

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

2 March 2011

AUTHOR/S: Executive Director (Operational Services)/
Corporate Manager (Planning and New Communities)

S/1689/10 – GREAT SHELFORD
Installation of plant and associated fencing – 36-38 Woollards Lane,
for Tesco Stores Ltd

Recommendation: Approve Conditionally

Date for Determination: 29th November 2010

Notes:

This Application has been reported to the Planning Committee following its deferral from January's Committee Meeting. The application was deferred in order to allow officers to assess its impact in terms of noise and traffic congestion. Members instructed officers to present a further report so that a final decision could then be made.

Site and Proposal

1. The application site comprises a two-storey detached retail unit (A1 Use Class) located within the centre of Woollards Lane. Woollards Lane is identified within the village Conservation Appraisal as being a relatively calm street, even though this is the main shopping street and the centre for commercial and community life in the village. This section of the village contains a library, bank, newsagents, dental surgery and opticians, restaurants and delicatessens, convenience stores, a small department store (application site), pharmacy, estate agents, travel agents, bicycle shop and a greengrocer. The mix of commercial and residential properties are predominantly late 19th century in character, comprising the mainly unplanned conversion of former yellow brick and slate dwellings to shops. In most cases, this has led to the use of back lands as car parks.
2. The site is situated within the village development framework, Conservation Area, Character Area (as designated by the Village Design Statement) and is in within an area of special advertisement control. The application site is not specifically identified within the village's Conservation Appraisal. There are parking restrictions within Woollards Lane with the road being narrow at points with on street parking causing congestion at peak times. The village Design Statement designates Woollards Lane as the principal shopping centre and focus for village activity. This document refers to the conflict between pedestrians and vehicles within this concentrated area.
3. The proposal comprises the installation of one Refrigeration Condenser to the rear of the store upon the approved two-storey rear extension. This plant will be enclosed by a timber-fence. In addition it is proposed that three air conditioning units will be installed upon the western elevation, two of which would serve the sales floor, whilst the third would serve the cash office.

4. The application is supported by a Heritage Statement, Design and Access Statement, Noise Impact Assessment but has not been party to any pre-application advice.
5. The proposed development does not require a parallel application for Conservation Area Consent.

Planning History

7. Planning Application S/0481/74/F for a single storey rear extension was approved.
8. Planning Application S/1708/79/F for single storey rear extension was approved.
9. Planning Application C/0715/69/O for internal alterations and extension to the rear was approved.
10. Planning Application S/0130/81/F for a replacement display window was approved.
11. Planning Application S/1039/84/F for a replacement display window was approved.
12. Planning Application S/1269/85/F for a first floor shop extension was approved.
13. Planning Application S/1579/85/F for the use of no.38 as retail space was approved.
14. Planning Application S/0085/86/F for a two-storey rear extension was approved.
15. Planning Application S/0640/10 for a two-storey rear extension was approved.
16. Planning Application S/1687/10 for advertisement consent was part approved and part refused.
17. Planning Application S/1688/10 for the installation of an ATM unit was refused on the grounds of highway safety and the detrimental impact upon the character and appearance of the shop front and Conservation Area.
18. Planning Application S/1690/10 for shop front extension and alterations was refused on the grounds of a detrimental impact upon the character and appearance of the shop front and Conservation Area

Planning Policy

19. **South Cambridgeshire Local Development Framework, Development Control Policies, DPD, 2007:**
 - DP/1 Sustainable Development
 - DP/2 Design of New Development
 - DP/3 Development Criteria
 - DP/7 Development Frameworks

CH/5 Conservation Areas
NE/15 Noise Pollution

20. **South Cambridgeshire LDF Supplementary Planning Documents (SPD):**
Development affecting Conservation Areas SPD – Adopted January 2009
Great Shelford Conservation Area Appraisal – Adopted September 2007
Great Shelford Village Design Statement – Adopted February 2004

