

Area North Committee – 19 December 2012

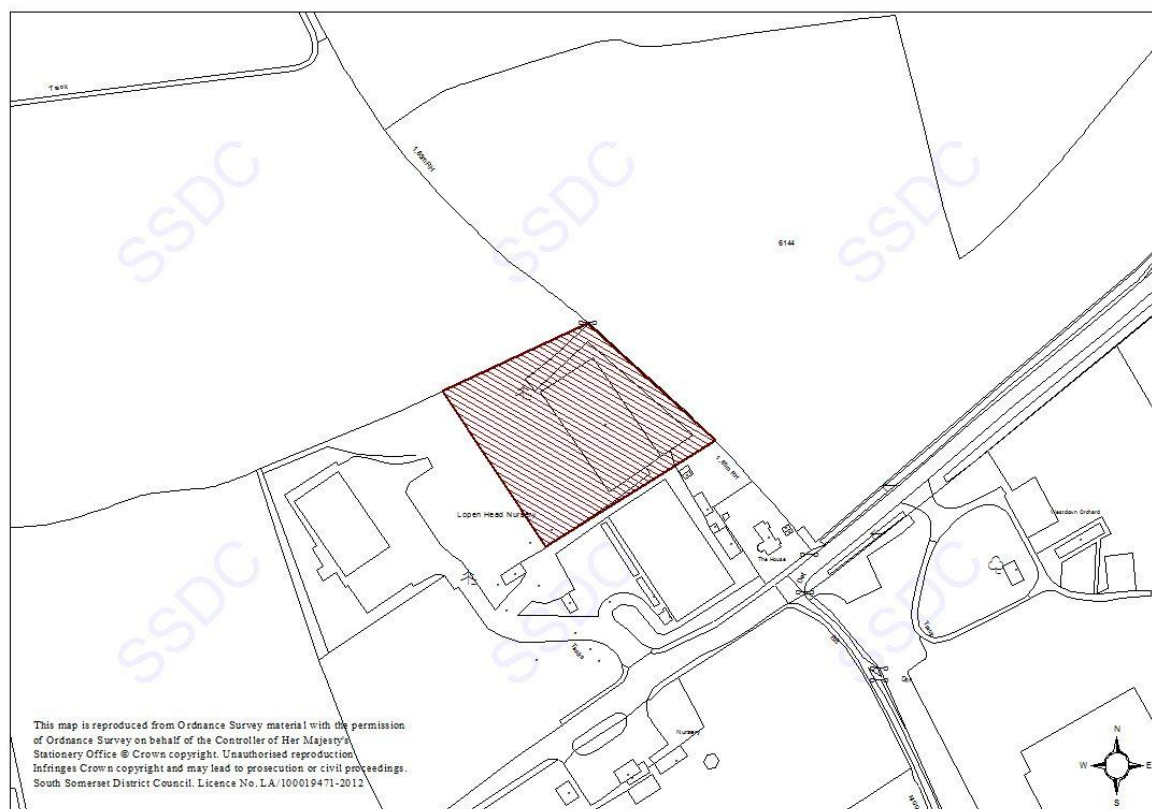
## Officer Report on Planning Application: 12/00951/FUL

<b>Proposal :</b>	Erection of a building for B1, B2 and B8 uses with associated infrastructure, parking and landscaping (GR 342553/115366)
<b>Site Address:</b>	Lopen Head Nursery, Lopenhead, South Petherton
<b>Parish:</b>	Lopen
<b>SOUTH PETHERTON Ward (SSDC Members)</b>	Cllr P A Thompson Cllr B R Walker
<b>Recommending Case Officer:</b>	Andrew Gunn Tel: (01935) 462192 Email: andrew.gunn@southsomerset.gov.uk
<b>Target date :</b>	7th May 2012
<b>Applicant :</b>	Probiotics International Ltd
<b>Agent: (no agent if blank)</b>	Boon Brown Planning Mr Matt Frost Motivo, Alvington, Yeovil, Somerset BA20 2FG
<b>Application Type :</b>	Minor Manfr less than 1,000 sq.m or 1ha

### REASON FOR REFERRAL TO COMMITTEE

The application has been referred to committee at the request of the Ward members and in agreement with the Chair in order to discuss the need and location of the development, sustainability issues, its visual and landscape impact.

### SITE DESCRIPTION AND PROPOSAL



The application site forms part of the former Lopen Head nursery, on the northern side of the old A303. The site is located in countryside approximately 1km from Lopen and 2km from South Petherton. The site covers 0.69 hectares and 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.

A row of leylandii trees run along the eastern boundary and half way along the northern boundary. Located to the north and east are fields, with the established Probiotics business to the west. To the south is a further area forming part of the ex-nursery with a further large derelict greenhouse and smaller outbuildings. Adjacent to this greenhouse are 2 dwellings and associated gardens. Vehicular access to the site is gained via the old A303 to the south of the site, along the internal road and through the existing Probiotics site.

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. Probiotics manufacture both human and animal healthcare products. Probiotics have established their new premises on the allocated employment site to the east and seek permission for a third building. It should be noted that this current application site falls outside of the allocated employment site as defined in the South Somerset Local Plan.

The proposed new building will be an L-shaped 2 storey building. It will extend 62 metres (east to west), 54 metres (north to south) with a height of 9.3 metres. The proposed building will be taller than the existing buildings due to the need for greater internal height requirements. The application site also sits on higher land. The result is that the new building will be 2 metres higher than the adjacent building (referred to as Plot D). In total, the scheme will provide for 1,322m<sup>2</sup> of B1 office space, 1,322m<sup>2</sup> of B2 production space and 914m<sup>2</sup> of B8 warehouse storage.

The design and materials for the proposed building will be similar to the approach taken with the 2 existing buildings. The materials will be a mix of Corus Zeus profile sheeting and Kingspan Spectrum Diamond sheeting for the walls. The windows will be interspersed with green coloured aluminium spandrel panels. The roof will also be constructed using a Kingspan sheeting.

The scheme will involve the removal of the existing leylandii tree screen that currently exists along the whole of the application site eastern boundary and half of the northern boundary. A landscaping scheme has been submitted that will include a mix of trees, hedge, shrubs and tall and low edge species mix, along with security fencing.

Parking will be provided in the rear yard area in the north west part of the site. It will comprise 42 car parking spaces (including 3 disabled spaces), 2 HGV waiting bays, 3 motorcycle spaces and 12 covered cycle spaces and a bin store. These are in addition to the parking spaces that currently exist and serve the 2 other Probiotics units.

