

Supplementary Reports 5 February 2018

Item No	Application No	Page No	Description	General / Significant
1	PAP/2017/0519	18	<p>Land South Of Flavel Farm Bungalow, Warton Lane, Austrey, Change of use of land to a mixed use site, to continue the equestrian use and add residential use for two Gypsy families. Site to contain two static caravans, two touring caravans, parking for four vehicles with associated hardstanding and water treatment plant</p>	General
4	DOC/2013/0020	2	<p>Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, Approval of details required by condition 13 of permission PAP/2010/051, dated 4 March 2011, relating to a noise impact assessment of external activities at the premises.</p>	General
7	PAP/2017/0465	12	<p>Clinic And Welfare Centre, Coventry Road, Kingsbury, Ground floor space for two commercial units covering the following uses; shops (use class A1) and financial and professional services (use class A2), and two one bed first floor apartments (use class C3)</p>	General

(4) Application No: DOC/2013/0020

Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, B78 1SE

Approval of details required by condition 13 of permission PAP/2010/051, dated 4 March 2011, relating to a noise impact assessment of external activities at the premises., for

Ocado Ltd

Introduction

Members will be aware of the report to the Board in respect of this application. It contained two letters of objection. Since the publication of that report a further objection has been received from the Baddesley Ensor Parish Council. Additionally, the applicant has provided a response to all three objection letters.

With the agreement of the Chairman, a supplementary report has been prepared in order that the Parish Council letter and the applicant's full response to all of the objections, can be forwarded to Members in good time for the meeting.

The Parish Council's letter is attached at Appendix A and the applicant's letter is at Appendix B.

Observations

The additional correspondence has been considered by the Council's Environmental Health Officer who does not wish to amend his original response as recorded in the main report

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: DOC/2013/0020

Background Paper No	Author	Nature of Background Paper	Date
1	Baddesley Parish Council	Objection	25/1/18
2	Applicant	Letter	26/1/18
3	Environmental Health Officer	Consultation	26/1/18

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

OCADO – NOISE NUISANCE

Condition 13 of the original planning permission for the development of the Ocado site placed certain responsibilities on Ocado to mitigate against noise nuisance.

Since the premises were built Ocado have, it has to be said, made several changes both in terms of the structure and in working practices and, following each of these improvements, have applied unsuccessfully for Condition 13 to be discharged.

The present application for discharge of condition 13 concerns changes primarily to eliminate the need for delivery vehicles to run their motors at the loading points by providing electric hook-up points. Between 2014 and the present there has been considerable activity in terms of sound level monitoring and consideration of acoustic barriers, some of which are already installed but the majority have been disregarded because, it is argued, that the extreme height for them to be effective makes them impracticable. The electric hook-up points will not be installed until February and, when they are in-situ, it is acknowledged that not every vehicle will be able to make use of them – not every supplier's vehicle has that facility.

Attempts have been made to differentiate between plant sound levels, vehicular noise and background noise emanating from the rest of the Industrial Park and adjacent roads. Significantly, there appears to be an acceptance that noise from the Plant Room dominates the overall noise emissions. This was noted when, following a partial shut-down of Ocado, a significant increase in sound levels was identified when the plant was switched back on. This would appear to be in line with the complaints from domestic properties close to the site and at Manor Close and Hill Top, Baddesley Ensor. I suggest that the following e.mail be sent to NWBC's Environmental Control and Planning Depts.

"It seems from reading the report of Resound Acoustics Ltd that, while the noise from the Plant Room has been improved by the installation of acoustic louvres, much of the remedial works have been aimed at reducing vehicular and other engineering noise. This despite the Plant Room being identified as the most prominent component of the overall noise. Until the electrical hook-up points are installed and the opportunity taken to carry out further monitoring, nothing has changed. The Parish Council still continue to hear complaints about the perpetual hum from Ocado's Plant Room. We do not, therefore, accept that Condition 13 has been discharged and ask that further monitoring be carried out."

