

24th July 2024

Development Management & Compliance
Wokingham Borough Council
P O Box 157
Shute End, Wokingham
Berkshire
RG40 1BN

Dear Sir/ Madam,

Planning appeal decision consent APP/X0360/W/22/3306963 Land off Headley Road East, Woodley, Reading, RG5 4SN

In relation to consent for commercial development for the demolition of existing buildings and the redevelopment for light industrial, general industrial, and storage and distribution uses, with ancillary offices, associated car parking, and landscape planting.

s73 application to remove Condition 32

PRC Architecture and Planning Ltd has been instructed by our client, HE2 Reading 1 GP Limited, to submit a s73 application to remove Condition 32 pursuant to the above planning application that was approved via appeal decision through the Planning Inspectorate.

Condition 32 states: *No deliveries shall be accepted or dispatched from Units 9 and 10 between 2300hrs and 0700hrs the following day.*

Condition 32 was included in the consent after the Environmental Health Officer considered the proximity of Units 9 and 10 to the residential amenity at Lilly May Court would result in adverse impacts in relation to nighttime noise for the nearby residents.

This s73 application includes a Noise Impact Assessment Technical Note prepared by Accon who were instructed by our client to investigate the potential noise impacts on the nearest noise sensitive receptors (NSRs) to the site of extending the consented operational delivery hours for Units 9 and 10. As part of the assessment, Accon undertook a 24-hour noise measurement study in May 2024 and recorded traffic counts for an 18 day period to determine the existing ambient and background noise levels during the proposed extended operational hours. The detailed results of these assessments can be found in the accompanying technical note.

Planning Policy

The National Planning Policy Framework paragraph 55 makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Planning Issues

In our view, it is considered that Condition 32 fails to meet tests 1 and 6 of the NPPF condition tests for reasons that are set out below and submitted with this application, and as such the condition is in breach of the NPPF.

Test 1: necessary:

Accon's noise assessment concludes that the predicted noise levels from delivery noise associated with Units 9 and 10 would be below the measured existing background noise level at Lilly May Court during the night-time period.

Furthermore, the report demonstrates that Viscount Way is already used by a high number of HGVs during the nighttime period not associated with Units 9 and 10 but the adjacent site accessed off West Road that adjoins Viscount Way. There are no hours of use/ delivery restrictions or restrictions on the use of Viscount Way, on these adjacent commercial properties.

Condition 10 directs all vehicles for the site to use the main site access from Headley Road East. As such, all vehicles for units 9 and 10 will be approaching the units through the main site and only using the very short section of Viscount Way from the exit of the main site to the access point of units 9 and 10. This is contrary to the current access arrangements where Viscount Way has been used as an access road for the whole estate. Therefore, the new access arrangements will be a betterment and reduce vehicle movements on Viscount Way.

The above points and accompanying noise assessment demonstrate that condition 32 is unnecessary and therefore in conflict with the NPPFs first test.

Test 6: reasonable in all other respects:

It is important to note that the existing site occupiers do not have a delivery restriction applied. This point should also carry further weight considering the access changes imposed by condition 10.

The ACCON note highlights that the World Health Organisation (WHO) provides guidelines on noise outside of bedrooms at night, stating that on average it should be less than 40 dB(A). The accompanying noise technical note predicts that noise levels will be 34 dB at night at second floor height of Lilly May Court, considerably below the WHO's guidelines. Further demonstrating the condition to be unreasonable.

It is therefore considered that Condition 32's is unreasonable and its inclusion risks putting the site and our client at a commercial disadvantage.

Conclusion

The applicant is seeking to remove condition 32 to remove the restriction on the permitted hours of deliveries such that deliveries can be accepted or dispatched from Units 9 and 10 throughout a 24 hour period.

It is in our view that Condition 32 fails to meet tests 1 (necessary) and 6 (reasonable in all other respects) of the NPPF condition tests by the following reasons:

- Predicted nighttime delivery noise would be below the measured background nighttime sound level noise.

- The adjacent site has no restrictions and attracts a high number of HGVs to Viscount Way during the nighttime.
- Vehicles will be approaching Units 9 and 10 off the Headley Road East access through the main site and only using a very short section of Viscount Way to access the units.
- The existing occupiers of the site and surrounding business' do not have any nighttime delivery restrictions.
- Predicted nighttime noise levels within the Lilly May Court residential area will be below the WHO's guidelines.

The accompanying noise technical note concludes that are 'no observed adverse effects' arising from the additional HGV movements expected and that therefore in line with the Noise Policy Statement for England the condition can be removed.

Condition 32 should therefore be removed as it has been demonstrated that it is unnecessary and unreasonable in line with the NPPF condition tests and supported by technical evaluation.

Yours sincerely
On behalf of PRC Architecture and Planning Ltd

Chris Malone

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