

H J Enthoven & Sons Darley Dale Smelter, Oldfield Lane, Warren Carr, DE4 2LP

Planning Permission No. 21/00500/FUL Proposed extension to C-Bays building to accommodate relocated equipment (modifications to extension previously approved under planning permission 18/00919/FUL)

Stanton in Peak Parish Council have objected to the proposed planning application before you for consideration, citing significant issues with increased height and massing of the modifications, the continued development of the facility without proper regard for long term cumulative impacts and the complete lack of adherence to the relevant legislation and permit governing this facility. (Environmental Impact Assessment Regulations 2017, Environmental Permitting Regulations 2016/2020)

Stanton-in-Peak Parish Council wish to make a repeated formal request to DDDC Planning Authority for:

an Environmental Impact Statement from H.J. Enthoven for the above submitted application and two previous granted permissions in 2018 and 2019,

prior to any decision being made on this application.

Details of why we are making this continued request are included below.

Council also wishes to make a complaint regarding the handling of planning applications for H J Enthoven & Sons, how initial notification of applications are passed to Stanton-in-Peak Parish Council and how our comments relating to those planning applications have been dealt with. We outline our background to this complaint in Part 2

Whilst we appreciate that this communication is detailed it is of great significance to any decision you have before you and we recommend it is taken into account prior to any decision being made on the planning application.

Background information.

H J Enthoven & Sons is the largest capacity single-site producer of recycled lead in Europe being a Schedule One Installation under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. This aligns the facility under the same criteria as a Nuclear Energy generating facility. With a recent failed Appeal by Enthoven against the Environment Agency capping of production tonnage limits, this disclosed that production at the facility has expanded from 100,000 tonnes of recycled waste in 2006, 130,000 tonnes in 2017, to 165,000 tonnes recently – with a potential to achieve the existing Battery Crusher's capability of 250,000 tonnes a year - **The outcome of the failed Appeal now sets the permitted tonnage at 150,000 per annum. Appendix A details the process at the installation and the expansion implications.**

The clear evidence of increasing levels of production are why an Environmental Impact Statement, should be provided as part of any potential development of the facility.

Additional information regarding relevant legislation and recent Environment Agency constraints on production and H J Enthoven actions are included in Appendices attached.

Specific constraints issued prior to the planning application before the Planning Committee are as follows:

June 2020

Environment Agency issue new Consolidated Variation of Environmental Permit
EPR/BL55981R/V009

Imposition of a new 150,000 maximum tonnage of recycled lead waste

November 2020

Enthoven apply for New Environmental Permit Variation EPR/BL55981R/V010 - to
extend Permit Boundary

February 2021

Appeal by HJ Enthoven against Environment Agency new 150,000 tonne limit
dismissed by Planning Inspectorate 18 May 2021

BACKGROUND TO PLANNING APPLICATIONS SUBMITTED IN 2018, 2019 and 2021

2018

- Planning Permission No. 18/00919/FUL Installation of New Equipment, Diversion of Access Road, Extend Car Park, Construct Retaining Walls, Relocate Building and Extension to Existing Buildings approved by Planning Committee **(it should be noted that the applied for extension to existing buildings was to the C-Bay building which is the subject of this current planning application)**

2019

- **Subsequent** planning application 19/00525/FUL for 2 new storage buildings of 400 and 325 sq. metres - approved by delegation

2021

- **Subsequent** Planning Permission No. 21/00500/FUL to increase the height of the C-Bays building (modifications to extension previously approved under planning permission 18/00919/FUL)

Parish Council Actions

- Over many years local residents and this Parish Council have been raising concerns about the disconnect regarding the regulation and oversight of operations at the HJ Enthoven facility, between the Environment Agency, DDDC (Planning and Environmental Health), and DCC (Highways)
- urging the Planning Authority to stop the ongoing incremental expansion and requesting that HJ Enthoven publish an Environmental Impact Statement for the site.

