

SEATON TOWN  
(Seaton)

09/0022/MOUT

Target Date:4<sup>th</sup> May 2009

Applicant:

Tesco Stores Limited

Location:

Land North of Harbour Road, Seaton, Devon

Proposal:

Redevelopment of land to include housing, tourism, new public realm, petrol filling station, hotel, retail development with public open space and access.

## **CONSULTATIONS**

### **Environment Agency**

Make the following comments:-

Further to the original holding objection and following receipt of the Flood Risk Assessment for the Axe Riverside development, providing development proceeds in accordance with the submitted flood risk assessment dated 30 January 2009 there are no objections to this proposal from the flood risk aspect.

However, we recommend that the application is not determined until we have commented on the additional information regarding potential contamination.

### **Further comments**

Have now received further information as requested and would comment as follows.

Parts of the site shown as car parking are affected by contaminants – provided this part of the site is permanently covered as outlined in the information submitted, there is some measure of assurance that the site does not pose a significant risk to the water environment. However, piling construction work will need to be carefully managed to ensure contaminants do not escape. It is recommended that a watching brief is implemented during construction and excavation works.

Concerning groundwaters – contamination is shown on the site. The source of the contamination is still unclear. Elevated levels of heavy metals were identified in groundwater samples but no significant metal concentrations were identified in soils on site. Consequently whilst no objections are raised the landowner needs to be aware of the possibility of residual contamination risks and the fact that any associated impact on controlled waters remains their/site owners' responsibility.

In addition it is recommended that your Council should condition any permission to secure a Validation Report on completion of works to ensure the site has been reclaimed to a suitable standard.

Details of pollution prevention methods should be submitted and approved prior to development to prevent groundwater pollution. Particular attention needs to be paid to surface water drainage from the proposed petrol station and refer to fuel station design guidance published by the government.

Any impact on human health from contamination should be addressed by your own EHO team.

## **Devon County Highway Authority**

I am writing further to my letter to you dated 11/03/09 and following further meetings discussions and analysis of the supporting information in support of and received from the applicant.

We are now in a situation where we have agreed that a right turn lane at the point of access from Harbour Road will be adequate to serve both the stand alone store application and the rest of the regeneration site, the analysis takes into account the link to the east i.e. two points of access serving the whole site.

In addition to the right turn lane we have achieved a reduced width of the internal road and we are also seeking reduced roundabout dimensions, but with a central island that can accommodate public realm etc.

Two additional Zebra crossings are to be installed along Harbour Road strategically placed to allow easy access to the sea front. All of the off site highway improvements are to be subject of a Safety Audit, and we will await the results.

On parking I have continued with my concern that we should not just be applying the national standard at 1 space per 14 square metres; however I have acknowledged that the store car park will also serve as a short stay facility for Seaton. With this in mind I would suggest that when we look at the remainder of the regeneration site we look to reduce levels of parking such that there is not an over provision of parking at the expense of potential additional development opportunities.

You will be aware that as with many seaside towns there is a lot of on street unlimited waiting out of season that is October to April.

I understand that revised plans are to be submitted removing parking along the Harbour Road frontage of the site to soften the appearance on entry to the site something we spoke about at our last meeting. I think it is vital that we achieve something distinctive on entry not just a long featureless single carriageway. Perhaps the use of themed street furniture, design to be agreed for lighting, bollards, seats etc could be considered.

I also understand that Tesco are now willing to fill the whole site via the sea borne option and therefore the CEMP is to be revised to reflect this. I would hope that the local residents in particular Axmouth will be made aware of the revised method of fill, and reduction in levels of HGV borne material. We still of course will need to carefully manage construction vehicles and the like.

I have informed Tesco representatives about the Public Transport contributions and await feedback.

I also understand that negotiations have been undertaken regarding links from the site across land to the west across land not in the applicant's control, which is considered vital linking the site with the Town Centre.

With regard to the outline application I would repeat my earlier comment regarding my intention to treat the current layout as illustrative and would expect a layout more on keeping with Manual for Streets to be submitted as a detail/reserved matters application.

Other matter such as re-siting of bus stops and facilities, and alterations to Traffic Regulation Orders are ongoing, but can be dealt with by condition/agreement

I will write to you again on receipt of further information and should you feel a meeting would be helpful please let me know.

## Further Comments

Acknowledging that the Planning Brief sets out the type and mix of development point of access fill requirements and the like.

I have indicated that with regard to the residential I would be looking at reserved matters stage for a more permeable layout in line with the thinking behind Manual for Streets published in 2007.

Any layout would need to provide for a link again as required by the brief to give two points of access.

We have considered the Town Councils response to you but we are happy with the information set out in the TA or as revised, in consultation/discussion further submission from/with the applicant's agent.

With regard to the amended plans I still raise concern regarding the overall level of parking for the outline proposal and we are still looking to reduce the amount of road space internally, removal of hatching etc, and also additional opportunities for pedestrians to cross within the site, all of which can be dealt with as part of a future reserved matters application.

We do have a further internal meeting on Friday of this week and I will follow up with a further response early next week

## **Devon County Education Department**

A contribution towards education infrastructure via a Section 106 Agreement is sought in respect of the above application.

The primary school affected is Seaton Primary (Summer 2008 number on roll was 350 and pupil place capacity is 384). A large scale residential development could be expected to produce additional primary aged pupils, which will cause a shortfall of places at the school. The contribution required would be *£2,603.50 per dwelling which would be used to part fund teaching accommodation plus £71.88 per dwelling for ICT equipment*, based on the DCSF cost multiplier extension rate for Devon.

The secondary school affected is the Axe Valley Community College (Autumn 2008 number on roll was 847 and pupil place capacity is 878). A large scale residential development could be expected to produce additional secondary aged pupils, which will cause a shortfall of places at the school. The contribution required would be *£2,367.60 per dwelling which would be used to part fund teaching accommodation plus £217.50 per dwelling for ICT equipment*, based on the DCSF cost multiplier extension rate for Devon.

The County Council would also wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. *Legal costs are not expected to exceed £250.00, if the agreement relates solely to the education contribution.* However, if it involves other issues or becomes protracted, the legal costs are likely to be in excess of this sum.

*[ For Members information assuming say 290 dwellings this equates to a figure of £775,860.20 for primary education and £749,679 for secondary education with an overall total of £1.5m – the applicants have provided a letter from Devon CC dated 18 December 2006 in response to the earlier application requiring a £0 contribution for primary (based on a maximum of 300 dwellings) and a £95841 contribution for secondary education based on an assessment of school places at that time. ]*

## **Devon County Archaeologist**

The Archaeology and Heritage chapter of the EIA submitted in support of the application has highlighted the archaeological potential of the site in the medieval period for salt production, as well as the potential for the preservation – by water logging – of artefactual material and palaeoenvironmental deposits. Groundworks, in particular for the preparation of the site for the raising of ground level and for the construction of foundations, may expose and destroy archaeological or palaeoenvironmental deposits that survive within the application area. For this reason, the following condition should be attached to any consent

‘No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme.

Reason: To ensure that an appropriate record is made of archaeological evidence that may be affected by the development’.

I would envisage the archaeological works as taking the form of a staged programme of archaeological investigation. This would initially comprise the excavation of a series of evaluative trenches to determine the nature and extent of any surviving archaeological or palaeoenvironmental deposits within the application area. The excavation of any geotechnical pits should also be subject to archaeological monitoring and recording. The results of these investigations would allow the impact of the development upon the archaeological resource to be understood and the requirement and scope of any further archaeological works in mitigation for this impact to be determined, agreed and programmed into the construction timetable.

## **EDDC Housing Enabling Officer**

No objections, making the following comments.

This opportunity to provide much needed affordable homes in Seaton.

In accordance with the Interim Supplementary Planning Guidance (SPG) and H4 of the East Devon Local Plan 2006, we expect to see a 40% provision for affordable housing with a tenure split suggested in our SPG of 75/25 %, supported by the East Devon Housing Market Assessment (EDHMA) 70/30% in favour of Social rented accommodation / shared ownership respectively.

We want to ensure that in accordance with our SPG the affordable homes are, where possible, dispersed throughout the development. We require the affordable homes be transferred and managed by an RSL and that all nominations are made via East Devon District Council.

All affordable homes to be held in perpetuity, meet target rents and current Homes and Communities Agency build and design standards. All the aforementioned forming part of a sec 106 agreement.

## **EDDC Environmental Health**

I have considered the further information provided by the applicant in relation to infilling the site. I would expect to see a detailed assessment of the proposal to bring fill by sea which must be put together in full consultation with interested parties such as the Environment Agency, Natural England, Environmental Health, the Harbour Authority, affected landowners and others.

I would also need to agree a comprehensive noise management plan, discussed in detail with us before submission, as is usual for applications of this nature. This could be dealt with as a reserved matter.

Finally, the Contaminated Land Officer has not been consulted separately. Standard condition CT3 needs to be attached if approval is recommended.

## **EDDC Landscape Architect**

Harbour Road – opportunity for large tree planting and significant landscape planting, area west of main access has been improved as part of detail proposals for food store site and there is potential for extending public access and amenity value to the east.

Major public open space running north/south - has the potential of being a distinctive high quality area ('district' of Seaton) with its own identity. Early discussions identified high quality designed solutions for 'nature' play, SUDS, DDA access, large tree planting, secure by design, etc – this area in particular needs to 'tell a story' (have a strong concept) that is committed to in terms of long-term ownership, involvement and if necessary adaptation throughout the course of the developments life.

Housing layout – appears to be based loosely on perimeter block form or runs of units to create a street – the scheme does not take advantage of views out into the countryside (north) and the northern strip of land (POS?) is not well over looked. My initial impression is that the scheme is less than inspiring and should be creating something really special and distinctive – properties do not face the linear open spaces. I would like to see some evidence of testing different options from densities and building heights to combinations of different sized units – the scheme warrants further workshop type discussions.

Link to Axe Riverside development – the OUTLINE scheme has not been integrated into the design concept for the Axe Riverside. Riverside way is a key access route (for all forms of movement) and this scheme should front this route to create a street and improve the perimeter block form.

Architectural design will have a significant impact on the success of this large development site. Different styles are inevitable but it is crucial that East Devon District Council is strong in leading the right approach as it will transform this development from a mediocre scheme into a highly distinctive site and promote a wider interest in regenerating Seaton town.

## **EDDC Countryside Services**

Welcomes proposals but considers not enough information on mitigation on wildlife. There is an opportunity to create an exciting legacy for wildlife interests to be fostered. Welcomes S106 agreement to cover wetlands and the potential to acquire more land Flood relief channel needs to be properly landscaped. Flood impact on marshes with them acting as storage areas. Cycleway links should not lead to a dead end. Don't agree visual or other impacts will be neutral as set out in the ES.

## **EDDC Estates and Economic Development**

The Council owns land to the East of the application site and land within the West end of the application site itself (please see the enclosed land ownership plans). As the planning application proposes a raising of site levels across the application site, there is inevitably concern around any likelihood of increased risk of flooding on the Council's land both within the site and to the East. The Council, in its capacity as landowner, requests that flood prevention works, adequate to ensure that its adjoining landholding will not be placed at an increased risk of flooding by the proposed development, are required to be implemented as part of any permission granted for development. As we understand it, based on the Flood Risk Assessment, there have been no objections raised by the Environment Agency.

