

**PLANNING COMMITTEE****8 January 2009****ITEM NO: 04****APPLICATION NO: 07/03866/FUL****LOCATION: Country Wide Farmers Ltd Bradford Road Melksham  
Wiltshire SN12 8LQ**

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West Wiltshire District Council, Bradley Road, Trowbridge, Wiltshire, BA14 0RD Tel: 01225 776655  
 Fax: 01225 770314

[www.westwiltshire.gov.uk](http://www.westwiltshire.gov.uk)

SLA: 100022961

<b>04 Application:</b>	<b>07/03866/FUL</b>
<b>Site Address:</b>	<b>Country Wide Farmers Ltd Bradford Road Melksham Wiltshire SN12 8LQ</b>

Parish:	Melksham (Town)	Ward:	Melksham Without
Grid Reference	389940 164146		
Application Type:	Full Plan		
Development:	Regeneration of site to include demolition of existing buildings and erection of new food store together with car park and landscaping		
Applicant Details:	Asda Stores Limited And Countrywide Farmers PLC C/O Planning Potential Magdalen House 136 Tooley Street London SE1 2TU		
Agent Details:	Planning Potential FAO Mr Alastair Close Magdalen House 136 Tooley Street London SE1 2TU		
Case Officer:	Miss Julia Evans Phone: 01225 776655 ext 140 Email: jevans@westwiltshire.gov.uk		
Date Received:	17.12.2007	Expiry Date:	17.03.2008

## COMMITTEE REPORT

This application is brought to Committee because it is a significant departure from the development plan.

### APPLICATION SITE & SURROUNDING AREA

The site is currently occupied by the Countrywide Stores shop to the southern half of the site, with the vacant animal food-stuff buildings to the north of this. These buildings are proposed for demolition. They are a mix of materials, heights, and design, reflecting the existing and previous use of the site. The site slopes gently towards the west.

There are currently two vehicular accesses to the site, one off the B3107 at the south of the site, and the other off the one-way A350 system to the north. There is no pedestrian access to the site from the town or surrounding areas.

The site is surrounded by a mix of uses, including the railway to the west of the site (beyond which is farm land), further vacant manufacturing buildings to the south, the A350 to the eastern boundary beyond which are offices and residential uses. To the north is a car garage with further employment uses beyond this. The Melksham Sewage Treatment Works lies adjacent to the east of the site, and shares one of the site's accesses.

### PROPOSAL

This is a full application for a new Asda superstore at Countrywide Farmers, Bradford Road, Melksham. The existing buildings would be demolished and a new store erected which would have a gross area of 4,645m<sup>2</sup>, with a net sales area of 2,601m<sup>2</sup>. Of the 2601m<sup>2</sup> net sales floorspace, 1,858m<sup>2</sup> would be for convenience goods and 743m<sup>2</sup> for comparison goods. The building would be located to the southern corner of the site, with its car park and access to the north. The service yard would be to the rear of the building, to the southern edge of the site.

The building would be constructed of white cladding panels with an aluminium roof. A small detached building would be located to the north-east corner of the store to provide ATM facilities.

The application has been supported by the following documents:-

- \* A Planning and Retail statement;
- \* A Floor Risk Assessment;
- \* A Design & Access statement;
- \* A Statement of Community Involvement;
- \* A Sustainability Statement;
- \* A Transport Assessment;
- \* A draft Travel Plan;
- \* A S-Paramics Microsimulation Model Testing report; and
- \* An Odour Control report.

In summary, these reports provide justification for the development of the site as a supermarket.

## **CONSULTATIONS**

### Parish/Town Council

MELKSHAM TOWN COUNCIL state "The Town Council noted that reports were available on the retail justification for the store in the town and what changes could be made to the highway if the application went ahead. The transport report included details on improvements to encourage non car modes of transport, such as enhanced pedestrian and cycle access and public transport enhancements.

"Councillors welcomed the additional information but "RESOLVED: To make no changes to their original comments, ie: "The Town Council welcomed this application and felt it showed that Asda had faith in developing in Melksham. However, the Council has concerns relating to access to the site:

"1. Vehicle access. This needs to be looked at more closely. The proposed junction is on a very busy road, which already suffers from considerable congestion.

"2. If traffic lights are used at the proposed junction these need to be synchronised with others nearby.

"3. The proposed pedestrian/cycle. This needs to be looked at more closely. It was felt there is an opportunity to link in with Footpath 22 which crosses the road at the proposed junction point from Bradford Road/Old Broughton Road then across to the railway line on the other side. It was asked whether a footbridge could be used at this point. It was also asked if the possibility of linking an underpass to the site from the current underpass could be used. This would mean that the development was likely to comply with planning Policy SP1 (C) and (D).

"4. The need for good public transport links into town, the east side of Melksham and the outlying villages and/or dedicated shop buses.

"5. The need for some form of link to the train station.

"The Town Council also would ask that any Section 106 Agreement money be used to improve transport links. The Town Council requested that the application be considered by the Planning Committee at WWDC."

### External

HIGHWAY AUTHORITY state: "I am writing to let you have our final observations on the above application. A considerable amount of discussion has taken place between us and the applicants particularly in terms of the viability of providing good access by public transport and making sure the traffic modelling work is robust. We have serious misgivings about the impact of this development, for the following reasons:

"1) Effect on the A350

It can be seen by comparing the 2009 base traffic model (ie. predicted traffic without the development) with the 2009 base + development model that the introduction of additional traffic and the signal controlled access into the site have a serious detrimental impact on the functioning of the A350. The Friday PM peak model is of most concern. This shows that southbound journey times would increase and queues back from the new junction would extend across the existing

A350/A365 junction, causing issues with the functioning of this junction. The introduction of the signals also has some detriment to northbound traffic, at times the model shows queues extending back from the signals onto the roundabout. This means vehicles on the B3109 would have difficulty getting onto the roundabout, leading to large queues and most likely rat-running on alternative roads

**"2) Access onto the A350**

Policy T8 of the Wiltshire and Swindon Structure Plan states that: "Proposals for new developments should not be accessed directly from the national primary route network outside built-up areas, unless an over-riding need can be demonstrated. Developments should provide appropriate mitigating measures to offset any adverse effects on the transport network arising from traffic generated at both construction and operational stages." The A350 is a national primary route. Given that the speed limit past the site is derestricted, from a transport perspective the site is not in a built-up area. Therefore the proposal to install a new access off the A350 would not be acceptable in principle under policy T8.

**"3) Access by sustainable modes of transport**

Discussions have been held between our public transport section and the applicant's consultant about how the site could be accessed by public transport. Although there are a number of services which pass the site on the A350, putting stops on the A350 is not viable. If there were lay-bys it would be difficult for buses to pullout here and if the buses stopped in the line of traffic it would cause congestion. The possibility of diverting services into the site has been discussed but this could lead to considerable delays for services and existing passengers. A350 southbound buses would have to go right around the roundabout, access the site from a specific bus access off the roundabout and then have to queue with the rest of the traffic leaving the site to turn right onto the A350 again. Northbound buses would use the restricted access and would also have to queue with the rest of the traffic.

"In addition to this, although a proposed designated footway and cycleway down the east side of the A350 and pedestrian phases on the signals are proposed, it would not be possible to make this a pleasant route for cyclists or pedestrians to use so would not encourage these modes of transport.

"The applicant has been unable to overcome the issues that we have raised in my previous letters to you, therefore our reasons for recommending refusal are as before:

"1) The proposal is contrary to Policy T8 of the Wiltshire and Swindon Structure Plan 2016 since the proposed development derives access from the A350 National Primary Route where no overriding need has been demonstrated. Detailed modelling has proved that the development would have a detrimental impact on the function of the A350.

"2) The development is poorly sited to encourage access by non-car modes and is therefore contrary to Policy DP3 of the Wiltshire and Swindon Structure Plan 2016, and Policy SP3(E) of the West Wiltshire District Plan 1st Alteration. "

**LIBRARY & HERITAGE** state: "Although no archaeological features are recorded within the Proposed Development Area, the Avon Valley is rich in archaeological material particularly along the gravel terraces which formed a favoured location for earlier settlement and related activity. Neolithic pottery and Bronze Age socketed spearheads have been recorded in the vicinity and to the south of the site, a number of ring ditches indicative of Bronze Age funerary activity have been recorded from aerial photography. Furthermore Romano-British pottery sherds and roof tiles have been found to the west and south east of the site.

"Although the site still has potential, given the area will have been disturbed in part by the earlier development on the site it, I advise that an archaeological watching brief is carried out during the initial stages of development to record anything of interest. I recommend that the following condition, as set out in DoE Circular 11/95, is placed on the application to enable a watching brief to take place:

'No development shall take place within the area of the application until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.'

COUNTY PLANNING state: "Thank you for consulting Wiltshire County Council as strategic planning authority on additional information received in respect of the outline application for the development of the above site comprising new retail foodstore (4,645 square metres gross floorspace), car parking and landscaping.

"I have now had the opportunity to fully consider the additional information provided by Planning Potential and apologise for the delay in responding. My colleague, Allan Creedy has already provided a response to you on transportation matters (letter of 29 July 2008), which is referred to later in this letter.

"A Supplementary Retail Statement (SRS), dated July 2008, has been submitted to clarify the methodology and assumptions made in the original Planning & Retail Statement (P&RC), December 2007. This mainly relates to the quantitative need for the proposals. The concern expressed in my previous response that a sufficiently robust assessment has not been undertaken still stands. In particular, this is due to the size of the Primary Catchment Area (PCA) that has been identified and used as the basis for the retail analysis. As you will recall at the meeting on 17 June 2008 I raised this as a particular issue with the applicants.

"The PCA is a fundamental part of any retail assessment and provides the key basis for the analysis. The NEMS Household Survey undertaken in May 2006 relates to the whole PCA and I suspect does not allow analysis by smaller areas or zones, which may be why the PCA has not been reconsidered and revised as requested. As such, any conclusions drawn from the information are likely to be flawed. Clearly if a PCA relating to a particular site or centre is too large it will not provide a fair representation of local shopping patterns and it will not be possible to robustly assess issues such as trade loss and claw back.

"In addition, the Survey itself, undertaken May 2006, may also now be considered a little dated. Since the date of survey a number of extensions to main food stores at Bradford-on-Avon, Chippenham and Trowbridge have been implemented that could have influenced shopping patterns within the PCA as defined.

