

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2023/0163

Proposal: New building on existing car park to house a spray dryer, existing covered walkway to be enclosed to create new access corridor, car park spaces to be reconfigured to suit building position (MAJOR APPLICATION)

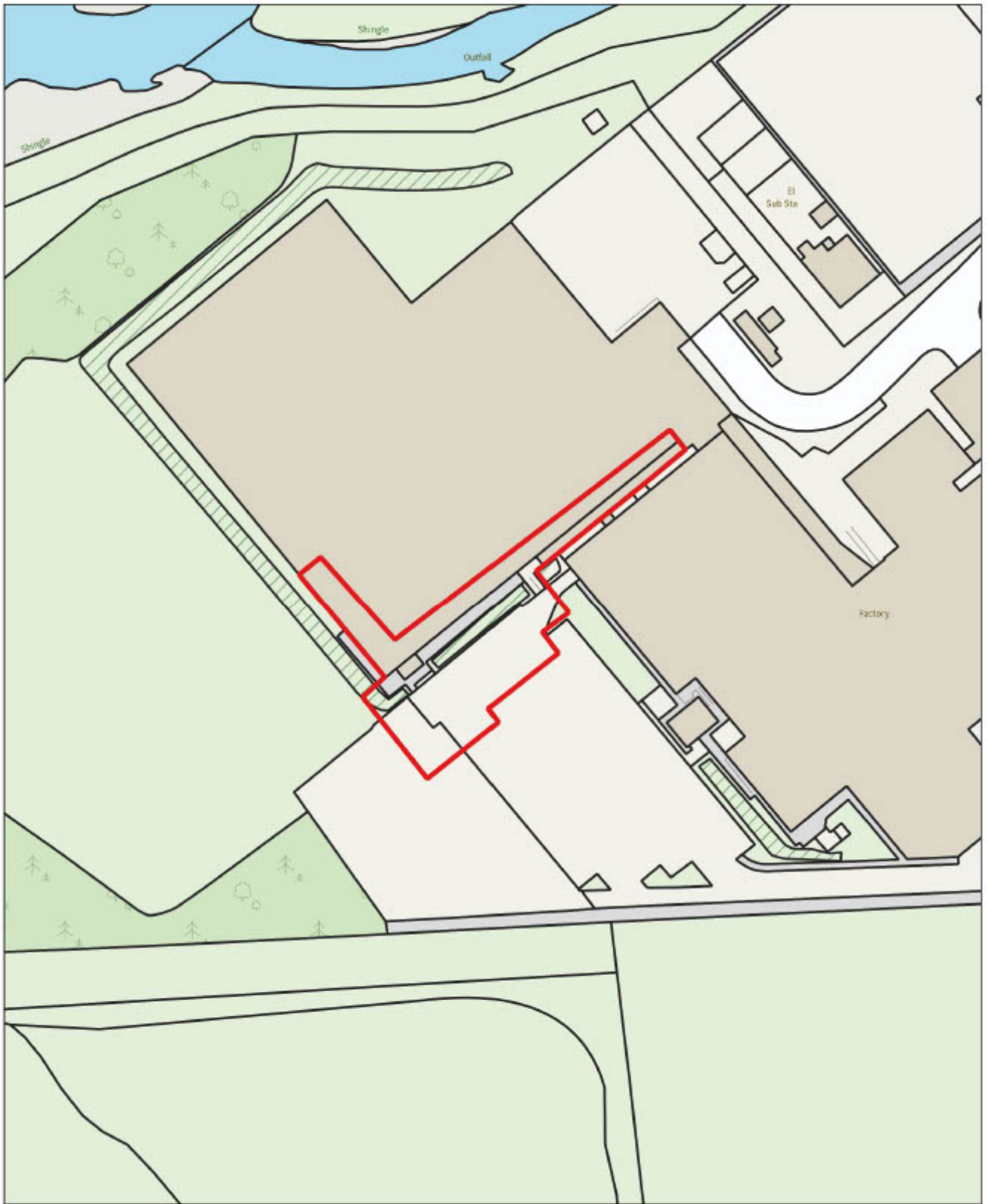
Location: Kendal Nutricare Ltd Farley Health Products Ltd Lake District Business Park Mint Bridge Road KENDAL LA9 6NL

Applicant: Remington - Kendal Nutricare Ltd

Committee Date: 11th of April

Reason for Committee Level Decision: Due to the economic significance of the proposal, it is considered beneficial for the application to be determined by councillors