The Council owned land to the East (Riverside Workshops) is currently used to provide industrial workshop and compound accommodation. It is foreseeable that complaints may arise from residents of the proposed new development in respect of noise or emissions, or smells, and vehicular movements that may from time to time result from the business operations being undertaken at the Council's Riverside Workshops. If enforcement is taken then the uses of the units could be compromised and cause difficulties for these businesses. Consideration needs to be given to ways of minimising such risk in the design and form of the housing development, perhaps through some form of bunding, and I would be grateful if this could be considered under

the planning conditions. The application illustrative plan also indicates an access from the application site through Riverside Workshops. The Council has not been approached by the applicant to discuss this access being provided.

The Council land within the Western part of the application site is currently used as a public car park, play area and skate park, picnic area, Tourist Information Centre, Tram Company Station and public toilets. The Council, in its capacity as landowner, has been in discussions with Tesco for some 18 months in relation to the potential disposal of an interest in a small part of this Council owned land for the use as a pedestrian access from the store to the town centre. In conjunction with these discussions, Tesco has indicated to the Council its willingness to agree to provide, by way of section 106 obligations, any required bulk fill for the construction of the public realm/footpath, to incur the cost of any demolition work required to build out the public realm area and to incur the cost of the construction work including paving, landscaping and signage. As landowner, the Council notes that it is proposed to secure these public realm works by way of planning obligations. In addition, Tesco has indicated verbally that it would provide any required bulk fill, in liaison with the Seaton Visitor Centre Trust, for the construction of a Visitor Centre including cycle hub.

It would appear that in addition to attempting to address the Planning Authority's Seaton Regeneration Area policy as identified in the Local Plan as LSE1, this application will assist the Council in the delivery of its ambitions prioritised for Seaton under its Corporate Strategy.

## **Network Rail**

Network Rail has no observations to make, as they have no land ownership in the locality of the site.

## **South West Regional Assembly**

The RPB assesses consultations on proposals for development on how far they would impinge on the delivery of the Regional Spatial Strategy (RSS).

The recognition given in the submitted documents, particularly in the Planning Statement and Retail Impact Assessment, to the regional strategic planning context provided by the current and emerging RSS is welcomed. It is noted that Seaton has been identified as an Area Centre in the Adopted East Devon Local Plan 2006 with a specific policy (LSE1) to promote mixed use regeneration within the Seaton Regeneration Area site. The recently published (December 2008) East Devon Local Development Framework Issues and Options Report, considers Seaton as a coastal/market town covered by the RSS Development Policy B.

In line with Development Policy B in the draft and emerging RSS, the RPB welcomes the provision of mixed use development to provide for housing, employment, shopping and other services that increase their self containment and enhance their role as service centres. Maximising the potential for using previously developed sites is specifically recognised in Policy SR39 of the draft RSS.

Provision of a significant element of affordable housing (AH) as part of the part of the proposed residential development is welcomed. Policy H1 of the proposed changes seeks to ensure that at least 35% of all housing (across the LA area) should be AH.

Seaton has been identified as an Area Centre and it is also noted that the specific site is within the identified Town Centre Shopping Area and that a retail assessment has been carried out in this context. Policy TC1 of the draft RSS and the proposed changes recognises the importance of town centres for new mixed use development. In Development Policy B settlements it will be important to improve accessibility and enhance the quality of the public realm and the town centre environment.

The intention to provide new hotel accommodation to replace the Holiday Village which would be closing is welcomed. The new accommodation and proposed Visitor Centre would be well

placed in relation to the Jurassic Coast World Heritage Site and would be consistent with strategic policies TO1 and TO2 in the draft and emerging RSS. Also, the intention that the development should facilitate a major new Wetland Nature Reserve to the north of the application site, which would be an important environmental and visitor asset is noted and welcomed.

Subject to any outstanding comments on the environmental impact of the proposal, the objectives of the outline application are consistent with the policies and strategies of the current and emerging RSS and would aid their delivery.

### **South West of England Regional Development Agency**

No objections

### **South West Water**

South West Water has no objections to the proposals.

The development together with the associated residential use has already been agreed to in recognition of the demand placed on the infrastructure by the existing development the proposals will replace.

### **Architectural Liaison Officer (Police)**

Seaton is fairly crime free with low reported crime figures across the board. One of the main concerns expressed by the local policing team is that there is a lack of youth provision within the town. This has led to problems with anti social behaviour, specifically graffiti and general nuisance in the areas of the High Street, sea front and Co-op. Young people tend to congregate in these areas as they offer some form of shelter. Following the closure of the youth club situated in the Underfleet car park the only facility available to young people is the Devon County Council Youth Bus which visits the town once a week.

The provision of some form of youth shelter in the area of the current skate park would be beneficial to the town. Even though young people use this area to meet there are very few complaints from local residents. This would encourage young people to use the park rather than congregating in any new sheltered areas provided by the proposed Tesco building or the proposed new playgrounds in the residential area of the site.

The Co-op, currently Seaton's largest supermarket, has experienced problems with nuisance and anti social youths in the past. Figures from police records reveal complaints regarding underage drinking, abusive behaviour towards customers, playing with trolleys and throwing items.

The local police also report that there have been problems with boy racers using Underfleet car park. The car park is very open with few barriers to prevent vehicles gaining speed. Tesco may wish to take this into consideration and design in planting or even erect barriers to prevent misuse of the store car park, especially during hours of closure.

Planting within the car park should be low (no taller than 1m in height), well maintained and should not restrict natural surveillance or create hiding places for car criminals.

Consideration should be given to moving the cycle racks closer to the main entrance of the store. This will increase natural surveillance as there is likely to be more footfall to and from the car parking area rather than the pedestrian route. In the current planned location, the bicycles are reasonably hidden due to the location of a trolley bay thereby increasing the opportunity for theft.

The local policing team are concerned about the increase in traffic, specifically lorries, during the building stage of the development. The roads to the site are particularly narrow especially

around the village of Axmouth and it is believed that there would be traffic congestion, with a raised potential for collisions.

In addition, the following recommendations were made:-

Crime and disorder should be considered at the early stage and as part of the Design and Access Statement. There is little further reference to the document '*Safer Places – The Planning System and Crime Prevention*' which is important.

Serious consideration should be given to defensible space, defensible planting, public open spaces, defining clearly the difference between public and private space, desire lines, public furniture and cycle/footpaths. This would comply with *The Code for Sustainable Homes: Technical Guide 2008* which aims to '*Encourage the design of developments where people feel safe and secure; where crime and disorder, or the fear of crime, does not undermine quality of life or community cohesion*'

Affordable/social housing should be pepper potted throughout the site.

The principles of *Secured By Design* should be considered prior to completing a full planning application. This would assist in reducing the opportunity for crime and fear of crime, creating a safer and more secure environment.

## **Natural England**

### Initial response:-

Regarding the use of a pipeline to bring in material for the land raising - they will need to get a FEPA licence and a CPA licence. These are both obtained from DEFRA Marine Conservation and Environment Unit (MCEU) in Bristol.

The main questions NE would be asking is where is the material coming from which is going to be brought on-shore – will it come from a quarry on land or will it be marine derived aggregate?

If the latter:

- Where will it be taken from?
- If it is from within Lyme Bay, unless there is an extant permission for extraction we may have some concerns due to the sensitivity of the area.
- It may also have a high salinity which could affect the surrounding watercourses.
- And in general – how long will the pipeline be and how long will it be in place?
- Will it be anchored to the seabed?

### Further Response

Again a generic response from Natural England on all three planning applications which include the supermarket proposals.

#### 1. Impacts on SAC sites

There are 3 in the area:-

#### Axmouth to Lyme Regis Undercliffs SSSI (part of Sidmouth to West Bay SAC)

- None of the developments are likely to have a direct effect on this site. Indirect effects would only be likely if there was any pollution as a result of the construction of

developments which should be avoidable. Not sure whether the pipeline to bring in aggregate for land raising has any potential for impacts?

### River Axe SAC/SSSI

- None of the developments are likely to have a direct effect on the site because it is upstream of the site. However 2 of the features of interest Sea Lamprey (SAC feature) and Atlantic Salmon (SSSI feature) are anadromous/migratory fish so any piling work, work causing acoustic noise or siltation of the estuary could impact on these species. This impact is most likely to result from the Axe Riverside development. The illustrations show a significant change to the waterfront in this location with a built up wall where there is currently nothing but I have not seen any detailed drawings of how this will be constructed. (If these exist could you let me know where to find them?)

### Beer Quarry Caves SAC/SSSI

- None of the developments will have a direct effect on the site which is located several km to the west. However, it is possible that some of the bat species using the caves may use the habitats in and around the Regeneration area for feeding and commuting. In particular the riverside and the northern boundary have been identified as having significant bat activity. NE would be looking for the developments to demonstrate that they will retain significant feeding routes and provide some enhancements. Lighting treatments of the boundaries of the developments will need to be particularly sensitive.

#### 2. Protected Species

- As for Beer Caves above

#### 3. BAP Habitats and species

- In PPS 9 and the NERC Act there is a duty on LAs to retain these habitats or seek compensation/mitigation for their loss.
- The waterfront treatment has the potential to result in loss of salt marsh UK BAP habitat in front of the new seawall as a result of increased wave erosion.

#### 4. Axe Wetlands – opportunities and threats

- There is an opportunity to deliver excellent visitor links to the developing Axe wetlands to the north. This will form a key visitor attraction for the area as well as being the principle green space for the Regeneration developments. Whatever permissions are granted they must provide appropriate access links through them to the wetlands and must not result in access opportunities being lost or compromised in the future.
- The developments should also ensure that the northern boundary is treated sensitively in terms of landscaping and location of uses to ensure that it minimises disturbance (noise and visual intrusion) to the wildlife, birds in particular which could result from the development.
- We would also like to see the delivery of the Visitor Centre at the earliest opportunity so ask the question – if the Tesco outline application is granted can there be any guarantee that it will be built or when this might be?

These are all very generic points, and which apply to the different applications to varying degrees.

## **Axe Estuary Wetland Project Officer**

The application from Tesco does mention the Wetlands project but they use very out of date information about it. Their application does state an expectation to contribute to the project through the s106 Heads of Terms; however this only relates to the outline plan and no contributions are offered as part of the detailed plan for the supermarket.

We welcome the reference to the land north of the boundary (Sheep's Marsh) becoming part of the wetland project, although it is not specified how this would occur. We understand that the issues relating to the legal covenant, access to the site and the ransom strip adjacent to it have not been resolved. Although this means that it may not be possible to create the visitor facilities initially proposed on this land, it would still be very valuable to the project for its wetland habitats and landscape value. It is one of the key parcels of land which we would like to acquire.

In relation to Ecology and Nature Conservation, their consultants have highlighted most of the possible issues and effects of the development. They flag up the fact that drying out or over flooding of Seaton Marshes and the County Wildlife Site could have a major adverse permanent impact but do not propose any mitigation. They list increased visitor pressure as an adverse impact but do not propose mitigation.

The statement goes into quite a lot of detail on bats, badgers and breeding birds on site. Although it mentions wildfowl and waders and notes that they were present on adjacent land, it does not identify that there would be any impact on them as a result of the development or propose any mitigation. Additionally the operational impacts section does not flag up disturbance of wildfowl and waders using the marshes to the north. They appear to have identified the potential problems for wildlife but not offered any solutions.

Therefore we can't agree with their claim that the effect of the development will be neutral. This application seems to have missed the opportunity to propose exciting mitigation proposals that would enhance the offer of their scheme.

## **East Devon Visitor Centres Project Development Manager**

Response to Tesco Planning applications, for store and in outline, to include the land identified for the building of the Visitor Centre.

