



APPENDIX REPORT

REGULATORY SERVICES COMMITTEE

17 November 2011

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| Subject Heading: | P1495.11 - 77-79 Butts Green Road, Hornchurch Single storey rear extension (Application received 7 th October 2011) |
| Report Author and contact details: | Helen Oakerbee (Planning Control Manager) 01708 432800 |
| Policy context: | Local Development Framework London Plan National Planning Policy |
| Financial summary: | None |

The subject matter of this report deals with the following Council Objectives

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| Ensuring a clean, safe and green borough | <input checked="" type="checkbox"/> |
| Championing education and learning for all | <input type="checkbox"/> |
| Providing economic, social and cultural activity in thriving towns and villages | <input type="checkbox"/> |
| Value and enhance the life of our residents | <input type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax | <input type="checkbox"/> |

SUMMARY

This application seeks full planning permission for a single storey rear extension to an existing vacant shop premises in order to increase the retail floor area. The proposed extension would enable the premises to be occupied by a Tesco Express store. Staff consider that the proposals satisfactorily overcome the reasons a previous application was dismissed at appeal and that the proposal accords with the relevant policy requirements. For the reasons set out in the report, Staff

consider that a grant of planning permission can be given subject to the satisfactory completion of a Section 106 legal agreement and the conditions set out below.

This application has been called before the Committee by Councillors S Kelly, Ramsey and Ower. Councillor Kelly has called in the application to consider the scale of development proposed on the site. Councillor Ramsey has called in the application to consider whether the proposal would be detrimental to surrounding residential uses and impact on traffic and highway usage. Councillor Ower has called in the application to consider the level of parking available.

RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Section 106 legal agreement under the Town and Country Planning Act 1990 (as amended), to secure the following:

- Payment of a financial contribution of not more than £20,000.00 towards highway works to fund a review of the current bus stop location and a review of the existing waiting, loading and stopping restrictions in the vicinity of the application site such contribution sum shall include interest to the date of expenditure and indexation from the date of the agreement to the date of payment.

- The Council's reasonable legal fees for preparation of the agreement.

That Staff be authorised to enter into a legal agreement to secure the above obligation and upon completion of that agreement, grant planning permission subject to the conditions set out below:

1. Time limit - The development to which this permission relates must be commenced not later than 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 Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Accordance with plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with the

LDF Development Control Policies Development Plan Document Policy DC61.

3. Matching materials – The external finishes of the extension hereby approved shall be carried out in materials to match those of the existing buildings to the satisfaction of the Local Planning Authority.

Reason: To safeguard the appearance of the premises and the character of the immediate area, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

4. Hours of Use - The extension of retail floor space hereby permitted shall not be used for the purposes hereby permitted other than between the hours of 07:00 and 23:00 on any day without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control in the interests of amenity, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

5. Details of new plant and machinery - Before any works commence a scheme for any new plant or machinery to be provided to the retail unit shall be submitted to the local planning authority to achieve the following standard. Noise levels expressed as the equivalent continuous sound level LAeq (1 hour) when calculated at the boundary with the nearest noise sensitive premises shall not exceed LA90 -10dB and shall be maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining properties in accordance with the recommendations of Planning Policy Guidance Note 24 Planning & Noise 1994.

6. Details of extract ventilation equipment - If any cooking or food heating facilities are to be provided, before the use commences suitable equipment to remove and/or disperse odours and odorous material should be fitted to the extract ventilation system in accordance with a scheme to be designed and certified by a competent engineer and to be approved in writing by the Local Planning Authority. After installation a certificate shall be submitted to the Local Planning Authority and the equipment shall be properly maintained and operated within design specifications during normal working hours.

Reason: To protect the amenity of occupiers of nearby premises, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

7. Details of measures to control noise and vibration - If any cooking or food heating is to be undertaken, before the use commences a scheme to control the transmission of noise and vibration from any mechanical ventilation system installed shall be submitted to and approved in writing by the Local

Planning Authority and implemented prior to the permitted use commencing. Thereafter, the equipment shall be properly maintained and operated during normal working hours.

Reason: To protect the amenity of occupiers of nearby premises, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

8. Hours of construction - No construction works or construction related deliveries into the site shall take place other than between the hours of 08.00 to 18.00 on Monday to Friday and 08.00 to 13.00 hours on Saturdays unless agreed in writing with the local planning authority. No construction works or construction related deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the local planning authority.

Reason: To protect residential amenity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

9. Construction methodology - Before development is commenced, a scheme shall be submitted to and approved in writing by the local planning authority making provision for a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers. The Construction Method statement shall include details of:

- a) parking of vehicles of site personnel and visitors;
- b) storage of plant and materials;
- c) dust management controls
- d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the local planning authority;
- f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the local planning authority; siting and design of temporary buildings;
- g) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- h) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

And the development shall be carried out in accordance with the approved scheme and statement.

Reason: To protect residential amenity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

10. Land contamination - Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority;

a) A Phase I (Desktop Study) Report documenting the history of this site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.

b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

c) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise of two parts:

Part A - Remediation Statement, which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a "Validation Report" must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA ; and

e) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, "Land Contamination and the Planning Process".

Reason: To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

11. Sound attenuation - The building shall be so constructed as to provide sound attenuation of 45 DnT,w + Ctr dB (minimum values) against airborne noise and 62 L'nT,w dB (maximum values) against impact noise to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining properties in accordance with the recommendations of Planning Policy Guidance Note 24 "Planning & Noise" 1994, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policies DC55 and DC61.

12. Works affecting the public highway - Prior to the commencement of the development, details of the proposed works affecting the public highway shall be submitted to and approved in writing by the Local Planning Authority and all necessary legal agreements secured. The works shall be carried out in full and in strict accordance with the approved details prior to the first occupation of the development and thereafter permanently retained.

Reason: In the interests of highway safety.

13. Provision of an area for delivery and service vehicles - Before the extension hereby permitted is first occupied, an area shall be provided within the highway to the front of the site for the loading and unloading of delivery and service vehicles, in accordance with details previously submitted to and agreed in writing by the Local Planning Authority. Thereafter such provision shall be made permanently available for use to the satisfaction of the Local Planning Authority unless otherwise agreed in writing with the Local Planning Authority. No loading or unloading of goods from vehicles arriving at or departing from the premises shall be carried out otherwise than within such area. There shall be no storage of goods or other obstructions within the approved area without prior consent in writing of the Local Planning Authority.

Reason: To avoid obstruction of the surrounding streets and to safeguard the amenities of occupiers of neighbouring property, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC33.

14. Cycle storage - Prior to completion of the works hereby permitted, customer cycle parking of a type and in a location previously submitted to and agreed in writing by the Local Planning Authority shall be provided and permanently retained thereafter.

Reason: In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC36.

15. Refuse and recycling - Before the development hereby permitted commences, details of the proposed refuse storage and recycling facilities

to be provided at the site for the use, together with arrangements for refuse disposal and details of recycling and collection shall be submitted to and approved in writing by the Local Planning Authority. The facilities as approved shall then be provided at the site prior to the commencement of the use and retained at the site thereafter in accordance with the approved drawings at all times.

Reason: In order to ensure that any such facilities respect the visual amenity of the locality, and the amenity of surrounding residents.

16. Details of a CCTV system - Prior to the commencement of use of the development hereby permitted a scheme showing the details of a CCTV system to be installed for the purposes of community safety and the prevention of crime throughout, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Havering Police Crime Prevention Design Advisor. No part of the development shall be occupied or used before the scheme is implemented as agreed.

Reason: In the interest of residential amenity and creating safer, sustainable communities, reflecting guidance set out in PPS1, and Policies CP17 and DC63 of the LDF Development Control Policies Development Plan Document and Policy 7.3 of the London Plan.

17. Details of trolley bays - Prior to first occupation of the extension hereby permitted, details of any trolleys and trolley bays shall be submitted to and approved by the Local Planning Authority. Once approved, they shall be implemented in accordance with the approved details and retained thereafter.

Reason: To protect residential amenity and on highway safety grounds in accordance with Policies DC61 and DC32 of the LDF Development Control Policies Development Plan Document.

18. Delivery and servicing hours - No deliveries or servicing shall take place other than between the hours of 07:00 and 23:00 any day without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control in the interests of amenity, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

19. Delivery and servicing plan - Prior to the first occupation of the development hereby approved a delivery and servicing plan (DSP) in accordance with the provisions of the London Freight Plan shall be submitted to and agreed in writing by the Local Planning Authority. The DSP shall include details of the servicing arrangements including the exact location, times and frequency of deliveries. The development shall thereafter be operated strictly in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety and in order that the development accords with the LDF Development Control Policies Development Plan Document Policies DC32 and DC36.

