

**5. Demolition of existing industrial unit and the erection of a new Lidl Foodstore with associated parking, servicing and infrastructure improvements at Ashleys of Yeovil, West Hendford, Yeovil, Somerset.**

**OFFICER: Andrew Collins 01935 462276**

**APPL.NO: 08/03529/FUL APPLICATION TYPE: Full Application**

**PARISH: Yeovil WARD: Yeovil (South)**

**DESCRIPTION: Demolition of existing industrial unit and the erection of a new Lidl foodstore with associated parking, servicing and infrastructure improvements (GR: 354914/115458)**

**LOCATION: Ashleys Of Yeovil West Hendford Yeovil Somerset BA20 2AJ**

**APPLICANT: Lidl UK**

**Date Accepted: 3 September 2008**

**Reason for referral to Regulation Committee**

This application is brought to Committee by the Head of Development and Building Control in the public interest.

Area South Committee considered this application on 5 November 2008 with a recommendation that planning application 08/03529/FUL be referred to the Regulation Committee with a recommendation that planning permission be granted for the following reason:

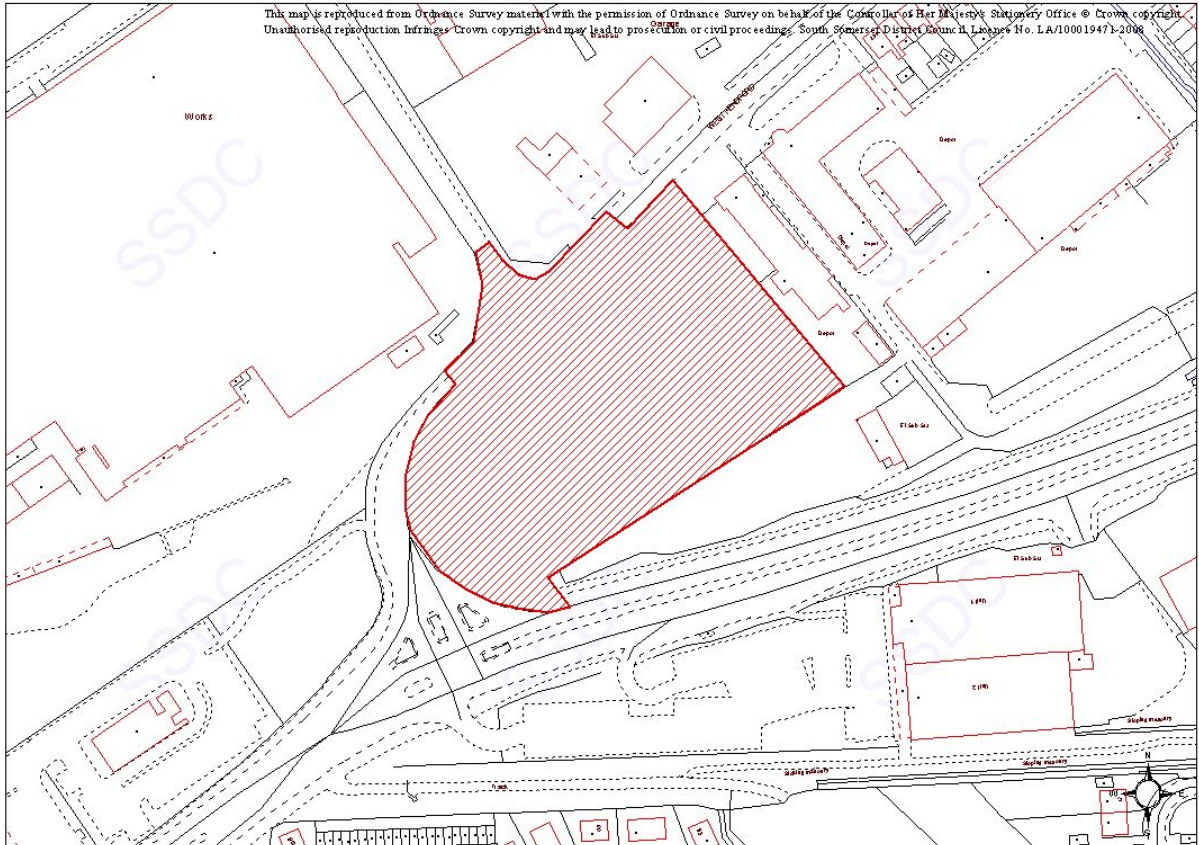
"The proposal would result in social, economic and environmental benefits to the area."

(Voting: 11 in favour, 1 abstention)

The minute of the Area South Committee is attached at Appendix 1.

Members are asked to note that, in the event that they are minded to approve this application contrary to recommendation, it will need to be referred to the Government Office for the South West given the note at the end of the report.

## Site Description and Proposal



The site is located within the development area for Yeovil and Flood Zone 2.

The site is 0.666ha located on the southern side of the road at the Western end of West Hendford. To the northeast of the site is a car servicing garage, to the south east an electricity sub station, West Hendford lies to the north west and Lysander Road to the south. Opposite Lysander Road is a small retail estate comprising two non food bulk retailers, P C World and Allied Carpets.

On the other side of West Hendford is a residential scheme under construction on the former Seatons site and a B1/B8 and D1 use building for training purposes (Paragon).

The site is currently an existing building occupied by Ashleys of Yeovil, a precision engineering company. The existing building is single storey, constructed of bricks fronting West Hendford and breeze block to rear. The roof is covered with asbestos.

This is a full application for an A1 food retail unit with a sales area of 1063m<sup>2</sup> and a total store size of 1400m<sup>2</sup>. It is proposed to demolish the existing buildings on the site and erect the new food store. The store itself is proposed to be located on the north-eastern side of the site and measure 28 metres in width and 54 metres in length. The building is proposed to be a maximum of 7.5 metres high with glazing facing onto West Hendford. The roof is proposed to be mono-pitched and the building is to be constructed of metal cladding and render.

