

REPORT TO: Planning Committee

MEETING DATE: Tuesday 4 November 2014

BY: Depute Chief Executive
(Partnership and Communities Services)

SUBJECT: Application for Planning Permission for Consideration

Application No. **14/00757/PM**

Proposal Variation of condition 1C of planning permission in principle
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 & Development Co. Ltd.

Per Manson Architects

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 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. Approval of matters specified in conditions 09/00500/REM has been implemented, that part of the site of planning permission in principle 06/00770/OUT has thus been developed and the primary care centre is in operation.

In December 2011 planning permission (Ref: 11/00827/PM) was granted for the variation of Condition 1 of planning permission in principle 06/00770/OUT. The approved variation extends the lifetime of the permission by another 3 years (i.e. until the 25 September 2014) 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.

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 a further variation of Condition 1 of planning permission in principle 06/00770/OUT. The proposed variation

would extend the lifetime of the permission by another 3 years (i.e. until the 25 September 2017) 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.

In an email submitted in respect of the application, 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 the economy is slowly beginning to recover and in tandem the housing market and house prices are improving again. It is on this basis that the applicant is seeking to extend the period of time by a further three years for the making of application(s) for the approval of reserved matters in respect of the residential development and the care home.

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.

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 Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) 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 a further 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 9 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 9 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.