



WOKINGHAM BOROUGH COUNCIL

Statement of Case by Local Planning Authority

Appellant:	Goya Developments Ltd
Site:	Unit 10 Land at Headley Road East, Woodley, Wokingham, RG5 4SN
LPA Reference:	250823
Planning Inspectorate Reference:	APP/X0360/W/25/3374952
Statement Author	Phillip Richards Principal Planning Officer Wokingham Borough Council

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1. INTRODUCTION

- 1.1 A S.73 application was originally submitted under 250823 to vary Condition 32 of the original planning consent 213106 (granted at appeal, ref: APP/X0360/W/22/3306963) on Unit 9 and 10 to remove the restriction on the timing of deliveries to these units.
- 1.2 During the course of the application and following discussions between the planning officer and applicant, the application was varied to refer to Unit 9 only and remove Unit 10 from consideration. This agreement was reached following concerns raised by consultees, neighbours and Local Ward Members.
- 1.3 Condition 32 of planning permission 213106 (as varied) stated:
“No deliveries shall be accepted or dispatched from Unit 10 between 2300hrs and 0700hrs the following day.”
The Planning Inspector previously imposed Condition 32 was to mitigate noise disturbance impacts on residents of nearby properties under the tests of necessity set out in paragraph 58 of the NPPF.
- 1.4 The previous s73 application (241926) sought the removal of Condition 32 in its entirety (i.e. in respect of Unit 9 and 10), however, as a result of concerns raised by officers, the applicant amended the proposal and no longer sought the lifting of the restrictions imposed by Condition 32 in respect of both Units – the proposal to lift the restrictions in respect of Unit 9 only has been subsequently approved.
- 1.5 The current appeal now seeks to remove Condition 32 from Unit 10.

2. SITE DESCRIPTION AND SURROUNDING AREA

- 2.1 The application site refers to a recent redevelopment 3ha Brownfield site situated on land south of Headley Road East. Headley Road East is an existing and allocated as a Core Employment Area (CEA). The site was previously occupied by Arlington Automotive.
- 2.2 The wider site within the CEA contains a variety of industrial production, storage and retail businesses. Adjacent to the main site is Gemini Road which contains residential properties with further residential development in close proximity to Unit 10 within Lily May Court and Bakers Place.
- 2.3 The previously approved appeal proposed the demolition of existing buildings and redevelopment of the site for commercial development providing 10 units of flexible light industrial, general industrial, storage and distribution uses, with ancillary offices, associated car parking, and landscape planting. Wherein, the Planning Inspector considered Condition 32 despite the evidence provided at that appeal to be necessary and relevant to protect the amenity of the neighbouring properties. The Planning Inspector could have decided not to impose the condition as part of the previous appeal; however, it was evidently considered to be necessary for the condition to remain at that time.
- 2.4 The site is accessed via Headly Road East to the north.

3. PLANNING HISTORY

- 3.1 The relevant planning history for nearby sites is set out in Table 1 below:

PLANNING HISTORY		
App. No.	Description	Decision & Date
213106	Full planning application for the proposed erection of 5 no. buildings for commercial development to provide flexible light industrial, general industrial, and storage and distribution uses, with ancillary offices, associated car parking, formation of new accesses, and landscape planting, following demolition of existing buildings.	Refused 10/06/2022, appeal allowed 22/12/2023 (APP/X0360/W/22/3306963)

