one hour and they will be carefully and directly supervised by the TCM or his deputy’*. This should read *‘...will not be permitted to recommence until the reason for the exceedance/likely exceedance is rectified to avoid a breach or further breach of the noise condition.’* Bullet point 7 – refers to routine

maintenance of plant and equipment and goes on to say that work will be undertaken to repair the defect if plant is found to be operating at elevated noise levels. This sentence should read '... will be undertaken to repair the defect before the plant and/or equipment is put to further use' or words to that effect.

Section 8 – Noise Complaint Investigation – Refers to noise levels being exceeded but does not specify what these levels are – is it an alert level or is it the limit to be agreed for the proxy measurement position? I would suggest it should be the former as by the time it has reached the latter a breach of the boundary condition may well have occurred. Paragraph 1 could be amended to read '... processing plants will not be restarted until the noise issue is considered resolved and compliance with the noise limit is secured.'

Appendix B – Environmental Complaints – The form should be amended to show a reference to the noise data being checked and findings i.e. noise levels for the period relating to the complaint.

Appendix C – Environmental Management System – The form is not clear as to what information will be recorded; however, the times and duration of each activity should be recorded and there appears to be insufficient space to record much else. In addition to the above, the 19dB attenuation from the proxy position to the boundary of Manor Farm has not been clarified and justified. All information must be provided to ensure that any uncertainties are clarified as far as reasonably practicable.

Conclusion

Complaints of noise have been substantiated with further noise complaints received on 04 August and 05 August 2014. A visit was made to a property in the vicinity of the development site and general operations could be heard which sounded like tail gates slamming, reversing beepers; loads sliding off the back of trucks. In light of all the detailed information submitted and the ongoing noise disturbances, I am of the opinion that the extant condition should not be relaxed and the noise limits should remain the same. Questions have been realised of the clarity of the extant noise condition and therefore a rewording maybe required as suggested below. I note the additional information provided on the nature of the proposed noise monitoring software. Live monitoring with audio information is required due to the sporadic nature and the character of the noise produced. A proxy position is required to ensure the noise levels are measurable and the boundary site noise condition limits are not exceeded. The 19dB attenuation calculation from the proxy measurement point to the compliance point does not appear to have been clarified.

Recommendation

In light of the above, planning conditions are required to ensure the following:

- Noise from operations on site including the plant, machinery and vehicles related to it shall not exceed 35dB $L_{Aeq,1hour}$ during any hour and the maximum noise emitted from the site shall not exceed 50dB $L_{Amax}(fast)$ on more than two occasions per hour at the nearest boundary of Manor Farm House to the site. This level to be determined by calculation as a freefield value (as defined by BS7445 2003) based on measurements made at a proxy location to be approved by the WPA.
- Confirmation of the noise level required at the proxy noise measurement position to ensure compliance with the noise limit at the boundary of Manor Farm shall be ascertained within 2 months of the decision notice by a method to be approved by the WPA. All measurements shall be undertaken in accordance with BS4142:1997 or other methodology approved by the WPA. *(This would allow time for the 19dB attenuation to be verified).*
- MAS suggested condition 3 regarding recording and retention of weather records – email from Dan Baker to Lorraine Brown dated 30th June 2014 refers.
- A scheme for the live monitoring of noise from the site, including audio recordings shall be submitted within one month of the decision notice for the approval the WPA.
- Noise and any associated complaints etc, shall be managed in accordance with the Noise Management Plan (NMP) dated 10 July 2014. Any amendments to the NMP shall be submitted in writing to the WPA for approval.

7.4. **Highway Authority** raises no objection to the planning application.

7.5. **Natural England** has no comment to make on the variation of Condition 10.

7.6. **New Forest National Park Authority** has been consulted, no comments have been received.

7.7. **Lymington & Pennington Town Council** has been consulted, no comments received.

8. Representations

8.1. 56 letters of support have been received. The reasons for support are:

1. Supports local businesses
2. Current noise limit is too low and not realistic
3. Employment of many locals would be lost if the plant was to be shut down