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26 January 2018

Jeff Brown
North Warwickshire Borough Council
South Street
Atherstone
CV9 1DE

Dear Mr Brown,

**OCADO LIMITED – PLOT 1 PHASE 2 BIRCH COPPICE BUSINESS PARK, DORDON
APPLICATION FOR DISCHARGE OF CONDITION 13 OF PERMISSION PAP/2010/051
APPLICATION REFERENCE: DOC/2013/0020
RESPONSE TO OBJECTIONS**

We write to formally respond to the objections received during the consultation period for the above referenced discharge of condition application. The responses are set out against the individual objections and address the noise-related points raised. Where the points raised are directed to NWBC or concern matters outside the scope of the application no response is provided.

Objection from Mr McCabe, dated 18th January 2018

1 Mr McCabe states:

"I would like to point out that the lorries are still being charged on the west side of their property and not the north as they have stated. You only have to walk the public footpath behind their premises to see and hear them being charged."

It is our understanding that the refrigerated trailers for dispatch are parked in the northern trailer park. There may be occasions where this is not the case, however, it is the case in the main.

Supplier refrigerated trailers are parked along the southern side of the building, consistent with the operating processes agreed with NWBC.

2 Mr McCabe states:

"Regarding the acoustic fencing mentioned and the fact that it would not be high enough to be effective in noise prevention, it was discussed at a NAG meeting to plant high growing trees in front of the old railway line at a high level to reduce the noise to private properties nearby. After receiving communication from Ocado, Merevale estates have asked for plans as to where the trees would be planted but they did not hear from Ocado again."

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Without specific knowledge of what was discussed at a Noise Action Group meeting, we would note that planting trees is not an effective method of reducing sound. While trees will diffuse some of the higher frequencies, unless a significant depth of trees is planted, typically in excess of 20 metres in depth, they are unlikely to reduce overall sound levels by a significant amount.

3 Mr McCabe states:

"The decibel reading does not seem acceptable for the public to be able to enjoy their garden and outside relaxation time. This noise would be classed as a nuisance noise likely to happen anytime 24/7 at that level."

It is not clear which reading Mr McCabe considers excessive. However, we would note that there is no objective, numerical threshold for nuisance, it is purely a matter of the EHO's judgment. If the EHO considers a nuisance to exist, he or she is obliged to take action. In this instance, the absence of action suggests that the EHOs do not consider a nuisance to exist.

4 Mr McCabe states:

"Why were the readings done in March instead of the summer months when the compressors would be working at full capacity and showing the highest level the public have to endure at any one time."

Baseline noise surveys were undertaken by Resound Acoustics in March 2015, August 2016, September 2016, and October/November 2016. The timing of the August 2016 survey was agreed with the occupants of Stone Cottage, having postponed an earlier survey at their request; the timing of the September 2016 survey was agreed with NWBC to make use of wind conditions that would have maximized noise propagation from Ocado to Stone Cottage; the October/November 2016 was timed to coincide with a partial shutdown of Ocado's operations.

5 Mr McCabe states:

"If an independent company has been used by Ocado, would it not be appropriate for the public to have a similar reading done during the summer months on their behalf by the borough council?"

This is primarily a matter for NWBC to respond to; however, we would note that the surveys have been carried out in consultation with NWBC's technical officers, and they have attended the surveys on a number of occasions.

Objection from Mr Cole (undated)

6 Mr Cole states:

"Since its inception Birch Coppice has generated noise at levels way beyond the accepted limit and as such has been operating outside the current guidelines to this day."

We would note that there are no guidelines or noise limits that apply at the site either by virtue of the planning permission, nor by virtue of a universal, national or local policy.

7 Mr Cole states:

"As is generally known the main protagonist at Birch Coppice is the compressors at Ocado. The noise generated is variable depending on the plant operation."

Ocado has invested a significant amount of money in reducing noise from their plant room, and Resound Acoustics' measurements suggests that the changes to the plant room were successful in reducing its noise emissions.

8 Mr Cole states:

"The other main issue is of wind speed and direction, which determines which community is the most affected at any one time."

"During noise testing the prevailing wind inevitably blew away from Stone Cottage thereby negating the effect."

