



1.3 In respect to the size of vehicles, page 8 of the design and access statement referred to in condition 20 stated that egg collection would be by a 26 tonne rigid lorry. 26 tonne rigid lorries have a maximum length of 12m.

1.4 Through the course of assessing the application there have been several changes in the proposed description of the application. The original description was to remove condition 20 to allow no restrictions on vehicles entering and leaving the site.

1.5 The current proposals seeks to vary condition 20 to allow 16.5m long articulated egg collection lorries to enter the site at all times and days with the exception of 08:20 to 09:30 on weekdays and 14:45 to 18:00 on weekdays and leave the site at all times and days with the exception of 08:20 to 09:05 on weekdays and 14:45 to 18:00 on weekdays.

1.6 At the time the application was submitted it was indicated that the eggs that would be produced were being supplied for pharmaceutical use and would need to be transported to Liverpool. The applicant has stated that they are able to control lorry movements related to for example, the delivery of feed and the removal of waste with minimal impact on the running of the business. However, the applicant has stated that because the lorry that collects the eggs picks up eggs from another site in the same trip is difficult to always keep deliveries within the current allowed times. The lorry seeks to arrive at the egg unit early in the morning (06:00) and depart in advance of the 07:30 restriction - however, there have been occasions that the lorry has not been loaded by 07:30. If the lorry does not leave by 07:30, condition 20 would require them to stay on site until 09:30. The applicant has stated that this situation is unacceptable to their existing customer/hauliers.

1.7 There are two egg collections (by one lorry) from the site each week. Because of the limited shelf life of stored eggs the applicant has stated that a cycle of two week collection would typically lead to eggs being collected on a weekend on one occasion per month.

1.8 The application description was changed to make reference to the difference in lorry size and type on 23 October 2018 and neighbours, objectors and the parish re-consulted. The deadline for responses to be received is 13 November 2018. Responses received after publishing this report will be updated at committee along with any resultant changes considered necessary in the recommendation.

## **2.0 POLICY CONTEXT**

### 2.1 National Planning Policy Framework (2018)

### 2.2 Publication Draft Local Plan (2018)

Policy T1 (Sustainable Places)  
Policy D1 (Placemaking)

### 2.3 City of York Draft Local Plan (2005)

Policy T5 (Traffic and Pedestrian Safety).

## **3.0 CONSULTATIONS**

### INTERNAL

#### Public Protection

##### 3.1 No objections

#### Highway Network Management

3.2 It seems that the main reason the restrictive deliveries condition was included was to prevent possible conflicts at school drop-off and pick up times. Whilst it is considered the restrictions are excessive they are currently in existence and provide primarily a restriction on school times and, given the location, make some sense. In the light of the level of objections a restriction of just 1 hour between 8:30-9:30am could be beneficial?

### EXTERNAL

#### Wheldrake Parish Council

3.3 Content with the lifting of the weekend restrictions but could not support the lifting of the morning restriction. Do not support the removal of the condition, but they would support a variation.

#### Neighbours and Publicity

3.4 68 Objections have been received from residents. 62 of the comments were received at the time the application was described as the removal of condition 20. Objectors were also re-consulted in respect to the revised proposal to just vary the lorry times to allow restricted morning and weekend deliveries for the egg collection. The change to condition 20 in respect to using a 16.5m long lorry was re-advertised and new site notices erected on 23 October. The consultation period expires on 13 November 2018 and any additional comments will be reported verbally.

3.5 All of the objections and comments that have been received at the date of publication of this report regarding the application are summarised below. It is not

considered that it can be assumed that because few objections have been received to the variation of the condition rather than its removal, people's concerns submitted in respect to the removal of the condition are no longer applicable.

