

18th November 2020

Tanya Miles
Chair
Whitestone Parish Council

Via Email

Our Ref: RMA/LC1953c_2 – Lower Hare Farm Whitestone – Further Regulation 25 Review

Dear Tanya,

RE: PROPOSED GROUND SHAPING WORKS INVOLVING THE IMPORTATION OF INERT WASTE CONSISTING OF SUB- AND TOPSOIL AT LOWER HARE FARM, WHITESTONE – FURTHER REVIEW OF REGULATION 25 SUBMISSION

RMA Environmental Limited (RMA) have been instructed by Whitestone Parish Council to undertake a review of the additional Regulation 25 submission made by the applicant following Devon County Council's (DCC's) decision that the submitted Environment Statement (ES) was not compliant with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (hereafter referred to as the EIA Regulations).

The objective of this letter is to critically review the adequacy of the submitted Regulation 25 response for formal submission to DCC.

Introduction

RMA is a specialist environmental planning consultancy and a corporate member of the Institute of Environmental Management and Assessment (IEMA). This review has been undertaken by Dr Rob Murdock and Melissa Seymour of RMA; Rob was formerly the head of environmental planning at WSP Environmental and ENVIRON UK and has over 25 years of experience in environmental planning and Environmental Impact Assessment (EIA).

Regulation 25 Documents - Review Comments

Following a critical review of the submitted Regulation 25 documents, our comments are as set out in the enclosed tables; Table 1 provides comments on compliance with the EIA Regulations and Table 2 provides comments on compliance with key planning policy.

For ease of reference, the responses in Tables 1 and 2 are set out to include our comments on the previous Regulation 25 submission (dated March 2020) followed by a review of the additional information provided by the applicant (October 2020) and a commentary on whether this additional Regulation 25 information meets the requirements of the EIA Regulations or relevant planning policy.

Concluding Statement

This review of the Regulation 25 documents has concluded that the submitted ES still does not comply with the EIA Regulations due to the lack of an adequate analysis of reasonable alternatives to the proposals, an inadequate assessment of climate change effects (and sustainability) and the absence of a properly structured ES and NTS.

The review of the proposed development against key planning policies has concluded that it has not been proven adequately that the scheme complies with Policies W1, W2, W5, W7, W14 or W18 of the Devon Waste Plan (2014).

Based on the comments made in this review and in our previous review of the original ES and supporting documents which were submitted to DCC, it is recommended that the application should be refused on the grounds of non-compliance with the EIA Regulations and with key planning policies.

Please let me know if you have any questions on this review and/or if you require any further information from us at this stage.

Yours sincerely



Dr Rob Murdock
Director

Enc: Table 1: RMA Comments on Compliance with the EIA Regulations
Table 2: RMA Comments on Compliance with Local Policy

Table 1: RMA Comments on Compliance with the EIA Regulations

	RMA's March 2020 Reg 25 Review Comments	Applicant's Further Submissions	Does it meet EIA Regs?
C1	There is no overarching document that constitutes an Environmental Statement (ES). There is a "Response to Regulation 25" document and a document named "Planning (Environment) Statement V3" that includes a section on the 'Framework of the Environmental Statement'. It is best practice to provide a standalone ES which comprises a compilation of all the technical assessments undertaken for the EIA.	An updated 'Planning (Environmental) Statement V7.1' has been submitted, which follows a similar format to the previous document and is an 'overarching' document rather than a standalone ES. It should be noted that a document titled 'Lower Hare Farm Regulation 25 request for additional information 02/04/2020' has also been submitted and this states that " <i>The section referring to EIA Framework and Non-Technical Summary is now a standalone document reference EIA Framework</i> ". There is no evidence of a standalone document covering the ES that has been submitted.	It is considered that the ES still does not follow best practice in that there is no standalone ES report submitted with the application.
C2	Regulation 18 Part 2(c) of the EIA Regulations state that " <i>a non-technical summary of the information referred to in sub-paragraphs (a) to (d)</i> ". A non-technical summary has been provided for each technical topic, but this does not cover the other information required (i.e. a description of the proposed development (sub paragraph (a) and its alternatives (sub paragraph (d))). This lack of a compliant NTS makes it difficult for members of the public to access the conclusions of the EIA in a form that is clear, concise and explained in non-technical language.	The non-technical summary has been updated to include additional information within the LVIA, Ecology and Transport sections and Air Quality, Heritage, Agricultural Land Classification and Flood Risk have been added to the NTS. It is however still not clear when reading the NTS what impacts have been considered in the assessment for each technical topic and whether mitigation measures are proposed to reduce these impacts and, if so, whether the residual impacts are significant or not.	The NTS is not considered compliant as it is not clear what impacts have been assessed and what mitigation measures will be put in place for the proposed development. Similarly, there is no overall conclusion, so it is difficult for the public to access the conclusions of the EIA.

