

Application No: W 11 / 0225

Town/Parish Council: Warwick

Registration Date: 17/02/11

Case Officer:

Penny Butler

Expiry Date: 14/04/11

01926 456544 planning_west@warwickdc.gov.uk

Tesco Supermarket, Emscote Road, Warwick, CV34 5QL

Application for the variation of conditions 5, 8, and 14 of planning permission W09/0144 to facilitate the removal of the 'lagoon' from the approved Tesco store extension scheme and replace with a porous car park solution. FOR Tesco Stores Limited

This application is being presented to Committee due to the number of objections and an objection from Warwick Town Council having been received.

SUMMARY OF REPRESENTATIONS

Warwick Town Council: (Comments on original plans) The Town Council very much applauded the proposal to replace the car park surface with a porous car park solution, but do not consider that there is justification to vary Conditions 5, 8 and 14 of planning permission W09/0144.

Warwickshire County Council Ecology have not varied their advice from that offered in 2010 and the letter of 1 April 2011 concludes that County Ecology do not consider that the porous surface justifies the removal of the lagoon, despite the underground services, unless the lagoon could be relocated to another part of the site, or some other form of wetland feature, such as an ephemeral water body/wet scrapes, could be created on site.

The letter also states that the lagoon was not to be created solely as part of the flood risk management, but also to form part of the Nature Conservation Management Plan to protect and provide for the invertebrate life on site.

Warwickshire County Ecology conclude that by stating that they do not recommend the approval of the application to vary Conditions 5, 8 and 14 of planning application W09/0144 and that the removal of these Conditions is not satisfactory with regards to the nature conservation concerns on the site.

British waterways have reservations indicating that they are not fully satisfied with the findings of the FRA and state that the canal can be subject to inflows from other sources during storms, including surface water from adjacent water courses. British Waterways advise that the conditions should only be varied if the applicant can ensure that the proposals meet British Waterways conditions and that works comply with British Waterways 'Code of Practice' for works affecting British Waterways.

The Town Council are not aware if the proposal to provide a porous surface, is sufficient to mitigate against surface water run off and avoid the need for a lagoon but accepting British Waterways concern and the stated objection by Warwick Ecology Unit of the Warwick Historic and Natural Environment, the

Town Council recommends that in the interests of Local Plan Policy DAP3, the application should be refused as the site is part of the designated Ecosite 'Emscote Road Power Station' and the loss of the lagoon will impact detrimentally on the site and the invertebrate life within the site.

Public response: 6 letters of objection received.

(30 Austin Edwards Drive) Query whether the proposal will lead to more traffic at all hours, including delivery trucks, as their house backs onto the bridge where there is already too much noise.

(26 Austin Edwards Drive) The ongoing expansion of the site is unnecessary and the current store is more than sufficient for its size and location. Traffic noise is currently significant and encouraging more shoppers will only increase the problem. Customers often block Emscote Road, especially at weekends, by queuing into and out of the site, and delivery trucks are also increasing noise and in frequency.

(42 Mercia Way) Considerable concerns regarding the loss of water storage capacity at the south-west of the store since the area regularly holds water at times of heavy rainfall. This surface water is bounded by the footings of the railway embankment, continues around and under the rail line through three large culvert tunnels, under the line and out across the land on the private land beyond, towards the River Avon. It is then channelled or over-spilling into the field along a brook/drainage ditch that held a pipe run to that formally discharged through a weir into the river, the weir being located beside the Emscote Gardens Flood Defence at Mercia Way, into the River Avon. When the water storage is in effect, I have seen the boundaries that enable the storage of this expanse of surface water to stand to be as follows: To the south west is a wide concrete lintel that now blocks the outflow beside the river weir (over which the Centenary Way/ Riverside Walk passes) enabling the brook and private field to fill, away from the river back to through the culvert tunnels and around the right on the Tesco side to be stopped by the raised land of the electricity pylon and the existing side of the Tesco store (with new car park), and to the left by the large deposit of sand beside the existing Regional Electricity Compound. This water storage capacity is considerable and takes some time to soak away into the ground.

Further comments on amended plans and addendum to the FRA:

Please register this as an objection supplementary, on additional grounds, in relation to the further disposal of flood alleviation schemes, this being the variation in conditions that propose to remove the lagoon from the approved Tesco Plans W/11/0225. This is not a subject to be trifled with and I am objecting on a variety of additional grounds. Generally there appears to be a slack attitude to flood alleviation in this part of the district adjacent to a major river, this is illustrated by the willingness to remove- rather than promote flood alleviation initiatives and protect existing flood defence assets. This all in the light of officially recognised climate change and the need to establish a degree of public reassurance. To this end I am disappointed in the lack of objection and detail from Paul Taylor (Community Protection) Flood Risk WDC. Reason: WDC is the owner of a significant Community Protection Asset immediately downstream, officially recognised by WDC Legal Dept. (declaration letter available) as the Emscote Gardens Flood Defence. I have already reiterated my concerns as to additional impact upon the partially compromised flood defences, due to significant increase of surface water drain off from this development that was