The applicants are Lidl's, who describe their operating style as a deep discount retailer. The applicants have indicated that this is intended as a second store in the town for the company to complement their existing operation at Lyde Road. It is

proposed that the stock lines shall not exceed 2,500 lines, the display of non-food (comparison) goods (excluding household cleaning and cosmetic products) not exceeding 20% of the total net sales area. It is not intended that the store will provide other retail elements often associated with food retailers such as a butchers counter, fresh fish counter, delicatessen / cheese counter, hot food, pharmacy, dry-cleaning, post office services, lottery sales, photographic shop/booth or cafe/restaurant.

Access to the site is via West Hendford with a new roundabout to be constructed located at the existing access to Westlands. In total 97 car parking spaces are proposed including 7 disabled and 4 wider parent and child spaces. A new pedestrian access is proposed at the south-western end of the site with space left for a potential footpath link at a later date to Lysander Road (there is intervening land).

Submitted with the application is a PPS6 Retail Assessment, assessment of existing building for other uses, Flood Risk Assessment, Transport Assessment and Contamination Survey and a Sustainability Assessment.

During the course of the application, the applicants have served notice on Westlands due to the red line going onto their property. In addition notice has been served on the current occupiers of the site.

## **History**

03/01529/OUT - The erection of a non-food retail development with car parking and service yard (GR354914/115458) - Application Withdrawn - 18/07/2003

04/01763/OUT - The erection of a non-food retail development with car parking and service yard (GR354914/115458) - Application Refused - 10/04/2007

## **Policy**

### Relevant Development Plan Documents

#### Regional Spatial Strategy:

RPG10 now called the Regional Spatial Strategy (RSS) forms part of the adopted Development Plan. The following policies are considered relevant to the consideration of this application.

Policy Vis 1 - Expressing the Vision

Policy Vis 2 - Principles for Future Development

Policy Vis 3 - Achieving the Vision

Policy SS2 - Regional Development Strategy

Policy SS6 - Other Designated Centres for Growth

Policy SS7 - Meeting Local Needs

Policy SS19 - Rural Areas

Policy EN4 - Quality in the Built Environment

Policy EC6 - Town Centres and Retailing

Policy TRAN1 - Reducing the Need to Travel

Policy TRAN7 - The Rural Areas

Policy TRAN10 - Walking, Cycling and Public Transport

Policy RE2 - Flood Risk

The South West Regional Assembly is currently preparing a revised RSS. The emerging RSS vision is to deliver sustainable communities and a more sustainable

future for the region, focussing most development in a limited number of Strategic Significant Cities and Towns (SSCTs). Below this tier of settlements, locally significant development will be appropriate in settlements with a range of existing services and facilities and the potential for sustainable development. Yeovil is contained within the proposed list of SSCTs with the larger rural centres, being settlements to be considered as other locations with potential for sustainable development.

#### Somerset and Exmoor National Park Joint Structure Plan Review 1991- 2011

This document was adopted in April 2000 and thus predates the inclusion of the RSS as part of the Development Plan Documents and recent Government Guidance. The following policies however, remain relevant for this application;

- STR1 - Sustainable Development
- STR2 - Towns
- STR4 - Development in Towns
- Policy 20 - The Retail Framework
- Policy 21 - Town Centre Uses
- Policy 42 - Walking
- Policy 44 - Cycling
- Policy 48 - Access and Parking
- Policy 49 - Highways
- Policy 60 - Floodplain Protection

#### South Somerset Local Plan (Adopted April 2006)

The adopted local plan follows the principles of sustainable development set out in the RSS, Structure Plan and central government policy and focuses growth in the towns of the district. Yeovil is the principal town in the plan area and therefore has the highest concentration of growth. Policies within the plan are aimed at supporting the delivery of sustainable and high quality development with new retail provision appropriate provided that it is at a scale commensurate with the town's role and function.

The following policies are considered to be relevant for this application.

- ST5 - General Principles of Development
- ST6 - Quality of Development
- ST8 - Sustainable Construction
- ST9 - Crime Prevention
- ST10 - Planning Obligations
- MC2 - Location of Shopping Development
- MC3 - Location of Shopping Development
- ME6 - Loss of Employment Land
- TP1 - New Development and Pedestrian Provision
- TP2 - Travel Plans
- TP3 - Cycle Parking
- TP4 - Design of Residential Roads
- TP5 - Public Transport
- TP6 - Parking Standards

#### Local Development Framework

As part of the preparation work for the LDF the Council have commissioned the South Somerset Retail Study (SSRS) by DPDS Consultants. This is based on survey work

in 2005 and 2006 and has assessed the need for additional convenience and comparative goods floorspace within the District. This study will be used to inform the LDF in the consideration of new site allocations for retailing.

#### National Planning Policy

The following Central Government Policy Documents are also considered to be relevant to this application;

PPS1 - Delivering Sustainable Development

PPS6 - Planning for Town Centres

PPG13 - Transport

PPS25 - Development and Flood Risk

#### **Consultations**

Area Engineer - "Design details and information to be provided for approval in line with the recommendations and conclusions in the Flood Risk Assessment, which I am in agreement with."

Landscape Officer - "No landscape issues with principle, please condition a landscape scheme."

Economic Development Team Leader - "From the outset, this is a challenging application which has taken a little time to arrive at a formal response from the Economic Development Service. There are a number of issues relating to the change of use of the industrial land for the existing purpose of B1, B2 and B8 use to retail. The site in total is 0.66 hectare and is in close proximity of residential premises on the eastern boundary. There are a number of issues that I have tried to better understand and therefore provide you with an economic view.

1) The sequential test identified 25 potential sites that the applicant has considered for the building of a new Lidl foodstore. I acknowledge that for a variety of reasons, the majority of these sites are unsuited for the purpose sought, due to poor access by public transport, inadequate parking or location in a predominately industrial area. Clearly the applicant has chosen to use the sequential test analysis to support their favoured site off Lysander Road. I would encourage the applicant to review the sequential test and provide more detail as to why the site in Yeovil town centre known as Stars Lane North is unsuited to their needs.

Within the sequential assessment site matrix (appendix 4, page 1) the reasons given why this site is unsuitable suggest the unacceptable change of frontage from Middle Street to the rear of the premises by the council. I have no recollection of these discussions having been held with either the Development Control planners or indeed Economic Development. The applicant is, I feel making a pre-judgement to further justify the Lysander Road site.