Officer: J Sheldrake



SL/2023/0163 - Site Location Plan



Scale 1:1000

© Crown copyright. All rights reserved. Westmorland and Furness Council Licence No: 0100066998

1.0 SUMMARY

- 1.1 The application seeks planning permission for the construction of a 41 metre tall and 30.5 metre wide industrial building at Kendal Nutricare, an existing manufacturing site at the Lake District Business Park within the north of Kendal. Nutricare are a producer of baby formula (Kendamil).
- 1.2 The proposed building would accommodate a spray dryer used in the manufacturing of baby formula. The existing smaller spray dryer is a bottleneck in the manufacturing process, and the applicant has stated that the proposed spray dryer would allow production capacity to triple without any additional expansion. The applicant has stated that the proposal would result in the creation of up to 50 additional jobs over 3 years.
- 1.3 The proposed building would be considerably taller than any of the surrounding buildings and would, therefore, be very prominent on the skyline of north Kendal. Due to the height, scale, and visual massing of the proposed building, the proposal would cause significant harm to landscape character and visual amenity. Therefore, the proposal fails to accord with Policies CS1.1, CS8.2, and CS8.10 of the South Lakeland Core Strategy; Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document; and the aims and objectives of the NPPF
- 1.4 The economic benefits are not considered to outweigh the wider visual harm and, therefore, the proposal is recommended for refusal.

2.0 RECOMMENDATION

- 2.1 The application is recommended for refusal.

3.0 THE SITE AND PROPOSAL

- 3.1 The application site falls within the development boundary of Kendal, within an existing industrial site, and within Flood Zone 3a. The site is immediately adjacent to the existing warehouse at Nutricare, and the proposed building would be located to the west of the existing spray dryer.
- 3.2 The land to the west of Nutricare will become a public park as a result of the Kendal Flood Risk Management Scheme (FRMS). To the west of the River Kent, there is a residential area. The land to the north of Nutricare is agricultural land, and the land to the south of Nutricare is used as playing fields.
- 3.3 The proposed building would measure 41 metres tall and 30.5 metres wide at its widest point. The upper 4 metres of the building would be setback from the south and east elevations. The building would be clad with white and grey powder-coated steel, and the visual massing would be partly broken-up by vertical banding to 37 metres above ground level and triangular banding at the upper level.

4.0 RELEVANT SITE PLANNING HISTORY

- 4.1 SL/2023/0237: *Erection of a warehouse extension to the existing factory together with access road, turning area - withdrawn*

4.2 SL/2022/0763: *Erection of ready to feed building* – withdrawn

4.3 SL/2022/0763: *Erection of new evaporator building* – approved

5.0 CONSULTATIONS

5.1 Town Council: No objection:

“No material objections, however, greening of the roof would be a preferable outcome, if feasible and, if not, then a suitable biodiversity gain would be required in the immediate locality. Attention was drawn to the increased noise that would result from the application and this is outlined in the response from 2a Kentrigg”.

5.2 Highways and Lead Local Flood Authority Officer: No objection (recommended further details of the surface water drainage design prior to the commencement of the development).

5.3 Public Protection Officer: No objection (recommended a Phase 1 Contamination Survey prior to the commencement of development).

5.4 Environment Agency: No objection.

5.5 Lake District National Park Authority: No comment received.

6.0 REPRESENTATIONS

6.1 1 objection comment and 1 neutral comment were received from members of the public. Separately, a letter of support from the Cumbria Chamber of Commerce and a letter of support from the MP were received.

6.2 The following areas of concern were raised by the objector:

- Significant harm due to the scale of the proposed building relative to surrounding buildings;
- Impacts from noise and disturbance due to the increased working hours (24/7);
- Impacts from additional external lighting;
- Harm to the experience of the proposed community nature area beside the Nutricare site; and
- The proposed external colour should be blue; and
- The external conditions of existing concrete buildings and potential to clad them.

Note: the external condition of the concrete on existing buildings within the site is not a consideration of this application.

6.3 The reasons for support are as follows:

- The wider economic benefit and the benefit to the agricultural sector;
- The strategic importance of Nutricare as the sole UK supplier of baby formula;
- The potential for relocation if the planning application is not approved; and

- The amount of jobs the project could create and secure.

7.0 RELEVANT PLANNING POLICY

- 7.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.