Consultation

21. **Great Shelford Parish Council** – Continues to recommend refusal of this planning application commenting on the following:
- The additional information submitted does not alter the original objection raised by the Parish Council;
 - The special circumstances within Woollards Lane, such as its width, carriageway alignment and the proximity of car parking and vehicle accesses make the use of the highway to the front of the premises for loading and unloading of up to 5 vehicles per day unacceptable;
 - As the applicant chose to hide its name from the previous application to extend the store the Local Planning and Highway Authority would have looked at highways implications;
 - It is understood that a Highways assessment is being carried out and a copy should be made available to the Parish Council.
20. **Conservation** – Raise no objections commenting that the proposed units would be well hidden from major views of the building. Nevertheless, the units should be coloured off-white to match the tone of the existing brickwork.
21. **Acting Environmental Health Manager** – Raises no objections based on the Noise Impact Assessment, on the premise that the equipment installed does not differ from that proposed within the assessment. Nevertheless a condition has been recommended to ensure that the equipment is maintained to the specifications within the noise impact assessment. The Environmental Health Officer has specifically tailored comments in conjunction with letters of concern from local residents.
22. **Local Highway Authority** – Following the submission of additional information from the applicant's agent, the Local Highway Authority has confirmed that given the size of the development proposed a Transport Assessment would not be required. Given the already congested and active nature of the relevant section of Woollards Lane it would be difficult for the Highway Authority to sustain the concept that a potential one additional vehicle movement (delivery per day) over and above that which the site would be able to generate without the need for planning permission will be so significant as to provide reasonable grounds for the Local Highway Authority to object to the proposal.

Representations

22. **528** letters of objection have been received in total in addition to a petition of **395** signatures. The contents are summarised within the original report that featured upon the January Planning Committee Agenda. This report is included as an appendix to this report.

23. The objections summarised below relate solely to letters received in line with the consultation period for additional information submitted following the January Planning Committee meeting. 9 letters have been received in total including a group submission from the Shelford Tesco Action Group (STAG):
- a The site is located at the narrowest point of Woollards Lane and any works within this area will obstruct the passage of road users in either direction. Such congestion will lead to hazards to school children and elderly pedestrians. There are currently double yellow lines outside the existing building for very good reasons and the application should be refused on the adverse impact upon road users;
 - b The proposal will result in noise from the equipment and are unacceptable;
 - c The car parks within the area are always full with on road parking is inevitable and the addition of Tesco deliveries will make matters worse;
 - d Woollards Lane is at present hazardous to the elderly who are slower to cross the road and need additional space when using the pavement. The number of proposed deliveries will therefore endanger the safety of pedestrians and motorists as they will have to manoeuvre around parked vehicles with visibility impeded;
 - e Added congestion to the road way will make crossing the road more difficult;
 - f The plant proposed will enable the store to stock a wider range of goods, such as chilled and frozen foods, which will result in increased vehicle movements;
 - g The proposed number of daily deliveries will result in traffic congestion will increase with resultant jams and tailbacks will be more common, especially during rubbish collection days;
 - h A local car parking survey identifies that there is insufficient car parking within the village to accommodate the store, furthermore, the numbers of vehicles passing the store equate to approximately 600 per hour and lorries parked on a blind central section of road will cause chaos throughout the day;
 - i Upon certain events, such as the weekly market, pre-school sessions and a monthly market within the Memorial Hall upon Woollards Lane traffic would conflict with delivery traffic to the detriment of highway safety;
 - j The recent appeal decision at Mill Road Cambridge is directly relevant to the determination of this application unlike those referred to by the applicant's agent (Sheen Lane, Mortlake);
 - k There is a link between increased refrigeration capacity and road safety as demonstrated by the refused planning application at Mill Road, which is a conclusion drawn from other planning cases;
 - l The effect of the of the store in terms of increased traffic and total traffic relate to a non-food retail use;
 - m If the store is viable it will attract its majority of customers from outside of the Shelford area;
 - n The existing road infrastructure and car parking can not sustain a store of this scale;
 - o The proposed development would represent intensification of the site;
 - p The plant proposed will allow for a larger volume/range of chilled and frozen goods and therefore delivery vehicle intensity will increase above that provided for dry ambient goods. Furthermore, the wider range of goods will generate more customer traffic;
 - q Parking standards for food retailers identifies that food retailers result in increased traffic to that of non-food retailers. This view is shared in appeal decisions such as Sunninghill, Berks and Sheen Lane, Mortlake where the inspector identifies that food retailers will result in increased traffic movements to that of non food retailing;

