

HARROGATE BOROUGH COUNCIL  
**PLANNING COMMITTEE – AGENDA ITEM 6: LIST OF PLANS.**  
**DATE: 6 September 2011**

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<b>PLAN:</b> 01	<b>CASE NUMBER:</b>	09/02704/FULMAJ
	<b>GRID REF: EAST</b>	429400
	<b>NORTH</b>	456880
<b>APPLICATION NO.</b> 6.79.7518.C.FULMAJ	<b>DATE MADE VALID:</b>	15.07.2009
<b>CASE OFFICER:</b> Mr M Williams	<b>TARGET DATE:</b>	14.10.2009
	<b>WARD:</b>	New Park

**VIEW PLANS AT:** <http://tinyurl.com/3pt2ktn>

**APPLICANT:** Tesco Stores Ltd

**AGENT:** Paul Sharpe Associates LLP

**PROPOSAL:** Erection of Class A1 superstore, car park, revised access and widening to Skipton Road, access to Ripon Road, pedestrian and vehicular bridges across Oak Beck, pedestrian link to Electric Avenue, recycling facility, landscaping and all ancillary facilities to include felling of various trees within Tree Preservation Order 24/2001(revised scheme).

**LOCATION:** Site Of North East Gas Offices And Service Centre Skipton Road  
Harrogate North Yorkshire

## **REPORT**

### **SITE AND PROPOSAL**

It is proposed to erect a superstore on the site of the former gasworks on the corner of Skipton Road and Ripon Road. The gasworks ceased production in the 1950s and the gasholder towards the south end of the site was demolished in the early 1990s, although the base remains.

Although none of the former gasworks buildings remain, there are areas of hardstanding throughout the site, together with the base of a former gasholder. That part of the site between Electric Avenue and Oak Beck is in the valley bottom and is largely flat. To the east of Oak Beck the bank rises steeply before levelling off to Ripon Road. The application site includes part of the former gasworks site off Ripon Road, to the north of Ripon Way,

but does not include the operational site in the corner of Ripon Road and Skipton Road, which includes the gasholder, ancillary works and a phone mast. The application site extends to 3.5ha.

There is an existing vehicular access to the site off Skipton Road, which is securely gated. There is also a gate in the security fence to the south of the site, next to Bookers Cash and Carry at the end of Ripon Way.

There is good tree cover along the banks of Oak Beck, including a good number of mature trees on the higher east bank. These help to screen the site from Ripon Road. The site is also screened by the tall wall which bounds the former operational gas site and extends round the existing gasometer on the corner of Ripon Road and Skipton Road. There are self-sown trees along the rear of the properties on Electric Avenue.

The trees along the west bank of Oak Beck and to the rear of Electric Avenue are covered by TPO 24/2001.

It is proposed to erect a Tesco superstore on the site. This would have a gross ground floor area of 7345sq m. The 4038 sq m net retail floorspace would comprise 2721 sq m (67%) of convenience floorspace and 1317 sq m (33%) of comparison floorspace. A total of 421 car parking spaces would be provided, including 25 disabled spaces. These would be sited both under the building, which would be raised on columns, and in front of the building off the Skipton Road entrance.

The rear of the building would be set back 34m from the rear of the houses on Electric Avenue, with a 16m wide landscaping buffer between. It is proposed to create a pedestrian link between Nos 37 and 41 Electric Avenue to allow for easier access for local residents to the west of the site.

Vehicular access would be gained from both Skipton Road and Ripon Road. The Skipton Road entrance would be taken off a new roundabout to the west of the bridge over Oak Beck which would be widened. That part of Skipton Road running east to the New Park roundabout at the junction with Ripon Road would be widened to provide 2 lanes in each direction.

A new vehicular access would be created off Ripon Road, just north of the junction with Ripon Way. This would be controlled by traffic lights and the existing Pelican crossing to the north would be linked into the new junction so that both would operate as one set of lights. This would mean there would effectively be no additional traffic lights on Ripon Road. The Ripon Road entrance would provide access for customers and delivery vehicles via a new bridge over Oak Beck. A ramp would lead up to the service yard which would be located at store level in the southwest corner of the site. A pedestrian bridge would also cross over Oak Beck, linking the store with Ripon Road.

Recycling bins would be sited close to the north of the store, backing onto the riverside path. It is intended that these be available for use 24 hours a day.

A footpath would be created along the west bank of Oak Beck. This would provide a link between the Skipton Road entrance through to the Ripon Road entrance. The Oak Beck corridor would be enhanced as a wildlife corridor, as an extension to the Nidd Gorge

footpath.

The store would be of a contemporary design with the front (east) elevation largely glazed with some cladding and central stone detailing around the entrance. There would be horizontal larch boarding to the rear (west) elevation facing Electric Avenue. The side elevations would have a mix of materials, with stained larch cladding around the service yard in the southwest corner.

The roof would have a curved profile, with lower eaves to Electric Avenue, and would be a single-ply mid-grey membrane. Plant and equipment would be accommodated in a sunken well to the front of the roof, away from Electric Avenue. Five micro wind turbines would be sited along the eastern edge of the roof, with 9 'windcatchers' set further back in three rows of three.

The proposed store would open 24 hours a day, except from 2200 Saturday to 1100 Sunday and 1700 Sunday to 0800 Monday. Tesco propose that store deliveries would be unrestricted, but the home shopping delivery vans would operate between 0700-2300 hours.

The store would provide 360 full and part-time jobs (239 full time equivalents).

The planning application is accompanied by the following documents:

- Design and Access Statement by Paul Sharpe Associates
- Planning Statement by Paul Sharpe Associates
- Retail Assessment by Development Planning Partnership(DPP)
- Engineering Supporting Statement by Pinnacle Consulting Engineers
- Transport Assessment by Mouchel Parkman
- Travel Plan by Mouchel Parkman
- Landscape Supporting Statement by Aspect Landscape
- Ecological Statement by Aspect Ecology
- Preliminary Phase II Environmental Assessment by Delta Simons
- Flood Risk Assessment by Michael Thomas Consultancy
- Noise Impact Assessment by Sharps Redmore
- Daylight and Sunlight Report by GL Hearn
- BREEAM Pre Assessment by Scott Wilson
- Energy Statement by Scott Wilson
- Consultation Activity Report by DLA Piper
- Land Use Planning Assessment by Atkins
- Risk Assessment - Potential Vehicle Impact by Atkins
- Technical Note by Aspect Ecology
- Bat Report by Atkins
- Supplementary Noise Report by Sharps Redmore

Plans of the proposed superstore and associated works are attached at **Appendix 1**.

## **MAIN ISSUES**

1. Employment Land Policy
2. Retail Policy

3. Traffic
4. Residential amenity
5. Flood Risk
6. Contamination
7. Security
8. Sustainable Construction and Design
9. Trees
10. Landscape
11. Ecology
12. Public Safety

## **RELEVANT SITE HISTORY**

93/02332/OUT - Demolition of gasholder and engineering service centre plus removal of associated gas installations and redevelopment of site by 1 x 35000 sq ft DIY store.  
Refused 02.11.1993

Reasons for refusal:

*1. The proposed development of the site is inappropriate and contrary to Harrogate and Knaresborough Local Plan Policies SH1 and EMP1 as it would result in the loss of a site in industrial use and would result in the loss of employment generating potential for industrial jobs contrary to the aims of the approved Local Plan.*

*2. The proposed development constitutes an overdevelopment of the site which would be detrimental to the residential amenities of near-by residents by virtue of the noise and disturbance ensuing and this over-development results in an inadequate level of parking provision on the site likely to result in vehicles parking on adjacent streets to the danger of users of the highway and to the detriment of residential amenity.*

*3. The proposed development would result in the loss of a significant number of trees adjacent to Oak Beck to the detriment of visual amenity and nature conservation and contrary to Policy TC10 of the Harrogate and Knaresborough Local Plan.*

01/02176/OUT - Outline application for residential development including access.  
Withdrawn 11.09.2001

06/06407/SCREEN - Screening Opinion for supermarket and associated car parking. EIA not required 26.01.2007

07/04411/FULMAJ - Erection of Class A1 retail store, ancillary facilities and services, car park, revised access and widening to Skipton Road, access to Ripon Road, pedestrian and vehicular bridges across Oak Beck, pedestrian link to Electric Avenue, automatic recycling facility and landscaping. Withdrawn 14.11.2007

08/04463/SCREEN - Environmental Impact Assessment Screening Opinion for the proposed erection of superstore. EIA not required 01.10.2008

## **CONSULTATIONS/NOTIFICATIONS**

**Health and Safety Executive**

Advise Against. See Assessment of Main Issues

**British Gas TransCo**

To follow

**Environment Agency**

No objection subject to conditions. See Assessment of Main Issues.

**Environmental Health**

See Assessment of Main Issues

**Natural England**

See Assessment of Main Issues.

**Leeds/Bradford Airport**

(Consulted due to potential impact of wind turbines)

Unlikely to conflict with aviation interests in regard to Leeds Bradford International Airport.

**BBC**

(Consulted due to potential impact of wind turbines)

**Home Office**

(Consulted due to potential impact of wind turbines)

**Marine And Coastguard Agency**

(Consulted due to potential impact of wind turbines)

**Radio Planning (Mercury Communications)**

(Consulted due to potential impact of wind turbines)

**Arqiva (formerly NTL)**

(Consulted due to potential impact of wind turbines)

**02 UK Ltd**

(Consulted due to potential impact of wind turbines)

**Racal Vodaphone**

(Consulted due to potential impact of wind turbines)

**British Telecom**

(Consulted due to potential impact of wind turbines)

**Trinity House**

(Consulted due to potential impact of wind turbines)

No objections.

**Policy Dev Unit NYCC**

No comments received

**DCS Arboricultural Officer**

See Assessment of Main Issues

**Rural Strategy Officer**

No objections , subject to the imposition of conditions regarding ecological mitigation and enhancement measures.

**Conservation and Design Section**

see Assessment of Main Issues

**Disability Action Yorkshire**

No comments received

**H.B.C Land Drainage**

No objection subject to conditions on surface water drainage.

**Economic Development Officer**

See Assessment of Main Issues.

**Estates Manager**

No comments received

**Police Architectural Liaison Officer**

See Assessment of Main Issues.

**Local Plans Policy**

see Assessment of Main Issues

**Environment Agency Waste Reg Authority**

No comments received

**Yorkshire Water**

Recommends conditions re foul and surface water drainage.

**National Grid UK Transmission**

No comments received

**Divisional Fire HQ**

No comments received

**Landscape Officer**

Recommends Standard Landscape conditions CJO2, CL02 and provision of a Landscape Maintenance/Management Plan.

**NY Police Headquarters**

See Assessment of Main Issues

## **Harrogate Chamber of Trade and Commerce**

Object on the following grounds:

Traffic congestion  
Road Safety  
Gas works safety  
Alternative access solutions available

Do not object on commercial grounds

## **NYCC Highways And Transportation**

see Assessment of Main Issues

## **Harrogate Civic Society**

Recommend refusal on the following grounds:

- increased traffic
- harm to town centre
- harm to residential amenity of local residents
- loss of employment land

## ***RELEVANT PLANNING POLICY***

PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS04	Planning Policy Statement 4, Planning for Sustainable Economic Growth
PPS09	Planning Policy Statement 9, Biodiversity & Geological Conservation
PPG13	Planning Policy Guidance 13, Transport
PPS22	Planning Policy Statement 22, Renewable Energy
PPS23	Planning Policy Statement 23, Planning and Pollution Control
PPG24	Planning Policy Guidance 24, Planning and Noise
PPS25	Planning Policy Statement 25 - Development and Flood Risk
SPGLND	Supplementary Design Guidance, Landscape Design Guide
11C95	Circular 11/1995 The Use of conditions in Planning Permissions
04C00	Circular 04/2000 Planning Controls for Hazardous Substances
02c09	Town and Country Planning (Consultation) (England) Direction 2009
05C05	Circular 05/2005 Planning Obligations
GPGPCT	Good Practice Guidance - Crowded Places: The Planning System and Counter-Terrorism
RSYH1	The Yorkshire and Humber Plan Policy RSSYH1, Overall Approach and Key Spatial Priorities
RSYH2	The Yorkshire and Humber Plan Policy RSSYH2, Climate Change and Resource Use
RSYH4	Yorkshire and Humber Plan Policy RSSYH4, Regional Cities and Sub-Regional Cities and Towns
RSYH7	The Yorkshire and Humber Plan Policy RSSYH7, Location of Development
RSHY8	The Yorkshire and Humber Plan Policy RSSHY8, Green Infrastructure
RSE1	The Yorkshire and Humber Plan Policy RSSE1, Creating a Successful and Competitive Regional Economy