Furthermore, assumptions have been made about the subdivision of the former Wilkinsons store and the inadequate amount of premises space in which to locate a Lidl store. Again, I am not aware that there have been detailed discussions on the layout of the building and conclude that the statement of inappropriate layout is being used to strengthen the case for the Lysander Road site.

Under viability, the applicant implies that because the former Somerfield store was unsuccessful at this location, there is little opportunity for a Lidl to succeed. I would

encourage the applicant to enter into discussions with the developer who now owns the property, as I consider too many assumptions are being made with regard to access, size of premises, rent values etc.

2) I have now visited the site of Ashleys, Lysander Road and viewed the existing manufacturing premises from both the inside and out. The buildings are now extremely outdated, being almost unfit for purpose. As contained within the Atis Real report (July 2008), the existing operator has to contend with uneven floors, extremely low ceilings, narrow doorways, asbestos, poor insulation. Having visited the property, I concur with the statement that the buildings are unlikely to find an alternative user without an enormous financial injection to bring the buildings up to an acceptable standard.

The current owners of the Lysander Road site inform that they purchased a few years ago an alternative site at Lufton to erect a building best suited to their needs. I am informed that all of the existing 35 staff will be transferred to the new site on completion. Also that buildings better suited to the needs of the company will attract orders from businesses who are not comfortable with the existing site. Whilst it cannot be confirmed, it is estimated that additional jobs will be provided through the relocation and expansion of the business. Ashley's of Yeovil manufacture and engineer industrial equipment and are considered a good example of the importance manufacturing is to Yeovil's economy. The question that I have to be satisfied with is: The loss of 35 engineering jobs at this site to retail, is this acceptable economically? My response to this is that a job, whilst in different sectors is a job. 10 will be full time, the remainder will be part time. Retail jobs tend to provide employment opportunity for different sectors of society, students, working parents, unskilled etc. Therefore, I am comfortable with the loss of engineering jobs to retail.

3) The biggest question that I have had to address with this application is the loss of the 0.66 hectare Class B2 employment site and the importance that has within the economic opportunity for the area. I am certainly at ease with the loss of the premises as they are old and no longer fit for purpose. With regard to the loss of the employment land from B2 use, that is a different issue. I am aware that an additional 10 hectares of industrial land is required in the Yeovil area to satisfy the medium - long-term requirements. Therefore, the loss of 0.66 hectares has to be justified. I will submit under separate cover detail on the financial test, which I request is not put into the public domain.

My response to this application consultation is that until I receive much more information on the sequential assessment, particularly the unsuitability of the Stars Lane North site, I am unable to support this application."

He further comments, "I have undertaken a more comprehensive review of this application from a financial perspective. I have to be entirely satisfied that the stability of Ashley's of Yeovil's business is not compromised by a refusal of this application. As importantly, I have to ensure that the loss of B2 employment land can be justified and that Ashley's will not be seeking to make major financial gains from this proposal, if approved. Economically, I consider this evidence of financial projection to be sufficient justification to support the loss of 0.66 hectares of industrial land. However, planning policy may wish to comment also."

Head of Area South Development - With the benefit of the Economic Development Manager's comments, would support the loss of the industrial site and its alternative use.

## SSDC Planning Policy - "Lidl Response:

The applicant seeks to demolish and redevelop a 0.66ha site currently in employment use by Ashley's of Yeovil, and erect a new neighbourhood foodstore (Lidl). The proposed development would result in a change of use from Use Class B1/B2 to A1.

The two fundamental issues surrounding the proposed development from a planning policy perspective are:

1. the loss of employment land; and
2. that the applicant has addressed and complies with the tests outlined in PPS6 and the retail policies in the adopted South Somerset Local Plan (SSLP).

Firstly I will address the issue of loss of employment land. Policy ME6: Retention of Land and Premises, of the SSLP explains that employment land, due to its lesser value, is vulnerable to pressure from other uses such as retailing, and how it is important to retain employment uses (land or buildings) to protect the overall availability and distribution of employment opportunities, and also to restrict the need for additional Greenfield sites to compensate for the lost land.

Policy ME6 states: 'Proposals for the alternative use of existing and allocated employment land and premises which would have a significant adverse effect on employment opportunities will not be permitted except where:

1. There is an overriding need which outweighs the employment value of the land/premises and for which there is no suitable alternative,
2. Significant environmental benefits would result which outweigh the employment value of the land/premises.'

The key question to ask is whether the loss of this land and/or premises will have a significant adverse effect on employment opportunities in Yeovil. I note the comments of the Economic Development Team Leader, who states that he is at ease with the loss of the premises as they are old and no longer fit for purpose, and that there is no objection to the loss of the employment land as jobs will be created, and I will address these comments below.

This site has a history of applications to change its use to retailing, the most recent application being 04/01763/OUT which was for the erection of non-food retail development. The application was refused on the 10th April 2007, one of the reasons being that the proposal would result in an unjustified loss of employment land which would have a significant adverse impact on employment opportunities. Planning policy, in terms of PPS4 and the SSLP is the same today as it was when application 04/01763/OUT was refused (Draft PPS4 has very little weight and is subject to change).

In terms of supply and demand for employment land in Yeovil, historically there has been an undersupply (evidenced through the Local Plan Inquiry). There is demand for employment land in Yeovil. The Business Perspectives on Property - Workspace Survey and Review (2007) which surveyed local businesses across the District to establish their immediate need for land over the next 5 years, identified a minimum need for some 2.35ha to 3.14ha of employment land within Yeovil to meet identified latent demand from local businesses. Long term demand has also been identified through the Draft Regional Spatial Strategy (RSS). The Secretary of State has proposed changes to Policy SR24 of the Draft RSS which now requires the provision of 6,400 new homes within the existing urban area of Yeovil and 5,000 new homes at the Area of Search, around Yeovil. Accompanying these homes will be at least 9,100

jobs in the Yeovil Travel To Work Area (TTWA) with the provision of at least 43 ha of employment land.

