

REPORT TO: East Lothian Council

MEETING DATE: 28 February 2012

BY: Executive Director of Environment

SUBJECT: Planning Application No. 08/00270/FUL – Erection of Class 1 retail store and petrol filling station at Gateside East, Gateside Road, West Road, Haddington

1 PURPOSE

- 1.1 On the grounds that the site of this application has an area greater than 2 hectares and that the proposed retail store would have a gross floor area of greater than 5,000 square metres, the proposed development is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore the proposed development is significantly contrary to Proposal BUS6, Policies BUS1 and R1 of the adopted East Lothian Local Plan 2008.
- 1.2 Members will recall that a Pre-Determination Hearing for this application was held at the Planning Committee meeting of the 7 February 2012. A Pre-Determination Hearing is mandatory where a planning application is made for a major development that is significantly contrary to the development plan.
- 1.3 As amended by Section 14(2) of the Planning etc. (Scotland) Act 2006, the Local Government (Scotland) Act 1973 requires that in cases where a Pre-Determination Hearing is mandatory then the application must be decided by a meeting of the Council. Thus this application is now brought before the Council for a determination.

2 RECOMMENDATIONS

- 2.1 That planning permission be refused for the following reasons:
 1. The proposed retail store would result in the loss of allocated business and industrial land that is part of the business and industrial land supply of Haddington and of East Lothian as a whole to an extent that would be detrimental to the economy of East Lothian, contrary to Proposal BUS6

and Policy BUS1 of the adopted East Lothian Local Plan 2008, and Scottish Planning Policy: February 2010.

2. The retail store of the size proposed would allow for a scale of retail use greatly more than that required to address the local quantitative retail deficiency in Haddington identified by the findings of the Haddington Retail Review and because of its scale of use and by its out of town centre location the proposed retail store would have an unacceptable impact on the vitality and viability of Haddington Town Centre. Accordingly the proposed retail store is contrary to Policies RET1 and RET2 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy R1 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

3 BACKGROUND

3.1 Planning Assessment

The application site consists of 4.5 hectares of land at the western side of Haddington. It mainly consists of a field (known as Gateside East) that is located to the east of the Gateside Commerce Park and to the west of Gateside Road. The field is enclosed on its northern, eastern and southern boundaries by a mix of hedgerows and trees. The application site also consists of a length of the B6471 road, which is immediately to the south of the field, and an area of agricultural land that is to the south of that length of the B6471 road. This area of agricultural land forms part of a larger area of agricultural land that is allocated for a mixed use development of 750 houses, social and community facilities and associated infrastructure by Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008.

The application site is bounded to the north by a length of the Haddington to Longniddry railway walk, to the east by Gateside Road, beyond which is a woodland strip and the residential development of Knowesley Park, and to the south by agricultural land. A residential property known as Gateside Cottage is located immediately to the southwest of the application site. The application site is bounded to the west by a narrow road, beyond which is the Gateside Commerce Park. To the west of the Gateside Commerce Park is a tree belt, and beyond that, is the vacant land of the former Oaktree Petrol Filling Station.

In January 2008 Sainsbury's Supermarkets Ltd applied to the Council (Ref: 08/00084/FUL) for planning permission for the development of a Class 1 retail store and petrol filling station on a site consisting of the vacant land of the former Oaktree Petrol Filling Station, the western part of the Gateside Commerce Park, and the intervening tree belt (known as Gateside West). Planning permission was also sought for the reconfiguration of the existing car park of the Gateside Commerce Park and for associated works. The Class 1 retail store that is proposed in application 08/00084/FUL would have a gross floor area of 5,379 square

metres and a total net sales area of 3,260 square metres. The total net sales area would comprise of 2,445 square metres of convenience goods and 815 square metres of comparison goods. Planning application 08/00084/FUL is pending consideration and no decision has been taken on it.

In August 2011 Sainsbury's Supermarkets Ltd and the Premier Property Group applied to the Council (Ref: 11/00729/PPM) for planning permission in principle for the development of a smaller Class 1 retail store and for a petrol filling station on the site the subject of planning application 08/00084/FUL. Planning permission is also sought for the reconfiguration of the existing car park of the Gateside Commerce Park and for associated works. The proposed Class 1 retail store would have a gross floor area of 3,700 square metres and a total net sales area of 2,355 square metres. The applicant estimates that the total net sales area would comprise of 2,002 square metres of convenience goods and 353 square metres of comparison goods. A report on planning application 11/00729/PPM is separately presented to the Council at this time.

The planning permission sought by Tesco Stores Limited/ Santon Group Limited is for the erection at Gateside East of a development of a Class 1 retail store, an associated petrol filling station, an automated teller machine (ATM) pod, car parking, pedestrian and vehicular accesses and other works.

