

Officer Report On Planning Application: 10/04822/FUL

Proposal :	Single storey sales and cafe extension to north elevation, in-fill extension under existing canopy to east elevation, single storey extension to south elevation and warehouse extension to west elevation with part first floor mezzanine plant room with associated works to external areas and car park (GR 354527/115282)
Site Address:	Morrisons Lysander Road Yeovil
Parish:	Yeovil
Yeovil (South) Ward (SSDC Member)	Cllr M J H Fysh Cllr N J Gage Cllr D A Greene
Recommending Case Officer:	Andy Cato Tel: (01935) 462015 Email: andy.cato@southsomerset.gov.uk
Target date :	8th March 2011
Applicant :	Wm Morrison Supermarkets Plc
Agent: (no agent if blank)	Mr Peter Haywood Westpoint 78 Queens Toad Clifton Bristol BS8 1QU
Application Type :	Minor Retail less than 1,000 sq.m or 1ha

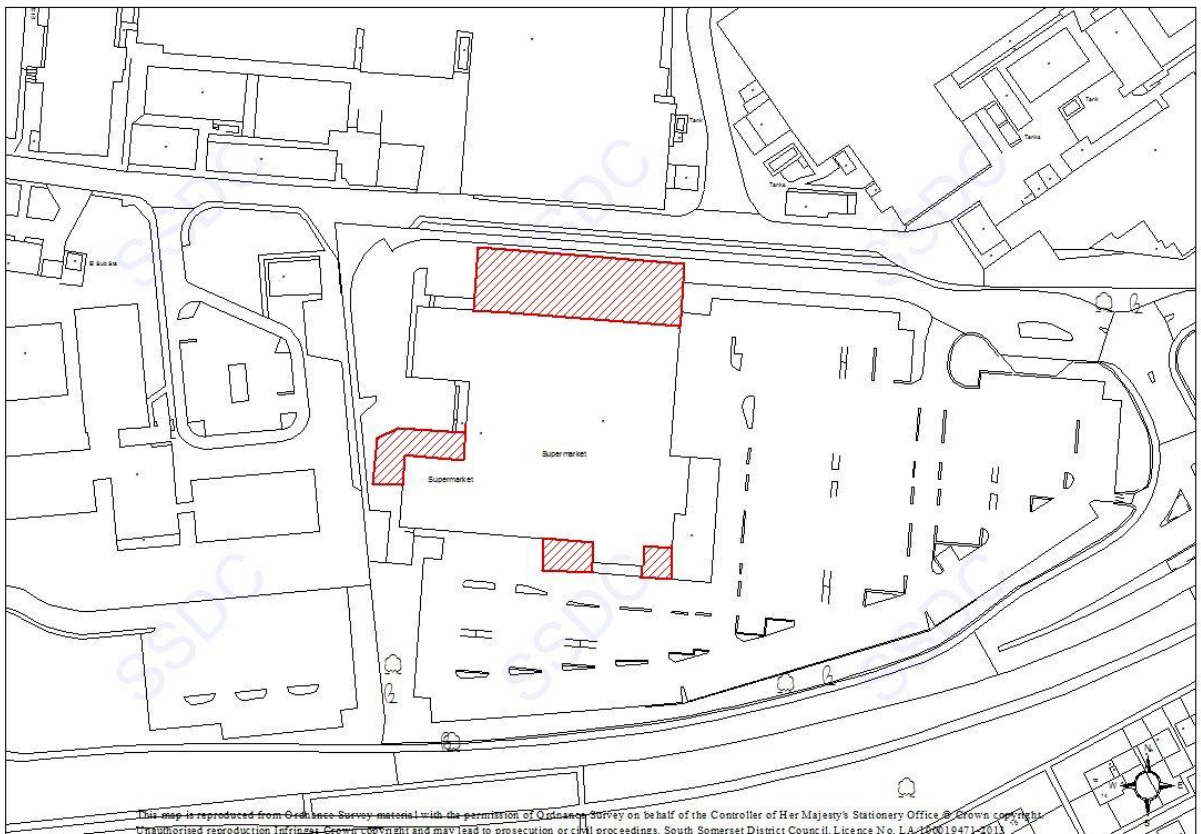
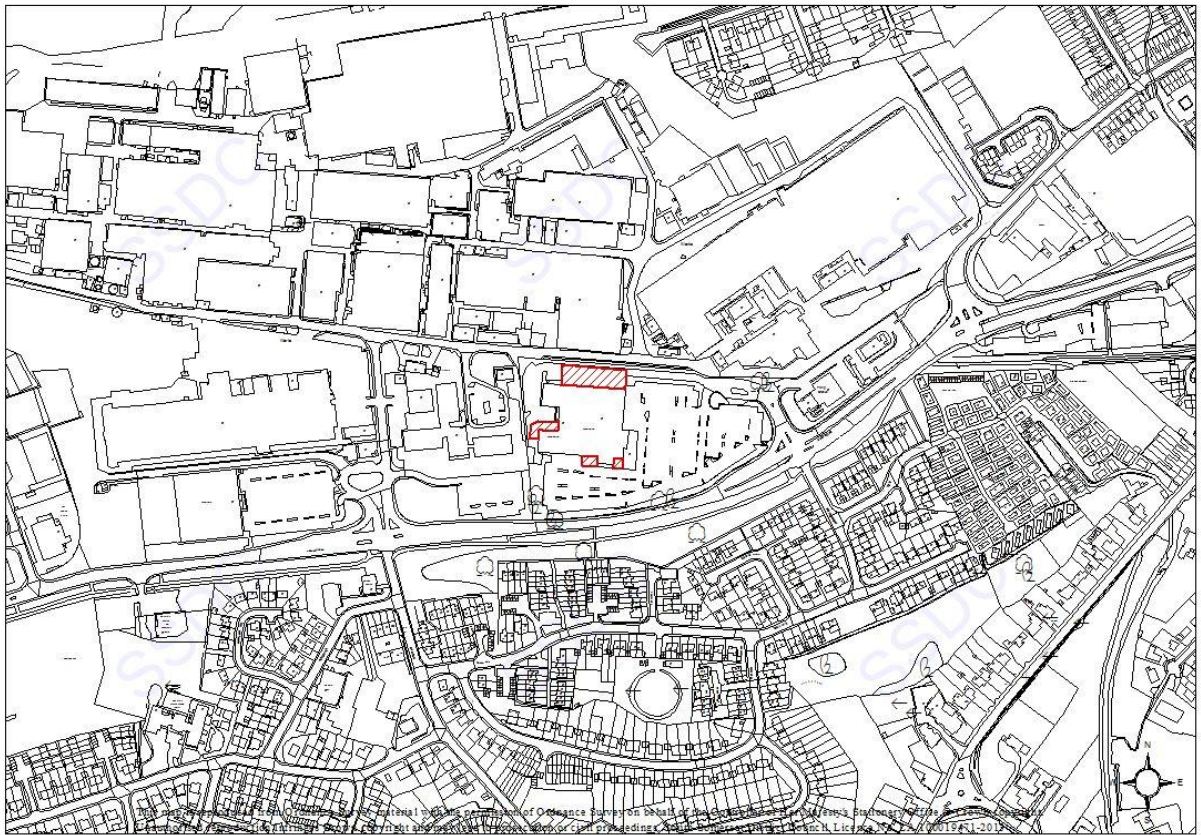
Reason for Referral to Committee

