
PROPOSED DEVELOPMENT AT FEETHAMS

**Responsible Cabinet Member(s) - Councillor John Williams, Leader
Councillor David Lyonette, Regeneration and Planning Portfolio**

Responsible Director - John Buxton, Director of Development and Environment

Purpose of Report

1. To advise Members of development proposals put forward by Tesco for land at Feethams, including the Town Hall, to report the outcome of public consultation and to report on views regarding the market and to set out options for a decision on how the Council might proceed.

Information

Site Description

2. The site proposed for the development described in this report comprises of the bus garage, the Beaumont Street north and east car parks, the former Stanley Robinson land (currently used for public parking and site compounds) and the Town Hall site (building and car parks). The plan at **Appendix 1** shows the extent of the site.

Development Objective for the Site and Planning Guidance

3. Formal planning guidance for the site is provided by the Regional Spatial Strategy (formerly Regional Planning Guidance No 1, the emerging Regional Spatial Strategy, the Tees Valley Structure Plan, the Borough of Darlington Local Plan and 'Adding to Quality' (the Darlington Town Centre Development Strategy), which is adopted as supplementary planning guidance. In addition there are national planning policy statements that would also need to be taken into account if the proposed development was the subject of a planning application.
4. The Town Centre Development Strategy envisaged the bus garage site, the Council's car parks and the land formerly occupied by the Robinson shops for mixed use and car parking. The strategy envisaged a mix of leisure, commercial and housing as being the most desirable.
5. There is an undoubted need for the site to be redeveloped as the site is part derelict, the bus garage is an eyesore and there are no uses to the south of the Market Square that add value (other than providing car parking) to the town centre for seven days a week and into the evenings.

Recent History

6. A number of developments, based on leisure, were proposed by a developer (Simons Estates) from 1999 to 2001 and planning permission was granted for a mixed use scheme. The permission was not implemented as the developer was unable to get to the point where the proposed development was financially viable.
7. In 2002 a developer (Terrace Hill), who had purchased the Robinson site, gained planning permission for a small office on the Robinson site. However since then Terrace Hill have sold the land to another developer (acting on behalf of Tesco) who has permitted the Council to use part of it for car parking and the balance on short term licence for site compounds.
8. In the late summer of 2003 Tesco approached the Council with a town centre development proposal for a Tesco Extra supermarket. During 2004 Tesco produced a series of proposals to include housing and some small scale ancillary restaurant and café in addition to any in-house café. Throughout 2004 and 2005 Tesco worked on the plans and in dialogue with both Council officers and Arriva produced a development that was financially viable for Tesco that also provided both Arriva and the Council with replacements for the bus garage and Town Hall, respectively. Both the bus garage and Town Hall sites would be required for the proposed Tesco superstore.
9. In February 2006 Asda Stores made an approach to officers to express an interest in doing a similar development to that proposed by Tesco. A letter expressing this interest was sent but there were no proposals or plans as to what this development might comprise. In October 2006 Asda submitted a number of options for what a development might comprise but within a couple of days informed officers that in the light of the consultation they would do nothing further until the Council had considered the Tesco proposal.

Summary of Local Planning Policy for the Site

A: Borough of Darlington Local Plan

10. The site is the subject of a number of allocations within the Local Plan. The Beaumont Street North and East car parks are allocated as part of the Beaumont Street central area redevelopment site. Policy T19 (Multi-Storey Car Parks) safeguards the site as a whole for the construction of a multi-storey car park in conjunction with development for commercial purposes. Policy EP11.3 (Central Area Development Sites – Beaumont Street) states that the latter could include B1 office, or any other travel intensive uses such as shopping, leisure facilities and hotels.
11. Policy T32 (Feethams Bus Station) acknowledges that the bus station presents a poor image of Darlington and seeks to improve or replace facilities for passengers with the co-operation of the operator. Adjacent to the south east corner of the bus station, an area of open land is identified and Policy E3 (Protection of Open Land) seeks to maintain the usefulness and enhance the appearance and nature conservation interest of the open land within the urban area.

