

Planning Appeal - PPA-200-2008 Tesco Stores Ltd, 7 Gavins Mill Road, Milngavie

We Like Milngavie and Milngavie Community Council

Closing Submission

1. The Appeal Inquiry was divided into three sessions – a Hearing covering design and related issues and two Inquiry sessions covering Retail and Transport. This Closing Submission is structured accordingly.

Public Hearing: Design and Related Issues

2. The Hearing agenda covered 3 key design areas in accordance with the first 3 reasons for refusal of the planning application – the overall design approach and layout; the impact on listed buildings, notably Gavin’s Mill and the impact on the Conservation Area.

Overall Design Approach and Layout

3. The first reason for refusal relates to Local Plan Policy DQ 2 (Design Quality), which states: ‘The Council will expect high quality design in all developments, and all development should be compatible with the amenity and character of the area within which it is located.’ More specifically under Local Plan Policy DQ 2A (a) it states that particular regard be given to ‘Scale, massing, materials, fenestration - especially on prominent frontages and at corner sites. Developments should generally take recognition of, and reinforce or complement the character of their surrounds’.
4. Scale and massing are central to our opposition. The Appellant’s brief demands a store which is too large both for the town and the site. The overdevelopment hinders quality of design and compromises standards of layout. It attempts to accommodate a ‘quart in a pint pot’. In summary the adverse outcomes would be:
 - a) Built development that would “by reason of its scale and massing result in an intrusive form of development out of keeping with the existing buildings in the vicinity of the site”.
 - b) Removal of virtually all the greenspace within the existing site
 - c) Negative impacts on the amenity of the Allander Water and the Allander Way where these traverse the site.
 - d) Problems with site layout in terms of parking provision, pedestrian access and vehicle circulation and potential conflicts, disabled access and recycling.
 - e) An adverse impact on the setting of listed buildings within the vicinity of the site.
 - f) An adverse impact on the adjacent Milngavie Town Centre Conservation Area, detracting considerably from its setting.
5. Consequently the demands of the design brief would result in an overdeveloped site with substantive compromises in the design. A+DS considered that the proposal represents a

lost opportunity to make more of 'the attractive park and riverside setting and the proximity to the listed mill building'.

6. The key points a) – d) above are dealt with under this part of the submission – Overall Design Approach and Layout. Point e) above is dealt with under the reason for refusal concerning Listed Buildings while point f) is dealt with under the impact on the Conservation Area.

Scale and massing

7. This is not just about height but also about footprint – the volume of the building and how that mass relates to the existing built environment. The British Telecom building for example is one of the largest in the town centre, being prominent on the Main Street frontage across from the site. The Appellant specifically identifies this building in its presentation as a 'tall 3 storey building associated with British Telecom'. However, while its height is similar to the height of the proposed superstore, it has only 5% of the footprint.
8. The scale of the urban form in the traditional town centre, described as 'immediately adjacent' to the site by the Appellant, can be seen from the aerial view (M 20, CGI 4). The proposed superstore would be equivalent to 4 storeys, in contrast to the prevailing 2 storeys within the town centre. It would be 1½ times the length and around five times the depth of the south terrace in Station Road. This would make the proposal 7½ times the footprint of longest terrace in the town centre, which has 15 shops.
9. The Appellants consider the aerial view irrelevant, stating during the Hearing that it would 'only be seen when in a helicopter', and claiming that 'there will be a non-perception of the full built form' and that the building will only ever be 'read' in two dimensions as a two storey building on Woodburn Way, comparable to the terrace in Station Road. This is not credible.
10. It might be the case if seen as a photograph or viewed from a single location in Woodburn Way. However as people move through a landscape they see different views and build up a picture of the whole. The massing of the building would be apparent from many directions – from the train on entering Milngavie and from Woodburn Way travelling in either direction. There would be more elevated views from Ashfield Road by the Corbie Ha', from Lennox Park at the flagpole and even from Woodburn Way on the double-decker No.10 bus.
11. We have clearly demonstrated in our additional Hearing Statement 'Response to Appellant Statements' (M19) that residential amenity is a serious issue. Local Plan Policy DQ 1a states "Development should enhance, and certainly not reduce the amenity and character of the surrounding area, in particular, residential amenity will be strongly protected." The vast footprints of the building and decked car park would be clearly visible from properties on the higher ground to the east and north-east, while residential flats in Station Road and Main Street, including Fairview Court, would all overlook the new building and its roof. Residents at Crossvegate, near the site's south east corner, would look over the car park to the store's glass frontage. The 24 hour lighting would be a particular problem for these householders.
12. The Appellant clearly regards the aerial view of the existing site, which it uses extensively, as relevant in its site analysis in its presentation, but not the aerial CGI that the Appellant produced, which would seem to have been logically appropriate when presenting the design and setting of the proposal.

