



**Application No:** 146583

**Location:** Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

**Scale (approx):** 1:1250

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**7.2 Case Officer: Nadine Calder**

**Due Date: 07/04/2015**

**MINOR**

**Site:** Highwoods Square, Colchester, CO4 9ED

**Application No:** 146583

**Date Received:** 19 January 2015

**Agent:** Mr Laurence Piper, Fuse 3

**Applicant:** Tesco Stores Ltd

**Development:** Extension to existing Class A1 retail store

**Ward:** Highwoods

**Summary of Recommendation:** Conditional Approval

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee at the request of Cllr Gerard Oxford and for the following reasons: Overdevelopment of the site and loss of parking spaces.

## **2.0 Synopsis**

- 2.1 This site has an established use as a large retail development. The key issue of this development is whether it constitutes overdevelopment of the site. Other potential issues include impact on trees, parking facilities and neighbouring amenities. The detailed assessment of this proposal highlights that the proposal does not impact on trees or the provision of parking spaces while the impact on neighbouring amenities is limited. Similarly, the assessment has not provided any clear evidence that the proposed development would amount to overdevelopment of the site and due to its limited scale, no material harm could be identified. The proposal is, therefore, recommended for approval subject to appropriate conditions.

## **3.0 Site Description and Context**

- 3.1 This application relates to the Tesco superstore in Highwoods and specifically to a paved area to the rear of the store where there is an existing hand car wash facility. The store has a 24 hour opening and, as a major store, has a large car park area. The access point to the car park is off a roundabout to the north-eastern corner of the site. The superstore benefits from a Click and Collect facility to the rear of the site and within the building itself there are ancillary uses to the main use at present. These used include a coffee shop, a photo development service, an optician's and a pharmacy. However, these are ancillary and not separate uses in their own right.

- 3.2 The application site is surrounded by residential properties to the east, south and west. There are some mature trees planted along the eastern and southern boundaries and there are three metre high acoustic fences along the southern side of the site which provide the residential properties with some screening from the store and the associated noise.

#### **4.0 Description of the Proposal**

- 4.1 This proposal seeks permission for a small extension to the rear of the existing store to provide a phone-shop which would be accessible from inside the existing store. The proposed extension would measure 12.24 square metres (4.3m x 2.846m) and would be located behind the existing car wash dry bays. The development would have a maximum height of 4.48m and would be constructed using the same materials that are used on the existing building.

#### **5.0 Land Use Allocation**

- 5.1 The site is allocated as an Urban District Centre and is used for local shopping.

#### **6.0 Relevant Planning History**

- 6.1 The site has a long list of planning applications attached to it. Significantly, the use of the site as a supermarket originated from the 1979 permission (72/0805/H) for the larger development of the Highwoods area. The food retail use was one of several services approved under phase 1 of this scheme, although the finer details were not approved until 1982 when application 82/0361 gave permission for retail development approximately 88,000 square feet in size. There have been various additions since then, the most recent and most relevant ones are listed below:
- 071025 – New non-food bulk store extension and canopy extension to be used for Tesco home delivery service.
  - 080770 – Extension to existing foodstore to form opticians and pharmacy.
  - 121385 – Change of use of nine parking spaces to a hand car wash and valeting operation including the installation of an office.
  - 121386 – Provision of signage to advertise proposed hand car wash and valeting operation.
  - 140327 – Home shop (Dot com) canopy extension and extension to store and associated works to existing retail store. Click and Collect canopy and associated parking amendments.
  - 142466 – Proposed signage to Click & Collect facility.

#### **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out how the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

## **8.0 Consultations**

8.1 Environmental Protection does not raise any objection to the proposed development.

8.2 The Highway Authority does not wish to submit a formal recommendation with regard to the proposed development.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

9.1 This area is non-parished.

## **10.0 Representations**

10.1 Six households have submitted letters of objection. Whilst one local resident did not have any serious problem with the proposed extension, the other five have raised overdevelopment as a primary reason for their objection. All six of them have, however, raised major concerns with regards to the repositioning of the car wash facility. Given that this element no longer forms part of the proposal, no weight is given to these objections.

10.2 Further concerns that have been raised with regards to the proposed extension are as follows:

- Loss of trees
- Loss of parking facilities
- Additional lighting
- Potential highway safety issues
- Inaccuracies in plans and application form

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 The proposed development would not have an impact on the provision of parking which complies with current parking standards.

## **12.0 Open Space Provisions**

12.1 N/A

## **13.0 Air Quality**

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## **14.0 Development Team and Planning Obligations**

14.1 This application is not classed as a “Major” application, therefore there was no requirement for it to be considered by the Development Team. It is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

15.1 The application initially consisted of a larger phone-shop extension as a result of which the existing car wash facility was proposed to be relocated further into the site despite neither application form nor the Design and Access Statement making any reference to the latter. The relocation of the car wash would have resulted in the loss of a recently planted tree and 12 parking spaces, although seven parking spaces would have been reinstated in the location of the existing car wash facility. There would therefore have been a net loss of five parking spaces.

15.2 Following the objections from local residents and the ward member, as well as concerns that were raised by the Council’s Environmental Protection Officer, the Agent suggested moving the car wash to the left rather than further into the site and turning it around 90 degrees so that it faced the store rather than nearby residential properties.

