

TOWN & COUNTRY PLANNING
SECTION 78 APPEAL

Concrete Batching Plant
Cranford Industrial Estate
London Borough of Haringey

CLOSING SUBMISSION OF GN8

20 MARCH 2006

PLANNING APPEAL: APP/Y542/A/05/1189822

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1 INTRODUCTION

- 1.1** It will be clear by now to all who have participated in this enquiry that London Concrete's proposed development has generated a significant degree of local opposition. Inhabitants of the surrounding peaceful residential community have a strong perception that their health and amenity will be harmed by an increase in noise, dust and vehicle movements. This perception is a material planning consideration for the Inspector to take into account.
- 1.2** During the enquiry, London Concrete sought to portray the residents' strength of feeling as being the result of an "overzealous" and misleading internet campaign by my client, GN8. We submit, by contrast, that the community's perception and vocal opposition to the development is based on the flaws in London Concrete's analysis and the residents' understanding of the misleading nature of its reassurances.
- 1.3** We would remind the Inspector to bear in mind Mr Woolner of Firstplan's testimony under cross-examination. It was Mr Woolner who described GN8's approach as "overzealous" and he acknowledged that he had played a significant role in choosing the excerpts from the GN8 website which he would present to the enquiry. In cross-examination, Mr Woolner also acknowledged that he had not made a "thorough review" of the GN8 website. Under cross-examination, it became clear that Mr Woolner had very little understanding of the contents of the GN8 website and that he was unaware that, for example, all his client's submissions since the beginning of the application process were promptly included on the site for all to read. Indeed there was a period early on when the only documents that were on the site were supplied by his client. While that remained the case, approximately 250 people nevertheless turned up to the first Development Control Forum in September 2004 and approximately 2000 signed a relevant petition.
- 1.4** When referred to a question in the website about whether London Concrete's vehicles will use what are known as the Ladder roads, which was misquoted as an

“overzealous” statement by Mr Harris, Mr Woolner conceded that on a proper reading the question was not “overzealous”. When asked whether he thought that the internet is a suitable vehicle for dissemination of public information, Mr Woolner replied that the web was like the “Wild West”. We submit that failing to do a thorough review and presenting selective excerpts from the website in a misleading way means that it is London Concrete and its advisers whose actions are reminiscent of the Wild West rather than my client’s. Furthermore we submit that this lack of thoroughness and misleading presentation is part of a pattern of behaviour by London Concrete which we will elaborate on below.

2.0 TRANSPORT

The residents are very concerned about the impact on their community of a significant increase in the volume of heavy trucks in the area. These concerns arise as a result of flaws in London Concrete’s advisers’ methodology and the fact that this area of Haringey is significantly different in character to the areas which surround London Concrete’s other sites in London. Taking these factors together, in connection with 32 tonne 4 axle vehicles which are widely acknowledged to be intrusive and intimidating, we submit that the residents’ concerns are justifiably very strong and cannot be characterised as overzealous, as the appellant has tried to do.

2.1 London Concrete methodology

Bellamy Roberts Proof of Evidence

Table 6

- 2.1.1 Under cross-examination, Mr Bellamy acknowledged the error in his Table 6 regarding the increase of HGVs in Church Lane. He suggested that the mistake was irrelevant. During the enquiry, we referred to evidence of the intrusive and intimidating nature of London Concrete’s HGVs and the fears of local residents in respect of safety, amongst other matters. The residents’ perception of the impact of these HGVs is very strong and very real. We submit that on such an important matter, Mr Bellamy’s lack of thoroughness is rightly of grave concern to the residents. It is

misleading to suggest that these concerns are overzealous or misplaced. London Concrete is generating the concern very effectively all by itself.

- 2.1.2 We also submit that there are two possible ways to correct Table 6, both of which lead to the same statistical result and the same percentage increase on Church Lane. In correspondence with Mr Bellamy about Table 6 following the enquiry, we have explored the traffic flow assumptions that should be used to correct Table 6 and we refer the Inspector to that exchange, ending with our letter of 17 March, 2006. We would ask the Inspector to note the confusion which we submit exists in Mr Bellamy's analysis concerning which of the traffic flow assumption should be used to obtain the required correction.

Standard Assumptions used by London Concrete

- 2.1.3 We further submit that Mr Bellamy's analysis is further flawed by reason of the fact that it is based on the standard assumptions which London Concrete use in every planning application. They take 5 deliveries per day per HGV as the starting point every time. In this appeal it gives rise to a total of 56 HGV vehicle movements per day on average. We submit that it is both incorrect to use 5 for the number of deliveries and that it is misleading to focus solely on the average figure.
- 2.1.4 Mr Casey submitted a statistical survey undertaken by Mr Kodia of vehicle movements during 2004 and 2005. The average number of vehicle movements per day at 7 out of the 8 London Concrete sites surveyed by Mr Kodia exceeded 5 by a number of decimal points, e.g. 5.2. The significance of this is that, while we accept that a delivery can be made by a London Concrete truck which is not fully loaded, we do not accept that such a truck can deliver more than 100% of a full load. The number of journeys actually made must be an integer rather than a figure containing a decimal point. We submit that the more appropriate assumption is that there are 6 deliveries per vehicle per day in order to provide for the partial loads that are part of Mr Kodia's own statistics. This is in itself a 20% increase in the amount of traffic generated.
- 2.1.5 Mr Bellamy has provided for 6 movements per day for private contractors. In paragraph 3.43 of his proof of evidence, Mr Casey said that such business was "very insignificant". Again, we submit that the evidence of both is artificial and misleading.

Mr Casey was forced in cross-examination to acknowledge the existence of a private contractor, Hardcrete, which is based at least 2 of his plants. He then displayed a degree of confusion as to the size and capacity of Hardcrete's vehicles. We submit that such private contractors can be a significant part of London Concrete's business and that Mr Casey's statement in his proof of evidence, and by implication therefore, Mr Bellamy's are unreliable and misleading.

Averaging of HGV movements

2.1.6 We submit that Mr Bellamy's averaging of HGV movements is misleading, whether you use 5 or 6 deliveries per vehicle per day referred to above. Mr Casey acknowledged in evidence in chief that 56 was just an average and that the real figures for any particular day could be as many as 100 on one day and 0 on another. The residents' real experience of London Concrete's intrusive and intimidating vehicles on any day when there are 100 or more deliveries is an issue which is completely masked by Mr Bellamy's analysis. We submit that the residents' amenity will be significantly impacted on any day when such a traffic pattern occurs.

Merging of types of HGV - Alternative Use

2.1.7 In our evidence and in cross-examination we have raised the issue of the artificiality of London Concrete's characterisation of HGVs for the purposes of traffic analysis. We submit that the appellant's statistics have merged its own large 32 tonne, 4 axle HGVs with other HGVs of as small as 3.5 tonnes. In so doing, London Concrete hope to mask the real impact of the introduction of its own vehicles. A good example of this is where Mr Bellamy in paragraphs 8.7 to 8.9 of his proof of evidence claims that alternative warehousing use would generate a "similar impact on traffic capacity." While it is know that his client's vehicles are 4 axle and 32 tonnes, it is misleading to suggest that warehouse deliveries are likely give rise to similar patterns. The essence of delivery activity is the bulk delivery of materials and dispersal via smaller loads. In London Concrete's case this translates into a large delivery by train followed by dispersal in their large and heavy HGVs. We submit that alternative warehousing use

is likely to bring in the occasional large HGV for delivery of materials, followed by dispersal of goods by considerably smaller HGVs.

- 2.1.8 We refer the Inspector to the GN8 and Haringey Heartlands traffic surveys which have been discussed during the enquiry and submit that they clearly demonstrate that there will be a very significant increase in this quiet residential area in the amount of intimidating and intrusive HGV of the kind that London Concrete use.

Safety

- 2.1.9 In paragraph 6.6 of his proof of evidence, Mr Bellamy states that HGVs are “involved in proportionately fewer cycle accidents than other vehicle types. In cross examination, we referred Mr Bellamy to data from the London Road Safety Unit, a part of Transport for London, which shows that 4 axle vehicles are involved in proportionately more fatal accidents than other HGVs. The Institute of Highways and Transportation advises that HGVs have become more intrusive and intimidating than before and that when such vehicles are involved in an accident the consequences are “very serious.” We submit that Mr Bellamy’s evidence ignores the reality which is that large 4 axle HGVs have a deserved reputation for being involved in more accidents than other types of HGV and for causing more harm when this happens.

Difference to other London Concrete sites

- 2.1.10 We refer the Inspector to the photographic presentation submitted by Ms Eleni Leussi and to Mr Soper’s DVD of local roads and their measurements of road widths. We submit that it is clear from these materials that local roads in the Cranford Way area are significantly more residential in character and size than the roads serving all of London Concrete’s other London plants. The impact on this community will therefore be greater than it will in other locations and we submit that it is appropriate for the Inspector to give that significant difference, which is relevant in other contexts, considerable weight in his deliberations.

2.2 Evidence of London Concrete's actual behaviour

Control of drivers

- 2.2.1 We submit that because London Concrete's drivers are self-employed, paid on piece rates and are delivering a product that deteriorates quickly, they are likely to cut corners and break the law in order to maximise their income. We further submit that London Concrete does little to stop this activity. The evidence is abundant. Of the 3 London Concrete HGVs witnessed recently by residents on what are known as the Ladder roads, at least 2 have been breaches of the weight restrictions. The GN8 traffic survey team only spent 2 hours 15 minutes outside London Concrete's Battersea plant, but witnessed 14 London Concrete HGV entering and exiting during that brief period. I know that I speak for the vast majority of the residents when I say that they find Mr Casey's attempts to explain away these breaches of legally binding conditions extremely unconvincing and troubling, given that he is responsible for the overall management of this company. What comfort can the residents have in respect of any conditions that might be imposed here? We further note that in response to enquiries made by residents of Wandsworth Council, the relevant council officials can find no record of the apology which Mr Casey claimed on the last day of the enquiry that he made to them.
- 2.2.2 Looking at each example of the flaws in London Concrete's methodology and assumptions above and the manner in which the company actually operates, we submit that it is clear that it is not any extreme behaviour on the part of my client which is giving rise to the strong and justified local perception of harm to property, amenity and safety. It is instead the lack of thoroughness and, at times, candour with which London Concrete have approached the traffic aspects of this application which is generating that concern in addition to residents natural concern that the proposal will give rise to a significant increase in intrusive and intimidating vehicles on the area's roads.

3.0 NOISE

In considering the issue of noise, we must first look at Sharps Redmore's treatment of ambient noise and then at their treatment of predicted development noise. We submit that Sharps Redmore's whole analysis is intended to artificially minimise the difference between these two noise types by use of selective and inappropriate guidance and methods. That approach, combined with the averaging out of noise levels over time, significantly underestimates the true impact of development noise on the residents. In reality, the residents will experience development noise, which has been significantly underestimated by Sharps Redmore, from moment to moment and react to it at the time it is heard. Their worries are not "overzealous" and we submit that they have every reason to be extremely concerned.

