

COMMITTEE DATE: 29th January 2015

Reference: 13/00918/VAC

Date submitted: 20.12.14

Applicant: Ian Wheaton - Network Rail

Location: Old Dalby Test Track, Station Road, Old Dalby, ,

Proposal: Variation of Condition 1 - Planning Permission 08/00609/FUL - Upgrading and electrification of railway test track and related works and increase in passes. No more than the following train movements shall pass any specific point along the test track within any one hour period.

Monday to Friday:
7am - 8am & 6pm - 7pm No more than 6 passes per hour (no increase)
8am - 6pm No more than 18 passes per hour (increase in 6 per hour)

Saturday:
8am - 9am & 5pm - 6pm No more than 4 passes per hour (no increase)
9am - 5pm No more than 8 passes per hour (no increase)

Map not available

Proposal :-

This application seeks a variation to the permission which was granted consent on the 29th September 2008 for the upgrade and electrification of a section of railway test track, including testing of electric trains. Condition 1 imposed restriction on the number of passes permissible over a time frame of 0700 – 2100. This application seeks an increase in the number of passes per hour by 6 passes between the hours of 8am – 6pm Monday to Friday . The railway line is 21 km long and runs between the former Asfordby Mine and Edwalton.

It is considered that the main issues relating to this proposal are:-

- **Impact upon the residential amenities resulting from noise and disturbance**
- **Whether the increase in number of passes is acceptable under the terms of the planning approval granted in 2008 where it was considered necessary to reduce the number of passes applied for under application 08/00609/FUL**

The application is to be considered by Committee due to the level of objections received.

Relevant History:-

13/00165/NONMAT - Increase in building size under planning application 11/00684/FUL. Approved 10th April 2014.

12/00041/DIS - Discharge of Condition 2 (site Layout) relating to Planning Approval

11/00684/FUL - Temporary installation of antennas, control room and office accommodation. Approved 24th November 2011.

11/00335/FUL - Install 3 additional unpowered sidings to make a total of 6 sidings; extension to the existing DC supply 3rd and 4th rails into 2 existing sidings. Approved 21st November 2011

11/00323/VAC - Variation of Condition 1 relating to Planning Approval 08/00609/FUL which includes the train movement times. Refused 11th July 2011

09/00013/VAC - Variation of condition 2 on planning application 08/00609/FUL - alternative badger mitigation measures proposed. Approved 5th March 2009

08/00609/FUL - Upgrading and electrification of railway test track and related works. A variation of the condition increased frequency of the number of passes from 4.5 per hour to 12 passes per hour. – Approved with amendments by the Development Committee with conditions reducing the number of passes to: -

Mon - Fri 7am - 8am 6 passes

Mon - Fri 8am - 6pm No more than 12 passes per hour

Mon - Fri 6pm - 7pm 6 passes

Saturday 8am - 9am 4 passes

Saturday 9am - 5pm No more than 8 passes per hour

Saturday 5pm - 6pm 4 passes

08/00168/FUL - Upgrading and electrification of railway test track and related works. A variation of the condition increased frequency of the number of passes from 4.5 per hour to 12 passes per hour. Application withdrawn to enable further ecological survey work to be carried out.

00/00113/FUL - Proposed upgrade of existing Old Dalby railway test track and provision of a light maintenance depot at former Asfordby Mine site. Planning permission granted 11 September 2000.

00/00114/FUL – Proposal to upgrade existing Old Dalby railway test track and provision of a light maintenance depot at former Asfordby Mine Site (including train control system and 6 masts). Planning permission granted 11 September 2000.

00/00115/FUL - Proposal for provision of light maintenance depot at former Asfordby Mine site (non-electrified programme) and railway track improvement on site. Planning permission granted on 30 March 2000.

00/00679/FUL - Proposed laying of railway tracks, alterations, extension and change of use to a light maintenance depot of building at the former Asfordby Mine Site. Planning permission granted on 17 November 2000.