- raising complaints about the environmental impact of its current operation with excessive noise, vibration, light pollution, acrid odour, and worries about wildlife and

human health through emissions including:

- Soil and groundwater contamination
- Surface water pollution
- Discharges of hazardous pollutants into the River Derwent
- Discharges to air

Attending Public meetings urging Derbyshire County Council Highways to step in and take action about the ongoing and increasing HGV traffic, safety and congestion issues on the pitifully weak local infrastructure at Darley Bridge (Scheduled Ancient Monument) there are still no Derbyshire County Council Highways conditions or restrictions on HGV movements to and from the site.

It needs to be noted that there are no current planning conditions to restrict or monitor the number of HGV movements to or from the facility, with DCC Highways imposing no restrictions to protect an existing inadequate, inferior infrastructure, which includes a scheduled ancient monument of Darley Bridge. (see Appendix D)

PART 2 COMPLAINT

2018 Application 18/00919/Ful

Planning officers never responded to Stanton-in-Peak (SiP) Parish Council concerns about insufficient detail and lack of professional scrutiny, they forwarded the Council's questions to Norder (H J Enthoven's planning Agent) who then responded to Council's objection to the original application by stating:

- amount of detail included is standard at this stage of a project.
- there is no Environmental Impact Statement (EIS). **We have been submitting applications for this site for many years and not once have we been required to include an EIS**

The Parish Council expects when they raise issues regarding a planning application that the Planning Officer responds to those issues and does not simply pass the concerns to the applicant for them to respond.

DDDC planning website: Prior to the Officers report to the Planning Committee **No Environmental guidance was submitted by any Regulatory Authority as part of the statutory consultation.**

- DDDC Planning-no papers relating to Environmental Impact Assessment (EIA)
- DDDC Environmental Health-no response posted
- DCC Highways
 - no highways objections in principle to the proposed internal site modifications
- Environment Agency
 - no formal comment to make as there are **no constraints within the remit of the Environment Agency associated with this site.** We are

in communication with the operator regarding the potential changes to the permit boundary.

- Prior to submission to the Planning Committee the Officer report was made public and included the following points:
 - 2.10 Rebuttal (from Agent) to the SiP comments advises that:
 - An EIS is not required
 - 3.0 Planning Policy and Legislative Framework:
 - no reference made to Town and Country Planning (Environmental Impact Assessment) Regulations 2017
 - 5 and 6 Summary of Consultation and Representations received:
 - the need for an EIA was recorded from local residents and SiP Parish Council
 - 7.0 Officer Appraisal
 - no mention of EIA
- 23 October 2018 18/00919/FUL approved at Planning Committee
 - minutes make no reference to the issue of EIA

It is our view that Members of the Planning Committee reviewing the 2018 application for major development were misled on key statutory requirements regarding EIA regulations set in 2017. (see Appendix B)

Local planning authorities have three weeks to adopt an Environmental screening opinion. Where a planning authority decides that an EIA is not required, the authority must provide information about why this is the case.

There appears to be no evidence of screening during the period of determination of 18/00919/FUL leading up to planning committee meeting on 23 October 2018. In September 2020 some two years later, DDDC Head of Regulatory Services sent a reply to SiP Parish Council's letter of February 2020 and stated:

'Application 18/00919/FUL was screened under category 4 (d) of the 2017 Environmental Impact Assessment Regulations and was deemed not to constitute Environmental Impact Assessment development requiring an Environmental Statement' **SiP Parish Council believe this to have been carried out retrospectively, there was no reference to any assessment having taken place at the time of the determination of the application by the Planning Committee and in response to requesting an EIA, SiP PC were advised none was required. (See Appendix D)**

App. 21/00500/FUL

The Case Officer's Consultation Checklist states SiP PC were consulted on 5 May and invited to respond by 26 May. SiP PC was not notified of the application on 5 May and we were left to find out through the weekly lists. As a consequence, we believe many local residents have not had an opportunity to comment.

May – June 2021

Subsequent Planning Application No. 21/00500/FUL to increase the height of the C Bay extension by over 5 metres to facilitate existing site equipment - start of determination of application process.