3.1 Methodology – ambient noise

- 3.1.1 It is in London Concrete's interest for Sharps Redmore to obtain a high reading for background ambient noise. If a high ambient background reading is obtained, it minimises the difference with predicted noise and this is an important factor in one of the specific parts of PPG 24 which Sharps Redmore have chosen, in a selective manner to focus on (paragraph 19, PPG 24, annex 3).
- 3.1.2 In section 2.2 of his proof of evidence, Mr Sharps describes a number of generic assessment methods, corresponding to the WHO guidelines, PPG24 and BS4142 respectively. The rest of section 2 justifies Mr Sharps' preference for the comparison with absolute noise levels of 50 – 55 db contained within the WHO guidelines. We note that these levels are the criteria for moderate to serious annoyance. In order to do this, Mr Sharps glosses over the relevance of other relevant methods of testing referred to in PPG 24 and which we will refer to in due course. We note that he does return PPG 24 in his section 6 on traffic, which uses Bellamy Roberts flawed figures.
- 3.1.3 In addition to the above, Mr Sharps also relies in section 2 on another very specific and selective part of PPG 24 to support his interpretation of the relevance of the WHO fixed limit guidelines. We submit that this is misleading. In section 2.10 of his proof

of evidence, he goes on to refer to a concept from PPG24, which introduces fixed limits using Noise Exposure Categories (“NEC”) that are designed “*to help local planning authorities in their consideration of applications for residential development near transport-related noise sources.*” Mr Sharps states that, where noise levels are less than 55 db, “*noise need not be considered as a determining factor in granting planning permission [for residential property].*” However, London Concrete’s application aims to do exactly the opposite and paragraph 8 of PPG24 clearly states:

- 3.1.4 “*NEC procedure cannot be used in the reverse context for proposals, which would introduce new noise sources into areas of existing residential development.*”
- 3.1.5 We submit that the fixed limit of 55db used in PPG24 can provide no support to Mr Sharps’ arguments in respect of the WHO guidelines as it is not permissible to use it in the context of this application. We further submit that Mr Sharps has been reluctant to use other appropriate general principles set out in PPG 24 which we will come to below. His traffic analysis in section 6 of his proof was an afterthought and focused on vehicles.
- 3.1.6 We submit that it is helpful to London Concrete to ignore the broad thrust of PPG 24 in this way because PPG 24 further clarifies what rights residents might reasonably expect. Paragraph 17 states that “*most residents will also expect a reasonable degree of peaceful enjoyment of their gardens and adjacent amenity areas*” PPG 24 also makes clear that it is not unreasonable for residents to expect that their windows are open to provide adequate ventilation.. We submit that both of these issues would pose awkward questions for London Concrete which they would rather not confront.
- 3.1.7 If Mr Sharps has glossed over PPG24, we submit that he has not taken any account of the Mayor’s Strategy on Noise which is part of the London Plan and regional planning guidance. The Mayor’s Strategy aims to avoid creeping ambient noise and recommends that new development noise should only be permitted when it is at a level of at least 10 db less than ambient background noise. On a thorough analysis of development noise, Mr Sharps would not be able to claim that the proposed development satisfied this test and it is not surprising, therefore, that he prefers the WHO guidelines which, instead, recommend that development noise will only begin to give rise to complaints at levels of between 50 to 55 db.

3.1.8 The Inspector did ask Mr Sharps whether the WHO guidelines had any formal standing in English planning law in comparison to PPG24. Mr Sharps conceded that they did not. We submit that London Concrete naturally prefer the WHO guidelines because they are easier to comply with in relation to this development. That is no reason to set aside the requirements of the English planning law system.

Sharps Redmore's ambient noise tests

3.1.9 Sharps Redmore's first noise test was undertaken outside the gates of Chettle Court over a period of five hours. In the second Development Control Forum and GN8's original statement of objection the residents pointed out that this was a test in the wrong place and for less than the required 16 hours. As a result of this pressure, Sharps Redmore later conducted a second test within the grounds of Chettle Court. However, this second test took place in the car park of Chettle Court over 2 days rather the recommended continuous period of 16 hours. The car park is the noisiest place within the Chettle Court complex and is also not, as is required, the nearest receptor for noise from the proposal site. The nearest receptor would instead have been one of the quiet residential gardens along Uplands Road.

3.1.10 Interestingly, even when testing at the second attempt in the Chattel Court car park, at a time when major construction works were taking place in Cranford Way, the results were quieter than the first test. This shows how crucial the correct methodology is. We submit that the results would have been even quieter if taken from the right place, i.e. a garden in Uplands Road, and in the absence of unusual construction work. The flaws in Sharps Redmore's methodology assist them in claiming that the predicted development noise will not exceed the ambient background noise by more than 10 DB, but generate nothing but genuine concern among the residents. Again, we submit that this concern is neither overzealous nor stirred up by my client. It results directly from London Concrete's and its advisers approach to this proposal.

Site visit

3.1.11 In addition to the above, we would draw the Inspector's attention to the noise levels experienced during the site visit. The residents' current day-to-day experience is that (i) Cranford Way and its surroundings are generally quiet, and (ii) that when noise does occur there, it can be heard widely by neighbours. The quietness of the area was especially noticeable in the gardens along Uplands Road and Rathcoole Gardens. The residents also note that the area is even quieter after the end of normal business hours and this is an important point which we will return to later. The residents' actual experience of noise in the area, as evidenced by the site visit, supports our submission that Sharps Redmore's analysis of ambient noise is flawed and artificial.

3.2 Methodology –development noise

3.2.1 As stated above, we submit that London Concrete has artificially elevated levels of ambient noise in order to assist it to comply with the guidance it has selectively chosen to apply. We also submit that London Concrete has artificially lowered the total for predicted development noise for the same reason.

Noise sources which have been ignored

3.2.2 Sharps Redmore's methodology ignores altogether a number of significant noise sources. Certain of these should not only be included as a matter of practical common sense, but are also required on a proper reading of the guidance in PPG24. They are:

3.2.3 **Truck cleaning** – in cross examination, Mr Casey explained that between the hours of 6.00pm and 7.00pm every day, each concrete truck will require cleaning. This process will take place at the settlement ponds close to the boundary with Chettle Court and will not be protected by an acoustic screen. The cleaning process requires the same high revving of the truck engines as occurs during loading. Mr Casey suggested that cleaning of a truck could be completed within 30 seconds to a minute. The residents

submit that it is in fact likely to take as long as the loading itself. Sharps Redmore has taken no account whatsoever of this significant, unprotected noise source. As stated above, in connection with the site visit, Cranford Way and the surrounding area are even quieter during the period Mr Casey suggests this work will be done than they are at other times of the day. We submit that it is wholly unrealistic to suggest that the residents will not hear this intrusive noise at a sensitive and very quiet time of the day.

