
Crown Division
Government Office
Douglas
Isle of Man
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To the Council of Ministers

Planning Application: 09/00301/B

Call in ref: 09/00001/CI

Applicant: Tesco Stores Limited

Application: Erection of store extension including mezzanine and bulk store extension, temporary store, decked car park and alterations to the existing highway network at Lake Road, Douglas, Isle of Man

I have the honour to report that from 9-12 and 16-19 February 2010 I held a public inquiry at the Sefton Hotel into the planning application by Tesco Stores Limited for the erection of a store extension including mezzanine and bulk store extension, temporary store, decked car park and alterations to the existing highway network at and around Lake Road, Douglas.

This application was made on 25 February 2009. Under s.11(1)(a) of the 1999 Town and Country Planning Act it was called in for decision by the Council of Ministers on 17 April 2009 [CD3.1]. Then on 16 July 2009, a letter from the Head of Council of Ministers Administration to Callin Wild stated that the scale of the Tesco extension is such that "*it raises considerations of general importance to the Island and should therefore be referred to and determined by the Council of Ministers.*" [CD3.3]

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ABBREVIATIONS USED IN REPORT

CD	Core Document
DLP	Douglas Local Plan 1998
APSU	Area of Predominantly Shopping Use (on DLP Map No 1)
SP	Strategic Plan 2007
SP9	Strategic Policy 9
BP9	Business Policy 9
BP10	Business Policy 10
IoMRS	Isle of Man Retailing Study August 2008
IoMRSU	Isle of Man Island Retailing Study Update May 2009
SoCG	Statement of Common Ground
DoLGE	Department of Local Government and Environment
DoT	Department of Transport
TA	Transport Assessment
RA	Retail Assessment
HIES	Household Income and Expenditure Survey
RPI	Retail Price Index
MHE	Management Horizons Europe
GFA	Gross floor area [for trip rates]
DoS	Degree of saturation
LinSig	Software tool for assessing signal controlled junction
TRANSYT	Software tool for assessing performance of junctions in highway network
Pcu	Passenger car unit

PRELIMINARIES

1. This report contains the main points of evidence given at the inquiry, together with any relevant points raised in written representations.
2. I inspected the site of the proposed development on 10 and 11 September 2009, and on 21 January and 8 February 2010. I inspected the highways around the site during the am Friday peak on the 11 September 2009, Thursday pm peak on 21 January 2010 and Monday pm peak on 8 February 2010. I also visited the main supermarkets and town centres in Douglas, Ramsey, Peel, Port Erin and Castletown on 11 September 2009.
3. I held 2 pre-inquiry meetings on 11 September 2009 and 18 December 2009 in order to identify the main issues and agree programming and procedures for the inquiry [CD4.4].
4. The abbreviations listed after the Contents are standard abbreviations. They help shorten the report.

SITE AND DEVELOPMENT DESCRIPTION

5. The application site lies between Lake Road and the Isle of Man Railway. It is about 800m from the main shopping area of Douglas. The Planning Statement of Common Ground [CD4.1] provides a more detailed site description in paragraphs 1.1-1.4.
6. Vehicular access to the site is from Lake Road. This connects to Bank Hill, North Quay and Bridge Road via Bank's Circus. The main traffic routes leading to the site include Lord Street, Peel Road and Castletown Road.
7. The proposed development is set out in the Planning SoCG in paragraphs 2.1-2.7. It is described in detail in Mr J Francis' proof paragraphs 5.1-5.16. Floorspace figures are given below.

Floorspace	Existing store m ²	Extended store m ²	Uplift m ²
Convenience goods	2,212	2,636	424
Comparison goods	261	2,625	2,364
Net floorspace	2,473	5,261	2,788
Customer services coffee shop, toilets, lobby	322	701	379
Back up: storage, offices, staff...	1,819	3,429	1,610
Total gross floorspace	4,614	9,391	4,777

8. The proposed decked car park plus the ground floor parking area would provide 557 car parking spaces. The decked car park would give direct access to the proposed comparison floorspace at the mezzanine level.
9. While the extension was being constructed, a temporary store would be erected on part of the existing car park.
10. The planning history of the site is adequately set out in the DoLGE Planning SoCG [CD4.1] in paragraph 3.1.

PLANNING POLICIES

11. Relevant local plan policies are found in the 1998 Douglas Local Plan [CD 6.2-6.4]. This comprises 3 Maps: Map No 1 (Central Area); Map No 2 (South); Map No 3 (North). The Written Statement containing policies for zones shown on the Maps was never published. No reason for this failure to publish has been provided. The status of the Written Statement is explained by Mr J Watterson, MHK in response to questions from the Inspector at the 2nd PIM [CD10.8].
12. Relevant policies in the 2007 Strategic Plan include Strategic Policy 9, General Policy 2, Business Policies 9 & 10, and Transport Policies 1 & 4.
13. Other policy guidance referred to in the inquiry included PPG13, PPS4 and 6 and the 1989 Douglas Local Plan. A summary of development plan policies and designations is set out in paragraphs 4.1-4.8 of the Planning SoCG.

COMMON GROUND

14. Statements of Common Ground [SoCG] on Planning, Retail and Highways/Traffic were requested at the 2nd PIM. Only the Planning SoCG, prepared by DoLGE was agreed by all parties.

MAIN ISSUES

15. The main issues were discussed then defined by the Inspector during and after the two PIMs.

They are:

- first, whether the proposals comply with Strategic Plan or any other development plan retail policies in respect of the location of the site in relation to Douglas Town Centre [SP paragraphs 9.2.5, 9.4.2 & 9.4.4 and Strategic Policy 9, Business Policies 9 and 10],
- second, whether the proposals would have an adverse effect on adjacent retail areas [Business Policy 9],
- and third, whether the proposals comply with Strategic Plan transport policies in respect of the impact of traffic generated by the extension on the existing highway network [General Policy 2 & Transport Policies 1 and 4].

TESCO STORES LTD

The material points are:

Introduction

16. Planning permission in principle was granted to Manx Co-op in 1996; a detailed permission was granted in 1997. Amendments to this permission were made to this permission by Tesco and approved in 1999. The Tesco store opened in May 2000. It is very successful and is now a well established retail trading location.
17. The Tesco store attracts about 44% of main food shopping trips on the Island. The success and popularity of the store shows the benefits of this type of shopping for the shopping public. It is a key part of the way the town centre functions and the store plays an important part in the daily lives of the people of the area. Tesco is committed to improving this store for its customers.

Reasons for expanding the store

18. The call in application seeks to bring forward a Tesco Extra within the central area of Douglas. There are two main reasons behind the proposed extension.
19. First, there is the pressing need to address the store's operational constraints. These come from the way the store over-trades. The store is over-trading very significantly; this is because its popularity has out-grown its rather constrained proportions. The store's existing size and layout leaves insufficient space for bulk storage, its foyer, comfortable customer movement and for efficient servicing of the shelves. Aisles widths have been reduced to accommodate extra shelving. Products have been placed on top of the shelving which is not practical. These difficulties reduce the quality of the retail offer in the store.
20. Second, Tesco wish to provide its customers with access to a better range of non-food goods, befitting the status both of the store and of Douglas within the retail hierarchy of the Island. Comparison goods are sold from this store, but space is so short that they are poorly presented around the store. About 10% of the sales floorspace is given over to non-food sales. The proposed extension would allow a better range of non-food goods to be sold in the Douglas store, similar to mainland UK; this would be a qualitative improvement. In recent years, Douglas has had reduced customer choice of non-food products due to the closures of the Woolworths and Index stores. As Mr Skelton confirmed, Douglas has slipped from a ranking of 243 in 2003 down to 405 in 2008 in the Management Horizons Europe [MHE] shopping index for 1,672 shopping locations in the UK and Isle of Man. The IoMRSU [CD8.2] calls this a middle market position. There is also insufficient back up storage space, particularly fresh groceries. These points are set out in more detail by Mr G Fryett, Tesco Property Director [J Francis Proof Appendix A3].
21. There is little suggestion that Tesco's aim to rectify this problem is contrary to policy, or would cause any harm. In fact it would strengthen the role of the superstore in the town. The non-food proposals form a major part of the proposals, but also included is a major bulk storage facility needed to enable qualitative improvements to be made to the food shopping facilities. Substantial weight should be given to this matter.

Objectors

22. DoLGE and DoT only formally announced their objections on 18 December 2009 [CD10.7]. Heritage Homes and Shoprite/MyWay are commercial objectors; this may

explain the positions they take. Their objections must be seen with a clear eye. The Chamber of Commerce and others suggested that there was no support for this application. The silent majority are the shoppers; it is expected that the proposals would be very popular.

Issues

23. In issue is the effect of the non-food additional floorspace and the traffic generated by it.
24. There is little harm stemming from the bulk store or convenience floorspace. The issues for comparison or non-food floorspace turn on location matters and impact. The latter is more than a quantitative exercise; it involves an assessment of the Tesco Extra trading format and the way the rest of the town centre trades.

