

**Submission of the Wimbledon Park Residents Association
Reasons for the rejection of the appeal concerning application 17/PO438
for a concrete batching plant at 12 Waterside Way.**

Executive Summary

The proposed concrete batching plant will increase traffic and air pollution in an area that already exceeds the EU limits. The toxic dust and noise which it will inevitably emit will threaten the existence of the very nearby allotments, destroy the peace and tranquility of the adjoining Wandle Valley Regional Park and affect the school children in Garfield school and the playground in Garfield Park. The air quality modelling carried out on behalf of the applicants has such large uncertainties that it can not be relied upon and the traffic movements they submitted were shown not to be representative of the actual traffic flows. In the absence of reliable information on traffic and air quality and the failure to satisfy the planning guidelines of Merton Council, The London Plan and NPPF the appeal should be refused. Merton Council has failed to correctly assess the environmental aspects of the application and as a result has only objected on the grounds of the visual appearance when it should have also have also objected on the above environmental grounds. The appeal should be rejected even when judged against the criterion set out by the applicants in their original application.

1 Summary of Planning Guidance on Air Quality

In this section we will summarise the planning guidance that applies to developments which can lead to increased levels of air pollution.

- 1.1 The proposed development must satisfy the guidelines of NPPF, the London Plan and those of Merton Council. The **NPPF** states in paragraph 181 that *Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.*
- 1.2 The policies of the **London Plan Chapter 7 London's Living and spaces and Places** published in 2016, section 7.1.4 are as follows
Planning decisions, B Development proposals should:
 - a** *minimise increased exposure to existing poor air quality and make provision to address local problems of air quality (particularly within Air Quality Management Areas (AQMAs)*

c) be at least air quality neutral and not lead to further deterioration of existing poor air quality (such as areas designated as Air Quality Management Areas (AQMAs))

In the draft London Plan December 2017 we have Policy SI1 Improving Air Quality. Development proposal should not

a) lead to a further deterioration of existing poor air quality.

c) reduce air quality benefits that result from the Mayor's or borough's activities to improve air quality.

d) create unacceptable risks of high level exposure to poor air.

1.3 The Planning guidelines of **Merton council in its Sites and Policies Plan** publishes in 2014 we find Policy DM EP4

Seek to minimise pollutants and to reduce concentrations to levels that have minimal adverse effects on people, the natural and physical environment in Merton.

Policy To minimise pollutants, development:

a) *Should be designed to mitigate against its impact on air, land, light, noise and water both during the construction process and lifetime of the completed development.*

b) *Individually or cumulatively, should not result in an adverse impact against human or natural environment.*

1.4 Furthermore in **Merton's Air Quality Action Plan 2017 2022** in Table 1 page 10 we find under the heading *Emissions from developments and buildings* the *LBM Planning Dept. EH Dept.* should *Enforcing Air Quality Neutral policies by Enforce Air Quality Neutral requirement through planning condition/enforcement*

1.5 Planners often take advise from the document entitled **London Councils: Air Quality and Planning Guidance, revised January 2007** which can be found on Merton Council's web pages In section 1.2 of this document we find that *.. it is no longer satisfactory to simply demonstrate that a development is no worse than the existing or previous land use on a particular site"*

1.6 In section 2.3 we find that *...air quality assessments should take into account the cumulative air quality impacts of other developments, both within the authority and neighbouring boroughs. These should include both committed developments .. and in the key points in that section The cumulative impact of developments should be considered*

1.7 Reading below the first table in section 2.9 we must conclude that air quality is a significant consideration for this application and in the second table in this section 2.9 we find that the proposed development falls into *...category APEC-C as it has an air pollution that is greater than 5 % above national objective* and as a result *Refusal on air quality grounds should be anticipated, unless the Local Authority has a specific policy enabling such land use*

1.8 The applicants submitted the report the Air Quality Consultants entitled *Air Quality Assessment*" with the original application in January 2017. In these reports the consultants, Stephen Moorcroft, and Pauline Jezequel, quoted many of the above planning guidance on air quality but they also relied on the **IAQM guidelines "Land-use Planning and development Control: Planning for Air quality January**

2017.” The chairs of the working group that compiled this report are Stephen Moorcroft of Air Quality Consultants and Roger Barrowcliffe of Clear Air Thinking. Both these consultants earn money advocating for developers and in this regard they have a conflict of interest that would not be allowed in many walks of life. This document has no legal status and its policies are viewed as too weak by some. Nonetheless we find in section A.1 the statements *a planning decision .. will depend on factors such as the severity of the impacts of air quality and the air quality in the surrounding the proposed development.* and in section A1.4 *New developments should not contravene the Councils Air quality Action Plan, or render any of the measures unworkable.*

It would be illegal for Merton Council to grant permission for a development that increases air pollution in an Air Quality Management Area and especially if it has levels of air pollution that very substantially exceed EU limits. As explained by residents in the past, and discussed below, this is the case for the proposed concrete batching plant.

