



## Rother District Council

Report to - Planning Committee  
Date - 28 May 2020  
Report of the - Executive Director  
Subject - Application No. RR/2020/49/P  
Address - Ebrofrost  
Hobbs Lane  
BECKLEY  
Proposal - Change of use from mushroom processing factory to pasta processing factory and associated noise mitigation works (part-retrospective).

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED** to **GRANT (PLANNING PERMISSION) DELEGATED (SUBJECT TO EXPIRY OF CONSULTATION PERIOD)**

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**Head of Service: Tim Hickling**

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**Applicant:** Mr N. Goodsell  
**Agent:** None  
**Case Officer:** Mr E. Corke (Email: [edwin.corke@rother.gov.uk](mailto:edwin.corke@rother.gov.uk))  
**Parish:** BECKLEY  
**Ward Members:** Councillors A.E. Ganly and M. Mooney

**Reason for Committee consideration:** Head of Service Strategy and Planning referral: previous site history and local interest

**Statutory 8 week date: 23 April 2020**  
**Extension of time agreed to: 22 June 2020**

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### 1.0 SUMMMARY

1.1 This is a successful business, which needs to continue producing and processing pasta from 5.30am on Monday mornings through to 6pm on Saturdays, for which retrospective planning permission is sought. Currently, the noise generated by the factory is having a significant adverse impact on the living conditions of residents in the locality. However, adequate noise mitigation measures are proposed, which can be secured by condition. The application is therefore recommended for an approval.

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## **2.0 SITE**

- 2.1 The application relates to a large pasta processing factory with associated offices located on the north-west side of Hobbs Lane, behind two other commercial business premises (a vehicle MOT and service station and a storage and distribution centre), and just outside of the Beckley Four Oaks development boundary as identified in the Development and Site Allocations (DaSA) Local Plan. The site is within the High Weald Area of Outstanding Natural Beauty (AONB).
- 2.2 To the south are residential properties in Hobbs Lane and Hobbs Close. The south-east and south-west boundaries facing the local residential and other commercial properties are bounded with some extensive planting. There is also extensive planting to the north-west and north-east, which screen the factory from the open fields beyond.
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## **3.0 PROPOSAL**

- 3.1 Planning permission (Application Ref: RR/94/2110/P) was granted for the factory in 1995. This was subject to a condition limiting its use to the processing of mushrooms only, and a condition limiting the operating hours to between 7am and 6pm on weekdays, and at no time on Saturdays, Sundays and Bank Holidays.
- 3.2 In 1997 planning permission (Application Ref: RR/96/1579/P) was granted for the processing of additional food products, including fruit, vegetables, herbs and spices only.
- 3.3 In 2005 a temporary 1-year planning permission (Application Ref: RR/2004/3278/P) was granted for a variation of the operating hours to between 5.30am and 6pm on weekdays. These operating hours were subsequently renewed for a temporary 5-year period in 2007 (Application Ref: RR/2007/439/P).
- 3.4 In 2011 a temporary 2-year planning permission (Application Ref: RR/2011/760/P) was granted for an extension to the operating hours to allow continuous production from 5.30am on Monday mornings through to 6pm on Saturdays, but with no lorry or truck movements outside of 5.30am to 6pm daily. The factory has continued to operate on this basis despite the temporary planning permission expiring. Furthermore, in 2015, the factory switched to the processing of pasta, again without planning permission. As such, both the current use of the factory and its operating hours are unauthorised.
- 3.5 This application has been submitted following an enforcement complaint in January 2019, when it was established that the use and operating hours were unauthorised. Retrospective planning permission is sought for a change of use of the premises from a mushroom processing factory to a pasta processing factory. The operating hours would continue to be as existing (i.e. from 5.30am on Monday mornings through to 6pm on Saturdays). With regard to lorry or truck movements, the Applicant has confirmed that these would only take place between the hours of 7.30am to 6pm.

