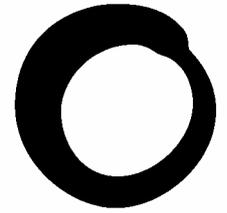


January 2006



**Friends of  
the Earth**

# Briefing

## Calling the shots

How supermarkets get their way in  
planning decisions

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## SUMMARY

Whilst consumers appreciate the convenience and ease of supermarket shopping, the rapidly increasing presence of supermarket megastores, both within and on the outskirts of British towns and cities, has seen a concurrent rise in concern amongst local communities about their impacts. Environmental damage, traffic congestion, mistreatment of suppliers, local shops being driven rapidly out of business – all these have caused consumers to question what we want our communities, businesses and food economy to look like in the future.

The supermarkets respond to their critics by arguing that their expansion is purely driven by the desire of consumers for more supermarket stores. [i] This is undoubtedly a part of the story, but recent months have seen growing concern about the strong-arm tactics of the supermarket chains at the local authority level in driving their store expansion. Allegations have begun to emerge of supermarkets pressurising councillors; of stores and warehouses constructed beyond planning permission boundaries; of councillors finding it increasingly difficult to voice their concerns or refuse applications from the supermarkets because of their overweening power. The supermarkets have responded to allegations by claiming that the cases cited are “one-offs” and not representative of the overall pattern or strategy.

In this study, Friends of the Earth examined 200 ongoing planning disputes around the UK that relate to supermarket development. We then examined thirty five of the cases in further detail. We gathered evidence from local authority documents, minutes of committee meetings, local newspaper cuttings, planning reports and evidence obtained through Freedom of Information requests. We also undertook interviews with councillors and community representatives. The results shine a light on the tactics used by the supermarkets to drive their ever-increasing expansion – and particularly on those used by the market leader, Tesco.

The evidence gathered indicates that decisions made by local councils to accept new supermarket stores are in many cases not made on the grounds of retail need, but because the weak planning system and the power imbalance on a local level makes it increasingly difficult for them to refuse. Particularly:

- **The planning system is weak and favours multiple retailers over independent stores:** The government’s Planning Policy Statement 6 (PPS6) [ii] is failing to prevent out-of-town development, possibly as a result of supermarkets lobbying central government. Its explicit promotion of large-format stores is also allowing a major expansion in hypermarkets on the outskirts of British towns and cities that is contrary to its stated aim of promoting town centre vitality. Evidence indicates that Tesco has an aggressive strategy of hypermarket expansion. The planning system also allows the expansion of stores through construction of mezzanine floors without planning permission.
- **The planning system is being circumvented:** Resolutions passed by local councils to oppose or resist supermarket expansion are often not successful or are overturned as a result of supermarket lobbying. In some cases, councils have even altered their development plans to let supermarket chains into communities. On occasion, regular planning procedure appears to have been bypassed by legal agreements with the supermarkets.

- **The planning system is being ignored:** In one case, Tesco built beyond the limits of its planning permission. Despite claims that this was an “accidental” one-off, evidence has recently emerged that the company has also constructed a storage facility without planning permission.

- **Supermarkets have more power than local councils:** This is due to a variety of factors, including:

**Section 106 agreements can be used for unfair leverage:** (Section 106 agreements, often referred to as ‘planning gain,’ are where a developer agrees with a planning authority to pay for community facilities in return for planning approval) This gives supermarkets leverage because of the enormous resources supermarkets have at their disposal.

**Councils are influenced by the costs of appeal:** Councillors’ decisions to accept a supermarket’s proposal are influenced by their concerns about how much it will cost the council if the supermarket successfully appeals a rejection.

**Tesco owns a vast ‘land bank’:** Tesco’s ownership of a significant “land bank” of 185 sites gives it an advantage. In some cases ownership of private land by Tesco appears to be having a negative impact on Local Authorities’ aspirations for new housing and essential facilities like doctors’ surgeries.

- **Supermarkets actively lobby for new stores** with local authorities and communities:

**Supermarkets run lobbying and public relations campaigns** focused on local authorities and communities in order to increase the likelihood that planning applications for their stores will be accepted and that stores, once constructed, will be accepted by the local community. Their methods include setting up campaigning websites, writing letters to local councillors, and making small gifts like bicycles, charitable donations and even in one case a contribution to a new village pond.

**There is sometimes insubstantial consultation:** “Consultation” with local communities about new supermarket stores is in many cases too little too late, and only undertaken after plans have been made for the store and the local council, to some extent, was already committed.

In their quest for expansion, Tesco is looking to new methods and areas of land open to them, such as building on stilts or over railways. Recently developed partnerships with sports clubs have assisted major supermarkets in getting permission for out-of-town stores that might otherwise be restricted by PPS6. The supermarkets’ expansion into housing development is another new trend which may make it easier for them to get planning permission for large retail developments.

The key questions here are not about illegal activity, but about an erosion of democracy; the inability of local authorities to make a decision against supermarkets. Many councillors express strong concern about the potential impact of major supermarkets on their community, but they are often unable to convert these concerns into decisions because the planning system and the strength of the supermarkets act against them.

**Friends of the Earth is calling for:**

- The competition agencies to tackle supermarket dominance on the high street. The Office of Fair Trading (OFT) needs to refer the matter to the Competition Commission for a full market review
- Planning legislation to be strengthened. Particularly, the bias in favour of large-format stores should be removed. The Competition Commission must examine PPS6 in terms of how it may be distorting competition at the expense of smaller/independent shops
- The loophole to be closed that allows mezzanine floors to be built inside stores without planning permission.

NOTE: The planning legislation referred to in this report is applicable to England. Separate guidance operates in Scotland, Northern Ireland and Wales. The Welsh and Scottish cases in this report are therefore not affected by the planning system discussed.

## Introduction: Supermarket expansion and the limitations of national planning guidance

### a) The history of supermarket expansion

The “normal” way to buy food has changed dramatically over the last half century, with the small independent shops such as butchers, greengrocers, fishmongers and bakers which dominated the High Street in the 1950s disappearing and being replaced by the ubiquitous supermarket. Today, 60% of British shoppers purchase most of their groceries in one weekly shop. [iii] The growth of the sector over the last fifty years has been remarkable. In 1950 the multiple supermarkets represented just 20% of the food retail market. By 1961 this had risen to 27%; by 1971 to 44%. [iv] As the trend continued, a generation has grown up relying on the convenience and choice of supermarket food. Of course some independent retailers went out of business, but the consumer is king – and consumers felt that the price was worth paying.

But the price tag got higher. Between 1997 and 2002 more than 13,000 specialist stores around the UK – including newsagents, Post Offices, grocers, bakers, butchers – closed, unable to cope with the competition from the multiples. A recent study by the Institute of Grocery Distribution revealed that 2,157 independent shops went out of business or became part of a larger company in 2004, compared with a previous annual average of around 300 a year. [v] Traffic congestion rocketed as more large stores were constructed out of town. Tales abounded of the negative impacts of low supermarket prices on farmers and food processors, whether the UK or abroad. By 2005 a mere 8% of food was purchased from the independent sector. [vi]

### b) The decline of the High Street and PPG6

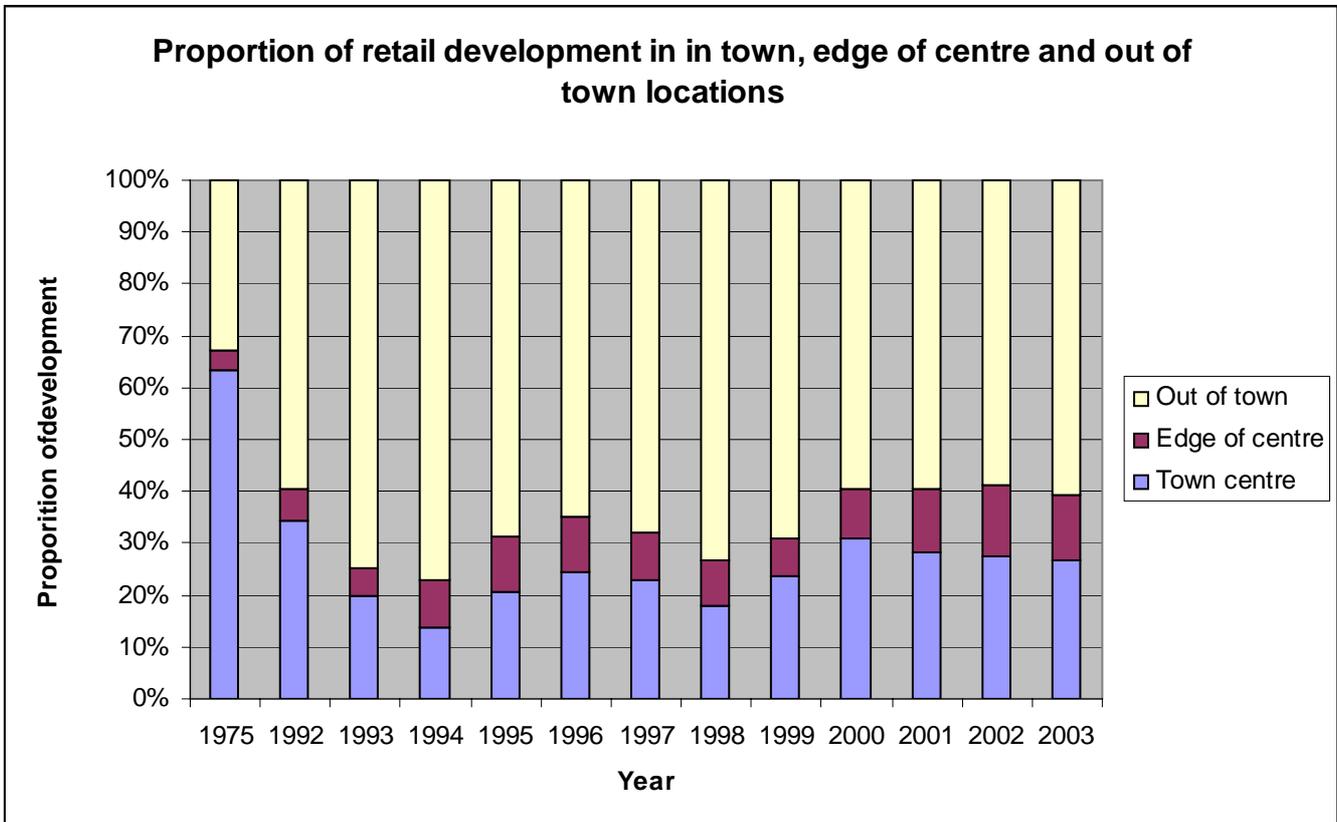
- In the last decade, there have been attempts to regulate this situation
- Perhaps with the help of lobbying by the large chains, this regulation has had very mixed success

