

## PLANNING & LICENSING COMMITTEE

27<sup>TH</sup> FEBRUARY 2024

### ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
32/2024	1	2022/1111/FUL	MR ADAM WELLS, WILLOWBROOK EDUCATION LTD	MANTON PARISH COUNCIL

### Extension of Time Pre-commencement Conditions

The applicant's agent has agreed an extension of time until 1 March 2024

### Pre-commencement Conditions

The applicant's agent has agreed the pre-commencement conditions.

### Legal Advice

The recommendation to grant planning permission subject to conditions includes a condition that restricts the use to Willow Brook Education Ltd only.

Condition (No 41) states that:

- This permission shall be personal to Willow Brook Education Ltd and shall not enure for the benefit of the land or future occupiers of the site.  
Reason: In order to safeguard the residential amenities of the existing dwellings adjacent to the site and as permission is granted solely in recognition that the owner of Willow Brook Education Ltd resides in the existing property to the front of the site. The use of the site for alternative forms of industrial / employment uses could have a detrimental impact on residential amenity and would need to be assessed independently in order to ensure that the development does not adversely impact on residential amenity.

### Planning Guidance and Policy

The following policies need to be Deleted from the list.

National Planning Policy Framework (NPPF)

Chapter 16 – Conserving and enhancing the historic environment.

Site Allocations and Policies DPD (2014)

SP20 – The historic environment

Core Strategy DPD (2011)

CS22 The historic and culture environment

### Pre-commencement Conditions

The applicant's agent has agreed the pre-commencement conditions.

## **Additional Consultation Response**

### **Forestry Officer Email dated 27 February 2024**

In response to the concerns about the trees in the neighbouring land, the proposed application does not seek to significantly change the foundations and therefore no significant impact to the trees will occur. Therefore, I have no objections from an arboricultural perspective.

### **Local Highway Authority email - dated 14 February 2024**

Design of new access

The design of the upgraded access should incorporate measures to ensure that no loose surfacing material or private surface water shall cross from the access onto the public highway.

### **Environmental Protection - Email dated 14 February 2024**

2022/1111/MAF | Change of use from agricultural to E(g)(iii) business to facilitate relocation of Willowbrook Education Ltd. Conversion of existing buildings, adaption and new build elements including new yard and parking areas with access improvements. | Pheasants Roost Lyndon Road Manton Rutland LE15 8RN.

The 3 main controls of adverse impact of noise on the amenity will be the design and layout of the site; the hours of operation and the setting of sound limits. There should be also be an additional condition to control amplified music on site.

### **Design and Layout of the Site**

I am satisfied if the development is undertaken in accordance with latest acoustic report November 2023 PRLM -BSP-ZZ-XX-RP-C-001-P03 Environmental Noise Assessment, which includes drawings of the acoustic screen, position of extractors and location of the various manufacturing processes then the development will not significantly impact on the adjacent premises. The applicant will need to demonstrate that the extract equipment and associated sound proofing meets the sound limits within the noise report, unless agreed with Local Planning Authority.

### **Hours of Operation**

I would recommend that the planning officer condition operating hours to control the impact of noise which should include: the times of delivery, manufacturing and site operation to safeguard the amenity of the area.

I would set different times for potentially noisier activities like manufacture and deliveries from the operation of the offices, which are unlikely to cause a disturbance. For manufacturing in the premises, storage and deliveries to and from it, I would recommend 07:30-19:00 Mondays to Friday inclusive; with offices from 07:30 to 21:00 Monday to Friday. On Saturday I would set operating times of 08:00-14:00 for manufacturing; storage; deliveries and offices. I would recommend the premises are closed during Sundays and Bank Holidays.

### **Sound Limits Condition**

A maximum rating level of 41dB<sub>LA, 1hour</sub> shall not be exceeded at the nearest building used for residential purposes from noise emitted from industrial and manufacturing process; fixed plant and equipment (mechanical and electrical); loading and unloading of goods (industrial and/or commercial) located on this site. This rating level has been set so as not exceed the existing background level 41dB<sub>LA90</sub> measured at the site when assessed in accordance with BS 4142:2014+A1(2019).

Prior to installation and operation, the full details of the make, model, location, sound power level and frequency spectrum data of any mechanical plant shall be submitted to and approved in writing by the Local Planning Authority. The information will demonstrate that the mechanical plant is in compliance with the noise levels specified in this condition.

Thereafter the development shall be implemented in accordance with the approved details, including any necessary mitigation, and shall thereafter be retained and maintained as such in perpetuity.

Reason: In order to protect and safeguard the amenity of the area and neighbouring residents in accordance with Policy Rutland Local Plan and paragraph 191 (a) of the National Planning Policy Framework (2023).

**Amplified Music.** Any amplified music being played should be inaudible on the boundary of the premises.

### **Control of Obtrusive Light Pollution from External Lighting**

The lighting scheme should meet the E2 environmental zone as prescribed by the Institute of Lighting Professionals: Guidance Note 01/21. This requires a lighting professional to assess the whole lighting scheme for the entire development and confirm it meets the E2 standard on obtrusive light once installed.

### **Ventilation and Dust Control**

**Local Exhaust Ventilation (LEV):** Install LEV systems at woodworking machines to capture dust at the source. Properly designed and maintained LEV helps prevent dust from becoming airborne. Ensure that hoses and connections are secure and leak-free.

**Vacuum Cleaning Equipment:** Use vacuum cleaners that meet at least the dust class M (medium hazard) classification. Regularly maintain and check the efficiency of these cleaning systems.