- 3.6 In addition to the above, it is proposed to erect two acoustic barriers to deal with noise generated by 4 No. extraction fans and a water-cooling tower located at the side/rear of the building on its western corner. The proposed barriers consist of:
- A 5.2m high solid acoustic timber enclosure (Jakoustic PLUS Absorptive Acoustic Fencing) around three sides of the 4 No. extraction fans.
  - A 6.6m high solid acoustic timber screen (Jakoustic PLUS Absorptive Acoustic Fencing) across the south-west facing side of the water-cooling tower.
- 3.7 The acoustic barriers have been designed in accordance with the recommendations of a noise impact assessment, which has been submitted in support of the application.
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#### **4.0 PLANNING HISTORY**

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|-----|----------------|--|
| 4.1 | RR/94/2110/P   | Relocation of existing and enlargement of mushroom processing factory. Granted.  |
| 4.2 | RR/96/1579/P   | Variation of Condition 2 of RR/94/2110/P to allow the processing of other food products other than mushrooms. Granted.   |
| 4.3 | RR/2004/3278/P | Variation of Condition 15 imposed on RR/94/2110/P to extend hours to 05.30 - 18.00 on weekdays (currently 07.00 - 18.00). Granted (temporary).   |
| 4.4 | RR/2007/439/P  | Renewal of opening hours from 05:30 to 18:00 previously approved under temporary planning permission RR/2004/3278/P. Granted (temporary).  |
| 4.5 | RR/2010/3010/P | Hydration tower to be added to existing building – Granted.  |
| 4.6 | RR/2011/760/P  | Variation of Condition 15 of planning permission RR/94/2110/P to allow continuous production at the factory premises from 05.30hrs Monday to 18.00hrs Saturday but with no external lorry or truck movements outside the hours of 05.30hrs to 18.00hrs daily. Granted (temporary).               |
| 4.7 | RR/2013/1742/P | Small single storey extension to house compressor for freezing plant to replace existing. Withdrawn.   |
| 4.8 | RR/2019/490/P  | Variation of Condition 15 imposed on planning permission RR/94/2110/P to allow for continuous production and processing at the factory premises from 0400hrs Monday until 1800hrs Saturday, but with no external lorry or truck movements outside the hours 0530hrs to 1800hrs daily. Withdrawn. |
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## 5.0 POLICIES

5.1 The following policies of the [Rother Local Plan Core Strategy](#) are relevant to the proposal:

- PC1: Presumption in Favour of Sustainable Development
- OSS1: Overall Spatial Development Strategy
- OSS2: Use of Development Boundaries
- OSS3: Location of Development
- OSS4: General Development Considerations
- RA2: General Strategy for the Countryside
- RA3: Development in the Countryside
- CO6: Community Safety
- EC3: Existing Employment sites
- EN1: Landscape Stewardship

5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:

- DEC3: Existing Employment Sites and Premises
- DEN1: Maintaining Landscape Character
- DEN2: The High Weald AONB
- DEN7: Environmental Pollution
- DIM2: Development Boundaries

5.3 The National Planning Policy Framework, Planning Practice Guidance and High Weald AONB Management Plan 2019-2024 are also material considerations.

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## 6.0 CONSULTATIONS

6.1 [East Sussex County Council Highway Authority](#) – **NO COMMENT**

6.2 [Head of Service Environmental Health, Licensing and Community Safety – Environmental Health](#) – **NO OBJECTION**

6.2.1 Subject to the imposition of a condition.

6.3 [Planning Notice](#)

6.3.1 Six letters of **OBJECTION** from two residential properties and one business premises raising the following concerns (summarised):

- No planning notice displayed.
- With the ongoing virus crisis, many neighbours are self-isolating and will be unaware of the long-awaited retrospective planning application.
- Disturbance from noise.
- Submitted noise test is inadequate.
- Nightingales have not returned for the past three years (after 40 years).
- Any measures to reduce noise need to be carried out as soon as possible, regularly monitored and dealt with immediately if required.
- There should be no working after 10pm.

- There should be no lorry movements before 7.30am or after 7.30pm.
- There should be no lorries with engines running when delivering / collecting.
- There should be no overnight parking Monday to Friday (no weekends).
- Lorries cause damage to the lane.
- Unpleasant smell from the factory's trade effluent.
- For continuity of policy there should be similar restrictions on size of vehicles and vehicles movements, as those imposed on the nearby Trade Carpets site.

