

Officer Report On Planning Application: 12/00951/FUL

Proposal :	Erection of a building for B1, B2 and B8 uses with associated infrastructure, parking and landscaping (GR 342553/115366)
Site Address:	Lopen Head Nursery, Lopenhead, South Petherton
Parish:	Lopen
SOUTH PETHERTON Ward (SSDC Members)	Cllr P A Thompson Cllr B R Walker
Recommending Case Officer:	Adrian Noon Tel: (01935) 462370 Email: Adrian.noon@southsomerset.gov.uk
Target date :	11th June 2012
Applicant :	Probiotics International Ltd
Agent: (no agent if blank)	Matt Frost, Boon Brown Planning, Yeovil, Somerset BA20 2FG
Application Type :	Major Manfr f/space 1,000 sq.m or 1ha+

REASON FOR REFERRAL TO COMMITTEE

At its meeting on 24 April 2013 Area North committee resolved to grant planning permission for a new industrial building at Lopen Head, a copy of the report is attached at Appendix A. This decision was subject to a judicial review following a legal challenge on a number of grounds. The Court determined that one of the grounds for challenge was valid and that the permission should be quashed, a copy of the judgment is attached at Appendix B. Accordingly the Council is now required to 're-determine' the application. As this application was originally determined by Area North committee the matter is referred back to Committee so that members can consider the issues raised.

Further consultations have been carried out and the following update report sets out the current situation. It should be read in conjunction with the original report and the Court judgment.

BACKGROUND

The Council originally approved the scheme subject to a number of conditions on the grounds that:-

The proposed development by reason of its design, scale, siting and materials, is considered to respect the character and appearance of the area, will provide employment opportunities, will provide a satisfactory means of vehicular access and will also provide a satisfactory landscaping scheme. It is also considered that there is adequate justification to allow an expansion of Probiotics on land outside of the allocated employment site. The scheme accords with Policy ST5, ST6, and EC3 of the South Somerset Local Plan, Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review and to policy in the NPPF.

Subsequently this was challenged on the grounds that:-

1. Condition 8 was unlawful because it was ambiguous, unenforceable and irrational as it did not fairly and reasonably relate to the development. This stated that:-

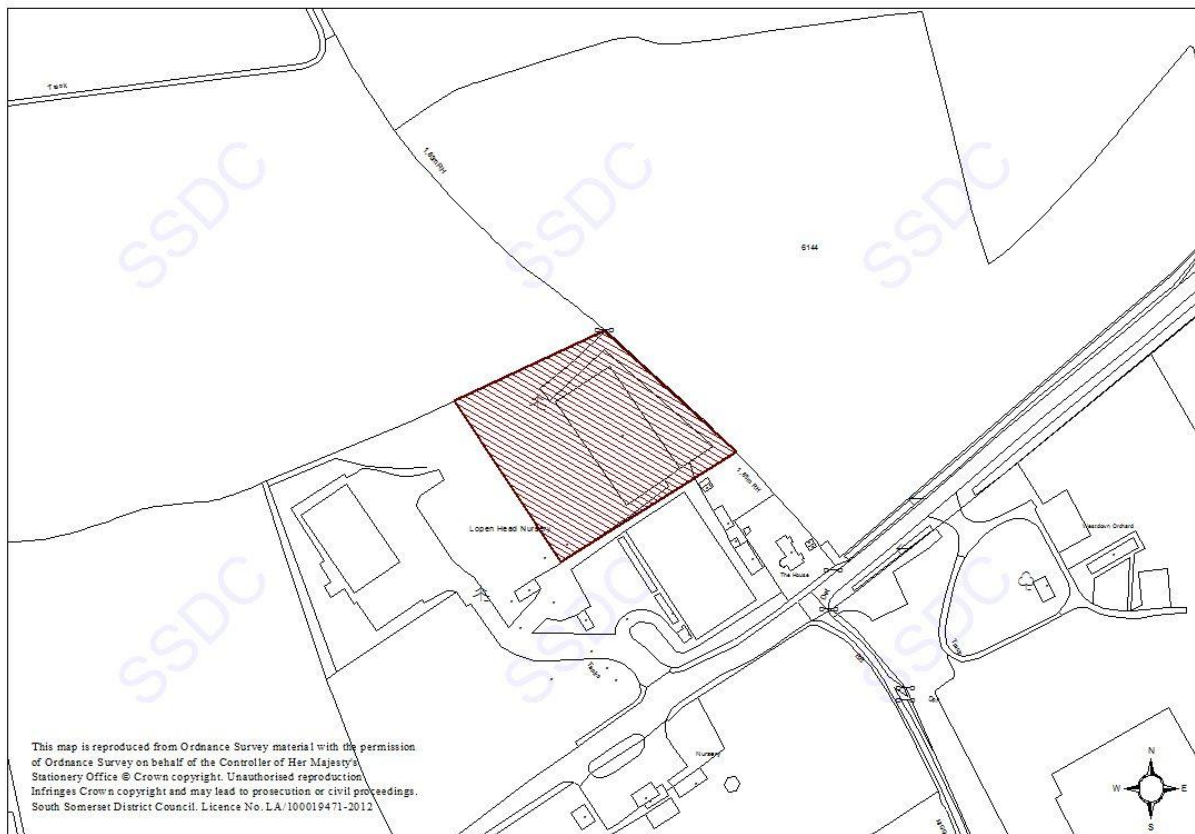
The building hereby permitted shall only be carried out by Probiotics International Ltd (or any successor company) during its occupation of the land subject to this permission.

Reason: The Local Planning Authority wishes to control the uses on this site to accord with the NPPF.

2. The Council adopted an unlawful approach by failing to recognise the primacy of the development plan and considering that the National Planning Policy Framework had superseded or replaced the relevant provisions of the development plan.
3. The council failed to give adequate reasons for the grant of permission.
4. The council granted permission without requiring an Environmental Impact Assessment
5. There was a procedural failure resulting in unfairness.

Only the first ground was upheld; no Council error or shortcoming was identified in relation to the other 4 grounds.

SITE DESCRIPTION AND PROPOSAL



This 0.69 ha site forms part of the former Lopen Head nursery, on the northern side of the old A303, approximately 1km from Lopen and 2km from South Petherton. It currently contains a large derelict glasshouse previously used in connection with the nursery, a mobile phone mast along the eastern boundary (to be retained), and a large earth mound. There is

row of leylandii trees along the eastern boundary and part of the northern boundary.

To the north and east are fields, with the existing two Probiotics buildings and the LiftWest site on an allocated employment site to the west. Between the site and the road is a further area of former nursery, including a large derelict greenhouse and smaller outbuildings. Adjacent to this greenhouse are 2 dwellings and associated gardens. On the opposite side of the road is the Trading Post farm shop. The site comprises level ground on a wide ridge running broadly east/west with the land falling away to the north behind the site and to the south beyond the Trading Post.