Local Plans

South Lakeland

- [South Lakeland Core Strategy](#) - adopted 20 October 2010
- [South Lakeland Development Management Policies Development Plan Document](#) - adopted 28 March 2019.

Other Material Considerations

National Planning Policy Framework (NPPF)

- 7.3 The NPPF sets out governments planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.
- 7.4 At the heart of the NPPF is a presumption in favour of sustainable development (Paragraph 11). However, Paragraph 12 confirms that the presumption does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.

8.0 PLANNING ASSESSMENT

The presumption in favour of sustainable development

- 8.1 Paragraph 8 of the National Planning Policy Framework (NPPF) introduces the overarching economic, social and environmental objectives central to achieving sustainable development.
- 8.2 Paragraph 9 of the NPPF is clear that these objectives should be delivered through the preparation and implementation of development plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

Main Planning Issues

8.3 The main planning issues for this planning application are as follows:

- the principle of development and flood risk;
- the landscape and visual impact;
- the highways impact;
- contamination, noise, and odour; and
- drainage;
- sustainable construction;
- ecology, biodiversity net gain, and arboriculture; and
- economic benefit and planning balance.

Principle of development and flood risk

8.4 The application site falls within the settlement boundary of Kendal, within Flood Zone 3a, and within an existing commercial site.

8.5 The proposed use is considered Less Vulnerable under the Flood Risk Vulnerability Classification. Less Vulnerable development is acceptable in Flood Zone 3a and isn't subject to the flood risk exception test referred to in paragraph 164 of the National Planning Policy Framework, however, it is necessary to apply the flood risk sequential test, the methodology to direct development to lower flood risk areas, as the development is within an area of high flood risk and isn't within an allocated site.

8.6 There is a functional need for the spray dryer to be located adjacent to the existing milk feed building and the packaging warehouse, and there aren't any locations within the vicinity at a lower flood risk; therefore, the proposed development cannot be directed to any lower flood risk areas and is considered to pass the sequential test.

8.7 As the site is within the development boundary of Kendal, within an existing commercial site, and because the flood risk sequential test is passed, the proposed development is acceptable in principle.

Landscape and Visual Impact

8.8 The proposed building would be located within an industrial area and would be industrial in character; however, due to its considerable height, the building would have significant visual and landscape impacts. Visual impact are impacts arising from how people would be affected by changes (i.e. impacts on public amenity and how people would experience footpath and road journeys). Landscape impacts are impacts arising from harm to a landscape's aesthetic qualities and perceptual and experiential qualities (i.e. impacts on landscape features, sense of place etc.).

8.9 The application site is located within National Character Area 19 (South Cumbria Fells). NCA 19 includes Ulverston, Broughton-in-Furness, Windermere, Kendal, and Kirkby Lonsdale. The character area is relatively diverse but is characterised by a mixture of high fells, wooded valleys, and undulating lower hills.

8.10 The Cumbria Landscape Character Guidance identifies the landscape to the north

of its area as landscape subtype 7b (Drumlin Field) and the landscape further north and to the east as a mixture of landscape subtypes 7a (Foothills) and 7b (Low Fells). The Lake District National Park Authority Character Assessment identifies the land to the north and west as a mixture of landscape subtypes F (Rugged/Craggy Volcanic High Fell), H (Upland Valley), and K (Low Fell).

8.11 The open countryside to the north, the north-west, and the north-east of Kendal is largely undeveloped and sensitive to significant landscape change.

8.12 The townscape of Kendal is not identified as a separate landscape subtype within the Cumbria Landscape Character Guidance as the guidance focuses on the less-developed countryside outside of Kendal. The Core Strategy and the Development Management Policies Development Plan Document include policies to control landscape and settlement character.

8.13 Policy CS8.2 (Protection and enhancement of landscape and settlement character) states that “*Development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance:*

- *The special qualities of the environment associated with the nationally designated areas of the National Parks and Arnside and Silverdale AONB including their settings;*
- *The special qualities and local distinctiveness of the area;*
- *Distinctive settlement character;*
- *The pattern of distinctive features such as hedges, walls, traditional buildings, woodlands, hay meadows, wetlands, valleys, fells and rivers, and their function as ecological corridors for wildlife;*
- *The setting of, and views into and from the AONB, the National Parks, conservation areas and individual built/manmade features that contribute to landscape and settlement character such as St Anthony’s Tower, Kendal Castle and Devil’s Bridge in Kirkby Lonsdale”.*