Supermarket development has changed not only on what sort of stores are constructed for our grocery shopping, but where. Between the mid-1970s and the early 1990s, in-town development fell dramatically as the supermarkets and other major retailers colonised the “out of town” opportunities (**Figure 1**). By 1996 the resulting decline in town centres had become so alarming that a radical change to government planning policy was brought in to reverse the trend. An update of Planning Policy Guidance 6 (PPG6), introduced the “sequential approach” to planning decisions, requiring Local Authorities to prioritise in-town development over first edge-of-town, and finally out-of-town locations.

The importance of this seemingly esoteric piece of planning guidance is considerable. Recently updated once again to make Planning Policy Statement 6 (PPS6), it forms the only formal defence that Local Authorities have against retail development that may negatively impact on the community. Its stated aims are in “*facilitating and promoting sustainable and inclusive patterns of development, including the creation of vital and viable town centres.*” [vii]

As figure 1 demonstrates, PPG6 has affected the nature and balance of planning decisions, and it is widely regarded as a successful initiative. This public perception does not, however,

fully reflect the facts. Although in-town development has risen since the early 1990s, it now represents not much more than 30% of the total and over the last five years has to a large extent levelled out. About 60% of development still takes place out of town, with a rising percentage in “edge-of-town” locations.



**Figure 1: Proportion of retail development “town centre,” “edge-of-centre” and “out of town” between 1975 and 2003 (figures obtained from Office of the Deputy Prime Minister statistics) [viii]**

Perhaps even more concerning for the stated aims of PPS6, the new planning policy contains an explicit instruction to Local Authorities to bring larger stores into their communities, stating that, “*Larger stores may deliver benefits for consumers and local planning authorities should seek to make provision for them in this context. In such cases, local planning authorities should seek to identify, designate and assemble larger sites adjoining the primary shopping area (i.e. in edge-of-centre locations).*” [ix]

The fear remains that this guidance is giving retailers like Tesco and Asda a continuing licence to indulge in major hypermarket expansion in out-of-town and occasionally edge-of-town locations. As Lord Hanningfield put it in a question to the House of Lords, “*people who read the new draft guidance... are interpreting it as a licence to build many more out-of-town centres. I think that the guidance is contrary to the discussions we have been having about rejuvenating town centres. This is a licence to build many more out-of-town centres rather than developing the high street, which we feel is very important.*” [x] Even where stores are constructed in edge of centre locations, there is evidence that edge-of-centre stores can

draw trade from shops in the centre especially where they are not well linked to the existing centre. [xi]

Why does PPS6 contain such an explicit bias in favour of one group of major retailers, whilst ignoring the considerable benefits that small-format and independent stores can bring to a community? In 2003, official comments on interpretation of planning policies (a 'ministerial clarification') alarmed the major retailers by giving rise to fears that the new PPS6 would be more restrictive than PPG6 [xii]. These fears were not reflected in the final policy. Did supermarket lobbying power have an influence on the interim development of policy?

An answer can only be inferred from the fact that between April and September 2004 officials at the Office of the Deputy Prime Minister (ODPM) discussed the draft new PPS6 with representatives from Asda (twice), Sainsbury's, Tesco (twice) and the supermarket trade body, the British Retail Consortium (once). [xiii] In a study for the National Retail Planning Forum, the University of Stirling referred to "*a belief that considerable lobbying from the industry and pressure from the Treasury contributed to the modification of the policy,*" and to an expressed desire by industry representatives to convey their views to the ODPM. The university researchers concluded that this "*lend[s] credibility to the feeling that the big retailers... do have a considerable impact on the shape of policy.*" [xiv]

### **c) Tescoland: the future rise of the supermarkets**

**One chain, Tesco, has been gaining increasing dominance, and has begun successful and rapid expansion into the convenience store and hypermarket sectors**

*"We have to ask whether we want to see the UK retail landscape completely redrawn and the high streets dominated by supermarket Metro convenience stores. No more butcher, baker and candlestick maker, just Metros, Metros and more Metros. The character and integrity of our town and city centres are being disfigured for ever."*

Keith Vaz MP, 7<sup>th</sup> December 2005 [xv]

The last five years have seen the rise of a new phenomenon – the powerful dominance of one company, Tesco. Between the mid 1980s and the late 1990s Tesco's market share of grocery sales grew from just over 13% to more than 20%. [xvi] By 2003 this figure stood at just over 25% and in 2005 they have more than 30%. [xvii] In late 2005, it was revealed that Tesco's land bank, if built on, would increase their market share to 45%. [xviii]

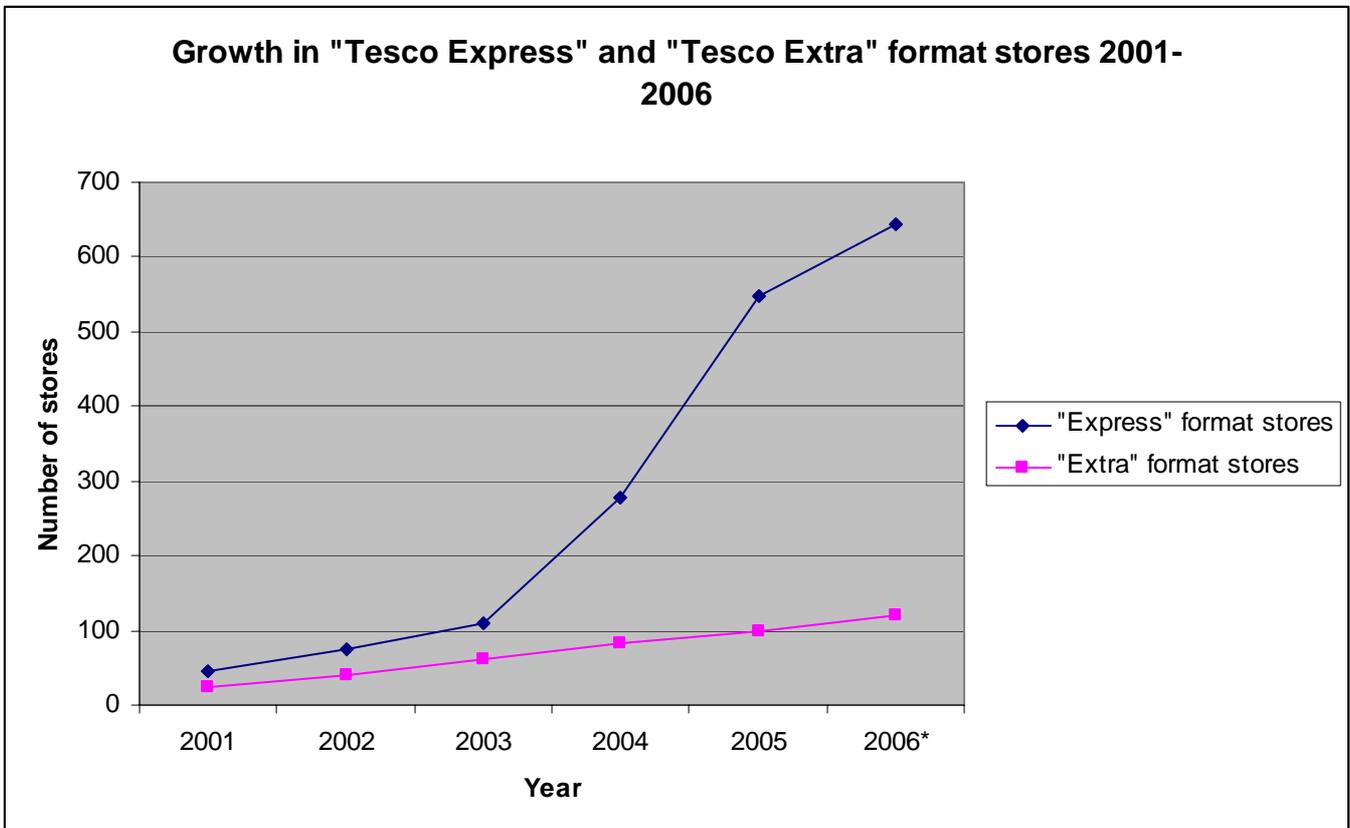
In a recent appearance before the All-Party Small Shops Group, Tesco were evasive about their future plans, arguing that "*it depends on how well we do, how our customers feel about it and what the competitors do.*" [xix] If Tesco really take this somewhat *laissez-faire* attitude over the next ten years, it will be something of a surprise and represent a significant departure from their present strategy of aggressive development.