2. The flaws in the air quality modelling used by the applicants.

The December 2017 the report entitled Air quality Addendum” by the Air Quality Consultants (AQC-dec) explained that the consultants used an ADMS-Roads dispersion model to predict the pollution levels. We now examine in detail the way this modelling was carried out

- 2.1 As they explained in paragraph 2.5, table 1, page 5 they modelled the NO₂ levels for ten receptors (residential properties). The first three, R1, R2 and R3 were on Plough Lane while the receptors R4, R5 and R6 are on Gap, Durnsford and Haydon Roads respectively.
- 2.2 The actual NO₂ levels were measured by Merton Council were given in table 2 page 9. They all show results in considerable excess of the EU limit except for Weir Road which is not a main road.
- 2.3 The result of their modelling of NO₂ levels are given in table 5 page 12 for 2016 and 2018 and also on page 16, table 7 for 2018. The NO₂ levels are with a few exceptions above the EU level. In table 5, page 12 we see that there is a very roughly 10% reduction in NO₂ level even without the scheme in the two year between 2016, and 2018. We note that, as explained in our paragraph 1.2, new developments can not exploit reductions in air pollution levels due to actions by Merton Council and others to justify new developments.
- 2.4 A key input into their modelling was their traffic flows and these are those provided by Bellamy Roberts. However, for reasons spelt out below in paragraph 3.3 these were found to be incorrect. The planning guidelines of the NNPF, London and Merton require that the applicants present a reliable traffic survey. Indeed Merton Council did request such a survey be carried out, see the attached files called email 1 and email 2. No such survey has been submitted. Please see the submission of the North Haydons Road Community for more details on this subject. The failure to provide the essentially document is sufficient grounds to refuse the appeal.
- 2.5 The way the modelling was carried out was explained on pages 39 and 40 paragraphs A3.10-A3.16. The modelled NO_x was 22.4 at Haydon Road in 2016. In contrast the

NO_x was 63.3, as measured by Merton Council, and as a result they used an adjustment factor of 2.8250.

- 2.6 How to assess the uncertainties of an air pollution model, and also how to interpret such modelling, is explained in the **DEFRA guidelines "Local Air Quality Management, Technical Guidance (TG16) February 2018"** . As explained in table 7.14 page 7-130 "In order to provide more confidence in the model predictions and the decisions based on these, the majority of results should be within 25% of the monitored concentrations as a minimum, preferably within 10%". In paragraph 7.542 the DEFRA guidelines state that if they are not then they should "consider altering the model inputs and rerunning in order to improve the results of the comparison and verification." The applicants ignored this step even though their modelling was 282.5 % too small. We observe that the scaling factor was given by the applicants to within 0.1 % and their predicted NO₂ levels to similar levels of accuracy. This gives a very misleading impression of what are the real errors with their modelling.
- 2.7 To compute the uncertainties of the modelled results one should use Paragraph 7.537 of TG16. It explains that the favoured method is to calculate the RMSE, a standard statistical exercise. In the air quality modelling of the applicants they have calibrated their results using only one measured NO₂ level at one site. For these the observed results minus modelled results is 40.9. Putting these into the formula in Box 7.17 we find that the uncertainty in the modelled results is 40.9. Hence the uncertainties are as large as the results themselves and so the air quality modelling of the applicants is completely unreliable.
- 2.8 Given that there was a comparison with one measured results it is inevitable that there is not any statistical reduction of the uncertainties and as a result the uncertainties are essentially as large as the modelled results. Paragraph 7.545 makes clear that the accuracy of a model is particularly important when the area is close to the 40 EU limit and is an AQMA area, as is the case. Anyone with a scientific training knows that if the predicted results are out by essentially a factor of three, and the comparison is with only one measured result, then the uncertainties will be so large as to render the results unreliable.
- 2.9 We have shown the December 2017 air quality report to Public Health England who have stated that "I have passed your enquiry onto colleagues within PHE with expertise in air pollution modelling to review. They noted that the model validation appears quite limited, as the modelled concentrations are compared to few measured data points, which may impact the model accuracy. As noted previously, the availability of background monitoring data can be a limiting factor in any assessment; however, you may wish to clarify this further with your local authority, who have a statutory responsibility to review this assessment as part of the planning process."
- 2.10 The air quality document, and the above arguments, have been studied by Professor Sujit Sahu of the University of Southampton whose is an expert on statistics specialising on air pollution. He has commented that "I agree with concerns. You may recall I tried to say the same thing over the phone regarding colleagues trying to make inference based on very small data sets. I agree that calibration based on one single observation is like a primary school child's job. "

The modelled N02 levels of the applicants have uncertainties which are as large as their results. As a result no credibility can be placed on the modelling of air pollution put forward by the applicants. The development will increase the number of HGV movements and so lead to an increase in air pollution. The appeal should be refused on these grounds.

