

**DEVELOPMENT CONTROL AND REGULATORY BOARD****14th MARCH 2019****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2019/0044/07 (2018/CM/0261/LCC) – 19th December 2018
- PROPOSAL:** Extension of the period for the operation of Ellistown Concrete Works beyond 21st February 2042 (Permanent Permission).
- LOCATION:** Concrete Works, Whitehill Road, Ellistown, Coalville, Leicestershire, LE67 1ET (North West Leicestershire District)
- APPLICANT:** F P McCann Ltd
- MAIN ISSUES:** Impact of the proposal upon landscape, amenity, the appropriateness of this development within the countryside and the impact of it on mineral reserves.
- RECOMMENDATION:** PERMIT subject to the conditions as set out in the appendix to the main report.

Circulation Under Sensitive Issues Procedures

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PART B – MAIN REPORT

Description of site

1. The Ellistown Concrete Pipe Works lies approximately 250 metres south east of Ellistown. The site is bounded by a railway line and then agricultural land to the east, the B585 Victoria Road to the south, St Christopher's Road and a new industrial development to the north, and Ellistown Terrace Road and the current Ellistown Quarry workings to the west. The concrete plant lies in an area of former clay extraction. This area was also used for the tipping of colliery spoil from Ellistown Colliery. The colliery spoil tip now provides a useful screening embankment between the residential areas on St Christopher's Road and the works. The nearest properties to the site include Ellistown Farm and The Grange to the west and St Christopher's Road 250 metres to the north.
2. The concrete pipe works is owned and operated by F P McCann and shares an access off of Ellistown Terrace Road that also accesses the adjoining brickworks and brick clay quarry. The brickworks and quarry are owned and operated by Ibstock Brick with the quarry being progressively restored by Mick George with inert waste (reference 2016/0332/07).

Planning History

3. The site has been operational since 1874 as a colliery with ancillary pipe and brick making. In 1990 planning permission was granted for the erection of buildings and plant and the formation of stockyards for the manufacture of concrete drainage products (reference 89/1232/7). This development was granted temporary planning permission until the permanent cessation of the Ellistown Works. As far as the records show this was the first operation that was not truly ancillary to the extraction of clay, that is, the manufacturing process made no use of the adjacent brick clay and all raw materials were imported in to the site.
4. In 1996 planning permission was granted for a temporary period for the creation of a stockyard to the west of that development permitted in 1990 (reference 96/0054/7). This stockyard development was permitted again in 1999 for another temporary period (reference 99/0306/7) and then again in 2003 so that it was permitted until 31st December 2042. As part of the 99/0306/7 planning permission a screening mound was required to be constructed, principally on the western side of the new stocking area to provide a visual and acoustic screen. This screening mound was also to be seeded and planted.



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5. Built extensions to the factory have been permitted in 2006 (reference 2006/0997/07), 2008 (reference 2008/0515/07), 2011 (reference 2011/0434/07), 2015 (2015/0685/07), 2016 (reference 2016/0632/07), and 2018 (reference 2018/0677/07). Also, built extensions to the stocking area have been permitted in 2008 (reference 2008/0515/07) and 2017 (reference 2016/1477/07). All of these planning permissions are temporary in a similar vein to those granted in 1990 and 2003; the more recent of these state a date of 21st February 2042 hence the applicant's proposal description set out above. 21st February 2042 is the same date as that permitted for clay extraction at the adjacent brick clay quarry, relevant because the presence of these other operations has been linked to the extraction of the clay. However, much of the brickworks factory is not temporary.
6. The south western part of the screening mound, part of the access road (that adjoining Ellistown Terrace Road), and a large portion of the eastern part of the site, including much of the western part of the main factory building, are all covered by a mineral extraction consent (reference 2011/0625/07). This consent relates to a review of an older planning permission (reference 92/0270/07) when the site was all in one ownership. Condition 40 of 2011/0625/07 only allows mineral extraction in the areas owned by F.P. McCann once a scheme of working and progressive restoration has been submitted and approved by the Mineral Planning Authority.