The retail store would have a gross floor area of 8,108 square metres. No details of the proposed net sales area have been submitted with the planning application.

Following the Pre-Determination Hearing for this application on 7 February 2012, the case officer emailed the agent for Tesco Stores Ltd seeking a statement on what would be the net sales area (including a breakdown of the net sales area for convenience goods and comparison goods) for the proposed retail store. At the time of writing this report the agent has not provided this information.

The proposed retail store building, which would have a broadly rectangular footprint, would be positioned on the northern part of the site. Its front elevation would face southwards, would be principally glazed and would have an overhanging entrance canopy supported by feature struts. The other walls of the building would be finished in white composite cladding. The roof of the building would have a shallow pitch and would be clad in a light grey coloured membrane roofing material. A total of 15 pyramidal shaped rooflights would be installed in the roof of the building. The eastern elevation of the retail store building would be some 63 metres from the closest house at Knowesley Park.

The service yard for the retail store would be located adjacent to the western elevation of the retail store building. A total of 536 car parking

spaces would be centrally provided within the application site, to the south of the retail store building. The petrol filling station would be located immediately to the southwest of the proposed car park, in a position to the north of the B6471 road. Immediately to the northwest of the petrol filling station would be a recycling centre. The existing tree belt along the eastern boundary of the application site would be retained. Additionally it is proposed to form an area of tree planting along part of the southern boundary of the field part of the application site.

Vehicular access to the site for both customers and for service delivery vehicles is to be taken from the B6471 road via a new roundabout to be positioned at the junction of Gateside Road and the B6471 road. The new roundabout would also provide access to the agricultural land to the south of the B6471 road that is the subject of Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008.

The application is supported by a transport assessment, which evaluates the traffic impact likely to result from the additional shopping trips generated by the proposed retail store development, examines the accessibility of the development by different modes of transport, and provides a Framework for a Travel Plan for the proposed retail store development.

The transport assessment is premised on the proposed retail store being a replacement for the existing Haddington Tesco supermarket, which is located within the Town Centre at Newton Port.

On appeal against non-determination planning permission 00/01143/FUL was granted on 25 November 2002 for an extension of some 1,300 square metres gross floorspace to the Haddington Tesco supermarket, for alterations to the rear of the adjacent former Co-op store, the formation of a new vehicular access and the formation of additional hardstanding areas.

On 13 March 2008 planning permission 07/01189/FUL was granted for the variation of condition 1 of planning permission 00/01143/FUL to extend the expiration date of the permission from 5 years to 8 years.

On 18 November 2010 planning permission 10/01001/P was granted for the further variation of condition 1 of planning permission 00/01143/FUL to extend the expiration date of the permission from 5 years to 11 years (i.e. by a further 3 years). Planning permission 00/01143/FUL has not yet been implemented but, due to the extensions to the expiration date of it, could so at any time until the 25 November 2013.

In March 2008 Tesco Stores Ltd and Taylor Wimpey applied for planning permission in principle (formerly known as outline planning permission) for the redevelopment of the existing Haddington Tesco supermarket and its car park for retail, commercial, and residential development with associated car parking, public square, servicing, access and landscaping

(application ref: 08/00269/OUT). A report on application 08/00269/OUT is also separately presented to the Council at this time.

As the application the subject of this report was made to the Council prior to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 coming into force in August 2009 there was no requirement for it to be the subject of any pre-application community consultation.

Notwithstanding the existence of the application the subject of this report Tesco Stores Limited submitted to East Lothian Council in October 2009 a Proposal of Application Notice (Ref: 09/00002/PAN). The Proposal of Application Notice intimated that Tesco Stores Limited were intending to submit to the Council another application seeking planning permission or planning permission in principle for a new retail development at Gateside East. The Proposal of Application Notice also set out the pre-application community consultation proposals that Tesco Stores Limited intended to undertake in that respect. To date, Tesco Stores have not submitted another application seeking planning permission or planning permission in principle for a new retail development at Gateside East.

In October 2009 Tesco Stores Limited submitted to East Lothian Council another Proposal of Application Notice (Ref: 09/00003/PAN). In that Proposal of Application Notice Tesco Stores Limited intimated that they were intending to submit to the Council an application seeking planning permission or planning permission in principle for a new retail development, car parking and servicing on the site of the existing Haddington Tesco supermarket and its car park. The Proposal of Application Notice also set out the pre-application community consultation proposals that Tesco Stores Limited intended to undertake in that respect. To date, Tesco Stores have not submitted another application seeking planning permission or planning permission in principle for new retail development on their existing supermarket site.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies RET1 (Sequential Approach To The Location Of Retail And Commercial Leisure Developments), RET2 (Other Considerations To Be Satisfied Under The Sequential Approach), RET5 (Local Plan Implementation), and ENV1G (Design of New development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Proposals BUS6 (Gateside, Haddington) and R5 (Haddington Retail Review) and Policies BUS1 (Business and General Industrial Locations), R1 (New Shops), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or adjacent to Development Sites), DP17 (Art

Works- Percent for Art), DP18 (Transport Assessments and Travel Plans), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), DP23 (Waste Minimisation, Separation, Collection and Recycling), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application is Scottish Ministers' policy on town centres and retailing as given in Scottish Planning Policy: February 2010.

