PUBLIC INQUIRY

IN THE MATTER OF: THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016

APPEAL: **DEEMED REFUSAL OF AN ENVIRONMENTAL PERMIT**

BETWEEN: **PLATTS AGRICULTURE LIMITED (APPELLANT)**

AND

THE NATURAL RESOURCES BODY FOR WALES (RESPONDENT)

SITE: **PLATTS AGRICULTURE LIMITED, MINERS PARK, MINERS ROAD, LLAY INDUSTRIAL ESTATE NORTH LLAY, WREXHAM, LL12 0PJ**

PEDW REF: **CAS-02313-Z1D6V4**

REBUTTAL STATEMENT

OF

TIM MORRIS

FOR THE NATURAL RESOURCES BODY FOR WALES

Scope and summary of rebuttal proof of evidence

1.1. I provide this rebuttal proof of evidence in response to matters raised in the proofs of evidence of Caroline Platt, Alison Fuller, Oliver Matthews and Dr Ivan Vince.

In summary:-

1.2. I comment on the evidence of Caroline Platt, specifically on the Appellant's statement that MDF dust is used to make 'Powder Bed'. I set out my view such waste would be regarded as Grade C under PAS111.

1.3. I comment on evidence of Alison Fuller and Oliver Matthews in respect of document AGRPO P017 and AGR F068 Material Factory Questionnaire in particular material safety data sheets and WM3 assessments. I note the Appellant has not provided these documents or any detailed reporting. I also discuss in my proof that from the evidence of Ian Hall, Kronospan is identified as a waste producer that transfers waste to the Appellant. A material safety data sheet is publicly available for MDF and other materials made by Kronospan which I have provided as an example.

1.4. In discuss the evidence of Dr Ivan Vince, in relation to a limited number of testing of samples of wastes for formaldehyde and dip sampling on documents carried out by NRW. I refer to laboratory reports and discuss the implications of detected levels of formaldehyde for classification of waste containing formaldehyde in excess of 1,000mg/kg.

Proof of Evidence

1.5. With regard to paragraphs 45, 66 of proof of Caroline Platt, to my knowledge this is the first time NRW the Appellant has provided information that a source of wastes used for making cubicle conditioning waste derived materials has been explained to be MDF dust. I have assumed reference to wood dust in the proof of Oliver Matthews refers to the same. My understanding is that what has

been referred to as a “raw material” in the proof of evidence is a waste under list of waste code 03 01 05, although I am not aware of any waste transfer notes or other waste duty of care documentation submitted by the Appellant in the application or this Appeal to confirm this.

1.6. Paragraphs 66, 67 state:

> *66. Powder Bed, therefore, is manufactured from MDF, whereas Fine Bed is produced from chipboard or particle board or similar. The wood which makes Fine Bed is processed by manufacturers as melamine faced chipboard (“MFC”) or particle board.*
>
> *67. A practical difference in respect of our suppliers is that the residue from MDF always comes out as a dust, whereas the residue from particle board or chipboard does not. I am aware from my discussions with suppliers that MDF is the same smooth consistency all the way through and the result of processes used in wood-moulding industries, whereas particle board or chipboard does not have the same composition …*

1.7. From the evidence of Alison Fuller and paragraph 10.1-10.9 of the proof of Oliver Matthews, I have considered the Appellant’s document AGRPO P017 [CD 4.14, Appendix AF]:

> *2 PROCEDURE*
>
> *2.1 When a material enquiry is initiated, the factory, in conjunction with the Platts representative, should*
>
> *complete AGR F068 Material Factory Questionnaire which includes the following information;*
>
> *• Details of supplier, including address and contact details.*
>
> *• Specific process from which the material derives.*

• An indication of the types of materials produced; quantity, physical form, composition, properties and description.

• If available, a WM3 assessment that details the above and includes analytical results of the wood material.

• <u>If available a copy of the Materials Safety Data Sheet (MSDS) should be obtained.</u>

2.2 A representative sample should be obtained to be analysed by Platts Agriculture Ltd for the chemical composition, including heavy metals, to be sure that the material fits the requirements of the PAS 111 standard

2. On paragraph 8.4 of the proof of Oliver Matthews, I would not agree with the statement regarding the approach taken to material safety data sheets and the importance of these documents along with other relevant documents from waste producers such as WM3 classification reports. I am not aware of any material safety data sheets (MSDS) being submitted by the Appellant in the application or the Appeal.

3. I note from what appears to be a list of suppliers in Appendix IH1 to the proof of Ian Hall. Kronospan is named in the evidence as one of the Appellant's suppliers that has transferred waste to the Appellant.

4. The MSDS for MDF and other wood materials made by Kronospan (2017) is available online (Appendix 5).

5. Relevant information to waste management is found in the MSDS, for example in addition to hazards identification (section 2 Health hazard respiratory sensitiser and first aid measures (section 4), information on the composition, material stability and reactivity, toxicological and ecological information (where known) and disposal:

"3. Composition/Information on Ingredients

… Wood panel products contain the following:

Wood (various species of softwood) 77 – 91.6 %

Polymerised Resin (UF, MUF, Phenolic, p-MDI) 8 – 20 %

Wax and Hardener 0.4 – 3.0 %

…10. Stability and Reactivity

Considered stable and inert.

Materials to avoid: Reducing and oxidising agents.

Conditions to avoid: Heating and ignition sources and damp atmospheres.

