

<b>APPLICATION NO</b>	<b>PA/2016/344</b>
<b>APPLICANT</b>	Mr Mike White, Haxey Study Centre
<b>DEVELOPMENT</b>	Planning permission to erect extension to existing training and lecture centre and relocate educational centre (Haxey Study Centre) from Rose Cottage site to Lupine Woods site
<b>LOCATION</b>	Haxey Study Centre, Turbary Road, Haxey, DN9 2JN
<b>PARISH</b>	Haxey
<b>WARD</b>	Axholme South
<b>CASE OFFICER</b>	Craig Fotheringham
<b>SUMMARY RECOMMENDATION</b>	<b>Subject to the completion of a Unilateral Undertaking, grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Objection by Haxey Parish Council  Member 'call in' (Councillor David Rose – significant public interest)

## **POLICIES**

**National Planning Policy Framework:** Paragraph 11 – planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 19 – the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 28 – planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses;
- support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and

- promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

Paragraph 118 – when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm 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.
- Proposed development on land within or outside a Site of Special Scientific Interest (SSSI) likely to have an adverse effect on an SSSI, either individually or in combination with other developments, should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development at this site clearly outweigh both impacts that it is likely to have on the features of the site that make it of special scientific interest and any broad impacts on the national network of SSSIs.
- Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted.
- Opportunities to incorporate biodiversity in and around development should be encouraged.
- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and loss of aged or veteran trees found outside ancient woodland, unless the need for and benefits of the development in that location clearly outweigh the loss.
- The following wildlife sites should be given the same protection as European sites: potential Special Protection Areas and possible Special Areas of Conservation, listed or proposed Ramsar sites; and sites identified or required as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation and listed or proposed Ramsar sites.

Paragraph 187 – local planning authorities should look for solutions rather than problems and decision-takers at every level should seek to approve applications for sustainable development, where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Paragraph 196 – the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development framework unless material considerations indicate otherwise. This framework is a material consideration in planning decisions.

Paragraph 197 – in assessing and determining development proposals local planning authorities should apply the presumption in favour of sustainable development.

**North Lincolnshire Local Plan:** Policies RD2, DS1, DS16, LC2 and LC14 apply.

**North Lincolnshire Core Strategy:** Policies CS17 and CS19 apply.

## **CONSULTATIONS**

**Highways:** Does not wish to restrict the grant of permission.

**Environment Team Ecology:** The application site is adjacent to Haxey Turbary SSSI. A condition will need to be imposed preventing any impact on the hydrology and water quality of the neighbouring SSSI. Works could affect nesting birds, bats, badger, hedgehog, reptiles and amphibians. If permission is granted there will be a need to secure biodiversity enhancements in accordance with the National Planning Policy Framework.

**Environment Agency:** No objection to the application as submitted but advise that finished floor levels of the extensions should be set no lower than the existing building with flood resilience and resistance measures incorporated, where practicable.

**Environmental Health (Commercial):** By expanding the Lupine Woods site the scale of activities possible on site is increased and there is, therefore, the potential for noise disturbance to local residents due to traffic movements to and from the facility and due to activities which may take place. A noise management scheme should therefore be submitted which demonstrates that the increased activity on site will not have an adverse impact on local residents. Also recommends a condition to prevent disturbance during more noise-sensitive times (late evening, night-time). Further recommends a condition regarding the collection, storage and disposal of animal waste and foul bedding to control potential problems with odour and flies. They have also raised concerns with noise from construction traffic and the potential impact of external lighting on neighbouring residents with conditions suggested to overcome their concerns.

**Historic Environment Record:** No objection. The application site lies within the Area of Special Historic Landscape Interest of the Isle of Axholme (local plan policy LC14). The HER is satisfied that the proposals will not cause substantial harm to the character or setting of the nationally important historic landscape.

**Historic England:** Do not consider that it is necessary for this application to be notified to Historic England.

**Lincolnshire Wildlife Trust:** Object to the proposal. Primary concern is that the application would result in additional vehicular movements further down Turbary Road requiring vehicles to drive through the first compartments of the SSSI. This could disturb habitats adjacent to what is currently a little used track. Concerned about light spill into the SSSI or into features which may be used by roosting, foraging or commuting bats. Concerned about creeping development on the site which is located outside development limits in the open countryside. No sufficient justification as to why replacement buildings cannot be provided on the Rose Cottage site. Would like to ensure that appropriate biodiversity enhancements are secured which would aim to buffer the adjacent SSSI from the development and provide complementary habitats.

## **PARISH COUNCIL**

Object to the application on the following grounds:

- The building was granted planning originally to build a barn, as part of a forestry business and has since been used and converted to accommodate an annexe to the study centre. It has had little or no use in connection with the forestry business and has not been granted a change of use for any of the commercial enterprises at the site.
- Both sites have ample room to accommodate the expansion of the study centre and associated businesses.
- Believe the original site is much better suited to the needs of the business and its environment and further investment would be better used upgrading the buildings at Rose Cottage where they would have less impact on the environment and in line with planning policy. The development is contrary to Core Strategy CS1 (c), and RD7 (iii) and (iv) of the local plan.
- The public bridleway is being used excessively, not only by the study centre students but the many other associated businesses, enterprises and courses run by the owners of this site. The study centre is not just one enterprise but numerous businesses, including a CL caravan site operated by the owners, and these are the main commercial income of what was originally a forestry business.
- The additional businesses and courses, which all access the site by motor vehicles, is contrary to RD2 d of the local plan.
- Its location in the nationally recognised Isle of Axholme historic environment is contrary and detrimental to the open countryside. *Development would be detrimental to the character or appearance of the open countryside.*
- The proposed relocation would not increase any rural need for employment or tourism (RD2 ii of the local plan).
- Concerned that the proposal will necessitate the need for a dwelling as the owner, in previous planning applications, has recognised it is an isolated spot and has security issues. The relocation and development of this site and further human habitation will be damaging to this tranquil and isolated area next to a SSSI.
- Any further expansion of the buildings will only compound the parish council's ability to object to the development of this site and object to any extension until such time as the issue of relocation is resolved and permission for a change of use.
- Draft Unilateral Undertaking is ambiguous and unclear in a number of respects including as to precisely when its proposed obligations would actually be triggered. In addition, the plan referred to does not appear to have been provided.
- Access is over land owned by the parish council which has strongly opposed the granting or allowing of any right of way other than for actual agricultural or forestry purposes.

