

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 17 DECEMBER 2002

02/0005/OL: PROPOSED ERECTION OF CLASS 1 (RETAIL) UNIT WITH COFFEE SHOP AND ANCILLIARY FACILITIES, SERVICE YARD, ASSOCIATED CAR PARKING, ROADWORKS AND ENVIRONMENTAL IMPROVEMENTS AND REVISED ACCESS ARRANGEMENTS

**AT WEST SHAW STREET/HIGH GLENCAIRN STREET/WEST NETHERTON STREET/TITCHFIELD STREET/MILL STREET, KILMARNOCK
BY SAFEWAY STORES PLC**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The applicant's submission for outline planning permission comprises the following elements:-

- a 95,000 square feet superstore.
- physical improvements to the public road network in order to link the site to the town centre.

Accompanying documents with the application site include:-

- a Retail Impact Assessment (RIA)
- a Transport Assessment (TA)
- a Green Transport Plan titled "Accessibility by Sustainable Modes"
- a Flood Assessment (FA)
- Information demonstrating how 'qualitative experience' will be achieved
- Supporting statement from Stoddard's International Plc

The above are summarised below:-

1.2 Outline planning permission is sought for a 95,000 square feet retail superstore (8,826 square metres). Environmental improvement works are also proposed to principally High Glencairn Street, West Netherton Street and Titchfield Street. The existing mill buildings will be demolished and an indicative layout has been submitted showing the superstore located to the western boundary of the site. A 570 space customer car park is proposed to the rear of the properties on High Glencairn Street with access from the Retail Park traffic junction. Mill Street will be incorporated into the application site with a bus lane and a further bus/car egress point onto West Netherton Street. A service area is proposed to the southern boundary of the site with 22 staff car parking spaces with access/egress of West Shaw Street. Details regarding the design of the retail unit have not yet been submitted and will be the subject of a further planning application. The site lies

adjacent to the town centre and includes environmental improvements within the town centre on High Glencairn Street and Titchfield Street, as detailed in Section 2.11 of this report.

1.3 The applicant has provided both a Retail Impact Assessment and Transport Assessment for the proposed development. The Retail Impact Assessment (RIA) states the applicants intention to develop a modern superstore on the site to replace Safeway's existing store at Glencairn Retail Park. It is proposed to provide, under the terms of this application, an increase of 2,757 square metres of floorspace (29,000 square feet). The RIA attempts to demonstrate the impact of the proposed superstore on the vitality and viability of Kilmarnock Town Centre and the Safeway store in Stewarton. The analysis separately considers the proposed development in terms of convenience and comparison trade. The RIA states that the level of impact on existing convenience and comparison provision will not adversely affect the vitality or viability of the town centre and will sustain and enhance Kilmarnock town centre as a shopping destination. The RIA assesses the new Safeway superstore against existing facilities within Kilmarnock and its catchment area and its resultant impact. It concludes from the information available what the trade diversions will be (on a convenience and comparison level) from other stores as a result of the relocated and improved Safeway. It also specifies the additional turnover that the new store will generate at a specified future date.

1.4 Details regarding the size of the superstore have been submitted within the RIA. The gross floorspace will comprise 8,825 square metres with a net sales area of 5,574 square metres. Of that net sales area 3,716 square metres will be devoted to convenience goods and 1,858 square metres used for comparison goods. The non food (comparison) good ranges which the new Safeway store is intending to sell fall into 5 categories. These include household goods, health, beauty and personal care, mother and baby, home entertainment and toys and seasonal items. The overall purpose of the store is to provide for household needs focusing on convenience goods purchased as part of a main weekly shopping trip. The RIA has focused on the applicants commitment to providing up-to-date stores that satisfy customers needs and provide a range of goods and services now associated with modern foodstores. The applicant wishes to provide a store that meets current requirements and in terms of quality shopping, can improve the foodstore shopping on offer to benefit Kilmarnock and surrounding residents.

1.5 The Transport Assessment (TA) addresses the impact of the proposed development on the surrounding road network. Vehicular access to the development would be from West Shaw Street utilising the existing junction at Mill Street. This junction is currently served by a set of traffic lights and is the principal access/egress from the Glencairn Retail Park (and existing Safeway Store). A bus/car exit has also been introduced onto West Netherton Street. The TA considers the accessibility of the site for car based trips.

1.6 A Green Transport Plan titled "Accessibility by Sustainable Modes" has also been prepared to identify and quantify the accessibility of the proposed store by other modes of transport as opposed to car based trips. This in particular relates to site accessibility for pedestrians, cyclists, public transport users and those with

mobility impairments. The Green Transport Plan produced by the applicant embodies advice from Central Government for the integration of transport policies outlined in NPPG17 and PAN57 in addition to East Ayrshire Council's document "Local Transport Strategy 2001-2004" in which the Council sets out its aims and objectives supporting sustainable transport policies. NPPG policy states that new development should be easily site's accessible by a choice of transport modes including walking, cycling and public transport. The applicant's report provides information on the site's accessibility by sustainable transport modes. The applicant's Green Travel Plan is a package of measures designed to meet the needs of the individual shopper and promotes sustainable, cleaner travel choices, thereby reducing reliance on the car. In the preparation of this Plan, the applicant has recognised the consideration that is required to the promotion and use of public transport including buses, trains and taxis, in addition to the needs of cyclists and pedestrians. The plan states that measures could be proposed to encourage greater use of sustainable modes of transport. Consideration could be given to the use of the parking area as a park and ride facility, to introduce linked trips to the town centre and reduce the number of car trips to the town centre. Other measures could include information on notice boards relative to raising the awareness of walking to work, designated safe walking routes, the provision of bus timetable information, staff car share schemes with benefits to staff who car share such as guaranteed car parking spaces. Safeway could furthermore provide bus stop facilities adjacent to the store and provide covered secure cycle parking close to the store entrance including shower/changing facilities for staff who cycle to/from work.

1.7 The Flood Assessment (FA) submitted has investigated the potential flood risk to the proposed superstore from the Kilmarnock Water and the River Irvine. The site accommodates existing buildings which back onto the river and currently act as flood defences. There is therefore a concern that when these buildings are removed as part of the development by Safeway, such action could increase the flood risk around the site. The area of the site and its surrounds, lie within a locale which has experienced a large number of floods in recent years and accordingly flood prevention works have taken place. The FA sought to determine the flood risk to the proposed development site having assessed river flows and considered the possible likely impacts of climate change upon the river flows and makes recommendations for accommodating/mitigating the flood risk. The FA concluded that the exercise undertaken shows that the proposed development has no influence upon the hydraulic capacity of the main river channel. The construction of a flood defence wall along West Netherton Street will prevent floods up to 200 year return periods inundating Mill Street and areas south of that. The FA has ultimately concluded that there is no significant impact on flood risk at upstream/downstream locations from the proposed development.

1.8 The company have already sold the site to Safeway and if planning and other consents are granted, are due to receive a £3.2m final payment from Safeway. The Company over recent months have been consolidating their head office and all operations at Riverside. Most of the manufacturing element of the Elderslie operation is now at Riverside. The Company has advised that it does not currently have the funds available to cover the costs of the transfer of its spinning and dyeing operation from Mill Street to Riverside that will cost in excess of £2m. Stoddards

advise it continues to make substantial trading losses and urgently requires the benefits from cost savings (through operating from one site). Whilst the company's banks have continued to support them, with borrowings of £12m and continuing trading losses, the banks require the consolidation process to be completed in order to reduce the debt burden. Stoddard's believe therefore that the granting of planning permission is crucial and will help secure the long term future of the Company.

1.9 The applicant has also provided details in terms of the quality shopping experience in the store. The aim is to provide a store which is of a high quality design. The applicants intend to provide a sales area of 5,574 square metres and the store, if approved will comprise the first purpose built Safeway Mega Store in Scotland. The store will incorporate facilities such as a meat counter and butcher, a fishmonger and fresh fish counter, a delicatessen counter, a bakery, a rotisserie, a wine cellar in addition to 'Food to Go' including, pizza bar, coffee shop, sandwiches and noodles bar. The store will also sell a range of comparison goods including homeware, health and beauty and personal care, mother and baby, home entertainment, toys and seasonal items. The extended store will also include a new card and stationery area selling an enhanced range of newspapers, books and magazines as well as other items such as stationary products, gift wrap and school and office equipment.

1.10 The applicant is proposing to improve the physical and environmental links between the shopping core of the town centre at King Street and the proposed superstore. Whilst no details have been submitted to date, it is likely to take the form of the provision of footpath, street furniture, landscape improvements in the form of new paving, tree planting, sign posting and seating along both sides of High Glencairn Street, Titchfield Street and West Netherton Street. Such proposals would be to a maximum value of £150,000 and would require to be the subject of a further planning application.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheets and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants and other interested parties on the matters set out in principle in Section 7 of the report.

3. CONCLUSIONS

3.1 As is indicated in Section 5 of this report, the application is considered to be contrary to the Kilmarnock Adopted Local Plan although in accordance with the Approved Ayrshire Joint Structure Plan (AJSP). Under Sections 27 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application requires to be assessed against the provisions of the development plan which comprises both these documents and should be refused if considered to be contrary to the

development plan unless material considerations indicate otherwise. The Kilmarnock Local Plan was adopted in 1986 and is considered to be significantly out of date, to which minimal weight should be attached. Greater weight should be attached to the provisions of the AJSP which is more recent having been approved in 2000.

The proposal is considered to be in accordance with the Development Plan for the following reasons:

- It is accepted that the site meets the terms of the sequential test as there is no suitable or available site to accommodate the proposal within the town centre.
- The proposed store will operate as an “edge of centre” store and the proposed environmental improvements with help to integrate it with the town centre.
- In terms of vitality and viability of the town centre there is a need for a qualitative improvement in floorspace.
- If a legal agreement can be reached this application can be viewed largely as replacement floorspace of an existing store and has no appreciable adverse impact on the vitality and viability of the town centre.

3.2 Within the context of the development plan the proposal has been modified by the applicant through amendments to the description and application site and by a commitment by the applicant to enter into a Section 75 legal agreement; to make it acceptable in the following way;

- By strengthening linkages to the town centre through improved pedestrian access and with contributions to public transport, the proposal will increase accessibility to the town centre for those with or without a car.
- By agreeing to provide a quality store as outlined in Section 2.10 of this report as providing quality convenience shopping.

3.3 In conclusion, the proposal is in accordance with the Development Plan and the following material considerations add weight to that view;

- The Finalised East Ayrshire Local Plan with Modifications 2002 is more aligned with NPPG8 and the Approved Structure Plan and the site of the superstore being adjacent to the town centre boundary is considered to be acceptable in terms of the sequential test.
- The measures contained within the Green Transport Plan, and the environmental and physical linkages to the town centre and the “hopper bus” services improve accessibility for all to the site and strengthens the link between the site and the town centre.
- The proposed development embodies and promotes many of the actions identified in the strategy for the Regeneration of Kilmarnock town centre.

- The sale of land to Safeway from Stoddard's will provide Stoddard with an injection of cash which will enable Stoddard to relocate its operations to its Riverside site and to allow for further re-investment in the company.

3.4 On balance and with the context of Section 25 of the Town and Country Planning (Scotland) Acts the proposal in overall terms complies with the Development Plan and is therefore acceptable within the context of the development plan and other material considerations.

Alan Neish
Head of Planning and Building Control

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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AT WEST SHAW STREET/HIGH GLENCAIRN STREET/WEST NETHERTON STREET/TITCHFIELD STREET/MILL STREET, KILMARNOCK BY SAFEWAY STORES PLC

Report by Director of Development Services

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Development Services Committee under the scheme of delegation as it involves a retail development of over 2000m², and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the site of the current Stoddards' Carpets Mill building used for spinning and dyeing processes. It includes the public road junction into the existing Glencairn Retail Park at West Shaw Street and the streets at High Glencairn Street, Titchfield Street and West Netherton Street. The site extends to 6 hectares in area and is bounded to the north by residential flats and industrial property on West Netherton Street, to the south by Glencairn Retail Park to the east by a mix of commercial and residential properties on High Glencairn Street and to the west by the Kilmarnock Water and the Howard Park.