**Process Optimization:** Adopt work methods that minimize dust generation. For example, consider using tools with built-in dust collection features or modifying cutting techniques to reduce dust.

### **Waste Control and Management**

**Sufficient Bins, Skips, or Cages:** Ensure that adequate bins, skips, or cages are available for waste, refuse, and rubbish. Regularly empty these containers to prevent overflow and maintain cleanliness.

**Designated Containment Area:** Any refuse or waste that cannot go into bins, skips, or cages should be contained in a designated area. This area can be fenced off to prevent unauthorized access and ensure proper waste management.

#### **Secure Containment for Specific Materials:**

**Flammable Materials:** Store flammable materials away from other items and protect them from accidental ignition.

**Storage at Height:** If materials are stored at height (e.g., on top of a container), ensure necessary guardrails are in place to prevent falls during stacking or collection.

**Tidiness:** Keep all storage areas tidy, both within the main compound and on the site itself.

**Deliveries:** Plan deliveries to minimize the amount of materials on site at any given time.

**Secondary Containment (Bunds):** Prevent run-off from waste storage areas entering surface waters or drains by: Storing waste under cover on an impermeable surface with a bund. A bund acts as a secondary containment area that holds liquids if the main containers leak or break.

Ensuring that the site is secure with functioning locks, gates, and perimeter fences.

### **Phased Contaminated Site Investigation.**

#### **1. Site Characterisation**

No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person as defined by annex 2 of the National Planning Framework. The assessment shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:

- (i) a survey of the extent, scale and nature of contamination;

(ii) develop the conceptual site model to assess and evaluate the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

## **2. Submission of Remediation Scheme**

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

## **3. Implementation of Approved Remediation Scheme**

The remediation scheme shall be implemented in accordance with the approved timetable of works. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report must be submitted to the Local Planning Authority. The validation report must clearly demonstrate through the provision of clear and unambiguous evidence that the approved remediation scheme has been completed as stated.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

## **4. Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 5 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site.

An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary, a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following the completion of measures identified in the approved remediation scheme, a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 3.

This response is made on the understanding that the responsibility for providing information on whether the site is contaminated rests primarily with the developer; where Planning Permission is granted for a site on which the presence of contamination is known or suspected, the responsibility for safe development and secure occupancy of the site

rests with the developer; and that the response has been determined on the basis of the information available, but this does not mean that the land is free from contamination.

### **The Design of Drainage Field for Foul Water**

The design and installation of a drainage field must comply with:

- a) BS 6297:2007+A1:2008;
- b) Building regulations;
- c) Environmental regulation