240116	Application for submission of details to comply with the following condition of planning appeal decision consent [APP/X0360/W/22/3306963 application 213106] dated [22/12/2023]. Condition 6), Contamination Risk Assessment and part discharge of condition 7), detailed remediation scheme following condition 6 assessment.	Split decision 20/02/2024
240014	Application for submission of details to comply with the following conditions of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 3 relates to a building recording document, condition 4 to a Construction Method Statement and condition 5 to a Construction Environmental Management Plan (CEMP).	Approved 28/03/2024
240497	Application for submission of details to comply with the following condition of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 11 relates to external materials.	Approved 16/04/2024
240277	Application for submission of details to comply with the following condition of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 21 relates to details of biodiversity enhancements.	Approved 10/05/2024
240601	Application for submission of details to comply with the following condition of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 12 relates to tree protection works.	Approved 21/05/2024
240629	Application for submission of details to comply with the following conditions of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 8 relates to road and footway construction details, condition 9 to details of vehicular accesses and condition 10 to a scheme for highway signage.	Approved 24/06/2024
241291	Application for submission of details to comply with the following condition	Approved 27/06/2024

	of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 6 relates to contamination, condition 7 to remediation and condition 29 to unexpected contamination.	
241657	Application for submission of details to comply with the following conditions of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 4 relates to a Construction Method Statement and condition 5 to a Construction Environmental Management Plan (CEMP).	Approved 23/08/2024
242532	Application to vary condition 15 of planning consent 213106 for the proposed erection of 5 no. buildings for commercial development to provide flexible light industrial, general industrial, and storage and distribution uses, with ancillary offices, associated car parking, formation of new accesses, and landscape planting, following demolition of existing buildings. Condition 15 refers to BREEAM details, and variation is to change the trigger for the condition to within 6 months of occupation.	Approved 27/11/2024
242800	Application for submission of details to comply with the following condition of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 24 relates to installation of an acoustic barrier.	Approved 20/12/2024
242938	Application to vary condition 30 of planning consent 213106 for the full planning application for the proposed erection of 5 no. buildings for commercial development to provide flexible light industrial, general industrial, and storage and distribution uses, with ancillary offices, associated car parking, formation of new accesses, and landscape planting, following demolition of existing buildings. Condition 30 refers to Hours of Work and the variation is a temporary	Refused 12/03/2025

	extension to increase the hours of construction/demolition to between 0800hrs and 2300hrs, Monday to Friday, retaining operation hours of 0800hrs to 1300hrs on Saturdays, and at no time on Sundays or on Bank Holidays.	
243164	Application for submission of details to comply with the following conditions of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 16 relates to parking; 18 to EV charging points; 22 to an external lighting scheme and 25 to boundary treatments.	Approved 26/02/2025
250240	Application for submission of details to comply with the following condition of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 13 relates to existing vehicular accesses.	Approved 25/02/2024
250306	Application for submission of details to comply with the following condition of planning consent 213106 (APP/X0360/W/22/3306963) dated 22/12/23. Condition 26 relates to details of interpretive heritage boards.	Approved 02/05/2025

Table 1: Relevant planning history

4. **LEGAL CONTEXT AND PLANNING POLICY**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy Framework 2024 (NPPF), among them the 'presumption in favour of sustainable development.' However, the NPPF does not change the statutory status of the development plan as the starting point for decision making.

4.2 It should be noted that at the time the decision to exclude Unit 10 from the application was agreed with the applicant as part of proactive discussions throughout the course of the application.

4.3 Relevant policies and guidance are listed below:

Core Strategy (CS) policies:

CP1 – Sustainable Development

CP3 – General Principles for Development

CP15 – Employment Development

Managing Development Delivery (MDD) policies:

CC01 – Presumption in Favour of Sustainable Development

CC06 – Noise

TB11 – Core Employment Areas

TB20 – Service Arrangements and
Deliveries for Employment and Retail Use

Supplementary Planning Documents

Borough Design Guide Supplementary Planning Document (adopted June 2012)

Sustainable Design and Construction Supplementary Planning Document (adopted 28th May 2010)

5. LOCAL PLAN UPDATE

5.1 The Council is in the process of producing a new local plan. The Local Plan Update (“LPU”) will, upon adoption, supersede the adopted Core Strategy and MDD Local Plan. To date, the Council has consulted on three draft strategies for the LPU: the Draft Plan (2020), the Revised Growth Strategy (2021), and the Proposed Submission Plan (2024). A copy of the Local Development Scheme is included in **Appendix 03** and sets out the timetable for adoption, which is anticipated to be December 2025.

