



Appeal Decision

Site visit made on 1 October 2025

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/N1730/W/25/3367474

Gold Scaffolding, Murrell Green, London Road, Hook RG27 8HZ

- 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 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Gold Scaffolding against the decision of Hart District Council.
 - The application Ref is 25/00356/AMCON.
 - The application sought planning permission for continued use of the site for open storage without complying with a condition attached to planning permission Ref: 23/01786/FUL dated 16/09/2024.
 - The condition in dispute is No 3 which states that: Except between the hours of 8 am to 6 pm weekdays and 8 am to 6 pm on Saturdays, no activities (other than the vehicle departures between 7am and 8am mentioned below) shall take place on site including loading and unloading operations, forklift truck movements and manual operations. There shall be no activity at all onsite on Sundays or Public Holidays. No vehicles shall enter or leave the site before 7am on weekdays or Saturdays. For clarity, any vehicles leaving the site between 7am and 8am shall have been pre-loaded within the authorised hours of operation.
 - The reason given for the condition is: To ensure the use does not result in unacceptable levels of noise to local residents in accordance with policy NBE11 of the Hart Local Plan (Strategy and Sites) 2032 and GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies.
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Decision

1. The appeal is allowed and planning permission is granted for continued use of the site for open storage at Gold Scaffolding, Murrell Green, London Road, Hook RG27 8HZ in accordance with the application Ref 25/00356/AMCON, without compliance with condition number 3 previously imposed on planning permission Ref 23/01786/FUL dated 16/09/2024 and subject to the conditions set out in the schedule at the end of this decision letter.

Application for costs

2. An application for costs was made by Gold Scaffolding against Hart District Council and this is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is whether the requirements of the condition are reasonable and necessary to protect the living conditions of nearby residents.

Reasons

4. The appeal site relates to land to the north of and with access off the A30 London Road used for open storage by the Appellant, in connection with his scaffolding

business. There is a shallow verge and footpath behind along this part of the A30. Between the site and the footpath is a deeper verge with trees and planting. To the immediate east of the site is a car sales site and the Murrell Green Business Park is situated on the southern side of the A30 to the west of the appeal site.

5. The closest residential properties to the site are approximately 105 m away to the south of the site, with access off Totters Lane.
6. Permission was granted in September 2024 under the Council's Ref: 23/01786/FUL for continued use of the site for open storage subject to a number of conditions, including Condition 3 that states that the hours of operation of the permitted use should only take place between 08.00 and 18.00 Monday to Saturday and with no activity on site on Sundays or public holidays. Under the terms of the same condition, vehicle departures are allowed to start at 07.00 but the vehicles would need to be preloaded the previous day within the permitted hours of operation.
7. For commercial reasons as set out by the Appellant, the proposal seeks to amend the hours of operation, specifically allowing the operations to commence at 07.00 each day, Monday to Saturday. The proposal is supported by an Acoustic Report prepared by an established acoustic consultancy and by report authors who are both acoustic professionals. The acoustic report proposes a 2m tall solid wooden fence across the southern (front) of the site to mitigate the activity noise levels which, without mitigation, would exceed the noise design levels at the nearest residential properties, if the hours of operation were to be extended.
8. The acoustic report is based on measured noise surveys of the background noise levels and of the various activities undertaken within the site connected to the scaffolding business. The report recognises and adjusts for the impulsive nature of the activity noise associated with loading and unloading of scaffolding poles and metal brackets on an HGV vehicle. Table 9 clearly identifies that without any mitigation the noise criteria would be exceeded during the hours of 07.00 to 08.00 on Monday to Friday as well as Saturdays. The report advises that without mitigation that there would be a low/adverse impact on the nearest residents along Totters Lane.
9. As a result of this finding the report proceeds to suggest noise mitigation to reduce the noise emissions to an acceptable level through the introduction of a 2m tall solid wooden fence to be installed along the boundary of the site and the A30. The proposal is accompanied by technical details of a Jakoustic fence which is specifically designed for noise attenuation.
10. Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006, including First Alterations (April 2009) (Hart Local Plan) is a general policy for development which seeks under Criterion 2 to ensure that new development does not result in a material loss of amenity to neighbouring residents, including through noise. Policy NBE11 of the Hart Local Plan (Strategy and Sites) 2032 (April 2020) (Hart Local Plan 2032) sets out that development will be supported provided it does not result in unacceptable levels of pollution and it is satisfactorily demonstrated that any adverse impacts will be adequately mitigated or otherwise minimised to an acceptable level. These policies reflect the National Planning Policy Framework (Framework) and in particular paragraphs 135, 187 and 198, which amongst other matters seek to create places which are safe, inclusive and accessible and which

