



Appeal Decision

Site visit made on 10 February 2026

by **C Housden BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th March 2026

Appeal Ref: APP/E2205/W/25/3374095

Land to the south of Chart Leacon Depot, Leacon Road, Ashford

- 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 1 Unit Trust against the decision of Ashford Borough Council.
 - The application ref is PA/2025/0983.
 - The application sought planning permission for use of the site for open storage (Use Class B8) with associated laying of hard standing installation of perimeter fence without complying with conditions attached to planning permission ref PA/2022/2312, dated 3 April 2025.
 - The conditions in dispute are Nos 14 and 15 which state that:
 - 14. *The premises shall not be used for the overnight parking of HGV vehicles.*
 - 15. *No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times Monday to Friday 07:00 – 19:00 hours, Saturday 08:00 -18:00 hours and 10:00 to 16:00 hours on Sundays, Bank or Public Holidays.*
 - The reasons given for the conditions are:
 - 14. *In the interest of the amenity of the surrounding area.*
 - 15. *In the interest of the amenity of area.*
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Decision

1. The appeal is allowed and planning permission is granted for use of the site for open storage (Use Class B8) with associated laying of hard standing installation of perimeter fence at land to the south of Chart Leacon Depot, Leacon Road, Ashford in accordance with the application ref PA/2025/0983, without compliance with condition numbers 14 and 15 previously imposed on planning permission ref PA/2022/2312 dated 3 April 2025 and subject to the conditions contained in the accompanying schedule.

Preliminary Matters

2. An amended plan has been submitted by the appellant as part of the appeal to show ten HGV spaces situated within the corner of the site. Whilst the evidence shows this plan was submitted to the Council during the planning application, the Council did not consult on this plan and made its decision on the originally submitted information.
3. Accepting this plan would result in amendments to the scheme which falls outside of the development considered by the Council and would also require amendments to the plans compliance condition (condition 2). In these circumstances the amended plan would result in a fundamental change to the scheme which would result in a different application to that determined by the Council. The appeal process should not be used to evolve a scheme which

accepting these plans would do. Therefore, I have based my decision on the plans which were before the Council when the application was determined.

4. In the case of the proposed replacement condition, this has been suggested to be revised to +3dB rating level above background sound, rather than the initially suggested +5dB. Given the modest scale of this proposed amendment, and the Council has had a chance to comment upon it as part of the appeal proposal, I am satisfied that there is no procedural or substantive reason not to accept the revised proposed condition wording and have made my decision on this basis.

Background and Main Issues

5. Conditional planning permission¹ was granted at the appeal site for its use as open storage (Use Class B8) with associated laying of hard standing and installation of perimeter fence. This was granted subject to a range of conditions, including condition 14 which restricted the overnight parking of heavy goods vehicles and condition 15 which restricts the hours of operation. The appeal proposes to remove both of these conditions and replace condition 15 with a noise-based restriction, rather than an hours-based restriction.
6. With regard to the reasons for imposing the conditions, and the Council's reason for refusal, the main issue is whether conditions 14 and 15 of planning permission PA/2022/2312 meets the tests of paragraph 57 of the National Planning Policy Framework (the Framework), with particular regard to the living conditions of the occupiers of the nearby properties situated along Riverview and Clockhouse by way of noise and disturbance.

Reasons

7. The appeal site comprises a large area of hardstanding. It is set within a mixed commercial and residential area, with a number of busy roads. The nearest residential properties are set on the opposite side of Leacon Road and comprise blocks of flats which are accessed by Riverview and Clockhouse.
8. The appeal is supported by a Noise Assessment Update² (NAU), which has assessed the noise generated by the proposal on these nearby neighbours in accordance with the relevant British Standard³. Overall, the NAU sets out that the sound level would be +2dB rating level above the representative nighttime background sound level at the nearby properties. This assessment includes noise from heavy goods vehicles and character corrections. In addition, when taking into account site context the NAU identifies the noise generated would be below background levels.
9. The British Standards identifies that where the rating level exceeds background levels by +5dB, this is an indication of an adverse impact and +10dB an indication of a significant adverse impact, although this is caveated as being dependent on context.
10. Whilst the NAU identifies that the proposal would fall below the threshold of an adverse impact on the nearby neighbours as set out in the British Standards, the Council contests that this would not meet the requirements of the Ashford Borough

¹ LPA ref PA/2022/2312 dated 03 April 2025.

² By SV Acoustics dated 20 May 2025.

