

[06] Full Planning Permission

S/094/00705/ 24 **APPLICANT:** Spaceright Europe Ltd,

VALID: 29/04/2024 **AGENT:** Mosaic Town Planning

PROPOSAL: Planning Permission - Erection of industrial plant to be used for dust extraction (works already commenced).

LOCATION: MILLHOUSE MANUFACTURING DESIGN LTD, ROUGHTON ROAD, KIRKBY ON BAIN, WOODHALL SPA, LN10 6YL

1.0 REASONS FOR COMMITTEE CONSIDERATION

1.1 The proposal has been subject to a call-in request by Councillor Leyland as the Local Ward Member for the following reasons:

- Harm to residents amenity
- The disturbance caused by extended hours of use of ventilation extraction plant on wider local amenity
- Kirkby on Bain Parish Council object

2.0 THE SITE AND SURROUNDINGS

2.1 The site is located to the northern edge of the medium village of Kirkby On Bain (as defined in the East Lindsey Local Plan). The site is within Flood Zone 1 - Low Risk. There are a number of buildings on the site, including; an office block, manufacturing building, storage building and various ancillary structures for the storage of raw materials. The main manufacturing building is single storey and is constructed from red brick and grey corrugated steel sheeting. The site is accessed off a long driveway which runs adjacent to the north boundary off Roughton Road.

2.2 A high hedge and public footpath runs along the north and west boundaries. Beyond the north boundary is a recently constructed dwelling which fronts onto Roughton Road, set within spacious grounds. To the south of the access drive and east of the main site complex are two detached dwellings also set within spacious plots. To the south and west are open agricultural fields with a row of recently constructed dwellings to the south-east built in linear form fronting onto Roughton Road creating a ribbon of development connecting the site to the northern extent of the village built form.

3.0 DESCRIPTION OF THE PROPOSAL

3.1 This application seeks retrospective full planning permission for the installation of industrial ventilation and dust extraction plant to the rear of the existing manufacturing building. The current business operation is the manufacture and supply educational furniture, toys and resources for schools and nurseries.

3.2 The extraction plant was completed in March 2024 and is fully operational. It is installed to the rear of the existing manufacturing

building and sits between the rear west elevation of the building and the western boundary of the site. It consists of:-

- x3 motors and fan units with acoustic enclosures;
- x4 extract exhausts;
- additional duct piping to connect the new system to the existing;
- scrubber/filter silo;

3.3 The application is supported by an Acoustic Report dated April 2024 and an Acoustic Report Addendum dated July 2024, prepared by AEI Acoustics Ltd. No other changes to the external appearance of the existing buildings or uses of the buildings are proposed.

4.0 CONSULTATION

4.1 Set out below are the consultation responses that have been received on this application. These responses may be summarised and full copies are available for inspection separately. Some of the comments made may not constitute material planning considerations.

Publicity

4.2 The application has been advertised by means of a site notice displayed at the front of the site on the public footpath signpost and neighbours have been notified in writing. The Ward Councillors are aware of the application via the Weekly List.

Consultees

4.3 PARISH COUNCIL – Object. Firstly there has been tremendous expansion at the site over recent years without planning consent or any other form of control. This includes the installation of more plant, buildings and equipment which has increased the impact of intrusive noise and vehicular movements on Kirkby on Bain. Also, hours of operation have similarly been uncontrolled. In their submission documents from the company, it states work ceases at 6pm each day and there is no operation at weekends or Bank Holidays. This is not true. They work regularly into the evenings, and weekends, and sometimes extending to the early hours. Currently, they have scaled back operations whilst this planning application is considered. At the moment the company has carte blanche in its operation in the village. Its modus operandi should reflect that it is sited in a residential part of a quiet village.

4.4 LCC HIGHWAYS AND LEAD LOCAL FLOOD AUTHORITY - Does not wish to restrict the grant of permission. This proposal is for the erection of an industrial plant to be used for dust extraction and the access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

4.5 ENVIRONMENTAL HEALTH (Environmental Protection) - I have

reviewed the above application and would like to make the following comments. I agree that a BS 4142:2014 - Methods for rating and assessing industrial and commercial sound assessment is the correct methodology to use in order to help determine the acoustic impact of the planning application on local noise sensitive receptors. The submitted acoustic report also refers to BS 8233:2014 guidance on sound insulation and noise reduction for buildings for indoor ambient noise levels for dwellings and the World Health Organisation Guidelines for community noise for outdoor and indoor areas. I agree that these are suitable documents. The acoustic consultant has defined the amenity area of NSR1* to a 20m segregated area of the property; I agree that this is a reasonable approach to defining the amenity area.