RSE2	The Yorkshire and Humber Plan Policy RSSE2, Town Centres and Major Facilities
RSE3	The Yorkshire and Humber Plan Policy RSSE3, Land and Premises for Economic Development
RSE5	The Yorkshire and Humber Plan Policy RSSE5, Safeguarding Employment Land
RSEV01	The Yorkshire and Humber Plan Policy RSSENV1, Development and Flood Risk
RSEV03	The Yorkshire and Humber Plan Policy RSSENV3, Water Quality
RSEV05	The Yorkshire and Humber Plan Policy RSSENV5, Energy
RSEV06	The Yorkshire and Humber Plan Policy RSSENV6, Forestry, Trees and Woodlands
RSEV08	The Yorkshire and Humber Plan Policy RSSENV08, Biodiversity
RSEV10	The Yorkshire and Humber Plan Policy RSSENV10, Landscape
RSLCR1	The Yorkshire and Humber Plan Policy RSSLCR1, Leeds City Region sub area policy
RST1	The Yorkshire and Humber Plan Policy RSST1, Personal Travel Reduction and Modal Shift
RST2	The Yorkshire and Humber Plan Policy RSST2, Parking Policy
RST3	The Yorkshire and Humber Plan Policy RSST3, Public Transport
CSJB3	Core Strategy Policy JB3: Land for jobs and business
CSJB4	Core Strategy Policy JB4: Retail and town centre development
CSTRA1	Core Strategy Policy TRA1: Accessibility
CSTRA2	Core Strategy Policy TRA2: Transport infrastructure
CSEQ1	Core Strategy Policy EQ1: Reducing risks to the environment
CSEQ2	Core Strategy Policy EQ2: The natural and built environment and green belt
CSC1	Core Strategy Policy C1: Inclusive communities
CSSG4	Core Strategy Policy SG4 Settlement Growth: Design and Impact
LPE02	Harrogate District Local Plan (2001, as altered 2004) Policy E2, Retention of Industrial/Business Land and Premises
LPHD13	Harrogate District Local Plan (2001, as altered 2004) Policy HD13, Trees and Woodlands
LPHD20	Harrogate District Local Plan (2001, as altered 2004) Policy HD20, Design of New Development and Redevelopment
LPT11	Harrogate District Local Plan (2001, as altered 2004) Proposal T11, Park and Ride
LPT20	Harrogate District Local Plan (2001, as altered 2004) Policy T20, Bus Access

#### APPLICATION PUBLICITY

#### **SITE NOTICE EXPIRY:**

**PRESS NOTICE EXPIRY:** 23.09.2011

**REPRESENTATIONS** - 168 letters received objecting to development.

Grounds of objection:

- Traffic congestion
- Question the need for a new store
- Impact on small businesses and Harrogate town centre shops



- Environmental impact, noise, light etc
- Loss of residential amenity
- Crime, anti-social behaviour
- Pedestrian link to Electric Avenue - harm to residential amenity/fear of crime
- 24-hour opening
- Traffic pollution
- Site more suitable for other uses
- Customers parking on local roads
- Over- development of site
- Loss of employment in retail sector
- Alternative access should be considered
- Design
- Road safety
- Concerns over decontamination
- Loss of employment land
- Impact of traffic congestion on Ripon Road businesses
- Jennyfield could be used as 'rat run'

20 letters of objection were received from addresses on Electric Avenue, together with a 54-signature petition objecting to development on following grounds:

- Traffic
- Pedestrian link to Electric Avenue
- Not a suitable use in a residential area

150 letters received in support.

Grounds of support:

- Convenience for local residents
- Easily accessible by foot
- Reduced cross-town traffic
- Decontamination of site
- Improved landscape
- Increased customer choice
- Improved access to New Park Primary School
- Job opportunities
- Need for a supermarket on north side of town

139 further circular letters of support received following Tesco open day event on 20 November 2010.

## **VOLUNTARY NEIGHBOUR NOTIFICATION**

Tesco's pre-application public consultation exercise included the leafleting of over 1000 of the closest addresses, both residential and commercial. A public exhibition was held in the Hydro Leisure Centre in September 2008. As a result of this publicity 492 comments were received; 337 (68%) in favour of the development, 103 (21%) against, and 52 undecided.

This community involvement exercise followed a similar approach carried out for the

original application, which was withdrawn in November 2007.

## **ASSESSMENT OF MAIN ISSUES**

### **POLICY FRAMEWORK**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals for development shall be in accordance with the Development Plan unless material considerations indicate otherwise. Within Harrogate District the 'Development Plan' currently comprises:

- a) The Harrogate District Local Development Framework Core Strategy (February 2009)
- b) Saved policies of the Harrogate District Local Plan (February 2001, altered May 2004)
- c) The Yorkshire and Humber Plan - Regional Spatial Strategy to 2016 (May 2008)

It should be noted that although the Yorkshire and Humber Plan is still currently part of the Development Plan, the Government has announced its intention to abolish Regional Spatial Strategies through the Localism Bill. The weight to be attached to RSS policies is a matter for the decision maker having regard to the intention to abolish the RSS and the circumstances of each particular case. In this instance, the RSS policies generally complement those of the Core Strategy and saved Local Plan, and the abolition of the RSS would not significantly change the policy context. Consequently, the RSS policies can be given reasonable weight in the overall assessment.

In July 2011 the Government published its Draft National Planning Policy Framework (NPPF) for consultation. Local planning authorities and Planning Inspectors have been informed that the draft NPPF is capable of being a material planning consideration although the weight to be given to it will be a matter for the decision-maker's planning judgment in each particular case. Although it gives an indication of the Government's 'direction of travel' on planning policy, it is considered that in general terms those provisions that depart from existing PPS or PPG guidance should be given only limited weight at this stage in view of the status of the draft NPPF as a consultation document and the potential for further amendment.

### **1. EMPLOYMENT LAND PLANNING POLICY**

The site of the proposed Tesco store is a former gas offices and service centre and therefore is classed as employment land which is protected under RSS Policy E5, Saved Local Plan Policy E2 and Core Strategy Policy JB3. It is important that existing industrial and business sites are retained in order to provide a reasonable supply of employment opportunities and minimise the development of new greenfield sites. In terms of this proposal, Saved Local Plan Policy E2 is the most relevant and states that the loss of industrial/business land and premises to other use will not be permitted unless, inter alia, the continued use of the site for industrial/business purposes would cause unacceptable planning problems, or the site is allocated for another purpose.

Tesco argue that there is a retail need for a superstore to serve the needs of the northern part of Harrogate and that if the application site was not developed for a food superstore then this retail need would not be met. In their view, failure to satisfy the identified need, as well as the continuing cross-town travel movements for shopping constitutes an

'unacceptable planning problem' in accordance with Saved Local Plan Policy E2.

The site is also known to suffer from varying degrees of ground contamination and Tesco argue that it is unlikely that redevelopment of the site for business use as well as the remediation of contamination, together with the necessary off-site highway improvements would create a viable development proposition. Therefore, they consider land contamination with no realistic prospect of remediation also constitutes an 'unacceptable planning problem'.

Clearly the site does present contamination issues which would have to be overcome. However no further evidence has been provided by Tesco to support their argument that this would make the redevelopment of the site for business use unviable. In terms of the failure to provide a store at the northern part of Harrogate, this is not a requirement of the Core Strategy which just notes the potential benefits a store in this location could bring in terms of reducing cross-town traffic. The Highways Authority is satisfied that the analysis of travel patterns and trade diversion evidence a significant reduction in cross-town movements. While this is a direct benefit of the proposal that can be weighed in the overall balance, such cross-town traffic movement does not constitute an 'unacceptable planning problem' in terms of Saved Local Plan Policy E2.

Tesco argue that PPS4 offers an element of flexibility to the protection of employment land because it now acknowledges retailing as a form of economic development alongside services and more traditional employment uses. It is accepted that retail development is now acknowledged as being a form of economic development because it provides employment opportunities (in this case 360 full and part-time jobs which is 239 full-time equivalent jobs). Whilst this will be a material consideration in the overall planning balance, it does not overcome the conflict with the terms of existing planning policies seeking to protect the stock of employment land for business use.

### **1.1 Loss of employment land conclusion**

Despite the arguments advanced by the applicant the proposal is contrary to Saved Local Plan Policy E2 as it involves the loss of employment land. It is considered however that a number of the arguments put forward by the applicant are material in assessing the weight to be given to this issue in the overall planning balance. In this respect it will also be important to have regard to the more flexible approach to the protection of employment being advocated by the Government in the Draft National Planning Policy Framework. To some extent, this is reflected in the recent decision not to identify the application site as of either 'best' or 'good' quality in the forthcoming consultation on the Sites and Policies DPD and therefore to take a more flexible approach to alternative uses.

## **2. RETAIL POLICY**

PPS4 'Planning for Sustainable Economic Growth' sets out the Government's policies for town centre uses, including retail development. A key objective of the PPS is to promote the vitality and viability of town and other centres as important places for communities by focussing development involving town centre uses within existing centres. Planning applications for retail development outside an existing centre and not otherwise in accordance with an up-to-date development plan must be subject to a sequential test and impact assessment.

The Draft NPPF does not seek to change the existing policy approach, recognising that town centres are at the heart of communities and that local planning authorities should pursue policies to support the viability and vitality of town centres. Planning decisions should assess the impact of retail proposals, including the impact of the proposal on existing, committed and planned public and private investment in centres within the catchment area of the proposal, and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to ten years from the time of the application is made.

Regional Spatial Strategy (RSS) Policy YH7 (Location of Development) states that local planning authorities should give first priority for development to the re-use of previously developed land and buildings. Authorities should adopt a transport-orientated approach to ensure that development makes the best use of existing transport infrastructure and capacity, complies with public transport accessibility criteria and maximises accessibility by walking and cycling.

RSS Policy LCR1 states that plans, strategies, investment decisions and programmes for the Leeds City Regions should:

i) develop enhanced and complementary roles for the Sub Regional Cities and Towns, including Harrogate.

RSS Policy E2 (Town Centres and Major Facilities) states that plans, strategies, investment decisions and programmes should strengthen the role and performance of existing city and town centres. The centres of Sub Regional Towns, which include Harrogate, should be the focus for facilities including leisure, arts, culture and tourism.

RSS Policy YH4 makes a similar point about concentrating facilities in city and town centres.

RSS Policy E1 (Creating a Successful and Competitive Regional Economy) states that, in order to create a more successful and competitive regional economy, plans, strategies, investment decisions and programmes should help to deliver, inter alia, the potential of the 'non-business class sectors', including retail, as key economic and employment generators.

This application follows the withdrawal of a similar proposal in November 2007. The proposed store will comprise 2721 sq m of convenience floorspace, 1317 sq m of comparison floorspace, a total of 4038 sq m net retail floorspace. Compared to the previous application, the amount of convenience floorspace has been reduced by 11%, and comparison floorspace by 47%.

The Council appointed NJL Consulting (NJL) to act as retail planning advisors for this planning application. NJL have carried out a Retail Study for the Council in the past and have advised the Council on other proposals for retail development. As such NJL has a considerable knowledge and depth of experience of the retail sector within the District.

Their advice to the Council takes into consideration all the information submitted by Development Planning Partnership (DPP), Tesco's retail planning consultants.

When this application was submitted and considered by NJL, PPS6 (Planning for Town Centres) was the main piece of national policy to be taken into account and NJL's advice reflects this.

At the time NJL completed its advice a revised national planning policy was published in the form of PPS4: Planning for Sustainable Economic Growth. NJL consider that the assessment and evidence set out within their advice also meets the requirements of PPS4 and provides an appropriate basis on which the Council can determine the application, particularly in relation to issues of retail impact. The policy comments below use the evidence provided by NJL and set this into the context of the new headings and terms used in PPS4.

The main difference between PPS6 and PPS4 is that the requirement to identify a quantitative need for a development has been removed from the decision-making process. The revised impact test of PPS4 does incorporate many aspects of the PPS6 need test in requiring developers to identify the impact of a proposal on in-centre trade and turnover.

PPS4 requires two sets of tests to be undertaken for proposals for main town centre uses located outside of a defined centre and not in accordance with an up-to-date development plan. They are the sequential test and impact tests.

## **2.1 Sequential Test**

The sequential test (PPS4 Policy EC15) seeks to ensure that all in-centre and subsequently edge-of-centre sites are thoroughly assessed before out-of-centre sites can be considered appropriate. Sites must be assessed on the grounds of their availability, suitability and viability.

The proposed Tesco store is in an out-of-centre location and therefore all potential in-centre and edge-of-centre sites must be fully assessed. Both NJL and officers have undertaken such an assessment and are satisfied that there are no alternative, sequentially preferable sites for the Tesco proposal, considering the relevant tests of suitability, viability and availability, and therefore the application meets the requirements of Policy EC15 of PPS4.

## **2.2 Impact Tests**

### **2.2.1 General impact**

Policy EC10.2 of PPS4 requires that all applications for economic development (including retail) should be assessed against the following general impact considerations:

- whether the proposal limits carbon dioxide emissions and minimizes vulnerability and provides resilience to climate change;
- the accessibility of the proposal by a choice of means of transport and the effect on local traffic levels and congestion, after public transport and traffic management measures have been secured;
- securing high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions;
- the impact on economic and physical regeneration in the area; and

- the impact on local employment.

The impact of this proposal on economic and physical regeneration of the area and its impact on local employment are beneficial. The design and quality of the scheme and its impact on the character and quality of the area and the way it functions is dealt with elsewhere in this report, as is the traffic impact and accessibility of the proposal, and its impact on climate change.

### **2.2.2 Retail impact**

Policy EC16 of PPS4 requires the proposed development to be assessed against impacts on:

- a) existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal;
- b) town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer;
- c) allocated sites outside town centres; and
- d) in-centre trade/turnover and on trade in the wider area

### **2.2.3 Impact upon Existing Large Food Stores and Harrogate Town Centre**

NJL feel that it is important to consider the impacts of this proposal upon the existing large food stores that are beneficial to Harrogate town centre as a relevant and necessary consideration in concluding the appropriateness of the Tesco proposals.

The Asda store is not located within the defined shopping centre as shown on the Local Plan Proposals Map as it occupies an edge-of-centre location. However, the Asda store does function as a linked destination with shopping and work trips to the defined shopping centre.