This application has been made by Probiotics International Ltd for the erection of a new building for B1, B2 and B8 uses along with associated infrastructure, parking and landscaping. Access would be via the existing route from the old A303 to the south of the site, along the internal road and through the existing Probiotics site.

Probiotics manufacture both human and animal healthcare products and have established their premises on the allocated employment site to the east. A third building is now proposed. This would be an L-shaped 2 storey building, extending 62 metres (east to west), 54 metres (north to south) with a height of 9.3 metres. The proposed design and materials are similar to the 2 existing buildings, with profile sheet walls and roof with aluminium framed windows.

The proposed building would be taller than the existing buildings and sited on higher land. As a result the new building would be 2 metres higher than the adjacent building (referred to as Plot D). In total, the scheme would provide for 1,322m² of B1 office space, 1,322m² of B2 production space and 914m² of B8 warehouse storage. An additional 42 car parking spaces (including 3 disabled spaces), 2 HGV waiting bays, 3 motorcycle spaces and 12 covered cycle spaces and a bin store would be provided in a yard area to the north west part of the site.

The scheme will involve the removal of the existing leylandii trees and a landscaping scheme has been submitted that includes a mix of trees, hedge, shrubs and tall and low edge species mix, along with security fencing.

The application is supported by a Design and Access Statement, a Protected Species Survey, Business Statement, a Transport Statement and a Flood Risk Assessment. Additional details of the justification for the building have been provided, the key point being that the current production facilities, storage and office infrastructure do not offer sufficient capacity to deal with the level of growth proposed over the next few years.

The applicant has clarified (06/03/14) that an annotation to the internal ground floor of the proposed building erroneously referred to 'paste mix' and 'paste fill' rooms. It is confirmed that it is not the applicant's intent to use any part of the proposed building for these purposes and these rooms have been re-annotated 'capsule fill' rooms. This change has been subject to further re-consultations.

HISTORY

- | | |
|--------------|---|
| 09/03849/FUL | Permission granted for the erection of a building for B1, B2 and B8 uses (second Probiotics building). |
| 09/03030/FUL | Development of land for B1, B2 and B8 use (withdrawn). This included the current application site and the land to the south of the current application. |

- 08/05122/FUL Permission granted for the erection of B1/B2 industrial building (revision of 08//00248/FUL, the first Probiotics building).
- 08/00248/FUL Permission granted for the erection of B1/B2 industrial building (first Probiotics building)
- 08/00053/OUT Outline permission granted for development of the allocated employment site for B1 and B2 uses.

Also relevant on the adjoining Lift West site are:-

- 09//00670/FUL Permission granted for the erection of B1/B2 industrial building (revision of 08/00250/FUL).
- 08/00250/FUL Permission granted for the erection of B1/B2 industrial building.

Also relevant are the following screening opinions in relation to environmental impacts that have been given:-

- 12/00587/EIASS The Council concluded that an Environmental Impact Assessment (EIA) is not required in support of the proposal (letter dated 21/02/12). The matter was subsequently raised with the National Planning Casework Unit who twice offered the same opinion (13/04/12 and 31/08/12) concluding that the “development proposed is not EIA development”.

In view of the issues raised since April 2013 a further screening opinion has been requested:-

- 14/03151/EIASS This again concludes that the impacts of the development are not such that a formal Environmental Impact assessment is required.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Emerging Local Plan (ELP) sets out the long term planning framework for the District up to 2028. However, in view of the on-going Main Modifications little weight is accorded to its detailed policies. Accordingly, for the purposes of determining current applications the local planning authority considers that the relevant policy framework is provided by the National Planning Policy Framework and the saved policies of the South Somerset Local Plan 2006.

South Somerset Local Plan (adopted April 2006)

- ME/LOPE/1 - Land at Lopen Head Nursery, Lopen amounting to 1.8 Hectares allocated for employment use (B1 and B2 uses only).
- EC3 - Landscape Character
- ST5 - General principles of development
- ST6 - Quality of development
- TP6 – Non-residential parking provision.
- EC1 - Protecting the best and most versatile agricultural land.

EP1 – Contaminated Land
EU4 – Drainage
ME4 - Expansion of existing businesses in the countryside.

Other policy considerations

Somerset Parking Strategy

Emerging Local Plan

Policy EP4 – Expansion of Existing Businesses in the Countryside

National Policy:

National Planning Policy Framework

Chapter 1 - Building a strong, competitive economy

Chapter 3 - Building a prosperous rural economy

Chapter 7 - Requiring good design

Chapter 11 - Conserving and Enhancing the natural environment

National Planning Policy Guidance

CONSULTATIONS

Initial consultations were carried out upon receipt of the application and a further full round of consultations has been carried out (25/02/14) inviting interested parties to comment on any new issues arising from the quashing of the permission. Subsequently (13/03/14) local consultations have been carried out in relation to the clarification of the activities within the building.

Lopen Parish Council – initially objected concluding:-

“There is no policy support (by any measure) for this proposal. It would require such an exceptional set of (proven) overwhelming and/or mitigating circumstances to allow approval in this case which, given the local circumstances, cannot reasonably or credibly be argued to exist. The business case put forward by the applicant is very basic and lacking in any kind of supporting evidence that little or nothing can be concluded from it. Even the most robust of business cases would not represent overwhelming justification for departing from policy in this instance, as other locally available district-wide sites are available in areas of greatest employment need, at sustainable locations and in defined development areas where this scale of development can be fully supported by policy.”

(full original comments are contained in the original officer report at Appendix A)

They maintain their objection on the grounds that:-

- *A site was allocated for employment use on grade 1 agricultural land, on a hilltop in open countryside, contrary to the local plan Inspector’s recommendation and in full conflict with local and national policy, without any established need (and therefore speculative), with the basis for the allocation relying on misleading and unsubstantiated statements, even when there was and is an existing, sustainable, brownfield site of 23 ha. in Ilminster only five miles away.*
- *Even if one accepted the need for such development, the more rational location of the*

- *abutting nursery site was ignored but, with SSDC consent, that part of the site has subsequently been environmentally abused and exposed to the “detriment of the visual amenities of the area” and partially developed along with the allocated site.*
- *The conditions of the allocation (retention of the tree screening and prohibition of B8 use) have been deliberately overturned to the significant environmental detriment of the local and wider area encouraging a larger scale of development with lower employment density.*
- *The Council has failed to enforce any aspects of land contamination and to provide a fit-for purpose landscaping scheme and its timely implementation.*
- *The Council facilitated the building-in of extra capacity to the allocated site infrastructure to allow expansion onto the unallocated site.*
- *The council is supporting an application for an unsustainable large scale business expansion (which is clearly multi-stage development as proposals for this “essential” facility were first established well before the site was even occupied) totally inappropriate to the area, without any credible evidence of its need and contrary to both local policy and the NPPF, whilst leaving allocated land vacant and ignoring underused existing facilities.*

This is not a genuine small scale rural business expansion but, instead, a long-term strategy to circumvent local and national policies to gain a scale of unsustainable development in the open countryside that would ordinarily not be permitted.