13. For such a major development it would have been appropriate for a comprehensive Townscape and Visual Impact Assessment to have been undertaken by Tesco at the Planning Application stage, as part of an EIA or Appropriate Assessment (ideally requested by EDC). Failing such a request it would have been good practice for such a major developer to address townscape and visual impacts more effectively within the Design Statement. Failure to do so has meant that the design process has not been informed by such an assessment.
14. As part of any visual impact assessment it would be expected that key viewpoints within the visual threshold of the development would be agreed with consultees - both statutory and community representatives. This did not happen and consequently the visual impacts and relationship to townscape were largely disregarded.
15. During the Hearing, Martin Tabor, Principal, Land Use Consultants, queried the production of a Zone of Theoretical Visibility Map (ZTV). This analysis 'after the event' is a worthless exercise as it has not informed the design process. The scale of the mapping undertaken by Aspect is also questionable, as it is on too small a scale to provide any useful information. The town centre area is barely legible. It would have been appropriate to include a more focused analysis of the town centre area, covering perhaps around 1 km radius area from the outer edges of the proposed development. This would then have identified from where the development would be seen and allowed viewpoints to be selected accordingly. Furthermore there is no clear explanation within Aspect's Townscape & Visual Assessment of how to interpret the ZTV maps, what their purpose is or how they have been used. This probably reflects the maps having served no purpose within the design process.

Loss of Greenspace

16. The proposed overdevelopment of the site would lead to virtually all the greenspace within the existing site being removed, particularly the wooded embankment on the north west edge of the site and the trees and dense vegetation which in part shield the site from the railway. The tree belt on the bypass embankment was a condition of the building of that road. It retained the parkland quality of the valley to the south east of the town centre. As well as reducing character and amenity, loss of this tree belt would detrimentally affect the historic environment. There are similar conditions for the Marks and Spencer development and more recently that on the Homepage/Halley's site, where it was required as a contribution to the green corridor on the A81.

The Setting of the Allander Water

17. The Appellant's justification for facing the store away from the town centre is purported to be "to take advantage of the excellent landscape river frontages" and Lennox Park. However the view from the store would be over a vast, open-decked car park which, unlike the existing one, would not be broken up with rows of trees. Even at the lower under-store level, the river would be hardly visible since it would be largely covered by cantilevered roads and walkways (see CGI 5). Much of the vegetation near the bend in the river, currently rich in wildlife, would be replaced by concrete. Thus having to accommodate such a large building on the site would result in a diminution of the setting of the Allander Water. The amenity of the fish ladder area would also be significantly reduced, being enclosed and overshadowed by a raised wall with a screen above it alongside the Allander Way, and behind this the high building. Moreover pedestrians currently enjoy excellent views of the falls from the Gavin's Mill bridge, but this would become the service access. (The viewing area proposed would

see the falls from the wrong direction – CGI7)

Site Layout Issues

18. Overdevelopment would result in three separate car parks being provided, giving a significant management problem and threats of serious congestion.
19. The pedestrian links/through routes would not be improved and two would be worse leading to a deterioration in the public realm:
 - The route from the station would require crossing the main access road.
 - The Allander Way would remain inaccessible for wheelchair users. The 'sun path' diagram presented by the Appellant (page 13 of PowerPoint presentation) clearly shows it would be in shadow for much of the day alongside the Allander. The Way would then meander through the understorey car park before crossing the main access road.
 - Both the steepness of the Gavin's Mill underpass route and the conflict of vehicles/pedestrians would remain.
20. The Appellant appeared unwilling to commit to any significant improvement to these routes during the Hearing and in any event, from para.2.12 in the Appellant Hearing Statement the nature of any commitment appears to be limited to cosmetic improvements.
21. There is a poor traffic management solution to recycling, posing potential conflicts with main access traffic.
22. Servicing lorries would not be segregated, having to cross the main access road resulting in the potential backing up of vehicles in Gavin's Mill Road at its junction with Woodburn Way.
23. Disabled access would be significantly inferior to the present provision. The proposed provision is split and at a different level from the superstore entrance and there is no provision for Dial-a-Bus (MyBus) within the site. The use of the recycling centre turning space for this latter purpose, as suggested by the Appellant, would still be worse than that at present, owing to the increased distance from the entrance. This all reflects a lack of an Access Statement to accompany the Design Statement and hence the interests of disabled customers have not been fully recognized. (This is further explored in the findings of the Transport Inquiry).
24. Under Local Plan Policy DQ1 (c) a principle in assessing developments is "Changes of use and redevelopment should not result in the loss of business or employment land or opportunities". This proposal would adversely affect the restaurant business within Gavin's Mill. There would be no car parking provision for customers or staff; confusion over shared pedestrian/vehicular space and servicing arrangements and a potential height limitation for access to Gavin's Mill, which might compromise the future of the Mill. It is our view that provision needs to be made by the Appellant to ensure that the business interests of the Mill are safeguarded.
- 25. In conclusion we support the first reason for refusal on grounds of poor design and the impact of the scale and massing of this proposal.**