³ Methods for rating and assessing industrial and commercial sound BS 4142:2014+A1:2019

Council Noise Technical Guidance Note (2022) (NTGN). In particular, expectation No 2 of the NTGN sets out that rating sound level should not exceed the representative LA₉₀ background sound level at any time and specific sound levels should not exceed 10dB below the representative sound level at any time. The Council therefore considers that rating level of the proposal should be limited to 5dB below the background LA₉₀ sound level than would otherwise prevail to accord with this guidance and to avoid an adverse impact on the nearby neighbours.

11. I have no evidence before me demonstrating that the NTGN has been through any formal process of consultation, scrutiny or adoption. It is stated in the introduction to the document that it has been issued by the Council's Environmental Health Department as they do not offer a pre-application service. In these circumstances, I only afford limited weight to this guidance. Conversely, the British Standards are well established national technical standards which I therefore apply significant weight to.
12. Regarding the methodology, the Council has raised concern that more sporadic and intermittent noise generated by the proposal, such as reversing alarms, are not accounted for. However, the evidence shows that the British Standards character correction methodology deployed by the appellant takes into consideration tonality, impulsivity and intermittency of noises generated. I am therefore satisfied this is adequately accounted for by the methodology.
13. As mentioned, the British Standards also requires a consideration of context when assessing the effect of noise on receptors. In this case, I have no evidence before me that would suggest that the context of the nearby properties, set within a mixed-use area near busy roads, would mean that an adverse impact would occur below the suggested 5dB rating level above background sound level by the British Standards. In addition, I have no compelling evidence to suggest that the more stringent requirements of the NTGN is required over the British Standards to avoid an adverse impact on the occupiers of the nearby properties.
14. Therefore, the evidence adequately demonstrates that the proposal would comply with the British Standards and fall under its threshold of an adverse effect on the nearby neighbours. Given the significant weight that I have placed on the British Standards, I am satisfied that on this basis the proposal would not result in a harmful effect on the living conditions by way of noise and disturbance on the occupiers of the properties at Riverview and Clockhouse. Any conflict with the NTGN would only carry limited weight for the reasons given, and would not outweigh the compliance with the British Standards.
15. I note that the Council considers that the removal of the conditions fundamentally changes the nature of the original development granted planning permission. The appeal scheme would not result in a variation to the terms of the operative part of the planning permission. In these circumstances, the proposal would not be incompatible with the description of the original development.
16. In addition, condition 13 of the original permission specifically restricts the site to open storage (Use Class B8) only and not for any other purpose whether or not in the same use class. As such, any future parking at the appeal site would be required to be done so in accordance with the very specific terms of the original permission. Should future activities occur at the site which do not conform with the

consented Class B8 open storage use, they would fall outside the scope of the permission.

17. As such, conditions 14 and 15 are not necessary to impose in the stated interests of the amenity of the area and therefore would not meet the test set out in paragraph 57 of the Framework.
18. I have had regard to the proposed noise-based restrictive condition in the context of paragraph 57 of the Framework. The Council considers that such a condition would be ineffective as it would usually apply to fixed plant with consistent and predictable noise, rather than a storage area with more unpredictable noise, such as through reversing alarms and vehicle idling. However, as previously set out, the evidence shows that the British Standards accounts for unpredictable noise sources in its methodology.
19. In addition, the condition is relevant, reasonable and necessary to limit the noise generated by the proposal in the interests of the living conditions of the occupiers of nearby properties. The evidence and context of the appeal site and nearby neighbours demonstrates that the suggested 3dB cap above background sound level would fall below an adverse impact so would be effective at ensuring living conditions are not harmed. I also consider the condition to be precisely worded and enforceable. Whilst the Council has suggested that continuous monitoring would be required, as the proposal is limited to below an adverse effect, this is not necessary. The condition is appropriately worded that if there is a suspected breach this could be adequately investigated and enforced upon as necessary.
20. The proposal would therefore not result in harm to the living conditions by way of noise and disturbance to the occupiers of the nearby properties situated along Riverview and Clockhouse. It would therefore comply with Policy EMP1 of the Ashford Local Plan (2019). This policy, amongst other matters, seeks to ensure that the provision of new employment uses would not result in significant impact on the amenities of any neighbouring residential occupiers.

Other Matters

21. The Council has highlighted a case involving a lorry park at Waterbrook, Sevington which it considers to be similar to the appeal proposal which required boundary noise barriers. However, this is at a different site for a different type of development and therefore is not directly comparable to the appeal before me. Each proposal should be considered on its individual merits which I have done so.

Conditions

22. For the reasons given above, I have removed conditions 14 and 15 of PA/2022/2312 and imposed a noise-based restrictive condition (condition 14).
23. In relation to the time limit condition, this must run from the date of the original permission and as such I have adjusted condition 1 to reflect this.
24. The PPG⁴ sets out that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. As I have little information before me about the status of the other remaining conditions, I shall impose all those that I consider to remain

⁴ Paragraph: 004 Reference ID: 21a-040-20190723

relevant. In the event that some have in fact been discharged, this is a matter which can be addressed by the parties.