Scottish Planning Policy: February 2010 advises that town centres are a key element of the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Scottish Planning Policy: February 2010 also advises that the development plan should enable gaps and deficiencies in provision of shopping, leisure and other services to be remedied by identifying appropriate locations for new development and regeneration.

Scottish Planning Policy: February 2010 states that where development proposals in edge of town centre, commercial centre or out-of-centre locations are not consistent with the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing centres is acceptable. Out-of-centre locations should only be considered when:

- all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable,
- development of the scale proposed is appropriate, and
- there will be no significant adverse effect on the vitality and viability of existing centres.

Additionally, when a proposed retail or commercial leisure development is contrary to the development plan, planning authorities should ensure that:

- the sequential approach to site selection has been used,
- there is no unacceptable individual or cumulative impact on the vitality and viability of the identified network of centres,
- the proposal will help to meet qualitative and quantitative deficiencies identified in the development plan, and

- the proposal does not conflict with other significant objectives of the development plan or other relevant strategy.

Scottish Planning Policy: February 2010 requires that all retail, leisure and related developments should be accessible by walking, cycling and public transport.

Also material to the determination of the application is the recommendations of the Haddington Retail Review, which were approved by the Cabinet of East Lothian Council on the 09 November 2010.

They are:

i. to support the Haddington Retail Review's estimate of additional retail floorspace capacity that could be accommodated in Haddington;

ii. to agree that there are no suitable or available town centre or edge of town centre sites capable of accommodating that additional floorspace;

iii. that the amount of convenience retail floorspace that should be provided in an out-of centre location should be limited to around 3000 square metres (gross floorspace) by 2014, rising to 3500 square metres (gross floorspace) by 2019. This is the equivalent of a supermarket with a gross floorspace of 3700 square metres by 2014 and 4400 square metres by 2019 (assuming 20% non-food floorspace);

iv. to note that the support for this level of additional out-of-centre floorspace is based upon the continued presence in the town centre of a supermarket operator of a scale capable of generating similar levels of trade and footfall to that existing there;

v. that this support is conditional on the proportion of comparison shopping floorspace in any new out-of-centre supermarket being no more than about 20% or thereby;

vi. that any retail park in Haddington should be restricted to the sale of bulky goods in order to minimise trade diversion from the town centre;

vii. that further agreed traffic analysis now concludes that there is very little to differentiate between Harperdean, Gateside East and Gateside West in terms of traffic impacts at the critical Station Road/Aberlady Road/Court Street/Knox Place junction; and

viii. in the light of these findings and assessment, that Gateside West be identified as the Council's preferred location for additional retail floorspace provision in the town.

A total of 119 written representations have been received in respect of this application. Of these 111 make objection to the proposed development. Two of them are from Haddington Business Association and two are from Haddington and District Amenity Society. There is 1 representation in support of the proposed retail development. 7 of the total of 119 written representations do not support or object to the proposed retail development.

A copy of each written representation is contained in a shared electronic folder to which all Members of the Council have access.

3 of the written representations of objection are petitions, with a total of 184 signatories to them. In the petitions it is stated that “We support Haddington Business Association in the desire to retain Tesco in Haddington Town Centre and we oppose the proposed Tesco development at Gateside East, Haddington”.

The main grounds of objection of the other written representations are summarised as follows:

- The proposed retail store would have a negative effect on businesses in the Town Centre and on the viability and vitality of Haddington Town Centre, because shoppers would be diverted away from the Town Centre to the out of town centre retail store;
- Adverse impact on residential property by reason of noise, disturbance, artificial lighting, litter and by danger generated by increased traffic flow;
- Size of the proposed retail store is totally unnecessary for the needs of residents of Haddington and the surrounding area;
- The proposed retail store would create traffic congestion by adding hugely to the amount of vehicles in the vicinity;
- The proposed out of centre location would mean that it would be inconvenient for many people to access the proposed retail store;
- Proposal would result in the loss of allocated business and industrial land;
- Proposed retail store is an unsustainable form of development;
- Proposed retail store would be a blot on the landscape and would change the approach into Haddington in an unacceptable way;
- Proposed development would result in the closure of the one remaining petrol filling station in Haddington;
- Loss of private views;
- Removal of existing trees would have an adverse impact on wildlife; and
- Proposed retail store would be harmful to tourism in East Lothian;

In the 1 written representation of support it is stated that the proposed retail development would offer a wider range of goods, would boost the town and would create employment opportunities, and would resolve issues that some neighbours of the existing Tesco supermarket have in

respect of noise and service deliveries. Additionally the petrol filling station would offer people a better price for fuel.

Haddington Area Community Council are against the proposed retail development, as they consider that the alternative Sainsbury's proposal would bring a choice of supermarket to Haddington, could possibly bring a greater footfall to the area, would create more jobs, and would regenerate the vacant land of the former Oaktree Petrol Filling Station.

The only development proposed for the southern part of the application site, which consists of an area of agricultural land that is to the south of the length of the B6471 road, is part of the proposed roundabout junction that would provide vehicular access to the site from the B6471 road for both customers and for service delivery vehicles. The new roundabout would also provide access to the agricultural land to the south of the B6471 road that is the subject of Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008. As a form of road infrastructure that could in part facilitate access to the land proposed for mixed use development, the principle of the proposed roundabout is not contrary to Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008.

The proposed retail store building, being the main built element of the proposed development, is designed for the functionality of its intended use and is to be positioned at the rear (northern part) of the site to mitigate its visual impact from the principal public views of the development, which would be from the B6471 road to the south of the application site. Even in its proposed position the retail store building would be visible from Gateside Road, from the Haddington - Longniddry railway walk, and from the narrow road that is immediately to the west of the site. In its proposed position the retail store building would be seen, to some extent, in relation to the existing group of large buildings of the Gateside Commerce Park.

The petrol filling station would be positioned adjacent to the B6471 road. However a facility of this nature has, due to the functionality of its use a distinctive design form and is a facility that normally is positioned adjacent to or in close proximity to the roadside. In this regard the proposed petrol filling station would not appear as an alien or incongruous feature in its setting.

When having regard to the potential visual impact of the proposed development, consideration must be given to the fact that the application site is allocated for business and general industrial use by Proposal BUS6 of the adopted East Lothian Local Plan 2008. Thus the principle of the construction of potentially large and functional building(s) on this land together with service yards and areas of car parking is already established. The erection of business or industrial units on this land could have as great an impact, and possibly more, on the visual amenity of the locality than would the proposed retail store development.

The landscape advice of the Policy and Project's Manager is that the proposed retail store development could be successfully integrated into the landscape setting of the application site provided that satisfactory landscape treatment were to be provided around the boundaries of the site. Additionally there would have to be an appropriate soft landscape treatment for the car park to break up the expanse of its hardsurface.

The proposed retail store building would be sited some 25 metres to the south of the nearest residential properties of Gateside Avenue and some 60 metres to the west of the nearest residential properties of Knowesley Park. Between it and the nearest residential properties of Gateside Avenue would be the Haddington-Longniddry railway walk which has some landscaping on the south and north sides of it. Between it and the nearest residential properties of Knowesley Park would be the public road of Gateside Road and a belt of trees that is to the east side of the road. Accordingly, the proposed retail store building would not by its physical presence harmfully impose itself on or dominate those nearby residential properties.

By its design and layout the proposed retail development is not contrary to Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 or Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

The Council's Head of Transportation has considered the transport assessment submitted with this planning application and generally agrees with its findings. He does not raise any capacity issues in terms of traffic impact on the local road network generated by the proposed retail store development. Moreover he is satisfied with the number and layout of car parking spaces proposed to serve the retail store. He does however advise that the new access junction to provide access to the site from the B6471 road should be in the form of a signalised junction with pedestrian crossing facilities, and not as a roundabout junction as the applicant proposes. He also recommends that cycle parking should be provided within the site at a rate of 1 space for customers plus one for employees per 600 square metres gross floor area. He further recommends that wheel washing facilities be provided and maintained in working order for the duration of the construction works for the proposed retail store.

The Head of Transportation recommends that a detailed Travel Plan in respect of the proposed development be submitted to and approved in advance by the Planning Authority. The Travel Plan should seek to minimise private car trips and encourage use of alternative modes of transport such as trains, buses, cycling and walking. It should identify the measures to be provided, the methods of management, monitoring, review, reporting and duration of the plan.

The Head of Transportation further recommends that a construction method statement should be submitted to and approved in advance by the Planning Authority. The construction method statement should seek to minimise the impact of construction traffic movement and activity on the local road network. On a wider consideration it should also seek to minimise the impact of construction traffic movement and activity on the amenity of the area. It should recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work.

In his consultation response on separate application 11/00729/PPM (i.e. the application by Sainsbury's Supermarkets Ltd and Premier Property Group for planning permission in principle for the erection of a Class 1 retail store, petrol filling station, reconfiguration of existing commerce park car park, services and associated works at Gateside West) the Head of Transportation recommends an upgrading of the Haddington to Longniddry railway walk, in the interests of ensuring a safe and convenient pedestrian access to and from that proposed retail store. The recommended upgrading works would be required to consist of the hard surfacing of the length of the railway walk between Gateside Road and the proposed new pedestrian access to that proposed retail store from the railway walk, and the provision of street lighting on the railway walk between Alderston Road and the proposed new pedestrian access to the retail store from the railway walk.

In the case of the retail store proposed for Gateside East in this application, the Head of Transportation has made no recommendation for an upgrading of the Haddington-Longniddry railway walk. There is no proposal in the application for a direct pedestrian link between the proposed retail store and the railway walk. However, it is proposed that a pedestrian access be formed in the northeast corner of the application site. That access would be onto an existing length of public footpath that is on the west side of the public road of Gateside Road, just to the south of the railway walk. In the interests of ensuring a safe and convenient pedestrian access to and from the proposed retail store the provision of street lighting on the railway walk between Gateside Road and Alderston Road would be justified.

The Council's Landscape and Countryside Management Manager has raised no objection to the upgrading of the railway walk recommended by the Head of Transportation for the retail store development proposed in separate application 11/00729/PPM and thus it might reasonably be inferred that neither would she object to the required upgrading of the railway walk in the circumstance of the retail store development proposed in this application.

On these considerations the proposed retail store development proposed in this application is not contrary to Policies T1, T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

The applicant's Transport Assessment recommends that a local shopper's bus service is introduced. The applicant has provided some details of possible service provision. An approximate frequency of 20 minutes is envisaged. Two possible routes for the shopper's bus have been submitted, which show that the bus could provide links to various parts of Haddington. It is unclear whether or not the shopper's bus would run 7 days a week, and during which periods of the day. Moreover it is unclear whether the service would be a registered public bus service (i.e. charging fares, running to a defined timetable etc) or a free shopper's bus. It is also unclear for how long the applicant would fund it.

If the Council were to decide that planning permission should be granted for the retail store development proposed in this application for Gateside East and that there would be sufficient justification for the need for a shopper's bus service then the provision of it could be secured by a planning obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal agreement.

Transport Scotland raise no objection to the principle of the proposed development, although they recommend that a Travel Plan should be submitted to and approved by the Planning Authority prior to the commencement of any retail development of the application site.

Policy DP23 of the adopted East Lothian Local Plan 2008 requires provision for recycling facilities as part of the retail store development. The applicant has included a recycling area within the site layout plan submitted with the application. The principle of this submission is consistent with Policy DP23 of the adopted East Lothian Local Plan 2008.

The Council's Waste Services Manager raises concern that due to its size and layout of the proposed recycling area would not be entirely suitable for safe and effective use. Either the proposed recycling area would have to be re-designed or that it is confirmed by the applicant that the recycling area would be serviced by a private contractor and that the Council would not be required to uplift recycled material from the site.

The Senior Environmental and Consumer Services Manager has considered the application in respect of the likely impact the proposed retail store development would have on the amenity of residential properties nearby. He does not recommend that the application be refused on the grounds that the development would have a significantly adverse impact on the amenity of nearby residents.

In his initial consultation response he did however recommend that the applicant submit a noise impact assessment and a lighting assessment to establish the likely impact of noise and light emissions respectively and that the applicant should put forward any necessary mitigation measures that may be required to safeguard the amenity of nearby residents. A noise impact assessment and a lighting assessment have

not been submitted. Nonetheless, the Senior Environmental and Consumer Services Manager now considers it likely that the impacts of noise and lighting could be acceptably mitigated subject to planning controls embodied in a grant of planning permission.

Scottish Water raise no objection to the proposed retail store development.

The Scottish Environment Protection Agency originally objected to the application on the grounds of potential flood risk. They have since advised that their concerns could be overcome if further drainage information was to be submitted by the applicant and, if necessary, mitigation measures used. They recommend that a SUDS scheme should be submitted to and approved by the Planning Authority prior to the commencement of any retail development of the application site.

The proposed development by its scale and prominent public location would have a significant impact on the local environment and thus in accordance with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008 it should incorporate artwork either as an integral part of the overall design or as a related commission.

