

South Somerset District Council

Minutes of a meeting of the **Regulation Committee** held on **Tuesday, 19th February 2008** in the Council Chamber, Council Offices, Brympton Way, Yeovil.

(10.00am – 12.27pm)

Present:

Peter Gubbins (Chairman)

Jill Beale	Pat Martin
Tim Carroll	Patrick Palmer
Tony Fife	Sylvia Seal
Julian Freke	Linda Vijeh
Mike Lewis	William Wallace

Also present:

Colin Winder
Keith Ronaldson
Paull Robathan

Officers:

Jean Marshall	Development Control Team Leader
Andrew Collins	Planning Officer
Lee Walton	Planning Officer
Patricia Johnson	Committee Administrator
Angela Watson	Assistant Solicitor

Also present:

Duncan McCallum DPDS – Retail Consultants

22. Minutes (Agenda Item 1)

The minutes of the meeting of the Regulation Committee held on Tuesday, 16th October 2007, copies of which had been previously circulated, were approved as a correct record and signed by the Chairman.

23. Apologies for Absence (Agenda Item 2)

Apologies for absence were received from Councillor Mike Best, Henry Hobhouse and Kim Turner.

24. Declarations of Interest (Agenda Item 3)

There were no declarations of interest.

25. Public Question Time (Agenda Item 4)

There were no questions or comments from members of the public.

26. Demolition of existing tanker re-load canopy and the erection of a Lidl neighbourhood food store with associated parking at Wincanton Logistics, Aldermeads Depot, Southgath Road, Wincanton – Planning Application 07/04979/FUL (Agenda Item 5)

The Planning Officer presented the report and with the aid of slides he indicated the:

- revised application site and adjacent roads;
- parking spaces;
- a vacant area to the left of the store that was to be bark mulched;
- River Cale;
- existing landscaping;
- proposed siting of pedestrian crossing;
- floor plans
- elevations – commenting that the design was considered to be acceptable

In concluding his opening presentation the Planning Officer drew Members' attention to a recent appeal decision on a Lidl scheme in Braintree, Essex - which had many parallels with the Wincanton scheme - and had been allowed by the Planning Inspector.

In response to Members' questions

- the Planning Officer confirmed that:
 - the number of car parking spaces remained the same as the previous application;
 - the store had been reduced in size by approximately one third.
- the Council's Retail Consultant commented that:
 - the previous report that had indicated a 10%-15% proportion of trade that would be lost from the town centre related to 'turnover' not 'impact' – on reassessment of the present smaller proposal there would be a marginally smaller trade diversion;
 - he could not give a reason why the reason for refusal had indicated that the store would have a detrimental effect on the smaller market towns of Bruton and Castle Cary. He explained that small town centres were difficult to assess;
 - research showed that there was little trade diversion from Wincanton to Gillingham. DPDS had looked at a larger catchment area than the applicants proposal but saw no major impact.

Councillor Colin Winder, speaking on behalf of Wincanton Town Council, commented that:

- the Town Council were consistent in their wish to approve a Lidl store on the application site as they had recommended approval of the three previous applications. The Town Council felt strongly that no real explanation had been given why the applications had been refused;
- Wincanton town centre did not have any available sites for a store of this size;
- the town centre had reduced in size with a movement towards residential and business use and as the takeaway stores only opened at night this created dead areas within the town centre;

- the future development of 250 dwellings was located within easy walking distance of the store;
- with more and more people using electric buggies they would be able to visit the store without encountering problems;
- from the figures supplied by Lidl's retail consultants the 21% of people from Wincanton who shopped at the Gillingham store would shop at the Wincanton store.

Councillor Colin Winder, also spoke as one of the Ward Members. He objected to the application being brought to the Regulation Committee for decision as he believed that there was no difference, in policy terms, between the Lidl application and other applications that had been approved by the Area Committees.

In response, the Development Control Team Leader explained that, if approved, the development would set a precedent across the district. She confirmed that DPDS had taken account of the planned residential growth within Wincanton.