In addition to the various plans, the application has been supported by a Design and Access Statement, a Protected Species Survey, Business Statement, a Transport Statement and a Flood Risk Assessment. The agent later submitted a letter outlining further information in respect of proposal.

The supporting documents outline the case for the proposed building. The key point made is 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.

## HISTORY

08/00053/OUT - Development of land for B1 and B2 uses (approved). This application relates to the outline consent for the whole of the allocated employment site.

08/00250/FUL - Erection of one B1/B2 industrial building (approved).

09//00670/FUL - Erection of one B1/B2 industrial building (approved - revised application to 08/00250/FUL). This is the application for Lift West.

08/00248/FUL - Erection of one B1/B2 industrial building (approved).

08/05122/FUL - Erection of one B1/B2 industrial building (approved - revised application to 08//00248/FUL). This relates to the first Probiotics building.

09/03849/FUL – The erection of a building for B1, B2 and B8 uses (approved). This relates to the second Probiotics building.

09/03030/OUT - Development of land for B1,B2 and B8 use (withdrawn). This was an application in relation to land to the immediate east of the allocated site. It extended over a larger area but did include the piece of land currently subject to application 12/00951/FUL.

## 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 decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise,

For the purposes of determining current applications the local planning authority considers that the relevant development plan comprises the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review and the saved policies of the South Somerset Local Plan. Although the Government has given a clear signal that they intend to abolish the regional planning tier, the draft Regional Spatial Strategy has not yet formally been revoked by Order, and therefore for the purposes of this planning application, the draft RSS continues some weight, albeit limited. On the 6th July 2010, the Secretary of State (SoS) announced his intention to abolish Regional Spatial Strategies (RSS).

### Relevant Development Plan Documents

Somerset and Exmoor National Park Joint Structure Plan (adopted April 2000)

STR6 - Development outside Towns, rural centres and villages.

Policy 16 - Provision of land for industrial, warehouse and business development.

Policy 49 - Transport Requirements of new development

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.  
 ME4 - 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

## CONSULTATIONS

### Lopen Parish Council:

Lopen Parish Council held an extraordinary meeting on 16th April 2012 to arrive at its response to planning application 12/00951/FUL, Probiotics building E, Lopenhead. Lopen Parish Council recommends refusal of this application for the following reasons:

Policy - This application is contrary to the following policies:

South Somerset Local Plan 2006:

ST3, ST5, ST6, EC1, EC3, EP3, EU7, TP5, ME3 and ME4.

Emerging Core Strategy

The Core Strategy (LDF) has not yet reached submittal stage and, therefore, any significant consideration of this strategy and/or the policies within it, is premature. That said, the Employment Land Review (stage 3 2010) clearly indicates that South Petherton's employment land capacity is sufficient to 2026 and, even allowing for the latest proposed changes to the LDF, the additional employment land needed in support of additional housing will also be met by existing local capacity up to 2028.

Somerset and Exmoor National Park Joint Structure Plan review 1991-2011

STR1, STR5, STR6, Policy 5, Policy 7, Policy 17, Policy 18, Policy 19 and Policy 39.

RPG10 Regional Planning Guidance for the South West (Regional Spatial Strategy)

TRAN1, EC3 and SS19.

National Planning Policy

Although not strictly relevant for this application as the NPPF states - For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework, we have included the relevant sections of the NPPF that would not support this proposal going forward.

Sections: 7, 8, 10, 11, 12, 17, 28, 30, 35, 58, 64, 66, 111, 112, 125, 158, 161, 210, 211 and 214.

Reasons

- The site is located outside of the defined development areas of towns, rural centres and villages where development should be strictly controlled.
- The development proposed does not maintain or enhance the local environment nor does it respect the form, character and setting of the locality especially considering the architectural and landscape design proposed. It does not preserve and

- complement the key characteristics of the location, to maintain its local distinctiveness
- The location and scale of the proposal fosters growth in the need to travel
  - The proposal is not efficient use of land
  - The proposal does not give priority to the use of recycled land and other appropriate sites within urban areas first
  - The proposal will cause avoidable harm to the natural and built environment of the locality and the broader landscape
  - The density, form, scale, mass, height and proportions of the proposed development do not respect and relate to the character of their surroundings
  - The proposal seeks to develop on agricultural land, which is avoidable. If it were not, then poorer quality land should be used in preference to that of higher quality (defined as grades 1, 2 and 3a of the agricultural land classification), except where other sustainability considerations outweigh the agricultural land value.
  - The proposal does not avoid built forms whose visual profiles would be out-of-keeping with and uncharacteristic of the surrounding landscape when viewed from publicly accessible vantage points.
  - Lighting on site will adversely affect the character and appearance of the locality
  - The site lies within a Source Protection Zone 2 for a Public Water Supply borehole and should not be permitted.
  - The proposal is likely to generate significant levels of travel demand and is not well served by public transport, or other means of transport other than private cars and lorries.
  - The proposal is not in scale with the settlement of Lopen and does not preserve the hierarchical distinction between the larger and small communities.
  - The proposal is not small-scale by any measure. The applicant amplifies this point when referring to the "large building" and "breaking up the elevation it appears less massive" in his application. By any measure of expansion, be it size of land use, scale of business activity, numbers employed, turnover or any other factor, the scale of expansion proposed is NOT small-scale. The EU regards any business with 50 or more employees as medium sized. This proposed business extension alone would be regarded as a medium sized business
  - The Employment Land Review (ELR) (Stage 3 October 2010) amply demonstrates that the proposal is not needed in this location
  - If a need were identified then, priority must be given to the use of land within the curtilage of the development. Permission for building B on the allocated land has now lapsed which, together with the area marked for future expansion (between building B and C) provide ample scope for a smaller scale expansion should an overwhelming case and local need be proven.
  - Development of the design and on the scale proposed (especially considering a significant proportion of B1 use) should, by policy, be located within or on the edge of Market Towns.
  - The ELR identifies local Market Towns with significant allocated and PDL land availability which have the benefit of significant alternative (public) transport options and are closest to existing available (and with predicted growth) labour force.
  - The SSLP supporting text states "9.20 It is considered inappropriate for new employment development to be permitted outside the defined Development Areas because of the adverse effect that this could have on the countryside and the character and setting of the settlements. However, there are many small-scale rural enterprises, located in the countryside outside of Development Areas, which provide a valuable source of local employment. These businesses have often made significant investments in existing sites and may be restricted in choices of suitable alternative sites within the District for expansion. (our emphasis) Under the following policy, the expansion of rural businesses will be permitted especially where buildings are re-used or additional use made of the land within the curtilage of the development. Whilst

substantial development of greenfield sites in the countryside will not be supported, it is important not to jeopardise the future of rural enterprise." In this case, this supporting text cannot apply. There are ample suitable (and far more appropriate sites) across the district and therefore, the exception rules do not apply.