### Issues relating to Broad Highway and North Lane near the school

- Lorries are a hazard near the school due to the children and congestion and parked cars.
- Congestion and safety around the school and pre-school is of great concern and the school have initiated measures to discourage inconsiderate parking.
- The unit was only approved due to the traffic restrictions and nothing has changed, including the uses on Broad Highway and their operating times.
- Traffic is congested at 08:45-09:10 on school days.
- A playgroup is located on Broad Highway.
- Events at the sports grounds and village hall have insufficient off street parking.
- A mini bus parks on Broad Highway near the school.
- School buses waiting on North Lane would restrict movement of the lorry.
- Secondary school children are picked up at the corner by the school at 8.00 a.m.
- If lorries are inappropriate in the afternoon they should be inappropriate in the morning too.
- The planning officer should view the video online that shows the difficulties caused when a lorry exits Broad Highway into North Lane. (The 2:18 long video referred to can be seen on YouTube by entering the text 'Wheldrake articulated lorry near school')
- Large vehicles need to mount the curb to pass parked vehicles.
- Lorries swing onto the wrong side of North Lane when exiting Broad Highway.
- If allowed it will jeopardise the ability of children who live on Broad Highway to walk to school and the bus stop.
- The change is a huge and unnecessary risk and an accident waiting to happen.
- Please use a risk assessment based approach.
- Restrictions should be increased not reduced.
- Removing the restrictions may cause the death of a child.
- Many years ago on Boroughbridge Road a teenager travelling to Manor School was killed by a HGV.
- Children run in and out of the playground on Broad Highway.
- The street is already busy and challenging for children testing their independence.
- The stopping distance of a lorry is much longer than a car.
- If the application is to be approved a safe crossing should be provided on Broad Highway by the school.
- The police should be consulted regarding the proposal.

## Highway safety Issues relating to Broad Highway as a whole and north of the recreational facilities.

- Broad highway is a narrow, ancient track used by cyclists, dog walkers, walkers and horse riders. Also used by people in wheelchairs.
- Broad Highway is busy at weekends with leisure users, children and people using the sports facilities, particularly in the summer.
- Most of Broad Highway is a single track with a 60mph speed limit and is not gritted or cleared of snow in winter.
- There are skid marks particularly near blind corners from large vehicles on Broad Highway which show the safety issues.
- The lane is used by tractors with trailers and sometimes combine harvesters and bottlenecks will occur with unsupervised reversing.
- Need to enforce and implement speed restrictions on Broad Highway.
- Broad Highway is a narrow road with blind bends.
- When cars come past, children have to get off their bikes and move into the verge.
- A 16.5m lorry would not be able to use the passing places.
- The road is not wide enough.

## Comments regarding the operation of the egg unit

- If approved egg collections will be every weekend.
- Concerned that the change will also lead to more lorries going to the site.
- The business should change its logistic arrangements rather than the condition.
- Every road haulage company has the same potential tachograph problem due to traffic delays.
- Why are not eggs collected earlier if the 07.30 restriction is causing difficulties to the egg unit?
- Absurd to relax restrictions when the applicant is not complying with those that exist.
- Can not understand why a delay in collection would cause problems given the long sell by dates on eggs.
- The business owner knew of the restrictions prior to constructing the development and his business plan would have taken account of this.
- There are already on-going breaches of the restrictions on lorry times entering and leaving the premises. A video exists of a HGV servicing the plant at Saturday morning at 9:24.
- As eggs are collected by a local company can not understand why they can not be collected on time.

### Comments regarding applicant's submission/justification.

- Statistics regarding crashes are low because of the restrictions in place.
- The applicant's transport note does not consider issues regarding the amenity of residents referred to in the reasons for the condition.
- The traffic assessment does not provide a true representation of the use of Broad Highway and was conducted in the middle of winter when recreational use would have been low. It does not indicate use by people on foot.

### Comments made regarding character and the environment.

- Huge vehicles destroy verges.
- The large lorries scare horses.
- Traffic noise would harm sleep and the ability to work from home.
- Concerns regarding noise and fumes.
- Lorries passing by detract from the lovely village.
- Lorries cause light pollution and could change the heritage status of the conservation area and listed buildings. They could also damage foundations of older homes.
- Lorries travelling past at weekend will disturb sleep. All lorries that travel along Main Street are loud and fast.

### Other Comments

- The proposal is in conflict with attempts to increase cycling at the school.
- The use should have taken place on an industrial estate.
- The applicant could have put in a separate track to by-pass the village.
- The restrictions were a good compromise.
- Even with the recent amendments it is unsuitable.
- Was unbelievable the unit was approved at all.
- See no reason to object to occasional weekend or Bank Holiday access.
- Any lifting of restrictions on Saturday should be before 07:00.
- The planning condition should be altered to refer to the times that Broad Highway can be used rather than entering or exiting the site, as nonsense without this.
- Lorries cause the road to deteriorate.
- North Lane is busy with a path only on one side.
- The lorries being used are 40 plus tonne lorries rather than 26 tonnes indicated in the design and access statement.
- Should put safety before profit.
- The council should have taken action in regard to the passing places not being put in prior to the construction and operation of the unit.

- Is this another case of York planning preparing to capitulate to big farming to the detriment of the people or is it more sinister and did planning give the 'nod' to Hobson's in respect to agreeing to later quietly remove the restrictions?
- There are also fast motorbikes at weekends and the potential for conflict between the two.