Impact on Listed Buildings

26. The Local Plan Policy HE5 states that “The Council will protect Listed Buildings and their settings from inappropriate development”. The proposal is refused for having “an adverse effect on the setting of the Gavin’s Mill Listed Building by virtue of its size, scale and visual dominance.
27. This comprised the second key agenda item for the Hearing. We are also concerned about the impact on the other adjacent Listed Building – the Railway Station. We led evidence on the importance of these buildings to Milngavie from Don Martin, who is nationally recognised as an authoritative source on Scottish local history as well as the history of Milngavie through his career in the Information and Archives Department of East Dunbartonshire Council.
28. He highlighted the significance of both buildings which, along with the existing Primary School building, are considered the most important to Milngavie’s history. The Station is a very fine example of Victorian railway architecture, which was earlier rescued by the community from ‘redevelopment,’ while Gavin’s Mill lies at the root of Milngavie’s identity not only through the derivation of the name of Milngavie but also because of its place as part of the original ‘mill toon’ described by Don Martin. The significance of the Mill is such that it has appeared on the crests of the various local Councils over the years as well as those of local organisations.
29. It is rare to have a Mill as a key building close to the town centre and Conservation Area. As such its setting is highly sensitive. The Mill is listed precisely because of this setting, as a historical mill near the centre of a village, in its true historical context. The new Historic Scotland guidance on ‘Setting’, from the ‘Managing Change in the Historic Environment’ (Document CD5) series states “Setting can be important to the way in which historic structures or places are understood, appreciated and experienced”.
30. In the case of Gavin’s Mill this is apparent when the buildings are viewed from the Allander Way in Lennox Park. The site inspection covered this aspect. It places the Mill in its proper historic semi-rural setting. Subsequent development of the bypass and the car park has not resulted in an ideal setting for Mill to the north and east. Nevertheless, the trees along Woodburn Way, the Allander Water and within the car park soften the outlook and the open view across the car park does allow the building to retain its integrity.
31. The proposal would radically change the setting of the building to the north and east. The Mill would now face a building only 35 metres away at twice its height and 40 times its footprint stretching across most of the current adjacent car park area. The outlook at ground level would be into an understorey car park. The trees would go or be much reduced and be replaced by hard landscaping. The ‘sense of place’ that the Appellant promoted in the presentation would be quite the reverse, in our view, of the softer, greener, more ‘sylvan’ setting that this fine building requires.
32. We were disappointed that we had little indication of the how the new superstore related to Gavin’s Mill. The only Computer Generated Image (CGI) produced by the Appellants that showed the two buildings together is an angled view down the Allander Water. In this the unnaturally light colour of the Mill and embankment give a feeling of distance and space, moreover the Mill is set at the level of the proposed car park. That the elevation plans are inaccurate in this respect was clarified at the beginning of the Hearing with the discussion over the height of Gavin’s Mill.

33. Consequently we decided to redress this through producing a wire-frame virtual model through LUC. This had to be developed from the Appellant's paper plans as they refused to co-operate in providing the digital data. This increased the cost for the local community, but ultimately sufficient funds were raised to produce a simple model.
34. While the simplicity of the model could not be accurate in detail, and reflected inaccuracies in the plans, we considered it was sufficient to reliably demonstrate the extent of the domination of the Mill by the new superstore. The Mill would be overwhelmed by the height and mass and proximity of the store building.
35. The Station would be less directly affected than the Mill by virtue of the distance from the proposed store and some of the shrub screening being retained adjacent to Kwik Fit. However the new development would intrude into the Station setting through the specific structures abutting the south east boundary at Platform 2 – the new recycling centre and the ramp of the concrete multi-story carpark. These would detract from the Station's setting, as would the views of the new store when arriving by train.
- 36. We support the third reason for refusal on the grounds that this proposal represents an inappropriate development in adversely affecting the setting of Gavin's Mill and in detracting from the setting of the Railway Station.**

Impact on the Milngavie Town Centre Conservation Area

37. The policy context for this issue is Local Plan Policy HE7 which specifically relates to the protection of Conservation Areas stating "developments outwith a Conservation Area, but which could affect its visual setting, must also be sympathetic to the special character of the area". Additionally Policy DQ2 A (a) is also used here as a reason for refusal. It states that "developments should generally take recognition of, and reinforce or complement the character of their surrounds".
38. The Town Centre Conservation Area is largely the older town of Milngavie, which was set in the wooded valley of the Allander Water. It wraps around the proposal site, with an open outlook over it and directly abuts the site at Gavin's Mill.
39. We consider that inadequate attention has been paid by the Appellant to assessing the relationship in design terms to the Conservation Area. During the Hearing Martin Tabor referred to the lack of 'figure ground analysis' to highlight the 'grain' of the traditional town centre, and the original Design Statement submitted as part of the planning application made no reference to the wider context of the town centre. In our view the focus was solely to provide a Tesco Extra scale of building on the site, regardless of its relation to the wider town centre. It is a solution suitable for a retail park not a local town centre and conservation area.
40. It is noted in the Appellant's Hearing Statement (para 2.4) that the "designer recognised at the outset that the building should be compatible with the existing urban grain in this area". Unfortunately, in our view, the result has been quite the opposite.
41. The 'grain' of the town centre is predominantly 2 storey terraced buildings of varying age, style and external materials tied together through the continuity of an attractive and intimate High Street type of format. The main thoroughfares have small wynds coming off, which create variety and interest in the townscape, while the predominance of mature trees and shrubs is a marked characteristic of the town. This scale and design of this proposal is

entirely unsympathetic to this scale and character.

