



Appeal Decision

Site visit made on 9 October 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/Z5630/W/19/3233428

Rescue House, 46 Oakcroft Road, Chessington KT9 1RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr M Lambert of National Rescue against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
- The application Ref 18/10144/FUL, dated 4 April 2018, was approved on 8 May 2019 and planning permission was granted subject to conditions.
- The development permitted is 'variation of Condition 17 (Permitted Hours for Traffic Movements) of Planning Permission 96/2114/FUL (Erection of 5 industrial/warehouse units, car parking and servicing) to allow occasional movement of vehicles on land adjoining the premises and erection of a 3.2m high timber acoustic fence along part of the boundary'.
- The conditions in dispute are Nos 6, 8, 9, 10, 15, 19, 20, 21 and 23 which state that:
 - 6. *Within six months of the date of this decision, full details of the materials, colour and texture of the external finish of the buildings shall be submitted to an approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved finishes;*
 - 8. *Fences, walls or other means of enclosure shall be erected along the south and east boundaries of the site, in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority within 6 months of the date of this decision and shall be permanently retained;*
 - 9. *Within 6 months of the date of this decision details of the levels of buildings, roads, parking areas and pathways within the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details;*
 - 10. *Within 6 months of the date of this decision, details of refuse storage facilities shall be submitted for approval in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details and permanently retained at the site;*
 - 15. *(i) The premises shall not be used for the purposes hereby permitted or vehicles movements take place after the hours of 8:00pm Monday to Saturday and shall not reopen until 7:00am on any day. The premises shall not be used or vehicles movements take place at any time on Sundays and Bank Holidays. (ii) For a period of 12 months from the date of this decision, vehicle movements may take place on up to seven occasions, per calendar month, outside the hours stated at 15 (i). On these occasions all vehicle movements must be in accordance with the Noise management plan received on 29/06/2018. After 12 months from the date of this decision the benefit of sub condition (ii) shall cease and the only the hours stated at 15(i) shall be in force;*
 - 19. *Within 6 months of the date of this decision, a landscaping scheme including where applicable the retention of the existing trees shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within the first planting season following completion of the development and the tree planting and landscaping scheme thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Any trees or shrubs which die during in this*

period shall be replaced in the first available planting season, and the area shown to be landscaped shall be permanently retained for that purpose only;

20. Notwithstanding the siting shown on the approved drawings the refuse storage area and the covered cycle storage shall be relocated to an alternative part of the site in accordance with details which shall be submitted within 6 months of the date of this decision for approval in writing by the Local Planning Authority. The approved refuse and cycle storage shall be provided in accordance with the approved details and retained on site in perpetuity;

21. Within 6 months of this decision, adequate access shall be provided for people with disabilities, in accordance with details which shall have been previously submitted to an approved in writing by the Local Planning Authority; and

23. Within three months of the date of this decision the acoustic fencing as detailed in drawing no. 06-J7-01043 and Site Plan Showing Fence Line shall be erected in accordance with the approved details and shall remain in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

- The reasons given for the conditions are:

6. To ensure a satisfactory appearance on completion of the development;

8. In order to protect the privacy of adjoining occupiers;

9. To ensure the appearance and functioning of the development is satisfactory and to protect residential amenity;

10. To ensure the provision of adequate refuse facilities;

15. In order to protect residential amenity;

19. In the interests of visual amenity;

20. In order to protect residential amenity;

21. In order to ensure that the development is accessible; and

23. In order to protect residential amenity.

Decision

1. The appeal is allowed and the planning permission Ref 18/10144/FUL for erection of 5 industrial/warehouse units, car parking and servicing and erection of a 3.2m high timber acoustic fence along part of the boundary at Rescue House, 46 Oakcroft Road, Chessington KT9 1RH granted on 8 May 2019 by the Council of the Royal Borough of Kingston-upon-Thames, is varied by deleting conditions 1, 10 and 18 and by deleting conditions 2, 4, 5, 6, 8, 9, 15, 19, 20, 21 and 23 and substituting them for the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 04/04/2018; Site Location Plan Drawings NRG-02; Drawing No 06 J7/01043 Details of Jakoustic Fencing System; TP463 08B; TP463 09A; TP463 10B; and TP463 11B.
 - 2) A – Prior to the occupation of any of Units A-D visibility sight line splays of 4.5m x 60m shall be provided in each direction at the access outside the area edged in red on the site location plan dated 04/04/2018 from Oakcroft Road and shall be permanently retained free from any obstruction to visibility higher than 1.0 metres above the surface of the adjoining highway.

