

South Somerset District Council

Minutes of a meeting of the **Regulation Committee** held on **Tuesday, 20th March 2007** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 1.07 pm)

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Present:

Alan Cornelius (Chairman)

George Chinnock	Tony Fife (to 12.00pm)
Peter Davies	Peter Gubbins
Julian Freke	Patrick Palmer

Also Present:

Kim Turner
 Martin Rawstorne
 Andrew Turpin

Officers:

Jean Marshall	Planning Team Leader
Simon Gale	Head of Development & Building Control
Nick Whitsun-Jones	Principal Legal Executive Advocate
Angela Watson	Assistant Solicitor
Adron Duckworth	Conservation Manager
Andy Foyne	Head of Economic Development, Planning & Transport
Angela Cox	Committee Administrator

28. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 20th February 2007, copies of which had been previously circulated, were approved as a correct record and signed by the Chairman.

29. Apologies for Absence (Agenda Item 2)

Apologies for absence were received from Councillors Jill Beale, attending a funeral, Mike Best, Tim Carroll, Sylvia Seal, interviewing consultants for the Scrutiny Review of the Octagon Theatre, Angie Singleton and Linda Vijeh who felt her personal views on the application had been well publicised locally and she felt she should not take part in determining the application.

30. Declarations of Interest (Agenda Item 3)

There were no declarations of interest.

31. Application for proposed development of foodstore with associated customer car park and service yard, toilet block, alteration to highway and re-provision of tennis courts with new car park. Land At Shudrick Lane, Ilminster, Somerset.

With the aid of slides the Planning Team Leader outlined the site and the position of the existing permission for a foodstore and the revised siting as now applied for by Tesco's Stores. She said that the Area West Committee had deemed that moving the store 16 metres to the east would be detrimental to the town centre. The proposed relocation of the store and enlarged service yard would result in the loss of 10 car parking spaces but this was not sufficient to warrant refusal of the application. The number of car park spaces would be reduced from 215 to 205. Detailed discussions were yet to take place with Conservation Planners with regard to the courtyard area and the applicants had indicated that they were prepared to further discuss the roofing materials. Although the foodstore would be outside the defined town centre boundary, it was within the development limit of the town

She informed the Committee that since the application had been considered at the Area West Committee, a letter had been received from the CPRE asking that permission be refused and citing PPS6, however, as there was already an extant permission for a foodstore at the site, this was not a valid argument. A further letter had also been received from Ilminster Town Council pointing out a number of amendments to the original scheme, which the Town Council found unacceptable.

In response to members' questions, the Planning Team Leader confirmed that:-

- work had already commenced on the new store and car park, in accordance with the proposed plans at the applicant's own risk. Enforcement action would not be considered until the outcome of the application currently being determined was known.
- The enlarged service area would allow two service vehicles in the yard at any one time and allow for the relocation of the plant equipment from the roof area.
- The plans for the courtyard area had been submitted to the Town Council and the District Council but no firm agreement had been made on them.
- The existing Shudrick Lane car park did not have marked parking bays, however, it had been estimated in the District Wide Parking Strategy document that it would hold approximately 150 vehicles.

- A Travel Plan formed part of the conditions of approval and would be submitted 6 months after the store had opened when staff would be interviewed as to the distance and method of travel to work.

Mrs C Goodall spoke on behalf of Ilminster Town Council. She said they supported the idea of a foodstore but had grave concerns on its impact to the vitality of the town centre and its visual impact on the area. She suggested that moving the store 16 metres east would jeopardise the vitality and viability of the town centre and its rectangular design would not integrate with the local area. The Town Council regretted that they had not been consulted on the design of the store as thoroughly as they had the courtyard area. She also queried if the car park would become a Tesco's car park and not a town centre car park.

Councillor Kim Turner, one of the Ward Members, addressed the Committee. She regretted that the store did not encompass any environmentally friendly schemes or designs, although the district council had signed the Nottingham declaration on climate change. She pointed out that the scheme provided no details on any recycling facilities in the car park and regretted the loss of 10 parking spaces due to the increased service yard. She suggested a footpath, relocated to the edge of the site, were removed then this could create more car parking spaces. She also regretted the lack of consultation with the Town Council and said that she had e-mailed the Chief Executive of Tesco Stores to express her disquiet at the handling of the application. Although 95% of local people wanted a new foodstore it must be the right for the town.

