

Item No. 9

APPLICATION NUMBER	CB/18/03205/FULL
LOCATION	Land adjacent to Ashridge, Pepsal End Road, Pepperstock, Luton, LU1 4LJ
PROPOSAL	Erection of a production facility (with use classes B1(a) (offices) and B1(c) (light industry appropriate in a residential area)) with associated office, on-site parking and an access road off Pepsal End Road
PARISH	Slip End
WARD	Caddington
WARD COUNCILLORS	Cllrs Collins & Stay
CASE OFFICER	James Peck
DATE REGISTERED	20 August 2018
EXPIRY DATE	15 October 2018
APPLICANT	Harper
AGENT	DLA Town Planning Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in for determination by the Development Management Committee by Cllr Stay if minded to refuse on the basis of: <ul style="list-style-type: none">• Minimal to zero impact on landscape• This development is justified on Green Belt because VSC's include sustainability of the Harpers facility, employment and minimal impact on Green Belt
RECOMMENDED DECISION	Full Application - Recommended for Refusal

Summary of Recommendation:

The proposal for a production facility is washed over by the South Bedfordshire Green Belt and would constitute inappropriate development. Substantial harm should be attached to the inappropriateness of the proposal and its impact on openness by way of its proposed planning uses, positioning, scale and bulk. Very special circumstances are considered to not have been demonstrated to outweigh the potential harm of the proposal. Consequently, the principle of development has not been established.

The proposal would also have a significant, adverse impact on local visual amenity due to it appearing out-keeping with its local rural context and having an impact on residential amenity due to the proposal being located in close proximity to neighbouring occupiers.

On balance, the Green Belt harm of the proposal, by way of its inappropriateness as well as its identified negative impact on local visual and residential amenity, is considered to demonstrably outweigh any of the assessed positive attributes or contributions that the proposal may bring and on this basis the proposal has been recommended for refusal.

Site Location:

The application site, located on the eastern side of Pepsal End Road in the village of

Pepperstock, is flanked by the residential property and curtilage of Ashridge to its north and flanked by the residential property named Pedlars to the immediate south of the application site. The M1 motorway is located to the rear of the application site. Opposite the application site on the western side of Pepsal End Road is the Harpers Fine Foods farm shop business.

For the purposes of planning, the application site is considered to be paddock/ greenfield land though land on the western edge of the application site has been recently used as temporary car parking. This temporary car parking, with no planning history, is not included within the proposed scheme for this planning application and is the subject of an ongoing Planning Enforcement investigation.

The vicinity of the application site has a rural character comprising of two storey detached and terraced dwellings surrounding a small village green which sits at the junction of Front Street, Half Moon Lane and Pepsal End Road. The application site is washed over by the South Bedfordshire Green Belt.

The Application:

Full planning permission is sought for the erection of a production facility with the planning use classes B1(a) (offices) and B1(c) (light industry appropriate in a residential area) and located to the rear and in the north-eastern corner of the application site. This facility would be used in association with the commercial activities of the existing Harpers Fine Foods farm shop in Pepperstock.

The proposed production facility structure would be part single storey, part two storey with its two storey section facing due south-west towards the side of the application site bounded by Pepsal End Road. The structure's roof would have a dual pitched roof aspect with a short pitched section towards its front and a elongated pitched roof tapering towards its rear. The front elevation of the proposed production facility would feature a 4.6m high garage door heavy goods vehicle deliveries as well as high level lateral windows. French doors and full height glazed windows would be inserted into the north-western corner of the subject building. Four nos. obscure glazed windows (three at ground floor level, one at first floor level) as well as timber doors would be found in its northern side elevation. The exterior facing for the proposed production facility building would be comprised of cladding for its upper section and facing brickwork for its lower section towards ground level.

The proposed facility would feature a green sedum roof with PV solar panels located across the elongated rear sloping section of this roof. It would be comprised internally of stores and storage, a loading/ unloading bay, a reception, toilets, a kitchen and a bin store on its ground floor whilst its first floor would consist of offices with ancillary toilets and a kitchenette. The proposed production facility would have dimensions of approximately 5.4m in height up the roof eaves on its front elevation, 3m in height up to its roof eaves on its rear elevation, 6.3m in height up to its highest point along its roof ridge, 16.5m in width and 19.5m in depth. Altogether, the proposed production facility building would have 376m² of floorspace (a footprint of 322m² and usable first floor space of 54m²).

This production facility would be served by on-site parking provision comprising of 12 nos. employee parking spaces and an access driveway measuring 3.5m in width

along the section from the vehicular access from Pepsal End Road up to the shared access for the site's parking provision and vehicular access into the proposed production facility itself. The remaining section of the proposed vehicular driveway leading up to the proposed production facility would measure 5m in width.

As the Local Planning Authority, the Council's determination of this planning application must be made in accordance with the development/ local plan unless material considerations indicate otherwise as set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended). This position is reinforced in paragraph 47 of the National Planning Policy Framework (NPPF) (revised July 2018).

Paragraph 12 of the NPPF explains that for all planning decision-making, the starting point should be the adopted development plan. Where a proposal is in conflict with the policies of the development/ local plan and said plan is not out-of-date then planning permission should normally be refused. If the Local Planning Authority wishes to deviate from the policies of the development plan then they can do so but the test as set out in paragraph 12 of the NPPF is, "*...only if material considerations in a particular case indicate that the plan should not be followed.*"

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (July 2018)

- 2: Achieving sustainable development
- 4: Decision-making
- 6: Building a strong, competitive economy
- 9: Promoting sustainable transport
- 12: Achieving well-designed places
- 13: Protecting Green Belt land
- 14: Meeting the challenge of climate/coastal change, flooding
- 15: Conserving and enhancing the natural environment

South Bedfordshire Local Plan Review Policies (January 2004)

- SD1: Sustainability Keynote Policy
- GB3: Green Belt Villages
- BE8: Design Considerations
- T10: Parking - New Development

(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies SD1, BE8 and GB3 are still given significant weight. Policy T10 is afforded less weight).

