



Application Number: 18/02341/FUL

Description Demolition of existing B8 storage and distribution warehouse, and erection of a new B8 storage and distribution warehouse with ancillary B1 floorspace and associated works

AT Blakelands 1, Yeomans Drive, Blakelands, Milton Keynes, MK14 5AN

FOR [REDACTED]

Target: 20th December 2018

Extension of Time: Not Required.

Ward: Newport Pagnell South

Parish: Great Linford Parish

Report Author/Case Officer: [REDACTED]
Senior Planning Officer

Contact Details: [REDACTED]
[REDACTED]

Team Manager: [REDACTED]

1.0 Comments Received from the Environmental Health Officer regarding noise

1.1 Following the publication of the Development Control Committee report, comments from the Environmental Health Officer. These comments are provided below:

I have reviewed the application and the noise impact assessment.

I would recommend that planning conditions are applied to the site which would afford residents in the vicinity a level of protection from noise which is in line with World Health Organisation levels and levels in line with British Standards BS4142: 2014.

I would suggest:

- At the nearest noise sensitive receiver, noise levels from the site to have a BS4142:2014 rating level of 5dB below background levels.
- Internal noise events at the nearest noise sensitive receiver not to exceed 45dB L_{AFMax} in line with World Health Organisation Guidelines on Community Noise 1999. (Levels to be determined by calculation as opposed to measurement inside the property)
- A Noise Management Plan to be in place for site activities and the Council is to be furnished with a copy. The Plan is to be maintained up to date in order to reflect operations on the site.

- Broadband (white noise) reversing alarms fitted to vehicles operating on the site
- Any plant/air handling units which are roof mounted are to be directed away from residential and / or suitably screened. To limit noise impact the installed plant is to operate at 5dB below background levels at the nearest noise sensitive receiver.
- The proposed 4m acoustic barrier is to be retained

I believe those conditions would afford a fair and reasonable level of protection from all noise associated with the operation of the site. See BS4142 excerpt below on what is covered.

Re-assessment Questions from Officers:

- Accuracy and acceptability of the methodology used in the NIA for the assessment of the impact on residential properties for this type of development i.e. has the correct method been used?

The correct standard and method has been applied:

“BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound

This British Standard describes methods for rating and assessing sound of an industrial and/or commercial nature, which includes:

- a) sound from industrial and manufacturing processes;*
- b) sound from fixed installations which comprise mechanical and electrical plant and equipment;*
- c) sound from the loading and unloading of goods and materials at industrial and/or commercial premises; and*
- d) sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes, such as that from forklift trucks, or that from train or ship movements on or around an industrial and/or commercial site.*

The methods described in this British Standard use outdoor sound levels to assess the likely effects of sound on people who might be inside or outside a dwelling or premises used for residential purposes upon which sound is incident.”

Securing a Planning condition on the noise levels from the premises would ensure the impact on residential properties is in line with World Health Organisation levels and also with site specific relativity, i.e. to ensure that the noise levels from the site are below background sound levels. If operating noise levels are attached as Planning conditions the operators will have to adhere to the stated levels or they would be in breach of the site Planning permission. The onus is on the operator to comply with the conditions and manage the noise they produce.

- Does the assessment fully assess the impact of the development i.e. it appears to not include the turning circle, but assess noise from the loading barrier only

It is in accordance with what I would expect to see in an assessment. The noise impact assessment is based on reasonable estimations of noise impact which is standard practice, the noise from operations can't be measured on the site because the operation is not being undertaken so desktop calculations of the impact have to be made.

As previously mentioned however if Planning conditions are attached which give noise levels to be adhered to, it affords the nearest noise sensitive receptors a level of protection from all site operations outlined in the BS4142 excerpt and gives the operators clear objectives and limits to be achieved.

- Please review and re-assess the NIA that has been submitted

Please see first section of this doc

Questions from the residents:

- Has the impact on the extension at no 72 Bessemer Court been considered – this sits in close proximity to the turning circle (this is shown on the MKC GIS System)

Please see the first section.

Nonetheless, if the Planning conditions suggested previously are attached the residents will be afforded protection from noise which is in line with World Health Organisation levels / below background sound levels which offers a fair protection from noise generated on the site.

- Does the NIA account for the noise generated from the turning circle

See first section comments

- Is there going to be harm from reflected noise from the warehouse building, given this is a flat surface?

See previous comments in relation to protection afforded by noise limits being attached as a Planning condition.

There's not a specific metric to quantify 'harm', nor annoyance, nor nuisance. Sound is highly subjective which is problematic in attempting to delineate a baseline level at which 'harm' occurs. Noise is a subjective interpretation of sound pressure level. A 'sound pressure' can be measured, 'noise' as a human response to a sound pressure level cannot.

There are however quantities given in BS8233:2014 (same as World Health Organisation levels) for internal noise levels as a 'reasonable standard', but they're not levels of 'harm' per se.