01/00625/FUL – Proposed extension to existing maintenance depot. Planning permission granted on 4 October 2001.

02/00773/VAC – Proposed variation of Condition 5 of planning permission 00/00114/FUL to increase the number of train movements to 4.75 train movements per hour averaged over the working day. Permission granted on 23 March 2004.

Applications have also been submitted to Rushcliffe Borough Council for the section of test track in their area and the combined length of track is some 21 kms. The application has been refused on grounds of having an inadequate revised noise assessment based on the increase in the hours of operation and frequency of train testing. They have not been able to assess the impact upon residents living close by.

Planning Policies:-

Melton Local Plan (saved policies):

Policy OS2 - restricts development in the countryside to, amongst other things, limited small scale development for employment, recreation and tourism which is not significantly detrimental to the appearance and rural character of the open countryside and development essential to the operational requirements of a public service authority, statutory undertaker or licensed telecommunications code system operator.

The National Planning Policy Framework introduces a ‘presumption in favour of sustainable development’ meaning:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail. It also offers advice on the weight to be given to ‘emerging’ policy (i.e the LDF) depending on its stage of preparation, extent of unresolved (disputed) issues and compatibility with the NPPF.

The NPPF introduces three dimensions to the term Sustainable Development: Economic, Social and Environmental: It also establishes 12 core planning principles against which proposals should be judged. Relevant to this application are those to:

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives
- support the transition to a low carbon future.....by encouraging the development of renewable energy
- recognising the intrinsic beauty of the countryside
- contribute to conserving and enhancing the natural environment

On Specific issues relevant to this application it advises:

Conserving and Enhancing the Historic Environment

- Recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- The desirability of new development making a positive contribution to local character and distinctiveness, and;
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

Conserving and enhancing the natural environment:

- Protecting and enhancing valued landscapes
- Apply great weight to protection of designated landscape and scenic areas (e.g. National Parks)
- Avoid noise giving rise to significant adverse impacts
- Minimise other impacts on health and quality of life through conditions
- Identify and protect areas of tranquillity

This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF para. 12)

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
Highway Authority – no observations	Noted It is not considered that the proposal would have a detrimental impact on highway safety.
Asfordby Parish Council – no response	Noted
Grimston, Saxelbye & Shoby Parish Council – No response	Noted
Broughton and Dalby Parish Council – Object Cllrs must object to this application because of a lack of information. No report on noise levels have been received and yet we understand that both tracks will now be used allowing for 2 trains to be tested at once thus increasing noise levels to the detriment of near neighbours and the surrounding area. The Parish Council feel that Melton Borough Council working with their colleagues in Rushcliffe should obtain such a report before a decision is made. The application also makes no reference to traffic movements which we understand have increased significantly. We would also point out that the track is currently being used outside of the permitted hours and we understand that the Enforcement Officer is dealing with breach of conditions.	An updated noise survey has been received and no further comments have been received. The Highways Authority has raised no objection to the proposal given that the use is existing and proposes no changes to the site at Old Dalby. There is currently no pending enforcement action. It had been identified that there were additional works taken place to the embankments but these works are now completed. The main access point for the testing is at Asfordby Business Park and not Old Dalby.
Senior Environmental Health Officer – No objection, subject to conditions.	The applicants have amended the application in light of the previous objection to the increase in operating hours. It is now proposed to only increase