### Julian Sturdy MP

The previous application caused much concern to residents and the restrictions were important. Broad Highway contains a school and play park. No material change has occurred within the village to justify the removal of the planning restriction and would like to place on record my opposition to the removal of condition 20.

## **4.0 APPRAISAL**

4.1 Given that the application seeks to amend an approved scheme, the development itself has been judged to be acceptable in principle at an earlier date. Consideration of the current application therefore is not about the principle of the development, but is focussed on the proposed amendments and assessed in the light of current policy.

### Key Issue

- Impact on the amenity of residents and the free flow of traffic on Broad Highway.

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. The relevant statutory development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates the general extent of the Green Belt.

### National Planning Policy Framework

4.3 The revised National Planning Policy Framework (NPPF) was published in July 2018. It sets out the government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to-date representation of key relevant policy issues (other than the saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

4.4 Paragraph 38 advises that local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

4.5 The site is located in the Green Belt, however the proposed changes to egg collection times (not numbers) are not considered to impact on any issues relating to the role of the Green Belt.

4.6 Paragraph 80 states that policies and decisions should help to create the conditions in which businesses can invest expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

4.7 Paragraph 91 states that decisions should aim to achieve healthy, inclusive and safe places. Paragraph 110 states that applications for development should create places that are safe, secure and attractive and minimise the scope for conflicts between pedestrians, cyclists and vehicles.

4.8 Chapter 15 relates to conserving and enhancing the natural environment. It states that decisions should contribute to and enhance the natural and local environment including minimising impacts on biodiversity.

#### Environmental Impact assessment

4.9 The 2017 Town and Country Planning (Environmental Impact Assessment) Regulations seek to protect the environment. The regulations set out a procedure for identifying those projects which should be subject to an Environmental Impact Assessment, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects. A screening opinion was sought in regard to the 2015 application for the egg unit. It was concluded that the impacts were not such to require an Environmental Statement. The variation to a condition requires the Local Planning Authority to carry out a new screening exercise for the development proposed. It is concluded that the impacts of the development, including the proposed variation of condition would not now require an Environmental Statement to be submitted.

#### Wheldrake Village Design Statement

4.10 The document was approved in March 2015 as a draft supplementary planning document to the emerging Local Plan and is a material consideration when assessing planning applications. Of relevance to the application are the following guidelines and issues:



- The importance of public rights of way to the quality of life of residents and the desire to see these improved.
- That access through the village by HGV's should be discouraged unless for local delivery purposes.
- The provision and maintenance of safe cycling and pedestrian routes within and beyond the village envelope should be considered (subject to funding availability).

### Publication Draft Local Plan 2018

4.11 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

4.12 A number of policies and objectives in the plan priorities environments that encourage safe and attractive routes for walking and cycling. These include T1 (Sustainable Access) and D1 (Placemaking)

### Development Control Local Plan (2005)

4.13 The Development Control Local Plan was approved for development management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations though any weight attached to them is very limited. The most relevant policy is T5 (Traffic and Pedestrian Safety) which states that where appropriate traffic and pedestrian safety measures will be implemented particularly in residential areas and near schools to improve road safety for pedestrians and cyclists.

### IMPACT ON THE AMENITY OF RESIDENTS AND THE FREE FLOW OF TRAFFIC ON BROAD HIGHWAY

4.14 Condition 20 was included on the planning permission to minimise the impact of traffic associated with the development on the amenity of residents and on the free flow of traffic along Broad Highway.

4.15 The variation seeks to change the limits on the time of the movement of egg collection lorries only. The number of lorry movements would not change. If approved the variation would differ from the existing arrangements in that the weekday morning restriction would be 45 minutes for leaving the site and 70 minutes for entering the site. The current restriction is 120 minutes for entering and leaving the site. It should be noted that the restriction relates only to entry and exit times to the unit and does not control the times that the vehicles travel on the public highway outside the site. Based on a speed of 20mph a lorry would typically take around 4 or 5 minutes to travel between the egg unit and North Lane. No changes are proposed to the 195 minute weekday evening restrictions.

4.16 The variation would also allow eggs to be collected on weekends and Bank Holidays when all lorry movements associated with the unit are currently restricted.

4.17 The time restrictions were put in place on the outline consent because of the recreational use of the single track Broad Highway by cyclists, walkers, and horse riders and also because it is the location of a Primary School, play area, sports facilities and pre-school play group.