promote health and well being, with a high standard of amenity for existing and future users.

11. The protection of the living conditions of neighbouring residents is an important objective, as unacceptable levels of pollution, and in this instance, noise, can have a significant adverse impact on the health, well-being and quality of life enjoyed by individuals. In assessing this proposal, I have also taken into consideration the particular hour of the day (between 07.00 and 08.00) that the extended hour of operational activity would take place as well as the nature of the activity, with impulsive, rather than continuous, noise activities.
12. I am satisfied that the acoustic report undertaken and submitted with the application has been appropriately undertaken and based on measured surveys and adjusted to take into account the impulsive nature of the activities at the site, to demonstrate how the adverse impact identified could be adequately mitigated to an acceptable level.
13. The Council, through its Environmental Health Officer, has indicated that it is not satisfied with the assessment, but there is no alternative assessment undertaken by the Council, or even a technical review of the submitted assessment to challenge the findings and the mitigation recommendations of the report. The Council's concerns are also shared by the nearby residents.
14. The Council appears to have based its objection on three areas of concern. One of these is that the height of the fence has been proposed at 2m whereas some of the loading and unloading of scaffolding poles and associated equipment takes place at higher levels. However, the acoustic report and proposed mitigation has been prepared on the basis of measured noise levels of activities across the site and seeks to reduce overall noise levels to an acceptable level.
15. The Council has also raised a concern that there is no information on the acoustic performance of the proposed fence. Whilst there are no recommendations in the Acoustic Report regarding the specific technical requirements for the fence, the Appellant has submitted technical details for a Jakoustic fence which is specifically designed for noise attenuation.
16. A general objection is also raised by the Council in terms of allowing the operations to start at an earlier hour given that the surrounding commercial operations are not at that time open and functioning and because of lulls in general traffic levels and associated noise. However, that appears to dismiss the technical findings of the acoustic report which has been based on measured surveys, and which sets out mitigation to reduce noise levels to an acceptable level. It is my view that the acoustic report has appropriately followed the requirements of Policy GEN1 of the Hart Local Plan and Policy NBE11 of the Hart Local Plan 2032 as well as the Framework.
17. I am also satisfied that given the distance back from the road edge and the extent of planting along the site boundary that a 2m solid fence would be acceptable in terms of the character and appearance of the local area. The Council has raised no specific objection in this regard.
18. I am therefore satisfied that, with the proposed solid, acoustic fence in place, there would be no material harm to the living conditions of the nearby residents, with particular regard to noise and disturbance, through the alteration of the hours of

operation as requested by the Appellant. There would be no conflict with Policy GEN1 of the Hart Local Plan and Policy NBE11 of the Hart Local Plan 2032 or the requirements of the Framework, with particular regard to paragraphs 135, 187 and 198, all of which seek to safeguard against any adverse effects of pollution, including noise disturbance, on health and living conditions.