Whilst there is demand for employment land/premises, the pressure to loose employment land has remained strong. On the 31st March 2007, 18.68ha of employment land had been lost to other non B-uses in Area South, from the 1st April 2007 to 31st March 2008 (Annual Monitoring Report period following refusal of 04/01763/OUT) an additional 1.36ha of employment land was lost to non-employment uses (7.2% of the total employment land lost in Area South since 1991) and 3.68ha had planning permission to change of use from B1, B2 or B8 of the Use Classes Order.

Supply and demand issues accentuate the need to retain those existing urban sites which offer a sustainable homes/work balance, I therefore cannot see how the site is less significant today than it was in April 2007. I accept that the existing premises are in a poor state of repair, but given all the evidence above I believe that this land should be retained for employment purposes unless there is a sound justification put forward by the applicant to the contrary. At present, whilst the agent believes that the better use for the premises is retail use, there is no reasoning for this and the applicant has not addressed the loss of employment land at all. I do not see why the land/premises cannot be redeveloped for another B1, B2 or B8 use activity, as opposed to retailing?

One final point, in relation to the loss of employment land, the proposal does not contribute uniquely to economic growth and could be accommodated elsewhere in Yeovil - actually given that the majority of jobs created will be part-time jobs (equivalent to 25 full-time jobs) in reality this proposal equates to a loss of 8 full time jobs.

Turning to the retailing issues surrounding the application, Planning Policy Statement 6: Planning for Town Centres (PPS6) requires applicants for planning permission to demonstrate:

1. the need for development
2. that the development is of an appropriate scale
3. that there are no more central sites for development (sequential test)
4. that there are no unacceptable impacts on existing centres; and
5. that locations are accessible.

In line with PPS6, the SSLP adopts a 'sequential approach' when considering proposals for retail development. The application site is in an out-of-centre location and is therefore outside the Local Plan's preferred location. Proposals for out-of-centre developments need to be assessed in the context of PPS6 and Policy MC3 of the SSLP.

#### Need for Development & Scale

The South Somerset Retail Study which was undertaken by DPDS in January 2006 states that Yeovil has a good range and choice of supermarkets and food stores 'the lack of qualitative deficiencies and the fact that 4 out the 5 largest supermarket operators are present in the town would suggest that overall there is no need for a new superstore' (Lidl is proposing 1,063 square metres net tradable area, and so the proposed development is for a supermarket by PPS6 definition). However, whilst there is no need for a superstore, the retail study recommends sites in Yeovil that should be identified for a significant amount of comparison goods floorspace over the Local Development Framework (LDF) period, and of these sites the study states 'whilst it is intended that the site would accommodate significant levels of comparison



goods floorspace, the sites identified are large enough to accommodate a new foodstore', suggesting there is need for some additional comparison floorspace and the scale being that of a foodstore, such as that proposed.

#### Sequential Test

The sites identified in the DPDS study which are large enough to accommodate a new foodstore are:

1. Market Street/Court Ash
2. Glovers Walk
3. Stars Lane South
4. Stars Lane North

The applicant has undertaken a sequential test, but I, like the Economic Development Team Leader, would query some of the points made in that test which lead to the discounting of some sites. In terms of Stars Lane North, especially in light of the above, I would like more information as to why Lidl's business model prevents the use of the Somerfield store, surely this is not in the spirit of PPS6 and its requirement for developers to be more flexible in their trading style and format.

#### Accessibility

I assume the Highway Authority will have commented on this aspect of the proposed development.

#### Town Centre Vitality and Viability

In order to ensure that any approved development does not subsequently change its trading style or composition, given its out-of-centre location, I would suggest conditions be imposed to prevent any negative impacts on town centre vitality and viability.

In conclusion, I OBJECT to the proposed development for two reasons. Firstly, it would result in a loss of employment land, and no justification for that loss has been made, therefore the proposed development is contrary to Policy ME6 of the SSLP, and secondly, the sequential test put forward by the applicant requires further work, and until such work is undertaken the proposed development is therefore also contrary to Policy MC3 of the SSLP."

MoD - "We can confirm that the Ministry of Defence has no safeguarding objections to this proposal."

Wessex Water - "Foul Sewerage There is sufficient spare capacity to serve this site. Connection may be made to any relevant point on the foul sewerage system.

There is a 650mm diameter public sewer crossing the site at the southern end of the car park. We would remind the developer that there should be no building within 5 metres of this sewer and similarly no tree planting within 6 metres.

Surface Water The sewerage system is mainly separate in this area. Surface water may be discharged to any relevant point of the public surface water system but the applicant is asked to investigate the possibility of using soakaways or other SuDS solutions to keep the volume and rate of discharge to a minimum. The applicant is to consult with South Somerset District Council to ensure the development will not exacerbate any known flooding problems.

Adoption In line with Government protocol the applicant is advised to contact Developers Services to see if any of the on-site or off-site drainage systems can be adopted.

Sewage Treatment The Sewage Treatment Works and terminal pumping station has sufficient capacity to accept the extra flows this development will generate.

Supply The local distribution system has sufficient capacity to supply this re-development."

Environment Agency - "We have no objection to the proposed development subject to conditions and informatives being included in any planning permission granted to cover finished floor levels of the foodstore, specific flood warning and evacuation plan, scheme for the provision of surface water drainage works, surface water from car parking areas, oil interceptor facilities, segregation of roof water, there must be no interruption to the surface water drainage system of the surrounding land as a result of the operations on the site, provisions must be made to ensure that all existing drainage systems continue to operate effectively and that riparian owners upstream and downstream of the site are not adversely affected, SUDs, flood resilient construction techniques

#### Sequential Test

We would remind the Local Planning Authority that Planning Policy Statement (PPS) 25 requires the Sequential Test to be demonstrated for proposals other than those that meet the description in footnote 7 of the PPS and Change of Use. The Sequential Test is a requirement of PPS25 and the LPA must be satisfied that it has been demonstrated. You must be satisfied that the Sequential test given in Appendix 6 of the FRA and confirm that it has passed in accordance with PPS25.

#### Contaminated Land

The application includes a Factual and Interpretive Report (Site Investigation Report No. W0357) for the above site. The report provides a useful introduction to the site setting, history and ground conditions. However, make the following comments:

The proposed development is situated on the Bridport Sand Formation, a Major Aquifer as defined by the Agency's Policy and Practice for the Protection of Groundwater (PPPG). We note that an intrusive ground investigation has been carried out at the site and the findings have shown that only low levels of ground contamination have been identified as being present (elevated level of Benzo(a)pyrene and TPH in WS3) within a 'hotspot'. We also note in the conclusions that given the low level of contamination present and the proposed future hardstanding that will cover the site, it is considered that the risk to groundwater is low. We welcome the recommendation for the removal of the hotspot as this will provide further confidence that controlled waters are at a low risk from contamination. However, given the limited investigation undertaken there may be other areas of contamination as yet unidentified; therefore need conditions to cover the possibility of contamination not previously identified being found to be present. We would also welcome the opportunity to view the results/validation report of any future remedial works undertaken. Conditions also required covering a Construction Environmental Management Plan (CEMP) and informatives regarding pollution, location of compounds and removal of wastes.

The Environment Agency must be notified immediately of any incident likely to cause pollution directly to the local office or via the emergency contact number 0800 807060.

### Historic Landfill

On the 22nd of June 2007 we sent your Authority a CD containing historic landfill data which has all the information which we hold on the historic landfill site within 250m of this development proposal. We have no further comments on this application.

### Sustainable Construction

We strongly recommend that the proposed development include sustainable design and construction measures. In a sustainable building renewable resources are used in construction and the use of other materials minimised. 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 reduced.

### Water Efficiency

Water efficiency measures should be incorporated into this scheme. These could include, for example, water butts, rainwater recycling and the use of water-efficient internal appliances and systems. It would assist in conserving natural water resources and offer some contingency during times of water shortage. A copy of our publication 'Conserving Water in Buildings' is available upon request."

Somerset County Highways - As you may be aware, this site was the subject of pre application advice earlier in the year, however this full planning application was submitted to the LPA before a safety audit / technical report was produced and made available to the developer and as such the highway aspects of this particular development have been closely scrutinized to ensure that the development provides a safe and satisfactory access onto the public highway.

When considering an application of this size, it is normal in the first instance for the Highway Authority to require the developer to provide a Transport assessment that examines the impact of the development on the surrounding highway network, and in this case such a document has been provided, the Highway Authority having considered the Transport Assessment prepared by JMP and consider that its findings are generally acceptable (i.e. that the impact of the development will not have a material impact on the surrounding highway network) subject to alterations to the existing signalised junction where West Hendford joins Lysander Road to optimise capacity and update the actual infrastructure to aid pedestrian / cycle movements (i.e. introduction of TOUCAN type crossings) through this particular junction (such works forming part of any subsequent S106 / S278 Agreement).

With regard to detail issues, these concern primarily the proposed roundabout on West Hendford that is intended to serve the food store, and whilst the highway authority has no objection in principle to the proposed roundabout and believes that it is technically possible for the developer to achieve a satisfactory arrangement subject to further amendments - there are nevertheless a number of detail issues relating to the roundabout design and other infrastructure requirements that require either attention and or amendments to the submitted design before they could form part of either a S106 or S278 Agreement .

The main issues being (not listed in any particular order of priority) -

1. Land within the control or ownership of the applicant to construct the roundabout - we have examined the design submitted by the applicant and have identified additional third party land on the Augusta Westland site opposite the proposed food store that is required in addition to that identified at present within the red line application site or highway limits.

2. Signage - Alterations to existing highway signs as appropriate, developer to produce a scheme for inclusion within any subsequent S106 / S278 Agreement.
3. Street lighting upgrades - in vicinity of site need to be identified and appropriate upgrades agreed with SCC highways.
4. Landscaping shown on public highway - on drawing number 899/ 02 a band of landscaping is shown on the western site boundary (i.e. adjacent to West Hendford road) on an area that is required for forward visibility purposes and will need to be kept clear of all obstructions. The applicant has also included this area within the red line of the application site despite being sent road record information which shows quite clearly that this area forms part of the public highway.
5. Vehicle track plots - applicant needs to provide vehicle track plots for HGVs (i.e. 16.5m articulated lorries) showing how an HGV can both enter and leave the site in forward gear without overrunning any designated parking areas.
6. Upgrading of bus stops in vicinity - details will need to be agreed with developer.
7. Travel Plan - Initial observations are that the travel plan needs to set out an action plan with timescales to commit to delivering the measures proposed within it. This includes the travel coordinator, measures to facilitate sustainable travel, and surveying and reporting of travel behaviour. A more thorough assessment of local public transport facilities should be provided. An upgrading of the nearby pedestrian crossing to Toucan status will also be necessary to allow access to the nearby cycle network route. The car park also features no provision for segregated footways, which is unacceptable; more details of parking for all modes needs to be provided. Targets for staff travel to work journeys (modal split) need to be included, and annual monitoring of staff and customer travel should be carried out. A further draft of the travelling plan should be provided addressing the more detailed comments in the attached.
8. Effect on existing access points - clarification is required from the developer how the development will effect the existing access to employment site on opposite of West Hendford (access adjacent to roundabout proposals) - principally in terms of how HGV traffic will negotiate the roundabout.

Yeovil Town Council - Support proposal

### **Representations**

3 letters of representation have been received. 1 from Westland who objects to land ownership issues and raises concerns over the Transport Assessment. The applicants have provided further information to counteract these objections.

One of the other letters of representation is from planning agents representing Morrisons. They raise the following comments;

- Raise concerns over the sequential test
- Consider that the quantitative and qualitative tests have not been met as already an existing Lidl store in close proximity and studies show that no additional need for retail in Yeovil
- Catchment area for store not realistic to justify new store
- The proposal would result in loss of employment and set an undesirable precedent.

A response has been received in relation to these concerns from the applicant's retail consultants.

The other letter of representation has been received from Abbey Manor. They raise issues over the access into the site. (Comments summarised)

- They state that Augusta Westland have objected to the access
- Question whether a safe access can be delivered
- They raise queries over the transport assessment level of vehicles and how the highway network would be affected
- Proposals have omitted Seaton Mews. This existing access off the roundabout could lead to a highway danger
- Could HGV vehicles access the site by the proposed roundabout? A larger roundabout could prejudice and encroach onto 3rd party land.

