



PLANNING PERMISSION
APPEAL TO SCOTTISH MINISTERS

UNDER SECTION 47 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the notes provided when completing this form - failure to supply all relevant information could invalidate your appeal

Use **BLOCK CAPITALS** if completing in manuscript

Appellant(s)

Name Address Tesco Stores Limited
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Shire Park
Welwyn Garden City
Herts

Postcode AL7 1AB

Contact Tel No 1 [REDACTED]

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Agent (if any)

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Mark this box to confirm all contact should be through this representative

* Do you agree to all correspondence regarding your appeal being sent **by e-mail**? Yes No

Planning authority East Dunbartonshire Council

Planning authority's application reference number TP/ED/09/0638

Site address Tesco Store, 7 Gavin's Mill Road, Milngavie, Glasgow, G62 6NB

Description of proposed development Redevelopment of existing retail store to form new class 1 retail store with associated deck car parking, servicing, recycling centre, etc

Date of application 17 July 2009 Date of authority's decision 29 April 2010

OS Map Grid Ref or Post Code G62 6NB Area of Appeal Site (m²/ha) 2.5 hectares

Nature of application:

Planning permission

Planning permission in principle

Approval of matters specified in conditions

Variation or discharge of conditions

Appeal against:

Refusal of application

Failure to give a decision (deemed refusal)

Conditions imposed on consent

STATEMENT OF APPEAL

You **MUST** state, in full, why you are appealing against the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your appeal. **Note:** you might not have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account. *You will though be entitled to comment on (i) any additional matter which may be raised by the planning authority in its response to your appeal, or (ii) any representations the Scottish Government might receive from any other person or body.*

State the reasons for your appeal and all matters you wish to raise here. (If necessary, this can be continued or provided in full on a separate document.)

See Attached Statement

Have you raised any matters which were not before the planning authority at the time the decision you are appealing against was made? Yes No

If yes, you should explain in the box below, why the matter was not raised at that time and why you consider it should now be taken into account.

The matters raised in the attached appeal statement respond to the reasons for refusal put forward by elected members which were not based on evidence before them either in applicant submissions or in any material before them produced by statutory consultees or council officers/third parties.

List of documents/evidence

Provide a list of all documents, materials and evidence which you have provided with your appeal and intend to rely on in support of your appeal. (If necessary, this can be continued or provided in full on a separate document.)

See Attached List

APPEAL PROCEDURE

The person appointed to determine your appeal will decide the procedure to be used. In general, a decision will be made based on your appeal documents and the planning authority's response. In some cases the appointed person may require further procedures to gain more information on specific matters before reaching a decision. This is your opportunity to indicate what procedure you think is most appropriate for the handling of your appeal. (See *Notes for Appellants*)

- 1 Review of all relevant information provided by yourself and other parties only, with no further procedure
- 2 Inspection of the land subject of the appeal
- 3 Further written submissions on specific matters
- 4 Holding of one or more hearing sessions (i.e. round table discussions) on specific matters
- 5 Holding of one or more formal inquiry sessions on specific matters

* You can suggest a combination involving more than one further procedure, if necessary

If you have marked boxes 3, 4 or 5, please explain here which of the matters (as set out in your statement above) you believe ought to be subject of that procedure, and why. (If necessary, this can be continued or provided in full on a separate document.)

See Separate Document

Site inspection

In the event that the Scottish Government Reporter appointed to consider your appeal decides to inspect the appeal site, in your opinion:

Yes No

Can the site be viewed entirely from public land?

Is it possible for the site to be accessed safely, and without barriers to entry?

If there are reasons why you think the Reporter would be unable to access and view the appeal site alone, please explain here:

OTHER APPEALS

Have you made any other appeals to Scottish Ministers concerning this land? Yes No

If yes, please give details, including our appeal reference numbers (if known):

CHECKLIST

Please mark the appropriate boxes to confirm you have provided all supporting documents/evidence relevant to your appeal:

- Full completion of all parts of this form
- Full statement of appeal
- All documents, materials and evidence which you intend to rely on
- Application to planning authority, including all plans/drawings and other documents relevant to your application which is now subject of this appeal
- Planning authority's decision notice (if any), which is the subject of your appeal
- Where application/appeal relates to an earlier consent (e.g. approval of matters specified in conditions; variation of previous conditions), the application, approved plans and decision notice from that earlier consent.*
- The Report of Handling prepared by the planning authority in respect of your application, where one exists (*see Notes for Appellants*)

The Scottish Government routinely publishes all documents relating to each appeal on its website at www.dpea.scotland.gov.uk. You must advise DPEA if there are particular reasons why you think any document you have provided cannot be published.

DECLARATION

I appeal to the Scottish Ministers as set out on this form and supporting documents. I confirm that I have today sent a copy of my appeal to the planning authority.