NJL consider that the proposed Tesco store will divert significantly more trade from the Asda store than DPP suggest and in the context that the Asda store is a benefit to the town centre, this could be a significant impact. Therefore, the Tesco proposals would not enhance the town centre through direct benefits and will have a negative impact upon the town centre by discouragement of trips to an existing foodstore which positively benefits the town centre.

The impact on the trading performance of the Waitrose store is estimated to be lower than that of Asda. This is due to factors including demographic profile, brand loyalty and the format of the store. However, the Waitrose store is undertrading when benchmarked against the company national average turnover so any impact will further weaken this trading performance. Whilst this may not be significant in impact terms on its own, it does form part of the overall impact that the proposed out-of-centre Tesco store would have upon Harrogate town centre.

### **2.2.4 Impact on District Centres**

The District shopping centres of Harrogate are designated on the Harrogate District Local Plan (HDLP) Proposals Map and protected by Policy JB4 of the Core Strategy. Jennyfield

shopping centre is the District Centre which will suffer most impact from the proposal - it is located in close proximity to the proposed store and is within its primary catchment area.

It is NJL's view that the household survey undertaken by the applicant clearly shows that the Jennyfield District Centre and the Co-operative foodstore (Co-op) within it provide an important function for local residents both as a main food and a basket/top-up food destination. The survey in fact noted that for Zone 2A (within which Jennyfield District Centre is located) the store is more popular as a main food destination than Waitrose and Morrison's and almost on par with Sainsbury's. DPP suggest that there would be a greater level of trade diversion from Sainsbury's, Morrison's and Waitrose than the Co-op. However NJL conclude that this is an unrealistic scenario and a much higher trade diversion impact upon the Co-op store at Jennyfield would be expected, to the extent that this could threaten the vitality of the centre and compromise its function as an important shopping and service destination.

The household survey also confirmed the importance of the Co-op as a source of top-up purchases. The implications of this relate to the operation of the proposed Tesco store in both its attraction as a main food and as a top-up destination, especially in the more localised catchment area. NJL therefore expect a much higher trade diversion impact upon the Co-op store at Jennyfield than is being suggested by DPP. DPP currently consider in total the proposed Tesco will divert some £514K, only equating to a 9.3% impact should the Co-op be trading at company average turnover levels. Given the way in which the Co-op functions and the evidence of the household survey, NJL firmly believe that the trade diversion and therefore the impact will be significantly higher upon the Co-op store than suggested by DPP. Given the store's anchor role in the centre, this will have a significant impact on the Jennyfield District centre.

NJL conclude on this matter by stating that:-

*'There would be a direct and adverse impact resulting from the proposed Tesco and the impact would be unacceptable unless proper mitigation was secured.'*

*'The Borough Council ...has a responsibility to ensure there would be no lasting harm caused to Jennyfield District Centre as part of the Borough Council's Centre's Strategy. In this regard we consider there to be a clear demonstration that the Tesco's proposals would directly deliver a significant adverse impact upon the centre and its onward vitality.'*

### **2.3 Conformity with national planning policy, the development plan and other material considerations**

National planning policy (PPS4) is unequivocal on the matter of impact and Policy EC17 states that:-

*'Planning applications for 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 planning permission where...there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in Policies EC10.2 and EC16.1.'*

NJL's conclusion is that this proposal will have a significant adverse impact on the Jennyfield District Centre and therefore its approval would be in conflict with national

planning policy EC16.1 criteria a), b) and d) unless proper mitigation was secured. PPS4 Policy EC17 represents a strong national planning policy which supports a plan-led approach to the provision of new retail development where there is harm to existing shopping centres.

Without proper mitigation this proposal would also be in conflict with:

- \* Policy JB4 of the Harrogate District Core Strategy which seeks to maintain the vitality and viability of the District Centre's of the town of Harrogate.
- \* Policy E2 of the Yorkshire and Humber Regional Spatial Strategy (RSS) due to the impact of this proposal on the edge-of-centre stores of Asda and Waitrose.

The introduction of a Tesco superstore would increase local consumer choice in Harrogate and would provide a food superstore in the northern part of the town where such provision is lacking. This is a material consideration in the determination of this proposal. However, the town's residents, including those in the north of the town, already have reasonable access to a range of larger food supermarkets and superstores. The benefit of increased consumer choice would not alone outweigh the harm to the Jennyfield District Centre. Therefore the proposal is contrary to the development plan unless this harm can be mitigated.

The introduction of a Tesco superstore on this site would reduce overtrading in some of the town's food superstores. Where store congestion results from overtrading this can be a material consideration in the determination of retail proposals. However NJL note that they do not believe that there is a demonstrable negative impact being caused by the trading performances of the incumbent stores.

The benefits of any reduction in store congestion from the Tesco proposal are most unlikely to outweigh the harm caused to the JDC and conflict with the development plan unless proper mitigation measures are implemented as part of the proposal.

The general thrust of policies within the Harrogate District Core Strategy and saved Harrogate District Local Plan is to focus new retail development within or adjoining existing shopping centres and no specific provision is made for retail development elsewhere. Accordingly, the proposal is not in accordance with an up-to-date development plan and therefore national planning Policy EC17 applies.

The most up-to-date development plan for the District is the Harrogate District Core Strategy (HDCCS). The Core Strategy is a strategic plan and does not allocate land for new development. It does however provide a steer - a direction of search - within paragraph 5.29 of the explanatory text on the future pattern of retailing by stating that a main food store in the north of Harrogate could form part of the future retail provision in the town and may have benefits in terms of reducing cross-town traffic for main food shopping. The exact wording of paragraph 5.29 of the HDCCS is as follows:

*'The Harrogate District Retail Study 2004 and its Review in 2007 identified that there is capacity for additional food retail in the Harrogate/Knaresborough area in the period up to 2015. This suggests that provision could be made for another main food store in Harrogate plus small-scale food stores in either a town or local centre. It is unlikely that a new main food store could be accommodated within or adjacent to the shopping centre of Harrogate*



*Town. Locating a store of this kind in the north of the town offers the potential to reduce cross-town traffic and would provide a food superstore in a part of town where provision is lacking.'*

This general statement, together with the formal recognition in Core Strategy Policy JB4 of the need for additional food shopping to help reinforce the role of Harrogate town, provide some policy support for a proposal of this nature in the north of the town but falls well short of providing specific development plan endorsement of the planning application in retail policy terms.

## **2.4 Mitigation Measures**

As stated above, without appropriate mitigation the Tesco proposal would have the potential to deliver lasting and adverse impacts on Harrogate Town Centre and Jennyfields District Centre. The Council has sought advice about how the identified impacts could be mitigated in a way that is in accordance with national guidance on planning obligations.

The intention of the Council is to secure meaningful measures that will actually mitigate impacts of the scheme on the identified centres and a range of measures relevant to promoting the long-term health of these centres. The Core Strategy promotes this through Policy C1 which places a requirement on developers to provide for and/or contribute towards the provision of community and other infrastructure needs generated directly by their development where this is necessary to make a scheme acceptable in planning terms.

Government Circular 05/05 sets out guidance relating to the use of planning obligations, including five policy tests against which the validity of their use should be assessed. This guidance has effectively been consolidated by Regulation 122(2) of the Community Infrastructure Levy Regulations 2010(CIL) which introduces into law three of the five tests for planning obligations in respect of development that is capable of being charged a CIL. This includes the development proposed in this application. Under this regulation it is a statutory requirement that the obligations should be:-

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development.

If an obligation does not meet all of these tests it cannot in law be taken into account in granting planning permission.

Tesco does not accept that the proposal will create lasting and adverse impacts on Harrogate town centre or the Jennyfields District Centre. However, notwithstanding and without prejudice to that position, Tesco has agreed to a range of retail mitigation measures relating to (a) Harrogate town centre and (b) the Jennyfields District Centre. The full details of these measures is outlined in the S106 Agreement and includes the following:

### **a) Harrogate town centre**

A contribution of £1,571,360 to be applied to:

- \* replacement of existing paving to various town centre pathways
- \* refurbishment of lighting to pedestrian tunnel

- \* cleaning stonework
- \* fingerpost signage
- \* replacement of street lighting
- \* tree planting
- \* new fountain feature
- \* provide seasonal planting beds
- \* provide drinking fountain
- \* replace cycle parking hoops
- \* refurbishment of steps
- \* new street seating

These works would be carried out in the following parts of the town centre:

- \* Routes between Asda and Waitrose stores and town centre  
(Bower Road/Lower Station Parade/Station Parade/Station Square)
- \* Route between HIC and town centre  
(Kings Road/Back Cheltenham Mount/Cheltenham Mount)
- \* Pedestrianised streets within town centre  
(Oxford Street/Cambridge Street/Market Place/Cross James Street)
- \* The provision of 14 No. real time information displays at Harrogate bus station.

Further details of the retail mitigation works are included in Schedule 6 of the Section 106 agreement, a copy of which is attached at **Appendix 2**.

It is considered that these measures meet the tests of Regulation 122 and will help to mitigate against the impacts of the Tesco development by helping to improve the quality of the town centre environment which in turn will help to improve vitality and viability. Some of the measures centred around Bower Road and Lower Station Parade in particular will also help to improve the pedestrian environment between Asda and the town centre and therefore protect the use of Asda for linked town centre trips.

## **b) Jennyfield District Centre**

The Tesco development also offers the potential to impact significantly on Jennyfield District Centre if proper mitigation is not secured. The Section 106 agreement therefore outlines various measures that should protect the centre and allow it to continue to provide the essential services of a small supermarket, Post Office and pharmacy.

In the event that the Jennyfield Co-op closes within five years of the Tesco store opening, and does not re-open within six months, Tesco will use reasonable endeavours to open a Tesco Express within the Jennyfield District Centre and will have to operate this for five years. They will also be required to provide a Post Office and pharmacy within this store. This store would operate for a period of at least 5 years from opening.

Tesco further agree not to operate either a Post Office or a pharmacy from the new superstore for a period of 5 years, or until such time as the Jennyfield Co-op ceases to provide these facilities. In the event that the Tesco Express is provided at

Jennyfield, no Post Office or pharmacy would be provided in the superstore until the Tesco Express had been open for 5 years.

In addition, Tesco propose a financial contribution to the provision of a Second Little Red Bus to provide a shopper service to serve the Jennyfields District Centre from the Jennyfield Estate and rural parishes to the west. This would comprise £63,000 for the purchase of a new bus; £13,000 per annum for 3 years for running costs together with £1500 in Tesco vouchers for 3 years to incentivise/reward the drivers.

The provision of the measures outlined above is considered to be valid and in line with the CIL for the following reasons:

\* The measures are necessary to promote the town centre first in accordance with PPS4. They allow the out-of-centre development to make a meaningful contribution to the enhancement of the vitality and viability of the town centre and Jennyfields District Centre, thus mitigating the retail impact.

\* These impacts and mitigation measures have been informed by relevant retail impact assessment work.

## **2.5 Retail Policy Conclusions**

Retail policy at national, regional and local level seeks to protect existing shopping centres and requires proposals that would harm the future vitality and viability of such centres to be refused. Without appropriate mitigation, it is considered that this proposal would have the potential to deliver lasting, adverse impacts on both Harrogate Town Centre and Jennyfield District Centre and would therefore be contrary to retail planning policy. Without prejudice to its position that the proposal would have such harmful effects, Tesco has agreed a range of retail mitigation measures relating to both centres. It is considered that these measures meet the statutory tests required by the CIL and will effectively mitigate any significant adverse retail impact on the two centres.

In conclusion therefore is no policy objection to the proposed development on retail impact grounds subject to obligations outlined in the proposed Section 106 agreement. A Planning Policy Officer will be available at the meeting to answer any queries from Members.

## **3. TRAFFIC**

Since the application was submitted the Highway Authority's agency agreement has ceased, and Highway Authority comments now come directly from North Yorkshire County Council. An officer from the Highway Authority will be present at the meeting to the Planning Committee to answer any questions from Members.

### **3.1 Policy on Traffic/Transport**

PPS1 (Delivering Sustainable Development) states that planning authorities should ensure that infrastructure and services are provided to support new development. The guidance goes on to state that authorities should actively promote and facilitate good quality development which is sustainable.

PPG 13 (Transport) seeks to promote more sustainable transport choices and accessibility public transport, walking and cycling.

Regional Spatial Strategy Policy (RSS)T1 seeks to reduce travel demand, traffic growth and congestion, shift to modes with lower environmental impacts, and improve journey time reliability. Congestion should be addressed, especially in urban areas, through positive measures including; the use by employees of Travel Plans and improved facilities for cyclists and pedestrians.

RSS Policy T2 sets out the Region's parking policy. In principal towns such as Harrogate this requires 1 space per 14-20 sq m of food retail floorspace.

RSS Policy T3 states that the Region will safeguard and improve public transport infrastructure and services. Development should make use of existing public transport services or provide a focus for viable new services. Wherever possible, services should be available as soon as development commences.

Core Strategy Policy TRA1 refers to the need to reduce the need to travel and accessibility to jobs, shops, services and community facilities. This will be achieved through ensuring that the majority of all future developments is well related to the existing or extended Key Bus and Rail Networks.

Core Strategy Policy TRA2 states that existing and new routes and sites of importance for transport infrastructure will be safeguarded from development that would prejudice their transportation use. Where the provision of public transport facilities is not required, development of a site should maximise the opportunity to improve accessibility to key services and facilities.

Saved Local Plan Policy T20 states that major new development will be required to provide satisfactory access for bus services including route extensions and the provision of any necessary bus lay-bys, shelters with seating and turning facilities.

### **3.2 Transport Assessment**

The application is accompanied by a Revised Transport Assessment (TA) submitted by Mouchel Parkman in January 2010. This superseded the original TA.

The TA includes information on existing and future traffic growth, trip generation and distribution, Highway Impact Assessment, parking provision and Road Safety Analysis. It also includes a Mileage Impact Assessment (MIA) and Congestion Impact Assessment (CIA).

The proposed development has been designed to mitigate traffic impacts on the two primary routes; Ripon Road and Skipton Road. The introduction of a new roundabout on Skipton Road, with 2 lanes leading in either direction to and from New Park roundabout at the junction with Ripon Road, would help to reduce the potential for delays. On Ripon Road the proposed signalised junction would help to regulate traffic movements, and an incorporated pedestrian crossing would aid pedestrian movement across and along Ripon Road.

As part of the highway improvements on Ripon Road, Back Omega Street would be made one-way west-bound to Ripon Road. This would help to manage traffic on Back Omega Street and allow the construction of a wider footway to provide a safer environment for parents and children walking to and from New Park Primary School. This would be delivered via a Section 278 agreement between the applicant and the Highway Authority.

### **3.3 Travel Plan**

The application is accompanied by a Travel Plan. This follows a corporate framework developed by Tesco, but includes site-specific measures. The measures to reduce car traffic can be divided into three broad categories:

- Measures to reduce car use - car sharing, flexible shifts, home shopping.
- Measures to promote alternatives - provision of travel information, pedestrian and cycle facilities, walking buddy and cycle user schemes.
- Measures to facilitate the monitoring and management of the Travel Plan.

These measures would be secured by means of a planning condition requiring the Travel Plan to be agreed with the local planning authority and implemented prior to the commencement of development. The Travel Plan would be implemented under the control of a Travel Plan Co-ordinator who would be a member of the store's senior management team.

### **3.4 Congestion**

The Congestion Impact Assessment (CIA) accompanying the application demonstrates that the location of the proposed store will assist in reducing overall congestion and lead to a redistribution of traffic within the wider highway network and reduce the need to travel on the already congested town centre network.

The conclusion of the TA is that the store will induce less vehicle trips upon the wider length of the congested network defined by Wetherby Road, Knaresborough Road, Skipton Road, and Ripon Road. Indeed there could be a benefit to the highway network if more trade were captured from Asda by residents living north or west of New Park roundabout. This would help to reduce congestion on Skipton Road in the vicinity of Dragon Road which results from left turning traffic (including Asda customers) inducing westbound traffic to give way. This often results in traffic backing up from the Dragon Road junction all the way to the Empress Roundabout.

The impact of the development on the operation of existing junctions in the locality including the proposed store accesses on Ripon Road and Skipton Road had been assessed using industry standard software packages.

The software is able to model the flow of traffic through the junctions and make predictions regarding junction capacity and possible queue lengths. The accuracy of the modelling outputs is dependent on the quality of the data which has been input into the software i.e. traffic flows/geometry.

The Highway Authority had originally identified issues regarding some of the input data in the original traffic modelling. It was therefore necessary to re-model all the surrounding

junctions. Notwithstanding the input data, specific issues had also been identified with the proposed new signalised store access on Ripon Road and the operation of the New Park roundabout.

### **3.4.1 Ripon Road / Site Access Junction**

Notwithstanding the issues surrounding traffic flows the Highway Authority had major concerns regarding both safety and the predicted capacity calculations for the proposed junction layout. Re-modelling the junction as designed with the higher traffic flows would likely lead to it operating over capacity with undesirable queues.

A potential issue with Back Omega Street (opposite the proposed access) was identified whereby traffic turning right into the street would cause conflict with vehicles wishing to turn right into the store access. It was agreed that the most appropriate method to address this problem was to make Back Omega 'no entry' to vehicles from Ripon Road. Vehicles exiting the street would do so under signal control linked to the signalised store access.

There was also a concern that the safety of pedestrians had not been fully accounted for. It was proposed that pedestrians would be guided across Ripon Road under signal control, onto a pedestrian island adjacent to the site access. From there however they would need to cross the access road competing with traffic turning into the store.

The Highway Authority considered that an alternative junction layout design was achievable which would enhance the safety of all road users while also providing improved capacity.

The applicant amended the junction arrangement and the re-design of the signal arrangement is predicted to operate within its practical capacity during the assessment years. In addition, the pedestrian facilities at this proposed junction have been significantly improved and all pedestrian movements across the access road at the entrance to the store are now undertaken under signal control.

### **3.4.2 New Park Roundabout**

Notwithstanding previous comments regarding traffic figures it was apparent to the Highway Authority that due to errors with flow assumptions and geometries the applicant had been unable to accurately model how the New Park roundabout presently operates. Consequently an accurate assessment of the impact of the development on the roundabout had not been presented.

An extensive re-assessment of the operation of the roundabout was undertaken by the applicant in consultation with the Highway Authority and they were able to provide a more realistic model of how the roundabout presently operates and what the impact of the development traffic was likely to be. From that point the applicant was able to test options for mitigating the development traffic.

It was demonstrated that a re-designation of lane arrangement to allow traffic travelling through the junction towards Ripon Road (north) to occupy both lanes on the approach and

through the roundabout will have a significant positive impact on the operation of the roundabout. It has been demonstrated that these proposals will help to mitigate the impact of the development traffic on the operation of the roundabout.

The main issue with New Park roundabout was the predicted queues which were likely to occur on the Ripon Road (south) approach to the roundabout. The majority of traffic on this approach travels straight ahead through the roundabout. The majority of traffic approaching the roundabout from Skipton Road (east) however also travels straight ahead, therefore limiting the opportunity for the Ripon Road (south) traffic to enter the roundabout. The present lane arrangement is for traffic turning left to occupy the left-hand lane and traffic turning right or travelling straight on to occupy the right hand lane. By amending this arrangement to allow straight ahead traffic to occupy both lanes on the approach and through the roundabout it allows the roundabout to accommodate double the amount of straight ahead traffic from Ripon Road (south). This has a significant positive affect on the operation of the roundabout and significantly helps mitigate the impact of the development traffic.

The reduction in lane width on Ripon Road (north) going south to allow 2 lanes of traffic travelling north on Ripon Road has been assessed for the likely impact on the morning peak. However the improvements to the afternoon peak flows are considered to significantly outweigh the relatively minor impediment to the morning flows.

### **3.4.3 Jenny Field Drive**

Following the re-modelling work undertaken there was only one further junction where it was considered the development would have a detrimental impact: Jenny Field Drive/Ripon Road.

It was originally proposed to introduce some minor widening of the southern arm approach to the junction on Ripon Road to improve the flow of vehicles through the existing signals. The re-modelling demonstrated however that the performance of the junction would be worse than originally anticipated and the proposed widening would have little merit. Through the introduction of a 'left turn' filter arrow on Jenny Field Drive the applicant has demonstrated that not only will the impact of the development traffic be mitigated but it will also increase the reserve capacity of the junction.

### **3.5 Mileage Saving**

To assess the likely impact of the proposed store a Vehicle Mileage Assessment has been undertaken. Presently residents living in the northern areas of Harrogate have to travel either to the town centre or the south of the town for their bulk food shopping. It has been demonstrated that locating the store to the north of the town centre offers a considerable saving on mileage compared with the existing situation.

Mouchel estimate that the proposed development would save about 1.7 million km of shopping journeys and reduce CO2 emissions by 264,000 kg per year.

The Highway Authority has checked the calculation of mileage saving and no significant error has been established. Increased trade capture from Asda by Tesco as a result of residents living north and west of New Park would have the effect of increasing the level of

mileage saving from that declared in the TA. What is more difficult to calculate is whether the benefit resulting from a reduction in congestion and delay on, say, Skipton Road is outweighed by the increased delays which will be experienced on Ripon Road; i.e. pollution is not necessarily a measure of the number of miles covered, but could also be influenced by the time spent in a queue. The conclusion on this aspect of the TA is that the greater proportion of journeys would be undertaken outside of the network peaks, when queuing is less prevalent. It is difficult to disagree with this conclusion and the probability is that there would be a mileage and fuel saving arising from the construction of a new foodstore in this location.

### **3.6 Parking**

Regional Spatial Strategy Policy T2 sets out the Region's parking policy. In principal towns such as Harrogate this requires 1 space per 14-20 sq m of food retail floorspace.

For shopping developments over 1,000 sq m PPG13 recommends a maximum provision of 1 standard space for every 14 sq m of gross floor area. This works out at a maximum of 456 spaces. The proposed development provides 421 car parking spaces, comprising 375 standard spaces, 21 spaces for parents and children and 25 for the mobility-impaired. Excluding the latter category, there would therefore be 396 standard spaces, a ratio of 1 space per 16.4 sq m of gross floorspace. This is within the range of 1 space per 14-25 sq m recommended by Regional Spatial Strategy Policy T2.

Maximum parking standards mean that it would be essential to demonstrate real harm to the highway network in order to recommend refusal on the basis of inadequate levels of off-street parking. The Highway Authority considers that no such argument could be made here.

The proposed number of parking spaces is above the maximum number specified within NYCC parking standards they are still within the limit recommended in the Regional Spatial Strategy Policy T2. The Highway Authority considers that the level of parking proposed is acceptable.

### **3.7 Pedestrians/Cyclists**

It is likely that the proposal will induce a significant increase in pedestrian movement and a number of improvements are proposed to the pedestrian and cyclist infrastructure in the vicinity of the development. It is likely that some of the existing food retail trips to the south of the town centre will transfer to non-car modes given the accessibility of the site. This again is likely to result in a reduction in vehicle trips on the network.

The development will induce a significant increase in pedestrian movement across Ripon Road and to a lesser extent along Skipton Road. It is proposed to link the existing pelican crossing facility to the new signalised junction so that both would operate as one set of lights. A pedestrian/cyclist island will be incorporated into the bellmouth of Ripon Way to assist crossing of this junction by pedestrians and cyclists as part of a new cycleway extension from the Toucan opposite the Hydro.

A total of 70 cycle parking spaces would be provided, including 21 sheltered spaces close to the lobby entrance beneath the store building. Cycle racks would also be provided at the



east end of the pedestrian bridge and on the south side of the Ripon Road junction.

Both new accesses would include pedestrian access linked to road crossings. The new traffic-light controlled junction on Ripon Road would include a pedestrian crossing, and there would be a traffic island on Skipton Road. There would be footways around both sides of the new roundabout on Skipton Road. The footway along the west side of Ripon Road would be widened to 2m where ownership allowed.

Facilities for pedestrians crossing the highway at the New Park roundabout can be improved in four locations and the developer has agreed to incorporate these improvements into the proposals. One of the problems is the lack of visibility afforded to pedestrians of traffic emerging from Ripon Road when crossing Skipton Road West in a northbound direction. The amendments incorporated into the layout will have the effect of making the roundabout safer for equivalent levels of traffic.

There would be a shared cycleway/footway to the south of the new Ripon Road junction. A high level footbridge would link the footpath on Ripon Road directly into the store.

A 3.5m wide footway and cycleway would be provided from Electric Avenue to the west side of the store. However this element of the development has proved controversial, with local residents concerned that shoppers will park on Electric Avenue to use the link as a short-cut. In response Tesco has offered to provide the link for a 2-year trial period. After this trial period and following public consultation there will be three options available to the local residents:

- i) Retain the pedestrian link
- ii) Retain the pedestrian link but with the implementation of a Controlled Parking Zone, Tesco have agreed to pay for an appropriate Traffic Regulation Order together with residents and visitor permits.
- iii) Remove the link and reinstate the land, the cost of which will be met by Tesco.

Tesco has similarly agreed the possibility of a Controlled Parking Zone within the Omega Street area with the Highway Authority, such that if public consultation demonstrates the need for residents parking within this area then Tesco will make a financial contribution to the establishment of a Controlled Parking Zone, the cost of the necessary Traffic Regulation Orders together with residents and visitor permits. These arrangements would be delivered via the S106 Agreement.

The Police Architectural Liaison Officer also has serious concerns about the link from Electric Avenue, which are considered elsewhere. Notwithstanding these concerns the proposed benefits of the pedestrian link are considered such that a 2-year trial period is recommended. These benefits include making the proposed development more accessible to pedestrians and more convenient for local residents.

In addition to these pedestrian links, a footpath would be created along the west side of Oak Beck, linking the New Park area with the Nidd Gorge footpath.

### **3.8 Bus Services**

As part of the application Tesco propose to fund for 3 years the introduction of a new bus

service which would enable customers living in Jennyfield, Bilton and New Park to travel directly from home to the store by bus.

The existing bus shelters on Ripon Road would be relocated to the south side of the access junction.

In addition to the retail mitigation measures mentioned in 2.4 above, the proposed Section 106 agreement would provide for the following:

\* A contribution of £94,500 per annum for 3 years to be expended by the Bus Operator on the New Bus Service linking Bilton, New Park and Jennyfields residential areas with the new superstore which will provide a service of a 30 minute frequency between 0900 and 1800 hours Monday to Saturday (inclusive). Tesco has also agreed to pay for the cost of concessionary fares on this service up to a maximum of £190,000. This would allow free off-peak travel on the new bus service for persons of pensionable age and disabled person of any age who qualify under the categories listed in the Transport Act 2000. The route is shown on the map attached at **Appendix 3**.

\* A contribution of £63,000 to be expended by the Little Red Bus Operator for the purchase of a Little Red Bus (low floor accessible bus) to be banded in Tesco livery to provide shopping trips for elderly, disabled and disadvantaged residents of Harrogate who live within the vicinity of the proposed superstore between the store and their residences between the hours of 0800 and 1800 hours Monday - Friday inclusive. Tesco would also make a contribution of £13,000 per annum and £1500 worth (per annum) of Tesco vouchers for the running of the bus and for the reward/incentivisation of drivers for a period of 3 years.