- The text states "9.21 The expansion of sites will be permitted where development does not harm the local environment and there is no significant increase in traffic generation. Where the proposal results in a scale of development that is clearly beyond that which is in accordance with the development plan strategy, the Council will give every assistance to employers to find an alternative, more appropriate location" It cannot reasonably be argued that this scale of development is in accordance with the plan strategy, and assistance should be provided by the Council to find a more appropriate location.
- The SSLP appendix A1 (landscaping guidelines) states:
  - Skyline - "land which forms a skyline within, or adjacent development, shall be kept clear of built-form, with its rural character conserved; - where development profile does project above a rural skyline, a wooded feature should be planted to create a new skyline backdrop;"
  - Layout of built form; - strong blocks of new woodland should be sited to screen built development of high visual profile, and define development areas; Also Employment Land; "where sited against an edge of visual prominence or sensitivity, building scale and densities should be reduced;"
  - The proposal seeks to develop on a skyline in open countryside, which should be kept clear of built form. No wooded feature or strong blocks of woodland are proposed to create a skyline backdrop or to screen against development of high visual profile (as this undoubtedly is) nor have the building scale and densities been reduced. In fact, this proposal is far bigger and taller than anything already approved at Lopenhead.
  - The NPPF places a heavy emphasis on sustainability. The records show that the most credible of consultees, including the Planning Inspectorate, have historically regarded the Lopenhead site as unsustainable. Included in the matters, which the NPPF highlights are the following comments.
  - "land of the right type is available in the right places and at the right time to support growth"
  - "creating a high quality built environment, with accessible local services that reflect the community's needs"
  - "contributing to protecting and enhancing our natural, built and historic environment;"
  - "The planning system should play an active role in guiding development to sustainable solutions."
  - "Plans and decisions need to take local circumstances into account"
  - "Planning law requires that applications for planning permission must be determined in accordance with the development plan proposed development that conflicts should be refused"
  - "recognising the intrinsic character and beauty of the countryside"
  - "Allocations of land for development should prefer land of lesser environmental value"
  - "reusing land that has been previously developed (brownfield land),"
  - "fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;"
  - "support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport"
  - "give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;"

- "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions"
- "respond to local character and history, and reflect the identity of local surroundings and materials are visually attractive as a result of good architecture and appropriate landscaping"
- "local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality".

## Conclusion

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.

### **Adjacent Parish South Petherton PC:**

(Comments dated 7th April 2012)

SPPC recommends refusal of this application for the following reasons:

- 1) 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.
- 2) 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.
- 3) This proposal is not supported by the following policies:

#### National Policies

EC6: As this proposal does not protect this countryside's intrinsic character and beauty, the diversity of its landscapes, it does not strictly control economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans and the location of this development is not in or on the edge of existing settlements where employment, housing (including affordable housing), services and other facilities can be provided close together.

EC12: In which local planning authorities should: support development which enhances the vitality and viability of market towns and other rural service centres and support small-scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres. In this case, the evidence base does not support a need for this site nor can it reasonably be regarded as small-scale.

## SSLP 2006 Policies

ME4: 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: This proposal is not small scale. It is demonstrated that the proposal is both needed and appropriate in this location; the evidence base does not support a need for this development. 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; Land is available within the curtilage of the existing development which can provide a modest expansion for the applicant.

There should be no adverse effect on the countryside with regard to scale, character and appearance of new buildings; It is well documented by important consultees and representations for the existing development site that the scale, character and appearance of commercial buildings (especially in the form they now take) at this site do adversely affect the countryside.

There should be no substantial additional traffic generated to the site. It is inevitable that expansion of the site on the scale proposed will cause substantial additional traffic to be generated.

ME3: In addition to any site specifically allocated for development, proposals for employment use will be permitted within the development areas of the following settlements, subject to the proposals being in scale with the settlement. Where the site is not well served by public transport or otherwise readily accessible to a local residential workforce only small scale development will be permitted. The proposal is not positioned within any of the defined settlements and is not small scale.

EP3: Lighting within all new developments and environmental improvements will be designed to minimise the effect of sky glow whilst providing adequate illumination levels for highway safety and crime prevention measures.

When considering matters of lighting the district council will not grant planning permission where the proposal would: Adversely affect the character and appearance of the locality. As this is an unlit hilltop site in open countryside and, given the scale of the building proposed (especially when combined with the existing development), sky glow to an unacceptable level is inevitable.

EC3: Outside development areas, development proposals which are otherwise acceptable will be permitted provided that they do not cause unacceptable harm to the distinctive character and quality of the local landscape. In particular, development should: Respect or enhance the characteristic pattern and features of the surrounding landscape; and,

Avoid built forms whose visual profiles would be out-of-keeping with and uncharacteristic of the surrounding landscape when viewed from publicly accessible vantage points. This is a hilltop site in open countryside. The current development and this proposal are out of keeping and uncharacteristic of the surrounding landscape and do not respect or enhance the characteristic pattern and features of the surrounding landscape.

EC1: Where development of agricultural land is unavoidable, poorer quality land should be used in preference to that of higher quality (defined as grades 1, 2 and 3a of the agricultural land classification), except where other sustainability considerations



outweigh the agricultural land value. The proposed site is grade 1 agricultural land and the site is widely considered to be unsustainable. A surplus of employment land is available in nearby Market Towns.

(Additional policies relevant but not detailed: TP5, ST10, ST6, ST5 and ST3)

#### Somerset and Exmoor National Park Joint Structure Plan Review Policies

**POLICY STR1 Sustainable development:** Development in Somerset and the Exmoor National Park should: be of high quality, good design and reflect local distinctiveness; and give priority to the continued use of previously developed land and buildings; The designs do not reflect local distinctiveness and the site proposed is not previously developed land.

**POLICY STR5 Development in rural centres and villages:** Development in Rural centres and Villages should be such as will sustain and enhance their role and will be commensurate with their size and accessibility, and appropriate to their character and physical identity. Size and character of the proposed development is not appropriate to the local character and physical identity nor is it sustainable.

