

**Application Number**

P/2013/0677

**Site Address**

Land At Edginswell Business Park  
Of Orchard Way  
Torquay  
TQ2 7FA

**Case Officer**

Mr Alistair Wagstaff

**Ward****Description**

Formation of an (A1) Tesco store (inc. customer cafe) and approximately 977 sq.m. B1 office development on plots Vesta and Edesia at Edginswell Business Park associated infrastructure, retaining structures, access, parking and landscaping and outline planning application for the development of a B1 office building of 2090 sq.m on the Sarritor plot , A3/A5 unit with associated access and parking - This is a departure from the Local Plan

**Executive Summary/Key Outcomes**

This revised application is for the construction of a Tesco store (approx 77,000 sq ft/7,000 sq m), with associated access improvements and parking (371 spaces) and three office buildings.

The proposed store is to have a gross new internal floor area of 4451 m2. The floor area would be divided into 3375m2 of convenience goods, 580m2 of comparison goods, and a customer café. The previous application proposed 2795m2 convenience goods and 1160m2 comparison goods, and a customer café. As such there is a substantive reduction in the amount of proposed comparison goods floorspace, but an increase in the amount of convenience goods floorspace proposed.

If planning permission were granted Tesco state in their submission that they would commit to the following obligations:

- Delivery of all new highway infrastructure and travel plan measures
- To maintain Tesco stores representation in Torquay, Paignton and Barton hill Road for 5 year of the granting of consent
- To construct 977 m2 of office space
- To Service the plot for further outline office building with a financial contribution to cover the viability gap for the building's delivery in market terms
- A financial contribution of £2million towards gap funding the proposed outline office block, transport, employment and town centre initiatives and other SPD requirements
- Working with local employment providers to deliver as many jobs locally as possible (around 200 in the Tesco store).

There are a number of key issues relevant to the consideration of this proposal:

**1. Existing Local Plan policy**

The application site is allocated for B1 office development in the Torbay Local Plan 1995-2011. As such, notwithstanding the provision of offices within the scheme, this proposal does not comply with existing Local Plan policy. In accordance with the NPPF, the Council has previously explored alternative uses of the site but these have not been forthcoming. Recent confirmation of funding for the South Devon Link Road is a potential 'game changer' for this gateway site, which should now be extremely attractive to investors for business park/employment purposes. The proposal would result in loss of a substantial area of the site for employment purposes. There is no over-riding reason to allow such a loss.

## **2. The availability of town centre sites**

The existing Local Plan identifies town centres as the focal points for retail provision and requires proposals for new retail provision outside town centres, to show that the demand cannot be fulfilled within existing centres. The Local Plan is consistent with the NPPF on this issue. Whilst the applicants contend there are no other suitable sites within the town centre, Members will be aware of proposals to bring forward the Town Hall Car Park site in Torquay, which could provide a similar sized food store.

## **3. Retail/town centre impact**

The proposal includes convenience (mainly food) floor space, totalling 3375m<sup>2</sup>, and comparison goods space totalling 580m<sup>2</sup>. This level of provision is in excess of Torbay's needs, as evidenced in the recently updated (Sept 2011) retail study. Furthermore, questions have been raised over the adequacy of the submitted retail study, since its assumptions in relation to growth in retail demand rely upon both growth in spending power and growth in population. The retail assessment's population projections are based upon 2010 information and do not take into account the 2011 census or the recent DCLG projections, both of which lower expected population growth. Given that population is not now expected to grow to the extent predicted in 2010 and given continued economic uncertainty, the retail impact of the store could be more acute than the assessment predicts.

The proposal will have a negative impact on existing food retail provision in town centres and local centres. The availability of convenience goods, on the scale proposed, would have a negative impact on Torquay Town Centre in particular, compounding the town centre's recent poor trading performance, and would undermine efforts to regenerate the town centre.

## **4. Emerging/refreshed planning policy**

A new Local Plan is being prepared, but carries little weight in planning terms. However, the Council has adopted guidance (Future Retail Development in Torbay, Jan 2010) which acknowledges that a thriving retail sector in Torbay is essential to economic success. Importantly, it supports the provision of local food provision, alongside other services, in new or existing local centres (e.g. White Rock; Three Beaches). These local centres are vital to sustainable, well balanced communities in the Bay. The proposed Tesco store would not be consistent with this approach, is not in a 'gap area' for food retail provision and is likely to have a negative impact on local centres.

## **5. Other material considerations (e.g. design; highway impact; S106 requirements)**

The site is important, in design terms, as a gateway site to Torbay. Its importance as a gateway site has been enhanced by the construction of the South Devon Link Road. The proposed development will be unduly prominent given the combination of its design, scale, bulk, height and massing and will not make a positive contribution to local distinctiveness or place making. The applicant has failed to demonstrate that the proposed store and offices can operate without a negative impact on the highway network. There will be a requirement for a s106 obligation in the event of approval, the lack of a signed agreement would therefore need to be an additional reason for refusal.

## **Recommendation**

It is acknowledged there are some benefits to the proposal that may be attractive to Members, such as the potential for job creation that would be associated with the store and the construction of approximately 30,000 sq ft of office space. However, it is not considered that these benefits would outweigh the harm, particularly over the long term, that would be caused by this proposal.

The reasons for refusal are set out at the end of this report. These follow the issues set out in the Executive Summary and relate, primarily, to the policies/principles set out in the existing Local Plan, more recently adopted retail policy, and the National Planning Policy Framework.

## **Statutory Determination Period**

13 weeks, expiry date is 26th September

## **Site Details**

The application site relates to part of the Edginswell Business Park site and is bounded by Hamelin Way to the west, the railway line and the A3022 Riviera Way to the north and properties accessed from Edginswell Lane to the south. The site is currently undeveloped. The site area is approximately 3.88 hectares (9.6 acres).

To the east, three office buildings have recently been constructed, one of which is in use by the NHS as a Renal Unit. Vehicular access to the site is via Orchard Way off the Newton Road. The ground levels on the site are lower than Hamelin Way and the A3022 and the site slopes from east to west. There are wooded embankments on the northern and western boundaries.

In the Torbay Local Plan 1995-2011 the site is allocated for Employment. There are designated wildlife sites along the railway and along the eastern side of the site. A buffer zone is shown around the north, south and east boundaries for strategic landscaping. Trees in the area are covered by TPO 2001.08.

## **Detailed Proposals**

The application is submitted in full for a supermarket with a gross new internal floor area of 4451 m<sup>2</sup> the floor area would be divided into 3375m<sup>2</sup> of convenience goods, 580m<sup>2</sup> of comparison goods and a customer café. For information the previous application proposed 2795 m<sup>2</sup> convenience goods and 1160 m<sup>2</sup> comparison goods with a customer café. The proposed store would stand on stilts above a car park for 371 vehicles. This would include the provision of 20 dedicated disabled spaces and 18 parent and child spaces. 46 cycle parking spaces would also be provided.

The floor area of the store excludes the area for cage marshalling and Dot Com marshalling. The service yard would be located to the south east of the store and would be accessed via a ramped road used exclusively by service/delivery vehicles. The service yard is now proposed to be covered.

The store would be at first floor level and would be accessed via travelators or lifts. There would be a bus stop and recycling centre located at the site entrance.

The height of the proposed store would be approximately 13 metres, the width approx. 94 metres and the typical depth 71 metres.

Submitted in full is a proposal for two office buildings Office D (sarritor House) approx. 689m<sup>2</sup> net on two floors (790m<sup>2</sup> gross) and Office E (Edesia House) approx. 157m<sup>2</sup> (187 m<sup>2</sup> gross). These two buildings have already received planning permission under the second phase of the master plan.