Other Considerations

19. The nearby resident has raised a number of concerns most of which I have already addressed under my main issue. In addition, he has also raised concerns regarding activities at the site which he considers are not in compliance with the permission granted. These matters are not before me and my decision is solely related to the proposed change in hours of operation as requested by the Appellant.
20. I have taken into account that the other businesses in the local area have a later start time, but these are very different operations with different business requirements. My consideration necessarily relates to the proposal in front of me.
21. The nearby resident has indicated that a fence is also required along the length of the eastern boundary, but my consideration is necessarily focussed on the proposal before me and the mitigation set out under the submitted acoustic report in respect of a proposed fence along the southern boundary. The submitted acoustic report has recommended a fence along the length of the southern boundary to mitigate the harm identified.

Conditions

22. The Appellant has put forward a proposed condition to replace condition 3 of the existing permission to extend the operating hours at the site, with a requirement to erect a 2m solid fence within 2 months of the permission. The Council has not proposed any alternative form of wording and has indicated that Condition 3 should be amended as per the Appellant's suggestion, with the other conditions remaining.
23. It is my view that the condition as proposed by the Appellant would be appropriate and would meet the necessary tests as set out at paragraph 57 of the Framework. I have slightly modified the wording to cross reference to the approved plans and details, to include, under an amended Condition 2 which lists the approved plans and documents, both the Acoustic Report and Jakoustic Fence Details as provided with the application. I have also extended the wording of Condition 3 to require the fence, once erected, to be retained and maintained.
24. In terms of the other conditions, the unaffected conditions from the original permission require to be carried over as the effect of a Section 73 application and appeal if granted, as before me, is to create a new permission. The Council has asked for the other conditions to be repeated and as I have no information as to whether the requirements of Condition 1 have been met, I have included it in this permission. In terms of the approved plans and documents under Condition 2, I have added the Acoustic Report and Jakoustic Fence Details. I agree that the remaining conditions remain relevant to this permission.
25. I have therefore slightly amended the wording of the proposed conditions, and in particular Condition 3, from that proposed by the Appellant. However, the amendments are for certainty and clarity, and I do not consider it necessary to revert to the Appellant or the Council.

Conclusion

26. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed. I shall delete the disputed condition but impose varied conditions in its place.

L J Evans

INSPECTOR

Schedule of Conditions

- 1) Within 3 months of the date of this permission details of a hedgerow of native species to extend along the full length of the northern boundary of the site (including species of plant, plant sizes, method of planting, timetable for planting and schedule of maintenance) shall be submitted to the Local Planning Authority for approval. The planting to be undertaken in accordance with the agreed timetable. If within a period of five years from the date of the planting of any tree or hedge shown on the approved plan(s), or any replacement tree or hedge is removed, uprooted, destroyed, dies, or becomes seriously damaged or defective, another tree or hedge of the same species and size as that originally planted, shall be planted in the immediate vicinity.
- 2) The development hereby approved shall be carried out in accordance with the following plans and documents: MLP/03, MLP/02A, MLP/01, MLP 02, Acoustic Consultancy Report 31580/3/1/3 Acoustic Report by LCP, dated 6 November 2024, J7/01043 Sheet 1 (Jakoustic Fencing System – 2.0m HIGH), JFW 35 Issue 01 – How to install Jakoustic Fencing.
- 3) Except between the hours of 07.00 to 18.00 weekdays and 07.00 to 18.00 on Saturdays, no activities shall take place on site including loading and unloading operations, forklift truck movements and manual operations. There shall be no activity at all on site on Sundays or Public Holidays. No vehicles shall enter or leave the site before 07.00 on weekdays or Saturdays. Within 2 months of the date of this permission a 2.0m solid fence in accordance with the approved plans and details under Condition 2 above shall be erected between the points identified on page 14 of the acoustic report and identified by a red line. Once erected the fence shall be retained and maintained.
- 4) Vehicles shall only use their reversing alarms between 0800 and 1800 weekdays and 0800 to 1300 on Saturdays.
- 5) Outside storage shall not exceed 3 metres in height from ground level.

End of Schedule