8.14 Policy CS8.10 (Design) states that “*The siting, design, scale and materials of all development should be of a character which maintains or enhances the quality of the landscape or townscape and, where appropriate, should be in keeping with local vernacular tradition”.*

8.15 Policy DM1 (General Requirements for all development) states that “*Subject to other policies within the development plan, development will be acceptable provided it:*

- *ensures it responds appropriately to the proposal site’s locational context, local and settlement character and distinctiveness;*
- *ensures the protection and enhancement of the District’s natural, built and*

historic environment qualities and its distinctive landscapes and townscapes, including their public visual amenities through good design; and

- *ensures the conservation and enhancement of the special qualities and settings of the Lake District and Yorkshire Dales National Parks and the Arnside and Silverdale Area of Outstanding Natural Beauty, including views into and out of these designated landscapes, by supporting proposals only where it is demonstrated through a proportionate landscape assessment there would be no significant adverse effect upon their landscape character and visual amenity taking account of:*
 - o *the AONB Landscape and Seascape Character Assessment, and Cumbria Landscape Character Assessment & Toolkit*
 - o *the coastline and its particular sensitivities and character (seascape)*
 - o *cumulative and incremental impacts of development having regard to the effects of existing developments and the likely further impacts of the proposal in this respect"*

8.16 Policy DM2 (Achieving Sustainable High Quality Design) states that "Development proposals should respond appropriately to local context, landscape and built and natural environment setting by:

- *identification of existing built and natural features that create a positive contribution to the locality and sense of place; seeking to incorporate these in the design;*
- *ensuring development creates a positive relationship with surrounding uses;*
- *including a high standard of landscaping and boundary treatment that retains and enhances the existing landscape and built characteristics of the locality and is considered as part of any green and blue infrastructure framework;*
- *designing schemes so they conserve important local public vantage point views;*
- *ensuring development is located sympathetically within the built and natural landscape, by avoiding locating buildings and other features on the top of slopes, ridges or other positions that would be unduly prominent;*
- *ensuring features that make up the roofscape respect that of the area in form, colour, height, size, shape, scale and materials; and*
- *ensuring development located at the edge of settlement locations presents a sympathetic transition between built up areas and the countryside, sensitive to its local setting...*

New development should ensure appropriate consideration has been given to the selection and choice of materials and finish by:

- *demonstrating regard has been given to those that prevail in the local area and ensure the choice is sympathetic to landscape characteristics and setting; and*

- *exploring opportunities to add interesting details, ornamentation and expressions of local craftsmanship, while avoiding excessive and inappropriate clutter.*”

- 8.17 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) and a series of photo visualisations of how the building would appear in the wider landscape.
- 8.18 The proposed building would measure 41 metres tall and 30.5 metres wide at its widest point. The upper 4 metres of the building would be setback from the south and east elevations. The building would be clad with white and grey powder-coated steel, and the visual massing would be partly broken-up by vertical banding to 37 metres above ground level and triangular banding at the upper level.
- 8.19 The existing 30 metre tall spray dryer is prominent on the skyline of Kendal and the proposed building would be considerably more prominent due to its considerable height and visual massing. The supporting photo visualisations show clear views of the building from vantage points in the landscape to the north and east, residential areas to the west, and raised areas to the south and east, including Kendal Castle. Skyline views of the building would be visible from several vantage points given the height of the proposed building and low height of other building within the vicinity.
- 8.20 Due to the considerable scale of the elevations and the lack of fenestration or architectural detailing, the building would appear very monolithic in character. From certain vantage points, the building would be obscured by the exiting spray dryer and the Lake District Business Park building beside the indoor climbing centre, which would help limit the prominence of the building; however, from many vantage points there would be largely unobscured views of the building. The backdrops to the site from a number of viewpoints are broken-up by much smaller buildings, trees, and fells, and the monolithic building would, therefore, stand out very prominently. The changes in material banding, the inset at the upper 4 metres, and the partially broken-up south and east elevations would help to limit the extent of the visual massing but wouldn't be sufficient to mitigate the wider landscape impact.
- 8.21 Photo visualisations VP01 (view from the Lake District National Park to the west), VP15 (view from Kendal Castle), VP17 (view from the junction between the Burneside Road and the A6 Shap Road), and VP18 (the junction between the A6 and the road to Burneside) emphasise how visible the building would be from medium and longer-distance views. Photo visualisations from nearby viewpoints such as VP08 (view from the top of Mintsfleet Road) and VP16 (view from the A6 Shap Road beside Sainsbury's) show the lack of tall structures around the site and show how prominent the building would be from within Kendal. The lack of tall buildings surrounding the site would mean there would be a sudden shift in height (i.e. not a stepped gradation in height), which would add to the prominence of the building. Photo visualisations VP01 (view from the Lake District National Park to the west), VP15 (view from Kendal Castle) clearly show this effect and the monolithic character that the building would have set against the broken-up woodland and fell

backdrop.