4.18 In 2016 when considering the outline application for the egg unit officers raised no objections in regard to the movement of vehicles and the restrictions on lorry movement times were imposed by Members at Committee. Officers considered that the very low level of traffic associated with the development did not justify a restriction having regard to existing unrestricted traffic movement associated with other land uses served by the road. In the light of the existence of the conditions and expressed concerns of local residents, Officers do however consider that there is some justification for seeking to restrict movement at times when children are entering and leaving the primary school.

4.19 In the light of previous comments it is not considered officers could object to the current proposed change in time restrictions given restrictions will remain in place at peak times associated with travel to and from the primary school. It is not considered that the overall level of use of Broad Highway by the egg lorries is such that concerns regarding obstruction are unduly significant. The passing places required by the outline consent have now been installed.

4.20 Clearly there can be conflict between vehicles and pedestrians and cyclists at any time, however, this would be most sensitive and in respect to time periods most regularly occurring outside the school. Officers have sought for the morning restrictions for lorries to be kept in place to the extent that large lorries associated with the egg unit should not pass by when large numbers of children would be entering or leaving and parent's vehicle movements would be highest. The afternoon restrictions will remain in place. The case officer visited the site between 07:20 and 09:15 in the morning and it was noted that after the school start time of 08:55 there was very little activity on Broad Highway close to the school. Prior to

08.35 most visits to the school were car related, particularly staff arriving at the school and parents dropping off-children for the morning breakfast club/wraparound care. The restriction only relates to the time vehicles can enter or leave the unit. To discourage lorries passing by the school at peak times and waiting outside the unit the existing 9:30 restriction on arrival to the egg unit is retained. The egg collection lorry would have to arrive at the site by 8:20 to gain entry. In respect to exiting from the egg unit it would seem reasonable to just restrict this between 8:20 and 9:05 given there is no justification for a lorry to leave the site and wait up before passing the school.

4.21 As the morning restriction 'window' for egg collection lorries is proposed to be reduced there is concern that if in the future the school start time were changed the 'exclusion' period would no longer correspond with times that the area outside the school is busy. It is considered to ensure that the condition remains relevant and precise it is necessary to have a mechanism whereby the approved exit and entry times for egg lorries can be altered to reflect any new opening times at the school. This would not result in longer restriction periods for the egg unit or excessive monitoring by the operator and in the context is considered reasonable. Condition 2 relating to the proposed new egg collection times includes the requirement for the operator to submit a management plan for approval to the Local Planning Authority. This will set out the process they will use to check with the school prior to the start of each academic year whether any changes in school start times are proposed. It will also set out the processes and timescales to ensure that the necessary change in entry and exit times for egg collection lorries takes place.

4.22 Around 20 secondary school pupils are collected by bus from the corner of Broad Highway and North Lane at 08:00 on school days. It is not considered that a large lorry would prove an unacceptable hazard to children of secondary school age, including those that travel along Broad Highway. It would not be expected that a large articulated lorry collecting eggs would travel at high speeds. Speed bumps are located on Broad Highway close to the school. In addition, it is not considered that the change in the approved time of egg lorry collections would have a significant impact on the free flow of traffic on the highway network in and around the village.

4.23 It is noted that the design and access statement limits egg collections to two a week and the stated aim of the applicant is to still to seek collection early in the morning.

4.24 The applicant has stated that the change will typically see one lorry per month travelling to and from the unit on a Saturday or Sunday per month. It is not considered the impact in terms of the safety or enjoyment of other users of Broad Highway (in the context of the number and range of vehicles already using Broad Highway without restriction) is such to oppose very limited movement at weekends or bank holidays.

4.25 Since the egg unit has been open eggs have been collected by a 16.5m articulated lorry. This is in breach of condition 20. The design and access statement referred to in the condition stated that eggs would be collected by a 26 tonne rigid lorry (rigid lorries can be up to 12m long). It is understood that the larger lorry is used because the eggs are collected and taken to Liverpool from more than one site each day. It is noted that the design and access statement referred to the use of articulated transport for all other large vehicles related to the unit. This includes a 16.5m feed delivery lorry that visits each week and a tractor and trailer (length unspecified) that removes manure twice a week. Although clearly the lorry used to collect eggs is longer than the rigid lorry stated to be used, the width would be similar. In respect to manoeuvring, its articulated nature would allow relatively tight turning despite its length. It is not considered that the change in lorry size and type would cause unacceptable harm or could be reasonably opposed in the light of the approval of the same size and design of lorries for other haulage at the site. The outline application was approved subject to the requirement of the developer to provide two 12 metre passing places in the interest of the safe and free passage of highway users. These have now been provided and will help vehicles to wait off a greater section of the single track part of the route when large vehicles are approaching.