Taking everything into account, the Parish Council cannot see how SSDC could rationally approve this proposal.

(extract from email of 25/02/14)

South Petherton PC (neighbouring parish): Originally recommended refusal on the grounds that:-

“This application seeks to build outside of the employment land allocation in the saved South Somerset Local Plan 2006. Plot B and the area previously marked for future expansion in front of plot C, are available on the allocated site which combine to provide a modest expansion opportunity for Probiotics. The claimed need to separate animal and human welfare products is the same stated need that was used for the separation of existing buildings C and D. Development outside of the allocated land cannot be justified when considering all the elements of this response.

“The scale, design and setting together with the landscaping proposed, are totally inappropriate to this hill-top site in open country side (as can be demonstrated by the level of concern relating to the visual aspects of the existing developed site). Development on this scale should be limited to market towns only.”

Their comments went on to cite in detail a number of saved policies that they believe would be breached. These comments are set out in full in the original officer report at appendix A.

No further comments received.

Landscape Officer: originally raised no objection subject to a landscaping condition,

commenting:-

“Whilst the site lays outside development limits, given the close relationship of this application site with the land to the immediate west that now has planning approval and two buildings in-situ; and the existing nursery structures and site use that characterise the location, I have no in-principle landscape objection to the extension of employment use over this northeast half of the site.

“The building proposal is larger in scale and will stand approaching two metres taller than the two current buildings on site. I have some apprehension over this, though I also note that the new building does not project so far to the north as building C, and that the land continues to rise to the east of the site, to thus help to reduce the perception of building scale. The return of the building to form an L plan shape, to thus reduce its overall length, similarly assists in reducing building scale. As the proposal is accompanied by a fully detailed landscape plan, which provides a buffered edge to the site, then on balance I believe the proposal to be acceptable.

“Turning to the landscape plan, I note that it is generally in line with the level of provision we have negotiated elsewhere within the Business Park, and I am satisfied with it. The materials palette for the building is to be expressed as before, to bring a consistency of treatment to the site. With the current buildings having now had sufficient time to start to blend into their wider landscape context, with their colour helping to anchor them on the skyline, I am satisfied that the tonal treatment is appropriate.”

In relation to issues raised by objectors regarding a perceived lack of a landscape assessment, the extent of the site's visibility, and the nature of the tree screening, the following additional comments were offered:-

- 1. The application seeks consent for a single building sited upon land that is characterised by development structures, and is immediately adjacent an established employment complex. A full L&VIA (landscape and visual impact assessment) is rarely required in such instances, and I can see no over-riding case for exception here.*
- 2. I would agree that the building will be visible, and this an inevitability of a hilltop site. However, it will be seen in relation to 3 other employment buildings on site, in most part obscured in views from the southwest/northwest quadrant by existing building form, whilst from the east, where visible, it will be to the fore of the existing buildings, hence only marginally increasing the mass of building presence on view. From both north and south, its presence will extend the spread of built form across the site at a higher elevation than that of the current greenhouse structures, and whilst I perceive this as a negative landscape impact, it is not so great an impact that it cannot be countered by planting mitigation, and appropriate tonal treatment.*
- 3. Planting is necessary to play down the profile of built form, and to provide a landscape-appropriate context for the site, i.e; a planting of indigenous species that visually and ecologically ties into the wider landscape. Whilst it will not provide an immediate screen, planting small leads to better growth and establishment rates, and greater certainty of long term success - the planting will, with each season, develop to better counter sight of the building group, and better integrate the development into its wider landscape setting. The removal of the original leylandii belt was undertaken as it was over-mature and dropping limbs; losing its screening capacity; and its retention was not a sustainable option. Its*

retention would also have wholly compromised any potential for the future generation of planting required by the local plan policy for allocation ME/LOPE/1, for its rootmass and shade would have inhibited the potential for healthy and consistent plant growth. Hence I view the proposal before us to extend the broadleaved buffer around the site, consistent with the approach agreed on the adjacent site, to be the only credible way forward.

In response to the most recent consultations a local resident has commissioned a landscape study. The landscape architect has considered this document and offers the following observations:-

I quite understand the concerns raised by the study, and it should not be forgotten that when the original site was allocated that it was done in the face of a landscape objection, so I am fully aware of how the site corresponds to its landscape context. However, the site has never been deemed so sensitive as to warrant an EIA on landscape grounds.

In response to the main issues raised by the study, I would advise;

1) The application seeks consent for a single building sited upon land that is characterised by development structures, and is immediately adjacent an established employment complex. A full L&VIA (landscape and visual impact assessment) is rarely required in such instances, and I can see no over-riding case for exception here. The comment relating to cumulative impact is noted, but again I see insufficient increase in built form that is likely to generate 'significant' additional effects, which is the prime concern of LVIA within an EIA.

(2) I would agree that the building will be visible, and this an inevitability of a hilltop site, which has long been characterised by a collection of building forms. Whilst visible however, it will be seen in relation to 3 other employment buildings on site; in most part obscured in views from the southwest/northwest quadrant by existing building form; whilst from the east, where visible, it will be to the fore of the existing buildings, hence only marginally increasing the mass of building presence on view, whilst the local topography and lines of vegetation afford limited prospect from this quarter. From both north and south, its presence will extend the spread of built form across the site at a higher elevation than that of the current greenhouse structures, and whilst I perceive this as a negative landscape impact, it is not so great an impact that it cannot be softened by planting mitigation, and appropriate tonal treatment. I also note that from the south, intervening structures and planting often dissipate views of the application site.

(3) Planting is necessary to play down the profile of built form, and to provide a landscape-appropriate context for the site, i.e; a planting of indigenous species that visually and ecologically ties into the wider landscape. Whilst it will not provide an immediate screen, planting small leads to better growth and establishment rates, and greater certainty of long term success – the planting will, with each season, develop to better counter sight of the building group, and better integrate the development into its wider landscape setting. I note the claim that it will be 10-15 years before the lower parts of the building is screened, this I consider is a little pessimistic, for the existing planting around the initial Probiotics building is already screening out elements relating to the ground floor, and this is occurring after only 3 growing seasons.

I am pleased to see that the report does not advocate retention of the remaining leylandii on site. I have stated before that the removal of the original leylandii belt was

undertaken as it was over-mature and dropping limbs; losing its screening capacity; and its retention was not a sustainable option. Its retention would also have wholly compromised any potential for the future generation of planting required by the local plan policy for allocation ME/LOPE/1, for its rootmass and shade would have inhibited the potential for healthy and consistent plant growth. I continue to view the proposal before us to extend the broadleaved buffer around the site, consistent with the approach agreed on the adjacent site, to be the only credible way forward. For your interest, I attach photos of the remaining conifers along the east boundary – you will note that they are over-mature; structurally deficient; and in a partial state of collapse. Also note from the Colson Stone report, photos 10-12, how it is the conifer block rather than the buildings that initially draws the eye, to demonstrate how alien is their presence in this landscape.

