

Committee Report

Item No: 7B

Reference: DC/23/03872

Case Officer: Nikita Mossman

Ward: Claydon & Barham.

Ward Member/s: Cllr David Penny. Cllr John Whitehead.

RECOMMENDATION – REFUSE PLANNING PERMISSION

Description of Development

Planning Application - Erection of additional E(g) business units building, and associated works.

Location

Hemingstone Fruit Farm, Main Road, Hemingstone, IP6 9RJ

Expiry Date: 11/12/2023

Application Type: FUL - Full Planning Application

Development Type: Minor Manufacture/Ind/Storage/Warehouse

Applicant: J Gorham

Agent: Nick Barber

Parish: Hemingstone

Site Area: 0.63

Details of Previous Committee / Resolutions and any member site visit: None

Has a Committee Call In request been received from a Council Member (Appendix 1): No

Has the application been subject to Pre-Application Advice: Yes - DC/23/01576

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason/s:

The Corporate Director considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council and the extent and planning substance of comments received from third parties.

CLASSIFICATION: Official

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

NPPF - National Planning Policy Framework
NPPG - National Planning Policy Guidance

Adopted Mid Suffolk Core Strategy Focused Review (2012)

FC1 - Presumption in Favour Of Sustainable Development
FC1.1 - Mid Suffolk Approach to Delivering Sustainable Development

Adopted Mid Suffolk Core Strategy (2008)

CS1 - Settlement Hierarchy
CS2 - Development in the Countryside & Countryside Villages
CS5 - Mid Suffolk's Environment

Adopted Mid Suffolk Local Plan (1998)

GP1 - Design and layout of development
HB1 - Protection of historic buildings
CL8 - Protecting wildlife habitats
CL9 - Recognised wildlife areas
E2 - Industrial uses on allocated sites
E3 - Warehousing, storage, distribution, and haulage depots
E4 - Protecting existing industrial/business areas for employment generating uses
E9 - Location of new businesses
E12 - General principles for location, design, and layout
T9 - Parking Standards
T10 - Highway Considerations in Development

Emerging Joint Local Plan Modifications (2023)

SP03 - The sustainable location of new development
SP05 - Employment Land
LP09 - Supporting a Prosperous Economy
LP17 - Landscape
LP19 - The Historic Environment
LP24 - Design and Residential Amenity

Neighbourhood Plan Status

This application site is not within a Neighbourhood Plan Area.

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

[Link to Comments Online](#)

Hemingstone Parish Council

Object:

- All Councillors agreed to support the residents and request the local planning authority object to this application;
- Request the District Council call this application in to committee if minded to approve;
- The proposal will have a major adverse impact on the local residents including, but not limited to: concerns over the working hours and activities on the site and the enforcement if these should be breached; and the adverse effect of the light, noise and smell pollution;
- The industrial activity, unique to this site, is not in keeping with the rural setting of the Parish;
- The proposed operating hours would have an adverse impact of the residents living in a Parish, classified as a Hamlet;
- The local planning authority must take into account the previous and current complaints concerning the activities on the site and the live enforcement case.

National Consultee Responses

Essex and Suffolk Water:

No response received.

County Council Responses

SCC - Highways - Received 20/09/2023

No objection subject to conditions regarding visibility splays, the parking arrangements, and the refuse bins arrangements.

SCC - Travel Plan - Received 21/08/2023

No comments to make.

SCC - Fire and Rescue - Received 25/08/2023

A planning condition requiring fire hydrants, details of, and ensuring implementation and retention thereafter is required if the LPA is minded to approve.

Until Suffolk Fire and Rescue Service receive confirmation from the water authority that the installation of the fire hydrant has taken place, the planning condition shall not be discharged.

SCC - Public Rights of Way:

No response received.

Internal Consultee Responses

BMSDC - Heritage Team - Received 27/10/2023

The proposal affects the setting of the Grade II listed Charity Farmhouse, an 18th Century former farmhouse which lies to the north of the proposal site.

The proposal, in its current form, would cause a very low to low level of less than substantial harm to the setting of Charity Farmhouse, insofar as it contributes to its significance, contrary to paragraph 194 of the NPPF. Insufficient information proportionate to the assets' importance has been provided in order to fully assess the potential impact of the proposal on their significance. The works therefore fail to meet the requirements of the NPPF, Joint Local Plan Policy LP19 and Mid Suffolk Local Plan Policy HB01.

