

REGULATORY AND OTHER COMMITTEE REPORT

NAME OF COMMITTEE:	Planning and Regulation
DATE OF MEETING:	07/06/2010
SUBJECT:	County Council Development Section 73 Application to remove Condition 3 (All windows shall be fixed shut) of Planning Permission N/105/0983/08/3 at Wolds College, North Holme Road, Louth (E)N105/0007/10
REPORT BY:	Executive Director (Development Services)
NAME OF CONTACT OFFICER:	Alan Freeman
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IS THE REPORT EXEMPT	No
IS REPORT CONFIDENTIAL?	No

SUMMARY

Planning permission under Section 73 of the Town and Country Planning Act is sought to remove Condition 3, all windows shall be fixed shut, of planning permission N/105/0983/08/3 granted in 2008 for the erection of a vocational college (known as Wolds College). Following consideration of the relevant development plan policies and the comments received through consultation it is recommended that Condition 3 be conditionally removed and replaced by a

condition ensuring windows are shut on the motor mechanics workshop when power tools are in use and engines are tested.

DISCUSSION

The Application

1. Planning permission is sought under Section 73 of the Town and Country Planning Act 1990 to remove Condition 3 attached to planning permission N/105/0983/08/3 for the partial retrospective application for the erection of a two storey vocational centre, at Louth Cordeaux School, rear of High Holme Road, Louth. Condition 3 states:-

“All windows shall be fixed shut”.

Reason: “In the Interests of Local Amenity”.

The application was submitted on 23 November 2009.

2. The College provides vocational courses for 200 full time equivalent 16-19 year olds, including up to 90 part time apprentices, and up to 400 14-16 year old pupils. The college is current allowed to open during the following hours:-

Monday to Friday	06.00 hours to 21.00 hours
Saturday	07.00 hours to 13.00 hours

3. The applicant states that the removal of Condition 3 would not be to the detriment to the neighbouring properties due to the following reasons:-

“(a) Proximity of Neighbouring Properties

All windows are located at a distance greater than the accepted planning standard of 21 metres for a minimum separation distance from adjoining properties. (27.6 metres approximately from the closest property to NE elevation, 34.5 metres approximately from closest property to SE elevation, 27.3 metres approximately from closest property to SW elevation).

“(b) Acoustic Testing

Following through acoustic testing carried out on 21 April 2009 by a qualified acoustic engineer to a standard set at in BS4142 and overseen by the District Council Environmental Health Officer, it has been demonstrated that the College’s internal operations are within the required parameters and result in minimal acoustic disruption to the immediate surrounding area”.

As a result of concerns raised by the current District Environmental Health Officer over the methodology of the test, a further test was carried out on 19 May 2010 overseen by that officer.

“(c) Ventilation Strategy

It should also be taken into consideration that the building has been designed in accordance with Building Bulletin 101 ‘Ventilation of School Buildings’ and, as such, particular areas rely entirely on the presence of opening windows to

provide the necessary number of air change as set down by the guidance document. The inability of the building to benefit from the full issues reported by the building users during the warmer parts of the first year of the buildings operation.

Further to this the building has also been designed to pursue the standards set out. The BREEAM Schools assessment tool (in particular with reference to section HW5 'Potential for natural ventilation' and HW11 'Ventilation rates') and as such has aimed to provide occupant controlled ventilation via opening windows in as many relevant building areas as possible. The pursuit of BREEAM best practice standards is also in line with the comment Lincolnshire County Council Environmental Sustainability Policy”.

4. The Boards of Wolds and East Education Trust and the Wolds College Company, have expressed concern with the situation regarding the internal temperature and ventilation within the Wolds College building.
5. The windows concerned are as follows:-
 - **NORTH EAST ELEVATION (FRONT OF BUILDING)**
First floor top light windows:- 15 windows;
Atrium 4 windows
Ground floor – 5 windows
Atrium 4 windows
 - **SOUTH WEST ELEVATION (REAR OF BUILDING TOWARDS HOLMES CRESCENT AND HOLMES CLOSE)**
First floor – 8 top opener windows, one on stair well
Ground floor – stair well window
 - **SOUTH EAST ELEVATION (TOWARDS HIGH HOLME ROAD)**
First floor – 10 top opener windows
Atrium – 2 windows
Ground floor – 4 windows above door height
 - **NORTH WEST ELEVATION**
First floor – 8 top opener windows
Ground floor – 5 windows above door height
Atrium – 2 windows

Site and Surroundings

6. The application site comprises a parcel of land measuring approximately 70 metres by 58 metres (approximately 0.4 hectares). The site is occupied by the Wolds College. Working in a clockwise direction from the north eastern side of the site the existing boundaries and adjoining uses are as follows:-
 - **North Eastern Boundary**
 - Paved footway which is now blocked off and 1.8 metre high close boarded fence.
 - Tarmac private roading beyond.

