

- 5e (a) 3/12/2150/FP - Installation of air conditioning units, enclosed by a 2.5 metres high timber panel fence and refrigeration units enclosed by a 2 metre high close boarded timber panel fence;
- (b) 3/12/2151/AD - Replacement and installation of externally lit car park signage, installation of two externally illuminated fascia signs and one externally illuminated projecting sign;
- (c) 3/12/2152/FP - Installation of ATM unit;
- (d) 3/12/2153/FP - External alterations including raising the roof of the existing porch, construction of external staircase to first floor, infill existing doorway, new glazing to existing door opening and infill of windows on the approved extension at The Archers, Havers Lane, Bishops Stortford, CM23 3PD for Tesco Stores Ltd.
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Date of Receipt: 14.01.2013

Type: (a), (c) and (d) - Full - Minor  
(b) Advertisement Consent

Parish: BISHOPS STORTFORD

Ward: BISHOPS STORTFORD – CENTRAL

**RECOMMENDATION:**

(a) That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved Plans (2E10)

Directive:

1. Other Legislation (01OL1)

**Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007 and in particular policies ENV1, and ENV24); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies is that permission should be granted.

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(b) That advertisement consent be **GRANTED** subject to the following conditions:

1. Standard advertisement (7A01)
2. Type of illumination (7A07)

**Directive:**

1. Other Legislation (01OL1)

(c) That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved Plans (2E10)

**Directive:**

1. Other Legislation (01OL1)

**Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007 and in particular policies ENV1 and ENV3); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies is that permission should be granted.

(d) That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved Plans (2E10)

**Directive:**

1. Other Legislation (01OL1)

**Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007 and in particular policy ENV1); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies is that permission should be granted.

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**1.0 Background:**

- 1.1 The application sites are shown on the attached OS extracts. The existing building on the plot is detached, two storey and is set back from Havers Lane by some 15 metres. It is of brick construction part painted. There are projecting gable features to the front and rear and it also has some dormers to the roof. There is a significant area of hardstanding to the front of the building, and also an area of hardstanding to the rear. There is an existing vehicular access to the site from Havers Lane.
- 1.2 The existing building on the site is not listed. It has not been identified in the draft Conservation Area appraisal work undertaken for the Council as a building of special interest. The site is also not located within a Conservation Area.
- 1.3 The building was last in use as a public house, although it has been closed for some time now. The Council became aware that works had commenced on site in November 2012. The Council's Enforcement Team investigated the complaints received and visited the site. The works that were being undertaken on the site at that time were internal works within the building for which planning permission was not required.
- 1.4 A letter from the applicants agent submitted with the applications indicates that they are associated within the introduction of a Tesco Express convenience store at the site. It is important to note that the applications which are the subject of this report do not seek planning permission for the change of use of the premises from a public house to a retail unit. Planning permission is not required for that change of use because it is a form of permitted development under the Use Class

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Order. The Order allows a change from an A4 use (drinking establishments) to an A1 use (shops) without the need for planning permission. It is also important to note that planning permission has been granted for the extension to the rear of the building (ref. 3/12/0820/FP). This permission has been implemented. Given that the principle of the retail use of the building, as extended, has been established the applications which are the subject of this report only put forward limited alterations to the external appearance of the building.

- 1.5 Four separate applications have been submitted for alterations and additions to the existing building as follows:
- a) 3/12/2150/FP - installation of air conditioning units, enclosed by a 2.5 metres high timber panel fence and condenser unit enclosed by a 2 metre high close boarded timber panel fence;
  - b) 3/12/2151/AD - replacement and installation of externally lit car park signage, installation of two externally illuminated fascia signs and one externally illuminated projecting sign;
  - c) 3/12/2152/FP - installation of ATM unit;
  - d) 3/12/2153/FP - external alterations including raising the roof of the existing porch, construction of external staircase to first floor, infill existing doorway, new glazing to existing door opening and infill of windows on the approved extension.

## **2.0 Site History:**

- 2.1 In March 2012 advertisement consent was granted for the relocation of an existing sign on the grass area to the south west of the building, and refused for the erection of an internally illuminated double sided totem sign under LPA reference 3/12/0167/AD.
- 2.2 As indicated above, planning permission was granted in June 2012 for the construction of a single storey rear extension, external alterations including the insertion of four doors and associated works under LPA reference 3/12/0820/FP. As already stated in this report, this permission has been implemented.

## **3.0 Consultation Responses:**

- 3.1 Environmental Health has recommended approval of the application subject to conditions relating to shielding of the air conditioning equipment with sound insulating materials and construction hours of working. Subsequent to the initial advice, further comments have been received from Environmental Health which states that the potential for noise nuisance to neighbours from the proposed arrangement (air

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conditioning equipment), including fencing (which is proposed to enclose the air conditioning equipment) is very low. Environmental Health is therefore satisfied that the fencing that will enclose the air conditioning equipment is sufficient to prevent noise disturbance.

3.2 At the time of writing, no further comments have been received from any of the other statutory consultees consulted on the application.

#### **4.0 Town Council Representations:**

4.1 Bishop's Stortford Town Council objects to the four applications for the following reasons:

- Unacceptable alterations;
- Development would cause environmental hazard;
- Noise and light pollution;
- Safe route to school affected;
- Highway impact from deliveries, shoppers users of ATM, construction vehicles and employees and would increase in traffic and parking issues;
- Increase in anti-social behaviour and crime;
- Unacceptable alterations to a building of special interest;
- Alterations would be detrimental to the visual amenity of the building;
- Detrimental to residents specifically those from Havers Lane and Beechlands;
- Against the Localism Act;
- Threaten economic viability;
- Sequential test has not been applied;
- Contrast to policy ENV1.

#### **5.0 Other Representations:**

5.1 The applications have been advertised by way of site notice and neighbour notification.

5.2 Over 919 letters of objection have been received. In a number of cases it appears that the same individual has submitted duplicate (and in some cases triplicate) letters. There appear to be over 100 such duplicates. Discounting these and those received which contain no details of the author i.e. name or address, a total of approximately 810 letters have been received in response to consultation. Attached as appendix A to this report is a copy of a letter which has been used as a standard template by many correspondents. This sets out the concerns

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raised on the applications.

- 5.3 A petition objecting to the proposals has also been received which has 1911 signatures. This petition is based on the principle of the use of the building.

#### **6.0 Policy:**

- 6.1 The relevant 'saved' Local Plan policies include the following:

ENV1 Design and Environmental Quality  
ENV3 Planning Out Crime – New Development  
ENV24 Noise Generating Development  
ENV29 Advertisements Outside Conservation Areas

- 6.2 The National Planning Policy Framework (NPPF) is also of relevance in the determination of this application.

#### **7.0 Considerations:**

- 7.1 As already set out in this report, planning permission is not required for the use of the building as a retail unit. The change of use from a public house to retail unit is permitted by the Use Classes Order and the principle of the retail use is thereby established. In addition, planning permission has already been granted and implemented for a rear extension to the building. Therefore in determining these applications the considerations to which weight can be given are limited to the impacts arising directly from the proposed changes as set out in the descriptions of the applications. These issues need to be judged in the context of the relevant planning policies, the NPPF and any other material planning guidance.
- 7.2 One of the issues raised by many residents is a concern that the retail use of the site will impact upon local businesses. As indicated, in this case, planning permission is not required to change the use of the building to a retail unit. Even if permission were required however, the weight that can be given to business competitiveness matters must be very limited. That is not an issue that the planning system seeks to resolve, unless it would result in potential for community provision to be lost altogether. That is clearly not the case here.
- 7.3 Third parties also raise concerns that the proposed developments do not adhere to paragraphs 17, 26 and 69 of the National Planning Policy Framework. Paragraph 17 of the NPPF encourages local people to shape their surroundings; paragraph 26 outlines how a LPA should

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assess applications for retail use outside of town centres and paragraph 69 encourages Local Authorities to involve the community in planning decisions to create safe and accessible environments. Paragraphs 17 and 69, namely community involvement, can be considered when assessing these applications and are matters that are addressed later in this report. In respect of paragraph 26 of the NPPF, planning permission is not required to change the use of the building to a retail unit and therefore weight cannot be assigned to this issue in the determination of the application.

- 7.4 A concern is also raised that there are two establishments selling alcohol in the locality. Concerns that a third establishment selling alcohol may exacerbate underage drinking in the area are therefore raised. Members will be aware that the operator of the site will be required to comply with the necessary licensing arrangements. Whilst community safety issues in general can form part of the planning consideration, these relate back to the principle of the use at the site which, Members will be aware, is not under consideration.
- (a) Installation of air conditioning and refrigeration units and fencing (ref. 3/12/2150/FP)
- 7.5 This application proposes to install a total of three air conditioning units on the northern elevation of the existing building at ground floor level. Two of the proposed units would reach a maximum height of 0.8 metres above ground level, with the third reaching a height of 0.5 metres. A two metre high enclosure is proposed around the air-conditioning units, covering an area of approximately 8 square metres. A freestanding refrigeration/condenser unit is proposed to be sited to the south of the existing building. This would also be enclosed by a 2.5 metre high enclosure and would cover an area of almost 13 square metres. The application is accompanied by a Noise Assessment, the remit of which was to determine if noise from the proposed plant would adversely affect nearby residential properties.
- 7.6 The determining issues in relation to this application relate to the impact of the proposal on the character and appearance of the existing building and the surrounding locality and any potential noise disturbance for neighbouring occupiers.
- 7.7 In terms of the impact of the proposal upon the character and appearance of the existing building and the surrounding locality, it is important to note that the proposed air-conditioning and condenser units would not be visible from the street scene because they would be enclosed by the proposed close boarded fencing and mesh. The