42. The impact of the new superstore on two of the Listed Buildings within the Conservation Area has been dealt with previously. However, the importance of the railway is not just the Station, but also in giving the first impressions of the Milngavie Conservation Area to visitors and residents. Were this development to be built, the view from trains entering Milngavie would be of a massive Tesco Extra, with its concrete multi-storey car park and ramp – one of urban intensity rather than a ‘leafy village’ of modest scale and charming character – the gateway to the Highlands via the West Highland Way. Visitors to Milngavie by train include most of the 50,000 per annum West Highland Way walkers; other tourists and commuters as well as residents.
43. The same applies to those walkers coming into the Milngavie Conservation Area via the Allander Way from the south and the Kelvin Way. They would be met with this massive building on entering the Conservation Area from Lennox Park alongside Gavin’s Mill.
44. The presentation by the Appellant showed that the height of the superstore and some of the larger 3 storey buildings in the town centre buildings are broadly similar. However, the difference in scale and massing is the issue. While the larger town centre buildings blend in with the general style and scale of the centre in being part of this ‘grain’, this cannot apply to a building of such enormous proportions, which has 55% of the total floorspace of the centre.
45. The Appellants have in particular tried to show that the massing of the proposed Woodburn Way frontage is similar to the scale and massing of the frontages in the town centre. They also claim that the ‘variation and articulation of facades is similar’ and that the ‘building adds to the streetscape’.
46. While the height is similar, as previously indicated massing is about footprint and volume, not just height. All that can be said of the proposed frontage is its “variation and articulation of facades”. There is nothing more. This is just architectural licence as it would be a lifeless facade – in effect a 7m wall, a back of a building very few would use except at one point to access the ramp which leads round to the store entrance. Consequently there is no comparison with the quality of the town centre.
47. Woodburn Way is a bypass not a street – there are no buildings or addresses on Woodburn Way. The south east side does not represent a ‘void’ as described in the Appellants’ townscape assessment, but is a transparent screen comprising semi- mature trees allowing an open outlook to Lennox Park and a connection from the Conservation Area to the Allander Valley - and the historic origins of the town - beyond. This is the green corridor planted when the bypass was built and the outward views through it are an essential part of Milngavie’s character.
48. The proposed building would close off the open views from the Conservation Area over the valley, currently seen from many residences, businesses and two doctor’s surgeries as well as from parts of streets, wynds, car parks and the northernmost part of the Allander Way. There would still be open views from the B listed Corbie Ha’, but it would be over the vast car park, lit at night. Conversely, looking towards the conservation area, the development will intrude into views from the east, north east and south east (including Lennox Park). The inappropriateness of the proposed monolithic slab of a store juxtaposed with the conservation area streets will be very evident in these views.
49. Reference was made to the ‘backlands’ by the Appellant during the Hearing in describing

the car parks to the rear of Main Street and Station Road. This was never meant to be a particularly attractive view of Milngavie as the pedestrianised area is the heart of the town centre. The planting on the north west side of the bypass, still immature, should perhaps be made more robust. However if in the future there is to be 'urban repair' - as Martin Tabor put it - sensibly development should occur on the north west side of the bypass, not the south east. In fact the development of the south east in the manner proposed will do nothing for these 'backlands' and will adversely affect any possibility of this being addressed in the future as a developer would not find it attractive to build on the north west, facing an enormous roofed landscape.

50. We support the second reason for refusal in that the scale and massing of the proposal would affect the visual setting of the Conservation Area and be unsympathetic to its character. The Woodburn Way frontage would also detract from the existing setting of the Conservation Area, particularly in removing its open outlook to the south east and the connection to the valley of the Allander Water.

Public Inquiry: Retail

Glasgow and Clyde Valley Structure Plan (2006)

51. The requirements of the Structure Plan were discussed at some length at the Inquiry and our argument is set out in some detail in both the WLM Appeal Submission in August 2010 and the Precognition to this Inquiry. The proposal is a departure from the Structure Plan as it does not meet the criteria in Schedule 6(c)(i) and Schedule 6(c)(iv). The former is debated below relating to impact, but the latter relates to the allocation of up to 6000sqm of gross floorspace for comparison goods. The Appellant questions whether this is a threshold but there is no doubt about this. It is clearly 'up to' in both the Structure Plan - Schedule 6(c)(iv) above - and the Local Plan (RET 3). Consequently the proposal does not meet the requirements of Strategic Policy 9 and must be considered under SP 10.

52. This led to our conclusion (para15) within our Precognition that "the Proposal is a departure from the GCVJSP in being of a scale which exceeds the planned retail capacity. This departure cannot be justified on grounds that the proposal will benefit Milngavie through remedying qualitative deficiencies in existing retail provision nor through creating a significant number of net additional permanent jobs."

53. There was debate on the qualitative deficiency question, although we remain convinced that there is no deficiency sufficient to justify this proposal. However the conclusion on job creation was not challenged.

54. Consequently we hold the view that the proposal is a departure and cannot be justified under Policy SP 10 of the Structure Plan.