<p>Initial concerns in regards to noise and vibration to nearby residents have been addressed by the agent. Further information on noise has been submitted and meetings to discuss the findings have also taken place.</p> <p>In respect of vibration, Environment Health accepts that the risk of adverse comment is low therefore no conditions have been considered necessary concerning vibration.</p> <p>In respect of noise, Environment Health remains concerned that the proposed application will adversely impact Station House in that:</p> <ul style="list-style-type: none"> • Exceed the ambient noise levels of LAeq,12hr 51.0 dB. The policy for this department is background or below at the design stage. • Increase overall noise levels close the WHO threshold of 55dB for serious annoyance in the external environment. • Increase significantly the maximum noise levels of each train pass. <p>However, Network Rail has provisionally agreed to install an acoustic barrier to mitigate the impact of the changes at Station House, LE14 3NE. As such Environment Health is willing to lift our objection subject to conditions</p>	<p>the number of passes from 12 to 18 for Monday to Friday only between the hours of 08:00am to 18:00 which results in an increase of 6 more passes per hour from that already approved.</p> <p>The applicant has address all previous concerns raised in regards to potential noise and disturbance and the Environment Health Officer is satisfied that the proposal can be successfully condition to prevent any adverse loss of amenity to the nearby residents where the high speed testing takes place There are other residential properties that are in close proximity to Network Rails line such as those at Asfordby Hill, Saxelbye and Grimston however the testing of trains does not take place along this part of the line and the activity in this location only involves trains being shunted from Asfordby Business Park out to Old Dalby at low speeds which results in noise levels being considered to have no adverse harm to residential amenity.</p>
<p>LCC Footpaths – Concerns raised over the safety of users using footpath G62 without knowing the speeds and frequencies of passes in the vicinity of the footpath.</p>	<p>The applicant has provided additional information as requested by the Rights of Way Officer and has stated that there will be no change to the current level of passes at the point where the G62 footpath crosses the line.</p> <p>The Rights of Way Officer has stated that they have no objections in light of the information provided seeing as the speed will not increase and the no. of passes remains the same.</p>
<p>Leicestershire County Council Ecology: No Comments to make.</p>	<p>Noted.</p>
<p>Natural England: No objection and directs to standard advice.</p>	<p>The area is not a designated wildlife site and no protected species report is required.</p>
<p>Rushcliffe Borough Council: No response.</p>	<p>An identical application has been submitted to Rushcliffe Borough Council for the part of the track in their borough. This application is currently pending, awaiting delegated decision.</p>

Representations:

A site notice was posted and neighbouring properties consulted. As a result 10 letters have been received from 10 separate households, following submission of an up to date noise report 1 further objection has been received. The objects are summarised below:

Representation	Assessment of Head of Regulatory Services
<p>Noise and Disturbance:</p> <ul style="list-style-type: none"> • The increase in testing will have a detrimental impact upon our enjoyment of our home, even on a Saturday. • Insufficient information has been submitted to allow a full assessment of the noise levels to be created. • The submission of noise inside of a carriage whilst passing under a tunnel is irrelevant to assess noise to residents living along the line • No details on the environmental impact and the Noise Report is only based on interior noise and passenger discomfort. It is also stated that testing will enable Network Rail to accurately assess the noise outputs. This suggests that they don't know how noisy these high speed trains will be and will only know once planning has been given. I presume that a train travelling at high speed and going into a tunnel will produce a fair amount of noise, every 3 to 4 minutes. • The noise from the trains at the moment, especially at weekends, is very loud and disturbing and only just bearable. • The testing of the HS1 Javelin at speeds of 125 MPH is likely to result in noise causing loss of amenity to residents. Current the trains being tested are relatively quiet. • The current use of the line is already noise pollution but it has been infrequent and not too intrusive; however the proposed intensification of traffic and extended hours will once more reduce the already limited opportunity we have to enjoy our rural home 	<p>Please see commentary above in regards to Noise.</p> <p>The application has been amended from that previously submitted which sought an increase in operational hours and passes throughout the week. It is now only proposed to increase the number of passes between the hours of 8am and 6pm Monday to Friday by 6 per hour (max 60 per day). This is the time that most people would be away from the home and it is considered that the increase in passes would not adversely affect the residential amenities.</p> <p>The trains themselves will be transported (shunted) from the Ashford Depot to the depot at Old Dalby. The maximum speed it will travel during transport will be 45mph.</p> <p>At present there is no restriction on the type of train that can be tested and testing of this type of train has taken place on the line without complaints being received.</p> <p>The proposal is one that will contribute to the provision of national infrastructure; testing of HS1 and through various discussions and reports it has been concluded that whilst there has been some harms identified they do not amount to substantial harms and the impacts can be mitigated by conditions.</p>

