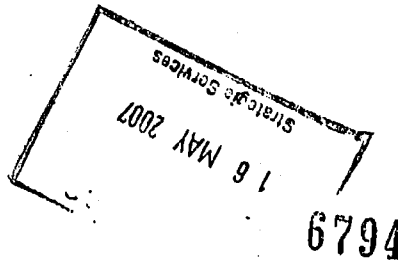


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15 May 2007

Mr Tim Waring
Indigo Planning Ltd
36 Park Row
Leeds
LS1 5JL

Our Refs: APP/Q4625/A/06/2013412

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
OTIUM SOLIHULL LP, B&Q PLC, GALLAGHER PROJECTS LTD, JEWELALLOW LTD, AND LAZARALLOW LTD
MONKS PATH LEISURE PARK, HIGHLANDS ROAD, SHIRLEY, WEST MIDLANDS, B90 4NY
APPLICATION REF: 2005/1346

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Alan Novitzky BArch MA(RCA) PhD RIBA, who held a public inquiry on 16, 17, 18, 19 and 23 January 2007 into your clients' appeal against the decision of Solihull Metropolitan Borough Council to refuse planning permission for the erection of a non-food retail unit (Use Class A1) including ancillary office accommodation, café (Use Class A3), with associated garden centre, service yard, car parking (2 decks) and associated landscaping and highways works at Monks Path Leisure Park, Highlands Road, Shirley, West Midlands, in accordance with application number 2005/1346, dated 28 June 2005.
2. On 12 May 2006, the appeal was recovered for the Secretary of State's determination in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's Recommendation and Summary of the Decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Procedural Matters

4. Since the original application for planning permission was submitted, a revised drawing showing the amended north east elevation was circulated to all parties by the Appellants under cover of a letter dated 13 December 2006. The Secretary of State agrees with the Inspector that no-one's interests would be prejudiced if the amended elevation is considered as part of the proposal (IR6). The Secretary of State has determined the appeal on this basis.

Policy Considerations

5. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Regional Spatial Strategy for the West Midlands (RPG11), published in June 2004, and the Solihull Unitary Development Plan (UDP), adopted in February 2006.
6. The Secretary of State agrees with the Inspector that the development plan policies most relevant to the proposals are those summarised at IR14-22.
7. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development*; Planning Policy Statement 6 (PPS6): *Planning for Town Centres*; Planning Policy Guidance note 13 (PPG13): *Transport*; Circular 11/95: *The Use of Conditions in Planning Permission*, and Circular 05/2005: *Planning Obligations*.

Main Issues

8. The Secretary of State agrees with the Inspector that the main considerations in determining the proposals are those set out at IR201.

Retail Matters

Quantitative Need

9. The Secretary of State agrees with the Inspector, for the reasons set out in IR202-205, that quantitative need has been demonstrated with regard to both the broad category of comparison goods and DIY sector goods within the catchment area. She considers, like the Inspector, that the primary catchment area used in the Appellants' retail analysis, based on a 10 minute drive time isochrone, backed up by a household survey, appears reasonable (IR202).

Qualitative Need

10. For the reasons given in IR206, the Secretary of State agrees with the Inspector that the present provision of DIY stores shows some qualitative need for additional provision of a modern standard, although the overwhelming need is quantitative.

Scale

11. The Secretary of State agrees with the Inspector that the proposal is suited to the position of Solihull as a major retail centre in the regional hierarchy, and that the site may be physically capable of accommodating the proposed development and the activity it would generate (IR207). However, the consequences of the scale of the proposal in design terms are dealt with in paragraph 22 below.

Sequential Approach

12. For the reasons given in IR208-224, the Secretary of State agrees with the Inspector that the appeal site satisfies the sequential approach to site selection set out in PPS6 (IR225). Like the Inspector, she considers that the Appellants appear to have looked at all options and it is clear that there are no sequentially preferable sites that are available, suitable and viable.

Impact

13. For the reasons given in IR226, the Secretary of State agrees with the Inspector that no centre is likely to suffer any significant loss of trade, or harm to its vitality and viability, through the proposal.

Accessibility

14. The Secretary of State agrees with the Inspector that the site is highly accessible by a choice of means of transport and the Travel Plan would seek a modal shift away from the use of cars, especially for staff (IR227).
15. The Secretary of State has had regard to the Inspector's view that scope exists for linked trips connected with work and convenience shopping (IR228, IR234). She has also considered the Inspector's views that, given its extensive range and depth of goods, the proposal may well remove the need for further trips to other outlets (IR228, IR234). Given the proximity of the site to a number of large employment uses (IR107), the Secretary of State agrees that, although customers would overwhelmingly use cars, there is scope for linked trips connected with work. She considers it possible that there would be a reduction in car mileage from customers from the employment areas stopping at the store on the way home from work. However, the Secretary of State does not consider that much weight should be placed on the fact that there is scope for linked shopping trips to the Tesco Extra supermarket given its proximity to the appeal site (IR107) - such trips are likely to be car based and this is not what is envisaged in guidance in PPS6 and PPG 13, although the proposal may well result in reduced car mileage for some customers, especially those residents living in close proximity to the proposed development.
16. For the reasons given in IR229, the Secretary of State agrees with the Inspector that the traffic analysis demonstrates that there would be no impact on traffic congestion and she considers that the financial contribution agreed between the Appellants and the Council would secure measures to adequately increase capacity at the roundabout linking Stratford Road and Monkspath Hall Road.