Submitted in outline is a proposal for a B1 office of 2090 m<sup>2</sup> gross floor area, which has not previously received planning permission. The proposed building would be three storeys high. 45 car parking spaces would be provided. An A3/A5 use class unit (café/restaurant with takeaway) is also proposed with a floor area of 250m<sup>2</sup>, it is shown with a drive through facility and 24 car parking spaces. The only matter under consideration for these two outline buildings is access.

The primary access to the site would be from Riviera Way A3022 via improved junctions with Newton Road and between Orchard Road and Newton Road. It is proposed to widen Newton Road up to the junction with Riviera Way to allow a two lane approach. A new roundabout is proposed at the junction of Edginswell Lane and Collaton Road.

The new South Devon Link Road will terminate adjacent to the application site on Hamelin Way, but

will not link directly into the site.

If planning permission were granted Tesco state in their submission that they would commit to the following obligations:

- Delivery of all new highway infrastructure and travel plan measures.
- To maintain Tesco stores representation in Torquay, Paignton and Barton hill Road for 5 year of the granting of consent
- To construct 977 m2 of office space
- To Service the plot for further outline office building with a financial contribution to cover the viability gap for the building's delivery in market terms
- A financial contribution of £2million towards gap funding the proposed outline office block, transport, employment and town centre initiatives and other SPD requirements
- Working with local employment providers to deliver as many jobs locally as possible (around 200 in the Tesco store).

The application has been screened by the Council under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and it was concluded that no Environmental Impact Assessment is required.

### **Summary Of Consultation Responses**

Arboricultural officer - Potentially suitable for approval if the following points can be addressed: i) Information required on the retaining wall and tree G2, ii) net gain for bio diversity should be ensured, iii) require detailed landscaping plan including strategic trees, iv) a condition requiring tree protection fencing during construction.

South West Water - No objection, no development should be within 5 metres of public sewers, if this is not possible sewers will require diversion.

Environmental Health - Note that the background noise level drops significantly during the night time period. However there is concern that increased traffic movement, particularly the movement of HGVs and vehicles making deliveries to and from the store will result in detriment to the amenity of nearby residential property. In order to preserve the amenity of the locality, particularly the closest residential properties, at Edginswell Farm, it is recommended that a condition is placed on the consent limiting the hours of deliveries to between the hours of 07:00 to 00:00 and that an acoustic barrier is provided to the access road.

It is also recommended that the details of all plant and equipment to be installed on site complete with predicted noise levels at the nearest noise sensitive receptor are submitted and approved by the Local Authority prior to development.

Environment Agency - The application should be refused unless access to Edginswell stream/Aller Brook is addressed for maintenance purposes, without this there will be potential impact on flooding upstream.

Natural England - No objection, the scheme should seek enhancements to landscaping and bio diversity. Allude to previous comments, which can be summarised as: the site lies at the extremity or a wider corridor of land identified as of potential strategic significance as a flyway for greater horseshoe bats associated with the South Hams SAC. The ecology report should take reasonable account of this and recommend that the landscaping associated with the project includes the creation and maintenance of new habitat suitable for commuting and/or foraging greater horseshoe bats, e.g. native broadland planting that is not affected by artificial illumination at night.

Network Rail - No objection in principle, note potential impact of increased flow to Culvert, request more information relating to drainage and run off amount/rate into the watercourse which may identify need for potential remediation/ improvement works. Additional comments regarding construction impact on railway, which should be secured if application is to be approved.

Torbay Coast and Countryside Trust – Green Infrastructure Co-ordinator:

- The vegetation on land adjacent to both Hamelin Way and Riviera Way forms important green buffers around the site that provide visual screening and habitat opportunities for wildlife. These areas are outside the applicants control and are thought to be within the ownership of Torbay Council. It is suggested that a contribution from the developer is secured for additional planting and long term maintenance.
- It is difficult to assess the visual impact of the scheme without seeing accurate photomontages of the proposed scheme. It is suggested that photomontages are produced from locations agreed with Torbay Council officers in accordance with the Landscape Institute Guidance 'Photography and photomontage in landscape and visual assessment' [1]
- The building is in the bottom of a valley and therefore there are a number of vantage points from which the roof will be seen. A green roof would help to soften the visual impact of the proposed building and also provide a range of green infrastructure benefits such as rainwater attenuation and habitat opportunities.
- There is concern that the scheme may not achieve a net gain for biodiversity. The applicant should provide further evidence to show the net biodiversity effects. If the scheme cannot avoid, mitigate or provide adequate compensation on site it will be necessary to consider offsite biodiversity measures in order to achieve a net gain. Torbay is part of a Defra biodiversity offsetting pilot project which uses a metric to assess biodiversity impacts of projects and provide opportunities for delivering enhancements on alternative sites. Further information can be found on the Defra website[2] and the Devon Local Nature Partnership website[3].
- The land between the application site and the railway line is an important wildlife corridor and could, if managed appropriately, provide further habitat opportunities. It is suggested that the applicant investigates the ownership of this land and seeks to include it within the application. A suitable capital works program and management regime could then be agreed to provide measurable improvements to biodiversity that contribute towards a 'net gain'.
- There is potential to provide better sustainable transport (walking/cycling) links from neighbouring communities to the site. The plan on p33 of the Design and Access Statement shows a 'potential to provide a pedestrian/cycle link to new footpath in the future' and it is suggested that this is secured by planning condition.
- There is a missed opportunity to provide green spaces e.g. picnic areas. This is particularly relevant to the proposed cafe and office uses.
- The Torbay Green Infrastructure Delivery Plan[4] has 'Local Food' as one of its four priority themes and details the need to support local food hubs with associated benefits of lower food miles, reduced carbon emissions and support to the local economy. In addition a local Food Summit held in 2009 identified lack of local producer outlets in towns as one of the key issues around local food production in Torbay. An out of town supermarket, especially when there are already others in the vicinity, is therefore contrary to the aims of the Green Infrastructure Delivery Plan.

Strategic Transport – Object to the proposal - comments remain to be formalised and updated – these will be reproduced for the late representations.

However, it is known that strategic transport and highways have concerns about the traffic impact of the proposed development. The scheme will impact key junctions of the strategic road network (Scotts Bridge, Lowes Bridge) these will be significantly over capacity, as will Orchard Way / Newton Road, and this accordingly will hinder free flow of traffic for Torquay, the hospital, and the Edginswell Business Park.

Sufficient mitigation measures have not been identified to deal with these issues, further concerns likely to include:-

- The assignment of traffic onto the network and under counting of new trips,
- Omission from modelling of Shiphay junction,
- The use of retail floor area (RFA) as opposed to gross floor area for calculating trips – were the store to increase RFA in the future, this would increase trips further,
- How service access will operate, given traffic volumes, and
- Staff, shoppers, and office workers obstructing access roads on and around the site.

Torbay Town Centres Company - object to the application on the grounds:

- The application is a major departure from the site's current designation
- There is no established need for the facility, as there is significant provision within the area
- An objective of the NPPF is to ensure the vitality of town centres
- The Torbay Local Plan, Draft Local Plan and Neighbourhood Plan supports the principle of town centre development rather than outside of existing centres.

Kestrel Consultants Ecology Consultee - Conclude that there is not likely to be a significant adverse effect on the integrity of the South Hams Greater Horseshoe Bat SAC, there is no need to undertake a full Appropriate Assessment for this application.

Teignbridge District Council - No objection to original application and no further comment on this application.

Torbay Development Agency - The TDA support the prior recommendations of the Council's retail advisors, GVA Grimley on retail policy issues and support Torbay Council's planning officers on planning issues. The views of the Torquay neighbourhood forum, which supports the Town Hall scheme at Castle Circus and rejects the Edginswell proposals have also been noted.

The TDA's primary concern in this matter is the economic regeneration of Torbay, as such the retail economy of Torquay town centre is crucial to employment and the economic future of the area and it also impacts on other key aspects of the economy such as Tourism and Torbay's potential to attract inward investment. The issue of the development of new supermarkets is especially important, as Torbay Council and the TDA believe that any further supermarket provision should be town centre located to support the existing town centre retailers.

In addition to the economic impact of a 'town centre first approach' to retail provision, the TDA is also acutely aware of the social implications of a town centre scheme being developed on the Castle Circus site, as some of the most deprived wards in the area are in close proximity to this location, which have some of the most tangible indications of deprivation in Torbay. The residents of these wards are currently very poorly served by the access to suitable supermarkets in the area, the closest being Waitrose which is situated in Plainmoor. The TDA believes that a food store at Castle Circus will reduce the incidents of food poverty and improve the availability of healthy food choices by providing better access to affordable food and provide a more diverse range of healthy food choices for those without access to car transport.

The town centre first approach is essentially required in part because of the contribution it will make in supporting other town centre retail provision for reasons associated with the overall economic viability and vitality of the town centre. There is however a second compelling rationale for adopting a town centre first approach which relates to social considerations. The town hall car park site will also provide employment opportunities to those disadvantaged wards which have disproportionately high unemployment rates. A town centre location is a considerably better position in which to create food retail employment as it is within walking distance of the most disadvantaged wards. The proposed development at Edginswell by contrast would be considerably less accessible by convenient public

transport links to these disadvantaged wards and could result in the Town Hall scheme failing to proceed, or it proceeding on a smaller scale.

The TDA further object to the application due to the impact on the availability of employment land. The previous consent at Edginswell for bulky goods/non-food retail was justified in the context that it enabled the development of employment land. The applicants are using the same argument to justify a further reduction in the amount of employment land. The decision to increase the amount of office provision and reduce other forms of employment land use has had the effect of disguising the reduction of employment land by focusing on the amount of employment opportunities that will be created in an office based environment. This may reduce the opportunity for the market to provide employment opportunities by increasing the amount of office space proposed (where there is a recognised viability gap), therefore it has artificially created a requirement for more gap funding. Protecting employment land for office development is desirable to allow for gap funded schemes and/or demand led schemes that may come forward on 'a cost plus' basis.

Edginswell is going to be the point of arrival into Torbay and as such the TDA believes it is vital that this key gateway site is protected for high quality prestigious employment uses that reflect a confident and prosperous town. The TDA does not believe that a supermarket and other A5 uses, which could be fast food outlets, present the right impression for Torbay.

It is on this basis that the TDA therefore recommends that this application be refused.

#### *Previous consultation responses*

Senior Historic Environment Officer - the area of the business park including the area of this application was subject to a detailed archaeological assessment in April 2004 and followed up by further work in July 2007. The assessment and evaluation should be revisited to ascertain if further environmental archaeological deposits should be taken from the surviving deposits before their removal during development.

#### **Summary Of Representations**

A considerable number of letters of objection have been received, this includes a number of standard letter template objections. The representations are available for inspection on the Council's website and in the Members room. Letters of objection has also been received from the Green Party, Barton and Watcombe Community partnership, Wilkinsons, Paignton Neighbourhood forum, Debenhams, Friends of the Earth, Edginswell Residents Association, and Union Square Management Company.

The key issues raised in the representations are as follows:

- No need for the store as there are other supermarkets in the area e.g. M and S, Asda, Lidl, Sainsburys
- Only minor changes from the previous scheme
- Major departure from local plan which designates site for B1 office use and a high quality business park
- Not consistent with Neighbourhood Plan
- Impact on the surrounding environment
- Impact on the Business park, loss of employment space and jobs
- Impact on Car parking, on Business park and surrounding area
- Impacts on the surrounding highway network and road safety
- Impact of traffic generated on Hospital and emergency vehicles
- Contrary to Local and National policy
- Impact on Town Centre including cumulative impact from nearby stores
- Impact on Local retail centres
- Visual impact, impact on key gateway location to Torquay

- Noise, air and light pollution
- Evidence base for RIA is unsound, specifically population figures
- Impact on the amenity of surrounding residential areas
- Impact on local employment and lack of full time positions
- Loss of employment space
- Lack of provision of high skilled/ professional jobs
- Impact on Listed Building (The Manor House and Barns)
- Impact on Landscape Character of the area
- Loss of Greenspace between Torquay and Kingskerswell
- Impact on wildlife
- Proposals do not meet the sequential test for retail provision, there are sequential sites
- Inappropriate out of centre development

#### Support

1 letter of support has been received stating the Council has supported schemes for other stores why not Tesco's, allow shoppers to chose.

#### **Relevant Planning History**

- 1987/1367 Retail Superstore Development with Car Parking, Access Roads and Petrol Filling Station (In Outline). Refused 4.11.87
- 1987/2003 Retail Superstore Development with Car Parking and Access Roads (In Outline). Withdrawn.
- P/1988/0587 Erection of retail food store, car parking, petrol filling station, access roads, landscaping and associated works (in outline). Refused 2/9/1988. Subsequent appeal dismissed by letter dated 26.2.90.
- P/2001/0787 (Phase 1) Erection of new building for high tech company for use classes B1 (business) and B8 (Storage/distribution) with vehicular and pedestrian access. Refused 12/4/2002.
- P/2001/0788 (Phase 2) Erection of new buildings for use classes B1 (business) and B8 (storage/distribution) (employment units) and supporting C1 (travel Inn), A3 (food and Drink) and D2 (Leisure uses) with vehicular and pedestrian access (in outline). This is a departure from the Local Plan. Refused 12/4/2002.
- P/2002/0154 Erection of 60 bedroom 'Travel Inn' hotel and integral 'Brewers Fayre' restaurant/public house on lower, ground, first, second and third floors with vehicular/pedestrian access from Edginswell Lane and car parking. Refused 12/4/2002.
- P/2004/0884 Development of business park comprising business uses (B1) and a car show room, associated landscape works, alterations to adjoining highways and car parking (revised scheme to previous refusal). Refused 10/8/2004.
- P/2004/2118 Development of business park comprising business uses (Class B1) and a car showroom, associated landscape works, alterations to adjoining highways and car parking (revised scheme to previous refusal) (In outline). Approved 20/1/2006.
- P/2006/1011 Development of phase 1 of business park comprising mixed use of offices, buildings, infrastructure (class B1 use) with vehicular/pedestrian access. Refused 24/10/2006.
- P/2006/1116 Highway works/associated with planning application P/2004/2118. Approved

26/9/2006.

- P/2007/1743 Mixed use development comprising business use class B1, car showroom, retail warehouse and residential and public house/restaurant (class A3/A4) with associated highway works and car parking (in outline). Approved 6/6/2008.
- 2008/1682 Mixed use development comprising business uses (B1); cafe/restaurant (A3) and specialist renal clinic (D1) with associated landscaping works, car parking and vehicle/pedestrian access. Approved 23.3.09.
- P/2012/0280 Application for full planning permission for a Tesco store (4451 sq m/47,910 sq ft total sales area), of which 2795 sq m convenience goods space and 1160 sq m comparison goods space, including a customer café; 977 sq m (10,516 sq ft) office development (2 no. buildings); associated infrastructure (including new roundabout on Orchard Way and widening of Newton Road between Orchard Way and Riviera Way); new access; 442 parking spaces (of which 371 for Tesco); and landscaping. Outline application for development of a B1 office building (2090 sq m) with associated parking and access (all matters reserved except layout and means of access). Refused 22.06.2012

### **Key Issues/Material Considerations**

The key issues to be considered are the principle of the proposed uses on the site, the retail impact, the visual impact, highways, impact on neighbours, trees, landscape and ecology, drainage, flood risk and sustainability.

It is a very material consideration, given that the decision was made last year, as to whether the scheme has overcome the refusal reasons of the previous application P/2012/0280.

### **Principle and Planning Policy - Employment**

In the Torbay Local Plan 1995-2011 the application site is subject to Policy E1.2B which requires new development to be principally class B1 use (offices and light industrial) with limited B8 use (warehouse and distribution). In the explanation to the policy, clarification reveals that the intention is for the site to be used as a well-designed 'high tech' site.

Under application reference 2007/1743 planning permission was granted on the site for a mix of B1 and non B1 uses. The non B1 uses included a retail warehouse with an additional garden centre area which had a retail floor space of 2144 m<sup>2</sup> with 140 m<sup>2</sup> of offices, two car showrooms a pub/restaurant and residential development. In support of that application a report was submitted to look at the possible range of uses that could result in a viable scheme. The report concluded that to develop the site purely for office uses would not result in a viable scheme and as such it was necessary to consider an appropriate level of 'pump priming' to bring the development forward. In the light of this report planning permission was granted for a number of non B1 uses on the site. It should be noted that the approved retail unit was for bulky non food retail, such as a DIY store, and use for bulky non food sales only was controlled by condition.

The proposal, the subject of this application, includes the provision of three office buildings on the site. The principle of constructing these office buildings would be consistent with Policy E1.2B of the Torbay Local Plan 1995-2011, and is therefore not contentious. Two of these office buildings have previously been granted planning permission under application reference 2008/1682MPA.

The third office block is applied for only in outline, as stated above the principle of the location of an office block in this location is not contentious in relation to the outline nature of the scheme.

The main policy issue to be considered is the principle of the proposed Tesco store in this location and also in provision of an A3/A5 Unit.

The National Planning Policy Framework (NPPF) has at its heart a presumption in favour of sustainable development. This is described as a golden thread that should run through decision making. Sustainable development is defined as meeting three key dimensions, achieving an economic role, a social role and an environmental role.

The economic role is defined as contributing to building a strong, responsive and competitive economy, the social role as supporting strong, vibrant and healthy communities and the environmental role as contributing to protecting and enhancing the natural and built environment. It is advised that these three roles should not be undertaken in isolation, because they are mutually dependent.

Paragraph 22 of the NPPF advises that planning policies "should avoid the long term protection of sites allocated for employment use where there is no prospect of a site being used for that purpose". It continues that "where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard..... to the need for different land uses to support sustainable local communities".

This principle of taking a flexible approach to development on land allocated for employment purposes is consistent with the Council's earlier approach to previous applications on the site where a mix of uses has been approved to provide "pump priming" for the provision of offices on the site. Furthermore, this is consistent with the approach the Council has taken to other employment allocations in Torbay including policy E1.16 at Yannons Farm and E1.19 at White Rock.

The Council therefore clearly supports the principle of considering alternative uses other than employment, in order to deliver viable development that includes a significant quantum of employment space. However, this does not mean that any and all alternative use would be appropriate, as the merits of a scheme must be considered on a case by case basis.

In the case of this proposed out of town centre retail development it is appropriate to consider the NPPF guidance on "ensuring the vitality of town centres". The NPPF advises that Local Planning Authorities should "recognise town centres as the heart of their communities and pursue policies to support their viability and vitality". The most sustainable location for a large retail development is in the town centre because it would encourage economic activity in the town centre and thereby increase its attractiveness through investment and commitment to improving shopping provision.

For an application of this size it is necessary for a sequential test to be carried out that assesses the suitability of sites within the town centre and then edge of centre locations for the proposed use, and only if suitable sites cannot be provided in a town centre, district, local centre or edge of centre location should an out of centre site be considered. A retail impact assessment is also required to consider the impact of the proposal on the vitality and viability of existing centres, up to five years from the time the application is made.

The relevant policies in the Torbay Local Plan 1995-2011 to the principle of locating the Tesco store on this site include Policy E1.2B, which is discussed above and seeks to restrict the use of the land to B1 and B8 uses and Policy E6.

Policy E6 relates to the retention of employment land. It identifies a number of criteria for considering the change of use or redevelopment of employment land. This policy seeks to retain land allocated for employment purposes unless there are overriding reasons in the public interest to allow the loss of employment land.

Whilst the applicants contend that the store is required to deliver the residual office accommodation on the site, there is no financial assessment submitted with the application to confirm that this is the case.

The site is serviced and there are existing employment uses who have successfully located and are now operating within it. It is clear that the World and UK economic situation has been tough over recent years and this has affected the delivery of new employment floor space. There are however some signs of renewed growth on the world and UK markets, housing growth figures particularly are improving. In the future the situation is forecast to improve which will improve the viability of this and other schemes. Furthermore, the site has an advantageous location at the gateway to Torquay and is already seen as a high quality location for business to invest.

The forthcoming South Devon Link Road also provides substantial opportunity for investment in business uses on this site as a high quality location for a range of business uses, equally this will increase the appeal of the other consented use on the site, which the Council already took a proactive stance in allowing to support the provision of business use on the site. The TDA have also advised that they are willing to work with the landowners to help deliver their existing consent and explore and seek other funding and grant opportunities to overcome viability issues.

In determining the previous application Advice from Torbay Development Agency revealed over the 2012-2013 period there had been around 150 property enquiries for around 1.2M sq ft of space in Torbay. The Council does not believe that the case has been fully made that the site cannot be delivered for further employment purposes, in accordance with the Local Plan.

These issues are a significant consideration when determining whether the provision of a major food retail store is the right approach to delivering employment provision on the site.

#### Retail – Sequential Test

Policy SS sets out the overall shopping strategy for Torbay. It seeks the provision of a comprehensive range of shopping facilities throughout the Bay. The town centres are identified as the main focal points.

Policy S6 is relevant to retail development outside town and district centres. This policy supports a sequential approach to site selection, identifies the importance of not having a detrimental impact on the vitality and viability of existing shopping centres, requires the site to be accessible by public transport and where the site is allocated for employment use it should have no significant adverse affect on employment opportunities. The Local Plan's approach to retail provision in the Bay is consistent with the National Planning Policy Framework.

The submitted sequential site assessment report argues that in order to enhance consumer choice and bring strong competition to the convenience sector of the market, which is currently dominated by Sainsbury's at the Willows, the size of the store needs to be at least that which is applied for.

The sequential site assessment is therefore based on the need to provide a minimum site area of 1.87 ha. Only 1 site is considered in Torbay, the Torquay Town Hall Car Park on Lymington Road.

It is considered that other Town Centre sites in Torquay and Paignton could have the potential for main food shopping to be provided. The previous refusal reason 2 identified that, 'the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration. The Council believes there are opportunities within Torquay and Paignton town centres which can meet the same needs of retail elements of the proposed development'.

The only in centre or edge of enter site considered is the Town Hall Car park, the conclusions on the

site are also not accepted. While the applicant has attempted to demonstrate flexibility, it is concluded that insufficient flexibility has been demonstrated in relation to the size of the store. A minimum site area of 1.87 ha and a minimum store size of at least that proposed in the application is identified as required in the supporting RIA. This was previously argued during the last application. However, this application alters the internal composition of the store with the comparison element reduced by 580m<sup>2</sup> and the convenience increased by 580m<sup>2</sup>. This clearly shows that there is a greater flexibility in the store size than put forward by the applicant as the convenience element could be reduced by at least 580m<sup>2</sup> to that proposed by the previous application. The Council is not convinced that the case has been made for the convenience element to be increased to compensate for the 580m<sup>2</sup> reduction in comparison goods floorspace.

In addition, it has not been demonstrated that the café is essential. There are a range of supermarkets which trade without this facility and further flexibility in this regard would assist with finding a suitable site in or on the edge of an existing centre. Further evidence of consideration of store layout, back of house provision and delivery areas has also not been forthcoming.

In conclusion it is considered that there has been insufficient flexibility shown in relation to the amount, use and configuration of the proposed floorspace in this case.

The proposed store would be the second largest supermarket in the Bay after Sainsbury's at the Willows, currently there are a wide range of smaller stores successfully operating in the Bay. Notwithstanding the internal make up of the store, no detailed consideration of a smaller format store has been provided. A smaller, but nonetheless sizeable weekly shopping store would provide competition and the Council is not convinced that such a store would be unviable. If it is accepted that a smaller sized store would be viable then the Lymington Road site could provide an alternative location.

Given the issues identified above in relation to flexibility, the RIA fails to properly consider the Lymington Road car park site at the rear of the Town Hall as a potential town centre superstore site. The Council considers the Lymington Road site is deliverable in the next 5 years for food retail purposes.

In the event that the sequential test is achieved in this case, a spatial retail strategy based on gap area analysis determines that the application site would not be spatially preferable in any event. Since the authority has previously refused development on this site for these reasons and given the availability of more sequentially preferable sites, it can only be concluded that the scheme fails the sequential test. The Council does not believe that the developer has adequately considered the availability, viability, and deliverability of sequentially preferable sites.

#### Retail Impact - Analysis

Further advice in relation to the retail impact assessment has been sought from GVA Grimley (Planning Consultants), as they provided advice in this respect in relation to the previous application. This advice has not been received at the time of compiling this report and will be made available in the late representations. The advice will assist Members in considering the likely impact of the proposed store on existing retail centres.

For information, the conclusions reached in relation to the previous scheme were that: i) the development would be likely to have a detrimental impact on the potential for investment in existing centres, ii) that the likely impact of the store on Torquay Town Centre and other Local Centres was understated and iii) that there would likely be a compounding impact on existing centres given the agglomeration of larger stores in the Willows and Edingswell area.

#### Retail Impact – Policy

The Council has adopted guidance on retail policy in the document "Future Retail Development in Torbay - Clarification of Policy" January 2010, which is material to the determination of this application. Providing background information on retail matters is the "Retail Study Update" (September 2011). These documents acknowledge that a thriving retail sector is critical to the economic prosperity of Torbay. Retail has a vital role to play in Torbay, ensuring that people can meet their shopping needs locally as well as acting as a crucial part of the Bay's economy and attraction as a leisure and tourist destination.

In the "Future Retail Development in Torbay" it is recognised that there will be a need for additional convenience and comparison goods floorspace in Torquay. In order to deliver this floorspace a strategy of providing new convenience floorspace alongside town centre provision in identified gap areas through increasing floorspace in existing local centres or as part of new local centres in mixed use schemes such as White Rock Paignton is proposed. The idea behind encouraging new retail development into gap areas is to improve the spatial distribution of retail facilities and to improve accessibility for all residents. The gap areas are identified on the basis of accessibility to shopping facilities. The proposed Tesco store would not be consistent with this gap area strategy because it would result in additional provision in an area not identified as having a retail need and where substantial provision for weekly food shopping (in the form of the Sainsburys and Asda) already exists.

The Torbay Retail Study update, which is part of the evidence base to support the emerging new Local Plan, identifies that vacancies in Torquay town centre are well above the national average. It suggests that there is a need to try and rebalance provision back towards the town centres. However, in respect of convenience goods it is concluded that a balanced scenario where the traditional town centre first approach is blended with the need to meet location specific needs through the gap areas across Torquay is the most appropriate approach. With regard to comparison goods it is proposed that the majority of additional need should be accommodated within Torquay town centre, however it is recognised that an out of centre retail warehouse location could potentially be acceptable, subject to its impact and a variety of other planning considerations.

The key point is that if the proposed additional retail floorspace was provided in a town centre location it would provide considerable additional investment in the town centre and demonstrate a commitment to regeneration of the town centre. This scheme threatens the ability of the town centre to attract the vital investment it clearly needs.

### **Design and External Appearance -**

Policies BES and BE1 in the Torbay Local Plan 1995-2011 promote positive enhancement of the built environment and require new development to conserve or enhance the built environment, ensuring that the integrity of local character and distinctiveness is protected. The NPPF promotes good design and identifies that "good design is a key aspect of sustainable development". It is recognised that "securing high quality and inclusive design goes beyond aesthetic considerations" and "should address connections between people and places and the integration of new development into the natural, built and historic environment".

This site is important in design terms as it is a gateway site and would be the beginning of the built up area of Torquay on the main approach road into the town. The principle industry in Torquay is tourism and it is vitally important that the first arrival point at this tourist destination has a positive visual impact. It is noted that the new South Devon link road will join the existing road network directly opposite this site, resulting in the site being clearly visible from the new road.

The existing ground levels on the site are beneficial to development because the ground levels are lower than surrounding levels on Hamelin Way and Riviera Way. This is beneficial because it reduces the visual impact buildings on the site through reducing their height. The layout allows a landscaped buffer around the majority of the building, although this would only be 6 metres wide along the south

western boundary. The current character of the site is landscape dominated as it is located adjacent to open countryside and has mature landscape planting around the perimeter. It is important that these wooded banks are retained to assimilate any new development into the existing landscape and soften the visual impact of new buildings.

A principle concern is the size location and external detailing and appearance of the proposed Tesco store. There was significant concern in relation to the previous scheme's design and this related to the following; a flat roof with a number of 'windcatchers,' predominantly finished in timber and curtain wall glazing, and that the external appearance would have little relationship with the recently constructed office buildings on the site, which have distinctive design elements of red/orange coloured mono pitch roofs with white rendered elements.

Similarly there appeared to be no reference in the previous design to the distinctive form of predominantly Victorian development in Torquay, the local materials palette or Torquay's setting and role as a prime marine tourist destination.

The external design of the store has been revised in this latest submission, the previous approach of principally timber larch Panelling with extensive glazing and with limited rendering has been amended with a revised design. This takes inspiration from the existing office buildings on site with a more extensive rendered appearance with the windows framed in grey render boxes. There is also the introduction of white composite panelling, Larch panelling is still however a key part of the external appearance. The building section identified as MOE (Means of Escape) have also been changed introducing glazed features rather than rendered ones previously seen.

The wind catcher ventilation systems from the roof have also been removed and a new larch parapet has been added to the building, replacing the slight dual pitch roof finish. New Juliet balcony's have been added to the Northwest corner and the Lift Core is now clad in Larch Panelling rather than render.

While the design has changed and attempted to take reference from the design of the office buildings, it is difficult to understand how this design would make a positive contribution to local distinctiveness as required in the Council's 'Urban Design Guide'.

Good design practice would expect new buildings to respond to their setting and location, to use local materials, building methods and details to enhance local distinctiveness. It is important on this gateway site that a distinctive high quality building is delivered that positively identifies the arrival point in Torquay. The appearance of the proposed Tesco store is bland and utilitarian, and lacks reference to its location in Torquay.

A fundamental of good design is that development should relate to its location. This development fails on this fundamentally. The development's main entrance is located at the rear of the site and the vaulted atrium faces out towards the edge of the built environment. Views from the new link road will look down on to this elevation, it is noted that the landscaping and topography will partially obscure this elevation, however, it will still be prominent in entering Torquay (there would otherwise be no reason for the developer to have the building facing the South Devon Link Road). The elevation offers little quality or local distinctiveness and instead presents a bland elevation of glazing and Larch Panelling, which is compounded by the large parapet. The scheme fails to provide a high quality arrival point to Torquay.

The location of the entrance atrium in the proposed location effectively turns its back on the business park. When the wider business park is viewed from the south and east the office buildings will be set in the context of this building, not the landscape setting. The building presents its rear and raised service yard, rather than relating its entrance to the business park. The south east elevation is clad in

metal composite panelling and on the North West elevation almost half the elevation is clad in the metal panelling and Larch panelling presenting extensive blank elevations to the office development.

