

A local campaigner's guide to the planning system

This is a short guide to navigating the planning system, based on our experiences in Yiewsley in West London. Tesco's application for a 7,830 sq m supermarket was finally refused by the Planning Inspectorate in March 2007. The information in this guide is useful for a campaign against any retailer, but many of the specifics refer to Tesco because that is the chain that we were fighting.

Being suddenly faced with the prospect of a supermarket development on your doorstep can be pretty daunting. You may not have the first idea how to object to it or even if you have the right to. However if you take it step by step you can get there. It's not rocket science – although your opponents may like you to think that it is.

Getting the facts

First, you need to get the facts. Anyone who is a resident in the area affected is entitled to the information. It is even better to raise a petition and represent a group of residents. Petitions probably only need around 25 signatures but check with the local authority to find out. Each petition will get you around five minutes talking time at a planning hearing, so big petitions may sound good in the press but lots of little ones will probably do you more good. They will give you more five minute slots, and you probably need at least six to put forward a case in the hearing.

An example of text for a petition is: "*please add your name and details to this petition if you wish to support our objections to the plans for a new...*"

It is also essential to prepare a strong case to give to the planning committee. If you all stand up and say the same thing you will probably not get all the objections evidenced, not look professional and be wasting peoples' time. This will not be looked on favourably by the Planning Committee Chair.

You need to find out who the Chair of the Planning Committee is and which of the Councillors sit on the Committee. You can then do a mail shot to the Committee explaining each of your objections properly.

Responding to the plans

Next you need to see the plans and get a hard copy of the developers' submissions. If the development is registered, it will have a number and you will be entitled to a copy of every document the developers submit.

You should go into the reception of the Council's planning department and ask to speak to the planning officer responsible for the application in question. He or she will be writing the **officer's report**. This is not usually available until around two weeks before the meeting at which it will be considered. Try to ensure that you get a copy of this report at the earliest possible point. You could arrange to collect it from the Council offices as this will save two days.

You should seek to **influence the planning officer** if possible. Point out the scale of the opposition. Include any letters from MPs and ward councillors and any petitions and letters from local residents, tenants and retailers. Make the opposition sound as substantial as possible by grouping for example all retailers on one road, all residents in one estate together on one petition. Another effective method is to get each local retailer to raise a petition for you, give them a demo sheet so you get continuity then collect the sheets and submit them in the name of the store. Take the petitions in by hand and get a receipt for each one. They often "get lost" so keep a photocopy if possible or at least a list of numbers and who sent them in so you can use it in your objection speech.

As well as the officers' report, you need to get the relevant **local, regional and national planning legislation** from the council. Again you're entitled to hard copies. Local legislation is changing. The old Unitary Development Plans (UDPs) are being replaced by Local Development Frameworks (LDFs). It is important to speak their language. Local Developments Frameworks are new planning files that local councils are required to put together of planning policy for the area. There are also regional planning documents. If you are in Greater London you will have to cope with the London Plan. The LDF will be referred to by the developer you are opposing, so it is important to know it. However, you can also point out that it is not yet legal, since it will not yet have passed Public Consultation.

Find out what stage the development of the LDF is at, and ask to be included in that consultation. There is a Planning Policy Statement issued by the Government, PPS12, which tells you all about LDFs.

Other Planning Policy Statements are useful when putting together your objections:

- Planning Policy Statement 23 is about pollution
- Planning Policy Statement 1 is about sustainability.
- Planning Policy Statement 6 is about planning for town centres and is also very useful.

These PPSs are replacing the old Planning Policy Guidance Notes (PPGs). They are available to download from the Department for Communities and Local Government website at <http://www.communities.gov.uk/index.asp?id=1143803>. Alternatively email the DCLG at planning.policies@communities.gsi.gov.uk or by phoning DCLG at 020 7944 4400.

You will need to look at what the local legislation has in the way of policies. Start with policies regarding "change of use." Many applications involve converting a building or piece of land from industrial or business use to retail. There will be a clear list of criteria that have to be met before change of use is permitted. Being owned by a retail chain does not qualify for exemption from clauses relating change of use.

Build an argument against the application for use in objections and at Committee meetings and hearings. This should refer to the policies in the relevant planning legislation.

