

7th May 2008

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Ms J Gowing  
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Dear Jane

**Planning Application Ref No. 08/0001/HYB by Tesco Stores Ltd for New Stadium, Convenience and Comparison Retailing and Other Town Centre Uses in and to South of Kirkby Town Centre, Kirkby, Merseyside**

I write in connection with the above planning application on behalf of the applicants, Tesco Stores Ltd.

Following recent discussions with you and fellow officers the purpose of my letter is to formally propose an amendment to the current application. The amendment affects the proposed retail developments and involves a reduction in the total amount of retail floorspace being proposed.

My letter confirms the reasons for and implications of the proposed reduction in retail floorspace, the amount of retail that will be lost and how this will be achieved, how this can be justified in the context of the financial case previously offered in support of the development proposals, and its general implications for the application supporting documents. The scope of my letter is as follows:

1. Reasons for the reduction in retail floorspace;
2. The proposed reduction in floorspace and how it will be achieved;
3. Implications for the financial case;
4. Controlling the amount of retail floorspace proposed;
5. Retail policy considerations;
6. Environmental considerations;
7. Transport considerations;
8. Design considerations; and
9. Other relevant matters.

## 1. Reasons for the Reduction in Retail Floorspace

Since the planning application was registered in January 2008, DPP and other members of Tesco's professional team have been in regular discussion with the Council and its professional advisors on the design and layout of the proposals and retail policy, transportation and environmental issues.

A topic that has generated considerable discussion is the degree to which the planning application proposals comply with retail policy (as set out in PPS6), with particular emphasis on the tests of need, scale, impact and sequential approach. This is largely because the Council's retail consultants, Roger Tym & Partners (RTP) have advised that the amount of retailing proposed cannot be fully justified by reference to the still fluid regional settlement hierarchy and its assumptions on levels of available capacity to support new retail floorspace in the area now and in future years. RTP also have some concerns relating to perceived levels of impact and whether the sequential approach can be satisfied to the extent the applicant's supporting information on this topic says it can.

Very recently following ongoing consultation on the application it has become apparent that neighbouring authorities to Knowsley (Liverpool City, St Helens, Sefton) and the nearby authority of West Lancashire, within which Tesco has a number of active development proposals, are uneasy about the application proposals. Following discussions with Knowsley officers this would largely appear to be because of the amount of new retail floorspace being proposed, and perceived concerns about its potential to adversely impact on centres and other retail developments within their districts.

Tesco continues to have confidence in the retail policy case it has offered in support of its application proposals, particularly regarding the level of capacity to support a substantial amount of new retail floorspace in the area; that the scale of retail is appropriate given financial, profile and regeneration considerations, which also justify the scale of the retail elements of the overall proposals; and the impact of the proposed retail on other centres and free standing retail developments. And is of the view that the views expressed by RTP are too one dimensional in the sense that they focus only on the strict policy tests covered by PPS6, and take no account of the obvious and significant other material considerations, which regardless of the degree of policy support for the application, indicated that planning permission should still be granted. Nevertheless, Tesco is mindful of the fact that it would, ideally speaking, and given its extensive existing retail estate and development aspirations throughout this part of the North West, prefer for its application to proceed to committee with the full backing of the Council and its consultants and the confirmed or implied support of Knowsley's neighbouring authorities.

As a consequence of the concerns of RTP and neighbouring authorities and notwithstanding Tesco's confidence in the case it has offered to date in support of its application, it proposes to reduce the amount of new retail floorspace being proposed. It hopes that this approach, whilst raising viability issues which the applicant will have to deal with and are addressed later on in my letter, provides the basis for the application to proceed to committee with a robust recommendation for approval, which in part is based on support for the application from Knowsley's neighbouring authorities.

## 2. Proposed Reduction in Floorspace and How This Will be Achieved

A detailed schedule of floorspace (document 17) was submitted in support of the application. This sets out the proposed gross and net floorspaces and uses for the individual blocks of development proposed under the application, including details of proposed mezzanines.

A revised version of the schedule of floorspace (document 34) has been prepared and this forms part of the package of documents provided with my letter in support of the amendment. By way of a summary though, I can confirm that the amendment to the application in floorspace terms results in the following:

- Current total retail floorspace proposed under the application: 72,221sq m GIA inclusive of demolitions
- Amount of floorspace that Tesco propose to reduce the total by is: 22,221sq m GIA
- The revised total retail floorspace proposed under the application will be: 50,000sq m GIA (38,139 sq m net)

The reduction in floorspace is achieved by effectively stripping out all of the previously proposed mezzanines in the blocks of development proposed for retail use. This applies to blocks ON, OP, OR, OS, OT, OU in the existing town centre and blocks F, K, M south of Cherryfield drive.

As is described later, this has implications for the viability of the scheme as a consequence of known retailer requirements for additional floorspace in the form of a mezzanine floor. Whilst some retailers may well require additional floorspace in the form of a mezzanine soon after opening if trading potential justifies such a move, most will only require the additional floorspace once the outlet has traded for over a year, some two years.

As a consequence of this the revised total retail floorspace as is set out in the revised schedule of floorspace includes a mezzanine allowance (6584sq m GIA (6584 sq m net which could be drawn down on an as and when required so as to benefit named blocks of development albeit with the Council approval until the allowance is used up. Any further additional floorspace requirements would have to be made the subject of a separate planning application.

The benefits of this approach are that, whilst the scheme has been stripped of a substantial amount of retail floorspace, notwithstanding the fact that all is in the form of mezzanines, the floorspace needs of key, early retail occupiers can be met.

The decision to drop this amount of floorspace and the financial issues it raises (viability) are covered below, but have been assisted by more recent and targeted market testing of retailer interest in the development. The result of this is that the floorspace requirements of those retailers Tesco hope to attract to the early phases of the development and / or which have specified they would not come to Kirkby unless a mezzanine can be installed without need for a further planning permission are better understood, and, importantly, can be met.

## 3. Implications for the Financial Case Offered in Support of the Proposals

The financial implications of the overall development proposals represent an important consideration for both the Council and applicant, and they are covered in a number of application supporting documents of which the most important is the financial case report and its supplement report (document 38). I review the position in the context of the proposed reduction of floorspace in this section of my letter.

They are important from the Council's perspective because it has recently been established (through the Council's work on the still draft IPS) that there is little prospect of successfully regenerating Kirkby town centre and attracting the level and type of new retail and other town centre uses unless and until the profile of the town and its centre are improved. One option that has the potential to achieve a new profile for the town is through a high profile, people attracting development. A new stadium for a successful Premiership side fits this general development profile very well, and in the context of Kirkby it is a substantial bonus that Everton Football Club (EFC) need a new stadium, and see Kirkby as offering the best opportunity for a new home for the Club. In essence the new stadium provides the cornerstone for the regeneration of the town centre and the impetus for the retail and other developments the town needs.

Related issues for the Council though are the cost of new stadia which are generally prohibitively high and the need to create a sufficiently large and attractive retail offer and environment in order to attract those retailers and other investors which have historically avoided investing in the town, which also requires the existing town centre to be substantially remodelled and improved.

These issues are central to EFC and Tesco because unless the scheme is viable it simply won't progress to implementation. This is a particular issue in the context of the cost of the new stadium which is considerable.

As is set out in some detail in supporting documents, EFC's financial position means that it is unable to fund the full cost of the new stadium, which made the option of joining forces with a development partner like Tesco that is prepared to include a new stadium as part of a larger, mixed use development a necessity. Such developments, as have been proven elsewhere, have the potential to provide a cross subsidy to enable any shortfall in the cost of a sports stadium to be met.

This is the case in this instance and is the key reason why EFC has been working with Tesco to identify a suitable opportunity, and Kirkby has been selected as the best option to as the current proposals have the potential to not only regenerate the town centre and deliver much needed improvements and new retail and other town centre uses, but in so doing to also meet the new stadium needs of EFC.

The key issue though for both EFC and Tesco is that the shortfall between what EFC can invest in the stadium and its full cost is substantial - in excess of £52m. This as a matter of necessity from a viability perspective influenced to a significant degree the amount of new retail floorspace proposed under the original application proposals, which was also influenced by the then known position on the needs and expectations of the retailers the applicant hoped to attract to the town. Unless occupiers could be attracted to Kirkby, the overall scheme would fail in viability terms. Another relevant factor which influenced viability considerations when the application was first

made was the extent of the applicant's land ownership interests, particularly in the existing town centre, as the Council had at all times made it clear that this had to be substantially improved and expanded, in terms of retail and other town centre uses, through the application proposals.

Collectively, these issues influenced the amount, siting, format and general profile of the retailing and other town centre uses proposed in the existing town centre and south of Cherryfield Drive, the key driver being the need to ensure that a sufficiently large cross subsidy could be generated to support the shortfall in the cost of the stadium, as all parties agreed that the stadium would be the key driver of the regeneration of Kirkby town centre.

In light of these points, notwithstanding conflicts between the key parties on how much retailing can be supported, reducing the amount of retailing proposed could, potentially have serious implications for the viability of the overall scheme.

Dealing in turn with the key factors that influence viability, following further work by Tesco's retail agents on the continuing interest of several retailers, Tesco now better understands the needs of these retailers in terms of location, type, size and format of units they require if they are to be attracted to Kirkby. As a consequence a clearer picture has emerged about which units are of particular interest to specific retailers, their preferences in terms of trading partners (retailers they would ideally like to be next or close to), and requirements both in terms of size and timing for additional floorspace in the form of mezzanines. This has enabled Tesco to form what it hopes will be a more definite view of the true level of retailer interest in the scheme and what type and size of units they are interested in. The result of this is that some units that under the previous proposals would have benefitted from a mezzanine no longer need to benefit from one in the short term if at all.

Another factor which has assisted Tesco's decision to drop retail floorspace, is its current land ownership position. When Tesco's application proposals were being formulated it was clear that whilst the Council supported the new stadium and the concept of retail outside of but next to the existing town centre as this would cross subsidise the stadium, it made it clear that it required the application to include extensive and far reaching proposals to substantially improve and introduce new retail and other town centre uses in the existing town centre.

A key issue relating to these elements of the overall application proposals is phasing as whilst this was not an issue with regard to the Council's ownerships, and Tesco was able to secure a long lease hold interest on some land in the northern part of the town centre, much of the land in the heart of the existing town centre was owned by Development Securities.

Tesco has recently acquired the land owned by Development Securities. In essence this means that Tesco is in a much better position to control the implementation and phasing of these elements of its overall proposals than previously.

Prior to Tesco confirming to the Council that it was prepared to consider reducing the total amount of retail floorspace proposed under the application, it had agreed that it would comment on the implications of its acquisition of the Development Securities with specific reference to whether the acquisition necessitated any changes to its proposals in this part of the application site. This was

to ensure that the current proposals continue to represent the optimum scheme for the existing town centre, as it is fair to say that land ownership had a been a factor that had influenced the form and content of the proposals in so far as they affected this area.

That letter was not sent as it coincided with Tesco giving consideration to reducing proposed retail floorspace. Given that the topics it addresses and those that are covered in this letter are related, I enclose a copy with this letter. From that letter you will see that, whilst the acquisition of the land is highly advantageous to Tesco from management, implementation and phasing perspectives, the proposed developments in the town centre continue to represent the optimum scheme for this part of the application site, as those to the south of the existing town centre are designed to be complementary to them, thus enabling a good mix and range of retail formats and other town centre uses to be provided which have the potential, collectively, to create a the type of complete, viable and sustainable, truly mixed use centre Kirkby town centre needs to become if it is to compete and become vital and viable.

The benefits of the acquisition from a viability perspective are that Tesco now has a better understanding of the profile of retailing in the existing town centre, rentals that are paid and the aspirations of existing tenants, and how they fit with Tesco's proposals for the centre. Financially, given the applicant's intentions from a property finance perspective, mean that the applicant has the necessary confidence to make the stadium cross subsidy available early which means that the stadium, as would be required by the Council, can remain on course to be implemented early as part of the first all important opening phase of development.

In the context of the financial implications of reducing the amount of retail floorspace as proposed, the applicant can confirm that a combination of more recent market knowledge of which retailers are genuinely interested in coming to Kirkby and knowing their floorspace etc. needs and what this means for rentals etc., being in a better position to bring forward key elements of its proposals for the existing town centre, mean that the viability of the overall scheme, particularly Tesco's ability to provide the cross subsidy for the stadium, remains intact.

For completeness a revised version of the financial statement has been prepared and forms part of the package of documents lodged in support of the amendment.

#### 4. Controlling the Amount of Retail Floorspace Proposed

As with the current proposals, it is the applicant's view that the amount of retail floorspace proposed could be controlled through appropriately worded conditions, and this applies in the context of the revised total amount of retail being proposed. Indeed, a range of conditions have been discussed with the Council and they could include conditions controlling the total amount of floorspace (GIA and net) and how this can be used, i.e., for convenience or comparison use.

As indicated earlier, Tesco will invite the Council to agree to a separate condition providing a floorspace allowance (taken account of in the proposed reduction) that could be used by retailers occupying named units (blocks ON, OP, OR, OS, OT, OU) in the town centre and blocks F, K, M south of Cherryfield Drive) up to the prescribed total. This would require proposals to be

submitted to and approved in writing by the Council before work can commence, but would not require a further planning application. Once the quantum of floorspace allowed through the condition has been used up, any further new retail floorspace in any unit would have to be applied for through a conventional planning application and supported as necessary by appropriate documents.

#### 5. Retail Policy Considerations

An obvious implication of reducing the amount of retail floorspace is that the overall proposals are likely to be more supportable by reference to policy (according to RTP) and generate different, lesser levels of impact. This is particularly relevant in the context of the tests of need, scale, impact, and to a much lesser extent in the context of sequential approach. The key conclusion being that the amount of retailing is easier to justify by reference to available levels of capacity, scale is more in keeping with the relevant regional settlement hierarchy and the impact of the scheme on other centres and free standing retailing units will be less. The effect in terms of sequential approach is much less apparent as the site requirement for the revised development mirrors that of the current scheme as the floorspace that will be removed is mezzanine space meaning that footprint remains as at present.

An addendum retail assessment (document 33) has been prepared which addresses these issues in detail and comments on the finalised advice from RTP on the proposed amended development proposal.

#### 6. Environmental Considerations

The same point applies to the environmental effect of the amended development proposals. Again an addendum report (document 35) has been prepared which comments on the revised levels of impact. In general terms the reduction in floorspace reduces levels of impact although all were and remain acceptable or can be mitigated. Where necessary revised assessments will be provided with the addendum report. Key areas in this regard are noise, transport, energy, employment, waste and air quality.

#### 7. Transport Considerations

One of the key beneficial effects of reducing the retail floorspace is that the perceived transport impacts of the overall development proposals will lessen. A matter that the Council though has asked for consideration to be given to is proposed car parking, as reducing the level of retail floorspace could potentially result in a demand for a reduced level of car parking.

Subsequently, a review of the submitted Transport Assessment has been carried out. The main conclusions of the Transport Assessment remain in that the proposed infrastructure improvements are appropriate to accommodate the predicted demand from the Kirkby town centre regeneration for an horizon year of 2021. In particular:

- The motorway improvements are still required to mitigate the impact of football spectators arriving by car.
- The three points of access to the retail areas south of Cherryfield Drive are still necessary to disperse traffic across the network, as well as providing sufficient capacity if one of the entrances was not available for any reason. This includes the improvements to the junction of Valley Road / Bewley Drive / Whitefield Drive.
- The Valley Road entrance to the small car park adjacent to the stadium is still required for club use.
- The Bewley Drive and Cherryfield Drive entrances to the residential developments are still required to access the homes.
- Improvements to the railway station are still required to accommodate football spectators.

Overall, the Transport Assessment provides a robust and reliable examination of the transport implications of the Kirkby town centre regeneration proposals.

### Parking

The development proposals include 3,321 car parking spaces for the town centre, with another 178 spaces for disabled drivers, giving a total of 3,499 spaces. There is a further provision for the stadium (52 spaces) and there will be an additional provision for the residential units. On match days the actual number available to the general public will be 2,449 spaces with 1,000 spaces allocated to Everton Football Club. Knowsley Council's current parking standards are those set out within RPG, but there is also guidance within PPG13, the submission draft of the RSS and the revised consultation draft of the RSS; the RSS submission draft having been subject to an EiP. Table 1 sets out the maximum levels of car parking for each of these standards. The RPG and the two draft versions of the RSS, have differing standards for parking; the maximum parking figures given in Table 1 correlate with areas of higher accessibility and thereby give the lowest maximums. Further Table 1 excludes the stadium which at 50,000 seats could provide justification for around 3,300 parking spaces.

Table 1 shows that the proposed level of car parking is well below PPG13, and also in accordance with both RPG and the submission draft of the RSS. In terms of the consultation draft of the RSS then the proposals are in excess of the highest maximum by 234 spaces or approximately 7 per cent. However, if the disabled driver provision is excluded the difference between that proposed and the consultation draft RSS is only an excess of 56 spaces. Further, on match days the actual provision falls well below the consultation draft of the RSS.

It should be noted that all of these standards are generally aimed at assessing individual developments and should be used cautiously when considering large town centre regeneration schemes. This is particularly important when the existing stock of car parking is poor as is the case at Kirkby.

Table 1					
Use	GIA	Standards			
		PPG13	RPG (urban conurbation)	RSS (submission draft) (regional centres, towns and cities)	RSS (consultation draft) (town centres in metropolitan areas)
Retail - Tesco	16625	1188	1039	1039	1039
Retail - Other	33375	1669	1517	1517	1517
Leisure	3573	162	143	143	143
Food & Drink	3337	152	334	334	292
Hotel (bedrooms)	140	140	140	140	140
Office	3559	119	102	102	89
Library	1571	71	63	63	39
Gallery	212	10	8	8	5
<b>Sub Total</b>		<b>3510</b>	<b>3346</b>	<b>3346</b>	<b>3265</b>
Disabled		144	138	138	0
<b>Total</b>		<b>3654</b>	<b>3484</b>	<b>3484</b>	<b>3265</b>

## Notes:

1. For 'food and drink' public floor space is considered to be 70% of GIA
2. RPG and RSS (submission draft) have no defined standards for library and gallery so the leisure standards has been used
3. PPG13 has no standards for 'food and drink', library, or gallery. In these cases PPG13 other leisure uses standard has been applied
4. RSS standards include for disabled driver parking and therefore the number within the disabled row is zero
5. Where quoted the number of disabled driver parking spaces is a minimum.

In determining the appropriateness of additional parking for town centres PPG13, paragraph 56 states,

'A balance has to be struck between encouraging new investment in town centres by providing adequate levels of parking, and potentially increasing traffic congestion caused by too many cars. Where retail and leisure developments are located in a town centre.... local planning authorities should consider allowing parking additional to the relevant maximum standards...'

The Transport Assessment has shown that the traffic generated by the proposed level of car parking can be accommodated safely on an improved road network, whilst at the same time not being too high to generate unsustainable demands for car travel. The additional number of parking spaces sought is not excessive and forms an integral part in the delivery of a successful town centre regeneration scheme.

In terms of the quality of current car parking provision within Kirkby town centre the surfacing of the large surface car park to the north of the town centre is very poor and in places hazardous, whilst the security within the multi storey car park is low. Overall the car parking environment for the shopper, employee and visitor is unsecured and feels unsafe. A successful town centre must

have the high quality, safe and secure parking which this scheme promotes.

Taking into account standards, and the advice given within PPG13, the proposed car parking provision will promote Kirkby as being an attractive destination and will assist in creating a sustainable town.

## 8. Design Considerations

As has been confirmed earlier, the development proposals in terms of the siting of individual blocks of development (and their external design etc.) plus access and other proposed infrastructure and improvements stays exactly as it is at the present time. The reduction in floorspace is simply achieved through the removal of mezzanines. Accordingly, the current masterplan (rev AB), remains valid as do all other planning application drawings with the exception of those showing the mezzanines. They will be superseded by revised drawings showing the internal layout of the buildings minus mezzanines.

Whilst the revised Design and Access Statement remains valid in the context of the 'design story' of the overall development, the statement needs to confirm details of the amount of floorspace being proposed. As a consequence an addendum revised Design and Access statement has been provided (document 36).

## 9. Regeneration Benefits

The original additionality statement by DTZ has been updated to reflect the floorspace reduction. Developing less retail floorspace has the effect of reducing the level of benefits, particularly in the context of employment although the reduction is not pro-rata as mezzanine floorspace generates less employment than ground floor floorspace. The range of benefits stays the same.

I trust that you find the contents of my letter useful in your consideration of Tesco's revised application proposals and this also applies to the additional items of information in support of the revised proposals, which it covers and encloses. Should you have any queries or wish to discuss any points in greater detail, please do not hesitate to contact me or my colleague, Kate McClean.

Yours sincerely

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**DPP**

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