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proposed close boarded fencing would be similar in character and appearance to the 1.8 metre high close boarded fencing that bounds the rear and flank boundaries of the site. Whilst the enclosure would reach between 2 and 2.5 metres in height, at the closest point they would retain a distance of some 18 metres to the highway to the front of the site. Furthermore, the enclosure that would house the proposed refrigeration/condenser unit would be set back from the front elevation of the existing building by 7 metres. The positioning of the air-conditioning and refrigeration/condenser units and the fencing would not therefore have a harmful impact upon the character and appearance of the existing building or the surrounding locality.

- 7.8 In terms of noise, the concerns raised by objectors have been noted. The application site is bounded to the rear and flank elevations by residential dwellings. The proposed refrigeration/condenser unit would retain a distance of approximately 12 metres to the flank wall of the nearest neighbouring property, No. 104 Havers Lane; the proposed air-conditioning units would retain a distance of approximately 13 metres to the rear wall of the nearest neighbouring property, No. 14 Beechlands. It is noted the submitted specification details indicate that these units operate with a maximum external noise rating of 32db between the hours of 7am and 11pm and 25db between the hours of 11pm and 7am. The Noise Assessment submitted with the application sets out that when taking into account the noise generated by the plant and the existing background noise levels, when assessed against the relevant British Standards, the plant would be practically inaudible. The Assessment therefore concludes that the resultant noise levels are unlikely to give rise to complaints from local residents.
- 7.9 As well as the results and the conclusion set out in the Noise Assessment, the Council's Environmental Health Officer recommends approval of the application and has commented that the potential for noise nuisance to neighbours from the proposed arrangement, because of the fencing, is very low.
- 7.10 Therefore whilst the proposed units would be sited within proximity to several residential dwellings, having regard to the results found in the Noise Assessment, the comments from Environmental Health and the acoustic enclosure fencing that will mitigate against noise outputs, it is not considered that the proposal would not have any perceptible adverse impact upon neighbour's amenity from noise disturbance or similar and is therefore considered to be acceptable.
- 7.11 It is noted that in respect of this application, the Town Council and local residents have raised concerns relating to increase in traffic and road



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traffic accidents; affecting the safe route to school and light pollution. These are not matters which can be considered as part of this application as they are not related to the installation of air conditioning/refrigeration units.

#### (b) Erection of adverts (ref. 3/12/2151/AD)

7.12 This application proposes to erect a total of five advertisements:

- 2 Fascia signs stating 'Tesco Express', located on the front elevation of the building facing Havers Lane; one above the proposed entrance doors and the other on the front gable end of the building. The proposed signage above the entrance would measure 2.5 metres long by 0.4 metres high. The second fascia sign would measure 3.8 metres in length by 0.6 metres high. Both signs would consist of individual letters attached to the building, with no separate background proposed. The fascia signs would be externally lit by slimline trough lighting;
- Hanging sign, externally lit, to be erected on the front elevation of the existing building. This would be externally lit by a trough light and would be sited a minimum of 2.6 metres above street level. It has been designed with a blue background and would measure 0.8 metres long by 0.65 metres high;
- A free standing pole sign is proposed at the front of the site, and would make use of the totem sign that was previously used to advertise the premises. This would also be externally illuminated and would measure 0.6 metres wide by 0.8 metres high;
- Car park sign attached to a 1.2 metre pole sited on the northern boundary of the site within the car park.

7.13 The determining issues with any application for advertisement consent are the impact of the proposed advertisements on amenity and public safety.

#### Amenity

7.14 It is considered that the fascia, hanging sign and pole signs would not have a harmful impact on the amenity of the area or building upon which they are to be displayed. The proposed fascia signs would be individually lettered and are sited to ensure that they would not result in a cluttered appearance. All of the proposed adverts would be of a size and scale necessary to convey their messages in a manner considered suitable to the character of the area. Their means of illumination is considered to be acceptable and the extent of illumination is not considered to be out of keeping in this location.

Public Safety

- 7.15 Having regard to the size and siting of the signs, the distance they would retain to the highway and the means of illumination, it is considered that the proposed adverts would not have an unacceptable impact on public safety.
- 7.16 Taking into account the above considerations, it is considered that the proposed signs would not be harmful to the amenity of the surrounding area or to public safety and would comply with Policies ENV1 and ENV29 of the Local Plan.
- 7.17 In commenting on this application, members of the public have raised concerns in respect of traffic movement and increased risk of collisions, impact on safe route to school and insufficient parking provision. Whilst highway safety is an issue that can be considered by the LPA in determining this application, having regard to the level of illumination proposed and the limited number of advertisements, it is not considered that the proposed adverts would have an unacceptable impact upon highway safety.