This approach and design fail to deliver the policy aspirations of a high quality of design for the park as the new store would be detrimental to the setting of the business park and provide a poor quality relationship to the other buildings on site.

The store itself, through provision of undercroft car parking, compounds the visual appearance further. The building does not appear grounded and instead appears to float unrelated to the space beneath it. The Store reads very much as a large box with little vertical sub-division to help break down its mass, this is most evident on the South East Elevation. Many historic buildings in Torbay provide 'golden sections' in their appearance which helps develop a sense of place and help the buildings become a part of the surrounding context.

In this case the proposed Tesco store fails to make a positive contribution to the appearance, character and quality of the area and as such would be contrary to Policies E1.2(B), BES and BE1 in the Torbay Local Plan 1995-2011.

Planning permission has previously been granted for office buildings 05 and 06. The submitted plans show that building 05 would be dug deeper into the site than previously approved. The siting has moved to the north and the site plan shows the building projecting onto the pavement. In the previous application these matters were identified as needing to be resolved by the architect before planning permission could be granted. The design principle of a curved steel roof remains consistent. The ground levels to the east of the site are higher than on the site and therefore the increase in the height of the proposed building would not be harmful to the amenity of the area. As the principle of this form of design has previously been accepted there is no particular issue with the external appearance of the building.

Submitted in outline is a proposal for a three storey office building close to the entrance to the site. Only a site plan has been provided as well as detailed elevation however the key issues to be considered at this stage are the principle of siting an office building in this location. In addition to the principle of the location of the office building the other considerations are the layout and access as all other matters are reserved. In relation to the access the proposed access location is considered appropriate. In relation to the buildings layout, while the building is separated from the other existing office building this is not considered a concern, the building follows the establish patten of building running north-south. Equally its relationship to the access and car parking is appropriate and it would appear that the front of the building would be presented to the entrance into the business park as such it is concluded that this element of the scheme is acceptable in policy terms.

This scheme also includes in outline the provision of an A3/A5 250 m2 unit in outline. Visually this building will sit at the entrance to the site, and when turning off of Riviera Way it will become the principle arrival point into the park. While permission is sought in outline the principle of the scheme must be considered, it is noted that images have been submitted identifying Costa Coffee as the user however it is the principle of the A3/A5 use that must be considered. Any number of occupiers could, if approved occupy the units this could include, for example fast-food restaurants. In securing a high quality development as required by policy E1.2 (B) and considering the high profile of the site, the inclusion of a A3/A5 unit with a drive through cannot be seen to fulfil these policy requirements, its visual impact in addition to the Retail store behind would significantly detract from the Business park setting and would instead read as a retail/ leisure park to the detriment of the Business park and contrary to the policy objectives of E1.2(B)

### **Highways -**

The application includes a number of improvements to the highway network, particularly widening of

Newton Road up to the junction with Riviera Way, a new roundabout junction at Orchard Way/Edginswell Lane and a bus turnaround and lay-by including a bus shelter within the site.

A transport assessment has been submitted in support of the application. Officers do not agree with the data used by the applicant to project trip generation levels and is concerned that the projected trip generation significantly underestimates the level of trips likely to be generated on the local network. Officers take the view that the results of the traffic assessments appear to underestimate the impact on the junction of Newton Road and Riviera Way.

As submitted the Transport Assessment (TA) indicates that key junctions on the strategic road network including Scotts Bridge, Lowes Bridgewill will be significantly over capacity, as will Orchard Way / Newton Road. The implication of this is that the proposed store will hinder the free flow of traffic in the surrounding area at a key arrival and access point for Torbay. The impacts of the store on the free flow of traffic will also create significant concern that it will disrupted the accessibility of the hospital and importantly emergency vehicles entering and exiting the Hospital will be restricted. Newton Road is one of the main routes to the hospital for emergency vehicles and therefore needs to be kept free of congestion. The implication of the increased traffic generation is detrimental to the function of the Hospital and the service it provides.

Furthermore the impacts of the store, its visitor and deliveries will impact the accessibility of the wider business park, with potential for the access route to stack with vehicles. This will further impact on the function and desirability of the Business park as a high quality office environment.

Other shortcomings in the Transport Assessment including: the under counting of new trips generated on to the network, the omission of Shiphay junction from the modelling, the use of retail floor area (RFA) as opposed to gross floor area for calculating trips, and the lack of information on how service access will operate, given traffic volumes proposed.

The proposal would provide 371 parking spaces to serve the Tesco store, of which 20 would be for disabled persons and 18 designated for parent and child use. 71 spaces would be provided to serve the office development of which 8 would be for disabled persons and 46 cycle parking spaces would be provided close to the Tesco store. This level of parking provision is considered to be acceptable to serve the proposed development and in line with policy.

The proposed Sarritor House, and A3/A5 unit submitted in outline, would retain the public footpath into the site which is adopted highway which was proposed to be built over in the previous application. It is a positive aspect that such a route has now been reinstated within the proposed scheme to improve access to the development for pedestrians approaching from the north.

Should planning permission be granted a S106 contribution would be required to mitigate the impact of the proposed development on local infrastructure. It is suggested that this could be spent in part on extending the existing bus route capacity into the site. In addition the Council has aspirations to build a new station at Edginswell to provide local rail links to the hospital and employment areas. This would have the potential to be used by staff and therefore it would be appropriate for a contribution to be made towards this project. In addition a contribution would be used to improve cycle links in the area.

#### **Impact on living condition of neighbours -**

The proposed Tesco store would be sited close to the boundary with a number of properties in Edginswell to the south west of the site. There is an approximate 8-10 metre difference in ground levels between these properties and the site of the proposed store. It is proposed to construct a new retaining wall close to the site boundary between the two levels as part of the application. It is noted that the service area which is approximately 30 metres from the nearest dwellings would be raised to

the floor level of the store, which would be nearly 4 metres above the parking level of the store.

In support of the application an acoustic report has been submitted to assess the impact of the proposed development on local residents. The report is based on a worst case scenario of the store operating on a 24 hour basis. The acoustic report notes that there would be acoustic fences around the service yard and access ramp, however this is omitted from the drawing. Because of the difference in ground levels there would be a line of sight from adjacent dwellings to the service area.

Since the previous report, the service area is now proposed to be covered to further reduce the noise levels, Environmental health have recommended that if the application were to be approved the deliveries should be restricted to 7am to 12 am to minimise noise emissions from servicing of the store, particularly in the early morning.

Conditions are also recommended for details of plant such as refrigeration, condenser units, air handling units etc to be submitted in order to control noise output and to agree noise amelioration measures and management during construction. The report concludes the following a) that the changes in traffic noise would be "imperceptible and therefore of negligible impact", b) there would not be a noticeable detrimental effect on the noise climate during the day and c) at night time during the peak hour of activity the guidelines would be exceeded by up to 4 dB at the nearest property, however, this would be below existing peaks for noise at night and would not exceed the existing peak or ambient noise climate from 0600 hours.

Local residents have also expressed concern about the dot com vans having to run their refrigeration units for an hour at the beginning of the day.

### **Trees and Landscape -**

A Landscape and Visual Assessment has been submitted in support of the application. In addition a document with further long distance views across the site has been submitted. The Landscape and Visual Assessment notes that the vegetation on the site is predominantly rough grassland and scrub. There is a small copse of tree planting in the western corner of the site. Similar clusters of small groups of trees are located on the north eastern boundary, associated with the watercourse that runs parallel between the northern site boundary and the railway. There is an attenuation pond in the centre of the site that connects to the watercourse via a ditch running in a northerly direction. This pond forms part of the SUDs scheme associated with the existing business park.

Within the Landscape Character Assessment of Torbay, May 2010, the site is identified as located within the Landscape Character Type 3B: Secluded Valley. The assessment identifies that this area is characterised by steep valley landforms with narrow valley floors. This forms a secluded character due to the enclosing topography and complex network of narrow sunken lanes enclosed by high hedge banks which contain views across fields and out to the surrounding landscape. The area is identified as being settled with the buildings and settlements displaying a variety of sizes, ages and styles.

The Landscape and Visual Assessment identifies the site as being characterised by a number of urbanising elements, which create an urban fringe nature. These are said to consist of the road and railway corridors to the north and west which form robust, defensible edges to the site and create a degree of separation from the wider rural setting. The existing commercial buildings on the site are also said to provide a larger scale, contemporary built form, being located within the immediate setting of the application site. The existing built edge to the east and south, which is located on the rising landform of the valley is said to ensure that the presence of surrounding built form characterises the site.

It is argued in the Landscape and Visual Assessment that the site's topography and its situation within

the lower region of the valley, surrounded by three ridgelines, reinforces the degree of localised visual containment. The combination of the localised vegetation and topography compartmentalises the site from the wider landscape. It is concluded that the visual environment within which the site is set has the capacity to accommodate a degree of change, which would have a limited effect on the localised and wider visual environment.

Detailed planting plans are submitted as part of the application and details of groups of trees that would be felled along with indicative indications of tree protection fencing. The landscape treatment proposed includes:

- Retention of the existing treescape along the south western boundary
- Retention of other existing trees located close to boundary lines, and their reinforcement by additional native tree planting that will be under planted with native shrubs
- Planting of trees and ornamental shrubs to the frontage of the Tesco store and associated car park
- Creation of an area of wildflower meadow to the east of the car park
- Planting of native wetland tolerant tree species and marginal planting surrounding the pond and ditch.

The Arboricultural Officer has identified that a scheme would be suitable for approval on arboricultural merit if the following points could be addressed:

- The relationship between the retaining wall and G2 being acceptable.
- Any approval should take account of the inclusion of the site within the wider landscape and wildlife requirements to achieve a net gain in benefits conferred. The scale of the proposed store will preclude great enhancements if approved as is, so wider improvements should be sought in terms of management, improving and creation of wildlife corridors and areas, aesthetic tree planting and buffer planting improvement (Hamelin Way/ Riviera Way).
- Detailed landscaping plan to be prepared that includes strategically planted trees within engineered surfaces if natural soil profiles are not available supported by cellular rooting systems to allow sustainable root and tree growth.
- Any approval should ensure that conditions are attached requiring installation of protective fencing prior to any commencement including land clearance and earthworks.

As such it is concluded that in principle the scheme is suitable on arboricultural merit and were it to be approved the outstanding issues could be conditioned.

A key consideration in landscape terms is the magnitude of change between the consented scheme and the current proposal. The proposed development does seek to integrate into the landscape setting without detriment within the wider receiving environment. However, the scale of the proposed Tesco store is significantly larger than the previously approved buildings on the site, which comprised smaller scale office, retail and car showrooms, with greater space around the buildings. Consequently the impact in views across the site and from long distance views would be to increase the urban character of the site through the increased scale of development that is now proposed. This scale of building would also reduce the scope for a more characteristic urban/rural fringe form of development, such as exists in the business park with buildings set in a strong landscape.

Policy L10 in the Torbay Local Plan 1995-2011 requires necessary mitigation measures to be provided to minimise damage to the landscape and for landscaping measures to form an integral part of the development to reflect the character of the local landscape. As this site is located on the edge of the urban area it is important that a robust strategic landscape scheme is provided to assimilate new development on the site into the distinctive landscape in the area. This scheme should respect the existing landscape character of the site as described above.

It is noted that the site area does not extend to the boundary with Hamelin Way and Riviera Way. Land to the north east of the site to the boundary with Hamelin Way forms an important landscape buffer to the site and is within the Council's ownership. In order to provide a green edge and soften the impact of the proposed development into the landscape it would be appropriate to seek a contribution from the developer for additional strategic planting on this land and for long term maintenance.

### **Drainage and Flood Risk -**

The NPPF advises that "when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere".

A Flood Risk assessment has been submitted in support of the application which indicates how flood risk and disposal of surface water would be managed on the site. The Flood Risk Assessment effectively determines that the site is located in Flood Zone 1 and therefore has a low probability of flooding. The application site consists of undeveloped land and therefore the proposed development will increase the site's impermeable area and will require attenuation to reduce the surface water runoff rate. To achieve sustainable run off rates it is proposed to use a) an attenuation pond to collect and store rainwater and b) an underground Geolight cellular storage system located underneath the car park.

The Environment Agency has advised that the application should be refused unless access to Edginswell stream/Aller Brook is addressed for maintenance purposes, without this there will be potential impact on flooding upstream. This is an important flood defence outflow structure and compromising this could have implications for flood risk. This matter while significant, does have the potential to be overcome by condition were this application approved.

### **Ecology -**

The NPPF requires Local Authorities when determining planning applications to aim to "conserve and enhance biodiversity". An ecological survey has been submitted in support of the application. It is noted that there are no statutory nature conservation designations within or adjacent to the study area. The South Hams Special Area of Conservation (SAC) is located within the vicinity of the site. There are a number of Other Sites of Wildlife Interest (OSWI) identified within and adjacent to the study area. It is concluded in the report that the proposals will not result in any "likely significant effects" on the important features of the SAC and that there is no evidence to suggest that the proposed development would lead to any significant effects on any known protected species or ecological features of value at the national, county or local level.

The Ecological Assessment found the majority of the site to comprise rank grassland, tall herb vegetation, bramble and bare/re-colonising ground, which supported a limited range of common species and was of overall low to negligible ecological value. The following recommendations are made in the report:

- Suitable safeguards to be put in place to protect offsite watercourse and associated corridor
- Construction safeguards and protective fencing installed to prevent damage to retained habitats (particularly the pond, drainage channel and boundary vegetation)
- New landscaping to incorporate enhancement measures using native planting
- Suitable measures to be put in place to eradicate Japanese Knotweed
- New lighting scheme designed to avoid additional light spill into the offsite watercourse corridor and maintain dark corridors for wildlife movement
- Mitigation measures in respect of reptile species (Slow Worm)
- Bird sensitive timing of vegetation clearance
- New bat and bird boxes attached to new buildings and/or retained trees within the study area.

Natural England (NE) has commented on the proposed development and has not raised an objection. Their consultation response advises that the ecological report should take into account the fact that the site lies at the extremity of a wider corridor of land identified as of potential strategic significance as a flyway for great horseshoe bats, associated with the South Hams SAC. NE also recommend that the landscaping associated with the development includes the creation and maintenance of new habitat suitable for commuting and/or foraging greater horseshoe bats e.g. native broadleaved planting that are not affected by artificial illumination at night.

The Ecological Assessment identifies the broad principles needed to ensure that the proposed development would not have an adverse affect on biodiversity. The precise detail of the measures identified in the recommendations above would need to be addressed by means of conditions, for example, e.g. it is suggested that bat and bird boxes be provided but no specification, number or location of these boxes is provided.

### **Environmental Sustainability -**

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development which, it states, should be seen as a golden thread running through both plan making and decision taking. One of the twelve core principles in the NPPF is to "support the transition to a low carbon future in a changing climate".

An Environmental Sustainability Statement is submitted in support of the application. This identifies that Tesco has committed to be on the path to be a low carbon business by 2020 and a zero carbon business by 2050. Tesco have carried out an extensive design and specification review trialling many new technologies. In the proposed store it is proposed that the following measures would be incorporated:

- Enhanced building fabric and energy specific efficient specification
- Drainage strategy that incorporates SUDS
- Potable water minimisation equipment
- Diverting of all store waste from landfill
- Incorporation of materials with a low environmental impact
- Incorporation of public transport and cyclist facilities
- Enhancement of the sites biodiversity value.

It is advised that there is a time lag between the submission of a planning application and commencement on site. Technologies have changed and advanced considerably over recent years and their improvements appear to be ongoing. In accordance with best practice, a technology review would take place prior to commencement on site so that the most appropriate equipment at the time can be utilised. This point is reasonable, however it is disappointing that there is no commitment to achieving a nationally recognised target such as BREEAM in the development. In order to ensure the proposed development incorporates the many sustainable initiatives as identified in the report (or suitable alternatives) it would be appropriate to impose a condition requiring this information to be submitted prior to the commencement of development.

### **Economy**

The NPPF recognises that sustainable development contributes to building a strong, responsive and competitive economy. In the Planning Statement it is advised that the proposed development would create approximately 400 new jobs. This level of employment would evidently make a difference to the economy in Torbay, especially if these jobs were new jobs in the Bay. However the proposal should not be considered on the principle of job creation alone and the broader economic impact on the whole of Torbay, the social impact and the environmental impact are material considerations in the determination of the application.

The issue of the impact of the proposal on the town centre is addressed above and further advice will be contained in GVAs consultants report. The applicant suggests that the proposed Tesco store would result in loss of trade to a number of other stores. It is likely that this loss could result in a reduction of jobs in competitors stores, and therefore the net number of additional jobs created is likely to be less than the figures stated above.

The use of the site by Tesco would reduce the amount of space available for office development. It is noted that a non food retail use and car showrooms have previously been granted planning permission on the site, however, since these previous consents there has been a material change in circumstances in that the South Devon Link Road (SDLR) has been approved and is now being constructed.

The proximity of the application site to the SDLR means that it would be easily accessible and a prominent location which would be likely to increase its attractiveness for office use. The type of jobs that would be created by the retail element of the proposal would be predominantly part time, low paid with limited opportunities for personal development and advancement. In contrast office jobs are likely to require a higher skilled workforce and would provide higher value, which would have an indirect positive effect on the economy of Torbay.

### **S106/CIL -**

S106/CIL -

Section 122 of the Community Infrastructure Levy Regulations requires planning obligations to meet the following tests:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

The provisions of these tests would need to be met in respect of any financial contributions sought for the decision to be legal.

In accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" a Sustainable Transport contribution would be applicable. In addition, town centre impact mitigation and office development gap funding have been included in the offer from the applicants. The current 106 figure comes to £2mil in accordance with officers discussions with the applicant.

It would only be lawful to request a contribution towards specific costed projects that are necessary to make the development work.

The breakdown of the appropriate contribution and where it should be spent would need to be agreed as part of the legal agreement, were the application to be approved.

Offsite landscape works and maintenance would also form part of the s106 provisions.

Mitigation for the number of jobs that are created by the development has been applied to the above figure.

### **Conclusions**

In conclusion, there is no objection to the principle of the three proposed office buildings on the site. There is however significant concern in relation to the impact of the store in a number of regards, this includes the visual impact as an arrival point to Torbay specifically from the new Link road. In addition, there is concern regarding the design, mass and orientation of the proposed store and the impacts of the store and the A3/A5 unit on the function and appeal of the site as a high quality business park.

With regard to the retail element of the application, the Local Planning Authority does not accept the conclusion of the submitted sequential test. In the opinion of the Local Planning Authority there are suitable sites available within the town centre to deliver the proposed store. The proposed development would fail to ensure the vitality of the town centre and as such would be contrary to the objectives of para 23 of the NPPF.

This revised application has failed to overcome the previous refusal reason of application P/2012/0280.

For these reason the application is recommended for refusal.

### **Condition(s)/Reason(s)**

01. The proposed 7149m<sup>2</sup> food retail store would be located on land designated for employment use in the Torbay Local Plan 1995-2011 and consequently would result in the loss of 2.45 ha of serviced land that is available and highly suitable for employment use. Retention of the site for employment use accords with paragraph 21 in the NPPF, which seeks to promote investment in business. Accessibility to and prominence of the site in commercial terms will be significantly improved with delivery of the South Devon Link Road and this will increase the likelihood of an employment use being delivered on the site, given its prominent location at the entrance gateway to Torquay. The Authority is not convinced that a store of the proposed size is required to pump prime the remaining employment area. Loss of the site for employment purposes would result in the loss of opportunity to secure economic growth through the creation of jobs and prosperity in a struggling economically deprived area, characterised by seasonal low paid employment and as such would be contrary to Policies E1.2(B) and E6 in the Torbay Local Plan 1995-2011.
02. The submitted Sequential Site Assessment Report has failed to demonstrate that the applicant has complied with the requirements of paragraphs 24 and 27 of the National Planning Policy Framework and Policies SS and S6 of the Torbay Local Plan 1995-2011 in respect of the sequential approach. The applicant has failed to demonstrate that the town centre options have been thoroughly assessed as sequentially preferable alternatives to the application site. Furthermore, the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration. The Council believes there are opportunities within Torquay and Paignton town centres which can meet the same needs of retail elements of the proposed development. In the event that the sequential test is achieved in this case, the Council has a retail strategy based on gap area analysis that determines that the application site would not be spatially preferable in any event.
03. The applicant has failed to satisfy the sustainability aims of Policy CF6 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" to secure the delivery of physical, social and community infrastructure necessary to make the development acceptable in planner terms and directly related to the proposal, by failing to secure planning obligations under Section 106 of the Town and Country Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any method other than a legal agreement and the proposal is therefore contrary to Policy CF6 of the Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.
04. The orientation and external appearance of the food retail store fails to meet the objectives of Policies EP1.2(B), BES and BE1 in the Torbay Local Plan 1995-2011 and paragraphs 60, 61 and 64 of the NPPF that seek to ensure new development will positively enhance the built environment, ensuring that the integrity of local character and distinctiveness is protected. The

proposed store relates poorly to the business park, the location of the store's entrance fails to relate to the wider site turning its back on it, presenting extensive blank elevations and rear raised service yard to the Business Park. The proposed building lacks reference to the established built form and character of its setting in Torquay in terms of design, materials and quality of landscape provision. As such the development would fail to provide a high standard of development appropriate to the Business Park or that would be fully integrated into the natural, built and historic environment in this very prominent gateway site that has a significant role as the arrival point to a major tourist destination. The bulk and scale of the building proposed would also be prominent in this gateway location and run contrary to the prevailing urban fringe approach that has been taken to the existing development at the business park.

05. The applicant has failed to demonstrate that the traffic generated by the proposed development could be satisfactorily accommodated on the highway network. As such the traffic arising from the proposed development would have a significant adverse impact on highway safety, capacity and free flow of traffic on the surrounding highway network. In addition the applicant has also failed to demonstrate that the proposed mitigation measures would adequately offset the potential increase in demand. The proposal is therefore contrary to Policy T26 in the Torbay Local Plan 1995-2011.
06. The Retail Assessment fails to accurately assess the impact of the proposed retail store on the Torquay town centre and Paignton town centre, district centres and local centres. The proposed development by virtue of the inclusion of the retail store would have an adverse impact on investment in, and the vitality and viability of, Torquay Town Centre which would consequently have a detrimental effect on trade/turnover in the town centre, contrary to paragraphs 26, 27 of the NPPF and Policies SS and S6 of the Torbay Local Plan 1995-2011. The applicant has failed to prove that material considerations exist that warrant approval of the application proposals contrary to these policies. Furthermore, the development would have a detrimental impact on other existing Town, local and district centres and the Council does not consider that the evidence submitted in relation to the retail impact assessment is robust.
07. Refusal reason to be drafted regarding lack of information drainage/flooding

### **Relevant Policies**

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