Councillor Martin Rawstone, the other Ward Member, said he felt the planning officers had failed to regard several material considerations. He mentioned several planning policies which he felt had been misrepresented and said that moving the store 16 metres to the east would weaken the vitality of the area. He queried the level of car parking provided which he felt ignored the District Wide Parking Strategy document as it stated there were currently insufficient spaces in Crewkerne and Ilminster. He also held that it would be impossible to refuse any future extensions to the store and he condemned a letter, written on behalf of Tesco's stores threatening to appeal and apply for substantial costs if the application were refused. He said the development had already commenced unlawfully and to ignore the views of the Town Council was at odds to the Council's Beacon Status.

Mr H Best of the Council for the Protection of Rural England (CPRE) said the store would be located outside the primary shopping area of the town and therefore an edge of centre store, which did not accord with Planning Policy Statement 6 (PPS6). He held that a sequential approach and impact assessment should have been carried out and that this was a new application with a changed site and reduced car parking.

Mr M Henry, the Chairman of Ilminster Town Council Planning Committee, said that the size of the delivery area dictated the size of the store. In his opinion, the store would accept up to three deliveries per day and to suggest that traffic would be held up with a smaller delivery area was unfounded. He felt that moving the plant equipment from the roof to the service yard was a ploy and moving the store 16 metres further east would bring it in line with existing flats which could cause noise nuisance for the residents.

Councillor Andrew Turpin voiced his regret that there was no mention of photovoltaic rooftiles or a carbon footprint or any other energy efficiency measures in the application. He appealed to the Committee that the application lacked substance.

Mr D Gordon, a local resident, said that Tesco's were a most ruthless firm to send a letter to Council Members threatening to appeal with substantial costs if the application

were refused. Despite this, the Area West Committee had recommended refusal in their referral to the Regulation Committee. He regretted that there were no sustainable or environmentally friendly schemes proposed and said that the site was important for the town of Ilminster.

Mr S Bowler, a local resident, stated that there was a plastic crate underground lake beneath the existing car park and he queried how long it would be before the run-off from the car park silted it up.

Mr M Fry-Foley, Vice President of the Ilminster Chamber of Commerce, said that although they supported the principle of enhancing the shopping experience in Ilminster, they felt there would be some damage to commercial vitality. The current application to move the store to the east and create a pinch point between the courtyard and the store entrance, bounded by high walls would create a bleak area. He also felt the canopy over the front of the store and the wall bounding the bowling green would create a tunnel effect.

Mrs Phillips, a local resident, queried the moving of disabled parking spaces at the front of the store to accommodate a bus stop. She asked who would be operating the bus service.

Mr A Kennedy spoke in support of the application. He noted an error in the report where he was quoted at the Area West Committee as saying the light grey roof colour would help to increase the carbon footprint – this should read decrease the carbon footprint. He said that moving the store 16 metres east was a minor alteration and there would be an increase in car parking spaces over what there had been previously. He felt there would be minimum disruption to neighbours and the application should be supported.

Mr D Pritchard, Agent for the applicant, clarified that the applicant was Tesco stores, not Albourne Estates PLC, as printed in the Agenda. He reminded the Committee that in December 2005, permission had been granted to Albourne Estates PLC for a generic foodstore. He said Tesco now wished to tailor that permission to their requirements and they felt that the existing service yard was of insufficient size. In order to increase it for purpose, the store would be located 16 metres to the east. The change in store location meant the change in car parking spaces, including the Highway Authority requirement for motorcycle parking. A bus stop was also now part of the plan however there was no commitment to any particular service as yet. He had been advised that the car park would be constructed with a porous surface material to minimise water run-off and a condition of the extant permission was that control of the car park would be decided in conjunction with the District Council.

In response to questions from Members, the Agent confirmed that there would be a number of full-time and part-time staff employed at the store and he estimated that this would be between 60 to 100 people at any one time. Although the store size remained the same, the service yard was 80% larger than previously permitted.