In order to consider and bring protracted negotiations over highway concerns to a conclusion.

Background

The application, submitted in November 2010, sought permission to add an extension to the existing Morrison`s retail store (detailed below). There were no objections made to this proposal subject to the prior completion of a planning obligation to secure necessary off-site highway improvements. Negotiations to secure the agreement commenced in March 2011: the principle parties being the County Highways Officers and the applicants Highway Consultants . In August 2011 work commenced on the proposed extension - it was completed and in use by Xmas 2011. The negotiations to secure the agreement have continued and, to date, have not been concluded and accordingly a decision has still not been made on the 2010 planning application.

Site Description and Proposal



The existing Morrisons foodstore is located to the north of Lysander Road some 1.3km distant from Yeovil Town Centre. The existing store comprises a 4,863 sq.m gross (2,472 sq.m net) food store with 532 car parking spaces. A petrol filling station immediately to the east forms part of the Morrisons holding and shares the same access as the food store. A number of trees on the site are subject of a Tree Preservation Order of 2002.

The application site principally relates to an area of (now former) staff parking to the north of the main store building, a footway area to the south of the store and a part of a loading bay to the west of the store. The key elements of the proposals can be summarised as follows:

1. The erection of a single storey extension along the north elevation of the store to form an expanded café and an increase in sales area (13m x 57m x 7m high).
2. The erection of two separate single storey extensions to the south elevation to provide and increase in sales area (11m x 6m and 8m x 6m x 3m high), and
3. The erection of a two storey "L" shaped extension to the western elevation to provide an extension to the warehouse (8.6m high).
4. A reduction in the number of car parking spaces from 532 to 515 spaces.

As a consequence the gross floor space will increase from 4,863 sq.m to 5,996 sq.m (the sales area will increase from 2,472 sq.m to 3,154 sq.m). No changes were proposed to the existing access arrangements or to the existing opening and delivery hours and none of the existing landscaping treatment should be materially affected and no trees will be lost.

Information supplied in support of the application included:

A Design and Access Statement,
A Sequential Assessment and Healthcheck of Yeovil Town Centre,
A Transport Assessment, and
A Drainage Strategy.

HISTORY

The early planning history relates to a use of the site by Westlands. A series of planning applications made during 1991 - 1992 (8 in all) sought permission for a retail store and petrol filling station - all were refused; permission was subsequently gained in 1994 under reference 941138. Following the development of the store and associated petrol filling station a number of planning submissions have concerned minor developments and advertisements.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

In March 2012 the existing national Planning Policy Statements and Guidance Notes (PPS's and PPG's) were superseded by the publication of the National Planning Policy Framework.

For the purposes of determining current applications the local planning authority considers that the relevant policy framework is provided by the National Planning Policy Framework and the saved policies of the South Somerset Local Plan 2006.

The policies of most relevance to the proposal include:

South Somerset Local Plan (adopted April 2006):

ST5 - General Principles of Development
ST6 - The Quality of Development
ST8 - Energy Conservation
ST9 - Crime Prevention
EP2 - Potential Noise Generating Uses.
EP3 - Light Pollution.
EP4 - Waste Materials.
TP1 - New Development and Pedestrian Movement.
TP2 - Need for Travel Plan.
TP3 - Cycle parking.
TP5 - Significant Traffic Demand
TP6 - Car Parking
MC2 - Location of Shopping Development.
MC3 - Shopping Development outside of Preferred Locations.

National Planning Policy Framework - March 2012
Chapter 1 - Building a strong competitive economy.
Chapter 2 - Ensuring the vitality of town centres.
Chapter 4 - Promoting sustainable transport.
Chapter 7 - Requiring Good Design

Other Relevant Documents:

Regard should be had to Somerset County Councils Parking Strategy document dated March 2012.

CONSULTATIONS

Yeovil Town Council:
Recommend approval.

County Highway Authority:
Originally advised they had no objections subject to the prior completion of a planning obligation to concern off site necessary works to the highway (see comments under considerations). Following their unsuccessful negotiations to secure a satisfactory agreement over off-site highway works a recommendation for refusal has been made for the following reason: *The proposal is contrary to policy ST5 of the South Somerset District Local Plan and the NPPF since inadequate information has been submitted to satisfy the LPA that a satisfactory means of access to the site can be achieved*

SSDC Landscape Officer:
No objections.

SSDC Tree Officer:

No objections.

SSDC Environmental Protection:
No objections.

Environment Agency:
No objections.

Health and Safety Executive.
No objections.

Neighbours:
Adjoining neighbours have been notified and a site notice displayed inviting comments on the application. No comments made.

CONSIDERATIONS

The 2011 planning officers report on this then proposal concluded as follows:

The scheme is modest in nature and scale. The additional floor area created relates to the existing stores operations and will not impact on the main store site or its setting or impact materially upon other local or town centre facilities. As such there are no planning objections to the principle of this proposal. There will however be a knock on effect to the local highway infrastructure. In this connection the County Highway Authority have identified a need for changes and improvements to Lysander Road and such off site works and the related necessary financial contributions will need to be the subject of a planning obligation.

