

## APPENDIX 1

Development Management  
Council Offices  
Brympton Way  
Yeovil  
Somerset  
BA20 2HT

FAO Mr Andrew Gunn  
By email

26th January 2018

### **17/04604/FUL Probiotics International Ltd**

**Lopen Head Business Park: Demolition of various outbuildings and greenhouse and the erection of a warehouse building (Use Class B8) and associated parking and landscaping. (Proposed building F)**

Dear Mr Gunn,

Lopen Parish Council considered this application at length during our meeting on 22nd January. The council voted unanimously to strongly object to the application for the following reasons:

#### **Size:**

**LPC considers that the building is disproportionately large and completely unsuitable for its hill-top, skyline location.**

The proposed "Building F" is shown variously as 3,240m sq and 3,265 m sq. Even at the smaller figure it would lead to a 45% increase in the built area of the whole Lopen Business Park site (5 buildings existing), or 66% of the Probiotics International section of the site (3 buildings existing).

We consider that this is at completely odds with the SSDC Local Plan 2006-2028 policy EP4 which states:  
*Proposals for the expansion of existing businesses in the countryside will be permitted where:*

- The proposal is of a scale appropriate in this location and appropriate to the existing development;*
- 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*

We fail to see how a 45% increase with this single building can possibly be considered as "*a scale appropriate*" either to the existing development or the location. Especially so when following directly on from the construction of Building E, itself very large at 2,558m sq. These two buildings combined would represent a 125% increase over what stood at this location at the end of last year.

The applicant is clearly aware that size is excessive. It is clearly stated that "*landscaping is a key component of the design proposals*". Given the size and hill top location of the building, and additional to the 2558m sq building E, still under construction, adequate softening and concealment is a very big ask, even impossible. The evidence is in the earlier buildings which, though far smaller, are still very prominent in the landscape.

In any case, it is difficult to take any promise of landscaping and screening seriously when the measures promised and conditioned in each of the six major permissions previously granted for this location over the last 10 years have either still not been properly implemented or completely ignored, in spite of regular prompting.

#### **Usage:**

When this site was first earmarked for employment use under the previous local plan (in spite of being strongly opposed by a National Planning Inspectorate report in 2003), it was supposed to be for the purpose

of providing small units for small local businesses. Accordingly, usage class was limited to B1/B2. B8 usage was excluded as it is known to give lower levels of employment per built area, lower quality employment and higher levels of HGV traffic compared to B1/B2 usage and was thus considered to be unsuited to the location.

The initial addition of limited and partial B8 use when permission was granted for building D was hugely contentious locally, as was the further limited and partial B8 use allowed in Building E. This new 3,240 m sq application, for solely B8 use, increases the B8 use area on the Business Park by more than 200%. This would mean that almost 60% of the building area (C - F) occupied by Probiotics, or 46% of the total build area on the whole site (buildings A- F) would be for B8 use.

From the original outline permission:

***APPLICATION NO 08/00053/OUT DATE VALID 8 January 2008***

*05. The development hereby permitted shall not be used other than for those activities which fall within the definition of Class B1 and B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.*

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

**Sustainability:**

The application documents make various claims about the sustainability of the site relating to access by foot, bicycle and public transport. These are similar to those made for previous applications, which LPC challenged in detail at the time. In short, no reasonable, objective person would agree that this site is truly, conveniently accessible by any other means than motor vehicles.

It is not even possible to walk the few hundred metres from Watergore, the closest settlement, on a sealed path.

We also note that in spite of including text from SSDC policies within their Transport Assessment, requiring parking spaces to include charging points for electric/hybrid vehicles, the applicants don't actually propose to provide one, single charging point.

**Transport and Traffic:**

We find the Transport Assessment document to be worthless. It includes passages from SSDC policies, which merely serve to demonstrate that the proposal complies with very few of them. It provides vague statements about the potential for public transport, pedestrian and cycle access, which are not credible. It does not even get the current speed limits on the roads adjacent to the site correct. Since the assessment was written, the failure of Nippy Bus has reduced the public transport opportunities still further.

It completely fails to inform on what level of traffic increases might be expected:

- Elsewhere in the supporting documents it is implied that the existence of more onsite warehousing might allow transport movements to be reduced. This seems highly improbable, especially against a background of massive business expansion.
- Their stated baseline for the whole of Lopen Head Business Park is 10 HGVs and 16 vans per day.
- They then use projected data from TRICs figures showing that 3,240m of B8 warehousing "has the potential to generate 200 vehicle movements over a weekday daily period of which 104 (52%) are anticipated to be HGVs." This is a tenfold increase in HGV movements - especially significant for Watergore residents since weight limits on surrounding roads mean that the only HGV route to/from the site is through Watergore.