previously post industrial / fallow land. Despite these facts there is no apparent move to support a full Flood Risk Assessment, one would expect no less to ensure the integrity of such a high profile Local Authority asset, one that ought to defend so many residential properties in a flood zone that would be 'flood plain' without an effective Emscote Gardens Flood Defence. When the upriver private land owner (Tesco) is increasing discharge across the private land of another landowner 'Brindley's Field', through the culvert tunnels of Network Rail, following the former surface water discharge course from the cooling lagoons of the Former Emscote Power Station, then is this not a significant and 'critical water course' for area drainage entitled to due consideration. This all in the light of the additional flood water discharge to be directed into the river immediately above the River Leam/Avon tributary, through the Leamington Flood Alleviation Initiative. Spell out where I am wrong here please but where are the appropriate consultation trails with this regard, as set in Flood Defence Legislation? I am surprised at the comment and position of no objection from the Waterways. Whereas I agree with some of their points, again there is substitute for local knowledge and I beg to differ. Reason: There is a significant link with this section of the Canal and the River Avon at the Aqueduct Crossing, rear of Tesco. This is not a sealed water system. The former site of Kenches Mill (by the roundabout entrance to Tesco) played host to a large sluice of canal water over spill from the head of water off the Birmingham Plateau. This is now concrete and culvert pipe under the rear of Bridge St. back gardens. While some may think I digress, take a look at the massive accumulation of silt that has built up in the aqueduct tunnels, this is now well populated with mature trees out into the river, creating a potential but effective catchment for any large flotsam in the river, next big flood (3-4 in the last 100 years during progressive over development). These factors, and others I have not mentioned, point to an over reliance on the River Avon to shift flood water, and anything caught in it, away in a steady and orderly manner. However if you had seen what I had seen from the crest of the Emscote Gardens Flood Defence in Easter 1998 (before any Tesco Development), you would wonder as I do, why the 'spin on the ball' revolves towards the continued eradication of flood alleviation schemes and apparent avoidance of an impartial and sincere Flood Risk Assessment, to consider fully the impact of further surface water discharge from the Tesco Site. If a development so close to our Emscote Gardens, discharges into the River Avon, or alters the flow of a critical water course, then it is the business of downstream land and asset owners, including residents, WDC Legal and Community Protection (Flood Risk), I should like to talk to Paul Taylor to discuss his stance on the Protection of our Community in the interests of the local residents reassurance. Again I object-and make a plea for a full and transparent Flood Risk Assessment, including the immediate downriver impact on Emscote Gardens, WDC assets/flood defences (including any linked integral land that purports to be a defence against flood) and let into WDC property, as soon as is possible please

I am very familiar with the land here as a post-industrial operational power station that was dismantled. The area of this proposed development is part of the network of cooling and water storage facilities. Part of the initial Tesco development covered this area with a considerable expanse of non-porous tarmac car park with a surface water drainage system of pipes and culverts down to and discharging into the River Avon, to the west of the present Tesco building and beside the river measuring station at the Network Rail Bridge. This already adds to the water capacity and flow of the River Avon against the Emscote Gardens Flood Defence, which is part owned by the Warwick District Council, the other part by a private riparian owner, the same private land owner

as that of the flood plain field, previously described and former Power Company Land. I object to the further levelling of this area including the 'Lagoon' as it will add to the pressure of flood water passing under the railway embankment culverts, discharging out into the field and closing off the highway known as the Centenary Way/Riverside Walk and putting unnecessary pressure upon the Emscote Gardens Flood Defence. This is regardless of whether the new proposed car park surface is to be porous. The raising of the land will create a run off that was not there before and this cannot compensate for the water storage capacity on the scale that presently exists.

I am concerned as to any plans to channel further previously stored water direct to the River Avon from the 'Lagoon' location on the Tesco Store side because this will still add to the increase of water flow of the River. Also any such construction here ought to be subject to the restrictions in force as to the footings of the rail embankment and the existing electricity pylon. This riverside corner of the pylon constitutes the high flood mark of the River Avon, together with the later position of the south west corner of the Tesco Store, but as in 1998 (major flood year). Any additional pressures on the River Avon, as a major regional water course, would be folly given that the area immediately up from the River Leam tributary has been massively burdened by the current flood alleviation project from Leamington Spa, piping previously standing flood water direct into the River to be added to the River Avon in close proximity of this proposed Tesco site and the Emscote Gardens Flood Defence. The Emscote Gardens Flood Defence is officially recognised as a flood defence structure by WDC Legal Dept. but has not been subject of any Flood Alleviation appraisal to consider the impact developments would have on this flood defence in its current condition. This structure is supposed to prevent the flooding of a large residential community, including bungalows for the elderly, on former flood land behind this flood defence, a situation such as this ought to have proportionate regard and due appraisal.