Mr Mitchell, applicant, referred Members to the Braintree appeal decision and commented that on the present application:

- the sales area had been reduced from 1,063 square metres to 700 square metres;
- the revised figure of trade diversion from 10%-15% to 21% for the revised smaller scheme was illogical. He did not believe that the store would have a detrimental affect on Castle Cary or Bruton;
- the store could have no more affect on the town centre stores than the adjacent supermarket;
- Lidl would offer a different range of goods that would not affect the town centre businesses;
- the number and range of goods would be secured by way of the proposed unilateral undertaking;
- the proposal had been accepted by the Town Council, Ward Members and Area East Committee;
- if Members were concerned about the open bark mulched area Lidl would be prepared to accept a condition for a high quality landscaping scheme.

Mr Morris, applicant's agent, commented that:

- DPDS's retail assessment had been carried out in 2006;
- the amount of trade that is likely to be drawn from Gillingham has been based on detailed analysis by Lidl;
- the consistent advice from the Council's Retail Consultants is that the store will not have a detrimental impact on Castle Cary or Bruton town centres;
- approval of the application would not set a precedent as each application is considered on its merits.

In response to a number of questions from Members the Development Control Team Leader or Planning Officer clarified that:

- in policy terms, the retail survey influenced the local development framework document. The retail survey had identified that there was no requirement in Wincanton for another supermarket. By allocating 700 square metres of retail floorspace in Wincanton this figure would have an impact on the amount of retail growth in other towns;
- Lidl's had investigated a number of sites in the town centre which had proved unsuitable and the results of the sequential test had been accepted by the planning officer;

- goods could be restricted to 2,500 lines at any one time but it would be difficult to enforce.

Councillor Tim Carroll, the other Ward Member, spoke in support of the proposal and commented that:

- in line with PPS6 a sequential test had been carried out on possible sites in the town centre – all of which had proved unsuitable;
- Lidl would benefit the town by adding to the retail offering in Wincanton and, due to the reduction in size, the impact on the town centre would be less than the original application;
- as there was little restriction on what Morrisons could sell, they had a much higher impact on the town centre than Lidl's restricted lines would;
- the latest settlement figures indicated that growth would exceed that which had been forecast;

In concluding his remarks, he commented that the decision rested on interpretation of policy – and whilst the interpretation was borderline as there would be some impact on the supermarket in the town centre - he believed the proposal would be in compliance with PPS3. He asked Members to support the application.

Prior to discussion of the application the Development Control Team Leader explained that whilst the lines on offer could be restricted Legal advice was that the premises could not be restricted to a deep discount store. She further explained, in detail, the unilateral undertaking proposed by the applicants as set out on page 5 of the agenda. She informed Members that should the application be approved she would wish to see a Section 106 planning obligation signed incorporating the offer in the unilateral undertaking and the imposition of a further clause relating to the installation of a Toucan crossing linking the site to the proposed residential development of the key site.

During the ensuing discussion Members speaking in support of the proposal concurred with the Ward Members' views and made the following additional comments:

- two retail shopping experts were diametrically opposed and therefore it was difficult to consider their comments in any meaningful way;
- the Town Council, Ward Members had been consistently in favour of the proposal and Area East had supported the latest proposal by a sizeable majority;
- as the impact on Bruton and Castle Cary could not be quantified it would be unreasonable to refuse the proposal;
- the application should be considered on its own merits;
- there was overwhelming local support;
- the store would provide 35 jobs and bring extra trade to Wincanton town centre
- the deep discount store concept of selling non-repeatable goods was different from other supermarkets, therefore, it would not have a major impact on town centre stores;
- a precedent had already been set by allowing a Lidl store in Yeovil.

Councillor Michael Lewis referred to the delivery of goods across the customers' car parking area and expressed concern that should the delivery lorries arrive early there could be conflict between the HGVs and customers' cars. He also questioned the mixing of customers' vehicles with the milk tankers from the adjacent site. The Development Control Team Leader confirmed that the entrance for Lidl's customers was via a spur road which was on the public highway and that there was no rear access for the delivery lorries.