15.3 However, following further objections, the Agent indicated that Tesco no longer wish to relocate the car wash facility and instead seek to erect a smaller phone shop to the rear of the store and behind the existing car wash. As such, the proposal does not have any impact on landscaping, as set out within the application form, and the description of the proposal is now correct. The form makes reference to the loss of five parking spaces, however, this would no longer be the case given that the car wash facility remains in situ. The application has been assessed on this basis.

15.4 Turning to the design of the proposed extension, this is in keeping with the existing building. The extension would be concrete based, with metal cladding to match the existing retail store and would have a flat roof. It would be attached to the existing store adjacent to the opticians/pharmacy building for which permission was granted in 2008 and it would not have an external entrance point. Whilst its use would be as a phone-shop, this would be an ancillary use to the main retail unit and is therefore not considered to represent a change of use.

- 15.5 At 12.24 square metres, the amount of the proposed development is minimal. The development is also located to the rear of the main store where it is less prominent. The overall scale of the proposed development is subservient to the main building in terms of height and most certainly by size. As such, the scale is unlikely to have any significant impacts, particularly outside of the site or the immediately visible area. This is supported by the design and materials of the proposed development, which will help to blend the extension into the existing building. It would be visible from the far end of the car park, albeit these views would be limited and somewhat obscured by the car wash dry bays.
- 15.6 The Agent has stated that the phone-shop would operate between the hours of 09:00 and 20:00 Monday to Saturday and from 10:00 to 16:00 on Sundays and Bank Holidays. It is noted that the existing store is a 24 hours openings store, thus these hours seem to be reasonable given the existing usage. However, it would be unnecessary and unenforceable to condition the hours of this small element differently to the rest of the store. Therefore no hours of use condition will be carried forward.
- 15.7 At its meeting on 20 March 2014, when an application for a home shop extension and a click and collect facility was determined, the Committee wished to communicate to the applicant that the site appeared to be at its capacity for development and that alternative sites, with better traffic access, should be considered for further development of the business. Notwithstanding this, whilst it is accepted that the size of the store has considerably increased since it was first permitted, every application has to be determined on its own merits.
- 15.8 Local residents and the ward member repeatedly raise concerns that the site is overdeveloped and that any further development of the site, no matter what scale or use, is unacceptable. These objections are based on the fact that the size of the retail store through various alterations and additions has significantly increased since it was first brought into use. Overdevelopment, however, needs to be justified by identifying material harm that cannot be mitigated. The mere fact that the size of the store has significantly altered in recent years does not justify a reason to refuse permission for any future development that is proposed on this site and it is your Officer's view that a refusal on that basis would not be sustainable at appeal. As a result of its location and minimal scale, the proposed extension would not be excessive in terms of demands on infrastructure and services and it would not have any materially harmful impact on local amenity and the character of the area. On this basis, it is your Officer's opinion that, despite further increasing the size of the store, albeit marginally only, the proposed development would not constitute overdevelopment of the site given that no material harm could be identified, thereby not presenting any sustainable reasons for refusal.
- 15.9 Located behind the existing car wash dry bays and given its limited scale and height, the proposed development would have limited impact on the surrounding area as a whole, including neighbouring properties. The proposed extension would neither impact on trees nor would it affect the parking facilities for the existing store which, at a maximum standard, are in compliance with current parking standards. Similarly, the provision of a phone-shop at the application premises is not considered to increase the traffic associated with the store to such a degree that would result in any highway safety or efficiency issues. Although it is recognised that traffic congestion is an existing problem on this site, the proposed development will not make a significant

difference to this problem. Additionally, the proposed extension would not affect the traffic flow within the site or any of the zebra crossings that are provided within the car park and the proposed development is therefore not considered to impact on the safety of pedestrians walking across the car park.

- 15.10 The application form and the proposed drawings have not made any reference to the installation of any lighting. Having regard to concerns raised by local residents, it is your Officer's opinion that, in the event that permission is granted for the proposed development, this should include a condition stating that no external lighting fixtures shall be installed at any time. This would ensure that the Council is able to control any future lighting, thereby ensuring that the amenities of nearby residents will be safeguarded.

## **16.0 Conclusion**

- 16.1 Overall, it is concluded that the proposed development is a minimal extension that would provide an ancillary use expected at a store of this size. The extension does not present any significant concerns due to its small scale nature and given its location, it would not have any materially harmful effect on the existing landscaping, the provision of parking spaces or the amenities of nearby residents. Whilst the proposed small scale extension makes a further contribution towards the extension of the existing retail store, it has to be assessed on its own merits and given that no material harm could be identified, it is your Officer's opinion that refusing the proposed development on the basis of overdevelopment of the site is not justified and it is considered that such a refusal would not be sustainable at appeal.

## **17.0 Recommendation**

- 17.1 APPROVE subject to conditions.

## **18.0 Positivity Statement**

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## **19.0 Conditions**

### **1 - Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

## 2 - \*Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 2326gag#b.dgn, 2326gag1f.dgn and 2326gag1a.dgn.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

## 3 - Non-Standard Condition/Reason

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

## 4 - Non-Standard Condition/Reason

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution.