

## **5.1 Overview Report**

### **Purpose of Report**

- To explain the committee procedure.
- To highlight the key issues with each application and provide a comparative analysis of the two sites on these issues.
- To outline officers' views on the key issues identified and explain where the conclusions in relation to one site have a bearing on the other.

### **1. Committee Procedure**

1.1 This is the first report on the committee agenda for today's meeting. After this report has been considered, and any questions from Members are answered, the further three committee reports will be heard in the order they appear on the agenda.

1.2 It is intended that discussion takes place in relation to both sites before any resolution is made on any of the three applications.

1.3 The committee will proceed in the following order:

1. Update on KET/2010/0744
2. Registered Speakers on KET/2010/0744
3. Officer Presentation on KET/2010/0744
4. Committee Members debate on KET/2010/0744
5. Update on KET/2010/0743
6. Registered Speakers on KET/2010/0743
7. Officer Presentation on KET/2010/0743
8. Committee Members debate on KET/2010/0743
9. Update on KET/2010/0826
10. Registered Speakers on KET/2010/0826
11. Officer Presentation on KET/2010/0826
12. Committee Members debate on KET/2010/0826
13. Committee Members vote on whether to accept the officer recommendations on applications KET/2010/0744, KET/2010/0743 and KET/2010/0826.

Note: The three application decisions will be taken one after the other. Once a decision has been made on any of the applications, no further committee debate will be allowed and the decision on the other applications will be taken immediately.

### **Speakers**

1.4 A maximum of three registered speakers are allowed to speak 'for' an application, and 'against' an application. A total of 15 minutes will be allowed for those speaking 'for' the application (with 3 minutes reserved for the agent/applicant), and a further 15 minutes is allowed for those speaking against. Speakers are encouraged to collaborate to enable all points to be made.

### **2. Introduction**

2.1 The applications that are to be heard at this committee meeting relate to proposals for supermarket developments at two sites in Desborough. KET/2010/0744 and KET/2010/0743 relate to the Lawrence's site and are for demolition of the existing buildings and erection of a supermarket. KET/2010/0826 relates to the Magnetic Park site and is for the erection of a supermarket and petrol station. There are issues within the two planning applications which overlap, for

example retail impact, and each application is a material consideration in the determination of the other. The Conservation Area Consent application KET/2010/0744 is also to be considered at this meeting, as it relates to the planning application KET/2010/0743.

2.2 This overview report is in addition to each of the detailed reports on the three applications. This overview report is not intended to reflect all the material considerations for the applications. Members are referred to the detailed reports for full consideration of the merits of the applications.

### **3. Key Issues**

3.1 The following sub-headings highlight the key issues for the applications and the views taken by officers. This does not consider all application issues but focuses only on those matters which may depend on whether the other application is granted. Please see the individual reports for full details of the key issues. The key issues have been identified as follows:

- Site Context (3.2)
- Scale Proposed (3.3 – 3.5)
- Retail Sequential Assessment (3.6 – 3.7)
- Retail Impact Assessment (3.8 – 3.16)
- Heritage Issues (3.17 – 3.19)
- Planning Obligations (3.20 – 3.21)
- Regeneration, Revitalisation and Promoting Economic Growth (3.22 – 3.26)
- Design (3.27 – 3.30)

#### Site Context

3.2 The Lawrence's site (Tesco) is previously developed land and the Magnetic Park site (Sainsbury's) is Greenfield land.

#### Scale proposed

3.3 The Tesco proposal is for 1660sqm net sales floorspace. The application does not define the split of convenience and comparison floorspace. A condition is proposed to secure a minimum of 1328 sqm net convenience floorspace. There is no petrol filling station proposed.

3.4 The Sainsbury's proposal is for 1993 sqm net sales floorspace. This is split to comprise 1672 sqm convenience and 320 sqm comparison. The proposal includes a petrol filling station.

3.5 Each applicant states that its store will be capable of meeting main food shopping requirements. Officers agree with this and therefore consider they will compete for the same market opportunity.

#### Retail – Sequential Assessment

3.6 The Tesco site is predominantly within the Established Shopping Area. Officers consider the site is within the town centre, using the definition in PPS4. The site is a sequentially preferable location for retail development. A Sequential Assessment is not required from the applicant. It is considered to be suitable, viable and will be available for development within a reasonable timescale. The Lawrence's site is

capable of meeting the same need as the proposed Sainsbury's store i.e. main food shopping trips.

3.7 The Sainsbury's site location is defined, in terms of PPS 4 definitions for retail development, as out-of-centre. A Sequential Assessment is required by Policy EC 14 of PPS 4 and has been completed by the applicant. Officers consider that the applicant has not demonstrated compliance with the requirements of the sequential approach.

#### Retail – Impact Assessment

3.8 For the Tesco site, a full impact assessment is not required, but the question of the 'Scale' of the proposal must be considered (PPS 4 EC 16.1 (e)). Officers consider that this test has been met and the development is of an appropriate scale in relation to the size of the centre and its role within the retail centres hierarchy. The development has also been assessed against the impact considerations set out in EC10.2. It is considered that in terms of overall design, criteria (c), the proposal could have been better but is not of such a standard that would warrant a recommendation for refusal by itself, and not when considered against all other material considerations in the detailed report. Therefore, with the recommended conditions and S106 obligations, the development overall is considered to satisfy impact criteria (a) to (e) of EC10.2.

3.9 For the Sainsbury's site, an Impact Assessment, assessing the impact considerations set out in PPS 4 EC16.1 (except EC16.1 (e) and (f) which are not applicable), is required by Policy EC 14 of PPS 4. All planning applications for economic development should also be assessed against the impact considerations set out at EC10.2. An Impact Assessment has been completed and submitted by the applicant.

3.10 The Sainsbury's development will compete for the same market opportunity as the proposed Tesco store. Officers consider that there is likely to be significant adverse impacts in relation to EC16.1 (a), (b) and (d). The proposal will have a significant adverse impact on existing and planned investment in Desborough town centre, town centre viability and vitality and in-centre trade/turnover.

3.11 Given that officers consider there to be marginal capacity for two foodstores in 2014, the granting of permission for an out-of-centre store is likely to significantly reduce operator interest in developing a sequentially preferable site i.e. Lawrence's. The Lawrence's site represents a significant opportunity to regenerate the town centre and improve its vitality and viability. It would deliver wider regeneration benefits to the town through increasing footfall and spending in town centre shops (linked trips), benefits that are unlikely to arise from the Sainsbury's proposal. The potential trading viability of a store on the Lawrence's site, or other town centre sites, would be reduced because much of the available expenditure will be absorbed by the proposed Sainsbury's development, hence any foodstore coming forward in the town centre would trade at lower margins with more limited viability. Given the marginal capacity at 2014 and the effect of this as described above (and in full detail in the Sainsbury's committee report), it is considered that the Sainsbury's proposal threatens to have a material impact on the development of a sequentially preferable development opportunity. Should this out-of-centre store be developed first and no

town centre store comes forward, there are likely to be clear significant adverse impacts on Desborough town centre.

3.12 Investor concern (Tesco) has been expressed and can be one of the key factors which will determine whether a proposal is likely to undermine committed or planned investment (PPS 4 Practice Guidance paragraph 7.19). An existing town centre operator (Co-op) has also expressed concern regarding the impact the Sainsbury's development will have on existing convenience stores.

3.13 The existing Desborough town centre is fragile and in poor health, evidenced by completed town centre health checks assessing the centre against PPS 4 indicators. The centre is vulnerable to developments which will compete with the centre and further undermine its vitality and viability. Officers consider that the proposed Sainsbury's store would result in a level of trade diversion that would result in a significant adverse impact on Desborough town centre. The effects on planned, committed and existing investment can also provide a good indication of the overall effects on vitality and viability. As set out above it is considered that the proposed Sainsbury's store is likely to have a significant adverse impact on planned investment; namely the development of the Lawrence's site.

3.14 It is considered that the Sainsbury's store will not have a significantly adverse impact on Rothwell town centre. The predicted level of trade diversion from Rothwell town centre to the Sainsbury's store will not result in a significant adverse impact on existing stores or the vitality and viability of the centre.

3.15 It is likely that because of the location of the Tesco store within the established shopping area, there will be some scope for the combined impact of this store and the Sainsbury's store to be offset by the attraction of more shoppers to the town centre than are currently visiting, which results in increased footfall and spending in town centre shops (linked trips). If the Sainsbury's and Tesco proposals are both permitted and delivered, the impact on Desborough town centre is likely to be acceptable as the health of the centre would be improved to some extent by the opening of an in-centre store. It is considered that the 'linked trips' will only arise to a significant degree if Tesco is developed, and that the scope for linked trips solely between Sainsbury's and the town centre is limited. If Tesco does not come forward the impact on Desborough town centre would be significantly adverse.

3.16 Officers have considered the cumulative impact of two stores on Rothwell town centre. Given the positive health of this centre and its good level of vitality and viability, officers consider that Rothwell could withstand the predicted level of trade diversion and impact (see cumulative impact section below). It is considered that there will not be a significant adverse impact on Rothwell town centre.

#### Heritage Issues

3.17 The Tesco site is within the Desborough Conservation Area and adjacent to the listed Oak Tree public house. The Conservation Area and the Oak Tree public house are *designated heritage assets* as defined by PPS5.

3.18 The Lawrence's factory building and the cottages to be demolished are not designated heritage assets but do add positive value to the Conservation Area.

Officers consider the demolition of the buildings will result in *substantial harm* (PPS5) to the Conservation Area as a designated heritage asset, but not to the setting of the listed Oak Tree public house. The question of whether the substantial harm is justified is an important issue that Members need to consider. PPS5 is an important material consideration in this regard. It sets out a test at policy HE9.2 with regard to proposals which will lead to substantial harm to designated heritage assets. In order to satisfy the test under policy HE9.2(i) it would require a conclusion from the Committee that the applications demonstrate that substantial harm/loss of significance *is necessary in order to deliver substantial public benefits that outweigh the harm/loss*, OR, under 9.2(ii) that:-

- (a) the nature of the heritage asset prevents all reasonable uses of the site; and
- (b) no viable use of the heritage asset itself can be found in the medium term that will enable its conservation; and
- (c) conservation through grant-funding or some form of charitable or public ownership is not possible; and
- (d) the harm to or loss of the heritage asset is outweighed by the benefits of bringing the site back into use.

Officers consider that the applicants have not fully met all of the criteria (a to d) in the part (ii) test and hence the application falls to be considered against the part (i) test. Officers consider that the substantial harm to the Conservation Area is justified because *it is necessary in order to deliver substantial public benefit that outweigh the harm* (being provided through the re-development proposals).

3.19 The Sainsbury's site is not within a Conservation Area.

#### Planning Obligations

3.20 For the Tesco proposal, Officers consider that the planning obligations meet the tests set out at Regulation 122 of the CIL Regulations 2010.

3.21 For the Sainsbury's proposal Officers consider that the planning obligations meet the tests set out at Regulation 122 of the CIL Regulations 2010. Officers do not consider that the planning obligations make the development acceptable in planning terms.

#### Regeneration and Revitalisation and Promoting Economic Growth

3.22 Sustainable development is important and significant weight should be attached to the benefits of economic growth and jobs. The applicant for the Tesco store states that the store will increase turnover by over £16m in the town. This is highly likely to improve the vitality and viability of the centre overall and make the centre more attractive to both shoppers and future investors. The development will use a site that is currently vacant and provide 140 jobs. It is considered that the environmental improvements in the town centre, to be secured through a planning obligation, would make a significant impact on the appearance and attractiveness of the town centre. The provision of a car park in the town is also a positive benefit. The provision of a main foodstore in the centre will also increase the number of local people that shop in the town that currently shop elsewhere; retaining expenditure and decreasing the

distance travelled to shop. However, all of the benefits resulting from the development should be considered against the physical loss to the town centre, through the demolition of the factory building and the other buildings on the site.

3.23 The Sainsbury's development will have a positive economic impact in terms of increasing local employment levels (approximately 200 jobs with an approximate split of 65% part-time and 35% full-time ranging from managerial roles to unskilled opportunities and construction phase employment opportunities), increasing the level of convenience retail floorspace, for which there is a qualitative need, and reducing expenditure leakage out of Desborough. The development will also contribute towards town centre public realm environmental improvements, shop front enhancements and town centre management (delivery of regeneration and environmental improvements within Desborough are key elements of Development Plan policy). Increased consumer choice and competition would also be benefits arising from this proposal.

3.24 The development will however have negative impacts. Permitting an out-of-centre foodstore without allowing a sequentially preferable opportunity (for the same form of development) to come forward first would have severe consequences. The Lawrence's site has been identified as a sequentially preferable site. That site constitutes an opportunity for improving the vitality and viability of the Desborough Town Centre, which is currently in a fragile state. Development of the Lawrence's site will result in increased footfall and spending in town centre shops (linked trips) and will improve the town centre's health. In light of the current marginal capacity for the two proposed stores and investor concern (Tesco) it is considered that there is a significant risk that the town centre site will not be delivered should an out-of-centre development be granted planning permission and developed first.

3.25 If Lawrence's is not developed and the proposed Sainsbury's store is permitted and delivered there are likely to be severe consequences for Desborough town centre; the proposal would have a significant adverse impact on Desborough town centre (assuming Lawrence's is not developed), harming the vitality and viability of the centre. Linked trips from Sainsbury's to the centre would be limited and visitors are unlikely to be drawn in to use other services or shops. Although the Sainsbury's development would deliver public realm enhancements and improvements to the physical fabric of the main shopping area, planned and future investment in the centre is likely to be compromised should this out-of-centre store be permitted. Lawrence's could remain vacant and the opportunity to kick-start regeneration of the town centre lost.

3.26 If Sainsbury's and Tesco are both permitted and delivered, the impact on Desborough town centre is likely to be acceptable, as the health of the centre would be improved to some extent by the opening of an in-centre store. The impact on economic and physical regeneration is also likely to be positive in this scenario.

### Design

3.27 The Tesco proposed layout has sought to minimise impact on the residents of New Street and does take some cues from the design and character of the surrounding area. The layout does provide links to Station Road and an active frontage to the front of the store. However, the design fails to provide an active

frontage to the other elevations so does not maximise opportunities for adding character and vitality. The pedestrian routes are welcomed, however the pedestrian desire lines from Station Road and New Street are hindered by the location of the Service Yard and its boundary wall. The layout and general design are considered appropriate in the context of the site and the constraints of nearby residential properties, tight access and varied site levels. The new pedestrian link to Station Road is considered to improve connections between the site and the town centre and to improve the way it functions. Further details of materials, boundary treatment and finishes are to be finalised by condition. It is considered that while more could have been achieved to enhance the character of the store, and the experience for visitors on foot and by car, the applicant has made some changes to address the design concerns expressed by officers and consultees during the application process, discussed above. On balance, it is considered that in terms of overall design the proposal could have been better but is not of such a standard that would warrant a recommendation for refusal by itself, and not when considered against all other material considerations in this report.

3.28 The applicant has demonstrated that 10% energy reduction can be achieved by the scheme. Policy seeks BREEAM 'very good' standards and a target of at least 30% of the demand for energy to be met on site and renewably (where viable). It is recommended that conditions are imposed to secure a Low Zero Carbon Feasibility Study and the implementation of its recommendations. The conditions will ensure that the development takes account of the requirement to tackle the causes of climate change.

3.29 For the Sainsbury's proposal, the scheme's design is considered to be acceptable and is in accordance with Development Plan policy and national planning guidance. Previous design reasons for refusal have been overcome. Positive improvements have been made to the scheme. The scheme now responds more appropriately to its context and character of its surroundings. It has taken opportunities to create a higher quality development than was previously proposed; more visual interest and activity has been introduced where needed on elevations and natural surveillance has been increased as a result. Not only have the individual buildings been improved, the quality of the site frontage has been enhanced through the proposed use of materials and differentiation between parking, pedestrian links and circulation routes. Connectivity and integration have been improved further to the previous scheme being refused. It is recognised that the siting of the store remains unchanged however this is considered acceptable in light of the other changes that have improved the overall scheme (not only aesthetic considerations).

3.30 The development is innovative in sustainability terms with 30% of the store's energy provided by decentralised and renewable or low carbon energy sources. Other sustainable construction and design measures will also be employed with a 'very good' BREEAM standard to be achieved. The store therefore takes account of the requirement to tackle the causes of climate change.

#### **4. Other issues**

*4.1 The table below sets out a comparative analysis of other application issues and officers' views. The individual committee reports should be viewed for the detailed assessment.*

<b>Issue</b>	<b>Lawrence's site Tesco</b>	<b>Magnetic Park site Sainsbury's</b>
<b>Highways</b>	No objection from the Highways Authority. Planning conditions and planning obligations are recommended.	No detrimental impacts. Planning conditions and planning obligations are recommended.
<b>Landscape and Visual Impact</b>	Hard and soft landscaping schemes to be secured by condition.	No significant adverse visual or landscape impact.
<b>Sustainable Design and Construction</b>	A condition is recommended to secure compliance with CSS policy 14 (a).	CSS Policy 14 (a) is met. BREEAM very good standard will be met and the CSS 30% renewable energy target will be achieved and exceeded.
<b>Residential Amenity (including noise, lighting, overlooking, loss of light etc)</b>	No detrimental impact subject to planning conditions securing mitigation measures.	No detrimental impact subject to planning conditions securing mitigation measures.
<b>Flood Risk and Drainage</b>	Flood zone 1. Subject to planning conditions development is acceptable.	Flood zone 1. Subject to planning conditions development is acceptable.
<b>Biodiversity</b>	No objection from statutory consultees. Conditions will secure mitigation measures and landscaping/planting.	No adverse impact. Contributions will be made to Biodiversity Action Plan targets to deliver net gain in biodiversity.
<b>Archaeology</b>	Development is acceptable subject to a planning condition securing appropriate archaeological recording.	Development is acceptable subject to a planning condition securing appropriate archaeological investigation.
<b>Contaminated Land and Ground conditions</b>	Proposed development is acceptable subject to planning conditions.	Proposed development is acceptable subject to planning conditions.



## **5. Capacity for two stores**

5.1 Advice from the Local Planning Authority's retained retail consultants is that if both stores are developed, and trade at the levels predicted by Sainsbury's, the amount of surplus expenditure (capacity) in the Primary Catchment Area (PCA) at 2014 is extremely marginal, at just £0.5m. (This is based on 10% of trade being derived from outside the PCA which the LPA's retail consultants have advised is realistic given the strength of provision in Kettering, Market Harborough and Corby). Officers consider it likely that if both stores are permitted they could be both trading by 2014. If both stores are built they are likely to trade in line with or slightly below company averages.

5.2 The level of operator interest in town centre sites, and particularly Lawrence's, is likely to be significantly reduced if an out-of-centre foodstore is permitted. The potential trading viability of a store on Lawrence's or other town centre sites will be reduced because much of the available expenditure will be absorbed by the Sainsbury's development (which is likely to come forward quicker than a scheme on Lawrence's) hence any foodstore coming forward in the town centre would trade at lower margins with more limited viability. Given the marginal capacity at 2014 and the effect of this, it is considered that the Sainsbury's development threatens to have a material impact on the development of a sequentially preferable development opportunity. There is also investor concern from Tesco (see the KET/2010/0826 Sainsbury's report for detail); Sainsbury's consider there to be clear capacity at 2014. The committee report for Sainsbury's provides details of the applicant's view on capacity.

5.3 Based on the advice of the LPA's retained retail consultants, officers consider that there is likely to be sufficient capacity for both stores in 2016 to trade successfully.

5.4 National policy advice is that where compliance with the requirements of the sequential approach has not been demonstrated planning permission should be refused. There is therefore a strong presumption against out-of centre locations if there is a sequentially preferable site. If members are satisfied that there is sufficient capacity for two sites in the short term then this will also be relevant to whether material considerations exist that would warrant the grant of permission for the out-of-centre site whether or not the in-centre site is also granted permission.

5.5 Permission could be granted for both stores, notwithstanding the failure to meet the sequential test; where that was merited by the advantages of the Sainsbury's proposal and notwithstanding the impacts on the town centre and the sequentially preferable store.

5.6 However, if members conclude that there is not sufficient capacity for both stores in the short term then the relative merits of the two applications must be weighed. However, in these circumstances officers consider that the presumption in favour of sequentially preferable sites should carry substantial weight. In order to allow the sequentially preferable site to be developed first, the out-of-centre site should be refused, unless there are sufficient material considerations that indicate to the contrary.

5.7 Officers consider that a condition imposed on Sainsbury's to prevent them commencing development or opening until Tesco opens a store would be unreasonable. If such a condition is required to render the development acceptable than the application should be refused following the sequential approach.

## **6. Cumulative Impact**

6.1 Officers have also considered the impacts on the assumption that Tesco is delivered (a two-store scenario). Please refer to paragraph 3.15 above.

6.2 The cumulative impact on Rothwell has also been considered. Taking into account a turnover of £5.01m in Rothwell town centre in 2016 and £1.5m being diverted from here to Sainsbury's and Tesco (total) the LPA's retained consultants have advised that the impact will be 29.94% (trade diversion from Rothwell town centre to Sainsbury's and Tesco as a percentage of total turnover of Rothwell town centre in 2016). This represents a level of impact at which Rothwell town centre's vitality and viability might struggle. This should however be balanced against the health of the existing centre and its good level of vitality and viability. Officers therefore consider that Rothwell town centre could withstand the predicted level of trade diversion and impact without it having a significant adverse impact.

## **7. Officers Recommendations**

7.1 Officers recommend that the Tesco Planning Application KET/2010/0743 is approved subject to conditions and planning obligations.

7.2 Officers recommend that the Sainsbury's Planning Application KET/2010/0826 is refused for the reasons set out in that report.

7.3 There are however other possible decisions that could be taken (i.e. approve both, refuse both, refuse Tesco and approve Sainsbury's) should members put different weight on particular material planning consideration(s) as discussed above.