In response to a Member's question the applicant's agent confirmed that should the application be approved the appeal against the previous decision would be withdrawn. The Development Control Team Leader drew Members' attention to the proposed hours of opening, which she explained was in excess of the adjacent supermarket's hours.

It was proposed and seconded that the application be approved subject to the signing of a Section 106 Planning Obligation relating to the provision of a toucan crossing, restriction on: (a) the number of product lines; (b) the sales area for non-food goods and (c) the types of goods sold (as indicated on page 5 of the agenda) and conditions (as listed below).

Justification: Notwithstanding the policy arguments, given the proposed future growth in Wincanton, there appears to be a qualitative need to provide new retail floorspace of the size and scale proposed and the proposal will not have an unacceptable impact on the vitality and viability of Wincanton, Castle Cary and Bruton town centres. The proposal would therefore be in compliance with 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 adopted South Somerset Local Plan.

On being put to the vote the motion was carried by 9 in favour with 2 against.

RESOLVED: That application reference 07/04979/FUL be approved subject to:

- (a) the prior completion of a section 106 planning obligation (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued, the said planning obligation to cover the following items/issues:
 - (i) The installation of a Toucan crossing.
 - (ii) The number of product lines (stock keeping units) available within the foodstore at any one time shall not exceed 2,500 lines, unless otherwise agreed with the Council.
 - (iii) The proportion of net sales area of the foodstore (700 sq.ms.) used for the display of non-food (comparison) goods (excluding household cleaning and cosmetic products) shall not exceed 20% of the total net sales area, unless otherwise agreed with the Council.
 - (iv) The foodstore will not provide any of the following services:
 - Butchers counter
 - Fresh fish counter
 - Delicatessen / cheese counter
 - Hot food
 - Pharmacy
 - Dry cleaning services
 - Post office services
 - Lottery sales
 - Photographic shop or booth
 - Café/restaurant

- (b) The imposition of the planning conditions set out below on the grant of planning permission.
- (1) The development hereby permitted shall be begun within three years of the date of this permission.
Reason: In accordance with the provisions of Section 91 (1) of the Town and Country Planning Act 1990.
- (2) No works shall be undertaken unless details of the external finish of the building are submitted to and agreed in writing by the Local Planning Authority and carried out in accordance with the agreed details.
Reason: In the interests of visual amenity in accordance with Policies ST5 and ST6 of the adopted South Somerset Local Plan 2006.
- (3) No works shall be undertaken unless the proposed finished floor levels are submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of visual amenity in accordance with Policies ST5 and ST6 of the adopted South Somerset Local Plan 2006.
- (4)
 - (i) Before any part of the permitted development is commenced, a landscaping scheme, including the “bark mulch” area which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
 - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
 - (iii) For a period of five years after the completion of the planting scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition to the satisfaction of The Local Planning Authority and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Policies ST5 and ST6 of the adopted South Somerset Local Plan 2006.

- (5) Prior to development, site vegetation clearance, demolition of existing structures, heavy machinery entering site or storage of materials, a Tree Survey and Arboricultural Method Statement to include a Tree Protection Plan for trees to be retained and a scheme of tree planting to mitigate for the tree losses, shall be submitted to and agreed in writing with SSDC in accordance with British Standard 5837 : 2005.

- The key stages detailed within the Tree Protection Plan (in particular the erection of protective fencing as specified in Figure 2, page 13 of BS 5837 : 2005) shall be directly supervised by an arboriculturalist and confirmed as being carried out in accordance with British Standard 5837 : 2005, with a certificate of supervision by said arboriculturalist.
- The scheme of tree planting detailed within the Arboricultural Method Statement shall be completed within the first available planting season upon implementation of the Planning Permission. Should any of the trees die, become damaged, diseased or be removed within five years of planting, they shall be replaced with the original specification of tree/s in the same location, again within the first available planting season.

Reason: To make adequate provision for the preservation and planting of trees in accordance with Policies ST5 and ST6 of the adopted South Somerset Local Plan 2006.