- Number 119d converted stables now residential with window in gable and facing the site and courtyard garden.
- Number 119a detached house, obscure glazed dormer windows and (2) bedroom window at first floor facing the site. At ground floor, 2 secondary windows to habitable room on gable end and lounge window. Garden area south of dwelling with south western and open to site.
- Number 119b, bungalow, 2 habitable windows facing site. Garden to rear of property.
- 2 metre Larch lap fence opposite along boundary of college.

- **South Western Boundary**

- Larch lap fence to rear of Numbers 113 to 117 High Holme Road, with Leylandii hedge to rear of Number 115.
- Existing brick wall enclosed electricity transformer sub station
- Close boarded fence 2 metres high to rear of Numbers 111 to 117 High Holme Road.
- Number 117 High Holme Road detached property has garage and shed in garden. Two bedrooms and lounge window on elevation facing site. Rear elevation 24 metres from boundary fence.
- Numbers 113 and 115 semi detached dwellings both with 2 bedrooms and lounge windows facing the site. Rear elevations 31 metres from boundary.
- Number 111 High Holme Road, garage, extension to main dwelling, bedroom window at first floor and lounge window on ground floor. Nearest element of dwelling 12 metres from boundary.

- **North Western Boundary**

- Steel palisade fencing along boundary up to Number 18 Holmes Close.
- Site ground level approximately 0.5 metres below garden levels.
- Gardens mainly open in nature.
- Two blocks of 4 dwellings, Numbers 81 – 87 and Number 89 – 95 High Holme Road (also known as The Crescent).
- A 3.3 metre high blockwork wall between numbers 81 - 87 The Crescent.
- All dwellings have 2 bedroom windows, a door with side lights and a kitchen window overlooking the site.
- The nearest elevation of the properties to the application site is 22 metres, the furthest 29 metres.
- Properties in Holmes Close have a 2.63 metre high blockwork wall within brick facing to the rear of Number 17 and Number 18.
- Number 18 Holmes Close has 2 bedroom windows and a bathroom window overlooking the site. The main bedroom has a balcony. At ground floor there are 2 habitable rooms and a kitchen. The property is 17 metres at its closest to the application site.
- Number 17 Holmes Close has four windows and French doors serving a lounge and kitchen at ground floor with a bathroom and a bedroom window overlooking the site. The mid point of the rear elevation is approximately 11 metres from the application site.
- Number 16 Holmes Close has a bathroom and bedroom window at first floor and kitchen windows, large window and half glazed door with side light facing the site.

- **North Western Side of the Site**

- Wooden hut.
- Classroom block with gable end facing application site.

Planning History

7. N/105/2629/06/3 - Construct a two storey vocational centre at Louth Cordeaux School, North Holme Road, Louth. Approved 24 January 2007 following a Committee decision on 15 January 2007.
8. N/105/00983/08/3 - Partial Retrospective Application for the erection of a two storey Vocational Centre at Louth Cordeaux School, rear of High Holme Road, Louth.

Main Planning Considerations

Local Plan Context

9. Policy A4 – Protection of General Amenities – saved policy of the East Lindsey Local Plan Alteration (1999) states:-

“Development which unacceptably harms the general amenities of people living or working nearby will not be permitted.”

Results of Consultation and Publicity

10. (a) Louth Town Council – strongly object to the application and supports local residents on the basis that the original conditions were agreed in 2008 to protect the amenity of those neighbours and that any additional intrusion to their privacy – visual or noise is a material consideration. To attempt to negate any of the original conditions placed upon the development, created for the provision of the protection to neighbours is not acceptable.

Louth Town Council Planning Committee remain in full support of the Wolds College in its role as an educational establishment within the Town, but feel that all the conditions applied should remain firmly in place.