This is not wholly correct. It is true to note that the propagation of noise over large distances can be affected by wind direction and speed, as it is also affected by other meteorological factors such as humidity and temperature.

However, a survey was proposed at the beginning of August 2016 as the wind direction was forecast to be from Ocado to Stone Cottage, and Mr Cole refused access to his property for survey. When permission was granted, albeit only a week or so later, the wind direction was no longer from Ocado to Stone Cottage.

A survey was carried out in September 2016 in conjunction with NWBC when the wind direction was from Ocado to Stone Cottage. The survey was undertaken at short notice when it became clear that the wind conditions would generate the worst-case noise levels at Stone Cottage.

The survey in October/November 2016 covered a period of around four weeks, and was subject to a range of wind speeds and directions, which were themselves measured. There were periods during that survey where the wind direction was from Ocado to Stone Cottage.

9 Mr Cole states:

"One measure looked at has been the erection of an Acoustic barrier along the boundary of Ocado and the disused railway line

Because of the height of the structure required it is concluded to be "Impractical".

However, structures such as these are in successful operation in various sensitive sites in the UK

Rather than Impractical I suspect the financial implication to be the main factor in Ocado's reluctance to fix the problem once and for all."

The heights of the barriers considered for both Ocado's boundary and the intermediate position along the disused railway line, would need to be in excess of 6 metres and even then would have given a relatively small benefit. A barrier along the edge of Ocado would have been particularly ineffective.

The effectiveness of acoustic barriers is largely determined by the geometry of the relationship between the heights of the noise source, the top of the barrier and the receiver. Unless the barrier is taller than a line drawn between the source and receiver, it will not give much benefit. The reason that the barriers are relatively ineffective in this instance, is due to the topography of the site and surrounding area, whereby the elevated positions of Stone Cottage and Baddesley Ensor require very tall barriers to break the line between the sources and the receivers.

It is noted that a barrier close to Stone Cottage was also considered, and found to be considerably more effective than the barrier along the edge of Ocado and along the disused railway line. However, barriers erected away from Ocado such as one adjacent to Stone Cottage, or along the disused railway line, are likely to generate non-acoustic issues in terms of land ownership and rights of access for maintenance, further adding to the impracticality.

Objection from Mr Moore on behalf of Baddesley Ensor Parish Council, 24th January 2018

10 Mr Moore states:

"Between 2014 and the present there has been considerable activity in terms of sound level monitoring and consideration of acoustic barriers, some of which are already installed but the majority have been disregarded because, it is argued, that the extreme height for them to be effective makes them impracticable."

We welcome Mr Moore's acknowledgement that Ocado has been proactively working to reduce noise emissions from their site. The practicality of the acoustic barriers that Mr Moore refers to, was not just assessed on the basis of their height, but also took account of matters such as land ownership and access for maintenance.

Where particular mitigation measures have been deemed impractical, NWBC has been consulted on the matter and has generally concurred. Where NWBC did not agree that all practical steps had been taken, Ocado were asked to revisit the issue. An example of this would be where Ocado looked at barriers around the Goods In area and concluded that they would not be practicable, nor give a meaningful benefit. However, NWBC requested that Ocado reconsider that part of the site, leading to the decision to install electrical hook-up points on all inbound chill loading docks.

11 Mr Moore states:

"The electric hook-up points will not be installed until February and, when they are in-situ, it is acknowledged that not every vehicle will be able to make use of them – not every supplier's vehicle has that facility."

Ocado has confirmed that the installation of electrical hook-up points will commence on 1st February 2018, with the installation expected to be complete by 9th February 2018.

The acknowledgement that not every supplier's vehicle will have the physical connections to make use of the electrical hook-up points is a statement of fact. Ocado has no control over their suppliers' vehicle fleets, but they are making the hook-ups available for those that can use it. This is a reasonable step for Ocado to take.

12 Mr Moore states:

"Significantly, there appears to be an acceptance that noise from the Plant Room dominates the overall noise emissions. This was noted when, following a partial shut-down of Ocado, a significant increase in sound levels was identified when the plant was switched back on."