The recent expansion by Tesco into the High Street "Tesco Express" format, helped by their acquisition of the T&S group of small convenience shops, has had a particular impact on public consciousness. In the same appearance at the All-Party Group, Tesco stated that they would see doubling the number of Express stores by 2015 as a "*sustainable*" rate of growth. [xx]. This would mean adding another 600 to their current total over the next ten years. This would in fact entail a considerable slowing, or cap, on their current growth. According to their own predictions, by mid-2006 Tesco's will have added an extra 536 stores

to their total in the three years since 2003 (see Figure 2).

Less celebrated but potentially far more significant for the British High Street are Tesco's plans in the hypermarket sector through the "Tesco Extra" format. The proportion of floor space taken up by the more profitable hypermarkets has more than tripled over the last five years, rising from 8.7% in 2001 to a projected 31.5% in 2006, [xxi] and Tesco's 2005 annual report states that "...we anticipate opening a further twenty [Tesco Extras] a year, mostly through extensions." [xxii]

Taken in the context of the continuing high level of out-of-town development, this planned expansion must be of concern to local planners. If this same rate of growth continued for the next decade, the number of Tesco Extras will have tripled to 300 by 2015. Calculations based on this same rate of growth indicate that hypermarkets may make up half of Tesco's floorspace and account for more than 17 million square feet ten years from now. [xxiii] A large amount of this expansion is likely to be in "non-food" formats. [xxiv]



\* Projected figures

**Figure 2: Tesco's actual and predicted growth in Express and Extra formats 2000 – 2006 ("Express" store figures refer only to Tesco Express branded stores and exclude acquisition of T& S group stores) (figures taken from Tesco's financial information) [xxv]**

#### **d) Are consumers really leading supermarket growth?**

*“...we certainly do not have a propaganda section, but...we actually try and engage in pre-discussion with the local community...for reasons of transparency.”*

Tesco Group Director of Corporate Affairs [xxvi]

*“as soon as an application is submitted all political channels lock down.”*

Tesco strategic advice document on promoting Tesco developments at a local, regional and national level [xxvii]

Tesco and other supermarkets claim that their growth is occurring purely in response to the desire of consumers for more supermarkets. Once a new store is in place, it does of course need the patronage of its customers. Serious questions remain, however, over how, and why, the new store got there in the first place. If planning permission was granted to an otherwise unacceptable application just because a supermarket funded a sports stadium, does that represent a fair use of the planning system? If councillors felt that there wasn't the need for a new store, but accepted it because they feared that if the supermarket successfully appealed it would cost the council hundreds of thousands of pounds, is that a decision made in the best interests of the community? If a town known for its active local food culture collects thousands of signatures on local petitions opposing the application, is unsuccessful as a result of the years of negotiation undertaken in secret between the planning department and the supermarket, is that a fair level of “community consultation”? Over recent months, allegations have begun to emerge that the supermarkets, in their desire to expand, have been misusing and manipulating the planning system.

#### **Methodology of this study**

In undertaking this study, Friends of the Earth first gathered information from a local newspaper cuttings service, collating articles on local disputes around supermarket planning applications. In addition to this we received numerous approaches from concerned local community representatives. Through such information and contacts, we built up a database of more than 200 ongoing disputes around the UK relating to supermarket planning applications and developments. Many of these sources made allegations of corporate malpractice and abuse of the planning system by the supermarkets. In investigating these allegations, we examined publicly available local authority documents, including minutes of Committee meetings, planning reports, local plans and records of correspondence between different departments. Some of these documents were publicly available on the internet and others obtained through Freedom of Information requests. We also undertook interviews with local councillors involved in the negotiations. The study did not aim to focus on the activities of any one supermarket. All case studies cited are up to date as of publication in January 2006.

## Why is this happening? - The supermarkets manipulate the planning system at the local level

Supermarket chains use a variety of means to influence local planning authorities and local communities, in order to lead the decision-making process towards outcomes that are in their own interests. In this chapter, we report on several cases in which major supermarkets have lobbied councillors, promoted their ideas to communities through PR campaigns, and built relationships with planning officers, in advance of making planning applications.

### a) Relationships with local authorities and communities

Tesco's Director of Corporate Affairs, Lucy Neville Rolfe, stated to the All Party Parliamentary Small Shops Group in November 2005 that:

*"I mean we certainly do not have a propaganda section, but what we do...we actually try to engage in pre-discussion with the local community...people want to understand what an individual development is going to be like, and that may well lead to you having to have a leaflet about the store for reasons of transparency."* [xxviii]

In November 2005 the *Daily Telegraph* reported to have seen a "battle plan" prepared by Tesco offering "*strategic advice on how to best promote developments and Tesco's interests to all local, regional, national and UK governments,*" a process involving both lobbying government and promoting plans to local communities. The document reportedly contained, amongst other things, advice on building networks at a local level; draft press releases, letters and petitions and advice on how to "sell" developments to the local community. [xxix] As described by the newspaper, these are the basic tools of campaigning. With this in mind it seems disingenuous for Tesco to claim that it does not campaign for new stores.

### i) Lobbying local authorities

- Lobbying can help supermarket chains ensure that local planning documents will be altered in a way that suits their own plans
- Supermarket chains can put pressure on councillors to try to get their plans approved

Supermarket chains have the resources to undertake significant and effective lobbying activities, targeting local planning officers and councillors. A Tesco spokesperson argued to the *Daily Telegraph* that "*town planners and local councillors are not bought and they are objective and independent. To suggest that they can't refuse [developments] because it is Tesco is insulting to them.*" [xxx] This study does not set out to diminish the work of town planners and councillors, who work hard to shape their communities and face a massive diversity of issues, of which retail development is just one. This is part of the problem, giving rise to an imbalance in knowledge and financial and time resources; a University of Stirling study, undertaken for the National Retail Planning Forum, recently noted that "*it is clear that planners do not have at their disposal major academic research which will give them case study material or broader analyses to be used in interpretation of their local material,*" while "*what research there is...is in literatures often following other agendas*" as "*the dynamism of the retail sector has created a literature which is often relatively foreign to planners,*" something which "*dis-empowers*" them. [xxxi] In contrast, supermarket chains have the time and the money to persuasively argue their case, and do not hesitate to do so. As well as

planners and councillors convinced by the potential benefits of a major new supermarket, there are many who are worried about the negative impacts on their community, but because of the structure of the planning system, and because of the imbalance in time and money, find it hard to convert these concerns into decisions against the supermarket chains.

In **Hadleigh, Suffolk**, Tesco campaigned for Babergh District Council to change its Local Plan [xxxii] in favour of Tesco retail development. Tesco wanted to construct a new store on a particular site, known as the Brett Works site, which it owned. Tesco had first applied for a store on the site in 1999, an application which was rejected at national level by the ODPM. [xxxiii] The first draft of the Local Plan did not allocate a site for new retail provision in Hadleigh, and Tesco used the Local Plan revision process to promote the site to the Council (as well as using a website, described below, to promote the site to the public.) In 2003 Tesco stated that *“Tesco has been promoting the Brett Works site... the company has continued to promote the site... Tesco Stores is committed to bringing forward this scheme.”* [xxxiv] Such “promotion” may have taken place in the *“various correspondence that had been sent to Members from Agents and Solicitors acting on behalf of Tesco,”* referred to at a Council meeting. [xxxv] Under the Freedom of Information Act, Friends of the Earth has seen letters from Tesco, and minutes of meetings between Tesco and Council officers, objecting to the draft Local Plan. [xxxvi] Babergh District Council’s Corporate Director has confirmed that Tesco *“objected to [the first draft of the revised local plan] and asked that provision for new retail use be allocated.”* Tesco were successful in as much as the second draft of the plan, prepared in May 2003, did allocate retail space in Hadleigh; and in February 2004 the Council voted to alter the draft again, specifically to allow retail development on the Brett Works site owned by Tesco. [xxxvii] The Council’s proposed changes to the Draft Local Plan (April 2004), stated that *“the District Council has changed its position on this issue... following consideration of representations made on the Second Deposit Draft Plan, the Council, resolved to allocate the Brett Works site... instead.”* [xxxviii] This proposal was endorsed by the national Planning Inspector in November 2005. [xxxix] Similarly, Asda informed the *Arbroath Herald* that before submitting a planning application for its site in **Arbroath, Angus**, it would be making submissions regarding this site to the Angus Local Plan Inquiry. [xl]

[See below for information on Local Plans being altered in Dartford and Planning Guidance being issued in South Molton]

Tesco is not always happy to see its plans rejected. In **Bridgnorth, Shropshire**, plans by Tesco and its partner Mercian Developments were rejected by the High Court in October 2005. The response of the developers as quoted in the local press was that *“we will be resubmitting an application... we are not going to sit down and take what happened.”* [xli]

And in **Carlisle, Cumbria**, Tesco wrote *“a letter...to Members of the Committee at their home addresses,”* [xlii] after taking the Council to an appeal for failing to decide on an application regarded by councillors as going against their plans for the city, prompting MP Eric Martlew to protest, arguing that *“it’s just another example of Tesco using its massive power to bulldoze its way through. It is turning from a giant into a monster.”* [xliii]

The hypocrisy with which Tesco lobbies for its own interests is revealed in the case of **Bangor, Gwynedd**, where in September 2005 Tesco opposed an application by Asda for a store in the town centre, [xliv] on the basis that it would damage the town centre by competing with local shops. [xlv] Two months later, Tesco opened its own store in Bangor, a

hypermarket outside the town. [<sup>xlvi</sup>]

## ii) Circumventing planning controls

- Supermarket chains engage in discussions with local planning officials before planning applications are submitted
- On one occasion, a legal agreement signed by one council department ignored resolutions made by planning committee councillors
- Communities often feel that they have not been sufficiently consulted about local planning processes relating to supermarket applications
- A planning law loophole identified by Friends of the Earth in 2003 is still in place, whereby supermarkets can build mezzanine floors without having to apply for planning permission

In some cases, negotiations have taken place between the local authority and supermarket chain before an application has been submitted or the plans are made known to the public. In **Sheringham, Norfolk**, according to allegations made by *The Guardian*, Tesco and planning officers negotiated extensively for seven years, culminating in agreements signed and deals reached before Tesco submitted a planning application or councillors were informed. When the Area Committee [<sup>xlvii</sup>] voted to refuse the proposals in December 2003, they were then told by planning officers that they were not allowed to do so – a position Tesco’s rivals Budgens claimed was illegal. [<sup>xlviii</sup>] The Development Control Committee [<sup>xlix</sup>] then voted to approve the proposals, despite many councillors raising concerns about the plans and their impact on Sheringham, in January 2004. [1]

[See below for more on Sheringham].