The submitted cover letter advises that 'the site does not operate beyond 6pm during weekdays and not at all on Saturday, Sunday and Bank Holidays' I have noted that the acoustic report appears to show the factory operating outside of these hours (past 10pm) and the Environmental Health Service have received complaints regarding noise coming from the factory outside of these hours. If the factory are only going to operate to the hours defined in the cover letter and if you are minded to grant permission please can you give consideration to an operating hours condition to be placed on any said permission. Whilst I acknowledge that the factory has been in existence in this location for many years and therefore has little restriction placed on its operation, the nature of the area is predominately residential and a restriction on the hours of use will help to control any loss of amenity in the future.

Two monitoring positions (MP) were utilised in the assessment. The report advises that MP1 was positioned approximately 3m from the boundary tree line and any reflective surfaces. Ideally this distance should be 3.5m however I am assuming that there was not sufficient distance within the confines of the site to reach this measurement. This position was utilised between 28th March (10:00am) to 3rd April (9:00am). Para 4.2.2 of the report advises that the microphone was 1.8m from ground level (GL) however in Chapter 3 the measurement is stated to be taken at a height of 1.5m from GL. BS4142 states that the height of the microphone should be 1.2 – 1.5m above the ground. I would have expected to see a discussion on the positioning of the monitoring equipment. BS4142 states that the measurement locations should be chosen that will give results that are representative of the ambient sound and residual sound at the assessment location. I suggest that there were alternative positions on the site that would have reflected the acoustic climate at the NSR more accurately without the need for calculated levels.

The second monitoring position relates to an attended measurement period of 45 minutes on 3rd April. Again this position could have been better in order to reflect the position of the NSR. BS4142 refers to a day-time reference level of 1 hour so

it was unfortunate that only 45 minutes of data was obtained.

Information regarding meteorological conditions has been provided however there is no commentary on these, can it be confirmed that periods of adverse weather during the monitoring that could have significantly affected the data has been removed such as periods of rainfall and wind speeds in excess of 5m/s have been given careful consideration.

I suggest that the monitoring that was undertaken to determine the specific sound level was influenced by other factory noises that would have been impossible to isolate, the report indicates that this was the case.

The acoustic report has provided measured time averaged levels in Table 5 based over 14 and 16 hour periods for the dates 28th March to 2nd April, I cannot however see a reference to a 1 hour time period for the daytime assessment and if required a 15 minute night time period as required by BS4142. A long time averaged time period can have the effect of reducing the overall sound level. I would also wish to seek reassurance that the premises were operating as normal over the time period 28th March – 2nd April as much of this was Easter. Table 5 suggests that on 29th March – 1st April the LAeq levels are significantly less than on the 28th March and 2nd April. Chart 2 – 7 also show a significant difference in the acoustic environment. I would suggest that the factory was not operational over the whole time period. Chapter 7 of the acoustic report does indicate that the factory was closed but I am unclear as to what data over the monitoring periods has been used.

Para 6.1.3 of the submitted report states that the background levels measured at MP1 are not representative of the levels at NSR1, I agree with this statement. Para 9.2 of the submitted acoustic report provides a statistical analysis of the background noise levels and table 6 has used a level of 29dB(A) as a typical background sound level however there is no explanation as to how this has been determined as a typical level or the position in which the level were recorded or the time periods. The monitoring to determine the background level should have been undertaken at either the NSR1 or in a location comparable to the assessment location.

Para 6.1.5 refers to a rating level. BS4142 defines a rating level as a specific sound level plus any adjustment for the characteristic features of the sound. The acoustic report has included distance and barrier attenuation in this definition, had the measurement position been chosen more wisely this would not have been necessary. The rating level is used to determine acoustic features that increase the significance of the noise impact and if present a character correction is applied. I note that the subjective method has been applied for tonality of 4db (clearly perceptible)

impulsivity of 3dB just perceptible and intermittency (not intermittently as per the report) of 3dB readily distinctive against the residual acoustic environment.

The BS4142 assessment on Page 18 is titled an 8 hour daytime assessment as opposed to a 1 hour assessment however a 16 hour ambient sound level has been used. A residual sound level of 50dB has been used however I am unclear on the data source for this, has it been taken during night-time, factory shutdown or between plant shutdown periods? I do not know where the data for the background level has been obtained from. Barrier attenuation and distance corrections can be used to create a calculated specific sound level however the proposed plan shows extract points above the roof line and I am unclear as to the level of noise that is emitted from these points that would have a direct line of sight and no barrier attenuation afforded to them.