Retail issues – convenience shopping

25. The very limited additional floorspace – 424m² – compared to the existing trading floorspace removes any force from a policy objection to the proposed convenience floorspace. Shoprite/MyWay is alone in suggesting the convenience proposal is unacceptable on its own.
26. There can be little rational objection to the level of new food floorspace proposed. The store is already the main food store in Douglas. It suffers from serious “overtrading”. This can be seen from its financial performance compared to the Tesco company average sales density. The Tesco Property Director says in JF/Proof/Appendix3 the store “*returns one of the highest sales per square foot of any store in the Tesco portfolio*”. It can also be seen from the effect on customers as they shop in the store. These factors including the shortage of storage space and undesirable level of cramping in the store were not challenged in the inquiry.
27. Mr Skelton for DoLGE flagged up the potential for qualitative improvements in convenience floorspace in the IoMRS. He says in his proof that “*the relatively modest...uplift in convenience floorspace may be viewed as consistent with the IoMRS findings, were it brought forward in isolation.*”
28. The proposals would benefit convenience customers. Cramped conditions caused by the need to re-stock the shelves in the aisles during the trading day would be removed. The shopping environment would be more spacious, modern and of a higher quality than currently exists.
29. As for impact, no-one suggests other food traders would close down. Shoprite do not object on that basis. There is no objection from Marks & Spencer. Existing convenience turnover from the store is £54.63m. Impact figures would be small from the £4.19m additional turnover at 2014 from the proposed extension. Company average turnover for 424m² is £5.08m. This is higher because the additional floorspace is not expected to trade at the sales density of the existing floorspace, partly because it would be more spacious, partly because a large number of new customers are not anticipated to be attracted, and partly because experience has shown extensions do not produce similar trading densities to existing stores [this argument will be described in more detail under the impact of the comparison floorspace]. The new food floorspace would compete directly with other main food outlets such as the Shoprite at Onchan – the proposals would draw 50%, or £1.94m, of its trade from this store in 2014. This would be about 4.5% of this store’s turnover. The rest of the impact would be split up between Marks & Spencer and other stores. No adverse change in these stores was suggested in the inquiry.

Retail issues – policy and location

30. The relevant status of the policies should be dealt with first. The development plan is agreed to comprise Map No 1 of the 1998 Douglas Local Plan [CD 6.2] and the 2007 Strategic Plan. The 1998 Written Statement was not adopted, amidst some confusion at the time, and is not part of the development plan. Its weight is very much reduced, but regard should be had to it when assessing the meaning of the adopted Map. It is not possible to know whether the principle or detail of the draft policies would have changed before adoption; it follows that the precise wording can have little weight.
31. Reliance on retail guidance from England, Scotland or Ireland should be treated with caution. This guidance has not been drafted or promulgated by the Isle of Man authorities. There is no indication that DoLGE or Tynwald has decided that PPS6 or PPS4 should override SP retail policies; there is also no indication that the approach to defining town centres and edge of centre sites in these PPS documents has been adopted in the Island. It would be wrong to elevate SP paragraph 1.6.1 into a reason for importing UK policy where there is Manx guidance.
32. Thus the proposals should be assessed against the provisions of the development plan. The key questions relate to location and impact. On location, the issue is whether the site is within Douglas Town Centre. A considerable time was spent on this matter at the inquiry. Douglas Local Plan Map No 1 shows the site is within the designated “Central Area” of Douglas. The Map shows the extent of the town of Douglas in its inset boxes on the left hand side. Douglas is a relatively large town, extending several kilometres from the central area and from the sea. A plain reading of the Map shows that Tynwald obviously intended the Central Area to be demarcated as such within the wider town. Why should “town centre” be read in any more convoluted way? This plain reading of the Map accords with the SP. For instance, it is clear from SP9 that town centres are where both office and shopping uses are directed. A reading of the Map which would make the purple office coloured areas lie outside the town centre would run directly counter to the SP.
33. Moreover the Map is internally consistent. It marks an Area of Predominantly Shopping Use [APSU] within the Central Area. It also marks offices, civic buildings and mixed use areas for a range of uses including what is described as “TC” or town centre uses. Nothing about the Map indicates that it seeks to circumscribe the town centre by simply reference to the APSU. Retail use is not the only use within a town centre as DoLGE’s Mr Skelton accepted. The Map gives no indication that it is intended to be read as excluding from the town centre any of the other town centre uses that would be expected to be there. The Map includes them in the Central Area. In the inquiry objectors said they would define the town centre for retail purposes as the APSU. But neither SP9 nor BP 10 say retail uses should be restricted to the town or village centres as defined for retail purposes. That would be an impermissible gloss on the words of the document, or would simply be making up the policy as you go along.
34. The Written Statement does not define a town centre for Douglas. The section dealing with “Douglas Retail” defines the retail centre of Douglas as the APSU area in paragraph 3.5. It then goes on to say that the “town centre as illustrated on the accompanying mapping of Douglas has, as with other towns on the Island, been defined as an area within which the principle retail uses should be located.” Objectors would like to treat that as meaning the town centre has been defined as an area comprising the principle retail uses. That is not what the paragraph says. Entirely consistent with the Map, the Written

Statement identifies in the retail section that the town centre is an area within which the principle retail uses are found. For other policy purposes, the town centre is an area within which offices, mixed use and civic uses are also found. To read the Written Statement's retail section as if it dictated alone what the town centre of Douglas might be is to foist on that section a function it does not naturally serve. The Written Statement is relevant but imprecise in the extreme.

35. For DoLGE/DoT, Mr Barrett urged upon the inquiry "a purposive interpretation" of the policy. But this is not needed here because the Written Statement identifies the application site as lying within the town centre. On page 63 there is a heading "Within Town Centre" and the furthest part of the site can be found as "Coal yard area adjacent to Steam Railway (Retail Potential). All of the other locations in that section lie within the Central Area marked on Map No 1. Why should a different approach be taken?
36. In an apparently secret report to Mr Watterson, Mr Brooks of DoLGE expressed the view that permission should be withheld because the proposal was not within an established shopping area [CD10.7]. Mr Brooks acknowledged that that policy test was not to be found in SP9 or BP10. DoLGE made a basic mistake when considering the relationship between the site and the policies. That is why DoLGE urge a "purposive interpretation" of what is a plain document.
37. Other objectors attempt even more outlandish interpretations. It was suggested that the site was an exception to the prevailing town centre focus for retail. The problem with this argument is that Policy D/Ret/P4 does not say the (application) site is outside the town centre. In fact the preamble to policies P3 and P4 paragraph 3.17 says sufficient floorspace is considered to be available within the retail area of the Town Centre as currently defined. That paragraph makes clear that most shopping is to be directed at the APSU, but that the APSU is only part of the Town Centre. The Town Centre is however where the SP polices direct retail development.
38. A further problem with the Policy P4 argument is that by the time of the adoption of the Map – and the decision not to adopt the Written Statement – the application site had already been given planning permission for a food superstore [CD5.3]. The Map has the outline of the store on it. So the Written Statement's reference to the site for "large span retail warehousing" was academic by the date the Map was adopted. The Map also notes the site for retail warehousing but within a green coloured area for retail/commercial. It could not be right to withhold permission because of the words retail warehousing, which were already out of date before the Map was approved. The words "retail warehousing" on the Map are not relevant and should have little weight.
39. Objectors also place some reliance on the view of the Douglas Local Plan Inspector, Mr Bexson. He referred to the site as outside the town centre. Caution is advisable as these words cannot be traced to an adopted local plan document – the planning authority may not have agreed with that view. That opinion is inconsistent with the Written Statement which places the site in a list of areas within the town centre. The Inspector seems to have misused the term "town centre".
40. Support for the view that the site lies within the town centre comes from the IoMRSU 2009. Mr Skelton describes the town centre as extending as far as and including the Tesco site [CD8.2 paragraph 8.29]. That approach is followed in the IoMRSU Glossary. Mr Skelton accepted in examination in chief that the site lay within the broad definition of town centre. He then added that it was outside the town centre for retail purposes. This

begs the question. It also seeks to gloss SP9 and BP10 as though they said retail uses should be directed to something called “the town centre for retail purposes”; this is a hitherto unknown area invented to resist this application.

41. There was some consensus among the retail witnesses that the site lay within the town centre, if it was interpreted more widely than the APSU area. Unless that approach is taken, Douglas Town Centre is shorn of offices, civic buildings, most of Lord Street, Athol Street and of North Quay. This would be an unrealistic approach to the definition of the centre of a large town like Douglas.
42. Objectors referred to the 1987 Tynwald resolution set down in paragraph 9.2.5 of the Strategic Plan. This aimed to halt “major out of town retailing developments”. If the application site was outside the town centre, why was a food store granted permission a decade later on the site? In fact the focus of the 1987 resolution was development out of town, such as B&Q and Tynwald Mills. It says nothing about this town centre site.
43. Even if PPS4 is used as a guide, the same answer follows. Mr Francis considers that PPS4 provides useful background guidance and some weight should be given to it. In PPS4 the definition of a town centre is a “defined area, including the primary shopping area and areas of predominantly leisure, business and other main town centre uses within or adjacent to the primary shopping area”. The primary shopping area is a defined area “where retail development is concentrated (generally comprising the primary and those secondary frontages which are contiguous and closely related to the primary shopping frontage”.
44. The APSU comprises the bulk of the primary shopping area, but it is clear that secondary frontages which are closely related to and run on from it can be found on North Quay. These secondary frontages extend along the quayside at least as far as its junction with Bridge Road. Given the uses on Banks Circus and Lake Road there is a powerful argument that they too are a part of this grouping. The site is an existing retail site and thus BP9 can be applied here, as in the Peel Shoprite appeal case [Tesco Francis Rebuttal App 1]. The Shoprite store is away from the Peel Town Centre but is called “Retail” on the Local Plan Map. The Inspector decided that BP9 applied in that case. The minister agreed.
45. In conclusion, on a plain reading of the adopted policy documents the application site lies within the defined town centre of Douglas for the purposes of the SP and adopted DLP Map.