Highway Authority: originally accepted findings and recommendations of the submitted Transport Statement and raised no objection subject to appropriate conditions. No further comments received as a result of consultations.

Economic Development Officer: originally commented:-

“...this is a substantial and successful business that has been encouraged to remain in South Somerset (despite some consideration being given by their management to leaving the area) within reasonable proximity of their previous location at Stoke sub Hamdon. The Lopen location allowed for the retention of the majority of their employees and this had always been a high priority for the company.”

In relation to issues raised by James Smith on behalf of objectors the officer provided additional observations in relation to alternative solutions and the justification for the building:-

During conversations with [Probiotics] I enquired whether alternative solutions could be found to enable the business expansion. He clearly saw that the development of premises in another location would create a 'logistical nightmare' both for the movement and storage of goods and for a displaced workforce. I further enquired whether the proposal to build new premises was the only solution. I was informed that a split site scenario would cause severe difficulties and that the relocation of the whole business would have to be considered. This could clearly impact on the future success of the business and create staff displacement. If there were a viable solution to this problem then I am sure that the applicant and the local authority would be pleased to give it due consideration. It is my opinion that the need for expansion on this site has been adequately covered.

In the same paragraph, reference is made to conversations with the MD of Probiotics and the planning agents in acquiring this information. One wonders exactly who else would be better placed to answer the questions raised in regard to the viability of this proposed expansion?

Mr Smith quotes both UK and EU legislation, stating that there is no reason why human and animal products cannot be manufactured and stored in the same premises. Whilst this statement is correct, it fails to observe that Probiotics have been exploring successfully their markets in Asia and the Middle East. These will include Muslim countries where there are strict requirements to avoid cross- contamination between the production of goods for human and animal consumption. Probiotics are exploring sales into these countries and have recognised both the potential for growth and the production requirements that this opportunity brings. I was able to confirm the need to

avoid cross-contamination of products between species in certain countries by discussing these issues with other manufacturers operating in these markets.

At the time of my visit, there were 80 people on Probiotics employment register. Of these, 15 of them were sales people working across the UK and indeed world. Seldom did these people have cause to visit the Lopen site. I was provided with the detail of the 65 employees who work at the site. I requested this information to 1) clarify that the employment register was indeed correct and 2) to establish how far these employees had to commute to Lopen. It was from this register that I was able to determine that 80% of the Lopen based workforce lived in South Somerset. The information has not been broken down any further to avoid any contravention of employee data protection rights.

For a point of clarification, there were at the time of writing the original report 65 jobs on site, not 80 as stated. To my knowledge, there is no transport plan that has been contravened, so the arrival method of employees is irrelevant. Similarly, the fact that Probiotics employs workers whose homeland is not the UK is also irrelevant as this is perfectly legal and has been sanctioned and encouraged by respective U.K. Governments. It should also be pointed out that many of the migrant workforce are now likely to be permanent residents of South Somerset.

In summary, along with being aligned to Government policy, I look on this application as a positive growth investment during these times of austerity. To have a manufacturing business looking to further develop their home and export sales potential, is to my mind extremely positive.

Planning Policy: initially raised concerns over justification for building. In relation the additional information provided it was confirmed that there is no planning policy objection in principle to the proposal, the impact of which should be considered against the saved policies of the local plan and the NPPF.

In light of current circumstances and in response to the latest consultation the following clarification has been received:-

When the scheme was considered in 2013 some initial concerns were raised. However, since then the national and local policy context has changed, and from the additional information provided it was confirmed that there is no planning policy objection in principle to the proposal, the impact of which should be considered against the NPPF, the saved policies of the Local Plan (1991 – 2011), and the emerging Local Plan (2006 – 2028).

An important change stems from the resumed Examination Hearing Sessions into the emerging Local Plan (eLP) which took place during June 2014. As a result, Policy SS3 (Delivering New Employment Land) has been amended (see Main Modification 11). The modification removes reference to a specific amount of employment land for Rural Settlements, which includes Lopen, and indicates that future development will be considered in the context of NPPF (Supporting a Prosperous Rural Economy); and local plan policies SS2 (Development in Rural Settlements), EP4 (Expansion of Existing Businesses in the Countryside) and EP5 (Farm Diversification). This approach has been endorsed by the Inspector through his letter to the Council on the 14 July 2014.

Furthermore, in this instance, it is necessary to consider the application in the context of expansion of existing businesses in the countryside. Emerging Local Plan Policy

EP4 supports appropriately scaled expansion, as businesses in the countryside provide a valuable source of local employment. In principle the proposed development is in accordance with the NPPF, saved Local Plan Policy ME4 and eLP Policy EP4.

It is confirmed that these comments still apply.

Campaign to Protect Rural England (CPRE): Strongly object on the grounds that:-

it will further exacerbate the damage done to the local environment by this incongruous and ill considered site. Indeed the history of this site is of incremental development and permissions, reneging on earlier pledges concerning usage categories and scale of development.

The primary concern is that this is an agricultural site of Best and Most Versatile Land. By Policy EC1 development of such category land should not be considered if there are less valuable, preferably brownfield, alternative sites, which there are. Food security may not be uppermost in English minds at present, but with food staples forecast to double in price by 2020, then it soon will be. Somerset has much of the country's best farmland, and it must be protected.

The existing development presents South Petherton with an eyesore to the south of Ben Cross/Frogmary, with Lopen head being prominent from miles around. The existing grey boxed jar with the landscape, and it is unacceptable that the previous thick conifer screening was removed and has not been replaced with anything adequate to minimize the visual intrusion. This proposed development will present an even greater visual blemish, with the buildings larger and taller. It has been claimed that the planned building will be even larger and taller than the Tesco store at Ilminster - if true then the impact will indeed be extraordinarily harmful. There is absolutely no way it could be considered as 'maintaining or enhancing the local environment', neither does it respect the form, character or setting of the locality.

This entire development is outside of a defined development area, a further strong reason why it should not be permitted. Road traffic is also an issue, with the current road layout at the entrance being used as an overtaking lane by some with all of the associated risks. Given its position at the top of a hill from all directions, sustainable transport is discouraged.

In summary, this is a development too far. With hindsight, it is clear that this site was a mistake, a good facility but in the wrong place; development should be frozen at its current state and application refused.

No further comments received.

Environmental Protection Officer: no objection.

Environment Agency: initially objected on the grounds that there was inadequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed. In relation to additional information provided by the applicant the agency withdrew their objection subject to safeguarding conditions to address potential land contamination.,

No further comments received.

County Archaeologist: to demonstrate that the risks posed to groundwater can be

satisfactorily managed objection.

Council Engineer: no objection subject to agreement of detail of drainage proposals.

Wessex Water: No objection raised. The site lies within a non sewered area of Wessex Water. New water supply connections will be required from Wessex Water to serve this proposed development.