Conclusion

25. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions, substituting them for an alternative condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

C Housden

INSPECTOR

-- Schedule of Conditions --

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of 03 April 2025.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Drawing number 12260-FPCR-XX-XX-DR-L-0001 P06 (Southern Boundary Planting Plan).
 - Drawing number 24334601-STR-HGN-100-DR-D-00100 P02 (Site Location Plan with Parking Spaces).
 - Drawing number 24334601-STR-HGN-100-DR-D-00101 P02 (Proposed Vehicular Access Arrangement).
 - Drawing number STR-HGN-100-DR-D-00118 P02 (Proposed Parking Arrangement Swept Path Analysis).
 - Drawing JHP RS275-101 Rev F (Proposed Site Plan Drawing).
 - Drawing number JHP RS275-401 Rev A (Proposed Block Plan Storage Arrangement).
 - Drawing number JHP RS275 – 402 Rev A (Proposed Elevations to Beaver Lane and Leacon Road).
- 3) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

 - that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
 - appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.
- 4) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be brought into use until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved.

The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

- 5) The area shown on the drawing number JHP-RS 275-401 Rev A as vehicle parking space, and turning shall be provided, before the use is commenced and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.
- 6) Prior to the first use of the development hereby permitted, evidence of the submission of an application to Kent County Council to progress a Traffic Regulation Order associated with the waiting restrictions outlined for Beaver Lane shall be submitted to and approved by the Local Planning Authority.
- 7) Prior to the first use of the site a scheme for the addition of 'KEEP CLEAR' markings on Leacon Road at its junction with Beaver Lane shall be carried out fully in agreement with Kent County Council.
- 8) Prior to the commencement of the development hereby approved, including any site clearance or preparation works, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The Construction Management Plan shall include, but not be limited to the following:

- (a) Routing of construction and delivery vehicles to / from site.
- (b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
- (c) Timing of deliveries, avoiding network and school peaks where possible.
- (d) Provision of wheel washing facilities.
- (e) Measures to prevent the discharge of surface water onto the highway.
- (f) Temporary traffic management / signage.
- (g) Details of measures to minimise the spread of field horsetail and buddleia in accordance with the Ecological Assessment dated June 2022;
- (h) Confirmation that any field horsetail and/or buddleia to be removed from the site will be disposed of at an approved facility;
- (i) Details of best practice measures to prevent any contamination of the Local Wildlife Site during construction phases of the development.

The approved Construction Management Plan shall be adhered to throughout the construction period and where identified, whilst the use of the site has commenced.

- 9) The planting shown on Southern Boundary Planting Plan ref 12260-FPCR - XX-XX-DR-L- 0001 P06 shall be implemented in accordance with the

approved details within the first planting season following commencement of the development hereby approved in accordance with a written timetable to be submitted to and approved by the Local Planning Authority.

If any planting which forms part of the approved planting plan dies, is removed or becomes seriously damaged or diseased within a period of 10 year from the date of the planting such trees and/or plants shall be replaced in the next available planting season with others of a similar size and species, unless the Local Planning Authority gives written consent otherwise.

- 10) The development shall be carried out in accordance with the approved landscape management plan and schedule of landscape maintenance shown on drawing number 12260-FPCR-XX-XX-DR-L-0001 P06 unless previously agreed otherwise in writing by the Local Planning Authority.
- 11) No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The submitted details shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles, hours of use and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details.
- 12) The storage of items on site shall not exceed a maximum height of 3m above ground level in the area hatched red at the southern part of the site, and not exceed a maximum height of 6m above ground level in the area hatched green on the remaining part of the site as shown on the Block Plan Storage Arrangement drawing number JHP RS275-401 Rev A.
- 13) The premises/site shall be used for open storage (Use Class B8) and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any subsequent Order revoking or re-enacting that Order), or whether the alternative use is permitted by virtue of the provisions within the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent Order revoking or re-enacting that Order).
- 14) Noise emitted from operations within the site, measured as a Rating Level in accordance with BS4142:2014+A1:2019 'Method for rating industrial noise affecting mixed residential and industrial areas' at the boundaries of the nearby residential premises, shall be less than 3dB above the background LA90 sound level that would otherwise prevail in the absence of noise from the site.
- 15) The development hereby permitted must not be commenced until such time as a scheme to ensure no raising of ground levels has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.
- 16) Part 1

If unexpected contamination is found at any time when carrying out the approved development it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken and

where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2.

Part 2

Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the Local Planning Authority.

-- End of Schedule --