(c) Installation of ATM (ref. 3/12/2152/FP)

- 7.18 It is proposed to install an ATM within the south east corner of the front elevation of the existing building. The ATM would be sited in an existing window opening and would be sited 0.8 metres above ground level. Above the ATM, it is proposed to install a security light and a security camera.
- 7.19 The proposed ATM would not result in the construction of a new building or an increase in the built footprint. The size, siting and design of the ATM, is considered to be acceptable and would not have an adverse impact on the character and appearance of the building or the surrounding area. The ATM would be located on the frontage of the building in a location which is visible from Havers Lane and the car park. It is therefore considered that a sufficient level of natural surveillance of the ATM would occur, and sufficient security measures are also proposed i.e. security camera. The proposed ATM is therefore considered to comply with policies ENV1 and ENV3 of the Local Plan.
- 7.20 In relation to neighbour amenity, the ATM would be some 16 metres from the nearest residential property. Officers are satisfied that there will be no significant adverse impact on the amenities of neighbouring properties resulting from the proposed ATM. Whilst it is acknowledged

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that the existence of the ATM may encourage additional visits to the site, it is not considered that this would be to a degree which would be harmful to the amenities of local residents or unacceptable given a comparison with the previous use of the site.

- 7.21 It is considered that sufficient parking space would be provided within the site to accommodate any parking needs associated with the use of the ATM. Officers also consider that the level of traffic generation associated with the proposed ATM would not be to such a degree that would be harmful to the free flow of traffic on Havers Lane and surrounding roads, or to road safety.
- 7.22 Whilst the concerns of the Town Council and member of the public are noted in respect of light pollution associated with the ATM, Officers do not consider that this would be to such a degree that would be harmful to local residents or the appearance of the surrounding area.

(d) External alterations (ref. 3/12/2153/FP)

- 7.23 Planning permission is also sought for alterations to the building, including the construction of an external staircase that would be attached to the south facing flank elevation of existing building and alterations to the existing fenestration to the front, rear and flank elevations of the building. In respect of the proposed alterations to fenestration, to the front elevation, it is proposed to raise the roof of the porch and replace the existing, larger bay window with doors and glazing which would serve as the store's entrance doors. The existing entrance door would be in-filled with glazing. It is also proposed to both in-fill existing and insert new windows and doors throughout the building.
- 7.24 Turning firstly to the proposed external staircase, at its highest, this would reach 4 metres in height. Officers acknowledge that due to its height and siting, to the side elevation of the building, it would be visible from the street scene. However, the proposed staircase would be set back 9 metres from the front elevation of the existing building and some 20 metres back from the highway. It is considered that this set back, together with the modest 1 metre width of the staircase and that it would be partially screened by the proposed condenser/refrigeration unit enclosure, would mean that the proposed staircase would not have a harmful impact upon the character and appearance of the existing dwelling or the character and appearance of the street scene.
- 7.25 With regards to any impact the proposed staircase would have upon the amenity of the nearest neighbouring dwellings, it is acknowledged

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that there may be a degree of overlooking to the rear of Nos. 100-104 Havers Lane from the proposed staircase and landing, due to the height of the staircase. However, having regard to the distances of between 18 and 38 metres to the rear elevations of these dwellings, it is not considered that the proposed staircase would have such a harmful impact upon the amenity of these neighbouring dwellings that would warrant refusal of the application.

- 7.26 In respect of the proposed alterations to the fenestration of the front elevation of the building, it is acknowledged that the additional glazing would be modern in appearance and would alter the appearance of the existing building. However, it is the view of Officers that these alterations, as well as the changes to the height of the existing porch would be of a size, siting and design that would be appropriate to the character and appearance of the existing building and the surrounding locality.
- 7.27 It is noted that the character and appearance of the existing building does appear to be held in regard by local residents. They and the Town Council both consider that the proposed alterations to the building would be unacceptable to a building of special interest. As already stated in this report, the existing building is not listed nor has it been identified as a building of special interest in the draft Conservation Area appraisal work the Council has undertaken. Having regard therefore to the above considerations, Officers are of the view that the proposed alterations to the building would not be unacceptable and would accord with policy ENV1 of the Local Plan.

### **8.0 Conclusion:**

- 8.1 Whilst the concerns of the Town Council and local residents have been considered in respect of the use of the building, as outlined earlier in this report, the use of the premises as a Tesco Express or any other retail use can not be considered through these applications. The change of use is permitted by the use class order and the principle is therefore established. Having considered the proposed developments and the planning issues relevant to those applications, Officers consider that the proposed developments are acceptable and accord with the relevant policies of the Local Plan.
- 8.2 It is therefore recommended that planning permission and advertisement consent are granted subject to the conditions at the head of this report.