## **Considerations**

The principal issues for consideration of this application are as follows:-

### **Policy**

The adopted Local Plan reflects current government thinking and is in conformity with the Regional Spatial Strategy and Structure Plan. The underlying principle of the planning system expressed in the local plan is sustainable development and to meet the needs for the future of South Somerset's residents and businesses. It is also important to ensure that new development is located where it is most required and where it is accessible for local residents. The emerging LDF follows the same approach.

Of crucial importance is PPS6 (Planning for Town Centres). In policy terms, the site lies within the defined settlement limit for Yeovil but outside of the town centre. The site is classed as an out of centre location. The local plan follows the advice contained within national policy guidance, PPS6, which requires that new development be focussed within existing centres "in order to strengthen and, where appropriate, regenerate them." (para 2.1) Guidance also requires that "wherever possible, growth should be accommodated by more efficient use of land and buildings within existing centres" and sites should be identified to "meet the scale and type of need identified". Where such growth cannot be accommodated within existing centres, local planning authorities are advised to plan for extensions of the primary shopping area, carefully integrating this with the existing centre. The local plan defines the primary shopping area for Yeovil but does not identify any areas for new growth or allocated sites for such purposes.

Local planning authorities are required to assess the need for new floorspace for retail, leisure and other town centre uses "taking into account both quantitative and qualitative considerations" (para 2.16 PPS6) and to address deficiencies in provision. To this end DPDS have been commissioned to carry out such a study in preparation for the LDF.

In addition PPS6 states tests need to be carried out to ensure that the development is of an appropriate scale, that a sequential approach to site selection has been carried out and to examine the impact on existing centres.

It should be noted that a current consultation document on proposed changes to PPS6 has been published by the Government which gives an indication of the latest thinking. Given that it is only a consultation paper, it is of limited weight at present but

does follow similar principles as the current PPS6 in relation to the preferred location of additional retailing development.

#### Need

The DPDS South Somerset Retail Study undertaken in January 2006 says that Yeovil has a good range and choice of supermarkets. It further says 'the lack of qualitative deficiencies and the fact that 4 out of the 5 largest supermarket operators are present in the town would suggest that overall there is no need for a new superstore'. As Lidl is proposing 1,063 square metres net tradable area the proposed development is classified as a supermarket under the PPS6 definition. However, whilst there is no need for a superstore, the retail study recommends sites in Yeovil that should be identified for a significant amount of comparison goods floorspace over the Local Development Framework (LDF) period, and of these sites the study states 'whilst it is intended that the site would accommodate significant levels of comparison goods floorspace, the sites identified are large enough to accommodate a new foodstore', suggesting there is need for some additional comparison floorspace and the scale being that of a foodstore, such as that proposed. As such it is considered that there is a qualitative and quantitative need for this new store.

#### Scale

The applicant's Retail Consultant RPS say that the proposal is a modest size in relation to the general levels of retail provision in Yeovil and that the store size is relative to the catchment area. Lidl call their store a neighbourhood food store. However, in examining PPS6 there is no such definition. The nearest definition to this is 'Local' as defined in Table 1 of Annex A. This states that 'Local centres include a range of small shops of a local nature, serving a small catchment. Typically, local centres might include, amongst other shops, a small supermarket, a newsagent, a sub-post office and a pharmacy. Other facilities could include a hot-food takeaway and laundrette.' In this definition it is debatable as to whether the proposal is a small supermarket and the scheme does not include any of the other supporting shop facilities which could meet with the definition of a Local Centre. The proposal is for a single large food retail unit in isolation from other retailers, and whilst there are two large non food retailers on the opposite side of Lysander Road, this "grouping" of stores cannot be considered as any form of centre serving a local community.

#### Sequential Test

PPS6 and MC2 require applicants to carry out a sequential approach whereby an examination of where to locate has been carried out. PPS6 says that the first place to look would be town centres, followed by edge of centre locations and then as a last resort an out of centre location. Under Local Plan Policy MC2, it refers specifically to Yeovil, saying that in Yeovil new retail should be first located in the Yeovil Town Centre Shopping Area, second choice would be Yeovil Town Centre Shopping Area, in Edge of Centre locations and thirdly in district or local centres. RPS have carried out a sequential test on different sites nearer the town, including Market Street / Court Ash, Glovers Walk, Stars Lane South and Stars Lane North.

PPS6 states under paragraph 3.15 that developers and operators need to be flexible in adapting their business model in finding a sequentially preferable site, in terms of the scale of their development, the format of their development, car parking provision and scope for disaggregation.

In considering the sequential test, it is considered that the Stars Lane North site (former Somerfields store) is a preferably more appropriate site under the sequential test that could meet the applicant's requirements. This view is supported by the comments of both the Economic Development Officer and Policy Officer. In their

submission, RPS on behalf of Lidl have stated that the Somerfield store unit on its own would meet the requirements, but the car park is located to the rear of the store and this would require the unit to be redesigned in order to meet Lidl's business model, by creating a blank frontage to Middle Street. In considering the above conclusions by RPS and Paragraph 3.15 of PPS6 it is considered that this site could meet the requirements of Lidl if flexibility in their format was undertaken to ensure a more sequentially preferable location for their site. In considering that Somerfield operated successfully for many years from this site, further demonstrates the site could be acceptable. The fact that Lidl would prefer a different format, with carpark in a different location does not make this site unacceptable from a Policy perspective.

Lidls have also made considerable reference to their requiring a second store to be located on the western side of the town centre so as to be away from their existing Lyde Road store. It must, however, be remembered that this proposal is for a food retailer and not specifically Lidl's although it would be possible to restrict the nature of the occupier to a limited range of goods sold through S106, which would preclude many other supermarket operators. The applicant also indicates that they consider their requirement to be for a neighbourhood store, serving a local catchment, identified in their case as being the west side of Yeovil town centre. The town already has a "local centre" at Houndstone Retail Park and should there be a need identified for such an additional retail foodstore, and no site in town centre or edge of centre can be identified, which has not been satisfactorily proven in this instance, the sequential approach would suggest that the next sequentially preferential sites would be those adjoining Houndstone. The applicant has indicated that some sites were looked at in that vicinity but were not available at the current time but availability of site should not be the determining factor in such matters.