### **3.9 Road Safety**

There is no apparent pattern to the recorded accidents which have taken place on the surrounding network within the last five years. There have been however a cluster of accidents at New Park roundabout which appear to be due to a failure to observe and error of judgement for traffic on or approaching the roundabout. In order to improve visibility and the manoeuvrability for vehicles Tesco propose amendments to the location of stop lines and kerb re-alignment. To improve pedestrian safety, amendments to the width of refuge islands are also proposed.

### **3.10 Highway conclusion**

There is no doubt that the impact of the proposed store on local traffic levels, and the possibility of increased congestion around the New Park roundabout, is the main concern of the majority of objectors. However the Highway Authority has carefully considered the evidence submitted over an extended period and concluded that the applicant has demonstrated that the development traffic can be adequately mitigated. Measures are also proposed which will make the development more accessible to non-car modes of travel and further reduce the impact on the surrounding highway network. The proposed store would bring real benefits in terms of reducing cross-town traffic from residents in the north of the town travelling to Asda or the other superstores to the south of Harrogate. This is a compelling argument which must be afforded significant weight in considering this application.

The impact upon congestion locally also needs to be balanced against potential improvements to congestion elsewhere and the fact that very little of the trip generation is actually new to the highway network as a whole.

The Highway Authority does not raise an objection to the proposed development but recommends conditions to secure the proposed highway improvements. It is also recommended that the provision of the new bus route proposed be delivered through a S106 Agreement and would require the involvement of the bus operators, i.e. Transdev and The Little Red Bus Company. Such an agreement will also need to include the provision of the potential for Controlled Parking Zones in the Electric Avenue and Omega Street areas. Such an agreement would also need to include the provision of the pedestrian link from Electric Avenue.

Together with the other mitigating measures it is concluded that no objection can be made to the proposed development on the grounds of increased traffic or other highway grounds.

#### **4. RESIDENTIAL AMENITY**

Planning Policy Guidance (PPG)24 (Planning and Noise) gives guidance on the considerations to be taken into account in determining planning applications and advises on the use of conditions to minimise the impact of noise.

The proposed store would be sited to the rear of houses on Electric Avenue. A 16m wide landscaped buffer would be planted behind the houses and the store building itself would be about 34m from the rear elevations.

The application site is slightly lower than Electric Avenue, which rises slightly to the south from the junction with Skipton Road. Towards the north end of Electric Avenue, the eaves of the proposed store would be about 2m higher than the house eaves, while towards the south end of Electric Avenue they would be at a similar height.

Given the separation distances and the proposed landscaped buffer, the proposed store would not overbear on these houses to any unacceptable degree.

The application is accompanied by a Daylight and Sunlight Report, carried out by GL Hearn Consultants. Their analysis is based on the BRE Report 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (1991). The report concludes that the proposed building would not have a material effect on the daylight and sunlight amenity received by properties on Electric Avenue. Officers concur with this conclusion.

One of the main areas of concern is the proposed location of the service yard to the south of the store, being on the part of the site where there are residential premises adjacent on Electric Avenue and Stonebeck Avenue, especially as the store is to open for 24 hours a day. In addition to the noise from the equipment/vehicles in the service yard an additional source of noise is that from the operatives and being this part of the site is located close to residential premises the voices of operatives in the service yards may also affect the residents.

The proposed service yard would be closer to Nos 57/59 Electric Avenue and the buffer

reduced to about 11m wide. This represents a considerable 'pinch point' especially as the service yard is would be the source of the greatest external noise over a 24-hour period. This would be generated by delivery vehicles, which are proposed to operate 24 hours a day, home shopping delivery vans (0700-2300 hours), and the engine noise, reversing horns, refrigeration units and movement of cages associated with these vehicles.

In an attempt to mitigate any noise nuisance that part of the delivery yard closest to the houses would be covered and partly enclosed by an acoustic fence.

The Noise Assessment accompanying the applicant, carried out by Sharps Redmore Partnership, recognises and assesses the potential noise nuisance that could be caused by these and other sources, namely; fixed plant, recycling/car parking/wind turbines and road traffic.

Based on measurements at existing stores the noise impact on the two nearest houses (57 Electric Avenue and 104 Stonebeck Avenue) has been calculated. It is claimed that the survey data shows that the existing ambient and peak noise climate for the majority of the 24-hour period was above the predicted service yard noise levels.

Peak noise levels for the type of noises that will occur at the service areas include levels substantially higher than the background values especially at night - even considering the attenuation afforded by the barriers. These noises will be discernible by the residents at the rear and could interrupt sleep.

The Council's Environmental Health Officer is concerned that the noise design criteria involved values much higher than the pre-existing background values, in particular much lower levels than occur at night. Thus noise would be discernible to residents at the rear of their properties and would interrupt sleep if allowed to continue through the night.

Other noises that can arise from service yard are from reversing beepers but this is not mentioned in the report. The applicant is considering measures such as the use of vehicles whereby reversing alarms are automatically inactivated once it is dusk and side lights are required. Similarly refrigeration plant on vehicles could be automatically switched off on approach to the service area.

In order to mitigate this impact Tesco has offered a management agreement which would control the operation of the service yard and could be subject to a planning condition. This approach has been agreed with the Council's Environmental Health Officer, but planning officers consider that any such condition could be difficult to police and enforce, and could not offer any guarantee on night-time noise levels. Accordingly it is also recommended that all deliveries be restricted to the daytime, i.e. 0700-2300 hours, not just the home delivery vehicles. This would be easy to police and would ensure that the residential amenities of neighbour were protected. The Council has successfully defended a recent application the extend delivery hours at the Morrison's store, on the grounds of residential amenity.

With regard to noise arising from fixed plant, the Environmental Health Officer notes that average values over 1 hour measurement period have not been given but notes that the report is conservative in using the lowest values obtained for the estimations and calculations. However this value of 39 dB(A) represents the lowest background value during the day whereas the lowest night-time value was 35dB(A). As fixed plant will operate

day and night the Environmental Health Officer suggests that the rating level for the plant, including the relevant penalties, be no more than 35dB(A) being the lowest night time background value. The Environmental Health Officer recommends that additional noise control measures for fixed plant should be taken, as suggested in the report, including selecting intrinsically quiet plant fitted with acoustic louvres and attenuators in order to achieve these levels.

In July 2011 amended plans were submitted showing the automatic recycling unit replaced by conventional recycling bins. These would be enclosed by a 1.8m close boarded timber fence to the northwest, facing towards Electric Avenue, where the nearest houses are about 80m distant. The plans were accompanied by a revised Noise Assessment by Sharps Redmore. This concludes that the noise arising from the use of the bins will comply with the World Health Organisation (WHO) Guidelines for Community Noise and BS 8233 (Sound insulation and noise reduction for buildings). However, the report recommends that the containers are only collected and replaced between 0700-2300 hours.

The proposal does not include a scheme of lighting on site but it is obvious that the car parking area and delivery yard areas will be provided with lighting in the interest of health and safety. Lighting the site could give rise to light pollution or even statutory nuisance to adjacent residents. The Environmental Health Officer has requested a condition requiring the applicant to submit a report from a competent individual/organisation giving details of the light impact of the proposed development on nearby properties in accordance with the Guidance Notes for the Reduction of Light Pollution 2000, produced by the Institution of Lighting Engineers. It is recommended that such a report should be submitted prior to development commencing.

In conclusion, in order to mitigate harm to the residential amenities of neighbours, it is recommended that various conditions be attached to any planning permission, covering:

- Noise from fixed plant and machinery
- A Noise Management Plan covering the service yard area
- Construction noise
- Restricted hours of delivery
- Hours of emptying the recycling bins
- Details of lighting

Subject to conditions covering these issues, it is considered that the proposed development would not cause unacceptable harm to the residential amenity of neighbours through noise disturbance or light pollution.

## **5. FLOOD RISK**

Planning Policy Statement (PPS) 25 sets out Government policy on development and flood risk. It aims to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding and to direct development away from the areas of highest risk. Where new development is, exceptionally, necessary in such areas the policy aims to make it safe, without increasing flood risk elsewhere, and where possible, reducing floor risk overall.

Paragraph F.6 of PPS25 states that: *'Surface water arising from a developed site should, as far as is practicable, be managed in a sustainable manner to mimic the surface water*

*flows arising from the site prior to the proposed development...'*

RSS Policy YH1 sets out the overall approach and key spatial priorities for the Yorkshire and Humber Region. These include supporting Principal Towns such as Harrogate while avoiding increasing flood risk.

RSS Policy ENV01 states that the Region will manage flood risk pro-actively by reducing the causes of flooding to existing and future development. The allocation of areas for development will follow a sequential approach and will be in the lowest risk sites appropriate for development.

RSS Policy ENV03 states that the Region will maintain high standards of water quality, and prevent development that could pollute surface and underground water resources.

The Environment Agency has no objections in principle to the proposed development but recommends that if planning permission is granted the measures detailed in the Flood Risk Assessment and Drainage Strategy are implemented and secured by way of a planning condition.

Oak Beck runs along the east side of the application site, flowing from south to north. It is joined by a culverted watercourse/surface water sewer just before the downstream end of the culvert under the Bookers site. The beck emerges from the culvert just to the south of the application site and then flows north under the Skipton Road bridge.

The majority of the applicant site is within Flood Zone 1, with a small area to the north, off Skipton Road, in Flood Zone 2. The northern end of the site is shown on the Environment Agency's Indicative Flood Risk Map as being at risk of flooding in an extreme event but no other part of the site is shown as at risk in a 1 in 100 year event.

The Bookers site to the south, outside the application site, was subject to a flooding event in June 2007. The footway and open space around the Hydro was also flooded, but not the Hydro building itself. The application site was not flooded during this event.

The application is accompanied by a Flood Risk Assessment (FRA) carried out by Michael Thomas Consultancy Ltd. This has been updated from an earlier FRA to take into account recent Yorkshire Water works, the 2007 flooding event, and the impact of the new and widened bridges over Oak Beck.

The modelling for the FRA is based on a 1 in 100 year flooding event, plus 20%. The modelling confirms that the site downstream of the Booker's culvert does not flood except for a minor area of extremely shallow flooding immediately adjacent to the Skipton Road site entrance, where some water may flow across the Skipton Road in an extreme event.

The FRA comes to the following conclusions about the impact of the proposed development on flood risk:

- \* The proposed development would not affect the existing culvert or surface water drainage system
- \* The new vehicular access bridge would be at least 0.59m above a 1 in 100 year event plus 20%

- \* The Skipton Road Bridge would be widened, but would not impact on flood levels
- \* The proposed surface water drainage system would maintain run-off rates at 15 litres/second, with on-line storage in a surface water attenuation tank.
- \* Site levels are to be maintained at approximately existing levels
- \* Surface water run-off will be managed/stored on-site to mimic surface water flows arising prior to development

In conclusion:

- \* The majority of the application site is in Flood Zone 1
- \* The proposed foodstore at an elevated level is considered to be 'less vulnerable' and therefore appropriate in Flood Zone 1
- \* That part of the site in Flood Zone 2 would be used for car parking only
- \* The application site was not affected by the 2007 flood event
- \* In terms of flood risk there are no sequentially better sites for a foodstore
- \* Surface water run-off will be managed/stored on-site to mimic surface water flows arising prior to the development

Consequently there are no grounds for refusing permission under PPS25.

## **6. CONTAMINATION**

Planning Policy Statement (PPS) 23 (Planning and Pollution Control) sets out the Government's objectives for contaminated land.

The application is accompanied by a preliminary Phase 2 Site Investigation Report, which was undertaken by Delta Simmons in 2007. The site investigation was to determine whether the previous contaminative uses of the site as a former town gas works have impacted on the soils or groundwater both on and off site as well as determining if land gas is being generated from the site. A number of possible pollutant linkages were identified from the historic contamination of the site, affecting future users of the site as well as local residents if/when the site is redeveloped. The report details the identified contaminants and potential pollutant linkages, which will need further investigation.

The Environmental Health Officer (EHO) agrees with the proposal that further detailed investigations be undertaken, including more groundwater monitoring and gas monitoring as well as a thorough site investigation of parts of the site not accessed during the site investigation undertaken in 2007.

The EHO recommends that a condition on ground contamination be included as part of any permission granted. It is recommended that the consultants prepare a site investigation method statement describing the proposals for soil, groundwater and gas monitoring at the site. This should include a management plan on mitigation measures to avoid the migration of contamination from the site during the remediation/redevelopment

Subject to a condition requiring such further investigations, the EHO has no objections to the proposed development of this site.

The Chamber of Commerce have more recently indicated that there may be levels of cyanide contamination off Ripon Road, close to the new proposed access, based on

anecdotal evidence. However this, together with any other unexpected contamination, would be covered by the requirements of Condition 41.

## **7. SECURITY**

Core Strategy Policy C1 (Inclusive communities) states that proposals for the development of land will be assessed having regard to community needs within the District. Wherever possible and viable, proposals for new development will be expected to contribute to achieving a reduction in the fear of crime and incidence of anti-social behaviour. The Council will expect developers to provide for and/or contribute towards the provision of community and other infrastructure needs generated by their development where this is necessary to make the scheme acceptable in planning terms.

The Police Architectural Liaison Officer (POLALO) has a number of concerns about the development.