I would advise that noise monitoring at NSR1 was undertaken on 18th July 2023 by the Local Authority which is after the plant subject to this application was installed (works completed March 2024 according to covering letter). The levels obtained during this monitoring period were higher than those predicted in the submitted acoustic report however the levels resulted in acceptable levels when considering guidance provided by BS8233:2014 and Guidelines for Community noise (WHO 1999). A specific BS4142 assessment was not undertaken as the investigation was in relation to an alleged statutory nuisance under the Environmental Protection Act 1990 which is out of scope of the BS4142 document. At the time of the Environmental Health investigation, it was found that noise from the site did not constitute a statutory nuisance.

*NSR – Noise sensitive receptor, in this case a residential property

Neighbours

4.6 9 letters of objection received with the following concerns:-

- Noise impacts upon the living conditions of nearby residents and local businesses
- Anti-Social hours of operation
- Impact on users of the public footpath due to noise
- Impact on future house sales as a result of noise and disturbance

5.0 AMENDED/ADDITIONAL INFORMATION

5.1 On 16th July 2024 the applicant submitted a Noise Assessment Addendum and a supporting statement to respond to the queries and concerns raised. The Parish Council, Environmental Health and neighbours were re-consulted.

5.2 Consultees

PARISH COUNCIL - No reply.

ENVIRONMENTAL HEALTH (Environmental Protection) - Reviewed and satisfied they have addressed the queries previously raised and that the levels of noise from the site are not a reason to refuse planning permission.

5.3 Neighbours

4 letters of objection based on the same issues identified at 4.6 of this report.

6.0 RELEVANT SITE HISTORY

6.1 **S/094/1623/93** - Planning Permission - Change of use of existing premises falling within class B8. of the Town and Country Planning (Use Classes) Order 1987 (Storage or distribution) to use under class B2. of the order (General industrial). *Approved with Conditions 09/12/1993*. Conditions 2 and 3 are relevant:-

Condition 2 - No power driven machinery (other than vehicles and the existing ventilation and extraction equipment) shall be operated other than in the building and the subject of the current application. Reason: To safeguard local residents from noise and disturbance.

Condition 3 - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order) no plant or machinery shall be installed outside any building on the site, nor shall any building be extended, without the grant of planning permission by the Local Planning Authority in that behalf. Reason: In the interests of amenity and satisfactory layout.

S/094/262/92 - Planning Permission - Alterations to existing vehicular and pedestrian access. *Approved*.

6.2 **S094/1364/18** - Planning Permission - Erection of a storage building in connection with existing manufacturing business. *Approved with Conditions 06/09/2018*.

7.0 PLANNING POLICY

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises of the East Lindsey Local Plan (adopted 2018), including the Core Strategy and the Settlement Proposals Development Plan Document; and any made Neighbourhood Plans. The Government's National Planning Policy Framework (NPPF) is a material consideration.

East Lindsey Local Plan

SP2 – Sustainable development (mirrors the presumption in favour of sustainable development within the NPPF)

SP10 – Design (seeks to secure good design outcomes)

SP13 - Inland Employment (seeks to support growth and diversification of the local economy)

SP23 - Landscape Character

National Planning Policy Framework (NPPF)

Noise Policy Statement for England (Dept. for Environment, Food & Rural Affairs, 2010)

8.0 OFFICER ASSESSMENT OF THE PROPOSAL

Main Planning Issues

8.1 The main planning issues in this case are considered to be:

- **Principle of development**
- **Residential Amenity**
- **Visual Impact**

Principle of development

8.2 The proposal seeks planning permission for the installation of a ventilation and dust suppression and extraction system to the rear of an existing commercial premises. The existing business, Millhouse Manufacturing, has been operating from the site since early 1990's. Millhouse manufacture and supply educational furniture, toys and resources for schools and nurseries and is part of the Spaceright Europe Ltd group. The site is located on the edge of the medium sized village of Kirkby on Bain and employs some 40 employees. The new extraction system is required as part of additional investment and support for the growth of the business, whilst improving air quality for staff, meeting health and safety obligations and meeting air quality requirements. SP13 of the East Lindsey Local Plan (ELLP) supports and growth and diversification of the local economy including development where it can provide local employment. The guidance contained within the National Planning Policy Framework (NPPF) states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt, placing significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It goes on to state that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas.

8.3 The new extraction system allows for the increase of demand from customers and therefore supports the growth of the business, which is linked to a Greater Lincolnshire Local Enterprise Partnership priority sector (Manufacturing). The extraction system will support the ongoing sustainability of the business. Consequently, the principle of the proposed

development is acceptable with the main issues being the impacts upon the living conditions of the occupiers of the neighbouring dwellings.