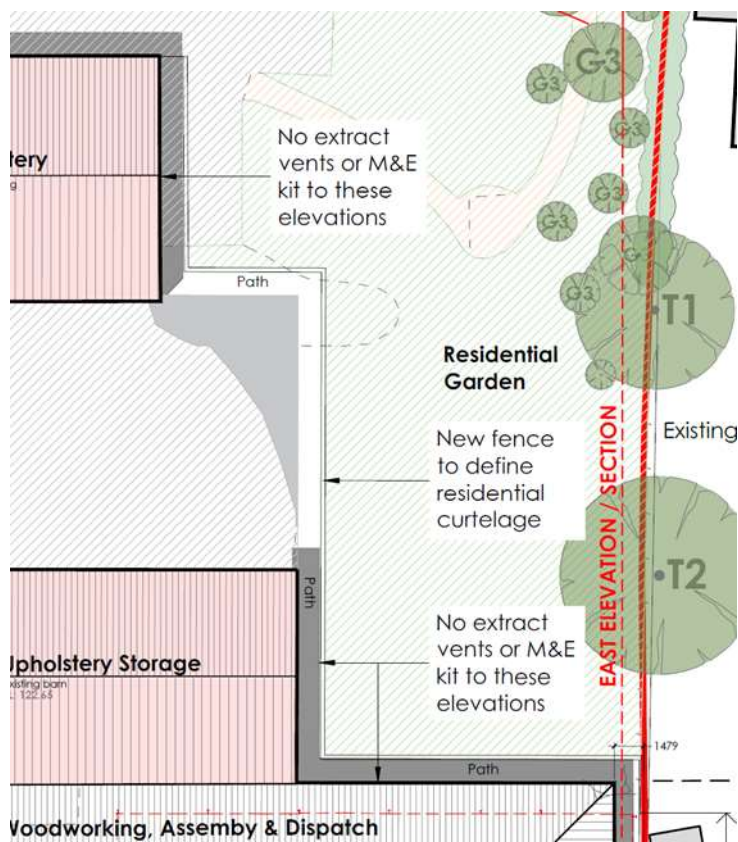
Yours sincerely

C Howat  
Senior Environmental Health Officer

### **Additional Information Received**

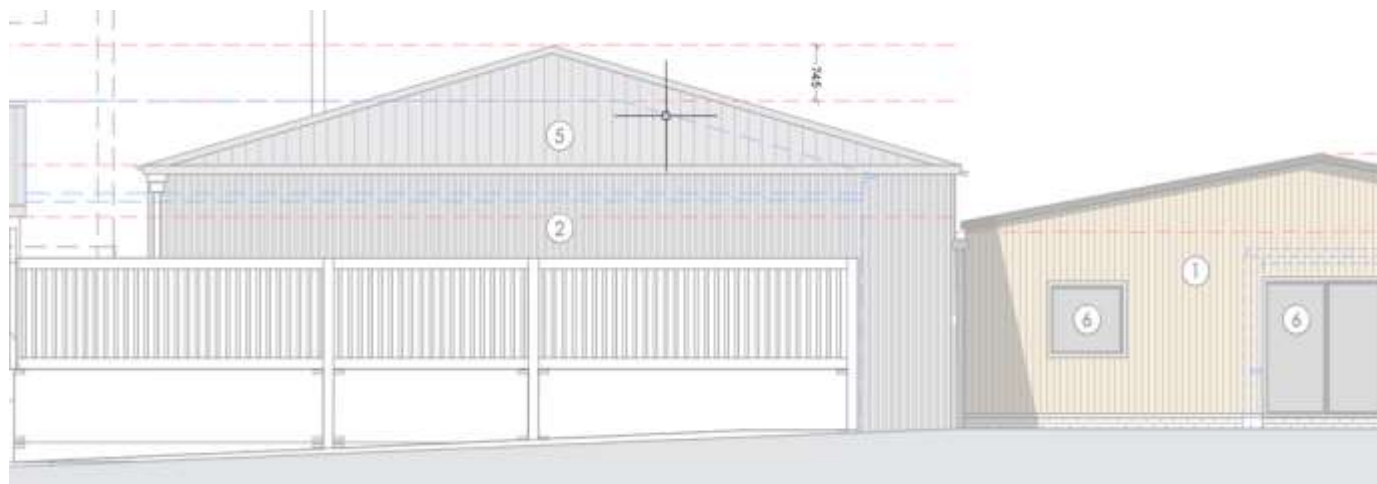
Additional Information has been received from the agent by email dated 16 February 2024

1. Distances to boundary – if measuring off plans please use HSSP drawing 8569-03-01P6 – this takes primacy from other consultant drawings. let me know if you have any distance related queries and I can drop dimensions onto the plan. Drawing 10018.01 rev1 is a TamLite drawing to show the external lighting scheme – this drawing is scaled 1:150 at A1 scale – this perhaps explains the differences?
2. Elevation to eastern boundary – upholstery store – there are single fire escape doors to east elevation of both upholstery and upholstery stores (annotated FE - Fire escape) on the plans. Doors annotated FE will be used in emergency use only. However there is also a new 1.8m domestic fence separating the residential garden from the rear of these buildings (see plan extract below) – this acts as an additional buffer / separation to Wellfield. The doors are fire escape only – they are not to be used for daily commercial movements between buildings.



3. Height of new build in relation to demolished building - the new build woodworking, assembly and dispatch is 745mm taller than existing ridge see figured dimension on

extract below). The building is set back between 1479 and 1532mm further from the boundary than existing – annotated on site plan no. 8569-03-01P6



### **Additional Information has been received from the agent by email dated 14 February 2024**

I'm happy to provide the following additional information – see attached marked-up plans to which the following text applies to.

I'll respond to each point raised using your numbers as set out below:

1. There are 2 buildings located on or close to the boundary with Wellfield & the existing wall structure. The intention is to retain the existing wall – this is highlighted on the plan as a pink line. The foundations of this boundary line will remain unchanged – hence reference in our previous email.  
With regard to the “Buildings” one is new build (Assembly and dispatch) and the other re-uses the existing structure / frame (Storage).  
The storage building will require a new floor slab – the walls will be built off the floor slab (this is termed as the foundation slab in Matt Fraser-Betts email to you dated 7 Aug 2023) – this slab is likely to be a reinforced concrete slab to facilitate this. As such there will be no excavation, other than removing the existing floor in this building.  
The assembly and dispatch building is a new building – it will not use existing foundations & will have a new floor – however it is set in-board of the existing retained boundary wall and its existing foundations.
2. The elevations do reflect existing levels on site. The elevation levels show the storage building located at the same ground levels as existing 121.63m (see adjacent pink highlights) – this is re-use of the existing building, which is already adjacent to existing trees.  
The assembly and dispatch building replaces a disparate collection of existing buildings – we have shown a new floor level of 121.63m – see marked up plan which shows this is not dissimilar to the closest levels on the Wellfields boundary – the Western yard area will be lowered however, but this is far removed from the Wellfield boundary and has no effect on trees. Objections relating to the east and west elevations are not comprehending the section lines through the site where the elevations are taken.
3. Foundations design takes reference from ground conditions and effects of trees. Although a ground investigation report has not been undertaken as yet I would suspect that we would be looking for either a reinforced ground bearing slab, or mini piles for foundations for the new build assembly and dispatch building – this in particular is a common construction method near trees. The new building structure can be either hot-rolled or cold-rolled steel frame – cold-rolled frames can be built directly off the reinforced concrete slab to about excavation for foundation pads.