DDDC planning website: Again no professional scrutiny or guidance submitted by Regulatory Authorities except DCC Lead Local Flood Authority who initially stated on 8 July 2021 ‘**recommend a holding objection as it is not possible to provide informed comment until such a time that the applicant has submitted further information - for surface water the minimum details required on all major applications**’

This submission was subsequently amended to a complete capitulation on 3 Aug 2021 with revised statement ‘due to the nature of the proposed plans and our understanding that all site drainage is regulated by the EA, the Flood Risk Management team have no comment to make’ (see Appendix C)

It is clear that the although someone in Derbyshire County Council applied the required scrutiny to Environmental aspects, they then ignored the legislation pertinent to such a facility. This raises the question why the surface water details were no longer relevant.

- DDDC Planning no papers relating to EIA
- DDDC Environmental Health no response posted
- DCC Highways
 - No objections subject to no impact on existing access arrangements
- Environment Agency
 - **no formal comment to make as there are no constraints within the remit of the Environment Agency associated with the site**
 - **we are in communication with the operator regarding potential changes to the permit boundary**

The Environment Agency in their response to the consultation on this application is totally inadequate as there are now constraints in place since the new Environmental Permit (June 2020) imposing 150,000 maximum tonnage.

The Environmental Permit Boundary extension was agreed in March 2021 so EA was no longer in communication with H J Enthoven.

We wish to highlight to both Derbyshire Dales Planning Department and the Members of the Planning Committee that there was clear intention by H J Enthoven and their Agent when they submitted their planning application in 2018 for the extension to the C-Bay building, to apply at a later date to increase the building size again, this is plain to see in the 3D Plans submitted with the application before you and which are in the public domain on the Derbyshire Dales Planning Portal.

**Plan 8471-NDA-XX-XX-DR-A-9002 Site Plan as Previously Approved (approved in 2018)
CBay 3D Plan is dated 04/20/18**

Plan 8471-NDA-XX-XX-DR-A-9003 Proposed Site Plan CBay 3D Plan (before you for decision) is dated 04/18/18

Plans were clearly drawn up in 2018 for today’s application.

(See Appendix E - or to view the plans and dates clearly, view the planning application itself)

Appendix A - F

The following Appendices set out in detail the reasoning behind Stanton-in-Peak Parish Council's continued requests for Environmental Assessments and Statements and Analysis regarding the processing facility at H J Enthoven. We believe Derbyshire Dales District Council Planning Authority has a duty to investigate thoroughly the wider and cumulative impact of planning applications before them as far as this facility is concerned, backed by the current legislation that is there to safeguard residents, the environment, wildlife and the long-term safeguarding for all. The current process of 'passing the buck' to other Agencies as being the Responsible Authorities is we believe neglecting that duty.

Appendix A

Environmental Impact Assessment Development:

This Development taken as a whole is precisely Environmental Impact Assessment Development:

- October 2018 - **Original** Planning Application No. 18/00919/FUL Installation of New Equipment, Diversion of Access Road, Extend Car Park, Construct Retaining Walls, Relocate Building and Extension to Existing CBay Buildings from 945 sq m. to 2560 sq. m. and the Flue Gas Desulphurisation Building (FGD) by a further 240 sq. m.
- May 2019 - **Subsequent** planning application 19/00525/FUL in (just 6 months later) for 2 new storage buildings of 400 and 325 sq. metres - approved by delegation
- May 2021 - **Subsequent** Planning Application No. 21/00500/FUL **expanding the cubic storage capacity of the proposed new CBay extension by 13,312 cu. m**
 - **this will be done by increasing the height by a further 5.2 metres x 2560 sq. m (ABay building currently stores recycled batteries) However the Officers Report suggests even higher elevations due to topography of the site and contradicts the Design Statement from the Agent.**

The purpose of the Darley Dale Smelter installation is to recover lead and other commercially valuable components from lead-bearing materials including wastes. The materials include waste lead-acid batteries, lead scrap from the battery manufacturing industry and other sources, lead dross from external sources and dross, lead-bearing dusts, sinter and sludges generated internally.