Neighbourhood Plan for Caddington & Slip End 2016-2031 (including Pepperstock) (August 2018)

- Policy Case10: Provision of New Commercial Floorspace

Central Bedfordshire Local Plan - Emerging

The Central Bedfordshire Local Plan has reached submission stage and was

submitted to the Secretary of State on 30 April 2018.

The National Planning Policy Framework (paragraph 48) stipulates that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans unless material considerations indicate otherwise.

The apportionment of this weight is subject to:

- the stage of preparation of the emerging plan;
- the extent to which there are unresolved objections to relevant policies;
- the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.

Reference should be made to the Central Bedfordshire Submission Local Plan which should be given limited weight having regard to the above. The following policies are relevant to the consideration of this application:

SP4: Development in the Green Belt
T2: Highway Safety and Design
T3: Parking
EE1: Green Infrastructure
EE2: Enhancing biodiversity
EE3: Nature Conservation
EE4: Trees, woodlands and hedgerows
EE5: Landscape Character and Value
CC3: Flood Risk Management
CC5: Sustainable Drainage
CC6: Water supply and sewerage infrastructure
CC8: Pollution and land stability
HQ1: High Quality Development
EMP4: Rural and Visitor Economy

Supplementary Planning Guidance/Other Documents:

Planning Practice Guidance documents (Department for Communities and Local Government/ Ministry of Housing, Communities & Local Government)

- Determining a planning application
- Design
- Neighbourhood Planning
- Use of planning conditions

Central Bedfordshire Design Guide (March 2014)

- 1 - Place-making
- 2 - Green Infrastructure, Climate Change Adaptation & Sustainable Buildings
- 8 - Larger Footprint Buildings

Relevant Planning History:

Application Number CB/18/02027/FULL

Description Erection of a production facility with associated office and parking.
Decision Application Withdrawn
Decision Date 17/08/2018

External Consultees:

Slip End Parish Council - Dated 02/10/2018 (Verbatim)

The Parish Council have no objection to this Planning Application.

Bedfordshire Fire and Rescue Service - Dated 21/09/2018 (Summarised)

The Bedfordshire Fire and Rescue Service liaison officer has not objected to the proposal but has indicated relevant fire regulations which the proposal would need to comply with at the Building Regulation stage. The recommended provision of fire hydrants could be secured by a planning condition if this planning application was to be approved.

Highways England - Dated 24/09/2018

No objection.

Thames Water - Dated 07/12/2018 (Summarised)

Thames Water have confirmed that the proposal does not require an agreement from this water authority as the proposed building would not be built within three metres of a public sewer or one metre of a lateral drain.

Affinity Water - Consultation response expected to be received late December/ early January. Any comments received will be included on the Development Management committee late sheet.

Great Crested Newt consultant - Dated 26/11/2018 (Verbatim)

If the applicant has decided to not use the district licence scheme then I don't have any further comments to add.

Internal Consultees:

CBC Waste Services - Dated 28/09/2018 (Verbatim)

Thank you for sending this application for our consideration. However, as the premises are

going to be used for commercial purposes, we have no comments to make. The landlord/occupier will have to make their own commercial waste collection arrangements as this is not a service Central Bedfordshire Council provides.

CBC Economic Development - Dated 23/11/2018 (Summarised)

Supportive of the application as this is a business expansion and seems to be in a sensible location next to other existing businesses and road infrastructure is in place albeit on the Green Belt. It is also noted that 12 nos. jobs will be created as part of the proposal.

CBC Transport Strategy (Public Transport) - Dated 19/11/2018 (Summarised)

The nearest bus stop is on Half Moon Lane, Pepperstock. Bus services 231 and 232 can serve this stop but they are not frequent and services do not operate at peak times. There are more frequent service levels within Slip End which is a 700m walk from the application site; bus services 231 and 46 serve Slip End with buses coming from Hemel Hempstead, Dunstable and Luton.

CBC Sustainable Urban Drainage Systems (SuDS) Management and Flood Risk - Dated 27/09/2018 (Verbatim)

We consider that planning permission could be granted to the proposed development and the final design and maintenance arrangements for the surface water system agreed at the detailed design stage, if the following recommendations and planning conditions are secured.

We require a simple drainage strategy including; calculations to prove storage required, evidence that surface water from a 1 in 100 +40% rain fall event will be controlled on site, evidence that existing properties and infrastructure flood risk in not increased, reasoning for chosen system if it does not incorporate the SuDS management train, maintenance and management plan.

Hardstanding areas could be drained via filter strip and swale/rill to the storage/soakaway.

There are no calculations to verify storage requirement.

A full drainage drawing is required, this should

show; pipe numbers, inverts, control features, storage etc.

Where the use of permeable surfacing is proposed, this should be designed in accordance with the 'CIRIA RP992 The SuDS Manual Update: Paper RP992/28: Design Assessment Checklists for Permeable/Porous Pavement'.

The final detailed design including proposed standards of operation, construction, structural integrity and ongoing maintenance must be compliant with the 'Non-statutory technical standards for sustainable drainage systems' (March 2015, Ref: PB14308), 'Central Bedfordshire Sustainable Drainage Guidance' (Adopted April 2014, Updated May 2015), and recognised best practise including the Ciria SuDS Manual (2016, C753).