2.2. **Proposed Development:** The applicant's submission for outline planning permission comprises the following elements:-

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Accompanying documents with the application site include:-

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The above are summarised below:-

2.3 Outline planning permission is sought for a 95,000 square feet retail superstore (8,826 square metres). Environmental improvement works are also proposed to principally High Glencairn Street, West Netherton Street and Titchfield Street. The existing mill buildings will be demolished and an indicative layout has been submitted showing the superstore located to the western boundary of the site. A 570 space customer car park is proposed to the rear of the properties on High Glencairn Street with access from the Retail Park traffic junction. Mill Street will be incorporated into the application site with a bus lane and a further bus/car egress point onto West Netherton Street. A service area is proposed to the southern boundary of the site with 22 staff car parking spaces with access/egress of West Shaw Street. Details regarding the design of the retail unit have not yet been submitted and will be the subject of a further planning application. The site lies adjacent to the town centre and includes environmental improvements within the town centre on High Glencairn Street and Titchfield Street, as detailed in Section 2.11 of this report.

2.4 The applicant has provided both a Retail Impact Assessment and Transport Assessment for the proposed development. The Retail Impact Assessment (RIA) states the applicants intention to develop a modern superstore on the site to replace Safeway's existing store at Glencairn Retail Park. It is proposed to provide, under the terms of this application, an increase of 2,757 square metres of floorspace (29,000 square feet). The RIA attempts to demonstrate the impact of the proposed superstore on the vitality and viability of Kilmarnock Town Centre and the Safeway store in Stewarton. The analysis separately considers the proposed development in terms of convenience and comparison trade. The RIA states that the level of impact on existing convenience and comparison provision will not adversely affect the vitality or viability of the town centre and will sustain and enhance Kilmarnock town centre as a shopping destination. The RIA assesses the new Safeway superstore against existing facilities within Kilmarnock and its catchment area and its resultant impact. It concludes from the information available what the trade diversions will be (on a convenience and comparison level) from other stores as a result of the relocated and improved Safeway. It also specifies the additional turnover that the new store will generate at a specified future date.

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for accommodating/mitigating the flood risk. The FA concluded that the exercise undertaken shows that the proposed development has no influence upon the hydraulic capacity of the main river channel. The construction of a flood defence wall along West Netherton Street will prevent floods up to 200 year return periods inundating Mill Street and areas south of that. The FA has ultimately concluded that there is no significant impact on flood risk at upstream/downstream locations from the proposed development.

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2.11 The applicant is proposing to improve the physical and environmental links between the shopping core of the town centre at King Street and the proposed superstore. Whilst no details have been submitted to date, it is likely to take the form of the provision of footpath, street furniture, landscape improvements in the form of new paving, tree planting, sign posting and seating along both sides of High Glencairn Street, Titchfield Street and West Netherton Street. Such proposals would be to a maximum value of £150,000 and would require to be the subject of a further planning application.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Coal Authority have not raised any instability issues that would affect this application.

Noted.

3.2 Transco have forwarded a copy of their record plan and requested early contact with the applicant.

Noted. Should Members choose to grant consent, an advisory note can be attached requiring the applicants to make contact with Transco.

3.3 North Ayrshire Council have no comments to make on this application.

Noted.

3.4 The Grange Howard Community Council, Piersland Bentinck Community Council & South Ayrshire Council have not replied to their consultation at the time of writing this report.

Noted.

3.5 Scottish Power have forwarded a copy of their apparatus for the applicants attention. Their Wayleave Division has no objection to the proposal although believes that their equipment may be affected. Scottish Power has had initial contact with the applicant.

Noted. If Members choose to grant permission, an advisory note can be attached requiring the applicant to contact Scottish Power at an early date.

3.6 Scottish Water initially objected on the grounds that upgrading of the sewerage system as a result of the proposed development will be outwith reasonable cost and increase in surcharging caused by the proposed development will also be unacceptable. Their revised consultation response reinforce this objection and submits the following further detailed comments:-

(i) It is advisable that the applicant contact Developer Services to discuss the drainage strategy for the proposed development;

(ii) There is a public sewerage system to which a connection may be made from the proposed development. The applicant should satisfy him/herself, by site investigation if necessary, that relative levels are such as will allow the development to be connected at a gradient acceptable to Scottish Water;

(iii) Non-objection by Scottish Water to this outline/detailed planning application must not be inferred as guaranteeing automatic permission to connect to the public sewer. The applicant must make separate application to Developer Services for

permission to connect, or grant permission to connect, subject to such conditions as they think fit;

(iv) A totally separate drainage system of foul and surface water sewers will be required;

(v) It is recommended by Scottish Water that the applicant must consider the implementation of a Sustainable Urban Drainage Systems within the proposed drainage design;

(vi) There is an existing public water main located in the street adjacent to the site which may be suitable to provide a supply to the proposed development. However, details of the highest water fitting related to Ordnance Datum and the proposed demands must be forwarded to Scottish Water in order that hydraulic testing can be carried out;

(vii) Separate application will have to be made for the provision of site water mains, if required, and service connections. Consultation should be made with Developer Services regarding compliance with current byelaws and use of water for building purposes is advised. It is strongly recommended that a cold water storage system is provided, for each house or flat having an actual (not nominal) capacity of 200 litres;

(viii) Record drawings shown that there is water apparatus located within the development site that may be affected by this application. Contact should be made with Scottish Water's Developer Services to discuss what measures are to be taken to safeguard this apparatus;

(ix) Any work carried out by Scottish Water to facilitate the proposed development shall be rechargeable to the applicant;

(x) Contact should be made with Developer Services to discuss how the proposed development would be best served with a public water supply.

Noted. Should the application be approved, an appropriate suspensive condition can be attached to any grant of planning permission requiring that no works shall start on site until such time as the applicants can provide written confirmation from Scottish Water that it is satisfied with the proposed drainage arrangements. The additional comments can be forwarded to the applicant and an advisory note incorporated requesting the applicant's early contact with Scottish Water.

3.7 East Ayrshire Council Economic Development offer a cautious welcome to the development. The development is in close proximity to the core retail area of the town centre and it is critical that the development does not have a negative impact on the viability of the existing retail community within the established town centre. The retail impact study should be carefully analysed to establish the likely impact. From another perspective the ideal position would be if the superstore were to attract additional shoppers who would venture into the town centre. Given that the

development represents expansion of an existing local trader, continuity of existing jobs can be assumed with hopefully an increase in numbers to operate the new store and some jobs during the construction period. As a matter of caution, many jobs in the retail operation will be on a part-time basis. With regards to the effect on Stoddards it is possible that Stoddards could close risking 500+ jobs. It is believed that the funds are required to assist the re-organisation of the company including its re-location of activities to Kilmarnock and resources for much needed capital expenditure.

The impact of the development on the vitality and viability of the town centre is examined in Section 5-6 of this report. The relationship of the proposed retail development to the adjacent Stoddards Carpet manufacture business is a material planning consideration.

3.9 East Ayrshire Community Services (Environmental Health) have no objections in principle but offer several comments.

- The new supermarket premises will fall within the jurisdiction of Environmental Health for enforcement of Food Safety Act provisions and the service will have an interest in the fit-out details and equipping of the premises;
- The service will be responsible for Health and Safety enforcement and will have an interest in ensuring compliance with this legislation;
- There may be considerations relative to the demolition of the existing buildings which will require to be borne in mind. Due to the age and industrial usage of the site (ie woollen spinning mills, wash/dye houses etc) there may be hazardous material present in the building fabric or internal plant which could require suitable handling/disposal methodology e.g. (asbestos cladding/insulation boarding/boiler lagging, oil waste and residues in sumps/storage areas, dye stuffs and associated chemicals). Disposal of such wastes should be undertaken in accordance with Special Waste Regulations. It is also possible that there could be pipework and drainage culverts beneath the site which would require removal/infill prior to any foundation works being undertaken.
- Demolition works in general should be undertaken in accordance with the relevant Code of Practice and without causing any nuisance to nearby residents from dust, noise or fires. Whilst areas of the site are quite well removed from housing, there are a number of properties opposite the north-west and eastern flanks of the site which could be susceptible to nuisance from uncontrolled site activities.
- Site engineering and construction activities in respect of the new development should also be undertaken in a responsible fashion for the avoidance of nuisance to other occupiers in the general vicinity.

The applicant has been advised of the content of the response and conditions can be attached to any grant of outline planning permission

regarding the requirements of Environmental Health and Waste Management.

3.10 Scottish Environment Protection Agency (SEPA) have no objections providing all foul drainage including runoff from the service yard areas is connected to the public sewer. Consultation should be undertaken with Scottish Water. Any planning permission granted should include a condition requiring the applicant to treat surface water from the site in accordance with the principles of Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland published by CIRIA in March 2000. All demolition wastes arising from the site should be disposed of to a suitable licensed facility.

SEPA have further advised that they hold no record of actual flooding at the site although it lies within the centre for Ecology and Hydrology indicative '100 year' floodplain. Furthermore the area to the South of West Shaw Street flooded extensively during the 1994 flooding of the River Irvine and Kilmarnock Water. SEPA recommended the applicant carry out a flood risk assessment to determine the flood risk to the site in order to ensure that the risk can be adequately managed. In considering this SEPA have raised several issues although advise that they are not significant and SEPA have not objected to the application.

SEPA comments are noted and it is considered that appropriate conditions could be incorporated into any outline planning permission concerning SUDs drainage system and the decontaminating of the site. In terms of the Flood Risk Assessment this (and SEPA's comments to same) has been assessed by the Roads Division who are satisfied with the Assessment.

3.11 East Ayrshire Council Roads and Transportation Division have been consulted in two capacities. Namely, traffic generation and flooding and their response is as follows:-

Traffic Generation - TA

- (i) the Transport Assessment indicates that a secondary store access and egress will be required on West Netherton street. A mini roundabout at this location would be acceptable;
- (ii) additional traffic signals will be required at the junction of West Netherton Street and High Glencairn Street. All traffic signals can be connected to the town centre SCOOT system;
- (iii) appropriate traffic calming and/or traffic management will be required on Nursery Street and Douglas Street to deter traffic leaving the store using this route as a rat run to the town centre;
- (iv) the main access point from West Shaw Street should allow the 'hopper' bus and other existing bus services to access the store front directly. A bus layby with raised kerbs and bus shelter with information panel should be provided adjacent to the store front;
- (v) additional northbound and southbound bus stops with raised kerbs and shelters will also be required on High Glencairn Street;

- (vi) If a portion of the access road from West Shaw Street to service any further development on High Glencairn Street is to be adopted as public road, then it must be constructed to the Roads Development Guidelines standards and have a suitable turning facility.

Traffic Generation – Accessibility by Sustainable Modes Report

- (i) The report acknowledges that on-site bus facilities shall be made at the new store to facilitate any future town centre ‘Hopper’ bus service which would link the site with other key locations within the town centre. This would be by means of a bus gate located on the main access road at the south end of the site which will allow users to be picked up and dropped off at the main store entry/exit. The on-site bus stop provision must also include raised kerbs to allow easier boarding and a bus shelter incorporating timetable information panel;
- (ii) Although the report does not contain a direct commitment to fund the hopper bus service, it is understood that this will be the subject of a Section 75 agreement with the developer;
- (iii) Additional northbound and southbound bus stops with raised kerbs (and adjusted footway levels to suit) and shelters will also be required on High Glencairn street for use by those people wishing to access the store by the existing bus services on that route;
- (iv) The design of the proposed cycle link from the Howard Park across the bridge over the Kilmarnock Water to West Netherton street will require to be agreed with the Roads Division. It is noted that covered secure cycle parking facilities for both customers and staff are to be provided as well as locker and showering/changing facilities for employees;
- (v) Implementation proposals contained within the GTP must be implemented before opening. Programmes of GTP measures and staff required for implementation should also be in place;
- (vi) All infrastructure to be provided at the developer’s expense.

Noted. If Members choose to grant consent, the above can be incorporated into the conditions of the consent. This would mean that the planning application submitted under reserved matters would need to address these issues.