Retail issues – scale and sequential preferences

46. There would be no harm in terms of scale or sequential preferences. There is no test in the Isle of Man’s adopted policy which requires a sequential approach to be taken for siting retail development.
47. As for scale, the proposal is not out of scale with the role and function of Douglas: the main service centre for the Island and top of the retail hierarchy. Douglas will not alter its position in the hierarchy as a result of this proposal, nor will any other centre’s position be affected; if anything the proposal would underpin the role of Douglas.
48. The net increase of trading floorspace of 2,625m² equates to 10.8% of the existing net comparison floorspace [24,189m²] in the rest of the town centre. The turnover [£19.93m] of the non-food area in 2014 would equate to 11.9% of the comparison turnover [£167.74] of the rest of the town centre of Douglas. Other comparative figures or percentages which

combine comparison and convenience floorspace of the town are not assessing the scale of the proposal before the inquiry.

49. There should be no freestanding objection to the proposal on grounds of scale. It would be a substantial additional comparison offer, but that should be seen against a large trading floorspace within Douglas.

Other planning guidance

50. The Isle of Man Retailing Study Update [IoMRSU] by Roger Tym and Partners is a comprehensive study of the Island's retail sector. Part of its remit was to consider the availability of expenditure to support new convenience and comparison retail floorspace in future years. The study also included a household survey of shopping patterns, health check assessments on main centres and analysis of retail floorspace and planning applications.
51. The study concludes that the large majority of future retail floorspace should be in Douglas. While demonstration of need is not a test in Island planning policies, the IoMRSU identifies a range of need from 14,784 sq ft [1,373m²] – assuming existing market shares and Isle of Man spending data, to 62,468 sq ft [5,989m²] – assuming increases market shares and UK comparable spending data. The lower figure is the worst case scenario. These figures ignore tourism spending. The proposed extension is therefore well within the need identified by the IoMRSU.

Retail issues- impact of comparison floorspace proposals

52. The proposal is not seeking to promote new retail development in terms of an additional foodstore, but rather it seeks to provide additional space to address operational difficulties and enhance the offer to customers. It is thus not seeking to establish a new trading location.
53. As for retail impact, the proposal would be acceptable. It would not result in any undue adverse impact on the vitality or viability of existing centres. The main impact would be on existing stores in Douglas; these are trading well and capable of withstanding a degree of impact without planning concerns arising.
54. **Quantitative impact issues** However there is genuine concern over the potential impact of the proposals on traders in Douglas. Impact assessment is more than simply establishing an appropriate set of figures for trade diversion. But these figures need to be produced.
55. The headline figures are for 2014. Net comparison floorspace turnover would be £14.44m. This is taken from J Francis Proof Table D Appendix 7. This £14.44m turnover would come from other comparison floorspace, principally [around 70%] from the rest of Douglas Town Centre. There would be a trade diversion of £10.11m out of a total turnover of £177.85m in the rest of the Town Centre – a negative impact or diversion of 5.7%. Effects on other areas would be small; with the exception of the Rest of Douglas at 10.5% and Tynwald Mills at 7%. If Tesco average turnover figures [£8,341/m²] were used the turnover would rise to £19.93m – but this would be inappropriate. This higher turnover figure would only give a diversion of 7.8% from Douglas Town Centre. This impact assessment is robust in its approach. The impact figures are relatively small. Diversion figures of about 20-25% would be unacceptable. Professional judgement is used to determine whether diversion figures are acceptable.

56. The key variables which affect this quantitative work are first, the correct expenditure figures to use for the Island; second, the appropriate turnover to assume for the Tesco comparison floorspace; and third, the appropriate trade diversion from the rest of Douglas Town Centre.
57. **Expenditure** On expenditure, the argument hinges on the use of Isle of Man expenditure figures from the HIES, or the UK average spend. For DoLGE, Mr Skelton said in the inquiry that HIES figures should be used. This seems different to the approach he took in the IoMRSU. The IoMRSU records that the 2006/7 HIES did not include off-island spending, but it did yield figures for convenience spending broadly comparable to the UK average – they were just 4% higher. Then IoMRSU records that the HIES found that non-food expenditure was 79% of the UK average figure. To explain this the IoMRSU says that since the average levels of income and other socio-economic characteristics indicate the Island's residents are better off than their mainland equivalents "*the comparison suggests that the survey findings may be understated*".
58. Given these findings it is surprising that Mr Skelton bases his available expenditure on HIES figures. His defence in the inquiry was the study is used to set the Island RPI, and was thorough, requiring families to diarise their purchases. The document [CD10.3] itself tells a different story. Only 150 families were surveyed; this amounts to 0.34% of households on the Island. These were not selected as a representative cross-section of households in the catchment. The presentation of the results in socio-economic bands is an *ex post facto* ordering of what in essence was an almost random study. Mr Skelton acknowledged in cross examination that it is a "low sample size". The document itself reveals its other shortcomings as a source for retail expenditure.
59. The difference of opinion between the parties on expenditure is important. Without a UK average expenditure profile, use of HIES data runs the risk of materially under-estimating the available spend on the Island. Mr Skelton suggests the reason for the difference is the off-island spend; and therefore infers that an increase in market share should be sought by clawing back some of this leaking expenditure. Both Mr Skelton and Mr Francis estimate that 5% of the Tesco non-food turnover will come from this source, but Mr Skelton's work starts from a lower base due to his reliance on HIES data.
60. **Turnover** On Tesco turnover, the main dispute is the use in the inquiry by Mr Francis of a discounted value to the turnover of the extension compared to the existing floorspace. Mr Francis uses the sales density of £6,108/m² [J Francis App 7 paragraph 3.37]. This figure is derived by applying a 32% figure to the comparison goods sales density of the existing store as at 2014 [£19,087/m²]. The starting point is the principle that existing stores have an established trading pattern, which extensions do not significantly increase. The figure of 32% is not accepted by the objectors.
61. This 32% figure can be checked relatively easily against the comparison sales densities for Extra stores. Graph A in J Francis Proof Appendix 7 page 13 shows that for Extra stores [the largest Tesco stores between 5,454m² – 10,908m²] the average sales density is around £7,000/m² overall. This figure drops to around £6,000/m² if high turnover Health and Beauty products are taken out. These are already sold in the Douglas Tesco. In the proposed store these lines would remain on the ground floor and not form part of the comparison extension. The sales density of around £6,100/m² derived by Mr Francis accords with this general data.

62. Objectors say an extension to existing floorspace that overtrades to the extent of the current store should be given a higher turnover than the company average. But as Mr Francis points out, comparison floorspace turns over at a higher rate than food floorspace, and there is no link between overtrading floorspace and the turnover of an extended, spacious, non-food mezzanine.
63. The 32% figure comes from the study undertaken by DPP of 138 Extra store extensions in the UK. For commercial reasons it is not possible to make public the full details of each store. This inevitably affects the weight that can be given to the data. But the discounting of sales densities of this general order of magnitude is not a novel proposition. It was scrutinised and accepted by the Secretary of State on 2 occasions during the progress of J Sainsbury proposals at Kidlington [J Francis Rebuttal Appendix 5 paragraphs 6.13 & 12.15]. There is no difference in principle between that case and this one: extensions trade at a much lower rate because the location has established trading patterns.
64. Mr Skelton relies on figures from the Kirkby proposal, but this was a very large brand new store in a location without any existing superstore presence. The figures for Prescott did not take account of the DPP study. The figures for Old Trafford did not involve an extension; there was no existing store.
65. Retail witnesses for the objectors all acknowledge that the principal purpose of a trip to a Tesco Extra is for main food shopping. This would be the case for the proposed extended store in Douglas.
66. The objectors further argue that the Douglas store is unique due to its overtrading and the peculiar characteristics of the Island as a catchment. These points do not meet the main points of Mr Francis' case. For a store to overtrade against a company average does not make it unique. Inherent in the notion of a company average is the fact that as many sales densities would be above the mean point as would be below it. Sales density is a function of available floorspace and throughput. If the store is cramped, then sales density would be high. The Douglas store is constrained. With more space will come a lower sales density.
67. **Extension v new store** The objectors' arguments that the proposal is a new store not an extension is artificial. It does not really matter whether the new floor is a mezzanine or a first floor, because it will be an addition to a store which is nearly a decade old. This store already has a strong trading profile on the Island and shoppers are already used to coming to it. It is a fair point to say that a shopping trip could be made simply to the non-food level, but it seems unlikely that a large proportion of trips would be destination trips to the comparison level.
68. As for Shoprite's arguments about the differentials in sales densities between food and non-food, this shows a misunderstanding of these 2 types of sales densities. The trading profile of food and non-food are different. When a shopper has shopped for food and perhaps for Health and Beauty items, the shopper might then pick up an item of clothing or homeware. That is why the extension sales density would be lower than the existing store.
69. For all these reasons the evidence of Mr Francis should be preferred on the matter of predicted Tesco turnover which gives the figure of £14.44m by 2014. Even if the company average sales density is applied, this makes little difference to the impact tables.