Land drainage Consent under the Land Drainage Act 1991 must be secured to discharge surface water to an existing watercourse/ditch (even if it is piped), and details of this provided with the full detailed design. An easement should be provided on the developable side of the watercourse to allow for access for maintenance, this should be 9m but may depend on the maintenance requirements considered appropriate.

N.B. conditions have been recommended which would be attached to any decision notice if planning permission is granted for the proposal.

CBC Landscape -

Dated 28/09/2018

No landscape objection to principle of development of site;

The proposed inclusion of a green roof, arrays and rainwater harvesting are real positives.

If the application is to be progressed a substantial native treed shelter belt would be required along the full extent of the eastern and northern site boundaries to assist in mitigating development and reinforcing landscape / biodiversity connectivity.

A detailed landscape plan would be required by Condition along with detail on any external lighting if the application were to be approved.

CBC Sustainable Growth -

N.B. The CBC Sustainable Growth officer has advised that comments made under the previously withdrawn planning application ref: CB/18/02027/FULL for the same proposal and within the same application site can be utilised for the current proposal which are set out as follows:

Dated 27/07/2018 (Verbatim)

Inclusion of sustainability measures such as water harvesting, sedum roof and PV panels is welcomed and is supported.

CBC Trees & Landscaping -

Dated 07/11/2018 (Verbatim)

I refer to my previous consultation response, and the subsequent discussions regarding an appropriate condition for a "No-Dig" cellular confinement system, which should be worded as follows:-

N.B. the recommended condition would be attached to a decision notice if planning permission is granted for the proposal.

CBC Pollution/ Public Protection - Dated 11/09/2018 (Verbatim)

Thank you for consulting Public Protection on this application.

Notwithstanding the proposed site for this development is adjacent to the M1 and the location undoubtedly has relatively high background noise levels, there is no information on hours of use or methods of operation. There are, however, chillers, freezers and potentially an extraction system with no evidence of external plant on the plans.

Given the location, I do not have major concerns but would recommend that the hours of deliveries are restricted to daytime only along with the following conditions.

N.B. conditions have been recommended which would be attached to any decision notice if planning permission is granted for the proposal.

CBC Highways Development Management - Dated 29/10/2018 (Verbatim)

I refer to the above application for which you have

requested my comments and advise as follows:

The proposal is for the construction of a commercial building to be used in conjunction with the business associated with the neighbouring property (Harpers Food) on the opposite side of Pepsal End Lane. The building is to take access from an existing field access onto Pepsal End Lane. There is adequate inter visibility between the emerging traffic and that on Pepsal End Lane and there is adequate parking within the site. I am concerned as to the inter visibility from Pepsal End Lane and Front Street. While I am concerned as to the speed of the traffic along Front Street at the point of the junction with Pepsal End Lane.

I am conscious that the average speed of traffic along Pepsal End Lane fronting this access is no more than 30mph. It would also be fair to say that while the average speed along Front Street is in excess of the speed limit; the visibility splay should be in accordance with that speed.

I have had discussions with the applicant who is also the owner of the property identified in the blue and he has agreed to dedicate land and provide the appropriate visibility splay between Pepsal Lane and Front Street which could be dealt with by way of condition.

In a highway context I recommend that the following conditions be included if planning approval is to be issued:

N.B. conditions and informatives have been recommended which would be attached to any decision notice if planning permission is granted for the proposal.

CBC Ecology -

Dated 26/11/2018

Based on the ecological information provided in November 2018 the proposed enhancements to include a sedum roof and native screen planting would be appropriate in delivering net gains.

CBC Local Planning & Housing -

Dated 05/12/2018

Thank you for consulting the Local Plans team. We have considered this application and have the following observations:

This development is located in the Green Belt. As set out in the adopted South Bedfordshire Local Plan policy GB1, planning permission will not be given, except in very special circumstances.

Policy SP4 of the emerging Local Plan states there is a general presumption against inappropriate development in the Green Belt. Policy EMP4 states that development for employment generating uses will normally be supported where the site is not in the Green Belt.

Therefore the principle of development at this location is not supported.

We have noted the very special circumstances the applicant has stated. However it is not clear whether an alternative more appropriate site outside the Green Belt has been considered.

Other Representations:

Neighbours -

Three nos. set of objections, received 13/09 and 14/09, from the occupiers of neighbouring properties which are summarised as follows:

- The proposal is in the Green Belt; if a residential extension for a nearby dwelling struggled to get planning permission why should the proposed production facility be approved?
- The proposed production facility building is not in keeping with current environment and along with its height means it would be an 'eyesore'.
- The proposal does not respect the privacy or amenity of adjacent properties.
- The proposal would impinge upon a right of way for an adjacent dwelling.
- The proposal will appear completely out of character for the local area and would be visible when crossing the motorway due its scale and its location in an open field.
- No visual shielding of proposal from residential properties to its south.
- The intrusion of the proposed development on the right of way of an adjacent property will affect this property's privacy.
- No nature conservation consideration has been given for existing wildlife such as deer and rabbits.
- No mention is made in the proposal about

how rat vermin which might be attracted to the proposed production facility and how this will be controlled.