"The additional information in the SRS, particularly Section 2, has sought to address some of the detailed points set out in my letter dated 2 April 2008. The points raised in the SRS are discussed in turn below:

#### "Primary Catchment Area

"The additional information provided in support of the defined Primary Catchment Area (PCA) refers to the Competition Commission Report (CCR) 'Market investigation into the supply of groceries in the UK' (April 2008). The Government has not yet fully reported on the findings of this report and neither PPS6 nor the recently published Draft PPS6 refers to the need to consistently apply a 10 minute drive time when defining primary catchment areas. While the application of a 10 minute drive time may be common practice that is accepted in particular circumstances, local variances may apply that justify a smaller or larger area to be defined. In the Melksham context, a smaller primary catchment area can clearly be justified.

"It is appreciated that the CCR has considered shopping patterns and store catchment areas. However, it should be recognised that this analysis is general and does not show the wide range of differences that may be apparent in the base data if stores were considered on an individual basis.

"As stated in my original letter, the PCA is considered to be unreasonably large for Melksham particularly given its close proximity to the larger higher order centres of Chippenham and Trowbridge as well as the availability of alternative main food shopping destinations located outside of Melksham. The PCA is even showing parts of the urban area of the towns of Bradford-on-Avon, Chippenham and Trowbridge within it. All these towns contain alternative main food shopping destinations that are closer than the proposed new store at Melksham. As is recognised in paragraph 5.40 of the P&RS, the PCA should be defined as that where "future customers should find their shopping trips more convenient than other competing destinations" (emphasis added). As is clearly appreciated within paragraph 5.42 of the P&RS, it would be unsustainable for people to travel further than they have to, to undertake a main food shop.

"I am particularly concerned about the reference in paragraph 2.21 of the SRS, which states that there is a compelling argument to increase the PCA for the ASDA store. This implies that the type of store being proposed would be inappropriate in scale to the role and function of Melksham. Paragraph 2.22 also goes on to explain that 20% of the stores trade would be drawn from outside the PCA.

#### "Population Growth Rate

"More detailed information would be required to check the population figures and growth rates used in the assessment to determine whether the figures are reasonably consistent with the County Council projections. This has not yet been checked due to the outstanding issue about the size of the PCA, which should be revised for the reasons set out above.

#### "Convenience Expenditure Growth Rates

"The growth rates are in line with the most up to date MapInfo Information Brief 07/02, although higher than previous Briefs. The rate used is therefore reasonable in the absence of a more up to date Brief. It is of course possible given the current economic climate that a new Brief for 2008 may indicate a different rate.

#### "Special Forms of Trading

"Paragraph 3.28 of the West Wiltshire Retail Study 2007 indicates that non-store sales (i.e. special forms of trading SFT) would be at 4.3% in 2011 even taking into account a weaker-case scenario for internet growth. It would appear that SFT has not been over compensated for contrary to the statement at paragraph 2.39 of the SRS.

#### "Turnover of Existing Stores Efficiency Growth

"Paragraph 5.65 of the P&RS only clarifies that a 0.75% productivity growth rate has been applied to the proposed store. Table 3 of the capacity tables provides estimates of store turnovers at 2003 based on the survey information but does not consider the turnover of these stores in 2013 (the design year). No explicit allowance has therefore been made for sales densities of other stores to improve.

#### "Lidl, Melksham

"It is acknowledged that the Lidl store is mentioned in paragraph 5.56 of the P&RS with a proposed turnover of £2.9m. It is perhaps disappointing that this information was not included within the original capacity tables found within the Appendix.

"New capacity tables have now been provided that incorporates this commitment (Tables 4A, 4B and 4C). However, it is noted that no allowance has been made for Lidl to improve its sales density (i.e. efficiency growth).

#### "ASDA, Chippenham

"The appeals relating to a new ASDA store at Chippenham have now been dismissed [Appeal Ref: APP/J3910/A/2062538 (Appeal A) & APP/J3910/A/2062541 (Appeal C) Decision date: 5 August 2008]. The potential implications of the delivery of ASDA's proposals at Chippenham are therefore no longer relevant, although some of the Inspector's conclusions may be of interest.

## "Trowbridge

"There is insufficient information within the Melksham Shopping Survey results in Appendix 4 of the PR&S to substantiate the comment in paragraph 2.51 that "a significant contributing factor to those stores overtrading is trade being drawn from Melksham". The survey results are not broken down into zones and as the catchment area extends outwards to the edge of, and indeed includes parts of the urban area of, Trowbridge it is unclear how much of the overtrading can genuinely be attributed to trade being drawn from Melksham.

"Notwithstanding this, it is also important to recognise that Trowbridge is identified as a Strategic Service Centre within the adopted Wiltshire and Swindon Structure Plan 2016 and is one of the Region's Strategically Significant Cities and Towns within the Draft Regional Spatial Strategy. It is therefore expected that Trowbridge draws trade from a wide catchment area and it is of course possible that people undertaking main food shopping trips at Trowbridge are doing this as part of a combined trip with other activities within the Town.

## "Clawback of Trade

"As discussed previously, the retail analysis submitted in support of this application is based on an unreasonably large primary catchment area that does not properly take into account the nearby higher order centres of Chippenham and Trowbridge, which in themselves are sub-regional settlements with significant main food shopping opportunities. The level of expenditure that should be retained within Melksham in order to promote sustainable patterns of growth is therefore likely to be over-estimated and the case for claw-back is not based on sound evidence.

## "Potential Impact /Linkage

"As referred to in paragraph 2.70 of the SRS, it is recognised that impact can be positive as well as negative.

"However, the analysis undertaken in paragraphs 2.75 to 2.83 is flawed. The Survey only asks people whether they ever combine their main food shopping trip with any other activities in Melksham town centre (Question 7). 102 respondents or 20% said yes, of these just 60% did on either all or most trips. It is possible that a significant proportion of these are already shopping at main food shopping destinations in Melksham Town Centre. In total, 149 respondents do their main food shopping at Sainsbury's, Somerfield and Iceland within Melksham Town Centre (Question 1). The reason why they may be combining their main food shopping activity could very well be due to the fact these stores are located within the town centre and as such encourage linked trips to take place. It is unclear from the survey information to what degree other out of town stores such as the one proposed are able to encourage linked trips with town centres and therefore the likelihood of the proposal having a positive benefit on the town centre. In light of the above, the uplift of £4.1 m could be over-estimated.

"Although it is appreciated that some improvements are now proposed for pedestrian and cycle access, the route would not be pleasant and so would not encourage these modes of transport. This view is shared by my colleague's transportation comments. The A350 could be perceived as a major barrier between the site and the town centre, and therefore unlikely to encourage linked trips by sustainable means. To reiterate my previous response, the proposal is likely to serve as a standalone shopping destination that is primarily accessed by car and offers little potential to support the vitality and viability of the Town Centre.

"Specifically, in terms of the comments at paragraph 2.84 of the SRS, it is perhaps not surprising that II ASDA and Countrywide's proposals have not been subject to objections from existing retailers in Melksham" due to the recent investigation by the Competition Commission into retailing.

"In addition, to the above comments, it is noted that the convenience sales floorspace information (Table 3, Appendix 6) has not been reconsidered in light of the County Council monitoring data. This underestimates the level of existing convenience sales floorspace, in particular Tesco and Asda at Trowbridge, and Sainsbury's and Morrisons at Chippenham. Also, insufficient detail is provided within the Table to consider whether the estimated turnovers and national average turnovers are reasonable, particularly for the "other" stores. The sales floorspace information has been used to estimate levels of over and under trading and forms part of the justification for the proposed store.

"In conclusion, it is clear that a robust assessment of retail matters has not been carried out by the applicant, not least because the PCA that underpins the retail analysis does not reflect the Melksham context. While further discussion and negotiation with the applicants could continue to work towards addressing the detail within the assessment it is unclear whether an agreed position could be reached. Nevertheless, even if an agreed position could be reached, the issue still remains about the location of the store as set out in my earlier letter.

"An objection to the application is therefore still maintained. In particular, the proposal is considered to be contrary to Policies DP1, DP3 and DP6 of the adopted Wiltshire and Swindon Structure Plan 2016 in that it would not achieve a pattern of land uses which minimise the need to travel and support increased use of non-car modes of travel. "

ENVIRONMENT AGENCY state: "Thank you for consulting the Environment Agency on the above planning application. We have no objection to the proposed development subject to the following conditions (or similar) being included within any planning permission granted. This is discussed below.

#### "Flood Risk

"Our flood zone outlines were recently updated using more definitive ground level calibration. Consequently, our flood zone 2 outline now follows approximately the 35.10m AOD contour as shown on the submitted drawing 002/8. Therefore, we would support the sequential test logic and the selection of this site for the development as set out in section 5.2 of the Flood Risk Assessment (FRA).

"We agree with the proposed surface water attenuate on site up to the 1:100 year climate change event through two below ground attenuation systems, which would address the current onsite surface water flooding issues and lower the pre-development run off rate.

"CONDITION: No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water run-off limitation, including provisions for pollution prevention where appropriate, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.

"REASON: To prevent the increased risk of flooding and to prevent pollution of the water environment.

"NOTE -We also recommend all manhole covers on the surface and foul sewerage systems be identified and preferably colour coded.

"CONDITION: Finished floor levels of the development should be set no lower than 35.25m AOD

"REASON: To protect the development from flooding

#### "Pollution Control

"CONDITION: Any drainage from areas where waste food materials are stored, waste skips or compactors are sited should either be totally contained or directed to the foul sewer.

"REASON: To prevent pollution of the water environment.

"NOTE - We recommend provisions are put in place to prevent any shopping trolleys from being taken outside the perimeter area of the store and its car park .

#### "Contaminated Land

"The development overlies a Minor Aquifer as defined by the Environment Agency's Policy and Practice for the Protection of Groundwater (PPPG), but does not lie within any Source Protection Zone, as described in the same PPPG. An Aquifer is a body of rock beneath the surface which stores water.



"Activities carried out at this site may have caused contamination of soil, subsoil and groundwater present beneath the site and may present a threat to nearby surface waters, especially as a result of the proposed development.

"CONDITION: Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the local planning authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

"1. 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

"2. 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.

"3. 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 to be undertaken.

"4. 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.