- (b) Highways (Lincolnshire County Council) – no comment.
- (c) East Lindsey District Council’s Environmental Protection Officer – comment received on 17 February 2010 on noise report submitted with application, unable to conclude report without submission of further information. A noise assessment was subsequently carried out on 19 May 2010 and East Lindsey District Council’s Environmental Protection Officer was consulted on 24 May 2010.
- (d) Local County Council Member – Councillor Mrs P F Watson – consulted on 5 January 2010 but has made no written comment but has indicated that she wishes to address the Committee.

Neighbour Comments

11. The application has been publicised by four site notices located at:-

- Entrance to the Wolds College on North Holme Road;
- Outside No. 129 High Holme Road;
- Outside No. 111 High Holme Road;
- Holmes Close.

Thirty occupiers of residential properties adjoining the site along High Holme Road, The Crescent and Holmes Close were notified by letter.

12. The summary comments received with respect to the opening of windows is as follows:-

- the application is duplicit;
- the windows have never been fixed shut as required by the planning permission;
- the College nor LCC have taken no notice of the conditions – some windows have been left open all night;
- the reason given for the college being built one metre higher than the original plan was to allow more roof space to accommodate the ducting for air conditioning;
- the building is unsuitable for a residential area, now being asked to put up with more disturbance purely because of deficiencies in the construction of the Wolds College building;
- the college states that pupils/teachers are “becoming unwell during the warmer months” because the windows are closed. However, as the College management have never managed to comply with this condition, even during the coldest winter for years, it is highly unlikely.
- Residents forum held in a classroom at the centre of the building that has no windows. Rooms were therefore designed to operate without windows, or it was so badly designed that many of the windowless rooms will be unsafe to use during warmer weather;
- a report on the college states “additional ventilation and extraction to the building control requirements could be installed retrospectively” obviously meaning that there are other alternatives to opening the windows. Therefore the removal of this condition is just the cheap option regardless of the effect on local amenity.
- all alternatives should be considered before amendments are made to the condition, including
 - allowing the minimum number of windows necessary to open. The remaining windows should be sealed shut;
 - windows that are allowed to open should be opened inwards;
 - windows should be closed outside normal school hours to minimise noise from evening classes
- why should there be a condition requiring workshop doors to remain shut when the windows would allow the same noise to escape to nearby residential properties;
- the noise report submitted with the application was undertaken when the college was not operating at current capacity;
- the most recent noise assessment was undertaken when the rear classroom was empty and questions what lessons were going on in which classrooms at the time;

- the condition was placed on the college in the interests of local amenity. It is up to Lincolnshire County Council to produce evidence that proves without any doubt that the removal of this condition will have absolutely no detrimental effect on the noise levels and privacy of the surrounding residential properties;
- if the evidence cannot be produced a 100% guarantee, then this condition should remain and should be enforced;
- condition was not imposed for reasons of noise but to prevent overlooking; and
- concern of windows being open in the workshop area when cars are being tested and power tools used.

District Council Observations

13. Object unless the County Council's own specialist noise advice is that if the windows are allowed to open the development will not have an unreasonable impact on the living conditions of the occupiers of nearby dwellings.

Conclusions

14. The matters which need consideration are as follows:-
- why was the condition imposed?
 - is there a need for the windows to be open?
 - would there be any reduction in privacy?
 - would there be any demonstrable harm caused by noise and disturbance due to the windows being open?
 - are there any viable alternatives?

Reason for the Condition

15. The condition was attached to the permission by the Planning and Regulation Committee in response to concerns from residents of potential overlooking and Committee concerns over noise. It was considered reasonable to attach such a condition as it was understood the air management system provided was equal to an air conditioning system.

The Need for Windows to be Open

16. The applicant has confirmed that the air management system is not an air conditioning system. It is understood that the air management system can only operate effectively if the windows that are designed to open are able to open. Internally the building contains ducting that takes air to various areas of the building. These Air Handling Units provide tempered fresh air ventilation and extract stale air from the same areas as the fresh air is delivered to.

There are only two ceiling mounted air conditioning units for the electronics workshop and one small system for the IT server room where the only air conditioning (cooling only) is provided in the building.

The college has recorded temperature readings in the high 20°C and occasionally over 30°C. The College Board has constantly raised issues over the high temperatures in teaching areas and concerns over the impact upon the health and safety of students and staff.

