

# RICHARD BUXTON

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environmental • planning • public law

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Our ref: ALD2/1 (PDT)  
Your ref:

10 May 2024

Attn. Andrew Sierakowski / Nick Johnson

BY EMAIL ONLY: [andrew.sierakowski@norfolk.gov.uk](mailto:andrew.sierakowski@norfolk.gov.uk); [nick.johnson@norfolk.gov.uk](mailto:nick.johnson@norfolk.gov.uk)

Dear Sirs

## **FUL/2022/0056 - Land off Crab Apple Lane, Haddiscoe, Norfolk, NR14 6SJ**

1. As you are aware, we are instructed by Stopit2 (our 'Client'), an unincorporated association made up of Haddiscoe residents in relation to the above planning application.
2. These following submissions made on our Client's behalf are to address uncertainties arising from the 100m buffer zone between the excavation boundary and sensitive receptors (to protect those sensitive receptors from dust, noise, and air pollution).
3. Several of these issues were raised in our previous letter of 14 December 2023, and others directly from our Client, as well as from the Parish Council (whom Stopit2 have shared their expert evidence with, and are aligned with their concerns on this point, and as such there are similarities and reliance on the same material). The issues set out below are integral to understanding the environmental impact of the development, as well as simply understanding the parameters of the application itself.
4. It is requested for the reasons stated below, that the Council make a request under Regulation 25 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations") for further information. The specific requests we suggest are set out in paragraph 9 below.
5. The key concerns relating to the 100m boundary are as follows:
  - i) The applicant, in their Regulation 25 response of 20 October 2023, agreed to align with the boundary requirements set out in MIN25 of the Minerals and Waste Local Plan which concerns excavation of the same site, and amended the proposal to move the extraction boundary to a distance of 100m from sensitive residential property boundaries to "...address perceived concerns about the proximity of the extraction boundary" (see pages 12 and 26 of main Regulation 25 response from the applicant). This is shown in the updated phasing plans in Addendum B (enclosed with this letter). The applicant also says that this means a reduction in the amount of minerals to be extracted of 20,000 tonnes (due to the reduction of space), however no evidence for the calculations have been produced.

- ii) The applicant identified 10 sensitive receptors in their Environmental Statement, Chapter 10 'Air Quality' (see extracted map enclosed), 9 of which are residential properties. No plan has been provided by the applicant to demonstrate that the amended excavation boundary is 100m away from **each** of the sensitive receptor's property **boundary**.
- iii) Our Clients have commissioned Hume Engineering to produce a plan showing an accurate mapping of 100m from 7 of the closest residential sensitive receptors identified in the Environmental Statement, using the property red line boundaries to include the entirety of the property (house and garden). When this plan is compared side by side with the amended excavation boundary in the map provided by the applicant (in Addendum B to their Regulation 25 response) it is clear that the excavation area is still within 100m of the boundaries of some of the sensitive residential receptors, and therefore falls short of the applicant's commitment.
- iv) We assume that there is no disagreement that the 100m should be measured from the boundary of each of the receptors at the **closest** point to the excavation site, to include gardens which in this case are generally the closest to the site, and which will be heavily impacted by dust and pollution. Whatever the approach being taken currently, it is falling foul of the promised 100m.
- v) Applying the full 100m boundary from sensitive receptors and applying the geology of the Sand and Gravel deposits (P69 to P71 PS V1 Appendix 6 – Geology Report), it is apparent that there are significantly greater deposits on the Northern and Eastern Boundaries where a greater number of the sensitive receptors are located.
- vi) If the excavation area has to be revised again (so that the distance from these receptors is at least 100m as per our Client's Hume Engineering report) the amount of gravel available for excavation will now be reduced further. It has been calculated from the CAD drawing that the exploitable surface area is reduced by as much as 33%. It represents the square meterage of the field taken out by applying the 100m boundary correctly from the red line boundary of each sensitive receptor as per the Hume engineering map. Based on the applicant's own geology report showing the profile of the sand and gravel deposits, Stopit2's own internal engineering expert has estimated that the exploitable gravel deposit is reduced by as much as 50%.
- vii) ES Chapter 10 and Addendum B identify bunds throughout the phasing of the project to assist visually, with dust and with noise attenuation when the excavation is nearest to certain sensitive receptors. However, when phase 3 and 4 are being undertaken, there is no screening bund to assist with receptors 7 and 8. No explanation appears to have been given at any stage for this particular exclusion.
- viii) There are 4 missing sensitive receptors which both we and our Clients separately **have brought to the Council's attention**. Three of these lie within the 100m boundary (see our Clients' missing sensitive receptors map enclosed – the rectangle identifying each receptor identifies as near as possible the boundary of each of those properties).
- ix) Importantly one of the sensitive receptors, Manor Farm (R7), is a residential property occupied by the landowner, which has clearly not even been afforded the 'current' 100m boundary identified in Addendum B. Despite any agreement from the landowner for use of their land for quarrying, they must be included in the assessment to protect the health of all and any potential occupiers, visitors and workers during the development period.