"Any changes to these agreed elements require the express consent of the local planning authority.

"REASON: Although generic remedial options are available to deal with the risks to controlled waters posed by contamination at this site, further details will be required to ensure that risks are appropriately addressed.

"This practice is considered important so that the site operator/owner, the regulatory authorities and other parties, such as the general public, potential purchasers or investors, can have confidence in the outcome, and any subsequent decisions made about the need for action to deal with any contamination at the site.

"We recommend using the following documentation:

- The risk management framework provided in CLR11 , Model Procedures for the Management of Land Contamination when dealing with land affected by contamination. It provides the technical framework for structured decision- making regarding land contamination. It is available from [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk).

- BS 101752001 , Investigation of potentially contaminated sites -Code of Practice as a guide to undertaking the desk study and site investigation scheme.

"Pollution Prevention During Construction

"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 work and storage areas and compounds and the control and removal of spoil and wastes.

"We recommend referring to our Pollution Prevention Guidelines, which can be found at: [www.environment-agency.gov.uk/business/444251/444731/PQg/](http://www.environment-agency.gov.uk/business/444251/444731/PQg/)

## "Storage of Oils, Fuels or Chemicals

"CONDITION: Any facilities for the storage of oils, fuels or chemicals shall be sited on imperious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

"REASON: To prevent pollution of the water environment.

## "4 Water Efficiency

"We strongly recommend water efficiency measures be incorporated into this scheme. It would assist in conserving natural water resources and offer some contingency during times of water shortage. Please note the following condition has been supported in principle by the Planning Inspectorate.

"CONDITION: No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

"REASON: In the interests of sustainable development and prudent use of natural resources.

"NOTE TO APPLICANT: The development should include water efficient appliances, fittings and systems in order to contribute to reduced water demand in the area. These should include, as a minimum, dual-flush toilets, water butts, spray taps and white goods (where installed) with the maximum water efficiency rating. 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. Further advice can be found at:

- <http://www.environment-agency.gov.uk/> > Subjects > Water Resources > How We Help To Save Water > Publications > Conserving Water in Buildings; and
- <http://www.savewatersavemoney.co.uk/>.

"A scheme of water efficiency should be submitted in accordance with the information supplied on the website.

## "Sustainable Construction

"We strongly recommend that the proposed development includes sustainable design and construction measures, which comply with the Code for Sustainable Homes. The development should aim to achieve the highest number of stars possible, preferably six. For detailed advice on how to comply with the Code please visit: [http://www.planningportal.gov.uk/uploads/code for sust homes.pdf](http://www.planningportal.gov.uk/uploads/code%20for%20sust%20homes.pdf). It includes sections on energy and water efficiency and will soon be compulsory for all housing.

"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 reduced."

WESSEX WATER state: "Our discussions focused on when the planning application is to be determined and on Wessex Water's view as to the desirability of dealing with odour mitigation measures by way of planning condition.

"To confirm our position:-

"1) Wessex Water is currently assessing the outputs from an odour survey carried out by Entec.

"2) This process will involve an appraisal of what mitigation measures might be necessary to allow Wessex Water to withdraw its objection to the above planning application together with the preparation of outline designs and reporting on the matter to internal approvals teams.

"3) This process is likely to take another 6-8 weeks.

"4) At this stage Wessex Water is not in a position to say with any certainty what works might be required or even if mitigation measures will satisfactorily remove the risk of odour issues at the proposed Asda store.

"5) Given the above we are not in a position to agree to the imposition of a planning condition as being an appropriate way forward in this matter let alone what the wording of any such condition might be.

"6) Our preference is that planning permission should not be granted unless and until an agreement is entered into between the developer and Wessex Water for the funding and carrying out of mitigation measures to an agreed design.

"7) As indicated above we are some way from this position.

"8) In our opinion potential odour issues should have been the subject of discussions between the developer and Wessex Water well in advance of the submission of the planning application.

"9) In view of the above Wessex Water maintains its objection to the planning application."

**WILTSHIRE WILDLIFE TRUST** state: "The Trust has no objection to this application, and has the following comments:

"Protected Species. Clearance of vegetation and felling of trees may impact on roosting bats and breeding birds.

"Bats. All bats are protected under the Wildlife and Countryside Act 1981 (as amended) and under the Conservation (Natural Habitats & c) Regulations 1994." A condition of any planning permission should be to ensure protection of any bats on site.

"Breeding Birds. A condition of any planning permission should be protecting breeding birds.

"Measures to Enhance Biodiversity. The Trust is pleased to see that native species of local provenance are proposed for landscaping on the site.

Measures to Increase Sustainability. The developer should use an energy supplier that is 100% renewable energy-based. A green roof would be a further measure, with wide positive sustainability impact."

**NATURAL ENGLAND** state: "The information forwarded to Natural England is of no use to determine whether or not the development will have an adverse effect on any protected species. Therefore, Natural England's initial objection still stands. However, if a wildlife survey is submitted then Natural England will be happy to make comment."

**REGIONAL DEVELOPMENT AGENCY** has not responded.

**NETWORK RAIL** state: "Thank you for your letter and enclosures dated 28 December 2007, together with the opportunity to comment on this proposal. Below are some standard guidelines that should be considered with any application on or adjacent to railway owned land or infrastructure.

**"DRAINAGE.** Additional or increased flows of surface water should not be discharged onto Network Rail land or into Network Rail's culverts or drains. In the interest of the long-term stability of the railway, it is recommended that soakaways should not be constructed within 10 metres of Network Rail's boundary.

**"SAFETY.** No work should be carried out on the development site that may endanger the safe operation of the railway or the stability of Network Rail's structures and adjoining land. In particular, the demolition of buildings or other structures must be carried out in accordance with an agreed method statement. Care must be taken to ensure that no debris or other materials can fall onto Network Rail land.....

**"GROUND LEVELS.** The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges.

**"SITE LAYOUT.** It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

**"LANDSCAPING.** In the interests of safety, all new trees to be planted near Network Rail's land should be located at a distance of not less than their mature height from the boundary fence. Details of planting schemes should be submitted to this office for prior approval.

**PLANT, SCAFFOLDING AND CRANES.** Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall onto Network Rail land."

Internal:

**PLANNING POLICY state:**

**"Key Issues:**

"The potential proposal site lies on the western edge of Melksham, to the immediate west of both the A350 (Western Way) and River Avon. The proposal site is currently in mixed use with one quarter of the site being retail use and the remainder being in employment use under Use Classes B1 (Offices) and B8 storage. The proposal seeks to redevelop the northern half of the Countrywide Farmers site for retail/ foodstore uses (approx 28,000 sq ft) and associated car parking.

"The surrounding area is predominantly industrial/employment use in character, with a sewage treatment works, and a car showroom and repair garage immediately adjoining the site. Warehousing and a kitchen manufacturing factory are to the immediate north and a further vehicle repair facility is to the south. Some of these uses have an ancillary retail element. The site is bounded by the Trowbridge – Swindon Rail line. The proposal site, and the other sites surrounding it, is identified within the West Wiltshire Employment Land Assessment as being a key (non-allocated) employment site within Melksham.

"The site is physically distant from Melksham Town Centre – 310 metres to the nearest point of the town centre commercial area boundary (as the crow flies) and 550 metres walking distance to the nearest point of the town centre commercial area boundary. The site is 625 metres distant (centroid to centroid – as the crow flies) from the heart of the commercial area boundary (Primary Retail Frontage), or 940 metres walking distance. The site is physically separated from the town centre and adjoining residential areas by the A350 and the River Avon. Based upon this information the site can be described as being out of centre (in terms of distance from town centre primary retail frontages) and potentially out of town due to it being physically separated from both the town centre and urban residential areas (as per PPS6).

#### **"Retail Need**

Government policy is set out within PPS6, paragraphs 2.28 - 2.31 discuss site selection and analysis within the development control context. Our own retail planning Policy SP3 addresses the issue of out of centre shopping along similar criteria – namely, need, sequential approach (to site selection), harm to town centre vitality and viability and site accessibility.

"The applicant has produced both a quantitative and qualitative needs assessment. The quantitative needs analysis is based upon a 500 household telephone survey within a 10 minute (drive time) catchment area. The applicant's assessment challenges the detail of the District Council's own district wide retail needs assessment. Whilst the District Council's assessment states that there is no further quantitative need for additional foodstore provision within the town, the applicant's contrary position is that there is a need. Their conclusion is based on the assumption that their survey methods are more specific to the town, rather than being district wide. I recommend that the District Council takes further advice on the validity and robustness of the applicant's assessment methodology.

"I note that the applicant's methodology does not take into account the implications of either recent retail commitments, or the potential impact (upon need) of current applications. Clearly, were the District Council minded to allow current proposals in Trowbridge Town Centre and in Melksham itself (Lidl), there would be an impact upon the need for further floorspace - as calculated by the applicant.

"The applicant also claims that the provision of (their) additional foodstore floorspace will make a positive contribution in terms of 'clawing back' customer seepage into the town - namely, bringing back resident customers (and indeed non-residents), who currently shop elsewhere. This is a mistaken assumption. Claw back can be a consideration in the determination of retail proposals. However, it can only be justified in locations where the existing foodstore retail offer is limited. That is not the case in Melksham. In qualitative terms, the proposal is for an ASDA store; Melksham already has a Sainsbury, Somerfield and Aldi stores, which provide a wide selection of comparison retail offer for the town. It is difficult to see how an ASDA will provide a qualitative improvement or substantially increase the range of offer.

"The applicant has produced a sequential approach study to justify their site selection. The site analysis included within their study is at not very detailed and in a number of areas superficial. I recommend that we seek further advice on the robustness and validity of this part of their supporting information.

#### **"Town Centre Impacts**

The potential negative impact of the proposal upon the existing town environment is of great concern. PPS6 states that even where a need for a new retail use can be demonstrated there will still be an impact upon the town centre. PPS6 continues by explaining how positive impacts will be achieved if the proposal is either within or well related to the town centre. This is clearly not the case with the proposal site, which is both distant and remote. It is extremely unclear how a distant and remote site such as this will provide a positive benefit to the town centre as the links between the two are non-existent. Whilst the applicant has suggested the introduction of improved accessibility arrangements, these elements of the proposal are geographically limited to the site and it's immediate surroundings. It remains unclear how the site will connect, access and function with the town centre. The primary concern is that the proposal will be predominantly reliant upon the private car for access at the exclusion of trips to the town centre itself. As the proposal include a comparison, in addition to foodstore, element there is significant scope of an extremely negative impact upon Melksham town centre.