Capacity to 2015

55. The higher market share projected requirement for comparison goods for 2015 in the EDRCS is 5807sqm of net floorspace (Table 8.1 (TSL 23)). This was referred to in the Appellant's Retail Assessment (para 2.21) "the proposed Tesco store would have an additional 2136sqm which is well within this total amount and also takes account of the proposal at Halley's Garage". Mr Pritchett acknowledged the relevance of this figure for the proposal at the East Dunbartonshire level.

56. However this statement excluded the outline planning consent for a new supermarket and other developments at Bishopbriggs town centre (M18). These amounted to a planned 10,480sqm gross floorspace. This argument is detailed in para 18 of our Precognition, where the conclusion is that there could be more than 1000sqm over capacity. Whatever the uncertainties and qualifications, it is clear that the statement of being 'well within this total amount' is erroneous. There would over capacity if this proposal goes ahead.

57. We contend that, based on the EDRCS findings, there is insufficient capacity for the level of net floorspace allocated to comparison sales in the new store.

The role of Milngavie

58. The Appellant in para 2.7 of their Precognition referred to Milngavie having a strategic role within the context of the current Structure Plan. This is further developed in para 2.8 where reference is made to Milngavie coming under a list of towns in Schedule 1(a) within Strategic Policy 1 – Strategic Development Locations.

59. As such, this is not disputed. However any implication that Milngavie represents a key strategic location for investment does not bear closer examination. Schedule 1(a) has two lists of towns. One list is 'Town Centre Renewal Priorities', where there are 10 towns. The second list of over 50 towns is headed 'Town Centres to be Safeguarded'. Milngavie is in this second list and this terminology in itself is indicative of its perceived role. Diagram 4 of the Plan headed Strategic Development Locations only shows the shorter higher priority list – it does not specify Milngavie or any of the second list. This reflects the relevance of the concept of a network of centres and an implied hierarchy, which Mr Pritchett also accepted.

60. Furthermore the Main Issues Report of the Structure Plan, now under preparation, lists 11 towns in the Plan area as the Network of Strategic Centres (Figure 25, p44), which will be 'promoted ... to the investment industry' (para. 6.65) for the strategic development of comparison goods retailing. Milngavie is not one of them. In fact in the whole Main Issues Report, Milngavie is not mentioned.

61. It is not being suggested that there should be no investment in Milngavie – the Structure Plan comparison floorspace allocation, for instance, will serve Milngavie and Bearsden. However, it is clearly not a strategic location in regional terms – it is a local centre.

Impact on Milngavie and Bearsden Town Centres

62. The impact on Milngavie and Bearsden town centres from this development is a central issue. There was considerable debate over the interpretation of planning policy in Milngavie's case, as the development technically lies within the Town Centre. There is a frustration felt by many in the community, as Margaret Dunn expressed. The existing store is not perceived as part of the Town Centre and, whatever the Appellant may argue, nor has Tesco acted in a way which suggests they see themselves as part of the town centre either. So the line that has been drawn on the map does not reflect reality. But nevertheless it has been drawn.

63. In our view, while competition between specific stores within a town centre would not be a material planning consideration, it is so where it adversely impacts on several stores or all town centre stores through affecting footfall. This would be contrary to RET 2 (a).

64. Mr Pritchett did finally concede that were such competition to change the existing role of the centre, then this would be material. So the difference is a matter of degree. It was also mentioned that, if say 5 shops closed in the short term, this may not reflect the ultimate long term outcome. However, once the downward spiral starts then it is difficult to stop, as we experienced in the 1990s. And of course it depends how important the 5 shops are to the integrity and economic health of the town centre.
65. It is difficult to be precise on this matter, as firstly it is about predicting change and secondly the proposal is unusual in being within the town centre boundary. Much of retail planning policy developed over the past 20 years relates to meeting the problem of the out of town/edge of centre developments. This is why the Competition Commission Test is significant in highlighting a future direction of travel.

Retail Impact Assessment

66. The presumption from the Appellant throughout the Inquiry has been that Milngavie will positively benefit from this development in retailing terms. The view that emerged is that more people will come to Tesco and these will also use the town centre. Some traders will lose and some will gain. The main loser is Marks & Spencer along with a few other unspecified shops. Others will gain. The overall impact is negative – a decline in expenditure by 5.5%.
67. This is clearly not the ‘fully positive result’ cited by Mr Pritchett. It is so for the Appellant, of course, but not for the remainder of the Town Centre. There is also a fundamental contradiction on footfall. This must be rather like a manager of a Tesco store saying that turnover is down but more people are coming into the store. No doubt it could happen, but hardly the normal or expected pattern of events.
68. The real problem is that the Appellant doesn’t actually know. How the expenditure is divided up is a matter of judgement. For instance, whether to allocate more or less to ASDA or to the existing town centres. Bearsden town centre is projected as losing 5.1% while Milngavie is 5.5%. This seems an extraordinary split with Milngavie on the ‘doorstep’ of the superstore and Bearsden 2 miles away. It could be twice as much. We know from the tables circulated on the 7th January - and updated as the lodged tables on the 10th January - that at least one alternative scenario was considered.
69. The same applies to where the decline in expenditure will fall in Milngavie. It was conceded that it could include other shops and not just Marks and Spencer. However, it is only an assumption that the main loser will be Marks and Spencer. It could be any number or range of shops. It could fall on the 500sqm unit of M&Co which is in direct competition with Tesco. Or it could be the bookshop facing an enhanced range of books for sale. Or it could be the white goods retailer in Strathblane Road or in Bearsden. Or it could be the bakers, pharmacies, butcher, dry cleaner, opticians or the fish shop. Even hairdressers are not immune, as we discovered.
70. Many of these shops and business under threat are independent traders - Rona Miller spoke on their behalf - who provide the energy and leadership within the town centre and contribute to vibrancy in the community. They represent the retail heart of the town centre, as the SPP states in para 52 “Retail and leisure uses are fundamental to the concentration of other activities located in town centres..”

