

South Somerset District Council

Minutes of a meeting of the **Regulation Committee** held on **Tuesday, 21st August 2007** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 11.35pm)

Present:

Peter Gubbins (Chairman)

Mike Best	Mike Lewis
Tim Carroll	Pat Martin
Julian Freke	Patrick Palmer
Henry Hobhouse	Sylvia Seal

Officers:

Andrew Collins	Planning Officer
Jean Marshall	Development Control Team Leader
Nick Whitsun-Jones	Principal Legal Executive Advocate
Patricia Johnson	Committee Administrator

8. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 17th July 2007, copies of which had been previously circulated, were approved as a correct record and signed by the Chairman.

9. Apologies for Absence (Agenda Item 3)

Apologies for absence were received from Councillors Jill Beale, Tony Fife, Kim Turner, Linda Vijeh and William Wallace.

10. Declarations of Interest (Agenda Item 4)

There were no declarations of interest.

11. Public Question Time

There were no general questions or comments from the public.

12. Demolition of existing tanker re-load canopy and the erection of a Lidl foodstore with associated car parking at Aldermeads Depot, Southgate Road, Wincanton – Application No. 07/01679/FUL

The Planning Officer presented the report. He informed members that he had received an e-mail from Mr John Sneddon of Tetlow King, representing Hopkins Developments, reiterating earlier comments that were set out in the report.

With the aid of slides the Planning Officer indicated the:

- application site;
- gate house - which he explained it was proposed to demolish;
- the previous application. He explained that discussions had taken place with the applicants regarding the layout, design and landscaping, which had resulted in the present application. These elements of the scheme were now considered acceptable;
- siting of the toucan crossing;
- car parking spaces,
- goods delivery area;
- elevations;
- site as seen from Southgate Road, the adjacent supermarket, the River Cale and the Roundabout;
- entrance to the site.

The Planning Officer referred members to the terms of the unilateral planning obligation that had been submitted by the applicants, i.e:

- proposed operator being a deep or hard discounter;
- a restriction on stock lines to 2,500;
- non-food goods not exceeding 20% of the total net sales area; and the
- store not selling various items as outlined in the report.

He explained that if the application was approved the District Council would not be able to restrict the premises to a deep or hard discounter retailer as, to approve, would mean that a need for additional retail provision had been proven.

He commented that the key policies for members to consider were MC2 and MC3 of the South Somerset Local Plan relating to the location of shopping development. As the store was outside the town centre a retail assessment had been carried out to ascertain the need and impact it would have on the town centre.

Mr Durrant of DPDS, the Council's retail consultants, drew members' attention to the summary of their findings as set out on page 14 of the agenda. He commented that he did not agree with GVA Grimley, Lidl's retail consultant's assessment and that a need for the proposal had not been demonstrated. He accepted that the sequential approach had been applied and no alternative site could be identified within the town centre. With regard to the impact of the store on the town centre, DPDS again did not agree with the findings of GVA Grimley. Whilst both retail consultants agreed that there would be an impact on the town centre, it was the 'scale' of the impact that could not be agreed upon. Referring to policies MC2 and MC3 he believed that the proposal failed to meet the test of need. He believed that the transfer of money from the town centre to Lidl's would cause a problem to the town centre stores, particularly Cooper's.

In response to members' questions, the Planning Officer or the DPDS representative responded as follows:

- if the application site was within the town centre the 'need' and 'impact' considerations would not have been a material consideration;
- different rules applied to retail shops than to shops such as hot food takeaways. With regard to retail shops, planning officers were obliged to consider the need and impact on both the immediate town centre and wider town centres within the vicinity;
- a number of applications for the conversion of employment sites to residential use within Wincanton town centre had been refused and were now the subject of appeals. If the decisions are upheld then employment sites may become available;
- the Morrison's Supermarket had been approved under previous policies which had now been superseded.

