

**PROPOSED REPLACEMENT STORE,
GAVIN'S MILL ROAD, MILNGAVIE
APPEAL
RESPONSE TO EDC SUBMISSION**

ON BEHALF OF TESCO STORES LIMITED



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1.0 INTRODUCTION

- 1.1 This submission is lodged in response to the statements made on behalf of East Dunbartonshire Council by Shepherd and Wedderburn LLP dated 16 August 2010. It is noted that third parties have been provided with an additional period of time in which to lodge submissions and the DPEA has confirmed that the appellant will be provided a further opportunity to respond to third party comments made. This submission is therefore restricted to the planning authority's response to the appeal.

2.0 RESPONSE TO EAST DUNBARTONSHIRE COUNCIL SUBMISSION

- 2.1 This section refers to the points made by the council in the order in which they are made.
- 2.2 Point 5 of the council's submission states that the building will be immediately adjacent to Woodburn Way and will extend to a maximum height of 7 metres above the pavement. The submission does not explain why such positioning of the building or its varying height on this façade leads to a reason for refusal. Commercial buildings within Milngavie Town Centre are equally as high and are located within the conservation area. The designer of the Tesco store has articulated the Woodburn Way elevation to incorporate high quality materials, varying height and architectural detail.
- 2.3 By contrast to the architectural detailing of the Tesco store, the existing BT Openreach building on Ashford Road to the south of the appeal site and immediately opposite Gavin's Mill is three storeys in height, functional in design being faced with grey brick and is characterised by a number of antennae situated on its roof. This building is highly visible in the surrounding townscape and lies within the designated conservation area. To the south of this building is a relatively modern three storey block of residential units also facing Woodburn Way and situated within the conservation area which is uninspiring in terms of design and architectural detail and is not finished in materials common elsewhere in the conservation area.
- 2.4 The former Black Bull hotel identified in the council's documents, a category B listed building, situated to the north west of the appeal site and within the conservation has been converted into a commercial development now operating as a Marks and Spencer foodstore. The original building was partially demolished to enable this development to proceed. The rear of this building faces Woodburn Way and is the first impression of the conservation area when viewed from its edge along the north west side of Woodburn Way. The rear of this building is finished in a palette of two materials being white render and a stone cladding panel above. There is one small functional window detail in the floating stone panel. The remainder of this façade is characterised by an exposed service docking area which has a roller shutter door and a set of steps leading into the rear staff area of the shop. The area between the building and the edge of the conservation area is a car park. The council's
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remarks regarding the inappropriate nature of the Tesco store façade facing Woodburn Way require to be considered in this context.

- 2.5 The façade of the proposed Tesco store facing onto Woodburn Way has been specifically designed to add visual interest at all levels introducing a natural stone base course, feature glazing, coloured render and sustainable timber panels. A weather canopy would also be introduced to signify the entrance to the site on the Woodburn Way level which would be visible and accessible from the west side of Woodburn Way. This would signify the entrance to a high level walkway which raps around the southern elevation of the store leading to the main customer entrance in a glazed atrium. When compared with developments in the immediate surroundings which are situated within the conservation area, the scale, articulation and function of the Woodburn Way frontage of the proposed store is acceptable and in keeping with its immediate surroundings and is equal if not of superior design quality.
- 2.6 Point 5 of the council's submission goes on to state that the proposal will be highly visible from Woodburn Way, Main Street, Lennox Park and other streets and vantage points. This is not disputed by the appellants as the approach to the design has been to replace the tired and dated former Wm Low store with a new design concept which utilises the existing topography to best effect, creates new vistas both from within and towards the site and also creates at grade linkages to the sales floor from Woodburn Way. The store has been specifically designed to be viewed from all directions and has not been created to be hidden. The new glazed façade of the store which has not been commented on by the council will provide a high level vantage point for the many visitors and customers who will visit the site to view the surroundings including Lennox Park to the south. The store will maintain and enhance such views from the new vantage points that will be created from the high level walkways around the store and from the raised car park deck and from within the glazed atrium. It is accepted that the view from Woodburn Way will be altered significantly due to the new building and the removal of trees. This view is from a footway adjoining a dual carriageway. It should be noted that the trees are not protected and could be removed at any time. This side of Woodburn Way and the dual carriageway road have been specifically excluded from the conservation area. The new views from within the site at high level will more than compensate for any views from along Woodburn Way which are also obscured by the tree canopies for much of the year.

- 2.7 Point 6 of the council's submission states that the proposed store does not relate to either of the nearby listed building's of Gavin's Mill and the station. With regard to the station the nearest building to this structure is the Kwik Fit tyre depot on Gavin's Mill Road which is situated between the appeal store proposal and the station. There is also a belt of mature trees within the line of sight between the store building and station. The view from the station to the south is also characterised at present by the existing Tesco store service yard. The proposed new store decked car parking levels would be a light weight structure and in the appellant's view would be an improvement on the existing views to and from the station area.
- 2.8 The listed building of Gavin's Mill is in close proximity to the south elevation of the proposed store. However the store is not within the curtilage of this building and is around 30 metres away. The area between the store and Gavin's Mill will be enhanced through groundscape works and repairs to the existing retaining wall. The views of Gavin's Mill will be enhanced through the introduction of the high level walkway around the store from Woodburn Way leading to the store entrance. It is also envisaged that the store café will be located on this elevation which will allow views from the store café to Gavin's Mill. These views are not presently available. It is noted that Architecture and Design Scotland consider that a development of this nature is capable of being developed on this site given the 'potential of this location'. This suggests that there is no reason why a development of the scale and nature proposed cannot be accommodated on the site.
- 2.9 The comments in point 7 of the council's submission refer to conservation areas and policy HE7 of the local plan. This policy makes it clear that there is a difference in approach to design between sites within and outwith conservation areas. The application site lies outwith the designated conservation area. Whilst the general description of the conservation area being of stone and slate and two stories in height may be generally accurate, this does not reflect the nature of the built environment around the appeal site where there are a variety of buildings styles and heights as explained above.
- 2.10 It is not accepted that the proposed development will destroy the open aspect from the village on to Lennox Park. The view of the site at present from the dual carriageway of Woodburn Way is mainly of a tree belt which has no conservation or preservation status. In raising the store floor level and creating high level walkways as well as a glazed atrium the views from within the site towards Lennox Park will be significantly enhanced as
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- these new vantage points will be created and the large imposing mansard roof of the existing store will be removed. The views from the store atrium will look across into Lennox Park as the new deck car park will be significantly lower than the existing Tesco store building.
- 2.11 Point 8 of the council's submission refers to the preservation of a listed building or its setting. In this regard the proposed development will not encroach on any listed building or its curtilage. It is reasonable to assume that the setting of the listed building of Gavin's Mill is the boundary of the conservation area as otherwise the conservation area boundary would have been drawn differently. The boundary of the conservation area is tightly drawn to the front retaining wall of the building and there is no development proposed beyond this boundary. The setting of the listed building has been carefully considered in the design of the building as explained in submissions supporting the application. The actual Tesco building is more than 20m from the edge of the conservation area boundary and the curtilage of the listed building whereas the elevated Woodburn Way is within 5m of the Gavin's Mill building itself. This structure will remain the dominant feature in the vicinity of Gavin's Mill.
- 2.12 The following points 9, 10, 11 and 12 all refer to retail impact and retail capacity. The arguments put forward by the council are wide ranging. However, the claim that *'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'* is unfounded and not based on any evidence thus far lodged by the council. It is a well established principle of retailing that smaller niche stores do not compete with much larger anchor stores as it is the anchor store which is the key to attracting significant footfall to a shopping centre. This is the reason why department stores 'anchor' shopping malls and are the key to attracting smaller stores. The smaller stores alone do not have the ability to attract significant footfall due to the limited range of stock and the low frequency of visits on a daily basis. By contrast larger supermarkets and department stores attract relatively high footfall given the depth of product ranges, marketing and brand recognition in particular. A large convenience store such as Tesco also attracts regular shopping visits as the main purpose of the shopping trip is for food purchases. Such trips are undertaken on a weekly or bi-weekly basis. Where a store is located in a town centre such as in Milngavie the store will also attract more regular or top-up shopping trips. Such trips enhance the vibrancy of the town centre overall. The council has put forward no evidence that a larger Tesco store located in Milngavie town centre will adversely affect smaller stores in the town centre. It is also contrary to government policy to refuse such developments on such a
