

**From:** [Nick Marks](#)  
**To:** [Hilary Wrenn](#)  
**Cc:** [s.40](#); [Muhammad Islam](#)  
**Subject:** RE: Complaints re dust from Bow East (my ref 19/38434/PODUC\_)  
**Date:** 11 May 2020 13:47:36  
**Attachments:** [PODUC \(48.7 KB\).msg](#)

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Hilary,

Whilst we don't have an address for the complainant, the video seems to show a location somewhere in the Fish Island or Hackney Wick areas. Both are in LBTH. In addition the videos show the dust blowing over the Lea into LBTH. I have checked the Windfinder web site and the wind appears to have been blowing from the North or North east both today and yesterday. Despite the site being physically in LBN, there are neither complaints nor (currently) close by receptors *in Newham* who would be impacted by dust from this site. As the complainant appears to be in LBTH it is up to LBTH to take action (sorry Mo!).

I would again emphasise the inadvisability of introducing new housing adjacent to this site as set in my email of 12 January (enclosed)

Nick

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**From:** Muhammad Islam <Muhammad.Islam@towerhamlets.gov.uk>  
**Sent:** 11 May 2020 12:23  
**To:** Nick Marks <Nick.Marks@newham.gov.uk>; Pollution Enquiry <Pollution.Enquiry@newham.gov.uk>  
**Cc:** [s.40](#) <[s.40](#)@newham.gov.uk>  
**Subject:** RE: Complaints re dust from Bow East

Nick,  
This is the video referred to by Hilary

<https://www.youtube.com/watch?v=JxePif2US3s&feature=youtu.be>

Regards,  
Mo

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**From:** Hilary Wrenn [<mailto:HilaryWrenn@londonlegacy.co.uk>]  
**Sent:** 11 May 2020 11:50  
**To:** [Nick.Marks@newham.gov.uk](mailto:Nick.Marks@newham.gov.uk); [pollution.enquiry@newham.gov.uk](mailto:pollution.enquiry@newham.gov.uk)  
**Cc:** [s.40](#) ([s.40](#)@newham.gov.uk); Anthony Hollingsworth; Muhammad Islam  
**Subject:** Complaints re dust from Bow East

Nick,

I hope you are well and finding work ok in these strange times.

We have been sent video footage which shows dust flying in an westerly direction off the aggregate piles from the Bow East site extending over the River Lea, over 10/11 May. As you know we do not have any current planning controls on the site, but I understand that Robin

Whitehouse previously investigated with LBTH Environmental Health, as well as the Environment Agency as there are EP's covering the site and there are supposed to be dust mitigation measures that they follow, which are clearly not effective enough if dust is going beyond the site, which it has been.

Please can you take up with the operators at the site? I enclose a plan that was provided by DB Cargo of leaseholders in the area.

The DB Cargo contact I have is

s.40 @deutschebahn.com

And I know that Sivyer are one of the operators on the site  
[www.hsivyer.com](http://www.hsivyer.com)

but I do not have further contacts.

LBTH – Muhammad Islam has recently investigated in the Fish Island area and not found evidence of dust nuisance, however, I do not think he has taken into account the video evidence as it was from last weekend.

I will ask the complainant if I can pass on their details and videos, but would be grateful if the matter can be investigated regardless, to ensure that mitigation measures are adequate in all weather conditions, particularly with stronger winds.

Regards,

**Hilary Wrenn**  
**Principal Planning Development Manager (Planning Policy & Decisions Team)**

**Queen Elizabeth Olympic Park**

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Level 10  
1 Stratford Place, Montfichet Road  
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**Mobile:** s.40

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**From:** [Nick Marks](#)  
**To:** [Hilary Wrenn](#)  
**Cc:** [Muhammad.Islam@towerhamlets.gov.uk](mailto:Muhammad.Islam@towerhamlets.gov.uk); s.40  
**Subject:** RE: Bow East Proposed Dust Monitoring My ref 19/38434/PODUC\_  
**Date:** 12 February 2020 10:10:03

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Hilary,

They seem to be proposing the same again. Whilst I have no problem with the use of this site in principle there will be issues with dust and noise, particularly as LLDC are proposing sensitive land uses close to the site.