4. Significant work has been completed to reduce the noise levels generated on the site
 5. Company supports the local area
 6. If this site did not exist companies would be travelling much longer distances which is not sustainable
 7. Noise levels are impacted by surrounding developments also
 8. Local resident that lies 500m from the site did not know about the site and therefore is not impacted by the development
 9. Additional costs for the local businesses if this business was not in the locality
 10. Background noise levels have increased so the current noise level is not reasonable and an increase in noise levels should be allowed
 11. Contribution of the site to meeting the aims of the Hampshire Minerals and Waste Plan (2013) such as recycling
- 8.2. 19 letters of objection have been received. The issues raised are:
1. Noise nuisance at present will be worsened through approving the application and allowing noise levels to be relaxed/increased
 2. Cannot at present enjoy homes and properties nearby
 3. Noise complaints and noise reading taken by NFDC show noise levels are in excess of the current noise limit set by the planning consent.
 4. HCC have taken enforcement action against NMS&B – this noise increase would enable them to work up to the noise levels that cause residents an impact
 5. Increase in noise levels would reduce the protection for the community
 6. Assessment is not based on incorrect guidance (WHO, BS, NPPF, NPPF TG)
 7. No information has been provided to demonstrate that the existing levels within Condition 10 cannot be met
 8. No broader economic benefit arising from the application
 9. Site is within the designated Green Belt therefore appropriate that it is subject to noise and other restrictions
 10. No evidence that NMSB have worked with the local communities
 11. Frequent banging and crashing is a nuisance

12. The relaxation of the noise limits is not required by the applicant to retain the efficiency or employment at the site.
 13. Rather than increasing the amount of noise NMSB are allowed to make, more should be done to reduce the noise nuisance.
 14. The science, interpretation of legislation and guidance, and the methodology employed, the rationale behind the evidence provided by NMSB in support of their application is flawed.
- 8.3. MAS Environmental (a noise and acoustic consultant) was employed by the residents of Manor Farm House. MAS have made five submissions on behalf of the residents raising objections to the application these are summarised in Appendix 1. MAS highlighted that the condition was not appealed and it is stated that this therefore demonstrates the applicants acceptance of the condition and what the condition sought to achieve. It is identified that some may consider that the current condition is not precise but that the term “calculate” within the condition rather than “measured” allows for a procedure for determining noise levels by methods other than direct measurement of site noise on the boundary. It identifies that Local Planning Authorities should administer conditions fairly and therefore any calculation should be assessed as fair and reasonable i.e. to national or international noise standards. The LA_{max} is not defined (impulse, fast or slow) within the condition introducing ambiguity. On balance it is considered that the extant planning condition is precise and reasonable in planning law terms and in seeking to protect local amenity from noise. The following conditions are suggested if the condition is amended
1. Noise emitted from the site, the subject of this approval, shall not exceed 33 dB L_{Aeq,1hour} during any hour at the locations identified within this condition. This level is to be determined by measurement and / or calculation as a freefield value (as defined by BS 7445 2003), at a publically accessible boundary (not on private land to which there is no public right of way), of any residential property (use class C1, C2, C3 and C4) existing or with planning permission at the time of this approval that is located within 1km of the site, at an emission height of 1.2 to 1.5m above the adjacent ground.
 2. Maximum noise emitted from the site, the subject of this approval, shall not exceed 50 dB L_{Amax} (fast) on more than two occasions per hour at the locations identified within this condition. This level is to be determined by measurement and/or calculation as a free field value (as defined by BS 7445 2003), at a publically accessible boundary (not on private land to which there is no public right of way), of any residential property (use class C1, C2, C3 and C4) existing or with planning permission at the time of this approval that is located within 1km of the site, at an emission height of 1.2 to 1.5m above the adjacent ground.
 3. The operator shall record and retain local weather records obtained within the boundaries of the site at a location and height that are subject to the

prior written approval of the local planning authority. No activity shall proceed under this consent until the locations on the plan are approved in writing by the planning authority. The data is to be recorded as 10 minute averages and include details of wind speed, wind direction, wind dust speed, temperature, humidity, solar energy and precipitation. Wind speed and direction data shall be recorded at a height of 10m above ground level. The operator shall make the records available to the local planning authority in writing and electronically in comma separated variable format within two weeks of a written request from the local planning authority. Measurements shall be retained for a period of not less than 2 years.

4. The operator shall measure and record operational noise levels in a free field location at noise monitoring locations shown on a plan, to a scale of not less than 1:500 that has been submitted for the prior written approval of the local planning authority. The acoustic parameters of $L_{Aeq,1hr}$, $L_{Amax(fast)}$, $L_{A10,1hr}$ and $L_{A90,1hr}$ shall be recorded with details of the sound level meter used for measurements. The submission for prior approval shall also include details of the frequency and duration of noise monitoring events. No activity shall proceed under this consent until the locations on the plan and frequency and duration of noise measurements, including the indices used are approved in writing by the planning authority. The noise monitoring location(s) shall maintain a clear line of unobstructed sight to activity external to buildings contributing to off-site noise emission levels received at the nearest residential receptors.
5. The operator shall retain noise monitoring data obtained under condition 12 for a minimum of 12 months following the date of noise measurements. The acoustic parameters of $L_{Aeq,1hr}$, $L_{Amax(fast)}$, $L_{A10,1hr}$ and $L_{A90,1hr}$ shall be recorded with details of the sound level meter used for measurements. The operator shall make the records available to the local planning authority in writing or electronically in comma separated variable format within two weeks of a written request from the local planning authority.