20. Staff travel plan - Prior to the first occupation of the extension hereby permitted a staff travel plan shall be submitted to the Local Planning Authority to demonstrate how sustainable forms of transport to and from the site will be promoted. The travel plan shall include a scheme for monitoring and review. The mechanisms set out in the Travel Plan shall be implemented within a period to be agreed in writing by the Local Planning Authority and thereafter permanently retained.

Reason: In the interests of sustainability and to comply with Policy CP10 of the LDF Core Strategy and Development Control Policies Development Plan Document.

INFORMATIVES

1. Reason for Approval: It is considered that the proposal satisfies the relevant criteria of Policies CP4, CP8, CP10, CP17, DC32, DC33, DC34, DC35, DC36, DC40, DC55, DC61 and DC63 of the LDF Core Strategy and Development Control Policies Development Plan Document and Policies 4.1, 4.7, 4.8, 6.9, 6.10, 6.12, 6.13, 6.14, 7.3 and 7.4 of the London Plan.
2. Please note that any external extract ducting system would be likely to require a planning permission in its own right.
3. The applicant is advised that planning approval does not constitute approval for changes to the public highway. Highway Authority approval will only be given after suitable details have been submitted, considered and agreed. Any proposals which involve building over the public highway as managed by the London Borough of Havering, will require a licence and the applicant must contact StreetCare, Traffic & Engineering on 01708 433750 to commence the Submission / Licence Approval process.
4. In aiming to satisfy Community Safety Conditions the applicant should seek the advice of the Police Crime Prevention Design Advisor. He can be contacted through the London Borough of Havering Development and Building Control or Romford Police Station, 19 Main Road, Romford, Essex, RM1 3BJ." It is the policy of the local planning authority to consult with the Borough CPDA in the discharging of community safety condition(s).
5. In response to Community Safety Condition (CCTV), the system will need to include an acceptable level of external coverage, where the cameras are capable of recording good quality images at all time of day and night.
- 6 Planning Obligations

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

REPORT DETAIL

1. Site Description

- 1.1 The application site is located on the western side of Butts Green Road 25 metres north of the junction with Wykeham Avenue. The site is occupied by a double fronted retail unit, which lies within a small parade of commercial units. The site is presently vacant and was previously occupied by a menswear shop. To the rear of building is an open yard area, which was previously used for staff parking and the storage of refuse. The yard is accessed via a single-track drive leading from Wykeham Avenue.
- 1.2 The site and adjoining commercial units within the parade form part of the Emerson Park Minor Local Centre. In addition to the site the parade contains a hardware rental store, a hairdressers and a car showroom. The Minor Local Centre continues to the south of the site along Butts Green Road. Directly to the north of the site are two storey semi detached residential dwellings with a flatted development opposite the site to the east. The wider surrounding area comprises mainly residential properties.

2. Background for Members

- 2.1 Members will recall that in March 2010 planning permission was refused for a single storey rear extension to the subject building in order to enable the opening of a new Tesco Express store. The application was refused by Members for the following reasons;
 1. *The proposed rear extension would, by reason of its excessive depth, height and position close to the boundaries of the site, be an intrusive and unneighbourly development as well as having an adverse and overbearing effect on the amenities of adjacent occupiers contrary to Policy DC61 or the LDF Core Strategy and Development Control Policies Development Plan Document.*
 2. *The proposed development would, by reason of the inadequate on site car parking provision, exacerbated by the lack of acceptable servicing, be likely to result in dropping off and temporary car waiting movements outside the premises and unacceptable overspill onto the adjoining roads to the detriment of highway safety and residential amenity, contrary to Policies*

DC2 and DC33 of the LDF Core Strategy and Development Control Policies Development Plan Document.

3. *The proposed development would, by reason of the inadequate servicing and refuse collections arrangements proposed, exacerbated by the lack of on site car parking, be likely to result in traffic congestion in Butts Green Road; external refuse storage; conflict with bus stop and nearby residential driveway sightlines and; potential use of the loading bay by other commercial users, to the detriment of highway safety and residential amenity, contrary to Policies DC32, DC36 and DC61 of the LDF Development Control Policies Development Plan Document.*

- 2.2 The applicant lodged an appeal against the refusal of planning permission however the Councils decision was upheld and the appeal dismissed in October 2010. Despite the appeal being dismissed the Planning Inspector only upheld the first reason for refusal relating the impact of the extension on residential amenity. In light of this the main consideration for Members is whether this revised proposal satisfactorily addresses this issue.