REPRESENTATIONS

Previously 6 letters/emails were received raising the following objections:

- Loss of grade 1 agricultural land
- Numerous other local brownfield sites that should be used first
- Scale and design of the building is harmful to setting/ out of keeping with local character
- Landscaping is insufficient to provide an acceptable screen which has to be provided as part of the wider landscaping scheme – earlier planting not implemented.
- Detrimental to visual amenity and out of keeping with surrounding landscape.
- Local plan does not support development at this location
- Unsustainable location.
- Contrary to many development plan policies and the NPPF.
- Employment Land Review does not demonstrate a need for any additional local employment land locally
- Lopen should not serve as the employment centre for South Petherton
- Sufficient employment opportunities exist within Lopen
- Original consent for Lopen head was a planning mistake.
- This is outside of the allocated employment site
- Original industrial estate in Lopen has spare capacity
- Insufficient evidence into the impact on the aquifer
- Question the need for more employment land when there is low unemployment
- Providing employment opportunities close to where people live is social engineering
- Requires exceptional justification
- Poorly conceived site and part of SSDC's approach to site industrial estates across the countryside
- Contrary to sustainable development principles/policies
- Question employment allocation in emerging local plan.
- Land is not previously developed land.
- Employment site allocated for small local business not large companies
- This is not a small scale development/expansion under ME4
- Poor design
- Noise and light pollution
- Building is higher than previously approved buildings on site
- Applicant's business case is not robust, concern about this being speculative development
- Spare capacity at current Probiotic facility
- Lack of evidence to support projected growth
- Information lacking on where staff live/travel from
- Few staff live in vicinity
- The firm brings very little economic benefit to local towns/villages.
- Increase traffic through local communities

- Poor public transport to serve the development
- Will be a requirement to make changes to the road layout due to significant increases in traffic.
- Why are they staying on this site – should move closer to larger town with better transport links
- Comments submitted in regard to previous outline application on this site equally apply.
- Views of smaller communities should be given more weight when considering commercial development
- The application lacks detail - more akin to an outline application
- Applicant/agent did not attend the PC meeting
- The tidying up of the area i.e. removal of glasshouses is not a justification for approval of this scheme.
- Does not allow employees to walk to work
- Significant levels of employment and available within 5 miles of this site.
- Salary figures questioned
- Deliberate tactic to obtain piecemeal permissions.
- Harmful precedent

1 respondent, whilst raising an objection, supports the need to provide opportunities for employment in rural areas but must be sustainable and at an appropriate scale.

Letters has also been received from a solicitor representing a local resident outlining that it is not considered that the applicant's additional information raises any significant new points nor provide the further information the Council should be requesting to clarify points raised by third parties. It does not agree with the screening opinion given by the Council and raises concerns about ground discharge/water and that a decision on the application has already been reached. An additional letter was received from the same solicitor on 14/12/12, the contents of which have been commented on above and are considered below.

In response to the most recent consultations 1 letter has been received re-iterating previous objections and commenting further in relation to:-

- Longterm, piece-meal strategy of applicant on a site that is not suitable for this scale of business;
- The proposal is unsustainable development contrary to the local plan and the NPPF on the grounds that such development should be focused on more sustainable higher tier settlements such as Yeovil and the market towns.
- The development should be subject to environmental assessment given the cumulative size of development and the processes involved. The Council and the Secretary of State have both taken an incorrect approach. An 'expert report', which formed part of the legal challenge, is provided which states that the activities, in the opinion of the writer, are biological processes.
- Landscape impact
- Drainage issues
- Noise and light pollution
- Lack of justification

The writer has further commissioned a 'Landscape and Visual Analysis of Proposals' which concludes that the development will:-

...form a prominent new feature on the skyline that will be visible from up to 2½ km away. This will increase the extent of the built form on the skyline by up to 1/3 in views

from the surrounding countryside.

In my opinion the planting offered in mitigation will not be adequate to provide screening of the proposed building. It is far less than had been recommended by the landscape officer in earlier consultations. The negative impact will therefore remain in the long term.

In my opinion this proposal will, therefore, result in a significant negative visual impact across a wide area.

2 letters of support have also been received making the following points:-

- Positive opportunity to introduce new career opportunities
- Young people will not have to seek work in towns and cities
- Probitics are a good neighbour

CONSIDERATIONS

Principle

In terms of the principle of development this is an un-allocated site outside settlement limits on which an established local company, located on an adjacent allocated employment site wishes to expand. Paragraph 28 of the NPPF states:-

Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*
- *promote the development and diversification of agricultural and other land-based rural businesses;*
- *support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and*
- *promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.*

In relation to rural employment saved policy ME4 of the 2006 local plan states:-

Proposals for the small scale expansion of existing businesses (classes B1, B2 and B8 of the use classes order) outside defined development areas shown on the proposals map will be permitted provided that they satisfactorily meet the following criteria:

- *It is demonstrated that the proposal is both needed and appropriate in this location;*
- *Existing buildings are reused where possible;*
- *Use is made of land within the curtilage of the development, beyond the curtilage*

- it is demonstrated that additional land is essential to the needs of the business;*
- There should be no adverse effect on the countryside with regard to scale, character and appearance of new buildings; and*
- There should be no substantial additional traffic generated to the site.*

Policy EP4 of the emerging plan advises:-

Proposals for the expansion of existing businesses in the countryside will be permitted where:

- The business has been operating successfully for a minimum of 3 years, and is a viable business;
- It is demonstrated that the proposal is needed in this location;
- The proposal is of a scale appropriate in this location and appropriate to the existing development;
- Existing buildings are reused where possible;
- Firstly, use is made of land within the curtilage of the development where possible, and outside of the curtilage only where it is demonstrated that additional land is essential to the needs of the business;
- There is no adverse impact on the countryside with regard to scale, character and appearance of new buildings and/or changes of use of land;
- There is no adverse impact upon designations for wildlife and conservation reasons, at either local, national or international level; and
- The proposed development ensures that the expected nature and volume of traffic generated by the development would not have a detrimental impact on the character or amenity of the area and would not compromise the safety and/or function of the road network in terms of both volume and type of traffic generated.

It is considered that saved policy ME4, whilst in general accordance with the thrust of the NPPF, is unnecessarily restrictive firstly in seeking to limit rural business expansion to small scale development and secondly in seeking to restrict such expansion outside development limits. This restrictive approach reduces its weight, whereas the Framework suggest a more permissive, impact focussed approach. Whilst ME4 requires a justification to be made for the development, para. 28 places no such obligation on applicants. Rather there is a need to consider proposals for rural economic development in light of the 'Golden Thread' of sustainability which runs through the Framework, the implication being that if a proposal is 'sustainable' an application specific justification is of less importance.

Whilst emerging policy EP4 seeks to facilitate rural business expansion, it also requires the need for the development to be justified, with the further requirement that businesses need to have been operating successfully for a minimum of 3 years and to be viable.