- 8.22 The photo visualisations give a general indication of the visual impact of the proposal; however, it is also important to consider how visible the building would be at different times of the day and in lower angle winter light. Due to the lack of tall structures around the building, particularly to the south, the building would catch low-angle light throughout the day on sunny days during the winter and during sunrise and sunset. The sharp angles, the flat roof, and the monolithic, largely featureless elevations of the buildings would mean that the building would appear particularly prominent during periods of low-angle light. The lack of architectural detailing and fenestration to break up the facades would add to the prominence in low-angle light.
- 8.23 The applicant has not proposed any external lighting (it is assumed that there would be low-level security lighting) and there wouldn't be a steam column emitting from the top of the building (the supporting technical information shows that the spray dryer wouldn't include a steam outlet at the top), so the building wouldn't cause visual harm via light pollution or emissions (industrial sites such as the British Gypsum plant at Kirkby Thore cause additional visual harm due to steam emission from chimneys).
- 8.24 Overall, the proposal is considered to cause both landscape and visual harm. The proposal would cause significant harm to the wider landscape as it would significantly alter the wider character of the area, which is defined by neighbourhoods of low-rise, smaller buildings, and would erode the character of less developed areas to the west and the north from where it would be visible. The proposal would also cause harm to public amenity as the building would be very visible from residential areas such as Burneside Road to the west, public bridleways and footpaths along the River Kent, and residential areas towards the centre of Kendal.
- 8.25 The proposal would fail to protect, conserve, or enhance the special qualities and local distinctiveness of the area and the distinctive settlement character, contrary to Policy CS8.2; the development would not be of a character which maintains or enhances the quality of the landscape or townscape, contrary to CS8.10; the proposal would fail to respond appropriately to the proposal site's locational context, local and settlement character and distinctiveness, contrary to Policy DM1; the proposal would fail to protect or enhance the distinctive landscape and townscape, including its public visual amenities through good design, contrary to Policy DM1; and the proposal would fail to provide a sympathetic transition between the built-up area and the countryside, and show sensitivity to its local setting, contrary to Policy DM2.
- 8.26 Separately, the proposal would not have a significant impact on the setting of the Kendal Conservation Area, the setting of any listed buildings or scheduled monuments, or the setting of the Lake District National Park given the degree of separation from the site.

Highways and Parking

- 8.27 The proposed development would result in the partial development of the existing car park and the formalisation and improvement to an existing adjacent parking area. The formalisation and improvement to the existing adjacent parking area would offset the partial loss of the existing car park, and the proposal wouldn't significantly increase parking demand as the additional works would be spread over several different daytime and overnight shifts. The site access and the internal roads within the industrial park have low levels of traffic and are considered suitable for the minor intensification.
- 8.28 The Highways Officer has no objection to the proposal as it wouldn't result in a significant increase in parking demand.
- 8.29 Subject to the formalisation and improvement of the existing adjacent parking area, the proposal would provide an acceptable level of formalised parking and would have an acceptable impact on highways safety.

Contamination, Noise, and Odour

- 8.30 The applicant hasn't submitted a Contaminated Land Assessment. Subject to the submission of an assessment prior to the commencement of development and subject to controls over potential remediation of the site, the proposal would not result in any harmful impacts from contamination.
- 8.31 The applicant is required to operate under the noise and odour restrictions set out in their environmental permit and the site is located over 250 metres away from the nearest residential receptor. The permit, issued by the Environment Agency, is sufficient to prevent significant noise and odour pollution beyond the Nutricare site. Therefore, it is not necessary to carry an assessment of noise or odour impacts and conditions controlling noise and odour would not be necessary.