Description of proposal

7. This proposal is to remove the temporary nature of the entire concrete products site so that it becomes a permanent operation. The site covers some 18.6 hectares and the application covers all of the land in the ownership of F P McCann. The applicant explains that the site employs approximately 250 permanent staff and is one of the largest manufacturing sites for concrete pipes in the UK.
8. The applicant states that the current concrete manufacturing process is not reliant on any raw materials which are worked at this location and it is not linked to the adjacent brick production facility. It is acknowledged that some clay reserves may lie below the site to which this application relates but that the applicant does not undertake this activity and has no intention to commence extractive works. The application contains no changes to the existing operations and no new buildings, plant or operations.
9. The applicant states that the primary purpose for this application is to provide long term security for the existing manufacturing operations, and that, although not an issue now, without this security it would affect potential funding and investment in the future. It is stated that if the facility was to close it is highly unlikely a suitable alternative site could be identified. The application also sets out the financial contributions the site makes directly and indirectly and the contribution its products make to the wider economy.

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Planning Policy

National Guidance

10. The revised National Planning Policy Framework (NPPF) was published in July 2018 and sets out the Government's planning policies for England. At the heart of the NPPF is a presumption in favour of sustainable development, namely the economic, social and environmental roles, and the need to balance economic growth with the protection and enhancement of the environment. The NPPF states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, providing net gains in biodiversity.

Local Policies

11. The development plan's relevant local planning policies are contained within the Leicestershire Minerals Development Framework: Core Strategy and Development Control Policies document adopted October 2009, and the North West Leicestershire Local Plan 2011-2031 adopted November 2017.
12. *Policy MCS11* of the Leicestershire Minerals Development Framework states that the natural and built environment is to be protected by ensuring that minerals development have no unacceptable adverse impacts on: natural resources; landscape; biodiversity; geodiversity; historic and cultural features; and the character of settlements and residential amenity, have the highest standards of operational practice, and the development is designed to a high standard.
13. *Policy MCS14* seeks minerals development in the National Forest to make provision of new planting of woodlands, habitat creation, the creation of new leisure and tourism facilities and/or for public access.
14. *Policy MCS17* seeks the reclamation of land at its earliest opportunity with high quality restoration and aftercare, with the use of best practice at the time to minimise public safety and, where appropriate, to priority after-uses listed within the policy.
15. *Policy MDC5* prevents development in the countryside which would adversely affect the appearance and character of the landscape and the countryside unless there is an overriding need for the development.
16. *Policy MDC8* seeks to protect minerals from incompatible developments unless one of the five criteria listed are met, of which one is that the applicant demonstrates to the satisfaction of the Local Planning Authority that the mineral concerned is no longer of any value or potential value.
17. *Policy MDC11* seeks to prevent minerals developments from having a detrimental effect on groundwater, surface water drainage and flooding.

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18. *Policy MDC12* on health and amenity lists those effects which a minerals development could not generate.
19. *Policy MDC13* states that a minerals development will be refused where there are unacceptable cumulative effects of either different impacts from a single development or the effects of a number of minerals developments in an area.
20. *Policy MDC20* requires proposals to have satisfactory provision for reclamation and after-use.
21. *Policy D2* of the North West Leicestershire Local Plan sets out that developments should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents.
22. *Policy S3* explains the types of development that will be permitted on land outside the Limits to Development. The manufacture of concrete pipes is not listed. For those developments listed in the policy it is then explained that the situations where these developments would be supported.
23. *Policy IF7* states that development should incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.
24. Leicestershire County Council is in the later stages of reviewing its Minerals Development Framework and has produced its submission version of the replacement Minerals and Waste Local Plan. Main and minor modifications have been consulted on following the hearing and the content of these modifications along with the submission version of the Local Plan should be given moderate weight. In terms of the emerging policies they are little changed from those set out above and do not materially affect the assessment of those policies from the approved development plan.

Consultations

Environment Agency

25. The Environment Agency has no objection to the proposal to extend the period for the operation of the Ellistown concrete works beyond 21 February 2042.

