



Planning Committee

Winyates Ward

4 November 2008

INFORMATION ITEM

(Report of Acting Head of Environment & Planning)

1. Purpose of Report

To receive an item of information in relation to an outcome of an appeal against a planning decision.

2. Recommendation

**The Committee is asked to RESOLVE that
the item of information be noted.**

3. Financial, Legal, Policy and Risk Implications

3.1 There are no financial, legal, policy or risk implications for the Council.

Report

4. Background

4.1 Planning Application file.

5. Consultation

5.1 There has been no consultation other than with relevant Borough Council Officers.

6. Other Implications

There are no perceived impacts on Asset Management, Community Safety, Human Resources, Social Exclusion or Sustainability.

7. Author of Report

The author of this report is Ruth Bamford (Acting Head of Planning & Building Control), who can be contacted on extension 3219 (email: ruth.bamford@redditchbc.gov.uk) for more information.

11. Appendices

Appendix 1 - Outcome of Appeal against a Planning Decision

OUTCOME OF APPEAL AGAINST A PLANNING DECISION

Reference: 2008/058

Proposal: Variation of condition 14 of planning application 2007/313 to increase the permitted opening hours of builders merchant Buildland, Oxleasow Road, East Moons Moat

(Winyates Ward)

The application sought permission for a builders merchants without complying with a condition attached to planning permission 2007/313. The condition was No.14 which stated that the hours of opening shall be limited to between:-

07:30 to 17:00 hours Monday to Saturday
10:00 to 14:00 hours Sundays, and the premises shall not be open for business on Public and Bank Holidays

Members may recall that planning permission was refused for the above development in April this year. The reason for refusal was based on the increased activity during Bank and Public Holidays that would generate additional noise in the area hindering the amenities of the neighbouring residential occupiers.

The applicants appealed against this decision and put a case forward as to why the variation of the condition should be allowed. As part of the appeal process, neighbouring residential occupiers submitted representations against the development.

The Inspector understood the issues of the appeal to be that the development would alter in such a manner that it could be incompatible with the designation of the site and its surroundings as a primarily employment area. Also, in relation to the intended opening hours, the development would lead to an unacceptable loss of amenity for nearby residents, due to noise and disturbance.

With respect to the change towards more of a DIY use, it was accepted by the Inspector that whilst some of the products sold at the appeal site could also be sold in a DIY store, such premises also sell furniture, electrical goods, lighting and the like. Whereas with the appeal site the Inspector was content that the development appeared to be fully anchored in the building trade.

The Inspector accepted that the retail element of trading would be greater on bank and public holidays than at normal weekday times, but would be added to that which already occurs on Saturdays and Sundays. In addition, the Inspector also believed that relaxing the opening times would maximise employment generating potential.

With respect to noise and disturbance, the Inspector observed that operations within the yard were clearly audible from the rear of properties in Foxcote Close and that there are no barriers to the transmission of noise. The Inspector accepted the Council's view that noise which already causes complaint should not be acceptable on public holidays which may be valuable to resident's peace and quiet. However, the Inspector noted the applicant's suggestion of a condition to ensure that no moving, sorting or stacking stock in the open yard takes place on public and bank holidays. The Inspector considered that this would remove the potential for harm to and complaint from neighbours.

The Inspector considered all the arguments put forward and **ALLOWED** the appeal with the following conditions:

- 1) The use hereby permitted shall not be open to customers outside the following times:-

07:30 to 17:00 hours Monday to Saturday
10:00 to 14:00 hours on Sundays.
- 2) No machinery shall be operated, nor shall any goods or materials be moved, within the open yard on any bank or public holiday.
- 3) The premises shall not open on a bank or public holiday unless notices have been erected in such a form as to give effect to condition 2, and in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

The final paragraph of the appeal decision states that a restriction of movement within the yard area would be a necessary condition. To be effective, it would be necessary that the requirements of condition 3 should be prominently advertised on the site at all times. Whilst officers appreciate the Inspector's approach to this matter, this sentiment is not clearly reflected in condition 3. There is concern that the condition is inefficient and creates ambiguity as it does not specify that the sign would be erected at all times. To date, no details of the notices have been submitted by the applicant to discharge condition 3 and a public holiday has taken place since the appeal decision. It is intended that officers will be negotiating with the agent / applicant to ensure notices are erected on site, and monitoring will also continue.