Drainage

- 8.32 The proposed building would be located on an area of hardstanding and would have a site area of approximately 800 square metres. The Environment Agency and the Lead Local Flood Authority have no objection to the proposal as the building wouldn't displace large amount of flood water during a flood event and surface water can be dealt with without increasing surface water discharge rates to the River Kent.
- 8.33 Wastewater from the site is partially treated on-site and then discharged for further treatment at the Kendal Wattsfield Wastewater Treatment Plant. The proposed spray dryer would utilise the existing foul drainage strategy which is considered acceptable, so no further information in relation to foul drainage is required.

Sustainable construction

- 8.34 Policy CS8.7 (Sustainable construction, energy efficiency and renewable energy) states that "*New commercial buildings of more than 1000 sq. m. will normally be*

required to meet the BREEAM 'very good' standard and by 2013 new buildings will need to achieve the BREEAM 'excellent' standard". BREEAM is a sustainability standard typically applied to larger public buildings such as schools and hospitals.

8.35 As the proposed building would be industrial and would be designed to lose excessive heat generated during the manufacturing process, it is considered unreasonable to require the applicant to submit a BREEAM assessment as it is very unlikely that the building could achieve a very good or excellent standard. Many industrial buildings, unlike residential and office buildings, are not built to be highly insulated or consider issues like solar gain. Environmental benefits can be achieved through biodiversity net gain in circumstances where the function of the building would prevent a high BREEAM score.

Ecology, Biodiversity, and Ecology

8.36 The ecological assessment submitted with the application concludes that the proposal wouldn't have a significant impact on ecology, and the wider site provides significant opportunities for biodiversity net gain.

8.37 The building would be located far enough away from any of the boundary trees to prevent significant arboricultural impacts. During construction, measures controlling the movement of vehicles and storage of waste would be necessary.

Economic Development and Planning Balance

8.38 Paragraph 12 of the National Planning Policy Framework (NPPF) states that "*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed*".

8.39 The proposed development would clearly cause significant harm to landscape character and visual amenity and, therefore, conflict with policies CS1.1, CS8.2, and CS8.10 of the South Lakeland Core Strategy, and Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document. Kendal Nutricare is the only UK producer of baby formula, an essential good, and the proposal would provide a significant local economic benefit and also a wider strategic benefit by reducing the reliance on foreign baby formula producers. Therefore, although the proposal would result in significant harm to landscape character and visual amenity, it is important to consider whether material considerations (i.e. the wider economic benefit) outweigh the harm that has been identified (i.e. indicate that the plan should not be followed).

8.40 There isn't a clear methodology for balancing visual harm against economic benefit (The Core Strategy, the Development Management Policies DPD, and the NPPF

only make general reference to the need to give significant weight to economic development) and each application should be assessed on its merits.

- 8.41 The proposal would provide direct economic benefits by directly providing up to 50 jobs over 3 years, tripling the output from the UK owned business, and providing additional demand for milk within the wider agricultural area. The proposal would also provide a wider strategic benefit by reducing the reliance on foreign baby formula producers.
- 8.42 It is acknowledged that the proposal would provide significant economic benefits; however, officers consider that an increased output could be achieved by a smaller and less visually impactful building. The applicant is currently able to produce baby formula by utilising a much lower and less visually impactful spray dryer. Functionally, it is clear that the process can be achieved with a lower building. It is accepted that a lower building would not produce the overall yields that the applicant is aiming to achieve; however, the desire to achieve maximum output from the factory should be balanced against the need to achieve an acceptable landscape and visual impact.
- 8.43 The proposal would provide a significant economic benefit; however, the economic benefit is not considered to outweigh the landscape and visual harm, particularly given that officers consider that there is opportunity for a lower building that could still provide significant increases in yield.

9.0 CONCLUSION

- 9.1 The proposed development would result in significant harm to landscape character and visual amenity and the economic benefits derived from the scheme are not considered to outweigh the harm the proposal would create, particularly given that the applicant could achieve increased production with a lower height spray dryer.
- 9.2 Therefore, it is recommended that planning permission be refused.
- 9.3 Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions (i) eliminating discrimination, (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age (normally young or older people) disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 9.4 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

RECOMMENDATION

a) It is recommended that planning permission be refused for the following reason:

Reason (1) The proposed development would cause significant harm to landscape character and wider visual amenity due to its height, massing and scale relative to surrounding buildings. The harm is not considered to be outweighed by the economic benefits that can be derived from the proposal. Therefore, the proposal fails to accord with Policies CS1.1, CS8.2, and CS8.10 of the South Lakeland Core Strategy; Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document; and the aims and objectives of the NPPF.