Privacy

17. The opening windows are either above door lintel height on the ground floor or top lights above average head height on the first floor. Each window is fitted with a restrictor on the opening to allow a 10cm opening. For students to look out of the windows they would have to climb on the furniture or window cills. The openers are clear glass with the lower fixed windows being obscure.
18. If the occupants of the college were able to stand on furniture or the window cill the angle of visual incident would be less than 90° at approximately 66° with Numbers 17 and 18 Holmes Close, which are the closest residential properties to the college.
19. It is considered that in view of the height of the opening windows, the distances away from residential properties and the restricted opening upon the windows, it would not be detrimental to residential amenity to remove Condition 3 requiring windows to be fixed shut.

Noise and Disturbance

20. The noise emission assessment with respect to open windows concludes ‘that open windows are not a significant source of noise and it is therefore concluded that the windows need not remain closed for noise control purposes’. With the windows closed and typical teaching activities being undertaken resulted in a 44.3 L_{A90}(db), whereas with the windows open the same activity resulted in a reading of 44.6 L_{A90}(dB). The difference in the two readings is less than 1dB. Since it is generally accepted that a difference in noise levels of less than 3dB cannot be detected by the average human, the study concludes there are no grounds from a noise emission standpoint for the windows to remain closed.

Alternatives

21. The possibility of retrospectively installing air conditioning was explored by the College, however this would require the installation of external cassette systems which would emit significantly more noise than with the windows open.
22. In the comments received the potential to facilitate the free flow of air through using selective windows and sealing the rest shut was put forward. It is evident that the noise test concludes it is unnecessary to list the number of windows which can be opened for noise reasons. The suggestion to discriminate between windows is therefore unnecessary and inappropriate.
23. A further suggestion was made in comments from residents that to allow the opening of windows in the motor workshop would be contrary to the principle established in Condition 17. The Condition requires the roller doors to be shut during engine testing and when power tools are being used. It is considered appropriate that in support of Condition 17 that Condition 3 be removed and replaced by a new condition which states:-

The windows to the motor mechanics workshop shall be closed during the use of power tools and when engine testing is taking place.

24. It is considered that in view of the conclusions of the noise assessment report and with the provisions of the above revised condition the proposal to enable windows to be opened to allow ventilation accords with 'the policies of the Development Plan' and is therefore acceptable.

RECOMMENDATIONS

That permission be granted for the erection of a vocational college without complying with Condition Number 3 of planning permission reference number E(N).105/0983/08/3 dated 24 June 2008 subject to all other conditions set out in that decision notice, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:-

1. The windows to the motor mechanics workshop shall be closed during the use of power tools and when engine testing is taking place.

Reason

1. In the interests of local amenity.

Reason for Granting Planning Permission

The proposed amendment to the condition relating to the windows does, with the attachment of variation to the condition, give no use to any demonstrable harm and therefore is in accord with the principles of Policy A4 – Protection of General Amenities – saved policy of the East Lindsey Local Plan Alteration (1999).

Policies Referred To:

East Lindsey Local Plan Alteration (1999) Saved Policies (2007)
Policy A4 – Protection of General Amenities

APPENDICES (if applicable) - these are listed below and attached at the back of the report.