A recommendation of approval was made subject to the prior completion of a section 106 planning obligation to concern the off-site highway improvement works and the submission of a Travel Plan as approved by the County Highway Authority. The decision was held pending the completion of the agreement and the early negotiations held between the County Highway Authority Officers and the applicants representatives focused on the need for significant highway improvements to the length of Lysander Road i.e. as identified in the Western Corridor Study and as a result of approved schemes such as at the former Seatons Garage site and nearby approved deep discount store. The applicant submitted various proposals to the Highways Officers and these were responded to over time following a road safety auditing exercise. At various stages the scheme became tailored to suit the identified necessary improvement works as related to the development proposed i.e. a modest store extension. In this connection the County Officers have carried out audit testing on some 5 schemes and at each stage had found a need for fine tuning and correction. Eventually, in May 2013, a scheme was found acceptable to the Highway Authority in most respects. The main area of disagreement between the parties centres on the need (or otherwise) to install new traffic light apparatus to replace older stock.

APPLICANTS HIGHWAY IMPROVEMENT PROPOSALS

The applicants proposal involves the widening of the access road approach to the Lysander Road junction to provide an additional lane for left turners and provision of a new splitter island to separate the left turn movement from the ahead and right turning lane. This will include new pedestrian signal equipment at two crossing points. A new signal controller will also be provided. In addition, the applicants highway consultant has

advised a financial payment of £30,000 has also been tabled to contribute towards a new crossing south of the junction.

HIGHWAY AUTHORITIES CONCERNS

All of the existing old traffic lights need to be replaced - the old cabling will not allow the proposed new pedestrian signal controllers. Moreover, the provision of the proposed low voltage controller may not allow the monitoring of the existing old signal lamps as they use different drives. The applicants traffic consultant has suggested that the cycle times of the lights be adjusted to a shorter cycle to reduce delays at the junction. The Highway Authority are concerned that such a reduction in cycle time will have a knock- on effect on the other lights and their controllers along Lysander Road and that this will require the provision of new pedestrian crossing facilities (new lights and pedestrian controllers).

APPLICANTS RESPONSE

Based on a calculated impact of traffic within our Transport Assessment (TA), from the outset we had offered to deliver a junction improvement which would not only have provided nil-detriment to the performance of the highway network, but one which would actually provide a slight net improvement; this is despite the minimal impact resulting from the store extension. Unfortunately, since the receipt of the first highways consultation response, SCC Highways have sought a scheme which goes beyond dealing with the impact of the extension but which also removes any existing internal queuing problems and to test the proposals on a 'worst case' and 'most onerous case' basis and adopt specifications which in our view would result in improvements which are not cost effective or necessary. These were not the appropriate tests even prior to the issue of the NPPF, which now states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the developments are severe.

I appreciate that you must be guided by the highway consultation however, it is for you as Planning Authority to make the decision on this matter. Circular 3/2009 (Cost Awards in Appeals and other Planning Procedures) clearly sets out the responsibilities of planning authorities in respect of advice from highway authorities. In this regard, I consider it sensible to provide you with some context for the position you now have to report to Committee.

In order for us to provide our client with definitive advice in advance of any potential refusal, we have recently re-surveyed the Lysander Road junction during the PM peak period last Friday 7 June (by video - 16:00 to 17:30hrs).

Interestingly, when compared to our pre-extension 2010 survey flows, these post-extension 2013 flows result in only an additional 91 passenger car units (PCUs) using the store-side access arm of the junction (two way) over the course of the peak hour. This equates to 3 additional PCUs every 2 minutes on average - such increases are imperceptible in practice. As predicted within our original Transport Assessment which supported the planning application, the overall impact of the extension has been minimal.

Irrespective of this minimal change in traffic flow, it should be noted that the junction performed well and that, despite queuing back along the car park access road, traffic queuing on each arm cleared every cycle of the signals, which suggests that the junction is operating within capacity. The queuing within the site which does occur is largely a result of the very long cycle time which the junction operates on (slightly in excess of 2

minutes). My latest observations would suggest that a shorter cycle time, potentially as low as half, could be adopted which would reduce delays at the junction, not least for the superstore access arm which suffers most from the current cycle time. Indeed, the current cycle time actually generates inefficiencies in the operation of junction which results in levels of queuing and delay which could be avoided. In this regard, an offer to carry out testing of a shorter cycle time on site has been made but has been ignored

Given the position we now find ourselves in, and despite the lack of evidence that a physical junction improvement is actually required I can confirm that to date the following compromise scheme has been offered:

- 1) Lysander Road junction improvement scheme - as presented in our drawing M07008-A-100D (which had been estimated at that at a of £305,000 including a new Low Voltage controller)
- 2) £30,000 contribution to a new crossing south of the Lysander Road access junction

Given the minimal change in activity since the opening of the extension, these improvements more than mitigate the implications of the planning application.

