

**Philip Isbell – Chief Planning Officer**  
**Sustainable Communities**

**Mid Suffolk District Council**

Endeavour House, 8 Russell Road, Ipswich IP1 2BX

Website: [www.midsuffolk.gov.uk](http://www.midsuffolk.gov.uk)



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## **REFUSAL OF PLANNING PERMISSION**

**TOWN AND COUNTRY PLANNING ACT 1990**

**THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015**

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**Correspondence Address:**

Thomas Beard  
Pegasus Group  
10 Albemarle Street  
London  
W1S 4HH

**Applicant:**

Harkalm Developments Ltd  
C/o Agent  
London  
United Kingdom

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**Date Application Received:** 24-Feb-21

**Application Reference:** DC/21/01101

**Date Registered:** 25-Feb-21

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**Proposal & Location of Development:**

Planning Application. Erection of 2no mixed class E/Sui Generis (cafe/restaurant/hot food takeaway drive through) units with associated works including access, car parking, landscaping, and installation of advertisements.

Land At A140/A143 Junction , Bridge Road, Scole By-Pass, Stuston IP21 4AL

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**Section A – Plans & Documents:**

This decision refers to drawing no./entitled LOCATION PLAN - SCALE 1:1250 @ A4 received 24/02/2021 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Defined Red Line Plan LOCATION PLAN - SCALE 1:1250 @ A4 - Received 24/02/2021

Block Plan - Proposed 01G - Received 24/02/2021

Site Plan 02E KFC - Received 24/02/2021

Floor Plan - Proposed 03A KFC - Received 24/02/2021

Elevations - Proposed 04A KFC - Received 24/02/2021

Elevations - Proposed 05C KFC - Received 24/02/2021

Roof Plan - Proposed 06A KFC - Received 24/02/2021

Site Plan 07C Starbucks - Received 24/02/2021

Site Plan 07D Starbucks - Received 24/02/2021

Floor Plan - Proposed 08 Starbucks - Received 24/02/2021

Elevations - Proposed 09A Starbucks - Received 24/02/2021  
Elevations - Proposed 10A Starbucks - Received 24/02/2021  
Roof Plan - Proposed 11 Starbucks - Received 24/02/2021

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## **Section B:**

Mid Suffolk District Council as Local Planning Authority, hereby give notice that **PLANNING PERMISSION HAS BEEN REFUSED** for the development proposed in the application in accordance with the particulars and plans listed in section A for the following reasons:

### **1. REASONS FOR REFUSAL - FLOOD RISK**

The Planning Practice Guidance (PPG) classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each flood zone. In this case, the Environment Agency have confirmed that the application site lies within the fluvial Flood Zone 3b, the functional floodplain, as delineated by the 1 in 20 annual probability event outline. The Environment Agency have confirmed that the proposed development is classified as 'less vulnerable' in Table 2: Flood Risk Vulnerability Classification of the PPG. Table 3 of the PPG makes clear that this type of development is not compatible with Flood Zone 3b and should not therefore be permitted. It is, therefore, considered that the proposed development falls into a flood risk vulnerability category that is inappropriate to the flood zone in which the site is located.

Paragraph 157 of the NPPF requires a sequential, risk-based approach to the location of development - taking into account the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. NPPF paragraph 158 requires the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. It is not considered that the applicant has carried out a satisfactory sequential test in relation to site selection and has not satisfactorily demonstrated that the proposed development could not be provided on other alternative sites elsewhere, in relative proximity to the site.

### **2. REASONS FOR REFUSAL - SURFACE WATER DRAINAGE**

Paragraph 165 of the NPPF requires all such developments to incorporate sustainable drainage systems, including taking advice from the lead local flood authority (LLFA). The LLFA have advised that insufficient detail has been provided within the surface water drainage strategy submitted with the application and as such the applicant has not sufficiently demonstrated that the proposal would not result in harm with regards increased flood risk to existing and future occupants. The application fails to take account the advice from the lead local flood authority, contrary to paragraph 165 of the NPPF.