#### **"Accessibility**

Current safe pedestrian and cycle links between the site, the town centre and Melksham's residential area are non-existent. Public transport links are limited to bus stops on the busy A350. Whilst the site is highly accessible for employment purposes, particularly for goods traffic, it significantly less accessible to prospective shoppers, who will rely upon the private car to access the site - such access arrangements are unlikely to encourage shared trips to this prospective store and the town centre.

"The applicant has not demonstrated how access can be sustainably improved.

"The Highway Authority has expressed great concern about this application in terms of it being able to provide viable access improvements from the A350 onto the site. Current highway access is for a much smaller store and employment uses, which will not have sufficient capacity to accommodate a proposal of this nature.

"Given the likely reliance upon the private car to travel to this remote site there are also access associated sustainability issues.

#### "Loss of Employment Land/ Floorspace

Whilst part of the site (approximately one quarter) has a certificate of lawfulness permitting the current ancillary retail uses, the proposal seeks to expand retail activities across the whole of the northern site. The resultant retail use being entirely free standing. The applicant has failed to provide any justification for the loss of the remaining employment land.

"The applicant notes the contents of the District Employment Land Assessment and concludes that there is sufficient employment land provision. This is curious as the Employment Land Assessment states a conservative need for at least another 50 ha of new employment land over the Core Strategy period (until 2026) over and above current provision. The assessment also notes the negative impacts of the trend of employment land lost to other uses, and that such land lost to other uses has to be made good by new allocations elsewhere.

"Whilst the proposed use will generate new jobs this point is overplayed. Many of the new jobs will be part time. Most will be poorly paid service sector jobs. This is unlikely to positively contribute to the district's economy, or employment market.

"The applicant has not considered or tested other/ alternative employment uses on the site. I expected an analysis of the site and demonstration of its fit-for-purpose status as employment land. Such an analysis should include details of how the site was marketed for employment uses – successfully or otherwise.

"Employment sites such as this, located on the edge of settlements, provide a valuable contribution towards the urban employment offer. If redeveloped for small scale employment uses/ business start ups, such sites provide a sustainable alternative to more remote/ rural sites – namely, where such uses are currently pushed out to.

#### "Sewage Treatment Works

The sites proximity to a sewage treatment works is a major concern. Wessex Water the works operators have expressed this concern and stated that it will be impossible to mitigate the impact of the treatment works upon the proposed foodstore. Given the Foodstore use will include food sale and preparation (items not currently for sale on the site) the potential nuisance impact of the treatment works is likely to be considerable.

"I note the contents of the applicant's odour study. The statement that there have been no odour complaints pertaining to the proposal is understandable given it's current status as an employment site, with limited retail provision. It can be assumed (using the applicant's logic) that the proposed intensification of public uses upon the site would in reality raise the potential for future odour complaints rather than lower them.

#### Flood Risk

Although the proposal site does not sit within the current functional flood plain it does lie within Flood Zone 2. Land to the immediate south of the site, south of the Western Way Bridge (over the River Avon) is subject to one in five year flood events. Current guidance, under PPS25 identifies retail uses as falling within the less vulnerable category and acceptable within all but functional flood plain. Given current guidance, the EA's advice is not to provide a refusing objection. However, given the increasing sensitivity of flood risk to new development a FRA for the proposal is highly advisable.

**"Conclusions:**

The proposal is not acceptable in principle. The District Retail Needs Assessment states that there is neither a quantitative or qualitative need for further comparison retailing within Melksham. Given the applicant's challenge to our study, I recommend that we take further advice on their methodology, assumptions and conclusions. Nevertheless, there are genuine concerns that the proposal will have a significant negative impact upon the town centres continued vitality and viability. The site has poor accessibility, particularly by alternative modes other than the private car. The proposal will result in the loss of existing urban employment land alternative employment uses have not been considered. The site's close proximity to the sewage treatment works and the associated (significant) nuisance is also noted.

**"Policy Recommendation:**

Unacceptable in policy terms."

**ENVIRONMENTAL HEALTH state:** "Matters Considered: Odour, flies, birds, noise and light causing loss of amenity. Food Comments: N/A. Licensing Comments: N/A. Safety Comments: N/A. Protection Comments: The site is located next to the Wessex Water sewerage works that serves Melksham and the surrounding villages. Odour. Odour incidents can be expected throughout the year, however, it can be particularly bad during the summer dryer months. The smelliest odour producing processes of the works are located near to the boundary of the proposed development. These processes are:

- Screw Pump (raw sewage intake, which is open to the atmosphere)
- Screening Handling (removes all the paper, sanitary towels and non-sewage solids) washes, grinds, dries and then discharged to an open skip
- Grit Rake and Paddle, discharges to an open skip
- 2 Primary Tanks and 2 Overflow tanks

**"Rats.** The distribution chambers are open to the surrounding environment to allow the natural breakdown of the sewage. Thus providing a readily available food source for the rats.

**"Birds**

The distribution chambers are open to the surrounding environment to allow the natural breakdown of the sewage. Thus providing a readily available food source for birds such as ducks and gulls.

**"Flies**

There is the potential for insect complaints to be generated from the sewage works as insects are seen as an integral part of the purification of the sewage. A mixed and diverse micro- and macrofauna is highly desirable for the efficient working of a filter bed.

**"The inconvenience or annoyance resulting from the presence of insects may lead to a statutory nuisance.**

**"Noise and Light**

The site is currently sufficiently far enough away from residential properties to alleviate any concerns regarding noise and construction nuisance. However, if nuisance arises from the site, Environmental Protection have the capacity to use their primary legislation.

**"Recommendation: Recommend refusal due to the incompatible nature of the proposed use with existing important infrastructure.**

**"Light**

If you are minded to recommend approval, please reconsult.

**"Informatives: N/A"**

**REGENERATION OFFICER states:** "I am of the view that these [revised information] do not significantly alter the fundamental issues within this application. I would not seek to add to my original comments." These stated:

"The Retail Needs Assessment also showed that by 2012 Melksham would have an additional convenience floorspace need of 237-473sqm which is considerably less than the 28,000sqft gross store proposed by ASDA. While ASDA's consultants argue that the DC's assessment is conservative and does not account for factors such as population growth it should be noted that major residential development will be situated to the east of Melksham without a direct road link to the application site and thus the proposed ASDA store would not practically cater for the growing local population it being situated on the opposite side of town. Inevitably should residents of the East of Melksham development wish to visit this store they are more than likely to do so by car which would increase traffic congestion and undermine any sustainability case made by the applicants.

"In their critique of the DC's Retail Needs Assessment the applicant claims that the development would attract visitors from beyond the boundaries of the District. Given the relatively isolated nature of the site and its reliance on vehicular access any inflow of expenditure from beyond the District will be inevitably car-based and thus detrimental to traffic flows and congestion. It is also likely to favour park and shop visits with little opportunity to capture economic benefits to Melksham Town Centre.

"Access/Transport: With 255 car parking spaces it is apparent that the applicant views car access as the principle means of visiting the site. The site itself being situated on the boundary of the urban area and being isolated from the residential areas by the A350 and adjacent land uses, is effectively "out of town" being beyond the zone that could readily be viewed as "edge of town centre". By virtue of location and emphasis on vehicular access and car parking capacity the development encourages "drive and shop" and therefore limits opportunities for existing retail etc in the town centre to share the economic benefits of this scheme. Moreover, despite the applicant's claims to the contrary, the pedestrian/cycle route proposed does not directly link to the town centre but instead emerges adjacent to the Cooper Tyre plant (not a town centre site) and to the west of the Avon. In addition this route does not link to a major residential area. I would contend that on this basis the proposed development offers no benefits to the economy or regeneration of Melksham Town and could in fact have a deleterious impact on the vitality of the town centre as it pulls trade away from established retailers. Moreover the site is only minimally connected to the town.

"The applicant stresses the proximity of the site to Melksham railway station as a positive for access and transport but I would argue that given the very poor service on this line and its connections to towns already well supplied with convenience and comparison retail, it is of no meaningful relevance. The application therefore fails to prove its sustainability in terms of access.

"It is worth noting that the applicant's Transport Assessment claims that this development would create a change in customer/visitor behaviour in that it would attract customers who currently use the existing convenience stores in the town centre. Thus by their own admission the applicant admits that this development would take trade from the town centre and thus cannot be regarded as anything other than detrimental to the vitality and viability of Melksham Town Centre.

"In terms of Regeneration, the only benefit would be aesthetic by replacing the rather "tired" looking Countrywide Store with new architecture (albeit a "clone" of ASDA stores elsewhere and not locally distinctive) and landscaping. However, the proposed site is already a successful retail outlet and as such there is not a strong case for the sites "regeneration" as described by the applicant. As described above I am of the view that the negative impact of a convenience store on this site to town centre retail makes the application harmful to town centre regeneration."

DRAINAGE ENGINEER has not responded.

LANDSCAPING OFFICER has not responded.

ECONOMIC DEVELOPMENT has not responded.



## **NOTIFICATIONS**

### Site Notices/Visits

Date of visit: 09.01.08

### Neighbours

Neighbour notifications have been undertaken. Ten letters were received making the following comments:

- the store will generate additional traffic which will add to congestion on the A350 and A365, and the B3017 and A3102;
- it includes a footway alongside a busy main road;
- public transport is limited to bus stops, which will not encourage use, and will also block an already busy road;
- the proposal does encourage use of the private motor vehicle;
- no practical connection to the nearby rail station;
- proximity to sewerage treatment works will cause nuisance, especially smells, in close proximity to food;
- another supermarket is not needed by the town;
- the A350 roundabout regularly floods;
- although the present building is unattractive it is relatively unobtrusive compared to the large white hanger-like building proposed;
- the proposal will result in light pollution if not strongly controlled;
- increase in traffic pollution which will impact on the vitality and viability of the town centre;
- Melksham Chamber of Commerce & Industry have concerns as regards the store's access off the A350; poor pedestrian access; and poor public transport links; and
- one letter of support for the store as it provides an alternative to the existing stores; it will regenerate this side of the town; and will encourage new public transport links.

## **RELEVANT PLANNING HISTORY**

77/00011/ADV - Illuminated sign - Consent 29.07.1977

84/00942/ADV - Non illuminated sign - Consent 20.11.1984

84/01164/FUL - Change of use to office area in plant depot building - Permission 23.10.1984

84/01165/ADV - Eight flagpoles and flags - Consent 24.10.1984

84/01166/ADV - Applied lettering to facade of building - Consent 24.10.1984

84/01220/FUL - Change of use to premises for the display and sale of agricultural and horticultural products farm hardware accessories equipment and related goods - Permission 21.11.1984

84/01471/FUL - Placing of three temporary portable offices on existing depot - Permission 08.01.1985

84/01472/FUL - Erection of engineers store and garage - Permission 08.01.1985

85/00097/FUL - Infilling of factory doors and provision of windows - Permission 05.03.1985

85/00390/ADV - Advertising sign on facade of building - Consent 15.05.1985

85/00524/FUL - New entrance to B3107 - Permission 11.06.1985

86/00545/FUL - Provision of fire escape - Permission 10.06.1986

92/00714/FUL - Erection of vehicle canopy - Permission 06.07.1992

94/00548/FUL - Extension to warehouse construction of loading bays and erection of silo and bin storage - Permission 13.06.1994

96/01125/FUL - Sectional building - Permission 23.10.1996

97/00325/FUL - Extension to warehouse and bulk intake area - Permission 09.04.1997

97/01256/ADV - Replacement logo - Consent 03.11.1997

98/00904/FUL - Erection of blending bins and weighbridge - Permission 02.09.1998

00/01351/FUL - LPG autogas facility for re-fuelling vehicles - to be used by store customers/account holders - Permission 09.04.2001

01/00990/FUL - Enlargement of LPG facility - previous application 00/01351 - Permission 07.08.2001

01/01139/FUL - Installation of an additional silo - Permission 03.09.2001

05/03029/EUD - Certificate of Lawfulness for retail use of the site - Withdrawn 06.03.2006

06/01720/EUD - Application for Certificate of Lawfulness for retail use (A1 use) - Approved 23.10.2006

## KEY ISSUES

This application raises the following planning matters:

- retail issues;
- highway matters;
- design;
- the water environment and flooding;
- nuisance & pollution issues;
- railway;
- protected species;
- archaeology;
- loss of employment

## RELEVANT PLANNING POLICIES

### Wiltshire & Swindon Structure Plan 2016

- DP1 Priorities for sustainable development
- DP2 Infrastructure
- DP3 Development strategy
- DP5 Town centres, district centres and employment areas
- DP6 Shopping
- T3 Public passenger transport
- T5 Cycling and walking
- T6 Demand management
- T8 Transport provision for new developments
- C1 Nature conservation
- C6 The water environment
- HE2 Other sites of archaeological or historic interest

### West Wiltshire District Plan - 1st Alteration 2004

- C15 Archaeological assessment
- C31A Design
- C32 Landscaping
- C34A Resource consumption and reduction
- C35 Light pollution
- C37 Contaminated land
- C38 Nuisance
- T11 Footpaths and rights of way

H1	Further housing development within towns
E5	Loss of employment floorspace
T9	Bus services
T10	Car parking
T11	Cycleways
T12	Footpaths and bridleways
SP3	Out of centre shopping
U1A	Foul water disposal
U2	Surface water disposal
U4	Groundwater Source Protection Area
U5	Sewage treatment works
I1	Implementation
I3	Access for everyone

#### National Guidance

PPS1	Delivering Sustainable Development
PPG4	Industrial & Commercial Development in Small Firms
PPS6	Planning for Town Centres
PPG13	Transport
PPG16	Archaeology & Planning
PPS23	Planning & Pollution -Control
PPG24	Planning & Noise
PPS25	Development & Flood Risk

## OFFICER APPRAISAL

### Retail Matters

PPS6 - Planning for Town Centres defines out of centre retail sites as being "A location which is not in or on the edge of a centre but not necessarily outside the urban area" (Annex A, Table 2). Both the District & County Council have taken the view that the Countrywide site is an out of centre site. As such, any application for a new superstore needs to meet the tests set out in PPS6, which also clearly puts the onus on the applicant to demonstrate:

- "a) the need for the development;
- b) that the development is of an appropriate scale;
- c) that there are no more central sites for the development;
- d) that there are no unacceptable impacts on existing centres; and
- e) that locations are accessible." (Para 3.4)

These requirements are reiterated in Adopted Development Plan Policy (SP3 Out of Centre Shopping) in the West Wiltshire District Plan - 1st Alteration 2004.

The application was supported with a "Planning & Retail Statement" (12/07) and then during the processing of the application with a further "Supplementary Retail Statement" (dated July 2008). This additional report was submitted in order to clarify the methodology and assumptions used for justifying the need for this type of store at this particular site.

The Local Planning Authority has been consistent in its advice to the applicant and their agents. Even at the pre-application discussions for the proposed store, the applicant has been advised that the proposal could not satisfy all the requirements in PPS6 and SP3. Despite this advice, an application was submitted. However, even with the supporting retail document the proposal raises a number of fundamental retail concerns that cannot be addressed. The very location of the proposal means that the site has very limited potential "to encourage access by sustainable modes of transport". The A350 effectively separates the site from the town. Despite the proposed public transport and pedestrian linkage measures, the physical separation of the site from the town by a very busy road will be highly unlikely to encourage shared trips to the proposed store and town centre. Indeed the physical attributes of the site is unlikely to result in sustainable usage, necessitating single trip private car usage to the site which is contrary to PSP6 and PPG13, Development Plan policy, and sustainability aims. This forms a robust reason for refusal.

Both the County and the Local Planning Authority have questioned the applicant's retail justification for the store. Neither authority can support the proposal in terms of its negative impact on Melksham's vitality and viability. In particular, the impact of the store on the town centre is of great concern, as the very location of the store means that linkages between the two areas are virtually non-existent, and it is unclear how the site will connect, access and function with the town centre. The evidence provided by the applicant is, therefore, insufficiently robust, and would create a standalone store that would harm the vitality and viability of Melksham town centre. In addition the West Wilts Retail Needs Survey (April 2007) indicates that there is little need within the short term for future retail development at Melksham. This forms a further robust reason for refusal.

### Highways Issues

During the processing of the application, a considerable amount of discussion and negotiation has occurred to address the fundamental highways concerns this proposal raises. The Highway Authority have "serious misgivings about the impact of this development", for three main reasons:

- the effect on the A350 and surrounding road network;
- the access onto the A350; and
- access by sustainable modes of transport.

Despite the provisions of a Transport Assessment and modelling, the Highway Authority are fundamentally concerned that the new store would create serious congestion problems on the A350, which would extend onto the neighbouring network, particularly the A350/A365 junction. Even with the introduction of signals, the proposal would still result in queuing onto the surrounding network, impeding the functioning of the roundabout, and leading to large queues and rat-running on alternative roads. In addition, the A350 is a national primary route, whereby an access off it is contrary to Policy T8 of the Wiltshire & Swindon Structure Plan 2016. As a result, the proposal cannot be supported on highway safety grounds.

Numerous discussions have also been held with the Highway Authority to discuss how the site could be accessed by public transport. The applicant has proposed a lay-by bus-stop off the A350, but the Highway Authority have raised objection to this as it could further add to the congestion proposals caused by the scheme. Diverting existing services into the site is also not supported due to the possible delays for services and existing passengers, and for adding to the congestion onto the A350.

In addition to the bus services, the Highway Authority also object to the proposed footway and cycleway, which are considered to be an unpleasant route for these uses which would not be conducive to its use. The applicant has not been able to overcome these issues, so refusal is also recommended on sustainable access grounds.

### Melksham Sewage Treatment Works

Policy U5 of the West Wiltshire District Plan - 1st Alteration 2004 states that "Proposals for housing or other development which is sensitive to odour pollution will not be permitted within the sewage treatment works buffer zones, as defined on the Proposals Map, where the proposed development cannot reasonably co-exist in proximity to a sewage treatment works." The whole site lies within this odour-sensitive area, and has raised objections from both Wessex Water and the Council's Environment Health Section. Although extensive negotiations have occurred with Wessex Water to address this matter, to date no agreement or satisfactory solution has been arrived at to overcome the problems of odour nuisance. In addition to the odour nuisance, Environmental Health have also raised objection to the other pests and vermin that the works generate, such as rats, birds and flies. It is considered that all of these are likely to create a statutory nuisance problem for the store and its users. The proposal is, therefore, considered contrary to Policy U5.

### Loss of Employment Floorspace

Policy C5 is concerned with the loss of existing employment floorspace. Approximately part of the site has a Certificate of Lawfulness permitting retail uses, but the site extends into the industrial area to the north of the existing store. The Planning Policy Section raise concern over the loss of the employment uses on the site. Although the applicant argues that the proposed use will generate new jobs, many of these will be part time, poorly paid service sector ones, which are considered unlikely to positively contribute towards the district's economy or employment market. The applicant has also not tested whether other and/or alternative uses are appropriate for the site. In such a location, the site currently provides a valuable contribution towards urban employment, particularly in respect of the need to find at least another 50 hectares of new employment land over the Core Strategy period (until 2026). The proposal is, therefore, considered contrary to Policy E5, and this forms a further reason for refusal.

### Water Environment

The site lies just outside the 100 year flood plain, and the area and road network does experience flooding most years. The Environment Agency have raised no objection to the proposed development, subject to conditions concerning flood risk, pollution control, contaminated land, storage of chemicals, water efficiency, and sustainable construction. It is not felt that with this expert opinion that an objection on flooding grounds could be substantiated.

### Protected Species

Both the Wiltshire Wildlife Trust and Natural England have been consulted on the application. Although Natural England have objected to the proposal, the Trust have no objection subject to conditions concerning the protection of protected species, and breeding birds, plus measures to enhance biodiversity and sustainability. In view of the current built-up nature of the site, it is felt that the conditions suggested by the Trust would be acceptable.

### Railway

The northwestern boundary of the site is delineated by the railway line. Network Rail have been consulted and have suggested a number of conditions to ensure the safety of the railway.

### Design

Policies C31A and SP3 are concerned with the design of a proposed development. The store design is a large white shed, with a first floor. In terms of design, its location within an area characterised by a mix of employment uses and types and styles of building would mean that it is likely to be difficult to substantiate a reason for refusal on design.