Mr David Cooper, of Cooper's Supermarket located in the centre of Wincanton, expressed his concern that should the Lidl's application be approved it would have a serious detrimental affect on the town centre in terms of job losses. He informed members that his store was under-trading and could not absorb even a moderate reduction in trade. In line with policy, he urged members to support the officer's recommendation of refusal.

Mrs June Wood, representing several members of the public, spoke in support of the proposal. She commented that there was a public demand for the Lidl store and, she believed that it would not put either Cooper's and Morrison's trade in jeopardy. Lidl was a different type of store than either Coopers or Morrisons and would be good for the residents of Wincanton and the surrounding area. It would encourage people into the town. If the store were to be sited in the town centre it would cause other types of problems. She questioned why there were no objectors at the meeting, apart from the Managing Director of Coopers. She commented that, with the amount of residential development taking place in Wincanton, development would soon overtake the store.

In response to Mrs Wood's comments the Planning Officer clarified that, should the application be approved, the planning authority would not be in a position to control the future use of the store as a discount store.

Mr James Mitchell, applicant's representative, commented that:

- there had been no objections from the Highway Authority or Environment Agency and the design and landscaping had now proved satisfactory to the planning officer;
- the sequential test had been proved;
- there was a clear quantitative and qualitative need;
- the town centre vitality and viability would not be affected – trading surveys had been carried out in other towns;
- they would give an undertaking, through the land registry, that the store would only be operated by a discount retailer;
- there would be a restriction on goods sold;
- 35 new jobs would be created;
- the relocation and modernisation of Wincanton Logistics would safeguard their jobs;
- the application was supported by Wincanton Town Council; both Ward Members and Area East Committee;

- the scheme would offer a huge range of benefits to Wincanton.

The Development Control Team Leader clarified that whilst it was possible to restrict the number and range of products, and restrict the floorspace to 20% of total net sales area by legal agreement, if approved because Members considered that a need had been proven, it would be inappropriate to restrict the store to a deep discount store.

Mr Matthew Morris, GVA Grimley representing Lidl, commented that he believed that a quantifiable and qualitative need had been identified and that there was sufficient surface expenditure to support a Lidl store in Wincanton.

With regard to the impact on the town centre he did not believe that any stores in Wincanton or other nearby centres would close if the application were to be approved. He referred to Policy MC3 and commented that the impact test should demonstrate whether that the proposal would result in 'serious harm' to the viability and vitality of the town centre. Whilst he believed that inevitably there would be some trade movement within the town centre, the demonstration of 'serious harm' did not form part of the officer's report or his presentation.

In response to further questions raised by members, the appropriate officer responded, commenting that:

- the enforcement of the unilateral undertaking would be the responsibility of the Planning Enforcement Team. However, it would be problematic for any officer to estimate how many stock items were on sale at any one time, therefore, that part of the undertaking would, to an extent, have to be taken on trust. The use of no more than 20% of the total net sales area for the display of non-food goods would be more easily enforced;
- a sample of approximate 500 people had been surveyed at the Gillingham Lidl store, of which 21% gave a Wincanton area post code;
- with regard to the impact on the town centre, it was not appropriate to compare Wincanton with other nearby market towns that had a similar edge of town retail store as they were all different in structure, number and types of retailers and number of residents;
- at the present time there were no alternative sites within the town centre;
- whilst the impact of a Lidl store would not have the same effect on the town centre as Morrison's, the application was not for an alternative to Morrison's but in addition to Morrison's, therefore, the cumulative effect needed to be taken into account.

Councillor Tim Carroll, one of the Ward Members, summarised the history of the site – explaining that in 1998 Area East granted planning permission for a retail factory outlet centre on the site. Referring to the original application for the Lidl store, he informed members that the application had been refused for two reasons, design and impact on the town centre. Since that time the applicants had worked with the planning officers to produce an acceptable design. Whilst he agreed that there would be some impact on the town centre he believed that this would be minimal and would only affect the food sector as most other shops had cornered a specialist market. He reminded members that between 600 and 700 new residential properties were due to be built in Wincanton over the next few years and he believed that these properties had not been factored into the retail assessment. As Ward member he did not feel that the reasons given in the officer's report were compelling and, as such, he supported the application.

