

Application No: 11/1014M

Location: TESCO STORES LTD, HIBEL ROAD, MACCLESFIELD, CHESHIRE, SK10 2AB

Proposal: Extension to Time Limit on Planning Permission 08/0906P

Applicant: Tesco Stores Ltd

Expiry Date: 05-May-2011

**SUMMARY RECOMMENDATION - Grant conditional permission for extension of time subject to completion of s106 legal agreement**

**MAIN ISSUES**

**Whether there are changes in circumstances particularly with regard to the roundabout that would justify a different decision than previous made.**

**Whether there have been any changes in planning policy or other material considerations that would justify a different decision being made in this case relative to the previous permission.**

**SCOPE OF THIS APPLICATION**

This application seeks to extend the time limit for implementation of the extant planning permission which was granted permission subject to the completion of a s106 Agreement on 18 December 2011 for the following:

- New five arm roundabout on to the A523 located approx 170m to the north of the Hibel Road/Hurdsfield Road roundabout.
- New access road into the Tesco supermarket site.
- Relocation of the existing petrol filling station to a site adjacent to the new access and egress points at the northern end of the existing car park.
- Amendments to the internal circulation routes, car parking and landscape areas within the existing supermarket site.
- There are no changes to the supermarket store proposed in this application.

The design and layout of the proposal remain as previously approved.

However, it is also important to note that at the same time as the Planning Committee resolved to approve the Tesco roundabout scheme in 2008 they also resolved to approve a scheme for a small retail park development at the adjoining site, the former Barracks Mill site (reference 08/0409P).

Both schemes had alternative access points in close proximity to each other via the Silk Road and, as part of their consideration of each application, in 2008 the Planning Committee were concerned that the 2 separate accesses in such close proximity would not operate safely either in isolation or in conjunction with one another.

Ultimately Committee resolved to grant permission for the Barracks Mill scheme and to Tesco for their respective schemes. Both schemes were subject to Section 106 Legal Agreements and Tesco completed their Agreement and ultimately obtained planning permission on 18 December 2008. The developer of the Barracks Mill scheme never progressed that scheme. Barracks Mill remains an allocated (employment) site within the Development Plan but is now unlikely to come forward for development in the near future. It is, however, important to remember that in the interests of the proper spatial planning of the area, the current application should not blight the future development potential of the adjoining allocated site.

The ability to apply for an extension to the time limit for implementing existing planning permissions was brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation and other procedures.

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

## **RELEVANT PREVIOUS APPLICATIONS**

07/0200P : Certificate Of Lawfulness For The Existing Development Comprising The Creation Of A Mezzanine Floor Within The Existing Supermarket (Internal Works Only) – Positive Certificate granted 17 December 2007.

08/0906P - New Roundabout Access/Egress To Supermarket From The Silk Road, Relocation Of Petrol Station And Amendments To Internal Road And Car Parking Layouts. Installation Of Directional Signage And Street Lighting To Silk Road was granted conditional permission subject to S106 Agreement on 18 December 2008.

## **APPLICANT'S SUPPORTING INFORMATION**

The application is submitted in accordance with the Regulations as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010. The original permission was granted before 1 October 2009 but would expire on 17 October 2011. A S106 Agreement which replicates the terms of the original S106 attached to 08/0906P is submitted.

### **Transport Assessment**

An updated Transport Assessment has been submitted in support of the application. It is stated that there are existing egress problems experienced at the store. This scheme has been designed to alleviate this problem. The existing access is retained for servicing and staff. The relocation of the petrol filling station will allow queuing to be contained within the site. The development site, adjacent to the store, has been considered within the assessment. The Report considers;

- The junction of Black Lane/Hurdsfield Road has capacity issues, affected traffic leaving Tesco. The proposal would reduce the traffic at this signal controlled junction and improves the capacity sufficiently to remove the existing queuing problem.
- The proposal will have a negligible effect on the two roundabouts close by, with both roundabouts being able to cope with the 'u-turn' traffic generated by the proposal.
- The proposal will have minimal effect on traffic flow

A Protected Species Report has also been submitted. This found no evidence of any activity on the site.