## **5.0 CONCLUSION**

5.1 The application is submitted as a result of difficulties faced by the egg unit in ensuring that eggs are collected at a time that does not breach the 07:30 weekday limit for lorries leaving the site. In addition, the cycle of collections occasional requires a collection on a weekend.

5.2 The application proposes to change the current weekday morning collection for egg lorries so that no egg lorries would be permitted to leave the site between 08:20 and 09:05 or enter the site between 08:20 and 9:30 (the current restriction for arrivals and departures from the site is 07:30 - 09:30). It also proposes to remove the weekend and bank holiday restriction for egg collection lorries. Egg collections will remain at a rate of two lorries per week.

5.3 It is considered in the context of the low number of egg collections that will occur and the restrictions that will be in place at primary school start and finish times the variation of condition 20 is considered reasonable. It is noted that the egg collections in relation to the use are a very low proportion of the overall traffic movements on Broad Highway and that any users of the route would need to be aware that other motorised vehicles, including lorries and large agricultural vehicles can travel along the route at any time of the day or week.

5.4 It is not considered reasonable to oppose a change in egg collection vehicles from rigid lorries up to 12m long to 16.5m articulated lorries given such vehicles were considered acceptable for other deliveries and collections at the site.

5.5 The consultation deadline for the revisions to the delivery times and egg lorry size expires on 13 November. Any additional comments received will be reported to Committee along with any implications on the recommendation and suggested conditions.

## **6.0 RECOMMENDATION:** Approve

1 Other than where varied by this planning permission, the building hereby permitted shall only be used in strict accordance with the operational information contained within the Design and Access Statement (including references to amount, use and access in pages 4 to 8) received by the Local Planning Authority on 30 November 2015. Any variations to the above mentioned operational information shall not be implemented without the prior written approval of the Local Planning Authority.

Reason: This condition is imposed in the interests of residential amenity to prevent odour and other nuisances from being caused to the occupiers of residential properties in the area, and for protecting nature conservation interests.

2 During the operation of the development, vehicular movements to and from the site shall take place as specified on page 8 of the submitted Design and Access Statement received by the Local Planning Authority on 30 November 2015.

Other than staff travelling to and from the site, there shall be no vehicles entering or leaving the site at the following times and days:-

Between 07:30 to 09:30 hours, and 14:45 to 18:00 on weekdays.

Saturdays, Sundays and Bank Holidays.

With the exception of egg collection lorries up to 16.5m in length that shall enter the site at all times and days with the exception of 08:20 to 09:30 on weekdays and 14:45 to 18:00 on weekdays and leave the site at all times and days with the exception of 08:20 to 09:05 on weekdays and 14:45 to 18:00 on weekdays (The morning restriction is based on a 08:55 school start time at Wheldrake With Thorganby Church of England Primary School and the vehicular movement times to and from the site shall be changed in accordance with the process to be approved in the management plan below if the school start and finish time change following the approval of this permission).

b. Management Plan (wording to be reported at committee)

Reason: Reason: To ensure the site is appropriately managed, and to minimise the impact of traffic associated with the development on the amenity of residents and on the free flow of traffic along Broad Highway.

3 The development shall only be used for egg production in accordance with the submitted Design and Access Statement received by the Local Planning Authority on 30 November 2015 and for no other agricultural purpose, or for any other purpose permitted under Article 3 Schedule 2 Part 3 Classes Q to S of The Town and Country Planning (General Permitted Development) (England) Order 2015 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: So that the Local Planning Authority may re-assess alternative uses which, without this condition, may have been carried on without planning permission from the Planning Authority by virtue of The Town and Country Planning (General Permitted Development) (England) Order 2015.

4 If any tree, hedge or shrub planted in the landscaping scheme approved with the original consents for the egg unit dies or is lost through any cause within the lifetime of the development it shall be replaced in the next planting season with others of similar size and species, unless alternatives are approved in writing by the Local Planning Authority.

Reason: To help integrate the building with its surroundings.

5 There shall be no external illumination other than that implemented in accordance with the previously approved details.

Reason: To avoid light pollution and harm to wildlife.

6 The approved cycle parking areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

7 All areas for the accommodation of delivery/service vehicles shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. Statement of the Council's Positive and Proactive Approach

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve an acceptable outcome:

Negotiated a reduction in the proposed delivery time changes sought by the applicant.

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