Possible grounds of objecting to an application include:

1. **Loss of employment land.** This refers to industrial or business land as these uses offer more jobs per sq m than retail does. Find out how much employment land the community has lost in recent years. Government policy promotes jobs for local people to cut car use.
2. **Loss of jobs.** Large supermarkets always result in a net loss of retail jobs in the immediate area, not an increase.
3. **Noise** - through increased traffic, delivery lorries (don't forget the backing alarms), and even customers shouting in the car park. There are also things like protective shutters being rolled up in the morning, rubbish collections from the site and freezer plant. If a recycling centre is to be serviced there, get rigid restrictions on servicing hours.
4. **Vibration.** Tesco's delivery lorries are 38 tonnes and can make the ground shake. It is possible for this to break seals on double glazing units and even get cracks, particularly round bay windows and at the structural centre of the house. Any damage found should be reported to your insurer who will be pleased to investigate and prove it was caused by heavy traffic to a store. This will involve no cost to you and really good campaign material.
5. **Traffic congestion.** Tesco uses "trip rates" rather than car counts. Instead of talking about for example 823 cars you are only talking about a trip rate of 10.38 which sounds a lot less significant. You can insist that figures are given as car counts or convert them

yourself. The retailer often underestimates the traffic which will be generated by the development, to reduce the perceived impact.

Do your own traffic flow figures for various hours and produce them in chart form as evidence for the committee. Find a local store (any operator) which is of a similar size and location and do your own car counts. Convert the figure to trip rates to show you understand it, but emphasise the bigger car count number in your speech as well. Be clear about where you sit to do your count so that it does not include any other traffic. However, if it is attached to a garage then the petrol station traffic is often relevant.

Ask to see the Traffic Management Officer at the Council and ask if there are flow figures for the road or capacity figures for the closest junctions. If you are in London, Transport for London holds some information too. The Highways Agency holds information for major roads. Any entry to a junction which is above 85% capacity already is relevant and could be critical evidence.

Tesco seems to be claiming that the MOVR signaling system that it offers to install increases junction capacity by 28-32%. It doesn't. The Highways Agency only accepts a 1-2% increase in capacity. It can increase efficiency but not capacity which is the important figure here.

Tesco use 'linsig' and transit programmes to determine traffic flows. These computer systems are only as good as the information put into them. If the cars generated are an under-estimate, this can invalidate pages and pages of the data in the Transport Impact Assessment. In our case, Tesco suggested 200 in and 200 out at the busiest hours. It was proved by us to be nearer 800 in and 800 out.

6. **Delivery lorries.** You always need to ask for an overnight delivery restriction in case you lose the argument against the store. A general figure is that 13 of Tesco's 38 tonne lorries are needed for every 1000 sq m of retail floor space (gross not net). If you are looking at a large store then working out how often local people will be disturbed by the backing alarms is a useful tool. For example, a 7,000 sq m store will generate 91 deliveries per day, which is one every 8 minutes day and night.

We have lorry counts of 26 between 7 AM and 7 PM to a store of around 7,000 sq m. Tesco shifts two thirds of its stock at night and this was in a store with no overnight restrictions. So treble the figure, and you get 78 deliveries or one every 9 minutes.

7. **Pollution** – meet your Council's Air Quality Officer. You can ask them to produce figures that show the impact of the extra traffic and lorries and how those levels relate to the critical health levels. IF they suggest they would be bad but accept 'mitigation measures' then argue against that. Planting trees in Norway will not remove the particulates from fumes generated by the traffic in your area. Ask how many lorries or cars it would take to tip over into those critical levels.
8. **Retail impact** is a big variable. The custom has got to transfer from somewhere so every retailer in the area should be worried enough to join your campaign, sign an impact sheet and turn up to support you at the planning meeting.

If you are looking at a large store then other large competitors may be willing to come up with retail impact data for you. All retailers employ experts and may give you help even if they don't object themselves. If the application is being considered at a public inquiry you can get them to register as rule six objectors as well and put the retail case for you. The Co-op is often very helpful.

There are two **types of goods**: convenience goods are day-to-day products including food and newspapers while comparison goods are clothes, kitchenware, electric products and so on. A chain-run convenience store such as a *Tesco Express* store will only trade in convenience goods, but any bigger store is likely to do both, so will impact on the trade of every store around. Also, don't forget that by reducing the footfall in the local centre and directing it to their store, they are killing walk-by trade for other, unconnected traders such as hairdressers. Undertakers are affected by increased traffic congestion and are usually really genned up on local road congestion times. As little as ten minutes added congestion time can cut an undertaker's business by a third.