- r The extant extensions to the site would equate to 484sqm of floor space, requiring 34 spaces for a food retailer to that of 24 spaces for a non food retailer;
- s The predicted four vehicle movements per day do not consider independent news paper deliveries, which may occur at the same time as Tesco deliveries;
- t Studies of other local stores of similar size show daily deliveries to be around 7 a day and not 4 as stated. As a consequence the indicative schedule provided by Tesco is questionable;
- u Even in line with the predicted delivery schedule vehicles will obstruct Woollards Land for approximately 2hrs per day;
- v A potential additional 12 deliveries per week with those associated with the plant resulting in approximately 8hrs of deliveries that would not occur were the application to be refused;
- w Without the installation of plant the vehicle movements required may increase, however, appeal decisions state that the turn around of smaller vehicles with a greater turn around time and therefore the obstruction time caused by deliveries may not differ greatly;
- x Refusal of this application will restrict the volume of goods and in turn the frequency of the delivery of goods sold throughout the store;
- y Permission if granted would result in 24hr use of the plant, which would cause additional noise problems as would additional vehicle movements associated with the plant;

Some of the comments made within the letters received do not relate to relevant material planning considerations and have not been summarised above, this includes one letter of support.

Planning Comments – Key Issues

24. The key issues to consider in this instance are the impact that proposals would have upon highway safety as a result of the potential increase in traffic movements that would result as a consequence of the proposed plant and machinery. In addition to this, the impact upon the character and appearance of the Conservation Area, public realm and residential amenity in respect of noise pollution are also material considerations in the determination of this planning application.

Highway Safety

25. The property in question has an existing A1 use and as such any retail vendor (including food retailing) could occupy the shop as it stands without the requirement for planning permission. Furthermore, the existing property has no planning conditions to regulate or restrict any of the following:
 - Opening Hours;
 - Delivery Hours;
 - Delivery Numbers;
 - Staff Numbers;
 - Loading/Unloading areas;
26. In light of the above it is not possible for the Planning Authority or the Highway Authority to prevent or control deliveries to or from the property in any shape or form. Notwithstanding this, both officers of the Planning and Highway Authority are of the opinion that a material consideration of this application is the potential impact that any additional deliveries that the

installation of the proposed plant may generate. In assessment of this, it is necessary to evaluate both the existing situation and that of the potential occupation by the present applicant, as a food retailer. However, it is important to acknowledge the potential increase in delivery vehicles that the change of vendor may generate would be legal under the current lawful A1 Use (Retail) of the property. Furthermore, it is important to acknowledge that whilst it is evident in case law that food retailers engender greater vehicle movements to that of non-food retailers, the Use Class Order does not distinguish between food or non-food retailing.

27. As stated above the potential increase in deliveries to the store as a consequence of the development, currently under determination, is a material planning consideration. Therefore, it is necessary to evaluate the potential of additional vehicle movements solely associated with the proposed development and then assess this detail against the predicted or assumed vehicle movements of the store operating lawfully as a food retailer without said plant. In doing so the existing circumstances within Woollards Lane, including the use of this section of adopted highway are relevant in arriving at a decision.
28. Given the size of the development it is the view of the Local Highway Authority that a Transport Assessment would not be required and that a less detailed Transport Statement would have been sufficient, although such a report would not be essential under existing guidance (Guidance on Transport Assessment, DfT, Appendix B). In addition to this, the requirement for the submission of a transport assessment is part of the Planning Authority's Local List Requirements and is therefore not essential outside of the National Requirements. At the time of submission officers took the view that a transport assessment/statement was not essential in the validation of this planning application.
29. The Shelford Tesco Action Group state that the deliveries of chilled and frozen goods will be undertaken by 10.3m long lorries, which as they will be unloading, may stop on the existing waiting restriction (double yellow lines) without breaching that restriction. Similarly vehicles delivering non-chilled or frozen goods would follow this pattern of unloading but would be undertaken by smaller vehicles. These points are acknowledged and accepted by officers of the Local Planning and Highways Authority. Furthermore, delivery and unloading is not restricted or prohibited from the front of the property and is therefore permissible under the extant lawful use of the property.
30. The Highway Authority accepts the guidance provided by the Highway Code as referenced by local residents, but it this is best practice guidance only and not legislation. Given that the a delivery vehicle would be parked to deliver goods to a lawful retail store, it would be difficult to argue that such an eventuality is unnecessary, furthermore, since the carriageway width is sufficient to allow such a vehicle to park and another to pass by, it would be difficult to sustain the position that such a vehicle represents an obstruction in the legal interpretation of the word.
31. From the observations made by local residents it is clear that there is a strong perception that Woollards Lane is a hazardous environment, more so than a more typical section of highway. However, it is the view of the Highways Authority that this may in itself be a self regulating safety mechanism; the majority of highway users in all their forms - pedestrians, cyclists and

motorists - are familiar with the environment and from studies undertaken elsewhere increase their awareness in these circumstances (as referenced within the Manual for Streets 2: Chapter 8). This does not necessarily make for a pleasant environment, or one that is easy to negotiate, but does appear to create one where risks are reduced. This is supported from the accident data held by the Highway Authority, where there has been one personal injury accident along the relevant stretch of Woollards Lane in the last three years, this involved two private cars and no vulnerable users (pedestrians, cyclists etc.) were involved.

