



NORTHAMPTON
BOROUGH COUNCIL
Planning Committee

PLANNING COMMITTEE: 5th April 2011
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

APP: N/2010/0653 **Extension to existing food store, relocation of two shop units, erection of community building, new bus waiting facility, provision of new pedestrian footpaths, landscape works and revisions to the car parking layout at Tesco Stores Ltd, Clannell Road, Northampton (as amended by plans received by WNDC on 7th January 2011).**

WARD: East Hunsbury Ward

APPLICANT: Tesco Stores Ltd
AGENT: Martin Robeson Planning Practice

REFERRED BY: Head of Planning
REASON: Strategic Significance

DEPARTURE: YES

APPLICATION FOR CONSULTATION BY WNDC

1. RECOMMENDATION

1.1 It is recommended that WNDC be advised that:

- Tesco, Clannell Road can not be regarded as forming part of an identified centre for the purposes of the application of PPS4 for the reasons set out in this report;
- Tesco Stores Ltd should be requested to submit an impact assessment and a sequential assessment, to an agreed methodology, in accordance with Policies EC3, EC5, EC10, EC14, EC15 and EC16 of PPS4: Planning for Sustainable Economic Growth; and
- If no such assessments are received the application should be refused in accordance with Policy EC17 of PPS4.

2. THE PROPOSAL

2.1 The application to extend the existing Tesco superstore at Mereway was submitted to WNDC on 16th July 2010. The application was

accompanied by a range of technical documents, including amongst others:

- Plans
- Traffic Assessment Report
- Planning & Retail Statement
- Landscape Statement
- Flood Risk Assessment
- Daylight & Sunlight Assessment
- Design & Access Statement

- 2.2 The application was to extend the existing gross internal A1 floorspace on the site from 10,715 sq m to 14,979 sq m, a net additional gross internal floorspace of 4,264 sq m.
- 2.3 The Applicant was also proposing a net additional gross internal floorspace of 37 sq m for financial and professional services and 214 sq m community centre.
- 2.4 The revised scheme, submitted in January 2011, proposed to reduce the size of the extension by 20% from 2,720 sq m to 2,161 sq m and revised the split in floorspace between comparison and convenience goods. As a result of the revision only one of the two shop units originally proposed requires relocation.
- 2.5 The proposal is, therefore, as follows:

Table 1: Net Tradable Floorspace of New Proposal

| Floorspace | Existing Store | July 2010 Proposal | Proposal (January 2011) | Extension to Existing Store |
|-------------------|-----------------------|---------------------------|--------------------------------|------------------------------------|
| | M ² | m ² | m ² | m ² |
| Convenience | 3,810 | 4,366 | 4,424 | 614 |
| Comparison | 1,923 | 4,087 | 3,470 | 1,547 |
| Total | 5,733 | 8,453 | 7,894 | 2,161 |

The split between Convenience goods floorspace and Comparison goods floorspace has also been revised.

Table 2: Convenience/Comparison Goods Floorspace split

| Floorspace | Existing Store | July 2010 Proposal | New Proposal (January 2011) |
|-------------------|-----------------------|---------------------------|------------------------------------|
| | % | % | % |
| Convenience | 66 | 52 | 56 |
| Comparison | 34 | 48 | 44 |
| Total | 100 | 100 | 100 |

- 2.6 The gross A1 floorspace has been reduced from 4,264 sq m to 2,445 sq m, the financial services from 490 sq m to 494 sq m and the community centre remains at 215 sq m.
- 2.7 In support of the application, the Applicant contends that the application site lies within a designated District Centre and that the size of the store as proposed is consistent with the role and function of Mereway District Centre. This is discussed in detail in Section 4 below.
- 2.8 In a letter dated 16th February 2011, the Agent, on behalf of the Applicant, wrote to the Council expressing concern on a number of issues, not least that should WNDC determine the application submitted by Sainsbury at Weedon Road in isolation of the Tesco application this could result in Tesco's proposals not receiving fair and proper consideration. This is notwithstanding the fact that in their submissions in support of the application Tesco has maintained and continues to maintain, that because the application site is within a District Centre, such impact assessments are not necessary or required and even if they were, no harmful cumulative impact would arise. Tesco maintains that where choices need to be made to limit harmful cumulative impact, opportunities which form part of the established or preferred retail hierarchy should be given preference over other sites.
- 2.9 In order not to prejudice the proper consideration of the Tesco proposals, the Applicant's Agent has have requested that the application is considered by Committee to enable the Sainsbury and Tesco applications to be considered concurrently by WNDC.

3. PURPOSE OF THIS REPORT

- 3.1 One key consideration in the determination of this application is whether or not for the purposes of the application of National Planning Policy PPS4 – Planning for Sustainable Economic Growth on retail development there is an identified centre at Mereway within the development plan.
- 3.2 Although WNDC is the determining authority for the purposes of Part III of the 1990 Town & Country Planning Act (as amended) it is not the plan making authority and cannot make planning policy within the meaning of Part II of the Act and accordingly this function falls to Northampton Borough Council and / or the West Northampton Joint Strategic Planning Committee as applicable.
- 3.3 Applications for town centre uses, (including retail) have to be considered in the context of PPS4, together with all relevant local policies. *One key consideration is whether or not a proposal lies within an identified centre.* The evidence required to support an application will vary depending on this.
- 3.4 The purpose of this report is, therefore, to consider, within the context of extant policy, whether or not there is a district centre at Mereway and advise WNDC accordingly. It is not the purpose of this report to consider the merits of the application within the context of adopted

development plan policy and other material considerations, as WNDC has indicated that it has instructed consultants to undertake a cumulative impact assessment of all the current retail outside the town centre. It would, therefore, not be appropriate to consider the merits of the application until this information has been received and evaluated.

4. PLANNING CONSIDERATIONS

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan and the saved policies of the Northamptonshire County Structure Plan 2001 and Northampton Local Plan 1997.

4.1 The key policy documents relating to the current proposal are:

- PPS4 Planning for Sustainable Economic Growth
- The Northampton Local Plan 1997
- The Pre-Submission Joint Core Strategy January 2011.

4.2 Policy EC3 of PPS4 identifies that when plan making local planning authorities (LPAs) should set out a strategy for the management and growth of centres. EC3.1 b i sets out that as part of their strategy LPAs should define a network (the pattern of provision of centres) and hierarchy of centres (the role and relationship of centres in the network) that is resilient to anticipated future economic changes, to meet the needs of their catchments having made choices about which centres will accommodate any identified need for growth in retail and other town centre uses.

4.3 Policy EC5 concerns site selection for retail and other main town centre uses when plan making. Local planning authorities are required to base their approach on identified need and to identify an appropriate scale of development, ensuring that the scale of sites identified is in keeping within the role and function of the centre within the hierarchy of centres and the catchment served. Sites for growth should be identified through a sequential approach to site selection with appropriate existing centres first, then edge-of-centre, followed finally by out-of-centre locations (EC5.2). In assessing the impact of proposed locations for development on existing centres LPAs should ensure that proposed sites *in a centre*, which would substantially increase the attraction of that centre and could have an impact on other centres, are assessed for their impact on those other centres (EC5.4 b).

4.4 In relation to Development Management, Policy EC10, amongst other things, requires that *all planning applications* for economic development should be assessed against their impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives.

- 4.5 Policy EC14 sets out the supporting evidence required for planning applications for main town centre uses. In terms of extensions to retail uses that are not in an existing centre and are not in accordance with an up to date development plan, Policy EC14.3 requires a sequential assessment (under Policy EC15).
- 4.6 Policy EC14.4 states that an impact assessment (under Policy EC16) is required for applications for retail and leisure developments over 2,500 sq metres gross floorspace, *or any other locally set floorspace threshold* not in an existing centre and not in accordance with an up-to-date development plan. Policy E14.6 provides that an impact assessment is also required for proposals in an existing centre which are not in accordance with the development plan and which would substantially increase the attraction of the centre to an extent that the development could have an impact on other centres.
- 4.7 Policies EC15 and EC16 set out the criteria for sequential assessment and impact assessments respectively when assessing planning applications.
- 4.8 Policy EC17.1 states that applications for development of main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused where the applicant has not demonstrated compliance with the requirements of the sequential approach or there is clear evidence that the proposal is likely to lead to significant adverse impacts taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.
- 4.9 Annex B of PPS4 defines centres and types of location. A District Centre will usually comprise groups of shops often containing at least one supermarket or superstore and a range of non-retail services such as banks, building societies and restaurants, as well as local public facilities such as a library.