Notwithstanding all of these foregoing considerations, the principal material considerations in the determination of this planning application are:

- (i) whether or not the loss to the proposed retail store development of the allocated business land of the application site is acceptable; and
- (ii) whether or not the proposed retail store development meets the sequential and other tests for new retail development set out in Scottish Planning Policy: February 2010, and in the development plan in the form of Policies RET1 and RET2 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy R1 of the adopted East Lothian Local Plan 2008.

A significant objective of the development plan is the provision of an adequate supply of available land for business and industrial uses in various locations within East Lothian. Paragraph 4.2 of the approved Edinburgh and the Lothians Structure Plan 2015 states that "National planning policy guidance underlines the need for planning to support the development of a strong diverse and competitive Scottish economy in a way that promotes social justice and sustainable development." East Lothian Council has a significant role to play in this by supporting the promotion of the economy of East Lothian and of the greater area of the Lothians.

As an essential requirement to meet the continued need for there to be available business and industrial land and premises to enable the continued growth of East Lothian's economy, the adopted East Lothian

Local Plan 2008, allocates a number of sites for business and industrial development. One of these is the Gateside East site that is the subject of this application. Through Proposal BUS6 and Policy BUS1 of the Local Plan the majority of the application site, which is the large field known as Gateside East is promoted for business and industrial uses falling within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Policy BUS1 states that development that does not fall within these classes will not normally be permitted, with the exception of retail activity that is directly related and ancillary to a business or industrial process carried out on the site. Policy BUS1 states that other retailing activity will not be permitted.

The retail store development proposed in this application is other retailing activity and also a retailing use that is not directly related and ancillary to a business or industrial process carried out on the Gateside East site. What is proposed is a complete stand-alone retail use of this large site the consequence of which would be the total loss of all of the allocated business and industrial land of the site that is an essential part of the existing business land supply for Haddington and East Lothian as a whole.

On this material consideration the proposed retail store development is contrary to Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008.

The Haddington Retail Review did not support the retail development of the Gateside East site, as it would take up the last significant area of undeveloped employment land in Haddington.

In his consultation response, the Council's Policy and Projects Manager advises that there is no evidence to suggest that the Gateside East site is not physically capable of being developed for business and industrial use. He confirms that the Gateside East site remains a suitable site for business and industrial use. Its future retention for those allocated uses is particularly important given the significant allocation of land for housing and associated development at Letham Mains as a planned expansion of Haddington through Proposal H3 of the adopted East Lothian Local Plan 2008.

The Cabinet approved recommendations of the Haddington Retail Review are an important material consideration in the determination of this planning application.

Through that decision Cabinet agreed to support the Haddington Retail Review's estimate of additional retail floorspace capacity that could be accommodated in Haddington; the equivalent of a supermarket with a gross floorspace of 3700 square metres by 2014 and 4400 square metres by 2019 (assuming 20% non-food floorspace). Secondly, Cabinet agreed that this support is based upon the continued presence in the town centre of a supermarket operator of a scale capable of generating

similar levels of trade and footfall to that existing there. Thirdly, Cabinet agreed that there is no suitable or available town centre or edge of town centre sites capable of accommodating the estimated additional retail floorspace capacity. Fourthly Cabinet agreed that in light of all of this Gateside West, and not Gateside East, be identified as the Council's preferred location for additional retail floorspace provision in the town.

Since the Pre-Determination Hearing for this application on 7 February 2012, Roderick MacLean Associates Ltd have advised the Council that there has been little change in convenience retail data in recent years. This, they state is noted from publications and other studies that they have undertaken, including recent reviews of similar supermarket proposals in West Lothian, Angus, Fife, Argyll and Stirling. As there has been little change in convenience turnover rates, Roderick MacLean Associates Ltd do not accept that their retail capacity study for Haddington, which informed the Council's Haddington Retail Review, is out of date.

The retail store proposed in this application would have a gross floorspace of 8,108 square metres.

The proposed retail store would in part be a replacement for the existing Tesco town centre supermarket which presently has a gross floor space of 3,426 square metres and which, by the still extant grant of planning permission 00/01143/FUL, could be extended by some further 1,300 square metres of gross floorspace to take the size of the supermarket up to some 4726 square metres of gross floorspace. All of that floor space is accounted for in the findings of the Haddington Retail Review.

The proposed retail store would have a gross floorspace of some 3,382 square metres more than that of the combined existing Tesco town centre supermarket and the extension approved for it. This 3,382 square metres of gross floorspace is some 318 square metres less than the 3,700 square metres of additional gross retail floorspace capacity that the Cabinet in its decision on the Haddington Retail Review has agreed that the Council should support.

In association with this application Tesco Stores Ltd and Taylor Wimpey are applying for planning permission in principle (application reference 08/00269/OUT for the redevelopment of the existing Tesco town centre supermarket and its associated car park for retail, commercial, and residential development. The exact mix and scale of that proposed mixed use development has not been stated by the applicant. However the transport assessment submitted with that application is premised on a mixed use development consisting of several retail units with a combined gross floorspace of 2,100 square metres.

Were that 2,100 square metres of gross retail floorspace to be provided in the town centre of Haddington it would be in the form of a number of retail units and it would be some 2,626 square metres of gross retail

floorspace less than the combined gross retail floorspace of the existing Tesco supermarket and the extension that could be added to that supermarket.

Notwithstanding this alternative provision of town centre retail floorspace, the retail store proposed in this application for the Gateside East site is not consistent with the Cabinet decision on the Haddington Retail Review that the provision of an additional 3,700 square metres of gross retail floorspace in Haddington is premised on the continued presence in the town centre of a supermarket operator of a scale capable of generating similar levels of trade and footfall to that existing there.

The reasoning behind this remains as set out in the report on the Haddington Retail Review presented to Cabinet on 9 November 2010 and on which Cabinet based its decision. Such reasoning is that on the findings of the Roderick MacLean Associates' studies, Haddington has the retail capacity for an additional 3,700 square metres of gross floorspace by 2014 but that in order to maintain the vitality and viability of the town centre no more than that additional gross floorspace should be accommodated in an out of town centre location.

The retail store development of 8,108 square metres of gross floorspace proposed in this application for the out of town centre site of Gateside East is not compliant with this. It fails the sequential test for retail development and is contrary to Policies RET1 and RET2 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy R1 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

4 POLICY IMPLICATIONS

4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Planning application 08/00084/FUL- Erection of retail store, petrol filling station, reconfiguration of existing commerce park car park and associated works at Gateside West, West Road, Haddington
- 7.2 Planning application 08/00270/FUL- Erection of Class 1 retail store and petrol filling station at Gateside East, Gateside Road, West Road, Haddington
- 7.3 Proposal of Application Notice 09/00002/PAN - Erection of new retail development, car parking and servicing at Gateside East, Gateside Road, West Road, Haddington
- 7.4 Planning application 11/00729/PPM- Planning permission in principle for the erection of a Class 1 retail store, petrol filling station, reconfiguration of existing commerce park car park, services and associated works at Gateside West, West Road, Haddington
- 7.5 Adopted East Lothian Local Plan 2008
- 7.6 Approved Edinburgh and the Lothians Structure Plan 2015
- 7.7 Scottish Planning Policy: February 2010
- 7.8 Haddington Retail Review, report by Executive Director of Environment to ELC Cabinet, 09 November 2010
- 7.9 Minute of East Lothian Council Cabinet Meeting, 09 November 2010

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DATE	13 February 2012

PLANNING APPLICATION NO. 08/00270/FUL:

**Erection of Class 1 retail store and petrol filling station at Gateside East,
Gateside Road, West Road, Haddington**

**NOTE TO COUNCIL OF PRESENTATIONS MADE TO
THE PLANNING COMMITTEE ON 7 FEBRUARY 2012
IN RESPECT OF THE PRE-DETERMINATION
HEARING**

Note to Council of 28 February 2012 of presentations made to the Planning Committee of 7 February 2012 in respect of the Pre-determination Hearing - Planning Application No. 08/00270/FUL, Erection of Class 1 retail store and petrol filling station at Gateside East, Gateside Road, West Road, Haddington

PRESENTATION BY MR PHIL PRITCHETT, PRITCHETT PLANNING CONSULTANCY (AGENT)

Mr Phil Pritchett, of Pritchett Planning Consultancy, spoke in support of Tesco's planning application, advising that Tesco had been actively involved in the Haddington Retail Review for the past 6 years. He referred to Page 6 of the Papers which stated that '*support for ...out-of-centre floorspace was based upon the continued presence in the town centre of a supermarket operator...*' He stated that Tesco had taken this very seriously, but so far, Tesco had not found another retailer willing to work alongside them. In short, Tesco could not guarantee their continued presence in the town if a new retailer received planning permission for an out of town supermarket. Mr Pritchett also made the following points:

- A new out of town supermarket would have to draw customers from all over East Lothian to be a viable business
- It was projected that another retailer, out of town, would result in a 37% reduction in turnover for Tesco at Newton Port. There would be significantly fewer customers visiting the shop and, as a consequence, the town centre retailers.
- Sainsburys had not complied with East Lothian Development Policy
- Tesco could not progress any development plans until the issue of an out of town store was resolved
- Tesco was the only applicant who had carried out 'real' market research to ascertain what the market could sustain.
- Tesco strongly believed that resources should be concentrated on making the town centre as strong as possible until there is evidence of a clear need for another store.