Flooding

The applicants submitted a Flood Assessment at the request of the Roads Division owing to its location beside Kilmarnock Water and the flood history of the area. The Division initially raised some issues regarding the Flood Assessment and raised some queries concerning the finalised flood levels, detailing of the floodwall, extent of surveys undertaken, the impact/comparison between pre and post development and provision of access/scheme strips for inspection, maintenance and access. Following the provision of further information, the Roads Division indicated their satisfaction at the overall Flood Assessment subject to the following:-

- (i) the provision of a drawing detailing the direction of flow paths, extent and depths of inundation post-development for 1 in 50, 100 and 200 year flood events; and
- (ii) the provision of a drawing detailing pre-development inundation for 1 in 50, 100 and 200 year flood events in particular the effects on properties north of the development (including Kilmarnock Removals premises);
- (iii) Given the revised access arrangements at West Netherton Street the flood assessment will require to be updated.

Noted. Copies of the drawings detailed have been requested from the applicants although not to date submitted. It is however appropriate that the information can be required through the imposition of a condition should Members choose to grant consent.

3.12 The Ayrshire Joint Structure Plan and Transportation Committee have not objected to the principle of retail development and note it is consistent with the Approved Ayrshire Structure Plan Policy L8 which seeks to direct new retail investment within the centre in preference to an out of centre location. The proposal appears to be poorly integrated with the adjoining warehouse units and street frontage of High Glencairn Street and it is unclear on the extent that bus and taxi access is to be accommodated. In light of the need to promote opportunities for non-car use, the Council may wish to consider what further steps can be taken to integrate the proposal with the adjoining warehouses, the shop frontage of High Glencairn Street, the river and town centre by the provision of safe pedestrian routes, cycle tracks and parking.

Noted. The application has been amended to include the environmental improvements detailed in Section 2.11 of this report. These improvements will be designed in order to facilitate linked shopping trips between the store and the town centre through the creation of a quality townscape. Furthermore the application by Stoddards, at 43-69 High Glencairn Street and discussed in Section 6.10 of this report aims to foster regeneration at High Glencairn Street located within the town centre.

3.13 Whilst Kilmarnock Town Centre Management Initiative (KTCMI) have not objected to the application, they are aware of one other objection from a company outwith the town centre. They have advised that the town centre retailers have not approached KTCMI in connection with the application.

Noted.

3.14 Kilmarnock Retail Trades Association are concerned about the development. They feel that the amount of new retail space in Kilmarnock at Queens Drive and Glencairn Retail Park is substantial and has had a detrimental effect on the viability of the town centre. They feel that the main shopping street has only just coped with not many of their members reporting the huge increases in trade elsewhere in Scotland. They believe that the parties objecting have raised valid points and advise they are particularly worried about the size of the store which will affect the turnover

of many high street shops and could result in the loss of many full-time jobs, whilst the applicant only offers part-time positions.

Noted. The effect on the viability and vitality of the town centre is addressed in Section 5.7B of this report.

4. REPRESENTATIONS

4.1 Letters of representation have been received from 8 parties objecting to the proposed development (one of which is from Kilmarnock Retail Trades Association as detailed in Section 3.14 of this report and another from Scottish Water and discussed in Section 3.6 of this report). The main points of objection are as follows:-

4.2 The amendment of the planning application shows the over-development of the site and includes a mini roundabout at West Netherton Street and Nursery Street and traffic lights at the junction of West Netherton Street/High Glencairn Street. Businesses on West Netherton Street currently park on-street and soon measures could include restricted street parking that will affect business activity. L & M Survey have 10 company vehicles which rely on this parking area for unloading/loading in addition to general staff parking plus frequent deliveries each working day. Other business such as Active Office already experience problems with deliveries and the proposals will lead to vehicles leaving Safeway using Nursery Street/Douglas Street to avoid the new traffic signals. The siting of this store will lead to further congestion on an already fragile local roads system, never designed for the sizeable traffic volumes that the proposal will generate. Additional traffic signals will be required on other junctions such as Armour Street/Titchfield Street because given existing congestion at Glencairn Square, many customers will choose to access the store via other roads.

At present there are restrictions which prohibit waiting on the north side of West Netherton Street and High Glencairn Street while parking is unrestricted on the south side adjacent to the Netherton business centre. Independently of the proposed development, the Roads and Transportation Division intend to promote an on-street parking strategy for the town centre that has been the subject of extensive preliminary consultation. It is proposed that additional waiting and loading restrictions will be introduced on West Netherton Street, Nursery Street and Douglas Street to improve safety and the free flow of vehicles particularly at the junctions. Any changes to the proposed restrictions to accommodate future development in the area will be the subject of local consultation.

The proposed waiting and loading restriction on the West Netherton Street/High Glencairn Street radii may need to be extended further than that in place at the moment to allow free passage of turning vehicles at the signalised junction. Any changes to the proposed restrictions will be subject to the statutory consultation procedure which includes a period

during which the proposals will be published and the public may comment.

It should also be noted that EAC is in the process of selling on off-street parking to the Netherton Business Centre which adjoins the premises. This should provide for the operational parking needs of the Business Centre and the demand for on-street parking.

4.3 Objection is offered to the Stopping-up of Mill Street which is a source of access to Kilmarnock Removal's property at West Netherton Street. Vehicles from this company use the street approximately 30-40 times per day and its removal would severely affect the running and employment of the business causing possible redundancies. The removal of Mill Street will increase traffic onto High Glencairn Street causing delays etc.

Noted. There is a convenient alternative route to/from McLelland Drive and the premises via West Netherton Street, High Glencairn Street and West Shaw Street. Access for removal of vehicles to and from High Glencairn Street will be improved by the signalisation of its junction with West Netherton Street. Existing through traffic on Nursery Street adjacent to Kilmarnock Removals will be removed with the stopping-up of Mill Street and the requirement for traffic calmed/traffic management on Nursery street should deter Safeway traffic from using it.

4.4 Kilmarnock and District Model Railway Club occupy premises at High Glencairn Street with a rear vehicle access through the existing private car park at West Netherton Street. Objection is offered on the grounds of access and security because their vehicle access is vital to them for moving layouts in order to attend exhibitions around Scotland at various times of year. Shows are attended on a reciprocal basis without charge and their main source of income is from their twice yearly exhibitions. It is therefore imperative that access is maintained at all times during and after construction because it is not possible to park in High Glencairn Street either to load vehicles or for members cars. The Model Railway Club have also raised concerns regarding the security of their premises if the adjacent land is to comprise a car park open to the public.

The red line application site boundary does not include the private car park on West Netherton street and the existing access arrangements for the model railway club would therefore be unchanged. It is not considered that the security of their premises would be adversely affected to any significant degree that would warrant refusal of this application. Should Members choose to grant consent, the reserved matters application could be required detail boundary treatment as a measure to reduce security concerns of nearby properties.

4.5 There may not be sufficient retail capacity within the local catchment to sustain an additional food retail development of the scale proposed without having an adverse impact upon the vitality and viability of Kilmarnock Town centre. This is of particular significance considering the outstanding application for a major food

superstore at West Langlands Street. On the basis of recent company turnover levels (£747 per square feet) taken from Retail Rankings 2001, the proposed new Safeway superstore could alone have an additional potential turnover of up to £63 million per annum. This is not likely to be achieved without impacting upon the future vitality and viability of Kilmarnock town centre. The application site is situated in an edge of centre location and would draw expenditure away from, as well as fail to facilitate linked shopping trips with Kilmarnock.

The assessment of the proposed retail development against the sequential test and its impact on the vitality and viability of the town centre is considered in Section 5.7 of this report. The application has also been amended to include environmental improvements to be formed within the town centre in order to encourage linked shopping trips between the new store and the town centre. The proposed environmental improvements are discussed in Section 2.11 of this report.

4.6 The proposal is not consistent with either NPPG8 and the Finalised East Ayrshire Local Plan 1999 Policies RTC 2 and RTC6. Policy RTC2 requires a retail development exceeding 2500 square metres to be directed to Kilmarnock town centre and the proposal does not comply with this Policy. Furthermore under Policy RTC6, the proposal requires to be supported by a comprehensive retail impact assessment (RIA). In terms of NPPG8 the proposal should be resisted on the basis that it could undermine the convenience provision with a centre and prejudice future investment.

The application site boundary has been amended to include land within the town centre in which it is proposed to undertake environmental improvements as outlined in Section 2.11 of this report. The location of the new superstore building, is not within the town centre although is adjacent to it comprising a distance of some 26 metres from the edge of the car park and, town centres and approximately 466 metres to the core shopping areas.

It should be noted in this instance that the objector is referring to the EALP of 1999 which has now been superseded by the Finalised East Ayrshire Local Plan with Modifications 2002. The relevant policies are RTC3 and RTC8 and these policies and the applicant's required RIA are discussed in Section 6 of this report.

4.7 The proposed relocation of Safeway results in an overall net sales area increase of 2,764 square metres. The proposal is contrary to NPPG1 which reinforces the requirement that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The site is not allocated for retail development and the applicant has failed to demonstrate the existence of significant material considerations that warrant the development of the area for retail purposes.

The assessment of the proposed retail development against the Development Plan and material considerations is discussed in Sections 5 & 6 of this report.

However, the majority of the site is immediately adjacent to the town control and a large part of the application site, as amended falls within the town centre. Part 2 of the site along Titchfield Street, will be enhanced to facilitate link trips with the town centre. The links with the town centre shall be further encouraged by the provision of a 'hopper bus' service.

4.8 The proposal requires to be assessed against Policies L7, L8, L9, L10 and W4 of Approved Ayrshire Joint Structure Plan which reiterates the guidance of NPPG8. The aim is to promote and enhance town centres in Ayrshire and it is considered that the provision of additional retail floorspace outside the existing town centre as proposed is likely to result in the loss of trade from the town centre and could prejudice opportunities for future investment. The proposal is entirely inconsistent with the sustainable planning policy objectives. In terms of W4 the proposal is contrary because it conflicts with the aim of identifying, maintaining and reviewing a supply of local industrial land.

The proposal is assessed against both the Approved Ayrshire Joint Structure Plan and NPPG8 in Sections 5.3-5.9 and Section 6 of this report respectively. Policy W4 is not considered to be relevant in the consideration of this application. The Council is of the opinion that it has a sufficient supply of industrial land which satisfies existing uses and maintains a supply for inward investors. Policy L10 is also not applicable because the proposal does not comprise a retail warehouse.

4.9 As part of the Structure Plan monitoring process, the Joint Structure Plan Team published "Monitor 2000 – A Set of Baseline Indicators to Monitor Structure Plan Policy" in February 2002. This document aims to provide a vision for Ayrshire, seeking economic growth and environmental quality through balanced and sustainable strategy. In respect of town centres, their prime objective is to promote them as the focus of commercial and retail activity.

The Ayrshire Joint Structure Plan Team has been consulted on this application and has no objection in principle (see Section 3.2) although it was highlighted that the proposal was poorly integrated with the adjoining warehouse units and High Glencairn Street. The applicant has subsequently taken steps to address these issues which are outlined in Section 2.11 of this report, and the applicant is prepared to enter into a S75 Legal Agreement in order to integrate the development with the town centre.

4.10 The EALP Finalised Version with Modifications aims to strengthen and improve the viability and vitality of the strategic and office base of East Ayrshire. The Plan states that the Council is committed to developing and monitoring vibrant town centres and in particular, protecting and enhancing the core retail function. In

response to a recognised decline in traditional town centres and continuing pressure for new retail development, Policy RTC1 advocates a sequential approach and it is considered that the submitted RIA does not demonstrate that there are no sequentially superior sites in the town centre that could accommodate the additional floorspace. In particular the RIA is deficient in a number of aspects and accepts there is no quantitative need for additional floorspace through the development of the new store. The RIA is deficient as follows:-

(i) The RIA repeatedly suggests the new store will help the aim of maintaining and enhancing the vitality and viability of existing town centres. It states its compliance with Policy RTC3 (that directs all proposals over 1500 square metres to Kilmarnock and Cumnock town centres). The application site is not within the town centre but rather at the edge of the centre which will function as a separate entirety. In addition, the application fails to satisfy the criteria of RTC8 firstly by being consistent with the sequential approach. This approach in the RIA is inadequate as it only considers three sites and should actually include a detailed search and review of all opportunities close to and within the town centre and not just those identified in the local plan;

It is accepted that no development opportunities exist in the town centre for this type of retail development. The assessment of the proposed retail development against the sequential test and its impact on the vitality and viability of the Town Centre is considered in Section 5.6 of this report.