Looking at the full draft monitoring proposals set out in the Dust Management Plan September 2019 sent yesterday, the consultants are looking at the Bow East site as a whole. However the planning red line covers about half of the site. Planning controls presumably will only be applicable to the area covered by the application not the remainder of the site which will be free to operate outside their dust control proposals. Whilst not a dust issue, noise is likely to be a problem. The site itself is proposed to operate 07:00 – 19:00 Monday to Friday and 07:00 – 13:00 Saturday. However I am unaware of any controls of the operating hours of the remainder of the site. I presume there are none. The delivery of aggregates by rail is likely to be during anti-social hours due to daytime congestion on the rail lines feeding the site. With respect to noise and proposed new residential development, there is the issue of the 'agent of change' principle. In granting consent for new developments regard should be had to existing industrial land uses. I found a useful summary of the principle at:

<https://www.localgovernmentlawyer.co.uk/planning/318-planning-features/40842-caution-for-new-noise-sensitive-developments>

Whilst not specifically mentioned in the National Planning Policy Framework, it could be argued that the same principle should apply to dust. Certainly there would be significant problems in taking enforcement action. There is established English case law which restricts statutory nuisance action by a council in dealing with industrial dust. See *Wivenhoe Port Ltd v Colchester borough council* 1985 which stated 'that dust falling on cars, gardens or trees would not rank as a statutory nuisance' see [https://hpspubsrepo.blob.core.windows.net/hps-website/nss/2612/documents/1\\_statutory-nuisance.pdf](https://hpspubsrepo.blob.core.windows.net/hps-website/nss/2612/documents/1_statutory-nuisance.pdf) Again in taking statutory action the Council would also have to have regard to established land uses. See *Gillingham Borough Council v. Medway (Chatham) Dock Co. Ltd*

[https://en.wikipedia.org/wiki/Gillingham\\_Borough\\_Council\\_v.\\_Medway\\_\(Chatham\)\\_Dock\\_Co.\\_Ltd](https://en.wikipedia.org/wiki/Gillingham_Borough_Council_v._Medway_(Chatham)_Dock_Co._Ltd).

There are wider issues regarding the site. I drew your attention to this in my email of 6 December see abstract below:

'In principle the proposed land use would be acceptable given the site's existing land use as an aggregate depot and waste transfer station. However we would need to look closely at the proposals to ensure that the development would be no worse (and preferably better) than the current land use in environmental grounds. To that end it would be useful to understand how the whole site is used currently. Some key parameters would be:

- Rail deliveries to the site: number of trains and waggons; hours of movement of the trains (noise issues)
- Rail collections from the site: number of trains and waggons; hours of movement of the trains (noise issues)
- Vehicles and equipment currently in use on the site
- Number of road vehicles collecting material from the site
- Number of road vehicles delivering to the site
- Current hours of operation

This can then be compared with their proposals for the *whole* Bow East site. I note that the plan

on their web site leave about ½ of the site for 'non freight activity'. What will this be? Will it involve just moving the existing waste and aggregate deliveries to a smaller footprint on the site. It would be useful to have a meeting with your lead officer for the proposal to get some background'

It would be useful to have this information to assess the impact of the operation of the Bow East site as a whole.

In summary it might be a good ideal to have a look at the development of the area around Bow East as a whole and to take a view as to how much control could be applied to the operations of Bow East as a whole. Maybe you me and Mo should have a chat?

Nick

**Nick Marks**

**Environmental Control**

**Regeneration and Planning**

**London Borough of Newham**

**First Floor West Wing**

**Newham Dockside, 1000 Dockside Road, London E16 2QU**

**DDI: 020 337 s.40 I Int: s.40**

**Email: [nick.marks@newham.gov.uk](mailto:nick.marks@newham.gov.uk)**

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**From:** Hilary Wrenn [mailto:HilaryWrenn@londonlegacy.co.uk]

**Sent:** 11 February 2020 14:20

**To:** Nick Marks; Muhammad.Islam@towerhamlets.gov.uk

**Subject:** RE: Bow East Proposed Dust Monitoring

Nick/Muhammad,

I see that the agent has usefully copied you both in with their response (documents attached to 08:47 e-mail) Please could you consider and provide further comments as necessary? If you think that it would be useful to have a meeting to discuss with Brett then please let me know and we can try and arrange.