B – Within 3 months of the date of this permission visibility sight line splays of 4.5m x 60m shall be provided in each direction at the access to Unit E from Oakcroft Road within the area edged in red on the site location plan dated 04/04/2018 and shall be permanently retained free from any obstruction to visibility higher than 1.0 metres above the surface of the adjoining highway.
 - 3) A – Prior to the occupation of any of Units A-D details of the surfacing and drainage of the car parking, servicing and manoeuvring areas outside the

area edged in red on the site location plan dated 04/04/2018 shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details prior to the occupation of any of Units A-D. The respective areas shall be kept free of obstruction at all times, and shall not thereafter be used for any other purposes other than those shown on the approved drawing.

B - The use of Unit E hereby permitted shall cease within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision full the details of the surfacing and drainage of the car parking, servicing and manoeuvring areas for Unit E within the area edged in red on the site location plan dated 04/04/2018 shall have been submitted for the written approval of the local planning authority and shall include a timetable for its implementation.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved details specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) A – Prior to their use full details of the materials, colour and texture of the external finish of Units A-D shall be submitted to and approved in writing by the local planning authority and the development shall be constructed in accordance with the approved finishes.

B - The use of Unit E hereby permitted shall cease within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- v) Within 3 months of the date of this decision full details of the materials, colour and texture of the external finish of Unit E shall have been submitted for the written approval of the local planning authority and shall include a timetable for its implementation.
- vi) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- vii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- viii) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved details specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) A – Prior to the occupation of any of Units A-D fences, walls or other means of enclosure shall be erected along the south and east boundaries of the part of the site outside the area edged in red on the site location plan dated 04/04/2018, in accordance with details which shall have been submitted to and approved in writing by the local planning authority. Upon implementation the approved details the means of enclosures shall thereafter be permanently retained.

B – The use of Unit E hereby permitted shall cease within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision details of fences, walls or other means of enclosure to be erected along the south and east boundaries of the part of the site within the area edged in red on the site location plan dated 04/04/2018 shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved details specified in this condition, the boundary treatments shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 6) A – Prior to any above ground works associated with any of Units A-D details of the levels of buildings, roads, parking areas and pathways within the site outside the area edged in red on the site location plan dated 04/04/2018 shall be submitted to and approved in writing by the local planning authority.

The development shall be carried out in accordance with the approved details prior to the occupation of any of Units A-D.

B – The use of Unit E hereby permitted shall cease within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision details of the levels of buildings, roads, parking areas and pathways within the area edged in red on the site location plan dated 04/04/2018 shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) (i) The premises hereby approved shall not be used for the purposes hereby permitted and no vehicle movements shall take place within the site between the hours of 2000 and 0700 of the following day Monday to Saturday. The premises shall not be used for the purposes hereby permitted and no vehicle movements shall take place within the site at any time on Sundays and Bank Holidays.
- (ii) Within the area edged in red on the site location plan dated 04/04/2018 at Unit E vehicle movements on the site shall not take place between the hours of 2000 and 0700 the following day unless exceptional circumstances, described as where a vehicle must enter the land in order to be removed from the public highway for road traffic and safety reasons. The site within the area edged in red on the site location plan dated 04/04/2018 shall not be used for more than 7 occurrences of these exceptional circumstances in any calendar month.
- (iii) On the occasions where the exceptional circumstances set out in (ii) above all vehicle movements and activities shall be in accordance with the procedures and measures stated in the Noise Management Plan dated June 2018.
- 8) A – Prior to any above ground works or demolition associated with any of Units A-D a landscaping scheme relating to the land outside the area edged in red on the site location plan dated 04/04/2018 including an implementation programme and where applicable the retention of the existing trees shall have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in

accordance with the approved details and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

B - The use of Unit E hereby permitted shall cease within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision a landscaping scheme relating to the land within the area edged in red on the site location plan dated 04/04/2018 including where applicable the retention of the existing trees has been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 9) A – Prior to the occupation of Units A-D details of the refuse storage area and the covered cycle storage for those units shall be submitted for approval in writing by the local planning authority. The approved refuse and cycle storage shall be provided in accordance with the approved details prior to the occupation of the units and shall thereafter be retained.