12. The remainder of the site is unallocated for any specific use. The site as a whole however lies within the Town Centre and the north and west boundaries abut the Town Centre Conservation Area. St Cuthbert's Church, a Grade I listed building is identified by Policy E10 (Protection of Key Townscape and Landscape Features) as a key townscape feature, whose setting must be preserved. Part of the cycle route network runs through the eastern corner of the site.
13. The River Skerne also runs along the eastern boundary of the site. Policy E18 (The River Skerne) states that opportunities will be sought to enhance the appearance, vitality and recreation and nature conservation value of buildings and land adjacent to the river, within the urban area. Beyond the river is the Inner Ring Road, one of the main travel routes of the Borough. Policy E16 (Appearance From Main Travel Routes) requires that the appearance of the Borough from the main road network will be maintained and enhanced.

B: Adding to Quality

14. The Town Centre Development Strategy identifies various parts of the site as being suitable for a range of office, leisure and residential developments. More specifically, the Beaumont Street car parks, including the former 'Stanley Robinson' land, collectively known as Feethams West, is identified as the Town Centre site with the greatest potential for development with leisure being the lead component for a mixed use development, alongside ancillary retail and food and drink uses, a multi-storey car park, possibly with residential or office uses on the upper floors and public toilets.
15. Feethams East, the site of the bus station, is also identified for mixed use development, with either leisure or office use being the lead component, possibly with residential uses on the upper floors or on the river frontage. The strategy also identifies this site as possibly providing some public car park provision and as being suitable for a hotel.
16. The strategy envisaged a high standard of design as being essential for both the Feethams East and West sites helping to create a strong gateway into the town, amongst other considerations. However the current proposal would close Feethams as an access for vehicles to the town centre and would, therefore no longer be a gateway as envisaged by the strategy; high standard of design is, of course, still a requirement for this key town centre site.
17. The strategy acknowledges that the Local Plan seeks provision for 2000 short stay car parking spaces to be provided within the ring road. This will involve an increase in the present 1800 spaces provided, which will include, where appropriate multi-storey car parking. The strategy suggests 524 would be provided at Beaumont Street (currently there are just under 300 spaces at the two Beaumont Street car parks proposed for the Tesco development) however if Commercial Street is redeveloped it will provide an increase of 380 spaces. The Tesco proposal would provide an additional 280 spaces to the number currently provided at Beaumont Street and the Town Hall.

Summary of the Proposed Development

18. The main elements of the proposed development are:
 - (a) a Tesco Extra supermarket;
 - (b) a new Town Hall;
 - (c) residential around the superstore;
 - (d) charged car parking with a concession for Tesco customers;
 - (e) a petrol filling station;
 - (f) Café and restaurant in addition to any that might be located within the store;
 - (g) replacement bus depot and garage for Arriva;
 - (h) closing Feethams as a highway between Houndgate and the inner ring road.
19. The proposed development is large and was not foreseen in the development strategy, largely because it was considered that there was no demand from any of the supermarket operators for a town centre site.
20. The proposed supermarket would sell both food and non-food. The traditional goods sold by a supermarket (known as convenience goods) would take up about half of the retail floor space and the other half would be used to sell goods that have only more recently been introduced into supermarkets, such as fashion, DVD's and domestic appliances (known as comparison goods).
21. The proposed new Civic offices would be located at the southern end of the site and would provide largely open plan office space for up to six hundred of the Council's staff (particularly those needing town centre location). Public areas comprising flexibly sized meeting rooms and a multi-purpose Council chamber. In addition a new CCTV control centre would be incorporated into the offices.
22. The bus garage would be relocated to Council owned land at the end of Chesnut Street.
23. The impact on Feethams roundabout and the local highway network would need to be fully assessed as part of any planning application. Initial work undertaken to assess highway issues suggest there are no insurmountable problems with regard to transport.
24. The proposed development and the terms offered to the Council were approved by the Tesco Board in April 2006. It was considered that this approval was required before any consideration was given to the proposal by the Council because speculative development proposals often arise but then do not get the necessary backing from the developer; generally for financial reasons but also because planning policy might be too significant an obstacle and sometimes because sufficient occupiers cannot be found to support a proposed development.
25. Although the scale of the proposed development is less than that for Commercial Street the nature of the development is substantially different. The main differences to the Commercial Street proposal are that it is a single occupier, it would be the largest supermarket within Darlington and it would attract shoppers on a far more regular frequency due to the large number of shoppers going to buy food.

26. While the development offered the most promising development proposal from the perspective of deliverability, and some solid benefits in terms of balancing this part of town there are nonetheless some risks or potential disbenefits. To inform the decision that Council need to make therefore a major public consultation exercise has been undertaken.

Public Consultation

27. Probably the largest and most far reaching public consultation ever undertaken in Darlington ran over a six-week period from the end of August 2006. A total of seventy-five public events were organised which were staffed and in many cases presentations given to those attending. The events ranged from 'drop in' sessions in villages, school gate conversations with parents, a stall in the Town Centre, drop in sessions at three major employment locations (Orange, Cummins and Lingfield Point), Darlington Assembly and many others. A report on the consultation can be found at **Appendix 2**.
28. The Council website had a dedicated section for the consultation, the Town Crier had a section in the September edition.
29. Everyone who took part was encouraged to complete a response card, either at the event, using the website or a 'Freepost' reply. A total of 2,797 individual responses were received and a petition with 10,800 signatures was received, organised by a group who set themselves up as 'Say No To Tesco' campaign.
30. Recognising that ad hoc responses to consultation are not often representative of the views of the community at large the Council also commissioned one of the best known names in the business of conducting opinion surveys, namely MORI (Ipsos MORI). Mori have conducted a survey across a statistically valid sample of Darlington residents. The results to the question of do people support or oppose the proposed development are:
- (a) 56% opposed the proposed development;
 - (b) 25% support the proposal
 - (c) 17% neither supported nor opposed it;
 - (d) 2% don't know or don't have a view.
31. The results from the responses from public consultation (does not include the Mori results) are:
- (a) 78% not in favour of the proposed development;
 - (b) 18% in favour;
 - (c) 4% don't know or don't have a view.
32. The most common issues raised by those against the proposal were:
- (a) proposed development will change the character of the town;
 - (b) negative impact on the historic market town image, market square and the uniqueness of the town and reduce the number of visitors to the town;
 - (c) town will become completely characterless;
 - (d) proposal will turn Darlington into just another ordinary and dull town centre;
 - (e) detrimental affect on the markets and other retailers within the town, increasing the number of empty shops, which will impact on the diversity of shops operating in the town;

- (f) retailers within the town will not be able to compete with the buying power of Tesco and the choice and range of shops in the town will reduce;
- (g) there are too many supermarkets in Darlington the town does not need another one;
- (h) Tesco are a powerful organisation only interested in destroying the competition;
- (i) imposing structure of the development will have a negative impact on St Cuthbert's which will be overwhelmed by the modern building spoiling the setting of the church and the market place;
- (j) the design, size and bulk of the proposal looks too modern and out of character with the town;
- (k) the closing of businesses within the town centre will negate any jobs created by the proposal;
- (l) it will create more traffic congestion, which will have an impact on the environment;
- (m) proposal is contrary to existing planning policy.

33. The most common issues raised by those for the proposal were:

- (a) the town is declining, it will help address this and increase investment in the area;
- (b) it is a modern update to fit the new town centre;
- (c) Tesco is welcome because of the range of products they sell and will bring further competition;
- (d) it will save on travelling to other Tesco stores located outside the town;
- (e) it will make it easier for people to shop who do not own a car;
- (f) regeneration of a part of town, which looks run down, and an eyesore;
- (g) it will bring in more trade to the town centre, create more jobs and increase business in the centre;
- (h) it will bring additional car parking.

34. The impact on the market and other retailers was probably the most common issue that was raised at the consultation events although the power of Tesco was close to being the most common.

35. There have been many comments made about the decline of the markets and that there is no strategy in place for the future of the markets. King Sturge, one of the Council's framework partners has spent some time assessing the markets with the aim of having a vision for the markets and identifying the nature of trade that might be best suited for the markets. It is intended that the Town Centre Board with invited interested persons takes forward this work and fully engages with the public, staff and market traders in doing so.

Consideration of the Proposal in the light of Planning Policy Guidance

36. Colliers CRE have provided a report for the Council (**attached at Appendix 3**) that considers the development in the light of planning policy and also assesses the likely impact on retailing within Darlington.

37. The main points from the report are:

- (a) That the proposed development, would on balance, be beneficial to the town;
- (b) That there is only limited capacity (around 23%) for the amount of floor space proposed for convenience goods;
- (c) That there is capacity, taking into account the Commercial Street development, for the amount of floor space proposed for comparison goods;

- (d) There are risks to other retailers, in particular supermarkets;
 - (e) There are significant planning issues that would need to be fully and satisfactorily addressed before any planning application could be determined;
 - (f) That most of the independent retailers, including the market, would not be adversely affected by the proposed Tesco store.
38. If Council decides to give an in principle decision to proceed with the development (which would be subject to planning permission) then further detailed and specific reports would be required as part of a planning application:
- (a) Environmental Impact Assessment;
 - (b) Transport Assessment;
 - (c) Retail Impact and Need Assessments;
 - (d) Desktop Archaeological Survey and Field Evaluation;
 - (e) Desktop Contamination survey;
 - (f) Air Quality Report;
 - (g) Design Statement;
 - (h) Flood Risk Assessment;
 - (i) Statement of Community Involvement. (To be carried out prior to submission).
39. In addition there are other issues that would need to be given full consideration prior to determining a planning application for the proposed development.
- (a) The proximity of site to listed buildings (St Cuthbert's Church – Grade I and Numbers 11 and 12 Houndgate – Grade II) and the impact of the scheme on Town Centre Conservation Area.
 - (b) The appearance of the development from the Inner Ring Road, it is the main route through the town, and a gateway site at the edge of the town centre.
 - (c) The proximity of both the Dolphin Centre and a 24-hour superstore operation associated servicing vehicles, plant and equipment, car parking, filling station in relation to residential properties.
40. The Council and representatives of the Council would need to be very careful in the stages before any planning application might be considered by Planning Applications Committee. The Council must not give any impression that it is pre-judging the development or making decisions because of benefit (actual or perceived) that the Council gets from the new offices or financially.

Financial Implications

41. Clearly if the development was to progress to the next stage further detailed negotiations would take place with regard to the terms offered, based on the current proposal the deal would be cost neutral in terms of ongoing revenue costs for the Council. In terms of capital costs it would provide a new town hall at a nil cost therefore relieving the council of the need to spend a considerable sum on refurbishing the existing town hall. For Members information the terms offered by Tesco are **attached at Appendix 4**, as a confidential appendix (due to their commercially sensitive nature).

A Summary Assessment of the Benefits and Risks of the Proposed Development

Risk	Comment
Negative Impact on the Town Centre Shops	The proposed Tesco would add about 10% new retail floorspace to the town centre assuming Commercial Street is built (which be adding about 20% new floorspace). Whilst there will be an inevitable impact on some businesses in the period after any substantial new development opens it is not considered that the Tesco proposal would have a negative impact.
Impact on other Supermarkets	This is primarily a commercial issue. Clearly a new superstore in the Town Centre would impact on other supermarkets, as stated in the Collier's report.
Impact on the Markets	There is different choice of goods and food in the market and they are already competing with the supermarkets elsewhere in the Darlington.
Impact on District Centres	The potential impact is assessed in the Collier's report.
Legal Challenge	Careful and full consideration by the Council of all relevant issues should avoid the risk of successful legal challenge.
Planning Issues	These are referred to in the report and in the Collier's report.
Negotiating with single party	There are good reasons for doing so and the Council has done so with other similar developments in the past. The Council has received advice from Colliers CRE on the valuation and best consideration issues. The advice is that it is extremely unlikely that any other developer could better the terms that have been offered to the Council.
Design does not meet requirements for the setting	Design is a subjective issue and so there will be many different opinions no matter how the development is designed. The Council would need to decide initially if it is broadly satisfied with the design approach being adopted by the developer when coming to an 'in principle' decision. However the final decision on the design issues must be left for Planning Applications Committee if it were to consider a planning application.

