



Planning Regeneration and Development

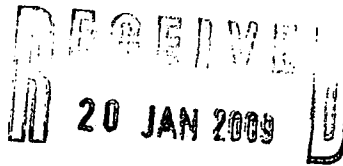
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Bob Young  
Interim Development Control Manager  
West Wiltshire District Council  
Bradley Road  
Trowbridge  
Wiltshire BA14 0RD



19<sup>th</sup> January 2009

Our Ref: AC/192/1201

Dear Mr Young,

**APPLICATION 07/03866/FUL: APPLICATION BY ASDA STORES LIMITED AND COUNTRYWIDE FARMERS PLC, BRADFORD ROAD, MELKSHAM**

I am writing following the resolution by Members of West Wiltshire Planning Committee to grant planning permission, subject to completion of a Section 106 agreement, at the Planning Committee meeting of the 08/01/09. Members further requested that, following the satisfactory provision of the Heads of Terms for a suitable legal agreement and appropriately drafted conditions these be brought back to committee for their final approval on the 19<sup>th</sup> February 2009.

The letter also follows your email (13/01/09) when you confirmed that it is officers intention to advertise the application as a departure from the development plan and that it will be referred to the Secretary of State (SoS), following members' final consideration of the requested additional information. I address these matters, as well as your request to meet with the Applicants to discuss potential S.106 and conditions, below.

As you are aware, the application has been outstanding for over a year now, and I trust that all parties are keen to resolve the matter, not least to facilitate this significant investment and regeneration within Melksham. You indicated you would be willing to meet with us to discuss the submission of the information

In respect of statutory consultees, I note that there has been no request stipulating that planning obligations would be necessary, should permission be granted. Further, I also note that the suggested reasons for refusal contained in the committee report did not include a reason relating to the absence of a completed S.106 agreement.

Nevertheless, you will be aware that we have consistently indicated that the Applicants would be willing to enter into such an agreement. In the absence of guidance from officers we engaged local stakeholders, including local Members and Melksham Town Council, as well as reviewing comments received. The outcome was that all were keen to see the promotion of non-car modes and other highway improvements as part of the proposals.

In this context, we outlined to both officers and stakeholders that the proposals would include provision of a shuttle bus for a period of five years, linking the ASDA store with Melksham Town Centre, together with provision of significant highway and physical linkage enhancements within the context of the site.

We are advised that the provision of a shuttle bus, as described, would cost £100,000 per annum to operate and would therefore cost a total of £500,000 over the five year period. This would be delivered through a S.106 Agreement / Unilateral Undertaking.

In the interests of expediency and to enable the submission of the information requested by members in the desired timeframe, I can advise that we have instructed ASDA's solicitors to draft an appropriately worded document to facilitate such a payment. I attach a copy of the draft Heads of Terms for your reference. It may be the case that the most straightforward way to proceed would be via a Unilateral Undertaking.

consultation period, as well as others that were not, such as various highway and operational matters, which we trust are acceptable to both officers and Members.

Turning to other matters, it was reported to Committee that officers considered it necessary to refer the application to the Secretary of State on the grounds that it constituted a departure from the Development Plan. Having reviewed the position in detail, we are firmly of the view that this is not the case.

It was confirmed that the application has never been advertised as a departure from the Development Plan, although we understand that it is now the LPA's intention to advertise the application as such. The site is clearly within the defined settlement boundary of Melksham and is not allocated for an alternative use.

Secondly, the site is also an established retail destination in Melksham, benefiting from a Lawful Use Certificate for A1 retail, which would allow the existing premises to trade as a foodstore. In this context, the proposals clearly do not represent a departure from the Development Plan. To suggest this after over a year of consideration is, in the Applicants' view, an unacceptable position for officers to take.

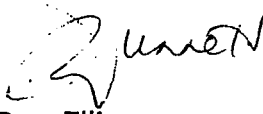
Further, I note you refer to the requirement to refer the application under the T&CP (Shopping Development) (England and Wales) (No.2) Direction 1993 by virtue of criteria 3 (a) (b). Criterion 3 (a) is clearly only relevant in respect of a single application proposing in excess of 20,000m<sup>2</sup>, and is therefore not applicable in this instance, as the application proposals are 4,645m<sup>2</sup> (gross).

In respect of criterion 3 (b) it is not immediately clear how it has been interpreted that referral is necessary. I would therefore respectfully request your written confirmation as to why the 20,000m<sup>2</sup> (aggregated floorspace) threshold, as outlined in criterion 3 (b) has been exceeded.

I would be grateful if you could confirm your availability for the morning of 26<sup>th</sup> January or, if this does not suit, to provide a list of convenient alternatives. In the meantime, please do not hesitate to contact me directly should you have any further queries.

RECEIVED  
20 JAN 2009

Yours sincerely,

pp   
Ben Ellis

**Planning Potential**

CC: West Wilts DC Planning Committee  
Melksham Town Council  
Richard Huteson Asda Stores  
Chris Marlow Asda Stores  
Ian Hall Saper Hall  
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Enc