Based on the above, it is considered that the sequential needs tests of PPS6 have not been satisfied.

#### Impact Upon Existing Centre (i.e. Yeovil)

PPS6 requires that all proposals be considered against the possible impact on existing centres even if a need is identified, as a lack of need does not necessarily indicate that there will be no negative impact. PPS6 (para 3.23) indicates that the level of detail and type of evidence and analysis required "should be proportionate to the scale and nature of the proposal". Impact assessments are required for all retail and leisure proposals over 2500 square metres gross floorspace but they may be necessary for smaller schemes. Such an assessment should include amongst other things the likely impact on trade/turnover, impact on number of vacant properties and impact on the centre in terms of its role in the economic and social life of the community. In this instance the proposal falls below the size criteria automatically requiring such an assessment. Although not specifically required the retail assessment for Lidl's has considered this matter. The applicant's consultants have concluded that the current pattern of trading within the town centre is robust and generally healthy and would not be vulnerable as a result of their proposals. Investor confidence is generally high. In terms of trade diversion the consultants indicate that the majority of store competition for deep discounters is with other large food retailers and other deep discounters. Given the limited range of goods sold, deep discounters trade in complimentary fashion to existing stores and often locate immediately adjoining another larger food store. The limited range of goods sold, and the fact that goods such as cigarettes, pharmaceuticals, lottery tickets etc are not sold means they tend not to compete directly with other smaller shops and traders. The conclusion is that the bulk of trade diversion for convenience goods would be from Morrisons (30%) then Tesco's (20%) and Asda (15%) with some diversion from other deep discounters

Aldi (15%) and Lidl's existing store (10%) with very limited retail draw from small town centre shops.

This proposal is for an A1 retail store, regardless of whether Lidl implement any permission or are the future occupier. On this basis in order to protect the vitality and viability of Yeovil Town Centre it is considered that the nature of the proposal would need to be controlled by a Section 106, if permission was granted. This would allow control of the range and scale of goods sold to ensure this remains a "deep discount" store.

#### Loss Of Employment Land

Policy ME6 of the Local Plan seeks to protect existing employment land (i.e. land currently allocated and used for purposes under use classes B1, B2 and B8 of the Use Classes Order). Exceptions would only be permitted where:

"there is an overriding need which outweighs the employment value of the land and for which there is no suitable alternative site; or significant environmental benefits would result."

Despite the comments of the Economic Development Team Leader, it is considered that, no overriding need has been proven and the necessary sequential testing of preferred sites has not been undertaken adequately (see sequential test above). No significant environmental benefits have been claimed or demonstrated. It is accepted that any new user of the site would provide "employment" but employment land is generally taken as being land for industry and commercial uses - B1 (business) B2 (industry) and B8 (warehousing) uses (as set out in PPG4). Whilst some employment would be generated as result of this retail scheme this would be predominantly part-time and the Policy Officer has indicated that in reality there would be a loss of full time equivalent jobs from the present situation. The proposal is therefore in conflict with this policy.

#### Design And Siting

The design of the store, especially in the use of materials is considered to be acceptable. Its location within the site appears to be appropriate and a potential footpath in the future is proposed subject to access over adjoining land. In addition, the remains of the existing landscaping is proposed to be retained and this will be further complemented. As such it is now considered that the proposal complies with Policy ST6 of the Local Plan in terms of the quality of development on this location in Yeovil.

#### Flooding - (Flood Zone 2)

The site lies within an area known to flood and a Flood Risk Assessment (FRA) has been submitted with the application. The Environment Agency have no objection to the proposals subject to conditions. The site is an existing commercial use and it is not considered that an objection could be raised to redevelopment in the form shown on this basis

#### Highways

The County Highways Authority have indicated that the submitted Transport Assessment is generally acceptable in terms of impact on the surrounding road network although a toucan would also be required as part of alterations to the existing



junction of West Hendford and Lysander Road signals. However, the proposed roundabout to serve the development within West Hendford is not adequate in its detail and further work on the design of the junction would be required for any agreement through a S106 agreement. It would appear that in order to ensure a satisfactory junction third party land may well be required, outside the current red line site area (Augusta Westland). Areas currently shown for landscaping would need to be changed to ensure adequate visibility can be achieved and some land shown as within the planting is also highways land which would need amendment. Highways will also require further information on vehicle tracking movements to the store to ensure existing accesses to other businesses are not adversely affected and details of the travel plan's implementation strategy.

### Section 106 Requirements

If members are minded to approve the application, it is considered that the nature of Lidl's operation would need to be defined by Section 106 agreement in order to protect vitality and viability of Yeovil Town Centre to ensure that the site is operated by a "deep discounter". (i.e. the stock lines shall not exceed 2,500 lines, the display of non-food (comparison) goods (excluding household cleaning and cosmetic products) not exceeding 20% of the total net sales area and the store not providing a butchers counter, fresh fish counter, delicatessen / cheese counter, hot food, pharmacy, dry-cleaning, post office services, lottery sales, photographic shop/booth or cafe/restaurant.)

A S106 would also need to cover offsite highways works both within West Hendford (if third party land is required) and for works at the Lysander Road and West Hendford junction. If such a S106 is needed requiring third party land, Augusta Westland will also need to be a signatory to the S106 agreement and they have indicated that, at present, they are unlikely to be willing to sign such a document.

### Departure From Development Plan

The reason the application was identified as a 2 star application is that it is considered to be a departure from the Development Plan. Should members wish to approve the application, it will be necessary for it to be referred to the Secretary of State for the Environment (GOSW) to decide whether they wish the application to be called in.