(ii) The RIA considers the existing shopping provision and states that within the town centre, the proportion of vacant units is some 2.67% higher than the national average. Given this high level, it should be the Planning Authority's aim to direct any additional retailing into the town centre as opposed to edge of centre.

See response to (i) above. It should be noted that the existing units within the town centre are not of a size and format that would be suitable for this type of development.

(iii) The RIA confirms that there is not sufficient convenience goods expenditure to support the proposed additional convenience floorspace and it acknowledges that the new store will divert trade away from town centre stores to an edge of centre location. It does not therefore robustly or comprehensively demonstrate that the proposed relocation will not adversely affect the vitality and viability of Kilmarnock town centre and it has failed to identify a qualitative deficiency in retail provision in the Kilmarnock area. The applicant fails to demonstrate that there will be sufficient spend to support an overall turnover of £31.71m and in its methodology has adopted very generous test years of 2008 in its retail analysis. It is also noted that the highest trade will come from Asda, Tesco (both at Fowlds Street and Glasgow Road although the Kwik Save store will also be affected. In respect of Fowlds Street this is a town centre store.

See response to (i) above. The use of the test year to 2008 has been adopted in line with similar criteria used by the Ayrshire Joint Structure

Plan Team. The total expenditure in convenience was assessed in order to determine the impact of the new superstore. It is not considered that the impact on the Town Centre will be significant. It should also be remembered that this is a relocation of an existing store with a modest net increase in convenience floorspace of 945m² in Kilmarnock. The qualitative impact has been raised by Bryce Associates Appendix 1.

(iv) the findings of the RIA are disagreed with and objection offered to its use as a material consideration in the determination of the application. The sequential approach undertaken identifies that there is no suitably sized site available in the town centre and no surplus of expenditure within the catchment. It does not however, address the issue of need for additional retailing. Therefore the new store would remove some £2.87m from similar stores and divert £2.6m in comparison goods from existing town centre retailers with greater impact on small traders.

See response to (i) above. The analysis undertaken by the Ayrshire Joint Structure Plan Team highlight scope for additional comparison floorspace. The impact of the store on town centre shops, as highlighted by the applicant in the Retail Impact Assessment is considered to be realistic and therefore not significant on the town centre. It is further considered that many of the comparison goods purchased will be 'impulse' buying and will as stated in the Retail Impact Assessment have the greatest impact on Asda which is an out-of-centre store.

(v) the extended range of convenience and comparison goods is such that most town centre traders will suffer and it is likely that some are currently under trading and removal of further turnover could result in them being less viable. In this regard, the future of the Tesco store in Fowlds Street could be uncertain, King Street shops could close or relocate to Glencairn Retail Park such as at the existing Safeway store. The RIA does not consider the potential for vacant shops in the town centre;

See response to (i)-(iv) above.

(vi) the RIA states the Safeway in Stewarton will suffer a 3% decline in turnover and it provides a questionable conclusion that assumes the store is overtrading and can sustain this loss. Notably, the Co-op foodstore in Galston has been omitted from consideration;

As the applicant also operates the store in Stewarton it is assumed and accepted that this impact is accurate. It is not considered that an impact of 3% is significant. The Galston Co-op has been highlighted within the RIA and the impact of the proposal on the store is negligible.

(vii) the RIA attempts to justify the development on the basis of relocation of industry;

The linkage with the industrial user is discussed in Section 6.

(viii) the application's assertions of trade diversion are questionable certainly in terms of Kwik Save where the store manager does not believe that there would only be a £0.15m trade diversion the figures for Tesco also appear deficient at £0.33m. This figure should be independently assessed.

It is also important to note that the current application is for largely replacement floorspace for an existing store with an additional comparison goods sales area. Therefore whilst it is acknowledged that trade diversion will take place and that it could be greater than that specified by the applicant in the Retail Impact Assessment, given that the property is largely replacement floorspace it is not considered that the impact assessment contained in the RIA is overly optimistic. The impact on the town centre as a whole, is not considered to be significant enough to merit refusal of the application.

(ix) The proposals for the existing store should be considered in tandem with the proposals of the new store.

This application is being considered on its own merits as it is largely a replacement store.

4.11 The Retail Assessment (2002) undertaken by Bryce Associates for the Council states that the proposal is designed so that it is likely to operate as a stand-alone store and unlikely to encourage linked trips. The Report states that there are opportunities to encourage linkages between the town centre and therefore, the design of the proposal is unlikely to encourage linked trips. The store entrance lies some 167 metres from the town centre boundary and a further 466 metres from the retail core. It is also likely to withdraw a certain level of trade from existing town centre stores, in particular Kwik Save with no quantitative need for further convenience floorspace. The report advises that a study should be undertaken to consider the potential of integrating the store with High Glencairn Street examining the retail, commercial, leisure, residential and transportation issues.

Members are referred to Section 5 of this report and Appendix 1 which considers the report from Bryce Associates. The application has been amended since originally submitted in order to establish linked trips to the town centre as discussed in Section 2.11 of this report.

4.12 The development is contrary to Policies 4.3.2, 4.3.4, 4.2.3, 4.4.2 and 5.4.3 in that the proposed development would exceed the provision of retail floorspace for local need and create a surplus of convenience floorspace outside the town centre. Subsequent developments (the existing Safeway, Glencairn Retail Park, Queens Drive and Tesco at Glasgow Road), reinforce the grounds of overprovision for a town which has a declining population and where existing supermarkets have the necessary capacity to absorb any increase in spending power/turnover.

The proposed development has been assessed against the Adopted Kilmarnock Local Plan in Section 5.2 of this report and is essentially

contrary to these policies. However, the Adopted Local Plan is significantly out-of-date and minimal weight should be attached to it.

4.13 The proposed site lies outwith the town centre and has not been identified for change. It is therefore contrary to Policy RTC4 it is not identified for retailing and contrary to Policy RTC5 as the applicant has not met the stated criteria, Policy RTC6 without an RIA or TIA and RTC7 as the site lies out of town centre not identified for retail purposes.

The provisions of the East Ayrshire Local Plan Finalised Version with Modifications 2002 are discussed in Section 6.2 of this report and the proposal is assessed against all policies. It is not considered that Policies RTC4 and RTC7 are relevant.

4.14 The proposal will prejudice the Council's aim to revitalise the Secondary Shopping area along Titchfield Street which will continue to decline as the retailing centre moves further south. The site also significantly avoids the frontage of High Glencairn Street which clearly requires redevelopment.

The effect on the regeneration of town centre has been considered within the context of the Councils Strategy for Regeneration of Kilmarnock Town Centre which is discussed in Section 6.8 of this report.

4.15 The proposal will prejudice the Council's plans to support development of the derelict site at Burnside Street/Tannock Street and it is considered that the applicant would be better served by extending their existing site into Burnside Street. Such proposals, if they can be justified, would have less environmental impact.

The Council is required to consider the merits of this application. A separate application lodged by Stoddards for the demolition of the existing BMK office building and erection of Class 1 retail unit (Ref. No. 01/0573/OL) is currently being considered.

4.16 The site is an established traditional industrial area and under the terms of NPPG2 and IND8 of the EALP, the Council is required to provide an adequate supply, choice and range of marketable land for business and industry. The site has great potential to meet the needs of small businesses and the use of the land would be detrimental to surrounding established uses thereby contrary to IND8.

The proposal is not contrary to Policy IND8 of the East Ayrshire Local Plan Finalised Version with Modifications 2002 and therefore does not conflict with NPPG2. The alternative use of retail will not be detrimental to surrounding properties and complies with the other relevant policies of the EALP as detailed in Section 6.2 of this report. The EALP has sufficient safeguarded industrial land for industrial purposes. It should also be noted that the Stoddard's Mill buildings are older buildings which would be inappropriate for conversion into smaller industrial

units of modern design and layout required by today's industrial/business sector.

4.17 The nature of the proposed environmental improvements are not indicated on the plans yet appear to extend to Titchfield Street/Fowlds Street junction. If pavement widening is proposed, this will adversely affect traffic capacity, vehicle manoeuvring in addition to requiring on-street parking restrictions.

The proposal seeks outline planning permission in order to establish the principle of the development. It is entirely appropriate should Members choose to grant consent, that these details can be conditioned to be received as a reserved matter. At such time the Council's Roads and Transportation Division would be consulted in order to establish that traffic capacity and vehicle manoeuvring is not adversely affected.

4.18 The additional egress/access point on West Netherton Street/Mill Street is unclear and will alter existing traffic patterns requiring amendment to the TA and creating an additional unacceptable and dangerous traffic conflict.

The revised plans clearly show the access and egress arrangements at West Netherton Street. The applicant's TA has been amended and has been agreed with the Council's Roads and Transportation Division. It is not therefore considered that these arrangements are a traffic safety hazard.

4.19 Mill Street is not detailed on the development description.

The latest set of plans and forms include Mill Street within the application site details and neighbour and owner notification has been issued accordingly. The stopping up of this street forms a separate action by this office under the appropriate legislation.

4.20 The plans do not illustrate how the road opening at West Netherton Street is compatible with the construction of a flood wall along the south side of West Netherton Street where it abuts the site boundary.

Such matters would be considered as a reserved matter should Members choose to grant consent.

4.21 The plans indicate the positioning of a re-cycling centre at its north western corner opposite residential properties and therefore inappropriate in terms of noise, smell, traffic disturbance and nuisance. In addition, the recycling centre is located beside a well-used pedestrian route into Howard Park via the bridge. Furthermore, the centre will require to be serviced by large refuse vehicles with no indication of turning circles.

The location of the recycling centre within the application site is not fixed under the terms of this application. Should Members grant

consent, the siting of this centre would be agreed at the reserved matters stage in consultation with Environmental Health and Waste Management.

4.22 Safeways current proposals will result in a visual break in the town centre frontage at High Glencairn Street with the creation of a car park. Furthermore, the application by Stoddards for redevelopment on High Glencairn Street extends in part into Safeways current application site thereby reducing dedicated and presumably required number of car parking spaces.

The planning application by Stoddards' aims to regenerate the dilapidated section of High Glencairn Street by demolishing existing buildings and creating a new frontage for this area of the town centre. The application sites overlap for this area of car parking although the level of parking affected is not considered to be significant.

4.23 It is difficult to understand why the developer has purchased the site prior to being given permission given the potential for flooding and objection to the Flood Assessment is offered as follows:

- (i) the Flood Assessment admits that only the presence of the current buildings right onto the riverbank has prevented previous inundation and it aims to secure the new superstore and car park from flooding but pays scant attention to surrounding properties
- (ii) it is essential that Kilmarnock Removals are not compromised by this development as its levels are some 0.5m AOD below the site and the Council has a duty to protect long-established businesses below that of the site;
- (iii) queries are offered on the post development flood level and the assertion that the flood risk to the Howard Park will remain as at present;
- (iv) It appears that the applicant intends to construct any new parking/service bays at a lower level than the store which could be as a safety valve in event of a flood. These hard surface areas could be used as detention ponds as at Asda where members of the public were not informed of the anticipated use and use of the car park for flood attenuation;
- (v) the proposal to build a flood wall of 24.8 metres in height across the site adjacent to West Netherton Street blocking the access to Mill Street is unacceptable and will block a public road whilst also increase the potential diversion of flood water to surrounding properties with visual implications;
- (vi) the flood defence wall to be located to abut onto the bridge at West Shaw Street whilst necessary, has not been shown by the applicant to be within his ownership/control;

(vii) the applicant has not submitted any plans that detail the proposed walls and if no wall is proposed on Howard Park, there will be increased erosion on that bank when the river is in space;

(viii) overall the Flood Assessment states that there is no significant impact on Flood Risk at upstream/downstream locations from the proposed development.

