



# HIGHWAYS ADVISORY COMMITTEE

14 May 2013

# REPORT

**Subject Heading:**

**REVISED PARKING & LOADING  
ARRANGEMENTS AT 69-79 BUTTS  
GREEN ROAD**

**Report Author and contact details:**

**Outcome of public consultation**

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

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

This report sets out the comments received in response to a public consultation on revised proposals to provide a loading bay and a bus stop clearway with a kerb build-out outside 69/79 Butts Green Road in support of the implementation of a development at 77/79 Butts Green Road and seeks a recommendation to the Cabinet Member for Community Empowerment that the measures be implemented.

This scheme is within **Emerson Park** ward.

## RECOMMENDATIONS

1. That the Committee recommends to the Cabinet Member for Community Empowerment that subject to Tesco Store Limited bearing the costs of implementation the following measures be implemented as described in this report and shown on Drawing QH051/OF/101A;
  - Provision of a loading bay, 19.4 metres in length, outside 69 to 75 Butts Green Road. The bay to be in operation throughout the week, between 10am and 2pm, loading for 20 minutes, no return within 1 hour;
  - Provision of a 24-hour bus stop clearway, 11 metres in length and with a footway build out, outside 77 to 70 Butts Green Road.
  - Provision of “at any time” waiting restrictions (double yellow lines) on the opposite side of Butts Green Road to the loading bay and bus stop from the northern flank of no.83 Butts Green Road and for a distance of 40 metres south, to ensure free passage of traffic past the area.
  
2. That it be noted that the estimated cost of £20,000 for the review will be met by Tesco Stores Limited secured by unilateral undertaking made under Section 106 of the Town & Country Planning Act 1990 (review costs) and that the costs of the implementation of the measures described above can be secured either through an agreement made under Section 278 of the Highways Act 1980 as amended (works) or a Deed of Variation to the Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990.

## REPORT DETAIL

### 1.0 Background

- 1.1 Tesco Stores Ltd has planning consent for the erection of a single storey rear extension to the retail unit at 77/79 Butts Green Road.
  
- 1.2 A planning application was made under P1649.09 and refused by the Council. The reasons for refusal included the impact that the development would have on the operation of Butts Green Road and the immediate highway network and the impact of the development on adjacent premises. The applicant submitted an appeal to the Planning Inspectorate against the refusal.

- 1.3 The appeal was dismissed on the basis of the impact that the development would have on the adjacent premises, but the Inspector commented on highway safety issues. In essence, there was concern that the local section of Butts Green Road would suffer from conflicts between parked cars, buses and service vehicles. The Inspector noted that the applicant had submitted a signed unilateral undertaking to fund a localised review of parking/ servicing provision and that this was sufficient to overcome the potential problems.
- 1.4 The scheme was adjusted by the applicant and resubmitted (P1495.11). The Council again refused consent on the basis of impact on adjacent premises and again, the applicant appealed.
- 1.5 The Planning Inspector allowed the appeal and gave planning consent for the development and imposed a number of conditions, including one to deal with the section of Butts Green Road fronting the site;

***Condition 7***

*Prior to the occupation of the development hereby permitted an area within the highway to the front of the site for the loading and unloading of delivery and service vehicles, shall be provided in accordance with a scheme that has been submitted to and approved in writing by the local planning authority. This approved area shall be permanently retained thereafter. There shall be no loading or unloading of goods from vehicles other than from within this approved area.*

- 1.6 In order to deal with the condition, a sum of £20k has been provided by Tesco Stores Ltd, so that the Council can review the parking arrangements on the highway outside the site and then agree and implement a scheme. A request to proceed with design and consultation on suitable measures was approved by the Highways Advisory Committee at its meeting of 14<sup>th</sup> August 2012 (Item H2, Highways Schemes Applications Schedule).
- 1.7 The area of highway in front of 69 to 79 Butts Green Road is currently unrestricted and there is a bus stop with shelter outside 77/79. Two photographs of the site are provided in Appendix I. This section of highway is also outside three other businesses (car sales, hairdresser and a construction hire shop).
- 1.9 The proposed layout attached to application P1495.11 showed the bus stop being relocated outside 69/75 with a clearway restriction and a single yellow line restriction in front of 77/79 which would permit loading. After discussion with staff, the layout was revised to replace the single yellow line restriction with a multi-use bay for loading and parking.
- 1.10 This arrangement was subject to public consultation and the outcome was considered by the Highways Advisory Committee at its meeting on 15<sup>th</sup> January 2013, where it was rejected.
- 1.11 An alternative idea was tabled by Staff which would have left the bus stop in its current position outside 77 to 79 Butts Green Road, but set into the

carriageway with a footway build-out; and with the area outside 69 to 75 Butts Green Road being left available for parking/ loading.

- 1.12 The idea included the provision of 3 parking bays outside 69 to 75. Staff requested any other views from the HAC at its meeting of 15<sup>th</sup> January 2013 on how the area should be utilised or for times of operation, but no further suggestions were made and HAC voted that the Head of Streetcare should proceed with consulting on the alternative layout.
- 1.13 Staff reviewed previous correspondence and it was confirmed that the existing business were against pay-and-display parking, but were content with a loading bay (operating 10am to 2pm); especially the hire shop. Therefore, a proposal for a loading bay operational 10am to 2pm throughout the week was taken forward with the area being unrestricted outside of those times.
- 1.14 In addition, a proposal for at any time waiting restrictions (double yellow lines) was included opposite the loading bay/ bus stop to ensure that traffic flow through the area is not unduly impeded. Finally, the proposal for the footway build out with a clearway was included. This arrangement is shown on Drawing QH051/OF/101A.
- 1.15 Approximately 40 letters were hand-delivered to those potentially affected by the scheme and the immediate area on or just after 18<sup>th</sup> February 2013, with a closing date of 8<sup>th</sup> March 2013 for comments. A set of consultation information was also provided to standard consultees, HAC members and ward councillors. The proposals were also advertised in the press and site notices placed.

## **2.0 Outcome of Public Consultation**

- 2.1 By the close of public consultation, one response was received from a member of HAC who sought to clarify why a loading bay rather than parking bays had been advertised as set out in 1.13 above.

## **3.0 Staff Comments**

- 3.1 Given that Tesco Stores Ltd has a planning consent in place and there is an agreement to fund and implement a review of the parking, loading and bus stop arrangements. The Council cannot use its highways/ traffic management powers to frustrate development which has planning consent and the committee's attention is drawn to the legal implications below.
- 3.2 The latest proposal has not attracted any responses from those affected and therefore Staff strongly recommend that the scheme be recommended for implementation.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

This report is asking HAC to recommend to the Cabinet Member the implementation of the above scheme

The estimated cost of £20,000 for implementation is to be met by Tesco Stores Limited secured by an agreement either made under Section 106A of the Town & Country Planning Act 1990 (review cost, including Staff and advertising fees) or an agreement made under Section 278 of the Highways Act 1980 as amended (works).

The costs shown are an estimate of the full costs of the scheme, should it be implemented. A final decision would be made by the Cabinet Member – as regards actual implementation and scheme detail. Therefore, final costs are subject to change

This is a standard project for the Council and there is no expectation that the works cannot be contained within the cost estimate. There is an element of contingency built into the financial estimate. In the unlikely event of an overspend, the balance would need to be contained within the overall Council Streetcare budget.

### **Legal implications and risks:**

Parking and loading bays require advertisement and consultation before a decision can be taken on implementation.

Bus Stop Clearways do not require traffic orders, but Department for Transport guidance suggests that local consultations should take place.

Following the determination of the Supreme Court in R v Warwickshire County Council ex parte Powergen PLC 31<sup>st</sup> July 1997 it would not be appropriate for a Local Authority to use its highway/traffic management powers to frustrate a development that has been granted planning permission, where that development proposal was subject to independent consideration by the Planning Inspectorate as that determination ...*"necessarily becomes the only properly tenable view on the issue of road safety and thus is determinative of the public benefit"*. The highway implications of the development have already been considered and found acceptable, but, there is allowance and flexibility in the final layout over which the Highways Advisory Committee has influence.

### **Human Resources implications and risks:**

The proposal can be delivered within the standard resourcing within Streetcare, and has no specific impact on staffing/HR issues.

**Equalities Implications and Risks:**

The Council has a general duty under the Equality Act 2010 to ensure that its highway network is accessible to all. Where infrastructure is provided or substantially upgraded, reasonable adjustments should be made to improve access. In considering the impacts and making improvements for people with protected characteristics (mainly, but not limited to disabled people, the young and older people), this will assist the Council in meeting its duty under the Act.

The provision of fully accessible bus stops assists with making public transport more inclusive to all sectors of the community, but most especially disabled people and people using pushchairs. Accessible bus stops will be of benefit to people using wheelchairs, but also people who have walking, balance and dexterity difficulties; and blind and partially-sighted people.

Blue badge-holders are permitted to park for three hours on waiting restrictions and are not permitted to park within loading bays or bus stop clearways.

<b>BACKGROUND PAPERS</b>
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Project Scheme File Ref: QH051 77-79 Butts Green Road

Planning applications and subsequent appeals (P1649.09 and P1495.11)

**APPENDIX I  
SITE PHOTOGRAPHS**