- (6) No works shall be undertaken unless details of the boundary treatment are submitted to and agreed in writing by the Local Planning Authority. The boundary treatment shall be carried in accordance with the agreed details.

Reason: In the interests of visual amenity in accordance with Policies ST5 and ST6 of the adopted South Somerset Local Plan 2006.

- (7) No works shall be undertaken unless details of external lighting are submitted to and agreed in writing. The development shall be constructed in accordance with the agreed details.

Reason: In the interests of visual amenity in accordance with Policies ST5 and ST6 of the adopted South Somerset Local Plan 2006.

- (8) Finished floor levels shall be set no lower than 72.50m AOD as detailed in the flood risk assessment (Hyder Consulting UK Ltd, 30 March 2007).

Reason: To protect the development from flooding in accordance with Policy EU5 of the adopted South Somerset Local Plan 2006

- (9) No development shall begin until details of a scheme for the provision of surface water run-off limitation incorporating sustainable drainage principles, in accordance with the flood risk assessment (Hyder Consulting UK Ltd, 30 March 2007), has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable agreed.

Reason: To protect the development from flooding in accordance with Policy EU5 of the adopted South Somerset Local Plan 2006.

- (10) No works shall be undertaken unless a scheme to deal with the risks associated with the contamination of the site shall be submitted to and approved, in writing, by the local planning authority. That scheme shall include all of the following elements unless specifically excluded, in writing by the Local Planning Authority.

- (i) A desk study identifying:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

- (ii) A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

- (iii) The results of the site investigation and risk assessment (2) and a method statement based on those results giving full details of the remediation measures required and how they are undertaken.

- (iv) A verification report on completion of the works set out in (3) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Reason: The site overlies a Secondary Aquifer and the activities of the site may have caused contamination of soil, subsoil and groundwater.

- (11) Prior to being discharged into any watercourse, surface water sewer or soakaway system all surface water drainage from impermeable parking areas and hardstandings for vehicles, commercial lorry parks and petrol stations shall be passed through an oil interceptor designed and construction to have a capacity and details compatible with the site being drained.

Reason: To prevent pollution of the water environment in accordance with Policy EU5 of the adopted South Somerset Local Plan 2006.

- (12) No raw materials, products of any description, scrap or waste materials whatsoever shall be stored in the open on any part of the subject land without the prior written consent of the Local Planning Authority.
Reason; To safeguard the amenities and character of the area in accordance with Policy ST5 and ST6 of the South Somerset Local Plan 2006.
- (13) Opening hours for the store shall be restricted to 8am to 8pm Monday to Saturday and 10am to 5pm on Sunday
Reason: To safeguard the amenities and character of the area in accordance with Policy ST5 and ST6 of the South Somerset Local Plan 2006.
- (14) Deliveries to the store shall only be carried out for 2 hours after store closing times.
Reason: To avoid highway conflict in accordance with Policy 49 of the Somerset and Exmoor Joint Structure Plan 1991 –2011.
- (15) Prior to the opening of the development for its intended purposes the cycleway/footway in Southgate Road as shown on the approved plans shall have been constructed and made available for use in accordance with a design and specification to be approved in writing by the Local Planning Authority and to be fully implemented in accordance with those details that have been approved.
Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor Joint Structure Plan 1991 –2011.
- (16) Adequate provision for a temporary car park within the site to accommodate operatives and construction vehicles during the contract period shall be provided so that none park on the public highway.
Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor Joint Structure Plan 1991 –2011.
- (17) The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor Joint Structure Plan 1991 –2011.
- (18) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved by the Local Planning Authority prior to the development hereby permitted first being brought into use.
Reason: In the interests of highway safety in accordance with Policy 49 of the Somerset and Exmoor Joint Structure Plan 1991 –2011.

- (19) The Travel Plan submitted with the application within the Transport Assessment shall be monitored as described and the results passed to the Local Planning Authority annually for monitoring and approval.

Reason: In order to promote alternative means of travel and to manage the effects of any additional traffic in the interests of sustainability in accordance with Policy 49 of the Somerset and Exmoor Joint Structure Plan 1991 – 2011.

Informatives

- (1) Surface water from car parking areas less than 0.5 hectares and roads should discharge to watercourse via deep sealed trapped gullies. For car parks greater than 0.5 hectares in area, oil interceptor facilities are required such that at least 6 minutes retention is provided for a storm of 12.5mm rainfall per hour. With approved “by pass” type of interceptors, flows generated by rainfall in excess of 5mm/hour may be allowed to by-pass the interceptor provided the overflow device is designated so that oily matter is retained. Lorry parks, scrap yards, off loading areas require full oil interceptor facilities and “by-pass” interceptors are not considered suitable. Segregation of roof water should be carried out where possible to minimise the flow of contaminated water to be treated. Detergents, emulsifiers and solvents must not be allowed to drain to the interceptor as these would render it ineffective.
- (2) Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works (temporary or permanent) or structures in, under, over or within 8 metres of the top of the bank of the River Cale, designated a ‘main river’. For example, the new surface water drainage outfall, fencing etc will need land drainage consent. The need for this consent is over and above the need for planning consent. Early consideration of this obligation is recommended since it may take up to two months to determine consent. Applicants should contact Claire Aldridge on 01258 483384 to discuss the scope of our controls.
- (3) The development should include water efficient appliances, fittings and systems in order to contribute to reduced water demand in the area. Greywater recycling and rainwater harvesting should be considered.

The submitted scheme should consist of a detailed list and description (including capacities, water consumption rates etc. where applicable) of water saving measures to be employed within the development. Applicants should visit [http://environment-agency.gov.uk/ Subjects > Water Resources > How We Help To Save Water > Publications > Conserving Water in Buildings](http://environment-agency.gov.uk/Subjects%20Water%20Resources%20How%20We%20Help%20To%20Save%20Water%20Publications%20Conserving%20Water%20in%20Buildings), for detailed information on water saving measures. A scheme of water efficiency should be submitted in accordance with the information supplied on the website. The following may be helpful – <http://www.savewatersavemoney.co.uk/>.

- (4) The Environment Agency strongly recommend that the proposed development includes sustainable design and construction measures. In a sustainable building minimal natural resources and renewables are used during construction, and the efficient use of energy is achieved during subsequent use. This reduces greenhouse gas emissions and helps to limit and adapt to climate change. Running costs of the building can also be significantly be reduced.
- (5) Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

Such safeguards should cover the use of plant and machinery, oils / chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of the work and storage areas and the control and removal of spoil and wastes.

The Environment Agency recommend referring to our Pollution Prevention Guidelines, found at www.environment-agency.gov.uk

- (6) Where works are to be undertaken on or adjoining the publicly maintainable highway a licence under Section 171 of the Highway Act 1980 must be obtained in writing from the Highway Authority. Application forms can be obtained by writing to Roger Tyson of the Transport Development Group, Environment Department, County Hall, Taunton, TA1 4DY or by telephoning him on 01823 356011. Applications should be submitted at least four weeks before works are proposed to commence in order for statutory undertakers to be concerning their services.
- (7) The fee for a section 171 Licence is £250. This will entitle the developer to have his plans checked and specifications supplied. The works will also be inspected by the Superintendence team and will be signed off upon satisfactory completion. In addition, an Agreement under Section 278 of the Highways Act 1980 will be required to the works to the existing highway.

(Vote: 9 in favour, 2 against)

27. Retrospective application for the use of land to station a mobile home at South Harp Farm, South Harp, South Petherton - Planning Application 07/03589/FUL (Agenda Item 6)

The Planning Officer updated Members on the contents of 3 letters of objection and 2 of support that had been received since the agenda had been prepared.

He informed Members that just prior to the meeting he had been informed that the application site was not wholly within the applicant's ownership as such, he would have to investigate whether the appropriate Notices had been served. Notwithstanding this, Members could still decide the application as access rights over the adjoining land was a civil matter.

With the aid of slides the Planning Officer indicated:

- the application site;
- access to the site;
- views of the site from various positions surrounding the site.