Recovery involves the smelting and refining of the lead producing amongst other things lead ingots, blocks, strip and shot, and gypsum. The process is estimated to have a gross throughput capacity in 2020 of circa 150,000 tonnes per annum (following the EA capping of materials) 140,000 from lead-acid batteries, and 10,000 tonnes from scrap lead materials, producing circa 85,000 tonnes of lead which in turn needs to be exported from the site.

Delivery and Storage

Waste batteries are received on site in nominally 1 tonne capacity polypropylene containers or shrink-wrapped wooden pallets, or in bulk tippers containing up to 25 tonne. All batteries are tipped onto an acid-resistant receiving apron (which drains into the acid recovery area), where inspection of loads is undertaken. Once the load passes inspection it is transferred into one of two undercover, acid-resistant floor battery storage buildings. Batteries are then cracked to release the majority of the sulphuric acid electrolyte using suitable equipment. The acid drains by gravity to the Dove gypsum production facility. Purchased drosses are generally received in steel drums, skips and IBC's and are tipped undercover in the materials preparation building. Internally produced sinter, slag, drosses and lead containing particulates (e.g. bag filters) are also stored here for furnace charge preparation. Lead-bearing intermediate material from the battery breaking process, are stored with recovered lead-bearing sludge and dusts collected from abatement systems, in two undercover storage areas. Other furnace reagents, such as coke and iron are stored in dedicated bays within the charge preparation area

The Flue Gas Desulphurisation extension is an example of a one-line planning application within the overall development to cover the 3 year timeframe covered by planning approval - "it made sense to include it in the application" (Norder) - the only detail is that the size is an extra 240 sq. metres

Flue Gas Desulphurisation (FGD) plant

This extension of the FGD plant will increase the production of synthetic gypsum a commercially valuable material resulting from the installation process via flue gas desulphurisation (FGD)

In the FGD plant Sulphur dioxide gas raw material is introduced to water in a FlowPac where it converts to sulphurous acid. High quality hydrated lime milk (calcium oxide) is added to the FlowPac where the sulphurous acid reacts with the calcium oxide to produce calcium sulphite (CaSO_3). Oxidisation air is then introduced into the FlowPac converting the calcium sulphite via oxidation, into a gypsum material (calcium sulphate hydrate ($\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$)), which is then dried utilising a hydro cyclone and vacuum belt filter discharging to a storage bunker prior to loading for dispatch. The majority of effluent arising from the process is recycled but a small flow discharges to the ETP periodically.

It is clear that HJ Enthoven has been increasing its production capacity of lead ingots, blocks, strip and shot, and gypsum through increased importation of raw materials (see Delivery and Storage above)

2017

- **Hazardous Substances Consent – "The site receives up to 130,000T of lead acid batteries each year"**

2021

- **Appeal Decision (Hearing held on 23 February 2021) – The Planning Inspectorate**
 - **7.7 "At the Hearing, the appellant set out that their throughput varied and while 150,000 tonnes may be typical, the most efficient throughput was a maximum of 165,000 tonnes, which had been achieved in operation previously"**

Summary of the Environmental Permit Variation (V010) request by HJ Enthoven to the Environment Agency 30 Nov 2020 and agreed 24 March 2021

To extend its geographical Environmental Permit Boundary to accommodate the proposed developments:

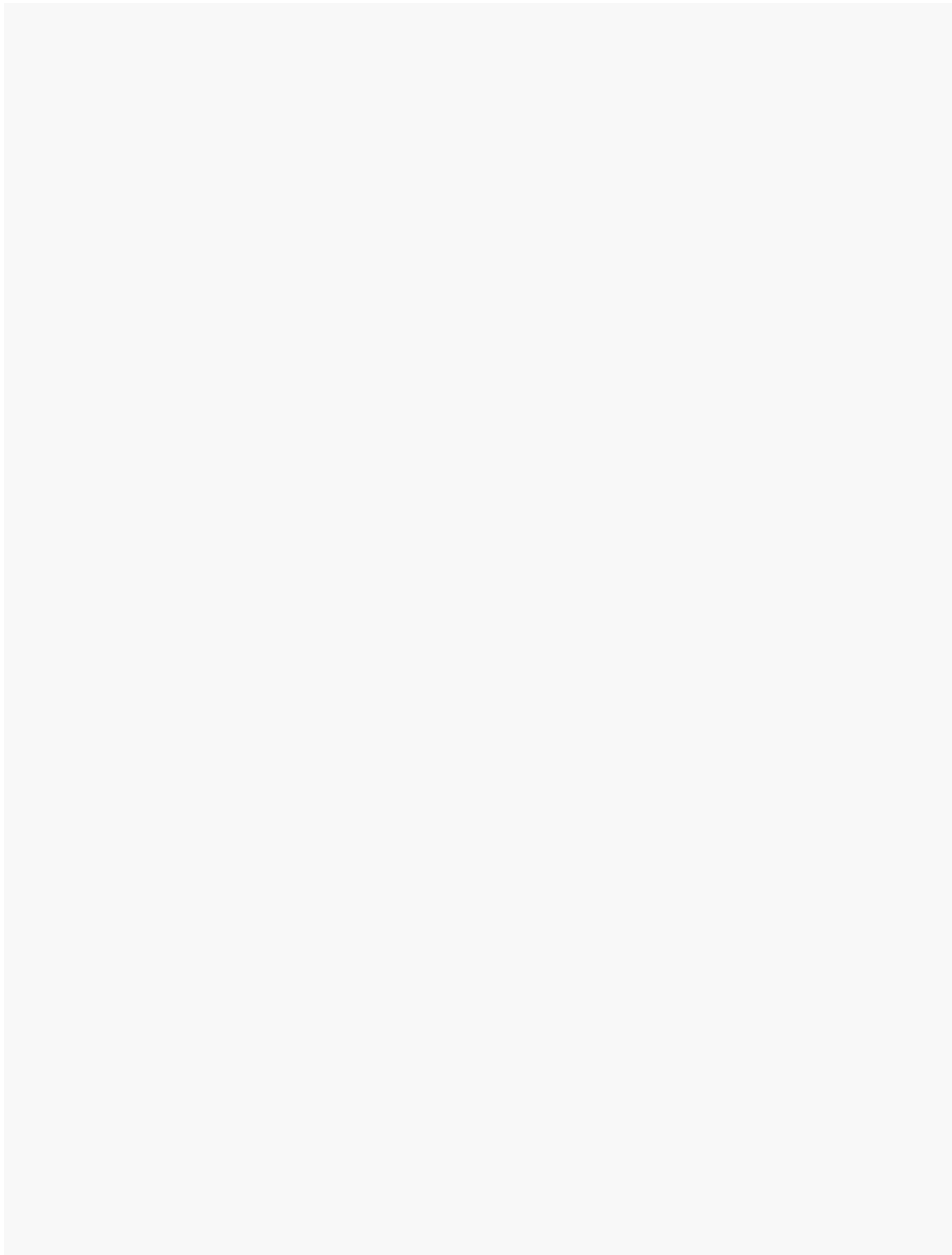
- extension of C Bay storage facility to replace existing A Bay which is a recycled lead batteries storage facility
- relocation of the existing oxygen farm, 40m to the south and replaced with new oxygen liquid farm equipment
- relocation of 1 no. water tank and installation of 2 no. new water tanks
- Bag Filter Replacement (CIBEL 6), provision of foundations
- New access road, lorry parking areas and retaining walls
- New bag splitter plant (not included in No. 18/00919/FUL)

Enthoven tell the EA “There will be no increase to the quantity of storage provided, or treatment of waste approved under the current permit.”