The Head of Development and Building Control advised that:

- Members should put aside who the applicants were – planning permission was tied with the land.
- The Planning Policy unit, in their comments in the Agenda, had stated that the site was partially within the town centre area and so considered an edge of centre location. In their opinion the proposed moving of the store 16 metres east was not sufficient to warrant refusal.

- South Somerset had not yet adopted a Merton style policy on carbon emission reduction and so, planning officers did not feel they could ask the applicants to include carbon reducing measures in the store without having a policy to back the request up.
- Members must consider the implications for local residents at the proposed increase in size of the service yard.
- The roof details had not been agreed and this could be done in consultation with the Ward Members.
- The Section 106 Agreement on the previous planning permission stated that the store car park should be available for all town users. There was a provision that charges could be introduced in line with District Council charging and it was at the discretion of the store to defer long term parking.

During discussion, Members noted that:

- Signage to the store should be sympathetic with the local area
- The proposed new toilet block would be at the edge of the conservation area and as such, should be constructed of sympathetic materials.
- Local opinion was important – the public should be consulted in detail.
- Conditions should be discharged in consultation with the Town Council and Ward Members.
- An additional condition should be included that the service yard should not be used as part of the store.
- Plastic crates were the modern method of dealing with underground drainage as they initially held floodwater and allowed it to drain away slowly. It was a tried and tested method of drainage.

Members debated deferring the application for further negotiation between the applicant and planning officers on certain conditions, however, the Chairman cautioned against this. It was pointed out that outstanding issues could be addressed by conditions and a Section 106 Agreement.

The Principal Legal Executive Advocate reminded Members that there was an existing permission for a foodstore at the site and if they were of a mind to refuse this application then they must have specific and precise reasons for doing so, with reference to planning policies and any other material considerations. He quoted from Circular 8/93 and said that at any appeal, evidence to substantiate each refusal reason would have to be given. Any failure to do this would risk an award of costs against SSDC, which could be substantial. He said Members did not have to accept the advice of officers but SSDC would still need show reasonable planning grounds at appeal and produce relevant evidence to support the decision in all respects.

Members then noted several areas where they felt robust conditions should be imposed, including:-

- Consultation with the Ward Members and Town Council on roofing materials and treatment of the courtyard area.
- That the car park remain open for maximum public use.
- Negotiation on the hours of opening of the store.
- Negotiation on the hours of operation of the service yard
- That the Service Yard remain solely used as a service yard.

The Principal Legal Executive Advocate noted that the existing Section 106 Agreement could not be amended by way of a supplementary agreement as the parties to the

original agreement were different. A new agreement would have to be drawn up, mirroring the previous one, subject to the amendments as requested by Members, with Tesco Stores.

It was proposed and seconded that the officer's recommendation to grant permission be supported, for the reasons as set out in the report, with Members amendments to conditions. The vote was 4 in favour and 0 against the recommendation, with one abstention. The motion was therefore declared to be carried.

RESOLVED: That planning permission be **GRANTED** for the reasons contained in the officers report with the following amended conditions:

1. That the Section 106 Agreement be negotiated to maximise the public use of the car park
2. That Condition 2 be amended to include consultation with Ward Members and the Town Council on the proposed roofing materials of the store.
3. That Condition 6 be amended to include negotiation on the hours of delivery of supplies to the store to be limited to between the hours of 10.00p.m. and 6.00am. and that the service yard to be kept clear of obstruction and only used for servicing the store.
4. That Condition 19 be amended to include consultation with Ward Members and the Town Council on the treatment of the courtyard area of the store.
5. All conditions that require details to be agreed, those details to be agreed in consultation with Ward Members and Town Council.
6. That an additional condition be included for the provision of recycling facilities within the site area for public use.

(Voting: 4 in favour, 0 against, 1 abstention)

32. Date of Next Meeting (Agenda Item 5)

Members noted that the next meeting of the Committee is scheduled to take place on Tuesday, 17th April 2007 at 10.00am in Committee Rooms 3/4, Council Offices, Brympton Way, Yeovil.