In **Abergavenny, Monmouthshire**, councillors themselves felt they had been excluded from a process which saw an agreement signed between planning officials and Asda, which went against resolutions the Council had previously made about the proposed development. At the Planning Committee meeting of Monmouthshire County Council on 6<sup>th</sup> April 2004, Asda’s proposals were considered. A resolution “*restricting the supermarket/foodstore to 25,000 square feet of retail*” and “*to predominately food sales only*” was “*carried unanimously,*” “*in order to protect businesses within the town.*” [1] However, in November 2005 Monmouthshire County Council signed, as landowners, a legal agreement relating to the sale of the land with developers Henry Boot. This agreement stipulated that the sales area of the store would be “*2,601.2 square metres*” (28,000 sq ft) of which 40% could be non-food goods, [1] despite what the Council had agreed in 2004. In this agreement, which saw the terms agreed by the Council in 2004 ignored, the local authority was acting in its role as landowner, rather than planning authority. As a result, the agreement stipulates the size of the store and the ratio of food to non-food in a manner that removes decision-making from the Council in its role as planning authority.

Tesco’s claim to consult local communities, and even statutory bodies, is often refuted by the stakeholders in question, who feel they have been ignored by the process in which important decisions about retail are made by the local authority. In **South Molton, Devon**, the Council issued Supplementary Planning Guidance [1] in November 2004 advocating supermarket development on a site Tesco was in the process of buying. [1] According to a local newspaper, *The North Devon Gazette & Advertiser*, a councillor refused residents’ requests

for a public debate, threatening to close a meeting which residents had thought would be an open meeting for public discussion. [lv] This led another councillor to write that *"I feel most embarrassed at the lamentable manner in which the meeting was conducted... the tenor of proceedings was typical of the manner in which the whole question of the redevelopment of South Molton has been handled by [North Devon District Council]."* [lvi] In July 2005, a local campaign group saw their invitation to attend an exhibition on the future of the town withdrawn. [lvii] Further, English Heritage wrote in a private email to a local resident in March 2005 (after the Supplementary Planning Guidance had been issued) that *"we have had no involvement... nor been consulted on any emerging proposals or policy framework for the site... certainly we believe that any development of this site, be it for a supermarket or any other scheme, will need to involve us as a statutory consultee."* [lviii]

In 2003, Friends of the Earth discovered that supermarkets, and in particularly Asda, were significantly expanding their floorspace by building mezzanine floors in existing stores. This exploited a loophole in UK planning legislation excluding internal building works from the definition of development requiring planning permission. A survey Friends of the Earth conducted in 2004 amongst local planning authorities revealed a high level of concern about the impact of this additional floorspace and that the loophole was undermining their attempts to protect and regenerate town centres. [lix] According to a representative of Warrington Borough Council, *"Warrington is attempting to regenerate its town centre. This type of loophole doesn't help,"* and according to a representative of Bracknell Forest Borough Council, *"This is a loophole that should be closed if the Government wants PPG6 to have full effect."* [lx]

Sometimes these extensions were having a significant impact, as in **Sheffield**, where Asda added 33,000 square feet to its store with the specific aim of expanding its non-food goods, [lxi] thereby changing the nature of the store and posing a new threat to non-food shops in the area. After Friends of the Earth's campaign the Planning and Compulsory Purchase Act 2004 made provisions for the loophole to be closed, on which consultation was issued in April 2005. However as of January 2006 the change is yet to become law; according to the ODPM, it is due to take place *"early this year"*. [lxii] Supermarkets have therefore been given an abundant amount of time to install new mezzanine floors before the new legislation comes into force. Although the supermarkets were acting legally by expanding in this way they were avoiding any kind of consultation and therefore by-passing any form of democratic process. Local planning authorities were denied the opportunity to assess these impacts, however significant, and there was no chance for local communities to be involved.

### iii) Lobbying communities

- Supermarket chains can promote their plans in order to win over local communities before planning applications are made
- Once a store is about to open, public relations campaigns help ease the attitudes of local communities

In terms of promoting their plans to local communities, Tesco use their resources to publish information that persuades as well as informs. In **Newcastle**, a website has been used to promote a partnership that Tesco has entered into with Newcastle Hospitals NHS Trust and Newcastle University. This involves plans for one of the largest hypermarkets in the UK at 120,000 sq ft, [lxiii] to be constructed in an area of Newcastle (the Inner West) in which the Council identified a maximum retail capacity of only 30,000 square feet by 2011, and in a

neighbourhood not identified by the Council as having retail need. <sup>[lxiv]</sup> The plans have not yet been submitted, but this website, <http://www.partnershipwestend.co.uk/> [still active as at 04.01.2006], repeats the arguments and opinions that Tesco holds about its potential positive impact. For example, it suggests that, “*by encouraging people to shop locally, it will mean there is a greater call for other local shops and services,*” and that “*for older people, Tesco stores often become meeting places.*” <sup>[lxv]</sup> The website also talks of the job opportunities that would be brought, <sup>[lxvi]</sup> and the role in regenerating the community, <sup>[lxvii]</sup> as well as the money being contributed to the NHS <sup>[lxviii]</sup> – even though these are not even officially submitted plans that the Council has had a chance to assess. By the time the Council does assess it, this website will have eased public opinion towards the plans.

Similarly in **Hadleigh, Suffolk**, Tesco produced a website, <http://www.brett-works.co.uk/> [still active as at 04.01.2006], to advocate their site to residents. The site claimed “*to give you the chance to let us know your views about the future of the town centre.*” <sup>[lxix]</sup> Other claims made are that the supermarket will bring residents “*more choice for their food shopping*” <sup>[lxx]</sup> and that it “*will lead to a substantial amount of additional trade being retained for other food and non-food shops,*” as well as authoritatively stating that “*the Brett Works site represents the best option for Hadleigh,*” an opinion which constituted only one side of a wide debate about the most appropriate site within the local authority <sup>[lxxi]</sup> and the community. <sup>[lxxii]</sup> In **Dartford**, Tesco with its partners St James’ Investments also produced a website, <http://www.next2thepark.co.uk/> [still active as at 04.01.2006]. The approved plans for a 135,000 sq ft store are currently facing a national inquiry, and met opposition including from Dartford’s MP <sup>[lxxiii]</sup> and a 13,000-signature petition. <sup>[lxxiv]</sup>

[See above for more on Hadleigh, and below for more on Dartford]

Once a store is about to open, supermarket chains operate public relations campaigns to convince local residents to accept the store, which can involve well-publicised charitable donations. However, these donations are not always very generous: In **Burscough, Lancashire**, the local newspaper, *The Midweek Advertiser*, reported that the new Tesco store donated a bicycle to the local police beat officer at its opening ceremony. <sup>[lxxv]</sup> Supermarkets also get celebrities to open stores, such as in **Hexham, Northumberland**, where there was local publicity around a store being opened by Bobby Robson, something that, as with their also well-publicised charitable donations in Hexham, may have been an attempt to counteract the strong local opposition there had been to their store. <sup>[lxxvi]</sup> In **Gerrard’s Cross, Buckinghamshire**, after the collapse of a tunnel, Tesco were constructing for their store in June 2005, Tesco donated towards the village’s Christmas lights, the village’s pond, and catering for a barn dance in aid of Macmillan Cancer Relief - efforts that the local press suggested “*help Tesco make amends*” for the collapse. <sup>[lxxvii]</sup>

[See below for more on Gerrard’s Cross]

## **b) Stockport: Tesco goes beyond the boundaries**

- In Stockport, Tesco built a store larger than it had been given planning permission for, prompting the local authority to state that “*the whole store is unauthorised*”
- Though this has been described as a “one-off”, planning permission terms have also been broken elsewhere

In **Portwood, Stockport**, Tesco built a Tesco Extra hypermarket, claimed as a “regeneration partnership,” [lxxxviii] which failed to comply with planning conditions. At 120,000 sq ft, the store was 20% larger than the size limit that Stockport Borough Council had imposed on it when it granted planning permission, “*in the interests road safety*” and “*to protect the vitality and viability of existing centres.*” [lxxxix] Tesco started building the store in January 2004 and it opened in November 2004, Tesco having applied to the Council in September 2004 to vary the planning condition. But Tesco only applied to alter the condition relating to total size, not to sales area, and Tesco’s Property Communications Manager told *The Stockport Express* that “*the sales floor has been built to exactly the size we have got permission for,*” [lxxx] even though the Council found that, “*contrary to the applicant’s assertion,*” [lxxxii] the sales area was too big as well. [lxxxiii] The development has since been described as “*unlawful*” [lxxxiii] and “*in flagrant breach of the May 2003 planning permission,*” [lxxxiv] and the Council stated in May 2005 that “*at the present time the whole store is unauthorised and as such does not have a valid planning consent.*” [lxxxv] Following pressure from local businesses, the Council demanded in September 2005 that Tesco submit a full retrospective planning application, which it did in December 2005. [lxxxvi] When it did so, Tesco argued that there were “*no sustainable reasons for the refusal of planning permission,*” [lxxxvii] despite the 2003 conditions and Council’s position that the store was “*unauthorised.*” This “*unlawful*” store has already been trading and profiting Tesco for over a year. If the Council accept the new retrospective proposal, then Tesco will have escaped censure or enforcement for illegal development and have been allowed to break the conditions the Council imposed.

Tesco claim that the difference in size was a mistake, but give varying reasons as to why this occurred, suggesting once that it was the “*the people who were fitting out the store*” who decided, [lxxxviii] and elsewhere that “*a unilateral decision was then taken by a director within our Property Services division.*” [lxxxix] And regarding timing, the claim that “*as soon as Tesco realised we needed to build the store in Stockport slightly bigger...we applied for planning permission,*” [xc] suggests that the need became apparent in September 2004, when Tesco applied to the Council, [xci] though elsewhere Tesco state that they knew about the need for extra space in July. [xcii] Even by July, the construction had been taking place for six months and a consensus of architects’ opinions appears to be that it would not be possible to change basic structures or to not know about a discrepancy in size until this late in construction. [xciii] Despite Tesco’s claim that “*there was never any attempt by Tesco to bypass the planning system or mislead the Council,*” [xciv] Stockport Council “*has been advised that the increment was the direct result of a management decision within Tesco,*” [xcv] and that “*planning permission ref 74640 has not been implemented; instead Tesco has chosen to undertake a different development, without planning permission.*” [xcvi]

Further, though Tesco’s Director of Corporate Affairs has described what happened in Stockport as “*a bit of a one-off,*” [xcvii] it appears as though something similar has occurred in **Bury St Edmunds, Suffolk**, where Tesco built a bulk storage facility without planning permission, prompting a councillor in St Edmundsbury Borough Council to remark that “*it seems to me that the planning authority is Tesco and not the Council.*” [xcviii] According to local newspaper *The Scunthorpe Telegraph*, a Tesco store in **Gunness, Lincolnshire** has been trading against the conditions imposed by its planning permission since it opened in 2001, by selling more non-food goods than the 25% it was allowed. [xcix] The condition was apparently imposed by the ODPM to protect town centre shops. The Council refused a retrospective application to vary this condition, and an appeal is now taking place. [c] According to a Tesco spokesman, “*we have to hold up our hands and admit we broke the*

*regulation, whether it be through misinterpretation or re-interpretation of what constituted the net sales floor area.”* <sup>[ci]</sup> And in **The Wirral, Merseyside**, Tesco was convicted of repeatedly breaking conditions that had been imposed on it by its planning permission decision notice concerning delivery vehicles. <sup>[cii]</sup> Tesco was fined a total of £1,800, which prompted a councillor to suggest that *“this kind of fine won’t touch them”* and so was not a strong enough message. <sup>[ciii]</sup>

[For further details about Tesco’s Stockport store, please refer to Appendix A]

## Why is this happening? Local Authorities are making decisions about retail development for the wrong reasons

### a) Tesco's land bank gives it leverage

- Tesco has a large land bank of sites, which has given it leverage to wait over time as it lobbies for its sites to be included in Local Plans
- This ownership has sometimes got in the way of other plans that the council has for the site owned

Tesco's land bank puts it in a highly influential position. It is able to buy large amounts of land, and use that vast land bank ownership as a starting point to launch planning applications where competitors, particularly smaller chains or independent shopkeepers, would not have the option of this flexibility. In October 2005 *The Times* reported that as well as 30 sites with imminent opening expected, Tesco had consent for 56 sites and had applied for planning permission or been linked with development of a further 95. This gave Tesco a total of 185 sites, amounting to 4.5 million square feet (compared to a combined pipeline development landbank of 3.7 million square feet for Asda, Sainsbury's, and Morrisons), which would increase its share of the retail market to a potential 45%. <sup>[civ]</sup> The Forum of Private Businesses has criticised this land bank, referring to it as "ominous." <sup>[cv]</sup>

Chains such as Tesco have the resources to wait for a large amount of time once owning a site, until circumstances change in their favour. As reported in the previous chapter, in **Hadleigh, Suffolk**, Tesco's original development proposals were rejected in 1999. Approval has now been gained for a revision to the Local Plan allocating retail development on a site owned by Tesco. Effectively, the supermarket chain can buy up a large number of prime retail spots, wait until a council has been persuaded to approve the site for retail or until planners decide retail need has increased, and then apply for permission to develop the site. Alternatively, a chain can buy land earmarked for regeneration or where they are aware a local authority is hoping to pursue regeneration, increasing the chances their schemes will be approved.

In other cases, Tesco's land ownership has had an impact on the aspirations of the local authority. In **Rye, East Sussex**, Tesco own an option on a section of land that would be used to access a larger site, the former Thomas Peacocke Community College, and according to local newspaper reports are in negotiations to buy the main site. <sup>[cvi]</sup> However, Rother District Council's Local Plan specified that "*it is intended to allocate the former Thomas Peacocke Lower School for residential development and doctor's surgery*" and that "*there is also a need for a new, centrally-located General Practitioner's surgery and this is the closest site to the town centre that is likely to be available.*" <sup>[cvii]</sup> With Tesco owning the access land the local authority is obviously in a difficult position if they want to use the land for other facilities.

In **St Albans, Hertfordshire**, the grocery trade magazine *The Grocer* reported that Tesco had in two years failed to submit a planning application on a row of derelict houses that it owns, to the consternation of councillors who wanted to see the housing used, and of the

former MP who referred to the situation as a “*disgrace.*”<sup>[cviii]</sup> In **Glasgow’s West End**, Tesco’s plans for a large development may impede future rail expansion, according to Strathclyde Passenger Transport.<sup>[cix]</sup>

Similarly, in **Sunderland**, Tesco’s ownership of land, the site of the former Vaux Brewery, has caused problems for the Sunderland City Council in promoting its own plans for the land. The city’s Local Plan backs use of the land for employment and housing, in line with proposals submitted by Sunderland’s Regeneration Company Sunderland Arc.<sup>[cx]</sup> According to the Council, “*the site represents a strategic location... [its] development provides a unique opportunity... to ensure that the physical and environmental fabric of this part of the city is greatly enhanced... [and] to underpin the Council’s wider regeneration objectives.*”<sup>[cxi]</sup> Their aspiration is to “*establish a new sustainable residential community at the heart of the City*” including employment opportunities,<sup>[cxii]</sup> and any other uses must be “*complementary, and not an alternative, to the preferred use.*”<sup>[cxiii]</sup> However Tesco, as landowner of the Vaux Brewery site, submitted its own planning application, for a 112,000 sq ft store, and in October 2005 took the Council to appeal for failing to decide on its application, as a result of which the Council-backed plans are stalling. The appeal is still pending.<sup>[cxiv]</sup>

Tesco’s rivals have also made allegations that the amount of land owned by the company gives it an unfair advantage.<sup>[cxv]</sup> According to a local newspaper, *The Shropshire Star*, a legal agreement between Bridgnorth District Council and Tesco in **Bridgnorth, Shropshire**, ensures that a Council-owned section of land can only be sold to Tesco.<sup>[cxvi]</sup> In this case it is alternative development plans that have been thwarted, as although the High Court ruled against Tesco in October 2005,<sup>[cxvii]</sup> the Council could face a claim for damages by Tesco if they allow the other development, an application by developers Horne and Meredith with Sainsbury’s for a supermarket extension, to go ahead.

## b) Supermarket appeals and what they mean for local authorities

- Councils are often concerned about the costs they will have to pay if supermarket chains appeal a rejected application and get costs awarded
- The resources available to the supermarket chains means that they have the time and money repeatedly to apply for a site, appealing decisions that go against them. Opponents of schemes are not allowed to appeal the decision if the application is accepted.

The threat of an appeal, and the costs potentially faced by a council if a court rules in a supermarket’s favour, often makes councillors feel that they are unable to reject an application. At a Development Control Committee meeting of North Norfolk District Council in January 2004, a letter was read out from Tesco’s solicitors regarding a proposal for a store in **Sheringham, Norfolk**. The letter argued that there “*were no grounds of refusal that could be substantiated or sustained at appeal.*” A councillor at the meeting spoke in favour of approving the application as “*he considered that if the application were rejected the applicants would appeal and the store would be approved on their terms.*”<sup>[cxviii]</sup> The store was approved, despite significant concerns from many councillors and a petition from local residents and campaigning groups,<sup>[cxix]</sup> although later, changing circumstances saw a turn-around in this decision.<sup>[cxx]</sup> According to John Sweeney, North Norfolk District Council Leader, “*they [Tesco] are too big and powerful for us. If we try and deny them they will appeal, and we cannot afford to fight a planning appeal and lose. If they got costs it would*

*bankrupt us.”* <sup>[cxxi]</sup> Similarly, in **Castle Douglas, Dumfries and Galloway**, a decision to approve a proposal by Tesco for a large store in a small town with a “local food town” status for its vibrant retail sector, may have been influenced by councillors’ fears of costs of appeal. According to Scottish Green Party Convenor John Schofield, *“As one councillor also told me, he was scared that Tesco would appeal against the decision which would give the Council a large legal bill. What a tragedy that he was not prepared to stand up for what was just. How many other councillors felt like he did?”* <sup>[cxxii]</sup>