### **Further Regulation 25 Request**

6. As you will be aware, a local planning authority should check that the submitted Environmental Statement contains all the information specified in Regulation 18(3) or (4), as appropriate, and any additional information specified in Schedule 4. The applicant is in breach of Regulation 18(3)(a) by failing to provide:

*“[a] description of the proposed development comprising information on the site, design, size and other relevant features of the development”* (emphasis added).

7. The rest of the requirements in Regulation 18 follow from the precise detail required in Regulation 18(3)(a). Without certainty about integral details such as whether there are missing receptors, where exactly the excavation boundary lies, the total tonnage of minerals that can be extracted, the Council is not able to adequately assess the likely significant effects of the proposed development on the environment in terms of e.g. noise, dust and air quality.
8. These aspects are all relevant for the Local Authority to consider whether planning permission should be granted, and reach a reasoned conclusion as required by Regulation 26.
9. It is therefore suggested that a further Regulation 25 request is made to:
- i) Identify which sensitive receptors are missing;
  - ii) Clarify by providing an accurate, grid referenced plan, the 100m distances from each sensitive receptor;
  - iii) Clarify by providing an accurate grid referenced plan a workable excavation boundary considering; and
  - iv) Clarify the amount of gravel available for excavation based on the updated boundary.

### **Planning balance**

10. Any recommendation the planning officer makes, and any decision the committee subsequently takes, rely on the information they have in front of them to weigh up the application against any potential breaches of planning policy. A planning decision must be taken in accordance with the development plan unless there are material consideration that indicate otherwise (s38(6) of the Planning and Compulsory Purchase Act 2004). Further in relation to heritage harm the NPPF provides clear direction that the conservation of grade I listed buildings should be given very great weight and also provides for how the harm should be weighed against any public benefit.
11. In our letter of 14 December 2023 we identified various breaches of planning policy, both local and national in relation to multiple areas e.g. noise, dust, air quality and heritage. We need not repeat these objections here, and instead enclose our letter of 14 December 2023 for reference. Historic England have objected throughout to this proposal in relation to the conservation of St Mary’s Church, and St Matthias Church.
12. In terms of any public benefit the planning application would bring via the production of minerals, without clarity of the exact extraction area and therefore the amount of feasible

gravel that could be extracted, it is impossible for the officer and the committee to make an informed decision and undertake an exercise of planning balance.

### **Air quality**

13. Stopit2 commissioned their air quality expert, Dr Bull, to respond to the applicant's Regulation 25 response. The applicant provided a response to this in February 2024 where they addressed points made by Dr Bull. Dr Bull has now provided a rebuttal to this (enclosed).
14. We need not repeat the argument of the applicant's expert, or our Client's, but the inadequacies in the assessment of fine particulate matter and the potential for greater dispersion of dust remain unresolved by the applicant.
15. Given then detail set out by Dr Bull about the clear evidence that there are health effects of fine particulate matter (as PM<sub>10</sub>) below the 17µg/m<sup>3</sup> level as evidenced by the changes in standards and targets and that there is an increasing focus on PM<sub>2.5</sub> rather than PM<sub>10</sub>, the Council should be considering whether it is appropriate in the circumstances to allow the applicant's assessment to remain as it is. Especially in the circumstances of so many close by sensitive receptors, the Council should be adopting the precautionary principle here. It should also be asking that the applicant's expert to follow their own institute's code of conduct to be *"guided by the principle of applying the most appropriate science"*.

### **Minerals and Waste Plan – MIN25**

16. All of the above points also impact upon MIN25. The requirement of a 100m buffer from sensitive receptors comes from the wording in MIN25. The amount of gravel and sand that MIN25 purports to be able to deliver (1.3m tonnes) will depend upon the particular excavation area, which in turn depends upon the 100m boundary. For the reasons set out above, the boundary will have to be reduced even beyond that currently proposed by the applicant.
17. This is extremely important in terms of the decision for the Council on whether or not to allocate MIN25. During the sustainability appraisal, the Council will have assessed the site against other sites, looking at amongst other things, deliverability of the amount of minerals on each site. MIN25 was selected on the basis of being able to provide the 1.3m tonnes of gravel and sand. If much less than this will be delivered because of the 100m exclusion zone, this reduces the benefits of this site compared to others.
18. Deliverability impacts whether the plan itself is 'Effective' and therefore whether it can be considered as 'Sound'.
19. Our Client will be submitting their own hearing statements making these points and enclosing their expert evidence. However this has now been brought to the Council's attention, we expect that these issues will be thoroughly investigated prior to the hearing sessions and the appropriate information passed to the Inspectorate.