Date

26/7/10

This form and all supporting documents should be sent to:

E-mail: dpea@scotland.gsi.gov.uk
Post: Directorate for Planning and Environmental Appeals
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR
Fax: 01324 696444
Contact Tel: 01324 696400

August 2009

**PROPOSED REPLACEMENT STORE,
GAVIN'S MILL ROAD, MILNGAVIE
APPEAL STATEMENT**

ON BEHALF OF TESCO STORES LIMITED



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1.0 INTRODUCTION

- 1.1 Tesco Stores Limited is appealing the refusal of an application for full planning permission for the redevelopment of an existing retail store at Gavin's Mill Road, Milngavie. The present Tesco store performs an anchor role in Milngavie town centre and was originally constructed in the early 1990's. Since this time supermarket shopping has evolved and Tesco has been at the forefront of improving service to customers and ensuring shoppers have access to a large range of high quality goods and services, particularly in town centres. This store has been extended and improved on a number of occasions but has no scope for any further improvements in its existing format. The company has therefore been in extensive discussions over recent years with council officers with a view to improving and enlarging the retail provision on this site, which lies within the defined town centre of Milngavie.
- 1.2 This appeal statement covers those matters raised on the appeal form. However, it should be noted that the application was refused contrary to officers' recommendation and many of the statements made in the reasons for refusal were not based on information before the councillors at the time the decision was taken. It is therefore inevitable that some comments are made in this statement which have not been submitted previously in the application process.

2.0 REASONS FOR APPEAL

2.1 This appeal is being lodged as a result of East Dunbartonshire Council's refusal of a full planning application contrary to officers' recommendations. The decision notice included six reasons for refusal all of which were drafted following the decision taken by members to refuse planning permission at a committee meeting on 13 April 2010. The minute of the meeting is attached to this appeal and states that the actual wording for the reasons for refusal were not discussed or agreed at the committee. It is not clear how the detailed reasons for refusal were drafted, but it is evident that this was undertaken some time after the actual decision to refuse planning permission was taken. It is also not clear who drafted the wording of the reasons for refusal.

Response to Reason for Refusal 1:

- 2.2 This reason refers to scale and massing of the development being contrary to development plan policy. It is not accepted that the proposed building creates a significant detrimental visual intrusion to the area particularly to the street scene along Woodburn Way.
- 2.3 The application submission clearly indicates that the proposed new building will provide a new and varied streetscene along Woodburn Way which presently has no sense of enclosure or urban context on its south side. The designer of the proposed new store has taken into account all vantage points and has designed a bespoke building which recognises the constraints and opportunities presented by the location and site topography. The appellant considers that reason for refusal 1 is unfounded as the proposed scale and massing of the building is entirely appropriate for the site.
- 2.4 The appellant would wish to challenge the assertions made by councillors in this reason for refusal in a formal inquiry session.

Response to Reason for Refusal 2:

2.5 This reason also refers to size and siting and design in the context of the adjacent Milngavie conservation area. Policy DQ2A states that developments should generally take recognition of and reinforce or complement the character of their surroundings. The requirements of this policy have been fully considered in the design of the proposed store building together with its siting. The reason for refusal makes no mention of the important environmental feature of the Allander Water which has

been fully considered in the design of the proposed store. The store designer has taken full account of the setting and established character of the area which includes the conservation area which lies to the north of the dual carriageway, Woodburn Way. The listed building of Gavin's Mill, the existing Kwik Fit Tyre Centre, the raised structure of Woodburn Way and the rear elevation and service area of the Marks and Spencer's unit to the north are also features of the area which provide a context for the development.

- 2.6 It is not accepted that development will considerably detract from the setting and established character of the area. It is accepted that the development will result in a change to the environment, but this change will lead to economic and social benefits for the future of Milngavie town centre which needs to compete with stores and centres elsewhere. The topography of the site lends itself to the form of infill development proposed which will help to integrate the site and proposed store into the surrounding urban fabric. It is the appellant's view that the proposal will enhance the setting and established character of the area which is evidenced through reference to the submitted plans, elevations, 3D model and other visual information submitted.

Response to Reason for Refusal 3

- 2.7 This reason refers to the adverse effect of the development on the setting of Gavin's Mill by virtue of its size, scale and visual dominance.
- 2.8 In response, it should be noted that the design and scale of the proposed new building has been specifically devised to reflect the position of the building close to Gavin's Mill. The immediate setting of the listed building will be enhanced through improved hardstanding and landscaping. The proposed Tesco store has reduced height on the elevation closest to the listed building. The CGI views of the proposed store clearly indicate that the listed building setting will be preserved through the proposed development, particularly given the fact that the closest structure to the listed building will remain the elevated structure of Woodburn Way and the abutments to the existing underpass.
- 2.9 The design of the building through the introduction of a walkway and glazed corner features will also allow views from the proposed development towards the listed building. Increased pedestrian flow will allow different and enhanced views of the listed building from an elevated position.
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Response to Reason for Refusal 4

- 2.10 Reason for refusal 4 is unreasonable and unfounded. The existing and proposed Tesco stores lie wholly within the defined town centre of Milngavie. SPP indicates that there can be no negative impact from a development which lies within a defined town centre. The perverse repercussions of such a reason for refusal would be the development of retail stores which are not within the town centre, which is potentially contrary to retail policies at all levels.
- 2.11 The Glasgow and Clyde Valley Structure Plan concurs with the experience of Tesco in Milngavie as it identifies in schedule 6(c)iii that the local planning process should bring forward up to 6,000sqm gross comparison floorspace in the Bearsden/Milngavie area to help stem the leakage of this type of expenditure outwith the area. Tesco is aware of this leakage of expenditure and is seeking approval for this development which will help to capture some of this lost trade. The development will therefore help to fulfil this strategic requirement in a policy preferred town centre location. If this development is refused at a scale which is supported in strategic policy this would inevitably result in retailers and developers considering sites outwith Milngavie town centre in order to fulfil the strategic need identified. This reason is wholly unreasonable and unfounded.

