

REPORT TO: Planning Committee

MEETING DATE: Tuesday 6 December 2011

BY: Executive Director of Environment
(Planning & Building Standards)

SUBJECT: Application for Planning Permission for Consideration

Application No. **11/00827/PM**

Proposal Variation of condition 1C of outline planning permission
06/00770/OUT to extend the time period for a further 3 years

Location **Tesco Stores Limited**
Mall Avenue
Musselburgh
East Lothian
EH21 7TS

Applicant Dundas Estates

Per Manson Architects

Ward 002

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

Planning permission in principle (Ref: 06/00770/OUT) was granted in September 2008 for a mixed use development on some 8.8 hectares of land located close to Musselburgh Town Centre which at the time of determination of application 06/00770/OUT included land of the former Brunton Wire Works, land of the then Tesco supermarket, and the bus depot that is operated by First Bus. When granted the planning permission in principle included for a retail store, residential development of up to 140 residential units, a primary health care centre, a care home for the elderly (including a day centre and associated specialist housing with support) and associated access roads and car parking.

The masterplan docketed to planning permission in principle 06/00770/OUT shows: (i) most of the southern part of the land of the then Tesco supermarket designated for development as a care home and the remainder of that land for residential development, (ii) the land adjacent to Musselburgh Bowling Club designated for development as a primary health care centre, (iii) a reconfiguration of the parking area of the flatted properties at the junction of Mall Avenue and Inveresk Road, and (iv) the remainder of the application site designated for development as a retail superstore. Planning permission in principle 06/00770/OUT does not allow for any change to the established use of the bus depot.

Condition 1 of planning permission in principle 06/00770/OUT states that:

(a) Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building(s), means of access and the landscaping (collectively these are termed "reserved matters").

(b) Plans and particulars of the reserved matters referred to in (a) above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given.

(c) Application for the approval of reserved matters shall be made to the planning authority within 3 years from the date of this permission.

(d) The development hereby permitted shall commence within 5 years from the date of this permission, or within 2 years from the date of approval by the planning authority of the last of the reserved matters to be approved.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997.

In September 2008 planning permission (Ref: 06/00769/FUL) was granted to Tesco Stores Limited for the erection of a retail superstore, a petrol filling station, automated teller machine pod, car parking, and pedestrian and vehicular accesses on land approved in principle for such development by planning permission in principle 06/00770/OUT. Planning permission 06/00769/FUL has been implemented, that part of the site of planning permission in principle 06/00770/OUT has thus been developed and the Tesco retail superstore is trading.

In January 2010 reserved matters approval (now known as approval of matters specified in conditions) 09/00500/REM was granted for the erection of a primary care centre on the land designated for it in the masterplan and approved in principle for such development by planning permission in principle 06/00770/OUT. Reserved matters approval 09/00500/REM has been implemented and development of the primary care centre is well advanced.

To date, no detailed proposals have been brought forward for a residential and care home development of the remainder of the land the subject of planning permission in principle 06/00770/OUT (i.e. the land of the former Tesco supermarket).

Through this current application planning permission is now sought for the variation of Condition 1 of planning permission in principle 06/00770/OUT. The variation is to extend the lifetime of the permission by another 3 years to enable submission of details of a residential and care home development of the still undeveloped part of the site the subject of planning permission in principle 06/00770/OUT and which are designated in the masterplan for such development.

As a statutory requirement of major development type proposals the applicant applied for variation of Condition 1 was the subject of community consultation prior to this application having been made to the Council. As a further statutory requirement a pre-application consultation report is submitted with this application. The report informs that only a small number of people attended the pre-application consultation event held in Musselburgh. Attendees included representatives of both Musselburgh Conservation Society and Inveresk Village Association. The report does not indicate that any comments were received from attendees relating specifically to the variation of Condition 1 of planning permission in principle 06/00770/OUT. The conclusion of the report is that no material changes to the pre-application proposal were considered necessary.

In their pre-application consultation report, the applicant informs that residential development has been delayed due to uncertainties with the housing market associated with the 'credit crunch' and the general downturn in the economy. The applicant does however consider that there are signs that the economy is slowly beginning to recover. It is on this basis that the applicant is seeking to extend the period of time by three years for the making of application(s) for the approval of reserved matters in respect of the residential development and the care home.

One written objection to the application has been received. It is from a local resident, who is concerned that extending the time period by three years would:

- i) not benefit the local community or the environment in the area;
- ii) not provide any local work opportunities at a period of low investment in the area;
- iii) not make efficient use of currently sterilised, unsightly and fenced off ground;
- iv) retain land in the company land bank with undefined planning requirement;
- v) maintain profits within the company rather than contribute to local requirements.

Given that this application is seeking only to vary Condition 1 of planning permission in principle 06/00770/OUT, all other conditions imposed on the grant of planning permission in principle 06/00770/OUT, including the conditional control on limiting the residential development to no more than 140 residential units, would otherwise remain unaltered and in force.

An agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 also remains in place, including provisions for the delivery of developer contributions for education and affordable housing.

As planning permission is sought merely to extend the time allowance of condition 1 of planning permission in principle 06/00770/OUT by a further 3 years then the matters raised by the objector are not material considerations in the determination of this planning application.

The principle of residential and care home development of the mixed use development the subject of planning permission in principle 06/00770/OUT is consistent with relevant strategic and local planning policy, which is now Policies HOU2 (Brownfield Housing Sites) and ENV1D (Regional and Local Natural and Built Environment Interests) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies BUS4 (Bruntons Site, Musselburgh), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

To extend the time period of planning permission in principle 06/00770/OUT by three years would not prejudice the integrity of that grant of planning permission in principle.

RECOMMENDATION

That planning permission be granted for a variation to Condition 1 of planning permission in principle 06/00770/OUT to extend the time period given in part (c) by a further 3 years to 6 years:

1 Condition 1

(a) Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building(s), means of access and the landscaping (collectively these are termed "reserved matters").

(b) Plans and particulars of the reserved matters referred to in (a) above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given.

(c) Application for the approval of reserved matters shall be made to the planning authority within 6 years from the date of this permission.

(d) The development hereby permitted shall commence within 5 years from the date of this permission, or within 2 years from the date of approval by the planning authority of the last of the reserved matters to be approved.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997.