In addition the land constitutes part of the environmental green belt highway that encourages the free movement of wildlife, including rabbits, foxes and badgers, and birds of prey have recently returned to the area. The area of the railway embankment and culvert tunnels is a wide expanse in its diversity of wild life.

Emscote Gardens Residents Association and 31 Mercia Way provide the same comments. They object to the removal of the lagoon as this was identified as necessary in the Flood Risk Assessment which was approved by the Environment Agency. The area lies in Flood Zones 3A and 3B in extreme risk, and the lagoon provides water storage capacity in the event of high rainfall and/or flooding, which is a regular event as the area is frequently seen under water at high river levels. A flood plain lies immediately to the south and surface run-off flows to the River Avon across this flood plain, adjacent to the now-compromised flood defence of Emscote Gardens housing estate. The construction of car parking on this area is crass, even if it is of porous material. There is ample car parking at the Tesco site. I have NEVER seen it anywhere near full, even at Christmas and, despite some extra customer parking when the extension is built, there is absolutely no necessity for extra parking on this environmentally valuable site. Also very concerned about the impact on the wild life of this immediate area, including badgers and bats. This lagoon should be constructed as agreed in the original application as an essential flood alleviation measure.

(11 Mercia Way) Objects on grounds of flooding and ecology. The original objections were imposed for extremely important reasons and Tesco should stand by them. It is understood that Tesco did not anticipate the problems of extensive cabling in this area, and they should have investigated more thoroughly as the evidence shown on plans is easily obtainable. They maintain that the development is within Flood Zone 3A where development should not take place and point to errors in the Flood Risk Assessment originally considered by Planning Committee. The store has previously been flooded and there have been 9 major floods in the area over the last 100 years including 1947 which was worse than 1998. Flood water from sewers would flow south to the River Avon, not down Emscote Road. British Waterways requested further changes to the Flood Risk Assessment and require a condition and relevant consents. Has the existing flap valve been inspected to ensure it is in good working order and replaced if necessary? Part of the initial Tesco development covered this area with a considerable expanse of non-porous tarmac car park with a surface water drainage system of pipes and culverts down to and discharging into the River Avon, to the west of the present Tesco building and beside the river measuring station at the Network Rail Bridge. This already adds to the water capacity and flow of the River Avon against the Emscote Gardens Flood Defence, which is part owned by the Warwick District Council, the other part by a private riparian owner. I object to any additional discharge of water and further pressure on the Emscote Gardens Flood Defence and therefore increased flood risk to my area. If the original FRA was accurate, why does the second one change the parameters and conclusions? I have no confidence in the Environment Agency's statements relating to the current scheme, they have disregarded the first FRA, and the new FRA states "a small amount of flood plain storage will be occupied by the raising of land within this area". We are therefore losing flood plain storage, especially with the removal of the lagoon, and also "The proposed mitigation storage is not on a level for level, like for like basis but increases the extent of Flood Zone 3B...".

The statement in the amended Nature Conservation Management Plan, that the lagoon would normally be dry and therefore the removal would be of no ecological importance is incorrect as this area is frequently under water. I strongly object to the further desecration of habitat in our wildlife river corridor which teems in fauna, including protected badgers, several roosting species of bats, foxes, muntjac deer, many other small mammals and an amazing variety of birds. Part of the area around the Tesco store is completely unspoiled and a haven for a wide diversity of wildlife, biodiversity being important to Warwick District Council as a signatory of the West Midlands Biodiversity Pledge.

Environment Agency: (Original comments) We understand the implementation of the 'lagoon' is not possible due to services that run underground. The submission seeks to remove the 'Lagoon' from the approved scheme and replace it with a porous car park solution. We have previously made comments in relation to this method of attenuation in our letter dated 4 February 2010, as part of the discharge of condition no. 14 attached to planning permission W05/0962 (a previous extension scheme at the Tesco store that has not been implemented).

The current proposal includes a revised Flood Risk Assessment (FRA), White Young Green, January 2011, Rev A068726. We have also considered the points made in a letter, from Neil Kenton (local resident) to Warwick District Council, which we received on 4 April 2011.

We have no objections to the variation of condition no. 14 as proposed. This is on the basis that the storage volume provided is considered adequate in terms of flood risk management. Having reviewed the revised FRA, the proposed development (area affected by the additional impermeable area) will restrict surface water to the equivalent Greenfield run-off rate for the site. The FRA confirms that the attenuation scheme will be designed to cater for the 1 in 100 year plus climate change (peak rainfall intensity) event in accordance with Planning Policy Statement (PPS) 25 – Development and Flood Risk. As such, there should be no increased risk of flooding, due to surface water, as a result of the proposals. Similarly, any existing flooding situation should not be exacerbated as a result of the surface water run-off post development.

The permeable paving and trench will also offer a degree of pollutant control (water quality benefits). The proposals address a previous concern in relation to potential impacts upon controlled waters, in that the permeable paving will be implemented as part of a sealed system with no direct discharge to ground.

We would also recommend that you seek the views of your Land Drainage Officer (Floods section) on the above.

We have no comments in respect of the proposed variation of condition no. 5 or condition no. 8.

(Comments on addendum to FRA and amended plans regarding the proposed foot path and the additional floodplain compensation requirements) Details provided are to our satisfaction and the reduction in floodplain storage volume has been addressed in the addendum note by WYG.

British Waterways: Requested that the FRA be updated, which has been done and they are now satisfied with the changes. Originally recommended a condition requiring details of the porous solution but following clarification of its location this is no longer required.

WCC Ecology: No objection to amended plans.

WCC Highways: No objection.

Community Protection (Area Engineer- Flood Risk): No objection to amended plans.

Cultural Services: No objection to amended plans.

Network Rail: No objection in principle but provide comments which should be included as conditions. The developer/applicant must ensure that their proposal both during construction and after completion of works on site does not encroach onto Network Rail land, it must not affect the safety, operation or integrity of the railway and its infrastructure or undermine or damage or adversely affect any railway land and structures, nor over-sail or encroach upon the air-space of any Network Rail land or cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future to be undertaken on Network Rail land and infrastructure. Any encroachment onto Network Rail land without permission will be deemed an act of trespass and will be liable for criminal prosecution and a heavy fine.

The applicant must ensure that construction and subsequent maintenance of the porous car park can be undertaken without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and the car park should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land. No structure/building/facility should be built hard-against Network Rail's boundary.

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway, which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- Planning Policy Statement 25 : Development and Flood Risk
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

The Tesco store was developed following an outline planning permission, granted at appeal, in 1995, for a retail store of 6131 square metres with parking for 500 cars, for retail use classes A1 and A3, a petrol station and the means of access at the former Avon Power Station site and 128-130 Emscote Road. (W94/0993), [Planning Inspectorate ref. T/APP/T3725/A/94/242234/P5 & 94/245082/P5]. The application for the approval of reserved matters was approved in 1998 (W97/1586).

Extensions to the store and a mezzanine floor were approved in 2008 (W05/0962), and there have been various applications concerning the type of sales allowed and signage.

W09/0144 was approved in November 2010. The description of approved works was:

Erection of extensions to the superstore to provide additional sales and bulk floorspace, a dot com facility, and associated works. (Amended scheme to planning application reference W05/0962). The amended proposals include:

- 2 storey rather than 1 storey flat roofed rear (east) extension to accommodate bulk store on ground floor & mezzanine on 1st floor
- Difference in the nature of the mezzanine floor including external means of escape, access ladder and railings etc.

- Small additional enlargements at the front (west) of the store, lobby and toilets in addition to a similar small extension to the sales floor
- The dot com proposals include an extension in the north east corner, canopy for the lorry bays and fenced enclosure.
- Small increase in numbers of car parking spaces/ reduction in areas for landscaping

15 conditions were imposed which included:

5 - *Except where modified by specific subsequent conditions the development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) - drawings no's 1556 - 1115 Rev.E - (proposed site plan); 1556-1108 Rev.C proposed roof plan; 1556-1109 Rev.A (proposed elevations); 1556-700 Rev.E (proposed recycling areas); 1556-1117 (proposed floor plans) and the specifications contained therein, submitted on 22nd June 2010, unless first agreed in writing by the District Planning Authority. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Warwick District Local Plan 1996 - 2011 policies DP1 and DP2.*

8 - *The ecological management activities specified in the Nature Conservation Management Plan 2008 to 2012 ECO1208.NCMP,vf2, February 2009, produced by Aspect Ecology shall be fully implemented with the stated aim of maintaining a mosaic of habitats across the site for the benefit of invertebrates involving the specified initial works and ongoing management actions for the whole of the period of 2008 to 2012 including the erection of a Nature Conservation Area interpretation board. **REASON** The site is part of the designated Ecosite 'Emscote Road Power Station and it is necessary to manage the remaining parts of the site and compensate for the further development of the Ecosite resulting from the development. It would thereby accord with the Warwick District Local Plan 1996 - 2011 policies DP3 and DAP3.*

14 - *No part of the developments hereby permitted shall be brought into use until the following flood risk management measures set out in the Flood Risk Assessment (FRA) of White Young Green are fully implemented including floodplain mitigation storage, the proposed lagoon adjacent to the proposed car park extension and the proposed underground storage tank adjacent to the proposed main extension in accordance with the details set out within the FRA. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment for Tesco Retail Store Extension at: Emscote Road, Warwick compiled by White Young Green Consulting Engineers and the following mitigation measures detailed within the FRA:*