**POLICY STR6 Development outside towns, rural centres and villages:** Development outside Towns, Rural Centres and Villages should be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel. The employment evidence base does not support a need for this development nor does the proposal maintain or enhance the environment. The location of the site in relation to the likely workforce will foster the need to travel.

**POLICY 5 Landscape character:** The distinctive character of the countryside of Somerset and the Exmoor National Park should be safeguarded for its own sake. Particular regard should be had to the distinctive features of the countryside in landscape, cultural heritage and nature conservation terms in the provision for development. This is a hilltop site in open countryside. The current development and this proposal are out of keeping and uncharacteristic of the surrounding landscape and do not respect or enhance the characteristic pattern and features of the surrounding landscape.

**POLICY 7 Agricultural land:** Subject to the overall aims of the strategy, provision should not be made for permanent development, excluding forestry and agriculture, involving the best and most versatile agricultural land (Grades 1, 2 & 3a) unless there are no alternative sites on lower quality agricultural land and there is an overriding need for the development in that location. Where land in Grades 1, 2 and 3a does need to be developed and there is a choice between different grades, development should be directed towards land of the lowest grade. The proposed site is grade 1 agricultural land. A surplus of employment land is available in nearby Market Towns.

**POLICY 17 Mixed-use developments:** Industrial, commercial and business activities which are major generators of travel demand and are part of a mixed-use development should be provided for in town centre locations and sites which are highly accessible by means of transport other than the private car. This site proposed is in a rural location with limited transport options other than private car.

**POLICY 18 Location of land for industrial, warehousing & business development:** activities which are not compatible with other land uses should be located where their impact on the local environment can be mitigated; and large developments with high employment density activities should be located close to established public transport nodes. The proposed site is surrounded by agricultural uses and is not close to

established public transport nodes.

(Additional policies relevant but not detailed: STR2, STR3, and STR4)  
RPG10 Regional Planning Guidance for the South West (Regional Spatial Strategy)

Policy TRAN 1: Reducing the Need to Travel: Local authorities, developers and other agencies should work towards reducing the need to travel by private motor vehicle through the appropriate location of new development. Development plans and LTPs should:

- propose housing, employment and other uses in existing towns and propose a balanced mixture of uses in new developments, in accordance with Policy SS 5;
- propose major development in keeping with the roles of individual PUAs and larger towns on sites where there is a good choice of travel by sustainable transport, or where choice can be provided as part of the development, having regard to regional accessibility standards;
- propose the development of focused smaller scale retailing, housing, social facilities and services in market and coastal towns and key villages which are rural service centres to provide for the needs of the rural areas. The location of the site will increase the need to travel by private motor vehicle as it sits in open countryside divorced from any significant settlement that could reasonably serve this site. This approach is not consistent with policy SS5.

Policy EC 3: Employment Sites: Local authorities, the SWRDA and other agencies should aim to provide for a range and choice of employment sites to meet the projected needs of local businesses and new investment. These should include: The location of sites should meet the sustainable development criteria of the strategy by:

- giving preference to land within urban areas, particularly previously-developed land;
- being well integrated with the existing settlement pattern and accessible to sources of labour and business services;
- being likely to provide a realistic choice of access, including being well served by public transport;
- supporting programmes of regeneration in urban and rural areas and coastal towns;
- in rural areas, being primarily at the most accessible locations, (recognising that the potential for using public transport and other car modes is more limited than in urban areas); This site is widely considered as unsustainable and is located in a rural area, not previously developed land and not well integrated to any existing settlement or sources of labour. It is not well served by public transport.

Policy SS 19: Rural Areas: Market towns should be the focal points for development and service provision in the rural areas and this role should be supported and enhanced. Outside market towns, development should be small scale and take place primarily within or adjacent to existing settlements avoiding scattered forms of development. Local authorities in their development plans should: locate development to support the rural areas primarily in market towns, identified and designated in development plans through a balanced mix of homes, jobs, services and facilities suitable to the scale and location of such settlements; adopt policies which support the restructuring of the rural economy and the provision of jobs to satisfy local needs; This site is not in a Market Town and is not small scale. It is not located within or adjacent to any existing settlement and does not avoid scattered

forms of development. The scale of the proposed development is disproportionate and out of keeping with its environment.

(Additional policies relevant but not detailed are: Vis1,SS20 and Tran7)

### Emerging Core Strategy

The employment land review (stage 3 October 2010) clearly states that South Petherton's employment needs to 2026 have been met by recent planning permissions at Lopenhead. Even allowing for the proposed increases (albeit they have yet to be fully justified and accepted) in housing allocation, existing permissions at Lopenhead amply cater for the resulting additional employment need and, therefore, even at the increased allocation, no additional employment land is required before 2028.

### **Landscape Officer:**

I have reviewed the application seeking the erection of a further building at the Lopenhead site, and recall previous applications on this site, with which I have been involved.

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.

If minded to approve, please condition the landscape proposal to be planted in its entirety on completion of the external building works.

### **Highway Authority:**

I refer to the above mentioned planning application received on 26th March 2012 and following a site visit on the same day I have the following observations on the highway and transportation aspects of this proposal.

The proposal relates to the erection of a building for B1, B2 and B8 use.

The applicant submitted a Transport Statement as part of the application. This has been submitted for audit and the Highway Authority's comments are as follows.

In terms of trip generation the applicant undertook a survey of the current site use and

there corresponding trip rates. Based on these figures the number of new movements is estimated to be around 30 in the AM peak and 40 in the PM peak. This was coupled with a TRICS based exercise being undertaken. The data sets indicated the levels of movements would be about 50 movements in each peak period. The additional movement would result in a total of one additional movement per minute during the peak times.

From the PICADY modelling it has been demonstrated that the site access junction would be operating well within capacity even with this increase in movements.

In terms of the internal arrangements the proposal has made provision for 42 car spaces, which includes three disabled spaces, and 12 cycles spaces with a further three spaces allocated for motorcycles. This is considered to be below the standards, however the Transport Statement has justified this by reference to the number of employees and is also considered to be consistent with the current trip generation of the site. Therefore overall parking numbers are therefore considered to be acceptable.

However no Travel Plan has been submitted and as such I would advise that the applicant contacts Somerset County Council's Travel Plan Co-ordinator on 01823 358079 to discuss this matter further.

Taking into account the above information I raise no objection to this proposal and if planning permission were to be granted I would require the following condition to be attached.