3. The contradictory nature of the applicants arguments

3.1 The original application of the developers contained their Air Quality Assessment Document (January 2017). This cited many of the planning guidance given in section one. The applicant repeatedly insisted that they satisfied these because there would be a reduction in the number of HGV's using the site and so a reduction in air pollution. In the executive summary of this document we find the statements

Existing conditions within the study area show poor air quality, with concentrations of nitrogen dioxide exceeding the annual mean objective at most roadside locations within the study area. The entire London Borough of Merton has been declared an Air Quality Management Area.....

The proposed development will reduce HGV traffic on the local road network, compared to the current use of the site. As such, road traffic emissions associated with the operation of the proposed concrete batching plant will not adversely impact on local air quality....

The proposed development will comply with the requirement of London Plan Policy 7.14, that all new developments in London should be at least air quality neutral. Overall, the operational air quality impacts of the proposed development are judged to be insignificant.

3.2 The September 2017 document of the Air Quality Consultants (AQC-sept) response to objectors, dated 5/9/17, continued to base their application on their December 2016 traffic survey and that the number of HGV's is reduced. Indeed they give no indication that the number of HGV movements were no longer accurate and continued to claim that the number of vehicles stated in their traffic survey were correct. These points are strongly asserted in sections 1.8 1.12, 1.21, 1.22 and 1.26. of that document.

3.3 The local residents carefully observed, and then documented in a verifiable way (video footage), the number of HGV movements to and from the site. They found that the number of HGV movements was very much less than those claimed by the applicants. As a result the reduction in air pollution calculated using their traffic figures were wrong. Hence the case put forward by the applicants justifying the development collapsed. As is well documented (see the submission of the North Haydons Road Community submission) the applicants repeatedly claimed that the number of HGV movements in their 2016 survey was the correct number and only admitted the truth when it became clear to them that the evidence against their traffic numbers was overwhelming. It is only at this point they offered the excuse that they had scaled down of their operation. The 2016 traffic survey was carried using a high mast and so it would have been clear to the applicant's when the survey was being carried out. Perhaps this is a more likely explanation of the discrepancy.

3.4 It was largely due to the realisation that the applicants had submitted HGV movements that were incorrect that Merton Council withdrew the application from the planning committee and eventually refused the application, see our paragraph 6.1. In these circumstances Merton Council should have reassessed the arguments given by

the applicants on air pollution and insisted that their requirement for a new reliable traffic survey was actually carried out. A new traffic assessment has not been produced. The need for a robust traffic assessment was identified at pre-app stage. It is also required by the Merton's planning guidelines, in particular Merton SPG Sustainable Transport doc p 6: 3.3 Transport Assessment (Policy LU: 3) All development proposals within the Borough will be assessed according to their likely impact on the environment and on the transport network. This will include traffic generation, impact on the road network, availability and capacity of public transport. Where there is likely to be significant impact on the transport network, developers will be required to submit a Transport Assessment (TA) and a travel plan aiming to reduce car travel to and from a proposed site and increase use of more sustainable forms of transport. Planning permission can be refused on the basis of unacceptable transport impact. The appeal should be refused on the grounds that it does not have a reliable traffic assessment.

3.5 We understand that the applicants have not submitted their original application as part of their evidence to the inspector! It is available on Merton's planning website.

The applicants originally claimed that a reduction in air pollution would result from the development as there would be less HGV movements and so satisfy planning guidance. However, local residents showed that the reduction in the number of HGV movements claimed by the applicants was wrong. As a result their entire justification for the development collapsed. Based on the arguments originally put forward by the applicants and the known traffic flows the appeal should be refused. The absence of a reliable traffic assessment is also sufficient grounds to reject the appeal.

4. The statement of common ground between Merton Council and Express Concrete Ltd

Merton Council withdrew the application from consideration by the planning committee due to the objections raised by local residents. These included air quality, the verifiable traffic surveys carried out by local residents that showed that the traffic survey carried out by the applicant was not representative of the actual traffic flows (see our paragraph 3.3). Other objections by residents concerned the proximity of the Wandle Valley Regional Park, Haverlock Road Allotments and the Garfield School. These objections are spelt out in this document. Despite this Merton Council did not consult with the local residents before drawing up the statement of common interest with Express Concrete. We consider that the statement of common interest with the developer has the following flaws

4.1 The statement of common interest claimed that the environmental assessment of the developers was satisfactory. This is not consistent with the flaws in the environmental assessment spelt out above, largely contained in the earlier objections of the residents and also the reasons why the application was withdrawn from the planning committee by Merton Council, see our paragraph 6.1. The lack of understanding of the application dates all the way back to the pre-application document of Merton Council. This identifies the issues as noise, dust, traffic, flooding, visual impact but fails to mention air quality, the proximity of the Haverlock Road Allotments and the Garfield Park

with its school and playground. It also make little mention of the fact that the site adjoins the Wandle Valley Regional Park except to incorrectly note that this "should not be an issue as no building on open land is proposed". This surprising statement was given despite quoting policy Chapter 15 'Wandle Valley Sub-Area - Policy 5 as given in appendix A. Remarkably they also conclude that " No objection is raised in relation to the visual impact of the proposed development" . There is a similar lack of understanding in the documents submitted with the application who seem unaware that the concrete batching plant adjoins the Wandle Valley Regional Park and is very close to the Haverlock Road allotments and Garfield Park.