There is no acceptance that noise from Ocado's plant room dominates the overall noise emissions, as Mr Moore claims. It is accepted that Ocado is a significant contributor to noise emissions from the business park, indeed the report states that noise from Ocado is considered to be a 'prominent component of the overall noise climate'. While this is in part due to the type of operations they undertake, it is also a result of their location on the edge of the business park, a location exacerbated by the topography of the site and surrounding area.

However, it is important to note that 'prominent' is not the same as 'dominant'; it was noted on a number of occasions that specific sources at Ocado could not be identified due to non-Ocado noise, and other sources could not be definitively attributed to Ocado as it was not clear that they had caused them.

It is also worth noting that the increase in noise at the end of Ocado's shut down in October 2016, as documented in the January 2018 noise report, was not solely attributable to plant noise. While it is considered likely to have been due to Ocado's general operations coming back on-line, this included plant noise, vehicle movements, van activities etc. The restarting of Ocado's operations was wider than just the plant switching on.

13 Mr Moore suggests an email is sent to NWBC's Environmental Health and Planning teams, stating:

"This despite the Plant Room being identified as the most prominent component of the overall noise."

As noted above, the emphasis in Mr Moore's text misrepresents the situation. In the same way that noise from the plant room is not the dominant source in the area, neither is it "the most prominent"; these words have not been used by Resound Acoustics nor, to the best of our knowledge, by NWBC to describe the plant noise.

It is a prominent source, not the most prominent source; the subtly different emphasis is important. No-one is disputing that noise from the plant room is audible, but it is wrong to characterise it as the most prominent or dominant source in the area; it is prominent, but that does not imply dominance.

14 Mr Moore states:

"Until the electrical hook-up points are installed and the opportunity taken to carry out further monitoring, nothing has changed."

This could be misleading depending on one's frame of reference. It is manifestly untrue to state that noise from the site has not changed since 2013 when Ocado started operating. Mr Moore himself accepts that Ocado has "...made several changes both in terms of the structure and in working practices and following each of these improvements, have applied unsuccessfully for Condition 13 to be discharged." A clear acknowledgement that improvements have occurred as Ocado has made changes.

It may be technically correct that there will be no material benefit between January 2018 when the noise report was submitted and 1st February 2018 when Ocado commence installation of the electrical hook-up points. However, the application to discharge Condition 13 is not predicated on this single item of mitigation, it is based on the totality of the works, and whether NWBC consider there to be any further reasonable steps that could be taken.

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15 Mr Moore states:

"We do not, therefore, accept that Condition 13 has been discharged and ask that further monitoring be carried out."

This statement highlights a procedural issue in discharging Condition 13. Condition 13 states:

"13 The development hereby approved shall not be occupied for business purposes until the scope of an impact assessment of the noise associated with external activities to be undertaken at the premises, including noise associated with vehicle reversing manoeuvres, has first been submitted to the Local Planning Authority. This report shall make recommendations for measures to mitigate any adverse noise impacts identified by that report. The premises shall not be brought into business use until such time as these or other appropriate mitigation measures have been approved in writing and installed on site. All such measures shall be complied with at all times."

Condition 13 requires the submission of an impact assessment and for identified measures to be installed on site and maintained thereafter. There is no requirement to monitor those measures, so Mr Moore's request for further post-mitigation measurement is not covered by Condition 13 and should not be used as a reason to not discharge the condition.

It is worth reiterating that Ocado would not simply wash their hands of all noise matters if Condition 13 is discharged. The noise issues matters that would crop up from time to time would ordinarily be dealt with as they arise by Ocado and NWBC under the Environmental Protection Act. Ocado would still be committed to taking all reasonable steps to keep their emissions to a minimum, but prolonging the discharge of Condition 13 to bring this about is not the appropriate approach.

We trust the responses appropriately address the points raised through the objections, but would be pleased to provide further clarity where this would be helpful.

Yours sincerely,



Thomas Mitchell MPlan MRTPI
PLANNER
For and on behalf of Colliers International

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