In **Allerton, south Liverpool**, councillors twice rejected Tesco’s proposals for a store extension, primarily on the basis that it would involve building on playing fields. On 25<sup>th</sup> October 2005 the Council, considering Tesco’s second application for their plans, decided that *“the application be refused on the grounds that the proposed extension would be detrimental to the visual amenity value of the green space... and would not maintain or enhance the character of the open space, contrary to Policy OE11 in the Unitary Development Plan and Planning Policy Guidance Note 12.”* <sup>[cxxiii]</sup> Councillor Josie Mullen felt that Tesco’s proposals would go against the local development plan, saying *“the UDP for Liverpool is very fundamental and a lot of people spent time drawing it up. What hope is there if the UDP can be set aside to make way for big companies such as Tesco? I feel like going home and burning my copy of the UDP.”* <sup>[cxxiv]</sup> Despite this, Tesco had already appealed against the Council’s earlier decision to reject the same plans, an appeal that allegedly cost the Council £500,000. <sup>[cxxv]</sup> Despite the concerns of the Council and local communities, in December 2005 the national Planning Inspector ruled in favour of Tesco, granting their second application that the Council had rejected in October 2005. <sup>[cxxvi]</sup> According to the *Liverpool Daily Post*, Tesco told planners that they would withdraw their appeal on the first plans if the Council approved the later plans, despite the Council’s concerns. <sup>[cxxvii]</sup> Similarly in **Sudbury, Suffolk**, Tesco appealed Babergh District Council’s non-determination of its plans, <sup>[cxxviii]</sup> whilst also submitting modified plans. The second application was *“submitted with a view to the appeal against non-determination being withdrawn in the event that a planning permission is granted.”* <sup>[cxxix]</sup> The second plans were accepted in September 2005. <sup>[cxxx]</sup>

### **c) Supermarkets paying their way to help get planning permission**

- Through Section 106 agreements, a supermarket’s offer of resources or facilities to a council can help them gain planning permission. They can also give the chain leverage over the shape of decisions made by a council
- Recently supermarkets have started building partnerships with sports clubs, which helps them gain favour with local authorities and communities and seems to help them gain planning permission for out-of-town sites.

#### **i) Section 106 agreements**

Section 106 agreements, or ‘planning gain,’ are agreements signed between local authorities and developers, separate from planning approval and conditions, whereby the developer provides money for facilities designed to mitigate or balance the impacts of the development. Section 106 agreements can be used to provide valuable new facilities for a community. They also play a role in persuading local authorities to accept the development of new stores

which they might otherwise have refused. In **Streatham, London**, the Mayor of London overturned his earlier demand that Lambeth Borough Council refuse permission for a development by Tesco, because of the supermarket's inclusion in the revised plans of a Section 106 agreement relating to rebuilding leisure facilities. [cxxxix] The Mayor's earlier objections were predominantly that the leisure facilities were not safeguarded, but also that the development had *"inadequate design quality,"* and did *"not reflect sustainable development principles,"* [cxxxix] and was *"contrary to good strategic planning for greater London."* [cxxxix] In 2005 the Mayor *"decided to cancel my objection... having considered an amended draft Section 106 agreement."* [cxxxix] London Assembly member Val Shawcross reportedly admitted that *"a supermarket is not the ideal anchor stone for this project but Tesco has signed up to rebuild and secure the future of the ice rink."* [cxxxix] In **Sudbury, Suffolk**, where a Section 106 agreement was included in the application, the local authority approved plans by Tesco to double the size of their store, despite objections from some councillors. [cxxxix] One councillor stated that *"it would be naïve of us to think it won't affect the town centre, but this is the way things go."* [cxxxix]

In some cases, the chain involved appears to have broken promises, or failed to fulfil commitments, made under Section 106. In **Cupar, East Fife**, Tesco were able to put pressure on Fife District Council by threatening to give less money than had previously been agreed, if the Council didn't agree to their terms. Tesco and the Council entered a dispute over what would happen to Tesco's previous store, with Tesco wanting it *"to be available for retail use"* against what had been agreed as a *"condition of the original consent for the store."* [cxxxix] To persuade the Council to agree to the terms they wanted, Tesco *"suggested lesser contributions than those proposed as part of the draft legal agreement presented to and agreed by the committee,"* [cxxxix] which in effect would halve their contributions, from an earlier amount they now described as *"aspirational."* [cxl] In this case, then, the provision of money under such agreements has given Tesco leverage to dictate its own terms. According to the local newspaper, *The Norwich Evening News*, Tesco was given approval for expansion of a store in **Blue Boar Lane, Norwich**, subject to completion of road improvements. However the store was ready to open prior to the road improvements being completed, and to the anger of local residents Tesco allegedly lobbied for the store to be opened anyway, including by employing staff to get customers to sign a petition. [cxli]

In some cases, the use of Section 106 agreements for planning gain can be seen as privatising the decision-making process, giving supermarket chains a say not just on the supermarket plans themselves, but also on the other facilities they are providing. For example, housing could be conveniently located by a new store that Tesco is building. [See section on housing below] In **Failsworth, Oldham**, a Tesco plan has been approved that will see a community centre demolished on the site Tesco want to build their store, and Tesco rebuilding the community centre elsewhere. According to Oldham Borough Council Councillor Christine Wheeler, *"I am very concerned about the 'takeover' by supermarkets, Tesco in particular, of the retail market, without any thought being given to either infrastructure or the destruction of existing facilities and communities... The fact that... it will increase traffic does not seem to be taken into account... it is important to fight applications when they are in unsuitable sites."* [cxlii]

## ii) Supermarket FC – supermarkets and sports

Supermarket chains are also increasingly recognising the commercial benefits of linking to the development of sports facilities. This strategy can make a proposal seem more attractive to the community and local authority, while troubled football clubs welcome lucrative partnerships with the retail sector. According to the grocery trade magazine, *The Grocer*, “More than amenable to joining Redevelopment City FC in exchange for new superstores in out-of-town locations otherwise out of bounds, the likes of Sainsbury’s began regular reviews of opportunities.” [cxliii] Or in the words of Asda Senior Development Surveyor Mark Turner, “Asda has experience in enabling sporting facilities to become a reality.” [cxliv]

In **Coventry**, Tesco has entered into partnership with Coventry City Council, Coventry City Football Club and regeneration company Advantage West Midlands in constructing a 140,000 sq ft store (the largest in the UK) [cxlv] and a new sports stadium. It seems clear from the attitude of the Council that Tesco’s support for the stadium justified the impacts of the store. According to Ricoh Arena Chief Executive Paul Fletcher, “The money from the Tesco deal is a major foundation stone in making the Arena a reality,” [cxlvi] and according to Councillor Bob Copland, “If it turns out that there were not to be a stadium, just this superstore... it would be really, really bad for Bedworth... Even if the whole development goes ahead it will have an effect on Bedworth, but that’s almost acceptable because of the whole package.” [cxlvii]

In **Hillsborough, Sheffield**, a leaflet prepared by Asda and Sheffield Wednesday Football Club promoted their “exciting joint development proposal,” for a 45,000 sq ft store and replacement for the club training ground Asda would displace. The leaflet stated that the separate proposals “are linked to each other and both are vital for Sheffield Wednesday’s future... One can’t happen without the other. The proposals rely on each other, we’re relying on you. We need your support.” [cxlviii] The proposal in Sheffield was not approved, but a proposal in **Milton Keynes** by Asda and Milton Keynes Dons Football Club has been successful, and in November 2005 resulted in the opening of Asda’s largest UK store, at 110,000 sq ft. [cxlix] Here, too, the community was persuaded that the supermarket was crucial to the future of the football club: according to the local newspaper *Milton Keynes Today*, “featured inside [a] leaflet, distributed to thousands of homes across the city, is the slogan: ‘No ASDA – no stadium. No Stadium – no Wimbledon FC. No Wimbledon FC – no future.’” [cl]

## d) “Tesco Towns” and new space co-opted

Tesco are looking for new ways to use as much space as they can, in their quest to expand – this does not always work out well

- Supermarket chains are actively branching out into housing
- Supermarket chains have succeeded in gaining an active role in regeneration partnerships with local authorities. On one occasion this resulted in the Local Plan being altered

Tesco’s expansion has led opponents to coin the term “Tesco Towns” to describe communities where Tesco dominates the grocery market. A cited example is **Inverness**,

where Tesco allegedly takes 50p out of every pound spent on food, owns three of the city's four supermarkets, and is currently preparing a submission for a further store. This has prompted the founder of the City of Inverness Traders' Association, to say: *"I thought a monopoly was illegal, but under this government that doesn't seem to be the case."* <sup>[c<sup>li</sup>]</sup> Other towns that have been referred to as "Tesco Towns." where Tesco has been gaining an especially large market share, include Swansea, Falkirk, Ashford in Kent and south Manchester. <sup>[c<sup>lii</sup>]</sup>

How much further can they expand? In their search for greater and greater amounts of retail space, Tesco are also experimenting with ways to use space, such as building stores on stilts (as with Tesco's 190,000 sq ft store in **Slough** <sup>[c<sup>liii</sup>]</sup> and their application in **Carlisle, Cumbria**, <sup>[c<sup>liiv</sup>]</sup> which is currently on appeal). In **Gerrard's Cross, Buckinghamshire**, Tesco bought the open space above a railway cutting, over which they constructed a tunnel to hold the structure as part of the first engineering project of this kind. <sup>[c<sup>liv</sup>]</sup> The structure collapsed in June 2005 and according to the chairman of the Marylebone Travellers' Association and the Chiltern Railway Passenger Board, *"There would have been an almighty tragedy had there been a train going through the tunnel at the time it collapsed. Had it been during the rush hour, hundreds could have been killed."* <sup>[c<sup>lvi</sup>]</sup>