20. This letter is being copied to the Minerals and Waste Plan team jointly.

Yours faithfully



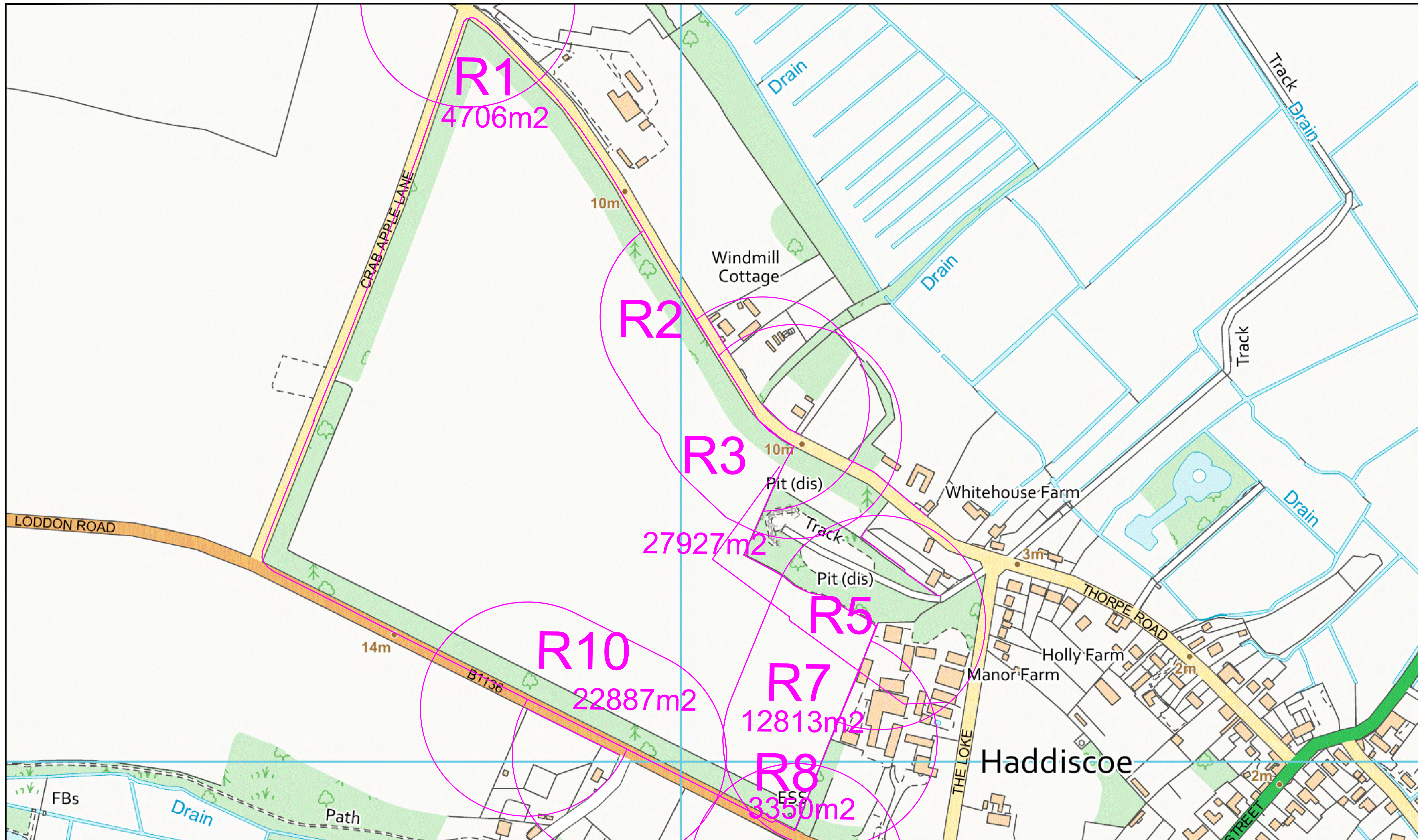
**RICHARD BUXTON SOLICITORS**

cc Minerals and Waste Local Plan Department  
(Attn. Caroline Jeffery) By email only: [ldf@norfolk.gov.uk](mailto:ldf@norfolk.gov.uk)

*Encl.*

- Applicant's Regulation 25 response - Addendum B, September 2023 (extract of phasing plan illustrating updated 100m boundary)
- Hume engineering map, 21 March 2024
- Environmental Statement Chapter 10 'Air Quality', October 2022 (extract of sensitive receptors map)
- Stopit2 map showing missing sensitive receptors
- Richard Buxton letter, 14 December 2024
- Dr Bull's rebuttal, 4 March 2024





The Stopit2 Association has contracted the services of Hume Engineering and Development Ltd to plot an accurate coordinated plan of the residential sensitive receptors listed by the developer (Breedons) within their Air Quality document ES V2 Chapter 10 Air Quality and Dust Haddiscoe and the 100m excavation boundary stand-off from the boundaries of the residential sensitive receptors in regards to the planning application 2022/0056.

Norfolk County Council have stated within min25 that the excavation phases should be set back a minimum 100m to Sensitive Receptors boundaries.

The developer states in their Breedon Haddiscoe Regulation 25 Response Final Report that:

'In addition, additional mitigation measures are included in addition to the measures proposed in ES Chapter 16 -Mitigation Measures. These additional mitigation measures include:

- A 100m excavation boundary stand-off from the boundary of sensitive residential properties.'

<p>NottoScale</p>	Drawing Title SENSITIVE RECEPTORS AREAS	
	Drawing Number HQ/AH/AS001	
DATE: 21/03/24		DRAWN: AH
CHECKED: DP		REV: