

DEVELOPMENT COMMITTEE

21 JUNE 2006

ITEM 1

B/05/01330/FUL
FULL

LONG MELFORD – TESCO STORES LTD, WOODHALL BUSINESS PARK,
SPRINGLANDS WAY

Extension and improvement of existing Class A1 foodstore to form an additional 2,397m² gross floor area, with extension and alteration to cage marshalling and delivery/service yard area, reconfigured and enlarged shoppers' car park, new surface treatments and ancillary plant and equipment.

Applicant: Tesco Stores Limited

Case Officer: R J Watson

BACKGROUND

1. At the meeting of this committee on 14 September 2005, it was resolved to delegate to the Head of Planning (Control) the granting of planning permission to the above, following the securing of a S106 Obligation providing:
 - a) a payment towards securing improvements to Sudbury Town Centre (to offset the diversion of trade from the Town Centre to Tesco that would result) and;
 - b) if necessary, the provision of access over land owned by the Applicant to provide vehicular access to the Chilton development.
2. Since then the S106 Agreement has been concluded but the planning permission has not been issued because of an intervention by the prospective developers of the Chilton Woods. The purpose of this report is to update committee on what has happened since its previous consideration of this matter, and to enable committee to confirm its previous decision in the context of new and additional information and the recently-adopted Local Plan.

SITE

3. The application site includes the entire curtilage of the existing Tesco store and about 1 hectare of existing agricultural land to the west of the store site. The existing Tesco site is situated within the built up area boundary of the town, but the agricultural land is countryside (the Tesco site falls within the built up area of Sudbury, although its postal address is Long Melford). The application site forms part of the major land development allocation known as the 'Chilton Mixed-Use Development' contained in the Second Alteration to the Babergh Local Plan.

PROPOSAL

4. See report heading. The principal part of the application is the erection of an extension to the existing store. The extension would provide an additional 1,925 square metres of retail floorspace (net) and 472 square metres of storage (net). This would enlarge the existing store to 4,581 square metres of retail floorspace and 2,398 square metres of floorspace for bulk storage.

5. The application also proposes an extension to the existing car park and an additional 136 car parking spaces are proposed. There are also changes proposed to the cage marshalling and delivery/service yard area. Details submitted with the application indicate that 60 full time employment positions will be created.
6. The applicants advise that the extension is designed to complement the form, character and materials of the existing store. A landscaping strip varying between 3 and 20m in width has been provided on the north-western boundary.
7. The application is accompanied by a Planning Statement, a Retail Assessment, a Landscape Statement and a Transport Statement. These can be viewed in full by prior arrangement with the case officer and the conclusions of these various statements and assessments are summarised as follows:-

Planning Statement

- *The existing [Tesco] store is over trading which is creating uncomfortable trading conditions within the store and also within the store car park.*
- *Customers are seeking improved service standards including a more extensive product range and a more attractive shopping environment.*
- *The opportunity is also going to be taken to rearrange the layout of the car park to improve internal flows.*
- *Local Plan alterations have been ratified by the Full Council on 12th July 2004 that the site is suitable for the potential future expansion of the Tesco store, as part of a larger development area known as the Chilton Mixed-Use Development package.*
- *The Plan seeks to protect the vitality and viability of the market town of Sudbury and form a new retail investment within defined town centres to enhance the role of the main shopping areas. Sudbury is identified as being the highest order centre within Babergh District.*
- *The proposal takes into account extant agricultural land that is designated to form part of the Chilton Mixed-Use Development area for retail use within the emerging development plan. In addition, it is considered that Sudbury is one of the preferred locations for new developments in the emerging plan operating at the top of the hierarchy.*
- *We conclude that this proposal meets the requirement of national and local planning policy and is in accordance with the development plan and that consequently planning permission should be granted.*

Retail Assessment

- *The retail capacity assessment has demonstrated that convenience stores in the catchment area are overtrading by some £19.73 million.*
- *The study reveals that the store subject of this application is trading in excess of 111% of company average levels.*
- *We conclude there is capacity within the catchment sufficient to support the application proposals and which will support additional shopping floorspace over and above that proposed.*