Benefit	Comment
Housing into town centre	There are numerous benefits and good reasons for providing new housing in the town centre. Planning Policy Guidance strongly supports town centre mixed developments that include housing.
A supermarket in the town centre encourages more people to do all of their shopping in the town centre.	Most people going to a supermarket do so just to shop in the one store, food shopping is a much more frequent type of shopping than shopping for comparison goods, so this is inevitable no matter where a supermarket is located. However a proportion of people attracted to a town centre supermarket will also choose to shop elsewhere in the town centre and the national leading supermarket will attract shoppers who would otherwise shop out of the town.
Derelict and eyesore sites developed	There have been no other viable and acceptable developments proposed for the whole of the site that would address sufficient of the issues that are important to the Council.
Consolidates Darlington as a regional shopping centre	When the Commercial Street development is completed and if this development goes ahead the range of shops that Darlington can offer in what is quite a compact area will be hard to match and will attract more shoppers to the town centre than would be the case if there was no development.
Promotes evening and night time activity	The superstore would almost certainly be open 24 hours which will attract shoppers and the housing is likely to appeal to people who will use town centre leisure facilities (restaurants and bars in particular).
Businesses establish in the Market Square	In time when the pattern of trading is established there will be much more likelihood of specialist and other retail businesses becoming established in the vicinity of the Market Square.
The scale of proposed development will generate new jobs	Construction jobs would be created for a number of years and jobs in the proposed superstore, ancillary business and the town centre would increase. Tesco would expect to employ 500 people.

Options

42. Realistically there are two options that the Council can consider when deciding what action to take in response to Tesco's proposals for redeveloping Feethams site. The options being:
- (a) To agree in principle to negotiate and conclude development agreements that would be subject to planning permission. This would mean Tesco would then be responsible for submitting a planning application and carrying out further public consultation prior to the submission of any application.
 - (b) To take into account public opinion and the fact that the benefits of the proposed development do carry risk that has been identified in this report and the appendices to this report and conclude that the development is not appropriate for Darlington Town Centre.

Outcome of Consultation

43. The report sets out the results of consultation.

Legal Implications

44. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

45. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. At this stage of the proposed development it is too early to undertake an assessment of the impact on crime and disorder, a full assessment would be carried out if the proposal moves to the next stage.

Council Policy Framework

46. The issues contained within this report are required to be considered by Council.

Conclusion

47. The proposed development does not fully meet the planning policy requirements previously established for the site. The national policy requirement to demonstrate that there is a need for the supermarket is not fully supported by the evidence that has been provided by Colliers CRE in their report. However the development does meet the broad aims of the plans for the Town Centre and it would redevelop a site that currently adds very little benefit to the town centre economy.

48. Whilst a decision on whether to proceed or not with any development proposal properly rests with the elected Members of the Council, the views of the public and other stakeholders in Darlington make an important and valued contribution to the development of policy and should be given proper consideration in this instance. Whilst it is not for the public to make a decision on the proposal the point of consulting was to ensure that the public's views were obtained to enable them to be fully taken into account. The views expressed during the consultation and the results of the Mori survey do carry significant weight.

Recommendation

49. Members are requested to consider the report and make an appropriate decision for the Council.

Reasons

50. The report sets out all the relevant information and it is considered appropriate in this instance for Members to make the decision without a firm officer recommendation.

John Buxton
Director of Development and Environment