Remember you are fighting their battle for them, so the retailers should help you with paper, ink and even cash. Use them also to get the local Chamber of Commerce on your side. If they are not members of one, you could get them formed into one and affiliated to the County or Borough Chamber. They can be an excellent non-political force for influence and are often happy to be involved and become high profile contributors. They have good press contacts too.

Tesco and other stores have contributed to a system called **TRAVL** on the web. You can only get entry to view it if you are a member, so use your local authority planning reception computer to view it. It will give your store sizes in the area and trip rates recorded against them. You can then go to the store and do your own to prove that they do not tell the truth. This information should be sent through to the Tescopoly site at info@tescopoly.org for other campaigners to use also.

When putting forward evidence on **retail impact**, brightly coloured bar charts comparing the size of the store to others locally or even to the size of retail space in the town centre can make good visual impact. The Council should have retail floor space data for rating commercial premises and if they have it you can get it under a Freedom of Information request if necessary.

Also try upsetting the developers' **catchment forecasts** by producing your own map. We did a 3 km circle (their study area) and enlarged it from an ordinance survey map in black and white. We then cut off the surrounding and coloured in all the parks and green spaces, industrial areas, hospitals and university area. Their catchment is residential housing.

Quantitative need is a calculation of the present store space against the forecasted spend figure of the population within the catchment area. If you can prove that they will have to draw in custom from ten miles or so away then you can off-set the usual arguments about "clawback." That is the percentage of local population who dare to shop outside the area. Never mind whether that is because it is a family outing or they rotate around supermarkets buying their favourite products from each.

Qualitative need is the expanse of choice on offer. The Competition Commission recently defined this as the choice between suppliers not a widening of range within one suppliers' offer. If you have four small supermarkets at present one huge new one that will drive them all out of business is clearly not expanding the qualitative retail offer.

9. **Consultation** – Both the developer and the local authority have responsibilities to consult with the community. A tiny advert in small print saying that the development is registered does not meet the criteria. Ask how the Council has consulted and what measures have been taken.

The developer has to produce a **Statement of Community Involvement** (SCI) to show how they have made their plans known. This is usually a tick-box exercise. Consultation is a two-way process so leaflets through doors don't count. Public meetings need to be

checked out and attendance rates counted by you. Watch carefully what they claim too. Ours claimed the development was done “in conjunction with the Council” which of course it wasn’t, and until the planning meeting decision no agreement can be counted on.

An officer’s opinion is just that. It is the members who make the decision.

Retailers often arrange petitions in their existing stores fronted by a member of staff. These need exposing.

As part of your consultation process, you should ask to see the file of responses to the Council on the development and read each letter. Check all petitions that do not emanate from you and see where the person or group fronting them came from. Get any others on your side, those against you need identifying too.

If the applicant includes in this SCI that they have had talks with the ward councillors, then ask them. Ward councillors will not hold face to face talks with any developer. They may ask you to hold a public meeting where they can hear the developers’ proposals but no ward councillor should lay themselves open to charges of favouring a developer by being seen to be meeting them. If they do, report them to the Chief Executive and copy it to the English Standards Board.

10. There are other objection areas including:

- a. Biodiversity (ask the biodiversity officer at the local authority)
- b. Archaeology – this is often (if done at all) done as a ‘desk top survey.’ So do your own research – speak to the local historical society.
- c. Don’t forget endangered species such as bats, water voles, badgers, moles and newts

Recent legislation has required developers of any large site to submit an **Environmental Impact Assessment** (EIA). This should contain all the information on the submission in one cohesive and comprehensive document. Insist that this is done. The Council can and should require it. Otherwise you can be faced with a submission of up to thirty documents and plans on top of that. This measure is supposed to improve public access to the information and aid third party involvement (that’s you!), so the developer may be reluctant to comply. Your local authority’s Statement of Community Involvement should contain a requirement to make information more accessible and understandable to the public – use their own policies on them to make them insist the developer produces an EIA. If the local authority won’t issue the instruction, ask them for a copy of their review and their reasoning its evidence.

Housing

If your application includes an element of housing, you will need to get a copy of your local authority’s “housing trajectory” to find out if your area’s housing target and affordable housing target figures are being met. Most are being passed. The developer cannot use housing as an identified community need or as justification for removal from industrial use, if the target has been met. This takes out another justification for change of use.