BMSDC - Economic Development - Received 29/09/2023

Support the development proposal - These small, rural business centres provide a vital source of employment - Whilst there are no identified end users at this time, there is an unmet need for small business space in this location and significant interest and full uptake are anticipated - EV parking and full solar array on the roof of the proposed development are very welcome as this will help mitigate energy costs and ensure that the development is as sustainable as possible.

BMSDC - Environmental Health (Noise/Odour/Light/Smoke) - Received 01/09/2023

No Objection - Subject to Construction Management Plan Condition:

- minimal adverse impact from this development;
- The applicant will have to ensure that the construction of the development does not impact on the wider local amenity;
- The design proposals are reasonable in environmental health terms.

BMSDC - Environmental Health (Land Contamination) - Received 22/09/2023

No objection to the proposed development from the perspective of land contamination - Request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the advised minimum precautions are undertaken until such time as the LPA responds to the notification - Advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

BMSDC - Ecology Consultants - Place Services - Received 24/10/2023

No Objection - Subject to Biodiversity Enhancement and Wildlife Friendly Lighting Strategy Conditions:

- Have reviewed the Preliminary Ecological Appraisal submitted;
- Now satisfied that there is sufficient ecological information available for determination;

- Note that no signs of bats were found on site and therefore agree that no further surveys for bats are required, unless the two Black Poplars on the site boundary are affected, which have moderate bat roost potential;
- Although site lies in an Amber Risk Zone Area for Great Crested Newts (GCN), the habitats on site are sub-optimal and there are no records for GCN on site. Agree that no further surveys for GCN are required;
- There are records for reptiles nearby and support the recommendation that any debris or building material shall be removed under the supervision of an ecologist.

BMSDC - Enforcement - Received 18/08/2023

There is a live enforcement case on this site. No further comments to make.

B: Representations

At the time of writing this report at least 13 letters/emails/online comments have been received. It is the officer opinion that this represents 13 objections, 0 support and 0 general comments. A verbal update shall be provided as necessary.

Views are summarised below:-

- Affects Local Ecology/Wildlife
- Development too high Harm to Listed Building
- Health & Safety
- Inappropriate in a Conservation Area
- Increase in Pollution
- Increased Traffic/Highways Issues
- Landscape Impact
- Light Pollution
- Loss of Privacy
- Noise
- Out of Character with the Area
- Over development of site
- Potentially Contaminated Land
- Potential for units to be used for residential purposes
- No information on use
- Private right of way being blocked
- Highways safety

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

PLANNING HISTORY

REF: DC/20/01583	Discharge of Conditions Application for DC/19/05879- Condition 6 (Biodiversity Enhancement Strategy)	DECISION: Granted (GTD) 10.06.2020
REF: DC/19/05879	Full Planning Application - Continued use for storage and distribution (Class B8) and builders' yard (sui generis) including associated offices.	DECISION: GTD 20.03.2020
REF: DC/19/03622	Outline Planning Application (All matters reserved) - Erection of up to 10 No. dwellings (following demolition of existing cold storage sheds and associated hard standing) (re-submission of refused application DC/18/03290).	DECISION: Refused (REF) 18.11.2019
REF: DC/18/03290	Outline Planning Application (All matters reserved) Demolition of existing cold storage sheds and associated hard standing. Erection of up to 10 No. dwellings.	DECISION: REF 23.01.2019
REF: 4110/16	Application for a Lawful Development Certificate for an Existing Use. Continued use of farm and buildings for the storage of fruit produced off site and onward distribution.	DECISION: Was Lawful (LU) 26.05.2017
REF: 0587/03/	NEW VEHICULAR ACCESS	DECISION: GTD 16.02.2004
REF: 0467/98/	RETENTION OF PROVISION OF 2 NO. PORTACABINS FOR A TEMPORARY PERIOD OF 3 YEARS TO BE USED IN CONJUNCTION WITH EXISTING JAM FACTORY.	DECISION: GTD 29.07.1998
REF: 0467/94/	ERECTION OF JAM AND ASSOCIATED PRODUCTS MANUFACTURING AND STORAGE BUILDING FOLLOWING DEMOLITION OF EXISTING BUILDING ON SITE WITH USE OF EXISTING VEHICULAR ACCESS.	DECISION: GTD 05.07.1994

PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

- 1.1 Hemingstone Fruit Farm is in a countryside location and was previously used for the growing of fruit. The site now contains business units which is used by C&L Construction Ltd as well as associated offices. The area which the proposed buildings are sited is arable land which was previously used for planting. There is on-site parking which is being retained.
- 1.2 The site is opposite numerous residential properties with one being a Grade II listed building known as Charity Farmhouse which is approximately 92m away from the proposed building. The site is in Flood Zone 1 which means there is a very low risk of fluvial flooding. There is a portion of the site to the east, which is at risk of pluvial flooding, but no part of the development is on this portion of the site.

2. The Proposal

- 2.1. The proposal seeks permission for the erection of additional E(g) business units building with associated works. This is to provide 6no. units to be let out to businesses. This is proposed to be sited on agricultural land to the south of the existing business units.
- 2.2. The proposed dimensions are 53.1m in length, 11.3m in width and a maximum eaves height of 3.2m and a maximum ridge height of 4.4m. The total floor area of the proposed building is 600 square metres with the internal floor area for each unit being indicative depending on demand of potential businesses.
- 2.3. The proposed materials are powder coated metal composite panels and trims with the colour to be agreed for the walls and roof. The windows and doors are proposed to be UPVC. There is also proposed to be photo-voltaic arrays on the roof.

3. The Principle of Development

- 3.1. The application site is located outside of the settlement boundary. Policy CS2 lists the acceptable forms of development that may be considered within these areas. New-build employment generating proposals where there is a strategic, environmental, or operational justification is one of the permitted exceptions listed within Policy CS2.
- 3.2. Mid Suffolk Local Plan Policy E9 stipulates that where it can be demonstrated that there is a lack of sites or premises for new businesses within nearby settlements, proposals may

be acceptable on small sites closely related to existing industrial or commercial sites or the existing built-up area of a town or village.

- 3.3. Local Plan Policy E10 aligns with Policy CS2 in its requirement for justification/evidence of need, stating that new industrial and commercial development in the countryside will not be permitted unless an overriding need to be located away from towns and villages can be demonstrated.
- 3.4. Whilst the Development Plan does not explicitly prevent new commercial development in the countryside, it requires proposals to demonstrate a sequential approach to location having regard to the need for such development. This is consistent with the approach applied by the NPPF (2023) paragraphs 84 and 85, "...decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport..." [paragraph 85].
- 3.5. Notwithstanding need, paragraph 85 goes on to state that "...it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)".
- 3.6. On 19th September 2023, Babergh and Mid Suffolk District Councils received the Inspectors' report on the examination of the Joint Local Plan (JLP). The Inspectors' have concluded that, subject to the recommended modifications, the Plan is sound. Accordingly, officers have considered the modified policies having regard to the requirements of paragraph 48 of the NPPF, as relevant to the determination of this planning application. The JLP and its policies are a material consideration of significant weight in this case.
- 3.7. JLP Policy SP03 states that "outside of the settlement boundaries, development will normally only be permitted where the site is allocated for development, or in a made Neighbourhood Plan, or is specifically permitted by other relevant policies of this Plan, or it is in accordance with paragraph 80 of the NPPF (2021).
- 3.8. The emerging JLP Policy SP05 supports land for employment uses (other than designated strategic employment sites) along the strategic transport corridors (i.e., 2km from the A12, A14 and A140) in principle. The proposed development does not satisfy the strategic transport corridor test within Policy SP05.
- 3.9. Whilst the proposal is an expansion of an existing employment site, the proposal does not represent an expansion of an existing business. The proposal is brought forward on a speculative basis with no identified occupiers. As a result, the applicant is not in a position to evidence a commercial need for the proposed development, nor have they provided strategic, environmental, or operational justification in regard to this location. The speculative nature of the proposal has prevented this. Notwithstanding the recognised demand, this does not negate the requirement to evidence a locational need.
- 3.10. The proposal comprises new build commercial development in the countryside, contrary to Policy CS2, E9 and E10 of the Development Plan, emerging JLP Modifications policies

SP03 and SP05, and the NPPF. The significant redevelopment of the small-scale industrial site would materially compromise the spatial strategy of the Council and undermines the aims and objectives of those policies.

