

**Application Number:** 21/02698/DISCON

**Proposal:** Details submitted for approval pursuant to condition 17 (noise management plan) of permission ref. 18/02341/FUL, relating to demolition of existing B8 storage and distribution warehouse and erection of a new B8 storage and distribution warehouse with ancillary B1 floorspace and associated works **at** Blakelands 1, Yeomans Drive, Blakelands, Milton Keynes, MK14 5AN

**Applicant:** GUPI 6 Ltd

**Application type:** Approval of details reserved by condition

**Ward:** Newport Pagnell South                      **Parish:** Great Linford

**Statutory Target:** 28.10.2021                      **Extension of Time:** 05.11.2021

**Case Officer:** Paul Keen  
Development Management Team Leader (East)  
paul.keen@milton-keynes.gov.uk

**Team Manager:** Chris Nash  
Development Management Manager  
chris.nash@milton-keynes.gov.uk

## **FURTHER UPDATE PAPER**

### **1.0 Recommendation**

1.1 The recommendation remains that the details submitted pursuant to condition 17 (noise management plan) of planning permission ref. 18/02341/FUL are approved. For clarity, those details are included in the submitted Noise Management Plan (NMP), Revision C.

### **2.0 Late representation (in full see AA1.1)**

2.1 A further representation (in addition to those referred to in the first update paper from D. Stabler on behalf of the Blakelands Residents Association) has been received from another interested party. It is an objection to the latest version of the NMP. The representation also disagrees with the recommendation that the NMP should not include a requirement to specify contact details of the appointed Noise Manager.

2.2 The representation covers the following points:

- disagreement that providing details of the noise managers would give rise to concerns over the effective monitoring and enforcement of conditions;
- disagreement that provision of the noise managers contact details would put an unnecessary burden on the operator of the warehouse;
- that the NMP is amended to require the noise manager to notify MKC about each complaint received;
- managing complaints under the NMP is not a statutory responsibility of the Council;
- another planning approval with a requirement for the NMP to include a 'complaints hotline'; and
- reference to both Cass Allen and Sharps Acoustics agreement (in the recent appeal case on the site) that a NMP should include neighbouring residents being notified of the noise manager.

### **3.0 Considerations**

#### **3.1 Concerns over the effective monitoring and enforcement of conditions**

The representation states that the NMP already includes that all records of noise complaints would be retained for 12 months and this would be available for inspection by the Council upon request.

The reason for this requirement is to aid any planning enforcement investigations if there has been an alleged breach of planning control made to the Council, and to assess over time whether the NMP needs to be updated for any reason.

The representation also suggests that many of the complaints would be accidental or intermittent, such as a car alarm or people talking too loudly, and would not amount to a breach of planning control. The Council would not be able to respond quickly enough to resolve such a spontaneous issue.

However, if an issue does not amount to a breach of planning control, as is acknowledged in the representation, it should not be contained within a document (the NMP) which is required to deal with a planning matter and enforced by the Council. Para 8.8 and 8.9 of the main report adequately deal with this matter.

#### **3.2 Unnecessary burden on the operator of the warehouse**

This relates to paragraph 8.9 of the main report. The representation suggests that the warehouse operator could notify all adjoining occupants of the noise manager and then maintain a website with the contact details.

The requirement for notification of the noise manager details to residents has been adequately covered in the main report, as well as the first update paper. Residents should rely upon the planning authority to report any concerns for effective

monitoring and compliance purposes. Adding a further requirement for the noise manager to create and maintain a website with the contact details, would further erode the Council's ability to effectively capture, monitor and act upon any breaches of planning control. That is, however, not to say they could not do so under their own arrangements subject to ensuring the primary point of contact (the Council) is made clear, as per the suggested informative in the first update paper.

3.3 That the NMP is amended to require the noise manager to notify MKC about each complaint received

This is unnecessary as all breaches of planning control should be directed to the Council in any event. Paras 8.8 to 8.11 of the main report adequately deal with the acceptability of the NMP on noise complaints, contact with the noise manager, and updates to it.

3.4 Managing complaints under the NMP is not a statutory responsibility of the Council

The NMP is required by Condition 17. It is the responsibility of the Council to enforce and act upon any substantiated breach of that condition. This is a statutory power of the Council.

3.5 Another planning approval with a requirement for the NMP to include a 'complaints hotline'

Whilst this is recognised, it remains the view (in paras 8.8 and 8.9 of the main report) that such a requirement would erode the Council's ability to effectively monitor compliance of the condition, in the interests of residential amenity.

3.6 Cass Allen and Sharps Acoustics agreement (in the recent appeal case on the site) that a NMP should include neighbouring residents being notified of the noise manager

It is unclear where any agreement by Cass Allen and Sharps Acoustics on this matter was made, as it is not mentioned within the appeal Noise Statement of Common Ground between the parties, nor in Cass Allen's Statement of Case.