#### 6.4. Beckley Parish Council – **OBJECTION**

- 6.4.1 *“Members unanimously voted (5:0) asking for consistency of compliance about all issues relating to traffic for any industrial activity in Hobbs Lane and they concurred with Bentley and Hall's comments.”*
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### 7.0 **APPRAISAL**

#### 7.1 Issues for consideration

- 7.1.1 The site is located in a quiet rural area where the requirements of the business have to be balanced against the amenities of local residents. In this respect, the main issue is the impact of the proposal on the living conditions of residents in the surrounding area, particularly in relation to noise generated by the factory.

#### 7.2 Living conditions

- 7.2.1 With regard to impact on living conditions, Policy OSS4 (ii) of the Core Strategy and Policy DEN7 of the DaSA Local Plan seek to ensure that development does not unreasonably harm the amenities of adjoining properties, including from noise.

- 7.2.2 Policy OSS4 (iv) seeks to ensure that development is compatible with both the existing and planned use of adjacent land.

- 7.2.3 Paragraph 180 of the National Planning Policy Framework says that planning decisions should:

*“Ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.”*

- 7.2.4 This application has been submitted following an enforcement complaint in January 2019, which primarily related to disturbance from noise. This was the first enforcement complaint about the factory since it began continuous production from Monday mornings through to Saturday evenings in 2011, and

since it began processing pasta in 2015. Furthermore, in June 2019, the Council's Environmental Health Service (EHS) confirmed that at that point in time no justified noise complaints about the 24-hour operations of the factory had been received.

- 7.2.5 Notwithstanding the above, the noise impact report (Ref: INR/2894C) submitted with the previous application withdrawn in July 2019 (Application Ref: RR/2019/490/P), found that at night-time, when background sound levels are low (30 dBA), noise from factory equipment was measured at +13 dBA to +20 dBA above this level in Hobbs Close to the south-west. According to BS 4142:2014+A1:2019 *Methods for rating and assessing industrial and commercial sound*, this indicates a significant adverse impact which is unacceptable. The main sources of noise were identified as a Frigopak machine and its water-cooling tower, a boiler, some refrigeration compressors, some ancillary items including two air compressors, a pump and jet washer, some refrigeration machinery and a large hot water storage cylinder; all located at the rear of the factory, either outside or in two plant rooms.
- 7.2.6 The report also considered the impact of noise on Hobbs Farm Oast, Swallowtail Hill Farmhouse and its 'glamping' cottages, which are all located some distance away to the north-east. The report found that at night-time, noise from the factory was having very little adverse impact on the Oast, no adverse impact on the farmhouse, and only a marginal adverse impact on the glamping cottages.
- 7.2.7 In light of the above, and having regard to the current proposal, it must be demonstrated that noise from the factory would not have an adverse impact on the residential properties in Hobbs Close. The Applicant has already made some changes to the equipment including:
- Replacement of the jet washer with a new one and re-locating it to another room.
  - Replacement of two air compressors with a new one.
  - Replacement of the steam nozzle used to heat the hot water storage cylinder with a new one.
- 7.2.8 It is also proposed to erect two acoustic barriers to deal with noise generated by 4 No. extraction fans on the Frigopak machine room and noise from the Frigopak's water cooling tower. These barriers are the primary means of reducing noise and consist of:
- A 5.2m high solid acoustic timber enclosure (Jakoustic PLUS Absorptive Acoustic Fencing) around three sides of the 4 No. extraction fans.
  - A 6.6m high solid acoustic timber screen (Jakoustic PLUS Absorptive Acoustic Fencing) across the south-west facing side of the water-cooling tower.
- 7.2.9 The proposed barriers have been designed in accordance with the recommendations of a more recent noise impact assessment, which found noise from the fans to be the dominant noise source, with noise from the water-cooling tower also audible from the nearest residential property in Hobbs Close. Currently, without these barriers in place, the noise generated by this equipment measures 42 dBA, which is +12 dBA above the background sound level at the closest residential property in Hobbs Close. This indicates a