### Amenity

In addition to the nuisance issues raised by the proposal's proximity to the Sewage Works, control would also need to be exercised over lighting measures to the store. This would also be achieved by condition.

### Archaeology

The County Archaeologists are aware that the area is rich in archaeological deposits. Although they consider that the site may still have archaeological potential, due to the existing developed nature of the site they are satisfied that an archaeological watching brief is sufficient and that this could be dealt with by condition.

## **CONCLUSION**

The proposal is considered unacceptable and contrary to Government Guidance and Development Plan policy. It is not felt that these fundamental objections can be overcome by condition, and so the application is recommended for refusal.

**RECOMMENDATION: Refusal**

**Reason(s):**

- 1 Planning Policy Statement 6, Policy DP3 and DP6 of the Wiltshire & Swindon Structure Plan 2016 and Policy SP3 of the West Wiltshire District Plan - 1st Alteration 2004 states that new out of centre superstores will only be permitted if there is a need for the development, there are no suitable and viable sites within town centre and edge of centre locations, and that the development does not harm the vitality and/or viability of nearby centres. The need for the store has not been satisfactorily justified, and the proposal would harm the vitality and viability of nearby town centres by virtue of it being a stand-alone shopping destination. The proposal is therefore considered contrary to Government Guidance and Development Plan policy.
- 2 Planning Policy Statement 6, Policies DP3 & PPG6 of the Wiltshire & Swindon Structure Plan 2016, and Policy SP3 of the West Wiltshire District Plan - 1st Alteration 2004 state that new out of centre superstores will only be permitted if the development is accessible by a choice of means of transport, including by foot, bicycle, and public transport, and that the development is sited so as to reduce the number and length of car journeys. The location of the proposed superstore is such that it cannot be satisfactorily and safely accessed by non-car modes and is therefore detrimental to highways and public safety, and contrary to development plan policy.
- 3 Policy T8 of the Wiltshire & Swindon Structure Plan 2016 requires new development not to be accessed from the national primary road network, outside built-up areas, unless an overriding need can be demonstrated. No overriding need has been demonstrated, and detailed modelling has proved that the development would have a detrimental impact on the functioning of the A350. The proposal is therefore contrary to development plan policy and highways safety.
- 4 Policy E5 of the West Wiltshire District Plan - 1st Alteration 2004 states that applications involving the loss of existing employment floorspace, including proposals for retail development, will only be permitted whereby there is an adequate supply and mix of genuinely available land and premises elsewhere in the locality for employment uses, where such proposals are compatible with neighbouring land uses, and whereby such proposals do not give rise to, or continue existing traffic problems. The proposal has not satisfactorily demonstrated that the loss of employment premises is acceptable, it is not compatible with the neighbouring sewage treatment works, and it will give rise to traffic problems. The proposal, is therefore, considered contrary to this policy.
- 5 Policy U5 of the West Wiltshire District Plan - 1st Alteration 2004 states that development which is sensitive to odour pollution will not be permitted where the proposed development cannot reasonably co-exist in proximity to a sewage treatment works. The proposal will experience odour, vermin and insect nuisance in particular that cannot be satisfactorily addressed to ensure compatibility with the sewage treatment works. The proposal is, therefore, considered contrary to development plan policy and incompatible with the adjoining sewage treatment works.

**RELATED PLANS**

Drawing : PL\_02E received on 04.02.2008  
Drawing : PL\_01 received on 17.12.2007  
Drawing : PL\_08 received on 04.02.2008  
Drawing : PL\_09 received on 04.02.2008  
Drawing : PL\_03C received on 17.12.2007  
Drawing : PL\_04 received on 17.12.2007  
Drawing : PL\_06 received on 17.12.2007  
Drawing : PL\_05 received on 17.12.2007

**4**

**07/03866/FUL – New Food Store, Bradford Road, Melksham**

**Additional correspondence received from various parties:**

The following items have been received since the agenda was published:-

1. letter from a consultant acting for another major food retailer making the following comments:-
  - a. there are already four supermarkets within a small area, and the store is unlikely to create new jobs;
  - b. additional traffic generated by the store will cause serious extra congestion and delays;
  - c. safe pedestrian access is impossible and difficult to achieve; and
  - d. access for public transport will be almost non-existent.
  
2. a letter from Asda (dated 10<sup>th</sup> December 2008) to all District Members making the following points:-
  - a. criticism that officers have not provided any feedback to the additional information provided;
  - b. the public surveys undertaken demonstrate support for the site despite its location and accessibility; and
  - c. the store will create up to 300 new jobs.
  
3. a second letter from Asda making the following comments:-
  - a. the town council comments have been unfairly reflected;
  - b. no independent retail consultant has assessed the application on behalf of the Council. Criticism is made of the County's assessment of the application, their stance, and the accuracy of their response;
  - c. the site benefits from a Certificate of Lawful Use for A1 purposes, which means Asda could operate from the site without needing planning permission. The use will result in a significant increase in employment for the area;
  - d. Wessex Water have stated that the nuisance posed by the neighbouring sewage treatment works can be overcome; and
  - e. Officers have not given the application a fair and reasoned consideration.
  
4. the planning agents for Sainsbury have circulated letters to Members informing them of their client's proposals for an extension to the store.
  
5. correction to reason 02 on the report – first line PPG6 should be DP6.
  
6. two letters of support for the store from 2 local residents, as it will provide an Asda store and jobs for the town.

**Planning Officers Comments:**

The application report clearly sets out the views of all the expert consultees. Both the District and County Council have been consistent with their comments throughout the handling of the pre-application enquiry and the application itself: i.e. that the proposal is contrary to government guidance and development plan policy. If Asda wish to operate from the existing retail area established on the site by the Certificate of Lawfulness, then as retail uses have no permitted development rights, all changes to the site will need planning permission. Officers have also considered the additional written points made previously and recently sent in by the applicant's agents.

Marsh and Leigh Park Westbury contrary to the objectives of Criterion D of Policy H1 of the West Wiltshire District Plan 1<sup>st</sup> Alteration 2004.

**Application No. 3 – 08/02651/REM – Area J2, Stephenson Road, Northacre Industrial Park, Westbury.**

**APPROVAL** as recommendation but with changes to the wording of Conditions 4 and 6 as follows:

4. The height of any materials, plant or other items stored on the site shall not exceed 4m above the ground level immediately adjacent to the items stored unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure a form of development in keeping the character of the area.

6. Finished ground levels on the area of land where items are stored shall be set no lower than 52.8 metres above Ordnance Datum.

REASON: To protect the development from the residual risk of flooding.

**Application No.4 – 08/03866/FUL – Country Wide Farmers Ltd, Bradford Road, Melksham.**

A recorded vote was requested.

The following committee members voted in favour of the motion: Cllr Alford, Binding, Bolwell, Burden, Clark, Carbin, Fortescue, Fuller, Griffiths, Halik, James, Jenkins, March, Parks and Phillips OBE.

The following committee members voted against the motion: Cllr Martindale and Mounde.

There were no abstentions.

The vote was won 15 - 2 - 0.

**Postponement of decision.**

The Committee was minded to agree to the principle of development subject to referral to the Secretary of State as a Departure from the Development Plan and under the Town & Country Planning (Shopping Development) (No 2) Direction 1993.

Officers who had advised planning refusal on five grounds were instructed to bring back a report to a future meeting of the Planning Committee ideally prior to the end of February to include material considerations that would justify the granting of permission contrary to the Development Plan together with proposed conditions and agreed planning obligations under S106.

**Application No.5 – 08/02607/FUL – 324, Station Road, Holt.**

**PERMISSION** as recommendation.

**Application No. 6 – 08/03233/FUL – Boundary House, 72, The Common, Broughton Gifford.**

**PERMISSION** with the following 2 conditions and justification as follows:

Justification: The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.



**ASDA & Countrywide Melksham: Suggested Conditions**

It is hereby recommended that, subject to the applicants first entering into an agreement with Wiltshire County Council enforceable pursuant to Section 106 of the Town & Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004, planning permission is granted subject to compliance with the following conditions:

Notes: Suggested WWTW condition shown underlined

*Conditions in italics suggested by statutory consultees during the consultation period*

- 1.** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of section 91 of Town & Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

- 2.** No works or development shall take place until full details of all proposed hard and soft landscaping including tree planting, and the proposed times of planting, together with hard surfaced areas have been approved in writing by the local planning authority (LPA). All agreed tree planting shall be carried out in accordance with those details and at those times.

Reason: In the interests of visual amenity.

- 3.** The agreed landscaping, as submitted in connection with Condition 02 above, shall be carried out during the first planting season (October-March inclusive) following the commencement of development. Any trees, shrubs or hedgerows forming part of that scheme that die, are removed or seriously damaged or diseased within 5 years of the implementation of the scheme shall be replaced with like-for-like, unless otherwise agreed in writing with the LPA.

Reason: To ensure that the agreed landscaping is implemented in order to integrate the development within the street scene.

- 4.** No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby approved have been submitted to and approved in writing with the LPA. Development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the LPA.

Reason: In the interests of visual amenity.

- 5.** Prior to the first occupation of the development hereby permitted, or such other time period as may be agreed in writing with the LPA, a car park management plan, to include details of the shoppers' car park, shall be submitted to and agreed in writing by the LPA. The car park management plan shall include a review procedure. The car park management plan shall commence on first use of the store, unless otherwise agreed in writing with the LPA.

Reason: To ensure the development is served by appropriate car parking provision.

- 6.** Prior to the first occupation of the store hereby approved, a Draft Green Travel Plan shall be submitted to and approved in writing by the LPA. The submitted information shall include details of provisions directed towards achieving reductions in the use of private transport by staff of the store

Reason: To promote sustainable transport patterns.

- 7.** The development shall not be implemented until a legal easement has been signed to permit Wessex Water in perpetuity to affect the proposed development at current operational levels.