## **PUBLICITY**

The nearest residential properties have been notified and a site notice posted at the entrance to Rose Cottage. A number of letters have been received with their comments summarised below:

### **Environment/ecology**

- Haxey Carr is of historical and conservation interest enjoyed by walkers, cyclists, scouts, schoolchildren, and horse riders and needs protecting, conserving and preserving for future generations
- the peace and tranquillity of Haxey Carr is disrupted
- litter has increased and become a serious problem
- the proposal is not for agriculture or forestry purposes and is therefore not suitable adjacent to the Haxey Turbary SSSI

### **Traffic/access**

- the road is single-track and blind in places, with very few passing points
- the entrance to residents' homes are being used as passing points resulting in distraction and noise pollution
- lengthy reversing up a blind summit is often required
- litter thrown from passing vehicles is becoming an issue
- a serious accident is likely to occur
- should a further business or extension to the caravan park be allowed at Lupine woods, caravans will exacerbate traffic issues
- increase of non-agricultural/forestry activities is putting a great strain on the residents of the Carr
- large lorries carry tons of dog food to be repackaged and then distributed from Lupine woods, once again increasing traffic along the bridleway
- more activities and business ventures will increase use of the bridleway which simply cannot accommodate traffic as it is a soft surface suitable for horse riding not vehicles
- emergency vehicle access is poor and restricted
- frequency of traffic has increased dramatically with traffic leaving at 10pm and arriving at 8am seven days a week
- dust and noise created by traffic forces residents to keep windows shut
- the road and bridleway is becoming increasingly more dangerous for horse riders

## **Business use**

- this application is the same as the last one and should also be refused
- this proposal will lead to the need for a dwelling at Lupine Woods to provide proper husbandry, animal safety and security
- it will have a negative impact on the local community
- Lupine Woods is a camping and caravan site – concerns over future expansion and cumulative impact
- no need to relocate non-indigenous animals when there is adequate space at Rose Cottage to accommodate them
- it is not clear what business the applicants are operating and what their business development intentions are
- concerns that the Lupine Woods site is being used for more than educational training purposes such as dog training and dog-related sales
- activities at Lupine Woods should be related to agriculture rather than leisure or sales of feeds or goods, due to the sensitive rural location

## **Other**

- negative impact on the local community as the increased traffic has restricted and interrupted leisure activities
- safeguarding issues for children if they are being educated on a camping and caravan site.

## **ASSESSMENT**

Planning permission is sought to extend an existing single-storey building that currently provides a training and lecture facility. The application proposes to erect two extensions (12.1 metres by 3.7 metres and 12.1 metres by 4.6 metres) to provide an animal room/classroom and rear lobby in the northern addition and an office, shower/WC and WC in the southern addition. These facilities are to be provided in connection with the relocation of Haxey Study Centre (HSC) from its existing site at Rose Cottage to this site known as Lupine Woods.

This use falls within Class D1 (Non-residential institutions) of the Use Classes Order.

Haxey Study Centre is an established educational training provider that is utilised by many local authorities and other bodies to assist their students requiring individual tutoring. This includes, for example, children with learning difficulties, vulnerable young adults or special schools and colleges, Pupil Referral Units (PRUs), looked after children, autistic children and children from Doncaster Deaf School, as well as nurture groups from mainstream schools. In addition, many of the children are vulnerable, school excluded or unable to cope with the conventional school system.

HSC has students referred to it from several local education authorities, including North Lincolnshire Council, North East Lincolnshire Council, East Riding of Yorkshire Council, Doncaster Metropolitan Borough Council and Nottinghamshire County Council.

The centre has been running for over 10 years and is validated by the National Open College Network (AQA). Courses run at HSC are varied and include animal care, canine care and training, horticulture, conservation and woodland skills, workshop and construction skills, and music art and design.

The centre can cater for up to 24 students at a time depending on individual need and a further 12 at the Lupine Woods site, thus, at the present time, with both existing centres open, a total of 36 students could be catered for.

However, with the proposed extensions to the Lupine Woods site the total number of students that could be accommodated would be reduced to an average of approximately 18 per day.

The Rose Cottage site was granted planning permission on 25 April 2004 for the change of use of a workshop/garage to a field study centre (PA/2004/0422). For the Lupine Woods site planning permission was granted on 4 January 2010 to retrain a training building and erect an extension (PA/2009/1301).

At present the centre incorporates a number of separate buildings centred on Rose Cottage in order to be able to accommodate its students, equipment and animals. A number of small animals, mini beasts, reptiles and amphibians, farm animals and cats and dogs are kept on site for the education and instruction of the students.

In 2009 the applicants built a replacement agricultural barn at the Lupine Woods site which has since been used for educational purposes (approved under PA/2009/1301) in connection with their business. The approved plans show the extension to have an educational area, disabled WC facilities and a canteen. The main area is used for canine training and educational seminars and is Kennel Club Approved. In addition to the main building there is also a small portable building used as male and female WCs with shower.

The extensions will match the existing building construction as close as possible; walls will be of matching brickwork and the roof covering again will be of the same terracotta interlocking concrete roof tiles. Extending the existing building to provide the required additional accommodation will centralise the impact within the countryside rather than have a collection of separate buildings. The proposed extensions will continue the ridge line and will therefore be at the same height as the existing building.

The Lupine Woods site has planning permission for its present use as a training building associated with Haxey Study Centre (PA/2009/1301); this is not, therefore, a new application for commercial development within the countryside. The council has already considered the use of the Rose Cottage site for this purpose (PA/2004/0422) and granted planning permission, and it is considered that this application entails a translocation of an existing use and business to more suitable premises. The Lupine Woods site has been purpose-built to accommodate activities in a single location and will replace the numerous buildings (in a variety of shapes, sizes, materials and conditions) found at the Rose Cottage site.