Kind regards,

**Hilary Wrenn**

**Principal Planning Development Manager (Planning Policy & Decisions Team)**

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---

**From:** Dominic Waugh <dominic.waugh@fairhurst.co.uk>

**Sent:** 11 February 2020 08:47

**To:** Hilary Wrenn <HilaryWrenn@londonlegacy.co.uk>

**Cc:** s.40 <s.40@brett.co.uk>; Nick.Marks@newham.gov.uk;

Muhammad.Islam@towerhamlets.gov.uk

**Subject:** RE: Bow East Proposed Dust Monitoring

Good morning Hilary,

Thank you for the email below providing advice from your environmental consultants and environmental health officers on the proposed air quality monitoring at Bow East. I have attached for your consideration a response from our appointed air quality consultant and I have also attached the draft Dust Management Plan which is proposed to be submitted with the planning

application. The purpose of providing this now is to allow comment from the environmental health officers as suggested in the last paragraph of your email below.

Kind regards,

**Dominic**

Dominic Waugh MRTPI  
Technical Director – Planning and Development

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**From:** Hilary Wrenn [<mailto:HilaryWrenn@londonlegacy.co.uk>]

**Sent:** 08 January 2020 15:55

**To:** Dominic Waugh <[dominic.waugh@fairhurst.co.uk](mailto:dominic.waugh@fairhurst.co.uk)>

**Cc:** s.40 <s.40@brett.co.uk>; [Nick.Marks@newham.gov.uk](mailto:Nick.Marks@newham.gov.uk);

[Mhammad.Islam@towerhamlets.gov.uk](mailto:Mhammad.Islam@towerhamlets.gov.uk)

**Subject:** RE: Bow East Proposed Dust Monitoring

Dear Dominic,

Our environmental consultants have advised that the proposed monitoring methodology is acceptable, but the intended baseline monitoring duration should be agreed with LLDC/Borough EHO's and be recorded in the DMP.

I would like to suggest it might be advisable to have additional monitoring positions in the light of complaints/concerns raised by sensitive receptors around the site. 1. At the Bobby Moore Academy 2. on the Greenway and 3. west of the River Lee where there is existing/proposed residential use on Wick Lane/Iceland Wharf.

The LBTH EHO has asked whether it is the proposal to do passive monitoring such as dust flux/gauges? They have also stated the need for the DMP to include a complaints monitoring/management procedure.

The LBN EHO has suggested that the timing for the 'before' study, the longer is the better. *A year would be ok, three months would be a minimum provided that three months were during the winter. There is likely to be more dust off the existing site in the summer when the stockpiles are dry which will make it easier for dust to be blown away.*

The LBN EHO has also pointed out *that not all the site is to be used for the proposed concrete batching plant. Presumably the remainder of the site is likely to remain in use as a depot for the onward distribution of rail delivered aggregates. Osiris monitors are not going to be able to distinguish dust from the proposed concrete batching plant, the existing aggregate depot which is likely to remain on part of the site and indeed the aggregate depot over the Lea Navigation in LBTH.*

I also suggest the draft DMP is shared for further comment from the borough EHO's. I have copied in Nick Marks at LB Newham and Muhammad Islam at LB Tower Hamlets who are the relevant contacts on this.

Kind regards,

**Hilary Wrenn**

**Principal Planning Development Manager (Planning Policy & Decisions Team)**

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**From:** Dominic Waugh [<mailto:dominic.waugh@fairhurst.co.uk>]

**Sent:** 19 November 2019 16:18

**To:** Hilary Wrenn <[HilaryWrenn@londonlegacy.co.uk](mailto:HilaryWrenn@londonlegacy.co.uk)>

**Cc:** s.40 <s.40@brett.co.uk>

**Subject:** Bow East Proposed Dust Monitoring

Good afternoon Hilary,

Further to your telephone conversation with s.40 of Brett last week, I have attached details of the proposed baseline dust monitoring at Bow East Goods Yard. The attached details the type and location of dust monitors as well as trigger levels, remedial action should such trigger levels be met, and also proposed reporting of the data to LLDC. I would be grateful if you could review the attached in discussion with the relevant Environmental Health Officers and let me know at your convenience whether LLDC consider the attached strategy is acceptable. If appropriate, myself, s.40 and the author of the attached note would welcome the opportunity to meet with the Environmental Health Officers to discuss the strategy in more detail. Should you have any queries regarding the attached please do not hesitate to contact me.

Kind regards,

**Dominic**

Dominic Waugh MRTPI  
Technical Director – Planning and Development

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