significant adverse impact, which is unacceptable. However, with the proposed acoustic barriers in place, it is predicted that at least 15 dBA attenuation in noise would be achieved, which is -3 dBA below the background sound level of 30 dBA. The noise impact assessment also predicts a total cumulative plant sound level of 30 dBA (i.e. no greater than background sound level) at the nearest residential boundary with all items of plant operating simultaneously. The Council's EHS broadly agrees with the findings of the assessment and is satisfied that the acoustic barriers are a best practicable means of reducing the effect of noise from the fans and water-cooling tower. As such, provided the acoustic barriers are erected, the continued use of the factory for the processing of pasta from 5.30am on Monday mornings through to 6pm on Saturdays would not have an adverse impact on the living conditions of residents in the surrounding area. The barriers would need to be erected within a reasonable timeframe (i.e. 2 months), which can be secured by condition.

7.2.10 The Council's EHS has also recommended a separate condition as a safeguard and to ensure that the acoustic impact of any possible future plant and equipment upgrades can be factored in before installation. This requires that when the factory is operating, the sound level rating from the plant's operations shall not exceed +5 dBA above background sound level between the hours of 7am to 11pm, and shall not exceed the background level between the hours of 11pm and 7am. This is reasonable and necessary to protect the living conditions of local residents from disturbance from noise.

7.2.11 The Council's EHS has recently received complaints that noise from the factory has at times become more intrusive than previously, with residents citing that either the factory is working to a greater capacity to meet current pasta demand, or a new gas supply laid on to the factory may have introduced a new or different noise. The Applicant has responded as follows:

*"I can confirm that on the 16 April I issued all my production staff with a notice to Furlough, starting from Monday 20 April. Since the 20 April in line with Government Furlough Procedures we have not run the factory. As a result of the factory closure there have been no lorry movements for goods in or out since 20 April. As a result I would have expected local residents to notice a reduction in noise over this period" and*

*"A new gas main has been laid but due to the Covid-19 outbreak works were stopped approximately six weeks ago, and the new main has not yet been connected to our meter. When the main is connected it will replace oil in running our existing "dual fuel" boiler. No new/extra noise will be produced, in fact to the contrary, it will reduce the number of lorry movements to our site by at least three per week."*

7.2.12 The Applicant has also confirmed that he intends to replace some pumps at the water treatment plant, with new ones quieter than existing. These new pumps have not yet been commissioned. As such, their acoustic impact would need to be factored in before installation, in accordance with the condition recommended by the Council's EHS (see paragraph 7.2.10 above).

7.2.13 With regard to lorry or truck movements, the Applicant has confirmed that these would only take place between the hours of 7.30am to 6pm, which is reasonable. The site has been operating in this way for a number of years –



albeit that lorry or truck movements have previously been before 7.30am – without evidence of nuisance from the lorries. A restriction on the size of the delivery and despatch vehicles is not considered to be necessary, as the site is able to accommodate large vehicles with adequate on-site parking and turning facilities. In addition, if smaller vehicles were utilised this would be likely to increase the overall number of vehicles visiting the site. This site is unlike the adjacent storage and distribution centre occupied by Trade Carpets, which Members visited in February this year in relation to a proposal for a retrospective change of use from a Class B1 business (light industrial) use to a Class B8 storage or distribution use (Application Ref: RR/2019/2376/P). While Members resolved to grant planning permission for that proposal, the use was found to be having a negative impact on the living conditions of neighbouring residents and the use of Hobbs Lane, including from a lack of adequate on-site parking and turning facilities. Consequently, it was necessary to secure greater restrictions (e.g. in relation to vehicle size) than are required for this factory site.

7.2.14 Local residents have complained about unpleasant smells from the factory's trade effluent. The Council's EHS has confirmed that a number of complaints have been received in the last 18 months relating to odours from the site. Investigations have been undertaken; however, no evidence of odour nuisance has been witnessed. If this is witnessed in the future, it can be dealt with under other non-planning legislation.

### 7.3 Other matters

7.3.1 With regard to the landscape impact of the proposed acoustic barriers, whilst high, they would be closely related to the factory building, which is well screened from views in the local and wider landscape by mature trees on the site boundaries. As such, the barriers would not have a harmful landscape impact.

