



## **WEST MIDLANDS TRAFFIC AREA**

### **DECISION OF THE TRAFFIC COMMISSIONER**

#### **PUBLIC INQUIRY HELD IN STAFFORD ON 5 DECEMBER 2018**

#### **OPERATOR: P I MACDONALD & SON LTD (OD1059539)**

#### **Decisions**

1. I hereby grant the application from P I MacDonald & Son Ltd to vary its licence so that the total number of vehicles authorised at the operating centre at Ellenhall Farm ST21 6JQ is increased from two vehicles and one trailer to five vehicles and two trailers. The overall authority on the licence remains at seven vehicles and four trailers.
2. The following conditions have been added to the licence:
  - i) there shall be no operation, movement, loading or unloading of the vehicles and trailers authorised under this licence at the Ellenhall Farm operating centre before 0600 hours and after 2100 hours Monday to Friday; before 0600 hours and after 1700 hours on Saturdays; or at any time on Sundays and Bank/Public Holidays;
  - ii) no maintenance may be carried out at the Ellenhall Farm operating centre on vehicles and trailers authorised under this licence, other than minor maintenance - such as replacing bulbs or mirrors – required to ensure that vehicles leave the centre in a safe condition;
  - iii) the only exception to sub-paragraph i) above is emergency work requested by Western Power Distribution. "Emergency work" is work which is unforeseen, sporadic and not booked more than 24 hours before the vehicle is required. Whenever this exception is relied upon a full written record of when and why the work was requested and carried out must be made. Such records shall be kept for 5 years and be made available upon request to DVSA or the Traffic Commissioner;
  - iv) when not in use, vehicles and trailers kept at the Ellenhall Farm operating centre shall be parked within the area marked "Plant and HGV Parking" on Drawing number UTSS01/EF/08.2015;

- v) the reversing beepers of vehicles at the Ellenhall Farm operating centre shall be switched off between 2200 hours and 0700 hours on all days;
  - vi) vehicles shall enter and leave the Ellenhall Farm operating centre in forward gear
3. The following undertaking has been added to the licence:
- i) the operator's vehicles authorised under this licence will, when joining the B5405, make a left turn from the Ellenhall Farm operating centre. When returning from the B5405, they will make a right turn into the operating centre.

### **Background**

1. P I MacDonald & Son Ltd holds a standard national licence for seven vehicles and four trailers, with authorised operating centres at Stan Robinson, Stafford ST18 9QE (seven vehicles and three trailers) and Ellenhall Farm Stafford ST21 6JQ (two vehicles and one trailer).
2. In May 2018 the operator applied to vary its licence to increase the number of vehicles and trailers authorised at the Ellenhall Farm site to five vehicles and two trailers. I received representations against this increase from i) Lynn and Michael Hall of The Old Barn Ellenhall and ii) Andrew and Debbie Glassey of Anson Grange Ellenhall. Both representors lived in property in the vicinity of the operating centre and I ruled their representations valid.
3. The grounds for objecting cited by the representors were:
  - i) visual intrusion and noise from the vehicles, particularly during early mornings, late evenings and at weekends;
  - ii) the unsuitability of the local road network for HGVs and the existence of the operator's perfectly adequate operating centre only two miles or so away at Stan Robinson's, on an established industrial estate;
  - iii) the creeping development of Ellenhall Farm from an agricultural into an industrial premises unsuitable for the rural environment and the fact that some of this development had taken place in advance of planning permission (a certificate of lawful use had been granted by the planning authority retrospectively).
4. I received no objection to the application from any of the statutory objectors.
5. In the light of the representations against the application I decided to hold a public inquiry. However, I did agree to the company's request for interim authority to base five vehicles and two trailers at Ellenhall Farm, subject to a number of conditions resembling (but not precisely the same as) the conditions set out in the final decision above. I did this for three reasons:
  - i) the operator stated that its Stan Robinson site was insecure and that it required a secure site as its vehicles carried valuable materials (eg copper wire);

- ii) the operator stated that, if most vehicles continued to be kept at the Stan Robinson site there would be more vehicle movements at the Ellenhall Farm site, as vehicles would need to come there from Stan Robinson's in the morning and return there at night;
- iii) by having an interim period where five vehicles and two trailers were based at Ellenhall Farm, we could test whether this in practice led to increased disturbance or (as the operator claimed) less.