The delivery of a Jurassic Coast visitor centre as a part of the regeneration plans for Seaton is identified as an indicator of success under the Council's Corporate Strategy and the priorities identified therein. In addition, at a meeting held in April 2008 with Tesco Stores Limited (TSL), a 'shopping list' was agreed by Seaton's elected Members, including the Town Council, District and County Council. The facilities that members agreed they would want to see delivered by TSL on land within its ownership and as part of the town's preferred regeneration programme included a visitor centre incorporating a cycle hub.

The Visitor Centre project proposes a commercially viable centre, including foyer (potentially inc. TIC), exhibition galleries, shop, plant room, offices for staff, education space, cafe and toilets. The design process is still ongoing but the most recent design plans include a cycle hub provision. The Centre's theme will revolve around rock and water and provide an interpretation for the both the Wetlands and Coast.

The Visitor Centre will transform Seaton's cultural offer, and it is hoped will attract at least 70,000 visits each year. This will stimulate the tourism economy and bring an exciting all-year-round offer to the town which will draw in economic benefits from visitor markets, whilst stimulating the other businesses in the local area by residential populations across East Devon and beyond.

Our requirements for the Visitor Centre, supported by the Exmouth and Seaton Jurassic Coast Visitor Centre Board of Trustees are as follows:-

A land contribution from EDDC, to enable the centre to be built on Council owned land. A minimum 1,500 sq m (16,150 sq ft) premises, unless agreed otherwise in advance with the project team.

Devon County Council has committed £500,000 to the project. Under current proposals, a further capital commitment of £1.7 million is required. Should a capital receipt be received by the Council by way of an access agreement over its land to provide a pedestrian link between the proposed TSL store and the town centre, we would like Members to choose to subsidise the development of the Visitor Centre.

That the Visitor Centre includes a Cycle Hub to support Devon County's plans for an integrated cycle path linked to the area.

That the site levels be raised under the proposed Visitor Centre site to enable the building of the Visitor Centre on Council owned land. We understand that the site will need to be raised by about one metre only at this location. Tesco has verbally committed, subject to contract, to provide any necessary fill to raise ground levels for the building.

Officers are currently negotiating terms with TSL to include an undertaking that TSL will build out the public realm and pedestrian link to the town centre and it is hoped that this will include public realm improvements up to the entrance to the Visitor Centre so that integration can be achieved. That the building be constructed at the same time as the Store to ensure that both can open at the same time as a preference, or failing this, that all external build be completed on the centre to ensure the public are not approaching the store through an active building site.

Separate discussions will be underway to establish the leasehold arrangements to be agreed with the Council, with the expectation that there will be support on the annual rental for at least the first 10 years (i.e. peppercorn rental agreement).

The design of the proposed Visitor Centre is currently undergoing substantial alteration. We attach with this report images of the current external and internal plans for the Centre. The design process is still on-going but it is hoped that the Board will be in a position to submit a planning application in the near future.

## **TOWN/PARISH COUNCILS**

### **Seaton Town Council**

Recommend refusal for the following reasons (summary of comments made):-

- Development and not regeneration – does not provide the range of mixed uses envisaged
- No integrated approach to evening and night time economy as advocated in PPS6
- Flood risk data inaccurate
- Contrary to Structure Plan policy CO13
- Construction and Management plan are inadequate. Not enough information as to who the serious impact of the development will be mitigated. Concerned regarding lorry movements and impact on town
- Not enough information on the sea dredging option, licences not yet in place
- Concerned about impact on local roads from lorry movements
- Impact on Lyme Bay from offshore pumping not yet properly assessed
- Design represents standard house types which is not good enough. Not locally distinctive and fitting for a seaside town which has much history
- 4/5 storey buildings are unacceptable
- No benefits to the community at large
- Poorly planned layout
- No provision for cycleways
- Does not improve the character of the town
- Poor accessibility and traffic management
- Contrary to a range of policies in the Local Plan and Structure Plan on traffic issues

- Traffic assessment is inadequate – questions way in which data was collected
- Signal junction not acceptable onto Harbour Road
- Contrary to DfT guidelines
- Poor quality housing with small square footage
- Poor pedestrian links
- Lack of public open space
- Inadequate community tourism and leisure facilities
- Loss of holiday park is not compensated for in proposals
- Inadequate attention to landscaping and conservation issues
- Loss of community infrastructure
- Noise pollution and loss of amenities
- Inadequate information on air quality assessment
- Lack of biodiversity

### **Colyton Parish Council**

Object to this application.

The volume of lorry movements associated with this proposal would be enormous and if access was not permitted through Axmouth then it would have to go through Colyford which we find unacceptable. This is a very busy road, especially at the start and end of the school day and would also cause considerable inconvenience to the local residents. Also, the proposed site is a flood plain and with projected sea level rises and flash flooding we do not agree that this is an appropriate site for this development.

### **Beer Parish Council**

No objections

### **WARD MEMBER(S)**

#### **From Councillor: Stephanie Jones**

Following an initial review of the above application I have concerns regarding these particular applications:-

The application site has been designated as a regeneration site. The Supplementary Planning Guidance envisages a mixture of uses on the site including commercial and retail development, a Jurassic interpretation visitor centre, community facilities and a re-sited tramway terminus. For Planning Application 09/0019/MFUL there is no mention of provision for a Gateway Visitor Centre, no mention of links between the proposed application site and the Axe Wetlands Nature Reserve and no mention of provision for a new cycle hub for the terminus of the 'Stop Line' cycle route. We need to have these facilities included in any planning application for the regeneration site as they are pivotal to attracting tourists and visitors into the town.

With this application there will be the need to raise the site out of the floodplain. Access to the site is constrained by surrounding land ownerships and it is only possible to transport the in fill material by road. This will necessitate a considerable number of construction traffic movements which will cause disruption not only to Seaton but other nearby settlements. This could be a lengthy process depending upon which in fill method is chosen.

The proposed store size is 5,996 sq m gross which would include 1,113 sq m for selling a limited range of non food merchandise including books, CD's/DVD's/Videos, small household/kitchen goods and clothing. The size of the store is too large to support the needs of Seaton and the surrounding settlements and by selling, even a limited range of non food items, it would take trade away from the town centre and in some respects would be in direct competition to the small independent shops that need to be retained in the town if we are to encourage shoppers back into the town centre. Also, the proposed links between the application site and the town centre are poor and would not encourage shoppers to walk from the store into the town.

The design of the store does not do justice to its important and strategic position in a town which nestles between a World Heritage site, the Jurassic Coast and an Area of Outstanding Natural Beauty. Any developments on this site need to be of a high quality, and an innovative design. There is no connection from the site to the Axe Wetlands which should be a requirement of any development on this site.

As far as Planning Application 09/0022/MOUT is concerned the same comments regarding the infill situation applies and again there is no mention of a Gateway Visitor Centre or a cycle hub for the terminus of the 'Stop Line' cycle route. As regards to the design of the houses and hotel it needs to be a high quality development to reflect its proximity to the Jurassic Coast and surrounding area. We need to promote an attractive riverside edge to the town and provide a mix of high quality housing units.

For all of the above reasons I have issues and concerns about these two applications.

Further to my comments above, Tesco's have indicated that they would be willing to raise the ground levels of the whole of the land within their ownership prior to the opening of the store. This should increase the likelihood that once the economic climate improves the remainder of the site would be ready for immediate development without the necessity to raise the remaining land. The fill for the site will now be brought in by sea rather than transported by road which will be a much quicker method and will avoid the need to have years of lorries bringing infill to the site which was a major concern with this application.

Tesco have also agreed, subject to contract, to transfer land owned by them to East Devon District Council which would form part of the Axe Wetlands and have also shown in the amended plans a new pedestrian link onto Harbour Road with a further link to the south west. This new link would help integrate the new store with the Town Centre and strengthen the pedestrian links to the town centre shopping area.

The smaller shop unit accommodation that was shown in the original plans has now been removed from the application and it is to be hoped that Tesco could give this part of their land over to the town so that it could be used for the benefit of the town and its residents.

With these amendments this application becomes more acceptable and the amendments have alleviated many of the concerns that I had regarding this application.

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

## **REPRESENTATIONS**

### **Objections**

171 letters of objection have been received:-

- Traffic issues(construction/land fill movements/customer/dot com store deliveries), effects on the flood plain,
- Impact on residential amenities,
- Jeopardising businesses in Seaton/town centre,
- Environmental issues such as contaminated land,
- Lorry movements damaging to Seaton and Axmouth
- Poor location,
- Accident potential on the highway infrastructure,
- Proposal is not providing regeneration,
- Loss of gym/pool and other public amenities
- Does not accord with the Local Plan,
- Too big, noise,

- Overdevelopment,
- Adjacent to the AONB.
- Over provision of Tesco stores in locality
- Environmental problems associated with pumping aggregate ashore
- Seaton doesn't need large new superstores –will destroy its character
- Site should be used as a park instead
- Potential fuel leaks could damage World heritage site and wildlife interests
- On line shopping will mean incessant lorry traffic for deliveries
- Too many houses for Seaton's infrastructure to cope with
- Local roads are inadequate to cope with extra traffic
- Applicant has no interest in town except for a new store – other elements will not be delivered and Seaton will be like every other town with a major supermarket

## Support

37 letters of support have been received

- Proposal will be of benefit to Seaton,
- It's a good plan to develop the regeneration area,
- Benefit to residential amenities.
- Removal of brown field land which damages visual impression of the town
- A foodstore at the harbour end of town will be of great benefit to locals
- First class access and parking
- New store will not disrupt existing facilities
- Desperate need for affordable housing which this proposal will bring forward
- No other developer would bear the cost of bringing the site forward
- Shouldn't miss this chance to regenerate the site and the town
- If Sainsbury get permission will the Tesco land just be left as an eyesore
- Concerned about negative image being painted of Tesco at recent public exhibition. Consider Tesco should be given level playing field and their proposals given proper consideration
- Tesco plans are more comprehensive and will provide jobs
- Will stop people travelling out of town to shop
- Sainsbury proposal would result in a loss of car parking and loss of important green space. When regeneration comes such facilities will be even more important. To lose them now would not be good for the town

| App.No:      | Proposal  | Decision     | Date     |
|--------------|---|--------------|----------|
| 06/3400/MOUT | Re-devt of land to include housing, retail, FS,leisure/tourist devt with access and POS | Undetermined | 29/01/07 |

## PLANNING POLICIES

### National Planning Guidance

- Planning Policy Statement 1 "Delivering Sustainable Development"
- Supplement to Planning Policy Statement 1 "Delivering Sustainable Development"
- Planning Policy Guidance Note 4 "Industrial, Commercial Development and Small Firms"
- Draft Planning Policy Guidance 4 "Sustainable Economic Development"
- Planning Policy Statement 6 "Planning for Town Centres"
- Planning Policy Statement 9 Biodiversity and geological conservation
- Planning Policy Statement 10 "Planning for Sustainable Waste Management"
- Planning Policy Guidance Note 13 "Transport"
- Planning Policy Guidance Note 17 "Planning for Open Space, Sport and Recreation"

- Planning Policy Statement 22 “Renewable Energy”
- Planning Policy Guidance Note 23 “Planning and Noise”
- Planning Policy Statement 23 “Planning and Pollution Control”
- Planning Policy Statement 24 “Planning and Noise”
- Planning Policy Statement 25 “Development and Flood Risk”

## **Regional Planning Guidance**

### **Regional Planning Guidance for the South West (RPG 10)**

### **Draft Regional Spatial Strategy for the South West 2008 – 2026**

### **Regional Economic Strategy for the South West of England 2006 – 2015**

### **Devon Structure Plan (2001 – 2016)**

- ST1 (Sustainable Development)
- ST4 (Infrastructure Provision)
- ST15 (Area Centres)
- ST20 (Re-assessment and Safeguarding Employment Land)
- ST21 (Regeneration Priority)
- CO6 (Quality of New Development)
- CO11 (Conserving Energy Resources)
- CO12 (Renewable Energy Developments)
- C13 (Protecting Water Resources and Flood Defence)
- WM1 (Waste Management Hierarchy)
- TR1 (Devon Travel Strategy)
- TR2 (Co-ordination of Land-Use/Travel Planning)
- TR4 (Parking Strategy, Standards & Proposals)
- TR5 (Hierarchy of Modes and Transport Assessment)
- TR6 (Network Integration)
- TR7 (Walking and Cycling)
- TR9 (Public Transport)
- TR11 (Safeguarding Transport Networks)
- SH1 (Shopping Facilities – Sequential Test)
- SH2 (Shopping Facilities and Settlement Hierarchy)

### **Exeter and the Heart of Devon Economic Development Strategy 2005 – 2008**

### **East Devon Economic Development Strategy 2005 – 2008**

### **East Devon Local Plan (1995 – 2011)**

- S2 (Built-up Area Boundaries for Area Centres and Local Centres)
- S4 (Development Within Built-up Area Boundaries)
- S7 (Infrastructure Related to New Development)
- D1 (Design and Local Distinctiveness)
- D2 (Sustainable Construction)
- D3 (Access for the Disabled)
- D4 (Landscape Requirements)
- EN5 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)
- EN15 (Control of Pollution)
- EN16 (Contaminated Land)
- EN20 (River and Coastal Flooding)
- EN21 (Surface Run-off Implications of New Development)
- E2 (Employment Generating Development in Built-Up Areas)

- E3 (Safeguarding Employment Land and Premises)
- SH1 (Town Centre Shopping Areas)
- SH2 (Primary Shopping Frontages)
- SH3 (Large Stores and Retail Related Uses in Area Centres)
- RE2 (Open Space, Sports Facilities and Parks)
- TA1 (Accessibility of New Development)
- TA4 (Footpaths, Bridleways and Cycleways)
- TA7 (Adequacy of Road Network and Site Access)
- TA9 (Parking Provision in New Development)
- LSE1 (Seaton Regeneration Area)

### **Supplementary Planning Guidance**

- Seaton Town Design Statement 2008
- Development Brief - Seaton Regeneration Area: Adopted in March 2005
- Trees and Development: Adopted in April 2005

### **SITE LOCATION AND DESCRIPTION**

The application site is situated within the development limits of Seaton and is shown as the Seaton Regeneration Special Policy Area within the adopted East Devon Local Plan.

The application site comprises approximately 80% of the Seaton Regeneration Special Policy Area which is approximately 18 hectares of low lying land north of Harbour Road and south eastern part of Seaton Town. The application site covers an area of 15.8 hectares, and is classified as brown field or previously developed land.

The principal part of the site is the former Lyme Bay Holiday Village which comprises a number of buildings, chalets, access roads and recreational areas. The eastern boundary of the site abuts an industrial park which is a mix of commercial premises served off an access road (Riverside Way). This eastern boundary also adjoins land owned by Axe Riverside Company Limited. To the north of the site is the Seaton Marshes. Land beyond this northern boundary comprises open pasture/wetland which is defined as a County Wildlife Site, a Coastal Preservation Area and an Area of Great Landscape Value. There are the remains on site of concrete slabs of the chalets, reception/entertainment buildings and the concrete bases for approximately 230 static caravans. There are existing residential and retail development elements to the south and west of the site. The southern boundary is also defined by Harbour Road which currently has a mix of retail, leisure and residential uses and is the main road into and out of Seaton Town. Harbour Road has a number of terraced properties and apartments, some of which are five storeys.

Underfleet Road links to Harbour Road to the west of the site. To the west of the Underfleet Road, there are flats and housing. To the east of Underfleet Road lies the existing Seaton Tramway Station, Tourist Information Centre and associated Council owned car park to the east of the road. Along the Underfleet Road, there are a number of three and four storey apartments, which are located towards Harbour Road, and two storey semi-detached and terraced properties towards the north of the site. The Town Centre Shopping Area extends from the traditional centre of Seaton to encompass some parts of the south western corner of the site, the subject of a separate full application by the same applicant.

Axmouth Bridge is located to the east of the regeneration area and is the oldest surviving concrete bridge in England. Axmouth Bridge is a Scheduled Ancient Monument.

The site is relatively flat, with an increase in ground level to the south towards Harbour Road. The ground level is between 1.5 metres and 2.4 metres above Ordnance Datum or mean sea level. The site is in the flood plain of the River Axe, and is potentially subject to both fluvial (river)

and tidal flooding. The site is also below the Environment Agency's long term flood levels and within Flood Zones 2 and 3. The site is contaminated land.

To the south of the site are a number of Lombardy and Grey Poplars. The western boundary, adjacent to The Underfleet, is primarily comprised of shrubs. Scrub vegetation and lines of pollarded Poplar trees broadly follow the alignment of the Seaton Electric Tramway tracks as they run from the terminal in the west, heading north and then turning east. Poplars line some of the internal roadways and footpaths within the holiday camp areas. The former holiday camp, to the west of Lyme Bay Holiday Village, comprises areas of hardstanding and roadways associated with the former use; rough grassland with weeds and scrub vegetation covers most of the internal areas of the site, established amongst areas of hardstanding. To the north west of the site lies the public open space, comprising amenity grassland and play equipment. Further to the north of the site, lie extensive open areas of marshland countryside, under agricultural/pastoral use.

The site is currently defended from tidal and fluvial flooding by existing flood defences along the Seaton Tramway embankment to the east and The Esplanade to the south. The top level of the Seaton Tramway embankment averages at 3.35 metres AOD adjacent to the site with lower points of 3.08 metres AOD and possibly 2.44 AOD and lower, further north, and the 1-in-200 peak surge tidal level will be 4.00 metres AOD in AD 2070.

The site is currently defended from flooding to between a 1-in-15 year and a 1-in-70 year standard (approximately) along the eastern boundary (for embankment levels of 3.08 metres AOD and 3.35 metres AOD respectively). The site is low lying behind this level at around 1.5 to 2.6 metres AOD and is considered at risk from overtopping from the sea.

## **PROPOSED DEVELOPMENT**

The proposed development includes creation of a new access from Harbour Road; a supermarket with a gross floor space of 5,996 square metres; car parking to provide 427 spaces, including 20 disabled spaces, 16 parent and toddler spaces and 48 cycle spaces; servicing provision for the supermarket and a six pump petrol filling station, ancillary building with a gross floor space of 75 square metres, and adjacent recycling facility. In addition the application proposes a new hotel development shown to be located to the east of the supermarket car park set back off Harbour Road by its own dedicated car park. The remainder of the site within the applicant's ownership is given over to residential development and associated roads, footpaths, and public open space. The application form refers to a total of approximately 260 dwellings of varying heights with a maximum height of 4 storeys. The application at this stage is in outline form only with all matters reserved except for the means of access. The plans indicate a principal means of access from Harbour Road with a future secondary link through to Riverside Way.

The application masterplan also shows a new tram station and visitor centre, together with public realm works on land owned by the Council adjacent to the Underfleet. A Sustrans cycle way hub building is also shown on the masterplan. The existing children's play area and skate park (on land the subject of the separate application from the northern store) is shown as being retained. These elements are all included within the red line application site albeit no elevation or floor plans details have been submitted at this stage.

The application has been accompanied by an Environmental Impact Statement. The boundary of the study area also includes land the subject of the separate application by Axe Riverside Company. In total the application site covers approximately 80% of the Seaton Regeneration Area. Members are referred to the plans shown on the allied full application for a supermarket which shows in more detail the public realm works envisaged near to the store. The application also includes various cross sections through the overall site showing how the land will be raised and the various dispositions of uses through the site.

The site would be raised by about 2 metres. This would ensure that flood escape levels are raised to between 3.90 metres and 4.05 metres Above Ordnance Datum (AOD) and finished

floor levels are 4.05 metres AOD or higher. Approximately 60, 000 cubic metres of bulk fill material would be required to achieve the proposed 2 metres increase in ground levels over the whole of the application site. The initial application envisaged 40% of the fill required to raise the site would be brought in by road. This has now been amended to show that the bulk of the fill material will now be brought in by sea. The construction management plan has not been amended to take this into account, but in the event of any approval further details will be needed. In addition it should be noted that the methodology of bringing in the fill by sea is not specifically included in this application. Your officers consider the laying of a temporary pipeline on the sea bed, routing a pipeline onto the land including underground sections across public highways and the engineering operation in pumping ashore of the aggregate needed and its distribution around the site will require a further planning application to be accompanied by an Environmental Statement. The applicants agree with this statement.

### **New Access**

Improvements are proposed at the junction to the south of the site. The original plans showed an access from Harbour Road including a right turn lane at the junction; a footway; pedestrian crossings; and refuge island. The road width close to this junction would also be widened to improve visibility. The Tesco store would be accessed at a roundabout to the north of the new junction. The proposed pedestrian link onto Harbour Road would provide access to the proposed Tesco store entrance via a ramped approach. The proposed public open space to the south west would provide an important pedestrian link to the town centre.

Revised plans have now been submitted showing various amendments to the access provisions primarily being a simplification of the new junction onto Harbour Road, dispensing with traffic lights and relying instead on a right turning lane. This has been instigated by the Highway Authority.

### **Section 106 Agreement**

The applicant's agent has submitted the following information in respect of both this application and the allied full application for the supermarket. There would be in effect two overlapping agreements. The exact details of which relates to which application is yet to be determined but Members need to look at the overall quantum of what is being offered.

The agent's letter dated 20 July is reproduced below and sets out the position of the applicant at the time of writing this report. There are issues to be resolved with the suggested heads of terms. Those set out below are the applicant's initial suggestions.

#### **1. Tourism and Economic Objectives**

The Council has agreed to sell an easement [*this has not yet been formally agreed and is being separately negotiated and discussed with the Council's Estate team*] over its land adjacent to The Underfleet to Tesco as part of the implementation of the development. A financial sum is being negotiated for that sale and it is our understanding that the Council is intending to use the proceeds to help fund the regeneration items set out below:-

- A. the building of the Council's Visitor Centre;
- B. the provision of public realm improvements, including the Sustrans cycle hub in the vicinity of or as part of the Visitor Centre;
- C. a contribution towards the cost of a replacement youth facility

Tesco will also construct a public footpath link across the Council land to allow a better pedestrian route between the new store and the existing town centre shops. This will comprise attractive public realm works (to be agreed) which will be undertaken prior to the opening of the store (to form part of the Section 106 Agreement relating to the detailed application (reference 09/0019/MFUL), which will enhance the prospects for

linked trips between the Regeneration Area and town centre shops to stimulate the local economy.

## **2. Contributions to improve public transport**

In discussions with the County Council, it appears that existing bus services might need to be improved to allow those without private cars to have better access to the new store and Visitor Centre and for those people who will be living on the site to have access to destinations outside Seaton. An overall contribution (still to be agreed) will be made to the County Council to improve existing bus services.

## **3. Improvements to Education Facilities**

Again, in discussions with the County Council, it has been accepted that improvements to local schools (both primary and secondary) need to be carried out as a result of the increased numbers of children arising from the housing development on the site. The final figures for the contributions are being discussed with the County Council and we also understand that East Devon District Council is seeking clarification on the latest County Council figures

## **4. Improvements to Health Facilities**

A reasonably related contribution is proposed to be invested in improvements in local health facilities subject to further discussions with the Primary Care Trust.

Contribution to Town Centre Manager costs - it is proposed to contribute a sum of £45,000 to assist the Council in the provision of a Town Centre Manager to promote Seaton Town Centre.

## **5. Contribution to off-site playing fields at Harepath Road**

As Tesco's proposals do not contain any formal sports pitches, it is proposed to make a contribution (still to be agreed) towards the Council's scheme for new playing fields at Harepath Road.

## **6. Off-site highway improvements**

A schedule of works is attached which has been agreed with the County Council. This includes new site access, junctions, public transport infrastructure, crossings, public transport contributions to improved services, Construction Traffic Management Plan, delivery of a pedestrian route to the store from the Underfleet and Harbour Road, potential mitigation works on highways used for haul purposes, potential survey work on any properties close to haul routes, travel plan, street lighting, adoption of roads within the site, etc.

## **7. Contribution to public art**

- A sum to be agreed for the provision of off site Public Art.
- Maintenance of public open space/play areas
- A sum to be agreed or suitable alternative arrangements for the long-term management and maintenance of public open space/play areas on site.

## **8. Affordable Housing**

See full text of the agent's letter dated 20 July 2009 set out below:-

*“As you will know, it is common practice when deciding on the appropriate figure for the provision of affordable housing on large sites, such as the one at Seaton, to have reference to the Council’s target on affordable housing in the context of the overall viability of the scheme, taking account of matters such as abnormal costs of the development and market conditions. In this instance, the applicant has agreed to fill the entirety of the site prior to the operation of the retail store, which incurs a significant abnormal cost (exceeding £7 million). When this is added together with the other abnormal costs of the development, the achievement of the Council’s target figure of 40% is uneconomic, given current and likely future market conditions. It is accepted that the 40% figure is a target and that Government and Local Plan policy (and the Development Brief) envisages the provision of less than the target based on viability accounts.*

*We would therefore propose that, given the high abnormal cost and the fact that the state of the housing market currently is in such a poor position, it would be inadvisable to fix an affordable housing percentage provision on the whole of the housing site at this stage. It is somewhat difficult to be precise in terms of phasing of housing at present. In this background, it is the case that Tesco wishes to agree a minimum affordable housing provision for the first phase of the housing development and that this minimum would need to be achieved in each of the following phases. For the first phase of the development and to establish a minimum affordable housing provision on the site, it is proposed that a 20% affordable housing figure be used with a split between social rented and shared ownership to be agreed with your housing officer. We suggest that the first phase should be a minimum of 70 units or to be subsequently agreed with the Council. We propose that the affordable housing provision is determined (after Phase I) prior to the grant of reserved matters for each of the latter phases of the housing development and that the Section 106 Agreement includes within it a financial appraisal mechanism so that the Council and applicant, on an open book basis, can determine the appropriate provision of affordable housing on these future phases.*

*The financial mechanism would include some form of ‘cascade’ method that would take account of land values that would exist at a particular point in time and also an apportionment of the high abnormal costs of raising the levels of the Regeneration Area. We understand that this methodology (which can be finalised following any resolution to grant planning permission) is acceptable to officers. The above provisions would apply to the situation where no grants are available to support the provision of affordable housing through a Housing Association or similar organisation. If a Registered Social Landlord does come forward with grant support, we would propose that the minimum affordable housing provision would rise (to a level to be agreed).*

*We believe that this method and these figures reflect the acknowledged priority the Council has for affordable housing and also the need to bring forward and deliver the regeneration site as a whole.”*

## **9. Sustainability**

Code Level 3 for all housing units or any increase in line with Government targets at the time in force and as required by an RSL for any affordable housing element – currently operating to Code Level 4. In addition a range of energy efficiency measures, combined with a CHP plant so that in total the new store results in a CO<sub>2</sub> saving of 44% over the current standard for the same size store built in 2006.

## **10. Filling of remainder of site**

Tesco have agreed to fill the majority of the remainder of the site in their ownership prior to commencement of development of the store. Tesco have now agreed to adopt an alternative fill method by sea rather than by road although there may be a need for a small amount of material to be brought to the site by road. A further application and other

licenses will be needed to deal with the fill issue. At this stage the applicants are looking for an in principle agreement.

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

The principal considerations with these applications are as follows:-

- Principle of development and Development Plan policies
- Retail impact on town centre and sequential test
- Flood defence issues and method of filling the site
- Contaminated land and other environmental health issues
- Visual impact and design issues
- Affordable housing
- Highway issues
- Archaeology
- Impact on local residents
- Nature conservation issues
- Section 106 issues and contributions

Members are referred to the general introduction on determining competing supermarket applications particularly in relation to the retail impact issues element of this report.

## **PRINCIPLE OF DEVELOPMENT AND DEVELOPMENT PLAN POLICIES**

A range of policies as contained in the East Devon Local Plan, Devon Structure Plan and government guidance help to inform opinion on the application. Each element of the application proposals the subject of this report will need to take into account the policies set out above. Certain policies can be highlighted at this stage.

The site is shown as part of the Seaton Regeneration site and included in the adopted Seaton Development Brief

In particular the following key policies apply to the application site

EDDC LSE1, supports a mixed use development including retail provided that mechanisms are in place that will achieve the delivery of a comprehensive regeneration scheme for this area. Necessary and reasonable developer contributions will be sought. Policy LSE1 is reproduced in full as part of the Appendices to this report with the policy section set out below.

1. *Enhanced pedestrian and cycle access to and through the Regeneration Area, including linkages between the town centre, Seaton Marshes, sea front, Axe riverside and harbour;*
2. *Enhancement of community, leisure, tourism and recreation facilities, including the Seaton Tramway and Holiday Village;*
3. *Promotion of the harbour area as a distinctive gateway to Seaton; Not relevant to the applications*
4. *Retail and commercial frontage development along Harbour Road and The Underfleet, complementing town centre facilities;*
5. *Employment floorspace within the mixed-use areas;*
6. *Residential development, involving a variety of dwelling types and sizes, to accommodate approximately 400 units;*
7. *Flood management measures for land currently within indicative floodplain;*

8. *Measures to retain nature conservation interest within the northern area of the regeneration area and to enhance neighbouring areas of conservation importance.*

*Planning permission for individual schemes will be granted provided mechanisms are in place that will achieve the delivery of a comprehensive regeneration scheme for this area. Necessary and reasonable developer contributions towards infrastructure, affordable housing, public realm, visitor and community facilities will be a priority for the delivery of regeneration.*

The report below addresses the policy but the following comments should also be noted at this stage.

- The holiday village is now closed so this part of LSE1 is not considered relevant.
- The tramway approach will be enhanced by the new public realm works as part of this application and the allied full application for the new store.
- No employment use is envisaged as part of this application albeit the Government now views other forms of employment such as that generated by the store and hotel as being equally beneficial to the local economy.

EDDC SH1 supports retail development within Town Centre areas as defined in the Local Plan. The site is included within the town centre area.

EDDC SH3, which supports large new food stores within town centre areas as defined in the Plan. A sequential test needs to be carried out. Only where sites are not available within town centre areas should sites outside be considered.

EDDC H2 (STO2), which supports the development of the site and identifies the site as a specific housing allocation.

EDDC EN20, the site lies within flood zones 2 and 3

EDDC RE1, which seeks to retain existing sports facilities

EDDC EN5 and EN2, seek to ensure that development is appropriate to this special area and does not adversely impact on nature conservation issues.

A whole range of other policies taken from the Local Plan dealing with contaminated land, tourism and other issues are also material.

In addition the draft Regional Spatial Strategy seeks appropriate housing allocations within area centres and is supported in this case by the Regional Assembly. The relevant policies are set out above under the comments of the South West Regional Assembly.

The Devon Structure Plan also has a range of policies which need to be considered.

The overall policy implications of the proposed development are that the proposals are broadly in line with the most significant of the policies set out above. The site is an allocated housing site, as well as being allocated in the Local Plan and Development Brief as being suitable for a large retail development. The disposition of the uses shown is in line with the adopted Development Brief.

There is also the potential for a boost in terms of tourism development through the provision of a hotel, new visitor centre, tram station and cycle hub. With the exception of the hotel, these developments are outside the land ownership of the applicant but can be made more likely to **be** brought forward by appropriate contributions paid by the developer, as well as the principle of development being established if members resolve to grant this application. These funds can then be available to be used by the Council to realise the other elements shown on the Tesco

proposals. It is considered that the use of these contributions will be compliant with (Circular 05/05) on Section 106 contributions and are sufficiently related in planning terms to the proposal before members to be considered in the process of determining whether or not to grant planning permission.

There is clearly much more detail that is required before any development can commence on any part of the application site but in principle and policy terms the proposals must be viewed as being broadly acceptable. It is considered that the proposals are broadly in line with policies set out in the Draft Regional Spatial Strategy, Devon Structure Plan, East Devon Local Plan, and the adopted Development Brief for Seaton.

## **RETAIL IMPACT ON TOWN CENTRE AND SEQUENTIAL TEST**

Members are referred to the allied report on the full application for a supermarket. The conclusions of the Council's retail consultant are set out below. The full application contains a more detailed analysis. This outline application deals with a store of the same size and position but has no other detailed plans attached. By approving this application Members would in effect be approving the principle of a store of the same size.

*On the basis that an appropriate pedestrian link between the proposed supermarket and The Underfleet can be provided prior to occupation (and retained in perpetuity), we consider that the in principle location of the southern supermarket (in the full and outline planning applications) meets the provisions of the sequential approach in PPS6, RPG10 and the Structure Plan and is the sequentially preferable site within Seaton. We also consider that, on balance, there is a need for the proposed southern store, although it should be noted that a quantitative need does not exist for all of the proposed convenience and comparison good retail floor space in the proposed southern store. However, due to the size of the proposed store (in terms of convenience and comparison goods floor space) we do not consider that the full and outline planning applications fully meet the provisions of Policies SH1 & LSE1 of the Local Plan. In particular, we consider that the size and orientation of the store do not respond positively to guidance within PPS6 and its accompanying design guidance, plus Local Plan Policy LSE1. In terms of the impact of the southern store, taking into account compliance with Local Plan Policies LSE1 and SH1 plus the adopted Development Brief for the application site, we do not consider that the proposed store complements the town centre and its size (and financial impact) has the ability to undermine the vitality and viability of the town centre. Overall, whilst the location of a supermarket within the proposal is to be preferred, the size and design of the current proposal does not, in our opinion, fully address the requirements of Policies SH1, LSE1 and the adopted Development Brief.*

Clearly then there is a preferred location in this case as that put forward by Tesco. Set against this the Council's consultant has expressed concern about the size of the store (which has been reduced by the removal of the kiosks). Officers note that the Tesco store has been now modified in design and layout terms to better address The Underfleet and to give a more active frontage to the new focal point to be created at the front of the store with a new pedestrian access point direct from The Underfleet. Members also need to weigh this element of the scheme against the wider implications and needs of the regeneration site. Whilst the proposed store is larger than what is required in quantitative terms there is a question of economic viability of the whole proposal. Tesco point out that the store needs to be of such a size so that this economic viability of carrying out the rest of the work to bring forward the regeneration site is not put at risk. Hence whilst they have reduced the retail impact by removing the kiosks, they feel constrained in being able to reduce the size of the store still further.

The regeneration proposals must be considered as a whole. Affordable housing requirements, education and public health improvements, highway infrastructure works, contribution to a town centre manager, visitor centre attractions and the other requirements set out below under the S106, and a very expensive land fill operation (estimated at £7m) are a significant drain on economic viability. The Council remains in a position that it can weigh up the wider benefits of a proposal before deciding on which scheme performs best in overall policy terms.

## **FLOOD DEFENCE ISSUES AND FILLING THE SITE**

Members are referred to the advice of the Environment Agency as set out above and the allied report for the full application. The views of the Environment Agency are different in each case.

The site is within a high risk flood zone. The site is affected not just by fluvial (river) flooding but also by tidal (sea) flooding. The current site levels lie below an acceptable building level and will need to be raised by a maximum of 1.2 metres over the developable area. A detailed Flood Risk Assessment (FRA) has been submitted which has been forwarded to the Environment Agency (EA).

Government advice as expressed in PPS25 requires any FRA to identify the following

- Definition of flood hazard
- Probability of flood occurring
- Impact of climate change
- Detailed development proposals
- Flood risk management measures
- Off site impacts
- Residual risks.

In addition a sequential and exception test is required to establish if there are any other more preferred sites and if not why this site should be developed. These would have been carried out at the time the local plan was prepared. The advice of the Environment Agency has now been modified in respect of flood risk as compared to the time when the Development Brief for the site was prepared. The modification of advice is based on a higher frequency of potential flood events. However, provided the EA do not object the LPA can approve the application subject to appropriate conditions and that the development should be carried out in accordance with the FRA. Conversely if the EA object and the LPA wish to approve the development this application would need to be referred to the Government office under other Regulations.

The principal flood risk measure is of course the raising of the ground level at the application site and the provision of channels within the site through which flood water can pass.

The Environment Agency response indicates an approval in principle to the development subject to it being completed in accordance with the flood risk measures as set out in the FRA

In conclusion therefore the proposal is acceptable in flood defence terms. Both the sequential test and exceptions test as set out in PPS25 have also been adequately addressed in earlier studies. The development of the site will not cause or exacerbate flooding elsewhere in the town.

The flood alleviation scheme put forward involves a number of measures.

Filling of the site to raise its levels by an average of 2 metres – fill material equivalent to 320,000 cubic metres will be required, the majority of which will now be brought in by sea.

In addition to the land raising exercise, a methodology for assessing water and flood alleviation has been agreed with the Environment Agency. This results in a flood alleviation channel running north/south through the centre of the site, which takes the form of an open area with landscaped banks which for the most part is used for pedestrian access and landscaping. At time of extreme flooding the channel would flood and take water through the site from south to north before being discharged in an expanded water course on the northern boundary of the application site. The water course then discharges at a controlled rate in to the river.

The applicants claim that this combination will mean that the existing flood risk of the site will reduce and the localised flooding that is experienced in various parts of and adjacent to the site will be alleviated.

There has been a shift as to how best to bring the site up to a level whereby the development will be protected from flood risk. The initial proposals to bring in aggregate by road met with very strong local opposition for a number of obvious reasons relating to noise, and impact on local residents as well as potentially the fabric of those homes. It is clear that the disruption to the town over a very long period would be significant. Hence the applicants have given further thought to this and have now changed their proposals to bring in the majority of the necessary aggregate on to the site by a sea route and a pipeline ashore.

The scheme submitted initially, and assessed in the applicant's Environmental Statement, anticipated just under 60% of the fill required for the whole of the Regeneration Area being transported by sea. The applicants have subsequently revised their proposals for land raising within the Regeneration Area and now envisage approximately 75% of the total fill material arriving by sea. They have provided a short paper and project brief on how this could be achieved which has been appended to this report.

It therefore seems there is a practical alternative fill mechanism to the haulage of materials by road. The applicants have already begun to investigate with the owners of the dredging boat the way in which this can be done at Seaton. It appears that the license to recover dredged material (mostly good quality sand and aggregate) from the Solent area is already in place. Similarly agreement has already been reached with the owners of the Axe Riverside site and other 3<sup>rd</sup> parties (apart from any Council owned land that may be affected) to bring any pipeline across private land. Officers have had sight of the agreement with Axe Riverside but cannot reveal the contents of this agreement as it is commercially sensitive. The advice from the Environment Agency and Natural England at the time of writing this report is that the processes can be controlled adequately for planning purposes by an appropriately worded negative condition, with the offshore elements being controlled by licences issued by the Secretary of State.

The applicants understand that they will be bound by stringent conditions attached to any approval to seek consent for and undertake the necessary fill exercise and that they run the risk that they may not obtain the final approval for the fill works. A Grampian style condition on the grant of permission for both the outline and full application can be imposed.

Objectors have pointed to the danger that the developers will ignore planning conditions and carry on with the development regardless. Enforcement processes under various pieces of legislation protecting the environment as well as the planning legislation would however be available to the Council as it would be for any other application, and this would not therefore be a valid planning reason to refuse permission.

The LPA takes the view in any event that these works are engineering works which do not benefit from permitted development rights and therefore require a separate grant of planning permission. Natural England has advised that this application should be screened under the EIA regulations. The likelihood is that an Environmental Statement will be required.

The following extract from the applicant's agent letter dated 10 June may assist Members in reaching a view:-

*"Dealing with the issues relating to the filling operation, again it is our position, having taken legal advice, that the ETA and related correspondence makes it clear that the application proposals and the assessment of the development has been carried out on the basis that the filling operation for the site would be undertaken by a seaborne operation. We draw your attention in particular to paragraphs 16.5 and 16.6 of the ETA and, for example, the calculations in the transport assessment and the construction impact chapter. The background to this operation is set out in the Construction and Environment Management Plan, which was submitted with the application.*

*It is the case that the Council can determine the application on the basis that the fill operation can come by sea; however, it can also reserve the right by means of condition of ensuring that the implications of the seaborne filling operation are acceptable. In this regard, we would suggest that the Council could impose a Grampian style condition on the grant of permission for both the outline and full application that would read as follows:*

*No development shall take place until a scheme for the filling of the site has been submitted to and approved by the local authority. The scheme shall include:*

- *details of the transport routes and methodology of transfer of fill from its sea borne source to the site;*
- *an assessment of the impact of the filling exercise in accordance with a scope to be agreed with the local planning authority;*
- *details of the phasing of the operation and the type of fill to be used.*

*The filling of the site shall be carried out in accordance with the approved details.”*

*Whilst we consider it is legitimate for the Council to approve planning permission subject to the above condition, we are of course very happy to supply you with further details about the current intentions with regard to the filling operation so that this may be passed on to members, as appropriate. Tesco has commissioned a contractor, Messrs Westminster, to deal with the operational aspects and you will be supplied with further information on the process in due course.”*

This condition will need to be amended but the general thrust is acceptable to the LPA. Further advice has been sought from the Natural England regarding the above. It is however a well accepted and not unusual approach to require further details to be submitted. There is no question of once having given an in principle approval that any future developers would be able to revert to a road fill option with a greater % of fill material because this could be prevented by appropriately worded planning conditions and the ability of the LPA to further consider this matter. If that scenario did arise for example because the developers could not get further permission or the appropriate licenses then a further planning application would be needed to amend the planning condition. Such an application would be bound by the same rules governing environmental impact statements. The Council therefore has control over the fill mechanism and is able to approve or refuse the details of this at a later date. Given that the Highway Authority have not objected to 40% of the fill coming by road as a worst case scenario on balance the application is considered acceptable but Officers will pursue through an appropriate S106 clause a lesser amount of 25% being brought in by road. The applicants have already committed to this alternative.

Members are referred to the section below on Nature Conservation issues which is relevant to the filling exercise.

## **CONTAMINATED LAND AND OTHER ENVIRONMENTAL HEALTH ISSUES**

The application sites are all subject to varying degrees of potential contamination. The views of the Environment Agency and EDDC EHO are important considerations in both cases. Other EH issues such as noise, particularly from construction traffic and lorry movements to the site, light pollution and air quality also need to be considered. In addition the issues in relation to the day to day servicing of the store need to be considered.

### **Contaminated Land**

EDDC EHO and the Environment Agency (EA) raise concerns about potential contaminated land on the site. The EA consider a holding objection should be sustained at this point although they do intend to comment again prior to Committee. Consequently at this stage no firm conclusion can be drawn as to their final views. They have however verbally indicated that an appropriately worded condition could be the solution to resolving contaminated land issues in this case. Their final response will be reported at the meeting.

Likewise EDDC EHO team have reservations about the application but consider that the Council's standard contaminated land condition could be applied. As the full application site is

encompassed by the outline site it follows that the same logic would apply whereby a negatively worded condition could be imposed to resolve the issue.

The council's standard condition CT3 on contaminated land reads as follows:-

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (*add as appropriate i.e. 1, 2, 3 and/or 4*) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

### **1. Site Characterisation**

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

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) An appraisal of remedial options, and proposal of the preferred option(s).

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

### **2. Submission of Remediation Scheme**

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

### **3. Implementation of Approved Remediation Scheme**

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

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

#### **4. Reporting of Unexpected Contamination**

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

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

#### **5. Long Term Monitoring and Maintenance**

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Members are referred to the final comments of the EA set out above. They confirm they are now content for the development to proceed subject to appropriate conditions. The issue of contaminated land has therefore been adequately dealt with.

#### **Noise Issues**

EDDC EHO have commented on both applications that more detailed work is required to mitigate against both construction noise traffic and operational noise once any store is open.

EDDC EHO is concerned about noise impact primarily during the construction phase. The EHO team consider that more information needs to be submitted prior to any works commencing on site. In their final comments they suggest that a noise management plan should be formulated and submitted to the LPA for approval. So, whilst they have concerns about the potential impact of the development the Council's noise experts take the view that this can be dealt with by appropriate planning conditions.

Noise from construction traffic can also affect those areas remote from the site such as Axmouth village. At the present time the applicant's construction management plan refers to a percentage of lorry movements through the village by construction traffic initially and then by delivery

vehicles once the store is operational. If as is now anticipated the bulk of the fill material will come from the sea then the impact on surrounding areas will be lessened.

Officers have now written to the applicants to seek clarification on the exact amount of fill to be brought by road. It is further likely that the s106 agreement will seek an obligation that the majority of fill will be brought to the site by sea rather than by road. As part of any approval lorry movement routes and mitigation measures will need to be finally approved based on the proposals put forward in the Construction Management and Environment Plan.

Noise from construction vehicles and other construction work on the site itself such as piling can be adequately covered by appropriate planning conditions.

### **Light Pollution**

The development of the site has the potential to impact adversely the local area in respect of light pollution. However, it appears that the issues can be overcome by further submissions and appropriate conditions. Light pollution can also impact on protected species, particularly bats. The views of Natural England do not fully indicate what they consider to be appropriate conditions. At present they do not object to any of the applications. In terms of light pollution however it is likely that both schemes can be mitigated against as suggested above. Natural England are content to allow the development to proceed subject to conditions controlling lighting.

### **Air Quality**

Similarly in respect of the impact on air quality the EDDC EHO team have some concerns about the impact of the development and how this will affect air quality particularly during construction phases. More survey work needs to be undertaken and mitigation measures proposed for this proposal. As mentioned above the amount of fill material being brought by road is a common issue for both this application and the allied full application. Nevertheless your officers consider that both applications can be put forward with appropriate conditions as acceptable in air quality terms in principle, once suitable conditions are applied in the event of a recommendation of approval.

## **VISUAL IMPACT AND DESIGN ISSUES**

### **Supermarket**

Visual impact and design issues in relation to the proposed supermarket are dealt with under that application elsewhere on this agenda and are not duplicated here.

In conclusion officers consider the design and layout of the new supermarket and public realm works to be acceptable subject to further details being agreed.

### **Housing Design and Layout**

In design terms much criticism has been levelled at the application details both from external consultees such as the Town Council and other interested parties. The details submitted to date do not exhibit a high quality scheme that can be truly considered to be locally distinctive. The applicants however do appreciate the need to provide a bespoke rather than pattern volume house builder solution. This is emphasised in the Local plan as well as in other key documents such as the adopted Seaton Design Statement.

The applicants Design and Access Statement (D and A) recognises in particular Policy D1 of the adopted Local Plan which requires development to be locally distinctive.

The D and A Statement sets out a number of key design objectives which are broadly in line with the aspirations of the Development Brief. It includes important matters such as layout and scale, together with pedestrian linkages, landscaping, open spaces and relationship with other uses within the site and outside the site.

The applicants suggest that the Council imposes a specific condition requiring as part of any reserved matters application a detailed design brief and design code be agreed with the Council. Your officers would prefer this to be an 'up front' agreed document which can then be relied upon by the Council in the future and which can inform prospective residential developers as to the type of development that would be considered acceptable. Rather than rely on a planning condition this may be something that can be included in any legal agreement. Without such a firm framework in place there is a danger that future volume house builders will look at the site in a piecemeal fashion and will put forward their standard house types.

In terms of sustainability the applicants suggest a number of efficiency measures and use of recyclable materials. Mention is made of the Code for Sustainable Homes but no indication of the target Code the developers have in mind. Clearly this will need also to form part of any planning and design brief.

Whilst the applicants have not been able to come forward at this stage with any detailed design brief or code they are at pains to point out that they are not a specialist house builder and to that end it would be inappropriate for them to impose restrictions on any future purchaser of the land. They appreciate more work needs to be done in this area to ensure a quality development is achieved but feel that this is a matter which can be dealt with by condition or legal agreement. Such a condition can bind any future developer of the residential element to prepare with your Officers agreement a detailed design code.

To conclude it is clear that more details need to be provided prior to any development of the housing elements taking place. However, the proposals are set out are broadly in line with the Council's aspirations as set out in the Local Plan and the Development Brief. Subject to negatively worded conditions and a commitment through the S106 to cover design codes it is considered that an appropriate design and layout solution for the site can be achieved.

The applicants have agreed to Code Level for all new dwellings and BREEAM Very Good rating for the store. These sustainability credentials can be backed up by appropriate clauses in the S106 agreement.

### **Pedestrian Routes**

Key pedestrian access routes are proposed on the masterplan and these are shown in the D and A statement. These show principal routes both north/south and east/west. There are three principal east/ west routes through and around the site. It will be important to ensure that accessibility through the site is maintained and thence through the Axe Riverside site to the newly planned quayside. In addition to pedestrian routes it will also be important to ensure the development is cycle friendly both for adults and children. As well as providing a cycle friendly environment there will also need to be maintained the possibility of providing cycle links from the site to the rest of the wetlands area to the north. Indicative details are included at this stage but this is on land outside the control of the applicant. The S106 will seek appropriate cycle links to the Sustrans route and to the wetlands to the north.

The provision of a fully worked up public realm and pathway scheme for the whole site will be required by planning obligation to be submitted before development commences. Thereafter officers will require that the public realm and paths within a phase of the development will be provided and open to the public before any occupation of that part of the development is permitted. Details of the ongoing management and maintenance for the public realm and paths must also be established as part of the S106 process.

## **Landscaping**

The land will need to be raised significantly. This will impact on any trees remaining on the development site. However, a new opportunity arises in terms of ensuring that there is in place, as part of any design code a fully integrated landscaping scheme both for hard and soft surfaced areas. In addition it is considered that certainly for any structural landscaping along main access roads and around the perimeter of the site and in public open space areas there will be a need to ensure that a management company is set up for those areas which remain in private ownership to maintain any landscaping over the longer term rather than just the usual 5 year period set out by standard planning conditions.

At this point Officers consider that the development will have a considerable impact on the local landscape. However, in long range views the development will soon be seen as part of the townscape. Views from high land and vantage points are important but the applicants visual assessment suggests the long range impact of the development will be limited. The Council's landscape architect agrees with this assessment. His other points noted above are endorsed and will need to be taken on board in any Design Code for the site.

Building heights within the development are suggested by the applicants' plan AP 206, by reference to the number of stories in specified zones of the development. It is proposed that a condition be attached to the permission, if Members resolve to grant permission, to impose a limit on heights within the development by reference to that plan.

## **Boatyard and Axe Riverside Area**

Other land ownerships outside the control of Tesco and the Council are to be the subject of separate applications. Officers consider that the proposal put forward by Tesco on their own land will not inhibit the development of these remaining areas and in fact have the potential to act as a catalyst for these areas to come forward. Axe riverside is already the subject of a separate application for permission before this committee. The boatyard is more likely to come forward for redevelopment in the next few years should the regeneration scheme put forward now take off. The Axe Riverside and boatyard area occupy key sensitive positions on the entrance to the town. Their future development depends to a certain extent on the economic boost that the regeneration site proposals by Tesco will bring.

## **Hotel Development**

The proposals include a 100 bed hotel which is shown on the masterplan as being set back off Harbour Road with dedicated car parking in front of the building. The masterplan shows a building footprint but no other details save that it is anticipated could be up to 3 storey high. The visual impact of the building will not be excessive even at this height given that it will be seen in context with tall buildings on Harbour Road and eventually other building blocks on the main housing site.

Whilst this application seeks only an in principle approval Officers consider the design and layout of this block are of critical importance as it will be one of the first elements one sees on entering the site from Harbour Road. There is also a further option of fronting the building onto Harbour Road or compromising and having some car parking at the rear with landscaped grounds to the front. Either way the design or layout will need to be of a high standard and must improve on earlier developments along Harbour Road. Whilst in terms of local distinctiveness there is a desire to see the housing reflect the better architectural qualities of the town there is an opportunity for the hotel building to provide a landmark statement of contemporary design. As with the housing element of the scheme it is considered that specific requirements for high quality design of the hotel element should be included in the Design Code, that will be sought as part of the planning obligation package and by appropriate conditions.

## **Affordable Housing**

Members are referred to the applicant's letter dated 20 July in respect of affordable housing. Your Officers consider that the headline rate set at 20% could be alarming if taken out of context. It is clear that at the present time the applicants and known economic circumstances demonstrate the site is unlikely to be attractive to any major housing developer to take on in terms of viability.

Current flood risk policy means that without the land levels being raised by way of an extremely expensive fill operation the site is unlikely to come forward to meet the Authority's identified housing needs. The benefit of having the application site regenerated so as to bring into use a substantial area of derelict land, involving the expensive filling operations that are necessary, must be balanced against the level of affordable housing provision being less than envisaged in the Council's development plan.

In the present economic climate the Council will need to consider lower contribution levels for affordable housing to be able to bring development sites forward. The recent Homes and Community Agency publication *Investment and planning obligations – responding to the downturn Good Practice Note*, published in July advises LPAs they should consider the delivery of affordable housing through partnership working, including with developers to assist in recovery in the housing market. Developments need to accommodate both the current realities and the future dynamic of the land and property markets. In particular it espouses the need to consider development over a longer period in assessing affordable housing thresholds. PPS 3 already hints at this approach but was published long before the present difficult economic circumstances. The Government has made clear that LPAs need to be realistic in what can be achieved at present.

In this respect the proposals are considered reasonable. It is likely that the housing market will recover and so what is important is that at each stage of phasing of the housing development a further viability assessment is undertaken and following that exercise the Council will then have the opportunity to revise upwards the expected threshold for affordable housing for that phase. It may well be the case that the first phases of development will include the raising of land levels and the building of the store and public realm access works. The residential elements of this site and the adjoining Axe Riverside site may not materialise for a number of years. By that time the overall economic circumstances may well be improved allowing the LPA to re-assess the situation and set a higher threshold for affordable housing.

As a baseline figure of 20% your Officers have indicated to the applicant this is too low. A response has now been received from the applicants in their email dated 2 September in which they now confirm their agreement to a baseline figure of 25% which is now in line with officers' expectations given the unusually high abnormal costs and the current market difficulties.

## **HIGHWAY ISSUES**

Members are referred to the detailed comments of the Highway Authority above. No objections are raised in principle but again they consider that more detailed design work is needed on all internal roads, pavements, public areas, roundabouts, and public squares. They are keen to press design principles as laid out in Manual for Streets and consider the illustrative layout to be somewhat outdated in its appearance.

The Highway Authority is however content that the main access off Harbour Road is in the correct position and in its amended simplified form is appropriate. A secondary means of access off Riverside Way is also acceptable to the Highway Authority.

The Highway Authority is also in discussion with the applicant at present about the level of contributions for offsite highway infrastructure works and public transport contributions. It is hoped that these outstanding issues can be resolved prior to the Committee meeting.

## **ARCHAEOLOGY**

Members are referred to the detailed comments of the Devon Archaeology service. Objectors seek to rely on the site's historical significance and importance. However, the site has now been allocated for development in the Local Plan. There is therefore an agreement in principle that site be developed. The County Council considers that subject to a standard archaeological condition no objections are raised to the development. Such a condition will be imposed on any permission.

## **IMPACT ON LOCAL RESIDENTS**

The impact on local residents falls into two distinct areas for both proposals:-

- Construction phase
- Operational phase

Local residents in this context means not just those living around the site but those within earshot of the works as well as those more distant from the site such as Axmouth residents and Seaton residents who could be affected by a reduction in air quality, lorry movements, vibration and general disturbance. There is no doubt that the construction phase will be the most damaging element and will have the greatest impact on local residents. The construction works on site will potentially be very noisy and intrusive if not adequately controlled in terms of noise output, limitations on working hours and days, and a detailed construction management plan limiting lorry movements and specifying lorry routes. The comments on the southern store application apply equally as well to the remainder of their development site shown in the outline application. It is likely and a necessary part of any approval for the retail store that it will need to be properly linked to the further work required under the outline permission, specifically in terms of a management plan for construction, and other limitations on noise as well as ensuring air quality is maintained at an acceptable level. The original intention to fill the site from land materials would have taken a number of years to complete with approximately 40 lorry movements in each direction per day. The sea dredging option will reduce this time from years to months with a significant reduction in the impact on local residents. Officers consider that whilst there is more to be done on the sea dredging option it is a feasible solution to a very significant problem. There may still be a need to bring some material in by road but this will be very small in quantum terms compared to the bulk fill needed.

The other potentially damaging impact from the construction phase will be from piling noise, vibration and dust and air quality reduction. The EDDC EHO considers these issues can be resolved satisfactorily with negative worded conditions preventing any development from occurring until further submissions have been made and details of construction agreed. This principle is no different to many other large infrastructure and development projects.

The remaining site will have a significant potential impact on local residents. The development will need to be carefully controlled in terms of overall phasing as well as hours and days of operation. It is considered that sufficient controls exist both through planning conditions and the prevention of Statutory Nuisance to ensure the development in its operational stage which could take a number of years to complete will not adversely impact on local amenities. It must be acknowledged that with a development of the scale envisaged there is bound to be a major impact through the build process. This however can be managed and mitigated against. In particular the Construction Management Plan will need to be amended and updated as part of any application for Reserved Matters.

### **Operational Phase**

The southern store position benefits from being far enough away from local residents along Harbour Road not to have a long term significant impact on quality of life. The store will be part of a much wider change in the nature of the area from a former holiday use site to a retail and residential use. The servicing element of the store likewise is in an area where there are no

close local residents, albeit the noise of servicing vehicles is likely to carry across the Underfleet to the flats to the west. In this respect it would be prudent to impose conditions relating to servicing hours and/or a scheme for noise measurement at the nearest noise sensitive boundary. The proposal also includes a petrol filling station but this is to be located away from existing residents. The outline master plan shows dwellings on the opposite side of the main servicing access road the store but it is likely this relationship will be acceptable. Whilst there have been a number of objections from local residents living along Harbour Road, these are not considered to be so significant as to warrant a refusal of planning permission.