70. **Diversion** Diversion from Douglas Town Centre is the last quantitative matter to be considered to assess impact. Mr Francis does not accept the nearly 80% figure proposed by objectors. This is because of the proximity and overlapping catchments of the Victoria Road Shoprite, Tynwald Mills and B&Q. Mr Francis' 70% trade diversion reflects the proximity of the application site to the rest of the comparison floorspace in the middle of Douglas.
71. The debate about whether the impact assessment should be done for 2012 or 2014 is answered by guidance in PPS4 [CD8.8] and its companion guide [CD8.20]. It is unlikely that the store could open in 2012 and this would be too early for the analysis. 2014 is a sensible year to assess impact. It would allow initial novelty to subside and allow settled patterns of trading.
72. Some objectors say the Lord Street Bus Station scheme should be included in the impact calculations. This would be contrary to SP guidance as set out on page 115 in the Glossary under Retail Impact Assessment. This guidance says assessments should only include recent planning permissions, development under construction and completed development. That is not the case with Lord Street. This site has been vacant for a long time. The Askett Hawk scheme was debated by Tynwald in October 2009 [SHOP4]. The Government may be the landowner, but it is not paying for what seems to be a very expensive development. A planning application appears to be some way off. The developers have not objected to the Tesco proposal.
73. **Qualitative impact issues** The starting point is that Douglas Town Centre is not a weak centre. It is the capital of the Island, attracting the lion' share of the Island's comparison spending.
74. Objectors claim that (1) the economy is weak and the VAT changes will have a negative effect on the retailers in the Town Centre; (2) the Town Centre is not particularly vital or viable; and (3) the effect of a 10% diversion of trade would be very serious for existing traders and prospects for inward investment.
75. **VAT** The effect of the VAT changes on the economy is difficult to predict. The Minister's statement to Tynwald strikes a balance between the serious effects on the economy in the next few years and optimism about the ability of the economy to pull through. Unlike most other places in the developed world, the Island's economy has avoided the recession's primary effects. None of the retail experts at the inquiry has attempted to quantify any future effects of the VAT problems. Whether these problems would materially affect the vitality and viability of Douglas Town Centre has not been established.
76. The economic profile of the Island generally is healthy. The IoMRSU [CD8.2] confirms this in paragraphs 2.11, 2.12 and 2.14.
77. Objectors' claims that the Town Centre is in decline are rather overstated. For example, the GOAD survey [SHOP 6] was prayed in aid to support the claim that comparison shopping is in decline in Douglas. But it does not show that. Units have fallen from 169 to 141, but overall floorspace has risen from 266.1 to 332.6. There is also a healthy number of multiples – over 40 – and a wide range of independent retailers.
78. The vacancy picture is not a cause for alarm. In 2003 there were fewer than 2009, but the overall figures were low. The vacancy rate is well under 10%.

79. The centre of Douglas is a slightly unusual centre because it is insulated from the pressures of competition on the mainland. Mr Black told the inquiry that “*the local market is not as competitive as UK high streets and retailers can still prosper*”.
80. The pattern of objections is interesting. There are very few objections, if any, from multiples. Marks & Spencer and other main clothing retailers in Strand Street have not objected. They will suffer trade diversion, but presumably feel that the degree of impact will be low. The 5.7% or 7.8% impact would not affect all equally – it would affect those who directly compete and they have not objected.
81. **Independent traders** As for independent traders, their businesses are smaller and their margins narrower. Their fears are genuine. The Chamber of Commerce has contributed valuably to this inquiry. But the survey undertaken by Messrs Shakespeare and Pycroft came with a misleading letter attached which exaggerated the size of the extension. The results are also difficult to interpret. A better guide to experience of competition from Tesco is recorded in the Jersey Government report [J Francis Rebuttal Appendix 7]. Shoppers would receive a completely different kind of service in independent traders’ shops compared to the proposed Tesco Extra. In the proposed extended store there would be no changing facility, no personal service, no advice, repairs, ongoing customer’s service and a completely different atmosphere.

Retail conclusions

82. Even if the store is thought to be out of centre there would not be a seriously damaging impact on the vitality and viability of Douglas. These proposals should be approved to enable the benefits to come forward.

Highway issues

83. Objections to the scheme focussed on modelling and the design of the junction at Banks Circus/Bank Hill. Two general points should be made. First, modelling is an exercise that seeks to give as clear an indication of the likely working of the network with the development traffic as possible; it is not a prophecy. Points about modelling should bear that in mind. Second, the store is an established retail location in a historic urban environment; the junctions are not standard sizes and they have constraints of various kinds. That is a fact of life in an urban area and the approach to design should recognise that.
84. **Transyt modelling** The proposed development would share many of the travel characteristics of the existing store. It is common ground that additional car borne trips would thereby be generated. To predict the effects of these car borne trips on the highway network, some form of traffic modelling has been agreed to be necessary. Tesco has used the TRANSYT model software; this is reasonable given the need to predict the effects on a wider portion of the network than simply the Banks Circus/Bridge Road junction. DoT’s Mr Almond agreed the use of TRANSYT in the scoping process. The methodological choice to use TRANSYT software to model a signal controlled junction at Banks Circus/Bridge Road is unimpeachable. Tesco, through Mr Summers, has tried to take a reasonable and pragmatic approach to the highways case. Personal criticisms of Mr Summers are unfounded and unattractive.
85. Only Mr Hall for Heritage Homes used LinSig – a programme that cannot model the more complex interaction of traffic over the network as a whole. Mr Hall’s more restricted approach was to examine the Banks Circus/Bridge Road junction using LinSig software.

This approach might allow an assessment to be made in theory of the effect of some flows as raw data at one junction, but it does not enable an analysis of this project as part of a wider network. This proposal, if permission is granted, subject to an appropriate condition, brings about the Lord Street signal optimisation scheme. To omit an assessment of the wider network in that way would certainly fall foul of the brief agreed between Mr Almond for DoT and Mr Summers, and fail to accord with Ms France for Shoprite who called for as wide an assessment of the proposal's effects as possible. It is a failing of Mr Hall's evidence that it is limited in scope and cannot include optimisation by reference to queue weighting. It is clear that the more comprehensive assessment by Mr Summers should be preferred in terms of its parameters.

86. It was suggested to Mr Summers that his approach was flawed because it did not show "nil detriment". Reference was made to Guidance of Transport Assessments [CD8.16 paragraph 4.51] so as to found a submission that Tesco's TA does not allow a proper assessment to be made on that basis. This point is not however really fair. Mr Summers accepts that such an approach was not taken for this proposal in Douglas. But he could not have established an existing baseline that could be compared with proposed flows. This is because he was dealing with a proposal that not only required a signalised junction where there is none at present (thus making it impossible to model the existing arrangement using TRANSYT), but he was also faced with modelling a scheme which changed patterns markedly. First, there is the removal of a large number of u-turns at the mini-roundabout in Lake Road/Banks Circus; second, there is the overhauling of the entire function of the Lord Street main signalised corridor to the north of the application site. Both these road improvement schemes are accepted to be beneficial in the wider area. Neither would occur without the grant of permission for this proposal.
87. "Nil detriment" does not mean no increase in movements. It would have made no sense to test for "nil detriment" by reference to absolute numbers, or by reference to patterns or turning movements which cannot be replicated at a signalised junction. Instead Mr Summers has sought to ensure that the development flows can be adequately and safely accommodated within the changed network designed for the area.
88. **Surveys** In building the model Mr Summers established a picture of the base year and modelled the effects of the proposal in 2010 and 2020. There is no inconsistency with the 2014 design year for retail assessment. When the model was being built from 2008 it was expected the store might open in 2010. The base year comprises surveyed flows. Objectors say the surveys mix and match between different data sources and contain some gaps and errors. This is true; the question is to what extent that happened and whether it matters.
89. All highway consultants agree that the Friday pm peak is the "critical" hour to model. The figures for flows inputted in the model come from: (1) Waterman Boreham surveys of July and September 2008 [CD6.2 pages 18-19] which gave basic surveyed numbers and turning movements for the network [CD12.2 Diagrams 4a-n]; these were Wednesday pm peaks; and (2) the Sensitivity Test which includes all 350 Heritage Homes residential units from a Waterman Boreham survey of 4/12/2009 for flows in Lake Road.
90. During discussions on the application, unease was expressed about reliance on Wednesday counts, due to the primacy of the Friday pm hour for retail purposes. An exercise was carried out using survey results obtained from the DoT, to compare flows on Wednesdays and Fridays. The exercise showed that Wednesday counts were consistently higher than

Friday counts across the network as a whole. This meant that reliance on surveyed Wednesday data would not under-predict flows for a Friday.