- No consideration has been given to sewerage works and disposal.
- Access road will result in noise and vibration issues for adjacent dwellings.
- No consideration given to how light pollution from the proposed production facility will be dealt with.
- How will surface water run-off from the proposed production facility be managed?
- There does not appear to be any controls over the noise generated by the food processing and freezer storage in the production facility.
- How will odours from the proposed production facility be controlled as this site handles food produce?
- There are an insufficient number of parking spaces to accommodate employees as well as visitors like maintenance staff. This would be exacerbated by existing inadequate parking and overflow for existing Harper's fine foods workshop.
- The proposed vehicular access is not wide enough to accommodate a fire engine.
- Site entrance for the production facility would conflict with delivery drop-offs for Harper's farm shop.
- The proposed construction of the production facility will affect local air quality, noise, traffic and ultimately the market value of the surrounding area.
- The proposed facility will benefit the applicant financially but not local residents.

Determining Issues:

The main considerations of the application are:

1. Principle of Development and its Impact on the Openness of the South Bedfordshire Green Belt
 - A) Green Belt Policy
 - B) Very Special Circumstance Nos. 1 & 2 - Local job creation, local training opportunities and contributions to the local economy
 - C) Very Special Circumstance No. 3 - Strategic consolidation of Harpers Fine Foods farm business activities into one area
 - D) Very Special Circumstance No. 4 - Relevant case law
 - E) Overall Assessment of Very Special Circumstances
2. Effect on the Character and Appearance of the Area

3. Neighbouring Amenity Considerations
4. Highway Considerations
5. Other Considerations

Considerations:

1. Principle of Development and Its Impact on the Openness of the Green Belt

A) Green Belt Policy

- 1.1 The comments raised by an objecting neighbour regarding the impact that the proposal would have on the planning status and potential for future development in the Green Belt are noted. The application site is washed over by the Green Belt by its designation under policy GB1 and as shown on the proposals map for the South Bedfordshire Local Plan Review. As such, Green Belt policies apply in full to the proposal.
- 1.2 The Council's Local Planning Policy team have indicated that the application site falls within the southern part of land parcel SE1 in the Stage 1 Green Belt Assessment (dated July 2017 - a desktop assessment to support the preparation and evidence base for the emerging Central Bedfordshire Local Plan). The southern section of parcel SE1 was identified as making a 'moderate contribution' to purposes 1 and 3 of paragraph 134 of the NPPF and a 'relatively weak contribution' to purposes 2 and 4 of paragraph 134 of the NPPF. Sections of land parcels which were deemed to make an overall less than 'relatively weak contribution' to the purposes of the Green Belt were carried forward into the Stage 2 Green Belt Assessment to further appraise whether identified land could be allocated for release from Green Belt designation. As the land which covers the application site was not taken forward to Stage 2, the application site has more recently been considered to be higher quality Green Belt land that makes a important contribution to the status of the Green Belt.
- 1.3 Section 13, 'Protecting the Green Belt' of the National Planning Policy Framework (NPPF) explains that Green Belts assist in "... *safeguarding the countryside from encroachment*" as well as *"to assist in urban regeneration, by encouraging the recycling of derelict and other urban land"*.
- 1.4 Paragraph 143 in Section 13 of the NPPF explains that, *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."*
- 1.5 Furthermore, paragraph 144 of the NPPF elaborates that, *"... local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."*
- 1.6 Paragraph 145 of the NPPF sets out the types of buildings that can be constructed which are not considered to be inappropriate in the Green Belt. The

proposal for a production facility with associated on-site parking and an access road would not fall within any of these exempted forms of building from inappropriate development.

- 1.7 Consequently, convincing very special circumstances need to be presented for the proposal in order to outweigh the identified cumulative harm with the proposal (which includes the Green Belt impact and other harmful aspects) and so establish the principle of the proposed development.
- 1.8 There is no statutory definition for what constitutes as a 'very special circumstance' but it has been derived from planning case law that for a circumstance to justify inappropriate development, the circumstance cannot merely be unusual or exceptional but must meet the much stronger test of 'very special' or a circumstance which is substantial and wholly unique to the proposal so that it could not be argued for any other proposal. If a very special circumstance is deemed to not exude such qualities, then accepting such a circumstance would diminish the 'specialness' of the presented 'very special circumstance' and if argued for other proposals within a Green Belt would erode and undermine the principles of this protected area due to cumulative harm to the Green Belt.
- 1.9 A number of very special circumstances have been put forward in this application's supporting statement by DLA Planning (dated September 2018) to justify the proposed development and outweigh the identified Green Belt harm and any other harm resulting from the proposal. These are presented as:
 1. *job creation and the growth of a valuable local and highly skilled employer contributing to the rural economy.*
 2. *training local specialists through apprenticeship schemes.*
 3. *consolidation of company onto one site within Central Bedfordshire.*
 4. *as determined in Herba Foods Ltd v Secretary of State for Communities and Local Government and South Cambridgeshire DC [2008], the expansion of an existing business in the Green Belt can be considered a very special circumstance.*

B) Very Special Circumstances 1 & 2 - Local job creation, local training opportunities and contributions to the local economy

- 1.10 Paragraph 80 of the NPPF explains that planning decisions, *"... should help 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."* Furthermore, paragraph 82 states that, *"Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for... storage and distribution operations at a variety of scales and in suitably accessible locations."*
- 1.11 One of the criteria under paragraph 83 of the NPPF is that planning decisions should allow, *"... the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings."*

Policy Case 10 of the adopted Caddington & Slip End Neighbourhood Plan (which includes Pepperstock) explains that the provision of new B-class commercial

- floorspace shall only be considered acceptable if it would meet the criteria of being on previously developed land and not have a greater impact on the openness of the Green Belt, there being a demonstrable need for such a facility identified through up-to-date evidence, there are no alternative sites within the Caddington and Slip End settlement areas and it can be demonstrated that it is not possible to intensify the use within the existing site.
- 1.12

Policy EMP4 'Rural and Visitor Economy' of the emerging Central Bedfordshire Local Plan indicates that proposals for development which contribute to greater employment within rural areas may be granted in a Green Belt location only if "*... exceptional circumstances are identified and where the need for the proposal outweighs any demonstrable harm to the Green Belt.*"

- 1.13 The application's supporting statement indicates that the proposal would increase the number of apprenticeships for the Harpers Foods business from 3 nos. to 5 nos and the proposal would employ an additional 12 people thereby increasing the efficiency and profitability of the Harpers Food business.