B – The use of Unit E hereby permitted shall cease within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision details of the refuse storage area and the covered cycle storage for Unit E has been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved details specified in this condition, they shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

10) Prior to the occupation of Units A-D access for people with disabilities to those units shall be provided, in accordance with details which shall have been previously submitted to an approved in writing by the local planning authority. Access shall be provided in accordance with the approved details prior to the occupation of the units and shall thereafter be retained.

11) Prior to any vehicle movements within the area edged in red on Drawing NRG-02 at Unit E between the hours of 2000 and 0700 on any day a timber acoustic fence shall be erected in accordance with the details set out in Drawings NRG-02, Drawing No 06 J7/01043 Details of Jakoustic Fencing System, and the Peak Acoustics Noise Impact Assessment (29 March 2018). Upon implementation of the acoustic fence specified in this condition, that acoustic fence shall thereafter be retained.

Procedural Matter

2. The description of development I have used in the decision above comprises that used in the original permission (96/2114/FUL) and the acoustic fence as these are the acts of development that the permission subject to this appeal relates to.

Application for costs

3. An application for costs was made by Mr M Lambert of National Rescue against the Council of the Royal Borough of Kingston-upon-Thames. This application is the subject of a separate Decision.

Background and Main Issues

4. Planning permission was granted in 1999 for the erection of 5 industrial/warehouse units, car parking and servicing (96/2114/FUL). This permission included a condition stating 'The premises shall not be used for the purposes hereby permitted or vehicular movements take place after the hours of 8.00pm Monday to Saturday and shall not reopen until 7.00am on any day. The premises shall not be used or vehicle movements take place at any time on Sundays and Bank Holidays' (condition 17).
5. The main parties do not dispute that Unit E, currently occupied by National Rescue Group, as a vehicle repair centre formed part of that permission. Activities at the unit includes bringing broken down vehicles to the site on a recovery vehicle.

6. Application 17/10263/FUL sought to make changes to condition 17 of 96/2114/FUL. This was refused and subsequently dismissed at appeal (APP/Z5630/W/18/3197264).
7. A further application was submitted (18/10144/FUL) and approved by the Council. That scheme differed from the previous application and appeal in that it included a noise report and an acoustic fence from the outset. The appellant sought to vary the condition so that in exceptional circumstances, vehicle movements on the site could take place between 8:00pm and 7:00am Monday to Saturday. Such circumstances would be limited to no more than seven times a month.
8. During the consideration of this application, local residents expressed concerns, including about the impact of the fence and changes to the hours of use of the site. Although the Council's Environmental Health Officer (EHO) and Highways offered no objection to the proposal and advised that conditions would reduce the risks of such harm, the Council was not convinced. They approved the application (18/10144/FUL) but imposed condition 15, that in effect, would put into place a trial period during which the effects of the proposal on the living conditions of residents and their other concerns could be assessed in practice.
9. A condition was imposed requiring the proposed acoustic fence to be constructed within 3 months of the date of the approval (condition 23). There were changes made to several other conditions including ones that required the provision of details and their implementation within a specified time period. This appeal has been made in relation to conditions 6, 8, 9, 10, 15, 19, 20, 21 and 23 of 18/10144/FUL.
10. The main issues of the appeal are the effects that varying the conditions would have on;
 - The living conditions of the occupiers of nearby residents, with particular regard to noise, disturbance, daylight, sunlight and outlook.
 - The character and appearance of the area;
 - Accessibility; and
 - Refuse storage.

Reasons

Living Conditions

11. **Condition 15** - Planning Practice Guidance states that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.
12. The EHO response referred to sporadic and infrequent noise complaints having been received regarding Unit E, including from the use of the site outside of permitted hours. Local residents suggest that the current business operations such as the delivery and unloading of vehicles on the highway at the site severely disrupts occupiers of properties along Oakcroft Villas. They indicate that this is in part due to noise and light from the site and is to a greater

extent than the EHO comments. In addition, they suggest that the existing planning conditions are not being complied with.