91. In cross-examination it was suggested to Mr Summers that there were discrepancies between the flow data used. In particular the figures for flows along North Quay and into Quines Corner from the morning peak diagrams in Appendix 5 of the October TA were highlighted. This showed the flows recorded along North Quay did not tally with those at the corner where they were bound to emerge. The same exercise was done in relation to the re-worked figures in the 16 December 2009 work [CD12.1] – this showed that between North Quay [188pcus] and Quines Corner [89 pcus] some 100 vehicles were lost. Mr Summers gave his views as to why there were differences: the figures were from surveys on different days. It was suggested that at Quines Corner there may have been a problem with the data, perhaps the Automatic Traffic Count; Mr Summers agreed. However, Mr Summers explained that the affected data from DoT was not used in the actual modelling exercise itself. This data was just used in the exercise to compare DoT figures with earlier surveys.
92. The objectors' entire point about mismatched data fails to recognise that the TRANSYT work relies exclusively on Waterman Boreham survey work, which although undertaken on days some months apart, is broadly internally consistent. Far from being a fundamental flaw as suggested, the surveys provide a sensible basis for assessing the flows in the network. It was also suggested that on the basis of these points, the assignments in the model did not replicate the surveys. This is simply not a fair overall point to make about the work Mr Summers' firm has carried out.
93. **Trip generation from proposed extension** The existing Tesco store has been surveyed as generating 161 arrivals and 72 departures in the weekday morning peak, 329 arrivals and 303 departures in the weekday pm peak, and 423 arrivals and 406 departures in the Saturday peak hour. These movements equate to trip rates [expressed as trips per 100m² of GFA] of: 3.778 and 1.674; 7.705 and 7.089; and 9.899 and 9.515 respectively. The initial question facing Mr Summers was whether the proposed extension would generate additional trips directly proportional to the increased GFA. He did not consider that such a proportionate increase would be expected, particularly in Douglas, where the available retail catchment is relatively constrained [CD2.3 paragraph 7.4]. Mr Almond for the DoT also did not expect a proportionate relationship between the two, or indeed that traffic generation from the largely non-food extension would be the same as for the existing food floorspace.
94. To check that understanding of no directly proportionate relationship between trip rate and additional GFA, and to assist in determining a reasonable factor by which to calculate the additional traffic generated by the scheme, Mr Summers referred to Waterman Boreham work on 8 mainland stores [CD2.3 Appendix 7]. This work relates to 8 sites of varying sizes, amounts of increased floorspace and specific locational characteristics. This makes the average figure they yield more, rather than less, helpful. This methodology has been in use for some time by Waterman Boreham and has been accepted by a number of planning authorities as set out in CD10.20. This work showed an average increase in traffic equating to 0.45% for every 1% increase in GFA in the weekday pm peak, and a 0.5% increase for the Saturday peak.
95. The result of the exercise was that the extension floorspace would yield 174 new trips in and 160 out on a weekday pm peak and 249in and 239 out on a Saturday [CD2.3 Table 7.3].

96. For DoT Mr Almond expressed concerns about the Waterman Boreham work on the basis that: (1) none of the stores in the study has a similar percentage increase in GFA as the proposed store, (2) the data was incomplete and is a small sample, and (3) although net retail floorspace can be better statistically, the net figures can frequently be modified without the need to submit an alternative application.
97. Before dealing with these points, it is worth noting that neither Mr Hall nor Ms France, coming from developer-consultant backgrounds, sought to criticise the trip generation assessment for these reasons when they reviewed the material before writing their evidence.
98. Returning to Mr Almond's points, it is fair to say that the information is lacking in places across the various stores – but that does not mean the data is unreliable. It is also fair to say that none of the stores in the study underwent an increase in GFA of over 100% as is proposed here. That is because they did not have the requirement, peculiar to the Island, of a bulk storage area some 70% larger than the norm. It does not however invalidate the use of the study to apply it, particularly when one realises that it should be regarded as robust and subject to a sensible allowance for the site specific characteristics of the current proposal. Mr Summers considered that to apply the increase to the whole GFA of the proposed extension in Douglas would potentially over-estimate the trips from the extension [because the actual trading floorspace is so much smaller without the bulk storage element]. Mr Summers thought that such an effect would be counterbalanced by any potential under-estimate caused by the scale of the extensions in the study being smaller than proposed here.
99. There is evident sense in that approach. Mr Almond accepts that the bulk store could be conditioned to prevent it from slipping into trading floorspace without the need for further approval. Furthermore the exercise is extremely conservative because (1) the ratio has been applied to the entire GFA, including the bulk store, (2) the study related to foodstores which have a higher trip rate than non-food floorspace, and (3) the current proposal is for an extension of trading floorspace, 85% of which is proposed to be devoted to non-food items.
100. If a figure of 0.75 was applied to the GFA of the extension – with its bulk store discounted by 70% to reflect the specific over-provision here – the resulting traffic generation would be 222 vehicles in and 256 out in the pm peak. With a factor of 0.6 applied to the floorspace with a discount for bulk storage the trips would be 177 in and 204 out. This shows that with a sensible approach to the outsize bulk store proposed here [it would be 70% larger than a similar bulk store in the UK because of the ferry delivery], the difference between a trip rate of 0.45, 0.6 and 0.7 is marginal. This is another way of showing that the traffic assessment has taken robust figures for traffic generation into account. Thus use of the Waterman Boreham report and the overall approach adopted towards trip generation are reasonable.
101. For these reasons the concerns still voiced by Mr Almond about trip generation appear misplaced. There is no evidence which can properly found a submission that trip generation rates should be higher than those used by Mr Summers. The evidence given by Mr Summers should be preferred.
102. **Assignment onto the network** The TA explains how the assignment of trips onto the network in the model took place. In order to assess the effect of the proposal against the

background network, it is necessary to split out the Tesco trips before growing up the background traffic.

103. First, the link flows and turning flows for the network were surveyed in 2008. They represent all the flows on the network; when splitting out the Tesco trips, a gravity model is used. The flows on Lake Road for Tesco are known, but it was impossible to say where they went elsewhere on the network, due to a lack of origin and destination information. Therefore the Tesco trip assignments were based on the shopper survey. This was reasonable as it enables one to apportion judge how to apportion flows from the store in the existing baseline position, and in the design year with the proposal in place. Future year shopping patterns will be different because shoppers might stay longer. By basing the distribution or assignment on the gravity model, the assessment is realistic in this respect.
104. **Committed development** Mr Summers allows for 350 residential units from the Heritage Homes Lake Road site in his assessment. This is about 80 more units than are currently proposed, but not yet consented. His analysis of 18/12/09 [CD12.2] is thus based on an over-prediction of traffic generation of some 20-25%.
105. **TRANSYT modelling – detailed points** It should be noted that there is a healthy margin of error in the figures contained in the Mr Summers’ assessment. Objectors say there is little margin for error at the Banks Circus junction, but as Mr Summers noted, the exercise he has undertaken is very conservative. This is because of the combined effect of (1) the use of the entire GFA to generate a trip rate, including the bulk storage area, (2) the addition of an allowance of Heritage Homes development traffic at 120% of an unconsented proposal, and (3) the fact that 85% of the extension will be devoted to non-food goods, which give a lower trip rate than for the existing [largely food] store.
106. In addition there is the margin of error in the figures themselves. Take the key period in the week: all the experts agree on the primacy of assessing the pm Friday peak. The modelled results for that period [CD12.2 ped every cycle] give very healthy figures: at 2010, the worst case [pedestrians every cycle] gives only one value over 90% DoS, namely link 70. In 2020, the same exercise [pedestrians every cycle] shows links 62, 70, and 73 over 90% DoS. The other links are all well under capacity even in 2020.
107. Leaving aside the conservatism in the trip generation and committed development figures, these figures are also likely to be over-estimates, for two reasons. First, the pedestrian phase is unlikely to be called every time. It is a notable irony of the inquiry that the objectors would like to have the benefit of the very worst case modelling outputs, and the benefit of the mutually inconsistent point that relatively few pedestrian trips are, or are likely to be, made to the store. To advance both points, as they do, is simply untenable. The applicant is regretfully resigned to the fact that although there is a good pedestrian route to the rest of the town centre, the modal split is likely to continue, with the proposed store attracting largely car borne trade. This means that the likelihood of shoppers calling red phases on every set of lights is very small. Even if one factors in Heritage homes residents in Lake Road, the desire line for them is not principally along Lake Road and Banks Circus, but along Lake Road and Bridge Road, using the new dedicated pedestrian crossing towards North Quay.
108. The likelihood of pedestrians calling every phase is small, and indeed it was not suggested that such an assessment was wrong. It is equally unlikely that there will be no pedestrian demand and therefore the “no pedestrian” assessment is unrealistic also. The

truth will lie somewhere between the 2 exercises. That is why the TRANSYT exercises referred to as “peds assessments” are overly conservative.

109. The second reason is more site specific. In evidence in chief, Mr Summers pointed to the location of the links in the 2020 “peds every cycle” run [CD12.2] which exceeds 90% DoS [links 62, 70 and 73; See also CD2.3 Appendix 10 Figure 8.1]. He explained that the main desire lines of pedestrians in those areas are not across the links in question via dedicated pedestrian facilities in any event. Link 62 is Banks Circus, but the main pedestrian movement is not across it. Link 70 is at Peel Road and is not heavily crossed by pedestrians. Link 73 is at Circular Road is also unlikely to be called at every stage. Therefore the likelihood of the modelled worst case arising is very small. In 2010, even with pedestrian phases called every cycle, no link is at or above 90% DoS. The “no peds” results for the Sensitivity Test in 2010 and 2020 show no DoS at or above 90% with the majority of links well below capacity.
110. As for other TRANSYT runs in the TA [CD2.3 & 12.2], there are no DoS percentages which come in at, or above, 90%. The same points as to the conservatism of the trip generation figures and the pedestrian phase assumptions apply to those results as well. The exercise carried out by Ms France for Shoprite in SHOP15 should be treated with circumspection. That TRANSYT run produces DoS and queue lengths much greater than those in the applicant’s work. This is because, despite claiming to have carried out a like-for-like exercise, Ms France agreed that she switched off or did not use the queue weighting facility within the model. As Mr Hall says, the queue weighting facility within TRANSYT is a “standard technique that improves capacity”. It does so by optimising green times in the system, making it thereby more efficient and focussing green time where it is required. Ms France made no attempt to justify the way she had dealt with this point.
111. The overall picture therefore is one of a network which will work within capacity. The objectors’ focus at the inquiry has been directed towards the very worst case modelling scenario. They have then added various criticisms which will be addressed shortly. In looking at the modelling, one should not lose sight of the central points by focussing on the margins and extremes.
112. Three attacks on the modelling suggest that the likely traffic cannot be accommodated physically on the network: (1) saturation flows are unrealistic because of the narrowness of the links on Drawing 31 [S/208624 Dec 09 Dwg 31] especially links 62, 63 and 64, which were not modelled correctly; (2) modelled speed is too fast, given the queuing likely to access the right hand turn lane, the conflicts likely within the junction and in Lake Road/Banks Circus; and (3) the unrealistic modelled length of the flare lane [38m rather than 60m as in the model].
113. Mr Summers accepted the modelled widths of the links 62, 63 and 64 in the Sensitivity test had been modelled incorrectly utilising a link width of 3.5m in Bank Hill – instead of what is at times 3.1m – and a width of 3.25m in Banks Circus – instead of 3m. This did increase the capacity of the junction contrary to what is shown in Drawing 31. However it did so by a miniscule fraction. The inquiry was shown an extract from guidance [SHOP19] which indicates that for “individual lanes containing straight ahead traffic saturation flows increased with lane width by 100pcu/h per metre of width”. From this it is extremely difficult to tell whether there is a straight line or directly proportionate effect in play here. Much stronger evidence comes from the TRANSYT run of 18 December 2009 itself. That had an early stage which used 3m instead of the eventual

3.25m for Banks Circus [CD1018]. The difference between the saturation flows produced by the modelled 3m wide link and the eventual 3.25m link was 23 pcus, or 1.2% of the saturation flow. Therefore notwithstanding that an additional 23 pcu capacity per hour was allowed on Banks Circus, the actual difference to the saturation flows is tiny. The results of the TRANSYT analysis are hardly affected at all.

114. As for Bank Hill there was no modelling crime here. Mr Summers took a realistic approach in entering 3.5m as an average width for this road which varies in width back from the stop line. Taking the worst case would lead to a 2.3% and 2.06% increase in sat flows for links 63 and 64. The TRANSYT model results would change very little.

115. As for the unrealistic modelling speed allegation, Mr Summers used the text book approach, but was challenged about buses, cars and cyclists proceeding across the junction at 30mph, given the constraints of topography and alignment. The question is does this make any difference? TRANSYT is a model and its assessment of capacity actually works by stacking pcus vertically at the stop line. No evidence was put on this point. All that can be said is that a lesser capacity might result from lower speeds across the stop line – but it is impossible to how say much less.

116. The same problem bedevils objectors' attempts to suggest that since there might be problems in the junction, between for instance vehicles turning into, and out of, Banks Circus, there would necessarily be an impact on the saturation flows in the model. For a start, it is not accepted that these alleged conflicts would occur. Mr Hall's swept paths were produced by scanning a drawing by Waterman Boreham and then imposing a TRACK run onto it. The pitfalls are obvious. It has never been denied that Drawing 31 includes a turn – large vehicles right into Banks Circus – which comes very close to, and clips the right turn lane box as drawn. This does not mean the design is fatally flawed or that the capacity assessment fails because there will be a bus stationed in the middle of the junction each cycle.

117. The third modelling error claimed by objectors was the functioning of the flare lane in the latest Sensitivity test [CD12.2]. It is said (1) the model is wrong because it has 60m for the flare link length rather than 38m, and (2) it is wrong because queuing traffic, avoiding the yellow box junction on Drawing 31, would not be able to access the right turn flare lane because it would be stuck in the single lane approach on Lake Road. The first point is incorrect as the model has already dealt with this; the flare is 38m long on Drawing 31, but although the model has 60m entered as the link length, the capacity of the link is only set as 3pcus [CD12.2 SENSITIVITY 2020 FLARE p4 link 62 capac veh 3]. The model is therefore not assessing the capacity of the link as if 6 pcus could squeeze into the 38m flare length, but only half that number. So although this is fair point, it does not affect the modelling.

118. At one point it was suggested in evidence that the modelling undertaken by Mr Summers was unreliable because it used a flat arrival profile in the peak. Since TRANSYT works by identifying the mean maximum queue, then peaks within the peak or over-saturated flows would wreak havoc with the capacity. But this point loses any force when one notes that Mr Summers, Ms France and Mr Hall all utilised a flat arrival profile. Furthermore there is no evidence that the peak flows from a superstore like Tesco are anything other than smooth. The uniform arrival profile is the way TRANSYT models the junction and that textbook approach would only be unsettled were objectors to have presented any evidence that the arrival is different in the peak.

Design of the Banks Circus junction

119. It was agreed on Day 4 of the inquiry that the applicant would base its case on Drawing 31 [CD12.1]. There is no bar to the grant of planning permission for the proposal including Drawing 31, given that the criticisms of it are minor. The scheme is not perfect. Imperfections identified are not fundamental flaws.
120. **Pedestrian movement** First, there is the narrow footway near the Railway public house. For the DoT, Mr Almond thought this was so serious that permission should be refused. It is accepted that the 4.1m x 1m stretch – not including use of the hotel portico itself, also open to pedestrian use – does not comply with BS 8300:2009. This standard calls for a 1.2m minimum for not more than 2m around existing obstructions [CD8.22]. However even if one leaves aside the portico, the failure equates to 20cm for 2m. This puts into perspective the overblown objection about this stretch of existing urban footway.
121. Objectors stress the need for large vehicles to swing close to the footway at this location. This is a situation that is present in many established urban areas. More pertinent, perhaps is the fact that the desire line for Tesco customers is quite obviously going to be along the northern footway on Banks Circus – why would they want to cross Lake Road from the store? The only other pedestrians, those from the Heritage Homes scheme, are self-evidently more likely to come up from Old Lake Road to the dedicated pedestrian crossing on Bridge Road. Thus while it is true to say that the pedestrian footway for 2m of the route between the store and North Quay is 20cm too narrow to meet standards, it would be a gross overstatement to say that permission should be refused on that basis.
122. Another objection for pedestrians is the desire line across Bank Hill would endanger pedestrian users. It is clear the current arrangement requires pedestrians to cross without dedicated pedestrian facilities. Mr Hall for Heritage Homes in his TA [CD10.15 paragraph 3.15] identifies that there are no accident issues at the crossing. He says that at the moment pedestrians make their way knowing there is a stop line at which vehicles halt. With Drawing 31 vehicles will be held at a stop line by lights. Mr Hall thinks the latter would be more dangerous. This view is difficult to follow, given that with the current arrangements, vehicles could leap forward without third party control and at the whim of their drivers. With the Drawing 31 scenario, the long green phase allowing Banks Circus traffic to emerge will give ample time for pedestrians to cross in front - not between – halted traffic at the stop line. It takes about 10 seconds for most to cross Bank Hill, during a 50 or 60 second red phase there. Visibility of any pedestrian crossing is unimpeded, and the pedestrians know full well when the traffic emerging from Banks Circus stops moving. This type of walk with traffic crossing is common in urban areas. Safety objections are over-exaggerated.
123. **Safety audit** As for the call for a Stage 1 safety audit, there is no reason why this could not be done from Drawing 31. This drawing's minor failings could be ironed out before the scheme is built – a suitable condition could deal with that. There is no practical problem with this, as the land is all highway land and any re-consultation is within the competence of the DoT. If the failings of the scheme are more than minor, then the condition would be not able to address this point.
124. **Emergency services** Fire and Rescue Service concerns [CD10.13] shared by Mr Almond of DoT are perhaps overstated. They say the traffic signal will make it more difficult than the current Bank Hill arrangement, to access Bridge Road and South Quay. Traffic currently stops at the junction, facing away from the likely direction of the fire

tender; lights and siren noise alert them and they either move sideways, or through the stop line. There is nothing in substance different about the arrangement in Drawing 31 – the carriageway width, parked cars and kerbs are the same, and the signals will not prevent those at the front from moving. The splays at the stop line in Drawing 31 combined with the entrance to the station, afford ample room for those at the front to move. The whole junction will be substantially more controlled if changed in accordance with Drawing 31. This arrangement will if anything provide an easier environment for the Fire and Rescue Service vehicles to negotiate. This objection does not weigh against the grant of consent – if it did, every signal junction in every one way flow would be unacceptable in every urban area.