East Ayrshire Council Roads and Transportation Division was consulted on the above objection and has responded as appropriate:-

(i) Any Flood Assessment for any development is required to take account of any potential impact on properties upstream, downstream and adjacent to the proposed development and this was addressed in the applicants' Flood Assessment.

(ii) East Ayrshire Council Roads and Transportation Division in considering the proposals, have failed to see how the proposed development will materially affect the operation of this business in terms of a flood risk;

(iii) the applicant has offered no evidence to support this claim and in the absence of such, Roads and Transportation consider the applicant's Flood Assessment to remain valid;

(iv) the car park has not been specifically designed to be a detention pond. The levels of the car park relate closely to existing ground levels;

(v) the applicant's Flood Assessment has stated that there is no significant impact on flood risk at upstream or downstream locations from the proposed development. In the absence of any supporting evidence from the objector, the Flood Assessment remains valid. The flood wall is recommended to be constructed to a height of 24.8m AOD which means 'above sea level' and the wall will not be to a height of 24.8m on site from ground level. The final appearance of the flood wall shall also require the further approval of the Council under the terms of the proposed conditions.

(vi) the applicant will be required to liaise with the Council's Roads Design Section with respect of the tie-in to the West Shaw Street Bridge. At this location, the responsibility of the road corridor lies with the Council. If Members choose to grant consent, it would be prudent to add an advisory note, requiring early contact with the Roads and Transportation Division.

(vii) There is an existing defence barrier on the left bank of Kilmarnock Water pre-development and there will be a similar defence barrier post-development on the left bank. As such, there will be no change as to how the Kilmarnock Water will flow in times of spate.

4.25 The applicant's Accessibility by Sustainable Modes Report appears to be a desk study with little realisation of the chaotic traffic management in the area or the real problems in trying to use public transport for weekly shopping. In particular it has the following deficiencies:-

(i) It is suggested that 200m is the distance that passengers would accept a 'reasonable walk' to a 'public transport corridor'. This may be a reasonable distance from a bus-stop when going shopping but the distance could be greater enroute to a store. Realistically, the return journey whilst carrying shopping and perhaps pushing a pram is a journey few would realistically take;

(ii) The study suggests 38% of householders do not have cars and can be excused from visiting an out-of-centre store. If one member of a household uses the car for work, then a lower proportion of cars could be available and it is unclear whether the car ownership figures provided are national or refer to the catchment. If national, then the projected car based trips would be incorrect;

(iii) It is ludicrous to suggest that the car park could be used for park and ride or park and walk to travel a ½ mile into the town centre. If so, then the car parking provision may not be adequate.

(iv) It is not envisaged how the new store will act as a catalyst to encourage people to walk into the town centre to existing stores. The shortest route would most likely be via the Howard Park which could be problematic due to the proposed flood walls, and walking to the town centre will be an unattractive prospect, due to traffic congestion, emissions and danger to pedestrians at Glencairn Square and King street/St Marnock Street;

(v) The notion of cycling in this already heavily congested area without further conflict is naïve;

(vi) The frequency of buses, their start/finish times and level of service has not been addressed and has the possibility of shoppers having to change bus services to access the store.

The applicant's Accessibility by Sustainable Modes Report has been considered in detail by the Roads and Transportation Division. The requirement for the establishment of a hopper bus service will allow customers direct bus connections to the town centre and other public transport generators and will in part, be funded by the applicant. The hopper bus will be able to access the store directly and appropriate timetable information will be provided. This facility will also be available for existing bus services should the operator choose to run buses directly to the store. It is also intended that additional bus stop facilities will be sought from the developer on High Glencairn Street. Furthermore, if the application by Stoddarts is acceptable, the pedestrian link that this proposal is envisaged to provide will enable a walking distance to the store from High Glencairn Street would be approximately 100 metres.

4.26 The proposal will result in the closure of the already struggling Portland Gate at the north-west of the town centre and will not attract pedestrians to the southern town centre boundary;

The effect on the regeneration of the Kilmarnock town centre (including the top of the town) has been considered in Section 6.8 of this report.

4.27 Overall the proposed development will not promote Kilmarnock town centre as the prime location for retail development and nor will it encourage the retention and re-use of all retail premises in the town centre for continued retail use. In addition it would compromise the considerable public and private investment on rejuvenating Kilmarnock's town centre.

The effect on the regeneration of the Kilmarnock town centre has been considered in Section 6.8 of this report and it is not the opinion that the proposed development will affect adversely the Kilmarnock town centre as a prime retail location. The environmental improvements may encourage shoppers to use more outlying areas of the town centre.

4.28 The demolition of the factory will cause chaos due to dismantling of the building, increased traffic, road closures, smells from drains and vermin.

Noted. The proposed demolition of the factory buildings does not in itself require planning permission. Any demolition works will require to satisfy Building Control and undertaken in a safe manner. Whilst it is always the intention to minimise disruption, there may be some inconvenience to neighbouring properties.

4.29 90% of the application site lies outwith the town centre boundary.

It is accepted that the majority of the site falls outwith the town centre boundary although it is considered to be adjacent, and in the absence of any suitable alternative sites within the town, it is considered that it meets the requirements of the sequential test (see Section 5.6).

4.30 The development would not be as accessible as existing town centre supermarkets, there would be a detrimental impact on traffic patterns and flows.

The applicant has submitted TA which is acceptable the Roads and Transportation Division.

4.31 The applicant's Traffic Assessment provides no figures of existing traffic volumes on Mill street and provides no figures of existing/projected traffic volumes for West Netherton Street/Nursery Street/Douglas Street. It is considered that if such information were available, the impact of the revised access arrangements would be easier to assess in terms of their impact on adjoining premises. Until these figures have been received, it is considered that the Council cannot reach a decision on the application.

East Ayrshire Council Roads and Transportation Division have advised that:-

The TA shows that diverted Mill Street traffic can be safely accommodated on the surrounding road network. Physical network improvements are proposed on West Shaw Street which will increase the network capacity to accommodate predicted traffic volumes including the diverted Mill Street traffic and the new store generation.

Traffic to and from the development to the north will use the West Netherton Street store access/egress. Appropriate traffic management/traffic calming measures on Nursery Street and Douglas Street are to be provided by the developer to deter the use of these roads by development traffic. The provision of traffic signal control at the High Glencairn Street/West Netherton Street junction will provide guaranteed, safe, unopposed entry onto High Glencairn Street from West Netherton Street. The developer has indicated that the traffic flow on Titchfield Street will not change significantly as a result of the development and consequently signalisation of this junction is not required.

It is anticipated that the West Netherton Street access will be used by traffic from the northern parts of the town and that all other traffic will access the development via the West Shaw Street access. East Ayrshire Council Roads and Transportation Division has sought traffic calming/traffic management measures which will deter any extraneous traffic on Nursery Street and Douglas Street.

4.32 Creating a new opening on the northern site boundary at West Netherton Street would result in the flood wall being breached. Safeway have advised that the car park will be the retention area for any floodwaters and could lead to water entering surrounding properties. This will have serious consequences for Kilmarnock Removals and elderly residents living nearby.

East Ayrshire Council's Roads and Transportation Division have advised their understanding of the proposed amendments and that these will require a revised Flood Assessment. It considered that this can be satisfactorily dealt with by planning conditions should members choose to grant consent.

4.33 The applicant's traffic consultant has provided additional information that suggests a projected increase (weekday peak) of 67 vehicles per hour on West Netherton Street by 2013. There is no indication of what proportion of all expected customers cars, buses and taxis have been assigned to this northern entrance/exit and the projected increase seems questionable given the proposed displacement of traffic. The information provided exemplifies the additional delay/congestion in the surrounding area to Glencairn Square.

The figure quoted is the net impact on West Netherton street taking account of the additional impact on additional traffic generated by the development and the reduction in traffic associated with diverted traffic away from Mill Street.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (1999) and the Adopted Kilmarnock Local Plan (1985). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan. In arriving at the views expressed in this section the Council has taken into account the views of consultees in Section 3, objectors in Section 4, the applicants RIA as summarised in Appendix 1 and the report by David Bryce commissioned by the Council summarised in Appendix 2.

Adopted Kilmarnock Local Plan

5.2 Notwithstanding the age of the Adopted Kilmarnock Local Plan the proposal requires to be assessed against its relevant policies. The majority of the application site is located on the edge of the town centre, indeed part of the site falls within the town centre boundary. Policy 4.3.2 allows additional retail convenience floorspace outside the Kilmarnock town centre where it is intended for the sale of daily provisions to meet an identified local need, and is a unit of not more than 200 square metres. Policy 4.3.3 allows durable retail floorspace of a single shop unit of not more than 200 sq metres for sale of goods which are of a type not normally sold in the town centre or directly related to goods specifically manufactured on site. If the development does not accord with Policies 4.3.2 and 4.3.3 above the retail development should not be allowed in terms of Policy 4.3.4. These policies were formulated to prevent an oversupply of retail floorspace which would have a detrimental effect on existing shopping facilities in Kilmarnock town centre.

The proposed superstore is essentially contrary to the above policies as it fails to meet the above criteria. However, the Adopted Local Plan is considered to be significantly out of date as the retail sector and Government guidance on retailing has moved on considerably since the above plan was adopted. The Adopted Local Plan identified a surplus of retail floorspace by 1989 however this has been superseded by the retail developments at Glencairn and Queens Drive in the 1990's. Although the above Plan was adopted in 1985 and predates the sequential approach to retailing advocated in NPPG 8 "Town Centres and Retailing", the overall objective of the above policies was to maximise the opportunities for improving the quality and range of existing facilities within Kilmarnock town centre. It is considered that minimal weight should be attached to the Kilmarnock Adopted Local Plan.

Ayrshire Joint Structure Plan

5.3 The Ayrshire Joint Structure Plan was approved on 24 January 2000. The proposed development would fall to be considered against Policies ADS2, 3, 7, 8 and Policies L7, L8 and L9. **Policies ADS2 and 3** seek to protect and promote the vitality and viability of existing settlements. **Policy ADS7** promotes the principle of sustainable development while **Policy ADS8** aims to achieve a balanced and integrated transport strategy. **Policy L7** refers to measures to promote and enhance town centres and **Policy L8** encourages the viability, vitality and design quality of existing town centres. Proposals for major new retail developments should be assessed against **Policy L9**.

5.4 **Policy ADS2** promotes Ayr/Prestwick/Troon, Irvine/Kilwinning and Kilmarnock as the primary locations in Ayrshire for all major residential, economic, commercial, cultural, educational and community developments. **Policy ADS3** directs new residential, economic, commercial, cultural, educational and community development to settlements as defined by Local Plans.

It is considered that the proposals are in accord with these policies.

5.5 **Policy ADS7** encourages the Ayrshire Council's to adhere to the principles of sustainability in considering significant development proposal and identifying sites for development in local plans.

It is considered that the proposals are in accord with this policy, the application site being a brownfield site adjacent to the town centre.

5.6 **Policy ADS8** encourages the three Ayrshire Councils to implement a balanced and integrated transport strategy which seeks to:

- A Improve accessibility for all;
- B Give priority to transport proposals which encourage economic development;
- C Contain, and if possible reduce, emissions, noise, danger, pollution and congestion caused by road traffic; and
- D Promote the responsible and efficient use of motor vehicles for necessary journeys where there are no practicable alternatives.

The application has been accompanied by a Transport Impact Assessment. Details of the Traffic Impact Assessment are discussed in Sections 2 and 3. The accessibility to the public transport network is discussed in Section 5.6.

In conclusion, it is accepted that the development is appropriate in terms of these criteria.

5.7 **Policy L9** requires retail development above 1500 square metres gross floorspace to be justified against the following criteria:-

- A whether the applicant adopted a sequential approach to site selection considering fully alternative sites in, and then adjoining, existing town centres;

- B effect on the viability, vitality and character of existing town centres either as an individual development or cumulatively with similar existing or approved developments (including those in adopted local plans);
- C existing and proposed floorspace that can be supported;
- D accessibility to the public transport network;
- E accessibility by means other than the private car;
- F effect on important neighbourhood retail facilities and small shops; and
- G the potential to integrate convenience and/or comparison goods floorspace.