17. Overall, for the reasons set out in paragraphs 14-16 above, the Secretary of State agrees with the Inspector's conclusion that the site is sufficiently accessible in the terms set out in PPS6 (IR230).

Local Issues and Material Considerations

18. For the reasons given in IR231, the Secretary of State agrees with the Inspector that the beneficial effects of regenerating the site and bringing partially used previously developed land back into full economic use are clear. She agrees with the Inspector that the site occupies a strategic location in the transport network. She also considers that it would generate consequential economic activity and employment opportunities as well as the possibility of beneficial community development effects.

19. The Secretary of State therefore agrees with the Inspector's conclusion in IR232 that, overall, the proposal would be acceptable with regard to policy on retail matters and town centres.

Sustainable Development

20. The Secretary of State agrees with the Inspector that because of the type of bulky goods purchased at DIY outlets, it is likely that customers would overwhelmingly travel by car wherever the site were located (IR233). The Secretary of State also agrees with the Inspector that the level of parking provision would comply with PPG13 and the development plan (IR235).

21. Overall, given its strategic location in the transport network, the site's accessibility by a choice of means of transport and the proposed staff Travel Plan, the Secretary of State therefore agrees with the Inspector that, in the circumstances of this particular case, the proposal would accord with the principles of PPG13 and represents sufficiently sustainable development in terms of transport policy (IR236).

Design

22. The Secretary of State agrees with the Inspector, for the reasons set out in IR237-IR249 that the design would be unacceptable in relation to the characteristics of the site and its wider context (IR249). She recognises that the proposal would use the appeal site intensively, in accordance with policy considerations (IR239). However she also agrees, for the reasons in that paragraph, that the proposed building would be very tightly placed within the site, conflicting with the surrounding development pattern of pavilions in an open setting, because of its size and proximity to what are apparent as the site boundaries.

The Development Plan

23. For the reasons set out in paragraphs 9-18 above, the Secretary of State agrees with the Inspector that the proposal broadly meets development plan policies on retail matters (IR250).

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24. For the reasons given in IR251 and paragraph 21 above, the Secretary of State agrees with the Inspector that the proposal accords with UDP Policy T13: *Car Parking Provision* and would also provide disabled parking and a travel plan in accordance with the SPD.

25. However, for the reasons given in IR252-254 and paragraph 22 above, the Secretary of State agrees with the Inspector that the proposal fails to meet development plan policies concerned with design matters.

Planning Obligations

26. The Secretary of State is satisfied that the signed and dated Section 106 Agreement meets the policy tests of Circular 05/05 (IR265).

Overall Conclusion

27. The Secretary of State has carefully considered the arguments both for and against the proposal. She considers that quantitative and qualitative need for the proposal have been demonstrated. The proposal would be of an appropriate scale to the position of Solihull as a major retail centre in the regional hierarchy and there is no sequentially preferable site that would be suitable, viable and available. The proposal would not have a significant impact on the vitality and viability of Solihull town centre or any other centre. The site is highly accessible and served by a choice of means of transport, and scope for some linked trips exist. She also considers that the physical regeneration of the site would be accompanied by employment growth, economic benefit and possible enhanced social inclusion. She considers that the proposal complies with retail policies in the development plan and national policy in PPS6, and represents sufficiently sustainable development. She considers that the site is suitable for the type of development proposed.

28. However, the Secretary of State considers that the design of the proposed development would have an unacceptable effect on the character of its surroundings. Although the site would be used intensively in accordance with policy aims, the handling of the design solution would not allow such a large development to be successfully married to its context. The Secretary of State is concerned that the proposed development would not follow the surrounding theme of discrete pavilions within a generally open, landscaped setting and would represent a harmful visual intrusion from many viewpoints.

29. Having weighed up the arguments for and against the proposal, the Secretary of State has concluded that the harmful impact caused by the design of the proposal is not outweighed by the retail benefits and the sufficiently sustainable nature of the proposal. Overall, the Secretary of State considers that the proposal would not accord with development plan policy (IR255, IR259). She does not consider that there are any material considerations to lead her to determine the proposal other than in accordance with the development plan.

Formal Decision

30. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby dismisses your clients' appeal and refuses planning permission for development at Monks Path Retail Park, Highlands Road, Shirley, West Midlands, B90 4NY in accordance with application number 2005/1346, dated 28 June 2005.

Right to challenge the decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within 6 weeks of the date of this letter.

32. A copy of this letter has been sent to Solihull Metropolitan Borough Council and interested third parties.

Yours faithfully



Mark Plummer

Authorised by the Secretary of State to sign in that behalf