You may have a local community need like school places or a health centre though and need to identify that also. If your local authority has been taking section 106 money from developers towards a new health centre for the last five years, there’s evidence of the need established. You are not necessarily saying meet our need, you’re saying that they haven’t investigated properly and have not correctly identified the community need. You can get a lot of local information from getting a copy of the section 106 schedule for your local area. This money is allocated to cover needs generated by the development, particularly housing, and is given back as a second profit to the developer if not used within seven years. Notify your local schools or surgeries if there is section 106 money about to run out of time.

You need to talk to people in the street, find out where they shop, how often, why there. A news sheet (just two sides of A4) is a really useful tool in campaigning to educate, communicate and unite public opinion. Use your local papers, radio and TV. Local campaigns against supermarkets are hot stuff at present.

If your area already suffers from heavy traffic and congestion for several hours a day you will probably be able to find proof in either existing traffic calming measures in local estates or in the driving habits of residents using backstreets rather than main roads. These are good indicators of a road system already too stressed to cope with the additional strain of the traffic the supermarket would generate. A photograph saves a thousand words.

The supermarkets tend to use a system for measuring their net retail floor space which excludes 25% of the actual floor space. They don't include the area around the checkouts or beyond. They also don't include cafe, deli or bakery space, or stairways and travelators. You can photo local stores to show that they do sell in these areas and therefore bump up their net floor space to cover all the sales floor. You need to establish a maximum percentage of space they can use for non-convenience goods in the conditions. These only get to be used if permission is granted, but can help. They don't use the same system for anyone else's floor space and of course will quote these as gross figures to compare with their net figures. They also tend to overestimate other stores' turnover because it leaves the chart for after transfer custom looking much more healthy than it is. Take the figures in their submission to the other local supermarkets and ask if the turnover figures given are accurate. On our application, the Co-op's turnover was doubled.

There are building regulations which require stores to use 10% alternative energy and to reduce the carbon footprint of the building by 30%. The second is useful because without a very high cost build it is almost impossible. Retail stores use a large amount of power on the whole. You can have this included in conditions as well.

If you have any **green belt space** nearby then the views or impact on the views and its amenity value can also count against a development.

You will hear talk of PTAL rates. These are gradings given to sites according to their **Public Transport Accessibility Levels**. They go from one to five, with five is the best level. A site for major development which will attract a large traffic is required to have a high PTAL rate. We are supposed to be encouraging people to use public transport.

Canals and rivers have special policies too. These usually require that the development ethos starts with the river or canal. It's supposed to lay down a heritage for future generations, make use of the waterfronts, create vistas, respect the heritage and not turn its back on the location. It can be quite fun asking an architect to do their spiel about how they came up with the plan on a large site. Then watch them backtrack when you ask them about the "blue ribbon policies" and they know nothing about them.

There may be other indicators you can use. Try really studying the plans, especially those of the entrance or junction changes planned. Look out for moving bus stops or bus lanes, causing danger points for pedestrians, blocking views, other multiple entrances in the area. Which houses will be impacted by the noise, vibration and traffic? Call door to door and show them the plans. Give them a date when the meeting is so that they can come to support you. Take their email contacts.

Other areas than yours will suffer impact as well, so don't just recruit your ward councillors. Other adjacent areas may be more interested than your own representatives. Your ward councillors should be there speaking for you. If they are not willing to do so, tell all in the press and make it clear that the area will remember their lack of faith at the next elections.

Some councillors may be scared off by letters from the developer or even their own council solicitor threatening them with having the costs of any appeal held against them personally. If you hear this, squash it immediately because that sort of ploy was outlawed five years ago. Write to each of them and all of the members of the planning committee about two weeks ahead of the planning meeting to outline your objections. Use bullet points, be precise and back up with evidence sheets. You can deliver these by hand to the Council for distribution or your local library is on their internal mail system. This saves money on postage and time. If you are looking at a hypermarket, the town managers of the local towns around will probably respond well to a request for a support letter or appearance at the planning meeting. They produce weekly newsheets to their retail members and can circulate your information through that too. Do a press release with all the basic figures in it.

Finally if you need any help, please feel free to give me a call – 01895 440 074.

GOOD LUCK!

Gay Brown.