With the potential for increased traffic congestion on Ripon Road, there is a concern that local traffic may attempt to avoid the traffic lights and New Park roundabout and take a short-cut through the car park onto Skipton Road. In response to this concern the applicant submitted amended plans which remove the priority to through-traffic through the car park. Furthermore the applicant points out that any such route must pass under the store through areas which are always likely to be busy with parked cars. This in itself should act as a disincentive to making this a short-cut.

The POLALO is concerned that the proposed pedestrian link from Electric Avenue is relatively isolated and could act as a source of crime and/or means of escape. There may also be conflict between users and local residents.

In response the applicant has stated that the link would be lit and covered by the store's CCTV. Nonetheless there is clearly a conflict here between the need to improve accessibility and tackle the fear of crime. On balance it is considered that the link should be trialled for a 2-year period. At the end of that time the Council would have the opportunity to reconsider this part of the scheme in the light of evidence from the applicant, customers and local residents.

The POLALO has also recommended that a fence be erected along the inside of the footpath along Oak Beck, to separate it from the store. There is concern that the path could facilitate crime by providing a means of escape. However such a measure is considered to be disproportionate to the risks posed. This footpath would help to enhance the setting of the store and appreciation of the wildlife corridor provided by Oak Beck. While every opportunity should be taken to try and design out crime, it is considered that the erection of a fence here would add an incongruous urbanising element which could prove counter-productive. The footpath would not be isolated or hidden, but would run close to the store and its car park. In the circumstances it is considered that it would not be likely to lead to a significant increase in crime or fear of crime in the area.

North Yorkshire Police HQ staff report that pre-application discussions took place with the applicant's architects and planners at the beginning of the design process of the level of risk associated with shopping centres which fall within the definition of 'Crowded Places' and the sorts of measures available to mitigate this risk in a proportionate and well-



designed manner. This has resulted in the nationally agreed measures that will be fitted within these types of buildings across the country. These measures are now incorporated in the current design. This nationally agreed approach is proportional to the risk and as a result any remaining residual risk is considered to be acceptable.

## **8. SUSTAINABLE CONSTRUCTION AND DESIGN**

RSS Policy ENV5 states that the Region will maximise improvements to energy efficiency and increases in renewable energy capacity. Greenhouse gas emissions will be reduced through various measures, including maximising the use of Combined Heat and Power and incorporating renewable sources of energy where possible. The policy sets targets for renewable energy capacity. For North Yorkshire the target for 2021 is 428MW.

RSS Policy YH2 sets out the Region's policies on climate change and resource use. Plans, strategies and programmes should encourage the re development of previously used land and increase renewable energy capacity.

Planning Policy Statement (PPS) 22 sets out Government policies for renewable energies, which local planning authorities should have regard to when preparing local development documents and when taking planning decisions.

Core Strategy Policy EQ1 (Reducing risks to the environment) requires all new non-residential development to attain a 'Very Good' standard as set out in the Building Research Establishment Environmental Assessment Method (BREEAM).

Core Strategy Policy SG4 states that for all development, the scale, layout and design should be well integrated with, and complimentary to, neighbouring buildings and the spatial qualities of the local area. Development should also be appropriate to the form and character of the settlement.

Saved Local Plan Policy HD20 sets out various design principles for new development.

The application is accompanied by a Sustainable Construction and Design Pro-forma, confirming that the development could attain a 'Very /Good' BREEAM rating. Furthermore, as a building with over 1000 sq m of floorspace, at least 10% of its energy requirements could be met from decentralised and renewable or low carbon sources.

The application is also accompanied by an Energy Statement prepared by Scott Wilson. This states that a gas Combined Heat and Power (CHP) plant would supply about 19% of the building's electricity demand and about 84% of the site's heat demand.

CHP uses waste heat from the electricity generating process to provide useful heat for spaces and winter heating. CHP is considered to be a low carbon technology when fired by gas, as proposed here. This is the preferred technology here due to its efficiency, maintenance and plant space.

The five roof-mounted micro wind turbines would provide about 4500kW output per year, displacing a total of 2.6 tonnes of CO<sub>2</sub>, a relatively small contribution to the overall total.

The 'wind catchers' on the roof allow warm air to escape naturally from the building, and cool air to enter, without the need for mechanical ventilation. They would have CO2 sensors that monitor occupancy levels in the store and adjust inflow and outflow accordingly. In addition large rooflights would introduce natural light into the store while restricting heat loss.

In terms of design, the concept of a car park at lower level, with building over at a level that relates to Ripon Road is considered to be acceptable. The building would be large even in the context of the surrounding industrial buildings, and certainly in the context of the nearest houses on Electric Avenue.

By setting the store above the car park, the building will appear at the same level as the houses on Electric Avenue. However the building would be set back from these properties, and the visual impact would be softened by the use of larch cladding and the landscaped buffer.

The form of the main roof is considered appropriate to the style of the building and provides a pleasing shape. However the roof will to some extent be cluttered with large rooflights, windcatchers and turbines. These will be of uneven height because of the roof form. There is some concern that these features would appear detrimental to the appearance of the roof, which will be visible in views from Ripon Road. However such views are from distance and in view of the environmental benefits of these features it is considered that they should be retained.

In summary, the design of the proposed store is considered to reflect its context and would not harm the character or appearance of the area.

## **9. TREES**

RSS Policy EV06 states that the Regions will safeguard, manage and enhance its existing tree and woodland resource in line with the Regional Forestry Strategy. Plans, investment decisions and programmes should conserve, enhance and increase planting in urban areas, especially on previously developed land.

Saved Local Plan Policy HD13 states that proposals which would involve the loss of trees or woodland which contribute to the character or setting of a settlement will not be permitted.

The Landscape Supporting Statement includes a Tree Survey. This reveals that there are 418 trees on site, mostly sycamore, ash, alder and goat willow, but none of the highest quality (A).

The trees along the west and east sides of the site are covered by TPO 24/2001 and include 3 areas of mixed woodland; along the Oak Beck corridor, the southern boundary and to the rear of 57 Electric Avenue. 17 individual trees along the rear of Electric Avenue are also covered, mostly self-sown whitebeam and sycamore.

The piled construction of the access road from Ripon Road will allow the retention of the existing trees on the east bank of Oak Beck and the road itself will pass through an existing gap in the trees.

As a result of the proposed development a total of 85 trees would be felled, but of these only 8 fall into Category B (moderate value and quality).

The Council's Assistant Arboricultural Manager has no objection to the proposed felling, and the retention of the row of trees alongside the new Ripon Road access is welcomed. This row of trees would have been lost with the previous withdrawn application, but will now be retained and provide a good screen in views from the new access off Ripon Road.

## **10. LANDSCAPE**

RSS Policy YH8 states that areas and networks of green infrastructure will be identified, protected, created, extended, enhanced, managed and maintained throughout the region to ensure that an improved, accessible and healthy environment is available of the benefit of present and future communities.

Saved Local Plan Policy C2 states that in locations where restoration of the landscape is necessary or desirable, opportunities should be taken for the design and landscaping of development proposals to repair or reintroduce landscape features to the extent that this is justified by the effects of the proposal.

Supplementary Design Guidance is provided in the Council's Landscape Design Guide, which contains a range of advice on landscaping works and siting associated with new development.

The application is accompanied by a Landscape Supporting Statement carried out by Aspect Landscape Planning. The methodology follows the guidelines recommended for Environmental Statements, although this is not an EIA application.

In landscape terms the site forms part of an area of commercial character with residential areas to the west. It is derelict in nature but with Oak Beck and the trees along the corridor being significant landscape features. The Ripon Road frontage is still dominated by the gasholder and associated works.

Due to the nature of the urban environment and site topography the site is relatively well contained visually. The main areas of visibility are from the houses on Electric Avenue and short sections of Skipton Road and Ripon Road.

With the creation of the two new accesses, the proposed development would open the site up to wider views. This is especially true of the proposed access off Ripon Road, which has been re-aligned to utilise the existing gap in the trees. The retention of the trees along with the new planting will now improve the ability of the development to assimilate into the surrounding area especially in the views from Ripon Road.

The store has been located in such a way as to retain the landscape elements of the river corridor. The building itself incorporates a curved roof which rises away from the houses on Electric Avenue. The timber cladding on the rear elevation, together with the proposed landscape strip, would help to soften and screen the visual impact of the building when viewed from these houses.

In terms of character and visual amenity, the impacts of the proposed development are considered to be beneficial as the derelict site would be changed into a development complimented by significant landscape structure that would be retained and enhanced. It is considered that the opportunities to enhance the watercourse and retain its associated woodland areas have been fully realised.

In conclusion, the proposed development represents a significant improvement to the visual amenities of the area and there is no objection to this proposal subject to conditions.

## **11. ECOLOGY**

Planning Policy Statement (PPS) 9 sets out Government policy on Biodiversity & Geological Conservation. It states that the re-use of previously developed land for new development makes a major contribution to sustainable development by reducing the amount of countryside and undeveloped land that needs to be used. However, where such sites have significant biodiversity interest of recognised local importance, local planning authorities, together with developers, should aim to retain this interest or incorporate it into any development of the site.

RSS Policy EV08 states that the Region will safeguard and enhance biodiversity and geological heritage and ensure that the natural environment function as an integrated network of habitats. Plans and strategies should aim to maintain and enhance, restore or add to distinctive elements of the natural environment and incorporate biodiversity in development and encourage networks of green infrastructure and ecological corridors in line with the Region's habitat enhancement areas.

Core Strategy Policy EQ2 offers protection to the District's high quality natural and built environment. Priority measures to protect the District's natural environment include increasing wildlife habitats and species in accordance with the District's Biodiversity Action Plan (BAP), and protecting those 'green wedges' in Harrogate town which are an important part of its character and distinctiveness.

The application is accompanied by an Ecological Assessment carried out by Aspect Ecology. This includes the results of various habitat and species surveys and collation of existing information.

Although the site is dominated by areas of hardstanding of negligible ecological value, it does contain habitats of potential interest. Chief among these is the Oak Beck watercourse which forms an arm of the Nidd Gorge system. This, together with the wooded slopes, forms a distinct wildlife corridor along the eastern side of the site. The proposed development offers the opportunity to conserve and enhance the ecological value of this corridor.

With regard to species conservation, the Environment Agency has records of White-Clawed Crayfish in Oak Beck dating back to 2007. No evidence of White-Clawed Crayfish was found by Aspect Ecology during their surveys but they consider that Oak Beck retains the potential to still support this species, which is protected under Schedule 5 of the Wildlife and Countryside Act 1981. The Environment Agency consider that proposed development will only be acceptable if a planning condition is imposed requiring a scheme to be agreed to ensure that the potential White-clawed crayfish habitat is protected.

The surveys revealed no evidence of Great Crested Newts, otter or water voles. Although badger setts were found to be present in 2007, none were found in 2009.

The previous planning application (Ref 6.79.7518.B.FULMAJ) was accompanied by a report of bat surveys carried out in 2006/7. However as the proposed development includes works to the existing bridge on Skipton Road, as well as demolition of existing buildings, the Rural Strategy Officer recommended that a further survey be carried out on the bridge. Such a survey was carried out in September 2010, together with a repeat of the original site survey. No evidence of roosting bats was found on the bridge, which offers few potential roosting sites. The recent survey also found no change to the original findings, that there was no evidence of roosting bats over the whole site.

The loss of standing water habitat in the base of the demolished gasometer would be mitigated by the creation of a pond close to Oak Beck.

The botanical survey revealed the presence of a nationally scarce plant - Coral Root Bitter cress - this small colony is next to Oak Beck, and while not threatened by the proposed development, is worth protecting by way of a condition.

The ecological report concludes that the proposed development would not have any significant effect on known protected species or ecological features of value. Indeed, subject to appropriate conditions, the development offers the opportunity to enhance the ecology of the site and the public appreciation thereof.

## **12. PUBLIC SAFETY**

The eastern part of the site, between Oak Beck and Ripon Road, was recently occupied by a Gas Board Depot and previously a gasworks. The new access off Ripon Road would incorporate a vehicular access to Northern Gas Networks (NGN) land to the north and the radio mast.

NGN infrastructure in the area comprises the gasholder and above and below ground pipes, including a Regional High Pressure Main to the west of Oak Beck.

Until recently the land had the benefit of three Hazardous Substance Consents (HSCs), granted between 1992 and 2000. These HSCs were automatically revoked under Section 17 of the Hazardous Substances Act 1990 when parts of the site were sold.

On 7 December 2010 the Planning Committee granted a Hazardous Substances Consent (HSC) for the gasholder next to the application site (Ref 6.79.7356.C.HSC ). The Health & Safety Executive (HSE) was re-consulted on this application in the light of this new HSC, and its formal response was to 'Advise Against' (AA) the granting of planning permission.

HSE advice is based on 3 zones around the hazard (the gasholder): the Inner, Middle and Outer Zones, with progressively lower levels of risk moving away from the hazard. HSE's advice is provided through a system known as PADHI+ (Planning Advice for Developments near Hazardous Installations).

When an application is received for a development which falls within the consultation

distance (defined by the outer limit of the Outer Zone) the local planning authority uses a set of rules to determine the sensitivity of the proposed development and then applies this to a decision matrix to determine whether the HSE would advise against the development.

In this case the proposed superstore is classed as a development used by the general public (Sub Class: Indoor use by Public). As the proposed total floorspace would be over 5000 sq m.

Although PADHI+ provides HSE's advice, the final decision regarding whether or not the development should receive planning permission lies with the local planning authority. The local planning authority must weigh up the risks against the socio-economic benefits before reaching a final decision.

If the local planning authority is minded to grant planning permission contrary to the advice of HSE then the HSE must be advised of the authority's intention. HSE then has the ability to ask the Secretary of State to call-in the application for determination by the Secretary of State himself. This system ensures that safety issues are taken fully into account by the HSE prior to any planning permission being granted.

Conversely, if the Planning Committee were minded to refuse planning permission on the grounds of public safety, the HSE would defend this position at any subsequent appeal.

HSE's policy in assessing risk and land use is to adopt a 'cautious best estimate' (CBE) approach. This approach was endorsed in the recent high-profile case at the Oval Cricket Ground.

In response to HSE's advice, Tesco's commissioned a Risk Assessment from Atkins to address the risk posed by the proximity of the gasholder. This identified the risk issues which the gasholder poses, assessed the feasibility of the scheme against the PADHI+ constraints. It also assessed on a preliminary basis the proposals for the protection of the above ground gas pipework. The report was published in December 2010.

The Council commissioned a peer review of Atkins' Assessments from Renaissance Risk, an independent consultant.

Both the Atkins' and Renaissance Risk reports can be viewed on the Council's website. A representative of Renaissance Risk will be available at the meeting of the Planning Committee to answer questions from Members.

The Atkins report concludes that, based on their experience, the risk is not such that the HSE would normally request that the application be called-in for determination by the Secretary of State. Requests for call-ins are exceptional, with only 6 cases in over 30 years. Nonetheless, HSE stress that the likelihood of a call-in should not influence the decision of the local planning authority.

The Atkins report suggests that there are technical reasons why the consultation zones used by HSE could be reduced such that the store fell in the Outer Zone, which would result in a 'Don't Advise Against' recommendation from PADHI+.

Atkins then go on to apply the 'Scaled Risk Integral' (SRI) which is a quantitative measure

of the risk to society of a particular development. A high value indicates that substantial numbers of people would be exposed to the risk but the value itself is simply a score and does not itself indicate the number of people potentially at risk. For illustrative purposes, at a value of 500,000 the HSE would 'consider' call-in while above 750,000 they would 'recommend' call-in.

For the Harrogate gasholder/Tesco situation, Atkins calculate an SRI of 22,000 which is well below the threshold value of 500,000 used by the HSE when 'considering' whether to ask for call-in. Renaissance Risk concur with this calculation by Atkins and it has not been challenged by HSE.

The Renaissance Risk review generally concurs with the Atkins report, and agree that the HSE would be unlikely to call-in the application. Renaissance Risk was also asked to put the risk in context, and a table comparing these risks with other, more familiar hazards (**Appendix 4**). Nonetheless, Renaissance Risk acknowledges that the proposed development would increase residual risk. As such the proposed development is contrary to the objectives of the Seveso Directive (2003/105/EC), which seeks to limit the consequences of major accidents.

However the HSE have criticised both the Atkins and Renaissance Risk reports, claiming that they misrepresent its position. It cautions the Council against placing too much weight on the Atkins report, claiming that Atkins' conclusions are likely to be fundamentally flawed. The HSE's advice remains that there are sufficient public safety grounds for planning permission to be refused, and its 'Advise Against' recommendation stands. The HSE points to the advice in Circular 04/2000, which states that any recommendation of refusal by the HSE should not be overridden without the most careful consideration.

In response to the criticisms made by HSE, Atkins has responded as follows:

'The Atkins' Review Team does not put excessive emphasis on the fact that the Advise Against (AA) decision is only one box away from a Don't Advise Against (DAA) decision. It would rather concentrate on the risk implications of the development in terms of what would be allowed under PADHI and compare with the current proposal. Application of the Scaled Risk Integral (SRI) confirms the marginal nature of the AA recommendation in this case. In risk terms it is not envisaged that the additional floor area over and above the sensitivity level that would generate a AA under PADHI would result in significant increased risk. The local planning authority may wish to consider this as a factor when weighing the risk versus the benefit of the development proposals.'

## **Pipework**

As well as assessing the risk posed by the gasholder, the first Atkins report also assessed (on a preliminary basis) the protection barriers which were originally proposed around the above-ground pipework next to the new access off Ripon Road. The report concluded that a further Risk Assessment should be undertaken on the vehicle barriers. Accordingly, Tesco commissioned a second report from Atkins to assess the risk, not only to this pipework, but also to all live gas pipework within land owned by Tesco.

Atkins themselves carried out this additional risk assessment and this report was published in February 2011.

The proposed new access off Ripon Road would pass between two areas containing above-ground pipework. There would be two access points to the north serving the gasholder and the mobile phone mast. Off Ripon Way, a new gas depot would be created on land to be leased to Northern Gas Networks (NGN) by Tesco. In this way, the access to the gasholder would be used solely for monitoring and maintenance of the gasholder itself. The revised protection proposals have been designed by Tesco's engineers in conjunction with NGN. On either side of the access the barriers include a new 2.4m high concrete and steel reinforced barrier on piled foundations faced with stonework. Elsewhere, boundary walls would be rebuilt to a height of 2.1m.

The Risk Assessment studies various scenarios involving vehicle collision with the above-ground pipework. Although Atkins recommended that the protection should be designed to protect against the impact of a private car/transit van, NGN required a higher standard of protection, i.e. from potential impact by a heavy goods vehicle. Consequently, the barrier design currently submitted by Tesco is to this higher standard, i.e. HGV impact.

The main risk to the above ground pipework near the Skipton Road entrance would be from vandalism or terrorism. This pipe already benefits from protective fencing but Tesco propose to include additional CCTV surveillance.

### **Public Safety conclusion**

The expert advice on this issue indicates that the recommendation of 'Advise Against' generated by the PADHI+ system is a marginal one. Put in context, the additional risk created by the location of a Tesco store in proximity to the gasholder is not considered to be so great as to warrant refusal and that any additional risk is outweighed by the various benefits to the community that a new store would bring.

The existing above-ground gas pipework will be protected to a high standard, both within the application site and outside, and NGN have confirmed their approval of these measures.

Consequently, on public safety grounds, the proposal is not considered to create unacceptable risk to the public by virtue of its proximity to gas infrastructure. It is therefore recommended that if Members accept the officers' recommendation to grant planning permission the application be then referred to the HSE to allow it to consider whether or not to request the Secretary of State to call-in the application.

### **CONCLUSION**

**Policy conclusion** - With the mitigation proposed as part of the Section 106 agreement, the application is not considered to be contrary to national or local retail policy but the proposal does involve the loss of employment land and is therefore not in accordance with the Development Plan. For this reason, it is necessary to consider whether there are material considerations that would outweigh the policy objection.

**Highway conclusion** - It is considered that the applicant has demonstrated that development traffic can be adequately mitigated. Measures are also proposed which will



make the development more accessible to non-car modes of travel and further reduce the impact on the surrounding highway network. The proposed store would bring real benefits in terms of reducing cross-town traffic from residents in the north of the town travelling to Asda or the other superstores to the south of Harrogate. This is a compelling argument which must be afforded significant weight in considering this application.

The impact upon congestion locally also needs to be balanced against potential improvements to congestion elsewhere and the fact that very little of the trip generation is actually new to the highway network as a whole.

The Highway Authority does not raise an objection to the proposed development but recommends conditions to secure the proposed highway improvements. It is also recommended that the provision of the new bus route proposed be delivered through a S106 Agreement and would require the involvement of the bus operators, i.e. Transdev and The Little Red Bus Company. Such an agreement will also need to include the provision of the potential for Controlled Parking Zones in the Electric Avenue and Omega Street areas. Such an agreement would also need to include the provision of the pedestrian link from Electric Avenue.

Together with the other mitigating measures it is concluded that no objection can be made to the proposed development on the grounds of increased traffic or other highway grounds.

**Public Safety conclusion** - Notwithstanding the 'Advise Against' recommendation of the HSE, and having given this issue the most careful consideration, including the commissioning of independent advice, officers are satisfied that, on balance, the socio-economic benefits of the proposed development outweigh any increase in residual risk caused by the proximity of the gasholder.

### **Overall conclusion**

The proposal would result in the loss of existing employment land and is therefore contrary to provisions of the development plan. In terms of retail impact, there is no doubt that without appropriate mitigation the proposed development would be contrary to policies which militate against out-of-centre stores. The proposed store has the potential to deliver lasting and adverse impacts and, without proper mitigation to counter these impacts, would be unacceptable. The proposals will only be acceptable if sufficient mitigation measures are secured. In this regard, officers are satisfied that the provision of an appropriate contribution by Tesco will provide sufficient mitigation to render the proposals acceptable in planning terms.

In addition there are other material considerations which should be afforded considerable weight in coming to a conclusion on this application:

- \* The proposal is likely to reduce the town's traffic congestion and CO2 emissions by providing a main foodstore on the north side of town thereby reducing cross-town traffic. This would provide significant benefits for the town and the environment.
- \* The creation of jobs.
- \* The economic and physical regeneration of the site.

- \* Increased consumer choice.
- \* The decontamination of the site.
- \* The recreational and wildlife corridor along Oak Beck would be protected and enhanced.

The weight to be afforded to these considerations is also considered to be sufficient to outweigh the policy objection, under Saved Local Plan Policy E2, to the loss of employment land.

In conclusion it is considered that the proposed mitigation measures and these other material considerations are sufficient to outweigh the policy objections to the proposed development and, on balance, it is recommended that planning permission be granted.

**CASE OFFICER:** Mr M Williams

## RECOMMENDATION

That the application be DEFERRED and the HOPS be authorised to APPROVE the application subject to the following conditions and such other conditions HOPS considers to be necessary.

### REASON FOR DEFERRAL:

- 0
  1. referral of the application to the HSE for a period of 21 days for the HSE to consider whether or not to request the Secretary of State to call-in the application for his determination;
  2. the proposal being contrary to the provisions of the Development Plan, and being in an out-of-centre location and providing over 5000 sq m floorspace, the application be referred to the Secretary of State in accordance with Circular 02/2009 for him to decide whether or not to call-in the application for his determination;
  3. to allow for the completion of a Section 106 Agreement requiring:
    - Provision of a new bus service
    - Contributions to the First and Second Little Red Buses
    - Pedestrian Link to Electric Avenue for an initial 2-year trial period
    - Retail Mitigation Measures
    - Protection of the Post Office and Pharmacy at Jennyfields shopping centre
    - Off-site Highway works
- 1 The development hereby permitted shall be begun on or before 3 years from the date of this permission.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed on Appendix 1 of this decision notice.

- 3 A detailed scheme for landscaping, including the planting of trees and or shrubs and the use of surface materials shall be submitted to the Local Planning Authority and no development shall take place until the Local Planning Authority have approved a landscaping scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and the timing of implementation of the scheme, including any earthworks required.
- 4 In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.
- 5 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
- 6 Samples of the materials it is intended shall be used externally in the construction of the roof and walls of the development hereby approved, shall be submitted for the written approval of the Local Planning Authority and the external walling shall not be started before any such approval.
- 7 A sample panel of the type of stone to be used showing the proposed coursing and pointing shall be erected on the site for the written approval of the local planning authority and the external walling shall not be started before any such approval.
- 8 Prior to the commencement of development a report shall be submitted from a competent individual/organisation giving details of the light impact of the proposed development on nearby properties in accordance with the Guidance Notes for the Reduction of Light Pollution 2000, produced by the Institution of Lighting Engineers.

The report shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

- 9 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by MTC Revision D and the following mitigation measures detailed therein:
  - i. Development will be in line with the detailed Drainage Strategy.
  - ii. There will be no raising of ground levels on site except for an access ramp to the service yard.
  - iii. The soffit level of any of the proposed bridges will be a

minimum of 0.59m above the design flood level.

iv. The base of the bridge abutments will be above the modelled 1 in 100-year flood level.

- 10 The development hereby permitted shall be carried out in accordance with the approved Drainage Strategy and the following mitigation measures detailed therein:
  - i) Surface water run off rates shall be restricted to a maximum of 15 l/sec or 5 l/sec/ha.
  - ii) A minimum of 882 cubic metres of attenuation storage will be provided (in the form of SDS Geolite Tanks), based on the 1 in 100 year event plus 20% climate change.
- 11 A minimum easement of 6 metres shall be left between Oak Beck and the new boardwalk.
- 12 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority in consultation with the Environment Agency, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.
- 13 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings susceptible to oil contamination shall be passed through an oil separator designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 14 Prior to the commencement of development a plan for the protection and/or mitigation of damage to populations of white-clawed crayfish and its associated habitat during construction works and once the development is complete shall be submitted to and approved in writing by the local planning authority. Any change to operational, including management responsibilities, shall be submitted to and approved in writing by the local planning authority. The white-clawed crayfish protection plan shall be carried out in accordance with a timetable for implementation as approved.
- 15 Development shall be carried out in accordance with the details approved in this application with regard to the means and methods of complying with part B3 of Regional Spatial Strategy Policy ENV5. Technologies used to satisfy this condition should be retained and maintained for as long as the buildings comprised in the development remain.
- 16 Construction of any road alignment shall not commence until a scheme of diversion and/or protection for the water main and sewer(s) that are laid within Skipton Road and Ripon Road, have been implemented in accordance with details submitted to and approved by the Local Planning Authority.

- 17 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.
- 18 No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority.
- 19 Unless otherwise approved in writing by the local planning authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
- 20 No further internal floorspace shall be added to the retail floorspace hereby permitted.
- 21 No deliveries shall be taken at or despatched from the site outside the hours of 0700-2300.
- 22 Ecological mitigation and enhancement measures shall be undertaken in accordance with section 5.9 of the Ecological Assessment (Aspect Ecology, June 2009).
- 23 The recycling facilities shall be collected, replaced or emptied only between 0700 and 2300 hours.
- 24 No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access has been constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.  
  