125. **North Quay** For North Quay, the development would produce more traffic. It is accepted that the policy objective for that area is to keep use by cars to a minimum. The real target of that policy is not known – it is rat running, or use by Tesco customers and other local customers? The actual negative impacts would be relatively small. The Tesco proposal would remove 289 vehicles from North Quay in the am peak, as it delivers the mini-roundabout proposal which DoT promoted then pulled the plug. This project was shelved for budgetary reasons, and there is no decision to reinstate it. This roundabout removal is a substantial benefit of the proposal when no other means of its removal have been identified. Heritage Homes have no intention of removing the roundabout. They cannot deliver it as it involves land owned by Tesco to ensure footway width is maintained.
126. So Tesco's removal of u-turning traffic would enable real benefits for the wider town centre network. U-turning is principally an am peak phenomenon [CD2.3 Diagrams 1s, 2a & 3a]. The Tesco proposal would lead to a reduction of some 289 vehicles on North Quay. In the pm peak it would cause an additional flow of 16 per hour – this is not material. On Saturday, its effect would be most pronounced – at plus 155 vehicles – i.e. between 2 and 3 a minute. It is accepted that the Saturday peak would coincide with one of the peaks of leisure use in North Quay, but the additional effect would be very small. Without the removal of the mini roundabout – which Heritage Homes do not intend to deliver – the Heritage Homes scheme causes a large flow on North Quay, far greater than Tesco's proposal.
127. Tesco does not accept the range figures of 300-600 vehicles per hour – from the environment capacity work of Colin Buchanan in the 1960s – are a reliable guide to the acceptability of the proposal. Even if the range were applied, the table presented by Mr Hall shows that Tesco related vehicles on a Saturday, at 209, would be below the 300-600 range. If there is a higher combined flow on North Quay, it is demonstrated by Mr Hall's work to be a joint impact caused by Tesco and Heritage Homes.
128. Pedestrian movement on North Quay has been greatly improved in recent years thanks to the DoT. Tesco's additional vehicles, perceptible only on a Saturday peak, will not be anywhere near the kind of level at which the environment, or safety of pedestrians would be harmed. This point should not stop the proposal coming forward.
129. **Visibility splays** Customer car park entrances are now regarded as satisfactory by DoT, subject to conditions requiring visibility splays shown on Drawings 21B and 23A to be maintained. These conditions are accepted.
130. For the service yard Tesco offer to abide by a condition guaranteeing a 2m x 33m visibility splay. The 2m "x" distance can be achieved by moving back the alignment of

the fence to the service yard. Mr Almond for DoT insists on a 4.5m x 45m visibility splay. These “x” and “y” distances are unduly onerous. The “x” distance seems to be based not an assessment of actual danger, but on the application of paragraph 2 of Annex D of PPG13 [1994] – this is still alive on the Isle of Man despite being cancelled nearly 10 years ago. It is perfectly obvious that the service yard would not be as busy as a factory or petrol filling station. The guidance is not readily applicable to a service yard like this.

131. The number of vehicle movements to the service yard could not be predicted with certainty. The number of HGVs might be more than 2-4 a day currently and the number of dot.com vehicles might be more than 10 or so, particularly if Tesco’s business objective of growing that aspect of the business is achieved. But even then an acceptable “x” distance here would surely align it more with a small cul-de-sac of half a dozen dwellings, yielding perhaps 30 movements a day. The guidance does not refer to type of vehicle, because the visibility standard is aimed at those on the carriageway, who will see 2m of a vehicle in such an access point; it does not matter if it is a mini or an HGV for these purposes.

132. As for the “y” distance, Mr Almond wishes for 45m – but that is unnecessary, given the likely speeds on the approach to the service yard. They will be reduced by the s-bend on the road and the approaching lights and bus depot entrance. The shopper will be aware of all upcoming obstacles or features. Mr Almond seemed to espouse as a working assumption a design speed of 20mph – not very different from the 19mph surveyed in the existing Lake Road. That appears to relate to a “y” distance of 45m, but it is so close to the surveyed speed that it really calls into question the objection to using that measured value. If that is done, Table A in the guidance indicates a “y” distance of 33m; so the difference is not great.

133. The parking provision is entirely justified. It is well within the PPG13 maximum of 1 for every 14m². The parking accumulation survey carried out by Mr Hall effectively deals with Mr Almond’s point about the justification for the need for the number of spaces. It shows the maximum number of spaces on a normal peak hour allow a modest amount of spaces for extreme peaks like Christmas and Bank Holidays.

134. The temporary period will require some compromises. A banksman will be used to direct traffic when servicing is taking place. There will be fewer spaces, but also of course a smaller store. Tesco wishes to maintain its trading for its customers. From a commercial perspective during the works, and although there may be limited parking and some will shop elsewhere during that period, the temporary store still forms part of the application.

Benefits

135. The proposal will bring 250 jobs [60/40 full/part time]. This is a substantial benefit to the Island. It will deliver beneficial highway schemes in Lake Road and Lord Street.

136. The effect of the proposals on investment was discussed at the inquiry. No scheme in the wider Town Centre will be prejudiced as a result of the proposal. However the proposal itself represents a major investment in the Island, and a vote of confidence in Douglas and economy.

Overall conclusions

137. With a Tesco Extra in Douglas, the capital would have a modern, efficient superstore of a kind that one finds in large centres such as Douglas. It would be entirely suitable in

scale to the centre, and would provide both complementary facilities to the other facilities. It would provide a degree of competition which has the potential to be a stimulus to what an important and independent local agent characterises as a rather sequestered comparison market. The Town Centre is slowly, slowly evolving, with the major change to North Quay, the Heritage Homes development in Lake Road, and in due course, other complementary facilities. The Tesco Extra proposal would perform a positive role within that range of facilities, and further underpin the future of the town.

138. Subject to conditions, the application should be approved to allow this change to occur.

DOLGE & DEPARTMENT OF TRANSPORT

The material points are:

Introduction

139. The planning application was submitted in February 2009. In April 2009 the application was called in to be determined by Ministers, rather than the Planning Committee.

140. The existing store trades from 2,473m². 89% of this floorspace is devoted to the sale of convenience goods. The proposed mezzanine extension seeks to increase the store's net floorspace by 113% to 5,261m². The net convenience floorspace would increase by 19% to 2,636m². The net comparison floorspace would increase by 906% to 2,625m².

Planning policy

141. A consistently enforced component of policy on the Isle of Man is that contained in the Tynwald resolution of 1987. This resolution followed the development of a B&Q store in the Spring Valley Industrial Estate in the mid 1980s. The SP in paragraph 9.2.5 records that Tynwald took an immediate stance against out of town retailing by resolving that *"Positive steps should now be taken to revitalize existing town and village centres for the benefit of the whole community....and no further out of town retailing developments should be permitted."*

142. That resolution was followed by the 1989 Douglas Local Plan [CD8.14]. Whilst this plan has no status in terms of development control it is a useful background document to understand and appreciate subsequent policy. In Section 2 the Plan dealt with *"Retail"*. At paragraph 2.1 the following appears: *"The retail centre of Douglas is based upon Marina Road, Castle Street, Strand Street and Duke Street."* That area corresponds with the area washed blue on the Map. The policy continues at paragraph 2.1: *"It is intended that the retail centre will continue to be based on the foregoing area and it is considered that sufficient area is available for the foreseeable future. Care should in any case be exercised of the possible over-provision of new shopping development."* The site of the Tesco store is in an area identified on the Map as *"Commercial"*, but it is the subject of a specific policy 2.8 that provided: *"An area between the Railway Station and Lake Road has been zoned for retail uses and it is recommended that large span retail uses which cannot be accommodated in the foregoing areas be located in this zone."* Policy 2.11 under the heading *"Outside Town Centre"* provides: *"No major retail development will be permitted outside the central areas defined in the accompanying map. Large span retail*

warehousing could be accommodated in the Lake Road area of the town centre as described in 2.8.”