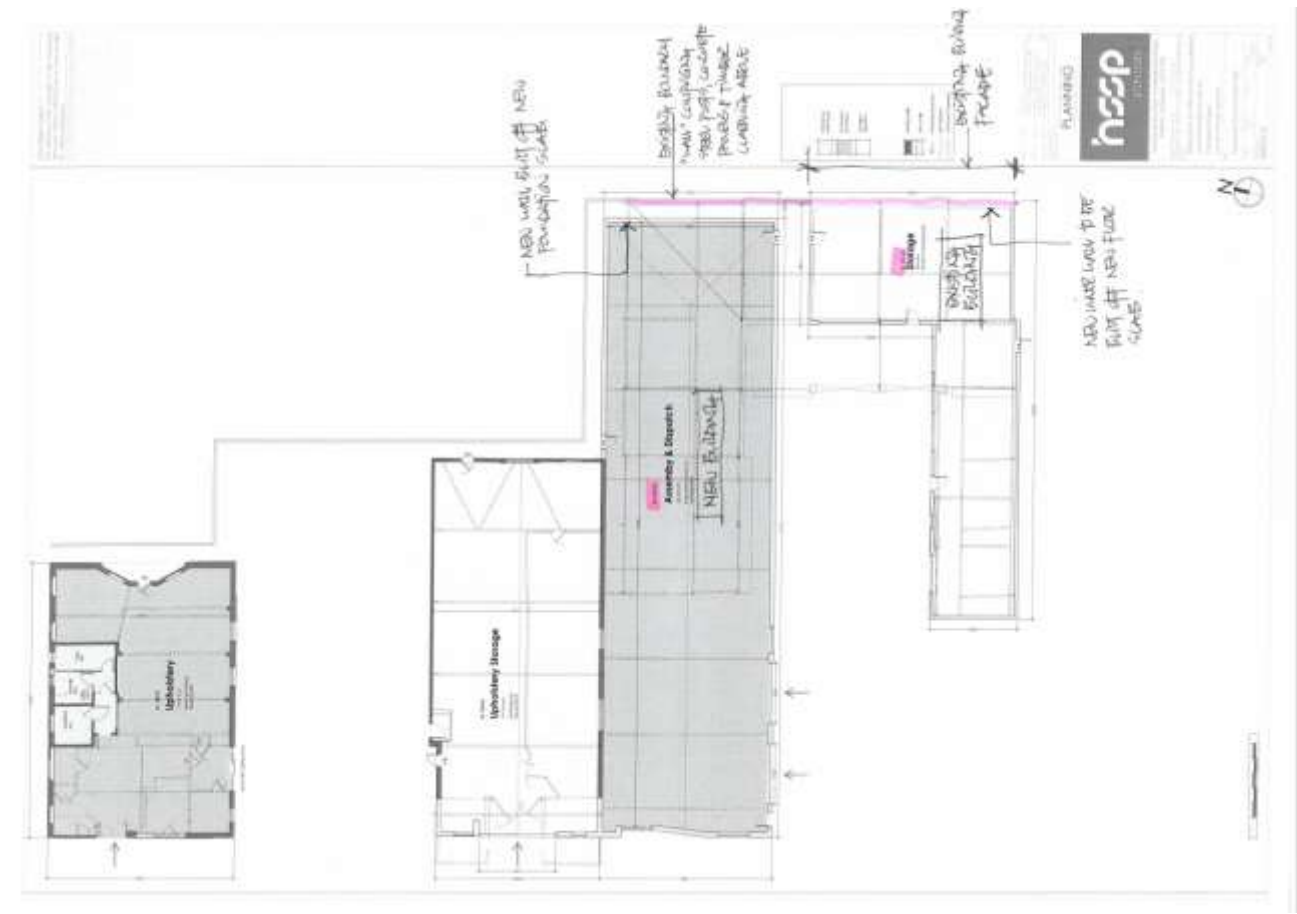


4. It would be reasonable to condition foundation details & indeed floor slab levels as a result of this & the line of objection received. Obviously further technical development needs to be undertaken beyond planning stage.
5. I trust this is clear – I've expanded on the points due to the line of objection being presented by the neighbour – these are technical details and are not insurmountable in any way.

Trees on the boundary are already adjacent to existing buildings, several of which are very recently planted – I see no reason why the development affects the health of their root system which are unlikely to be established under existing buildings. Trees in the neighbours garden were not picked up on our original topographical survey – however these were added to our site plan based on the topographical survey supporting the Wellfield application. For your information I have copied their location on our current site plan 8569-03-01P6 which you already have on the system.

We disagree therefore with comments that the building will have significant impact on the trees along the boundary for the above stated reasons. Let me know if you have any further questions.





## **Additional Objections to Planning Application 2022/1111/MAF**

Additional comments been received from.

### **1. Mr Dodd 27 February 2024**

The revised Environmental Noise Assessment posted on 14th November 2023, has not been completed in accordance with BS4142:2014+A1:2019 standards, the document is littered with errors. The margins for error are too large for this report to be considered as a valid Environment Noise Assessment.

The assessment was not taken over a sufficient period of time to obtain a valid set of data with which to make a thorough impact assessment of the noise that will be produced by this development. During normal operating hours

BS4142 - Paragraph 7.1 - Ensure that all sample measurements are representative of the period of interest.

The period of interest is the whole of the time that the factory is operational during the day, from 7.30am until 21:00hrs and Saturdays 08:00 - 14:00. The readings taken at the existing site only covers 10:00 am - 16:00 hrs on one day. Industrial plant is at it's loudest when it first starts up and machines are cold. the soundscape at the start of operations is important. No recorded data for this period of interest.

BS4142- Paragraph 12 States the information to reported

The following detail is not included in the report.

A). Statement of qualifications, competency, professional memberships and experience directly relevant to the application of this British Standard of all personnel contributing to the assessment. This is missing, Did the people that worked on this Environmental Noise Assessment have the correct qualifications and experience to complete the assessment to the required British Standard.



B,4) Statement of the operational rates of the main sound sources ( eg maximum load setting, 50% max rate, low load settings. This Detail is Missing

The greatest source of sound was identified as the dust extraction units. I requested that the official Decibel levels for these units be included in the report in October 2022 and many times since. Public Protection recommend to the planning officer that this information be included in the report one year later in October 2023. The report was revised in November 2023, but this detail is still not included.

If this information had been included in the report, it would be possible to complete an accurate assessment of the significant adverse impact this development would have on the residential properties of Wellfield, Pheasants Roost and the Campsite. A barrier calculating of the noise from the extractors could have been completed with a simple logarithmic calculation, this would provide evidence that the other figures in the report were valid.