<ul style="list-style-type: none"> The updated noise report is still insufficient having only surveyed two places although it is not know where. It can be seen from Table 8 that the maximum noise levels as a result of the Javelin pass-bys would be higher than those generated by the LUL trains. Therefore, the maximum noise levels inside habitable rooms would not exceed 82 dB – this is far to high and exceeds guidelines. 	
<p>Other Matters</p> <ul style="list-style-type: none"> When they applied for permission originally they said they would not increase the testing. Previous planning permission restricted the number of passes and in 2011 an attempt to increase them failed. This application should be refused. The increase in passes will devalue my home as no one will want to live here There is no local advantage gained from this operation as all personnel travel along our country roads (mainly at speed) to come to the facility. 	<p>The application is seeking an increase in passes and has been assessed accordingly taking into account representation received. The previous application in 2011 was refused as insufficient information had been presented and the authority could not determine if there would be any adverse impacts. This application has addressed those previous concerns.</p> <p>Drop in property prices is not a material consideration where a property becomes an unattractive place to live can be taken into account. However it has been considered that the residential amenities will not be unduly affected by the increase in passes and conditions can be imposed to safeguard those living closet to the activity.</p> <p>The project supports national objectives and goes beyond the local economy.</p>

Conclusion

The application is to increase the number of passes per hour between the hours of 8am and 6pm on a Monday through to a Friday to allow greater flexibility for carrying out testing of trains. The activity has been taking place over a number of years and previous planning permission has restricted the level of activity in the interest of preserving residential amenities. The increase in number of passes amounts to an increase to six per hour (maximum of 60 passes over a10 hour period). It has been demonstrated that the noise impacts can be made acceptable through conditions and that residential amenities will not be adversely affected by the increase in passes above that already experienced. Accordingly the application is recommended for approval subject to conditions.

RECOMMENDATION:- Approve, subject to conditions:-

1. The development shall be begun before the expiration of three years from the date of this permission.
2. No more than the following train movements shall pass any specific point along the test track within any one hour period
 - Mon - Fri 7am - 8am 6 passes
 - Mon - Fri 8am - 6pm No more than 18 passes per hour
 - Mon - Fri 6pm - 7pm 6 passes
 - On one of these 5 days (flexible) 8am to 6pm - no more than 14 passes per hour.

 - Saturday 8am - 9am 4 passes
 - Saturday 9am - 5pm No more than 8 passes per hour
 - Saturday 5pm - 6pm 4 passes
3. The equivalent continuous noise level arising from all usage of the test track (whether arising from the testing of trains or from any other activity taking place within the boundary of the test track) shall not exceed ambient noise levels of 51dB LAeq (free field) at the façade of any noise sensitive receptor identified in table two of the noise assessment submitted in support of planning application 13/00918/VAC when averaged over the permitted operational period of 12 hours, unless prior written agreement is obtained from the Local Planning Authority .
Where the ambient noise level, measured as the equivalent continuous noise level over the permitted period in the absence of any noise from the test track, exceeds 51dB LAeq (free field), the noise from the test track shall not exceed that ambient noise level.4.
4. The sound equivalent level (SEL) arising from routine testing occurring on the test track shall not exceed 80.6 dB at 25m from the test track at any monitoring point as identified in table six of the noise assessment submitted in support of planning application 13/00918/VAC.
5. At the expense of the applicant an acoustic sound barrier shall be erected along the boundary of Station House, LE14 3NE where it meets the application site in accordance with the design specification and precise location as agreed by the Local Planning Authority. The acoustic barrier shall be erected within 1 month of approval of those details specified and shall be maintained in perpetuity.

Reasons:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
- 2-5. In the interest of preserving residential amenities.

Officer to contact: **Mrs Denise Knipe**

20th January 2015