- 1.14 The applicant's agent has confirmed via correspondence that the new production workers for the proposed production facility would supplement those employees of the existing farm shop in Pepperstock. It has also been argued that the close proximity of the proposed production facility to the farm shop would provide opportunities for joint working and a shared workforce between those individuals employed in the proposed production facility, in the retail section and admin team of the fine foods business due to expanded office space.

- 1.15 As indicated by national planning policy, planning decision-making should play a role in facilitating development which is conducive to higher employment rates and greater economical prosperity. The indicated increased business capacity for the Harpers Fine Foods and opportunities for employing additional workers including apprentices are acknowledged as being potential benefits of the proposal.

- 1.16 However, it is considered that the positive outcomes which may result from the implementation and operation of the proposed production facility would not be sufficiently strong to amount to a very special circumstance. Such benefits could be reasonably replicated from the occupation of an existing/ proposed production/ industrial/ storage unit or the expansion of such a unit on a site that is not the one indicated on site location plan. A detailed business plan has also not be presented with this planning application to rigorously explain why the proposed production facility is required to employ additional staff members and not in existing premises for the Harpers Food farm shop to demonstrate that the Harpers Food farm shop has reached a critical capacity for the business' and its employees' future prosperity.

- 1.17 Combined with the estimated overall limited number of additional employees and apprentices to be created as a result of the proposed production facility, it is felt that the employment and training opportunities which would be presented by the proposed production facility would not amount to a 'very special circumstance' in support of the proposal to overcome the proposal's inappropriateness by way of its location in the Green Belt. The proposal would hence not meet the criteria in policy case 10 of the Caddington & Slip End Neighbourhood Plan and policy EMP4 of the emerging Central Bedfordshire Local Plan.

C) Very Special Circumstance 3 - Strategic consolidation of Harpers Fine Foods farm business activities into one area

1.18 Paragraph 103 of the NPPF states that, *"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."*

1.19 The applicant's agent in correspondence has explained that a search for suitable sites for the proposal have been conducted but the selection of potential brownfield sites available for development was constrained by the high cost and competition for such sites from other competing land holders and developers notably for house building.

1.20 It was also explained that locating the production facility further away from the main business premises at the farm shop along Pepsal End Road would be less compatible with the growth strategy for the Harpers' fine foods business to consolidate its commercial activities within a single area. It is argued that re-locate all of its expanded office and production/ storage activities away from Pepperstock would place an excessive burden on the business.

1.21 A further argument offered in support of the production facility being erected within the application site was that its products processed would be sold to customers in the farm shop opposite. The proposed production facility would also be adjacent to the M1 motorway and within a 3 mile drive of Luton train station providing ease of access to potential customers as well as the supply of goods to store and process in the production facility and to make the goods prepared and sold in the existing Harpers Food farm shop. The applicant's agent has also confirmed that as of August 2018, 25 out of the 45 existing employees for the Harpers Food business were deemed to live locally more specifically in Pepperstock, Markyate, Slip End and Caddington. The remaining employees are purported to live within 5 to 10 miles of the existing farm shop along Pepsal End Road.

1.22 On the basis of the need for the production facility, the applicant's agent has also explained that the Harpers Food business was growing and a new production facility to replace its existing facilities would support the business' future economic development.

1.23 When the above presented very special circumstance is appraised and notwithstanding the proposal's inappropriate location in the Green Belt, it is deemed that sites within the Dunstable and Houghton Regis conurbations which can more readily accommodate the proposed production facility due to compatible allocated sites and be set within a urban context would still be readily assessable due to their proximity to the M1 motorway and public transport links facilitated by the Luton-Dunstable busway. The location of the proposed production facility within Houghton Regis and Dunstable would conform to the distribution and location of built development desired in policy SD1 of the South Bedfordshire Local Plan Review to

encourage development which is more sustainable in the economic, social and environmental senses. A detailed case presenting the site location selection rationale and the financial viability of conducting the activities of the proposed production facility on other sites or premises has not been presented with this application to support the arguments presented.

As such, this presented 'very special circumstance' does not amount to such by the Local Planning Authority to support the principle of the proposed production facility and would not meet the criteria set out in policy SD1 of the South Bedfordshire Local Plan Review.