He informed Members that Area North Committee had recommended that personal planning permission be granted to Mrs J Day for her lifetime on the basis of exceptional medical circumstances. He explained that whilst PPS1 did not specifically refer to personal circumstances any approval would have to be justified on grounds of 'unique' personal circumstances.

Councillor Keith Ronaldson, one of the Ward Members, spoke strongly in support of Area North's recommendation. He referred Members to Mrs Day's medical history as set out on page 21 of the agenda and felt that for a lady of 64 years of age to be suffering from both Multiple Sclerosis (MS) and Cancer whilst trying to run a farm on her own were exceptional circumstances. He further commented that:

- the £6,500 per year turnover was just sufficient to give the livestock a good life and provides Mrs Day with a good quality of life;
- Mrs Day does not wish to receive benefits;
- the MS Society had confirmed that there was no cure and, as such, self-management becomes extremely important to the sufferers;
- a large number of people support the application.

Councillor Paull Robathan, the other Ward Member, commented that:

- a similar application had been considered 12 months ago, the difference now was the additional personal circumstances relating to Mrs Day's health;
- Mrs Day has proved that the smallholding was economically viable to provide her sufficient income;
- there was a strong level of public support and support from Area North Committee - with the vote resulting in 11 to 1 in favour of granting a personal permission;
- a precedent had already been set elsewhere within the District.

Stephen Forsey, neighbour, also speaking on behalf of Mr and Mrs Wadsley who were also neighbours, spoke against the proposal. Their main objection was one of visual amenity as they overlooked the site. He made the following additional comments:

- the application had been to eight different committees and had been refused five times;
- the Parish Council represented the village not Councillor Paull Robathan and the Parish Council had recommended refusal;
- a similar application in North Cornwall had been refused;
- permission should not be granted because of personal circumstances or because the applicant had the support of local people.

Mrs Forsey, neighbour, informed Members that she lived opposite the application site, and whilst she held no animosity towards Mrs Day she wished to object to the application for the following reasons:

- Mrs Day had made an emotional plea that she had been evicted from her long-term home whereas Mrs Day had lived in four properties before moving onto the site;
- there was no life-long home;
- Members have been led to believe that the applicant had many supporters but 4 of the 6 owners of adjacent properties object;
- many of the supporters do not live in the village;

- whilst she felt very sorry for Mrs Day she did not believe that cancer was a unique medical condition.

Mr Lang, objector and neighbour, commented that he had been misrepresented at the Area North meeting. The minutes stated that 'Mrs S Atkinson indicated that there were many supporters in the public audience and no objectors' but he was at the meeting.

Caroline Humphries, neighbour, spoke in opposition to the application. She informed Members that:

- the application site was land-locked and was clearly visible from the road;
- the application was contrary to Policy HG15 of the Local Plan;
- Mrs Day had not been evicted from her last home;
- the mobile home would result in over-development of the land;
- with the large number of other people suffering from MS and cancer, Mrs Day's medical conditions could not be considered unique;
- she was not well and the constant planning applications were causing her undue stress.

Mrs Margaret Finn, neighbour, spoke in support of the proposal. She informed Members that she had an obvious interest as she had a clear view of the application site from her property. She commented that:

- people were not entitled to a view;
- the produce provided by Mrs Day resulted in less food miles and a cleaner carbon footprint;
- the animals were kept in very good conditions;
- lots of people supported Mrs Day;
- Mrs Day made a great contribution to the community and it made sense to allow her to stay on the site - although she felt that some sort of landscaping scheme was necessary.

Mr Robert Vaux, speaking on behalf of the agent, commented that:

- he had known Mrs Day for 60 years and she had always been the eyes and ears of the village and she was a valuable member of the community;
- Mrs Day suffered from major health issues and she had gone from a very good house to a mobile home;
- she had always been a social networker;
- the animosity that she had received had not helped her medical conditions;
- the village valued her presence and continued life in the village.

In response to a Member's question the Development Control Team Leader confirmed that the applicant had moved the mobile home onto the site without the benefit of planning permission. It was noted that the fact that an application was retrospective had no bearing on consideration of the application.