### Recommendation

#### Permission be Refused

01. The proposal is located outside of the Yeovil Town Centre, and therefore outside the preferred locations for retail development set out in the South Somerset Local Plan, 2006. The applicant has failed to demonstrate, by means of the necessary sequential testing, that a clearly defined need cannot be met in the identified preferred locations. The proposal, if not strictly controlled, has the potential to have a negative impact on the vitality and viability of the town centre, and is in an unsustainable location in relation to public transport access. The proposal is therefore contrary to Planning Policy Statement 6, and Policies MC2 and MC3 of the South Somerset Local Plan, 2006.
02. The proposal would result in the unjustified loss of employment land (Use Classes B1, B2 B8) which would have a significant adverse impact on

employment opportunities, contrary to Policy ME6 of the South Somerset Local Plan, 2006.

03. The proposed roundabout to enter the site does not meet the highway standards for such a road junction and without alteration would be prejudicial to highway safety. As such the proposed roundabout is contrary to ST5 of the south Somerset Local Plan, Policy 48 of the Somerset and Exmoor Joint Structure Plan and PPG13.
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## Appendix 1

### Extract from minutes of Area South Committee – 5<sup>th</sup> November 2008

#### **08/03529/FUL\*\* - Demolition of existing industrial unit and the erection of a new Lidl foodstore with associated parking, servicing and infrastructure improvements. Ashleys of Yeovil, West Hendford, Yeovil - Lidl UK**

Having declared a personal and prejudicial interest in this planning application, Councillor David Recardo left the room and did not return until after the decision had been made.

The Planning Officer referred to a letter from the applicant that had been sent to all members explaining that 35 jobs would be created by the relocation of the present occupant of the site and the establishment of a new foodstore. The Planning Officer explained that these were A1 uses and B1 jobs only were considered as employment use. He highlighted the Highways reasons for refusal and said there had not been sufficient time for Highways to assess the applicant's comments.

With the aid of slides the Planning Officer presented:

- Photographs of the existing site
- The adjacent Seatons development
- The proposed new roundabout
- Plans of the proposed buildings.

He said the comments of the Planning Policy team were key to the application in that sequential tests had shown that more preferential sites were available elsewhere in Yeovil and the proposal would impact on the viability of the town centre and would have implications for jobs in the area.

At this point in the meeting Councillors Peter Gubbins and Peter Roake declared a personal and prejudicial interest in this planning application as the owners of the site were well known to them. They left the room and did not return until after the decision had been made.

The Highways Principal Planning Liaison Officer confirmed that there were no Highways objections in principle to the proposal.

For the benefit of the members of the public, the Chairman explained that if the Committee were minded to approve the application it would be necessary for it to be referred to the Regulation Committee for a decision as approval would be a departure from Council policy.

Janie Beizsley, representing AgustaWestland, agreed with the officer's recommendation to refuse the application. It had been made clear that the company would not be willing to sell land that was the subject of the application and the proposed access would cause problems given that the entrance was opposite one of the company's car parks. The applicant's proposal to signalise the junction would result in significant queues forming on local estate roads and Lysander Road every morning. In the evening delays in clearing the works car park could cause workers to park elsewhere. With regard to the argument that there was no realistic prospect of land remaining in employment use, she confirmed that AgustaWestland had

significant unmet business needs and the proximity of its site would be an attraction for the company and its partner companies.

James Mitchell representing the applicant felt that the letter sent to members addressed the grounds for refusal. He maintained that the change of use of the site had been agreed and that the sequential test had proved that no alternative sites were suitable. The proposal would result in a net gain of jobs on a site no longer habitable by the current user. He said the high value sale of the site would enable the present occupiers to relocate to a more suitable site. He asked that either permission be granted, subject to Highways agreement, or that the application be deferred.

Nigel Ashley informed the Committee that he was the third generation in the family owned business which employed 35 people. He commented that the building was tired and inefficient and near the end of its effective life and further investment in the site would be required to bring it up to a standard to be able to install modern machinery. He said his company was committed to Yeovil and it was vital to achieve the best financial solution for the West Hendford site to enable it to move forward in a purpose built facility.

Having declared a personal and prejudicial interest in this planning application, Councillor Peter Seib left the room and did not return until after the decision had been made.

The Legal Officer informed the Committee that economic considerations could be a material planning consideration but not a major one and had to be weighed in the balance with the development plan policies. However, in this case the reason given by Ashleys for their relocation from the site (namely, the unsuitability of the site) was not a material planning consideration for the purposes of this application, and he therefore advised members to discount the reasons Mr Ashley had given for moving from the site.

The Development Control Team Leader confirmed that Highways had no objection in principle to the application but land outside the red line was required for the junction. It was possible that a suitable solution could be provided with a junction within the red line.

Councillor Tom Parsley, ward member, felt the Economic Development approach was problematic as the area was poorly served by convenience stores. He said the loss of employment was puzzling as surely a job was a job. The site was past its useful life and development in the area could only be positive. If the highways issues could be overcome he supported the proposal because in his view the economic benefits outweighed the disadvantages.

Councillor Alan Smith, ward member, pointed out that if permission were to be granted, there would be two supermarkets in close proximity. He approved of the proposal for the derelict building and was supportive of using the site but was concerned that it would be against policy.

In response to members' questions the Development Control Team Leader advised that:

- The proposed junction had not taken account of the impact of the Seatons site as the submitted plans pre-dated its development.

- The proposal was for a retail foodstore and could not be restricted to Lidl alone.
- Members could agree to restrict the range of goods sold.
- Other retail establishments in the area pre-dated the current national policy set out in PPS6.
- SSDC disagreed with the findings of the sequential test as other sites were thought to be more suitable.

The Legal Officer confirmed the planning officer's advice that the use class of the site meant that it could not be confined to the applicant.

During the ensuing discussion members indicated their support for the proposal. Concern was expressed that if the site was not developed it could remain derelict for years and the current occupier would be unable to conduct his business and therefore would move away from the town. It was proposed and seconded that the application be referred to the Regulation Committee with a recommendation to grant permission because of the social, economic and environmental benefits to the area. The motion was carried by 11 votes in favour and 1 abstention.

**RESOLVED:** that planning application 08/03529/FUL be referred to the Regulation Committee with a recommendation that planning permission be granted for the following reason:

- The proposal would result in social, economic and environmental benefits to the area.

*(Voting: 11 in favour, 1 abstention)*

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