Northampton Borough Local Plan 1997

- 4.10 The Local Plan was adopted in June 1997. Policies R1 and R2 make reference to 'recognised shopping areas' and refer to Appendix 15 which sets out a Schedule of Recognised Shopping Centres and which identifies the Town Centre (as defined on the Inset Map) and the District/Local Centres. The Appendix does not specify which of the named 'centres' are District or Local Centres and indeed many are no more than small parades of shops that would not fall within the PPS4 definitions of District or Local Centres. Mereway is included as a recognised shopping centre. Appendix 15 does not establish a hierarchy of centres and as such is not compliant with the current policy requirements contained in PPS4, notably Policy EC3.
- 4.11 Moreover, the Local Plan did not distribute the growth as is laid out by PPS4 Policy EC3.1 b i.

- 4.12 In 2007, the Council applied to the Secretary of State to save a number of policies in the Local Plan beyond September 2007, the end date of the Plan. Policies R1 and R2 were not saved, nor was the accompanying text and, therefore, the status of Appendix 15 is questionable. Policy R12 which relates to the extension of shops and other premises in District and Local Centres also has not been saved although Policy R9 which seeks to protect the retail function of District and Local Centres by restricting the change of use from shop use has been saved. This policy is therefore the sole extant policy to which Appendix 15 is relevant and for which it performs a residual function.
- 4.13 In considering whether or not to save policies in a Local Plan beyond September 2007, LPA's had to have regard to whether or not the policies reflect the principles of local development frameworks and are consistent with current national policy (PPS12). When making submissions to the Secretary of State the Council requested that, of the Plan's retail policies, Policies R9 and R12 should be saved but that Policies R1 and R2 should not. In its assessment the Council commented that Policy R1 is "out of date and does not comply with the sequential approach promoted in PPS6" and Policy R2 is "out of date and does not comply with the requirements and guidelines contained in PPS6."
- 4.14 In short the retail policies in the Local Plan were not saved because they were inconsistent with national guidance at that time as contained within the then PPS6: Planning for Town Centres, subsequently replaced by PPS4 in 2009.
- 4.15 The issue is, therefore, what weight should be attached to the Local Plan in considering the proposal. It is clear that the relevant unsaved policies and their reasoned justification are no longer part of the development plan. However, to the extent that they may be relevant to the issues arising in the determination of a planning application, they are capable of being material considerations, although the weight to be accorded to them will reflect the decision not to save them.
- 4.16 At the Council's request the Secretary of State saved local Plan Policy R9. The Policy is not concerned with the establishment of a retail hierarchy for the Borough; that was broadly left to the earlier now unsaved Policies R1 and R2. Policy R9 is exclusively concerned with change of use from shop use to other uses within District and Local Centres. Although as a saved Policy it continues to be used in the assessment and determination of applications for change of use in centres identified in Appendix 15 of the Local Plan, it does not establish a PPS4 compliant network or hierarchy essential to the operation of the PPS4. Whilst policy R9 as guided by Appendix 15 has the effect of protecting existing retail use it is not determinative of whether or not a group or grouping of retail facilities is or is not a centre having regard to the up to date advice in PPS4.
- 4.17 For the foregoing reasons therefore, there is no PPS4 compliant retail hierarchy in the Local Plan and the status of Mereway in extant approved development plan policy is at best ambiguous.

- 4.18 It is important to apply PPS advice in a purposive way. It seeks to establish a staged process with the local planning authority taking the lead in establishing a network and hierarchy through their development plan documents. Within that process all issue of need, sequential testing and impact assessment will have been thoroughly undertaken. Once that process is complete there should be no need for applicants to repeat work already undertaken in the preparation of the development plan. The emphasis on *applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date development plan* within EC14, EC15 and EC16 and EC17 is clearly directed at those circumstances in which there has been no development plan process compliant with the Plan Making Policies. That is the case here.
- 4.19 Where a proposal would substantially increase the attraction of a centre to the possible detriment of other centres, a plan making authority must assess impact [EC5.4]. Where that has not been done (e.g. because the development plan is old or did not anticipate development) and an applicant proposes development of like effect, an impact assessment is logically required [EC14.6].
- 4.20 It follows that even where there is a development plan identification of a centre, it is important to have regard to other material considerations that may outweigh that identification. Such material considerations would include the terms of PPS4 and also changes to the mix and composition of a centre which have occurred since its identification.
- 4.21 It is relevant here to consider how the shopping centre at Mereway has changed and evolved since it was identified as a Centre in the Local Plan in 1997. Relevant also is the up-to-date evidence base used to prepare the policies contained in the emerging development plan.

Evolution of Mereway Shopping Centre

- 4.22 Mereway has not developed its non-supermarket commercial offer in any substantial way since the adoption of the 1997 Northampton Local Plan. The five smaller adjacent shop units have remained, but two have changed from A1 to A2 use in 1997 and 2001 followed by a change of use to café in 2003. The commercial vitality of these units appears to have little to offer due to their size and their proximity to the larger adjoining superstore. The nearby public house (Horts Bar) has evolved to an Indian restaurant.
- 4.23 The Tesco superstore has been extended since its original permission in 1985, with one extension approved in 1997 and another in 2003. These two 'post Local Plan' extensions have enlarged the store's offer and increased its dominance of the handful of small businesses present. The increasing size of the Tesco and the stagnating status of the other traders has led to an offer that is significantly less like a District Centre than first envisaged and one that has the characteristics of an out of centre store. Mereway has, in reality, never offered the diverse range of facilities laid out in PPS4 (banks, shops, etc) in the

definition of a District Centre and this limited offer has only been further marginalised by Tesco's continued growth.

The Pre-Submission Joint Core Strategy – January 2011

- 4.24 The Pre-Submission Joint Core Strategy was approved for publication by the WNJSPC on 31st January 2011. It has been in the public domain since 17th January and was formally published for the statutory 6 week period for representations on 17th February. The purpose of the pre-submission document is to allow the public and other stakeholders to make comments on the plan prior to submission to the Secretary of State for approval and subsequent adoption. Representations on the plan at this stage of the plan making process must be made on the grounds of soundness or legal compliance.
- 4.25 PPS4 requires LPA's to define a network and hierarchy of centres that are resilient to anticipated future economic changes and that meet the needs of their catchment population. The scale of retail, leisure and office development must be appropriate to the role and function of the centre and the catchment it serves.
- 4.26 Policy S2 establishes the network and hierarchy of centres. Northampton is established as the Regional Town Centre and within the Borough. The Plan also identifies Weston Favell and Kingsthorpe as district centres together with 4 named local centres and new local centres to be brought forward to serve the new developments in the proposed sustainable urban extensions. There is no identified centre that includes or adjoins Tesco Mereway within Policy S2. The evidence base for retail development for the Core Strategy prepared by Roger Tym and Partners concludes that Mereway is an out of centre location.
- 4.27 Policy S9 sets the distribution of retail development and applies an impact assessment for retail development. The plan establishes that Northampton has suffered from a de-centralisation of retail and other town centre uses which has, over time, adversely affected the vitality and viability of the town centre. The evidence base supports this. Accordingly Policy S9 establishes that retail floorspace will be accommodated firstly within town centres and subject to specified criteria, where there is an identified need which cannot be accommodated within the town centre, proposals will be subject to the sequential approach. Proposals for development over 1,000 sq metres gross will have to be subject to an impact assessment in order to demonstrate that they do not have an adverse impact on the town centre. This is critical to rebalance the retail position in Northampton. This policy is supported by the evidence base.
- 4.28 Policy N10 identifies that whilst Northampton town centre should be the focus for Comparison goods retailing, there is also a need to ensure that local Convenience retail provision is addressed within the wider urban area. Policy N10 states that no further Comparison goods floorspace is required outside Northampton town centre other than at an appropriate scale to support the vitality and viability of local centres.

- 4.29 It is also worth noting that the former Emergent Joint Core Strategy published for consultation in 2009 did not identify a district centre at Mereway.
- 4.30 The issue is, therefore, what weight can be attached to the Pre-Submission Joint Core Strategy. Whilst the Pre-Submission WNJCS does not have the status of a development plan and it is entitled only to very limited weight, regard may be had to the supporting evidence base which is up to date and identifies Tesco, Mereway as a stand alone out of centre foodstore.
- 4.31 The Pre-Submission Joint Core Strategy does not propose Mereway as a District Centre nor proposes its growth.

5. CONCLUSION

- 5.1 The development plan currently comprises the East Midlands Regional Plan and the saved policies of the Northamptonshire Structure Plan and Northampton Local Plan (NLP).
- 5.2 The NLP was adopted in June 1997 and the majority of the relevant retail policies and supporting text were not saved in September 2007. The status of the Appendix 15 listing 'recognised shopping centres' is questionable in the light of this save as an aid to the interpretation of Policy R9. In any event Appendix 15 does not constitute a network and hierarchy of centres as required by Policy EC3 of PPS4.
- 5.3 The development plan status of Mereway as a District / Local Centre should now be accorded little if any weight in determining its status within the context of PPS4. There is no PPS4 compliant definition of the network and hierarchy of centres within the Borough and Mereway does not in any event now satisfy the PPS4 definition of a centre. It is an out of centre development. The ambiguous status of Mereway dating from the 1997 Local Plan is now outweighed.
- 5.4 As the application is not in accordance with the development plan and at circa 2,500 square metres of new sales floorspace, substantially increasing the retail attraction to the extent that the development could have an effect on other centres, EC14.6 of PPS4 requires an impact assessment dealing with the affects on other centres. Similarly, the applicant has must show compliance with the sequential test in accordance with Policies EC17 and EC15 of PPS4.
- 5.5 The applicants have not submitted an impact or sequential assessment with the application as required by PPS4. With a paucity of necessary information, WNDC are advised not to determine the application without the requisite additional information and in the event that it is not forthcoming, to refuse the application.
- 5.6 The applicants have recently argued that Mereway is a District Centre in development plan terms. For the foregoing reasons officers even were that accepted, the impacts of the proposed store extension

should be assessed having regard to the terms of Policies EC 10.6 and EC14.6 to analyse and prevent significant adverse impacts harming other centres, particularly Northampton town centre in this case. The impact of the present proposal has not been assessed by any plan making authority in the preparation of a development plan (or otherwise) and it therefore falls to the applicant to undertake this assessment.

- 5.7 Again, Tesco have not carried out an impact assessment that enables NBC or WNDC to determine whether the proposals will significantly adversely affect the other centres.

6. BACKGROUND PAPERS

- 6.1 As contained in the application file.
The West Northamptonshire Retail Study Update February 2011
The West Northamptonshire Pre-submission Joint Core Strategy February 2011. *The Pre-submission JCS and the supporting evidence base is available on the West Northamptonshire Joint Planning Unit's web site.*

7. LEGAL IMPLICATIONS

- 7.1 None identified.

8. SUMMARY AND LINKS TO CORPORATE PLAN

- 8.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies, in particular CPO3 A Confident Ambitious and Successful Northampton.

| Position: | Name/Signature: | Date: |
|--|------------------------|--------------|
| Author: Head of Planning | S Bridge / R Boyt | 24.03 2011 |
| Development Control Manager Agreed: | G Jones | 24.03.2011 |