### **3. REASONS FOR REFUSAL - INSUFFICIENT INFORMATION - HIGHWAY SAFETY**

NPPF paragraph 108 requires all such development proposals to demonstrate that safe and suitable access to the site can be achieved for all users. NPPF paragraph 109 provides that development should be prevented or refused on highways grounds if the cumulative impacts on the road network would be severe. Furthermore, development plan policy T10 requires (inter alia) that all development proposals should safe access to and egress from the site and should have regard for pedestrian safety.

It is not considered that sufficient information has been provided by the applicant to demonstrate that the proposed means of access to and egress from the site would be

safe. With such high traffic flows demonstrated at the point of access onto the main A143 highway the Local Highway Authority would expect to see proposals for highway improvements at the A143/Bridge Road junction. It is also considered that the applicant has provided insufficient information in relation to traffic modelling of the A143/Bridge Road junction, in the interest of determining capacity, whether a right turn lane is required to stop queuing on the A143 westbound approach or banning some traffic movements for a safer access, would be required. Furthermore, it is not considered that sufficient information has been provided to demonstrate that the proposal's impacts on the adjacent public bridleway, and the safety of its users, would be acceptable.

The development proposal is, therefore, not considered to be in accordance with the provisions of NPPF Paragraph 108 and development plan policy T10. Furthermore, the cumulative impacts of the development, as currently proposed, are considered to result in a severe impact on existing highway safety, contrary to the provisions of NPPF paragraph 109.

## **SUMMARY OF POLICIES WHICH ARE RELEVANT TO THE DECISION:**

NPPF - National Planning Policy Framework  
FC01 - Presumption In Favour Of Sustainable Development  
FC01\_1 - Mid Suffolk Approach To Delivering Sustainable Development  
FC03 - Supply Of Employment Land  
CS02 - Development in the Countryside & Countryside Villages  
CS05 - Mid Suffolk's Environment  
GP01 - Design and layout of development  
HB01 - Protection of historic buildings  
HB14 - Ensuring archaeological remains are not destroyed  
CL02 - Development within special landscape areas  
CL08 - Protecting wildlife habitats  
E04 - Protecting existing industrial/business areas for employment generating uses  
E10 - New Industrial and commercial development in the countryside  
New Industrial and commercial development in the countryside  
H16 - Protecting existing residential amenity  
RT12 - Footpaths and Bridleways  
T06 - Petrol filling stations and other road side services  
T09 - Parking Standards  
T10 - Highway Considerations in Development  
Diss and District Neighbourhood Plan

## **NOTES:**

### **1. Statement of positive and proactive working in line with the National Planning Policy Framework (NPPF)**

When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising. In this case the application proposal is considered to result in a significant departure from the provisions of the development plan, NPPF and

NPPG and no amount of negotiation or amendment to the submitted planning application would enable all reasons given for refusal to be overcome to the satisfaction of the LPA.

2. **Refused Plans and Documents**

The plans and documents assessed in determination of this application are listed at Section A, above.

Babergh and Mid Suffolk District Councils have adopted Community Infrastructure Levy (CIL) charging which affects planning permissions granted on or after 11th April 2016 and permitted development commenced on or after 11th April 2016. If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling or holiday let of any size your development may be liable to pay CIL and you must submit relevant documents to our Infrastructure Team telling us more about your development, who will pay CIL and when the development will start. You will receive advice on the amount you have to pay and what you have to do and you can find more information about CIL on our websites here:

[CIL in Babergh](#) and [CIL in Mid Suffolk](#) or by contacting the Infrastructure Team on: [infrastructure@baberghmidsuffolk.gov.uk](mailto:infrastructure@baberghmidsuffolk.gov.uk)

This relates to document reference: DC/21/01101

**Signed: Philip Isbell**

**Dated: 16th April 2021**

**Chief Planning Officer  
Sustainable Communities**

## **Appeals to the Secretary of State**

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78 Town and Country Planning Act 1990

Listed Building Applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990

Advertisement Applications: Section 78 Town and Country Planning Act 1990  
Regulation 15

Town and Country Planning (Control of Advertisements) Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.

Appeals must be made on a form which is obtainable from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://www.gov.uk/government/publications/modelnotification-notice-to-be-sent-to-an-applicant-when-permission-is-refused>

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements\*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2. If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.

\*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.