APPENDIX A

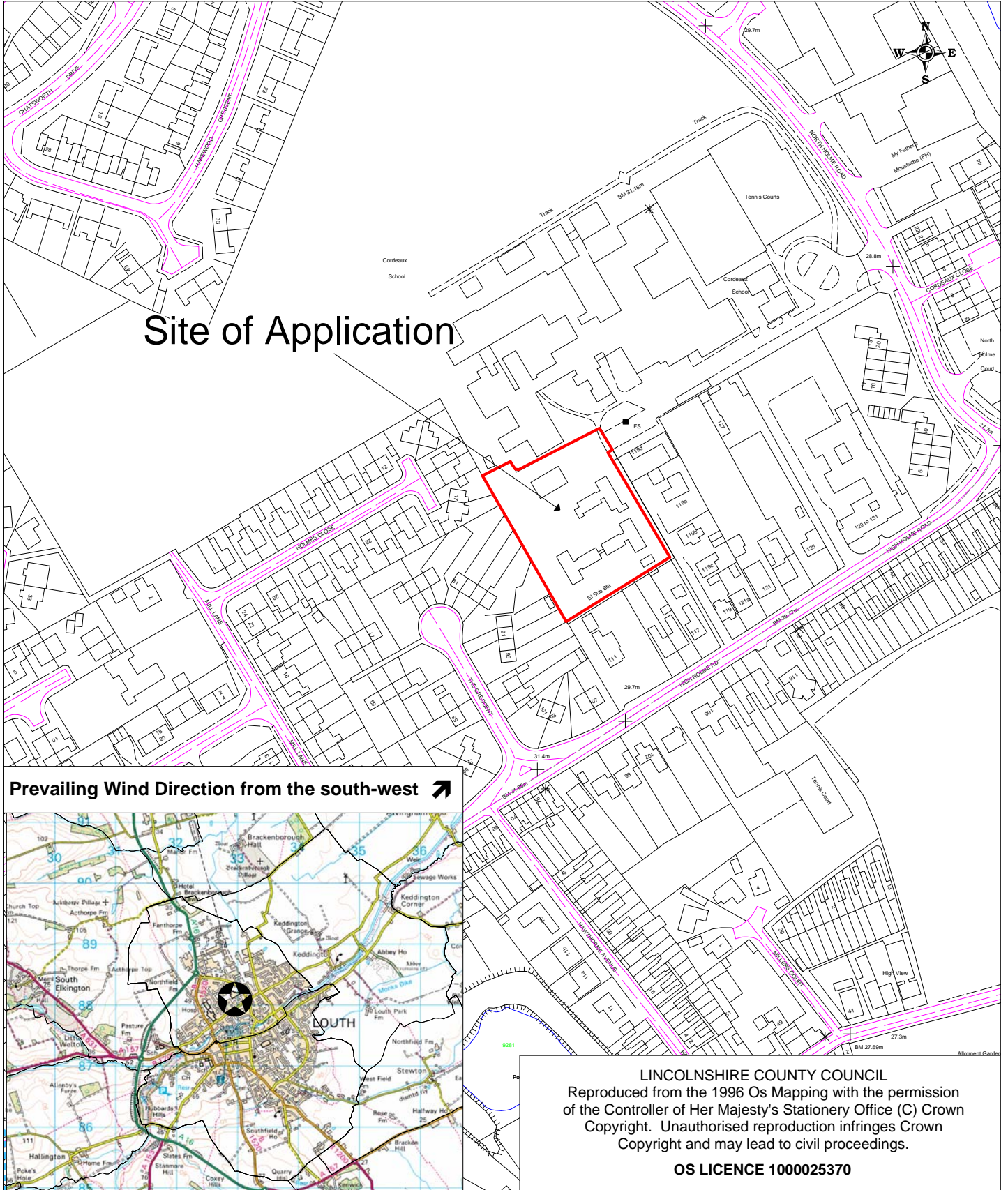
Elevations of college showing windows concerned

BACKGROUND PAPERS

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

PAPER TYPE	TITLE	DATE	ACCESSIBILITY
Planning Application file	(E)N105/00983/09 (E)N105/0007/10	12 March 2008 23 November 2009	Lincolnshire County Council, Spatial Planning, Witham Park House, Waterside South, Lincoln
Local Plan (Saved Policies)	Saved Policies of the East Lindsey Local Plan	1999 (Saved Policies 2007)	

LINCOLNSHIRE COUNTY COUNCIL SPATIAL PLANNING



Location:
 Wolds College
 North Holme Road
 Louth

Application No. (E)N105/0007/10

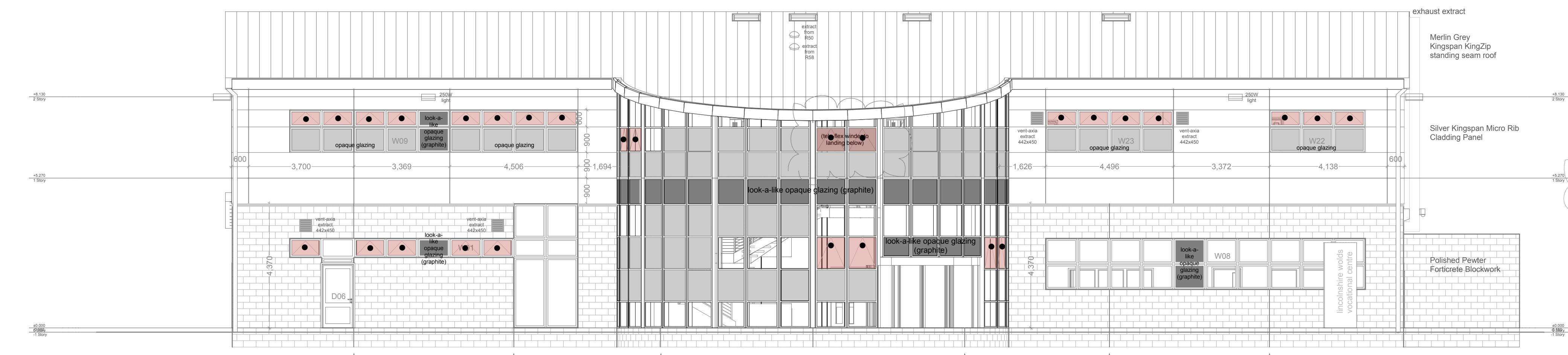
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Description:
 Section 73 Application to remove Condition 3 (all
 windows shall be fixed shut) of Planning Permission
 N/105/0983/08/3