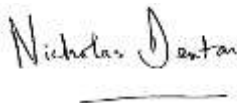
### **Public inquiry**

6. The public inquiry was held at Stafford Borough Council's premises in Stafford on 5 December 2018. Present were the director of P I MacDonald & Son Ltd, Ian MacDonald, transport manager Johanna Gadsbey and Harry Bowyer of Smith Bowyer Clarke, representing. The company's transport consultant Christopher Davis was also present. The representors present were Lynn Hall and Debbie Glassey.
7. Opening the public inquiry I explained that I had conducted a site visit earlier that morning. I outlined to the attendees the scope of the environmental factors I was able to take into account. I explained that I could consider the environmental impact of noise, visual intrusion, vibration and emissions pollution but only in relation to properties in the vicinity of the operating centre and that the level of impact had to amount to a real interference with the comfort or convenience of living and the enjoyment of property according to the standards of the average person. I could also take into account road safety up to and including the point where the vehicles joined the public highway.
8. For the operator, Mr Bowyer rehearsed the arguments relating to the greater security of the Ellenhall Farm site and the reduction in vehicle movements there if the increase were granted. The operator had kept a list of emergency call-outs in the three months since the interim had been granted: there had been only five occasions on which HGVs had been called out outside the normal hours of operation set out in the interim condition. The interim increase had caused none of the problems the representors had feared. The direct visual intrusion of the yard into the representors' properties was small.
9. The representors produced photographs to support their statement that visual intrusion was significant. Noise of vehicles and maintenance activity was also mentioned. Ms Glassey had commissioned a noise report but the results of this were not available to the inquiry. She also supplied an email from Arthur Dale of Staffordshire County Council (the highway authority) to the effect that the surrounding highway [to the operating centre] was "very narrow and [did] not appear suitable for the additional vehicles to operate from this location." I noted that the County Council had not in fact objected to the application as it could have done. Ms Glassey also produced a letter from the local MP Jeremy Lefroy setting out his concerns about the application – in essence that the local road network could not support the increased number of HGVs; that an alternative operating centre in an established industrial area nearby existed; that the creeping industrial development represented by the P I MacDonald operation was unsuitable for a village/rural location.

10. Ms Hall stated that she had not noticed an increase in disturbance since the grant of the interim licence in September. She thought this might be because the operator knew it was facing a public inquiry and had not wanted to jeopardise its chances of the increase being approved on a permanent basis.
11. The inquiry discussed some tightening of the conditions and undertakings on the interim authority. Ian MacDonald stated that the company did not normally operate on Sundays and public holidays, other than for emergency call-outs. The condition relating to times of operation could therefore be altered to restrict Sunday and public holiday movements to emergency call-outs only. Further, he was happy to undertake that maintenance would not be performed at the operating centre: all services and six weekly safety inspections were already carried out off-site at a maintenance contractor's premises. He was also prepared to undertake that vehicles travelling to and from the B5405 would not use Burtons Lane but would turn left out of the operating centre (and return from the same direction).

### **Findings and decisions**

12. From my site visit I satisfied myself that, while there is a certain limited amount of visual intrusion from the operator's yard to the representors' premises, these premises are a sufficient distance from the yard for this to be relatively small and unlikely to amount to a real interference with their enjoyment of their property (using the standards of an average person). I reached the same conclusion as regards noise, light and pollution. I took into account only the extra environmental intrusion likely to be caused by the addition of three vehicles and one trailer to the authority at the Ellenhall Farm operating centre. I recognise that the operator's JCBs and other equipment based at the site may also cause intrusion, but these are matters outside my jurisdiction.
13. In my judgement, provided the conditions and undertakings set out in the decision above are strictly adhered to, the environmental intrusion caused by the additional three HGVs and one trailer is likely to be small and within the bounds of acceptability. I have therefore reached the decision set out at the top of this paper.
14. I do consider, however, that the Ellenhall Farm site is unlikely to be suitable as an operating centre for many more vehicles than the number I am granting authority for today. If the site entrance/exit were in constant or frequent use there would be implications for road safety at the point where the operating centre access track joins the single track lane; and the cumulative noise and visual effect of an increased number of vehicles would be likely at some stage to tip the balance so that enjoyment of neighbouring property by the owners would be adversely affected to a significant extent.



Nick Denton  
Traffic Commissioner  
6 December 2018