13. The noise impact assessment (NIA) identified that there would be a significant adverse impact from noise experienced at properties along Oakcroft Villas from the proposed night-time activities at the site. However, with the proposed acoustic fence the noise levels at the majority of these properties, would be reduced to below background noise levels. The fence would remove a line of sight between the source of the noise and residential windows at ground and first floor level. Where there is second floor accommodation an increase in noise would be experienced. Notwithstanding this, adjacent gardens and up to first floor rooms would experience a reduction in normal daytime activities from this site and for operations at night levels would be within recommended guidance values. The findings of the NIA have not been questioned by the Council.
14. The evidence before me indicates that the delivery and unloading of rescued vehicles currently take place at the site and on the highway. At night when the premises are closed this takes place on the highway. There has been no clear information to demonstrate that there are restrictions on the timing, frequency or method of operation from activities on the highway. The scheme would not increase the frequency of these events taking place in the area as they already occur. It would however move some of them from the highway to within the yard. Furthermore, it relates to unloading only under specific circumstances and would not permit other activities at the site.
15. The activities in the yard would increase noise levels at second floor level. Notwithstanding this, the proposed acoustic fence would reduce noise levels at ground and first floor level. This would be the case throughout the permitted hours of use on the site, not just at night-time. The increased height of the boundary treatment may also reduce impacts from vehicle lights. Night-time use of the site would be limited to 7 times per month and only where a vehicle must enter the land in order to be removed from the public highway for road traffic and safety reasons.
16. A requirement to adhere to the noise management plan imposes controls such as logging the time and condition of vehicles and of any complaints. In addition, vehicle engines and lights would be turned off when not in use. This is not the case where they occur on the highway. The management plan also gives the Council access to the logbook and CCTV footage taken at the site. Therefore, any complaints in regard to the frequency of events or how they are conducted can be investigated and any subsequent action within the Council's control.
17. Residents have questioned the accuracy of the information provided by the appellant including whether the NIA was based on realistic unloading circumstances. Nevertheless, there is no firm evidence that the NIA and management plan are not robust and the EHO confirmed that they were satisfied with the findings of the assessment and its methodology. I see no reason to reach a different finding to the Council in that allowing a controlled number of out of hours movements into the site would have the benefit of ensuring that these movements take place with least disruption to neighbouring residents.

18. There is no clear evidence that the proposal would give rise to noise and disturbance other than that already highlighted in the NIA and considered acceptable by the EHO. In the absence of compelling justification to the contrary, I consider that a condition requiring a trial period would not be necessary to evaluate the effect of the proposal on living conditions.
19. A condition controlling the frequency, measures and procedures for these night-time activities is necessary. The permission only sought changes to the hours at Unit E. There is no noise assessment or other detailed evidence before me considering how such movements from the other units part of this permission would affect the living conditions of nearby residents. As such, it is necessary and reasonable to specify in the condition that it only allows for these movements at Unit E.
20. Permission was sought and granted for the 7 occurrences to take place at any time outside the previously specified hours. As I consider the effects of these occurrences are acceptable, the condition imposed also allows these events at any time outside of the otherwise restricted hours.
21. **Condition 23** - The acoustic fence would be located along the boundary of the site with the rear of the properties along Oakcroft Villas. Although a relatively tall built structure, there are trees within the appeal site and the adjacent gardens at present that are of a comparable and greater height than the fence. Moreover, although not of the same height as the proposed fence, there are also outbuildings within some of the adjacent gardens and an existing boundary wall. While I appreciate all parts of the gardens may be used, these features already limit the daylight and sunlight that reaches the areas near the proposed fence and the outlook from these gardens.
22. The increased height of the boundary treatment would result in some reduction to daylight and sunlight to parts of the gardens of Oakcroft Villas given their orientation to the fence. Nevertheless, the properties themselves are set at the other end of the relatively lengthy gardens and from within them any such impacts would be reduced.
23. In light of these factors, I have reached the same finding as the Council in that the proposal would not result in any significant loss of daylight, sunlight, overshadowing or overbearing impact for the occupiers of nearby properties.
24. The fence is proposed to mitigate the noise from the night-time activities. Therefore, it is unreasonable and unnecessary to require the fence to be erected if these activities are not taking place. A condition requiring the fence to be erected prior to the commencement of the night-time activities and to be retained is necessary.
25. **Condition 8** – The need for details of south and east boundary treatments to be provided and subsequently erected is not disputed by the main parties. The reason given for this condition is to protect privacy.
26. The current condition requires details of the whole of the site to be provided within 6 months of the date of the permission. It does not differentiate between the units that are yet to be constructed and Unit E which has. The requirement for details to be provided and for the boundary treatments to be erected for units yet to be constructed is unnecessary and unreasonable. The