**The key issues in determining this application are whether the development complies with planning policy, whether it would adversely affect the nearby SSSI, whether the access to the site is acceptable, and whether the development is sustainable given its rural location.**

### **Previous applications and appeals**

The applicants propose a revocation of the existing planning permission at the Rose Cottage site under planning permission PA/2004/0422. This consent gave planning permission to change the use of a workshop to a field study centre. The workshop was erected on site following the grant of planning permission under reference PA/1999/0488. Controlling the future use of Rose Cottage is considered to be necessary to ensure that two sites do not exist for commercial uses.

Both the Rose Cottage and Lupine Woods sites have been subject to a number of recent planning applications that have sought the relocation of the Field Study Centre.

Application PA/2013/0108 for extensions to the Lupine Woods site was refused at planning committee against officer recommendation of approval with the subsequent appeal dismissed in September 2014. It should be noted, following on from the reason for refusal at planning committee, the inspector considered there were three main issues:

- (a) whether a section 106 agreement is necessary to make the proposal acceptable in planning terms
- (b) whether or not the proposal would be in a suitable location, having regard to the principles of sustainable development, and
- (c) the effect of the proposal on the character and appearance of the local area.

In his assessment the inspector made the following comments:

- does not support the view that the current road infrastructure is inappropriate
- there is no conflict with Core Strategy policy CS13 that seeks, among other things, to ensure that educational facilities benefit from accessible and sustainable transport modes
- NPPF paragraph 28 requires local planning policy to support the sustainable growth and expansion of all types of business in rural areas, not just those that are essential to the function of the countryside
- in the event that the study centre is moved to Lupine Woods and activities cease at Rose Cottage, the carbon footprint would be significantly reduced through a reduction in the vehicle movements between the two sites
- the proposed extensions are modest additions that would be subservient to the main building and, as such, would not alter its relationship with the surrounding landscape
- the proposal is not intrusive either in design terms or in terms of non-residential use
- the design integrates well with the existing building and its height and massing sits well with the landscape



- significant harm would not be caused to the character and appearance of the local area.

However, having regard to the information before him and his own observations on site, he concluded that “on balance the proposal would be unacceptable in planning terms due to its impact on the living conditions of local residents in the absence of a S106 agreement and that the appeal should, therefore, be dismissed”.

At the July 2015 planning committee, a further application (PA/2015/0409), which mirrors the current application, was refused, against officer recommendation of approval, with the subsequent appeal dismissed in February 2016. The latest appeal decision is appended to this report.

It should be noted, following on from the reason for refusal at planning committee, the inspector considered there were four main issues:

- (i) whether the proposal would be in a suitable location, having regard to the principles of sustainable development in national and local planning policy
- (ii) the effect of the proposed development on the character and appearance of the surrounding area
- (iii) whether a unilateral undertaking is necessary to make the proposal acceptable in planning terms, and
- (iv) the effect of the proposal on the amenity of local residents.

The inspector concluded that “The proposal would not harm the character and appearance of the surrounding area and would not conflict with the principles of sustainable development. However, the development would have an unacceptable impact on the living conditions of local residents in the absence of an appropriately worded unilateral undertaking, and accordingly the appeal should fail.”

The inspector found significant fault with the wording of the unilateral undertaking which called into question its enforceability. He considered that subject to significant redrafting, an undertaking could make provision for cessation of commercial activity and business use at the Rose Cottage site, and a revocation or discontinuance order would not therefore be necessary.

The applicants have, therefore, addressed this matter and have resubmitted the proposal along with a revised draft Unilateral Undertaking that proposes to relocate all commercial activities relating to Haxey Study Centre to the Lupine Woods site. It is considered that the principle of the Unilateral Undertaking is acceptable.

### **Policy justification**

The National Planning Policy Framework (NPPF) seeks to promote a strong rural economy, and paragraph 28 supports the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and via well-designed new buildings. Indeed, one of the NPPF core planning principles is that planning should deliver sufficient community and cultural facilities and services to meet local needs.

In his assessment of the appeal against refusal of planning permission, the inspector states that the proposal would be in a suitable location. This satisfies paragraph 197 of the NPPF

which states that, in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

It is considered that the countryside is the appropriate location for the facilities provided and the animal husbandry/welfare elements of the business. The NPPF promotes the development and diversification of agriculture and other land-based rural business. Therefore, it is felt that this proposal should be supported subject to the applicants agreeing to revoke the existing planning permission attributed to the Rose Cottage site under reference PA/2004/0422 which will be achieved when the current Section 106 agreement is agreed and signed.

### **Impact upon the SSSI**

Haxey Turbary SSSI covers an area of 14.3 hectares and is effectively a square-shaped area to the north of Rose Cottage which is bisected by an access road/bridleway to Lupine Woods and an irregular-shaped area located to the south of Lupine Woods.

The proposed relocation would lead to a reduction in floor space used by HSC; the Rose Cottage buildings occupy approximately 475 square metres whereas the footprint of the Lupine Woods site would be approximately 390 square metres which will reduce the number of students and traffic movements accessing the site. Additionally, a reduction in heating and lighting costs and a reduction in the business's carbon footprint are environmental benefits attributed to this proposal.

The proposed extensions to the building (4.5 metres by 12 metres to the north and 3.6 metres by 12 metres to the south) do not represent a significant increase in terms of floor space provided and, therefore, the proposal will not result in an unacceptable encroachment towards the SSSI. Natural England has not objected and neither has the council's ecologist or Historic Environment Record (HER) Officer.

In this rural location, adjacent to a woodland and wet heathland Site of Special Scientific Interest (SSSI), there is potential for construction works and ongoing activities to cause harm to protected and priority species including nesting birds, bats, badger, hedgehog, reptiles and amphibians. As the development is relatively small in scale, these impacts could be addressed by sensitive working methods.

### **Access**

Vehicular access to the site is gained from an existing narrow access road that is also a bridleway which provides several residential properties with vehicular access. The council's Highways team has been consulted and raises no objections, nor do they recommend any conditions. Whilst concerns have been raised regarding maintenance issues for the vehicular access, the level of activity for vehicles accessing the site and highway safety, there are no reasons to withhold consent on highway grounds, and the Highways team does not wish to restrict the grant of permission.