Yet the company do not include the proposed extension of the FGD building by 240 sq.m or the new car park and need for extension of boundary at the north of the site

Compare this to the Screening Opinion of the Local Planning Authority (see Appendix D)

“the development is largely rearranging the operation within the site along with creating a small expansion of the site into a green field for a car park”



Appendix B

Town and Country Planning (Environmental Impact Assessment) Regulations 2017 made significant alterations to the legislation (EIA)

Screening requests under the 2017 Regulations need more information than previously required including:

- information about the sensitivities of the site (SSIs, National Parks, Conservation Areas, Scheduled Ancient Monuments etc.) and the effects of the proposed development on the environment resulting from issues such as:
 - production of waste
 - pollution and nuisances
 - use of natural resources, in particular land, soil, water and biodiversity
 - risks to human health (for example, due to water contamination or air pollution)
 - risk of major accidents and/or disasters relevant to the development concerned including the effects of climate change

In general, the more environmentally sensitive the location, the lower the threshold will be at which significant effects are likely.

For modifications to existing development planning authorities must take proper account of the cumulative effects of progressive development. They should now look at the likely effects of the development as modified, and not just those of the modification alone.

Local planning authorities have three weeks to adopt a screening opinion, and not more than 90 days where a longer timeframe has been agreed in writing.

Where a planning authority decides that an EIA is not required, the authority must now provide information about why this is the case.

There is now an established body of case law regarding screening decisions. The UK and European courts have interpreted the EIA Directive as having a wide scope and broad purpose, leading to a widening application of EIA.

Some cases where negative screenings have been overturned include:

- Failure of the local planning authority to ask itself whether it has enough information to make a proper decision as to whether an EIA is necessary
- Too narrowly interpreting the scope of EIA as only including an assessment of the impact from the works permitted and not of the significant environmental effects of the whole development
- taking a 'global' view that overall the project is likely to have net beneficial effects and so discounting negative effects
- where individuals who were unsatisfied with the screening decision made by the local authority requested a binding Screening Direction from the Secretary of State

Appendix C

Flood Risk Team Recommendations 8 July 2021

For surface water the minimum details required on all major applications

- Site plan and impermeable area
 - Topographic survey of the site
 - Appropriate evidence to support how the site will drain, including confirmation of where the surface water will outfall to (photographs/maps/a confirmation letter from a water company)
 - Basic calculations of the greenfield/brownfield run off and discharge rates, (refer to Point J in the Advisory Notes)
 - A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location
 - Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep (Refer to Point J in the Advisory Notes)
 - Basic ground investigation (desktop survey as a minimum)
 - Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (as per National Planning Policy Framework 165).
-
- **These details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage.**

Appendix D

22 Oct 2018 - formal request was sent to DDDC by a resident to defer consideration of 18/00919/FUL due before the planning Committee on 23 Oct.

- **‘The Committee report fails to address the issue of both the requirements and regulations for an EIA, it has clearly failed to follow any procedure by which it has detailed its assessment, or consultation of how it has come to its decision that this application should not be subject to an Environmental Impact Assessment’**

23 October 2018 letter sent to company explaining that the Planning Development Manager had to issue a Screening Opinion as to whether or not the development constitutes Environmental Impact Assessment Development plus a copy of the formal Screening Opinion this was posted on DDDC website the same day.

Screening Opinion of the Local Planning Authority

- This document stated that this was a Screening Opinion REQUEST yet there is no evidence that any request was made by HJ Enthoven or Norder
- It stated that the development falls to be considered under Category 4(d) of Schedule 2 of the 2017 Regulations and exceeds the thresholds in column 2 of the table as the development would exceed 1,000 square metres of floor area, with 2800 square metres of additional (use class B2 general industrial) floor space being proposed. Having regard to the selection criteria in Schedule 3 of the Regulations the District Council determines that:

THE DEVELOPMENT DOES NOT CONSTITUTE ENVIRONMENTAL IMPACT ASSESSMENT DEVELOPMENT

- “Whilst the development is of a substantial scale and close to sensitive areas in terms of its proximity to the Peak District National Park the development is largely rearranging the operation within the site along with creating a small expansion of the site into a green field for a car park and removing conifer trees to allow for a new C-Bay and rearrangement of vehicle routes in association with this.
- The additional plant proposed aims to reduce environmental impacts. Replacement planting is proposed and conditions can be imposed on any permission to effectively screen the car park with associated biodiversity enhancements.
- It is not considered that the traffic impacts arising from this will be significant.
- The impacts therefore in this case are not considered to be significant in terms of noise, nuisance, visual impact and ecological matters.
- The Council has been provided with adequate information to fully assess the impacts with appropriate mitigation proposed which can be secured via conditions on any planning permission.