5.2 Paragraph 49 of the NPPF sets out that:

Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

5.3 In accordance with paragraph 49 of the NPPF, all planning decisions should consider relevant policies within the Local Plans and emerging LPU. The current Core Strategy and MDD LP continue to be given due weight, according to the degree of consistency of policies with the National Planning Policy Framework; the closer the policies in these Plans are to the policies in the Framework, the greater the weight that may be given to them as per paragraph 49 of the NPPF.

5.4 Since the application subject to this appeal was determined, the Regulation 22 version of the LPU has been submitted to the Inspectorate for examination on 28th February 2025. Two Planning Inspectors have been appointed to undertake an independent examination, and the hearing sessions commenced on the 18th of November 2025. Therefore, the Council considers that the policies of the LPU, submission version, are relevant

considerations in determining planning applications and appeals.

5.5 Therefore, with due regard to this stage of preparation, the precise level of weight that can be attributed to each emerging policy should be determined according to:

- (a) the level of objection to the draft policies (para. 49(b), NPPF); and
- (b) the degree of consistency with the NPPF.

5.6 The list of Regulation 19 submission LPU policies which are considered to be relevant to the determination of this appeal are set out below. It is therefore recommended that the Reg 19 Version of the Local Plan is used for development management purposes and determining planning applications, with appropriate weight given to each policy, as set out within individual officer reports. The relevant LPU policies are:

- SS1: Sustainable development principles
- DH1: Place making and quality design
- DH2: Safeguarding amenity
- C1: Active and sustainable transport and accessibility
- C2: Mitigation of transport impacts and highways safety and design

6. THE COUNCIL'S CASE

- 6.1 The following comments are made in response to specific parts of the grounds for appeal and related documents submitted by the Appellant to date.

Noise Implication of the Removal of Condition 32

- 6.2 Condition 32 was imposed as part of the previous appeal at the site by the Planning Inspector to mitigate noise disturbance impacts on residents of nearby properties. The statutory basis for retaining conditions is clear: they must continue to meet the tests of necessity and reasonableness under NPPF para 57. The Council considers that permanent removal of Condition 32 would conflict with these tests given the proximity of sensitive receptors and the uncertainty of future occupiers.
- 6.3 Residential properties in closest proximity to Unit 10 are located at Lilly May Court and Millers Grove/Bakers Place, approximately 15m to the west of the western elevation of Unit 10.
- 6.4 The previous s73 application (241926) sought the removal of Condition 32 in its entirety (i.e. in respect of Unit 9 and 10), however, as a result of concerns raised by officers, the applicant amended the proposal and no longer sought the lifting of the restrictions imposed by Condition 32 in respect of both Units – the proposal to lift the restrictions in respect of Unit 9 only following the submission of additional evidence and reports was been subsequently approved.
- 6.5 CS Policy CP3: *General Principles for Development* states that planning permission will be granted for proposals that do not have detrimental impacts on amenities of adjoining land users. MDD LP Policy CC06: *Noise* further amplifies this by requiring that proposals demonstrate how they have addressed noise impacts to protect noise sensitive receptors from noise impacts. Where there are no adverse impacts, then noise is not a material consideration. It goes on to outline that where there is an adverse effect (Lowest Observed Adverse Effect Level (“LOAEL”) to Significant Observed Adverse Effect Level (“SOAEL”), the adverse impacts should be mitigated. Where, despite the mitigation, adverse impacts are still identified, the

proposal must be refused provided that the development falls within the SOAEL.

- 6.6 The previous applications were accompanied by the Noise Impact Assessment (“NIA”) dated 28 June 2024, which concluded that based on the existing background noise levels and results of the traffic flow data survey, the proposal would result in No Observed Adverse Effect Level (“NOAEL”) to LOAEL. The WBC Environmental Health Officer reviewed the submission and raised concerns in a level of uncertainty involved in predicting data and dB penalties. An updated noise assessment, in line with a BS4142 standard, was requested as a result. The applicant submitted the Noise Impact Assessment – Technical Note V2 dated 5 September 2024, which included corrections to worst-case scenario of +3dB for intermittency and +3dB for just perceptible impulsivity. As a result, a total correction of +6dB has been added to the predicted delivery noise levels, which have been revised to 34 L_{Aeq} from 32 L_{Aeq} shown in the original NIA.
- 6.7 The original additional information was reviewed by the WBC Environmental Health Officer as part of application 241926 and the subsequent application 250823, who maintained their concerns with regard to potential impacts of the proposal on nearby noise sensitive receptors. This resulted, following discussions with the applicant/agent in the applicant no longer pursuing the amendments in respect of Unit 10 in both the current and previous s73 applications relating to Condition 32. Additionally, to ensure that adequate noise mitigation measures are in place in respect of Unit 9, the applicant was requested to submit an Operational Noise Management Plan for Unit 9 in support of the current and previous s73 application.
- 6.8 The current appeal has been supported by updated noise surveys and reports which have assessed the current site operations which include the operations of Unit 9 and the impacts of this upon residential amenity of the ongoing operations and future unit 10 operations. Notwithstanding the high level of information submitted with this appeal, rather than to be submitted through the previous or future planning application, the reports conclude that subject to mitigation such

as soft close access doors and a Noise Management Plan for instance, that the removal of Condition 32 would not result in detrimental harm to residential amenities.

- 6.9 While technical evidence suggests compliance with LOAEL thresholds, the proximity of sensitive receptors and cumulative night-time activity create uncertainty. The Council therefore maintains that permanent removal of Condition 32 is inappropriate.
- 6.10 These reports have been reviewed and assessed by WBC Environmental Health Officer, who considers that the updated information provided with this appeal is adequate to conclude that subject to the mitigation measures proposed, the removal of Condition 32 would not result in detrimental harm.
- 6.11 The Council's Environmental Health Officer has stated:

"The Environmental Protection Team have reviewed the submitted technical evidence, including multiple noise surveys, BS4142 assessments, and predictive modelling, demonstrates that the proposed night-time delivery operations at Unit 10 are unlikely to result in significant adverse noise impacts at the nearest residential receptors, particularly Lilly May Court and Bakers Place.

Key findings include:

- Predicted delivery noise levels (32–34 dB LAFmax) are below WHO and ProPG thresholds for sleep disturbance.*
- The site layout and building design provide effective shielding from the operational noise.*
- Existing night-time industrial activity in the area already generates higher ambient noise levels, with frequent exceedances above 60 dB LAFmax.*
- BS4142 assessments indicate noise levels within LOAEL thresholds and are not exceeding SOAEL.*

While the supporting evidence supports the removal of Condition 32, the nature of Unit 10's future use introduces uncertainty. Therefore, the Environmental Protection Team recommend the following:

- Submission and approval of a site-specific Operational Noise Management Plan prior to occupation.*
- Installation of quiet closing mechanisms on gates and external doors.*
- Restrictions on night-time plant operation, unless adequately mitigated.*

In conclusion the removal of Condition 32 is not expected to result in significant harm to residential amenities, provided the above conditions are implemented.”

6.12 Notwithstanding this position, the Local Planning Authority, in planning terms, still maintains concern over the impact of the removal of this condition on the living conditions and amenities of the neighbouring properties. These properties are in close proximity to unit 10, and it is considered given the current nighttime environment that further unrestricted night-time use introduces risk of adverse impact, notwithstanding mitigation proposed. As contained within the supporting noise report/assessment as part of this appeal (page 13), there were 158 peak noise events per hour exceeding 60 dB LAFmax during the night-time period. Whilst this has been attributed to the other existing unit, this demonstrates significant disturbance to the neighbouring properties wherein the unrestricted use of unit 10 could in combination with these existing events cause detrimental harm.