### **Other matters**

The applicants are both qualified college lecturers and Directors of HSC and they both actively participate in the education of the students. Haxey Study Centre employs four staff and the provision of this more modern accommodation will secure the centre's existing

educational contracts and thus the jobs of the staff employed at the centre. The grant of permission will, therefore, secure four full-time teaching jobs.

A Unilateral Undertaking has been drafted by the applicant that is subject to the grant of planning permission for the extension to the building situated at Lupine Woods and for the transference of all commercial activities relating to Haxey Study Centre to that site (from Rose Cottage). As stated by the inspector when considering the appeal, the site will not cause significant harm to the character and appearance of the local area, and it is considered that once the Unilateral Undertaking is agreed then the current application should be supported.

## **RECOMMENDATION**

**Subject to the completion of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 providing for the cessation of all commercial activities relating to Haxey Study Centre from the land and buildings known as Rose Cottage, the committee resolves:**

- (i) it is mindful to grant permission for the development;**
- (ii) the decision be delegated to the Head of Development Management upon completion of the obligation;**
- (iii) if the obligation is not completed by 1st December 2016 the Head of Development Management be authorised to refuse the application as inappropriate additional development in the countryside; and**
- (iv) the permission so granted be subject to the following conditions:**

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: 817-13 2 of 3 (dated 9/06/15), 817-15 1 of 3 (dated 09/03/15) and 817-15 3 of 3 (dated 09/03/15).

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the runoff from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the

development is completed. The scheme shall also include details of how the scheme will be maintained and managed after completion.

#### Reason

To ensure the proposal complies with policies CS17 and CS19 of the North Lincolnshire Core Strategy and to prevent harm to the adjacent Site of Special Scientific Interest.

4.

No development shall take place until a biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- details of measures to be taken to avoid harm to hedgehogs, bats, reptiles, amphibians and nesting birds during demolition and construction;
- details of bat boxes and bird nest boxes to be installed in the grounds;
- proposed timings for the installation of the above features in relation to the completion of works on each building;
- restrictions on external lighting to avoid impacts on bat roosts, bat foraging areas and sensitive habitats; and
- prescriptions for habitat features to complement the features of the adjacent Haxey Turbary SSSI.

#### Reason

To protect and enhance features of recognised nature conservation importance in accordance with policy CS17 of the North Lincolnshire Core Strategy.

5.

The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter unless otherwise approved in writing by the local planning authority. Prior to the completion of the approved development the applicant or their successor in title shall submit a report to the local planning authority providing evidence of compliance with the biodiversity management plan.

#### Reason

To protect and enhance features of recognised nature conservation importance in accordance with policy CS17 of the North Lincolnshire Core Strategy.

6.

Prior to the commencement of development, details shall be submitted to and agreed in writing by the local planning authority of a scheme for biodiversity enhancement on the application site.

#### Reason

To ensure the proposal complies with paragraph 118 of the National Planning Policy Framework, policies LC2 and LC14 of the North Lincolnshire Local Plan and policy CS17 of the North Lincolnshire Core Strategy.

7.

Prior to development commencing a noise management scheme shall be submitted to and approval in writing by the local planning authority which demonstrates that the increased activity on site will not have an adverse impact on local residents. The noise management scheme shall include the following:

- hours of operation
- details of activities to take place on site (to include expected times of day)
- plant and equipment to be used on site (if applicable)
- likely noise levels associated with site activities, plant and equipment, and
- noise control measures to be employed.

Reason

To protect residential amenity.

8.

The operation of plant and all site activities shall take place in accordance with the approved noise management scheme. No changes shall be made to the approved noise management scheme unless agreed in writing by the local planning authority.

Reason

To protect residential amenity.

9.

Site opening and on-site activities shall be restricted to the hours of 7am to 9pm. The site shall remain closed with no activities outside of these hours unless otherwise agreed in writing by the local planning authority.

Reason

To protect residential amenity.

10.

All deliveries to the proposed development shall be restricted to the hours of Monday to Saturday 7am to 7pm. No deliveries shall take place on Sundays or bank/public holidays.

Reason

To protect residential amenity.

11.

Prior to the commencement of the use hereby permitted, a scheme for the collection, storage and disposal of animal waste and foul bedding shall be submitted to and approved by the local planning authority. The approved scheme shall be implemented on commencement of the use and retained thereafter.

Reason

To protect residential amenity.

12.

No external lighting of the site shall be installed until details of the proposed lighting are submitted to, and approved in writing by, the local planning authority. This information shall include:

- a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles);
- identification of sensitive receptors likely to be impacted upon by light nuisance;
- methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

The lighting shall be installed, maintained and operated in accordance with the approved details unless the local planning authority gives its written consent to the variation.

#### Reason

To protect the appearance of the area, the environment and local residents from light.

13.

Construction and site clearance operations shall be limited to the following days and hours:

- 7am to 7pm Monday to Friday
- 7am to 1pm on Saturdays.

No construction or site clearance operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

#### Reason

To protect residential amenity.

14.

The premises as extended shall only be used as an education and training facility and for no other purpose, including any other purposes in Class D1 of the Town and Country Planning (Use Classes) Order 1987 as amended.

#### Reason

To enable the local planning authority to retain a measure of control over the future use of the premises in this sensitive location.

#### **Informative 1**

This application must be read in conjunction with the relevant Section 106 Agreement.

#### **Informative 2**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

**Informative 3**

The proposed development and/or adjacent land/properties have the potential to suffer from a level of flooding due to surface or ground water run-off and/or drainage overflow. Care should be taken with finished floor levels, threshold levels and location of openings. SuDS must be considered. Further advice can be sought by contacting the council's Drainage Team on 01724 297522.