- *This is supported by the findings of the Colliers CRE Retail Study that was undertaken for the District Council in June 2002, which highlights the Council may need to consider allowing further major food store developments over the medium to long term over and above any extension to the existing Tesco store at Springlands Way.*
- *The proposal is supported by Colliers CRE in their recent letter which confirms there is a substantial level of unmet shopping floorspace need in Sudbury, even after taking into account new retail commitments and the likely size and turnover of the proposed extension to Tesco.*
- *Colliers CRE also agree that the retail function of an enlarged Tesco will complement the planning Chilton neighbourhood centre and that both retail developments should co-exist with each other.*
- *Once it had been determined that there was capacity, retail impact was considered. The study concluded that the proposal would not have a significantly detrimental impact upon any identified stores or centres.*
- *In terms of planning policy the proposal has been considered against relevant national, strategic and local policies. The site has now been reinstated as a suitable location for the potential expansion and extension to the existing Tesco store.*
- *The retail assessment identified a need for additional retail floorspace and concluded that the majority of trade diversion would fall on specific stores that would be in direct competition with the enlarged store. Consequently, it is not anticipated that there would be a significant impact upon identified centres, thus sustaining the vitality and viability of the town centre.*
- *It is demonstrated that the proposal is in accordance with policies in the development plan as well as national planning policy guidance*

Landscape Assessment

- *The proposals have been designed to respect the existing landscape situation and as a result are fully supportable on landscape and visual grounds. The design of the store extension and associated car parking and the proposed planting will ensure that the development sits comfortably within the local and wider urban fringe landscape setting.*

Transport Assessment

- *The application site benefits from good public transport services providing genuine opportunities for people to travel to the proposed development by non-car modes of transport.*
- *The existing local pedestrian, proposed cycle facilities and the implementation of a staff travel plan are expected to encourage staff and customers to the extended store to use modes of travel that are considered to have less environmental impact than the use of the private car.*
- *The forecast attracted traffic arising from the proposed store extension and the junction capacity analysis has been accepted by Suffolk County Council.*
- *For the previous application on this site [ref. B/04/01351/FUL] the Council expressed concerns regarding car parking provision and occupancy of the proposed store and therefore a forecast car parking demand analysis has been undertaken that reveals there is adequate car parking in the vicinity of the store to satisfy demand.*
- *The proposed level of car parking is consistent with the national maximum parking standards (PPG13, Annex D) and the Government's objective of managing travel demand.*

- *It is concluded that the proposed extended store does not present a material impact on the off-site highway network and the development of the site is consistent with current sustainable development policy.*

RELEVANT HISTORY

8. 1992 – Outline planning permission granted for the erection of foodstore, petrol filling station and residential development with construction of new roundabout and access to bypass and associated car parking. Construction of footbridge over by-pass. Application number B/92/00909/OUT refers.
9. 1993 – Reserved matters submitted under outline planning permission B/92/00909/OUT approved. Application number B/93/00176/RES refers.
10. 1999 – Planning permission granted to vary condition 10 attached to planning permission B/92/0902 to permit no less than 84% of the retail sales area of the store to be used for the sale of convenience goods.
11. 2004 – Planning application submitted for the erection of extension to existing store, alterations to existing delivery/service yard area and enlargement of existing car park (development very similar to the current application - application number B/04/01351/FUL refers) . The determination of that application was delayed whilst negotiations continued with regard to key issues of retail impact, landscaping and car parking and an appeal was made to the Secretary of State against the non-determination of the application within the statutory period. A Public Inquiry is due to take place but has so far been held in abeyance by the Planning Inspectorate pending opportunity for the Council and Tesco to resolve the issues through the present application. It is expected that the appeal will be withdrawn in the event that planning permission is granted for the development proposed in the current application.