## **NATURE CONSERVATION ISSUES**

Both this application and the northern and southern store schemes have been accompanied by Environmental Statements. The applications have been considered by Natural England and the EA as well as other interested parties.

Given the proximity to the application site of a number of European protected ecological sites, it is also felt necessary to have regard to European Union Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna – the “Habitats Directive” - which provides legal protection for habitats and species of European importance. The protection is implemented through a network of protected areas as well as designating special species of interest.

The Habitats Directive requires appropriate assessment of plans and projects that are likely to have a significant effect on sites of European importance (known as European Sites). The sites need to be assessed to ensure the integrity of these sites is maintained before plans or projects are consented.

Given the number of European Sites and other nature conservation designations, as well as the number of habitats for protected species in the vicinity of the application site, the Council, as a Competent Authority for the purposes of the Habitats Directive and the UK Regulations applying the Habitats Directive needs to consider whether an appropriate assessment is required for these applications. In considering the need for appropriate assessment, a precautionary approach is required, that is the Council should err on the side of caution and undertake appropriate assessment where there is doubt as to whether or not a significant effect on the European Site and its conservation objectives.

In this process the Council must identify firstly the European Sites that may be affected. These would be:

- the Beer Quarry Caves Special Area of Conservation (SAC) which supports protected bat colonies (approximately 3 km from the Regeneration Area). It has been designated principally for being regularly used as a hibernation site by small numbers of Bechstein’s bat as well as an important assemblage of other bat species. ;
- the River Axe SAC (which lies 2.5km north of the Regeneration Area). It has been designated for the plant and fish life it supports; and
- the Sidmouth-West Bay SAC, which lies to the South of the Regeneration Area, (both running east from Axmouth Harbour towards Lyme Regis (approximately 500m from the Regeneration Area) then also to the South West, running from Beer to Sidmouth (approximately 1.2km away from the Regeneration Area). The area closest to the Regeneration Area has been designated because of the unusual plant and animal life it supports, resulting from the geological features arising from the unstable nature of the cliff.

The Council as competent authority should review the elements of the proposals that could have the potential to significantly affect European Sites to consider if appropriate assessment is required. For the current applications these would be the impacts of the development such as construction noise, emissions (including light) and vibration. The principal issue for the schemes once built would be light emissions affecting the land to the north and to the River Axe, both of which are potentially bat foraging areas, and the latter a route for fish to reach the River Axe SAC.

Potential impacts are reported in the applicants' relevant chapters in their submitted ES, albeit as part of their assessment of environmental impacts and not as part of any formal Appropriate Assessment process.

Screening for Appropriate Assessment has been carried out by way of consultation with Natural England and based on the information provided by the applicants. The screening process and the Council's findings are appended to this report.

For the Beer Quarry Cases SPA, all three applications have been considered in reaching a recommendation on screening for appropriate assessment, given the potential for light emissions affecting bat foraging areas.

The southern store and this outline application, might conceivably have an impact on the migratory fish heading to the River Axe SAC by sedimentary disturbance, run-off pollution or acoustic interference for example from piling.

It is not considered likely that the Sidmouth-West Bay SAC would be affected, given that the nature and location of the applications and, for the southern store and outline applications, there are no plans to lay any of the temporary pipes for filling operations within the SAC.

Advice from Natural England as relevant nature conservation body for each of the European sites is that the nature of the developments; coupled with the characteristics of the European sites; and the potential for works which may have a significant effect on the relevant European Sites as being limited for each of the applications. This is also the conclusion of the applicants' Environmental Statements, when mitigation measures are applied to the potentially adverse effects.

Members must consider whether an appropriate assessment of the planning applications as submitted is necessary at this stage, given the potential cumulative effects of the various elements of the scheme.

Natural England, as a relevant nature conservation body for the purposes of the Habitats Regulations, has the view that the impacts on the Sidmouth-West Bay SAC can be assessed by the Secretary of State as a competent authority. The onshore impacts of the works required for the pipe connection can be assessed by the Council when consent is sought by the applicant for the laying of the permanent physical features of the pipe (for instance a pipe will be laid on a permanent basis under Harbour Road and infilled once the fill operation is concluded). That said, the cumulative impacts of the overall proposals should be considered in screening for appropriate assessment before either the full or outline applications for the southern site are resolved upon. As the pipe is unlikely to be located within the Sidmouth-West Bay SAC, given that it is on the other side of the River Axe, it is considered for the current assessment of cumulative effects, that no significant effects on the Sidmouth – West Bay SAC are likely.

On this basis it is not proposed that a full Appropriate Assessment is required for any of the applications because it is not likely any of the 3 relevant European Sites will be significantly affected by any of the developments on this agenda. The additional mitigation measures being proposed by the applicants further make it unlikely that any potential effect would be significant and the Council will secure this by appropriate planning conditions and S106 Agreement provisions, which amongst other matters will control the exact nature of all the development works, their phasing, methodology of filling the site and protecting natural species and the European sites in question. The Council will reserve the right to consider a further Appropriate Assessment under the separate planning application dealing with the fill exercise. The advice of

Natural England is that they consider an Assessment will be necessary at that stage. This is reflected in the Assessments carried out so far and appended to this report.

The Council has also had regard to the Environmental Statements submitted as part of the applications and the potential for mitigation of any adverse impact coupled with appropriate planning conditions etc as laid out above.

In final consideration of this matter it is recommended the Council takes the view that the submitted proposals are unlikely to have a significant effect on the above sites or adversely affect the integrity of the above sites. Full appropriate assessment has not been undertaken therefore, on the basis officers believe that screening of the applications does not suggest that there will be significant effects on any of the European Sites identified. The Council will carry out a further Assessment at the time the pipeline application is received. English Nature have confirmed that whilst they cannot rule out a significant impact they are satisfied this matter can be dealt with at a future date and are content there are sufficient safeguards in place for Members to deal with the applications before them.

In addition to the Council's role as competent authority, consideration should also be given to policies EN4 – EN6 of the Development Plan, given the proximity of the schemes to the Axe Estuary and Seaton Marshlands County wildlife sites. The views of the Axe Wetland project officer, Environment Agency and Natural England point to a lack of firm evidence that harm will be caused to interests of wildlife importance. The proposals can through appropriate conditions safeguard wildlife interests and can lead to enhancement of wildlife areas. The applicants propose to transfer land in their ownership to the Council as part of a S106 obligation so that the Council can take forward their plans to enhance and complete the Axe Wetlands project. There is a direct link between the development of the application site and a need to ensure that wildlife interests are protected in the immediate surrounding area of the site, hence the need for it be included in the S106 obligations. The comments of Natural England set out above refer to the need to ensure the northern boundary treatment is sensitive to wildlife species, particularly bats, and they require similar consideration to be given to lighting within and on the boundaries of the site. This can be controlled by an appropriate condition. Their comments in relation to the impact on the Axe riverside area can be controlled by conditions as attached to any planning permission that may be granted on the separate application elsewhere on this agenda.

It is therefore considered that the proposals are in line with the policies quoted in the Development Plan.

## **SECTION 106 CONTRIBUTIONS**

Members are referred to the advice contained in Circular advice published in ODPM Circular 05/2005. This sets out strict criterion against which any contributions must be judged. Planning permission cannot be seen to be bought. Any contributions must be policy based and be fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects. Community benefit can be used as part of the argument for contributions. Likewise public infrastructure works such as the creation of the new public square and access from the Underfleet to the supermarket are a necessary part of ensuring there are adequate linkages with the town centre both for users of the store and for the new residents who will occupy the housing to be provided on site.

The applicants have put forward a package of measures and contributions to be offered to offset the impact of the development. These are more fully set out above.

The potential site for and feasibility studies already undertaken in respect of a new visitor centre in close proximity to the store which have now been realistically costed are a significant benefit that will come forward (subject to grant aid and Members approval). This differs from the northern store proposals for a more expensive project and a lack of certainty about deliverability, usability and long term maintenance. The illustrative outline planning drawing for the southern store proposal has now moved on following discussions with the EDDC project officer. The

outline permission will require full details to be agreed for the visitor centre to ensure a project of high quality which will attract the necessary visitors to make it viable and act further as a catalyst for regeneration for the town.

At this stage Tesco have submitted a draft heads of terms which needs much more work to bring it to a standard whereby it can be signed and a planning permission issued. Discussions have been held and are ongoing. A verbal update will be given at Committee. The recommendation set out below includes the latest heads of terms which are being sought. Some of the figures for contribution levels are still being negotiated.

It is your Officers opinion that there is scope for the Tesco offer to be realised through a Section 106 agreement prior to the grant of a planning permission. The Highway Authority will also need to give their permission probably under a separate agreement under the Highways Act for the applicant to carry out works on the public highway such as the provision of crossing points. Again this is a formality that can be covered in the S106.

In terms of the application this subject of this report it is considered that the proposals can launch the intended regeneration of this key part of Seaton. The pedestrian link area essential for the southern store to be preferred in sequential terms over the northern Store can be covered by a Grampian style condition attached both to the outline permission and the full permission which requires the access to be completed and in place prior to the store opening. In this respect Members will find comfort in the term and scope of any permission granted and planning obligation sought which will also include strict phasing conditions requiring the whole of the remainder of the regeneration site (including the planned visitor centre site) in the ownership of the applicant to be filled as necessary to enable comprehensive development. Both the full application and the allied outline application will need to be subject to separate planning agreements containing some overlapping obligations.

Discussions are ongoing as to whether there can be one comprehensive agreement covering both applications. The scheme permitted by the outline permission will cover other elements such as affordable housing, education, health care, contribution to the visitor centre, art contribution, continued access to areas of land not to be transferred to the Council, and public open space as well as the filling of the site and phasing of all elements.

Having had regard to the principles set out in the Circular it your officers' opinion that the contribution levels and heads of terms are appropriate and in line with Government advice.

## **CONCLUSIONS**

The applicants planning statement refers to the key elements of the Council's strategy in allocating the site as one for regeneration through the enhancement of the town by the following means:-

- Improving the population balance of the town with a major influx of new housing which will cater for all household types
- Addressing the lack of affordable housing for local people
- Improving the number of tourist attractions in the town
- Stopping the leakage of retail expenditure from the town
- Improving job opportunities
- Addressing the need for Seaton to have a unique selling point by realising a new visitor centre for the Jurassic Coast.

- Provision of appropriate car parking to cater for all needs

Your officers agree with their statement that the application should not be seen simply as one for a major supermarket with housing but in terms of the overall vision for Seaton as set out in the masterplan.

Whilst it is true to say that more details are required in a number of areas to satisfy statutory consultees such details can and will be submitted at a later date and can be at that time subject to further scrutiny. The Council retains the right to refuse any future applications including any submission for Reserved Matters approval if those details are in any way found to be substantially defective. In addition there is a further duty imposed on the applicant to seek and obtain the necessary licenses from other bodies in respect of nature conservation impact in particular that may arise from the sea dredged aggregate option now put forward.

In short it is considered that the Tesco proposal now put forward when seen and taken in context with the allied full application for a supermarket represents a significant opportunity to get the regeneration of Seaton underway. It will act as a catalyst for further development and will provide a much needed boost to a community which has suffered in recent years from a lack of inward investment.

The application is therefore recommended for approval subject to an appropriate legal agreement and the detailed conditions set out below.