- I have therefore concluded that the development with the mitigation identified will not result in very significant affects and as such Environmental Impact Assessment is not required in this case.”

28 November 2018 – A resident following up a complaint they made regarding a failure to respond to **22 Oct** to the Chair of Planning why is there no EIS?

“Environmental Impact Assessment Regulations 2017 are quite explicit and the regulations set out a procedure for identifying those projects which should be subject to an Environmental Impact Assessment, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects.”

7 December 2018 - – EIA Screening Matrix posted on DDDC website suggesting matrix completed on **10 October 2018** – despite no evidence of screening during the period of determination of 18/00919/FUL leading up to planning committee meeting on **23 October 2018**

The Authority’s screening opinion also fails to take into account that the more environmentally sensitive the location, the lower the threshold will be at which significant effects are likely.

- the development is within a residential area i.e. Warren Carr, Clough Wood (SSI) is only 100 metres away, it is in close proximity to Stanton Lees Conservation Area, it is viewed from Stanton Moor which itself is a Scheduled Ancient Monument in the Peak District National Park
- Darley Bridge is a Grade II listed ancient monument ie. the bridge itself. This has been a major road safety issue for years.
- there is only one access route for HGVs through the very narrow road at Darley Bridge which was established as a pack horse route and has changed little in nearly 300 years. Road safety issues continue to multiply as the number of HGVs using it continues to increase and the road is blocked several times a day at various points as it is impossible at these points for two HGVs to pass without mounting the extremely narrow pavements.
- many properties have been repeatedly damaged by these vehicles and in November 2019 a resident was killed by an HGV manoeuvring to avoid another incoming HGV.
- many times each day HGVs have to reverse through the streets, nearly always without a banksman, when the village is congested by HGVs causing traffic to be halted for 20-30 minutes and emergency vehicles prevented from getting through the village.
- residents are directly impacted with increased air pollution, stressful noise, vibration and damage to property.

Both plans drawn in April 2018 - the reduced impact version submitted in 2018 and approved, the increased in height submitted in 2021. The equipment and servicing areas already being known to H J Enthoven and Norder their agents.



Appendix F

Evidence demonstrating the significant impact on the residents of Stanton in Peak Parish, and in particular those residents living in Stanton Lees and Warren Carr. The site not only has a significant visual impact, but the close proximity to Warren Carr, and the direct line of sight from the elevated position of Stanton Lees also means the noise and light pollution from the site also has a significant impact on residents.



Figure 1 - Satellite image showing the location of H J Enthovens in relation to the residential areas of Warren Carr and Stanton Lees, which are within the parish of Stanton Lees

Key

1. The Location of H J Enthovens
2. The residential area of Warren Carr which is within 500m of the Enthovens site
3. The residential area of Stanton Lees which has an elevated position overlooking the Enthovens site
4. Oldfield Lane – The main access for residents of Stanton Lees and Warren Carr to the A6, including to Darley Dale, Matlock, Chesterfield and to the M1 and A38



Figure 2 - Satellite image showing the measured distance (486m) between the approximate centre of the Enthovens site (1) and the residential area of Warren Carr (2). Note the distance to the nearest residential area reported in the planning applications is not correct.



Figure 3 - View front garden of a residential property on Lees Road Stanton Lees demonstrating the direct line of sight to Enthovens site from the village.



Figure 4 - Evidence of significant HGV movements causing traffic disruption and potential safety concerns on Oldfield Lane