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C3	The ES does not include any detailed assessment of the potential impacts from light and heat emissions during the construction and operational phases. If these latter potential effects are considered to be insignificant, then a statement needs to be provided in the ES to justify this.	The 'Lower Hare Farm Regulation 25 request for additional information 02/04/2020' document states that " <i>the site heat and radiation emissions are not relevant to the development proposed. Concerning light, the site does not propose any additional lighting</i> ". There is no justification as to why heat and radiation are not relevant to the development. Also, there is no assessment on the construction phase effects of heat and light on the site and potential impact this could have on nearby receptors.	Although heat and light have been referred to in the Regulation 25 response document, there is no justification as to why these are not considered in the ES. Simply stating that heat and light is not considered relevant is not enough and further justification should have been provided to justify the scope of the EIA.
C4	The applicant states in the "Response to Regulation 25" document that, due the state of the land during previous tipping operations, it does not contribute as effectively as it could to the farm and therefore the development will create a beneficial improvement on the land. There is no detailed Agricultural Land Classification (ALC) survey to demonstrate the ALC grade of the existing land only a statement to say that the quality of the land would improve post-importation of infill material. Therefore, without knowing the current ALC status of the site, it is not reasonable for the applicant to conclude that the imported material would result in an improvement.	An ALC survey has now been undertaken and has been submitted as part of the application and this concludes that the ground remodelling scheme would not significantly harm national agricultural interests in terms of the NPPF or the Local Plan. The survey concludes that the site is limited by soil wetness and gradient and therefore land on site is classified as Subgrade 3b and Grade 4.	Yes, an ALC survey has been submitted. This concludes that agricultural land quality in the ground reprofiling area is limited by soil wetness and gradient to ALC Grade 4. No assessment has been made to demonstrate that this ALC Grade would improve post-importation. As the justification for the proposed development is principally to improve agricultural land quality, then it is concluded that the key reason for the proposed development has not been proven and the justification for the development is therefore weakened.
C5	Regulation 18 Part 2(d) of the EIA Regulations state that " <i>An environmental statement is a statement which includes at least...a description of the reasonable alternatives studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment</i> ". The applicant states that whilst there are other locations technically available to serve the development, this site is the favoured option for the development. However, there are no details of the other locations that are available and therefore no	When reviewing the additional information submitted in October 2020, there is no further detail on the other locations that are technically available to support the proposed development and why the current option is considered to be preferred. The ecology section of the 'Planning (Environmental) Statement V7.1' does refer to two alternative scheme and states that " <i>Two alternative schemes have been suggested: i) the importation of approximately 300,000 tonnes which allows for the infill of the area previously unrestored as a result of the previous import of material; and ii) importation of approximately 700,000 tonnes which would enable the field in question to be engineered to</i>	Although there is some reference to alternative designs of the development within the application site boundary, there is no discussion on potential alternative locations and why the specific site location is best for the disposal of inert waste within a 5 km radius of Exeter. As such, it is considered that the evaluation of alternatives section of the ES is not compliant and the justification for the chosen site location is weak.

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	<p>comparison can be made to determine if the site would be environmentally favourable over the alternative site locations. The Lower Hare Farm Land Assessment map included with the Regulation 25 submission shows large areas of land which are not affected by the constraints listed in the key. For example, a significant area is located to the east of Exeter which would be much closer to the Cranbrook development and would therefore result in a much lower impact on climate change than the application site in relation to emissions from HGV movements. It is not clear in the Regulation 25 submission why the unconstrained areas shown on the land assessment map have been excluded from the assessment of alternative sites. As such, it has not been demonstrated that the Lower Hare Farm site is in fact the best site for the disposal of inert waste within a 5 km radius of Exeter and, consequently, the evaluation of alternatives is not compliant with the EIA Regulations.</p>	<p><i>provide for a better landform but still stay in the existing field boundaries. The application is based on the 700,000t importation.</i></p>	
C6	<p>The "Regulation 25 Response" document identifies that the key likely cumulative effects are transport-related. However, each technical assessment should present an analysis of the combined effect of the proposed development with other development schemes in the area (e.g. cumulative noise, air quality etc). All potential cumulative impacts should be considered for all technical assessments, not just transport.</p>	<p>A section on cumulative impacts is included within the "Lower Hare Farm Regulation 25 request for additional information 02/04/2020" document. This states that transport-related impacts are identified as the main effect on cumulative impacts followed by safety, noise and vehicle emissions. There is no evidence of what sites have been considered as cumulative sites and no evidence that the individual technical assessments have considered these cumulative developments.</p>	<p>No, further information is required on what cumulative development sites have been considered within the assessment. Every technical assessment should have a section on the cumulative impacts of the proposed development. If there are no cumulative impacts, then this should be explained within each technical assessment chapter.</p>
C7	<p>The "Regulation 25 Response" document includes a section on "climate change" which identifies that the impact on climate will be through HGV movements and states that the applicant has offered to mitigate for all fuel used for the duration of the operation on an annual basis through carbon offsetting. No</p>	<p>From the additional documents submitted, there appears to be no further information on how carbon offsetting will be undertaken. There is reference to the impact of climate change within the cumulative section of the 'Lower Hare Farm Regulation 25 request for additional information 02/04/2020'</p>	<p>Further information is required on how carbon offsetting will be provided, as well as justification as to why cumulative effects on climate change are considered to be negligible.</p>