- 4.2 Failure to give a proper account of the past history of the site. This, and an adjacent site, were put forward for waste processing in the South London Waste Plan. However, as a result of objections by residents this use was rejected on grounds that are similar to those being put forward by residents in connection with the current application, see our paragraph 5.3 in this context.
- 4.3 Failure of Merton Council to properly understand that the case put forward by the developers collapsed (see 6.18) once it had been shown that the current number of HGV movements put forward by the developers was much larger than it actually was. The Principal Environmental Health Practitioner of Merton Council, upon whose report the Council relied, explained in an email (reproduced in appendix B) that "whilst I consider the applicants submission, I do not base my decision on other representations made as these do not form part of the application. It is the role of the planning officer to consider these or the planning committee to make the final judgement on applications. I am only one of many consultees on planning applications." He also stated that "I would not be able to undertake a study of future HGV vehicle movements from the site, although the applicant has done this based on their own knowledge of their business model. I have no evidence that this should not be the case." Hence the officer ignored the traffic survey of the residents which showed that the HGV movements of the applicants was wrong. However, in meetings between the residents and the planners of Merton Council it was made clear that the planners relied entirely on the reports of the Principal Environmental Health Practitioner of Merton Council. As such the objections of the residents were not taken into account in the decision making process of Merton Council. This is contrary to the procedures they are obliged to follow. This goes some way to explain why Merton Council only refused the application on the grounds of visual appearance.
- 4.4 The use of the previous Victorian heritage to justify pollution in the modern day. The statement of common interest (6.10) contains the statement "The Wandle Valley Regional Park (WVRP) is a legacy of the Industrial Revolution and the contrast of industrial uses adjacent to the Regional Park is a key characteristic of the character of the Wandle Valley." The current uses of Waterside way include a glass works, a microscope manufacturer, scaffold storage and retail units. None of these generate any significant levels of pollution. Indeed the only real industrial activity is at 8 Waterside Way which is owned by Cappagh who are a partner in the proposed development. In fact in Victorian times this, and adjacent areas, were used to grow watercress and agricultural produce, as is clear from historic maps of the area. One can but wonder

why the planners, who are supposed to look neutrally at an application, regurgitated such a defence. Do they propose that we adopt Victorian standards for pollution and health.

- 4.5 It is odd that Merton Council were so willing to agree to so many points with the applicants given their past record. There was a very large escape of cement dust from a cement storage silo on the site that has been built without planning permission and operated without a license to use it. This release was carefully documented using as video camera by residents but despite this Merton Council has failed to take the appropriate action. Merton Council was also aware that the applicants had presented incorrect HGV movements to and from the site which was used to justify a fall in air pollution and so to enable the proposed concrete batching plant.
- 4.6 Other inaccuracies and inconsistencies of the statement of common ground are listed in the submission of the submission of the Haydens Road North Community.

The statement of common ground between Merton Council and Express Concrete Ltd contains errors and omissions that have undermined the way Merton Council processed the application.

5. The threats by the applicants concerning future activities at the site.

- 5.1 The applicants in the AQC-doc (paragraph 6.8) and "Addendum transport note" by Bellamy Roberts (paragraph 3.7) threatened that, if this development is turned down, the site could be used for activities that could generate large numbers of HGV movements that Merton Council would be unable to regulate. Cappagh have previously sought a use for this site that is well short of satisfying planning guidelines and as a result was rejected. A few years ago the three London Councils (South London Waste Management Plan) had decided, on the basis of objections by residents, that 12 Waterside Way and adjacent sites, were unsuitable for waste reprocessing. Even after this decision Cappagh submitted a new application for waste disposal, this was refused. Any new application for activity at the site will be subject to planning and will be rejected if found wanting provided Merton Council properly applies planning guidelines.
- 5.2 It is quite incorrect to argue that because the site has a B2 designation the applicants can carry out any industrial activity and Merton Council must grant permission. In such planning applications the council is obliged to take account of the sensitive location of a site. This is a point that Merton Council have failed to appreciate. The Wandle Valley trust have stated that the section of the Wandle Valley Regional Park which adjoins the proposed concrete batching plant is a particularly sensitive part of the park as it is where the rivers Graveney and Wandle join. Elsewhere in this document we have listed the adverse effects on the adjoining Wandle Valley Regional Park, the very close by allotments and Garfield school.
- 5.3 As we have mentioned 12 Waterside Way, and other adjacent sites were put forward for consideration for waste processing in the South London Waste Plan. As a result of objections by residents, which were not dissimilar to those being put forward in this document, these sites were withdrawn. The South London Waste Plan DPD / Traffic Considerations assesses the Plough Lane Industrial Area at p26 as follows:

Plough Lane experiences large volumes of traffic, and the junction of Plough Lane/Gap Road is subject to high levels of congestion, particularly during peak periods. In addition, the area already experiences a high level of vehicle movements. It adds: The area is close to residential areas along Plough Lane and Durnsford Road and a school. Redevelopment of part of this area for any purpose would seek to minimise and manage HGV movements. Unfortunately, residents did not systematically object to waste reprocessing in Weir Road and this did go ahead. Merton Council has failed to restrict the number of HGV movements that this activity has generated and as a result there has been a very substantial increase in traffic congestion and higher levels of air pollution. This is evident to any one standing on say Gap Road, Plough Lane or Haydons Road as there is a constant flow of HGV's carrying waste which is being brought to Wimbledon from across all of London and Surrey. The construction of the concrete batching plant would significantly add to the number of HGV's and, unlike the developments in Weir Road, it has been very strongly, and so far successfully, opposed by residents. Residents would also oppose any other development that lead to an increase in traffic flows and as this is not consistent with planning guidelines one can expect that it will be refused.

To generate a large number of HGV movements from the site in the future the applicants would have to gain planning permission for an activity that lead to such large numbers. This would be mostly likely refused due to the sensitive location of the site, air quality considerations and the other objections raised against the concrete batching plant.

6. The objection of Merton on visual impact

- 6.1 The reasons why the application was withdrawn from the planning committee was given in an email on the 24 October 2017 from Merton Council to the applicants. We reproduce the content of this email as a separate file called email 1. It stated that it was withdrawn on the grounds of "air quality" and " the information submitted by objectors ...has serious doubt cast over the reliability of the applicant's figures, to the extent that we would not consider the traffic sufficiently robust to support the officer recommendation for approval" . Merton Council add that " It is likely that we will now require much more robust traffic surveys which are more reflective of the actual situation" .
- 6.2 The above grounds for objection agree with some of those put forward by Wimbledon Park Residents Association, the Haydon's Road North Community and other residents. However, Merton chose to reject the application only on the grounds of visual impact. It is not easy to understand why Merton Council did not reject the application on the grounds of air quality, the lack of a reliable traffic survey, the effects of the toxic dust and noise on the Haverlock Road allotments, the Wandle Valley Regional Park and the school children of Garfield School. The reason may be the related to the poor advise given to the planners by the environmental officer at Merton Council, see our paragraph 4.3.
- 6.3 The proposed concrete batching plant is within 5 meters of the Wandle Valley Regional Park. It was partially shielded from the path along the Wandle by a very thin line

of trees which someone has, possibly illegally, reduced with the result that the plant will be very visible and indeed dominate the outlook of those walking along the path. Thus the development is not consistent with the planning policies in Merton Core Planning Strategy 2011, Policy CS 5 Wandle Valley given in appendix A as well as other planning policies in this appendix. We agree with Merton Council's objection on the grounds of visual impact. At present one is not obviously aware of industrial activities as one walks along the Wandle Path next to the site. This will not be the case if the proposed concrete batching plant is built and the peace and tranquility of the area will be destroyed.

While we agree with the objection of Merton Council on the grounds of visual impact we think that the Council should have also objected on the grounds of air quality, lack of a reliable traffic assessment and air quality modelling as well as the toxic dust and noise it will inevitably emit which will threaten the existence of the very nearby allotments, destroy the peace and tranquility of the adjoining Wandle Valley Regional Park and affect the school children in Garfield school and the playground in Garfield Park.

7. Proximity to the Haverlock Road Allotments, the Wandle Valley Regional Park and Garfield Park and school.

- 7.1 The Havelock Road allotments are owned by Merton Council and are within 40 m of the proposed development. The Defra guidelines which apply to concrete batching plants only concern visible dust and even with the most rigorous compliance there will be dust released by the cement batching plant which will pollute the allotments and render them unsuitable for cultivation. Large quantities of dust are evident on the ground around cement batching plants that are in use. This is not because the plants are poorly operated but it is an inevitable consequence of such processes. It is also well known that concrete batching plants do, on occasions, release large quantities of toxic dust and when this inevitably occurs this dust will settle on the soil of the allotments. As mentioned above there has already been a very large release of toxic dust from the site when it was illegally used to store cement. It is not realistic to think that people will want to grow and eat vegetables so close to such a concrete batching plant and the allotments will most likely have to be abandoned.
- 7.2 The site adjoins the path along the Wandle Valley Regional Park and the concrete batching plant will be within a few meters of the path along the Wandle. This park is a nature reserve and is home to many species of animals and birds, which includes the Ruddy Darter, Kingfisher, Little Egret, Grey Wagtail, Swift, House Martin, House Sparrow, Black Redstart, West European hedgehog, Stag beetle and Bats [2]. It is an area of peace and tranquility that is now much used by local residents for walking, cycling and quiet contemplation. The proposed development will destroy the peace and tranquility of this important local resource which is protected by the policies of the NPPF, the Local Policies of Merton and the London Plan. This park is supported by the planning policies of Wandsworth, Merton, Sutton and Croydon and the Mayors London Plan. Some of these policies are listed in appendix A. It is clear that the construction of the concrete batching plant is not consistent with these policies.