3. Description of Proposal

- 3.1 This application seeks planning permission for the erection of a single storey rear extension to the existing building in order to provide an increased retail sales floor and storage area for a Tesco Express store. Although not part of this planning application works are proposed to relocate the existing bus stop from outside the site to a new location further along the road to the south. This element of the works is subject to the separate agreement of the Council as Highway Authority and the cost of the works would be funded through a legal agreement in the event that planning permission is granted.
- 3.2 The proposed extension would project 22.5 metres from the rear main wall of the existing building and cover the full width of the unit (a distance of 12.2 metres). Two flat roof forms of differing height are proposed to cover the extension. The extension would have a maximum height of 3.5 metres decreasing to a height of 2 metres adjacent to the boundary with no. 81 Butts Green Road. In order to keep the proposed extension as low as possible adjacent to the neighbouring property at no. 81 Butts Green Road it would be sunk into the ground by 0.7 metres with a lower internal floor level to maintain a useable ceiling height. The proposed extension would have an internal floor area of 239 square metres.
- 3.3 This application differs from that previously refused and dismissed at appeal in that the overall bulk of the proposed extension has been reduced as explained further in the amenity section of this report.

4. Planning History

- 4.1 P0577.99 - Single storey extension to rear of existing shop units - Approved

P1087.04 - Renewal of planning permission P0577.99. Single storey extension to rear of shop units - Approved

P1649.09 – Single storey rear extension – Refused and appeal dismissed

5. Consultations/Representations

- 5.1 95 neighbouring occupiers, including those who objected to the previous application, were notified of this application by letter. At the time of writing this report for Committee 24 letters of representation have been received. The letters raise objection to the application on the following summarised grounds; a lack of parking, traffic congestion, noise from external plant, additional air pollution, additional smells, the presence of existing supermarkets in the local area, loss of business to local shops, the site being an unsuitable location, loss of business to other retailers, highway safety, potential obstruction of the highway from delivery vehicles, potential obstruction of neighbouring driveways through inconsiderate parking.
- 5.2 The Emerson Park and Ardleigh Green Residents Association raise objection to the proposed development on the basis that it would have a detrimental effect on the residential amenity of neighbouring occupants, on the vitality and viability of the local shopping parade and on existing parking problems in nearby residential roads.
- 5.3 The London Fire and Emergency Planning Authority is satisfied with the proposals.

6. Staff Comments

- 6.2 Relevant LDF Core Strategy and Development Control Policies Development Plan Document Policies to be considered are Policies CP4 (town centres), CP9 (reducing the need to travel), CP10 (sustainable transport), CP17 (design), DC32 (road network), DC33 (car parking), DC34 (walking), DC35 (cycling), DC36 (servicing), DC40 (waste recycling), DC55 (noise), DC61 (urban design), DC63 (crime) and DC72 (planning obligations).
- 6.3 Policies 4.1 (developing London's economy), 4.7 (retail and town centre development), 4.8 (supporting a successful and diverse retail sector), 6.3 (assessing affects of development on transport capacity), 6.9 (cycling), 6.10 (walking), 6.12 (road network capacity), 6.13 (parking), 6.14 (freight), 7.3 (designing out crime) and 7.4 (local character) of the London Plan are further material considerations, together with Government Planning Policy contained within Planning Policy Statement 1 (Delivering Sustainable Development), Planning Policy Statement 3 (Housing), Planning Policy Statement 4 (Planning for Sustainable Economic Growth), Planning Policy Guidance Note 13 (Transport) and Planning Policy Guidance Note 24 (Planning and Noise).

7. Staff Comments

7.1 This application has been called before the Committee by Councillors S Kelly, Ramsey and Ower. Councillor Kelly has called in the application to consider the scale of development proposed on the site. Councillor Ramsey has called in the application to consider whether the proposal would be detrimental to surrounding residential uses and impact on traffic and highway usage. Councillor Ower has called in the application to consider the level of parking available.

7.2 The main issues to be considered by Members in this case are the principle of development, design/street scene issues, amenity implications and parking and highways issues.