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	further information on how this will be undertaken is provided. Similarly, there is no assessment of cumulative effects with regard to climate change. It is also not clear if the application site is the most environmentally favourable location for the proposed waste disposal operation (refer to Point 5 above) and therefore it has not been established that the proposed development would give rise to a lesser impact on climate change than all alternative disposal sites.	document, this states that " <i>the analysis noted that in-combination impacts of this development and others in the area are negligible, mainly due to the location of the site</i> ".	
C8	The ES does not include a description of the methodology used to identify and assess significant effects on the environment, including details of difficulties encountered and uncertainties involved; therefore, it is not considered to be compliant with Schedule 4(6) of the EIA Regulations 2017. The Landscape and Visual Impact Assessment and Ecology Assessment include details of the methodology and limitations encountered during the assessments; however, this approach is not followed through into all technical assessments and is therefore considered insufficient as a result.	It is considered that this is still the case in that there is no detail within the ES of the methodology used to identify and assess significant effects on the environment. Methodology is included within the individual technical assessments but there is little or no mention of the methodology within the ES.	No – the level of detail provided with regard to the identification and assessment of significant environmental effects is not considered to be compliant with the requirements of the EIA Regulations.
C9	The Regulation 25 submission does not include an analysis of the structural stability of the land raising operation through a geotechnical assessment. Infilling and land raising activities, especially where these are to significant depth such as in this application, have the potential to give rise to landslip issues. Whilst it may well be the case that the proposed quantum of land raising would not give rise to such effects, this has not been demonstrated and can therefore not be discounted as a risk.	From reviewing the additional documents from October 2020, there does not appear to be any geotechnical assessment or analysis of structural stability of land raising operations. This is considered to be especially important given that the ALC survey concludes that current agricultural land quality is limited by soil wetness and gradient, both of which affect land stability.	No – given the slope of the site and the proposal to import a significant mass of spoil, it is considered that slope stability is a potentially significant environmental effect and therefore should have been assessed, even to justify dismissing this issue as being insignificant.

Table 2: RMA Comments on Compliance with Local Policy

	RMA's March 2020 Reg 25 Policy Comments	Applicant's Further Submission	Does it meet Planning Policy?
P1	<p>The Regulation 25 submission fails to adequately demonstrate that the application site is the best location for the proposed disposal of waste materials given that there are other areas closer to Exeter which have similar or lesser environmental constraints. Furthermore, as the applicant has not undertaken an ALC and can therefore demonstrate that the importation of these materials would materially improve the agricultural quality of the land, then one of the principal justifications for the proposed development has not been adequately justified. If it cannot be robustly demonstrated that the application site is the best site for proposed use, then it also cannot be demonstrated that the proposals constitute sustainable development as there could well be other sites located closer to Exeter which would require shorter distances for HGVs to deliver materials than the route to Whitestone. <i>For this reason, it is concluded that the proposed development does not fully comply with Policies W1: Presumption in Favour of Sustainable Development, W5: Reuse, Recycling and Materials Recovery and W7: Waste Disposal of the Devon Waste Plan (2014).</i></p>	<p>See comment C5 in Table 1 whereby no further information has been provided on appropriate alternative locations for the development.</p> <p>An ALC survey has now been submitted; however, as detailed in Comment 4 above, no proof has been provided that the current ALC grade would be improved as a result of the proposed development.</p>	<p>No, it is concluded that with the additional information provided in October 2020, the proposed development still does not fully comply with Policies W1, W5 and W7 (or Policy W2).</p> <p>Furthermore, the justification that the proposed soil importation scheme is principally to improve agricultural land quality is significantly weakened as this improvement has not been demonstrated.</p>
P2	<p>The impact that the proposed development has on climate change is considered within the Regulation 25 Response as the justification for the development and the analysis of alternative sites to the one proposed is not robust; therefore, the climate change assessment is weak. <i>For this reason, it is concluded that the proposed development does not fully comply with Policy W14: Sustainable and Quality Design of the Devon Waste Plan (2014).</i></p>	<p>Refer to Comment C7 in Table 1.</p>	<p>No, it is concluded that with the additional information provided in October 2020, the proposed development still does not fully comply with Policy W14 (or Policy W2).</p>
P3	<p>Although the impacts of noise and vibration, air quality and dust have been considered within planning application there is no reference to the impact of light pollution, litter and windblown materials and/or odours. <i>For this reason, it is concluded that the proposed development does not fully comply with Policy W18: Quality of Life of the Devon Waste Plan (2014).</i></p>	<p>Refer to Comment C3 in Table 1. As well as this, there is no further information submitted on the impact of litter and windblown material and/or odours.</p>	<p>No, it is concluded that with the additional information provided in October 2020, the proposed development still does not fully comply with Policy W18 (or Policy W2).</p>