- 7.3 The site is also within 60 meters of Garfield Park which contains a child's playground and Garfield School. As a result the school children and others will be subject to noise and pollution from the cement batching process, see our later paragraph 8.3 in this context.
- 7.3 In their considerations of noise, the applicants have only taken into account the nearest residents in in Havelock Road (120m) and Caxton Road (160m). Those working on the allotments, which are extremely close, often spend many hours there, indeed more hours that residents might spend outside their houses. They have also ignored people in the Wandle Valley Regional Park and especially those walking next to the concrete batching plant along the Wandle trail and those who spent time on the very close viewing platform of the River Wandle. Thus the noise will affect many and destroy their peace and tranquility. There are also those who are enjoying Garfield Park which contains a school and playground. The problem with the noise analysis submitted by the applicants is that it defines receptors to be the closest residents and excluded all the above. Some of the relevant planning guidelines are given in appendix A.

The escape of toxic dust from the proposed development will prevent the cultivation of vegetables on the very close by allotments and also expose the children in Garfield Park, with its school and playground to its effects. The noise generated will destroy the peace and quiet of the Wandle Valley Regional Park.

8 Comments on the appeal document on Air quality submitted by the applicants

read up to here

The applicants have submitted the document "APPEAL AGAINST REFUSAL OF APPLICATION 17/PO438: LAND FORMING PART OF NO. 12 WATERSIDE WAY, SW17 0HB, Appendix 3 to Statement of Case Air Quality Written Statement. We now comment on this document.

- 8.1 In paragraph 8.8 the applicants try to dismissed our previous objections on air quality as it used the London Councils (2007) Air Quality and Planning Guidance. In section one in this document we also summarise some of the guidance on air quality of the London Plan, the NPPF and merton Council. These have polices that are very similar to those in the earlier report. The EPUK/IAQM guidelines, which the applicants prefer, really have no legal status. We refer to our paragraph 1.8 in this context. They also complain that when assessing the accuracy of air quality modelling one should use the DEFRA "Local Air Quality Management, Technical Guidance (TG16) February 2018". This later guidance is indeed more detailed. In section three we apply these guidelines and show that the air modelling carried out by the applicants does not satisfy them. The applicants tacitly accept that this is the case when they offer the defence that others have also used the used very large adjustment factors of 2 and 3 when modelling air quality modelling. Clearly this does not make it the right thing to do in general. As the DEFRA guidance makes clear such factors can only be justified if the calibration is carried out against many measured N02 levels at different sites which is certainly not the case with this application. Since their air quality

modelling has such large errors, the applicants can not use it to justify statements such as "The conclusion must be that air quality is not a significant consideration" or their conclusion (9.1) that "I consider the Air Quality Assessment and the revised Addendum to be robust and based on widely-regarded best practice." etc.

- 8.2 In paragraph 8.4 they admit that they failed to take account of the cumulative effects associated with other developments and they agree that the Wimbledon stadium development will increase traffic flows. However, they claim that it will be built over a number of years and the precise phasing is not known. This development of a football stadium and about 700 residential properties is very close to 12 Waterside way and the construction is already well under way. Its scale and timetable are well known and it should have been taken into account. The case put forward by the applicants is flawed in that they have not taken into account this very substantial close by development.
- 8.3 In paragraph 8.4 they state in relation to the dust from the plant that "With specific regard to the Garfield Primary School, it is located approximately 170 m to the south- west of the application site, in the prevailing upwind direction, and shielded by dense and mature woodland." Thus they are admitting that there will be toxic dust emanating from the concrete batching plant even if it were to obey DEFRA guidelines. They rely on the fact that the wind will not blow in the direction of the school and that if it does then the dust will land on the few trees that lie in between the plant and the school. This is certainly a new approach to the prevention of disease due to air pollution. We note that the children's playground in Garfield Park is quite close to the proposed concrete batching plant, the people walking along Wandle Trail are within a few meters and the allotment is within 20 meters. After much research it is now acknowledged that on average 33 people are dying every day in London from NO₂ and small particulates. In contrast the effects of toxic dust from concrete batching plants has yet to be definitively understood and it would not be surprising if the effects have been substantially underestimated. There are already a number of studies that suggest that the effects could be very serious. As we noted already existing concrete batching plants have large quantities of dust in the areas round them.
- 8.4 In paragraph 9.5 they quote the report of the officers of Merton Council, namely that the application is considered to have satisfactorily demonstrated that traffic movements would not increase, that parking would be adequate and the issues of noise and dust would be sufficiently mitigated by way of condition and requirements in order to gain an Environmental Permit to avoid material harm to residential amenity. We explained in our paragraph 4.3 that the environment officer failed to take into account the evidence offered by residents on traffic levels and instead relied on the incorrect traffic survey of the applicants. Thus this statement is incorrect.
- 8.5 In paragraph 9.4 they claim that "the proposed development will reduce HGV movements on the local road network when compared to the existing use of the site, and will be beneficial to local air quality conditions." This is simply not true. The HGV movements submitted by the applicant's was based on their 2016 survey was found not to be representative, as is well documented in section three.
- 8.6 We note the technical and confusing contents of appendix A and the exceedances of EU limit value in paragraph 5.6. Reading this latter paragraph one would never guess