Reason: To enable the development to reasonably co-exist in proximity to the waste water treatment works, in accordance with policy U5 of the West Wiltshire Local Plan

- 8.** *No development shall take place within the area indicated (this would be the area of archaeological interest) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the LPA.*

*Reason: To protect any archaeological remains that may be in situ on site*

- 9.** *Prior to the commencement of development, details of roosting bats and nesting birds to be found on the site shall be submitted to and approved in writing with the LPA. The submitted details shall also include details for the protection of such species during construction. Thereafter, the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the LPA.*

*Reason: In the interests of species protection*

- 10.** *No development shall commence until a scheme for the provision and implementation of surface water run-off limitation, including provisions for pollution prevention where appropriate, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved programme and details, unless otherwise agreed in writing with the LPA.*

*Reason: In the interests of flood prevention*

- 11.** *Finished floor levels of the development should be set no lower than 35.25 AOD*

*Reason: To protect the development from flooding*

- 12.** *Any drainage areas where waste food materials are stored, waste skips or compactors are sited, should either be totally contained, or directed to the foul sewer.*

*Reason: To prevent pollution to the water environment*

- 13.** *Before the development hereby permitted commences on the site, a soil survey of the site shall be undertaken and the results provided to the local planning authority. If necessary, a scheme for any reasonable and necessary remediation of the site shall be submitted to and approved by the local planning authority in writing and completed before the retail store is first occupied, unless otherwise agreed in writing with the LPA.*

*Reason: Soil contamination has been suspected on site and therefore a scheme to mitigate contamination is necessary*

- 14.** *Prior to the commencement of development, a scheme for water efficiency shall be submitted to and approved by the LPA. The scheme shall be implemented in accordance with the agreed details, unless otherwise agreed in writing with the LPA.*

*Reason: In the interests of sustainable development and prudent use of natural resources.*

- 15.** *Details of lighting to the site (including measures to minimise sky glow, glare and light trespass) shall be submitted to and approved in writing by the LPA. The scheme shall be carried out in accordance with the agreed details, unless otherwise agreed in writing with the LPA.*

*Reason: In the interests of pollution prevention*

discharge or modify a planning obligation after the expiry of five years after the obligation is entered into—for further advice see DOE Circular 28/92 (WO 66/92).

**13.** Where conditions are imposed on a planning permission they should not be duplicated by a planning obligation. Permission cannot be granted subject to a condition that the applicant enters into a planning obligation under section 106 of the Act or an agreement under other powers.

## Tests

### Six tests for conditions

**14.** On a number of occasions the courts have laid down the general criteria for the validity of planning conditions. In addition to satisfying the court's criteria for validity, the Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

### Need for a Condition

**15.** In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. The argument that a condition will do no harm is no justification for its imposition: as a matter of policy, a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so.

**16.** In some cases a condition is clearly unnecessary, such as where it would repeat provisions in another condition imposed on the same permission. In other cases the lack of need may be less obvious, and it may help to ask whether it would be considered expedient to enforce against a breach—if not, then the condition may well be unnecessary.



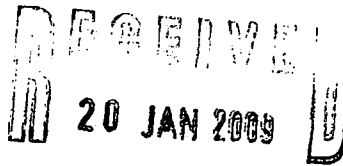
Planning Regeneration and Development

Magdalen House  
136 Tooley Street  
London SE1 2TU

T: 020 7357 8000  
F: 020 7357 9865

www.planningpotential.co.uk  
info@planningpotential.co.uk

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  
Caroline Dawson Planning Potential

Clr Richard Wiltshire  
Julia Evans WWDC  
Paul Lowe Asda Stores  
Jon Hardman Countrywide Farmers  
Mike Cottee Cottee Transport Planning  
Alastair Close Planning Potential

Enc



## Ministerial Directions

5.164

In certain circumstances local planning authorities are required to notify the S.O.S. when planning applications of the types listed below are received.

### Major departures

5.1641

The Town & Country Planning (Development Plans and Consultation)(Departures) Directions 1999, made under Article 17 of the G.P.D.O. 1995, requires that local authorities notify the S.O.S. of applications which they do not intend to refuse, which are departures from development plans and which falls in one or more of the following sections:

- provides for more than 150 houses/flats or more than 5000 sq.m. of retail, leisure, office or mixed commercial floor space, or
- consists of development by a planning authority or development of that authorities land, or
- by reason of its scale or nature or location of the land, would significantly prejudice the implementation of the development plan's policies and proposals.

This notification involves sending the S.O.S. a copy of the application/notice/objections/officer report/material considerations/views made by other government departments or other authorities. The authority may not determine the application for a further 21 days, in which time the S.O.S. may call the application in for his own determination, or issue a holding direction.

There is however some debate as to whether the requirements of this Direction are mandatory or directory and whether a failure by an authority to comply with them would necessarily render their decision void. This debate arose from s.70 of the 1990 Act, which states that the provisions of a development plan constitute a material consideration in determining planning applications so far as they are material to that application, but an authority is free to depart from them.

### Shopping Directive

5.1642

The Town & Country Planning (Shopping Development)(England & Wales)(No.2) Direction 1993 (Circular No. 15/93) requires that local authorities consult the S.O.S. on applications which:

- have a shopping floorspace of more than 20,000 sq.m.; or
- have a shopping floorspace of between 2,500 sq.m. and 20,000 sq.m. and which will exceed 20,000 sq.m. when added to shopping floorspace of more than 2,500 sq.m., within a radius of 10 miles and which comprises of:-
  - a) a planning application not yet determined
  - b) a planning permission granted 5 years previously
  - c) a development substantially completed 5 years previously
 The authority may not determine the application for a further 21 days from the date which the consultation material (copy of application/representations made to authority/statement of issues/views made by other government departments or other authorities) was sent to the S.O.S.

### Greenfield Land Directive

5.1643

The Town & Country Planning (Residential Development on Greenfield Land)(England) Direction 2000 gives effect to paragraph 39 of PPG3 (2000). The S.O.S. should be notified of proposals, which, in themselves or as part of a wider but contiguous allocation for housing, relate to a site of 5 hectares or more of greenfield land, or comprise 150 dwellings or more on greenfield land regardless of the size of the site, and which the local planning authority resolve to approve, and which the local planning authority resolve to approve.

In addition to the 21 day ~~consultation period~~ and material mentioned above an authority must also provide a statement demonstrating that they have assessed the application in the light of the policies in PPG3. Access roads, gardens, car parking areas, open space/landscaping and children's play areas should all be taken into account in calculating the area of land occupied by houses. Major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffers should not be taken into account.

## Non-statutory consultation

5.17

Circular 22/88 at Appendix C advises that in addition to statutory consultees (as ready detailed) local authorities may wish to consult the following bodies. NB. Its advice has become a little dated and note is made of superseding provisions where appropriate.

- a) Regional Council for Sport and Recreation where there would be loss of sports facilities (see PPG17).
- b) Water Authorities where there would be increased industrial discharge into river or estuary (see now Circular 20/89 para. 33 and the G.D.O. Article 18 statutory consultation requirement relating to the National Rivers Authority).
- c) Water or drainage boards where there would be an increased drainage problem in areas notified as having high water tables (see now Circular 30/92 para.13).
- d) Nature Conservancy Council where proposals have nature conservancy implication within agreed areas/criteria (see Circular 27/87 shortly to be superseded by a new PPG relating to Nature Conservation).
- e) M.A.F.F. where technical clarification is needed of land quality or agricultural occupancy conditions (see PPG 3 Annex A).
- f) Health and Safety Executives where developments are within specified distances off hazardous installations (see Circular 11/92 Annex b).
- g) Rights of way interests where developments affect rights of way (see Circular 2/93).

Appendix C to the Circular also advises consultation with Police Architectural Liaison Officers (see Circular 5/94).

Consultation with County Archaeological Officers is advised at para.23 of PPG1 6 where local authorities require guidance as to whether an application has archaeological implications.

## Local authority departments

5.171

It is normal for the planning departments of local authorities to consult extensively with other departments within the same authority where it appears that there is some common interest in a planning proposal. The most common internal consultees are; a) environmental health departments, over such matters as noise, food smells, and general health considerations; b) leisure/recreation departments, relating to open space and tree protection issues; and c) engineer's department where highways or drainage matters arise.

It is considered good local authority practice to undertake such consultations, even if there is no immediate requirement to do so, as likely future problems may be highlighted at an early stage and applicants kept fully informed.

- 2.8 Evidence of this is that we understand it is anticipated that a modest foodstore of around 1,000m<sup>2</sup> would anchor any new district / local centre. A facility of this size would not be of sufficient scale to enhance the town's overall attraction to successfully clawback trade from, in particular, larger foodstores in Trowbridge or, to a lesser extent, provide an enhanced non-food offer.
- 2.9 The application site falls within the Town Policy Limits of Melksham, as identified in the Adopted Local Plan. This point was agreed and established at the 17/06/08 meeting.
- 2.10 It is also reiterated that a lawful use certificate (LPA Ref: 06/01720/EUD) was issued on the 23/10/08, which confirms that the site is an established retail destination in Melksham. A copy of this certificate is attached to Appendix 3 of the December 2007 Planning and Retail Statement and confirms that the site benefits from an unrestricted A1 retail use.
- 2.11 In justifying quantitative capacity for the proposed ASDA, our analysis adopted a thoroughly robust goods based approach, as advocated by PPS6. Further, a bespoke telephone survey was taken, which assessed detailed shopping trends to further inform the overall quantitative justification.
- 2.12 Further clarification as to how this relates to available expenditure within the PCA is provided in both the 2007 P&RS and this Supplementary Retail Statement. However, the site's established retail character is also of compelling material significance and, in particular, the unrestricted Use Class A1 retail operation.
- 2.13 The existing Countrywide Store has a sales area of some 2,500m<sup>2</sup>, or 96% of the net sales area of the proposed ASDA store (2,601m<sup>2</sup>). Indeed, if the existing external sales area is taken into account, this would increase the total sales area to almost 3,000m<sup>2</sup> i.e. some 15% greater than the proposed store. As it is the existing site that benefits from the CLEUD, an even greater level of retail sales can take place both internally and externally.
- 2.14 Notwithstanding this clearly established position, we have sought to provide detailed clarification on the analysis and have made this bespoke to ASDA and, specifically, a new ASDA store within the specific market context of Melksham.
- 2.15 On this basis, whilst we accept the site is not within Melksham Town centre, it does represent a well located, recognised and established retail destination serving the community. This itself is reflected in the results of the shopping survey, where some 46% of respondents indicated that they regularly visited the store.