1. *Limiting the surface water run-off generated by the 1 in 100 yr plus climate change (20%) so that it will not exceed the run-off from the undeveloped section of the site and not increase the risk of flooding off-site, as detailed in the FRA section 6.2*
2. *Provision of compensatory flood storage, as detailed in the FRA section 6.1 providing 18.0m³ of floodplain storage.*
3. *Provision of surface water mitigation measures, lagoon and underground storage, as detailed in the FRA section 6.2 and drawing number Appendix L revP3*
4. *Finished floor levels are set no lower than 48.55 m above Ordnance Datum (AOD).*

5. A business flood plan will be prepared and membership of the Environment Agency Flood Warning Service as detailed in FRA 6.3

REASON: To ensure the key mitigation measures are in place before there is any further encroachment of development within the flood plain providing timely mitigation of the potential flood risk to the existing and proposed developments on both the application and adjacent linked sites. The development as a whole should be implemented in accordance with the requirements of the FRA. This would thereby ensure that the proposed development would be in accordance with Warwick District Local Plan 1996 -2011 policies DP10 and DP11.

Construction works on the extension are near to completion.

KEY ISSUES

The Site and its Location

The appeal site is located in an out of town centre location, broadly 2 km's west of Leamington Spa town centre and 1.8 km's to the east of Warwick town centre and lies adjacent to Emscote Road, (A445), one of the principal roads linking the two town centres. The vehicular access to the site is via a traffic light controlled junction with Emscote Road on the bridge over the Grand Union Canal. There are residential properties backing onto the north-west boundary of the site, with the canal forming the north-east boundary, the railway line forming the south-west boundary, and the River Avon and riverside walkway, which is part of the Centenary Way, forming the south-eastern boundary. The site is part of the designated Ecosite 'Emscote Road Power Station' and the River Avon Local Wildlife Site.

Details of the Development

This application is for the variation of three conditions imposed on the 2009 consent for extensions and other works. A lagoon was approved as part of the flood risk management measures required by condition 14, which was located adjacent to the approved car park extension. This provided storage capacity for water run off from the car park extension (as water run off from the approved building extension is dealt with separately). The lagoon formed part of the mitigation proposed within the Flood Risk Assessment submitted by White Young Green (WYG), and the lagoon was also approved as a mitigation measure under the Nature Conservation Management Plan required by condition 8. As part of the overall approved scheme, the lagoon was shown on the approved plans and was therefore also referred to under condition 5, which lists the approved plans.

The applicant states it is not possible to implement the lagoon since there is a high density of underground electricity services in this corner of the site, therefore the proposal is to replace the approved lagoon with a porous car park solution. This would drain the car park extension by means of a permeable surface constructed over a tanked permeable sub-base which will provide 100 cubic metres of storage, with the outflow controlled by a Hydrobrake control device that will limit discharge to the river to the mean annual discharge rate. The attenuation will be provided for up to a 1 in 100 year event plus climate change. Flood water will be prevented from entering the system from the River Avon in times of flood by an existing flap valve and the sealing of the attenuation facilities and manholes within Flood Zone 3A.

A new raised footpath is also proposed at the rear of the store as part of the Flood Risk Assessment, alongside the approved extension, to provide three dry means of escape points from the store in the event of a flood. To provide the path, the level of the existing ground will be made up to the finished floor level of the extension. The equivalent volume of these raised levels which fall within Flood Zone 3A, plus the volume of the approved extension and car park falling within Zone 3A, will be excavated from land alongside the footpath and within Zone 3A in order to ensure there is no net loss of flood plain storage.

Under the approval, to provide flood storage compensation for the extension and car park, an area of land was to be excavated by 0.1m. This excavation was to create a 'scrape' that would also provide a specific wildlife habitat required under the approved Nature Conservation Management Plan. The approved lagoon was also required under the Management Plan to provide a different type of wildlife habitat. Since the omission of the lagoon removes one of these wildlife habitats, the further excavation required to compensate for the new footpath will be provided within an enlarged sloping scrape. This larger scrape will provide both types of habitat previously provided within the smaller scrape and the lagoon. This therefore requires an amendment to the Nature Conservation Management Plan under condition 8.

The above changes also require alteration to the list of plans approved under condition 5.

Assessment

The two principle issues are the impact on flood risk and the impact on biodiversity.

Impact on Flood Risk

The existing Tesco store building lies within Flood Zone 2, which has a medium probability of flooding up to a 1 in 1000 year flood event. The approved store extension and car park extension which lie at the south-eastern corner of the site are located within Flood Zones 2, 3A and 3B on the Strategic Flood Risk Assessment (SFRA) map. Zones 3A and 3B have a medium to high risk of flooding, and Zone 3B is classed as the functional flood plain where the approved development would be unsuitable. However, upon review of the topographical level data provided for the site and the flood level data recorded for the Easter 1998 flood event (which was worse than a 1 in 100 year event), it is evident that the functional flood plain (1 in 10 year flood event) does not extend as far as shown on the SFRA maps. This data alters the location of the flood zones away from the existing building, so the approved development no longer falls within the functional flood plain Zone 3B.