32. The proposed level of deliveries to the site has been quoted as up to 4 per day (maximum) by the applicant and between five-to-seven as interpreted by local residents, based on other stores of a similar scale. However, clearly not all of these deliveries will relate to chilled food and therefore it is necessary to distinguish the correct proportion associated with the proposed plant. In doing so it is acknowledged that the plant in question will facilitate cold food refrigeration (chilled and frozen goods). The applicant indicates that of the maximum four deliveries per day, only one will wholly associated with the plant in question, if at all. In addition the applicant states that cold refrigerated goods could still be sold from the store regardless of the plant in question. Nevertheless, the plant is required in order to ensure better efficiency in terms of maintenance, running cost and energy usage.
33. The Cambridge Mill Road application is referenced within objection letters from local residents. For the avoidance of doubt this case study although local to the current site, is very different in terms of the site specifics, as is every appeal decision. For instance, the Mill Road site has an existing restriction in place by way of condition, which prohibits deliveries to the front of the store. In addition, Mill Road is not considered comparable with Woollards Lane both in terms of its highway capacity. Nevertheless, it must be acknowledged that despite refused applications and dismissed appeal decisions for similar types of development to that currently under determination, the Mill Road Site is now in operation as a Tesco Express and sells chilled and frozen food despite the lack of cold refrigeration plant.
34. In light of the above, it is apparent that in order to assess the potential impact of the proposed plant and machinery in terms of vehicle intensity, it is necessary to evaluate if the provision of said plant would incur greater vehicle movements than that of the lawful retail use, under the conditions whereby planning consent would not be required. It is also evident that the information provided by the applicant and local residents differs greatly in this assessment. Nevertheless, based on the information provided it is the view of officers that the proposed plant and machinery would result in an increase of delivery vehicles above that of the existing lawful predicted use. This opinion has been arrived at based on the greater efficiency that the proposed plant would provide in terms of chilled and frozen food storage. Notwithstanding this, the predicted increase of vehicle movements is considered to be marginal to that of the lawful use and would not result in a significant intensification of traffic generation above that of what can be expected from the lawful use of the property. Therefore, based on the views of the Local Highways Authority it is considered that as a direct result of this development no additional adverse impact upon highway safety or the amenity of the area would occur.

35. Lastly the information originally provided by the applicant infers that the number of deliveries may increase if the plant is not installed, due to the shorter shelf life of many products when not kept in appropriate conditions. This is inconclusive as appeal decisions state that alternative vehicles if smaller will result in a quicker turn around time and therefore any such impact would be comparable. However, the applicant has now confirmed that should they be forced to provide integral refrigeration units then the number of daily deliveries required would not exceed that predicted with the plant and machinery (3-4 per day).

Residential Amenity (Noise)