Highway Authority – Leicestershire County Council

26. The submitted Design and Access Statement outlines that there are no alterations proposed to the existing access. It is noted that with the presence of a weight restriction throughout the settlement of Ellistown, all HGV's are required to exit left onto Ellistown Terrace Road. Given the extant use of the site and planning permission which permits the use of the access to continue until 2042, the LHA consider this to be acceptable.

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There have been no recorded personal injury accidents in the vicinity of the site access within the last five years and as such the LHA has no pre-existing highway safety concerns at this location.

Given the extant use of the site and current permitted use until 2042, the LHA does not consider that an assessment of trip generation is required. The extant trips have occurred on the network since the site was brought into operation, therefore these form part of the baseline traffic as opposed to adding additional trips onto the network.

The LHA understands that there are no proposed alterations to the existing internal layout of the site. Should the internal layout be amended in the future to allow for extraction at different locations within the site, the applicant should ensure that any subsequent amendment to parking and turning facilities is provided in line with the current provision.

The LHA consider that given both the extant use and planning permission, the continuation of operation of the site beyond 2042 would not have a severe impact on the local highway network.

Lead Local Flood Authority (LLFA)

27. The site is located within Flood Zone 1 being at low risk of fluvial flooding. There are some areas at high risk of surface water flooding. The application is for the extension of operation of the Ellistown Concrete Works and not for additional development at the existing site. Therefore, the impermeable area of the site will not be increased. Flood risk to the site and the surrounding area will not be altered, as such the proposals would be considered acceptable to the LLFA on flood risk grounds. The LLFA advises the LPA that the proposed development does not have any impact on surface water drainage.

Network Rail

28. No observations to make.

North West Leicestershire District Council - EHO

29. No objection.

North West Leicestershire District Council - Planning

30. No objections to the proposal subject to the County Council completing a comprehensive assessment in respect of the impacts of a permanent use of the site would have in relation to matters which may arise as a result of the formal consultation process, including full consideration of the comments raised by the District Council's Environmental Protection Officer.

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Hinckley & Bosworth Borough Council

31. Hinckley and Bosworth Borough Council have no comments in respect of the proposal, subject to the application according with the Development Plan Policies.

Leicestershire County Council – Ecological Advice

32. No comments on or objections to this.

Leicestershire County Council – Landscape Advice

33. No comments to make.

Leicestershire County Council – Public Rights of Way Advice

34. No objection however the following should be included in any permission granted: Public Footpath Q80 runs through the site. The legal line of the Public Footpath must remain open and available in a safe condition for the public to use at all times. The Public Footpath must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.

National Forest Company

35. The proposal appears to seek to regularise an existing use, no further development or expansion of the site is proposed. Given that, it is considered that the proposals do not trigger the need to include National Forest woodland planting and landscaping as expected by pre-submission Local Plan Policy DM3.

Ellistown and Battleflat Parish Council

36. Response not received.

Ibstock Parish Council

37. Response not received.

Stanton under Bardon Parish Council

38. Response not received.

Publicity

39. A notice published in a local paper, site notices, and individual neighbour letters have advertised the proposal since 11th January 2019. No representations have been received on the proposal.

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Assessment of Proposal

40. The application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the main issues for consideration relate to effects upon amenity (highway safety, noise and dust), landscape, the appropriateness of development in the countryside and the effect of the permanency of this development on safeguarding minerals.

General Location and Policy

41. The concrete works is located within an area identified as Countryside in North West Leicestershire's Local Plan and is not listed in Policy S3 as a form of development that should be located in the countryside. However, the site has extant permissions until 2042 for operations relating to the manufacture of concrete products. This date is the same as the latest date by which mineral extraction and infilling at the adjacent clay quarry (references 2011/0625/07 and 2016/0332/07, respectively) shall cease (and some of the more recent brick manufacturing buildings on adjacent land owned by Ibstock Brick have to cease being used). Upon the cessation of the concrete manufacturing the concrete works would be restored; the form that this may take remains to be agreed and is scheduled to take place in 2041. But, by virtue of this requirement and thus, the current temporary nature of these operations the site of the works remains 'greenfield'.

42. In the last five years a number of new developments have either taken place or been permitted in proximity to the concrete works. To the north of the site and adjoining Beveridge Lane in 2014 North West Leicestershire District Council approved the development of land at Battleflat Farm to employment uses (reference 13/00249/OUTM); this has been developed as two units, the largest of which is now occupied by Amazon. To the immediate south of this development and the immediate north of the site to which this proposal relates, Hinckley & Bosworth Borough Council permitted an additional warehouse in 2017 (reference 16/00314/FUL). This has also been built and completes the industrial development of all the agricultural fields between the site and Beveridge Lane.

43. Then to the east of the proposal, the other side of the railway line, in 2017 Hinckley & Bosworth Borough Council approved the development of Battleflat Lodge Farm to employment uses (reference 15/01318/OUT). This permission has been implemented and a new roundabout installed on Victoria Road, although to date no buildings have been erected. To the south of this, on the other side of Victoria Road there is a solar farm permitted by Hinckley & Bosworth Borough Council in 2015 (reference 15/00343/FUL) at Tower Hayes Farm. Condition 6 of this planning permission allows for the retention of the solar panels for 30 years from the first export of electricity.

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44. On the basis of the above, the surrounding local landscape has changed markedly since the concrete works was first permitted and particularly in the last five years. The works was formerly in a countryside setting but the immediate agricultural fields have now evolved to permanent employment uses. The existing screening mound and other planting around the site have all added to the local biodiversity and although there would be no restoration of the site (if this application was permitted) the potential benefits this restoration would bring are not considered fundamental to lead to a refusal of this application (that, if permitted, would not lead to a restoration of the site). The site is in the National Forest boundary and this restoration may have included woodland but, nevertheless, the National Forest Company have not objected to this application. Thus, it is considered that the principle of the retention of the works on a permanent basis is acceptable and meets the terms of policies MCS14, MCS17, MDC5, and MDC20 overcoming the conflict with Policy S3.

Highways

45. The application states that this proposal will not result in any change to traffic movements. On the basis of this no amendments/improvements to the existing access point would be necessary. The access to the site was improved as part of the planning permission granted in 1990 (reference 89/1232/7) and is still at an acceptable standard. Alongside this a legal agreement was signed to ensure that HGVs exiting and entering the site would not go through Ellistown village, i.e. towards and from Victoria Road, B585. It is considered that this legal agreement remains extant and would be so until such times as goods are no longer manufactured at the site. The Highway Authority has raised no concerns with the continued operation of the site. The car parking and cycle provision within the site are considered adequate. Therefore, the effect of the proposal on the highway is acceptable and meets the terms of policies MCS11, MDC12 and IF7.

Landscape

46. The concrete works principally consists of the following built developments: a large manufacturing building, an office building, mixing plants and feed conveyors. The manufacturing building has been recently extended (planning permission reference 2016/0632/07) and now extends over some 18,000m². The oldest and the largest of the mixing plants is also the largest structure on the site and this is over 31 metres in height. Public views of much of the site are limited by the existing vegetation on the eastern boundary adjacent to the railway line, the brickworks to the south and the screening mound to the north-west and west. However, the large mixing plant is visible from viewpoints some considerable distance from the site. This mixing plant formed part of the original planning permission for the concrete works and has become part of the local landscape for almost 28 years. The light grey colour of the plant and the buildings helps, in part, to reduce their visual impact. Thus, any planning permission should seek to retain the existing structures and buildings in this colour. Such a planning permission should also seek to retain the screening mound, the existing boundary vegetation (and the maintenance thereof), not only for their visual benefits but for their contribution to biodiversity. Subject to these conditions the proposed

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development would be acceptable in landscape terms and meets the terms of policies MCS11, MDC5, MDC12, and D2.