P12 e) Measurement locations, their distance from the specific sound source, the topography of the intervening ground and any reflecting surface other than the ground, including a photograph, or a dimensional sketch with north marker: a justification for the choice of measurement locations should also be included. This is Missing for Quarry Farm Industrial Estate

When looking at the report it is vitally important to have an understanding of where the data was recorded at Quarry Farm Industrial Estate to understand the validity of the data.

This is a large site, with numerous buildings with multiple sources of noise. The report says that the data was recorded 40 metre from the main source to replicate the same distance the extraction unit will be positioned from the nearest dwelling.

Was the sound recorded 40m on the side of the building where the extractors were, if so than the other factory noises would be blocked by the buildings and the report would not be a true representation of the total noise environment. If the survey was taken on the other side the building, it would be a barrier to the noise produced by the extractors. If the reading was taken at the top or bottom of the site Both the industrial noise and the extractors would be reduced by the barrier of the building. Only taking recordings from one location on this site will not capture the whole soundscape and will result in a high margin of error in the Environmental Noise Assessment.

The report goes into a lot of detail on the location used for the background noise assessment undertaken at Pheasants Roost, a map and two photographs but there are no details in the report of where the data was recorded at Quarry Farm Industrial estate. Even though this is specified as a reporting requirement in BS4142. And has been requested to be included numerous times since October 2022.

f). Instrumentation - Sound measuring systems, including calibrator or piston phone used:

The report states most of the detail required for the instruments used in the assessment made at Quarry Farm Industrial Estate, with the exception of a copy of the latest verification test including dates. An important document to assess if the device is correctly calibrated and operating within accepted tolerance

There are no details in the report of the instrumentation used to complete the short spot data samples which the report is no relying on for position D at Pheasants Roost. These recordings were reported to be taken at the same time as the test being undertaken at Quarry Farm, so it can't be the same instrumentation. This information is missing

L). The measured sound levels

There is no data in the report for the background noise assessment recordings taken at Position D,

Pheasants Roost. There is no data to show how long the sample was taken for or what the recorded decibel figures were.

Q) The potential impact of uncertainty.

The report has not documented any information on the potential impact of uncertainty. Given that there is so much missing data in this report and recordings only being taken over a very short period of time and not for the full period of interest. There is a high degree of uncertainty that the information in the provides is accurate.

#### Appendix A. - Calculations

The data in Appendix A relating to position A at Peasants Roost, was discredited as the data was recorded at a location chosen to deliberately increased the background sound level. Leaving this invalid data in the report and referencing it as fact in various paragraphs of the Environmental Noise Assessment is misleading the reader.

The calculations are based on unsubstantiated data

Recorded daytime background Noise Level @ southern site boundary La90 = 40.9 dBa corresponding background level at Position D (1 hour reference period)

Section 4.4 states how this recording was completed, "Spot readings were taken at three locations, Positions B, C, and D these were taken during the 15:00-16:00 period. Apart from there being no data to support the figures provided in the report, if three test were taken between 15:00-16:00 it would not be possible to get a "one hour reference period" for position D as required in BS4142

Residual noise level Laeq 1hr = 54.4dba (Lr (08:00-09:00)).

The residual noise level should have been taken at Quarry Farm to determine the background noise at that location when no industrial machinery was running. As it states in the margin, Specific Sound Off. where did the figure of 54.4dba come from? There is no data in appendix A for Quarry Farm between 8:00 - 9:00 am to support this figure?

Why is the residual noise level with the machines and plant not operational, " Specific Sound off" louder at 54.4. dBa, than the ambient Noise Level, the noise level when the industrial machinery is running, Specific Sound on, is only 46.4 dBa This does not make any sense. How can turning the machines on make it quieter? The only reason that I can see for this is because the sound recordings were taken from different locations. Both readings should be taken from the same location this calculations is designed to demonstrate the magnitude of change and increase in decibel level when the plant is fully operational by subtracting the noise of the residual sound at the location, from the noise of the ambient sound to obtain the Specific noise produced by the industrial operations. The Specific noise calculation is then added to background noise level of the new Pheasants Roost to produce an approximation of what the new sound environment will be when the development has been completed.

The figures required to complete this Environmental Noise Assessment have not been recorded or calculated correctly in the report. The Barrier Calculations for the dust extractors were based on Specific Noise calculation that was not correct.

BS4142 assesses the effect that industrial noise has on humans. It does not measure the effect it will have on the protected species of Wildlife in and around the Rutland Water Area. Natural England advised that a Habit Regulation Assessment be undertaken to determine if there would be harm to protected species.

Natural England had no objection. that is not the whole story; Natural England stated that it had no objection in these terms: "Natural England considers that the proposed

development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes” This is a standard consultation and does not provide any advice on the affect on protected species that can be found within the conservation sites and around the Rutland Water area. “No objection” from Natural England does not mean no harm.

The Environment Agency states that Environmental Noise Assessments near Sites of Specific Scientific Interest and Nature Reserves, such as Rutland Water, need to assess the impact of noise on other species.