Prior to the commencement of the development, a Travel Plan is to 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.

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.

**Economic Development Officer:**

I am forwarding this planning response to you in my capacity as an economic officer of the local authority. To ensure I fully understand and capture an idea of the impact this development will have on the Lopen Business Park and wider area, I arranged to meet with the Managing Director of Protexin and his planning agent. I was accompanied by the planning officer responsible for overseeing this application and we met at the offices of Protexin on 26th April 2012.

Protexin as a business is known to me. I first became involved with them when consideration was being applied to purchasing land owned by the authority in Chard for relocation. This option proved unviable which resulted in the purchase of land at Lopen Business Park where they relocated in 2009/10. There are currently two buildings belonging to Protexin at this location. The main building incorporates the production facilities with offices on the first floor. The second building is used for the storage of materials and manufactured goods prior to distribution. The growth of this business is to be admired with sales in the last full year being 40% higher than the previous one.

Submitted with the planning application was a basic level of information on the projected growth of Protexin. One of the purposes of my visit was to obtain additional information on this business and to determine and ensure the viability of the business in the long-term. I enquired why there was a requirement for a third building? The response was quite involved. There is a fundamental shortage of space on the site for offices and manufacturing. The existing first floor offices would be partially used for manufacture, particularly for the gravity feed of raw materials used in the manufacturing process. The anticipated growth of Protexin will by 2015 require approximately 35 – 40 additional employees, the existing accommodation would not be able to accept this revised number of staff. In opening new markets throughout the world, concerns have been raised from some countries, particularly Asia and the Middle East that the production line of animal products is alongside the production lines of products for human consumption, which is frowned upon as this does not conform to religious practices in these countries.

The distances existing staff travel to work was discussed. From the current workforce of approximately 80 people, 15 or so work away from the site seeking new opportunities either in the UK or world-wide. Of the workforce who daily attend the Lopen site, in excess of 80% of these employees live in South Somerset. I was provided with numerous examples of staff development where employees who started as juniors in the manufacturing process are now in managerial positions in purchasing, marketing or quality control. Protexin takes staff development seriously and through training and regular discussions encourages staff to progress their careers. For those employed whose first language is not English, when required an external trainer is brought in to teach and help them comprehend English. In the past, an apprenticeship programme has been organised. There are plans to reintroduce this again next year.

The company now exports to 50+ countries throughout the world. In 2011, Protexin won The Queens Award to Industry for its exporting abilities. Protexin has obtained ISO 9001 status. There are five universities who have affiliated themselves with the work of Protexin, particularly in the areas of research and development. PHD students are regularly working at Lopen engaging with staff, particularly Doctors and Vets.

In summary, this is one seriously impressive business. I am so pleased that Protexin is located within South Somerset as it is a first class example of what businesses are being encouraged to do to get us through these challenging economic times. They employ a significant number of people. Their turnover is growing year on year and their exports are growing significantly. I am entirely comfortable that the business is well managed and that the anticipated growth is achievable. I also recognise that without this application being permitted, the future growth of this business could be harmed and ultimately there could be a risk of job losses.

From an economic perspective, I support this application.

**Spatial Planning Officer:**

Original comments (4 May 2012)

I would like to see a stronger justification made as to why a single, self-contained planning unit is required, as opposed to a split site for expansion of the business. The applicant states that there are common staff, management and economies of scale involved, but I think a little more detail would give a stronger justification.

In terms of scale of the building, can they explain the need for that space in a little more detail, i.e. are there particular machines or something that require that size? Do they have stock that needs storage for x periods of time. From reading the information submitted, I think the new building will be exactly the same as the existing one, but manufacture for human as opposed to animal products. Using the existing building as

an example will help.

I think the answers to these will help me to understand clearly the justification for this building in this location and of this scale.

Additional comments (4th May 2012)

I think the supplementary information submitted from Probiotics provides a clearer justification for the need for a new building of this scale, in this location. Therefore there is no planning policy objection to the proposed development.

**Campaign to Protect Rural England (CPRE):**

Strongly object to the proposal 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.

**Environmental Protection Officer:**

No observations on this application.

**Environment Agency: (original comments 5th April 2012)**

The Environment Agency originally objected to the application on the grounds that: 'The site lies within a Source Protection Zone 2 for a Public Water Supply borehole. Our approach to groundwater protection is set out in our recently revised policy 'Groundwater Protection: Policy and Practice' (2008).

"Outside SPZ 1 [within Zone 2] we will object to developments involving sewage, trade effluent or other contaminated discharges to ground unless we are satisfied that it is not

reasonable to make a connection to the public foul sewer."

The applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed. We recommend that planning permission should be refused on this basis.

In accordance with our groundwater protection policy we will maintain our objection until we receive a satisfactory risk assessment that demonstrates that the risks to groundwater posed by this development can be satisfactorily managed.

We would also wish to see a report on the design of SUDS and assessment of the risks to groundwater as the site is on a Principal aquifer.

In addition, prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), 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:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - 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.

**Environment Agency: (revised comments dated 10th May 2012)**

The Environment Agency has received additional information from the applicant's agent concerning the above application, which was received on 30 April 2012.

The applicant has provided a letter from Wessex Water (Ref ST/SS/NC/1655 dated 4th Aug 2009) which states that 'The above proposal is not located within a Wessex Water sewered area'. As such we are now satisfied that it is not reasonable to make a connection to public foul sewer and can therefore WITHDRAW our objection, subject to the following conditions and informatives being included within the Decision Notice:

The applicant has indicated that foul water will be served by package treatment plant.

The discharge from the package treatment plant will require an Environmental Permit under the Environmental Permitting Regulations 2010.

We would encourage the applicant to apply for an Environmental Permit for the discharge at an early stage. It is likely that a groundwater risk assessment will be

required as part of the application to assess the impact of the proposed discharge on controlled water receptors. An environmental permit will only be granted if the Environment Agency is satisfied that the proposed discharge will not result in an unacceptable impact on controlled water receptors.

The applicant can contact the Environment Agency to discuss the application process.

In addition, we require the following condition to be included:

**CONDITION:**

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), 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:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - 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.

Reason: To prevent pollution of the water environment.

The following informatives and recommendations should be included in the Decision Notice.

There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

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.

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

**County Archaeologist:**



As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

**Council Engineer:**

Applicant to confirm that drainage proposals comply with overall site strategy. Details to be submitted for approval.