Thermal decomposition products may include: CO, CO2, aldehydes (including formaldehyde), particulate matter and other organic compounds

11. Toxicological Information

Wood-panels are composed of softwood of various species bound together with a urea-formaldehyde resin. When it is machined, very fine dust is produced. As with other types of softwood dust, wood-panel dust is a potentially hazardous substance and should therefore be controlled. Softwood dust is not classified as a carcinogen.

12. Ecological Information

Mobility: Not determined

Degradability: Not determined

Bioaccumulative Potential: Not determined

Aquatic Toxicity: Not determined

13. Disposal Considerations

Manufacturing waste must be disposed of as Controlled Waste. The raw product is not classified as Hazardous Waste."

5.1. It has previously been noted MDF and particle board received at the Appellant's site could contain urea-formaldehyde, resin or other formaldehyde-

containing substances as well as other substances previously discussed in my proof of evidence. This is the case for MDF dust and section 3 of the MSDS above provides relevant information in this regard i.e. potential for urea formaldehyde, melamine urea formaldehyde, methylene diphenyl diisocyanate and phenols.

5.2. There is nothing in the MSDS above to indicate that for the disposal route it was contemplated that waste from the raw material would be used as animal bedding. Some MSDSs might give more detailed advice on disposal or recovery.

5.3. Section 13 in the MSDS above states the raw material, i.e. the manufactured MDF board, is not classified as hazardous waste (which might be assumed to mean it has been appropriately classified as non-hazardous) but this does not necessarily mean waste MDF dust produced from it would also be non-hazardous waste. A WM3 assessment for the waste transferred to the Appellant would be expected contain further relevant information, although to my knowledge the Appellant has not submitted this information in the application or Appeal.

5.4. The Health and Safety Executive has published guidance notes on MDF including MDF dust (Appendices 6, 7) in context of wood dust being classified as hazardous to human health for the purposes of Control of Substances Hazardous to Health Regulations (COSHH).

5.5. Further to discussion of grades of wood waste in PAS 111:2012 [CD 6.11] in the proof of Oliver Matthews, I would observe that in PAS111 wood waste with a high content of MDF such as wood dust would appear – given consignments to the Appellant would consist exclusively of such wastes –to correctly fall into category C and not suitable for animal husbandry products.

5.6. Paragraphs 15 to 18 of the proof of Dr Ivan Vince discuss formaldehyde results. I am aware that in November 2023 the Appellant sent NRW an Excel spreadsheet and that this is what the Appellant has referred to as a ‘library’ of

sample results. The spreadsheet contains a series of entries with tests results for more than 140 substances which, from around August 2023, includes formaldehyde. It appeared from the spreadsheet of library results that from around August 2023 the Appellant started testing samples of treated wood wastes for formaldehyde and this had continued.

5.7. I have not seen any other data from the Appellant relating to results of testing for formaldehyde except laboratory reports discussed in this proof.

5.8. As noted in my proof of evidence, NRW received from the Appellant a number of PDF copies of laboratory reports to undertake dip sampling and check the accuracy of the information in the spreadsheet.

5.9. From examination of lab sample 23-48954 (Appendix 8) provided by the Appellant, it is noted that formaldehyde results are reported. An example of these is as follows:-

Elab Reference	mg/kg
329830	1660
329831	1240
329832	1300
329833	880
329834	1220
329835	1260
329836	1010

I observe that this sample does not have any non-conformities noted against it

5.10. In laboratory sample reference 23-48954 the following results are reported for formaldehyde, but has the following title “Replaces Analytical Report number 23-49125; issue no.1”

Elab Reference	mg/kg
331358	< 10
331359	< 10
331360	< 10
331361	< 10
331362	< 10
331363	< 10
331364	< 10

Noted in the report indicate are various deviations as c, f, cf or cfg. I discussed these in in my proof of evidence dated 29 May 2024 [CD4.2.3 Paragraph 1.11].

5.11. Formaldehyde is considered by the International Agency for Research on Cancer (IARC) which has concluded that there is sufficient evidence for the carcinogenicity of formaldehyde in both humans and in experimental animals. Formaldehyde causes cancer of the nasopharynx and leukaemia.

5.12. Formaldehyde is considered by Public Health England to be carcinogenic to humans (group 1) (See Appendix 9: Formaldehyde Toxicological Overview , 2017, Public Health England).

5.13. The Health and Safety Executive GB Mandatory Classification and Labelling List (“GB MCL List”) (Appendix 10) lists formaldehyde as having the hazard classification H350 Carc 1B.

The GB MCL List is available from HSE website:

https://www.hse.gov.uk/chemical-classification/classification/harmonised-classification-self-classification.htm

Direct link to GB MCL List

https://www.hse.gov.uk/chemical-classification/assets/docs/mcl-list.xlsx

5.14. Performing a WM3 classification Assessment of Hazard HP 7: Carcinogenic shows that for all the results above 1000 mg/kg this would result in the waste being classified as HP7: Carcinogenic and there the waste should be classified as hazardous 03 01 04* sawdust, shavings, cuttings, wood, particle board and veneer containing hazardous substances.

5.15. For all results reported on the “library of results” except sampled between 21/06/23 and 16/10/23 no formaldehyde results are reported. This can be seen, for example in Appendix AF-24 to the proof of evidence of Alison Fuller.

5.16. For “library of results” Line 1818 Elab reference 333815 (Platts reference PLA001846 /H) sampled 01/08/23 a result for formaldehyde was reported as 0.4 mg/kg , however Elab analysis 23-49418 (Appendix 11) makes no report of formaldehyde.

DECLARATION

I confirm that the facts and matters referred to in this proof of evidence are true to the best of my knowledge and belief. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Signed 

Dated: 14 June 2024