How you could also look at it is in terms of BS4142 which gives a 'likelihood of complaint' (as per info in the submitted noise impact assessment) which takes the measured background sound level in a given location and looks at how much over the background sound a specific noise source is – this relates to external sounds as opposed to the internal noise climate of a property. Setting a BS4142 rating level limit to be achieved which is below background level would mean that background sound levels would provide a masking effect to the specific sounds of the warehouse operation.

- The northern overflow car park, to the rear of Bessemer Court does not currently contain any noise mitigation for vehicular traffic – are noise barriers or other mitigation required?

See previous comments in relation to protection afforded by noise levels being attached as a Planning condition.

The noise barriers are to protect from sound generated by the operations of loading and unloading of HGV's, the plans show the 'northern overflow car park' to be just that – an overflow carpark for cars and a route for emergency vehicles as opposed to being an area where loading / unloading is occurring.

- What can be done about the roof mounted plant?

Planning condition to ensure they operate at 5dB below background sound levels at the nearest noise sensitive receiver and also ensure they (the fans) face away from the residential

- Why type of noise barrier are the developers proposing? How does this work? Is 4m high enough?

As per the noise impact report it will be a *"circa 4metre high reflective acoustic barrier...A solid, close boarded timber barrier...a mass per unit area of >10kg/m2, sealed to the ground and is fitted with cover strips to prevent gaps forming over time"*

A noise barrier acts as a physical barrier relying on physical mass, height and completeness (i.e. no air gaps) between the noise source (i.e. HGV unloading activities) and receiver obstructing the path of the sound propagation. For an example you can see the barrier between the Newport Pagnell community recycling centre (tidy tip) and the newly built residential properties N Crawley Rd, Newport Pagnell MK16 9FE, it is of similar size and dimension.

Re 'is 4m high enough' see comments on planning conditions

- Will there be harm if the number of HGV movements increases above the 32 per hour predicted in the transport assessment?

As per the above, there is no metric for 'harm' per se. Sound level limits attached as a condition of planning permission would extend a degree of protection to noise sensitive receivers.

- 1.2 Officers note that the Environmental Health Officers have recommended an additional 2 conditions, from those previously recommended on application 16/03023/FUL. These are the first two bullet points listed in the above response and seek to place decibel limits on noise levels from the site and noise generated from internal events.
- 1.3 As with all conditions, Officers are required to review whether these conditions meet the 6 tests of the NPPF, as outlined below.
necessary;
relevant to planning and;
to the development to be permitted;
enforceable;
precise and;
reasonable in all other respects.”
- 1.4 Officers have sought advice from the Council’s Legal Team and the Planning Enforcement Team regarding the imposition of these conditions. An assessment against each of the tests has been provided below. All 6 tests must be satisfied in order for a condition to be imposed.
- 1.5 As outlined above, Officers consider that the requested conditions fail to meet the tests of the NPPF and therefore, they cannot be imposed on a decision notice. However, it is recommended that these requirements be used to inform the Noise Management Plan and therefore, the below informative is recommended to be include:
 1. Necessary – No, the proposed conditions were not previously recommended under application 16/03023/FUL and there has not been a material change in the noise generated from the development. As such, it is considered the proposed conditions are not necessary to make the development acceptable in planning terms
 2. Relevant to planning – No, the proposed conditions refer to guidance which is not used within the Planning Industry but would be relevant should any issues to controls that the Environmental Health Department have.
 3. Relevant to the development to be permitted – yes, the conditions are relevant to the development being considered

4. Enforceable- No, given that these are standards which apply to non-planning legislation and are highly technical aspects relating to Environmental Health controls, the enforcement team have confirmed they would not be enforceable
5. Precise – Yes, the conditions are precise
6. Reasonable in all other respects – No, the conditions are not considered reasonable in all other aspects. They are overly onerous, seeking to control matters that were not previously identified as a concern under application 16/03023/FUL and seek to prescribe set levels of noise, when there is not sufficient evidence to demonstrate that without them, there would be unacceptable harm caused.

- 1.6 Whilst Officers consider that these conditions fail to meet the requirements of the 6 tests of the NPPF for imposing conditions, it is considered that the below informative should be placed on the decision notice. This places an expectation that the developer would demonstrate compliance with these through the submission of the Noise Management Plan.

Informative

It is expected that the Noise Management Plan will include evidence of how acceptable levels of noise generated from site will be controlled to meet the requirements of BS4142:201 and how internal noise events at the nearest noise sensitive receiver will not to exceed 45dB L_{AFMax} in line with World Health Organisation Guidelines on Community Noise 1999.

2. Landscaping Plans

- 2.1 Amended landscaping and planting plans have been submitted, which address the concerns raised by the Landscape Architect. The revised scheme is considered acceptable.

3. Lighting Plan Update

- 3.1 At section 5.86, it is acknowledged that an acceptable scheme could be submitted. As part of the application, a lighting scheme has been submitted and details of the lighting units have also been provided.
- 3.2 To confirm whether the scheme is acceptable in planning terms, Officers have reviewed the submitted lighting plan, which should LUX levels (levels of illuminance) across the site and the potential spill into the adjacent residential properties.
- 3.3 When considering lighting scheme, the Local Authority must consider whether there would be unacceptable harm caused through light spill/obtrusive light. To help Authorities determine whether light spill is considered unacceptable, the Institution of Lighting Professionals has prepared a guidance note for the reduction of

obtrusive light. This guidance note is widely used by Local Planning Authorities across England.

- 3.4 The guidance note uses Environmental Zones, ranging from protected areas to urban areas (E0 to E4) to outline levels of obtrusive light.

| Table 1 – Environmental Zones | | | |
|-------------------------------|-------------|----------------------------|-----------------------------------------------------------|
| Zone | Surrounding | Lighting Environment | Examples |
| E0 | Protected | Dark | UNESCO Starlight Reserves, IDA Dark Sky Parks |
| E1 | Natural | Intrinsically dark | National Parks, Areas of Outstanding Natural Beauty etc |
| E2 | Rural | Low district brightness | Village or relatively dark outer suburban locations |
| E3 | Suburban | Medium district brightness | Small town centres or suburban locations |
| E4 | Urban | High district brightness | Town/city centres with high levels of night-time activity |

- 3.5 In this case, it would be reasonable to apply a standard associated with an E3, suburban location, to the context of this site given the adjacent existing industrial uses and that this is a suburban area of Milton Keynes.

- 3.6 The below table outlines the standards allowed for:

| Table 2 – Obtrusive Light Limitations for Exterior Lighting Installations – General Observers | | | | | | |
|-----------------------------------------------------------------------------------------------|-------------------------------------|--------------------------------------------------------------------|-------------|-------------------------------------------------|-------------|----------------------------------------------|
| Environmental Zone | Sky Glow ULR [Max %] ⁽¹⁾ | Light Intrusion (into Windows) E _v [lux] ⁽²⁾ | | Luminaire Intensity I [candelas] ⁽³⁾ | | Building Luminance Pre-curfew ⁽⁴⁾ |
| | | Pre-curfew | Post-curfew | Pre-curfew | Post-curfew | Average, L [cd/m ²] |
| E0 | 0 | 0 | 0 | 0 | 0 | 0 |
| E1 | 0 | 2 | 0 (1*) | 2,500 | 0 | 0 |
| E2 | 2.5 | 5 | 1 | 7,500 | 500 | 5 |
| E3 | 5.0 | 10 | 2 | 10,000 | 1,000 | 10 |
| E4 | 15 | 25 | 5 | 25,000 | 2,500 | 25 |

- 3.7 In this instance, the post-curfew time is referring to external light used after 11pm, and not necessarily a restriction imposed through a planning condition. The most important section is the light intrusion into windows, which outlines the LUX levels.
- 3.8 The impact of the proposed lighting scheme is provided on the plan submitted by the applications, which contains a series of LUX level annotations across the lighting plan. As can be seen on the submitted plan, the level of associated lux,

across the Bessemer Court and Telford Way properties, when taken to the nearest habitable window including accounting for extensions, the proposed light spill does not exceed 1 LUX. This accords with the post-curfew, i.e after 11pm levels allowed for by E3 of the guidance note, where there is an 2 LUX limit before light spill is considered to be obtrusive.

- 3.9 As such, given that the LUX light spill accords with this guidance note, it is not reasonable or necessary to make the development acceptable to include a condition restricting the use of the external lighting.

4.0 Accuracy of the Plans

- 4.1 There is a lot of concern from objectors regarding the accuracy of the plans that have been provided.
- 4.2 In response, the Planning Team have asked the Property Services Team to independently review the accuracy of the submitted red edged site local plan and the site layout plan. In terms of the information the Authority has, regarding land registry ownership, the measurements of the site are accurate.
- 4.3 In addition, the Planning Enforcement Team have also visited the site, to check the measurements of the warehouse being constructed under planning permission 16/03023/FUL. The Enforcement Team have confirmed, that so far, the construction of the warehouse is being carried out in accordance with the approved plans.

5.0 Update on HGV Operation Restriction Condition

- 5.1 Saved policy D1(iv) of the Milton Keynes Local Plan 2001-2011 seeks to ensure that development proposals do not cause unacceptable pollution by noise, to the detriment of the locality.
- 5.2 Condition 11 recommends:
11. There shall be no heavy goods vehicles, entering, existing or operating within the site outside of the hours of 07:00 to 21:00 Monday to Friday and 10:00 to 16:00 on Saturdays, Sundays and Bank Holidays.