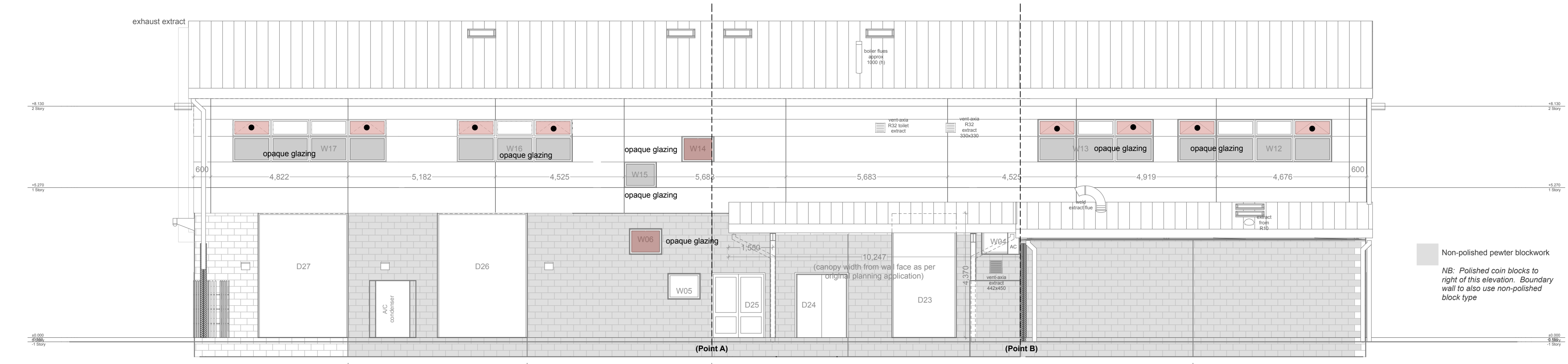
Planning and Regulation Committee 7 June 2010

All dimensions and levels to be verified on site. Do not scale this drawing. Any discrepancies to be notified to the originator of this drawing immediately. If in doubt, ask. Copyright is reserved by them and the drawing is issued on the condition that it is not copied, reproduced, retained, or disclosed to any unauthorised person, either wholly or in part with consent.