7.3 Principle of development

7.3.1 The proposal is for the extension of a retail unit to enable a Tesco Express store to open. The application site is designated in the Local Development Framework as falling within the Emerson Park Minor Local Centre. Policy DC16 advises that within the borough's Minor Local Centres retail uses and other uses appropriate to a shopping area will be granted planning permission. The proposed retail use would accord with the provisions of this policy and bring back into use a double unit, which has been vacant since August 2008. Staff are of the view that the extension would enable the provision of a new retail use which would compliment and support the existing shopping function of the local centre.

7.3.2 Government planning policy contained within PPS4 acknowledges that new retail uses can increase vitality and viability of local centres and meet the government's objectives for prosperous economies. Furthermore advice contained within PPS1 encourages Local Planning Authorities to actively ensure that vacant and underused land and buildings are brought back into beneficial use to achieve the targets the Government has set for development on previously developed land. The proposal would also provide new employment opportunities for local people.

7.3.3 The proposal would contribute to the objectives of the London Plan for supporting town centres, specifically relevant are Policies 4.1, 4.7 and 4.8. As such the proposal is broadly supported by national planning guidance providing all other material considerations are addressed.

7.4 Design and Layout

7.4.1 The proposed extension would be located to the rear of the building and would be screened from Butts Green Road by the existing building and those neighbouring. Limited views of the extension maybe possible from Wykeham Road along the rear access road however given the set back of the extension from the road such views would not be harmful to the street scene. The design of the proposed extension is such that it would be of functional appearance. Extensions of the nature proposed not uncommon to commercial premises within a shopping parade, indeed the adjoining

premises to the south of the site has previously been extended to the rear. The extension has been designed in the manner proposed in order to reduce its overall height and bulk and resultant impact on neighbouring properties as discussed below. Staff are of the view that the design of the extension would not have a harmful impact on the character of the existing building or the surrounding area.

7.4.2 Any other external alterations to the application premises including any new shop front, ATM, advertisements or air conditioning units would be subject of separate applications.

7.5 Impact on Amenity

7.5.1 The application site is located at the edge of the Minor Local Centre and immediately adjoins residential properties. Whilst shopping policy generally supports the expansion of the premises for retail purposes it is important to balance this against the potential impact the proposal may have on residential amenity. No. 81 Butts Green Road adjoins the application site to the north and would be most affected by the proposed rear extension. In reaching a decision to refuse planning permission for the previous application Members were of the view that the rear extension would be an intrusive and unneighbourly form of development, which would have an overbearing effect on the adjoining property. A Planning Inspector in dismissing an appeal against the Council's decision supported this view. The Planning Inspector recognised that the proposed rear extension would be lowered in height adjacent to the boundary with no. 81 Butts Green Road however it was also noted that the extension would project a significant distance beyond the rear of no. 81 Butts Green Road. The Planning Inspector concluded that the extension would create a substantial increase in built form close to the boundary with the neighbouring property, which would have resulted in an unacceptable sense of enclosure.

7.5.2 In reaching a conclusion on the acceptability of this application the main consideration for Members is whether this revised proposal satisfactorily overcomes the comments made by the Planning Inspector. In order to address the first reason for refusal and the comments raised by the Planning Inspector the applicant has reconsidered proposed extension. The previously refused scheme was for a full width rear extension projecting to a maximum depth of 22.5 metres with a flat roof 2.9 metres in height. The extension included a small section nearest to the boundary with no. 81 Butts Green Road that was 2 metres in height and covered by a mono pitch roof. This current proposal remains for a full width rear extension with the depth being unchanged. Two different roof forms would cover the proposed extension in order to keep its overall height as low as possible. A flat roof is proposed with a maximum height of 3.1 metres to cover the portion of extension nearest to no. 75 Butts Green Road. This portion of the extension would be set away from no. 81 Butts Green Road by 6 metres. A further flat roof with a height of 2 metres is proposed to cover the portion of extension nearest to no. 81 Butts Green Road. In order to maintain usable ceiling

height within the proposed extension the portion nearest to no. 81 Butts Green Road would set down or sunken into the ground by 0.7 metres.