## **POLICIES**

### **Regional Spatial Strategy**

DP1 (Spatial Principles)

DP2 (Promote Sustainable Communities)

DP4 (Make the Best Use of Existing Resources & Infrastructure)

DP5 (Manage Travel Demand, Reduce the Need to Travel & Increase Accessibility)

DP7 (Promote Environmental Quality)

DP9 (Reduce Emissions and Adapt to Climate Change)

RT2 (Managing Travel Demand)

EM1 (Integrated Enhancement and Protection of the Region's Environmental Assets)

### **Local Plan Policy**

BE1, NE4, NE11, RT1, RT6, RT7, RT8, RT14, and Development Control Policies. DC1, DC3, DC6, DC8.

### **Other Material Considerations**

National Planning Guidance in the form of: -

PPS1: Delivering Sustainable Development

PPS4: Planning for Sustainable Economic Growth

PPS9: Biodiversity and Geological Conservation  
PPG13: Transport  
PPG25: Development and Flood Risk

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

**United Utilities:** No objections subject to drainage being on a separate system

**Environment Agency :** No objection subject to the same conditions they previously recommended in 2008

**Strategic Manager (Highways) :** No objection subject to conditions as originally approved.

### **OTHER REPRESENTATIONS**

One letter of objection has been received on the basis that an extension of time would result in lengthened uncertainty about the future pattern of development in the area.

### **HAVE THERE BEEN ANY CHANGES IN ANY MATERIAL CONSIDERATIONS IN THE POLICY FRAMEWORK AGAINST WHICH THE APPLICATION SHOULD BE JUDGED PAYING PARTICULAR REGARD TO THE TO SITE LAYOUT AND SITE PLANNING FACTORS THAT WOULD JUSTIFY A DIFFERENT DECISION?**

The relocated petrol filling station would be constructed from modern materials incorporating composite wall and roof cladding with a neutral mushroom white colour finish designed to minimise visual impact. It is situated close to the eastern boundary of the site. The forecourt shop would incorporate a number of security features. The petrol station canopy would be formed of galvanised profile sheets and would have a colour scheme similar to that of the kiosk.

The application seeks to remove and alter existing landscape features within the site to enable this development to take place. Subject to an appropriate high quality landscaping scheme being achieved, particularly with regard to the maturity and scale of replacement planting and potential improvements to the adjoining Bollin Valley Walkway, there are no objections to the scheme.

Importantly there are not considered to be any fundamental changes in policy or any important material considerations that would justify a different decision being taken to these issues

### **HIGHWAYS CONSIDERATIONS - HAVE THERE BEEN ANY MATERIAL CHANGES IN POLICY/CIRCUMSTANCES SINCE PREVIOUS APPLICATION WHICH WOULD JUSTIFY A DIFFERENT DECISION IN THIS CASE?**

This application is for an extension in time to implement a new roundabout access on the A532 Silk Road that would replace the existing customer vehicular access taken from Hurdsfield Road, with servicing and staff access still being retained. The proposed new roundabout is located some 190m north of the existing Hibel Road roundabout

In considering whether there have been any material changes in circumstances since the roundabout was originally granted planning permission paying specific regard to the highways justification, it will be necessary to assess whether there are any significant changes to the highway network that has occurred since the proposed new roundabout was approved on 18 December 2008. As part of the initial 2008 assessment of the 08/0906P application the proposed Barracks Mill development (adjoining site) was included in the Transport Assessment, this will not now be coming forward and the traffic associated with this development can and has been removed from the traffic generation figures. The Highways Engineer has therefore assessed the scheme as a stand alone proposal.

The need for the new roundabout on the Silk Road arises from the congestion issues that occur at the junction of Black Lane/Hurdsfield Road, this was assessed as existing in 2008 and also as projected at 2018. It is apparent that the junction was operating at capacity levels in 2008 and would be worse still in 2018 and this was without the Barracks Mill development adjoining being added into the calculations.

The Strategic Manager (Highways) has assessed the data submitted and advises that the background flows have not reduced from the 2008 levels. The junction is still therefore operating at over capacity levels in 2011 with queues occurring on Black Lane and Hurdsfield Road. Therefore, if no improvements are made to the present Tesco access it is likely that congestion levels will increase at Black Lane /Hurdsfield Road in the future through general traffic growth and cause additional delays to traffic flow.