7.3.2 Local residents are concerned that with the ongoing virus crisis, many neighbours are self-isolating and will be unaware of the long-awaited retrospective planning application. However, the application has been publicised via the Council's 'my alerts' e-mail system and a planning notice has been displayed at the site, initially on 20 March 2020 and again on 7 May 2020 due to the Coronavirus pandemic. The latest notice expires on 30 May 2020. The Council has therefore fulfilled its statutory duty with regard to publicising the application.

7.3.3 Local residents are concerned that lorries are causing damage to Hobbs Lane. However, no evidence has been submitted to demonstrate that it is the lorries associated with the factory premises that are causing the damage. Hobbs Lane is used by large vehicles associated with the other business premises and also by farm vehicles, all of which have the potential to cause damage to the lane. Nevertheless, road maintenance is a County Council matter.

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## 8.0 LOCAL FINANCE CONSIDERATIONS

8.1 None.

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## 9.0 SUMMARY

- 9.1 This is a successful business, which needs to continue producing and processing pasta from 5.30am on Monday mornings through to 6pm on Saturdays. Notwithstanding this, the factory is located in a quiet rural area where the requirements of the business have to be balanced against the amenities of local residents. Currently, the noise generated by the factory is having a significant adverse impact on the living conditions of residents in the locality. However, noise mitigation measures in the form of two acoustic barriers are proposed, which would provide adequate noise attenuation. Therefore, subject to these barriers being erected, which can be secured by condition, and expiry of the publicity period, it is recommend that planning permission is granted.

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**RECOMMENDATION: GRANT (PLANNING PERMISSION) DELEGATED  
(SUBJECT TO EXPIRY OF PUBLICITY PERIOD)**

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### CONDITIONS:

1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:  
Site Location Plan dated 27 February 2020  
Jacksons Fencing Plan received on 16-01-20  
Jacksons Fencing Quotation (Ref: 1955154) dated 17 September 2019  
MRL Acoustics Building Services Plant – Noise Assessment (Report No. MRL/100/1495.1v2), dated December 2019  
Reason: For the avoidance of doubt and in the interests of proper planning, as advised in Planning Practice Guidance Paragraph: 022 Reference ID: 21a-022-20140306.
2. The noise mitigation measures (acoustic barriers) detailed in the plans and documents approved under Condition 1, shall be erected within two months of the date of this planning permission and shall thereafter be retained.  
Reason: To protect the living conditions of residents in the locality from disturbance from noise, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014 and Policy DEN7 of the DaSA Local Plan 2019.
3. The premises shall not be used for the production and processing of pasta before 5.30am on Mondays or after 6pm on Saturdays in any given week.  
Reason: To protect the living conditions of residents in the locality from disturbance from noise, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014 and Policy DEN7 of the DaSA Local Plan 2019.
4. No deliveries shall be taken at or despatched from the site before 7.30am or after 6pm Mondays to Saturdays, nor at any time on Sundays.  
Reason: To protect the living conditions of residents in the locality from disturbance from noise, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014 and Policy DEN7 of the DaSA Local Plan 2019.
5. At no time when the factory is operating shall the sound level rating from the plant's operations exceed:

- +5dB above background sound level (taken as a 15 minute LA90 at the boundary with the nearest noise sensitive premises) between the hours of 7am to 11pm.
- The background sound level (taken as a 15 minute LA90 at the boundary with the nearest noise sensitive premises) between the hours of 11pm to 7am.

All measurements shall be taken in accordance with the methodology of BS 4142:2014+A1:2019 *Methods for rating and assessing industrial and commercial sound* (as amended).

Reason: To protect the living conditions of residents in the locality from disturbance from noise, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014 and Policy DEN7 of the DaSA Local Plan 2019.

6. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), the premises shall only be used for the production and processing of pasta and for no other purpose.

Reason: To protect the living conditions of residents in the locality from disturbance from noise, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy 2014 and Policy DEN7 of the DaSA Local Plan 2019.

**NOTE:**

1. With regard to Condition 5, where any changes to existing equipment or processes are proposed, a noise impact assessment should be carried out to ensure that the resulting sound level rating from the plant's operations does not exceed the sound levels specified in the condition.

**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.