Councillor Patrick Palmer:

- stressed that exceptional medical conditions were a material consideration;
- questioned whether it was right to move someone off their land who was suffering from exceptional health problems who would then have to wait on the Council's housing list for accommodation;
- questioned whether it was right to expect someone with major health problems to travel to tend to her livestock;
- he felt that as Mrs Day had been forced to live on the land that this should be taken into consideration.

He asked Members to support Area North's recommendation of a personal approval.

During the ensuing discussion Members speaking against the application made the following comments:

- whilst it was a very emotive subject the application had to be judged within planning policy;
- there were many cases of cancer so could Mrs Day's health problems be classed as 'exceptional';
- what would happen when Mrs Day was unable to look after herself;
- the objections raised on visual amenity grounds were valid;
- a clear need had not been demonstrated.

Members speaking in support of the application commented that:

- a precedent had been set in Area East without supporting medical documentation. Mrs Day's health had been fully documented and the exceptional and extenuating circumstances met the criteria of a 'material consideration' and therefore the applicant should be granted a personal permission;
- if approved the visual amenity objections could be overcome by the imposition of a condition relating to a landscaping scheme.

In response to Members' comments the Assistant Solicitor clarified that central government guidance advised that permission should not be granted for a temporary period where Members would not give a permanent permission. However, in this instance Members were being asked to consider whether a permission was justified on compassionate grounds and it was possible to condition the use of the mobile home as a personal permission.

It was proposed and seconded that the application be refused in line with the officer's recommendation. On being put to the vote the motion was lost by 5 in favour with 6 against.

It was proposed and seconded that the application be approved subject to clarification on the serving of the correct notices, and subject to conditions that the approval would be personal to Mrs Day; that within two months of the cessation of the use of the site the site would be cleared and restored to its original condition; and the imposition of a landscaping scheme to the front of the site.

Before being put to the vote the Development Control Team Leader clarified that should someone else move into the caravan to care for Mrs Day that a further planning application would be required.

The motion was then put to the vote and was carried by 6 in favour and 4 against.

RESOLVED: That **permission be granted** subject to:

- (a) Clarification as to the correct serving of Notices and certificates for the planning application
- (b) Conditions as set out below:

Justification: The proposal represents the use of land to meet a specific personal need justified on medical grounds which would warrant an exception to normal planning policy set out in PPS1 (Sustainable Development) PPS7 (Development in Rural Areas) , Policies HG15, St3, ST5, ST6 and EC3 of the South Somerset Local Plan and Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review.

Conditions:

- (1) The mobile home hereby permitted shall be occupied by Mrs J Day only and by no other person without the prior written consent of the local planning authority.
Reason: The planning permission hereby granted has been granted solely due to the personal circumstances of Mrs Day and does not run with the land.

- (2) The site shall be cleared and the mobile home and other structures hereby permitted shall be removed and the land restored to its former condition within two months of the cessation of the use.
Reason: The building has solely been allowed on the basis of the particular needs of the applicant and the retention of them beyond the use by Mrs Day would be contrary to national policy guidance and local plan policies.

- (3) Within one month of the date of this permission, details of supplementary hedge and tree planting along the north west boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be carried out within the first available planting season. Any trees or plants which within a period of five years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. This landscaping shall take the form of a double width hedge interspersed with some tree planting all of which shall comprise native species.
Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Policy EC3 of the South Somerset Local Plan adopted April 2006.

Informative

In relation to Condition 02 above, this does not require the removal of the field shelter which benefits from a separate planning permission.

(Vote: 6 in favour, 4 against)

RC

28. Additional Sign Off Procedures for Section 106 Planning Obligations (Agenda Item 7)

RESOLVED: That the report be noted.

(Resolution passed without dissent)

29. Date of Next Meeting (Agenda Item 8)

Members noted that the next meeting of the Committee is scheduled to take place on Tuesday, 18th March 2008 at 10.00am in The Council Chamber, Council Offices, Brympton Way, Yeovil.

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Chairman