**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**

6 letters/emails have been received raising the following objections:

Landscape/Visual issues

- Development on 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/Emerging plan issues

- SSLP does not support development at this location
- Not a sustainable 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

Design/Layout issues

- This is not a small scale development
- Poor design
- Noise and light pollution
- Building is higher than previously approved buildings on site

- This is not a small scale expansion under ME4.

#### Justification/case made for development

- Applicant's business case is not robust, concern about this being speculative development
- Spare capacity at current Probiotic facility
- Proposal does not meet sustainability requirements
- Business case is very weak.
- Lack of evidence to support projected growth
- Information lacking on where staff live/travel from
- Few staff live in vicinity
- Insufficient justification to support the need for the additional unit
- The firm brings very little economic benefit to local towns/villages.

#### Highway issues

- 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

#### Other issues

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

A letter has also been received from an agent representing a local resident. This was submitted in response to further comments made by the applicant's agent. The letter outlines that it does not consider that the applicant's letter does not raise any significant new points nor further information the Council should be requesting to clarify points raised by third parties, do not agree with the screening opinion given by the Council, ground discharge/water issues and concern that a decision on the application has already been reached.

## CONSIDERATIONS

### Need for the development

The applicant has outlined within the supporting documents the reasons for the additional building. Probiotics relocated their 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 their 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'. Moreover, the development will provide significantly more site storage of their goods and to satisfy the need for additional office accommodation. The company presently employ 80 people with an expected increase to 130 by 2015.

Based on this information, it is apparent that, despite the general poor state of the general economy over the last few years, the company is performing very well and is expanding at an increasing rate. Allied to the fact that there is a need to separate the animal and human manufacturing processes, it is considered that there is a need for an additional building. The officer asked the MD about the need for the building and whether the extra capacity required 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 these options were not acceptable either in providing the physical capacity required or to provide the separate buildings required for the human and animal products. In addition, it is not considered that the company are building this 3rd facility as a speculative form of development. It is costly to construct such a building and it is not considered that the company would be seeking consent if there were other cheaper or more practical solutions.

The key issue that follows therefore is whether the proposed site is acceptable in planning terms.

### Suitability of the proposed site?

The key starting point is the fact that the proposed site is located in the countryside, distant from any settlement and outside of, although adjacent to, the defined allocated employment site. Third parties have commented on the suitability of the adjacent allocated employment site following the clear recommendation of the Local Plan Inspector that it should not be allocated. However, the Inspector's recommendations were not binding on the Council and, whilst the concerns about the allocation are noted, the site was allocated by the Council. It is not considered necessary or particularly relevant to reassess the historic allocation.

In terms of the current application site, a number of different issues have been raised by third parties about the suitability of the application site. In terms of sustainability issues, this raises a number of points. It is agreed that both local and national planning policies seek sustainable forms of development. This has been a key thread running through the current local plan, the RSS, the range of different PPG's/PPS's (now abolished) and importantly at the heart of the NPPF.

The NPPF outlines 3 dimensions to sustainable development ie economic, social and environmental. 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. There is some sympathy with this point given the location of the site at a distance from local shops etc although the local pub and café may benefit. However, it is clear that the company are growing and are projecting future growth. The fact that this development will create extra jobs (from 80 to 130 employees by 2015) can only be positive. Moreover, the NPPF outlines its support for economic growth in rural areas in order to create jobs. On this basis, it is considered that this proposal would meet the economic aim of government policy.

In terms of the environmental role, objections have been received that this development would be detrimental to the local landscape and be contrary to the character of the area. Moreover, the Secretary of State (via his Senior Planning Manager) in his response to the screening request from a third party noted the visual impact it would have, particularly given its visibility from the A303.

It is accepted that a development in this location will have a visual impact. This was also accepted with the previous approvals on the allocated site. However, this was clearly an inevitable consequence of allocating the adjacent employment site in the first place. The key question is whether the proposed development would have a significant detrimental visual impact to warrant a refusal. In assessing this issue, the landscape officer has not raised an objection and his views are outlined earlier in this report. Moreover, the view of the Secretary of State's Senior Planning Manager is that the local landscape is not of high quality and is not recognised under any national or local designations. Moreover, the view of the site from the A303 would only be short given the speed of travel. Also, given the existence of an established built form on this site, it is not encroaching onto currently undeveloped land – the site has an existing visual presence. Finally, the site will be screened with a range of native tree and shrubs. This will assist with mitigating the visual impact of the scheme. For these reasons, whilst acknowledging there will be visual impact, this is not considered to be significantly harmful to warrant a refusal on landscape grounds.

In terms of the wider sustainability issues, it is acknowledged that the site is not in the most sustainable of locations in terms of accessibility to services and facilities. In addition, public transport to serve the site is poor and thus travel by private vehicle is very likely. Also, sustainability issues were key factors behind the Local Plan Inspector's decision not to recommend the site for inclusion in the SLP. Policy officers also supported this view at the time. Given this scenario, the key question is whether the sustainability concerns are sufficient to outweigh the merits of the scheme. Notwithstanding the objection of the Local Plan Inspector, The Council decided to allocate the adjacent employment site, thus placing the need for an employment site above the sustainability concerns. It is considered that given this starting point, the established employment site adjacent to this proposal, the fact that it is sensible for Probiotics to operate from one site thus reducing travelling between different sites, it is not considered that the application should be refused on the basis of these sustainability issues.

#### Availability of other sites

Comments have been made that Probiotics should look to other sites for their expansion plans. Moreover, that there are a number of other employment sites that are available. It is accepted that other employment sites are available and the company could have decided to have to expand a new facility elsewhere or uproot entirely. However, the

company have invested significant sums on the existing site and it makes economic sense, provided that there are no significant planning issues, to move to a different location.

### Landscaping and Design

The proposal includes a detailed planting scheme that will be implemented along the north, east and south boundaries. The scheme involves the removal of the existing leylandii trees and the new planting will 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 as agreed with the Council's landscape officer. This will create a tall and low edge mix comprising Dogwood, Hazel, Hawthorn, Holly along with Cherry, Oak and Acer trees. This will provide a belt of planting ranging from 2.5 to 20 metres in depth around all but the western (internal) boundary. It is considered that this landscaping scheme will provide a far more appropriate landscape screen than the unattractive and non-native leylandii trees.

It should be noted that the Policy associated with the allocation of the adjacent employment site (ME/LOPE/1) contains the retention of the leylandii screen. However, for the reasons given above, and the advice of the landscape officer, it was considered appropriate to agree to the removal of the leylandii trees and their replacement with a mix of native planting.