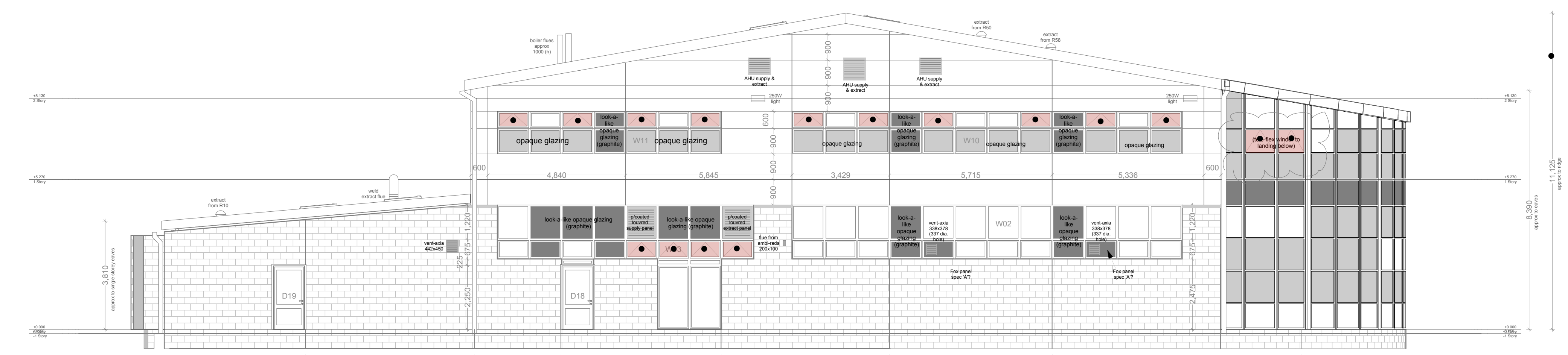
Appendix A



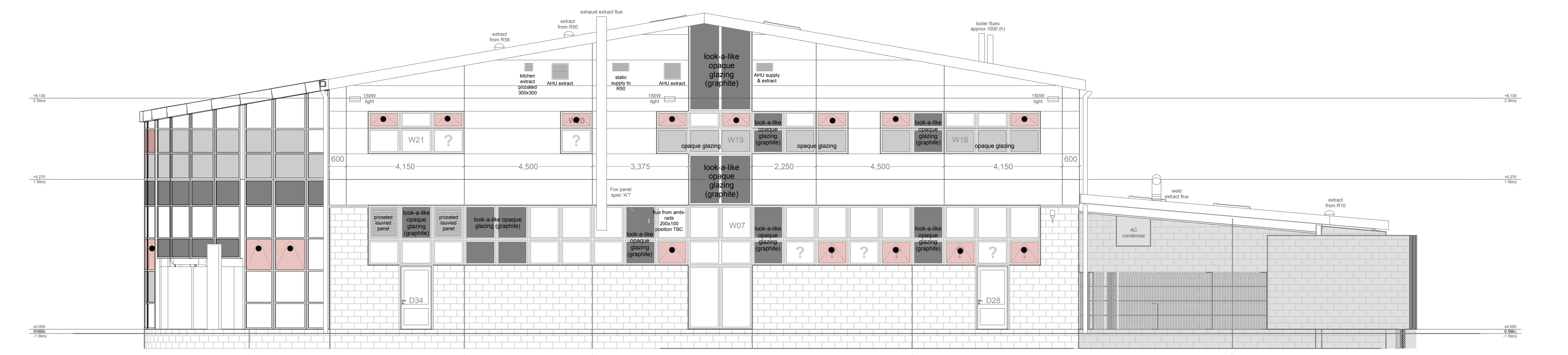
NE/E North East Elevation 1:100



SW/E South West Elevation 1:100



SE/E South East Elevation 1:100



NW/E North West Elevation 1:100

Rev.	Date	Description	By	Chk'd
K	11/01/09	Opening vent key added. 4 no. manual opening vents added to entrance glazing.	JMT	EL
J	20/10/08	External bulkhead lighting locations indicated	JMT	EL
I	14/10/08	External lighting locations indicated	JMT	EL
H	20/08/08	Opaque areas to ground floor entrance glazing agreed on site with Alan Freeman 19.8.08. Relocated school CCTV camera indicated.	JMT	EL
G	04/08/08	Opaque areas to first floor entrance glazing agreed on site with Alan Freeman 29.7.08	JMT	EL
F	22/07/08	Welding extract flue arrangement reduced in size.	JMT	EL
E	03/07/08	Opaque glazing specification confirmed, glazing areas subject to review noted. This revision is made to fulfill the requirements of Planning Condition 2. This revised drawing supercedes drawing No. 20C referred to in Planning Condition 1.	JMT	EL
D	27/06/08	Canopy amended to fulfill requirements of planning permission condition 5. Boundary wall height increased 3.3m to fulfill requirements of condition 10.	JMT	EL
C	30/05/08	Opaque area around entrance glazing increased	JMT	EL
B	16/05/08	Opaque glazing increased, opaque graphics introduced, exhaust extract noted. High level louvre configuration confirmed	JMT	EL
A	09/04/08	Opaque and view control glazing areas added to FF windows.	JMT	EL

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Client
Lincolnshire County Council

Project
Wolds College

Drawing Title
Elevations

Drawn By
JMT/NG

Checked By
EL

Scale
1:100 @ A1

Date
10/03/08

Project No.
DC/802/0001

Drawing No.
020

Revision
K

Drawing Status
Planning Application

Please Note:

Location of louvred AHU supply & extract grill locations at high level on gable ends is still to be confirmed (shown indicatively)

Ambi-rad flue location at ground floor on North West elevation is still to be confirmed (shown indicatively)