The Development Control Team Leader clarified that the anticipated residential growth in Wincanton had been factored into the retail survey and DPDS had concluded that there was no need for the store now, or in the lifetime of the Local Development Framework. She added that at the moment both Morrison's and Cooper's were under-trading and any future need could be catered for by those retailers. She stressed that local plan policies and government guidance state that out of town centre retail stores would only be permitted if a clearly defined need had been identified that could not be accommodated elsewhere.

In response to comments made by some members about the difficulty of making a decision on this application, the Legal Officer advised that the starting point for consideration was the policies of the adopted Local Plan and there was a legal presumption in favour of the Plan policies. However, other material considerations could be taken into account and weighed in the balance and it was possible for such material considerations to override the Plan policies if the Committee considered them to be of sufficient weight.

The following discussion centred on whether a need for the store had been demonstrated and whether the store would have a detrimental impact on the vitality and viability of the town centre.

Those members speaking against the officer's recommendation and in favour of the proposal took account of the following factors:

- After lengthy consideration, Area East Committee had recommended approval by a majority vote of 6 to 2 with one abstention. The Legal Officer reminded members that, as the Regulation Committee, they should be considering the application from a completely fresh approach and, therefore, they should not feel bound to take account of the area east decision.
- Whilst there had undoubtedly been an impact on the town centre when Safeway's (the precursor to Morrison's) store started trading the town centre had now been revitalised. Lidl's would not have the same effect on the majority of retail stores, and only a limited impact on Cooper's, because they offered different types of goods than Morrison's and catered for a different type of customer.
- It was likely that people using the Gillingham store would shop at Wincanton - thus reducing the number of food miles.

Those members speaking in support of the officer's recommendation to refuse the application took account of the following factors:

- Due to the district-wide implications, the application should be considered against the Council's adopted planning policies and national guidance as indicated in the report - unless a need was proven. It was felt that a need had not been proven.
- The population of Wincanton was approximately 5,000, compared with 12,000 in Devizes and 7,000 in Launceston – therefore the affect on those town centres was not comparable to Wincanton as the larger towns could absorb the trade that went to Lidl's.
- Although 21% of the shoppers surveyed in Gillingham came from the Wincanton post-code area a further 79% would still need to be found from the Wincanton catchment area.
- The majority of shoppers would drive to the Lidl's store and would be unlikely to visit the town centre.
- The charm of South Somerset was its market towns with small retail shops. If approved, small traders would suffer and would find it difficult to survive.

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- Supermarkets attract people away from town centres, which would be disastrous for, not only Wincanton, but other nearby market towns such as Castle Cary and Bruton;
- Due to the impact on city/town centres the Government had changed its policy on out of town retail centres.

It was proposed and seconded that the application be refused. The vote resulted in 6 in favour and 3 against, therefore the motion was carried.

RESOLVED: That **PERMISSION** be **REFUSED** for the following reason:

The proposed development would be contrary to planning policy relating to new retail development outside existing centres. No overriding need to provide for new retail floorspace, particularly for convenience goods floorspace, has been demonstrated and the proposal will have an unacceptable impact on the vitality and viability of Wincanton, Castle Cary and Bruton town centres. The proposal would therefore be contrary to Policy EC6 of the RSS, Policies 20 and 21 of the Somerset and Exmoor National Park Joint Structure Plan, Policy MC2 and MC3 of the South Somerset Local Plan and to Planning Policy Statement 6.

(Voting: 6 in favour, 3 against)

13. Date of Next Meeting (Agenda Item7)

Members noted that the next meeting of the Committee is scheduled to take place on Tuesday, 18th September 2007 at 10.00am in The Council Chamber, Council Offices, Brympton Way, Yeovil.

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Chairman