71. The same applies to Bearsden. From the discussion at the Inquiry on the 8% loss of convenience expenditure from the town centre, Mr Pritchett considered the main store to lose would be Marks & Spencer. In this case the concern is that the role of this store within the traditional centre is as an 'anchor' store – if trade were diverted to Tesco it would be footfall that would also be diverted from the town centre and therefore all the town centre traders would suffer.
72. Mr Pritchett agreed that there was no planning consent required for Tesco to offer any goods it wishes. For instance the hairdresser announcement in the newspaper was accompanied by a commitment for a major investment by Tesco in health and beauty products. So there is no guarantee that Tesco's offering now will not change nor are there any current constraints of note on the offer, except as it falls within the general categories of convenience and comparison goods.
73. It is our view that the competitive pressures on this superstore will be substantial. This is highlighted by the capacity constraints, referred to above and also by the inevitable response from operators such as ASDA to the competition from the new store. Consequently there will be no constraints on types and ranges of goods and different business models, such as franchises or concessions, to deliver them.
74. We were not impressed by the response to the questions led by Mr Macleod, on behalf of the Council, to Mr Pritchett on the origin of customers from outwith the study area. One response was to divert to Milngavie when travelling from the north, where the area in question is rural with a relatively small population. Even in that event, commuters could just as easily divert to the Tesco at Maryhill, which is on the A81. The West Highland Way walkers was another response – but we all know these walkers come to Milngavie to leave, not to stay. They will never be a major source of retail income. Once again, we suggest, an underestimation of the real source of additional income for the new store – the existing town centres.

Functional Relationship between new superstore and town centre

75. Our Precognition described the scale of this proposal and how it will dominate the existing town centre physically, as well as economically, with 55% of the total floorspace. However even more significant and stated during the Inquiry was the new store having 85% of the total turnover of Milngavie Town Centre. A small step away from the monopoly of 'Tesco Town'. This will be a very unequal relationship.
76. In the Retail Assessment (para 2.30) reference is made to the shoppers changing habits by using Milngavie Tesco rather than ASDA. In other words implicit in the success of this proposal are shoppers changing their pattern of behaviour. Mr Pritchett said "people will choose" and presumably this has to be somewhat predictable as the success of the business venture depends on a level of such predictability.
77. Equally we cannot assume, when confronted by a massive superstore, that shopping habits do not change. Indeed it is also essential for Tesco that they do change for the store to be a business success. Customers need to increase 'dwell time' in the store to increase their expenditure as it is assumed that the new generated income of an additional £30m is not all going to come from additional shoppers. However, this obviously will also reduce their time and inclination to shop in the town centre.
78. Nor will the trip to the town centre be so straightforward as it is now. Navigating travelators,

ramps and pedestrian crossings may all sound simple, but actually make the links much more complicated than currently. Most are also longer. In addition Mr Pritchett mentioned the advantage of the larger car parking provision. However Grahame Lawson speaking for WLM/MCC on transport matters, has highlighted that the car park should have around 100 more spaces than provided to maintain current ratios – in effect there is no town centre car parking provision. Once again the real priority of the Appellant emerges. Much of the car parking is also now in a more disadvantageous place for easy access to the town. There is no doubt, on the basis of the evidence presented by the Appellant, that the intention was to go for a smaller store (scoping letter of 18 June 2007 refers to 8147sq m) and more parking (Construction Method Statement of 19 June 2009 refers to 620 spaces).

79. We consider that these constraints will discourage linked trips and that the adverse impact on footfall in the centre is very much underestimated, as set out in our Linked Trip Report (M22). This is no surprise as we have seen all this before – we know how it works on the ground from the experience of WM Low's in the 1990s. It is summed up by the MD of M&Co in an extract from an unsolicited email we have just received. This was following contacting the company regarding the suggestion made at the Inquiry that they welcomed being adjacent to a Tesco store (the email can be provided if required):

"We have been in a number of locations where either a new supermarket or the extension to "Superstore size" has made a significant difference to the foot fall in the existing High St. This is often the start of a long term decline with a resultant loss of amenity in the High Street, as small retailers and specialists find that their customer flow is permanently deflected forcing them to close.

Where the Supermarket is fully part of the High St, and sharing the same parking this effect is mitigated but the size of the Supermarket and width of range stocked by the supermarket is the deciding factor in the longer term, as individual retailers can't continue trading on the reduced pedestrian flow which has diverted to the enlarged Supermarket on a permanent basis."