- 3.2.4 **Cement deliveries** – Sharps Redmore takes no account of the three cement delivery vehicles which will visit and leave the site each day or the noise generated by the transfer of such cement into the storage silos. In cross examination, Mr Casey conceded that this transfer process is a noisy one.
- 3.2.5 **Train movements** – London Concrete originally suggested that there would be two train movements per week. They now propose that there will be four. Sharps Redmore has not taken account of these deliveries, nor of the manoeuvring of the train around the sidings upon arrival and then again during unloading. The site visit at Wembley showed that the unloading operation generates significant noise. Metal parts rattle against the body of the wagons. The unhooking and hooking of the bulky and heavy mechanism for opening the wagon doors generates a loud banging noise. The use of compressed air blasts to dislodge material again produces significant noise which could be heard a considerable distance from the loading shed at Wembley. This noise takes place roughly every three to six minutes as each wagon in turn is unloaded. This will happen four days a week, for periods of up to [two – three] hours at a time.
- 3.2.6 The Wembley unloading shed is open at both ends. Mr Casey confirmed that there had been no attempt to provide any screening at this was “not practical for operational reasons.” We submit that, as a practical matter, it is unrealistic to suggest that the residents will not hear the noise from it. More seriously, Sharps Redmore has ignored the requirements of PPG24 in respect of rail noise. Paragraph 2 of Annex 3 of the guidance states that rail noise “should be treated in the same way as industrial and commercial noise” and should be subject to a BS4142 analysis. Paragraph 3 of Annex 3 states that when considering rail use and the carrying of aggregates, it is appropriate to take into account rail noises. Sharps Redmore have not done so.

- 3.2.7 **Discharge into conveyor system and storage bins** – the conveyor belts are in operation more or less constantly throughout the day and the noise associated with them directly relates to the type of raw material carried. During the site visit at Wembley, the residents agreed that the discharge of sand into the conveyor system generated very little noise. Mr Casey confirmed that the relevant discharge for the purposes of the proposed plant will be 20mm stone rather than sand. He also stated that the noise of such stone was the same as the noise of the sand. However, it was not possible to witness this fact during the first visit to Wembley due to the train delivery schedule. Mr Casey suggested that this did not matter because of the equivalence of the noises. However, the Inspector insisted upon returning at a later time. The residents’ submit that it was very wise of him to do so. Upon our return, it was clear that the discharge of 20mm stone into the conveyor system is significantly louder than discharge of sand and the residents submit that this is a noise which they will be able to hear.]
- 3.2.8 During the Wembley visit, the Inspector and several residents left the unloading shed to go and stand next to the storage bin which was located a considerable distance away. Their purpose was to listen to the noise from the unloading. This was clearly audible. In addition to this, another noise source was clearly heard. This was the dropping of the 20mm stone from the top of the conveyor belt into the storage bin which was enclosed on three sides only. London Concrete assures the residents that all relevant noise sources, including the storage bin, will be fully enclosed. However, we note the artist’s impression, contained within the appendices to Mr Woolner’s proof of evidence, of the proposed storage bin which was submitted as part of London Concrete’s application. There is no other evidence as to what this structure will look like. The drawing only shows two sides of the bin. It does not show either of the sides from which conveyor belts enter or exit. The residents are concerned that London Concrete’s evidence is misleading regarding what “full enclosure” means. It is not clear that there are not significant gaps through which noise can escape, a point we will also return to when considering dust emissions.
- 3.2.9 **Sledgehammer** – we would remind the Inspector of the presence of a sledgehammer in the unloading shed at Wembley. We made enquiries of the foreman regarding its use. After removing his earplugs, he replied that the sledgehammer was used to

dislodge raw material from the sides of the wagons. This self evidently noisy process is not only another one ignored by Sharps Redmore, it is also one which London Concrete have strenuously denied ever happens when asked.

- 3.2.10 London Concrete's failure to take into account the above noise sources both (i) reduces the total predicted development noise, and (ii) fails to comply with the requirements of PPG24. As a result, it allows London Concrete to suggest a favourable comparison with ambient background noise. London Concrete's approach to this important subject is artificial and selective. It is this lack of thoroughness in their approach, rather than any agitation by my client, which has caused the present serious levels of concern within the community.

3.3 Noise sources which have been analysed

Reliance on Bellamy Roberts flawed figures

- 3.3.1 Sharps Redmore's conclusions concerning traffic noise and vibration in paragraph 6 of their proof of evidence are also flawed. They repeat, and are explicitly based upon, Table 6 from Bellamy Roberts' proof of evidence. In paragraph 6.5 of his proof, Mr Sharps states that Bellamy Roberts' Table 6 "*allows the noise level of traffic to be accurately predicted by factoring for; traffic flow, speed, percentage of heavy vehicles, gradient, road surface, disturbance, screening and reflections.*" Mr Sharps ensuing predictions, based on Table 6, are benign.
- 3.3.2 With respect, this analysis can no longer be sustained due to its reliance on Bellamy Roberts's incorrect figures in respect of traffic flow and percentage of heavy vehicles. These are elements which Mr Sharps himself states are required for an accurate prediction. Again, my clients concerns are not "over-zealous" but are based on London Concrete's lack of thoroughness.
- 3.3.3 In addition, we note that, in his evidence to the enquiry, Mr Casey explained that the predicted 56 HGV movements per day associated with this proposal are an average number. On any given day, the actual number may be greater than 100 or less than 10 in Mr Casey's opinion. We submit that Sharps Redmore's already flawed conclusions

shed no light on, and provide no reassurance to the residents, regarding the likely impact of noise on a day when there are, for example, greater than 100 HGV movements.