D) Very Special Circumstance 4 - Relevant case law

- 1.25 In the proposal's accompanying planning statement, attention is drawn to applicable planning case law specifically a high court judgement issued in the case of *Herba Foods Ltd v Secretary of State for Communities and Local Government and South Cambridgeshire DC [2008]*.
- 1.26 In this case, very special circumstances for the proposed factory extension (in the Green Belt) to an existing factory (not in the Green Belt) on a site in Fulbourne, Cambridge were argued to be that:
 - the proposed extension would be smaller than the original mill building within the application site and when read alongside this existing building on previously developed land, "... *would not have material impact on wider landscape and would not be prominent in longer views*" to justify the refusal of the proposal on this basis.
 - The proposed extension to store milling products would increase the efficiency of the factory's commercial activities by freeing additional capacity and a proposed extension for storage would be more environmentally friendly by reducing reliance on off-site storage thereby reducing potential levels of emissions from delivery vehicles.
 - The proposed extension would make use of previously developed land within the application site (which included both designated Green Belt land and non-Green Belt land) thereby furthering secure the function of the factory with additional resources and energy.
- 1.27 This application's supporting planning statement summarises what is deemed to be the critical factor in the high court judgement's to quash the planning inspector's appeal decision: "*The Court determined that the approach of looking for an unusual or rare factor was erroneous. The words 'very special' were not to be treated as the converse of 'commonplace.'*" This planning law case is then argued in the supporting planning statement to support the case for the proposed production facility as, "*The existing (Harpers fine foods) business needs to expand in order to develop and thrive and the courts have established that this could be considered a very special circumstance*".
- 1.28 Consistency should be achieved in planning decision-making to provide greater certainty in the decision-making process for applicants and local planning authorities as well as to secure public and private party confidence in the activities of the planning system. It is acknowledged that some similarities can be drawn between the proposal quoted in the presented case law and the proposed production facility for this application as both proposals' application sites fall within the Green Belt, they

would help to serve the functions of existing businesses and have both been argued to increase the economic performance and long-term viability of said businesses.

- 1.29 However, the proposed production facility differs from the proposal from the quoted case law as it is not an extension to an existing industrial building and the proposed production facility would be constructed on greenfield land. Moreover, the two proposals should not be readily compared like-for-like as each falls within different local settings with differing natural landscape features, built development characteristics and local planning policy contexts meaning they each need to be assessed on their own merits. Combined with the age of the quoted planning case judgement originating from 2008, the quoted case law example does not set a strong precedent which the Local Planning Authority's determination of this planning application would need to be consistent with and is not deemed to constitute as a 'very special circumstance' to justify the proposal and help outweigh the overall harm of the proposal.

E) Overall Assessment of Very Special Circumstances

- 1.30 Having assessed all of the very special circumstances put forward with this planning application to justify the proposal despite its inappropriateness in the Green Belt, it is deemed that these circumstances would not be considered 'very special' and are not considered to outweigh the Green Belt harm and any other harm resulting from the proposal.
- 1.31 Given the proposed development's Green Belt location, significant weight is given to its harm by way of inappropriateness. The proposal would fail to preserve the openness of the Green Belt by way of its bulk, scale and incongruous character within the rural countryside setting of Pepperstock which does not currently host industrial premises. The proposal would hence be contrary to the principles of the Green Belt as set out in paragraph 143 of the NPPF.
- 1.32 Because no very special circumstances have been established, the proposal would not conform to the statements contained in paragraph 145 of the NPPF and would be contrary to section 13 of the NPPF, policy SD1 by failing to meet the criteria in bulletpoint v) as the proposal is not acceptable in Green Belt policy and policy SP4 of the emerging Central Bedfordshire Local Plan meaning that the principle of proposed development is not considered to be acceptable.

2. Effect on the Character and Appearance of the Local Area

- 2.1 The comments from an occupier of a neighbouring property in relation to the negative visual impact of the proposal within the local area are acknowledged. Paragraph 127 of the NPPF explains that development proposals should ensure that they, amongst other things: add to the quality of the area, are visually attractive, are sympathetic to local character and landscape setting, establish a sense of place, optimise the potential of the site in question and create developed places that are safe and inclusive.
- 2.2 Policy BE8 of the South Bedfordshire Local Plan Review explains that development should: take into account and opportunities sought to reinforce the local area's character and distinctiveness; its size, scale, density, massing, orientation, materials and overall appearance; the setting of development should

be considered which includes resistance to intrusion into exposed skylines, and; forms of hard and soft landscaping should be considered to allow development to integrate into its surroundings. The themes raised in this policy are similar to those contained within the text of policy HQ1 'High Quality Development' of the emerging Central Bedfordshire Local Plan.

- 2.3 Section 6 of the Central Bedfordshire Design Guide 2014, 'Larger Footprint Buildings', sets out design guidance for buildings types including warehouses and industrial buildings.
- 2.4 The Council's Landscape officer has not objected to the proposal on landscape grounds subject to a detailed landscaping plan being submitted and approved which could be facilitated by a pre-commencement condition attached to a decision notice granting planning permission for the proposal.
- 2.5 The Council's Sustainable Growth officer's comments on the proposal submitted as part of planning application CB/18/02027/FULL (which is for the same scope and character of development as now proposed as part of this planning application) indicated support for the proposed use of sedum roof with solar PV panels inserted for the proposed production facility and water harvesting elements.
- 2.6 The comments of the Council's Landscaping and Sustainable Growth officers are acknowledged. It is also noted that the proposal has been designed in an effort to minimise its visual impact on the local landscape by way of the pitched roof of the proposed production facility, the use of a green sedum roof and external cladding.
- 2.7 However, CBC planning officers are of the opinion that the proposed production facility, which would stand at 6.3m in height at its highest point, would appear prominent and obtrusive amongst existing built development including nearby residential dwellings. The proposal would significantly reduce the open and green character of the application site which would degrade its rural aesthetic as well as undermine the principles of keeping sites within the Green Belt free from inappropriate development.
- 2.8 The proposal, when viewed from the public realm on Pepsal End Road and Front Street, would appear out-of-keeping with its rural surroundings and result in significant urbanisation of the application site to the detriment of the under-developed character of the application site. The proposal would also appear very pronounced when viewed by the road users of the adjacent M1 motorway and the flyover over the M1 motorway leading onto Front Street. Due to the scale of the proposed production facility, it is unlikely that a landscaping scheme would be able to fully mitigate the visual impact of the proposal from these adjacent areas.
- 2.9 Having made the above assessment, it is considered that the proposal, by way of the proposed production facility building's height, bulk and massing and its associated works including on-site parking, would have a significant adverse impact on the visual amenities of the local area and would not harmonise with existing local landscaping and built development features. Consequently, the proposal would be contrary to policies BE8 of the South Bedfordshire Local Plan

Review, policy HQ1 of the emerging Central Bedfordshire Local Plan and section 12 of the NPPF which seek promote forms of development which are designed so as to respect and effectively integrate with their local contexts' visual landscaping and predominant uses.