POLICY

PPS1 – Delivering Sustainable Development

12. The Government is committed to promoting a strong, stable, and productive economy that aims to bring jobs and prosperity for all. Planning authorities should (inter alia):
 - recognise that economic development can deliver environmental and social benefits;
 - recognise the wider sub-regional, regional or national benefits of economic development and consider these alongside any adverse local impacts;
 - ensure that suitable locations are available for industrial, commercial, retail, public sector (e.g. health and education) tourism and leisure developments, so that the economy can prosper;
 - recognise that all local economies are subject to change; planning authorities should be sensitive to these changes and the implications for development and growth;
 - actively promote and facilitate good quality development, which is sustainable and consistent with their plans;

PPS6 – Planning for Town Centres

13. Sustainable development is the core principle underpinning planning. The planning system has a key role in facilitating and promoting sustainable and inclusive patterns of development, including the creation of vital and viable town centres.
14. In the context of development control and subject to the policies set out below, local planning authorities should require applicants to demonstrate:-
 - the need for development;
 - that the development is of an appropriate scale;
 - that there are no more central sites for the development;
 - that there are no unacceptable impacts on existing centres; and
 - that locations are accessible.
15. Need must be demonstrated for any application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up to date development plan document strategy. The sequential approach to site selection should be applied to all development proposals for sites that are not in an existing centre nor allocated in an up-to-date development plan document. The relevant centres in which to search for sites will depend on the overall strategy set out in the development plan, the nature and scale of the development and the catchment that the development seeks to serve. In selecting sites, all options in the centre should be thoroughly assessed before less central sites are considered.
16. Impact assessments should be undertaken for any application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up-to-date development plan strategy. Where a significant development in a centre, not in accordance with the development plan strategy, would substantially increase the attraction of the centre and could have an impact on other centres, the impact on other centres will also need to be assessed.
17. In considering proposed new developments, local planning authorities should consider the need for accessibility by a choice of means of transport and the impact on car use, traffic and congestion
18. Applications for the extension of existing development in edge-of-centre and out-of-centre locations may raise specific issues. The impact on existing town centres of the proposed extension should be given particular weight, especially if new and additional classes of goods or services for sale are proposed. In addition, where establishing need is concerned, local planning authorities should establish that the evidence presented on the need for further floorspace relates specifically to the class of goods proposed to be sold. The sequential approach is only a relevant consideration in relation to extensions where the gross floor space of the proposed extension exceeds 200 square metres. This policy relates to development which creates additional floorspace, including proposals for internal alterations where planning permission is required, and applies to individual units or stores which may or may not be part of a retail park, mixed use development or shopping centre.

Suffolk Structure Plan 2001

- CS1 – Distribution of new development
- CS2 – Economy and employment
- CS5 – The urban fringe
- ENV3 – Design standards
- ENV4 – Protection of the countryside.
- ENV16 – Agricultural land.
- ENV17 – Retention of trees and hedgerows
- ECON1 – expansion of an existing employment site.
- ECON8 – ECON 10 – Town centre policies
- T9 – Development related private car parking.
- T14 – Transport impact assessments

Babergh Local Plan, Alteration No.2 (2006) *(the policy references below relate to the adopted version of the Local Plan - the policy numbers in some cases differ from those in the second deposit draft. Where this is the case, the previous reference number is given in brackets).*

- EM20 (EM12a) – Expansion of existing employment uses
- SP01 – The retail strategy
- SP02 – Retail and other major trip generating development; the sequential approach.
- SP03 – Retail and other substantial trip generating development outside town centres.
- CR01 – Protection of the countryside
- CR07 (CR10) – Landscaping of development in the countryside
- CR08 (CR11) – Retention of hedgerows
- CR11 (CR23) – Agricultural land
- CN01 – Maintaining local distinctiveness
- TP15 (TP18) - Development related private car parking.
- TP16 (TP19) – Green travel plans
- TP17 (TP20) – Transport assessments
- CP01 The Chilton mixed use development package (see below).

19. Policy CP01 e) relates to this site and states:

1.3 hectares of land to the west of the existing Tesco superstore are allocated for retail use to allow for the potential expansion of the existing superstore. Proposals for development are expected to provide:-

- evidence that there is a need for such development and there will be no material adverse impact on the vitality and viability of Sudbury town centre or on the establishment of the proposed Chilton Neighbourhood Centre and its subsequent vitality and viability. Given the inevitable uncertainty in such assessments contributions will be sought for strengthening the town centre and the Chilton development;
- structural landscaping along the edge of the new distributor road;
- a new vehicular access to the superstore delivery facility is required from the new distributor road, together with pedestrian and cycle friendly access to the site from the Chilton development;

- a “green travel plan” that seeks to promote sustainable modes of transport for store deliveries, staff and customers; and
- appropriate alterations to the existing roundabout junction with the A134.