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- basis given the most up to date guidance in the SPP quoted in the report on handling. This SPP supersedes the structure plan policies on such issues. The fact that the Scottish Ministers accepted the current structure plan wording of schedule 6(c) requires to be considered in the context that this wording pre-dates the SPP.
- 2.13 The council notes that consent was recently granted for a new Asda store at Bearsden. In bullet point 10 the council states that the expansion of the store has taken up some of the spare capacity on comparison goods available in the area. In point 11 the council also claims that the appellant has not undertaken any assessment of the impact of the current proposals on Bearsden town centre. In the report to committee on the Asda application, lodged as document 11, there is no indication that an assessment of impact had been undertaken in respect of that proposal despite the location being out of town centre. It is also of some concern that despite the council claiming that the redeveloped Asda store was to be for a specified amount of convenience and comparison goods, there do not appear to have been any conditions placed on the consent controlling the use of floorspace. This store could therefore sell any types of goods. This relaxed attitude of the council to out of centre retailing in Bearsden does not sit comfortably with the manner in which permission was refused for the Tesco development which is an existing store in a policy protected area of Milngavie town centre. There is no explanation given by the council as to why the Asda development has been granted planning permission in such a relaxed manner with no apparent assessment of impact on Bearsden town centre. The consistency of approach to retailing in the area by East Dunbartonshire Council is questioned.
- 2.14 In respect of the Halley's garage site in Milngavie it does not appear that planning permission has actually been issued for this development. It is not therefore a committed retail scheme. It is not clear why a consent notice has yet to be issued, but this may be as a result of planning gain monies being required as an up front payment and the consent being for bulky goods only. The suggestion that this resolution to grant planning permission should be taken into account in deciding whether there was scope for additional town centre floorspace in Milngavie is unfounded. To protect such proposed floorspace through the use of policies in the structure plan suggests that the council's approach to retailing is to support out of centre development instead of protecting and enhancing town centres. If this is the council's position then it is not based on a fair and reasonable interpretation of well established national, regional and local plan policies which are designed to direct new retail floorspace to designated town centres in the first instance.
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- 2.15 Point 14 refers to the 'potential' traffic impact of the proposals. This is not a precise reason for refusal and provides no indication to the appellant as to the exact nature of the additional congestion that would arise. The traffic implications were fully considered during the application process and the methodologies for assessing traffic generation and impact were all agreed. It should also be noted that the proposal was reduced in scale from earlier pre-application proposals through the reduction in car parking. Additional car parking had been requested by community representatives given the current car parking usage at Milngavie station. It was suggested to the appellant that the Tesco site could accommodate additional car parking for station users. Such suggestions do not sit comfortably with the reason for refusal based on traffic impact. Reason for refusal 6 is also particularly vague and imprecise as there is no specific issue resulting from the development identified. It is not clear from this reason for refusal or in the expanded comments made in point 14 of the council's response, precisely where additional congestion would arise and why the measures put forward by the appellant would not satisfactorily remedy the issues discussed during the application stage.
- 2.16 On air quality issues the same criticisms are made of the councillors' approach to the refusal of this application. This issue was not raised at all during the application process. The issue is referred to in a single sentence in the final reason for refusal and is again only mentioned in passing in the council's response to the appeal submission. If the council is to continue to base its opposition to the proposal on air quality then empirical evidence of the exact nature of the adverse effect should be provided to the appellant.

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