A Sequential Approach

It is recognised that there are no development opportunities that exist in the town centre for this type of retail development. The two town centre development opportunities identified in the Finalised East Ayrshire Local Plan at Armour Street and John Finnie Street are not considered suitable for the proposed development. The retail consent at Armour Street has been taken up and although not all elements of the consent are fully operational, MFI has commenced trading in the largest unit. John Finnie Street can be discounted because of its size. Therefore the proposal requires to be considered against opportunities which exist in edge of centre locations.

NPPG 8 defines 'Edge-of-centre' as "a location within easy walking distance of the town centre, and usually adjacent to the town centre, and providing parking facilities that serve the centre as well as the store, thus enabling one trip to serve several purposes."

The only other potential edge of centre site is at West Langland Street for which planning consent for retail development has recently been granted. This application is discussed in Section 6. All other development opportunities to the north, south, east and west of the town centre are limited in scale and sites at Queens Drive are considered to be out of centre.

The application site is immediately adjacent to the town centre boundary. The physical and proposed environmental improvements to the streetscape between the application site and the core town centre shopping boundary at Fowlds Street will encourage linked trips. The applicant is prepared to enter into a Section 75 Agreement to secure these streetscape improvements.

In conclusion it is accepted that the application site meets the terms of the sequential test and the physical improvements agreed by the applicant will strengthen the linkages between the site and the town centre.

B Effect on Viability, Vitality and Character of Town Centre

The impact of the proposal on the out-of-centre Asda and any other out-of-centre store is not a relevant planning consideration. It is only the impact which the store will have on the town centre as a whole that is considered material.

In regard to the retail capacity assessment carried out by the AJSP team, the RIA submitted by the applicant and the retail assessment by Bryce Associates, it is accepted that there is no capacity for any additional convenience floorspace in the Kilmarnock area. However, the comparison capacity assessment indicated that there was likely to be a surplus of comparison expenditure over turnover.

Comparison Goods

It is estimated in the Retail Impact Assessment, produced by the applicant, that £4.14 million of comparison trade is likely to be absorbed by the new store, of which £2.6 million will be from the town centre. The Assessment states that the existing Safeway has a comparison turnover of £0.39 million, which would indicate an overall increase in comparison turnover of £3.75 million with a resultant impact on the town centre of 2%. The RIA considers that the non-food goods proposed by Safeway may overlap with goods sold by a number of retailers i.e. Boots, Woolworths, Superdrug, BHS and Marks and Spencers (in relation to these stores homeware ranges) together with a number of retailers that sell music, videos and video games.

This Division considers the figures to be a realistic projection. It is considered that the proposal would also help to claw back expenditure leakage out of East Ayrshire and that the nature of comparison shopping in major superstores is more orientated towards impulse buying while on a food shopping trip than specific non-food shopping trips. It is further accepted by the Division that the major impact will be on the out-of-centre Asda superstore. The proposal is unlikely to raise any significant capacity issue even taking account of the recent Armour Street and the West Langlands Street permissions. The Division concurs with the Retail Impact Assessment that and that even if some £4.14 million is diverted from existing shops rather than met through expenditure growth, the impact on the town centre would be within acceptable levels.

Convenience Goods

The existing Safeway store at Glencairn Retail Park achieves a turnover of £24.70m. The RIA assumes that the existing store will close and will not operate as a food superstore. Accordingly the RIA submitted by the applicant confirms that the new store will achieve a total convenience turnover of £27.57m (based on company average turnover). It is anticipated that the additional £2.87m of turnover will be derived from trade diversions from other existing convenience stores within the Kilmarnock catchment area. The RIA states indicates that the greatest impact, £1.92 million (8%), will be on Asda (an out-of-centre superstore) then Safeway in Stewarton (3%). £0.48 million will be diverted from Kilmarnock town centre, the main impact stores being Tesco (2%) and Kwik Save (2%). The overall impact on other town centre stores is estimated as 1%.

On the assumption that the existing Safeway store will cease trading when the new superstore opens, the Council considers the above impact figures acceptable. As the new store is, to all intents and purposes, a replacement store with an increase in floorspace of 945m² (10,172 ft²) it is not considered that the proposal will lead to the closure of town centre stores.

The new superstore will also provide a qualitative opportunity for convenience shopping with wide aisles, more check outs and improved parking and access. The facilities that will be provided in the superstore will also be substantial.

In conclusion the impact of the new superstore on the town centre is minimal provided the existing Safeway store is closed and it will provide a large quality superstore adjacent to the town centre.

C Existing and Proposed Floorspace

This is discussed in Section B above.

D Accessibility to the Public Transport Network

The application site is served by a bus service. A Green Transport Plan has been submitted, which offers staff and customers the opportunity to travel to the store by more sustainable means of transport. The applicant has agreed to make a financial contribution to a hopper bus service which will link the site to the railway station, bus station and other town centre locations. New bus infrastructure such as setting down points are proposed within or adjacent to the site together with appropriate public transport timetable displays. It is proposed to strengthen the pedestrian links between the site and the town centre/core area by undertaking physical improvements to High Glencairn Street and Titchfield Street to encourage pedestrians to walk from the core area to the superstore and vice-versa. This will offer the shopper both choice and accessibility to the superstore.

In conclusion it is considered that the proposal meets the terms of the criterion.

E Accessibility by Means Other than Private Car

This is discussed in Section D above.

F Effect on Important Neighbourhood Retail Facilities and Small Shops

It is considered that the proposed superstore will not have an unacceptable detrimental impact on important neighbourhood retail facilities that are reasonably distant from the proposed store. There will be an impact however on small shops close to the site. The impact is difficult to predict as many of the shops cater to a different market. In any case this impact has to be balanced against the benefits of obtaining a quality superstore of a scale that does not currently exist in Kilmarnock.

G Potential to Integrate Convenience and/or Comparison Goods Floorspace

The proposal involves a net sales area of 3,716 square metres used for convenience goods and 1,858 square metres used for comparison goods within a new unit

adjacent to the town centre. Comparison goods envisaged to be sold in the superstore include household electricals, audio visual items, health care and beauty products, mother and baby products, seasonal items, stationery, clothing and general household goods.

In terms integrating the proposed superstore to existing convenience and comparison goods floorspace within the town centre the environmental improvements along High Glencairn Street and Titchfield Street will help considerably to achieve this.

5.8 **Policy L7** encourages Council's to bring forward proposals to promote and enhance town centres in Ayrshire through measures that encourage a wide range of retail, commercial, leisure, business, culture and arts facilities and residential uses, promote environmental improvement and improve pedestrian and cycle access, improve public transport links and provide for appropriate levels of car parking.

The applicant is proposing a number of measures to integrate and enhance the proposed development with the core shopping area. This would involve providing quality hard and soft landscaping, seating areas and signposts. These measures would strengthen the walking links between the proposed development and the core shopping area. The applicant has also agreed to provide a contribution to the hopper bus services which would link the development to the railway station, bus station and other town centre facilities. It is also hoped that it will provide a catalyst for new investment in this southern end of the town centre and High Glencairn Street in particular.

5.9 **Policy L8** promotes the viability, vitality and design quality of town centres by application of the sequential test for new development. It also encourages development of a size and scale appropriate to the function of the town centre and that it should (with modifications) serve the needs of the town and its catchment population.

The Finalised East Ayrshire Plan with Modifications 2002 accords with this policy direction and the issues under the policy are specifically dealt with under Paragraph 5.6 above.

In conclusion, the proposal is considered to be in accord with the Approved Ayrshire Joint Structure Plan. No sites exist or can be feasibly assembled in the town centre for this type of development. The development is proposed in the best available edge-of-centre site. The proposal is largely replacement floorspace that will have no appreciable impact on the vitality and viability of the town centre if it replaces the existing Safeway store. It can also be integrated fully with the existing retail floorspace.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations comprise the East Ayrshire Local Plan Finalised Version with Modifications (EALP) 2002, Government guidance contained in NPPG 8 "Town Centre and Retailing", the consultation responses detailed in Section 3 above, the objections detailed in Section 4 above, the planning history of the site and the effect of the development on Stoddards.

East Ayrshire Local Plan Finalised Version with Modifications 2002

6.2 The Adopted Local Plan is considerably out of date and it is considered appropriate that greater weight should be attached to a more recent expression of policy. The Council has agreed that, where applicable to an application, the policies of the EALP (as modified) should be considered as a prime material consideration.

6.3 Policies RTC1, RTC3, RTC5 and RTC8 are relevant in terms of the retailing component of the application. **Policy RTC 8** requires all major retail developments which create over 1,500m² gross retail floor space to be supported by formal Retail Impact Assessments addressing the criteria detailed in **Policy RTC 5** of EALP. Transport Impact Assessments will also be required where major retail or commercial leisure development proposals have significant transport and traffic implications.

The application has been accompanied by both a Retail Impact Assessment and Transport Impact Assessment. Details of the Transport Impact Assessment are discussed in Sections 2-5 and 3-1. The content of findings of the RIA are discussed in Section 5 of the report.

6.4 **Policy RTC 1** adopts a sequential approach in assessing development proposals for retail, commercial leisure developments and other uses appropriate to town centres as described in Schedule 5 of the Plan. Developers will be required to direct all such development firstly to town centres as identified on the Local Plan maps and secondly to edge of centre locations in preference to out-of-town centre locations. Applicants proposing such developments in out-of-town centre locations shall require to demonstrate that no suitable alternative site can be found or assembled within town centres and thereafter in an edge of centre location. **Policy RTC 3** requires all retail developments of a gross floorspace exceeding 1,500m² to be directed to Kilmarnock and Cumnock Town Centres. This policy was formulated to protect the vitality and viability of Kilmarnock town centre.

The application of the sequential approach to selecting a site for the superstore is discussed in Sections 5.6 of the report. The proposed store will operate as an "edge of centre" store and is compliant with Policy RTC1. However it requires to be assessed against Policy RTC 5.

6.5 As the proposal is considered to be outwith the town centre it requires to be assessed against **Policy RTC 5** which states:

- (i) whether the applicants have adopted a sequential approach and can demonstrate that no suitable alternative sites are available within or on the edge of town centres;
- (ii) whether the proposal would affect, either individually or cumulatively, the vitality and viability of town centres and whether the scale of the proposal is appropriate to its location;
- (iii) whether the proposal is accessible to a choice of means of transport;
- (iv) the effect of the proposal on travel patterns, infrastructure and road works;
- (v) whether the proposal would be compatible with other uses in the surrounding areas;
- (vi) whether the design of the proposed building would be acceptable;
- (vii) the effect of the proposal on the environmental quality, character and amenity of the area; and
- (viii) whether the proposed would be compatible with other local plan policy objectives.

Criteria (i) to (iii) of Policy RTC5 are similar criteria used in Policy L9 of Ayrshire Joint Structure Plan and are addressed in Section 5.6 of the report.

(iv) Implications on Existing Infrastructure

A TIA has been submitted for the proposed development and it is discussed in Section 3.1 of the report. The proposed use can be accommodated on the site without giving rise to traffic difficulties on the existing infrastructure. No objections to the proposed development have been offered by the Roads and Transportation Division in terms of traffic issues (detailed in Section 3.11).

(v) Compatibility of Use

The proposed superstore is compatible with the surrounding area as it is to be sited in a mixed land use area surrounded by commercial, industrial and residential uses. The existing Glencairn Retail Park is adjacent to the application site. No objections have been offered by the Roads Division in terms of traffic issues.

(vi) Design and Finish

It is envisaged by the applicant that the store will be of a high quality design. Details of the design and layout of the superstore would be the subject of a further application for detailed planning consent.

(vii) **See response to (vi) above.**

(viii) **Compatibility with Other Policy Objectives**

The proposal does not conflict with the other policy objectives of the EALP. In particular the proposal will assist Stoddard International PLC to consolidate their operations and continue to operate and provide jobs in Kilmarnock.

