

1. This document forms part of the Planning Authority Appeal Response required in relation to the appeal by Tesco Stores Limited against the refusal of planning permission for the redevelopment of its store at Milngavie by East Dunbartonshire Council on 29 April 2010.
2. Accompanying the Response Form are copies of all documents that were taken into consideration by the Planning Authority in taking its decision and published background documents relevant to the consideration of the issues in this appeal. The documents are listed in Annex1 and include (see EDC 7) a copy of the Planning Authority's Report of Handling. Annex 2 sets out the conditions, which the Planning Authority considers should be imposed in the event that the reporter was to uphold the appeal and grant planning permission.
3. East Dunbartonshire Council refused planning permission for a redevelopment of the existing Tesco store at Gavin's Mill Road, Milngavie for 6 reasons. The reasons for refusal were finalised following the Council's Planning Board meeting on 13 April based on the reasons given by the Board for refusing the application. In accordance with the Board's decision the precise wording of the reasons for refusal were finalised in consultation with the Chair of the Board. Each of the reasons for refusal is based on a relevant planning consideration.
4. The Council believes that the matters which are relevant to the determination of this appeal are as follows:
 - (a) the visual impact of the proposals;
 - (b) the impact of the proposals on the Milngavie town centre conservation area;
 - (c) the impact of the proposals on the setting of Gavin's Mill listed building;
 - (d) the impact of the proposals on town centres; and
 - (e) the traffic impact of the development including its impact on amenity.
5. East Dunbartonshire Council acknowledges that the building is of a bespoke design but considers that the scale and massing of the proposal is unacceptable and contrary to policies DQ2 and DQ2A of the adopted Local Plan. The building will be immediately adjacent to Woodburn Way and will extend to a maximum height of 7 metres above the pavement. The proposed design will create a form of development which is not in keeping with the character of the area. The proposal will be highly visible from Woodburn Way, Main Street, Lennox Park, the Glasgow to Milngavie Railway line as you enter Milngavie (the main approach for West Highland Way walkers), Baldernock Road and houses in Glassford and South Glassford Streets, Garwhitter Drive, Briarwell Road and the South Mains Estate Station Road and the Crossveggate flats and in the Council's view would appear incongruous, particularly in relation to the conservation area and the Gavin's Mill listed building.
6. The site lies between two of Milngavie's principal listed buildings - Gavin's Mill and the Railway Station - the proposed building does not relate to either of them. The Council considers that the enormous scale of the building would totally dominate Gavin's Mill which is not only a listed building dating back to King David's time but is also, historically, the reason Milngavie exists.
7. In general the design of the conservation area is typical of a small Scottish Victorian town being of two stories in height and constructed of stone and slate. The appearance of the proposed building is, in the Council's opinion contrary to policy HE7 of the adopted Local Plan. In the Council's view, the development is completely out of keeping and not only detracts from the setting of the town but i destroys the open aspect from the village on to Lennox Park.

8. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 imposes a duty on planning decision makers to pay special regard to the desirability of preserving a listed building or its setting. If a proposal has a detrimental impact on the setting of a listed building there is a strong presumption against planning permission being granted. The Council's view is that the scale and mass of the proposed store would overwhelm the listed building and have a significant impact on its setting contrary to Policy HE5 of the adopted local plan.
9. The impact of a town centre proposal greater than 2,000 square metres of comparison retail or 1,000 square metres convenience retail is a matter that the Glasgow & Clyde Valley Joint Structure Plan requires the applicants and Planning Authorities to assess. It is relevant to note in this respect that the Structure Plan Joint Committee rejected draft modifications to the Glasgow & Clyde Valley Joint Structure Plan in 2008, which would have had the effect of absolving town centre applicants of undertaking any impact assessments. Scottish Ministers ultimately accepted the Joint Committee's position and the draft modification that had been proposed was withdrawn. In short, this proposal, which would introduce an additional 4778 gross retail floorspace (3193 net), requires to be assessed against each of the relevant criteria in schedule 6(c)(i) of the Structure Plan.
10. Schedule 6(c)(i)(a) requires an analysis of expenditure compared to turnover in the appropriate catchment area. The conclusions of the structure plan review were that no additional convenience goods floor space was required within the Bearsden/Milngavie catchment area and that up to 6,000 square metres gross comparison was required to 2011. It is unclear exactly what format of retail floorspace the applicant was seeking as part of the planning process but as the Report of Handling makes clear, around two thirds of the structure plan comparison opportunity has been met through the planning permission which the Council is minded to grant at the Halleys Garage site Milngavie (2790 square metres) and through the expansion of ASDA, Bearsden (1189 square metres). This leaves around 2,000 square metres gross comparison floorspace available but no convenience floorspace requirement. The existence of the Halleys Garage decision seems to have been overlooked by the applicants.
11. Schedule 6(c)(i)(b) of the structure plan requires an assessment of impact including direct and cumulative impact on a number of town centres. Included within the list of town centres is Bearsden. No assessment has been carried out by the applicant of the impact which the current proposals would have on Bearsden town centre either in isolation or in cumulation with other developments.
12. Milngavie and Bearsden have attractive and vibrant shopping centres which provide good quality shops offering individual service, an interesting variety of goods, livelihoods for local shopkeepers, jobs for local employees and vital social centres for local people to meet and greet. This is what makes an attractive community. All this is at risk when these local shops become no longer viable and close because of the advent of a store that is totally out of scale and overwhelms small shopping centres. In the Council's view the proposals are contrary to Policy RET 2 of the adopted Local Plan and the criterion set out in Schedule 6(c)(d) of the approved Structure Plan.
13. East Dunbartonshire Council rightly concluded that the proposal was contrary to the development plan. In those circumstances the terms of paragraph 64 of the Scottish Planning Policy apply. The impact of the proposal on Bearsden town centre is a matter of concern to the Council and it considered it appropriate and justifiable to refuse planning permission to ensure that there would be no unacceptable impact on the vitality and viability of Bearsden town centre.

14. The Council is concerned about the potential traffic impact of the proposals. The assessment of the proposals does not take account of the impact of the proposed mixed use development at Lower Kilmardinny/Westpark which has recently been granted planning permission and includes business use, sports facilities and around 550 houses. Although the Council's Roads Officers recommended that certain road improvement measures were conditioned as part of the Tesco proposals, they also highlighted that the cumulative impact of the Kilmardinny development had not been addressed and could prove to be highly significant. The Council's Roads Officers acknowledges that the cumulative impact of the both developments would have a detrimental impact upon the operation of the local road network. The Council is concerned that the increased level of congestion would have an adverse impact on air quality in the area.
15. In view of the complex issues relating to design, retail policy and traffic analysis East Dunbartonshire Council agrees with the appellant that it would be appropriate for all of the matters relevant to the determination to be considered at public inquiry sessions.
16. The Council considers that if planning permission was to be granted following the appeal that the conditions set out in Annex 1 would be appropriate.

Annex 1 – List of documents

- EDC1 Approved Glasgow and Clyde Valley Joint Structure Plan 2008.
- EDC2 Approved Fourth Alteration to the Glasgow and Clyde Valley Joint Structure Plan 2009.
- EDC3 Adopted East Dunbartonshire Local Plan 2005.
- EDC4 Finalised Draft East Dunbartonshire Local Plan 2.
- EDC5 Scottish Planning Policy.
- EDC6 Planning Advice Note 59 Improving Town Centres.
- EDC7 Report of Handling of Planning Application.
- EDC8 Retail Capacity Report 2009 by Roger Tym.
- EDC9(a) Notice of Intention to Grant Planning Permission for Mixed Use Development at Lower Kilmardinny/Westpark 6 April 2009.
- EDC9(b) Decision to Grant Planning Permission in respect of the above development 21 June 2010.
- EDC10 Report of 12 May 2009 in relation to non-food retail unit at Halley's Garage, Milngavie.
- EDC11 Report of 26 October 2004 in relation to redevelopment of ASDA store at Milngavie Road, Bearsden.
- EDC12 Milngavie Town Centre Conservation and Character Appraisal.
- EDC13 Proposed Draft Modifications to the Glasgow and Clyde Valley Joint Structure Plan dated 30 November 2007.
- EDC14 Report to the Glasgow and Clyde Valley Structure Plan Joint Committee 18 January 2008.
- EDC15 Scottish Ministers Final Modifications to the Glasgow and Clyde Valley Joint Structure Plan 25 April 2008.
- EDC16 Structure Plan Technical Report TR7/06.