National guidance on flood risk within PPS25 states that the approved development is appropriate within Zone 3A and that an exception test is not required. The stated policy aims in this Zone are that developers and local authorities should seek opportunities to:

- i. reduce the overall level of flood risk in the area through the layout and form of the development and the appropriate application of sustainable drainage techniques;
- ii. relocate existing development to land in zones with a lower probability of flooding; and

iii. create space for flooding to occur by restoring functional floodplain and flood flow pathways and by identifying, allocating and safeguarding open space for flood storage.

The principle of the development in flood risk terms was accepted by the Planning Committee last year. This proposal is to remove a lagoon which was approved as a mitigation measure for the car park extension, and to replace it with a porous surface with tanked sub base. A new footpath to provide a dry means of escape from the building is also now proposed, as required by the Council's Area Engineer.

The Area Engineer and the Environment Agency have assessed the current proposals along with the amended FRA and its addendum, and do not raise objection. Following a site visit, and on examination of current level data, the Area Engineer has determined that earthworks have already been carried out which have raised levels adjacent to the extension. The applicant has submitted plans which show proposed earthworks to mitigate for these works. The Area Engineer and Environment Agency confirm that the reduction in floodplain storage capacity resulting from the installation of the footpath, existing earthworks, store extension and car park will be compensated by the proposed earthworks which will remove the equivalent capacity outside the flood plain and restore levels to the pre-works profile. The relevant volumes are shown below:

Footpath within Zone 3A:	40 cubic metres
Car park within Zone 3A:	15.2 cubic metres
Extension within Zone 3A:	1.6 cubic metres
Earthworks minus footpath:	405 cubic metres
TOTAL :	461.8 cubic metres

Total proposed excavated volume to create final levels: 468 cubic metres

The enlarged scrape will compensate for the volume of the footpath, car park and extension which have removed capacity from Zone 3A, and a total minimum compensation volume of 56.8 cubic metres will be provided which will be self draining to the River Avon. The total cut will be 62.5 cubic metres which will provide a permanent pond of 5.7 cubic metres. This data has been checked by the Area Engineer using three dimensional level data. The FRA states that "The proposed mitigation is not on a level for level, like for like basis but increases the extent of flood zone 3B as agreed with the Development Control Engineer (Mr Dave Hughes)." I am satisfied that the proposed mitigation to account for the development within Zone 3A is satisfactory.

In terms of flood water storage capacity, the approved lagoon had a capacity of about 40 cubic metres, whereas the proposed tanked base will have a capacity of some 100 cubic metres. This capacity will be able to cope with a 1 in 100 year event plus 30% for climate change, whereas the approved lagoon would have only coped with a 1 in 30 year event. Therefore the current proposal for dealing with car park run off will significantly reduce flood risk by providing a greater storage capacity.

The filled trench for dealing with run off from the extension has similarly increased in storage size, to 50 cubic metres, from 19 cubic metres for the approved aqua-cell crates. The surface water drainage system proposed will attenuate surface water flows appropriately so there will be no greater risk of

flooding (via the culvert tunnels) than in the existing situation. The relevant figures given above are summarised below:

Approved lagoon:	40 cubic metres
Proposed tanked base:	100 cubic metres
Approved aqua cell crates:	19 cubic metres
Proposed filled trench:	50 cubic metres

Approved storage capacity:	59 cubic metres
Proposed storage capacity:	150 cubic metres

Impact on Biodiversity

The proposed omission of the lagoon and the amended proposal for an enlarged scrape has been assessed by the County Council's Ecological Service against the overall mitigation agreed for the scheme. The original approved Nature Conservation Management Plan provided for a mosaic of different habitats in order to encourage biodiversity and minimise the harmful impacts of the scheme. The introduction of the enlarged scrape addresses initial concerns raised by the Ecology Service, who were concerned that the removal of the lagoon would result in the loss of an invertebrate habitat. Following negotiation the amended Nature Conservation Management Plan that has now been submitted includes the enlarged scrape which means that the site will provide the same range of habitats as previously approved. The proposal is therefore considered to accord with Local Plan Policies DP3 and DAP3. I consider that this has addressed the concerns raised as an equivalent range of habitats is now to be provided to that previously approved.

Other matters

The condition requested by Network Rail is not considered necessary since there is no reason for the construction works to encroach onto Network Rail land, the car park is over 30m from Network Rail's boundary, and this condition was not imposed on the original consent.

Details have already been submitted under the existing consent to fulfill the conditions which required further details to be submitted, consultation has been carried out on the details, and the details found acceptable. The applicant has requested that these details be approved as part of the submitted scheme rather than as conditions still requiring the submission of details, so the revised wording of these conditions is reflected below.

RECOMMENDATION

GRANT, subject to the conditions listed below, on completion of a supplementary agreement which will bind the applicant to the terms of the original Section 106 Agreement.