Members are asked to note that whilst the final 3 bullet points above were omitted from the report to members in September, a verbal report of these parts of the policy was nevertheless made to Committee.

OBSERVATIONS

The following observations summarise the submissions made prior to Committee on 14 September (and reported – either in the written report or orally) and in the case of paragraphs 25, 30 and 31, those submissions received post Committee.

20. PC – (Long Melford) – recommend approval.
21. TC – (Sudbury) – refuse - accepts the need but wants to see the present limit on non convenience goods (at 16%) retained; the present pedestrian access to Woodhall Business Park should be retained.
22. PC – (Chilton) – in general no objection, but:
 - queries the proposed hours of opening as Tesco presently open 24 hrs daily;
 - sees no good reason to remove existing trees in the car park;
 - seeks an increase in cycle racks;
 - asks for Tesco’s increased lorry traffic to be diverted on to the link road.
23. CHA – no objections and recommended conditions
24. County Archaeologist; no impact
25. Suffolk Wildlife Trust - draws our attention to the presence of common lizards on the boundary of the application site and requests that a survey be undertaken, (advising that common lizards are protected under the 1981 Act).
26. Sudbury Society – no objection in principle, but wants to see the present limit on non convenience goods (at 16%) retained, present pedestrian access to Woodhall Business Park should be retained as should the internal Tesco roundabout.
27. Representations were received from one of the Long Melford Members requesting that the contribution secured from this development should be allocated to Long Melford; in addition an email was sent by Cllrs Booth and Bennett to all members dated 11 September 2005, making the following points:
 - the contribution paid by Tesco should be increased and the majority should be spent in Sudbury;
 - there should be no reduction in the % floorspace reserved for convenience goods
 - an additional contribution should be sought from Tesco towards the Sudbury Western By-pass.
28. 3 letters were received from local residents, objecting because:
 - a. the extension would have a negative impact on the vitality and viability of the town and village centres of Sudbury and Long Melford;

- b. Tesco's attitude to Poppy Day collections;
 - c. Traffic generation;
 - d. Impact on landscape;
 - e. Prejudicing Chilton/conflict with Inspector's report (then expected shortly);
 - f. Noise levels;
 - g. Light pollution
29. HoES - noise likely only to result in a slight reduction in amenity (re para 28f above)
30. Shortly after the committee decision in September 2005 we were contacted by the potential developers of Chilton Woods, both directly and through their solicitors, raising elements of the then-emerging local plan policy for this site (CP01) and those ways in which they considered the decision made to be inconsistent with that policy. Since then the local plan Inspector has issued his report and the policy for this site has now been confirmed in the adopted Local Plan. The Inspector commented in his report: *"With an additional development of 1600 people in my view there could be no objection in principle to the expansion of the existing Tesco store. This is a reasonable safeguard by recognising expansion of the store may be an element of the Chilton development."*
31. The prospective developers of Chilton Woods asserted that the decision made by Development Committee on 14 September 2005:
- made no provision for structural landscaping
 - sought no separate vehicular access to the Tesco service yard;
 - made no provision for pedestrian and cycle friendly access to the site from the Chilton Development;
 - sought no contributions to strengthen the Chilton development and;
 - required no alterations to the existing roundabout junction on the A134.
- (All these are contained within policy CP01). They have followed this up with a letter dated 22 May 2006, which makes the above points, and in addition, the following:
- policy CP01 requires the development of the extension to Tesco to make a contribution to the Chilton distributor road;
 - no apparent provision for a green travel plan;
 - policy CP01 requires the submission of an Environmental Impact Assessment with "the" planning application; by dealing with this application in isolation from the remainder of Chilton, the guidance in circular 02/99 is being ignored;
 - the council has wrongly concluded that the 1993 Agreement (see para 45 below) remains in force.

ASSESSMENT

32. The application site is part of the major Chilton Mixed Use Development which is allocated within the now-adopted Second Alteration to the Babergh Local Plan. Policy CP01 e) is central. There is an extant undetermined planning application for a similar development at this site (please refer to paragraph 11 above). An appeal has been submitted against the non-determination of the application within the statutory period, but it is expected that this appeal will be withdrawn in the event of planning permission being granted to the present proposal. Taking the elements of policy CP01 e), in turn:

The need for such development and possible impact on the vitality and viability of Sudbury town centre or on the proposed Chilton Neighbourhood Centre

33. An independent critique of the retail assessment which was submitted with that planning application was commissioned following the submission of the appeal and whilst the

report (prepared independently by Colliers CRE) criticised the rigour of the applicants' own assessment of impact, it concluded that the Tesco proposal is unlikely to cause material harm to what is a relatively robust town centre, nor to the planned Chilton neighbourhood centre.