CONCLUSIONS AND RECOMMENDATION

From the outset the applicants traffic consultants maintained that the then proposed modest extension would result in minimal additional traffic movements and that there was no need for any off-site highway improvement works. Despite this, on receipt of the Highway Authorities views, the applicants agreed to enter into negotiations with the Highway Authority for a planning obligation in the matter. Initially, the Highway Authorities negotiations looked to secure an agreement to cover highway improvement works along the length of Lysander Road and only recently agreed that the works can be restricted to the junction serving the store, petrol filling station and fast food outlet. In the meantime the applicants decided to go ahead and complete the proposed store extension the subject of this planning application.

Whilst negotiations to secure the obligation between the two parties have seemingly been at a snails-pace they have been continuous and it is only recently that an impasse has been reached. The sticking-point is the need, or otherwise, to replace the traffic light equipment at the junction. In this connection the junction improvements tabled by the applicants entail the fitting of new pedestrian controllers on the existing lights and the County Officers insist that the traffic lights are of an age and type that a) need to be replaced and b) may not be suitable/ compatible with the new controller fitting. The Highway Consultant points out however that the whilst the new controllers may not be compatible with the desired new lights which have an ELV connection the controllers are compatible with the existing lights which have an LV connection.

The planning application is to add a fairly modestly sized extension to an existing store; not to develop a new store. The information presented by the Highway Consultant demonstrates that the junction, as exists, operates in an acceptable fashion - following the construction of the extension the increase in traffic levels has been minimal.

The County Highway Authority (CHA) recommend a refusal on the grounds that, in their view, inadequate information has been submitted in order to satisfy "the Local Planning Authority" (LPA). This acknowledges that this is a matter to be determined by the LPA (District Council). In terms of the NPPF paragraph 32 states:

In determining applications which generate significant amounts of movements regard should be had to..."improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe." In this connection the CHA have been asked to qualify their reason for refusal by identifying and clarify the serious nature of the road safety issue; there has been no response to this question.

The applicants offer, to carry out junction improvements and contribute £30,000 towards any further improvements, appears to be more than reasonable given the minimal change in traffic conditions since the opening of the extension and is considered to be NPPF compliant. On the assumption that Committee agree and resolve to approve the application the delivery of the off-site junction improvement works proposed by the applicant will need to be secured by means of a S278 Highway Agreement. Anticipating CHA's reluctance, there is case law on this point (R v Warwickshire CC, ex Powergen plc - 1998). This established that a highway authority could not refuse to enter into a S278 Agreement required for a planning permission.

Accordingly, it is recommended the Councils solicitor instructs the County's solicitor to complete negotiations to secure a S278 Highway Agreement to concern the junction improvements proposed by the applicant and a £30,000 payment to the CHA towards any other improvements they deem necessary.

RECOMMENDATION

That the application be approved subject to:

- (a) The prior completion of a section 278 Highway Agreement (in a form acceptable to the Councils solicitor(s) before the decision notice granting planning permission is issued, the said Agreement to concern off site junction improvements and a payment of £30,000 towards any other highway improvements all as approved by the County Highway Authority and
- (b) The imposition of the planning conditions set out below on the grant of planning permission:

01. The proposed store alterations and extensions by reason of the size, scale, form and appearance, respects the character of the area, does not foster the growth in the need to travel and would not have an adverse affect upon existing retail premises and the off-site highway improvements proposed are considered appropriate in this case all in accordance with the aims and objectives of saved policy ST5, ST6, TP5 & MC3 of the South Somerset Local Plan and the provisions of the NPPF.

SUBJECT TO THE FOLLOWING:

01. Notwithstanding the time limits given to implement planning permission as prescribed by sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission(being granted under section 73A of the Act in respect of development already carried out) shall have effect from the 30th August 2011.

Reason: To comply with section 73A of the Act.