Transport Planning

Fir Lodge  
Threshelfords Business Park  
Feering  
Essex  
CO5 9SE

Tel: 01376 573400  
Fax: 01376 573480  
email: info@cottee-tp.co.uk

By post / email  
Our Ref: MC / 0697  
5<sup>th</sup> February 2009

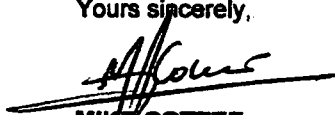
Mr Allan Creedy  
Wiltshire County Council  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JD

Dear Mr Creedy,  
  
**ASDA, Melksham**

Further to our telephone conversation earlier today I set out below the agreed position as follows:

1. The highway works as shown on plan 0697/37 will be referred to in a Grampian Condition. The condition will use the wording 'as generally illustrated on plan 0697/37'. I attach a copy of that plan for your convenience. I also provide a copy of our plan 0697/41 which shows those works and the 'ends' of the scheme for your records. It may be better to include reference to that in the condition if you are happy to do so. Draft conditions already sent to Bob Young are attached and the Grampian condition relating to the highway works will need to be added to this.
2. The new bus linking the store with the town centre will be funded by a contribution of £500k as part of a Section 106 agreement.
3. Car park management and the Travel Plan are proposed to be covered by condition. As indicated above Draft conditions have been prepared and are attached.

Please let me know if you have anything to add.

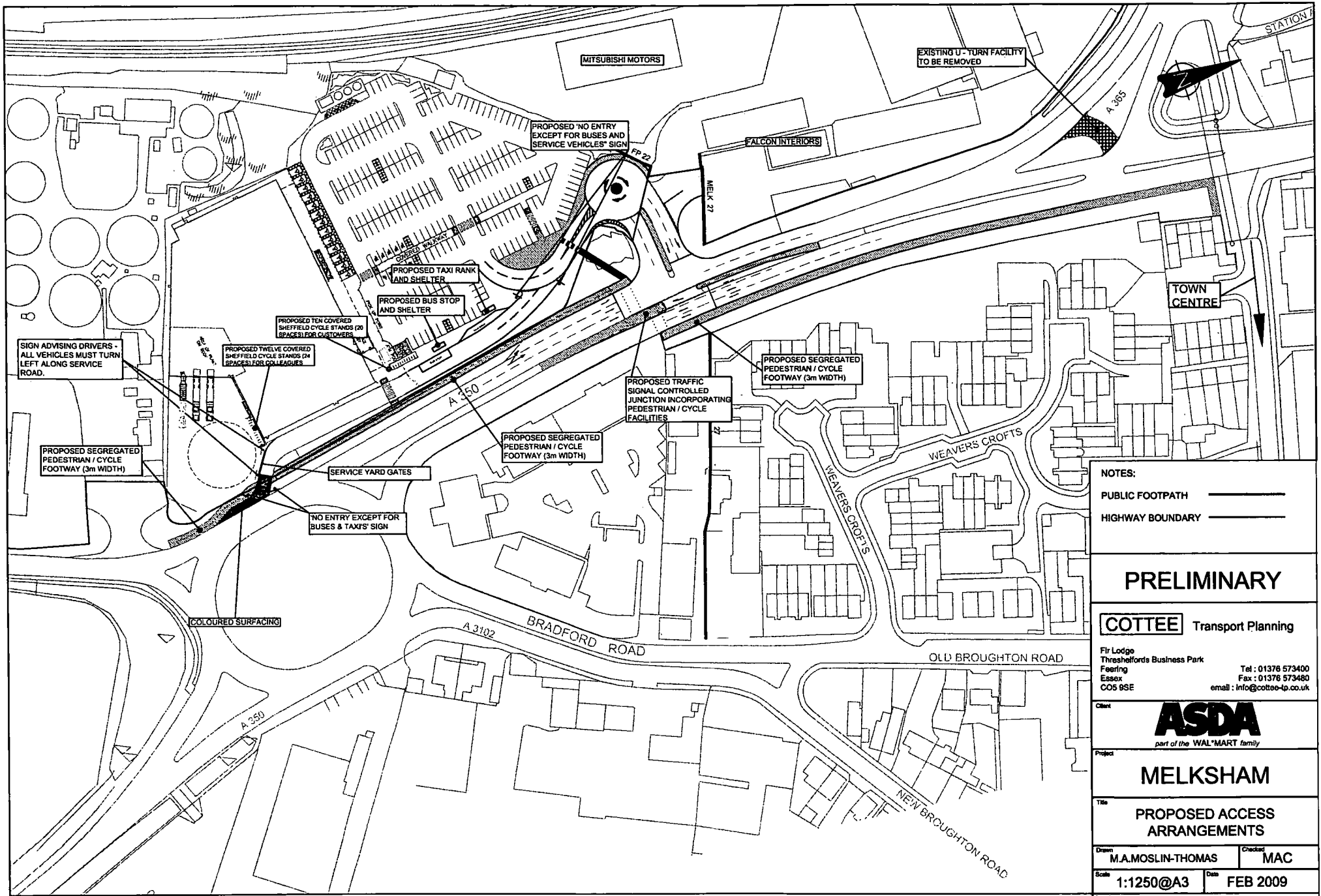
Yours sincerely,  


**MIKE COTTEE**  
Managing Director

E-mail: [mike@cottee-tp.co.uk](mailto:mike@cottee-tp.co.uk)

Encls.

- cc. Richard Hutson – Asda (letter by email only)
- cc. Paul Lowe – Asda (letter by email only)
- cc. Ben Ellis – Planning Potential (letter by email only)
- cc. Alastair Close – Planning Potential (letter by email only)



NOTE:  
 1. LAYOUT SUBJECT TO TOPOGRAPHICAL SURVEY, COUNCIL APPROVAL, DETAILED DESIGN AND SAFETY AUDIT.  
 2. BASE LAYOUT REPRODUCED FROM WCEC ARCHITECTS DRAWING PL - 02 Rev. E

NOTES:  
 PUBLIC FOOTPATH ———  
 HIGHWAY BOUNDARY ———

**PRELIMINARY**

**COTTEE** Transport Planning

Fir Lodge  
 Threshelfords Business Park  
 Feering  
 Essex  
 CO5 9SE  
 Tel : 01376 573400  
 Fax : 01376 573480  
 email : info@cotee-tp.co.uk

Client  
**ASDA**  
 part of the WAL\*MART family

Project  
**MELKSHAM**

Title  
**PROPOSED ACCESS ARRANGEMENTS**

Drawn: M.A.MOSLIN-THOMAS  
 Scale: 1:1250@A3  
 Checked: MAC  
 Date: FEB 2009

Drawing No.: 0697/41

Concess Highway & Transportation Consultants Ltd. accept no responsibility for any misinterpretation or errors in this drawing. Only signed drawings are to be worked to.

**Wessex Water**

Claverton Down Bath BA2 7WW Telephone 01225 526000  
www.wessexwater.co.uk

Our ref: DO  
Your ref: 07/03866/FUL

Mr R Young  
West Wiltshire District Council  
Bradley Road  
Trowbridge  
Wiltshire  
BA14 0RD

Direct dial: 01225 526169  
email: dave.ogborne@wessexwater.co.uk

16 February 2009

Dear Mr Young

**Proposed Asda Store – Bradford Road, Melksham**

I write on behalf of Wessex Water to update the Council on planning matters relating to the above application.

You recall that we wrote to West Wiltshire District Council on 17 January 2008 with an objection to the proposed development on the grounds that the risk of odour nuisance may increase. This was based upon the intensive use of the site with 24 hour opening throughout the week. We also advised that a review of mitigation measures that the developer proposed was to be undertaken by Wessex Water for technical and financial matters.

A review of these measures indicated that a scheme acceptable to Wessex Water at an estimated cost of £2.5m did not necessarily satisfy 'Best Practical Means' and therefore present best value associated with the proposed development.

Discussions with ASDA have not taken place since October 2008 and talks have been held informally with Countrywide Farmers to seek agreement upon a way forward to protect the interests of both parties.

During this period we have agreed to the use of a planning condition that includes a legal easement and agreement with ASDA and we have yet to conclude this arrangement. A meeting is being arranged to resolve matters with ASDA directly and discussions are planned for the week commencing 16 February 2009.

Details for discussion with ASDA include the following

- baseline survey to monitor the emissions of odour at the site boundary
- a deed of easement granted by ASDA in favour of Wessex Water to allow odour emissions within prescribed limits
- a negative planning condition to ensure that appropriate measures are in place before the development commences
- a financial framework to implement remedial measures in the event of complaints whilst operating at current levels.



## Wessex Water

Claverton Down Bath BA2 7WW Telephone 01225 526000  
www.wessexwater.co.uk

In view of the fact that the discussions with ASDA may not be concluded before the planning committee meets on the 19 February we have drafted a planning condition that we consider appropriate for these circumstances.

### **Proposed ASDA Planning Condition relating to Wessex Water**

The development shall not be implemented until

- (1) a legal easement has been completed between the freeholder of the site to which the application relates (the Site) and Wessex Water Services Limited (Wessex Water) to permit Wessex Water in perpetuity to continue the passage of odours and flying insects from Wessex Water's Melksham Sewage Treatment Works (STW) over the Site at current levels. Current levels to be established by odour and insect number survey during normal operation of the existing plant, equipment and processes at the STW in accordance with good operational practice over a 12 month period and the results recorded by the planning authority.
- (2) an agreement is completed between Wessex Water and [Asda Stores Limited] (Asda) in which Asda agrees to fund the reasonable costs of Wessex Water in carrying out odour abatement works or flying insect control measures necessary to meet any requirements of an abatement notice served by the local authority under the statutory nuisance provisions in Part 111 of the Environmental Protection Act provided that such notice is not caused by a failure of Wessex Water to operate the existing plant, equipment and processes in accordance with good operational practice.

Reason: To enable the development to reasonably co-exist in proximity to the waste water treatment works, in accordance with policy U5 of the West Wiltshire Local Plan

It is acknowledged that Wessex Water are not a statutory consultee, however we request that appropriate measures are in place to safeguard the viability of the sewage treatment works and avoid a 'bad neighbour' development described more fully in Planning Policy Statement 23. We believe that the development should have due regard to the risk of potential pollution sources and exposure to poor air quality.

Please can you acknowledge safe receipt of this letter and contact me to advise if any further information is required at this stage.

Yours sincerely



David Ogborne  
Planning Liaison Manager