80. There is nothing new or extraordinary in this. It just highlights the particular experience of a High Street trader in having to deal with supermarket development.

81. We consider that the decline in expenditure in the Milngavie Precinct and in Bearsden Town Centre will limit, rather than increase, choice and competition. It will lead to a reduction in vitality and viability of both areas.

82. Consequently we support reasons for refusal 5 & 6, being of the view that this proposal is contrary to Local Plan Policy RET 2 in that it has not been demonstrated it will:

a) Sustain or enhance the range or quality of shopping provision and the vitality and viability of the centres;

b) Be in keeping with the scale and character of the centre;

Public Inquiry: Transport

Traffic Issues

83. When the Council refused planning permission for this proposed development, Reason 6 related to the effects of increased traffic movements in the area and the risk of increased traffic congestion to the detriment on the local road network. As we have demonstrated during these

proceedings, the adverse transport effects also extend to the provisions for parking, for pedestrians and for disabled people. The number and extent of the conditions which the Council would wish to see attached to any permission is further testimony to this.

84. In responding to this reason for refusal the Appellant put great stress on matters having been agreed with the Council's planning and transportation officers. These officers were not able to be present for questioning during the proceedings. The only witness who was able to give evidence from a local authority point of view was Mr Lawson who has 36 years of local authority experience in the field of transportation planning - latterly as a Chief Officer in charge of the planning, transportation and building control functions in a large Scottish authority. He was also able to bring to the proceedings the benefit of a 36 year professional lifetime of experience with transport modelling and the use of Transyt in particular.

85. The Inquiry heard how Mr Lawson said that on the basis of what he had read and heard, he would have been unable to recommend acceptance of the transport assessment to his former local planning authority. As Mr Lawson also said in response to examination, officers may make recommendations on a planning application but the members of the Council make the decision and in this case they went against the recommendations. This is not surprising.

86. We have heard how the scoping letter submitted by the Appellant in 2007 was for a store that was substantially smaller in size. We also heard that the Council did not respond to accept the scoping letter. One year later, the Council's transportation officer had to send an email to the Appellant to ask what had been agreed.

87. We have heard the Appellant acknowledge there is no audit trail of the changes in the nature of the transport assessment or of the responses (if any) of the Council officers to these changes since the original scoping letter.

88. We have seen that Council officers did not apparently check the number of parking spaces on site.

89. We have heard that the Auchenhowie Road junction was modelled using Transyt because the Council officers did not have the capability to assess the more appropriate Linsig model.

90. We have heard how the officers accepted a proposed new traffic signal controlled crossing on Woodburn Way car park entrance without seeking any modelling to check the effect on road capacity and how they sought changes to the access arrangements at the Marks and Spencer junction without seeking modelling to check the adequacy of the proposed measures.

91. We have heard and seen that the Council officers were unaware of their statutory obligations under the Disability Discrimination Act 2005 and how, for example, they failed to realise the current use of the site by dial-a-bus.

92. All of these combine to suggest strongly that the Council officers were not sufficiently competent properly to assess what was being proposed.

93. Regarding the traffic modelling, Mr Lawson drew attention to how the modelling was critically dependent on which modelling program was used, the assumptions made regarding traffic volumes, saturation flows, the links and the order of the traffic phases.

94. Mr Lawson said that in his experience, a micro-simulation model would have been more appropriate to assess the effects of proposed development and this would readily have coped with current differences in cycle times, closely spaced uncontrolled junctions and transient

effects. Mr Latto confirmed that a micro-simulation model (Paramics) had in fact been used in connection with the Kilmardinny proposals.

95. Mr Latto confirmed that the traffic volumes used in his original modelling were based on counts conducted on two days in May 2007 and the most recent modelling was based on counts conducted on two days in November 2010. He claimed that these were neutral times of the year but the Appellant was unable to produce evidence that the measured flows were indeed typical of these months and no account as taken of other times of the year.

96. As Mr Lawson noted, in his Precognition Mr Birrell had said he found the method by which the Appellant calculated trip generation and trip rates to be extremely complicated and difficult to understand, but this was critical to the assessment. Mr Lawson concurred with this view and Mr Latto admitted that the flows entering the Tesco site could be higher than he had projected. He sought to justify his figures by reference to other examples of increases in floorspace but as Mr Lawson pointed out, none was in the order of increase proposed.

97. Transyt assumes that all traffic signals in the system are linked and the model is critically dependent on all signals operating to a common cycle time. Mr Latto confirmed that the traffic signal cycles at the Gavins Mill Road junction and the A81 junctions were currently less than the 120 seconds and the signals are patently not linked. As Mr Lawson commented, there can therefore be no "observed" conditions against which to validate any model. He also pointed out that the Appellant had not submitted any graphical output in their Transyt submissions although, he said, this was invaluable in validating a model and was the only way of checking for optimum phasing of traffic signals. The significantly longer cycle times proposed by the Appellant would also result in substantial increased delays to pedestrians waiting to cross at Gavin's Mill Road junction, St Joseph's Church pedestrian crossing and the A81 junction.