Residential Amenity

- 8.4 By the nature of the proposed development, it is considered that the key issue relates to the impacts of noise resulting from the operation of the extraction system. Paragraph 135 of the NPPF states that development should ensure a high standard of amenity for existing and future occupants. Paragraph 180(e) states planning policies and decisions should contribute to and enhance to the natural local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution. Further on at Paragraph 191(a) it states planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative impacts) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life. Policy SP10 of the ELLP which relates to design confirms that development will be supported where it does not unacceptably harm nearby residential amenity.
- 8.5 The applicant states in their covering letter dated 25th April 2024 the site does not operate beyond 1800 hrs during weekdays and at no times during the weekend or bank holidays. The application form contradicts this statement and states the hours of operation are between 0700 hrs to 2245 hrs Mon-Fri and at no times on Saturdays, Sundays or Bank Holidays. This has been clarified with the applicant who confirms the correct operational hours are those stated on the application form.
- 8.6 The application is accompanied by a noise impact assessment prepared by an Acoustic Consultant (AEI Acoustics Ltd) dated April 2024 which has been updated with an addendum dated July 2024 to respond to queries and concerns raised by the Council's Environmental Health Officer and third parties. The system with purpose built acoustic enclosures around the motors and fans is positioned to the rear of the main factory building that provides a barrier between the noise source and the noise sensitive receptor.
- 8.7 Whilst the detailed report acknowledges the background noise experienced by neighbours, the assessment carried out by the Acoustic Consultant and investigations carried out by the Council's Environmental Health Department conclude the resulting noise does not amount to significant adverse harm to residential amenity. The noise assessment concludes the rating of 'low adverse impact' was calculated based on the closest noise sensitive receiver. Consequently, although concerns raised are noted, there is no justified planning reason to refuse permission on noise impacts.

- 8.8 Furthermore, the established business currently operates unrestricted. There are no conditions imposed on any previous planning permissions to control the hours of which the business operates. Given this application relates to the extraction system only, it would be unreasonable to impose restrictions on their general hours of working at the site. In this case, although the concerns of third parties are noted, due to the scale and position of the extraction system, acoustic mitigation measures together with separation distances between the system and the nearest neighbouring properties, it is considered that the proposal would not have significant adverse impact on residential amenity during daytime hours. However, it has not been demonstrated that the extraction system would not cause significant harm if it were to continue to be operated beyond daytime hours (i.e. beyond 2300hrs). As such, a condition is recommended to restrict the hours of which the extraction system can be operated in line with the applicants stated hours of operation, in the interests of neighbouring residential amenity. This would restrict the operation of the extraction system only and would not prevent the business premises being used for other business needs that would not require the extraction system to be operated, i.e. office work.

Visual Impact

- 8.9 Strategic Policy SP10 of the ELLP relates to design of new development and seeks to ensure the character and appearance of an area is not unacceptably harmed, in line with the guidance contained within the NPPF at paragraph 135. Strategic Policy 23 deals with landscape and seeks to ensure landscape quality is not compromised. The site lies in the landscape character area "F1 - Woodhall Spa to Coningsby River Terrace" as identified in the Council's Landscape Character Assessment dated July 2009. The overall landscape sensitivity of the area should be taken into account when deciding the appropriateness of development within this area. The overall landscape character sensitivity of this area is moderate to low. In the context of this advice and the aims of Strategic Policies 10 and 23 of the ELLP, there is likely to be no adverse harm caused upon the landscape or to the rural character of the area.
- 8.10 The part of the site of which the plant equipment is sited forms part and parcel of the larger site area. Although the plant system appears bulky and crude up close, it is positioned to the rear of the existing manufacturing building where there are very limited public views. Any views of the equipment, including roof jet cowels, are minimal and do not appear out of context to the industrial nature of the site. Consequently, design and landscape policies are not compromised and there is no unacceptable adverse impact upon the character and appearance of the area.

9.0 OFFICER RECOMMENDATION: Approve with Conditions.

RECOMMENDATION: Approve

subject to the following conditions:

1. Full planning permission
The development hereby permitted shall begin not later than [3] years from the date of this decision.

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved drawings:-

Plan No. 1MO22-MHA-XX-XX-DR-A-01-001-P3
Received by the LPA on 29/04/2024.

Plan No. 1MO22-MHA-XX-XX-DR-A-00-002-P3
Received by the LPA on 29/04/2024.

Plan No. 1MO22-MHA-XX-XX-DR-A-01-002-P3
Received by the LPA on 29/04/2024.

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

- 3 The extraction system hereby permitted shall not be operated outside the hours of 0700 hrs and 2245 hrs Monday to Friday nor at any time on Saturdays, Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity. This condition is imposed in accordance with Paragraph 135, 180 and 191 of the National Planning Policy Framework 2023.