9. Commentary

- 9.1. The site has permanent consent for waste recycling at this location through the granting of planning permission 84776. The main policy for consideration is Policy 10 of the Hampshire Minerals and Waste Plan (2013). Policy 10 states that waste developments should not cause unacceptable noise. Therefore it is necessary and reasonable for conditions to control noise for this type of waste activity, and as set out above there is an extant planning condition that seeks to control noise levels emanating from the site. This planning application seeks to vary the current condition and consequently it is necessary to consider the impact of the proposed change. The letters of objection received from local residents and the letters of support received from staff of the site or businesses using the site are noted and the complaints received to date regarding noise have been considered. The County Council, as Waste Planning Authority, employed an independent noise consultant (WSP) to consider the planning application documents

(including noise information from their consultant SLR), the advice from Environmental Health and the comments from local residents and their noise consultant (MAS). Criticism has been made of the noise survey data and the size of the data set used to inform the decision. Data from both SLR and WSP have been considered and it is considered that the data available to inform the decision is robust. As a result of continued dialogue with the applicant and their consultant, NFDC Environmental Health Officer, local residents and their consultant there have been significant changes to the proposed condition from the original submission.

- 9.2. Normal practice when assessing the potential noise impact of waste developments of this nature is to consider BS 4142:1997 *Method for rating industrial noise affecting mixed residential and industrial areas*. Therefore it is necessary to establish a background noise level that is representative of the site and its surrounding location. BS 4142 advises that the background noise level should be a typical noise level. When considering the range of background noise levels recorded by SLR at their current noise monitoring location, and their noise monitor location A alongside the data collected by WSP at the boundary of Manor Farm House the representative noise level range falls between 38 dB and 40 dB $L_{A90,1hour}$. Therefore the 39 dB $L_{A90,1hour}$ value put forward by the applicant is accepted.
- 9.3. The guidance provided in BS 4142 is such that an increase in noise +5 dB above background noise levels would be 'of marginal significance' and a difference of around +10 dB as indicating 'that complaints are likely'. Therefore taking into consideration the typical background noise level of 39 dB $L_{Aeq,1h}$ an increase of 5 dB at Manor Farm House would result in a noise level of 44dB. An increase of 10dB which would be likely to give rise to complaint would be 49dB.
- 9.4. When considering the proposed noise level of 59 dB $L_{Aeq,1hour}$ at the monitoring location (431221, 93738) and the 19 dB attenuation figure the proposed levels at Manor Farm House would be 40 dB $L_{Aeq,1hour}$. This would be 1 dB above the typical background noise level. Given the character of the noise it could be argued that the +5 dB penalty should be applied and therefore the rating level would be 6 dB above the typical background. In either case, in line with the guidance within BS 4142 this change is around the 5 dB marginal significance. It is unclear whether the Condition 10 level of 35 dB $L_{Aeq,1h}$ at Manor Farm House included the +5dB penalty.
- 9.5. When considering the nature of the complaints it is the impact noises (bangings, crashings, revving of engines) that have given rise to the complaints and the impulsive character of such noise is likely to be an aggravating factor. Consequently careful consideration should be given to the proposed maximum noise level of 74 dB L_{Amax} which would equate to 55 dB L_{Amax} at Manor Farm House. This change would be 5 dB above the current maximum noise level. The proposed condition also requests 10 exceedances above 74 dB L_{Amax} (55 dB L_{Amax} at the boundary of Manor Farm House) within any consecutive five hour period.

- 9.6. Government have provided little guidance on the use of maximum noise levels; only the Planning Practice Guidance on Minerals identifies their potential use. If a maximum noise limit is to be used it should be clearly stated as to whether they are to be measured using a fast meter or slow meter response. Given the nature of the site and its operations it is advised that L_{AFmax} would be most appropriate; this would reduce future ambiguity of the noise level. Therefore it is recommended that the maximum noise level is 69 dB L_{Amax} , (50 dB L_{Amax} at the boundary of Manor Farm House) but that it is stated as being L_{AFmax} . It may be considered appropriate to allow a number of exceedances of this level, however rather than the proposed 10 in five consecutive hours as proposed by the applicant, it would be more appropriate to permit 2 within a one hour period as recommended by the Environmental Health Officer.
- 9.7. Support is given to the provision of a Noise Management Plan that details how the site will be continuously monitored with the use of alert thresholds to warn site operators of approaching noise level thresholds being exceeded. It is noted that there is concern from Environmental Health Officers that the noise management plan does not state the specific noise alert levels but this is considered to go beyond the scope of the planning responsibilities; it is the sites operator's responsibility to appropriately set up the site alerts to prevent exceedances of the conditioned noise levels. It is noted that the proposed noise monitoring location is on private land and it is agreed that it would be desirable to have public access to the location, although Hampshire County Council and New Forest District Council officers have rights of access.. However it is considered to be more appropriate and beneficial to have a permanent noise monitoring point in this location in the future to facilitate appropriate monitoring of the site, the noise levels and the activities taking place. The location is closer to the source of the noise which means that it should be easier to identify and attribute a cause to any noise complaints should they be caused by the site.
- 9.8. Consideration has been given to the conditions proposed by both Environmental Health and MAS but some of the proposed requirements are considered complex and onerous which would not comply with the Planning Practice Guidance – Use of Conditions. Conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. The requirement of MAS for monitoring within 1km of the site would not meet the conditions tests as it is unreasonable and could not be considered as relevant to the development to be permitted as numerous other noise sources could influence the measurements. With regard to the meteorological monitoring condition proposed the scale of the required monitoring (10m in height) is too great for the scale of the development proposed; however it would be appropriate to report wind direction, wind speed and precipitation on a daily basis therefore the local weather station records proposed by the applicant would be appropriate.

9.9. In conclusion, any proposed condition needs to meet the requirements of Planning Practice Guidance – Use of Conditions. This states that planning conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. The noise condition approved in 2005 is necessary, relevant to planning and relevant to the development, but there were concerns over enforceability and precision. It is considered that a revised condition would meet all the tests by having a clear monitoring location and specific measured levels, and would also include the implementation of a Noise Management Plan to provide for monitoring and actions to control noise from the site. Therefore it is recommended that the following conditions should replace Condition 10 of planning permission 84776:

- (1) The operator shall comply with New Milton Sand & Ballast Manor Farm – Pennington NOISE MANAGEMENT PLAN Issued: 23rd August 2014.
- (2) The level of noise emissions from the site ‘Manor Farm – Pennington’ when measured in accordance with BS 4142:1997 at the noise monitor location (431221, 93738) shall not exceed either:
 - (i) 59dB $L_{Aeq, 1hour}$
 - or
 - (ii) 69dB L_{AFmax} on more than two occasions in any one hour period.
- (3) The operator shall measure and record operational noise levels in accordance with BS 4142:1997 at the noise monitoring location (431221, 93738) as detailed on plan PEN-0814-A and local automated weather station records for the site (wind direction, wind speed and precipitation) shall recorded half hourly and available for retrieval on a daily basis. The recorded noise levels and weather station records shall be made available to the Planning Authority in a suitable format within one week of any written request from the Waste Planning Authority.

10. Recommendation

- 10.1. That permission for variation of Condition 10 of planning permission 84776 (noise) at Manor Farm Recycling Facility, Pennington, Lymington SO41 8QZ (Application No. 14/10255) (Site ref: NF042) be granted subject to the conditions detailed in Integral Appendix B.

RefRpt/6109/KK

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	No
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	No
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	No
Corporate Improvement plan link number (if appropriate):	
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because:	
The proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because the proposal is an application for planning permission and requires determination by the County Council in its statutory role as the minerals and waste planning authority.	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

Variation of Condition 10 of planning permission 84776 (noise) at Manor Farm Recycling Facility, Pennington, Lymington SO41 8QZ. (Application No. 14/10255) (Site ref: NF042)	County Planning Elizabeth II West The Castle Winchester
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CONDITIONS

Commencement

1. The development hereby permitted shall be begun before the expiration of two years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Hours of Working

2. No heavy goods vehicles shall enter or leave the site and no plant or machinery shall be operated except between the following hours: 0700-1800 Monday to Friday and 0700-1300 Saturday. There shall be no working on Sundays or recognised public holidays.

Reason: In the interests of local amenity to meet the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013).

3. Notwithstanding condition 2 above, there shall be no loading or unloading of vehicles or operation of mobile plant and mobile machinery outside the buildings before 0800 hours Monday to Saturday.

Reason: In the interests of local amenity to meet the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013).

Landscape

4. The Planting Schedule dated 26th October 2006 produced by Peter Swann & Associates and 1/1,000 Scale SOFT LANDSCAPE DETAILS plan approved by the Waste Planning Authority on 30 November 2006 in relation to planning permission 84776 shall continue to be maintained in accordance with the approved details for the duration of the operation.

Reason: In the interests of visual amenity to secure the aims of Policy 10 of the Hampshire Minerals and Waste Plan 2013.

5. Prior to development commencing details of the location, type and extent of all outside stockpiles of waste and recycled materials shall be submitted to the Waste Planning Authority for approval in writing. The details shall be implemented as approved.

Reason: In the interests of minimising visual impact and local amenity and to ensure the purpose of the South West Hampshire Green Belt are not compromised in accordance with Policies 6 and 10 of the Hampshire Minerals and Waste Plan (2013) are met.

6. No materials shall be stockpiled or deposited on the site to a height exceeding 3 metres.

Reason: In the interest of visual amenity and to ensure the purpose of the South West Hampshire Green Belt are not compromised in accordance with Policies 6 and 10 of the Hampshire Minerals and Waste Plan (2013) are met.

Protection of Water Environment

7. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume for single and hydraulically linked tanks. If there is multiple tankage, the bund capacity shall be 110% of the largest tank or 25% of the total capacity of all tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses and overflow pipes shall be located within the bund. There shall be no outlet connecting the bund to any drain, sewer or watercourse or discharging onto the ground. Associated pipework shall be located above ground where possible and protected from accidental damage.

Reason: To prevent pollution of the water environment to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

8. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse. All drainage from the concrete hardstanding will be drained to collection tanks.

Reason: To prevent pollution of the water environment to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

Noise, Dust and Odour

9. Prior to development commencing details of dust suppression measures for the entirety of the site shall be submitted to and approved by the Waste Planning Authority in writing. The approved measures shall be implemented in accordance with the approved details prior to the installation of the washing plant and shall remain in accordance with the approved details for the duration of the development.

Reason: In the interests of local amenities to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

10. The operator shall comply with New Milton Sand & Ballast Manor Farm – Pennington NOISE MANAGEMENT PLAN Issued: 23rd August 2014.

Reason: In the interest of local amenity to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

11. The level of noise emissions from the site 'Manor Farm – Pennington' when measured in accordance with BS 4142:1997 at the noise monitor location (431221, 93738) shall not exceed either:

(iii) 59dB L_{Aeq,1hour}

or

- (iv) 69dB L_{AFmax} on more than two occasions in any one hour period.

Reason: In the interest of local amenity to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

12. The operator shall measure and record operational noise levels in accordance with BS 4142:1997 at the noise monitoring location (431221, 93738) as detailed on plan PEN-0814-A and local automated weather station records for the site (wind direction, wind speed and precipitation) shall be recorded half hourly and available for retrieval on a daily basis. The recorded noise levels and weather station records shall be made available to the Planning Authority in a suitable format within one week of any written request from the Waste Planning Authority.

Reason: In the interest of local amenity to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

13. All waste recycling and processing, other than composting, shall be carried out within the approved buildings.

Reason: In the interest of local amenity to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

Details of Buildings

14. The washing plant and its associated building shall be constructed in accordance with drawing no. SL140-LAY-01 with an absorption surface area of 1680m². The primary aggregates shall be tipped under cover as detailed on Drawing No: TD674/01C.

Reason: In the interest of local amenity to ensure the aims of Policy 10 of the Hampshire Minerals and Waste Plan (2013) are met.

Highways

15. All lorries entering or leaving the site loaded with waste associated with the development hereby permitted shall be securely sheeted.

Reason: In the interest of local amenities and highway safety to ensure the aims of Policies 10 and 12 of the Hampshire Minerals and Waste Plan (2013) are met.

16. Measures shall be taken to prevent mud and spoil from vehicles leaving the site being deposited on the public highway. No vehicle shall leave the site unless its wheels have been cleaned sufficiently to prevent mud being carried onto the public highway. In the event that any mud or spoil is deposited on the highway, it shall be cleaned off at the end of each working day.

Reason: In the interests of highway safety to ensure the aims of Policy 12 of the Hampshire Minerals and Waste Plan (2013) are met.

Plans and Particulars

17. The development hereby permitted shall be carried out and completed strictly in accordance with the approved plans, specifications and written particulars identified within the decision notice.