- 7.5.3 The Planning Inspectors reason for dismissing the previous proposal at appeal was based on the concern that the extension would have resulted in an intrusive and overbearing aspect for the residents of no. 81 Butts Green Road, and an unacceptable sense of enclosure. The proposed extension whilst still projecting a significant distance beyond the rear of no. 81 has been substantially reduced from that previously refused in terms of overall bulk. Staff are of the view that the setting down of the portion of extension nearest to the neighbouring property at no. 81 into the ground combined with an overall height of 2 metres would ensure that the extension does not appear overly intrusive within the rear garden environment. Although it is acknowledged that the proposed extension would have a greater height to its southern side adjacent to no. 75 Butts Green Road this would be a distance of 6 metres from the boundary with no. 81 Butts Green Road. The height of the proposed extension nearest to the boundary with no. 81 is such that it would be capable of screening by a conventional 2 metre high boundary fence. In view of this staff are of the view that a refusal on the grounds of an unacceptable sense of enclosure would be difficult to substantiate. In summary staff are of the view that the proposed rear extension would have an acceptable impact on the amenities of no. 81.
- 7.5.4 Staff are of the view that the proposed extension would not result in any material harm to the occupiers of no. 75 Butts Green Road, since this building is in commercial use and already projects some way into the rear yard.
- 7.5.5 Letters of representation received in respect of the previous application raised concern with regard to the proposed retail store giving rise to increased incidents of anti-social behaviour through late night opening. Similar to other Tesco Express stores in the Borough the applicant has indicated proposed opening hours of 0700 till 2300 on any day. Consideration has to be given to the fact that the existing retail unit could operate on an unrestricted basis as there are no planning conditions in place to prevent this. Although the extension would facilitate the provision of a larger trading area, in staff's view it would be unreasonable to refuse permission on the grounds of harm arising from late night trading in light of the lack of control over the existing unit. However, it is possible to impose a planning condition to prevent opening later than 23:00 within the extended part of the store and the applicants have agreed to provide CCTV equipment within the store. This can also be secured by condition.
- 7.5.6 It could be expected that the traffic, both via car and foot, and general activity at and within the vicinity of the site, would increase given the proposed increase in retail floor space by 239 square metres. From this, it could also be reasonably concluded that the use of the premises along with customers entering and leaving the site, would give rise to a greater degree of noise and general disturbance. The application site is located within a Minor Local Centre where a use of the nature proposed is to be expected.

In view of this those residents adjoining or living in close proximity to the application site would expect a different type of environment from that which would be found in an entirely suburban housing area. No details of noise insulation measures have been submitted, although these can be sought via condition. Given the lawful use of the premises as a retail unit however, it is considered that an objection would be difficult to sustain on noise and disturbance grounds subject to appropriate sound insulation and an opening hours condition. Furthermore, planning permission has previously been granted under references P0577.99 and P1087.04 for an extension to the unit, albeit with reduced floorspace (86 square metres of net retail floor space / 181 square metres overall). It should be noted however that these permissions have now expired and can no longer be implemented.

7.5.7 Another form of noise which would be likely to result from this proposal is from deliveries and the associated unloading. Information submitted with the application indicates that daily deliveries would occur for fresh food, bread and newspapers with an additional delivery every other day for non-perishable goods. Subject to the imposition of a condition limiting delivery hours, it is considered that any noise impact arising would not be unduly harmful. Details shown on the plans indicate that refuse would be stored within the rear yard area and collected from Wykeham Avenue. Staff are of the view that the level of activity associated with refuse collection would not give rise to an unacceptable impact in amenity terms.

7.6 Parking and Highway Issues

7.6.1 Members will be aware that the previous application was partly refused on two highways grounds. The first reason was based upon the view that the lack of off street car parking would be likely to give rise to dropping off and temporary car waiting movements outside the premises which would be likely to cause congestion on adjoining roads to detriment of highway safety. The second highways related reason for refusal was based upon the view that the lack of an off street servicing area would be likely to give rise to give rise to conflict with the bus stop and nearby residential driveway sightlines to detriment of highway safety. In dismissing the appeal against the Council's decision the highways reasons for refusal were not upheld as will be explained below.

7.6.2 The proposal is intended to serve a localised catchment area within 500 metres of the site for everyday shopping. It is expected that the majority of customers would be local and would walk or cycle to the store. However, some customers would be expected to use a car, especially commuters or those passing by on Butts Green Road. The applicant has provided a trip generation exercise, which indicates a maximum of 26 customer vehicles an hour visiting the shop at the peak periods. This amounts to a projected maximum of 2 vehicle arrivals and 2 vehicle departures in any 5 minute interval.