CONDITIONS

- 1 This permission shall be limited to a period of time expiring on 24 November 2013. **REASON** : Since this is an application under Section 73 of the Town and Country Planning Act 1990 for a minor material amendment and, therefore, the expiry date of this permission is as the original permission reference W09/0144.

- 2 The development shall be carried out strictly in accordance with the schedule of landscape maintenance submitted on 31 January 2011 (by Aspect Landscape Planning, dated November 2010) **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan.1996 to 2011.
- 3 The development shall be carried out strictly in accordance with the details submitted for the provision of litter bins and the storage of refuse submitted on 17 February 2011 (drawing no. 1556-700 Revision G). **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policy DP1 of the Warwick District Local Plan 1996 -2011.
- 4 The development shall be carried out strictly in accordance with the proposed trolley management system including the proposed magnetic strip placed underground around the periphery of the site as submitted on 6 December 2011 (drawing no. 1556-1130 revision A Trolley retention). **REASON** The existing site has generated a trolley disposal problem for adjoining landowners which has the potential of conflicting with policies DP1 (I) and DP2 of the Warwick District Local Plan. The implementation of such details would go some way towards mitigating for this problem.
- 5 Except where modified by specific subsequent conditions the development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) - drawings no's 1556 - 1115 Rev.E3 - (proposed site plan) submitted on 29 November 2011; 1556-1108 Rev.C (proposed roof plan) submitted on 22 June 2010; 1556-1109 Rev.A (proposed elevations) submitted on 22 June 2010; 1556-700 Rev.G (proposed recycling areas) submitted on 17 February 2011; 1556-1117 (proposed floor plans); 1556-1718 (footpath to east of store extension) submitted on 7 October 2011; SK01 (new path earthworks assessment) submitted on 7 October 2011, and the specifications contained therein, unless first agreed in writing by the District Planning Authority. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Warwick District Local Plan 1996 - 2011 policies DP1 and DP2.
- 6 At no time shall the maximum net (sales) floor space of the store exceed 4748 square metres made up of a maximum of 3703 square metres devoted to convenience goods representing 78% of the total proposed net (sales) floor space and a maximum of 1045 square metres devoted to comparison goods representing 22% of the net (sales) floor space. **REASON** To define the scope of the permission and to limit the comparison goods sales so as not to unacceptably harm the viability and vitality of town centres in accordance Warwick District Local Plan policies UAP3 and TCP1.
- 7 The bulk store extension floor space shall be used for frozen and chilled food, bulk storage and other purposes ancillary to the store and not at any time for net retail trading floor space.
Reason. To maintain control over the use of the extension to protect

the viability and vitality of the town centres in accordance with Warwick District Council Policies UAP 3 and TCP1.

- 8 The development shall be carried out strictly in accordance with the ecological management activities specified in the Nature Conservation Management Plan (ref. ECO1208.NCMP,vf4) submitted on 18 October 2011, produced by Aspect Ecology with the stated aim of maintaining a mosaic of habitats across the site for the benefit of invertebrates involving the specified initial works and ongoing management actions for the whole of the period of 2008 to 2012 including the erection of a Nature Conservation Area interpretation board. **REASON** The site is part of the designated Ecosite 'Emscote Road Power Station and it is necessary to manage the remaining parts of the site and compensate for the further development of the Ecosite resulting from the development. It would thereby accord with the Warwick District Local Plan 1996 - 2011 policies DP3 and DAP3.
- 9 If during development, contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the District Planning Authority) shall be carried out until either:
- A site investigation has been designed and undertaken, a risk assessment has been produced and a method statement detailing the remediations requirements using the information obtained from the site investigation has all been submitted to and approved by the District Planning Authority or;
- If the above has previously been undertaken, the developer has submitted to and approved in writing by the District Planning Authority an addendum to the method statement detailing how this unsuspected contamination shall be dealt with. **REASON:** To ensure that the development complies with approved details in the interests of protection of controlled waters and in compliance with policy DP9 in Warwick District Local Plan 1996-2011.
- 10 The development permitted by this planning permission shall only be carried out in accordance and in conjunction with the approved DPP Sustainable Buildings Statement and the details in the Faithful Gould (FG) appendix 1 dated November 2009 (reference 500103/R0008aw) together with the FG Addendum dated February 2010. The development hereby permitted shall not be brought in use until all of the following has occurred;
- The detailed specifications of the proposed bio diesel Combined Heat and Power (CHP) plant and exhaust flue including the specification for a suitable acoustic enclosure to control noise from both the generator and exhaust flue have been submitted to and approved in writing by the District Planning Authority.
 - The approved equipment including the installation of bio diesel Combined Heat and Power (CHP) plant positioned in accordance with figure 2, page 14 of the FG report together with an above ground double skinned fuel tank specified in the FG addendum has been installed and is fully operational.
- REASON:** To ensure that the development incorporates the energy efficiency measures in accordance with Warwick District Local Plan 1996 - 2011 policies DP12. To ensure, also, that the specification for the

proposed equipment to comply with the policy of ensuring that the predicted energy requirements to be produced on site from renewable energy resources will actually deliver the renewable energy requirement and not cause unacceptable pollution problems, thereby complying with policy DP13 of Warwick District Local Plan 1996 - 2011.