that the area surrounding the site very substantial exceeds EU limits. The simple point is that the development is putting significant additional numbers of HGV's on the local roads causing increased air pollution which will harm human health in an area that already exceeds the EU limits. Could it be that the consultants want to try to blind us with technical terms, see also our paragraph 2.5 in this context.

Iain C Simpson, Chairman Wimbledon Park Residents Association

and

Peter West, Committee member, Planning

Appendix A

We first give some of the key Planning guidelines concerning The Wandle Valley Regional Park.

Merton Core Planning Strategy 2011, Policy CS 5 Wandle Valley

which states that ".....Our objectives to deliver this vision are to:

- [e.] Support the creation of the Wandle Valley Regional Park, achieving a high quality, linked green infrastructure network, protecting biodiversity and providing opportunities for formal and informal recreation;
- [f.] Protect and enhance the river Wandle, including its green chains, biodiversity and wildlife corridors and recreational attributes;

Policy CS 13 Open space, nature conservation, leisure and culture Nature Conservation

which states "To improve opportunities for our residents and visitors to experience nature we will:

- 1.] Protect and enhance biodiversity through supporting the objectives of the London Biodiversity Action Plans;
- 2.] Encourage new green links, green corridors and islands to seek to reduce areas of deficiency in nature conservation and to create safe species movement and havens for nature;
- 3.] Refuse development that has a significant adverse effect on the population or conservation status of protected or priority species and priority habitats;
- 4.] Require any development proposals likely to affect a Site of Special Scientific Interest, Metropolitan, Borough or Local Sites of Importance for Nature Conservation and Local Nature Reserve, as shown on the Proposals Map, to demonstrate that such development will not adversely affect the nature conservation values of the site; Furthermore we have that "Conservation and Local Nature Reserve, as shown on the Proposals Map, to demonstrate that such development will not adversely affect the nature conservation values of the site;
- 6.] Improve public access to and enhance our waterways, including the River Wandle and its banks, for leisure and recreational use while protecting its biodiversity value;
- 7.] Expect new development within the area of the Wandle Valley Regional Park, where appropriate, to incorporate physical, visual and landscape connections that will encourage pedestrian and cycle accessibility and enhance the attractiveness of the park;
- 8.] Require, where appropriate, development to integrate new or enhanced habitat or design and landscaping which encourages biodiversity and where possible avoid causing ecological damage. Developers must propose full mitigation and compensation measures for any ecological damage that is caused. Specifically, this policy goes on to state: The biodiversity value of the river Wandle, Beverly Brook and Pyl Brook will be protected and we will work with developers to encourage new linkages in landscape and visual terms into the river corridor when development opportunities arise. The council recognise the waterways as a natural asset and will follow the advice of the Environment Agency's Thames River Basin Management Plan and the London Plan. In line with Chapter 15 'Wandle Valley Sub-Area - Policy 5 we find that " in creating a linked green infrastructure network, development within 400 m of the Wandle Valley Regional Park boundary will be required to consider its relationship to the

park in terms of visual, physical and landscape links, to ensure that new development enhances the accessibility and attractiveness of the park. Our aspiration is to ensure the arrangement of buildings within new developments complement the existing green corridors and prevent disjointed pedestrian and cycle accessibility, removing physical barriers such as railings and built form that disrupt continuity and access into and around the park. As identified in Chapter 22 'Design - Policy 14' we will enhance the legibility and reinforce the green character of the borough. ”

Merton’s sites and Policies Plan on ”Metropolitan Open Land

The site is surrounded by open land consisting of the Haverlock Road Allotments, The Wandle Valley Regional Park and Garfield Park and so the following policies apply.