**Informative 4**

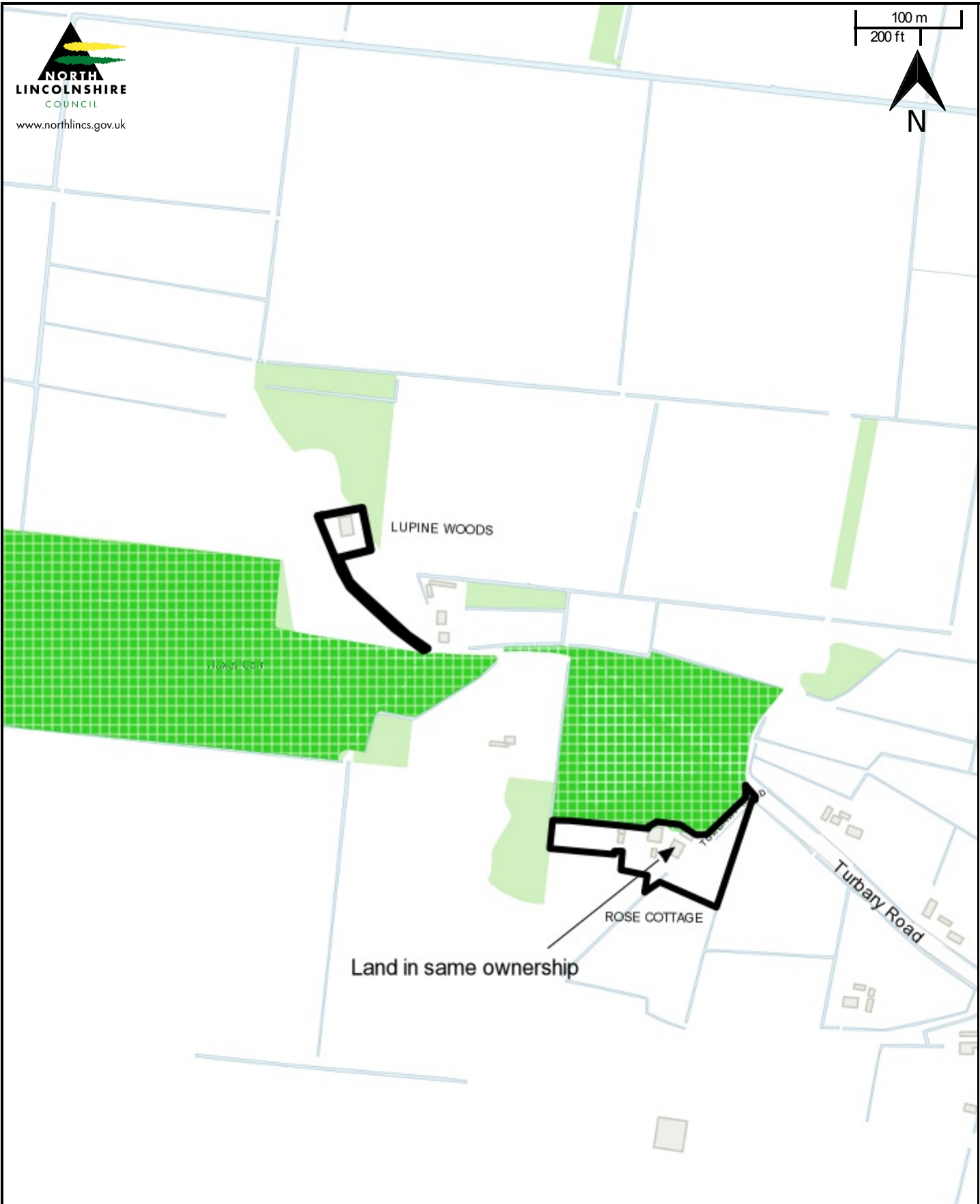
Land to the south of the development is higher ground; therefore the development could be at risk from flooding. Recommend provisions be made to safeguard against overland flow (ie a filter strip). Any further advice offered by the Environment Agency or Drainage Team should be acted upon.

**Informative 5**

The applicant must have either lawful authority or excuse to drive mechanically-propelled vehicles on Turbary Road. This is because Turbary Road is Public Bridleway 84 and under section 34 of the Road Traffic Act 1988 it is an offence to so drive on a bridleway without such lawful authority or excuse.

**Informative 6**

The bridleway/Turbary Road must not be altered in any way without the highway authority's prior consent (ie c/o the Environment Team for public rights of way).