*“ In some cases you may need to consider the impact of noise on other species and habitats as well. For example, if your site is next to a Site of Special Scientific Interest or nature reserve.*

*In these instances, it is not appropriate to use the BS 4142 methodology because this standard is based on human hearing and sensitivity to sound. The frequency of human hearing ranges from 20 to 20kHz, which is quite different to other species. For example, many species of birds have relatively insensitive hearing above 10kHz, but are more sensitive at lower frequencies. Sounds that might trouble humans may not be detectable by other species, and vice versa.*

*The impact of noise on non-human species is a growing area of research and must be considered on a species by species basis. Studies suggest that disturbances such as noise, light and close proximity of humans can have an impact on wildlife. This could cause changes in:*

- behaviour such as foraging*
- the pitch of bird song*
- reproduction rates and population density*

*These impacts are not limited to vertebrates. For example, a recent study found that boat noise reduced the growth rate of fresh water mussels, indicating noise as a source of stress.*

*The population density of one species will in turn impact other parts of the food chain, even if those other species are not directly affected by the noise.*

*You should identify any potentially noise sensitive wildlife areas and consider both the:*

- threshold of hearing of the key sensitive species*
- characteristic of the sound source”*

Rutland Water is an internationally important area for nature conservation. Rutland Local Plan, in the section relating to Rutland Water, states that the existing policy approach has been largely successful in protecting the nature conservation interests of the reservoir and retaining the unspoilt and tranquil nature of the area. The application does not assess the likely impact that this preposed development would have on Wildlife in the Rutland Water Area SSSI. There is no doubt that putting large industrial units emitting noise and light pollution for 17 hours per day will have a dramatic effect on wildlife.

The National Planning Policy Framework Paragraph 180.

*“180. When determining planning applications, local planning authorities should apply the following principles:*

- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the*

*features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;”*

This development would cause irreparably harm to the neighbouring properties, the wildlife and the peace and tranquility of the Rutland Water Area SSSI and should be refused.

Many Local Planning Authorities will only accept Environmental Noise Assessments that have been completed by members of the professional body The Institute of Acoustics (IOA). They have robust code of conduct which all members are required to adhere to and a complaints system for reporting those that fail to do so. After reading the various versions of the Noise Assessment that accompanies this proposal, I would urge Rutland County Council to adopt a similar policy and only accept Environment Noise Assessments completed by members of the Institute of Acoustics. This would greatly reduce the amount of time Planning Officers and Environmental Heath Officers spend trying to unscramble incomprehensible and misleading assessments. It would aide the decision making process, lead to less errors being made and perhaps this application would have been decided by now, rather than being in the system for over a year. Adopting this suggestion would increase efficiency in the planning system and reduce costs.

## **2. Donna Dodd, Wellfield Lydon Road Manton by email dated 25 February 2024**

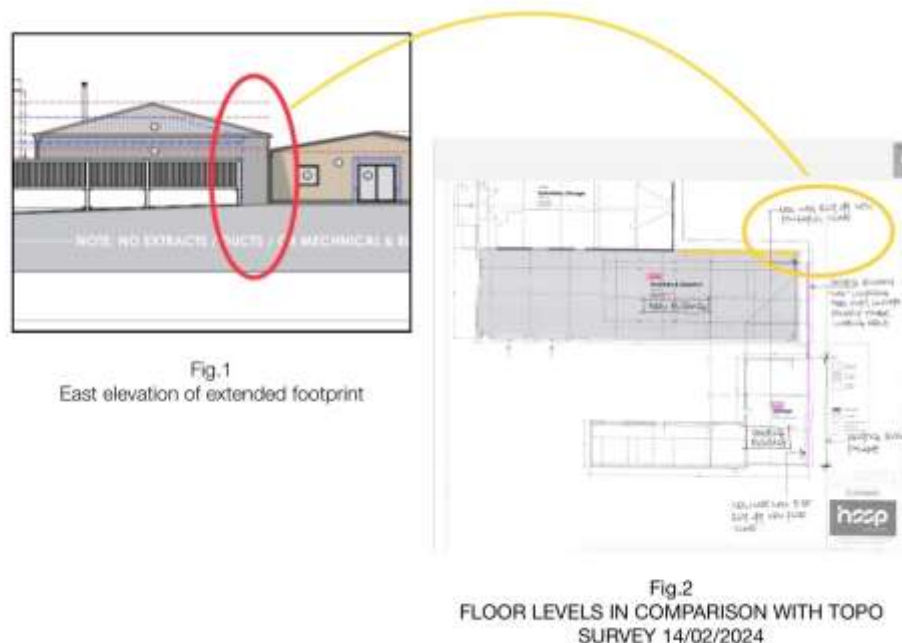
The Root Protection Area for the trees along the boundary to Wellfield have not been specified.

This is a requirement by *BS5837 Trees in Relation to Design, Demolition and Construction*. Whilst the application does not contain a Consultee Response from the Tree Officer, on a separate site visit to Wellfield, he did record the measurement of the circumference of the trees. This measurement establishes that the RPA calculation for the tree at the northern end is 3.6m. This was confirmed in an email to the both the Tree and Case Officers 11/01/2024. Withholding this tangible pre established measurement from the published documents prevents the protection of the trees being included in the judging of this application.

The work described by the agent in the document EMAIL REF DRAWING FLOOR LEVELS IN COMPARISON WITH TOPO SURVEY 19/02/2024 states “removing existing floors” which is a threat to the root system within the RPA. The email refers to “unchanged boundary line” but as root protection areas are circular and not linear the groundworks described in this email will to have an adverse impact on the trees if undertaken inside the required root protection area. All the foundation work referenced in these documents requires the RPA measurement to ensure that the correct decisions, procedures and safeguarding are used by designers and in the judgement of this application.

The East Elevation shows where the proposed new building extends beyond the original, Fig.1.

Fig.2 is taken from the document FLOOR LEVELS IN COMPARISON WITH TOPO SURVEY 14/02/2024. It should be noted that the images and building names used in the two aforementioned documents are not from the current proposed plan. There appears to be an anomaly in the latter where the comment inside the yellow circle is drawn on the line of the existing barn wall and not the proposed new wall highlighted in yellow. These details are relevant when considering the required RPA of the boundary trees as shown in Fig.3.