- 5.3. As set out in Merton's Core Planning Strategy, Policy CS13 Open Space, Nature Conservation, Leisure and Culture, the council will continue to protect Metropolitan Open Land (MOL) from inappropriate development in accordance with the London Plan and government guidance.
- 5.4. Guidance regarding the limited instances when development within MOL might be acceptable is set out government guidance and the London Plan.
- 5.5. Development of land outside the boundaries of MOL, but in proximity to it, may damage the open character of the MOL. MOL therefore needs to be protected from development proposals which would be visually intrusive, particularly high buildings or other high structures. ”

In paragraph 21.4 of Merton's Core Planning Strategy, Policy 13, it is stated that Development adjacent to open spaces must not adversely affect the amenity, quality or utility of the open space.

- 5.15. It is important to protect the existing green chains and improve links between and across open spaces. Such links provide important informal recreational opportunities for walking and cycling, create a safe and pleasant environment, and allow appreciation of attractive landscapes and features of historical significance.
- 5.16. A large number of open space areas in Merton are linked by rivers, brooks and small or linear open spaces, or are separated from one another by short sections of built development. This provides opportunities to exploit the informal recreation potential of the open spaces and waterways by making them more accessible to the public, in line with the principles set out in the Mayors All London Green Grid supplementary planning guidance (March 2012). ”

Merton’s Policy ”DM 02 Nature conservation, trees, hedges and landscape features Link to Core Planning Strategy Policy CS 13 Open Space, Nature Conservation, Leisure and Culture Policy aim

To protect and enhance biodiversity, particularly on sites of recognised nature conservation interest. To protect trees, hedges and other landscape features of amenity value and to secure suitable replacements in instances where their loss is justified. Policy

- a) The council will protect all sites of recognised nature conservation interest and the green corridors linking them, against inappropriate development in accordance with the measures set out in Merton's Core Planning Strategy Policy CS 13 part g and

wherever possible, secure measures that enhance their nature conservation value. Development which may destroy or impair the integrity of green corridors will not be permitted and proposals in and adjacent to these corridors will be expected to enhance their nature conservation value.

- 5.25. The council recognises the importance of maintaining and enhancing a network of green corridors which are relatively continuous areas of green space leading through the built environment, and which link large green spaces or to each other. They can assist the movement of some plant and animal species through the borough, allow some animals to undertake movements between different habitats that they require for survival, maintain the presence of some animals and plants in places where they would not otherwise be found, and help to ensure the maintenance of the current range and diversity of flora and fauna, and the survival of important species. ”

Merton’s Sites and Policies on noise and pollution

- 7.37 A site assessment in accordance with guidance set out in the forthcoming SPD dealing with pollution will be required to establish the nature and extent of the contamination prior to determining the application. Contamination sensitive development would typically include developments that potentially put people in direct contact with contamination; such as a residential use, open space or school uses.

- 7.38 Development should not be permitted unless effective measures are taken to treat or control any contamination in order to:.... A nearby use maybe sensitive to contamination.

Merton’s Merton’s Sites a Policies document contains the statement of Policy DM EP2 states that ” Development proposals will be expected to meet the following criteria:

- i. Noise-generating developments should be appropriately located so as to minimise its impacts on noise sensitive land uses ”

- 7.14 It is also necessary to separate sources of noise from noise-sensitive developments and control noise at source where possible. Examples of noise-sensitive land uses are hospitals, housing and schools.

Some of the National Planning Policies (NPPF)

Section 2.1 includes the statement ” 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”

The National Planning Policy Framework states that ”The prevention of harm to biodiversity through prudent planning decisions is the key principle in the NPPF when considering planning and the natural environment..... The Governments objectives for planning from an ecological perspective are, among others, to recognise the wider benefits of ecosystem services, minimise the impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Governments commitment to halt the overall decline in biodiversity, which will include the establishment of coherent ecological networks that are more resilient to current and future pressures. ”

NPPF 180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as

the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁰; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Appendix B The 31 July email from Andrew Pickup

Good Morning

Further to your email regarding the planning application, whilst I consider the applicants submission, I do not base my decision on other representations made as these do not form part of the application. It is the role of the planning officer to consider these or the planning committee to make the final judgement on applications. I am only one of many consultees on planning applications. Cement batching plants are covered by environmental permits based on guidance issued by DEFRA..... I would not be able to undertake a study of future HGV vehicle movements from the site, although the applicant has done this based on their own knowledge of their business model. I have no evidence that this should not be the case.

You may wish to consult with the planning officer regarding the number of vehicle movements permitted at the site and whether it is feasible to incorporate a planning condition regarding this providing such a condition meets the tests associated with attaching conditions to planning applications.

I am sorry that I cannot be of further assistance but the decision regarding permission rests with the planning officer or the planning committee.

Regards

Andrew Pickup Principal Environmental Health Practitioner Regulatory Services Partnership London Boroughs of Merton and Richmond upon Thames Civic Centre, London Road, Morden SM4 5DX 02085453887 andrew.pickup@merton.gov.uk