The applicant is a long standing local business that has been at Lopenhead for approximately 3 years and was located in Stoke-sub-Hamdon before that. Information submitted with the application and considered by the economic development officer show a need for the additional building to separate animal and human products as demanded by important markets for the applicant. It is accepted that there are good reasons why the applicant would want to expand at the existing site rather than move to a split site operation.

Whilst EP4 is a draft policy within the emerging plan and as such is afforded little weight. As with save policy ME4 it should be considered in the context of the permissive approach advocated by para. 28 of the NPPF.

Accordingly the key issue for paragraph 28 is the sustainability of the development in which respect the NPPF outlines 3 dimensions to sustainable development – economic, social and environmental. On this basis it is considered that the principle of the expansion of this rural business on this site is acceptable subject to consideration of the sustainability and impacts of the proposal.

Sustainability

In terms of this proposal, it is considered that it will have a positive economic impact, by increasing the number of employees and supporting the growth of the company. Criticism of the proposal has been made that it will contribute little to the local economy with employees heading straight to site at the start of their day and heading straight back home after work, and unlikely to use local facilities at lunchtime/travelling to/from work. However there is no evidence to support this contention that firstly this business will not employ local people and secondly that those working at the site will not use local facilities

That this development will create extra jobs (from 80 to 130 employees by 2015) can only be positive and in line with the NPPF objective of supporting economic growth in rural areas. On this basis, it is considered that this proposal would meet the economic dimension of sustainability.

The development would meet the social dimension by providing rural employment opportunities meaning local people would have a greater choice of where to work as well as the opportunity to live closer to work.

In terms of the environmental impact, it has been consistently stated through screening opinions that the nature of the development and likely impacts are not such that an Environmental Impact Assessment is justified. Accordingly it is considered that the environmental impacts of the scheme of the scheme can be properly considered through the normal application process and a conclusion arrived at as to whether the proposal addresses the environmental dimension to sustainability.

In terms of general environmental, sustainability issues, it is acknowledged that the site is not in the most sustainable of locations in terms of accessibility and public transport to serve the site is poor, increasing the likelihood of travel by private vehicle is very likely. However it is not considered that this would be significantly different to existing patterns of travel on the adjacent employment sites and ignores where employees live and might otherwise choose to work. As identified above the provision vision of rural employment opportunities provides a greater choice for rural residents and it would not be reasonable to assume that such provision automatically increases overall unsustainable travel patterns.

Accordingly, and considering the three elements of sustainable development in the round, it is not considered that the application should be refused on the basis that it is inherently unsustainable.

Justification for the Proposal

Whilst the NPPF places a greater emphasis on sustainability than policy ME4's need for an application specific justification, it is considered that regard should be had the case advanced.

Probiotics relocated its business to the adjacent allocated employment site in early 2010, having moved from premises at Stoke-sub-Hamdon. The company has grown significantly in recent years and exports to over 50 countries. It is now looking to increase its current

production facilities, storage and office infrastructure in order to meet the needs of a growing business.

The additional building will provide additional production space to enable the manufacturing of animal welfare products to be separated from human welfare products. The agent has outlined that 'export controls within the industry require that human and animal welfare products are both manufactured and stored in separate buildings'. It is important to stress that there is no legal requirement for the products to be manufactured and stored in different premises. However, from a business perspective, the company wishes to grow its export business and the separation of the animal from human products is driven on ethical grounds. A number of those countries/customers will seek the total separation of the human and animal products.

Moreover, the development will provide significantly more site storage of its goods and satisfy the need for additional office accommodation. The company presently employs 80 people (including 15 sales staff, rarely on site) with an expected increase to 130 by 2015. Based on this information, it is accepted that the company is performing very well and expanding. Furthermore there is a stated business case to separate the animal and human manufacturing processes.

Discussions with the applicant have explored whether additional capacity could be accommodated either within the 2 existing buildings, via an extension to the buildings or within land still available on the allocated employment site. The clear response was that, allowing for third party ownership, these options are not acceptable either in providing the physical capacity required or to provide the separate buildings required for the human and animal products.

It is not considered that there are any reasonable grounds to doubt the case put forward or to assume that there is an underlying speculative motive. Accordingly given the policy position that supports rural enterprise, the clear case that is advanced by the applicant and the fact that this is not an inherently unsustainable proposal the application falls to be determined on its planning merits.

Landscape and Visual Impact

In this instance there are no opportunities to re-use existing buildings (para. 28 and Policy ME4) and there is no land available within the existing Probiotics site that could accommodate a building on this scale (Policy ME4). Neither approach rules out new build.

Whilst the proposed building is large it is not of an unreasonable scale for a commercial building that one might expect to find at a rural employment site, be it agricultural or commercial. Indeed in terms of its footprint it is smaller than the original green house that was on this site. The external design, detailing and use of materials are very similar to those of the existing employment site. In particular, the proposal building is considered to site well in comparison with Building C (the first Probiotics building to the west), where the rise in land to east of the site helps assimilate its mass and scale within the site. Accordingly, whilst the new building would stand 2 metres taller than the adjacent Probiotics building and be larger in overall scale, the landscape officer considers the proposal to be acceptable.

The proposal includes a detailed planting scheme that will be implemented along the north, east and south boundaries. This requires the removal of the existing leylandii trees with new planting to adjoin and link with the landscaping undertaken as part of the previous planning approvals. It is considered that the removal of the leylandii screen is entirely acceptable given that these are not a native species, with some in poor condition with die back on the

lower parts of the trunk with resultant gaps. Their existence would also stifle the growth of any additional planting considered appropriate should the leylandii remain.

A detailed landscape scheme with a variety of native trees, hedgerow and shrubs is proposed and agreed by the Council's landscape officer. This would create a mixed edge mix comprising Dogwood, Hazel, Hawthorn, Holly along with Cherry, Oak and Acer trees, providing a belt of planting ranging from 2.5 to 10 metres in depth around all but the western (internal) boundary. It is considered that this landscaping scheme would provide a far more appropriate landscape screen than the unattractive and non-native leylandii trees.

It is noted that the allocation of the adjacent employment site (ME/LOPE/1) provides for the retention of the leylandii screen. However, for the reasons given above, and on the advice of the landscape officer, it is considered appropriate to agree their removal and replacement with a more appropriate mix of native planting.

There is a clear and understandable local concern regarding potential light pollution from this elevated site. It is considered that this could be reasonably mitigated against by the imposition of a condition to ensure that any external lighting is only installed in accordance with details to be agreed in advance by the local planning authority.

Accordingly, given the established development adjacent to the site, the existing nursery structures and the existing uses that characterise this location, there is no landscape objection to this proposal. It is suggested that the landscaping and agreement of external materials be conditioned. On this basis the landscape and visual impact of the development would not be unsustainable or unacceptable.

Highways and Parking

Members may recall that a new vehicular access from the old A303 and internal road layout was created as part of the approval of the earlier buildings on the adjacent site. These would serve the proposed building and the Highway Authority have not objected to the proposed development.

