



Appeal Decision

Site visit made on 29 July 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th August 2025

Appeal Ref: APP/Y1945/W/25/3363742

Balmoral Centre, Clive Way, Watford WD24 4PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by NW1 IOS 3 Unit Trust against the decision of Watford Borough Council.
 - The application Ref is 24/00887/VAR.
 - The application sought planning permission for the change of use of the land for the open-air storage of plant, machinery, equipment, commercial and building materials, empty skips, commercial vehicles and private hire vehicles, the laying of permeable hard surfaces, the retention of one building, and of the existing hard standing, boundary fences and hedges, and of the existing vehicular access gates without complying with a condition attached to planning permission Ref 10/00632VAR, dated 23 August 2010.
 - The condition in dispute is No 4 which states that: *"Heavy Goods Vehicle movements to and from the site in relation to the development hereby permitted shall not take place outside the hours of 07:00-23:00 Monday to Saturday, 10:00-16:00 on Sundays and Bank Holidays"*.
 - The reason given for the condition is: *"To ensure that the proposed development does not materially prejudice the amenity of the surrounding premises in accordance with saved Policy SE22 of the Watford District Plan 2000"*.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the land for the open-air storage of plant, machinery, equipment, commercial and building materials, empty skips, commercial vehicles and private hire vehicles, the laying of permeable hard surfaces, the retention of one building, and of the existing hard standing, boundary fences and hedges, and of the existing vehicular access gates, in accordance with the application Ref 24/00887/VAR, and the Site Location Plan SB/478/1, without compliance with condition No 4 previously imposed on planning permission Ref 10/00632VAR, dated 23 August 2010, subject to the following conditions:
 - 1) Construction of the development hereby permitted shall not take place before 8am or after 6pm Mondays to Fridays, before 8am or after 1pm on Saturdays and not at all on Sundays and Bank or Public Holidays.
 - 2) Noise emitted from operations within the site, measured as a Rating Level in accordance with BS4142 'Method for rating industrial noise affecting mixed residential and industrial areas' at the boundaries of the nearby residential premises, shall not exceed the background LA90 noise level that would otherwise prevail in the absence of noise from the site by more than 5dB(A).
 - 3) Heavy Goods Vehicle movements to and from the site in relation to the development hereby permitted shall be controlled by permissible noise levels

as approved in the Noise Impact Assessment (SVA ref: 283-SVA-RPT-01-00) and shall not exceed those levels.

- 4) The site shall not be used for the storage or transfer of waste. Any skips or other receptacles that are stored on the site, or that are brought to the site, shall be empty of waste.

Background and Main Issue

2. The appeal development was originally granted planning permission in 2009, Ref. 09/00031/COU, including a condition that controlled the hours of use of the operation. A subsequent variation of that planning permission under Ref 10/00632/VAR led to the replacement of that condition by a new condition (number 3) setting a maximum permissible noise level from operations within the site, along with a separate condition (number 4) restricting the hours during which Heavy Goods Vehicles (HGV) can travel to and from the site. The appeal proposal now seeks to remove condition 4 on planning permission 10/00632/VAR.
3. Based on the Council's reason for imposing the disputed condition and its subsequent reasoning for refusing to remove it, the main issue in this appeal is the effect that removing it would have on the living conditions of the occupants of the residential properties at Norbury Avenue, with particular regard to noise and disturbance.