Response to Reason for Refusal 5

- 2.12 This reason for refusal refers to SPP government guidance and cumulative impact on the vitality and viability of the identified network of centres. It states that the proposed development would have a detrimental impact on Bearsden Town Centre.
- 2.13 This reason for refusal is refuted given the fact that the council has granted planning permission for a large scale expansion of an out of centre Asda store in closer proximity to Bearsden town centre and where no such issues were raised. In a situation where there is a strategic need to enhance and expand retail floorspace in the East Dunbartonshire Council area this reason for refusal does not stand up to scrutiny. The councillors also had no retail impact evidence before them on which to base this reason.

Response to Reason for Refusal 6

- 2.14 This reason refers to increase in traffic and congestion despite the fact that the applicant had agreed with the council's transportation service a
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series of mitigation measures which would allow the development to be satisfactorily accommodated within the surrounding road network. In refusing permission in a town centre location on such grounds suggests that the councillors do not wish to allow new retail development which accords with strategic and local plan policy in Milngavie town centre. If this site is not deemed to be appropriate for the scale and form of development proposed then this would indicate that the identified need for such floorspace can only be accommodated in out of centre locations. The inevitable consequence of developing in town centres in accordance with government guidance is an increase in traffic and activity.

- 2.15 The reference to air quality was not an issue raised during the application process and as far as the applicant is aware the councillors had no evidence before them at the committee on which to make a judgement as to effects on air quality. It is unreasonable for councillors to refuse planning permission based on an issue on which they have no evidence. Should such evidence be allowed in the appeal process the appellant would wish to reserve the right to refute such evidence.

3.0 LIST OF DOCUMENTS

3.1 The list of documents lodged is as follows:

Planning Application covering letter, completed forms and neighbour/owner notification certificates

958 (L) 001	-	Location Plan
958 (P) 001 Rev A	-	Existing Site Layout/Topo
958 (P) 002 Rev F	-	Proposed Ground Floor Plan
958 (P) 003 Rev F	-	Proposed First Floor Plan
958 (P) 004 Rev B	-	Roof Plan
958 (P) 005 Rev F	-	Elevations
958 (P) 006 Rev B	-	Sections
958 (P) 007 Rev C	-	Site Sections
958 (P) 008 Rev A	-	Car park Elevations
958 (P) 009 Rev A	-	Surface Finishes
958 (P) 010 Rev A	-	Detail Sections
958 (P) 011 Rev A	-	Misc Site Details
958 (P) 012 Rev A	-	Existing Store Floor Plan
958 (P) 013 Rev A	-	Existing Store Elevations
CGI 001	-	CGI View 1 Entrance Atrium
CGI 002	-	CGI View 2 from Approach Road
CGI 003	-	CGI View 3 from Lennox Park
CGI 004	-	CGI View 4 from Lennox park to Gavin's Mill
CGI 005	-	CGI View 5 Towards Viewing Platform
CGI 006	-	CGI View 6 Towards café
CGI 007	-	CGI View 7 Woodburn Way Looking North
CGI 008	-	CGI View 8 Woodburn Way Looking South

Supporting Planning Information, PPC, February 2010

DSSR Sustainability Statement, July 2010

Design Statement, July 2009

Arup Transportation Assessment, July 2009

Arup Supplementary Road Network Analysis, March 2010

Apem Ecological Assessment, June 2009

Sharps Redmore Noise Assessment, June 2009

Goodson Associates Drainage Assessment Reports, July 2009 and March 2010

Goodson Associates Construction Method Statement, July 2009
Goodson Associates External Works Drainage layout, 10349, Drawing number 500

Proposed Landscape Layout Drawing 1539/Ext/L01 Rev E, TGP

Landscape Proposals, Design Statement and Maintenance programme, TGP

Flood Risk Assessment, January 2010

Community Consultation Report, June 2009

PowerPoint Phasing Images, March 2010

Planning Board Minutes, 13 April 2010

Refusal Decision Notice, 29 April 2010-07-26

East Dunbartonshire Council, Development Quality Committee Report, 13 April 2010

4.0 MATTERS WHICH OUGHT TO BE CONSIDERED IN INQUIRY SESSIONS

- 4.1 The appellant considers that all evidence relating to the six reasons for refusal should be the subject of inquiry sessions. This is due to the fact that professional advice of statutory consultees and council officers was ignored by councillors and the reasons for refusal were drafted at some point after the decision was taken. In the interests of fairness it is important for the appellant to be allowed the right to fully cross examine the decision makers in this instance to test the robustness of the reasons for refusal.

July 2010