- 11 The equipment approved by the previous condition shall operate for a minimum of 4620 hours per year and deliver 15Kw electrical and 18Kw thermal output. The site owner/occupiers shall allow officers of the Council to make annual inspection audits of the equipment and provide records and evidence that these parameters have been achieved.
REASON: To ensure, also, that the specification for the proposed equipment to comply with the policy of ensuring that the predicted energy requirements to be produced on site from renewable energy resources will actually deliver the renewable energy requirement and not cause unacceptable pollution problems, thereby complying with policy DP13 of Warwick District Local Plan 1996 - 2011.
- 12 'White Goods' and luggage shall not be sold at the site. For the purposes of this condition 'white goods' is defined as Large or heavy domestic appliances with the categories of refrigeration equipment, cooking appliances, washing equipment and miscellaneous. Examples of appliances within these categories include all sizes and types of the following: freezers, refrigerators, cookers, microwave ovens, washing machines, clothes dryers, washer dryers, dishwashers and air conditioners. **Reason:** To limit the range of comparison goods sales so as not to harm unacceptably the viability and vitality of town centres in accordance Warwick District Local Plan policies UAP3 and TCP1.
- 13 The development shall be carried out strictly in accordance with the details of works for foul water drainage submitted on 13 December 2011 (Drawing no's 3995-5001; 3995-5002; 3995-5003; 3995-5004) and within two months of these works being completed, a report assessing these works, to include a CCTV survey, shall be submitted to and approved by the District Planning Authority. **Reason:** To address current odour emission issues thought to emanate from drains and to ensure that odour emission is not made worse in accordance with policy DP9 of the Warwick District Local Plan 1996 to 2011.
- 14 No part of the developments hereby permitted shall be brought into use until the following flood risk management measures set out in the Flood Risk Assessment (FRA) of White Young Green (V5 submitted on 10 May 2011) and Addendum to the Flood Risk Assessment V5 (submitted on 7 October 2011) are fully implemented including floodplain mitigation storage, the proposed permeable paving with tanked permeable sub-base serving the proposed car park extension and the proposed open graded granular material filled trench adjacent to the proposed main extension in accordance with the details set out within the FRA and Addendum. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment for Tesco Retail Store Extension at: Emscote Road, Warwick compiled by White Young Green Consulting Engineers and the Addendum and the following mitigation measures detailed within the FRA:

1. *Limiting the surface water run-off generated by the 1 in 100 yr plus climate change (20%) so that it will not exceed the run-off from the undeveloped section of the site and not increase the risk of flooding off-site, as detailed in the FRA section 6.2*
2. *Provision of compensatory flood storage, as detailed in the FRA section 6.1 providing 56.8m³ of self draining floodplain storage.*
3. *Provision of surface water mitigation measures, permeable paving with tanked sub-base and underground trench, as detailed in the FRA section 6.2 and drawing number 3955 SERV 5000 IN2 within Appendix L*
4. *Finished floor levels are set no lower than 48.55 m above Ordnance Datum (AOD).*
5. *A business flood plan will be prepared and membership of the Environment Agency Flood Warning Service as detailed in FRA 6.3*

REASON: To ensure the key mitigation measures are in place before there is any further encroachment of development within the flood plain providing timely mitigation of the potential flood risk to the existing and proposed developments on both the application and adjacent linked sites. The development as a whole should be implemented in accordance with the requirements of the FRA. This would thereby ensure that the proposed development would be in accordance with Warwick District Local Plan 1996 -2011 policies DP10 and DP11.

- 15 The development shall be implemented in accordance with the final revised landscaping supporting statement and planting scheme designed to modify the planting scheme in accordance with the Aspect Landscaping proposed planting plans ASP4(a) and (b), REV J . The approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. **REASON :** The final revised landscaping scheme represents an appropriate balance between parking needs and the provision of meaningful planting to break up visually the expanse of the car park and the enlarged building and to reduce rainwater run off. This is necessary to comply with policies DP1, DP8/ Vehicle Parking Standards and DP 11 of the Warwick District Local Plan 1996-2011.

INFORMATIVES

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

The proposed development would not result in an unacceptable impact on the vitality and viability of existing town centres and sequentially preferable alternative sites are not available, suitable and viable. It would not cause unacceptable harm to highway safety or congestion. The development would not pose an unacceptable flood risk or unacceptably harm nature conservation interests. It would meet the renewable energy and sustainable energy requirements. Finally with the additional landscaping it would not unacceptably harm the character and appearance of the area. It would thereby accord with

the aforementioned policies and guidance in the Warwick District Local Plan 1996 to 2011.