3. Neighbouring Amenity Considerations

- 3.1 The proposed production facility would be located around 76m from the dwelling at the adjacent site Ashridge located to the north-west of the application and there would be an 80m gap between the proposed facility and the dwelling named Pedlars to its south-west. Because of these separation gaps, the proposed production facility would not occlude notional vertical 45 degree eyelines taken from the nearest first floor windows for these neighbouring dwellings. In this sense, the proposal would not be described as appearing significantly overbearing to these neighbours.
- 3.2 When notional horizontal 45 degree eyelines are taken from these same windows for neighbouring residential properties, 14 degrees of occlusion would occur when the proposal is viewed from the dwelling at Ashridge whilst 14 degrees of visual occlusion would be observed from the rear elevation window and 10 degrees of visual occlusion from the nearest first window on the northern side elevation of the dwelling at Pedlars. From this assessment, the proposed production would have a modest impact on the outlook of these adjacent properties by restricting their views over adjacent green and undeveloped land within the application site currently enjoyed from their first floor windows.
- 3.3 The first floor windows to be inserted into the first floor front elevation of the proposed production facility would be at around the same height as the first floor windows at the dwellings at Ashridge and Pedlars but due to the notable clearance between these sets of windows at these neighbouring properties and the production facility, the proposal would not be considered to have a detrimental impact on neighbouring privacy.
- 3.4 The proposal would introduce a commercial activity on pasture land adjacent to 11 Pepsal End Road/ Pedlars. The disturbance from that activity would have a harmfully negative impact on the amenity currently enjoyed by the occupiers of neighbouring dwellings and so would not be in full conformity with the residential amenity aspects of good design set out in policy BE8 of the South Bedfordshire Local Plan, policy HQ1 of the emerging Central Bedfordshire Local Plan and section 12 of the NPPF.

4. Highways Considerations

- 4.1 The CBC Highways Development Management officer has indicated that the proposal would be acceptable from a highways perspective subject to the inclusion of recommended conditions on any decision notice granting planning permission for the proposal.
- 4.2 To address some of the concerns raised by an objecting neighbour about the noise and debris which could be generated by the construction and implementation of the proposed production facility if permitted, the CBC Highways Development Management officer has recommended conditions

requiring the submission and approval of details for the materials to be used in the vehicular hardstanding serving the application site and a construction management plan. These conditions would ensure that vehicular hardstanding materials are not discharged into the public highway to adversely affect highway user safety and to control parking and construction arrangements so as to not inconvenience adjacent properties due to unsociable working hours, etc. Any other concerns relating to noise and air pollution from the proposal if approved would be controlled by Environmental Health legislation.

- 4.3 The proposed on-site parking would provide one parking space for each of the 12 nos. employees which are proposed to work at the proposed production facility. Subject to compliance with the recommended highways conditions, the proposed site entrance onto Pepsal End Road, the access driveway leading up to the proposed production facility and the larger garage door on the front elevation of the facility itself would be able to accommodate deliveries by heavy goods vehicle.
- 4.4 The Council's Public Transport officer has commented that the application site would be poorly served by public transport. In this sense, it would not be particularly convenient or reasonable for visitors to the application site to utilise public transport meaning that visitors and employees would most likely rely upon private transport. However, the same is true for customers and visitors of the nearby Harpers Food farm shop and the occupiers of nearby residential dwellings meaning that the proposal would not result in significantly unsustainable patterns of travel within Pepperstock.
- 4.5 The liaison officer from Bedfordshire Fire & Rescue service has not objected to the proposal including the proposed turning areas or vehicular site access but if the application was approved then the applicant's attention is drawn to the need for appliances such as fire sprinklers and hydrants to comply with the appropriate Building Regulations.
- 4.6 Notwithstanding the principle of development not being established in the first section of the Considerations for this report and subject to appropriate conditions, the proposal would comply with relevant highways policies including policy T10 of the South Bedfordshire Local Plan, policies T2 & T3 of the emerging Central Bedfordshire Local Plan and section 9 of the NPPF.

5. Other Considerations

Sustainable Urban Drainage/ Flooding:

- 5.1 The comments of the consulted CBC Sustainable Urban Drainage & Flood Management team are noted. No in principle objection has been offered to the proposal but has requested that if the proposal was granted planning permission then conditions would need to be attached to any approval decision to ensure details are submitted to demonstrate that the proposal is flood resistant and resilient, incorporates sustainable drainage systems and residual or actual flood risk from the proposal can be safely controlled in line with the statements contained in Paragraph 163 of the NPPF.

Trees & Soft Landscaping:

- 5.2 The concerns raised by the CBC Trees and Landscaping officer regarding the welfare of existing trees in close proximity to the proposed development. The agent has indicated that a no-dig construction method root protection method, controlled by a planning condition, could be utilised to protect the welfare of potentially affected trees and provide a means of visual screening of the proposed production facility.