### 3. Mr & Mrs Donna and Colin Dodd 23 February 2024

This application would result in an economic loss to the rural economy for Rutland and the local area with the loss of the B&B and caravan/campsite. It would result in the loss of the "second spend" from tourism as mentioned in the council's new plan. It is not generating any new employment. This first phase of the process is stated as moving 60% of the existing Willowbrook/associate companies operations. There is no mention of new employment opportunities in the revised version. This was claimed on the larger original version of this application. If the council are deeming this to generate employment they must be aware, as the agent stated, that the client intends to move the entire business with a subsequent application.

The public and committee should be made aware of this documented intention.

### 4. Mr Dodds 19 February 2024

I have been reviewing the Planning Officers assessment. I would just like to point out that gov.uk guidance on the use of Planning Conditions, which is as follows:

"Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?"

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.

Paragraph: 015 Reference ID: 21a-015-20140306"

The planning condition suggested by the planning officer fails as it is unreasonable and not enforceable.

<https://www.gov.uk/guidance/use-of-planning-conditions>

### 5. Mr Dodds 19 February 2024

Any building that requires new foundations and new walls cannot be considered as reuse of a suitable constructed building as defined in Rutland County Council Planning Policy

CS16 (f) "support the conversions and re-use of appropriately located and suitably constructed rural buildings in the countryside (adjacent or closely related to the towns, local services centres and smaller services centres) for employment-generating uses particularly where they would assist in the retention or expansion of existing rural businesses or encouragement of enterprises that have little adverse environmental impact."

Removing the existing floor slab of the open barn structure will involve demolition within the root protection area of the eight ash trees on the boundary with Wellfield. This is against BS5387 as raised in previous objections.

This application does not accord with Rutland County Council policy SP7, due to the high percent of new build increase by both footprint and volume above the legally stated limit of 50%.

The application does not accord with Rutland County Council Planning Policy CS4 as this business does not have an essential need to be located in the countryside. The commercial decision of the company to change from leased to freehold premises, should not carry any weight as it is the personal circumstances of the applicant. This application is not in the public interest of the rest of the Rutland community.

## **6. Mr Dodds 19 February 2024**

Why has the Public Protection document dated 21st December 2023, only been published on the Rutland Planning Portal on the 19th February 2024? This delay has impinged democracy by limiting the time for public scrutiny and to post response comments.

The information in this document relies on the invalid Environmental Noise Assessment to deduce, by incorrect arithmetic calculations, that the development will not cause harm to the environment and residential properties in close proximity. The approximate 80db noise projection (calculated from the figures provided in the Environmental Noise Assessment) prove that this development will produce a 16 times increase over the current background noise level of 41db, this 16 fold increase is because decibel calculations are logarithmic not arithmetic as incorrectly used in calculation in the applications Environmental Noise Assessment. This development would have a significant adverse impact on the dwellings of Wellfield, Pheasant Roost, the campsite and the wildlife on the surrounding rural environment.

Public Protection have not recommended a maximum acceptable noise level, as specified in a similar application for woodworking development such as planning application 2021/1227/FUL.

The lighting standard suggested is not compatible with an area in open countryside with intrinsically dark Skys adjacent to the Rutland Water Area, SSSI, RAMAR, SPA. It does not meet the guidelines set out by the ILP (Institution of Lighting Professionals) and does not take account of Natural England Consultee document of 20th October 2022 suggesting that the lighting should be designed to encourage wildlife. It does not meet the requirements of ILP guidance note 08/23 "Bats and Artificial Lighting At Night" this standard has been issued as a planning condition in a recent approved planning application for another agricultural change of use within Rutland. Do the bats at Manton require less protection?

The planning conditions proposed do not take into account previous planning decisions for similar applications, that have applied more stringent operating hours to protect residential amenity. This is contrary to case law. The reasoning behind this was explained by Mann LJ in *North Wiltshire District Council v Secretary of State for the Environment* (1993) 65 P & CR 137: "One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency..... Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system."

Public Protection has not proposed any safeguarding measures for the dust pollution, smoke pollution and use of hazardous substances. The hazards associated with the manufacture of wood-based products is covered by DEFRA Process Guidance Note



6/02(12) Statutory Guidance for the working of timber and manufacture of wood-based products. There is no reference for safeguarding from the handling, storage and disposal of the hazardous material or to the increased requirements of the extraction which need to take into account the exposed and windy site and proximity to residential and wildlife areas.

This proposed development will cause considerable harm to the neighbouring residential properties and the caravan/campsite at Pheasants Roost. It will harm this area of "particularly attractive countryside" directly adjacent to the Rutland Water Area (as described in the Rutland Landscape Plan).

## 7. John Stones email dated 15 February 2024

Unfortunately my wife and I will be out of the Country at that time.

Were to have been able to attend we would have continued to express concerns that the application as originally presented and following subsequent revision continues to fall outside Rutland County planning guidelines and should be refused.

In addition to the above comments the application is also close to Rutland Water and as such a Habitat Regulation Assessment is required. A copy of the Council's assessment is attached below.