With regard to the new roundabout on the A532 Silk Road, as the traffic flows on the Silk Road have not substantially changed from those used to assess the capacity of the new roundabout in 2008 and 2018, it is clear that the operation of the junction will not be worse than already approved. If anything, the junction will perform better as the traffic from the proposed neighbouring Barracks Mill site can be taken away from the flows assessed to use the roundabout, as was originally put forward as part of their capacity calculations by the Applicant in 2008.

The need for the improvement arises from the poor access arrangements at Black Lane/Hurdsfield Road, this junction has existing congestion problems and these will only increase in the future through traffic growth on the road network. The non- development of the adjoining Barracks Mill site is not considered to materially alter the determination of this application, since the application needs to be considered on its own individual merits

Having considered the evidence put forward the Highways Engineer has concluded that there is no material change to the existing traffic flows on the Silk Road there are no capacity reasons to raise objections to the application. On this basis there are no changes in highways circumstances that would justify a different decision in this case.

It is also an important consideration that a realistic fallback position exists for this proposal because the existing planning permission for the roundabout will remain valid until 17 December 2011.

## **ARE THERE ANY OTHER MATERIAL CHANGES THAT WOULD JUSTIFY A DIFFERENT DECISION?**

There are not considered to be any fundamental changes in policy or any important material considerations that would alter the determination in this case.

The evidence as submitted in 2008 and repeated now is that there is a highways need for the roundabout on the Silk Road, however, in the interests of the proper future planning of the area and particularly the adjoining site, where the Planning Authority has also accepted the principle of an additional access via the Silk Road, it is important that the Heads of Terms for the S106 Agreement in this case are identical to those previously agreed in 2008.

## **HEADS OF TERMS**

Clause to require the submission of details and delivery of improvements to Middlewood Way.

Clause to require car park/access queue monitoring and the removal of parking spaces at the request of the Highway Authority.

Clause to secure funding for the provision of a Traffic Regulation Order in respect of alterations to existing speed limits.

Clause for the requirement to enter into a S278 with the Highways Authority for works on or contiguous with the public highway.

Clause to facilitate the construction and future maintenance of a footway/cycleway crossing of the river Bollin between land under Tesco's control and the Barracks Mill site adjoining, when that development comes forward.

## **Community Infrastructure Levy (CIL) Regulations**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The provision of improvements to Middlewood Way, which although a Public Right of Way (PROW) is within the Applicant's control is necessary, fair and reasonable to ensure the development contributes to the sustainability agenda and provides for improvements to the PROW which will encourage use of alternatives means of transport. The improvements will assist in linking the site for cyclists and walkers to the wider Macclesfield area

The requirements to undertake queue monitoring and the removal of parking spaces from within the approved Tesco internal layout is required to ensure that should there be excessive queuing within the reconfigured car park at very busy times, in the vicinity of the petrol filling station then some spaces will be removed to facilitate safe traffic flow within the site.

The requirement to enter into a S278 with the Highways Authority for works on or contiguous with the public highway and for Traffic Regulation Orders are required to ensure the safe operation of the highway as a result of the works proposed.

The clause to ensure the connection of the site to the Barracks Mill site is required in the interests of the proper future spatial planning of the area

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

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### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The Greater Flexibility Guidelines issued by the Government recognises that there are situations where flexibility and responsiveness to the challenging circumstances faced by the development community can easily be accommodated by the Local Planning Authority.

In this case it is considered that the application stands alone and there are no material changes in policy either at development plan level or at national government level or any other material consideration which would justify refusal of permission to renew the planning permission.

Application for Extension to Time Limit

RECOMMENDATION: Approve subject to following conditions

1. A01AP - Development in accord with approved plans
2. A02FP - Commencement of development
3. A05EX - Details of materials to be submitted
4. cycle stands to be provided
5. levels
6. hours of construction
7. footway to be completed prior to roundabout
8. oil interceptor
9. replacement trolley store
10. river protection
11. lighting to be shielded
12. pile driving
13. landscaping scheme including buffer to be submitted
14. replacement recycling facilities to be provided



# THE SITE

11/1014M TESCO STORES LTD, HIBEL ROAD, MACCLESFIELD, CHESHIRE, SK10 2AB  
 1,890m - 374,250m

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