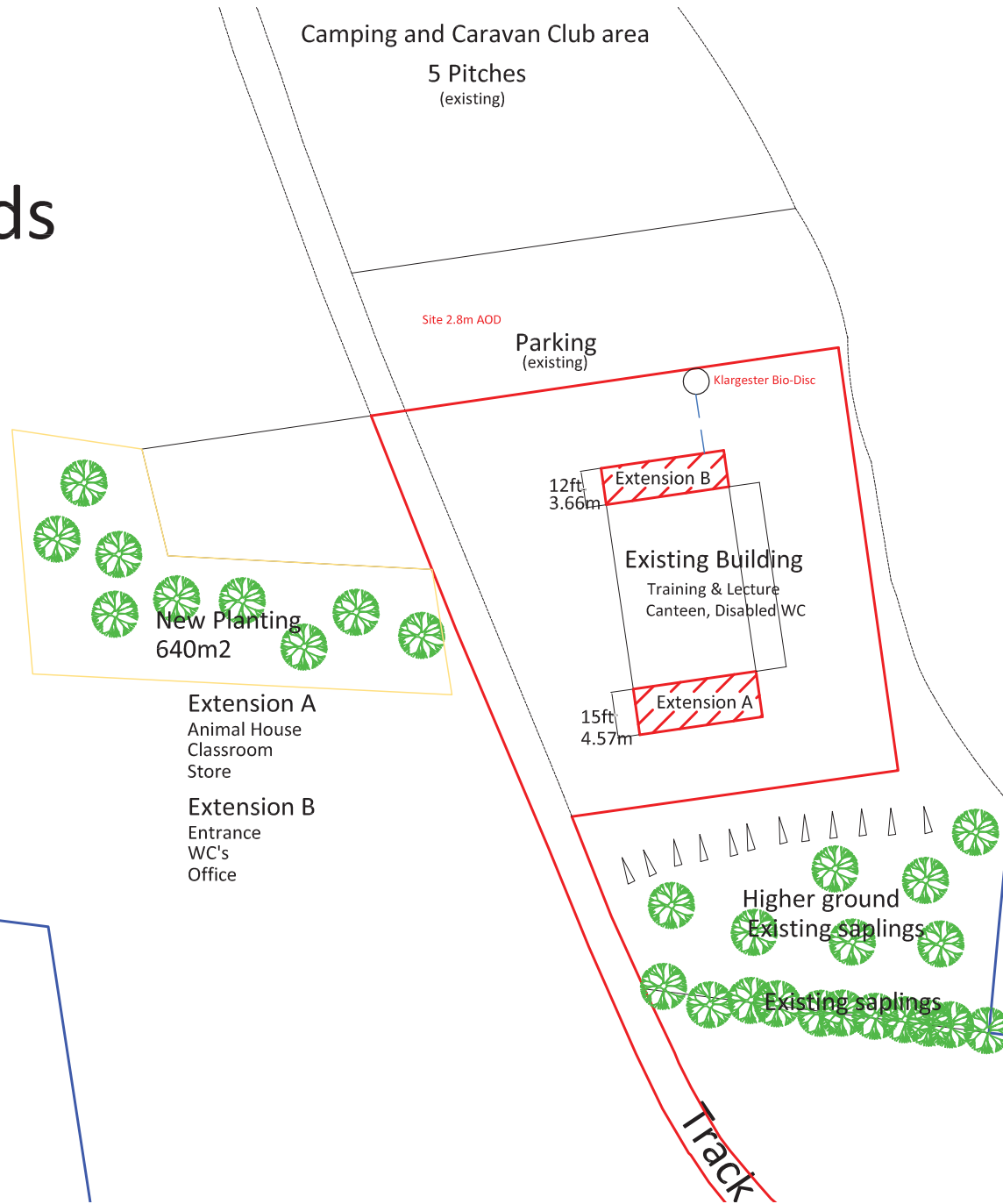


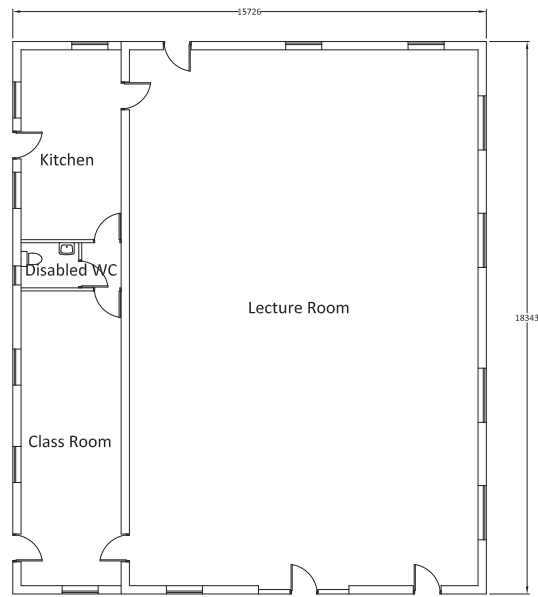
SSSI Sites  
Application Site





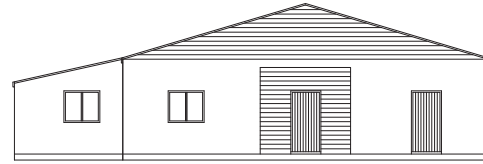
# Lupine Woods



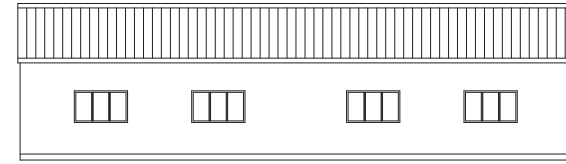


# Existing

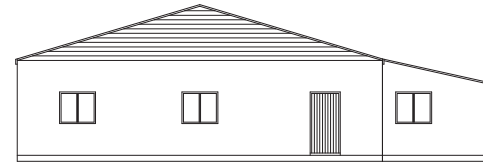
Date 9/3/16



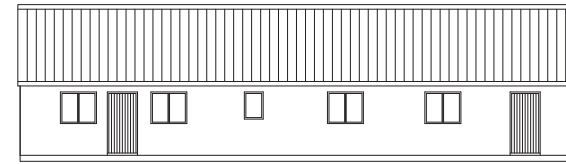
North Elevation



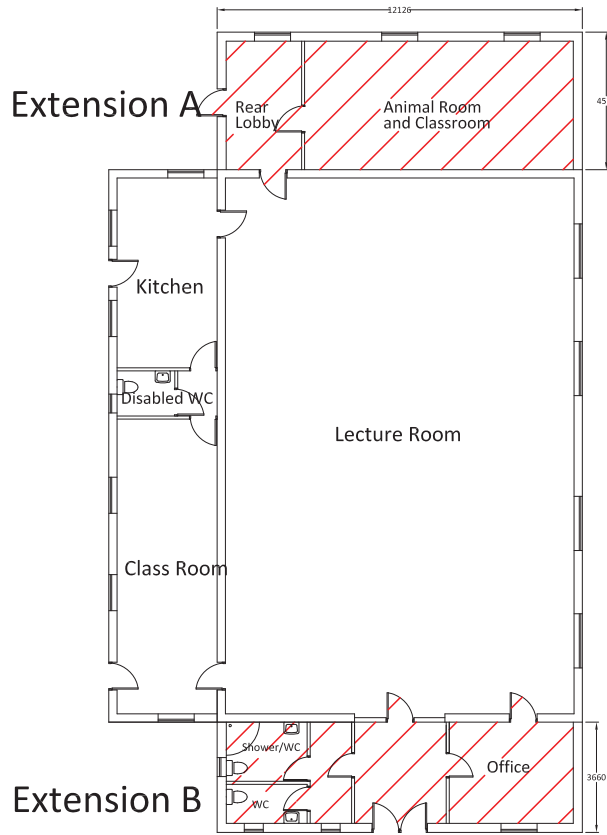
West Elevation



South Elevation



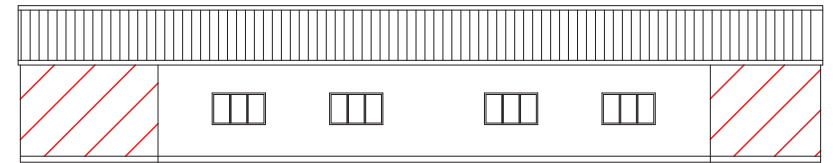
East Elevation



# Proposed



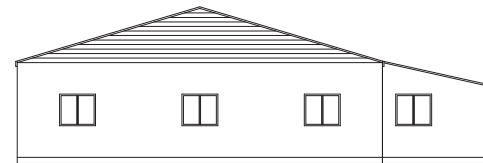
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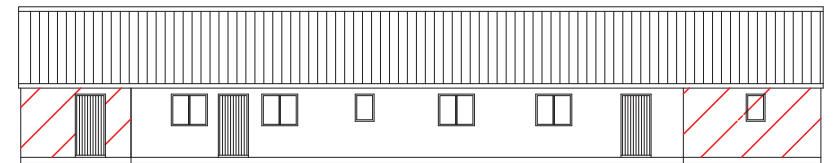
Extension A

West Elevation

Extension B



South Elevation



East Elevation

PA/2016/344 Proposed elevations and floor plan NOT TO SCALE

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## Appeal Decision

Site visit made on 6 January 2016

**by Michael Moffoot DipTP MRTPI DipMgt MCMi**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 January 2016**

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**Appeal Ref: APP/Y2003/W/15/3135253**

**Haxey Study Centre, Lupine Woods, Turbary Road, Haxey, North Lincolnshire DN9 2JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Michael & Mrs Angela White against the decision of North Lincolnshire Council.
  - The application Ref: PA/2015/0409, dated 31 March 2015, was refused by notice dated 29 July 2015.
  - The development proposed is to extend the existing training and lecture centre and relocate the educational centre (Haxey Study Centre) from Rose Cottage site to Lupine Woods site.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr M & Mrs A White against North Lincolnshire Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues in this case are:
  - (i) whether the proposal would be in a suitable location having regard to the principles of sustainable development in national and local planning policy;
  - (ii) the effect of the proposed development on the character and appearance of the surrounding area;
  - (iii) whether a unilateral undertaking is necessary to make the proposal acceptable in planning terms; and
  - (iv) the effect of the proposal on the amenity of local residents.

### Reasons

#### *Sustainability*

4. Lupine Woods lies at the end of Turbary Road, which extends north-westwards from Haxey and serves a number of farms and residential properties set in open countryside. The appeal site includes a large, single-storey building used as a training and lecture facility as part of the Haxey Study Centre, which is, in
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- part, based at Rose Cottage to the south-east of Lupine Woods. In addition to the proposed extensions, the appellants intend to relocate that part of the study centre at Rose Cottage so that the whole operation would be consolidated at the Lupine Woods site.
5. The Council submits that the proposed development would generate additional vehicular movements with poor access arrangements contrary to Policy CS2 of the *North Lincolnshire Core Strategy* which, amongst other things, requires provision of appropriate infrastructure to serve a proposed development. A number of local residents and the Parish Council share this view.