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### Habitat Regulations Appropriate Assessment

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#### HABITAT REGULATION ASSESSMENT (HRA) SCREENING MATRIX AND APPROPRIATE ASSESSMENT STATEMENT

**PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.**

<b>Application reference:</b>	<b>2022/1111/MAF</b>
<b>Application address:</b>	<b>Pheasants Roost Lyndon Road Manton Rutland LE15 8RN</b>
<b>Application description:</b>	<b>Change of use from agricultural to E(g)(iii) business to facilitate relocation of Willowbrook Education Ltd. Conversion of existing buildings, adaption and new build elements including new yard and parking areas with access improvements.</b>
<b>Status of Application:</b>	<b>Pending consideration</b>
<b>Proximity to SPA/RAMSAR:</b>	<b>Rutland Water approx. 700m to north of site</b>

Lead Planning Officer: Darren Burbeary

<b>Stage 1 - details of the plan or project</b>	
European site potentially impacted by planning application, plan or project:	<b>YES</b>
Is the planning application, project or plan directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	<b>NO</b>
Are there any other projects or plans that together with the planning application	<b>NO (if yes provide details)</b>
being assessed could affect the site (Applicant to provide details to allow an 'in combination' effect to be assessed)?	

### **Stage 2 - HRA screening assessment**

Test 1: the significance test – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/RAMSAR.

Conclusion on the need for a full Habitats Regulations Assessment (Appropriate Assessment) (has evidence shown there is a need for a full HRA?) **Yes**

**Provide details:**

The proposed development is located approximately 700m south of Rutland Water. It is proposed to use a Package Treatment Plant to deal with foul water from the site. This could result in significant impacts on Rutland Water

The ruling by the Court of Justice of the European Union on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta requires development relying on mitigation to no longer be considered at the screening stage but taken forward and considered at the appropriate assessment stage. Therefore, as the application requires mitigation it will need to be considered at the appropriate assessment stage.

(If yes, continue to Stage 3; if no, continue to Stage 4).

### **Stage 3 - HRA – Appropriate Assessment**

Test 2: the integrity test – If there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long term management, maintenance and funding of any solution.

Yes

#### **Rutland Water SPA/Ramsar/SSSI**

The SSSI citation for Rutland Water states *'The establishment of this large modern reservoir has created a major wetland area which combines extensive sheets of open water with a complex of wetland and lakeside habitats, including lagoons, islands, mudflats, reed swamp, marsh, old meadows, pastures, scrub and mature woodland. The site supports exceptional numbers and diversity of passage and wintering waterfowl.'*

The drainage from the proposed development has the potential to have an adverse impact on the reasons for Rutland Waters designations. Natural England has however confirmed that such an impact could be mitigated with appropriate conditions.

#### **Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England**

##### **Conclusion:**

It is proposed that the foul discharge is drained to a biological treatment plant and drainage field. This is proposed to be secured by condition. Natural England has further advised that where a drainage field is implemented and maintained for the life of the development there will not be an adverse effect on the integrity of Rutland Water SSSI and Ramsar site.

Conditions are proposed to be attached to any planning permission which will prevent any adverse impacts on Rutland Water. This includes:

- No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority, details (including location and timeframe for the installation) of the proposed new package treatment plant and location of the new drain leading to the drainage field. All works are to proceed strictly in accordance with the approved scheme and thereafter retained in perpetuity. Reason To avoid on and off-site contamination and nutrients leaching into Rutland Water SPA/Ramsar/SSSI
- No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority the location of a drainage field ancillary to the package treatment plant. The design and installation of a drainage field must comply with: a) BS 6297:2007+A1:2008; b) Building regulations; c) Environmental Regulation. Reason: All works are to proceed strictly in accordance with the approved scheme and thereafter retained in perpetuity. Reason: To avoid on and off-site contamination and nutrients leaching into Rutland Water SPA/Ramsar/SSSI.
- The package treatment plant, drain and drainage field shall be operational prior to first occupation and use of the proposed buildings. Reason: To avoid on and off-site contamination and nutrients leaching into Rutland Water SPA/Ramsar/SSSI.

Natural England Officer:

Summary of Natural England's (NE) comments:

Water Pollution is noted on Rutland Water's SPA Site Improvement Plan as a 'Priority & Issue'. The plan states:

*'The inflows into Rutland Water currently receive regulated discharges of treated sewage as well as unregulated treated sewage discharges from septic tanks. Further nutrient inputs come from diffuse sources (such as agriculture) which maintain the reservoir in a highly eutrophic state and has led in the past to regular algal blooms'*

Natural England note that the development will discharge foul water via a new Package Treatment Plant on-site. No details are provided regarding this discharge other than an indicative location of 'new drain and treatment plant' shown on the Proposed Site Plan.

We recommend that the PTP used should use biological treatment only, as this requires less frequent maintenance, than chemical dosing plants, and so the treatment efficiency is less uncertain over the lifetime of the development. We also recommend that the PTP should discharge to a drainage field, i.e. as shown on page 32 of the Building Regulations

Document H, as opposed to a regular soakaway or discharge to watercourse. This is as phosphorous readily binds to soils, so where the PTP discharges to a drainage field (which by nature slowly introduces the P rich water over a large surface area of soil), it is likely that phosphorous within this discharge will be attenuated in the soil and will not reach Rutland Water, avoiding any potential worsening of Eutrophication at the SPA.

We also advise that the drainage system should be maintained for the lifetime of the development, to ensure no blockages or leaks occur which undermine the purpose of the drainage field.

We advise that your authority may be able to apply suitably worded planning conditions to ensure the above are implemented.

#### **Habitats Regulations Assessment**

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Natural England consider, where a drainage field is implemented and maintained for the lifetime of the development, that an Adverse Effect on the Integrity of Rutland Water can be ruled out. Any conditions/legal agreements which are applied to the permission to prevent impacts to Rutland Water should be noted within the HRA.