NPPG 8 “Town Centres and Retailing” Revised 1998

6.6 National planning guidance recognises the important role town centres have in society and the Government is committed to protecting and enhancing the vitality and viability of town centres. Town Centres offer a range, quality and convenience of services and activities that are attractive not only to the local population and visitors but also to investors. The guidance advocates the sequential test approach for selecting sites for new retail development, with first preference to town centre sites followed by edge-of-centre sites and only then by out-of-centre sites in locations that are or are easily accessible by a choice of means of transport. Both the policies of the AJSP and EALP reflect the guidance contained in NPPG 8.

6.7 Paragraph 45 of NPPG 8 states that where a proposed development is not consistent with the development plan it is for the developer to demonstrate why an exception to policy should be made. Such proposals should be rigorously assessed against the policies set out in NPPG 8 and should be refused if all criteria contained in para 45 cannot be met. Criteria such as the sequential approach, effect on the vitality and viability of the town centre accessibility impact on the local infrastructure are duplicated in the criteria of Policy L9 of AJSP and Policy RTC 5 of EALP.

The proposed retail development is assessed against the criteria in para 45 of NPPG8 within Sections 5 and 6 of this report.

Strategy for Regeneration of Kilmarnock Town Centre

6.8 The above application should also be considered within the context of the strategy for the regeneration of Kilmarnock town centre approved by Development Services Committee on 7th May 2002. The proposed regeneration strategy builds on known current investment interest. This includes supporting office development to bring jobs into the town centre, housing to bring homes back to the town centre and retail investment to bring shoppers back into the town. All three types of development would be drawn together to increase the activity in the traditional core of the town centre and create a multi-function town centre in line with the objectives of the Finalised EALP. Key actions include making improvements in the amenity of the key pedestrian thoroughfares linking edge of town locations with the core town centre, seeking support for the hopper bus service and introduction of a shop mobility scheme. Retention of shops in the core town centre to complement retail developments at the edge of town centre locations and promoting residential development opportunities are also encouraged. The strategy for integration with new developments features retail and office developments in the Glencairn Square

area, an enhanced pedestrian thoroughfare leading from Glencairn Square along Titchfield Street and King Street to the top of the town area and a “hopper bus service” linking the top of the town, queen’s Drive and Glencairn Square.

The present proposal by the applicant embodies and promotes many of the actions identified by the town centre strategy as the development includes proposals to improve the pedestrians link between the development site and core shopping area. The developer has also agreed to make a financial contribution to the “hopper bus service” and the shopmobility scheme.

Planning History of the site

6.9 The buildings which occupy the site of the new retail unit and car park, are currently occupied by Stoddard’s carpets. The site has been used for industrial purposes for many years and until recently, has been the subject of various minor applications relating to the industrial usage.

6.10 The site is adjacent to and includes small area of the site of a planning application currently under consideration for 43-69 High Glencairn Street (Ref. No. 02/0725/OL). This application is yet to be determined although comprises an outline proposal for a mixed residential and Class 1 retail development. The indicative layout plans show access from the Safeway site via an access road for resident parking and servicing purposes. The layout details ground floor retail units and three floors of residential above in a modern style echoing the traditional victorian tenement. A central access footpath would lead pedestrians into the Safeway superstore. This site extends to some 4977m² and would result in the demolition of existing buildings on High Glencairn Street including the former McLean Arms.

6.11 A planning application (Ref No. 02.0746/FL) for full planning permission at High Glencairn Retail Park has been lodged to the southern application site boundary. The application site extends to 1.67 hectares and seeks the use of the existing Class 1 Safeway foodstore for non-food retail purposes. The site extends to the Safeway foodstore and car parking area and the application is accompanied by a Retail Impact Analysis, currently under the consideration of the Planning and Building Control Division.

Linkage with Industrial User

6.12 The relationship of the proposed retail development to Stoddard International PLC is a significant material planning consideration. The sale of the land to Safeway from is enabling Stoddard’s to relocate its operations to its Riverside site and provide resources for much needed capital expenditure at the Kilmarnock site. Approval of the retail development would allow for further re-investment in the company. The Head of Economic Development has considerable knowledge of the company’s financial position and is aware that the transaction is critical to Stoddards and their future existence. Their consultation response is material in the determination of this application and states that if the funds for the deal do not materialise, in their view this could result in the closure of the group putting 500+ jobs at risk. The Head of

Economic Development has however advised that there is a need to ensure that the development should not proceed if it will have a material detrimental effect on the town centre.

Other Retail Applications

6.13 01/0560/OL: A similar planning application for a superstore of 85,000 sq ft, and ancillary facilities by KLIN Developments at West Langland Street, Kilmarnock was approved on 25 October 2001. The current application under consideration is not considered to be competing with the KLIN application, as it involves largely a replacement of the existing floorspace of the existing Safeway and is adjacent to the town centre.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications would arise should the Council agree to approve the application as this would necessitate the Council entering into a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with the applicant landowners and other relative parties to secure obligations on the developer as detailed below. The Legal Agreement should contain the following principles:-

1. Closure of the old store on the day of opening the new store.
2. Safeway/Stoddard's to use their "best endeavours" to assist the Council in pursuing a CPO in the interests of the proper planning of the area fronting the site at 43 to 69 High Glencairn Street.
3. A binding commitment to financially contribute to the Hopper Bus Service and Shopmobility Scheme at a level to be agreed with the Council and implementation of the proposals contained in the Green Transport Plan.
4. A binding commitment to provide a contribution of up to £150,000 towards environmental improvements linking the site to the core shopping area comprising quality hard landscaping, soft landscaping, seating areas and signposts, prior to the opening of the superstore in accordance with details to be agreed before the consent is issued.
5. That the retail unit should provide for a quality store by an operator recognised for catering for quality shopping as defined in Section 5.6 of the report.

7.2 The Council is not obliged to notify the Scottish Executive under the Town and Country Planning (Notification of Applications)(Scotland) Direction 1997 if it intends to grant planning permission as the proposal does not represent a significant departure from the Ayrshire Joint Structure Plan and Adopted Kilmarnock Local Plan

approved by the Scottish Ministers, the proposal being largely replacement floorspace for an existing store.

8. CONCLUSIONS

8.1 As is indicated in Section 5 of this report, the application is considered to be contrary to the Kilmarnock Adopted Local Plan although in accordance with the Approved Ayrshire Joint Structure Plan (AJSP). Under Sections 27 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application requires to be assessed against the provisions of the development plan which comprises both these documents and should be refused if considered to be contrary to the development plan unless material considerations indicate otherwise. The Kilmarnock Local Plan was adopted in 1986 and is considered to be significantly out of date, to which minimal weight should be attached. Greater weight should be attached to the provisions of the AJSP which is more recent having been approved in 2000.

The proposal is considered to be in accordance with the Development Plan for the following reasons:

- It is accepted that the site meets the terms of the sequential test as there is no suitable or available site to accommodate the proposal within the town centre.
- The proposed store will operate as an “edge of centre” store and the proposed environmental improvements with help to integrate it with the town centre.
- In terms of vitality and viability of the town centre there is a need for a qualitative improvement in floorspace.
- If a legal agreement can be reached this application can be viewed largely as replacement floorspace of an existing store and has no appreciable adverse impact on the vitality and viability of the town centre.

8.2 Within the context of the development plan the proposal has been modified by the applicant through amendments to the description and application site and by a commitment by the applicant to enter into a Section 75 legal agreement; to make it acceptable in the following way;

- By strengthening linkages to the town centre through improved pedestrian access and with contributions to public transport, the proposal will increase accessibility to the town centre for those with or without a car.
- By agreeing to provide a quality store as outlined in Section 2.10 of this report as providing quality convenience shopping.

8.3 In conclusion, the proposal is in accordance with the Development Plan and the following material considerations add weight to that view;

- The Finalised East Ayrshire Local Plan with Modifications 2002 is more aligned with NPPG8 and the Approved Structure Plan and the site of the superstore being adjacent to the town centre boundary is considered to be acceptable in terms of the sequential test.
- The measures contained within the Green Transport Plan, and the environmental and physical linkages to the town centre and the “hopper bus” services improve accessibility for all to the site and strengthens the link between the site and the town centre.
- The proposed development embodies and promotes many of the actions identified in the strategy for the Regeneration of Kilmarnock town centre.
- The sale of land to Safeway from Stoddard’s will provide Stoddard with an injection of cash which will enable Stoddard to relocate its operations to its Riverside site and to allow for further re-investment in the company.

8.4 On balance and with the context of Section 25 of the Town and Country Planning (Scotland) Acts the proposal in overall terms complies with the Development Plan and is therefore acceptable within the context of the development plan and other material considerations.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheets and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants and other interested parties on the matters set out in principle in Section 7 of the report.

**Alan Neish
Head of Planning & Building Control**

4 December 2002

(FMF/SMcA/MS)

FV/AN

List of Background Papers

1. Application form, plans and statutory notices/certificates.
2. Public Advertisements.
3. Statutory Consultations.
4. Letters of objection.
5. Transport Assessment.
6. Flood Assessment.
7. Retail Impact Analysis.
8. Ayrshire Joint Structure Plan.
9. Kilmarnock Adopted Local Plan.
10. Finalised East Ayrshire Local Plan with Modifications 2002.
11. Bryce Associates Report titled "Retail Assessment for Comparison and Convenience Foods".
12. NPPG1
13. NPPG2
14. NPPG8

Anyone wishing to inspect the above papers should contact Fiona Finlay on 01563 576768.

Implementation Officer: Alan Neish

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/005/OL

Location: West Shaw Street/High Glencairn Street/West Netherton Street/Titchfield Street/Mill Street, KILMARNOCK

Nature of Proposal: Proposed Erection of Class 1 (Retail) Unit with Coffee Shop and Ancillary Facilities, Service Yard, Associated Car Parking, Road Works, Environmental Improvements & Revised Access Arrangements at West Shaw Street, West Netherton Street & High Glencairn Street, KILMARNOCK

Name & Address of Applicant: Safeway Stores plc
Righead Industrial Estate
21 Melford Road
BELLSHILL ML4 3LR

Name & Address of Agent: Montagu Evans
37 Melville Street
EDINBURGH
EH3 7JF

DPO's Ref: FMF/MS

The above OUTLINE application should be granted subject to the following conditions:-

1. The proposed development shall be carried out in accordance with the:-

Location Plan received 18 November 2002; Site Layout ref. No. A2873/P(--)02 Rev C; Overall Site Layout(Environmental Improvements) Plan ref. No. A2873/P(--)09 Rev F; the Transport Assessment Report and Accessibility by Sustainable Modes Report both received 13 November 2002; the final Retail Impact Assessment received 26 November 2002 supplemented by the Montagu Evans letter dated 5 November 2002 and the Flood Assessment received 9 March 2002 as supplemented by the letter from Halcrow received 18 September 2002.

REASON To ensure that the development is carried out in accordance with the approved details.

2. That the indicative layout plans submitted with this application are for indicative information purposes only and shall not be treated as forming part of the issued planning permission with the exception of the proposed vehicle accesses/egresses

at West Shaw Street and West Netherton Street and the position within the application site of the proposed retail unit including service yard at West Shaw Street to the north western site boundary.

REASON The approval is in outline only.

3. Before any development commences on site and notwithstanding the submitted details, the further approval of the Planning Authority shall be obtained in respect of the undermentioned matters hereby reserved:-

- A the layout of the site, excluding those matters detailed in Condition 2 above;
- B the size, height, design and external materials of the proposed retail unit;
- C the layout, design, materials and method of maintenance of all the environmental improvement works;
- D the means of drainage and sewerage disposal;
- E details of the pedestrian and vehicle (including service vehicles) access arrangements excluding those matters detailed in Condition 2 above;
- F the provision for hard and soft landscaping and maintenance arrangements within the car park and elsewhere within the application site;
- G the provision for car parking;
- H all boundary wall/fences including flood retention walls to be erected;
- I finished floor levels and site levels (existing and proposed);
- J direct footpath links from the site to the surrounding streets;
- K details of bus shelters and bus stops to be provided within the site;
- L Public transport timetable displays;
- M Provision for taxis;
- N The location and design of the roundabout to be provided on West Netherton Street and the signalised traffic signals at West Netherton Street/High Glencairn Street;
- O secure cycle parking within the site and cycle links to the public road network;
- P treatment of the western site boundary with Kilmarnock Water.
- Q the location within the site of the re-cycling centre;
- R external lighting details.