The landscape officer has assessed this application and has not raised an objection to the proposal. Given the established development adjacent to the site, the existing nursery structures and site use that characterise this location, there is no in principle landscape objection to this proposal. In addition, its design, orientation, and siting particularly in comparison with building C (the first Probiotics to the west), and the rise in land to east of the site, assists in assimilating its mass and scale within the site. Thus, whilst the new building will stand 2 metres taller than the adjacent probiotics building and larger in overall scale, the landscape officer considers the proposal to be acceptable. In addition, the tonal treatment for the materials reflects that used for the previous approvals and thus is acceptable. Whilst it is accepted that the finish for the current buildings is not supported by all, the LPA was keen to ensure that the finish was not too bright or reflective.

Associated with the scale of the development, it is considered that, whilst SSLP policy ME4 supports the expansion of businesses in the countryside, and that this development would meet the criteria outlined under this policy, it is more difficult to accept that this constitutes a small scale expansion of the existing business. However, it is considered that this policy is now superseded by the policy support contained in the NPPF for the expansion of all types of business in rural areas.

### Highways/Parking

The Highway Authority has not raised an objection to the proposed development. They have advised that the level of traffic to be 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. In addition, the site access junction would be operating

well within capacity with these additional movements. Members will be aware that a new vehicular access was created from the old A303 as part of the approval for the earlier buildings on the adjacent site. In addition, a new internal road has been constructed that serves the existing units and will serve the proposed building.

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 is considered to be consistent with the current trip generation of the site. On that basis, the Highway Authority considers that the number of parking spaces is acceptable. The Highway Authority has also sought submission of a Travel Plan – this will be imposed as a condition subject to permission being granted.

#### Environmental Impact Assessment (EIA)

Prior to the submission of the application, the agent requested a screening opinion from the Council to determine whether an EIA will be required as part of the current application. The Local Planning Authority replied stating that in its opinion and on the basis of the information provided, that the transport/highways, landscape/visual, ecological, flooding/drainage and noise impacts of the proposed development would not result in significant environmental effects. . On that basis, the Local Planning Authority advised that an EIA was not required.

Third parties did not agree with the Council's position in respect of the EIA. An agent on behalf of a third party wrote to the Secretary of State on 2 separate occasions requesting that the Secretary of State issues a screening direction for the above development. A number of issues were raised by the third parties including the original allocation of the employment site by the Council contrary to the Local Plan Inspector's recommendation, the landscape and visual impact of the development, traffic issues, noise and light pollution, the Council's failure to issue an EIA screening on an earlier application and the manufacturing processes undertaken by Probiotics. On both occasions the Secretary of State through his Senior Planning Manager at the National Planning Casework Unit has ruled that the proposed development is not EIA development. The Secretary of State's decision letters are attached to this report (please see appendices A and B).

#### Other issues

A point raised by third parties is that there is no strategic requirement for this site. The emerging local plan is stating the requirement for an additional 2 hectares of employment land in the South Petherton ward which includes the Lopen site. This is not an adopted policy and only limited weight can be attached to it at the current time. However, notwithstanding the current debate about the level of employment land required, it is not considered that this is particularly relevant to the consideration of this application nor indeed the correct test/policy to apply. It is not an application for a strategic employment site but an expansion of an existing business in the countryside. This is the basis upon which the application should be determined on the basis of local plan policy and the NPPF.

Following on from the last point, it is considered that if the application was for a general outline consent with no identified end users, then it could rightly be treated as speculative and to all intents and purposes as a strategic employment site. This was the case with the application for outline consent submitted in 2009 which included the current application site and land to the front of the site. Third parties have correctly referred to this earlier application. This was withdrawn as it was considered premature as other plots were available on the allocated site and would have been refused. As this current application is for an identified end user and 2 additional plots have subsequently

been developed on the allocated site, it is a fundamentally different application to the earlier outline application.

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 it has been disused for a number of years, the small area of land involved and given its physical orientation sandwiched between employment uses and residential properties thus questioning whether it would actually be used for agricultural purposes, it is not considered that the application should be refused on the basis of loss of Grade 1 agricultural land.

Comments have been made about salaries paid by Probiotics. This may have well have a link to the level of local expenditure but staff salaries are not a planning issue.

### Conclusion

It is fully acknowledged that there are a number of valid planning concerns about this proposal. However, for the reasons outlined in the report above, it is considered that the application is acceptable and is recommended for approval. One final point is considered important. Due to the fact that any permission granted is on the basis of an acceptance of the need put forward by Probiotics, any consent should be conditioned restricting the use of this building for Probiotics only.

## **SECTION 106 PLANNING OBLIGATION/UNILATERAL UNDERTAKING**

No planning obligations are being sought in connection with this application.

## **RECOMMENDATION**

Grant permission

01. 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.

### **SUBJECT TO THE FOLLOWING:**

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.

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

03. prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), 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:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- 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.

Reason: To prevent pollution of the water environment.

04. Prior to the commencement of the development, a Travel Plan is to 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: To promote sustainable means of travel to comply with the NPPF.

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 to accord with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

06. 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.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to this building without the prior express grant of planning permission.

Reason: To ensure that there is a proven planning need for any future enlargement of the building to accord with the NPPF.

08. 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.

09. No means of external lighting shall be installed on the building or within the rest of the application site without the 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.

10. No construction works or deliveries shall take place outside of the hours of 08.00 to 17.30 Monday to Saturday. No construction works or deliveries shall take place on Sundays or any Public/Bank Holidays.

Reason: In the interests of residential amenity to accord with Policy ST6 of the South Somerset Local Plan.

11. No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

Reason: To prevent pollution of the water environment to accord with Policy EP9 of the South Somerset Local Plan.

12. Before the development hereby permitted is commenced, surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: To ensure a satisfactory means of surface water drainage is implemented as part of this development.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows, including dormer windows, or other openings (including doors) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

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

14. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping 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; and 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 to accord with Policy ST5 of the South Somerset Local Plan.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no walls or other means of enclosure, other than those granted as part of this permission, shall be constructed or erected within the application site without the written consent of the Local Planning Authority. Once agreed, no changes shall be made to the fencing without the written agreement of the Local Planning Authority.

Reason: To protect the character and appearance of the area to accord with Policy ST6 of the South Somerset Local Plan.

16. 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.