However, the issue of whether the NMP should include neighbouring residents being notified of the noise manager, has been adequately dealt with in paras 8.8 and 8.9 of the main report. Officers do understand this request, but as the planning authority, MKC must be able to monitor compliance with the (planning) condition and the NMP it requires. It cannot do that effectively if it is not aware of the frequency and breadth of complaints at any point in time. Cass Allen in their first response (point 4 of A1.5 of the main DCC report) to the originally submitted NMP, acknowledges this and states "no direct contact details are necessary".

Indeed, the inspector, in the recent appeal decision, did not include such a specific requirement regarding the noise managers contact details, nor did he consider appropriate to include a mechanism to agreements to the scheme after first

occupation, as he felt that element was not precise and therefore did not meet the tests of planning conditions.

#### **4.0 Conclusion**

By reference to the main report, it is evident that the late representations have already been responded to in that report. For the reasons set out above (and within the main report and first update paper), it is not considered necessary or reasonable to require that the requests raised in the late representations are included within the NMP.

Nonetheless, and to reiterate a suggestion made in the first update paper, it has been suggested that if the details are to be approved, Members may decide to place an informative relating to the Noise Manager's contact details on any decision notice. Officers suggest the following informative wording if that is preferable to the Committee:

*Notwithstanding the need for any noise complaints (or any other breaches of planning control) to be directed to the Council, the applicant/future occupiers of the site, is/are encouraged to provide local residents with the contact details of the appointed site Noise Manager (and any changes to that appointed person), whether this information is posted at each entrance/exit to the site, by letter to residents, or both.*

## **AA1.0 ADDITIONAL REPRESENTATIONS**

AA1.1 I am confused why MKC believe it is not necessary, or even appropriate, for the NMP to include a provision that operator of the warehouse inform local residents of the appointed noise manager and their contact details.

Paragraph 8.8 of the officer report to DCC provides MKC's rationale for this in stating that if residents were provided the details of the appointed noise manager, "this would give rise to concerns over the effective monitoring and enforcement of conditions." This rationale is misconceived for the following two reasons:

1. The NMP already includes a provision at paragraph 2.4 that all records of noise complaints would be retained for 12 months and this would be available for inspection by the Council upon request; and
2. It is more than likely that the noise issues that would be reported by residents are going to be accidental or intermittent, for example a car alarm. This would not amount to a breach of planning control and/or an issue with effective monitoring.

I do not agree with paragraph 8.9 of the officer report that it would place an unnecessary burden on the operator of the warehouse to ensure that neighbouring residents are aware of the contact details of an appointed noise manager. The warehouse operator could notify all adjoining occupants of the noise manager and then maintain a website with the contact details. This would be entirely reasonable and it would allow any new residents to easily find the contact details.

If MKC was concerned about monitoring each and every complaint made to the noise manager, then it would be very straightforward to ask that the NMP is amended to require the noise manager to notify MKC about each complaint received. I do think this would be unnecessary and unreasonable. It would make more sense that the NMP is amended so that the noise manager provides periodic reporting of the complaint records to MKC.

I would reiterate what I have previously stated that it makes absolutely no sense for MKC to be responsible for managing complaints under the NMP. That is simply not MKC's responsibility as the local planning authority and it creates a completely new role for MKC that is not set out in statute. There is absolutely no detail about how this would even work in practice. For example, say an adjoining resident is unable to sleep due to employees at the warehouse talking too loudly. MKC would expect the resident to make a planning enforcement complaint even though there is no breach of planning control. This would serve absolutely no purpose because it would take days, weeks or even months for MKC to respond, and most importantly, not resolve a spontaneous issue.

It might be useful to draw your attention to the inconsistent approach MKC are adopting with this noise management plan compared to other applications. Planning application reference 20/03029/FUL requires a NMP which shall include:

*“A telephone complaints hotline shall be provided on site to enable residents to contact the restaurant duty manager to report issues from customers and operations of the site. A record of complaints shall be maintained on site and will be available for inspection upon reasonable request of Council Officers.”*

MKC's approach with the warehouse and this application is, as can be demonstrated above, completely inconsistent and conflicted. If it is unreasonable to have the contact details of a noise manager within the warehouse NMP, then it makes absolutely no sense how MKC concluded it was reasonable to have a telephone complaints hotline in another NMP. Both are ultimately the same issue, but the approaches are entirely different.

The final thing to point out that both Cass Allen and Sharps Acoustics both agreed that a normal noise management plan should include neighbouring residents being notified of the noise manager. This is quite obvious from the initial response of Cass Allen to this application and the submissions of Sharps Acoustics in the appeal hearing. For some unknown reason, MKC do not believe it is necessary in this noise management plan. I think DCC Members are going to struggle to reconcile MKC's approach with this NMP and resolve to approve it as recommended.