36. It is intended that 3 air conditioning (A/C) units will be installed against the side of the premises. These are stated to be X1 Mitsubishi Heavy SRC 28 CD 5 and X2 Mitsubishi Heavy FDCA 501 HESR units. It is acknowledged that these are to be located in a narrow alleyway with no open-able windows and that there are already 5 air conditioning heat pumps mounted on the facade of the adjacent premises in the alleyway, close to the proposed location for the aforementioned equipment.
37. The proposed A/C units will not be in direct line of site facing straight onto any windows of residential properties. It is acknowledged that the first floor windows of nos.2 & 4 Robinson Court are only just viewable from this location but at a slight angle and 30 metres in distance from source to receiver. There is no record of any complaints being received relating to noise from the existing air conditioning heat pumps.
38. With regard to the Searle refrigeration condenser proposed for the rear of the premises, a 1600 high timber close-boarded fence will be erected as an enclosure. This will significantly reduce emitted noise levels. A sufficiently erected acoustic barrier without any holes or gaps can reduce decibel levels by up to 10dB. The properties to the rear of Ashen Green are bungalows and obscured from a direct line of sight to the refrigeration condenser with another fence to the rear of the car park further assisting noise mitigation. The nearest noise sensitive residential dwelling is located on the flats to the side of the premises. However, the openable window to this will be completely obscured from a direct line of site to the refrigeration unit by the rear wall of the application site. The proposed 3 air conditioning units in the alleyway will not have an adverse impact on the use and enjoyment of this dwelling either as they will be totally obscured.
39. The concerns raised by residents are acknowledged in relation to cumulative noise, but the findings of the Noise Impact assessment conducted by LR Associates (UK) dated 13th July 2010 are considered to be satisfactory. It is noted that the report also considers +3dB for reverberant noise, typical from noise sources adjacent to reflective surfaces. This factor has been worked into the calculations. In conclusion, the findings of the acoustic report are considered satisfactory and would not result in any adverse environmental impacts, such as noise or disturbance.
40. Due to member and residents concerns with respect to 24hr use of the proposed plant the Environmental Health Officer has evaluated the impact of evening noise. Part 5.1 of the submitted assessment relates to BS4142:1997 assessments conducted, and in particular 5.1.2 has been conducted and shows results attributed to ratings typical for night-time noise. The figures

stated relate to a monitoring position of 1m from the nearest residential facade which is on the flats to the side of the store, with background noise levels recorded in the adjacent car park. Results indicate in accordance with the relevant BS4142:1997 measurement criteria, that an overall result of - 11dB is likely. Therefore this is within acceptable parameters and in line with the aforementioned British Standard, complaints are considered 'unlikely'.

41. In conclusion a condition stating that all equipment remains as the specification stated in the Noise Impact Assessment and is installed in accordance with manufacturers guidelines, no adverse impact would result. However, further to the protection provided by such a condition the right is reserved to take action by way of statutory nuisance under section 80(1) of the Environmental Protection Act 1990 should for any reason complaints subsequently be received and following an investigation are believed to constitute a statutory nuisance.
42. With regard to vehicle deliveries, it is not considered that an average of approximately 4 trips per day is excessive in this location. Furthermore, due to the lack of restriction relating to the existing lawful use of the property such an eventuality would need to be addressed by way of statutory nuisance under section 80(1) of the Environmental Protection Act 1990.

Visual Amenity

41. The proposals would be sited to the rear of the building enclosed within a timber fence and to the side down a narrow alleyway. As a result the plant and equipment would not be sited within prominent locations that would be visible from major views of the building or the wider Conservation Area. Furthermore, there are multiple examples of similar plant and equipment upon commercial and residential premises within Woollards Lane, in particular upon the adjacent building to that of the application site. In light of the above it is considered that the proposals would have a neutral visual impact preserving the character and appearance of this part of the Conservation Area and public realm. The comments of the Conservation Officer is noted and a condition will be imposed to ensure that the plant and equipment are of an appropriate colour to help the equipment blend in with the brickwork of the building that they are to be attached.

Conclusion:

39. Having regard to applicable national and local planning policies, and having taken all relevant material considerations into account, it is considered that permission should be approved in this instance.

Recommendation

- 4.0 Approve

Conditions

1. **The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.**

(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1828/12B, 1828/07E, 1828/02b & 'Noise Impact Assessment, BS4142:1997 and PPG Assessment Refrigeration and Air Conditioning Equipment' undertaken by KR Associates (UK) Ltd (Dated 13/07/2010/Report reference KR01698)**
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)
- 3. The external appearance of the plant, hereby permitted, shall be off-white in colour, unless otherwise agreed in writing by the Local Planning Authority.**
(Reason – To ensure the appearance of the development is satisfactory in accordance with Policies CH/5, DP/2 and DP/3 of the adopted Local Development Framework 2007.)
- 4. The plant/equipment and associated fencing, hereby permitted, shall be installed, operated, maintained and serviced in accordance with the submitted details and report entitled 'Noise Impact Assessment, BS4142:1997 and PPG Assessment Refrigeration and Air Conditioning Equipment' undertaken by KR Associates (UK) Ltd (Dated 13/07/2010/Report reference KR01698).**
(Reason - To minimise noise disturbance to adjoining residents in accordance with Policy NE/15 of the adopted Local Development Framework 2007.)

Contact Officer: Mike Jones - Senior Planning Assistant
01954 713253