REASON The approval is in outline only.

4. The details of the environmental improvement works to be approved under terms of Condition 3(C) above shall be implemented on site prior to the opening of the retail unit and maintained as approved thereafter.

REASON To enhance the pedestrian links between the retail unit and Kilmarnock Town Centre.

5. The gross floorspace of the retail unit shall be limited to 8,825 square metres with a net sales area of 3,716 square metres for convenience goods only and a net sales area of 1,858 square metres for comparison goods only. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 the express written consent of the Planning Authority will be required in respect of variation of these respective maximum floorspace figures.

REASON To restrict the floorspace of the superstore in order to safeguard the vitality and viability of Kilmarnock Town Centre and to enable the Planning Authority to retain control over the use of the site in the interests of local planning policies.

6. At no time unless with the prior written consent of the Planning Authority shall any retail trading occur or goods be stored outwith the internal floorspace of the retail unit hereby approved and the car parking spaces within the site shall be used for no other purpose than car parking.

REASON In the interests of the proper planning of the retail unit.

7. The development hereby approved (including demolition works, site engineering and construction works) shall be undertaken in accordance with the approved relevant code of practice (BS6187) and without detriment to neighbouring properties both residential and commercial by virtue of noise, dirt or general disturbance.

REASON In the interests of amenity and to prevent such established amenity being adversely affected.

8. No external construction work, site clearance or preparation works shall take place before 0700 hours and after 1800 hours Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of residential amenity.

9. No materials other than topsoil shall be brought onto the site for the purposes of infilling or upraising ground levels without the prior written consent of the Planning Authority.

REASON In order to control the development of the site and materials used in the making up of ground levels.

10. The developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free of mud and other material carried from the site by construction and any other vehicles. Such measures shall be submitted and approved in writing by the Planning authority prior to the commencement of any works on site.

REASON In the interests of road safety and the amenity of the area.

11. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved in writing by the Planning Authority. The Sustainable Urban Drainage System shall thereafter be formed and maintained on site in accordance with the approved details prior to the opening of the retail unit.

REASON To ensure that adequate drainage is provided.

12. Prior to the commencement of any works on site a report of site contamination shall be submitted and approved in writing by the Planning Authority. Any such contamination report shall address to the satisfaction of the Planning Authority, the potential and disposal of hazardous material present in the building fabric or internal plant that could require suitable handling/disposal methodology in addition to the possibility of pipework and drainage culverts beneath the site and any remedial treatment to these. The disposal of all wastes shall be undertaken in accordance with Special Waste Regulations.

REASON In order to ensure that the site is free from contamination and suitable for development.

13. Prior to any construction works commencing on site, the measures approved to address the contamination of the site approved under the terms of Condition 13 above, shall be implemented to the satisfaction of the Planning Authority.

REASON In order to ensure that the site is free from contamination and suitable for development.

14. The details to be submitted under the terms of Condition 3 above shall include the following road alterations which shall be provided on site prior to the opening of the retail unit:-

- (i) A mini roundabout shall be provided at the location of the access and egress on West Netherton Street would be acceptable;
- (ii) additional traffic signals will be required at the junction of West Netherton Street and High Glencairn Street. All traffic signal can be connected to the town centre SCOOT system;
- (iii) appropriate traffic calming and/or traffic management will be required on Nursery Street and Douglas Street to deter traffic leaving the store using this route as a rat run to the town centre;
- (iv) the main access point from West Shaw Street shall allow the 'hopper' bus and other existing bus services to access the store front directly. A bus layby with raised kerbs and bus shelter with information panel shall be provided adjacent to the store front;
- (v) additional northbound and southbound bus stops with raised kerbs and shelters shall be provided on High Glencairn Street;
- (vi) All sections of the access road from West Shaw Street to service any further development on High Glencairn Street if to be adopted as public road, shall be constructed to the Roads Development Guidelines standards and have a suitable turning facility.
- (vii) The "hopper" bus service shall link the site with other key locations in the town centre to be agreed with the Planning Authority. This shall be the means of a bus gate located on the main access road at the south end of the application site in order to allow users to be picked up and dropped off at the main store entry/exit and the on-site bus stop provision shall include raised kerbs to allow easier boarding and a bus shelter incorporating a timetable information panel;
- (viii) Additional northbound and southbound bus stops with raised kerbs (and adjusted footway levels to suit) and bus shelters shall be provided at High

- Glencairn Street for use by people wishing to access the store by the existing bus services on that route;
- (ix) The design of the proposed cycle link from the Howard Park across the bridge over the Kilmarnock Water to West Netherton street shall be submitted to the Planning Authority;
 - (x) The location and details of covered secure cycle parking facilities in addition to locker and showering/changing facilities for employees shall be submitted for the written approval of the Planning Authority;

15. Prior to the opening of the retail unit hereby approved, all implementation proposals detailed in Condition 15 above and contained within the Transport Assessment and Accessibility by Sustainable Modes Report, programmes of the report and staff numbers required, shall be executed on site in accordance with the approved details and to the satisfaction of the Planning Authority.

REASON In order to facilitate satisfactory access/egress to the application site and to ensure access is achievable by sustainable forms of transport.

16. Notwithstanding Condition 1 above, prior to any work commencing on site the applicant shall submit and have the written approval of the Planning Authority for the following additional matters to the Flood Assessment:

- A The provision of a drawing detailing the direction of flow paths, extent and depths of inundation post-development for 1 in 50, 100 and 200 year flood events and;
- B The provision of a drawing detailing pre-development inundation for in 50, 100 and 200 year flood events in particular the events on properties north of the development (including Kilmarnock Removals premises (at West Netherton Street).

17. No work shall commence on site until such time as the applicant has provided the Planning Authority with written confirmation from Scottish Water that the existing sewerage system is capable of accommodating the connection of this approved development.

REASON To ensure that adequate drainage is provided.

18. The external lighting scheme required under the terms of Condition 3R shall include details of the lighting scheme for the car park, service areas, circulation areas and building illumination scheme. The overall lighting scheme shall be designed so as to cast light away from nearby and adjacent properties.

REASON In order to prevent light spillage/reflection onto adjacent properties.

19. At no time during construction works shall the applicant dispose of, or allow, any deleterious material to be deposited in Kilmarnock Water.

REASON In order to prevent the pollution of the watercourse.

20. The applicant shall ensure that all time during construction works, all works on site shall be undertaken in accordance with the SEPA environmental safeguards contained within their Pollution Prevention Guidance Notes nos:-

PPG1: General Guide to the Prevention of Pollution;
PPG5: Works in, near or liable to affect watercourse;
PPG6: Working at construction and demolition sites.

The above Guides shall be incorporated and adhered to in all method statements prepared for the site and in particular during the initial construction phase of the development.

REASON In order to prevent the pollution of the watercourse.

21. All damage to the existing public road network shall be repaired to the satisfaction of East Ayrshire Council Roads and Transportation Division and in accordance with the provision of the Road Development Guide.

REASON In the interests of public safety.

22. Further to the provision of details required under the terms of 3G above, the applicant shall submit details of the quality and materials and shall use contrasting colours between the car parking, circulation, service and pedestrian pavement areas.

REASON In the interests of visual amenity.

23. Further to the provision of details required under the terms of Condition 3H, the applicant shall allow for the design of the flood walls along the boundary of the site with Kilmarnock Water to be visually compatible with the Dundonald Road Conservation Area.

REASON In order to ensure a visually acceptable development that does not compromise the character of the conservation area.

24. Prior to any works commencing on site, details of all boundary treatment to the site for the entire period of construction shall be submitted to and approved in writing by the Planning Authority. Any proposed advertisements shall require the express written consent of the Planning Authority under the terms of The Town and Country Planning (Control of Advertisement) (Scotland) Regulations 1984.

REASON In the interests of the visual amenity of the surrounding area.

25. Further to the provisions of Condition 3G above the applicant shall ensure that the external materials of the proposed retail unit are of a superior quality which take cognisance of the Dundonald Road Conservation Area to the west of the application site and the traditional sandstone properties on High Glencairn Street.

REASON In the interests of the visual amenity of the surrounding area and the nearby conservation area.

26. Notwithstanding, the terms of Condition 1 above, a revised flood assessment shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any works on site. The revised Flood Assessment shall consider the new access/egress arrangements to the application site and shall contain any additional measures necessary to address the flood risk and these measures shall be formed on site prior to the opening of the new store.

REASON In order to ensure that the flood risk to the site is not compromised by the proposed development.

Notes

1. Copies of consultations from Scottish Water, Scottish Power and Transco are attached. The applicant is requested to undertake any required make contact with all consultees in early course.
2. Further to note 1 above, no mechanical excavation shall take place within 500mm of Transco plant.
3. Prior to the commencement of any works on site for the development hereby approved, the applicant should satisfy him/herself s to the suitability of the site for construction purposes.
4. The developer shall make early contact with Scottish Water and the Scottish Environment Protection Agency to confirm their request to utilise a Sustainable Urban drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
5. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.
6. All headwalls and trash screen shall take cognisance of CIRIA Report 168 Culvert Design.
7. The applicant is advised to make early contact with East Ayrshire Council's Roads and Transportation Division in order to discuss works required to the West Shaw Street Bridge as a result of the findings of the Flood Assessment. Contact can be made with the Road Design Section at Greenholm Street, Kilmarnock, Tel. No. 01563 576310.
8. The developer is advised to note that all infrastructure to be provided at the request of the Roads and Transportation Division shall be provided at the applicant's expense.

9. Contact at an early date shall be made in respect of the requirement to comply with SEPA's PPG's as detailed in Condition 20. Contact with SEPA can be made through Mr R Izzard on 01292 294000.

APPENDIX 1

Retail Assessment by Bryce Associates

In preparation for the local plan inquiry, the Ayrshire Joint Structure Plan Team carried out an assessment of the capacity and demand for convenience and comparison shopping in the Kilmarnock catchment area to the year 2008.

In November 2001 the Council commissioned independent retail consultants (Bryce Associates) to

- i) comment on all aspects of the study including the catchment area;
- ii) comment on the supply and demand for retail floorspace within the defined catchment area for both food and non-food retail goods;
- iii) advise on the suitability of sites within Kilmarnock to meet any identified shortfall;
- iv) provide assistance in the preparation of evidence for the public local inquiry and if necessary give evidence on behalf of the Council at the inquiry;
- v) comment and advise on current and future applications for retail development within East Ayrshire.

The report was completed in May 2002 (and is included as a background paper to this report).

In summary the report concludes that an examination of the convenience capacity assessment concludes:-

- i) there is no shortfall of convenience floorspace in quantitative terms;
- ii) it is likely that there is an under performance of certain major stores, including Tesco and Kwiksave in Kilmarnock Town Centre, when compared with national trading performance;
- iii) the underperformance of town centre stores suggests that consideration be given to the feasibility of achieving some form of qualitative improvements that will not impact on the vitality and viability of Kilmarnock town centre.

The Bryce Report acknowledges there may be some need for upgrading the quality of the existing store but there is no quantitative need for further convenience floorspace.

The Report highlights that the proposed Safeway superstore at West Shaw Street, "is likely to operate as a stand alone store, but gives the site location in relation to the town centre there is an opportunity to create better linkages with the town centre

boundary and to improve the properties in High Glencairn Street in order to functionally integrate this proposal with the town centre”.

It should be noted that the Bryce Report has not considered the amended application plan and the proposed environmental and physical improvements to pedestrian links between the site of the superstore and core shopping area as highlighted in Section 2 of this report and the Legal Agreement outlined in Section 7.

The Bryce Report also concludes that the Council requires to review its town centre strategy and adopt a pro-active role town centre change and improvement. (It should be noted that the Councils Strategy for the Regeneration of Kilmarnock Town Centre, which seeks to achieve this objective was approved by the Development Services Committee on 7 May 2002 – This Strategy is discussed in Section 6 of this committee report.

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