The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before any part of the development is brought into use.
- 25 There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.
- 26 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the details of the temporary construction site access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

(i) The details of the access(es) shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.

(ii) The access(es) shall be constructed in accordance with details to be approved in writing by the Local Planning Authority in consultation with the Highway Authority for a minimum distance of 20 metres into the site.

Before the development is first brought into use the highway verge/footway shall be fully re-instated in accordance with the scheme approved in writing by the Local Planning Authority in consultation with the Highway Authority.

27 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

(i) The details of the required highway improvement works, listed below, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

(ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.

(iii) A programme for the completion of the proposed works has been submitted.

The required highway improvements shall include:

- a. Traffic signalled junction at the new store access/Ripon Road/Back Omega Street.
- b. Provision of dedicated left-turn lane into the site from Ripon Road (South)
- c. Provision of right-turn lane into the site from Ripon Road (North)
- d. Provision of pedestrian refuge islands and crossing points on Ripon Road adjacent to proposed access
- e. Provision of a 3 metre wide footway/cycleway on Ripon Road southbound footway between site access and existing Toucan crossing adjacent Coppice Avenue.
- f. Provision of 2m wide pedestrian refuge island at the junction of Ripon Way with Ripon Road and amendments to the junction to facilitate access to the Northern Gas Network site
- g. Relocation of existing bus stops adjacent to the site in Ripon Road to the south of the new access and provision of infrastructure.
- h. Amendments to signal operated junction at Jenny Field Drive/Ripon Road to allow left-turn filter from Jenny Field Drive.
- i. Amendments to kerbing, refuge islands and lining at New Park Roundabout
- j. New roundabout at new store access on Skipton Road
- k. Widening of Skipton Road to provide 4 lanes (2 eastbound, 2 westbound) between new access roundabout and New Park roundabout.
- l. Re-construction of Oak Beck Bridge
- m. Proposed bus stop and infrastructure on Skipton Road
- n. Provision of footways on Skipton Road.

- 28 Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 27:
- a. Traffic signalled junction at the new store access/Ripon Road/Back Omega Street.
  - b. Provision of dedicated left-turn lane into the site from Ripon Road (South)
  - c. Provision of right-turn lane into the site from Ripon Road (North)
  - d. Provision of pedestrian refuge islands and crossing points on Ripon Road adjacent to proposed access
  - e. Provision of a 3 metre wide footway/cycleway on Ripon Road southbound footway between site access and existing Toucan crossing adjacent Coppice Avenue.
  - f. Provision of 2m wide pedestrian refuge island at the junction of Ripon Way with Ripon Road and amendments to the junction to facilitate access to the Northern Gas Network site
  - g. Relocation of existing bus stops adjacent to the site in Ripon Road to the south of the new access and provision of infrastructure.
  - h. Amendments to signal operated junction at Jenny Field Drive/Ripon Road to allow left-turn filter from Jenny Field Drive.
  - i. Amendments to kerbing, refuge islands and lining at New Park Roundabout
  - j. New roundabout at new store access on Skipton Road
  - k. Widening of Skipton Road to provide 4 lanes (2 eastbound, 2 westbound) between new access roundabout and New Park roundabout.
  - l. Re-construction of Oak Beck Bridge
  - m. Proposed bus stop and infrastructure on Skipton Road
  - n. Provision of footways on Skipton Road.
- 29 No part of the development shall be brought into use until the approved vehicle, parking, manoeuvring and turning areas approved under condition number 2:
- (i) have been constructed in accordance with the submitted drawing (Reference 3739 P40L)
- Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 30 There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.

31 Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

32 Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall include:

- (i) the appointment of a travel co-ordinator
- (ii) a partnership approach to influence travel behaviour
- (iii) measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
- iv) provision of up-to-date details of public transport services
- (v) continual appraisal of travel patterns and measures provided through the travel plan
- (vi) improved safety for vulnerable road users
- (vii) a reduction in all vehicle trips and mileage
- (viii) a programme for the implementation of such measures and any proposed physical works
- (ix) procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

33 Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until there has been submitted to and approved in writing by the Local Highway Authority a traffic management plan. The plan shall include as a minimum:

- (i) Schedule of construction works and dates
- (ii) Traffic Routes
- (iii) Interface between on site and off road movements
- (iv) Interface with pedestrians
- (v) Measures to control disruption
- (vi) Health & safety
- (vii) Monitoring and management



- 34 No fixed plant and or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted and any mitigation measures to achieve this condition are submitted to and approved in writing by the local planning authority. The rating level of the noise emitted from fixed plant and machinery shall not exceed 35dB(A) in any 24-hour period 7 days a week. The noise levels shall be determined by measurement or calculation at location B at 57 Electric Avenue, being the nearest noise sensitive premises and the measurements and assessment shall be made according to BS4142: 1997.
- 35 Prior to the commencement of the development hereby permitted, a written Noise Management Plan covering the service yard area shall be submitted to and agreed in writing by the Local Planning Authority. The Noise Management Plan shall describe measures to control noise arising from the service delivery yard and vehicles approaching the service delivery yard. All activities in the service delivery yard shall be undertaken in accordance with the approved Management Plan.
- 36 Prior to the commencement of the development hereby permitted, a remediation/construction management plan that describes measures to control noise and dust arising from the contamination, remediation and construction phases of the development, shall be submitted to and approved in writing with the local planning authority. All remediation and construction shall be undertaken in accordance with the approve management plan.
- 37 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until sections 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until section 4 has been complied with in relation to that contamination.

#### 1. SITE CHARACTERISATION

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- \* human health,
- \* property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- \* adjoining land,
- \* groundwaters and surface waters
- \* ecological systems

\* archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

## 2. SUBMISSION OF REMEDIATION SCHEME

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## 3. IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise approved in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

## 4. REPORTING OF UNEXPECTED CONTAMINATION

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirement of section 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with section 3.

38 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no CCTV cameras other than any expressly authorised by this permission shall be erected without the grant of further specific planning permission from the local planning authority.

## Reasons for Conditions:-

- 1 To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.
- 2 For the avoidance of doubt
- 3 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 4 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 5 No works or development shall take place until full details of all proposed tree planting, and the proposed times of planting, have been approved in writing by the local planning authority, and all tree planting shall be carried out in accordance with those details and at those times.
- 6 In order to ensure that the materials used conform to the amenity requirements of the locality.
- 7 In order to ensure that the materials used conform to the amenity requirements of the locality.
- 8 In the interests of amenity.
- 9 To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- 10 To prevent flooding by ensuring the satisfactory disposal of surface water from the site.
- 11 To ensure access to the beck for maintenance is unrestricted and the integrity of the watercourse is not undermined.
- 12 To protect controlled waters. Piling may create additional pathways for contamination.
- 13 To prevent pollution of the water environment
- 14 To protect the white-clawed crayfish and its habitat within and adjacent to the development site.
- 15 To safeguard the environment and mitigate climate change in accordance with Harrogate District Core Strategy Policy EQ1 and part B3 of the Yorkshire and Humber RSS Policy ENV5.
- 16 In order to protect water and waste water infrastructure.
- 17 To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.
- 18 To ensure that the development can be properly drained.
- 19 To ensure that no foul water discharges take place until proper provision has been made for their disposal.
- 20 In order to protect existing shopping centres.
- 21 In the interests of residential amenity.
- 22 In the interests of wildlife conservation
- 23 In the interests of residential amenity.
- 24 To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.
- 25 In the interests of highway safety.
- 26 In the interests of both vehicle and pedestrian safety and the visual amenity of the area.
- 27 To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.
- 28 In the interests of the safety and convenience of highway users.

- 29 To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
- 30 To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
- 31 To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
- 32 In order to establish measures to encourage more sustainable non-car modes of transport.
- 33 In the interests of the safety and convenience of highway users.
- 34 In the interests of residential amenity
- 35 In the interests of residential amenity
- 36 In the interests of residential amenity
- 37 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policies SG4 and EQ1 of the Harrogate District Core Strategy.
- 38 In order to protect the visual amenities of the surrounding area in view of the prominence of this site.

## **INFORMATIVES**

- 1 A white-clawed crayfish development license will be required from Natural England to relocate this legally protected species. This relates to the proposed work on the retaining walls along the beck.

The management plan required by Condition 14 should cover bio-security, mitigation and enhancement. The applicant should consult the Environment Agency's 'Guidance on Works affecting White-clawed crayfish', available from Sue Penn, Biodiversity officer [sue.penn@environment-agency.gov.uk](mailto:sue.penn@environment-agency.gov.uk).

- 2 The developer should:

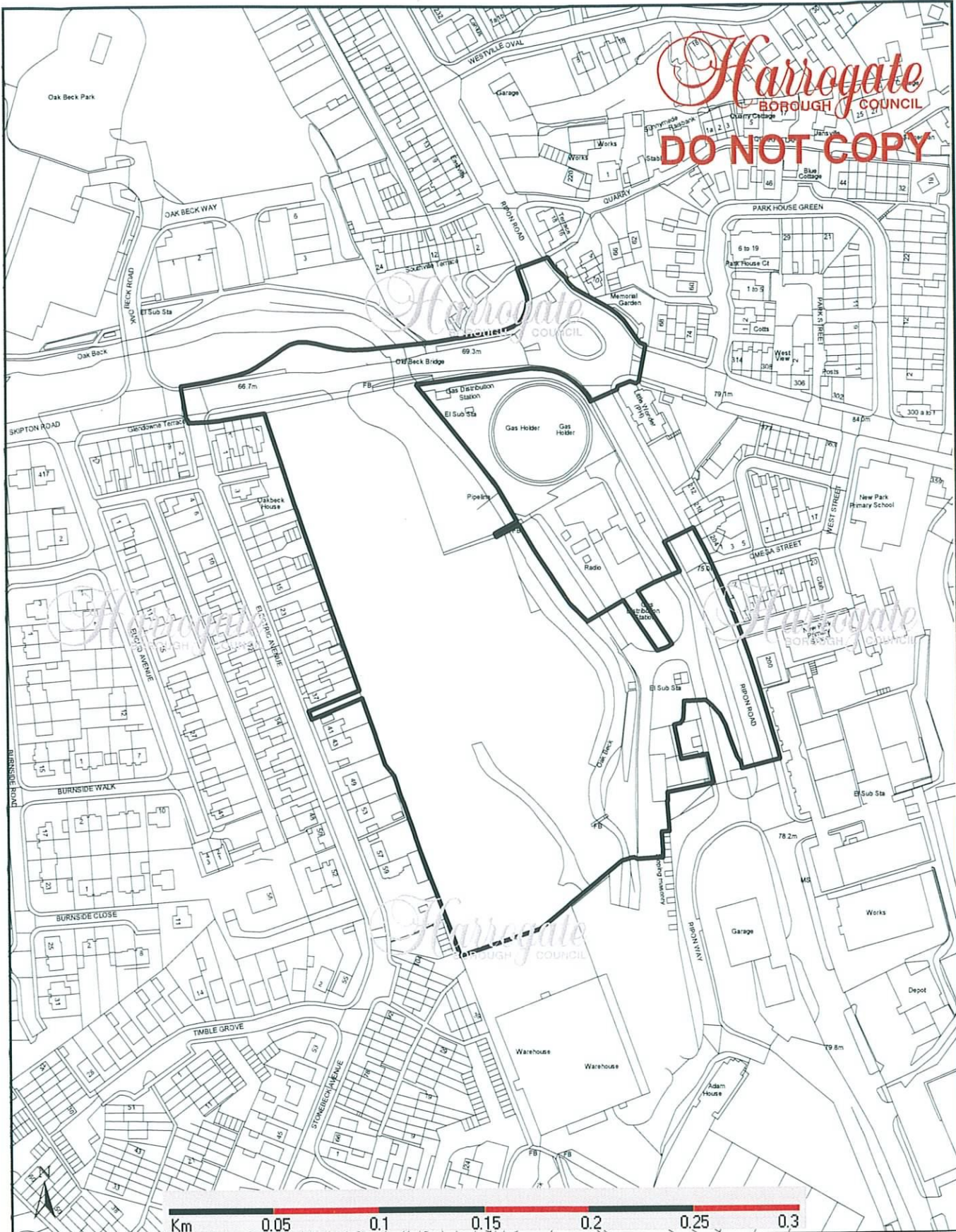
- 1) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.

- 2) Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, e.g. human health.

- 3) Refer to the Environment Agency website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) <<http://www.environment-agency.gov.uk>> for more information.

- 3 Condition 12 has been recommended as the Environment Agency is satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing.

- 4 The works by Condition 26 may include replacing carriageway, kerbs, footways, cycleways and verges to the proper line and level. You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The local office of the Highway Authority will also be pleased to provide the detailed construction specification referred to in this condition.
- 5 There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.
- 6 Due to the nature of construction site noise, it is recommended that work activities are restricted to the hours of 0730 to 1830 Monday to Friday, 0800 to 1300 Saturday, and no working on Sundays and Bank Holidays with noisy work not starting before 08:00am. Should any noisy work be necessary outside those hours, it is recommended that local residents be given prior notification



Working for you

**Department of Development Services**

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Harrogate Borough Council 1000 19628 2008.

**PLANNING COMMITTEE**

Item No. 1

App No./Case No. 09/02704/FULMAJ 6.79.7518.C.FULMAJ

Scale (at A4 size)	1:2500	Site area	3.8ha	Site boundary	
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Drawn	MDTT	Date	06.09.2011
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