

Application No: 12/4143C

Location: Waggon And Horses, WEST ROAD, CONGLETON, CW12 4HB

Proposal: Removal of Condition 4 (Maximum Vehicle Weight) on Planning Permission 12/3234C - Alterations and extension to existing building

Applicant: TESCO STORES Ltd

Expiry Date: 24-Dec-2012

#### **SUMMARY RECOMMENDATION**

**Approve with conditions**

#### **MAIN ISSUES**

Whether the condition meets the tests outlined in Circular 11/95

### **1. REASON FOR REFERRAL**

This application has been called in for determination by the Southern Planning Committee by Local Ward Councillor Gordon Baxendale, as he considers that the removal of the condition is contrary to the planning conditions laid down by the Southern Planning Committee.

### **1. DESCRIPTION OF SITE AND CONTEXT**

This application relates to the site of the Waggon and Horses public house and associated car park, located on the traffic island bounded by West Road and Holmes Chapel Road in Congleton. The former Jewson's builder's merchant is located directly to the south of the site, with the roundabout to the west and residential properties to the north and an adjacent vehicle sales and repair business. The site is within the Congleton Settlement Zone Line as designated in the adopted Congleton Borough Local Plan First Review.

### **2. DETAILS OF PROPOSAL**

At the Southern Planning Committee meeting of 10<sup>th</sup> October 2012, Members resolved to grant planning permission (ref; 12/3234C) for the alteration and extension of the Waggon and Horses public house on West Street in Congleton. The changes and extensions were to facilitate changing the premises into a convenience store, although it is important to note that changing the use does not require the benefit of planning permission. As such, the previous approval was just

to consider the extension and alteration of the building and not the use. This application seeks to remove condition no. 4 of the said approval. This states that:

*'The maximum weight of vehicles delivering to the site shall be restricted to a maximum weight of 7.5 tonnes.'*

*Reason: In the interests of highway safety and in compliance with Policies GR1, GR9 and GR10 of the adopted Congleton Borough Local Plan First Review 2005.'*

### **3. RELEVANT HISTORY**

12/3234C - Alterations and extension to existing building – Permitted 16-Oct-2012

12/4145C - Removal of Condition 5 (Hours of Delivery) and 6 (Hours of Operation of Business) on Application 12/3234C - Alterations and extension to existing building – Withdrawn 21-Dec-2012

### **4. POLICIES**

#### **Local Plan Policy**

PS4	Towns
GR1	General Criteria for Development
GR2	Design
GR4 & GR5	Landscaping
GR6 & GR7	Amenity & Health
GR9 & GR10	Accessibility, Servicing and Parking Provision
GR17	Car Parking
GR18	Traffic Generation
S2	Shopping and Commercial Development Outside Town Centres

#### **Other Material Considerations**

National Planning Policy Framework

Circular 11/95: The Use of Conditions in Planning Permissions

### **5. CONSULTATIONS (External to Planning)**

#### **Strategic Highways Manager**

No objection - As this application is only considering the extension to the building and not the proposed convenience store, the attachment of condition 4 cannot be substantiated. Therefore, I would have to raise no objections to this application.

### **6. VIEWS OF THE TOWN COUNCIL**

Refuse – in the interests of amenity having regard to the location of the site and also for reasons of safety in respect of highways concerns.

### **8. OTHER REPRESENTATIONS**

Representations have been received from 9 addresses objecting to this application on the following grounds:

- Will have a significant effect on road safety
- Local highway network already very busy
- Highway safety
- There will be 4-5 deliveries per day
- How will large vehicles enter and leave the site in a forward gear
- Increase in the number of vehicles and foot traffic
- Increased hours of business will encourage anti-social behaviour e.g. like the co-op in Buglawton
- Delivery vehicles will cause disturbance and noise pollution
- Reduced car parking
- Tesco should sponsor and pay for the maintenance of the adjacent roundabout and pelican crossings and surrounding areas
- Tesco should pay for the bus stop to be moved outside Jewson's
- Provide and maintain suitable waste disposal
- Lighting should be positioned so as to not cause pollution
- A new Tesco will put all the other shops out of business
- There is already a Tesco nearby

## **9. APPLICANT'S SUPPORTING INFORMATION**

Planning Statement

## **10. OFFICER APPRAISAL**

### **Background**

The original application was for the extension and alteration of the pub only. The principle of the development has already been accepted and it is not the purpose of this report to revisit the merits of the proposal or the potential use as a convenience store, as this does not need planning permission.

The key issue for members to consider is whether or not condition number 4 is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects in accordance with para 206 of the National Planning Policy Framework (NPPF) and circular 11/95 which deals with the use of conditions in planning permissions.

### **Assessment**

Condition number 4, states that:

*'The maximum weight of vehicles delivering to the site shall be restricted to a maximum weight of 7.5 tonnes'*

However, the applicant wishes for this to be removed, as some of the delivery vehicles may be larger than 7.5 tonne and therefore they cannot comply with the condition. They argue that it is unnecessary and not relevant to the development which was permitted.

Presently, there are no conditions which limit the weight of delivery vehicles servicing the site. In determining whether a condition is necessary, Circular 11/95 makes it clear that “authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed”.

With respect to relevance, the Circular goes on to state that “it is not sufficient that a condition is related to planning objectives: it must also be justified by the nature of the development permitted or its effect on the surroundings. For example, if planning permission is being granted for the alteration of a factory building, it would be wrong to impose conditions requiring additional parking facilities to be provided for an existing factory simply to meet a need that already exists”.

The original application was for a small extension to the pub and as such would not significantly increase the intensity of the use. The development does not change or impact on the delivery arrangements. Despite the desirability of controlling the delivery vehicles, in planning terms, the need for the action would not be created by the new development (i.e. the extension). As such, the condition is not necessary and is not relevant to the development to be permitted.

### **Other Issues Raised by Representation**

The majority of the points raised by representation relate to the use of the site rather than the extension of the pub and the condition imposed restricting delivery vehicle weight. This application is not to consider the change of use of the pub to a convenience store, and as such they are not material to this application and would not warrant a refusal.

## **11. CONCLUSIONS**

The principle of the development has already been accepted. The condition does not meet all of the tests outlined in Circular 11/95 and therefore it is recommended that the condition be removed under Section 73 of the Town & Country Planning Act 1990.

## **12. RECOMMENDATIONS**

**APPROVE with conditions previously agreed except condition number 4.**

1. Standard time limit
2. Development in accordance with the approved plans
3. Submission and approval of external materials and finishes
4. Deliveries to be to between 0630 to 1900 hours
5. Opening hours to be between 0630 to 2300 hours
6. Details of lighting to be submitted to and approved
7. Details of bin storage to be submitted and approved
8. Details of acoustic enclosure of fans / compressors and noise generating equipment to be submitted and approved
9. Construction hours limited to 0800 to 1800 hours Monday to Friday, 0900 to 1400 hours on Saturdays and no working on Sundays or Public Holidays

10. Submission of a method statement should pile foundations be required
11. Submission of a method statement for any floor floating taking place



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