It is advised that the level of traffic generated by this proposal would result in about 50 movements in each peak period, or the equivalent of 1 additional movement per minute during peak times, with the site access junction operating well within its design capacity with these additional movements. The Highway Authority has stated that, whilst the number of parking spaces is below the standard requirement, the Transport Assessment justifies this in relation to the number of employees and this is considered to be consistent with the current trip generation of the site. Accordingly the Highway Authority considers that the number of parking spaces is acceptable. It is suggested that a Travel Plan should be required by condition to ensure that alternatives to the private motorcar are promoted and that a condition is imposed to ensure that the parking is retained.

On this basis it is not considered that the highways impacts of the proposal would be unsustainable.

Drainage

The application proposes that surface water would be attenuated at the appropriate greenfield run-off rate to the culverted ditch to the northeast corner of the site. Notwithstanding local concerns this is accepted by technical consultees and no evidence has been put forward to demonstrate that this would increase the risk of flooding elsewhere. Foul

water would be disposed of by a treatment plan. Again no technical objections have been received to this part of the scheme.

On the basis that the details of the drainage are submitted and agreed by condition it is not considered that the drainage of the site is objectionable or unsustainable or would have an adverse impact on the aquifer.

Quashing of Previous Decision

With the exception of the imposition of Condition 8, limiting the permission to Probiotics (Ground 1,) the Court found the Council's consideration of the application sound in all respects, the judgment concluding that:-

“There was no unlawful approach on the part of the Council to the grant of planning permission in this case, and this ground [Ground 2] of challenge does not succeed. The [Council] did give an adequate summary of the reasons for its decision to grant planning permission [Ground 3]. The [Council] did not act in breach of the EIA Regulations as there is no basis for challenging the decision that the development was not EIA development and that an environmental statement was not required [Ground 4]. There was no breach of the statutory provisions governing access to copies of the report and no unfairness [ground 5].”

Condition 8 was found not to serve a planning purpose and was irrational. On this basis the permission was quashed.

In light of the judgment the key issues are:-

- Have there been any changes in circumstance in relation to the 4 unsuccessful grounds?
- Have any new and relevant issues been raised by local objectors?
- Does the permission need to be 'personal' to the applicant?

Changes in Circumstance

It is not considered that the nature of the proposal has changed since April 2013 or as a result of the quashing of the decision. In this respect the lack of further comment from any statutory consultee is noted. With regard to the policy framework it is not considered that this has materially changed – the context being the saved policies of the 2006 Local Plan, where compliant with the NPPF. The introduction of the National Planning Policy Guidance (NPPG) on 6 March 2014 is noted, however this does not introduce any new policies; rather it provides guidance on the application of policy. It is considered that the previous consideration of this application is compliant with the NPPG.

Issues Raised by Objectors

The Parish Council and the local objectors reiterate a series of points that are comprehensively set out and addressed above. However for the sake of completeness the following commentary on the points now made is offered:-

- Applicant's Strategy – Whilst there may be local misgivings about the applicant's choice to relocate to this site, this cannot justify rejecting its applications out of hand. As ever each application falls to be determined on its own merits. Probiotics have permission for its existing units and now wish to expand. As such the proposal falls to be determined in light of current policies as set out above.

- Compliance with Policy – It is accepted that there are longstanding objections to the allocation of employment land at Lopen Head Nurseries (LOPE/1), however this allocation has long since been adopted, permissions have been granted, implemented and the site developed. There is simply no scope through this application to seek to challenge or revoke the allocation.

The local planning authority is now faced with an application from an existing business, which is on an allocated site to expand onto adjoining land, outside the original allocation. The policy framework applying such an application is set out above and the issues fully considered.

- The Need for an Environmental Impact Assessment – Notwithstanding the continuing assertion that an EIA should be provided, the proposal has been thoroughly screened by both the local planning authority and the Secretary of State with the conclusion that a formal EIA is not required. This issue formed part of the legal challenge and it was concluded that there is no justification for a challenge.

It is accepted that there has been a clarification of the activities within individual rooms of the proposed building. The nature of the proposed activities has been subject to vigorous dispute by objectors in challenging the Screening Opinions offered by the Council and the Secretary of State (via the National Planning Casework Unit) on the grounds that they constitute a ‘chemical or biological process’ and thereby trigger the need for an EIA.

This contention was not supported as a ground of appeal and the confirmation that the disputed activity involving ‘paste’ will not happen in the proposed building is not considered to constitute a material change. Nevertheless it has been considered prudent to revisit the screening process (14/03151/EIASS). This brings together all aspects of the proposal, the supporting information and the objector’s concerns. It is concluded that:-

With regard to Part 6(a) and Part 10(b), whilst the construction and use of a sizeable new building would have some environmental effects having regard to the characteristics of the development, the location of the development and the characteristics of the potential impact (including, as to these, in terms of topography, land use, the use of resources, the production of construction waste, patterns of travel to work, drainage, landscape and visual impact, the development of a former agricultural/horticultural site etc.) such effects form part of the normal planning considerations for any proposal such as this. Having very carefully scrutinised the relevant material, and reconsidered its original screening opinion, the Council considers that the proposed new building and its use is not likely to have significant effects on the environment whether looked at in isolation or cumulatively with other development.

Does the proposal need to be personal to the applicant?

Whilst the applicant has provided much detail to support its expansion on this site it should be noted that neither saved policy ME4 nor the NPPF stipulates that permission for the expansion of rural businesses should be personal to the applicant. In relation to ‘personal permissions’ the National Planning Policy Guidance advises:-

Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on

the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, but might, for example, result from enforcement action which would otherwise cause individual hardship.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.

Paragraph: 015 Reference ID: 21a-015-20140306

In this case it is accepted that a reasonable case has been made in support of the proposal.

It is difficult to envisage how any impact resulting from the building would be mitigated in any different way by tying its occupation to either the applicant or another user of the adjoining site. The impacts on visual amenity, landscape, drainage, ecology etc. would not materially alter as a result of a change of occupier and technical changes would be picked up by other legislation, e.g. environmental permits, wildlife protection legislation. Obviously planning permission would be needed for any changes of use.

Whilst a different occupier might generate differing traffic movements, the highways authority has considered both the estimated trip generation (30 – 40 per peak period) and theoretical TRICS predictions (up to 50 per peak period); these are considered to be well within the capacity of the junction. Such movements would still have to comply with the suggested hours condition and the travel plan would apply to all occupiers of the building, would help to ensure that parking is appropriately managed. A condition to require the retention of the parking area would also ensure that parking is not lost over time.

On the basis that the application is acceptable in planning terms it is considered that a personal condition is not justified in this instance and would serve no valid planning purpose and would be clearly contrary to guidance.