6.13 Given the Environmental Health advice and without prejudice to the Local Planning Authority's appeal position, should the Inspector be minded to allow the appeal, the Local Planning Authority considered that an initial temporary period for nighttime monitoring with Unit 10 in use 24 hours a day would constitute the maximum allowance made. Should it then be found that the unrestricted use of unit 10 does cause harm and/or results in an increase in complaints, Condition 32 would remain in place.

- 6.14 Overall, the Local Planning Authority maintains its concerns around the nighttime noise impacts of the proposal. Should the Inspector arrive at a different conclusion, a temporary period of unrestricted hours of delivery (no longer than 12 months) with nighttime monitoring is strongly recommended to allow for the predicted situation as outlined within the supporting information to be tested and confirmed.
- 6.15 To conclude, the Local Planning Authority opposes permanent removal of Condition 32 but, if the Inspector is minded, recommends a temporary trial period with strict monitoring. Notwithstanding this and in the interest of being positive and proactive, several suggested conditions have been included to assist the Inspector, one should temporary permission been deemed appropriate and one should Condition 32 be removed completely. This includes a noise management plan to be submitted and approved.
- 6.16 The Inspector is respectfully asked to dismiss this appeal.

Appendix 1 - Suggested Conditions should the Inspector allow the appeal

Temporary Permission

- 1) The use of Unit 10 for overnight deliveries and dispatch shall be permitted for a period of no longer than 12 months from the date of this decision. The nighttime noise levels shall be monitored throughout this period and subsequently submitted to the Local Planning Authority along with a Noise Management Plan for approval. The Noise Management Plan should include:

Management Plan

- Site layout minimising noise breakout toward residential areas.
- Acoustic screening/barriers where appropriate.
- Plant and equipment noise controls:
- Specification and predicted noise levels for all fixed mechanical plant.
- Delivery and servicing noise protocols:
- Restrictions on idling, reversing alarms, and night-time activity.
- Complaint response protocol.
- Monitoring and review mechanism for ongoing compliance.
- Details of closing mechanisms on gates and external doors.

The approved noise management plan shall thereafter be implemented at all times that the respective buildings are in operation. If the noise report demonstrates that the nighttime operation of Unit 10 causes a noise impact at the residential receptors that exceeds the Lowest Observed Adverse Effect Level (LOAEL) or increases the existing ambient noise environment by more than +3 dB at the most affected receptor (23:00-07:00 LAeq), or results in more than 10 peak events per hour over the baseline L_{Amax} (measured in accordance with the NMP), Condition 32 of planning permission 250823 shall immediately and permanently apply to Unit 10, preventing deliveries or dispatch between 23:00hrs and 07:00hrs.

Reason: To protect the character and amenities of neighbouring areas by ensuring that measures are implemented to avoid any noise nuisance.

Should the Inspector allow the appeal and remove Condition 32 permanently

- 1) Prior to the first occupation of Unit 10 or to the 24 hours use commencing, whichever comes first, a noise management plan for that unit shall first be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan should include:

Management Plan

- Site layout minimising noise breakout toward residential areas.
- Acoustic screening/barriers where appropriate.
- Plant and equipment noise controls:
- Specification and predicted noise levels for all fixed mechanical plant.
- Delivery and servicing noise protocols:
- Restrictions on idling, reversing alarms, and night-time activity.
- Complaint response protocol.
- Monitoring and review mechanism for ongoing compliance.
- Details of closing mechanisms on gates and external doors.

The approved noise management plan shall thereafter be implemented at all times that the respective buildings are in operation.

Reason: To protect the character and amenities of neighbouring areas by ensuring that measures are implemented to avoid any noise nuisance.