34. The applicants have carried out further assessment of the potential retail impact following receipt of the Colliers report and submitted this with the application. The assessment demonstrates a clear need for the shopping floorspace at the scale proposed in the application. It has also demonstrated that an adequate search for available alternative sites for the development within the town centre has been undertaken with no suitable and available sites identified. Furthermore, the assessment has demonstrated that the level of trade which has been estimated will divert to the extended store from town centre retailers will not have a significant impact on the vitality and viability of the town centre.
35. Nonetheless there is likely to be a significant trade diversion from the town centre to the extended superstore and a proportion of that lost revenue would probably have been used to enhance existing facilities in the town centre, i.e. shop front improvements, store refurbishment, extensions and so on. As a result, a S.106 Agreement has been secured, providing a sum to be used by the Council for enhancement to Sudbury town centre.
36. The study revealed no impact on the proposed Chilton Neighbourhood Centre which would justify a payment in mitigation.

Structural landscaping along the edge of the new distributor road

37. The application is accompanied by a landscape assessment and detailed landscaping scheme. This demonstrates that a structural landscaping belt is to be provided along the entire north-west boundary to compensate for the loss of existing structural landscaping at the site. This is the crucial boundary to the countryside. It is considered that the proposed landscaping belt, which proposes native species tree and hedge planting will help to soften the visual impact of the proposed extension on the countryside. The management of this important landscaping belt can be secured via an appropriately worded condition. Further landscaping is proposed around the site.

A new vehicular access to the superstore delivery facility from the new distributor road

38. In considering the application in September 2005, our advice to committee took account of the then state of preparation of Alteration no2 to the local plan. Both the Chilton development and Tesco expansion were provided for by emerging policy, but a decision had to be made then as to whether the Tesco extension could be approved without Chilton; there was at that stage a possibility that the Inspector may have recommended the removal of the Chilton allocation. Considering this possibility we were unable to conclude that the Tesco expansion was so intrinsically a part of the Chilton development that it should not be considered in isolation, nor refused until Chilton itself was committed. The reasons for this were that Tesco did not depend fundamentally upon Chilton, nor was there any evidence arising that Chilton would not be successful unless Tesco was tied in in a particular way. In this situation, it was concluded that Tesco could be permitted, in principle at least, whether or not Chilton proceeded. This issue informs both this point, and the one below.
39. A separate access to the service yard from the Chilton distributor road cannot be achieved immediately, since the alignment of this road has not yet been fixed, and it

may be some years off construction. In September 2005, it remained a proposal in a draft local plan and the possibility of the entire Chilton allocation falling was not to be discounted. Accordingly the decision then was between granting permission without this access and refusing permission because of the lack of it. The former was the decision taken. Since then we have reached an agreement with Tesco that a supplementary S106 Obligation can be entered into to require such an access to be provided and there are ongoing negotiations between Tesco's and the Council's solicitors to agree the detail.

Pedestrian and cycle friendly access to the site from the Chilton development

40. No pedestrian or cycle linkages into the remainder of the Chilton Development are proposed as part of the application. The policy requirement to provide pedestrian and cycle friendly access to the site from the Chilton Development cannot be achieved in this case without knowledge of the detailed layout of the proposed pedestrian and cycle linkages within that development. While the development proposed doesn't provide such linkages, it doesn't prevent them either. Such access could be provided in the future, but if permission is granted to the proposal in its present form, then there will be no incentive or requirement for Tesco to provide a link at any time. The choice is therefore either to refuse permission because of the absence of such access or to grant permission despite it, recognising that this is an element written into the Local Plan policy. On balance, the absence of the access is not considered sufficient to require planning permission to be refused.

Green travel plan

41. A condition can be added to any planning permission granted requiring the submission, approval and implementation of a green travel plan. A draft plan has been submitted and is currently under consideration.