Noise and Dust

47. The manufacturing of concrete products can take place 7 days a week, 24 hours a day, however, the use of the stockyard is limited to the hours of 06:00 and 22:00 hours Monday to Friday and 06:00 to 14:00 hours on Saturdays. No use of the stockyard is permitted on Sundays or Public Bank Holidays. Additional existing planning conditions on the land relate to measures to control dust, the reduction of noise levels from the operations, and noise limits for the site. It is considered that these conditions, including those relating to the use of the stockyard, have been effective in limiting the effects of the development on residential amenity and should be repeated on this planning permission, if granted. Subject to this the effects of the proposal on noise and dust are acceptable and meet the terms of policies MCS11, MDC12, MDC13, and D2.

Minerals

48. Part of the concrete works site is covered by a planning consent for the extraction of brick clay (reference 2011/0625/07). The extent of this consent relates back to the area covered by the Interim Development Order 398/47 (planning permission 92/0270/07) at a time when the entire site was in the ownership of one company and also prior to works being present on the site not making use of the mineral(s) extracted from the site. Works at the current brick clay quarry are continuing and are located in the western part of the quarry, progressing towards the final agricultural field permitted for clay extraction. However, at the same time the eastern portions of the site have now been filled with inert wastes and are back to their approved levels. Infilling continues between these restored and extraction areas.
49. The principal area in the applicant's control and permitted for mineral extraction is that to the east and south of the eastern end of the Ellistown Quarry void. As set out above, this part of the quarry has now been infilled; tree planting should be undertaken this year. Thus, to undertake mineral extraction of the permitted area within the concrete works an extension of the current quarry void would not be readily possible, notwithstanding the large screening mound and concrete factory that sits upon this land. Therefore, it is considered that there is limited scope for the mineral to be extracted (even if the present works were to be removed) and the mineral is no longer of potential value. Furthermore, it is considered that the continuation of this employment (250 full time employees) in a sustainable location (proximity to bus stops to Leicester and Coalville, footpaths and links to bridleways) that is and has become an extensive area for employment uses would constitute an overriding need. On the basis of this it is considered that the proposal is acceptable and meets the terms of policy MDC8.

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Other Matters

50. To the immediate east of the site is an operational freight railway line but there are no concerns from Network Rail that the permanent use of the site would affect the continued operation of this infrastructure. The site lies in Flood Zone 1 and the LLFA consider that flood risk to the site and the surrounding area will not be altered nor would the development have any impact on surface water drainage. Therefore, it is considered that the effects of the development on the water environment and the adjoining railway line is acceptable and meets the terms of policies MDC11 and MDC12.
51. As part of the planning permission for the extension of the factory building (reference 2016/0632/07) the applicant was required to upgrade footpath Q80 to a bridleway. This has been undertaken and this is now open for public use, linking the new bridleways to the east and west of the applicant's land. Although the bridleway remains to be dedicated and, thus, it is considered that if this proposal is permitted that the new planning permission should also require the bridleway to continue to be made available for public use (as per the 2016/0632/07 planning permission).
52. Previous planning permissions on the site have removed the site's permitted development rights on the basis that it was "*in the interests of the amenity of the area*". However, as set out above the area within which the works sits has changed markedly; also those industrial units in proximity to the works are not restricted in this manner. Therefore, it is considered unreasonable for these rights to continue to be removed and such a condition is not repeated in those set out in the appendix.

Conclusion

53. In conclusion, given the land use changes that have occurred in vicinity to this proposal it is considered that the permanent retention of this employment use is acceptable. The site is located in a sustainable location allowing choices other than private vehicle to be used by employees. The continued operation of the concrete works would not have any significant adverse impacts upon amenity and its effects on the landscape are acceptable. However, conditions relating to the protection of amenity and the landscape should be attached to this planning permission to ensure the development remains acceptable. Subject to these conditions it is considered that the development accords with the development plan.

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Recommendation

- A. Permit subject to the conditions, as set out in the appendix.
- B. To endorse, as requested by The Town & Country Planning (Development Management Procedure) Order 2015 (as amended):
 - (i) How we have worked with the applicant in a positive and proactive manner:
In dealing with the applications and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework.