Reason: To protect the amenity of adjacent residential properties from adverse noise pollution

- 5.3 This condition is considered to meet the 6 tests of the NPPF and is considered reasonable and necessary to make the development acceptable. This is because, the condition will protect the amenity of the adjacent residents from harmful noise generated as a result of the movement of HGVs within the site, in close proximity to the residential properties. Whilst it is acknowledged that the applicants have increased the landscape buffer, which is welcomed, this provides limited mitigation especially during winter months where foliage will be less.

- 5.4 In addition, the condition seeks to protect the amenity of residents during unsociable hours ensuring that harm during night-time hours will be restricted and the level of noise generated would be not cause harm.

6.0 Update on Site Contamination

- 6.1 Following the receipt of the Environmental Health Officers comments in respect of site contamination, further information was sought from the applicant. This information addresses the questions raised by the Environmental Health Officer.

7.0 Update to Planning Conditions

- 7.1 Following the finalisation of this report, the applicant has discharged the planning conditions 3 and 8 of the original application 16/3023/FUL. The conditions related to the submission of a drainage scheme and details of the industrial access roads.
- 7.2 Following consultation with the Authority's Local lead Flood Authority Officer and Highways Engineer these details were considered acceptable. As such, recommended conditions x of the Development Control Committee Report are no longer required. The previously approved details will be listed under the approved plans condition, should planning permission be granted. The development would have to accord with these plans if permitted.

8.0 Additional Representations Received

Developer Updates

- 8.1 The Developer has advised that they are willing to increase the height of the acoustic barrier from 4.0 metres to 4.5 metres, if Members are willing to relax or remove the restriction on the hours of operation of HGVs into, from and within the site.
- 8.2 This has not been included within the Officers Committee report, as Officers consider that this would not overcome the reason for the condition being imposed and therefore, amended plans showing an increase in height have not been formally requested/submitted.
- ### **Great Linford Parish Council**
- 8.3 Following the publication of the Development Control Committee report, there has been ongoing correspondence with Great Linford Parish Council and Milton Keynes Council in respect of a number of technical matters.
- 8.4 An additional representation was formally submitted by Great Linford Parish Council on 6th November 2018. This has been published to the Council's website and outlines the following material planning matters:
- Reiteration of the measurements of the building, site context and proximity to Bessemer Court

- Request for the HGV operation restriction condition, to be further restricted to include no HGVs operating into, within or from the site on Sundays and Bank Holidays
- Concern with the accuracy of the Transport Assessment

8.5 Other matters were included, as outlined below, but these are not materially relevant to the consideration of this application:

- Speculative nature of the development
- Comparison to Magna Park
- Number of buses/passengers that could fit into the warehouse

8.6 Officer response to the material planning considerations:

- These measurements are noted.
- It is considered unreasonable to add further restriction to the operation of HGVs within, into and from the site. This application is not materially different to the earlier application considered and approved by Members, adding a further restriction would be unreasonable and not necessary to make the development acceptable, failing the 6 tests of the NPPF.
- The Transport Assessment has been checked by the Highways Engineer who have confirmed the methodology used is acceptable, using the industry standard to calculate expected vehicle movements.

Third Party Representations

8.7 There has been much correspondence with the local residents and Milton Keynes Council in respect of the application. This has continued since the publication of the Committee Report.

8.8 Since the publication of the Committee Report, an additional 2 representations from third party representatives have been formally submitted.

8.9 The following are considered to be materially relevant to the consideration of this application:

- Concerns with the accuracy of the Transport Assessment
- Loss of Sunlight/Daylight
- Diesel particulates will cause harm to health
- Loss of trees on the site following earlier approval
- Loss of amenity
- Harm to views from Tongwell Lake
- Details of the S106 agreement

8.10 Officer response to the material planning considerations:

- The Transport Assessment has been checked by the Highways Engineer who have confirmed the methodology used is acceptable, using the industry standard to calculate expected vehicle movements.

- Loss of light is addressed at 5.41 to 5.47 of the Committee Report
- The impact of particulates is addressed at 5.76 to 5.82 of the Committee Report
- An updated landscape plan and planting plan has been submitted, which increases the buffer and replaces the trees lost as noted in this update paper
- Amenity issues are addressed in the Committee Report, at 5.38 to 5.52
- Visual impacts from the development and surrounding area are addressed in the Committee Report at 5.22 to 5.31
- S106 contributions are outlined at 5.68 to 5.71 of the Committee Report.

8.11 The following are considered not to be materially relevant to the consideration of this application and no weight can be afforded to them, when determining this application:

- Personal background of the objectors
- Comparison of the site dimensions to a football pitch
- Personal expense on extensions, renting of office space
- Request to re-orientate the building
- Insufficient car parking at the Volkswagen Building
- No right for the public to appeal the decision