  6. The section of Turbary Road from the village to Star Croft is generally metalled beyond which it is loose-surfaced to its termination point adjacent to Timber Tops abutting Lupine Woods. For much of its length the route is in poor condition and passing places are informal and limited in number. However, I have no compelling evidence before me to show that the route has reached or exceeded its operational capacity such that any additional traffic movements arising from the proposal would create significant highway safety problems for road users and pedestrians. Furthermore, I note that the Council's Highway Officer offered no objections to the proposal. Accordingly, I find no conflict with Policy LC2 in this respect.
  7. In order to deliver more sustainable development Policy CS2 includes a requirement for development to be located to minimise the need to travel and encourage journeys by walking, cycling and public transport. Policy CS13 of the Core Strategy includes a requirement for educational facilities to be easily accessible to neighbourhood services and amenities and easily accessible by sustainable transport modes.
  8. The Council argues that the additional vehicular movements associated with the expansion of the existing facility in this rural location would be contrary to national and local sustainability objectives. The existing study centre is well established at the Rose Cottage and Lupine Woods sites and the nature of the facility generally requires a rural location. As such, staff and visitors are largely reliant on private transport to reach the sites in the absence of accessible public transport. Consolidating the operation at the Lupine Woods site would not materially increase the number of students and staff, and consequently there would be no appreciable increase in vehicles visiting the study centre as a result of the proposed development. Although the site is in an unsustainable location, the proposal comprises rationalisation of the operation rather than intensification.
  9. However, the accessibility of the site is only one dimension of sustainable development, and my assessment must also take into account the three dimensions of sustainability set out in paragraph 7 of the *National Planning Policy Framework* ('the Framework'). The proposed relocation of the study centre to the Lupine Woods site and cessation of associated activities at Rose Cottage would significantly reduce the number of vehicle movements back and forth between the two sites by staff and visitors. Fossil fuel consumption in the form of heating and lighting would also be reduced by concentrating the facility at the Lupine Woods site and the proposal would incorporate other sustainable technologies such as rainwater harvesting to reduce the facility's carbon footprint. The scheme would therefore bring about environmental benefits, which the Framework supports.

10. In a modest way the proposal would also safeguard existing jobs at the study centre, provide local employment opportunities and support economic growth of a business in a rural area as encouraged in the Framework. It would also make a small contribution to the local economy during the construction stage, and afterwards with students using the facilities in the village. Together these factors add weight in favour of the proposal.
11. In terms of the social dimension, it is important that the proposal incorporates measures to ensure that the scheme does not generate increased activity which would adversely affect local residents' living conditions. In this respect, and mindful of the previous appeal decision<sup>1</sup>, it is clear that a suitable mechanism is necessary to secure the relocation of the entire study centre operation to the Lupine Woods site. I deal with this matter later in the decision.

