

Area North Committee – 26 September 2012

## Officer Report on Planning Application: 12/01495/FUL

<b>Proposal :</b>	Application for the development of a foodstore, associated infrastructure, access, parking and landscaping
<b>Site Address:</b>	Paull & Co Ltd Site, Coat Road, Martock
<b>Parish:</b>	Martock
<b>MARTOCK Ward (SSDC Members)</b>	Cllr Graham Middleton & Cllr Patrick Palmer
<b>Recommending Case Officer:</b>	Claire Alers-Hankey Tel: 01935 462295 Email: <a href="mailto:claire.alers-hankey@southsomerset.gov.uk">claire.alers-hankey@southsomerset.gov.uk</a>
<b>Target date :</b>	24th July 2012
<b>Applicant :</b>	Tesco Stores Ltd
<b>Agent:</b>	Mark Scoot, Amethyst, Maypool House Maypool, Brixham TQ5 0ET
<b>Application Type :</b>	Major Retail f/space 1,000 sq.m or 1ha+

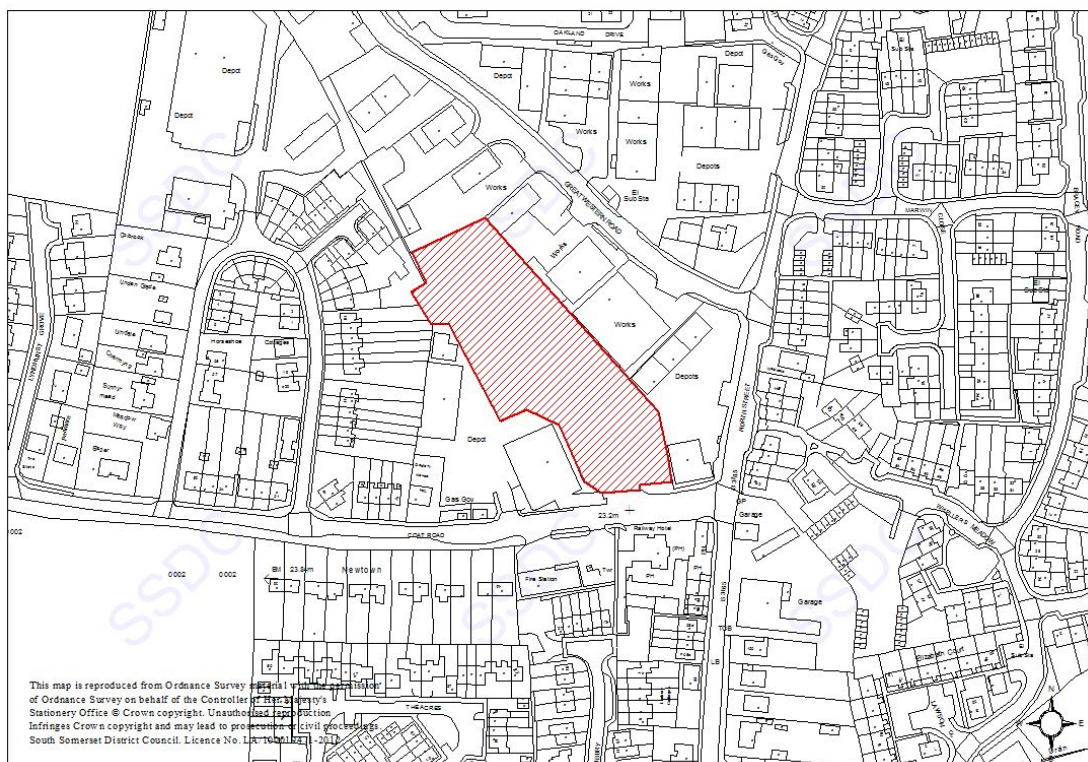
### UPDATE

This application has been deferred from the August meeting to enable late representations with regard to the policy issues to be fully addressed in an updated report.

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Area North Committee with the agreement of the Ward Member and Vice Chair, given the public interest in the proposal and to enable its impact to be debated.

### SITE DESCRIPTION AND PROPOSAL



This 0.60 hectare site is located at the northern end of Martock, between Great Western Road and Coat Road, and is within the defined development area. The site currently accommodates Paull and Co Ltd, a builders' merchant, DIY and hardware store. There are a number of industrial type buildings on site, as well as external storage and display areas, aggregate stores and parking areas.

This application seeks permission for the erection of a foodstore, associated infrastructure, access, parking and landscaping. The proposed foodstore would be located at the northwest end of the site, with a gated service/delivery yard adjacent to the western boundary and customer car parking within the central and fore sections of the site. The existing access off Coat Road is to be improved. Car parking provision is proposed at 85 car spaces, of which 8 will be disabled spaces and 4 will be parent and child spaces. Motorcycle parking and an electric car charging bay are also proposed. Bicycle parking is proposed directly in front of the store. The proposed delivery yard is screened by a 4m high acoustic perimeter fence and high density landscaping.

The proposed building would provide a net sales area of 921m<sup>2</sup> with bulk storage, staff and administration areas and external lobby creating a total gross external floor area of 1460m<sup>2</sup>. The design incorporates a shallow pitched roof with a ridge height of 5.6m, full height glazed panels on the front elevation of the building with some timber cladding, and 'oyster' coloured insulated panels on the majority of the remaining three elevations. The front elevation also incorporates a 'Tesco' sign above the porch canopy.

An amended plan was received following consultation from the Highway Authority who raised concern on over-provision of parking on site. The amended plan reduced the number of parking spaces from the originally proposed 88 to 85 spaces and also included the electric car charging bay.

## HISTORY

10/04577/COL - Certificate of lawfulness issued (19/05/2011) for:-

*'Use of the site as an A1 retail use under the Town and Country Planning (Use Classes) Order 1987.'*

This was issued on the basis of:-

*'evidence provided by the applicant, the use of the land and premises edged red and known as Paull & Co Ltd, Coat Road, Martock, Somerset as an A1 retail use for goods such as DIY items, building goods, hardware, wellingtons, footwear, clothing, sand cement, animal feeds, pain, ladders, electrical and pet food etc, under the Town and Country Planning (use Classes) Order 1987 has continued for over 10 years prior to the date this application was made, therefore no enforcement action can now be taken.'*

This confirms that the continued use of the site in its current form for an A1 retail use under the Town and Country Planning (Use Classes) Order 1987 is lawful.

90/01717/FUL- The erection of a single storey extension and installation of a mini sewage pumping station. Permitted 1990.

890566 - Use of premises within use class B8 (storage and distribution). Permitted 1989.

891961 - Use of land for a mobile stone cutting machine. Permitted 1989.

891742 - Formation of a vehicular access. Permitted 1989.

870264 - Erection of an extension (rest room and toilets). Permitted 1987.

852055 - Erection of an extension, canopy and six flag poles and use of sales area as office accommodation. Permitted 1986.

852038 - Erection of a grain store. Permitted 1985.

852037 - Erection of an extension to premises and use as a sales area. Permitted 1985.

812333 - Erection of a single storey extension (showroom) to existing warehouse. Permitted 1982.

760610 - Alteration to access and erection of gates and fences. Permitted 1976.

63372/J - Erection of office block and formation of a vehicular access. Permitted 1972.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

Saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

Policy STR1 - Sustainable Development

Policy STR3 - Rural Centres and Villages

Policy STR5 - Development in Rural Centres and Villages

Policy 20 - The Retail Framework

Policy 21 - Town Centres Uses

Policy 48 - Access and Parking

Policy 49 - Transport Requirements of New Development

Saved policies of the South Somerset Local Plan:

Policy ST1 - Rural Centres

Policy ST5 - General Principles of Development

Policy ST6 - The Quality of Development

Policy ST10 - Planning Obligations

Policy EP2 - Pollution and Noise

Policy EP3 - Light Pollution

Policy EP5 - Contaminated Lane

Policy TP2 - Travel Plans

Policy TP6 - Non-Residential Parking Provision

Policy MC2 - Location of Shopping Development

Policy MC3 - Location of Shopping Development

Policy ME3 - Employment within Development Areas

National Guidance

National Planning Policy Framework - March 2012:

Chapter 1 - Building a Strong Competitive Economy

Chapter 2 - Ensuring the Vitality of Town Centres

Chapter 4 - Promoting Sustainable Transport

Chapter 7 - Requiring Good Design

**Other Relevant Considerations:**

Planning for Town Centres - Practice guidance on need, impact and the sequential approach. 2009. Whilst this was intended as a companion guide to PPS4, it has not been withdrawn and is therefore a material consideration where its advice is in conformity with the NPPF.

**CONSULTATIONS**

**Martock Parish Council** - Recommend approval subject to adequate pedestrian access to and from the site, including suitable road crossings and a clear indication from the County Highway Authority that the impact on traffic volumes and flow in North Street will be acceptable.

**Long Load Parish Council** (adjacent) - Main concern is delivery lorries that will pass through the village to travel between the Martock and Langport stores.

**Ash Parish Council** (adjacent) - Only concern is the extra traffic generated by the proposal travelling through the village.

**County Highway Authority** - Raises no objection in principle. Comments that the data provided in relation to trip generation is accepted by the Highway Authority. Notes the proposal includes improvement to the visibility to the proposed site access and also the junction of North Street with Coat Road, which are considered to be acceptable. With regard to the parking provision proposed on site, the proposal currently provides 5 more parking spaces than would normally be required by the Highway Authority's Parking Strategy. Discussions relating to the Travel Plan, which will be incorporated into the s106 are on-going between the Highway Authority and the agent.

**Area Engineer** - Notes the content of the submitted drainage report regarding Wessex Water's requirement for a reduction in surface water run-off. The reduction in impermeable area, which will result in a 12% decrease in surface water run-off is considered to be acceptable.

**Landscape Architect** - Raises no landscape issue with the principle of store development in this location, and views the siting and general layout of the store to be acceptable. Subject to small alterations to the proposed landscaping scheme, no objection.

**County Archaeologist** - No objection

**Economic Development Officer** - Notes that the opportunities of choice between locations for a new food store within Martock is limited and will for certain not be an ideal choice of location for a proportion of the population. However from an economic perspective the proposed location is considered to be suitable, recognising the limitations of alternative and available sites in the area. The store will not host a café/coffee shop and is too small to host an opticians and pharmacy. With specific services and trades available near the Market Cross, e.g. take away food, cafés, library, bank, optician, doctor surgery, pharmacy, primary school, church, etc. there is a distinct possibility that the existing retail outlets will retain sufficient footfall to remain viable. While the proposal will clearly change the retail shopping focus for the area, the application raises no undue concerns from an economic perspective, subject to suggested restrictions on trading secured by condition.

**Environment Agency** - No objection subject to conditions relating to contamination,

drainage, and pollution prevention.

**Environmental Protection Unit** - No objection subject to conditions to ensure that any potential land contamination is addressed and drainage measures agreed. Additional safeguarding conditions are recommended to control delivery times and external lighting to safeguard residential amenity.

**Climate Change Mitigation Officer** - Notes the effective use of daylight minimising the need for artificial lighting, well chosen construction materials and minimising the need for heating. However, as the development does not meet BREEAM Excellent rating, in accordance with Policy EQ1 of the emerging Core Strategy, an objection is raised.

**Planning Policy Officer** - Confirms the status of the emerging Core Strategy Policy EQ1, stating we are not in a position to insist that a BREEAM Excellent rating is achieved by the development. In response to representations received it has been clarified that a sequential test and impact assessment are normally required to assess this type of application, and in this circumstance the applicant has undertaken an impact assessment but not a sequential test. In this respect it is acknowledged that the existence of a Certificate of Lawfulness for an unfettered A1 use on the site is a material consideration, and also that the proposal does not result in an increase in retail floorspace and therefore the requirement for a sequential test may not be appropriate in this circumstance.

Notes that the NPPF identifies what should be included within an impact assessment and advises that the approach taken with the submitted impact assessment appears to be reasonable as:-

- a locally defined study area has been identified;
- the existing (2012) and projected population (2017) has been estimated to take into account a 5 year time horizon;
- a household survey has been undertaken to identify shopping patterns and hence expenditure capacity in the study area;
- a the estimated turnover of the proposed foodstore has been assessed;
- the potential impact upon turnover in other locations within the catchment area has been assessed

The assessment concludes that based on estimated turnover of the proposed foodstore, there would be no significant impact on the vitality and viability of Martock. The majority of the impact would be on the supermarkets in Yeovil, and the proposed store would claw back trade to Martock.

The impact assessment claims that given a 2 hour free car park, there will be increased trade into Martock through linked trips. Given the distance between the site and town centre this may not be the case and is difficult to assess. However Martock has a variety of services and facilities in the town centre, which will not be provided by the proposed store, so there will still be reasons for people to visit the town centre, therefore it is considered the impact on Martock town centre would not be significantly adverse.

Additionally, self containment is recognised as an issue in Martock, and travel to work data shows that over 50% of the population out commute, therefore the employment opportunities afforded by the proposed foodstore could potentially reduce the level of out commuting, which is a positive. Self containment in shopping terms is also low, with Martock being 7 miles from Yeovil, and having a lack of provision, and undoubtedly the presence of a foodstore in the town will increase this.

Concludes that it appears that the majority of impact of the proposal would be on Yeovil and that the provision of a foodstore would aid the settlement's self containment and not adversely impact its vitality and viability, although the assumptions made within the impact assessment relating to estimated turnover should be checked further with the applicant.

**SSDC Legal Services** - States that the existence of the COL application does not automatically mean that the policy principle of a foodstore in this location is accepted, nor does it negate the need to assess the policy position. The COL is capable of forming a material consideration, but development plan requirements need to be assessed first, followed by an assessment as to the weight to be afforded to any material considerations, which would include any previous planning permissions and the grant of the COL. Comments that the weight to be afforded to the COL application depends upon the likelihood of Tesco or anyone else running a retail operation from the site in its current form (and with the benefit of any permitted development rights). Concludes that any positive evidence regarding the likelihood of an alternative operator taking on the site under the COL (eg viability, demand etc) adds weight to the existence of the COL as a material consideration when viewed alongside the policy requirements.

## REPRESENTATIONS

**Twenty letters of objection** - Have been received, raising concern over the following issues:

- Impact on current trade in Martock, which will cause lots of empty shop premises, and impact on local businesses
- Tesco will provide more and more services and deliveries once they get a foot in the door
- Increased traffic generated by large supplier vehicles and shoppers cars will impose an intolerable strain on the main road (North Street) through the town and the Coat Road junction
- Increase of traffic through out-lying villages
- No need for another Tesco in this part of South Somerset
- There are an adequate number of retail units in Martock already
- Object to Tesco business practices
- The new store will transfer the same number of jobs from existing food retailers such as the Co-op, who will either diminish or close
- Loss of Paull's which will mean cars and vans need to leave Martock for all building and DIY supplies, which is contrary to the Core Strategy which identifies the need to avoid too many people having to leave Martock to shop.
- The proposed building is of poor quality and poor architecture. It is a vulgar industrial building
- Proposed building does not respect the historical environment. The applicant should be asked to use hamstone
- Ugly high signage should not be allowed
- Full height glazing on the front elevation will cause light pollution and is not necessary
- Proposed building is too high and will waste building materials and heat and lighting within the store
- The site is within the curtilage of a listed building
- Doubts that the proposal will create as many new jobs as claimed
- The existing use should survive the desire of the present owners to retire
- Heavy vehicle movements will increase during construction
- Traffic barrier within the site is not suitable

- Consideration should be given to limiting trading hours of the new store
- Zebra crossing should be provided
- Washing and valeting of cars should not be allowed in Tesco car park
- Impact on local residents adjacent to site, i.e. visibility of site, lighting impact, noise
- Delivery area is located close to adjacent residential properties - concern re disturbance caused by unloading vehicles
- Fencing and landscaping 4m high might not be high enough to provide adequate screen to neighbouring properties
- Lorries should not be allowed to wait in Coat Road
- Supporting information states store will not have a bakery or butcher counter, but the plans show a bakery area
- Do not believe the figures in the traffic report are accurate with regard to the number of HGVs currently accessing the Paulls site. The small 7.5 tone Paull's delivery lorry should not be classed as an HGV

Additionally, agents for the Co-op have challenged the officer's original report raising the following points:-

- Existence of COL does not convey any approval for the use and buildings as proposed, which are materially different to the existing layout of the site
- SSDC should place no weight on the existing lawful use when considering this application as the use of the application site in its current form by Tesco is merely a hypothetical situation and not a genuine proposal
- Sequential test has not been applied to the site, despite site lying outside the defined town centre of Martock
- The supporting information submitted with the application does not adequately assess the impact upon Martock town centre
- The site lies outside of the defined town centre of Martock yet a sequential test has not been applied to the proposed use and therefore fails planning policy within the NPPF and the Local Plan
- The applicant provides only a limited assessment of the financial impact of the proposed store, which is unusual given the proposed foodstore is large in scale when compared to Martock
- The impact assessment is missing:
  - data surrounding the calculation of the current total store turnover levels
  - the total amount of expenditure available to support convenience goods retail facilities in Martock and the surrounding area
  - an assessment of quantitative capacity to support new convenience goods floorspace in Martock
- Questions the study area/postcode areas used in assessment and its relationship to Martock and the resulting impact on existing stores in Martock
- Estimated turnover figures provided by applicant are under-estimated
- No information regarding trading overlap between the proposed store and existing stores is given in the supporting information
- The proposed foodstore will compete directly with existing foodstore provision in the town in terms of main and top-up food trips, and consequently stores within the town centre will lose a significant proportion of their existing trade, leading to concern over the future trading viability of stores in the centre
- Proposal is out of centre and out of scale with the role and function of Martock, and has no links to the defined town centre
- Claim that there will be linked trips between the proposed foodstore and town centre is unrealistic, and therefore will be of no benefit to other facilities in Martock

- Proposal will not sustain or enhance the town centre and is outside the town centre where the scale could affect the viability and vitality of Martock

**Twenty-six letters of support** - Have been received, raising the following points:

- A food store in this location is necessary and would be useful
- Location will be within walking distance for many people
- Proposal will encourage small businesses at this end of the town
- Tesco would be the anchor store desperately needed to improve retail in Martock
- Would reduce mileage from having to travel regularly to Yeovil for supplies
- It is a good use of the site
- Proposal will add new dimension to village shopping and will give local residents a fair deal
- Tesco are renowned for competitive prices and good customer service and they always support the community they serve
- Will bring good competition to this one horse town
- Will improve the job prospects of the young, unemployed population, and they are among the top payers in their industry
- If Tesco does not occupy the site once Paull's closes, no-one will
- The population in Martock has increased over the years and now more shopping outlets are needed to meet the increased demand
- It will be nice to have more choice in Martock
- Foodstore will be beneficial to those who do not drive, do not have internet access and have to catch a bus to Yeovil to do food shopping

## CONSIDERATIONS

### Principle

It is accepted that the certificate of lawfulness for the unfettered use of the existing buildings and site for A1 (retail) use is a material consideration to be considered alongside the policy requirement for a retail impact assessment and sequential test. As noted by the Council's solicitor, the site and existing buildings could be used in their current form by the applicant or another operator as a foodstore, without the need for any planning permission. This is a material consideration if it provides a fallback situation for the applicant. However, the weight to be given to the fall back position depends upon the likelihood of it coming about, and is a matter for members to decide. Furthermore it is noted that the floor area of the proposed foodstore is 1,434sqm, which is less than the 1,571sqm of existing retail floor area.

It is accepted that the existence of the lawful retail use of the site means that no change of use is necessary for its occupation by a supermarket. The Certificate of Lawfulness whilst acknowledging the historic use for the sale of DIY and associated items does not limit the retail use or range of goods. Accordingly it is possible that a supermarket operator could simply sell groceries from within the exiting buildings without the need for planning permission for a change of use. It is considered that this is a significant material consideration.

It is noted that the site is neither within the define town centre nor in an edge of centre location (as required by policy MC2), however it is 600m from the centre, within settlement limits and central to the northern part of Martock, which has been subject to substantial residential development. Whilst this is not 'edge of centre' as defined by the NPPF (within 300m of a town centre boundary) it is not an out of town location (i.e. outside the existing urban area). NPPF advice is that it is an 'out of centre' location which



is not in or on the edge of a centre but not necessarily outside the urban area.

It is accepted that there are no suitable town centre sites in Martock for a supermarket of this size and therefore the NPPF suggests that edge of centre locations that are well connected to the town centre should be considered next. Out of centre locations should only be considered in the absence of sites closer to the town centre. Decisions should be informed by sequential testing. Nevertheless in this instance the existence of a lawful and unfettered retail use within the settlement limit, i.e. out of centre location, is clearly a significant material consideration. The Economic Development Officer notes the limitations of alternative and available sites in the area.

On this basis it is not considered reasonable to insist that a sequential test, as required by policy MC3 and the NPPF, be carried out to appraise the suitability of other sites for retail use.

Policy MC3 is supportive of new shopping proposals outside preferred locations provided that the proposal would meet a clearly defined need and are of a scale appropriate to the size and function of the town and would not seriously affect the vitality and viability of any town centre or the rural economy. In this respect a retail Impact assessment has been provided.

On this basis it is considered that, notwithstanding the lack of a sequential test the principle of a supermarket on this site is accepted subject to consideration of:-

- Impact upon Town Centre
- Design
- Highways
- Impact upon Amenity

### **Impact on Town Centre**

The impact assessment indicates that the proposal would not have a significant impact upon the vitality and viability of Martock - the majority of the impact would be upon supermarkets within Yeovil, with the proposed store clawing trade back to Martock where it is recognised that self containment is an issue, with over 50% of the population commuting outwards for work, and shopping leaching out to Yeovil. The proposed foodstore would provide additional employment opportunities to the local community and an increased range of shopping facilities that would aid self-containment within Martock.

The policy officer accepts the methodology of the report and, subject to clarification the £/sqm trading figures, does not dispute its fundamental findings. The applicant has justified the claimed figure of £8,375/sqm on the basis that this reflects a more realistic regional trading figure as opposed to the national figure quoted by the policy officer. The District council has no evidence to dispute this assertion and the policy planner has no further comments.

While introducing a foodstore may provide competition for existing retail facilities, such competition in itself is not objectionable, provided there would be no serious harm to the vitality and viability of the town centre (Policy MC3). As noted by Economic Development and Policy Planner, Martock has a number of services and facilities that would not be provided within the proposed foodstore and it would be reasonable to impose conditions as justified by policy MC3 to limit the range of goods and services to be provided in-store.

Turning to the detailed representations made by agents for the Co-op, the following observations are offered:

- A map detailing the postcode areas referred to in the submitted impact assessment is provided within the Transport Assessment. This map clearly identifies those parts of the postcode areas that are included within the suggested catchment area. For example, only the extreme southern part of TA10 9 (to the south of Long Sutton) is included, rather than the whole area which extends to High Ham, parts of which would obviously shop in Langport. The District Council has no reason to dispute either the catchment area or the claimed trading figures that would be generated by this area.
- Whilst the concerns about the retail impact assessment are noted, the Policy Officer is satisfied that the methodology is suitable and does not dispute the overall findings
- Martock has a population of 4,378 (2010). It is not considered that a foodstore of the proposed size is disproportionate to the scale of Martock.

On this basis the impact of the proposed foodstore upon Martock town centre would not be so serious as to justify withholding planning permission.

Further comments from the Policy Planner regarding the late letter of representation submitted by the agents for the Co-op have been requested, and will be verbally updated at the committee meeting where necessary.

## Design

The site is located within an industrial estate and therefore the quality of design and character surrounding the site is limited. The design of the proposed building is simple and typical of modern foodstore design, with a shallow pitched roof to keep the building at a low profile commensurate with other roof heights adjacent to the site. The front elevation incorporates full height glazing to maximise light into the store and timber cladding is also used to soften the front façade. Objection has been raised by a local resident over the use of such glazing as being unnecessary; however the same glazing has gained support of the Council's Climate Change Mitigation Officer as contributing towards sustainable construction and therefore is not considered unacceptable.

Concern has been raised by a local resident that the height of the proposed building is too high. The Local Planning Authority (LPA) do not concur with this view, as with a maximum height of 5.6m, the scale of the building will sit comfortably within the site against the scale of adjacent existing industrial buildings.

Concern has also been raised that the site does not respect the historic environment. The LPA is of the opinion that the setting of the site is not historically sensitive, as it does not fall within a conservation area and is not within the curtilage of a listed building, despite the claim of a local resident.

It has also been suggested through letters of representation that the design should be improved and hamstone incorporated as a material. Given the location of the site these suggestions are not considered appropriate.

Objection has been made over the proposed 'Tesco' sign on the front elevation of the building. Again, given the location of the site and the sign's proportions, the sign is not considered to be so harmful, and in any case the sign requires separate advertisement consent so does not form part of this application.

## Highways

The Highway Authority has stated they have no objection in principle to the proposed development. The proposal includes improvements to visibility at the site access and also at the junction of North Street with Coat Road. The Highway Authority has confirmed that these works are acceptable and in accordance with the required guidelines. The Highway Authority has also confirmed that the local highway network has the capacity to accommodate traffic generation that will be created by the proposed development. The parking provision proposed is more than the Highway Authority's Parking Strategy requires, however given the location of the site close to North Street and the town centre, this slight over-provision does not warrant sufficient grounds to refuse the application.

It is considered reasonable to require travel planning measures to be agreed as required by policy TP2 and the applicant is willing to do this by S106 agreement.

## Impact upon Residential Amenity

The delivery yard is located on the western side of the site, which is the closest part of the site to residential properties. While HGV vehicles will need to access this part of the site, the proposal includes an acoustic fence constructed to 4 metres high, as well as landscaping to buffer and screen the noise generated in the delivery yard from neighbouring residential properties.

The open fronted buildings currently located on much of the western boundary close to residential properties, are frequently serviced by a forklift truck loading materials in and out of the bays. There are also areas along this boundary where there is no built form to offer a screen, and therefore the only buffer between active parts of the site and residential properties is a galvanised security fence.

The supporting information submitted with the application states that it is anticipated that the foodstore will be served by two delivery vehicles per day. On this basis it is considered that the disturbance to residential properties to the west of the site will be minimal, particularly given the current activity levels on this part of the site and the mitigation measures proposed in the form of an acoustic fence and densely planted landscaping.

In line with the Environmental Protection Unit's recommendations, arrived at following negotiations with the applicant, it is considered reasonable to restrict hours of trading, hours of deliveries and use of lighting at the site, in order to minimise the disturbance caused to local amenity.

## Other Issues

Concern has been raised by local residents that the new foodstore would not create as many jobs as claimed in the documents supporting the application. The agent has confirmed the scheme will deliver at least 85 jobs, of which two thirds will be full time posts and one third will be part time posts. This offers a considerable source of employment to the local community and is supported by policy ME3.

One letter of objection requests that washing and valeting of car is not allowed in the foodstore car park. This would be contrary to the scope of the retail use of the site and could not be carried out without planning permission.

Objection has also been raised over the business practices that Tesco use. This is not a material planning consideration.

The Climate Change Mitigation Officer raises an objection to the proposal as the development does not meet the requirements of emerging Core Strategy policies. However, the Planning Policy team has confirmed that there is currently no requirement for Core Strategy policies to be met, given the status of the document could still change through the further consultation and examination processes the document is yet to go through.

Finally any land contamination issues could adequately be addressed by condition.

## **Conclusion**

In light of the position established by the Certificate of Lawfulness i.e. that it is possible that a foodstore could be run from the existing buildings without the need for planning permission [Note – the fallback is not established by the COL per se, but by the likelihood of someone else continuing to use the site under the COL – are you able to say that it is quite likely someone would run the existing site?] it is considered that the principle of a foodstore in this location should be accepted and that a sequential test is neither necessary nor reasonable to justify this.

Notwithstanding local representations the proposed development is considered to be of appropriate form, design and layout that would not have a serious impact on the vitality and viability of the town centre or be detrimental to visual or residential amenity. The access and parking provision are considered to be acceptable and off-site highway improvements are also made. As such the proposal complies with Policies STR5, 20, 21, 48 and 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, Policies ST5, ST6, EP2, EP3, EP5, TP2, TP6, MC2, MC3 and ME3 of the South Somerset Local Plan and Chapters 1, 2, 4 and 7 of the National Planning Policy Framework.

## **Section 106 Planning Obligations**

A section 106 agreement would be necessary to secure implementation of the Travel Plan.

## **RECOMMENDATION**

Permission be granted subject to the following:

- a) The prior completion of a section 106 agreement (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued to ensure appropriate Travel Planning measures as agreed with the County Travel Plan Coordinator; and
- b) The imposition of the planning conditions set out below on the grant of planning permission.

## **JUSTIFICATION**

It is considered the proposed foodstore would not have a detrimental impact upon the visual or residential amenity of the area, or be prejudicial to highway safety or town centre viability and vitality. Accordingly the proposal is considered to be in accordance with Policies STR5, 20, 21, 48 and 49 of the Somerset and Exmoor National Park Joint Structure Plan Review, Policies ST5, ST6, ST10, EP2, EP3, EP5, TP2, TP6, MC2, MC3 and ME3 of the South Somerset Local Plan and Chapters 1, 2, 4 and 7 of the National

Planning Policy Framework.

**SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

02. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area in accordance with Policy ST6 of the South Somerset Local Plan.

03. Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority. For a period of five years after the completion of the landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the enhancement of the local character and in the interests of residential amenity in accordance with South Somerset Local Plan Policy ST6.

04. Prior to the commencement of development the applicant shall investigate the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses. The applicant shall:-

(a) Provide a written report to the Local Planning Authority which shall include details of the previous uses of the site and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

(b) If the report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment shall be carried out in line with current guidance. This should determine whether any contamination could pose a risk to future users of the site or the environment.

(c) If remedial works are required, details shall be submitted to the Local Planning Authority, and these shall be accepted in writing and thereafter

implemented. On completion of any required remedial works the applicant shall provide written confirmation that the works have been completed in accordance with the agreed remediation strategy.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, in accordance with policy EP5 of the South Somerset Local Plan.

05. No development approved by this permission shall be commenced until such time as a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved and shall also include measures so as to prevent the discharge of water onto the highway. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas and hardstandings for vehicles, shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To provide adequate drainage and prevent water pollution in accordance with Policies ST5 and EU4 of the South Somerset Local Plan.

06. The delivery management plan detailed in paragraph 5.5 of the submitted Noise Assessment dated 27th March 2012, shall be operated at the site once the approved foodstore is opened and the acoustic fence on the western boundary of the site shall be erected prior to the occupation of the foodstore hereby approved, and thereafter maintained as approved.

Reason: In the interests of residential amenity, in accordance with Policy EP2 of the South Somerset Local Plan.

07. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: To ameliorate and reduce the impact of any external lighting in the interests of reducing light pollution in accordance Policy EP3 of the South Somerset Local Plan.

08. No delivery vehicle shall access the delivery yard or be loaded or unloaded between the hours of 23.00 and 07.00 Mondays to Saturday and not at all on Sundays.

Reason: In the interests of local residential amenities in accordance with Policy ST6 of the South Somerset Local Plan.

09. There shall be no dispensing pharmacy, optician services, dedicated butcher or bakery counters or cafe within the store hereby permitted without the prior express grant of planning permission.

Reason: To ensure that the approved store meets the identified need and to safeguard the current retail base of the town, in accordance with Policies MC2 and ME3 of the South Somerset Local Plan.

10. The development hereby permitted shall not commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include construction vehicle movements, construction operation hours, construction delivery hours and specific anti-pollution measures to be adopted to mitigate construction impacts including:
1. Site security
  2. Fuel oil storage, bunding, delivery and use
  3. How both minor and major spillage will be dealt with
  4. Containment of silt/soil contaminated run-off.
  5. Disposal of contaminated drainage, including water pumped from excavations
  6. Site induction for workforce highlighting pollution prevention and awareness.
- Subsequently the development shall be carried out strictly in accordance with the approved Construction Management Plan.

Reason: In the interests of highways safety and to safeguard the amenities of the locality in accordance with policies EP6, ST5 and ST6 of the South Somerset Local Plan.

11. There shall be no obstruction to visibility greater than 900mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge of the centre line of the access and extending to points on the nearside carriageway edge (insert what is on the plan)m either side of the access. Such visibility shall be fully provided before the development hereby permitted is commenced and shall thereafter be maintained at all times.

Reason: In the interest of highway safety, in accordance with Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

12. Prior to the commencement of any development hereby approved, details of the hard surfacing, trolley compounds and any other structures/hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved details.

Reason: In accordance with Policy ST5 of the South Somerset Local Plan.

13. The development hereby permitted shall be carried out in accordance with the following approved plans: PL(90)200 Rev A, PL(20)200, PL(20)201, PL(20)204, PL(20)205.

Reason: For the avoidance of doubt and in the interests of proper planning.

#### **Informatives:**

01. You are reminded of the contents the Environment Agency's consultation response dated 23 May 2012, a copy of which can be found on the SSDC website under the application reference number.
02. To clarify condition 09 and the scope of this permission, the sale of bakery products that are brought into the store part made, then baked and bagged on site is allowed.