Reason: To ensure that the development is carried out in accordance with the approved details.

Advice Note

1. In determining this planning application, the Waste Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

*Annexe to Reasons for Approval
(as required by Article 31 of the Town and Country Planning
(Development Management Procedure) (England) Order
2010)*

Hampshire Minerals and Waste Plan (2013)

Policy 10: Protecting public health, safety and amenity

Minerals and waste development should not cause adverse public health and safety impacts, and unacceptable adverse amenity impacts.

Minerals and waste development should not:

- a. release emissions to the atmosphere, land or water (above appropriate standards);
- b. have an unacceptable impact on human health;
- c. cause unacceptable noise, dust, lighting, vibration or odour;
- d. have an unacceptable visual impact;
- e. potentially endanger aircraft from bird strike and structures;
- f. cause an unacceptable impact on public safety safeguarding zones;
- g. cause an unacceptable impact on:
 - i. tip and quarry slope stability; or
 - ii. differential settlement of quarry backfill and landfill; or
 - iii. subsidence and migration of contaminants;
- h. cause an unacceptable impact on coastal, surface or groundwaters;
- i. cause an unacceptable impact on public strategic infrastructure;
- j. cause an unacceptable cumulative impact arising from the interactions between minerals and waste developments, and between mineral, waste and other forms of development.

The potential cumulative impacts of minerals and waste development and the way they relate to existing developments must be addressed to an acceptable standard.

APPENDIX 1 SUMMARY OF MAS COMMENTS ON BEHALF OF LOCAL RESIDENTS

January 2014 – Report produced by MAS dated 10 January 2014 - This related directly to planning application 13/11273 and it considered the acceptability of the development using acoustic information submitted with the 13/11273 planning application. Their work reviewed the noise impact assessment by Atkins, relative to national planning policy and guidance. The noise impact assessment by Atkins was considered inadequate such that a robust assessment of impact from the aggregate washing plant cannot be made. The report concluded that insufficient information was provided by NMSB to robustly assess the likely noise impact on Manor Farm House. The prediction noise data that was submitted was thought not to consider the cumulative noise impact from the site and additional noise producing activity ancillary to the aggregate washing plant. The report noted the type of noise impact heard by the residents including HGV engines and movements, slamming tailgates, excavator/loading shovel engines, excavator buckets rattling and general loading/tipping and dropping of items. It is stated that the level of noise emission depends on a number of factors including the type of open to air activity at a point in time at the NMSB site and meteorological conditions. It is considered necessary to consider the worst case scenario not the worst case scenario. The existing operations are considered to be detrimental to the amenity of residents at Pennington Manor. MAS identify that the NPPF advises that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from being put at unacceptable risk from, unacceptable levels of noise pollution (para 109 of NPPF). The NPPF confirms that planning decisions should aim to: avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason. Reference is also made to the Noise Policy Statement for England (NPSE) 2010 and the vision which contains the following aims: avoid significant adverse impacts on health and quality of life from noise, mitigate and minimise adverse impacts on health and quality of life from noise and where possible contribute to the improvement of health and quality of life.

March 2014 – Report dated 18 March 2014 – This report states that the S73 planning application criticises the condition considered appropriate and applied by the local planning authority to control noise impact from the site on residential dwellings. The criticisms relate to the condition wording and use of specific LAeq and LMax values. In contrast the applicant proposed a noise condition that does not meet the tests of planning circular 11/95. The same criticism applied by the applicant to the local planning authority's noise condition may also be applied to the proposed noise condition. As proposed it is imprecise and unenforceable. The proposed condition also fails as the noise limits were derived using an erroneous assessment of noise acceptability applying World Health Organisation Guideline values for community noise, BS8233 1999 and the Technical Guidance