Other Issues

Availability of other sites

Comments have been made that Probiotics should look to other sites for their expansion plans at other employment sites that are available. It is pointed out that the company has invested significant sums on the existing site and, provided that there are no significant planning issues to warrant refusal, it makes economic sense to expand on a site adjacent to its existing facility rather than establish a new and second site elsewhere.

The NPPF specifically supports the sustainable growth and expansion of all types of business and enterprise in rural areas. It does not require existing businesses to look, in the first instance, to other sites.

Ecology

No protected species have been found to be using the site and no ecological objection has been raised to the application. Nevertheless it is suggested that an informative be added to remind the developer to adhere to the recommendations of the submitted ecology report.

Loss of Agricultural Land

The site is located on Grade 1 agricultural land. Objections have been raised that this will remove land from agricultural use and that is contrary to national and local policies that seek to protect such quality agricultural land. It is accepted that this application will result in the loss of prime agricultural land. However, given the fact that, firstly, it has been the site of previous development, albeit for greenhouse production, and secondly, it has been disused for a number of years, it is not considered that the loss of this small area of land, sandwiched between employment uses and residential properties would be so harmful that permission could reasonably be withheld on the grounds of the loss of best and most versatile agricultural land.

Residential Amenity

It is not considered that the proposed building would have any adverse impact on the amenities of the adjoining neighbours in terms of overlooking, loss of light or noise and disturbance. Whilst residential properties in the vicinity would be able to see the building it is not considered that, given the mitigation measures suggested, their outlook would be diminished to the point where permission could reasonably be withheld.

Conclusion

It is accepted that there are on-going local concerns regarding the allocation of the adjacent site for employment uses and its subsequent development. Nevertheless this is now 'water under the bridge', the site has been allocated and built out. The time for challenge to previous decisions is now long past.

The council is presented with a well-supported application for a further substantial building on adjacent land to enable the existing user of the site to expand. The application falls to be determined on the basis of whether or not it complies with the saved policies of the 2006 local plan and the policies contained within the NPPF. Policy ME4 of the 2006 local plan only supports 'small scale' expansion of rural business, which is inconsistent with the NPPF, and as such its weight is reduced.

In light of the considerations set out above it is concluded that this is sustainable development that would have no significant adverse impact on landscape character, visual amenity, ecology, water quality, residential amenity, the supply of the best and most versatile agricultural land or ecology, nor would it have a severe impact on highways safety. The proposal is therefore recommended for approval.

SECTION 106 PLANNING OBLIGATION/UNILATERAL UNDERTAKING

No planning obligations are necessary in connection with this application.

RECOMMENDATION

Grant permission subject to the following conditions

Justification

Notwithstanding local concerns, and in light of reasonable mitigation measures in the form of landscape planting and the external treatment of the building, the benefits of the proposed development in terms of employment opportunities and the contribution to the rural economy stemming from the expansion of an established business on its existing site, would outweigh any visual or landscape impacts. The scheme, for which a reasonable justification has been made, will provide a satisfactory means of vehicular access and adequate drainage without detriment to ecology, residential amenity or water quality. As such the scheme accords with saved policies ST5, ST6, EC3, EP1, EU4, EC8, TP2 of the South Somerset Local Plan. It is in accordance with the Development Plan taken as a whole, notwithstanding policy ME4, and the policies contained within the NPPF.

Conditions

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Once approved such details shall be implemented as part of the development hereby approved and not subsequently altered without the written agreement of the local planning authority

Reason: To protect the amenity of the area to accord with saved policy ST5 of the South Somerset Local Plan 2006.

03. No development hereby permitted shall be commenced until such time as the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority (LPA):

- 1) A preliminary risk assessment which has identified:
 - a. all previous uses
 - b. potential contaminants associated with those uses
 - c. a conceptual model of the site indicating sources, pathways and receptors
 - d. potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving

full details of the remediation measures required and how they are to be undertaken.

- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Thereafter the development shall be carried in accordance with the agreed measures unless the local planning authority agrees to any variation in writing.

Reason: To safeguard the water environment in accordance with saved policies EP1 and EU4 of the South Somerset Local Plan 2006.

04. Prior to the commencement of the development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. There should be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of sustainable development in accordance with saved policy TP2 of the South Somerset Local Plan 2006.

05. The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety in accordance with saved policy ST5 of the South Somerset Local Plan 2006.

06. No means of external lighting shall be installed on the building or within the rest of the application site without the prior written approval of the Local Planning Authority. Details of any external lighting to be submitted shall include the hours of operation of such lighting. Any approved external lighting subsequently installed shall not be changed or altered without the written consent of the Local Planning Authority.

Reason: To protect the visual amenity of the area in accordance with Policy ST5 and ST6 of the South Somerset Local Plan.

07. The development hereby permitted shall not commence unless a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include construction operation hours, construction delivery hours, car parking for contractors and specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice. Once approved the development shall be carried out in accordance with the approved Construction Management Plan.

Reason: To safeguard the amenities of the locality in accordance with accord with Policy EP6 of the South Somerset Local Plan.

08. No development hereby approved shall be commenced until surface water drainage details, including calculations, have been submitted to and approved in writing by the local planning authority. Such details shall incorporate sustainable drainage techniques where appropriate and shall include measures to prevent surface water from private properties draining onto the public highway. Once approved such details shall be fully implemented prior to the occupation of the unit and shall be maintained in good working order at all times thereafter.

Reason: To ensure that the development is adequately drained in accordance with saved policy EU4 of the South Somerset local Plan.

09. No development hereby approved shall be commenced out until foul water drainage details have been submitted to and approved in writing by the local planning authority. Once approved such details shall be fully implemented prior to the occupation of the unit and shall be maintained in good working order at all times thereafter.

Reason: To ensure that the development is adequately drained in accordance with saved policy EU4 of the South Somerset local Plan

10. All planting, seeding or turfing comprised in the landscaping hereby approved, as shown on drawing 479/01 P1, shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity in accordance with saved policy ST5 of the South Somerset Local Plan.

11. No development hereby approved shall be carried out until such time as details of the proposed levels across the site, including internal floor levels, have been submitted to and agreed in writing by the local planning authority. Once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

Reason: In the interests of visual amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

13. No machinery shall be operated, no process shall be carried out and no deliveries taken or despatched from the site outside the hours of 07.00 - 19.00 Monday to Saturday nor at any time on Sunday, Bank or Public Holidays.

Reason: To protect residential amenity in accordance with Policy ST6 of the South Somerset Local Plan.

12. The development hereby approved shall be carried out in accordance with the following approved plans:
479/01 P1 - Landscape plan
3030/PL-007 - Elevations.
3030/PL-006 - Roof Plan
3030/PL-003 Site Plan

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

Informatives:

01. You are reminded that there should be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses or via soakaways/ditches. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings should be passed through trapped gullies with an overall capacity compatible with the site being drained
 02. Any oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.
 03. You are reminded of the findings and recommendations of the Protected Species Survey submitted in support of the application which should be adhered to at all times to ensure compliance with the relevant legislation.
-