Truck Loading

3.3.4 The residents witnessed the loading of concrete trucks during the site visits to Battersea and Wembley. The residents submit that the noise was loud and prolonged. They understand that the busiest time for loading is the early morning, between the hours of 07.00 to 08.00 a.m. when all 5 trucks can be expected to load up and depart. The residents submit that, even with the proposed acoustic screen, they will hear this loud and sustained noise over and above ambient background noise. Mr Sharp's treatment of the difference between ambient and development noise and his preference for the WHO guidelines is intended to mask this fact. The residents concerns on this important matter are not over-zealous, as London Concrete have suggested, but are genuine and justified. The applicant proposes to introduce a very loud noise source into a quiet mixed business and residential area. The consistent and repeated flaws in their methodology give the residents no comfort that London Concrete's reassurances regarding the effectiveness of mitigation measures, such as acoustic screens, will prove adequate.

Sharps Redmore submission - "Noise Emission Levels from Bottom Discharge Rail Wagon"

3.3.5 During the enquiry, Mr Sharps provided a document entitled "Noise Emission Levels from Bottom Discharge Rail Wagons." It contained noise measurements of unloading at Wembley in October 2002. However, this document does not at any point explicit the grade of aggregate which was being discharged during the measurements. It is therefore not clear whether this was sand, 10 millimetre stone, or 20 millimetre stone. As mentioned above, Mr Casey suggested an equivalence of noises to the Inspector and that it was unnecessary to return to hear the sound of the 20 millimetre stone. It is not clear whether the tests in October 2002 took place with similar reassurances and obstacles or whether they dealt with the appropriate material. We submit that their results should therefore be put aside by the Inspector.

3.4 London Concrete site at Gerrard's Cross

- 3.4.1 It is instructive at this point to look at existing neighbouring residents' experience of London Concrete's operations at Gerrards Cross. In earlier evidence at this enquiry, we referred to, and submitted the relevant Buckinghamshire County Council's officer's report for the Gerrards Cross appeal, in which the Inspector refused London Concrete's application for an extension to night time operating hours on noise grounds.
- 3.4.2 Paragraph 17 of the officer's report describes 3 representations from residents of a community that is located 400 metres away from the London Concrete, not 70 metres as in the current proposal. The residents complained that (i) "the noise of the plant already carries [to them] during the day and is a genuine nuisance" (ii) the plant "has been used at night without authorisation in the past and the noise from these operations has caused disturbance", and (iii) the noise of the plant can be heard "over and above that created by proximity to the M40 motorway and the Heathrow night time flight path." This last complaint occurs despite the fact that the M40 Motorway and Heathrow night time flight path are closer, at 150 metres distance, to the residents than the plant is at 400 metres.
- 3.4.3 The officer's report refers to a noise report prepared for London Concrete. This report was not the work of Sharps Redmore, which perhaps explains why the analysis is so very different to the one being considered for the current proposal. London Concrete's noise expert for Gerrards Cross assumes that 20 HGV movements will generate a predicted noise level of 49 db at a distance of 400 metres. We would ask the Inspector to contrast this with Sharps Redmore's present assumption that a much larger number of HGV movements, 56, will generate lower noise levels of 41 db at a smaller distance of 70 metres. Although, we do not claim to be experts, a conservative use of the method Mr Sharps himself uses in the present enquiry to show the effect of increases caused by a doubling of the number of cars, leads us to believe that if 20 HGVs generate a predicted noise level of 49 db, a total of 56 HGVs are likely to generate between 53 – 55 db. This is significantly higher than Mr Sharps' ambient background noise for Cranford Way of 42db. The difference would exceed that

permitted by The Mayor of London's noise strategy, although we note that London Concrete does not comply with that even on Mr Sharps' own figures. Not only that, such noise levels would mean that London Concrete would be unable to comply with either of the two tests which Mr Sharps arbitrarily prefers to use.

- 3.4.4 If the residents at Gerrards Cross can hear noise from a London Concrete plant which is 400 metres distant over and above the M40 and the Heathrow flight path, we submit that the much closer residents in this quiet area of Haringey are very likely to be significantly affected by London Concrete noise.

4.0 DUST AND AIR QUALITY

While cross-examining GN8's witness, Mr Sheridan, Mr Harris laid stress on the difference between cement production and concrete batching. He used this issue to undermine Mr Sheridan's credibility as a witness across the whole range of dust and air quality issues. However, we can clarify that Mr Sheridan and GN8 are more than happy to congratulate the concrete batching industry on the great strides it has made over the years in beginning to clean up what is a very problematic record on dust and air quality. Mr Sheridan and GN8 readily acknowledge the difference between cement production, which is highly polluting due to the need for incineration in the production of cement and concrete batching which is a cold process and therefore does not generate the same level of pollution. However, with respect, we submit that establishing that there is significantly greater environmental harm associated with cement production than there is with concrete batching does not get London Concrete very far, except in so far as Mr Sheridan's lack of experience of being cross-examined in enquiry proceedings gave Mr Harris an opportunity to exploit an apparent rather than a real confusion. We submit that this aspect of Mr Sheridan's evidence was not the relevant issue.

We submit that the relevant issues are the weaknesses in London Concrete assurances about dust and air quality. They say that the development will not generate fugitive dust emissions because it will be fully enclosed and that, even if there were any dust, it would not give rise to any material danger. London Concrete also says that any

fugitive dust or track out dust or vehicle emission will not materially affect air quality in the borough when judged against background levels. The residents submit that the same lack of thoroughness that they have witnessed in respect of London Concrete's analysis of transport and noise are repeated here. There are serious questions about London Concrete's methodology and concerns arising out of their actual practice. These flaws undermine the credibility of their reassurances in respect of issues that have the potential to give rise to serious nuisance and health effects.

4.1 Methodology and assumptions

Absence of any baseline measurement

- 4.1.1 In his evidence, Mr Grant conceded that no baseline study of background dust levels has been performed. His analysis of likely current dust deposition rates, and the increases which the development may give rise to, are based on pure assumption and may, therefore, significantly underestimate the true impact of this development on the local community. As Casella Stanger state on page 12 of their September 2005 report when commenting on Mr Grant's analysis:
- 4.1.2 *“[T]he lack of baseline information with regards to dust soiling rates at local receptors makes it difficult to accurately forecast the impact of emissions from fugitive dust emissions.”*
- 4.1.3 We submit that the residents do not experience any significant dust generation from Cranford Way at present. Indeed some of the businesses there are particularly dust sensitive and would be likely to move if there were a significant dust issue. If the development goes ahead, the residents will have no way of subsequently demonstrating that their quality of life has been affected. This will make it difficult for them to seek any redress in the future. They are understandably, therefore, very concerned. This issue has nothing to do with agitation by my client and everything to do with the way that London Concrete has conducted its analysis.

4.2 London Concrete operations

Complaints

4.2.1 We reserve judgment on London Concrete's claim that no substantiated complaints against them have occurred. We do submit that its operations are strongly associated with dust generation and complaints about the same. London Concrete attracts significant levels of complaint and/or concern from surrounding residents and authorities regarding dust and air quality. For example, (i) the neighbouring gypsy community at Wembley referred to in paragraph 21 of GN8's proof of evidence, (ii) the letter from a local GP in respect of London Concrete operations at Battersea which was submitted by Ms Catrina Zahoor, (iii) the personal testimony to the enquiry of Mr [Flora] from in respect of London Concrete operations at Purley, and (iv) a letter from the Primary Care Trust for Haringey which we understand has been submitted in writing to the Inspector. We submit that the relationship between the residents and the current occupants of Cranford Way is a harmonious one. We further submit that there is significant evidence to suggest that this is unlikely to remain the case if London Concrete begins operations. The residents value the current harmony and are justifiably very concerned by what they hear from residents elsewhere who have to live alongside London Concrete. Again, it is not my client who is creating the concern, rather it is London Concrete which does so by the very negative profile it has managed to generate in the communities in which it operates.

London Concrete operations

- 4.2.2 We submit that the residents have few reasons to be reassured by London Concrete's claims regarding the effectiveness of the "full enclosure" of this plant and its machinery? The justification for this became particularly apparent during the site visits to Battersea and Wembley. The residents' observed the following issues:
- 4.2.3 The train wagons are permanently uncovered, leaving their contents exposed to the wind.
- 4.2.4 The unloading shed is open at both ends. When asked why there was no plastic sheeting screen, Mr Casey replied that this was not possible for operational reasons. Cheryl Walton from Parkside Residents Association pointed out to the Inspector at the time that the vegetation surrounding the unloading shed was covered with a thick layer

of dust. During the enquiry we referred to the presence of a report on the GN8 website of a resident City solicitor, Charles Bezzant, which covers the council officer's site visit to Wembley at the beginning of the application. Mr Bezzant asked about the possibility of covering both the wagons and the open unloading shed ends and was reassured that London Concrete would be willing to do this. We now know that they are not. It is this kind of treatment of the resident's concerns which has caused the strength of opposition which the Inspector sees in this enquiry.

- 4.2.5 The conveyors belts at Wembley are covered, but not "fully enclosed" as we were misled to believe. The belts contain a large gap between the roof cover and the belt base. During the site visit, Mr Casey confirmed that this is the same arrangement to be used at Cranford Way and that the gap was necessary so that London Concrete staff could see what was on the belt.
- 4.2.6 The storage bin at Wembley was fully open on one side. We refer the Inspector to our comments on the artist's impression of the storage bin in respect of the noise of falling 20mm stone above. As we cannot see the sides from which any conveyor belt either enters or exits, we submit that it is not clear what London Concrete mean by "fully enclosed" in respect of this bin. While we imagine that they cannot be referring to a completely open fourth side as at Wembley, their lack of clarity about the issue, and the meaningless reassurances given to Mr Bezzant about other aspects of dust control, mean that the residents have every reason to be concerned that there will in fact be significant gaps through which fugitive dust can escape.
- 4.2.7 Cement will be stored in enclosed silos and is transferred from the delivery truck by a form of suction pipe. The integrity of the transfer system is only as good as its weakest link. We assume the process involves some kind of pressure seal, which could be susceptible to failure. We would ask the Inspector to consider the possibility of leaks and/or an accident which could lead to the emission of this dangerous substance across a residential area. As well as the rail way bank right next to it home to protected wild life.
- 4.2.8 To the side of the sediment tanks at Battersea, the residents observed an area used for the storage of the dried sludge produced by the tanks. This powdery substance was in three piles that were head high. According to their evidence, this is collected a few

times a month for recycling. The same arrangements appear to be proposed for the development site. The relevant tanks at Cranford Way will be situated next to railway bank which needs to be protected as it is an ecological site of great importance (grade II). The residents submit that this is self evidently a potential source of fugitive dust emissions.

Track out

4.2.9 London Concrete deny that this will not occur after the first few metres of any journey, i.e. outside the plant gates, but also say that if it does occur, other operators are responsible for it. We submit that their position is intellectually inconsistent and also factually untenable in the face of the photographic evidence submitted to the enquiry by Ms Eleni Leoussi. London Concrete suggests that the concrete patches shown outside 3 of their London plants by Ms Leoussi's presentation are the fault of other operators. However, we submit that in that presentation large patches of dried concrete can be seen right outside the gates to London Concrete's Bow plant.

Furthermore, with respect to the Watford plant shown in the presentation, London Concrete is the only company to operate a batching plant in the immediate vicinity. We submit due to its proximity to the plant gates, it is highly unlikely that the Bow track out is the fault of the other concrete operator at that location or that any other operator is likely to be responsible for the track out at Watford. We submit that the only sensible conclusion is that these are the fault of London Concrete.

4.2.10 It was Mr Grant who, during his evidence, said that if spillage dose occur it tends to happen in the first few meters of the journey and that spillage, if any, would take place within Cranford Way. However the pictures in the separate photographic presentation to the enquiry by Ms Catrina Zahoor of dry and fresh spillage from Battersea, tell a different story altogether. In contrast to Ms Leoussi's photos, Ms Zahoor's photos were taken as far away from the plant as Chelsea bridge. This is some distance away from the end of the Stuarts Lane estate where London Concrete is located.

4.2.11 Ms Zahoor also presented a letter from a GP in Battersea which talked about road accidents caused by the spillage. In her letter, the GP distinctly identifies London Concrete's trucks as the main culprits in respect of track out.

4.2.12 In evidence-in-chief, Mr Sheridan discussed a report entitled Dispersion of Air Pollution & Penetration into the Local Environment which was commissioned by the former Greater London Authority and which concluded that roadside dust is of much greater significance in terms of generating PM10s than vehicle fumes and. We will discuss the potential health impacts of such dust more widely in a moment. We would submit here that the combination of photographic and written evidence about track out means that London Concrete's reassurances on the subject do nothing to allay the serious and justifiable concerns of local residents in relation to a matter which both they and the Greater London Authority believe to be one capable of having a significant impact on health.

Dust footprint

4.2.13 We must also consider Mr Casey's own statement to the Development Control Forum in September 2004. During Mr Casey's cross-examination, he denied having said it. We promised to provide evidence. Mr Casey welcomed the idea and we have this morning submitted a number of witness statements to the Inspector in accordance with that promise. The witness statements confirm that the residents heard Mr Casey say;

4.2.14 "The distance from the site over which there would be no possible, effective dust screening was approximately 200 to 250 metres."

4.2.15 We submit that this shows that Mr Casey himself was unclear about the impossibility of dust emissions from the proposed plan which London Concrete now set such store by. The statement alarmed all 250 residents who heard him make it. If the managing director of the company is not clear about such issues, we submit that it is difficult for the residents to be confident about the reassurances he and his advisers are now giving us. Furthermore, when considering London Concrete's portrayal of my clients as over-zealous fanatics who, in misleading the local community, have generated an unnecessary level of concern, we submit to the Inspector that it is London Concrete, and particularly Mr Casey who is actually responsible for this. His own confusion about the merits of London Concrete's operations and the careless and misleading approach which he and his advisers have taken to issues of serious importance to my clients have done the damage to his Company's reputation all by themselves.

Health

- 4.2.16 In relation to health matters, Mr Grant relied on a report prepared by a Dr Ingrams who did not appear before the enquiry. With respect to Mr Grant, is he a health expert who can provide effective answers to the residents' questions? We submit that he is not. Given that London Concrete has failed in our view to establish that there will be no fugitive emissions or track out, we submit that London Concrete has failed to put satisfactory evidence before the enquiry regarding a matter about which there is significant public concern.
- 4.2.17 These concerns are well reflected in the personal presentations to the enquiry by local health professionals, Gabi Brogan, Janet Dearden and Elizabeth Adalian, and, we believe, by the recent letter to the Inspector by the Primary Care Trust for Haringey. As we argued in our cross-examination of Mr Grant, various industry safety sheets confirm that exposure to concrete dust can be very harmful to workers particularly when it comes to contact with moisture on skin, or clothing or eyes. The relevant symptoms were displayed by the travellers neighbouring London Concrete plant in Wembley whose complaints are discussed in the report by Dr Colem Power quoted in paragraph 21 of our proof of evidence. The symptoms were, amongst others, skin abnormalities and rashes.
- 4.2.18 Mr Grant quotes Dr Ingrams' assertion that "*mineral particles are not allergenic and would not therefore be expected to give rise to asthma*". We submit that this is not convincing in the light of the material we provided to the enquiry.
- 4.2.19 In relation to dust generally, we submit that (i) there is no adequate benchmarking of dust levels, (ii) there are sources for fugitive emissions from the plant, (iii) there is evidence of track out at London Concrete's other operations, and (iv) London Concrete's medical evidence is inadequate. The residents currently experience no dust problems from the site. This area already has a high incidence of asthma and is home to many schools and youth clubs located nearby and on the roadways where track out could occur. London Concrete's plants at other sites are located in areas that are dominated by heavy industry, unlike Ferme Park. This area is predominantly residential. We submit that it would be inappropriate to introduce a factor that could aggravate the above asthma levels and increase chronic respiratory illness. Such a step could threaten the health of the users of the above facilities and other residents.