for the National Planning Policy Framework 2012. It is concluded that the technical guidance does not seek to permit higher noise limits indefinitely as proposed by the applicant for permanent waste operations at NMSB. The appropriateness of meteorological conditions is questioned by MAS due to the wind and rain experienced and it is stated that this does not comply with BS7445 – 1:2—3 thereby undermining the reliability of the assessment which in turn casts significant doubt on the SLR analysis and the methodology applied to derive the proposed noise condition. The noise monitoring location chosen by SLR is not representative of the background noise levels at Manor Farm House when considering for example the distance from the A337 Milford Road. There is concern about the height of the noise monitoring with the microphone positioned at approximately four metres above ground level. This is contrary to the guidance within the British Standards. When reading Minerals Policy Statement 2 it is considered not unreasonable to apply a maximum noise limit relating to a point above ‘average’ noise levels. Reference is made to different noise events such as birds chirping and the site operating and MAS conclude that to compare LAmax noise events from different sources against noise from NMSB is misleading and does not compare ‘like with like’. The proposed condition that was considered in this report was stated as being imprecise, ambiguous and not enforceable. A summary of the NPPF is again made and comments are made on the misapplication of noise guidance. It was stated that BS4142 should be considered. The background noise level which included data measured under inappropriate meteorological conditions was an ‘average’ background noise level of 39dB LA90,30min which is 4.2dB higher than the typical worst case background noise level of 34.8dB that is more appropriate in this case and acoustically this difference is significant. With regard to the acceptable (LAeq) criteria considered by MAS the Environment Agency and a large proportion of local authorities base acceptable noise criteria on a BS4142 1997 rating level. Neither the national planning guidance nor BS4142 1997 set a definitive noise level for this type of activity but most local planning authorities tend to set a rating level limit equal to the background noise level or up to 5dB above that point. Commonly a rating level of between 0-3dB above the background noise level is used for daytime noise and this is the level applied by the Environment Agency in their horizontal guidance. Additional noise monitoring is required.

May 2014 – Email dated 7 May – The SLR report was considered and it was concluded that it added very little and doesn’t adequately respond to the points raised within the MAS report. It is identified that the report refers to reports by Alphatech that are not part of the planning application therefore not enabling them to be transparently assessed; a further omission of information necessary for a robust assessment of noise impact. It was advised by MAS that the SLR report continues to inadequately consider the cumulative impact of adding the washing plant to existing activity.

June 2014 – Email dated 30 June – Considered the enforceability of the extant noise condition (2005). It is highlighted that the condition was not appealed and it is stated that this therefore demonstrates the applicants acceptance of the condition and what the condition sought to achieve. It is identified that some may consider that the current condition is not precise but that the term “calculate” within the condition rather than “measured” allows for a procedure for determining noise levels by methods other than direct measurement of site noise on the boundary. It identifies that Local Planning Authorities should administer

conditions fairly and therefore any calculation should be assessed as fair and reasonable i.e. to national or international noise standards. The L_{Amax} is not defined (impulse, fast or slow) within the condition introducing ambiguity. On balance it is considered that the extant planning condition is precise and reasonable in planning law terms and in seeking to protect local amenity from noise. With regard to the S73 planning application it is questioned whether a new planning permission could be granted with a lower noise limit than the extant permission, if considered appropriate by the LPA to protect residential amenity from noise. When considering the proposed condition MAS believe that the condition fails when considering enforceability with the requirement to comply with the noise management being a dual control that is unreasonable. With the proposed condition referencing BS7445 it is stated that the noise levels should be monitored during 'fair weather' only. It is therefore stated that the condition is imprecise and ambiguous. It is felt that the third bullet point that relates to local weather station records is not precise enough with specific data needing to be referenced within the proposed condition. With regard to the proposed noise levels the following comments were made: that there has been no evidence submitted to support the stated 19dB attenuation factor that has been proposed as the noise modelling (CadnaA) file has not been provided for independent analysis. That there should be a suitable and typical worst case scenario background noise level established and that this couldn't be agreed between SLR and WSP. Additional noise monitoring is required to acquire representative background noise levels at the nearest dwellings. The proposed noise level, taking into account the 19dB figure would result in 40dB at the boundary of Manor Farm House, thereby an increase in 5dB. This increase would be subjectively and noticeable to residents and equates to a trebling of sound energy. With the proposed noise limit it would give a positive indication complaints are likely (BS4142) which is unreasonable considering complaints already arise (40+5-35=+10dB). MAS have proposed a number of conditions which they considered to be compliant with the Planning Practice Guidance on enforceable conditions.

1. Noise emitted from the site, the subject of this approval, shall not exceed 33dB L_{Aeq,1hour} during any hour at the locations identified within this condition. This level is to be determined by measurement and / or calculation as a freefield value (as defined by BS7445 2003), at a publically accessible boundary (not on private land to which there is no public right of way), of any residential property (use class C1, C2, C3 and C4) existing or with planning permission at the time of this approval that is located within 1km of the site, at an emission height of 1.2 to 1.5m above the adjacent ground.
2. Maximum noise emitted from the site, the subject of this approval, shall not exceed 50dB L_{Amax} (fast) on more than two occasions per hour at the locations identified within this condition. This level is to be determined by measurement and/or calculation as a free field value (as defined by BS7445 2003), at a publically accessible boundary (not on private land to which there is no public right of way), of any residential property (use class C1, C2, C3 and C4) existing or with planning permission at the time of this approval that is located within 1km of the site, at an emission height of 1.2 to 1.5m above the adjacent ground.
3. The operator shall record and retain local weather records obtained within the boundaries of the site at a location and height that are subject to the prior written approval of the local planning authority. No activity shall proceed under this consent until the locations on the plan are approved in writing by the planning authority. The data is to be recorded as 10 minute averages and include details of wind speed, wind direction, wind dust speed, temperature, humidity, solar energy and precipitation. Wind speed and direction data shall be