Appropriate alterations to the existing roundabout junction

42. No alterations were required of the access roundabout because the advice received from the County Council, as Highway Authority, was that none were required. Moreover, advice from the Highway Authority also confirms that the development does not preclude access to the Chilton Development in highways terms.

Of the other points raised by the objectors (see para 31):

Contribution to the Chilton distributor road;

43. Policy CP01 does not anywhere refer to "contributions" to the distributor road. It does state that provision of the road, or part of it, will be a requirement of some allocations within Chilton, but this does not include allocation e) which provides for this development.

Submission of an Environmental Impact Assessment

44. Policy CP01 states that "the" planning application should be accompanied by an Environmental Impact Assessment (EIA). Its wording clearly envisages all, or most, of the development coming forward as one application and in these circumstances such an Assessment would be appropriate. The key factor, though, is whether an EIA is required as a matter of law. When this application was received, it was "screened" in

accordance with the EIA regulations and it was concluded that an EIA was not necessary.

Access Rights sought over Tesco's Land

45. A request was made by Suffolk County Council on the day before the committee met in September 2005 to consider this application, that any permission granted be subject to a S106 Obligation granting a right over land owned by Tesco for the construction of the Chilton Distributor Road. There was inadequate time then to research this matter before the application was considered by committee and as a result, the resolution provided for this request to be met "if necessary" (para 1b) above). This assessment has now been carried out and it is concluded that since the agreement sought would not relate to the development now proposed (ie the erection of an extension to the store) an obligation as sought by the County Council would have failed at least one of the tests in circular 05/2005. On that basis such a provision was not necessary. In any event we have been advised that this requirement had been included in a S278 Agreement concluded between Suffolk County Council and Tesco in 1993, and which would remain in force until 2013.

CONCLUSION

46. This application has been submitted in an attempt to overcome the Council's concerns regarding an extant planning application for a similar scheme which is currently awaiting an appeal inquiry. The concerns are listed at paragraph 11 above. It is considered that this application demonstrates that there is a need for the development in the town and that the retail impact on both Sudbury Town Centre and the proposed Chilton Neighbourhood Centre will not affect their viability or vitality, given the impact mitigation measures proposed in relation to the town centre. Furthermore, the proposal is acceptable with regard to its impact on the countryside and all highway matters, including the level of car parking proposed.
47. The decision made on 14 September last that planning permission could be granted remains correct. Of the matters not considered at that meeting the issue concerning lizards can be addressed by the imposition of a condition and one of the additional points raised in para **31** above can be addressed by a supplementary S106. Of the other points, landscaping was already addressed and there are no reasons to require action in respect of a contribution to Chilton or changes to the roundabout. This leaves the question of pedestrian and cycle-friendly links; these can be provided but there is no immediate prospect of this provision. As the development would otherwise be in accordance with policy, this would not be sufficient grounds to warrant a refusal of the application

REASONS FOR APPROVAL

48. The proposal for an extension to the existing superstore, extension to its car park and other alterations and improvements is considered to comply with the provisions of PPS6 and Development Plan policies CS1, CS2, ENV3, ENV4, ECON1, ECON9, ECON10, T9, T14, EM20, SP01, SP02, SP03, CR01, CR07, TP15, TP16, TP17 and CP01. In particular, the Local Planning Authority is content that there is sufficient need for the proposed development which cannot be provided within a town centre location. Furthermore, it is considered that the application includes appropriate measures to mitigate any potential impact upon the vitality and viability of the Sudbury Town Centre. The proposal is also considered acceptable with regard to its impact on the character and appearance of the countryside and is acceptable in terms of highway safety and traffic convenience, car parking provision and other sustainable transport objectives.

RECOMMENDATION

- A. The Solicitor to the Council be authorised to secure a supplementary obligation under Section 106 of the Town and Country Planning Act, 1990 in respect of the provision of an access to the Tesco service yard from the Chilton Distributor Road.
- B. Upon securing the obligation the Head of Planning (Control) be authorised to grant planning permission, subject to conditions to include: –
- Those recommended by CHA
 - Mitigation measures regarding any lizards on site
 - Landscaping
 - Range of goods (% split for convenience and comparison goods)
 - Green Travel Plan
 - No subdivision of the extended store

DECISION