#### **i) Home is where the supermarket is – supermarkets and housing**

Tesco is actively branching out into housing, and has predicted to build 4,000 new homes by 2008, according to *The Grocer* magazine. <sup>[c<sup>lvii</sup>]</sup> Developments in the pipeline include a mixed use development in **Bristol Street, Birmingham**, with 200 residential units and a 93,000 sq ft store. <sup>[c<sup>lviii</sup>]</sup> A proposal for what has been referred to as a "Tesco Town" in **Glasgow's West End**, involving one of its largest Scottish stores at 80,000 sq ft, and six blocks of flats, has met opposition from local groups and from Strathclyde Passenger Transport who warned that the development could get in the way of potential future rail expansion. <sup>[c<sup>lix</sup>]</sup> In **Wolverhampton**, Tesco has put forward a plan for a hypermarket of 140,000 sq ft (which would be one of the largest in the UK) on the edge of the centre, including a parallel development of 430 housing units. <sup>[c<sup>lx</sup>]</sup> Asda and Sainsbury's are also diversifying into similar developments. <sup>[c<sup>lxi</sup>]</sup>

This new strategy has a dual impact. It firstly gives the supermarkets an advantage in gaining planning permission for their stores. As Gavin Rothwell, a retail analyst at Verdict Research, put it, *"It significantly helps their application if they can be seen to be adding housing and services to the local infrastructure, as well as being good for the public face of the retailer."* Secondly, it gives the supermarket a wider role in shaping urban development – *"It also doesn't hurt that they have an instant captive audience for their store."* <sup>[c<sup>lxii</sup>]</sup> As Tesco Corporate Affairs Manager Katherine Edwards put it, *"We're now thinking a lot more like a developer and not just like a retailer."* <sup>[c<sup>lxiii</sup>]</sup>

#### **ii) Supermarket-led regeneration**

Many deprived and regenerating areas are identified as being in need of new retail development – and it is undoubtedly true that in some cases a new supermarket can help attract this regeneration. Tesco has built partnerships with councils and regeneration agencies, to build twelve regeneration stores over the last six years, defining its

“regeneration stores” as those that focus on “training and employing” staff in areas with low employment. [clxiv] Amongst these regeneration stores was the hypermarket in Stockport Tesco built exceeding its planning permission [see above]. The Under-Served Markets Project, a partnership project involving Business in the Community (BITC), the Neighbourhood Renewal Unit of the ODPM, and retailers including Tesco, actualises a policy of cooperation with large retailers on regeneration. The Under-Served Markets Project “is a business-led, commercially-based investment strategy that is working with a group of national retailers and developers to consider how best to access market opportunities,” which researches deprived areas “to identify market opportunities.” [clxv] The amenable attitude to large format, multiple stores is also acknowledged in the text of the government’s planning policy guidance, PPS6, which explicitly states that, “larger stores may deliver benefits for consumers, and local planning authorities should seek to make provision for them in this context.” [clxvi] It is possible, however, that small and independent shops could also bring valuable benefits to a community – a fact that is not recognised in the planning guidance or supported in the same way by government initiatives.

In the **London Borough of Newham**, residents and some councillors feel that the result of Council-backed plans by developers to “regenerate” the popular Queen’s Market by building an Asda supermarket, will be to damage the thriving market that serves a diverse ethnic community. [clxvii] The arrival of an Asda, they feel, will not only downgrade the diversity of shopping in the area, but deprive the area’s lower income residents of a very cheap source of fresh fruits and vegetables, and the area’s ethnic minority residents of specialist ethnic products. [clxviii]

In **Dartford, Kent**, Dartford Borough Council entered a partnership with developers, which led the Council to vote to alter the Borough’s Local Plan in order to allow the development. The 2002 draft of revisions to the Local Plan stated that “the retail consultants conclude that there is no scope for additional convenience floorspace over the Plan period [in Dartford town centre].” [clxix] However, in 2003, in partnership with the Council, developers submitted regeneration plans for Dartford town centre that included a supermarket of 135,000 sq ft, as well as a new access road through Dartford’s popular park. [clxx] As a result, amendments were suggested to the plan in January 2004, and voted in by the Council in April 2004. [clxxi] The amendments deleted statements relating to Lowfield Street, the site of the proposed development, that “any individual food and convenience floorspace unit should not exceed 500 m2 gross floorspace,” and that “residential accommodation will generally be the preferred land use.” [clxxii] It also included a section specifically allocating the content of the proposals, stating that “land is identified on the east side of Lowfield Street for a mixed use town centre regeneration scheme primarily for retail and residential uses.” [clxxiii] The application was then approved in August 2004 [clxxiv] However, faced by strong local opposition, [clxxv] it was called in for a decision by the ODPM in May 2005. [clxxvi]

## Conclusions

The introduction of the new Planning Policy Guidance 6 (PPG6) in 1996 was regarded by some as “...one of the most significant and controversial pieces of planning policy in recent years.”<sup>[clxxvii]</sup> In contrast to the *laissez faire* attitude of previous drafts in the late 1980s and early 1990s, which attempted to avoid “unnecessary regulation,” it took a more interventionist approach to retail planning with the introduction of the sequential approach to planning decisions.

Why did this happen? Because it was obvious to all – planners, local businesses, local communities – that the British High Street was experiencing an alarming decline. It was felt that something simply had to be done to protect the viability of our towns and centres.

A decade later, the impacts of PPG6 (now PPS6) can be seen. There has been some decrease in out-of-town development. But other changes have also taken place. The market share of the supermarket chains has grown. The loss of independent stores has rocketed. And, as this document demonstrates, the major supermarkets have demonstrated considerable ability to influence, exploit and even override the planning system to their advantage.

The activities revealed in this document, though in large part not illegal, reveal how the supermarkets are succeeding in bypassing the democratic planning process. By breaking the terms of their planning permission, by expanding their stores through mezzanine floors that do not need permission, by pressuring local councils and striking deals behind closed doors, the major supermarkets make a mockery of their claims that they “*work with the community, not against it.*”<sup>[clxxviii]</sup> The public has a right to participate in the planning process at the national, regional and local level; a process that they are clearly currently being excluded from in the context of supermarket developments. The role of supermarkets in housing, sports and even regeneration partnerships also raises worrying questions about how decisions are being made about our public spaces, who is making them, and whether they are making them for the right reasons.

The planning system is failing to deliver real diversity and choice – choice between different sorts of stores, and communities that are diverse and vibrant, and economically active.

The revamped PPS6 declares its intention to “*facilitate and promote sustainable and inclusive patterns of development, including the creation of vital and viable town centres.*” With 2,000 independent stores going out of business every year and less than 30% of development taking place in-town, can it be said to be doing this effectively? With one supermarket company effectively bulldozing its way through the local planning system and increasingly dominating the food retail market, can it be said to be protecting “*sustainable and inclusive*” development? Supermarkets can bring benefits. But a balance must be struck; and as the supermarket chains grow in size and power there is an increasing sense of unease amongst local and national politicians, business and the public, about whether we are really taking our communities in the right direction.

## RECOMMENDATIONS

Friends of the Earth is calling for strengthened planning guidance; changes to the legislation that allows the current levels of growth of supermarket chains to an extent that is damaging to the consumer as well as to the environment and small businesses; and increased action from local communities and businesses to oppose supermarket growth and enhance shopping diversity.

### To National Government:

- The competition authorities need to tackle supermarket dominance on the high street. The OFT needs to refer the matter to the Competition Commission for a full market review. As part of this review it should investigate local dominance and suggest ways of ensuring that this is considered when new planning applications for supermarkets are submitted to planning authorities.
- Planning guidance needs to be strengthened. Particularly, the bias in favour of large-format supermarket stores should be removed. The Competition Commission must examine PPS6 in terms of how it may be distorting competition at the expense of smaller and independent shops. PPS6 gives a clear steer towards locating new retail development in or at the edge of town centres but does not go far enough in acknowledging the damage that large format stores can cause. Friends of the Earth is therefore recommending that in addition to the sequential approach, all development plans should incorporate a cap of at most 3,000 m<sup>2</sup> of net retail floor space in retail outlets.
- The loophole to be closed that allows mezzanine floors to be built inside stores without planning permission.
- A much stricter retailer Code of practice needs to ensure that suppliers in the UK and overseas and along the whole chain are treated fairly, and which covers sustainability, labour and health standards. A supermarket watchdog will be needed to ensure that the Code is being adhered to.

### To Regional and Local Government:

- Regional and local planning bodies need to develop robust policies to restrain future supermarket development (including a cap on floorspace) and proactively to encourage a diversity of retail provision. This is particularly relevant in the context of the current drafting of new Local Development Plans, which provide an opportunity to bring in stronger policies in favour of small and independent shops. <sup>[clxxix]</sup>

### To Local Communities and Local Businesses:

Around the country, local communities and businesses are increasingly standing up to new supermarket store applications through the local planning process. Advice on how to do this is available from the following sources:

- **“How to...oppose supermarket planning applications: a short guide”** – this briefing provides a step by step guide to the English planning system and how to effectively mount community opposition to a supermarket store application.  
[http://www.foe.co.uk/resource/briefings/campaigning\\_against\\_supermarkets.pdf](http://www.foe.co.uk/resource/briefings/campaigning_against_supermarkets.pdf)

- **The Tescopoly website** - The Tescopoly campaign website [www.tescopoly.org] provides evidence from a range of public interest groups on the impact of Tesco and other supermarkets, and how local communities around the UK are fighting back. Information on various local campaigns around the country is available from the “local campaigns” section of the website.
- **Local Development Frameworks and your community: influencing retail policy.** In 2005/6 local authorities are rewriting their local plans in the new format of Local Developments Frameworks (LDFs). This briefing guides local campaigners to how to influence the new planning policy as it is rewritten.