7.6.3 Wykenham Avenue is subject to a high level of parking demand however the Planning Inspector saw no evidence of consistently high levels of

parking in other nearby streets or along Butts Green Road. Taking into account the predicted parking demand the Inspector was satisfied that there is sufficient capacity for on-street parking available for customers without causing congestion or the obstruction of residential driveway sightlines. The Inspector acknowledged that no off street staff parking would be provided and judged that this was acceptable subject to a planning condition requiring a travel plan to encourage staff to travel by means other than car.

- 7.6.4 Members will be aware that planning permission has recently been granted for the change of use of part of the former Heath Park Motors showroom in Brentwood Road for a Tesco Express store (application reference P0018.11). This store is to have a retail area of 381 square metres compared to the 354 square metres of floor space for the proposed store in this case. Both the approved Brentwood Road application and this application propose no off street car parking for customers or staff. Members may recall that the Brentwood Road application was judged to be acceptable having regard to the presence of existing on street parking controls and the accessibility of public transport.
- 7.6.5 Whilst Butts Green Road is not presently subject to on street parking controls like Brentwood Road, having regard to the conclusions reached by the Planning Inspector previously staff are of the view that a parking based reason for refusal would not be sustainable in the event of a further refusal and subsequent appeal.
- 7.6.6 In terms of deliveries information provided by the applicant suggests that these would be managed so that not more than one vehicle would attempt to deliver at the same time. In terms of delivery frequency it is envisaged that there would be one consolidated delivery of fresh food per day, an additional delivery every other day of non-perishable goods, a daily delivery of bread and a daily 'drop & drive' delivery of newspapers is expected to be made prior to the store opening or very shortly afterwards. Refuse would be collected from the site once or twice a week in short duration collections with packaging removed for recycling via the delivery vehicles. Refuse would therefore be dealt with in a similar way to other retail units. It is proposed that both deliveries and servicing would take place from the highway. On this matter the Planning Inspector was of the view that sufficient space exists within the highway to prevent obstruction.
- 7.6.7 In dismissing the appeal on the previous application the Planning Inspector agreed with Member's assertion that there was potential for conflict arising between parked cars, buses and service vehicles immediately outside the application site. To overcome these matters, the applicant provided the Planning Inspector with a signed unilateral undertaking. The undertaking required the applicant to pay a highway contribution of £20,000 to the Council to review existing waiting, loading and stopping restrictions in the vicinity of the site. Such an agreement has also been provided as part of this planning application. Discussions have taken place separate from the planning process with the relevant authorities and an agreement reached to relocate the existing bus stop and shelter closer to Wykeham Avenue.

There is also support to introduce a bus cage with a 24 hour clearway through the Council's powers as Highway Authority. There is also potential to introduce a no waiting restriction in front of the application premises, which would apply premises between 0700 and 0900 Mondays to Saturdays to facilitate morning deliveries. Taking all these matters into account, the Planning Inspector was satisfied that suitable measures could be secured to ensure that the proposal would not be harmful highway safety.

8. Conclusion:

- 8.1 In conclusion, the proposed extension would enable an existing vacant retail unit to be brought back into use. The proposal is considered to be acceptable in terms of shopping policy and would contribute to the vitality and viability of this part of the Emerson Park Minor Local Centre.
- 8.2 Staff are of the view that this revised proposal satisfactorily overcomes the concerns raised previously by a Planning Inspector in respect of the impact on the neighbouring property at no. 81 Butts Green Road. Staff are of the view that the changes which have been made to the design of the proposed rear extension through a reduction in its height would ensure that residential amenity is safeguarded.
- 8.3 In respect of parking and highways issues the Council's reason for refusal of the previous application were not upheld at appeal. Having regard to the comments made by the Planning Inspector staff are of the view that the proposal would have an acceptable impact on the functioning of the highway subject to a securing a unilateral undertaking requiring the applicant to pay a highway contribution.
- 8.4 Having regard to all material planning considerations, it is recommended that planning permission be granted subject to a legal agreement and conditions.

IMPLICATIONS AND RISKS

Financial implications and risks:

None.

Legal implications and risks:

Legal resources will be required for the drafting of a legal agreement.

Human Resources implications and risks:

None.

Equalities implications and risks:

The Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS

Application forms, plans and supporting statements received on 7th October 2011.