#### *Character and appearance*

12. The proposal involves the erection of extensions at each end of the Lupine Woods building to provide an entrance lobby, office, WC/shower and an animal room and classroom. In terms of scale and form these would be modest additions which would be subordinate in appearance to the existing structure. Matching materials would be employed and the proposals would reflect the simple design characteristics and functional form of the host building. The Council and interested parties submit that the proposal would harm the character of the countryside in the vicinity of the appeal site, which includes the Isle of Axholme Area of Special Historic Landscape Interest.
13. The existing building is well screened by earth mounding, dense woodland and other foliage, including a significant area of new planting undertaken on the western side of the site. Despite its rural location and functional appearance, the scale and form of the host building respects its local context and it sits quietly within its setting.
14. Views of the extended building from the north-western end of Turbary Road and the bridleway through Haxey Turbary Woods would be filtered by well-established foliage and the more recent planting. From these public vantage points the two extensions would not be prominent and it would not be readily apparent to the casual observer that the building had been enlarged. Whilst the extensions may be visible from the nearest residential property at Timber Tops, intervening vegetation would minimise the impact and additional planting could be required by condition if the appeal were to succeed.
15. The rationalisation of the study centre operation and its relocation to the Lupine Woods site would not substantially increase activity in the vicinity of the building. I acknowledge that there may be additional traffic, parked vehicles and human activity on the site, but any increase would be insignificant and would not have an appreciable impact on the countryside.
16. The proposal would therefore have a negligible impact on the local landscape and the character and appearance of the surrounding area would not be materially harmed by the development. As such, I find no conflict with those parts of Policies RD2 and LC14 of the Local Plan and Policy CS3 of the Core Strategy which seek to secure appropriate development in the countryside and protect Areas of Special Historic Landscape Interest.

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<sup>1</sup> APP/Y2003/A/14/2218187

### *Unilateral undertaking*

17. The appeal proposal is accompanied by an amended unilateral undertaking dated 4 January 2016. Subject to planning permission being granted for the proposed development, the document undertakes to: cease all commercial activity at the Rose Cottage site; relocate all the commercial goods and chattels associated with the study centre from the Rose Cottage site to the Lupine Woods site; confine the operation to the Lupine Woods site; and revert Rose Cottage to a smallholding.
18. The undertaking does not cite the correct name of the Council. More significantly, however, the undertaking states in Part 3.1.(d) that it is subject to and reliant upon the Council granting planning permission for the extension of the existing building at Lupine Woods. However, that responsibility has passed to me as the Secretary of State's appointed Inspector. The wording of this part of the undertaking raises fundamental doubt about the enforceability of the undertaking given that the grant of planning permission is no longer vested in the Council. In short, I consider it may render the undertaking unenforceable.
19. Other concerns regard the undertaking have been raised by interested parties. The cessation of use of study centre activities at Rose Cottage is provided for in the undertaking, and issues regarding rights of access over land affected by the undertaking are between the relevant parties. The future of existing buildings at Rose Cottage is generally a matter for the appellants as is animal husbandry at the Lupine Woods site. Any proposals for future expansion of the facility or provision of a dwelling at the Lupine Woods site are for the Council to consider on their individual merits and are not matters for preclusion in a unilateral undertaking. Subject to significant redrafting, an undertaking could make provision for cessation of commercial activity and business use at the Rose Cottage site, and a revocation or discontinuance order would not therefore be necessary.
20. The procedural guide to appeals<sup>2</sup> requires a unilateral undertaking to make clear when each of its requirements is triggered, which the submitted undertaking fails to do in respect of the grant of planning permission. I have therefore found significant fault with the unilateral undertaking which calls into question its enforceability. This has implications for residents' living conditions and the acceptability of the appeal proposal as I shall explain below.

### *Living conditions*

21. I acknowledge the appellants' intention to concentrate the study centre facility at the Lupine Woods site and return Rose Cottage to residential/smallholding use. However, without an appropriately worded undertaking the use of the Rose Cottage site as part of the study centre operation could continue.
22. The appellants advise that the proposed extensions would allow them to accommodate the same number of students at Lupine Woods as are presently catered for at the Rose Cottage site. In the absence of an appropriately worded undertaking, the student capacity of the study centre could be doubled if both sites were in use. Such intensification in activity would have a significant impact on local residents' living conditions, particularly in respect of

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<sup>2</sup> *Procedural Guide: Planning Appeals - England* (July 2015)

vehicular use of Turbary Road, including the movement of vehicles between the two sites. The coming and going of vehicles associated with the unrestricted use of both sites would generate noise and disturbance in what is otherwise a peaceful rural backwater. I accept that the use of both sites is not the appellant's intention, but in the absence of an appropriately worded undertaking to confine the study centre to the Lupine Woods site, the appellants or future owners of the business could operate both sites to the severe detriment of local residents.

23. I therefore conclude on the basis of the evidence before me, including the submitted unilateral undertaking, that the proposed development would generate unacceptable noise and disturbance which would be seriously detrimental to residents' living conditions. As such, the proposal would conflict with sustainability objectives in the Framework which seek to improve the conditions in which people live, work, travel and take leisure and secure a good standard of amenity for all existing and future occupants of land and buildings. I therefore conclude overall that the submitted unilateral undertaking would not make the proposal acceptable in planning terms.

### **Other Matters**

24. The submissions in this case comprise a considerable amount of material, all of which I have taken into account. However, much of it concerns matters unrelated to this particular appeal and do not affect my judgement of the issues I consider to be relevant.
25. No compelling evidence has been provided to show that the proposed development would harm the adjacent Haxey Turbary Site of Special Scientific Interest and suitable planning conditions could safeguard hydrology, water quality and control external lighting. There is no technical evidence to show that surface and foul drainage from the development could not be adequately disposed of.
26. The alternative option of concentrating the study centre operation and providing replacement buildings at Rose Cottage are not matters before me in this appeal. Retention of the mobile home and toilet block on the Lupine Woods site is a matter for the Council as are concerns regarding other businesses allegedly operating on both appeal sites.
27. As regards the potential for creation of a precedent for more extensions at the Lupine Woods site if the appeal were to be allowed, I have determined the proposal on its individual merits and in accordance with prevailing planning policies, and therefore attach very limited weight to this concern.

### **Conclusion**

28. The proposal would not harm the character and appearance of the surrounding area and would not conflict with the principles of sustainable development. However, the development would have an unacceptable impact on the living conditions of local residents in the absence of an appropriately worded unilateral undertaking, and accordingly the appeal should fail.

*Michael Moffoot*

Inspector