98. Regarding saturation flows, Mr Latto confirmed these were calculated rather than observed. As Mr Lawson stated, from his experience site measurement with actual observed flows is always best. Mr Birrell's evidence confirms that he too had concerns about the use of calculated flows instead of observed flows. The saturation flows used in the Linsig model of the Auchenhowie Road junction, which Mr Birrell eventually accepted only during the inquiry proceedings, were abated in the light of his concerns.

99. Mr Latto argued that the Gavin's Mill Junction should be modelled assuming the pedestrian phase was not called since it was rarely called at present. Mr Lawson drew attention to the fact that the capacity of this junction was critically dependent on this aspect and in his view, it was likely that with the proposed development there would be many more pedestrians on Woodburn Way and the model should reflect the pedestrian stage being called every time.

100. Mr Latto admitted that the proposed new signal controlled pedestrian crossings in Woodburn Way could result in delays to traffic of up to 50 seconds but could see no reason why they should be included in the model. As evidenced by Mr Lawson, with potential adverse effects like this, it is inconceivable that these sets of traffic signals should not be included in any Transyt model of linked signals signals - particularly when these seemed likely to be used by hundreds of pedestrians daily.. Queried about the expected length of queue turning right into the Marks and Spencer car park, Mr Latto could not give an answer and again it is inconceivable that having decided to include two other uncontrolled junctions in the model, this access should not also be included - especially when the Council officers were seeking to include changes to the road markings as a condition of any approval and the proximity of the access to the proposed new pedestrian crossing.

101. In terms of the parking provision, the Appellant claims that it meets the requirements of SPPG17 because it is less than the maximum figure and they have sought to justify this low figure. Mr Pritchett said the numbers were derived on the basis of “aesthetic” reasons. Mr Latto said it was intended to meet the commercial requirements of Tesco. However, we have also heard from our witnesses that what is currently the main Tesco car park was originally built by Strathclyde Regional Council to serve Milngavie town centre. The Appellant admits this and their submission TSL 24 dated 25 November 2010 acknowledges that “the current car park at Tesco Milngavie acts as a town centre car park.” Mr Latto admitted that that the existing parking supply regularly operates to capacity. Mr Latto confirmed that the two of the three proposed parking areas are south of the river and are therefore further from the town centre. Our witnesses indicated how this makes them unattractive for use for linked trips. Other than vague suggestions that Tesco customers will make linked trips to the town centre, we have been offered no evidence by the Appellant on how the proposed parking provision will contribute to the overall parking requirement for the town centre.

102. Mr Lawson has shown how the Appellant and the Council officers failed to count the actual number of spaces on site and how the claim by the Appellant, and one that was apparently accepted by the Council officers, that the proposed parking supply retained the existing parking supply ratio was wrong. Mr Lawson showed that retaining the ratio would actually require the Appellant to provide 660 spaces, which was still in line with the SPPG17 figure and this would allow the parking provision to continue to make a positive contribution towards the needs of the town centre.

Interests of Disabled People

103. We turn now to the issue of discrimination against the interests of disabled people. We heard that the Appellant did not employ an Access consultant in the development of their proposals. We have seen that they did not submit an Access Statement as is now required for developments of this nature. We have heard Mr Latto admit that he did not realise an Access Statement had a major focus on access by disabled people.

104. In the case of the Tesco proposals, the Appellant acknowledges that the Design Statement that was submitted with the application was for a proposed replacement store. The application was also registered by the Council as “redevelopment of existing retail store site to form new class 1 retail store...” Mr Lawson drew attention to the fact that for over 14 years he had been an adviser to Government on transport matters related to the interests of disabled people. He said that in the case of replacement or redevelopment, a comparison had to be drawn with the existing provision for disabled people. He was in no doubt that the proposed parking provision was less favourably located, more difficult to access and with significantly poorer and longer walk distances into the development. The Appellant admits that the distance between the parking and the store entrance is longer. This therefore amounts to serious detriment and discrimination under the Disability Discrimination Acts.

105. Similar considerations applied to the dial-a-bus facility for disabled people that presently stops right outside the covered store door. The Appellant (and the planning authority) was clearly unaware of its existence until it was raised by WLM and it was admitted by Mr Latto that there had been no contact with the Strathclyde Partnership for Transport who are the transport authority for East Dunbartonshire and who are responsible for operating the service. The Appellant suggested alternative locations two of which were outwith the site altogether and therefore considerably further from the store entrance. The third option was use of the recycling layby turn round. Again this is remote from the store entrance and uncovered. We would again

contend that this amounts to serious detriment and discrimination under the Disability Discrimination Acts.

106. The Members of the Council decided to refuse this redevelopment proposal against the recommendations of Council officers. We ask you to dismiss this appeal on the basis that (inter alia) the traffic and transport assessment is fatally flawed; there will be detriment to the local road network; the parking supply is inadequate to enable it to continue to serve the needs of the town centre; there will be detriment to the interests of pedestrians accessing the area around the store and elsewhere in the town centre; in assessing this application, the Council has failed to recognise its statutory duties to promote the interests of disabled people; and the Appellant has not demonstrated that the development can be physically accommodated.