17. Before any of the development hereby permitted is commenced details of the internal ground floor levels of the building to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority.

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

18. No raw materials, products of any description, scrap or waste materials whatsoever shall be stored in the open on any part of the subject land without the prior written consent of the Local Planning Authority.

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

**Informatives:**

01. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

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.

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

James Smith  
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ECV4 6AL

**Please ask for:**  
**Tel:** 0303 444 8029  
**Email:** [David.crook@communities.gsi.gov.uk](mailto:David.crook@communities.gsi.gov.uk)

**Your ref:**

**Our ref:** NPCU/EIASCR/R3325/70123

**Date:** 31<sup>st</sup> August 2012

Dear Mr Smith

**Screening Direction issued by the Secretary of State on 13<sup>th</sup> April 2012 under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in respect of full planning application by Pro-biotics International Limited for an extension of business premises onto land at the former Lopenhead Nursery Lopen Somerset**

I refer to your letter of the 12<sup>th</sup> June 2012 and subsequent correspondence on these matters. I have carefully considered the matters that you have raised with respect to the screening direction but do not consider that there is any material or significant information that would lead the Secretary of State to reconsider the screening direction that the development proposed is not EIA development.

**Schedule 1 Development**

In your letter of 12<sup>th</sup> June you reiterate the view expressed in your original application to the Secretary of State that the processes undertaken on site amounts to a integrated facility for the production of basic pharmaceutical products using a chemical or biological process, and that insufficient information has been provided by the applicant on the nature of the processes of pro-biotic production. I subsequently wrote to the agents for the applicants requiring confirmation of the processes. Mr Frost has stated in an e-mail of 13<sup>th</sup> June:

*all bacteria used in the products are fermented elsewhere and are brought onto the site at Lopen Head in a freeze dried powder format within which the bacteria are inert. Notwithstanding, these bacteria are not harmful to health given that they are put into products consumed by humans and animals.*

*During the on-site product manufacturing processes there is no fermentation process or other biological reaction. In fact quite the opposite is true. The other ingredients added to the products are specifically used to stop this from happening until such*

*time as the product is consumed by a human or animal when the right conditions are created to activate the bacteria, which then provide health benefits etc. If the bacteria were activated before consumption the products have little or no shelf life.*

In the light of this, the Secretary of State remains of the view that the proposed application falls under Schedule 2 of the EIA Regulations and not Schedule 1.

### **Other Relevant Information**

Thank you for sending the further correspondence from Barry Smith at the Environment Agency on the discharge consent. I had previously corresponded with the Environment Agency on this matter as a result of further correspondence that you sent to me on 10<sup>th</sup> April by e-mail. The EA response was very clear that whilst the information referred to was necessary for them to comply with the discharge permitting regime, and the Agency would maintain an objection to the Planning Application until this information had been provided, this information would not need to be part of an Environmental Statement. I can see nothing in Mr Smith's letter that would change this view and have confirmed this with the Environment Agency by phone.

### **Cumulative Impacts and Indirect Effects**

I am familiar with the two cases that you quote. The Secretary of State has not looked at the effect on the extension to the existing development in isolation, particularly with respect to the visual impacts of the development, noise and light pollution and traffic impacts. An assessment has been made in accord with the requirements of the EIA Regulations and in particular Schedule 3 which sets out the selection criteria for screening development.

I understand that this is not the decision you were hoping for but I hope this further explanation has proved helpful.

I have copied this letter to South Somerset District Council and Boon Brown Architects, agents for the applicants.

Yours sincerely

David Crook MA MPhil MRTPI  
Senior Planning Manager

James Smith  
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**Please ask for:**  
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**Your ref:**  
**Our ref:** NPCU/EIASCR/R3325/70123

**Date:** 13<sup>th</sup> April 2012

Dear Mr Smith

I refer to your request made pursuant to Regulation 4(8) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (S.I. 2011/1824) ("the 2011 Regulations"), for the Secretary of State's screening direction on the matter of whether or not the proposed development is 'EIA development' within the meaning of the 2011 Regulations.

The development proposed, an additional 2100 m<sup>2</sup> production office and warehouse space for the production of pro-biotic food supplements for humans and animals falls within the description at paragraphs 2 (10) and (7) of Schedule 2 to the 2011 Regulations and exceeds the threshold in column 2 of the table in Schedule 2 to the 2011 Regulations. I have considered your view that the development falls under Schedule 1 paragraph 6 but have concluded that the process is not a pharmaceutical process but more akin to food production or brewing. Therefore, the Secretary of State considers your proposal to be 'Schedule 2 development' within the meaning of the 2011 Regulations.

However, in the opinion of the Secretary of State and having taken into account the selection criteria in Schedule 3 to the 2011 Regulations, the proposal would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

Given its location, the development would clearly have some impact both in terms of visual impacts, noise and traffic. In terms of visual impact, the proposed extension would be very visible from the A303 and also from a number of the surrounding dwellings and settlements, and would have an incongruous appearance in the landscape, especially when taken in combination with the existing development. However the local landscape is not of high quality and is not recognised under any national or local designations. Many of the receptors would be on the A303 and travelling at speed and thus would view the site only in glimpses. Given this

although clearly intrusive, I do not consider that these visual impacts would amount to a significant impact.

Whilst noise levels may increase slightly, the production process in itself is not noisy and there is adequate distance between the site and the majority of receptors, although there may be some additional impact on the residential dwelling on site. Likewise there will be some leakage of light from the site but this can be minimised and is not likely to have a significant impact.

The development would result in increased HGV and private car movements, albeit at a relatively modest level even when combined with the existing use. However the impact of this increased traffic, even when taken cumulatively with existing traffic levels would not lead to either significant levels of congestion or environmental problems in terms of increased pollutants.

Accordingly, in exercise of the powers conferred on him by regulation 6(4) of the 2011 Regulations the Secretary of State hereby directs that the proposed development described in your request and the documents submitted with it, is not 'EIA development' within the meaning of the 2011 Regulations. Any permitted development rights which the proposal may enjoy under the Town and Country Planning (General Permitted Development) Order 1995 (SI 418) are therefore unaffected.

You will bear in mind that the Secretary of State's opinion on the likelihood of the development having significant environmental effects is reached only for the purposes of this direction.

I have copied this letter to South Somerset District Council and Boon Brown Architects, agents for the applicants.

Yours sincerely

**David Crook**  
**MA MPhil MRTPI**  
**Senior Planning Manager**  
**NPCU**