4.3 Air Quality

- 4.3.1 On GN8's behalf, Mr Sheridan presented evidence about the increasingly onerous requirements of the European and UK legislation in respect of reductions in emissions of PM10s and the dangers of adding any potential source of such emissions to the already poor and worsening air quality situation in Haringey and its environs. As part of his attack on Mr Sheridan's evidence, Mr Harris referred Mr Sheridan to certain measurements undertaken at various days at the Brent Ikea monitoring station and asked him whether he knew what they were. They were all days where relevant limits were not exceeded and Mr Sheridan conceded that he was unaware of them. Mr Harris again used this to undermine Mr Sheridan's credibility as a witness.
- 4.3.2 Under cross-examination, Mr Grant likewise demonstrated his ignorance of measurements for this monitoring station which showed that the relevant emission limits for 2004 and 2005 were breached. We did not expect Mr Grant to be able to recall the specific measurements for any particular day. The exercise is artificial and misleading. However, we did undertake during his cross-examination to provide him with the evidence to which we were referring. In our letter to Mr Grant of 14 March, 2006, which was copied to the Inspector, we enclosed that evidence from the London Air Quality network and it shows that in 2004 the Brent Ikea measurements failed the requirement that a 24 hour mean of 50 micrograms of PM10s per cubic metre should not be exceeded more than 35 times, and that in 2005 they failed the annual mean based on 40 micrograms per metre.
- 4.3.3 We submit that it is clear from the data, which London Concrete chose to focus on, that the air quality in this area of London is poor and therefore extremely vulnerable to increases in PM10s. We further submit that the evidence provided in GN8's proof of evidence regarding the consequences of even small increases of PM10s is highly relevant. Such increases are associated with increases in non-trauma deaths and hospital admissions and with health effects such as acute respiratory infections and asthma, which is already high in the borough, to name but a few. The residents submit that, in this context, this area cannot afford the risk of London Concrete's operations giving rise to the fugitive emissions from the operations and the dust from track out which they believe they have shown will occur. The perception of the potential for harm is strong and justified. It is of course increased by London Concrete's

misleading use of data, a good example of which is the information they chose to cross-examine Mr Sheridan upon.

5.0 UDP

5.1 Throughout the enquiry, Mr Harris has consistently focused on the history of the UDP and the associated consultation. He has emphasised the suggestion that nobody has seen fit to exclude B2 use at Cranford Way. He has also suggested that GN8 submitted a comment in support of such an exclusion and that this was dismissed on its merits. He persuaded Mr Gurtler to concede that some of his evidence had been overstated as a result, at least in part, of this. Despite Mr Marici clarifying to Mr Harris that GN8's submission was rejected as not having been duly made rather than on the merits, Mr Harris has returned repeatedly to the issue; for example when asking local councillors who attended the enquiry about why such a change has not been made given that it is apparently so desirable. The Inspector will recall that we asked Mr Woolner about the history of London Concrete's own comments on the UDP and it turns out that it is a lengthy and complex one. He told us his discussion with the Haringey planning department about this application started in 2002 and ran up to Firstplan's submission concerning the designation of railheads in 2003. Firstplan then subsequently objected on London Concrete's behalf to Haringey use of the caveats "if appropriate" in relation to the suitability of B2 use in any location designated industrial location.. London Concrete has shown an active interest in this subject. The residents would have known nothing of this dialogue because it was not until London Concrete's made its first application in 2004, after the consultation on the UDP first draft had closed, that it became apparent that Cranford Way might be used for B2 use for the first time, despite its designation. It would only be at that time that these residents would have felt any specific need to comment on what had become, by this stage, the Emerging UDP First draft. However, due to procedural formalities, submissions which do not relate to changes made on the first draft are liable to be excluded from this later round of consultation as not having been duly made. Although it is at the Council's discretion to accept late submissions, it would of course be a delicate matter to do so in respect of any submission to exclude B2 use due to the need to be seen to be impartial in connection with the by now live London Concrete planning application. One can imagine that London Concrete would have been very

vocal if any such attempt at change were made. In respect of London Concrete's own objection to the Council imposing caveats on B2 use, the Council itself did not feel minded to change its approach. We would submit that a proper reading of the history of the UDP consultation sheds no favourable light whatsoever on Mr Harris's interpretation of the relevant Inspector's or councillors' or officers' views on the merits of the exclusion of B2 use. The only substantive, as opposed to procedural decision, that appears to have been taken is to reject his client's objection to the imposition of caveats on B2 use. We submit that the Inspector should give more weight to that fact.

6.0 SUSTAINABILITY

6.1 In his opening submission, Mr. Harris referred to the issue of sustainability. He said that the proposal before the Inquiry was an example of the type of development which is needed if the commitment to sustainability is serious.

6.2

6.3 From London Concrete's point of view, sustainability appears to be interpreted solely in terms of moving freight from road to rail. Most Haringey residents would not quarrel with the need to reduce exhaust emissions which contribute to Green House gases, but we submit that there are other means of achieving this aside from just moving more freight from road to rail which we cannot elaborate upon here. One of the major concerns of these residents is the sustainability of their community's environment for their own and for future generations, in the face of the demands from developers who wish to introduce deleterious change for their own commercial advantage. We submit that any proper view of sustainability must include a full consideration of the long term impacts on a local community such as Ferme Park, and that the interests of that local community should be protected in any case where a developer comes to the enquiry with anything other than a meticulously prepared case that weighs all the relevant factors thoroughly. We submit that London Concrete have failed to pass this test.

7.0 CONCLUSION

7.1 We submit that it is London Concrete which has displayed a lack of thoroughness and a tendency to mislead over the course of this application, not my client. The residents involved with GN8 are intelligent, highly professional people and the Inspector has seen ample evidence of that in the dignified way that they have conducted themselves. They are lawyers, accountants, lecturers and their like who are perfectly well able to judge the facts calmly and dispassionately for themselves. It is due to their thoroughness that London Concrete has been forced to admit that its own traffic figures were incorrect. It is due to that same thoroughness that 14 lorries were seen operating at Battersea when there should only be 8. It is due to their meticulous thoroughness that Mr Casey was seen to be reluctant to give a clear answer to a simple set of questions about private contractors. These are merely examples. We could go on at length. Sometimes in the course of the last 2 years, it has seemed to the residents that they were the only people adequately scrutinising this proposal to introduce a source of intrusive HGVs, fugitive dust and noise into what is currently a light industrial estate surrounded by a residential community. Ferme Park has little in common with the other areas which the appellant occupies in London. The community has given the application a detailed review and found it sadly wanting. The residents of GN8 therefore submit that this is an appeal which thoroughly deserves to be turned down.