4. Site Access, Parking and Highway Safety Considerations

- 4.1. The site is accessed via Main Road which runs along the east of the site. Based on the site plan provided, there are approximately 46no. parking spaces on the site which are to be retained. The proposal provides 23no. vehicle parking spaces which include 2no. disabled bays and 3no. electric vehicle charging points. There is also allocated space for 8no. bicycles under a shelter and 4no. motorcycle bays.
- 4.2. SCC Highways were consulted on the application and raised no objection subject to conditions securing visibility, parking and refuse bins storage.
- 4.3. It is noted that there is concern regarding a private right of way which runs through the site which is owned by a nearby property and the impact the proposal would have on the access to this right of way. The proposal is not sited on the private right of way, and would not require a change to the right of way. SCC Rights of Way were consulted and no response received. The proposal is not considered unacceptable in this regard.

5. Design and Layout

- 5.1. Section 12 of the NPPF requires inter alia that local planning authorities seek to promote and reinforce local distinctiveness as well as design. Paragraph 130 of the NPPF states that decisions should ensure that developments, amongst other things, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character, and function well and add to the overall quality of the area.
- 5.2. Policy GP1 calls for proposals to, amongst other matters, maintain and enhance the character and appearance of their surroundings, materials and finishes should be traditional, or compatible with traditional materials and finishes and should respect local architectural styles where appropriate.
- 5.3. JLP Policy LP24 states that 'all new development must be of high-quality design, with a clear vision as to the positive contribution the development will make to its context'.
- 5.4. The proposed unit is similar to the current units in terms of appearance and design. The size and scale of the proposed building is not considered excessive in its setting. It is also not likely to significantly impact the surrounding area and landscape due to the heavy screening around the site.
- 5.5. A new drainage swale is proposed to assist with site rainwater drainage, which would be formed in conjunction with the existing ditch network adjacent to the road. This area will include a staff picnic area accessible to all units & employees, as well as soft landscaping, wildflower planting, reinforcement and management of existing landscape buffers, further

specimen tree planting to enhance the biodiversity of the site and wider area, as well as diminishing further any potential visual or auditory impact upon the immediate surroundings.

- 5.6. To conclude, the proposal would not erode the character of the area, nor reduce the amenity of the area by means of appearance, traffic generation, nuisance or safety and accords with policies GP1 of the Local Plan, LP24 of the emerging JLP, and the NPPF.

6. Landscape Impact, Trees, Ecology, Biodiversity and Protected Species

- 6.1. The site benefits from mature hedging and trees which borders the site, therefore, the area where the proposed buildings are located is heavily screened from the highway. These trees are proposed to be retained as well as further wildflower planting being introduced. The impact the proposal would have on the landscape is minimal due to this.
- 6.2. Places Services Ecology were consulted on this application to assess the Preliminary Ecological Appraisal submitted as part of this application. They have raised no objection subject to conditions in relation to securing biodiversity mitigation and enhancement measures.

7. Land Contamination, Flood Risk, Drainage and Waste

- 7.1. An environmental report (IE23/069/SITI) was provided as part of the application. The Council's Environmental Health officer (Land Contamination) was consulted on this application and raised no objection and recommended a note regarding the event on unexpected ground conditions and the procedure to follow if such event occurs.
- 7.2. There is a small portion of the site to the east which is at risk of pluvial flooding. The area is occupied by trees and the proposed use for the nearby area is a staff picnic area. Therefore, as the proposed buildings are not within the area of surface water flood risk, it is not considered to be detrimental to the proposal.

8. Heritage Issues

- 8.1. A proposal that includes the curtilage or setting of a Listed Building or works to a Listed Building must respond to this significant consideration. The duty imposed by the Listed Buildings Act 1990 imposes a presumption against the grant of planning permission which causes harm to a heritage asset. A finding of harm, even less than substantial harm, to the setting of a listed building must be given "considerable importance and weight*". (*Bath Society v Secretary of State for the Environment [1991] 1 W.L.R. 1303).
- 8.2. The Council's Heritage Team were consulted on this application and concluded that the proposal would cause a very low to low level of less than substantial harm to Charity Farmhouse, insofar as its setting contributes to its significance.
- 8.3. The site layout in its proposed form would further impact the appreciation of the farmhouse and its formally functional historic relationship with the surrounding agrarian landscape.

There are also concerns that an increase in commercial activity may further disrupt the relative tranquillity of the farmhouse's setting.

- 8.4. It is considered that alternative site layouts, which avoided further development enclosing the farmhouse, may not cause this cumulative harm. It should also be noted that no heritage impact assessment has been submitted as part of this application, contrary to the requirements of the NPPF and Policy LP19 of the emerging JLP.
- 8.5. Paragraph 202 of the NPPF states: "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 8.6. Due to the number of jobs created by the new business units, with both the construction of the units and with the staff who would work in the units, it is seen that the public benefit would outweigh the very low level of less than substantial harm to the setting of the heritage asset which is in line with Paragraph 202 of the NPPF. Therefore, the lack of heritage information does not amount to a reason for refusal.
- 8.7. The proposal is considered acceptable in this regard.

9. Impact on Residential Amenity

- 9.1. With regard to Mid-Suffolk Local Plan Policy H16 and emerging JLP Policy LP24, it is crucial that development does not detrimentally affect residential amenity.
- 9.2. It is considered that this proposal does not give rise to any concerns of loss of neighbouring amenity (overlooking, loss of light, loss of privacy or overshadowing). This is because the neighbouring properties are of a significant distance from the proposed unit which makes the potential impacts on neighbouring amenity minimal and are not likely to be significant enough to warrant refusal.
- 9.3. The Council's Environmental Health team (Noise/Odour/Light/Smoke) were consulted on this application, and they raised no objection subject to conditions. Therefore, the proposal is considered acceptable in this regard.

10. Parish Council Comments

- 10.1. It is considered that matters raised by Hemingstone Parish Council have been addressed in the above report.
- 10.2. Further elaboration can be provided by your officers, as required.

PART FOUR – CONCLUSION

11. Planning Balance and Conclusion

- 11.1. The proposed development is considered unacceptable in principle due to the unsustainable location of the site. The proposed development is brought forward on a speculative basis with no identified occupiers and whilst an extension of an existing site, does not represent an extension of an existing business. The applicant has failed to evidence a commercial need for the proposed development, nor have they provided strategic, environmental, or operational justification in regard to this location.
- 11.2. The proposal represents new build commercial development in the countryside, contrary to Policy CS2, E9 and E10 of the Development Plan, emerging JLP Modifications policies SP03 and SP05, and the NPPF. The significant redevelopment of the small-scale industrial site would materially compromise the spatial strategy of the Council and undermines the aims and objectives of those policies.
- 11.3. Even if the "tilted balance" were considered to be engaged the significant and demonstrable harm to the strategic purpose of the development plan in achieving sustainable development and the importance of a plan led system, in addition to the environmental harm identified, would be such that planning permission should not be granted.
- 11.4. The proposed development is not considered to comprise sustainable development. The proposal breaches the Development Plan as a whole and the NPPF, the Councils emerging Joint Local Plan reinforces the direction to refuse the application.
- 11.5. The proposal is considered to cause a low level of less than substantial harm to the setting of the nearby heritage asset due to the cumulative impact of the business units on the site and the concern regarding the increase in commercial activity impacting the tranquillity of the heritage asset. However, due to the creation of jobs that could arise from the proposal, the public benefit outweighs the harm in accordance with paragraph 202 of the NPPF.
- 11.6. The proposal would have no detrimental impact on the privacy and amenity of nearby neighbouring properties. The existing parking and access are being retained with further parking being provided, and therefore there is not a detrimental risk to highway safety. The proposal is in keeping with the character, form and materials of development on the existing site. However, these considerations do not outweigh the breaches to the Development Plan.
- 11.7. Based on the above, the application is recommended for refusal.

RECOMMENDATION

That authority be delegated to the Chief Planning Officer to refuse planning permission for the following reason(s): -

The proposal represents new build commercial development in the countryside, where new build employment development is subject to a strategic, environmental, or operational justification. The applicant has failed to evidence a commercial need for the proposed development, nor have they provided strategic, environmental, or operational justification in regard to this location and therefore, the proposal is considered unacceptable in principle.

The significant extension of the small-scale industrial site in the countryside would materially compromise the spatial strategy of the Council and undermines the aims and objectives of those policies.

The proposal is contrary to: policies CS2, E9 and E10 of the Development Plan; emerging JLP policies SP03 and SP05; and is not considered to represent sustainable development when assessed against the provisions of the NPPF, taken as a whole.