

## LACK OF CLARITY IS EXPENSIVE IN PLANNING APPLICATIONS

### **Midcounties Co-operative Limited v Wyre Forest District Council**

This planning application was substantially upheld in the QBD. The Court put a blue pen through the tailpiece which saved the application.

The case raises many interesting points which can be read in detail on <http://www.bailii.org/ew/cases/ewhe/admin/2009/964>. What is clear is that had those drafting the Section 106 Agreement given more attention to:

- a. the definition of phrases such as “Net Sales Area” and “Net Retail Sales Area”; and
- b. greater clarity to the extent to which the variation could be approved by the Local Planning Authority

then this case would never have had to have been tried.

I suspect those undertaking the drafting assumed that the relevant phrases were understood by everyone. Apparently either they were not or they meant different things to different people.

**If you would like more information on the legal issues surrounding planning applications please contact Hugh Ellins on 01753 511055 [hugh.ellins@clmlaw.co.uk](mailto:hugh.ellins@clmlaw.co.uk)**