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**MEETING:** PLANNING CONTROL COMMITTEE

**DATE:** 12<sup>TH</sup> APRIL 2005

**SUBJECT:** PROPOSED MORRISON'S STORE, WHITEFIELD  
(Ref: 42914/04)

**REPORT FROM:** BOROUGH PLANNING & ECONOMIC DEVELOPMENT  
OFFICER

**CONTACT OFFICER:** BRIAN DANIEL

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**TYPE OF DECISION:** COUNCIL

**REPORT STATUS:** FOR PUBLICATION

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**PURPOSE/SUMMARY:**

**OPTIONS AND RECOMMENDED OPTION (with reasons):**

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**IMPLICATIONS -**

**Financial Implications and  
Risk Considerations** None

**Corporate Aims/Policy Framework:**

Do the proposals accord with the Policy Framework? Yes

Are there any legal implications?

**Considered by Monitoring Officer:**

**Statement by Director of Finance  
and E-Government:** N/A

**Staffing/ICT/Property:** N/A

**Wards Affected:** Pilkington Park and Unsworth

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Scrutiny Interest:

N/A

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**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Panel	Executive	Committee	Council
		Planning Control Committee	Bury MBC

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**1.0 BACKGROUND**

The Committee has agreed previously to be Minded to Approve the Morrison's superstore subject to a section 106 Agreement first being signed. Discussions have been taking place between the Council's legal officers and the applicant's legal representatives. A legal technicality has emerged regarding the Agreement which is preventing it being signed and this is causing delay because the planning permission cannot be issued until the s106 Agreement is signed. This report recommends a way around the problem.

**2.0 ISSUES**

A Section 106 Agreement can only bind land in which at least one of the parties to the agreement has a legal interest. Most of the land owned by Dransfield/Morrisons is on the eastern part of the site, roughly where the car parking will be. They do not yet have a legal interest in most of the western part of the site, roughly where the store will be.

The s106 Agreement covers two topics – firstly, items to do with access, parking and traffic issues, and secondly, limitations on the size of the store.

A s106 Agreement can be entered into for the access, parking and traffic issues subject to an obligation that no part of the development shall be commenced prior to full site assembly enabling the whole development to be completed. However, the situation is quite different for the clause in the s106 Agreement that relates to the size of the store. Dransfield/Morrisons cannot sign a binding s106 Agreement relating to this clause because they do not yet have a legal interest in the land where the store will be situated.

### **3.0 CONCLUSION**

If the clause about the size of the store is taken out, it will enable the s106 Agreement to be signed. The clause can then be added as an extra condition in the planning permission, which could then be issued.

The wording of the extra condition is as follows:

#### **Condition**

"The gross external floor area of the foodstore shall not exceed 7,436 sq m (80,034 sq ft) and the net sales area of the foodstore shall not exceed 3,361 sq m (36,175 sq ft)".

#### **Reason**

"To protect the vitality of the district centre and other retail centres".

**BRIAN DANIEL  
BOROUGH PLANNING & ECONOMIC DEVELOPMENT OFFICER**

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#### **List of Background Papers:-**

Planning application 42914/04 and associated papers

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