- Elsewhere, in the Noise Assessment, the figure of 50 HGV movements per day is used, so we really have no idea what the true traffic level might be .

We find this lack of clarity on expected traffic levels completely unacceptable and don't see how the application can be properly considered without this information. However, even if "only" a fivefold increase in HGV traffic, we consider it far too high to be acceptable and at odds with SSDC Policy EP4 which requires that:

- *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 should also be noted that for local residents, especially those in Watergore, additional traffic generated by this proposal is on top of the cumulative effects of increased heavy traffic brought by the expansion of the Branstons Potatoes site and the new AD plant at Frogmary Green farm. No wonder there have been many objections raised by Watergore residents.

### **Local need:**

LPC don't consider the SSDC EP4 requirement "*It is demonstrated that the proposal is needed in this location*" to be met.

No real attempt is made to justify local need beyond the commercial convenience of Probiotics International Ltd.

Also; while Probiotics International Ltd are clearly a very successful company, their need to expand their floor area to such a great extent in just 8 years is astonishing and alarming. Building E, still under construction at time of writing, already doubles their original area. Buildings E & F combined represent an overall increase of 243%, almost 2.5 times, compared to the floor area of their original buildings, opened in 2010.

This raises obvious concerns for the future should this rate of expansion continue.

It is also interesting that they claim that the expansion is mainly driven by the need for on-site warehousing. Elsewhere in industry there is a trend to do the opposite, with many companies opting to use subcontract warehousing services to handle their storage and distribution. Closer to home there are industrial land allocations on brown-field sites at the west end of Ilminster (ME/ILMI/3 & ME/ILMI/5) with excellent road links.

It is also worth noting that in terms of providing employment benefit to the local area, it is stated that this building is only expected to provide employment for a further 8 staff, which seems a very poor return for such a massive structure.

### **Legality**

The land that this proposal relates to is outside the saved plan ME/LOPE/1 and is therefore not allocated in the local plan. In fact the current Local Plan makes clear that the remaining requirement for employment land in this area is to "promote an alternative to the Lopen Head Nursery site".

As already detailed, we consider that the application fails to meet the majority of the requirements of the SSDC policy EP4.

Therefore development here will be unlawful unless material need can be shown. We do not believe that material need is demonstrated.

We also believe that any further development here should be considered as falling within a rural settlement and should therefore be considered under the SS2 rules, which it clearly does not meet.

It is claimed that the site will contribute to employment land targets for South Petherton (as a rural centre with a target), though they don't seem entirely clear whether the site is related to South Petherton or to Lopen, which, as a rural settlement, has no target. In any case, South Petherton's target for the district plan 2006 to 2028 has already, with 10 years still to run, been exceeded due to the earlier developments at this site. The current and recent draft review of the district plan contains the statement:

*The current Local Plan requires a minimum of 2.47ha of employment land to be developed over the plan period. Because development at Lopen Head Nursery is taken into account, this target has been met (2.26 ha of land has been developed and 0.69 ha of land has planning permission). The relationship between South Petherton and Lopen Head Nursery goes back to previous Local Plans when work was undertaken to find employment land in South Petherton to meet local needs. At the time no acceptable alternative sites to Lopen Head Nursery were identified and so the Lopen Head Nursery site was allocated. It was deemed a sustainable location to meet the employment needs of surrounding villages including South Petherton. The site has been successful. The current Local Plan makes clear that the remaining requirement for employment land is to promote an alternative to the Lopen Head Nursery site.*

## **Summary**

LPC consider that the development proposed

- is disproportionately large and entirely inappropriate for the location
- is intended for a purpose that is incompatible with the location
- risks a disproportionate increase in HGV traffic
- fails by any reasonable measure to meet regional and national sustainability criteria
- will damage the amenity of the location
- risks being considered unlawful if challenged

**We therefore consider that the application should be refused.**

While LPC consider that approval of this application would be quite wrong, we nevertheless suggest the following conditions as a "worst case scenario" to be utterly essential to maintain some amenity for local people:

- Limit operating hours to between 7am and 7pm Monday to Saturday. No working permitted outside these hours nor on public/bank holidays and no HGVs permitted on site outside these hours. The applicant actually proposes these measures himself.
- Landscaping / screening of the site. Due to historical and ongoing problems with compliance and enforcement on this site and others locally, we would seek a conditioning method which provides a stronger incentive to compliance than has previously been the case. Perhaps by S106 agreement where a sum of money is set aside sufficient to fully cover the costs of landscaping, planting, initial maintenance and administration. This to enable the LPA to engage a contractor to complete the work without cost to themselves should the applicant fail to carry out the work in timely manner.

Should you have any questions or wish to discuss this, please don't hesitate to get in touch

Regards

Nick Jones  
On behalf of Lopen Parish Council (Chairman)