Finally, Mr Pritchett stated that neither Tesco, Sainsburys or East Lothian Council could be certain of the effect a new Sainsburys store would have on the community. However, he was convinced that a Sainsburys store would be detrimental to the long term future of Haddington.

QUESTIONS TO AGENT

Questions were responded to by the Agent, except where indicated otherwise.

Q Can commercial issues be considered as material planning considerations?

A The Development Management Manager responded that commercial competition was not a material planning consideration.

- Q** Are your comments regarding withdrawal of all applications a recommendation to Planning Committee to refuse all three?
- A** Tesco had allowed their applications to remain in the system to ascertain the Council's assessment of the applications.
- Q** Should all three applications be considered on their own merit?
- A** The Development Management Manager responded that each application should be considered separately.
- Q** How many jobs would be created at Tesco Gateside East?
- A** The store was similar to Tesco in Musselburgh, so 250 new jobs would be created, not including the transfer of 450 existing staff from Tesco at Newton Port.
- Q** If 37% of trade was lost to a Sainsburys at Gateside West, how many jobs would that equate to?
- A** It would be very difficult to say, particularly as Tesco would compete to maintain trade. A drop in customers would mean that fewer people were required to service the store.
- Q** How would the store space be split between convenience and comparison goods?
- A** Tesco were currently focussing on the provision of food, however it would be likely to be comparable to what was available in the Musselburgh store.
- Q** Why was a store the size of Musselburgh Tesco applied for in a town the size of Haddington which had much fewer residents?
- A** There were a comparable number of residents in the Haddington catchment, which included large areas of south and mid East Lothian where there was no competition at this time.
- Q** How many contractors would be employed for the building project?
- A** No exact figures are available, but Barr would be employed to develop the site. They would employ 50-60 of their own contractors, but also contract work out to local businesses.
- Q** Was the provision of work to local contractors a material planning consideration?
- A** The Development Management Manager confirmed that this was not a material planning consideration.

Q Is there a policy which states that the floor space provided for non-convenience items in a supermarket must be at or below 20% of the space available?

A The Development Management Manager answered that this was an over simplification but a full explanation would be provided in the report brought to the Council meeting to determine the application.

Q If Tesco's were likely to experience a 37% drop in their business how confident were they that their store would remain sustainable and viable?

A Tescos would continue to compete and were in the market to compete. As HADAS clarified in their presentation, Tesco were the anchor store for Haddington Town Centre so any impact on Newton Port Tesco would be felt throughout the town.

PRESENTATIONS AGAINST THE APPLICATION

Mr Holder, on behalf of Sainsburys, had no further comments to make on this application.

Ms Inglis, on behalf of Haddington Community Council, had no further comments to make on this application

Mr Joe Forte, on behalf of Haddington Business Association

Mr Forte stated that the Association totally objected to Tesco moving out to Gateside and building a store the same size as Musselburgh Tesco. He had been interested to hear Mr Pritchett's views, particularly in regard to the changed economic climate.

Q How much interaction had there been between Tesco and the Haddington Business Association?

A Very little interaction or consultation. He could only remember one meeting with representatives from Tesco which had taken place three or four years ago.

Mrs Helen Fraser, on behalf of the residents of Gateside and Knowesley Park, Haddington

Mrs Fraser, whose group had submitted a petition to the Council in May 2008, stated that they were opposed to Tesco relocating to Gateside East and that they supported their local traders in their desire to keep Tesco in Haddington's town centre. She raised a number of issues and outlined the following objections:

- The impact on traffic flow on West Road (B6471) from the vast increase in the number of vehicles using this road, would result in access to their homes being severely restricted
- There is pavement for pedestrians on only one side of the road
- There has been no mention of bus stops and how people who use the bus services could be inconvenienced
- Noise generated by the loading bays at the rear of the site would disturb residents of Gateside houses

For the reasons above, Mrs Fraser claimed that Tesco would be a bad neighbour, and since almost every customer would arrive by car, there was also an environmental issue. She also maintained that, as Tesco had the option to alter or enlarge their Newton Port store, there was no need for them to move to Gateside. Tesco also had a superstore selling non food items at Newcraighall, only a 10 minute car journey away.

Finally, Mrs Fraser pointed out that Item 23 of the Town Centre Health Check in the Roderick MacLean report suggested that the relocation of Tesco would considerably reduce trading levels. A news report out today had also claimed that the number of empty shops on Britain's High Streets was set to rise in 2012. It was therefore clear that, if residents wanted choice, local shops needed to be supported to have a future. Mrs Fraser therefore confirmed that, on behalf of Gateside and Knowesley Park residents, she proposed that the Tesco planning application was rejected.

The Convener advised that all those who had made representations would be invited to all the site visits.