Reasons

4. The disputed condition prevents HGVs travelling to and from the appeal site during specific hours in connection with the use permitted to control the effects of noise and disturbance on the living conditions of the occupants of nearby residential properties. The Case Officer's Report refers to complaints regarding noise emitted by the loading and unloading of vehicles, and the need to control such noise during the times when residential occupiers are likely to be resting and sleeping.
5. However, based on the wording of the disputed condition, I am satisfied that it can only control the timing of HGV movements to and from the site. Therefore, it cannot control other aspects intrinsic to the use permitted, including the loading or unloading of vehicles or trailers. The effects of noise and disturbance from those activities on the living conditions of the occupants of nearby residential properties from operations within the appeal site would fall to be controlled by the noise level limit in condition number 3 of planning permission Ref 10/00632/VAR.
6. Consequently, the operations intrinsic to the permitted use of the appeal site, except for HGV movements to and from it, are not time limited by the planning permission granted. It follows that the disputed condition cannot reasonably be described as an 'hours of operation' condition as referred to on the Council's decision notice.
7. Paragraph 57 of the National Planning Policy Framework ("the Framework") states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
8. The appellant's Noise Impact Assessment (NIA) modelled the noise effects of one HGV arriving and one HGV leaving in 15-minute periods between the hours of 23:00 and 07:00. This is described as the worst-case scenario for HGV

movements at the appeal site. In that scenario the NIA found that the noise level produced by such HGV movements at the nearest sensitive residential receptors at Norbury Avenue, would be 3dB above the background noise level. Similar noise levels were demonstrated by the theoretical calculations in the appellant's subsequent Technical Note (TN) requested by the Environmental Health Officer.

9. The Council's Environmental Health Officer was able to scrutinise the noise levels set out in the appellant's NIA and TN, and they have raised no concerns with the methodology used or the noise levels derived and have not advanced any substantive technical evidence to the contrary. The Council considers that the appellant has failed to address the noise effects caused by loading and unloading that could occur between HGV movements. However, I have already found that the disputed condition does not control those activities and the noise effects generated by them.
10. Together the NIA and TN demonstrate that noise from HGV movements to and from the appeal site during the hours restricted by the disputed condition would not have an adverse effect on the living conditions of the occupants of nearby residential properties. The main parties do not dispute the need to impose an additional condition to control HGV noise to that assessed by the appellant's technical evidence. I find no basis on the evidence before me to disagree and therefore I have imposed it as condition 3 in the grant of planning permission above.
11. The evidence suggests that the Council consulted some 20 nearby properties on the appeal proposal. I have had regard to the objection from a resident of Norbury Avenue regarding noise and disturbance, particularly loud noises from construction works. I attributed this to the sizeable industrial style premises that appear to have been recently constructed nearby under the planning permission drawn to my attention by the appellant. However, removal of the disputed condition would not affect any construction works at the appeal site, which if not already complete would be restricted by an existing condition.
12. For these reasons, the appellant's technical evidence demonstrates that the restrictions imposed by the disputed condition on HGV movements to and from the appeal site are unnecessary in the interests of avoiding harmful noise and disturbance on the living conditions of nearby residential occupants.
13. I conclude that granting planning permission for the appeal development without the disputed condition, but with the additional condition referred to above would not be harmful to the living conditions of the occupants of the residential properties at Norbury Avenue, with particular regard to noise and disturbance. Consequently, I find no conflict between the removal of the disputed condition and Policy CC8.5 of the Watford Local Plan 2021-2038 insofar as it requires the impacts of development, including noise effects, to be assessed and where appropriate mitigated to achieve acceptable noise levels and protect the amenity of adjacent land uses and their occupants.
14. Similarly, I find no conflict with Framework paragraph 187, insofar as planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution.

Conditions

15. In accordance with the Planning Practice Guidance¹, I have imposed undisputed conditions 2, 3 and 5 from the planning permission Ref 10/00632VAR as they continue to have effect on the development and are necessary to control the effects of noise and pollution. This includes controlling the timing of any potentially noisy construction works that might not have been completed.

Conclusion

16. Without the disputed condition but with the additional condition controlling noise from HGV movements, I conclude that the development would not be harmful to the living conditions of the occupants of the residential properties at Norbury Avenue, with particular regard to noise and disturbance. Therefore, the appeal succeeds, and I shall grant a new planning permission in the terms set out above.

G Sylvester

INSPECTOR

¹ Paragraph: 015 Reference ID: 17a-015-20140306