Officer to Contact

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Conditions

1. Unless otherwise required by this permission the development shall be carried out in accordance with the following details: drawing number 2042TC/ELI/PD-01 dated 29/11/2018 and the 'Design and Access Statement' dated 17th December 2018.
2. The buildings, structures and stockyard areas hereby permitted shall only be used for purposes connected with the manufacture of concrete pipes at Ellistown Concrete Works.

Ecology

3. All trees or hedgerows within the site as defined by a solid red line on drawing number 2042TC/ELI/PD-01 dated 29/11/2018 shall be retained for the life of the development hereby permitted.
4. The woodland planting as shown on drawing number 2016EXT/STO/PD-03 revision B dated 23/11/2016 and forming part of planning permission 2016/1477/07 dated 16 JAN 2017 shall be suitably maintained and replaced as necessary for a period of not less than three years from the date of this planning permission.
5. The screening mound as shown on drawing number PD-03 dated Oct. 06 and forming part of planning permission 2006/0997/07 dated 15-09-2006 shall be retained and maintained in accordance with the details set out on drawing number PD-03 dated Oct. 06.

Hours of Operation

6. The stockyards shall only operate between the hours of 0600 to 2200 Monday to Friday and 0600 to 1400 on Saturdays. There shall be no working on Sundays or Public/Bank Holidays.

Landscape

7. The silos, mixing plants, conveyors and concrete factory buildings shall be maintained and retained in a light grey external colour.
8. The height of the products stored on site shall not exceed five metres in height from the ground level.

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Noise and Dust

9. The free-field equivalent continuous noise level, LAeq, T noise levels arising from the site as defined by a solid red line on drawing number 2042TC/ELI/PD-01 dated 29/11/2018 when measured 3.5 metres from the most exposed external façade shall not exceed 55 dB (LAeq, 1 hr) free field between 0700-2300 hours and 42 dB (LAeq, 1 hr) free field between 2300-0700 hours at the nearest residential property.
10. Measures shall be taken within the site to ensure that the best practicable means are used to minimise the emission of noise and dust from the site to ensure so far is reasonably practicable that the operations carried out do not give rise to nuisance at residential properties. Such measures shall include:
 - a. damping of all internal roads and working areas during dry and windy conditions;
 - b. all stockpiles to be kept damp; and
 - c. drop heights to be kept to a minimum.
11. All site based vehicles shall have white noise type reversing alarms installed.
12. Should the development give rise to complaints regarding noise or dust that in the opinion of the Mineral Planning Authority are unacceptable, the applicant shall submit a scheme of mitigating measures to be agreed in writing by the Mineral Planning Authority. The development should then take place in accordance with the approved scheme.

Public Rights of Way

13. The bridleway provided between points marked A, B, C, D, E, and F, and points marked E and G on Plan EC1 attached to and forming part of planning permission 2016/0632/07 dated 12 AUG 2016 shall be made available for use by the public on foot, on horseback and on pedal cycles at all times.

Reasons

1. For the avoidance of doubt and to ensure that development is carried out in a satisfactory manner.
2. For the avoidance of doubt and to ensure that the use remains compatible with surrounding land uses.
3. To ensure that the existing vegetation is retained and to reduce the landscape impacts of the development.
4. To ensure the development is adequately screened.

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5. To ensure that the development remains adequately screened and to reduce the landscape impacts of the development.
6. To ensure that the development does not become the source of adverse noise or dust levels in the locality.
7. To ensure the buildings, mixing plants, conveyors and silos remain in a subdued and appropriate colour to reduce the visual impacts of the development.
8. To protect the visual amenity of the area and to ensure the development is adequately screened.
9. To ensure that the development does not become the source of adverse noise levels in the locality.
10. To ensure that the development does not become the source of adverse noise or dust levels in the locality.
11. To ensure that the development does not become the source of adverse noise levels in the locality.
12. To protect the amenities of local residents.
13. To ensure that the enhanced public right of way is made available for use by the public.