Ecology and Protected Species:

- 5.3 An ecology report with an accompanying supervised destruction search of potential habitats has been submitted for this planning application. These reports identified no significant impact on local wildlife and no protected species were identified within the site. As such, the CBC Ecologist felt that the proposal would achieve a net increase in the biodiversity of the application as sought by the statements in section 15 of the NPPF.
- 5.4 The Council's appointed Great Crested Newt consultant was also invited to provide comments on the proposal. The application site has been identified as having a high probability of being habitat for Great Crested Newts, a protected species under UK and EU law. The applicant's attention has been drawn towards the Great Crested Newt district licensing scheme operated by Nature Space to provide appropriate mitigation if Great Crested Newts were discovered during the implementation of the proposed development if permitted.

Rights of Way:

- 5.5 An objecting neighbour has raised concerns about how the proposed development would compromise an existing right of way which runs through the application site. Such comments were forwarded onto the applicant's agent for their attention who stated that there was no knowledge of a right of way running through the application site. There are no public Rights of Way which run through the application site. Any issues relating to private access of the application site by neighbouring properties are not planning matters and are civil matters which could be addressed through legal means by the aggravated parties.

Sewage, Waste and Potential Pest Management:

- 5.6 The comments of an adjacent neighbour regarding the potential for the proposed production facility to lead to an increase and overburdening of waste from the application site have been noted. The CBC pollution officer has not objected to the proposal subject to the imposition of appropriate conditions were the proposal to be granted planning permission meaning that the potential negative outputs of the proposed production facility could be sufficiently prevented or mitigated to not cause harm to the wellbeing of general public or the surrounding area.

- 5.7 Thames Water have commented that as the proposed production facility is not located within three metres of a public sewer or one metre of a lateral drain, they would not need to be consulted further on the proposal.

Noise and Air Pollution:

- 5.8 The internal CBC pollution/ public protection officer has not objected to the proposal subject to the imposition of appropriate conditions were the proposal to be granted planning permission. The potential negative outputs of the proposed production facility could be sufficiently prevented or mitigated to not cause harm to the wellbeing of general public or surrounding area in line with section 15 of the NPPF.

Impact on Property Prices:

- 5.9 The occupier of an adjacent property has also remarked how the proposed production facility may devalue their property. The impact of development on property prices is not a planning matter meaning that this comment holds little weight in the determination of this planning application.

Human Rights and Equality Act issues:

- 5.10 Based on information submitted there are no known issues raised in the context of Human Rights / The Equalities Act 2010 and as such there would be no relevant implications.

Conclusion:

The proposal, for a production facility with planning uses B1(a) and B1(c) with associated offices and on-site parking, is located within the South Bedfordshire Green Belt and the proposal would constitute inappropriate development by not being a form of development which is exempt from Green Belt control under paragraph 145 of the National Planning Policy Framework (NPPF). Inappropriate development is harmful to the Green Belt and so substantial weight should be attached to the proposal's harm to the openness and purposes of the Green Belt as set out in paragraph 134 of the NPPF. Very special circumstances have been presented with the proposal to outweigh the potential harm of the proposal to the Green Belt by reason of its inappropriateness and all other identified harm. Very special circumstances are considered to not have been demonstrated to outweigh the potential harm of the proposal. Consequently, the principle of development has not been established and the proposal should be refused planning permission.

The proposal would also, by way of its location, bulk, massing and scale, have a significant, adverse impact on the visual amenity and character of the local area when viewed from the public realm and would not be in-keeping with its rural surroundings comprising of green fields, low density residential development and the Harpers Food farm shop set within a wooded valley landscape. The proposal would have a detrimental impact on the residential amenity of adjacent occupiers given the increased activity and its siting.

The proposal is considered to be acceptable in highway terms and in all other respects subject to the imposition of conditions and informatives to control the implementation and control for the proposal were it to be granted planning permission. Nonetheless, the Green Belt harm of the proposal, by way of its inappropriateness as well as its identified negative impact on local visual and residential amenity, is considered to demonstrably outweigh any of the assessed positive attributes or contributions that the proposal may bring. As such, the proposal is recommended for refusal as it would not comply with the statements contained in sections 12 & 13 of the NPPF, policies SD1 & BE8 of the South Bedfordshire Local Plan Review, policy case 10 of the Caddington and Slip End Neighbourhood Plan and policies SP4 & EMP4 of the emerging Central Bedfordshire Local Plan.

Recommendation:

That Planning Permission be **REFUSED** for the following:

RECOMMENDED CONDITIONS / REASONS

- 1 The development would result in harm to the openness of the Green Belt, and would have an adverse impact on the setting of the site and the character of the area. The proposal is inappropriate development within the Green Belt and would be harmful by reason of inappropriateness and loss of openness and would conflict with the purposes of including land within the Green Belt by way of encroachment of the countryside. Very special circumstances that would outweigh the identified harm have not been established in this case. The proposal is hence deemed to be contrary to Section 13 of the National Planning Policy Framework.

- 2 The proposal, by reason of its siting, excessive scale and bulk and its introduction of commercial activity would cause significant and demonstrable harm to the character and appearance of the area and result in undue noise and disturbance, harmful to the residential amenity which neighbouring occupiers would reasonably expect to enjoy. As such, the proposal would be contrary to policy BE8 of the South Bedfordshire Local Plan Review and sections 12 & 15 of the NPPF.

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 6, Article 35

In the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. The applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission but did not agree to this. The Council has therefore complied with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

DECISION

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