- impacts from that part of the development would not occur until the units were occupied.
27. Units A-D form part of a single building. In the absence of any clear information as to how the construction of the remainder of the site would proceed, if it does at all, the condition I have imposed separates the requirements for Unit E from the other units.
28. Part A of the condition requires details for Units A-D to be provided, and the treatments erected, prior to occupation of those units. The purpose of part B of the condition is to require the appellant to comply with a strict timetable for dealing with the boundary treatments. This needs to be addressed in order to make the development acceptable. Nonetheless, this is not reliant on details and erection of the boundary treatments for the whole of the site being in place.
29. Unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
30. I note comments regarding this, and other similar conditions having already been discharged for Unit E. However, I do not have full details of those submissions. Therefore, I cannot be certain the requirements of the condition have been satisfied.
31. **Condition 9** – This relates to the provision of levels details and works covering the whole of the site. With regard to living conditions, the same reasoning applies as with condition 8. While the information is needed for Unit E, those relating to the part of the development yet to commence are not needed within the specified time period. Any impacts would only occur once the relevant parts of the site were developed. Therefore, the current condition is not reasonable or necessary.
32. A condition requiring these details and their implementation is necessary and reasonable. The requirements for areas relating to Units A-D is prior to any above ground works as that is when works to land levels would have an effect. The condition I have imposed is worded in a way to require details for Unit E in line with a strict timetable and should these requirements not be met, then the planning permission falls away
33. Again, I do not have full details of the discharge of condition submission that has been referred to and cannot be certain that the requirements of the condition have been satisfied.
34. **Condition 20** – This requires the agreement and provision of refuse and cycle storage. In part, it duplicates condition 10 that also asks for refuse storage details. The same reasoning regarding the provision of the details and facilities

for Unit E alone and not the whole site applies as given earlier in this decision. The agreement and provision only become relevant upon the impacts of that element of the scheme occurring.

35. Therefore, the current requirement relating to the whole site is not necessary or reasonable. The condition now imposed makes a distinction between Unit E, that is already in place, and the remainder of the site. It also includes the requirement to adhere to the stated timetable or the permission falls away. As with other conditions, on the basis of the evidence before me I cannot be certain that details have previously been agreed and implemented for Unit E.
36. **Living Conditions Conclusion** - The disputed conditions may meet some of the 6 tests in regard to planning conditions referred to in the National Planning Policy Framework (Framework). Nevertheless, in their current form they are not reasonable or necessary. Their subject matter is relevant. Therefore, while the conditions are deleted, they are replaced by modified versions.
37. There would be some impacts experienced by nearby residents. Nonetheless, there would not be unacceptably adverse effects on the living conditions of the occupiers of nearby residents, with regard to noise, disturbance, daylight, sunlight and outlook. Moreover, the fence would aid in screening of the site and reducing noise levels at all times. The proposal would therefore comply with Policy DM10 of the Royal Borough of Kingston upon Thames Local Development Framework Core Strategy (Core Strategy) and the Framework where they require developments to have regard to the amenities of occupiers and neighbours and provide a high standard of amenity for existing and future users.

Character and Appearance

38. There is variation in the size and materials of the boundary treatments at the site and surrounding area. Therefore, while the proposed acoustic fence would be taller than the existing boundary treatments at the site, it would not appear incongruous. It would be partly screened from the street by the frontage boundary treatment and from some of the properties along Oakcroft Villas by existing outbuildings and landscaping.
39. **Condition 6** – This requires details of the external materials of the buildings to be provided within 6 months of the permission. The reason given is to ensure that the appearance of the site is satisfactory. As Units A-D are yet to be constructed it is unreasonable to require their external materials within this time period. The same aim would be achieved by the condition I have imposed requiring the details to be provided prior to their use at Units A-D. As with other conditions above, the condition I have imposed would require the materials information to be provided for Unit E by specific time periods or the permission falls away.
40. I do not have full details of previous submissions where it is said conditions have already been discharged. Therefore, I cannot be certain that the requirements of the condition have already been satisfied.
41. **Condition 9** – The reason given for details of site levels being submitted and agreed is said to be partly in relation to the appearance and functioning of the development. I have already described above how the need for such details is not necessary within the 6 months specified for elements of the development

that are yet to take place. The condition is again replaced by one that requires details and implementation within an appropriate timetable for Unit E. It is sufficient for details of Units A-D to be provided prior to any above ground works associated with them.

42. **Condition 19** – Until works commence elsewhere, there is no need for a landscape scheme to cover the whole of the application site as there is no development occurring. Therefore, there is no visual impact to mitigate against. The requirements for a landscaping scheme for the whole site within 6 months of the permission is not necessary. Therefore, a new condition makes the distinction between Unit E and the remainder of the site.
43. The trees within the yard of Unit E help screen the site from Oakcroft Villas and along with landscape features in the gardens of the residential properties soften the industrial appearance of the site. Some of the trees are in close proximity to the proposed fence.
44. The implementation of the scheme following the completion of the development, relates to an unknown time and potentially beyond where impacts would occur on existing features. Consequently, I have imposed a condition requiring a landscape scheme for Unit E prior to the erection of the fence, as the construction of it may have implications for nearby trees. As with other similarly worded conditions it includes a requirement to comply with the specified timetable or the benefit of the permission would be lost. From the evidence before me I cannot be certain that details have previously been agreed and implemented for Unit E.
45. **Character and Appearance Conclusion** – Therefore, while the disputed conditions may meet some of the 6 tests in regard to planning conditions referred to in the Framework, they are unreasonable and unnecessary in their current form. However, they are replaced with ones that would still ensure that the development would not result in unacceptable harm to the character and appearance of the area. Consequently, the proposal would comply with Policy DM10 of the Core Strategy where it requires development to respect and maintain local character.

Accessibility

46. **Condition 21** requires details and provision of access for people with disabilities. Again, it requires details for the whole site and for them to be implemented within 6 months. Appropriate access would only be needed once the relevant part of the development was in place. It is not necessary for details to be submitted and provided when the other buildings are not capable of being used. A condition is now imposed for the provision of the details and facilities for the remainder of the site prior to their occupation.
47. It has not been disputed by the main parties that Unit E has been in place for some time. A saw at my visit that there is a ramped access to the main entrance of the building. As a result of the time that appears to have passed since the building was constructed, it would not be fair to impose a condition requiring Unit E to meet modern standards. Therefore, no requirement is imposed for the provision of details for Unit E.
48. The disputed condition is unreasonable and unnecessary in its current form. I have replaced it with one that would still ensure that the development would

provide access for disabled people. The Council have not identified any specific development plan policy with regard to this matter. I have therefore assessed the issue with reference to the requirements of the Framework. The scheme would accord with the Framework's requirement for inclusive and safe places.

Refuse Storage

49. **Condition 10** requires refuse storage facilities to be agreed and carried out within 6 months for the whole site. This overlaps with condition 20 which addresses refuse and cycle storage. My reasoning for altering condition 20 is given above. As that would require the refuse storage details and for them to be put in place, condition 10 is not necessary.
50. The Council have not specified any particular policy in regard to this condition. I note that Policy DM10 of the Core Strategy requires developments to make adequate provision for waste facilities located where they cause minimal adverse impact on the amenities of the local area and can be adequately accessed and serviced. The scheme would comply with this.

Other Conditions

51. It is not disputed by the parties that the development has commenced with Unit E in place. As such, the standard time period condition is not necessary and is deleted (condition 1). Condition 2 is replaced to ensure a consistent referencing for the plans submitted with the 18/10144/FUL.
52. I have replaced condition 4 with one that separates the requirements for Unit E and the remainder of the site. This requires the visibility splay at the access for Unit E to be provided within 3 months and thereafter retained. The originally approved plans do not show a splay for the access to Unit E. However, the condition previously imposed did not differentiate between the 2 access points. Moreover, the indication given from the Council that this condition was acceptable indicates to me that they do not see a different standard is appropriate. I see no reason to reach a different finding. The condition then specifies that the visibility splay for the access that the remaining units would use is provided prior to the occupation of them.
53. In the same way, condition 5 is replaced to differentiate between unit E and the other units. The agreement of details is also added in the interest of clarity and precision. I note comments regarding this, and similar conditions having already been discharged. However, I do not have full details of that submission. Therefore, I cannot be certain the requirements of the condition have been satisfied. Condition 18 has been deleted as this would form part of the landscape scheme covered by a separate condition.

Other Matters

54. I note comments from third parties of regarding highway safety issues. The appeal scheme would not prevent vehicles being left on the highway or on street parking and manoeuvring near the site taking place. Nonetheless, neither would it be likely to lead to an increase in the frequency of night-time vehicle movements and parking. Furthermore, it would move some of these instances to within the site and mean some damaged vehicles could be stored off the highway.

55. The Council's Highways Officer stated that it is preferable for vehicles to be secured within the site rather than being parked on the public highway. There is no firm evidence to lead me to reach a different conclusion.
56. The conduct of members of staff and road etiquette are not reasons to withhold planning permission. The issue of impact on property values has been raised. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. There has been no convincing case made that the fence would lead to any significant loss of plants and vegetation.

Conclusion

57. I therefore allow the appeal deleting and substituting conditions as set out above.

Stuart Willis

INSPECTOR