[http://www.foe.co.uk/resource/briefings/ldfs\\_and\\_retail\\_policy.pdf](http://www.foe.co.uk/resource/briefings/ldfs_and_retail_policy.pdf)

## Appendix A: Tesco goes beyond the boundaries in Portwood, Stockport

Condition Three of Stockport Metropolitan Borough Council (MBC)'s Decision Notice in March 2003 stated that "the retail store hereby permitted shall not exceed 9,430 sq m gross floor space," and that "the sales area of the retail store hereby permitted shall not exceed 6,130 sq m." [clxxx] However, once the building was constructed it had "an additional 1,665 sq m (18,000 sq ft)," a 20% addition. [clxxxi] Tesco applied in September 2004 to alter Condition Three of the Council's Decision Notice granting them permission, which limited their total floor space. [clxxxii] However, contrary to Tesco's assertions, there was also a discrepancy in the amount of retail space – stipulated in a separate Condition Six, [clxxxiii] which Tesco did not apply to alter. Shaun Edgeley, Tesco Property Communications Manager, said to The Stockport Express that "the sales floor has been built to exactly the size we have got permission for. It is not like we have tried to sneak in the application." [clxxxiv] Yet the Council stated that "the evidence... demonstrates that the retail sales area has also increased, contrary to the applicant's assertion that the additional floorspace related only to bulk storage areas." [clxxxv] Compared with the permission for 6,130 sq m, [clxxxvi] the Council's "measurements suggests that the total sales area of the store is 6,660 sq m." [clxxxvii] In its application of December 2005, Tesco admitted that the "the store as built... has a total sales area, to include checkouts, which exceeds the condition." [clxxxviii] According to Morbaine Ltd, property developers, Tesco were excluding the checkouts from their estimation of retail floorspace: "I know of no other case where the checkout areas are excluded from the net sales area – indeed this is where sales actually take place!" [clxxxix]

According to the Council's consultants, "condition no. 3 was imposed as a result of a request from the Highways Agency in the interests of road safety," and "condition no. 6 was to protect the vitality and viability of existing centres." [cxc] The issue is that Tesco built a store that did not comply with conditions that were imposed on it. At first, the company only applied to change the limit on the store size, but many local businesses and residents said that Tesco should have to reapply altogether and in 2005 the Council agreed and demanded a full retrospective planning application. Even in submitting this application, Tesco's agents hoped that they could achieve the size of store not acceptable in 2003, suggesting that "the development of the Tesco store at Portwood has resulted in a number of significant planning and economic developments... we are able to conclude that... there are no sustainable reasons for the refusal of planning permission." [cxci] Were the Council to agree, then building the store without planning consent would have enabled Tesco to escape the terms the Council felt a need to impose. It is easier to turn down an application than demolish the development once built.

Tesco have claimed that "there was never any attempt by Tesco to bypass the planning system or mislead the Council," [cxcii] but Stockport MBC "has been advised that the increment was the direct result of a management decision within Tesco." [cxci] Their consultants suggested that "the development is unlawful... planning permission ref 74640 has not been implemented; instead Tesco has chosen to

undertake a different development, without planning permission.” [cxciv]

While Tesco’s Group Director of Corporate Affairs suggested that it was the “the people who were fitting out the store” who “decided that they needed more space... for backroom operation,” [cxcv] Tesco’s Corporate Affairs Manager has however stated that “a unilateral decision was then taken by a director within our Property Services division.” [cx cvi] There is also a discrepancy over timing. The Council suggest that the first they knew was in September 2004, just two months before the store was supposed to open. [cxcvii] Tesco’s statements are that “the decision to add Tesco.com facilities to this store was not taken until after building had commenced” [cxcviii] and that “as soon as Tesco realised we needed to build the store in Stockport slightly bigger...we applied for planning permission.” [cxcix] This would imply that the first they knew about the extra need was shortly before September 2004. Tesco’s Shaun Edgeley is quoted in the local press as suggesting Tesco found out about the need for the extension in July. [cc] Even by July, construction had already been going ahead for six months, during which time, considering structural process and steel contracts, a consensus of architects’ opinions appears to be that it would not be possible to change basic structures or to not know about a discrepancy in size until this late in construction. [cci]

Even after reapplying for full planning permission in December 2005, Tesco were still trying to avoid enforcement, suggesting cordoning off a small section of the store as “a goodwill gesture that proves that we are not bullies but a perfectly reasonable organisation,” as reported in the Stockport Express newspaper. Councillor Kevin Hogg, perhaps drawing from his earlier experiences of Tesco’s conduct in Stockport, was concerned that “with Tesco you are never quite sure what it says is what it will do,” and local trader Steve Parfett commented that “any other business that built something 18,000 sq ft too big and then offered to cordon off 6,000 sq ft would be laughed out of town.” [ccii]

In answer to questions about what happened, Tesco have stated that this was a one-off, unique occurrence. Tesco’s Group Director of Corporate Affairs, giving evidence before the All-Party Small shops group, stated that she “would regard the Stockport case as a bit of a one-off, where we probably did not do the right thing.” [cciii] It was, however, reported in a local newspaper, Bury St Edmunds Today, on 16<sup>th</sup> December 2005, that “Tesco built the large white bulk storage facility at the side of its Bury St Edmunds’ St Saviour’s store without permission from St Edmundsbury Borough Council. Cllr Mike Jones, vice-chairman of St Edmundsbury development control, which visited the site yesterday, said: ‘It seems to me the planning authority is Tesco and not the Council.’ ” [cciv]

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- <sup>iii</sup> Institute of Grocery Distribution study, cited in Food and Drink Europe, "Top-up shopping keeping town centres buzzing," 06.02.2004, <http://www.foodanddrinkeurope.com/news/ng.asp?id=49694-top-up-shopping> [viewed 11.01.2006]
- <sup>iv</sup> In 1950 multiples had just 20% of the market, in 1961 they had 27%, in 1971 they had 44%. the co-operative movement had over 35% of the share in 1965 but less than 10% by 1998 independents and others had over 50% in 1965 but under 15% by 1998 All from Andrew Seth and Geoffrey Randall. "The Grocers: The rise and rise of supermarket chains" 2001
- <sup>v</sup> Institute of Grocery Distribution, "Convenience Retailing 2005," 03.05.2005
- <sup>vi</sup> AC Nielsen Homescan figures for share of total spend for grocery, 12 weeks ending 29.10.2005 quoted in *The Grocer* 19.11.2005 The breakdown of figures is: Tesco 31%, Asda 16.2%, Sainsbury's 17.2%, Safeway 2.5%, Morrisons 9.4%, Somerfield 4.7%, Waitrose 3.9%, Kwik Save 1.8%, Iceland 2.3%, Total Co-op 3.0%. This amounts to 92.0% leaving 8% for the independents..
- <sup>vii</sup> Planning Policy Statement 6: Planning for Town Centres, Office of the Deputy Prime Minister, 2005 [http://www.odpm.gov.uk/embedded\\_object.asp?id=1143821](http://www.odpm.gov.uk/embedded_object.asp?id=1143821) [viewed 12.01.2006]
- <sup>viii</sup> Provisional analysis of newly built retail floorspace in 2002 ODPM Areas of Town Centre Activity (ATCAs) with and without 300 meter buffer; England 01.04.2004 Valuation Office Agency Data, in Office of the Deputy Prime Minister, "Technical Report: Using town centre statistics to indicate the broad location of retail development – initial analysis," July 2005 [http://www.odpm.gov.uk/pub/83/TowncentresstatisticsindicatingthebroadlocationofretaildevelopmentPDF610K\\_b\\_id1146083.pdf](http://www.odpm.gov.uk/pub/83/TowncentresstatisticsindicatingthebroadlocationofretaildevelopmentPDF610K_b_id1146083.pdf) [viewed 12.01.2006]
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- <sup>xii</sup> Institute for Retail Studies, University of Stirling, 'Publications on Retail Planning in 2004,' May 2005 <http://www.nrfp.org/bib2005update.pdf> [viewed 10.01.2006]
- <sup>xiii</sup> Hansard Written answers 13.01.2006 [http://www.publications.parliament.uk/pa/cm200405/cmhansrd/cm050113/text/50113w03.htm#50113w03.html\\_wqn0;](http://www.publications.parliament.uk/pa/cm200405/cmhansrd/cm050113/text/50113w03.htm#50113w03.html_wqn0;)  
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- <sup>xiv</sup> Institute for Retail Studies, University of Stirling, 'Publications on Retail Planning in 2004,' May 2005, p.16 <http://www.nrfp.org/bib2005update.pdf> [viewed 10.01.2006]
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<sup>xxiii</sup> Taking current rates, Tesco's projections, and average store sizes, Friends of the Earth has produced the following calculations:

If current rates were to continue, and Tesco opened 20 new Extra stores per year, that would mean an additional 180 stores by 2015, taking the total to 300. If half of these were new stores, and the average Extra size remained at 66,000 sq ft, that would mean new floor space of 6 million sq ft for the 90 new Extras. Taking the average for a regular Tesco superstore of 31,000 sq ft, this implies an average extension of 35,000 sq ft for an additional 90 extensions, or a total of 3.2 m sq ft. So a continuation of current trends would see a further 9.2 m sq ft of Extra floor space by 2015, more than doubling the current amount to 17.4 m sq ft, and around half of Tesco's total floor space.

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<sup>l</sup> Minutes of a joint meeting of the Development Control Committees (East and West), North Norfolk District Council, 22.01.2004

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<sup>liii</sup> Supplementary Planning Guidance is official interpretation that explains and amplifies planning policies a local area, and can provides additional advice to applicants for planning permission.

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