recorded at a height of 10m above ground level. The operator shall make the records available to the local planning authority in writing and electronically in comma separated variable format within two weeks of a written request from the local planning authority. Measurements shall be retained for a period of not less than 2 years. 4. The operator shall measure and record operational noise levels in a free field location at noise monitoring locations shown on a plan, to a scale of not less than 1:500 that has been submitted for the prior written approval of the local planning authority. The acoustic parameters of LAeq,1hr, LAmaz(fast), LA10,1hr and LA90, 1hr shall be recorded with details of the sound level meter used for measurements. The submission for prior approval shall also include details of the frequency and duration of noise monitoring events. No activity shall proceed under this consent until the locations on the plan and frequency and duration of noise measurements, including the indices used are approved in writing by the planning authority. The noise monitoring location(s) shall maintain a clear line of unobstructed sight to activity external to buildings contributing to off-site noise emission levels received at the nearest residential receptors. 5. The operator shall retain noise monitoring data obtained under condition XXX for a minimum of 12 months following the date of noise measurements. The acoustic parameters of LAeq,1hr, LAmaz(fast), LA10,1hr and LA90,1hr shall be recorded with details of the sound level meter used for measurements. The operator shall make the records available to the local planning authority in writing or electronically in comma separated variable format within two weeks of a written request from the local planning authority.

August 2014 – Letter dated 1 August - MAS state that they are concerned about the refusal by NMSB to release the noise modelling file as it does not allow for independent verification. The noise modelling file is like a word document and CadnaA is the software used to construct and run the noise model. MAS also have licensed noise modelling software and seek to understand the various inputs used that effect noise propagation and predictions in this case. It is considered that the omission to release the file is a significant omission from the application contrary to the principles of the NPPF which demonstrates a lack of transparency. With regard to the existing condition MAS do not endorse the condition but provide advice on the practical enforceability of the condition by the MPA. It remains their view that the condition is enforceable, following guidance of the courts on benevolent interpretation and regardless of the difficulties NMSB appear to have in demonstrating compliance with the condition. When considering the proposed condition it is stated that is a misunderstanding by NMSB on the observations made by MAS regarding BS7445 Description and measurement of environmental noise and measuring noise under appropriate conditions. MAS provided in full details of the two separate methodologies for undertaking noise measurements and accounting for meteorological effects were written out in full as stated within BS7445. When considering the Measurements averaged over a range of meteorological conditions MAS state that this long term noise monitoring to enable an average noise measurement over the range of meteorological conditions should typically take place on a continuous basis over 3+ months with analysis using audio to establish the 'long term average sound level'. The condition as proposed does not require monitoring under conditions other than under 'fair weather'. A longer term average is inappropriate for comparison and effectively unenforceable by the planning authority. MAS advise that it is necessary to acquire a "suitable" and "typical worst case" background noise level to provide a robust assessment i.e. an assessment that considers the

continuous change in the background noise environment described above and recognises there are periods of lower background noise when impact will be greater as a result. The noise monitoring inclusive of the SLR and WSP data is a small snapshot and as the background noise level changes constantly it is necessary to take a typical worst case value to factor headroom into the assessment to improve confidence noise will not harm amenity. Taking an 'average' of the background noise level over 4-5 days is not a robust approach and understates the likely impact when compared to specific noise levels from NMSB. An average background noise level is always higher than a typical worst case and assists noise producers but does not adequately protect communities. The draft BS4142 is referenced by SLR and this should have little weight at present. The proposal by the applicant to install on-site noise monitoring is a positive step. However, this should be used as a tool to assist the applicant demonstrate compliance and control his operations rather than be conditioned as the only method of checking compliance. Regardless of the methods employed by NMSB to demonstrate compliance, off-site monitoring in a publically accessible location is necessary for an enforceable noise limit, validation of site measurements and providing an effective verifiable control limit in a planning condition in this case.