143. The language could be more precise against the background of the 1987 Tynwald resolution, but it is clear the intention underlying the policies of the plan can be seen:
- (a) The retail centre is distinct from the remaining part of the town centre. It is the area coloured blue on the Map.
 - (b) The Plan anticipated that the area so identified would be sufficient to meet the needs for the foreseeable future.
 - (c) That the identification of the site in Policy 2.8 was for large shed type developments that could not be anticipated to be accommodated in the blue area.
144. A more recent iteration of policy is contained within the Douglas Local Plan Written Statement 1998 [CD8.3] and Douglas Local Plan 1998 Central Area Map No 1 [CD6.2]. The Written Statement is non statutory. The fact that it was not adopted is not clearly explained. There is simply no evidence that a conscious decision was taken not to proceed with it. It was the subject of discussion in Tynwald when the Plan was discussed and it appears that the most likely explanation is that the Department understood it to have been adopted.
145. Irrespective of its precise status, all parties to the inquiry recognise that it is an important material consideration and necessary in order to interpret Map No 1. Approved Map No 1 shows an “*Area of Predominantly Shopping Use*” [CD6.2]. The main changes that appear compared to that of the 1989 Plan [CD8.4] are:
- (a) The south part of the North Quay has been added to the blue area; and
 - (b) The subject site in the Key is “*Retail/commercial*” with the bespoke designation appearing on the site itself as that of “*Retail warehousing*”.
146. The Written Statement has been the subject of considerable debate at the inquiry. The draftsmanship in terms of legal precision leaves a lot to be desired. Nevertheless having regard to the long standing policy maintained from 1987 and bearing in mind that the underlying objective of the policy aids interpretation the document is clear in identifying a retail centre and discriminating against developments, such as that on the subject site, that are outside that retail centre.
147. The 1998 Written Statement adopts the same approach as the earlier 1989 Plan in referring to a retail centre by reference to street names. Paragraph 3.5 identifies retail centre as the blue area on Map No 1 using street names. Thereafter it refers to “*Retail outside Town Centre*”. Notwithstanding that Map No 1 shows a Central Area, it is clear that in terms of development outside the retail centre examples are specifically given in paragraph 3.8 of retail outside the blue area but within the defined Central Area.
148. The area for retail use is physically smaller than the town centre. This is clear from paragraph 3.14 which says: “*The town centre as illustrated on the accompanying mapping of Douglas has, as with other towns on the Island, been defined as an area within which the principle retail uses should be located. This current policy will be rigorously maintained and no further significant retail development will be permitted outside the town centre.*”

149. Policy P1 provides: “Retail development in the town of Douglas will be restricted to that area defined within the town centre. An exception to this Policy is that non food stores for the sale of bulky goods may be located outside the defined town centre and locations appropriate to this use should be identified.” The “area defined within the town centre” can be only the area washed blue. Paragraph 3.17 considered that area to be adequate in its extent for the needs of the foreseeable future. Consequently Policy P3 provided that no further extension beyond that area would be permitted.
150. The suite of policies thereafter continued with reference to “large span warehousing”. In particular paragraph 3.19 stated: “The provision of land for large span warehousing in the area between the Steam Railway Station and Lake Road is considered to be adequate for the immediate future but extension of this area into the present adjoining coal yard for a range of non-food bulky goods retail warehouses should be permitted if that area becomes available and if a need/demand for such facilities can be demonstrated.” Therefore Policy 4 stated: “Additional areas for large span retail warehousing should be provided in the existing coal yard area adjoining the Steam Railway Station and this provision should be for non-food bulky goods.”
151. The physical area of the extension being referred to is clear from comparison of the plan associated with the 1989 and Map no 1 of the 1998 Plan. On any basis the proposal that is the subject matter of this application conflicts with these policies. However a key consideration is the degree to which it can be considered that the application site is outside the retail centre.
152. It is clear that the authors of the 1998 Written Statement and the Inspector who determined objections in relation to it considered that the site was out of centre in retail terms. Page 63 of the Written Statement anticipated development briefs being prepared for a number of proposals. Paragraph 14.4 with its reference to “large span retail warehousing within the town centre area” must be seen in the context of the site being within the town centre boundary but clearly outside of the area of predominantly retail use.
153. The Inspector dealing with objections to the plan had cause to consider an objection made in respect of the site. His report dated 21 July 1997 [CD10.6] states: “Planning consent for a larger new superstore in the area for “retail warehousing” outside the town centre indicates that a flexible approach is already in being.” It must be understood that in this context the Inspector is not considering the town centre shown as the Central Area on Map No 1, but rather the retail centre washed blue on the same plan.
154. The applicant cannot derive any comfort from the “TC” uses identified and shown on Map No 1. These are not areas of secondary retail frontages. As is clear from the Lord Street proposal the main use was to be residential whereas retail/leisure was a use that was permissible but not necessary.
155. Strategic Plan policies need to be grappled with. As with the Local Plan a purposive interpretation is required as a minute forensic analysis of the policies identifies that they are, in some instances, ambiguous.
156. Strategic Policy 9 requires all new retail development to be sited within town and village centres on land zoned for those purposes in Area Plans. The purposive interpretation is assisted by paragraph 9.4.2 which states: “The reasons for directing retail development to town centre sites are essentially those set out in paragraph 9.3.3 in respect of offices, but to these must be added the need for there to be a sufficient range in choice

of goods available in one shopping trip, without the need to travel between sites. Experience in the UK illustrates the impact which out of town retail development has on the traditional town centre high street and on small village shops, and it is pertinent to note the reversal of policy by the UK Government. The Department therefore proposes to adhere to the established policy which was embodied in the Tynwald resolution of 1987.”

157. It goes on then to refer to exceptions to the general policy (bulky goods retailing) and thereafter refers to the community benefits associated with neighbourhood shops. It continues by saying the following general policies are therefore appropriate.

158. Business Policy 9 says: *“The Department will support new retail provision in existing retail areas at a scale appropriate to the existing area which will not have an adverse effect on adjacent retail areas. Major retail development proposals will require to be supported by a retail impact assessment.”*

159. Business Policy 10 says: *“Retail development will be permitted only in established town and village centres, with the exception of neighbourhood shops in large residential areas and those instances identified in Business Policy 5.”*

160. There is consensus at the inquiry that these 3 policies must be read together and in the context of the SP as a whole. On that basis the definition of *“existing retail areas”* submitted by the applicants such that it includes sites already in retail use cannot be correct. If the established policy, embodied in the 1987 Tynwald resolution, is followed, retail development on an existing out of town retail site is hardly likely to attract the support of the Department. Such a conclusion would be required by the applicant’s interpretation of Business Policy 9. It therefore produces an absurd result. The appropriate, logical and consistent approach to interpretation should confine *“existing retail areas”* to those identified in current plans as in predominantly retail use.

161. The approach in the Peel decision really reflects the absence of a defined retail centre in Peel. The Peel Local Plan 1989 [CD8.21] has not identified a retail centre as the Douglas plans of 1989 and 1998 did. It was unable to do so in the circumstances where the existing town centre area is constrained by the Conservation Area.

162. Mr Brooks considers that in the absence of guidance about town centre definition in the SP or DLP this is a case for using PPS6 as suggested in paragraph 1.6.1 of the SP. Limited weight should be given to this guidance. Mr Skelton considers that PPS4 should have limited weight in providing guidance to this inquiry, but that it would be helpful when there are gaps on Manx guidance. Mr Skelton also considers that the application site is within Douglas Town Centre, but is outside the retail centre.

Retail issues - scale

163. As the proposal lies outside the retail centre of Douglas, the scale of the proposal is an important consideration to bear in mind. The redeveloped store would have the largest sales area of any retail unit on the Island. The comparison goods floorspace would be larger than any comparison goods store in Douglas Town Centre other than Marks & Spencer [3,252m²]. Only B&Q [4,454m²] offers more comparison floorspace. The proposed comparison floorspace would be 65% of that existing at Tynwald Mills.

Retail issues – location

164. The location issue can be seen in relation to the approach taken in other jurisdictions. In particular PPS6 and PPS4 give useful guidance. In PPS4 in centre would be within the

primary shopping area. Edge of centre would be “...well connected to and within easy walking distance (i.e. up to 300 metres) of any primary shopping centre.” Guidance from Northern Ireland, the Irish Republic and Scotland all approach the matter in a broadly consistent way.

165. In functional terms Tesco now operates as an out of centre development. The distance from the Tesco store entrance to the M&S entrance is over 900m. Only the southernmost part of the defined retail centre [APSU: area washed blue] falls within the 800m isochrone in the applicant’s Transport Assessment. There is a separation of land uses between the defined retail centre and the application site. There are a number of barriers, including busy roads and changes in level between Tesco and the defined retail centre. The applicant’s Exit Survey [J Francis Proof App 6] shows that of those who combined a visit to the town centre only 6% walked with over 93% using private transport.

166. In Mr Skelton’s view the location issue is more critical than the impact issue. In Mr Brooks’ view the location and impact issues are of equal importance.

Retail issues – impact

167. **Function** It is hardly surprising that the applicant’s survey demonstrated that 96% of visitors to the Tesco store expressed food shopping as the main purpose of their visit. It is noteworthy that 51% of respondents combine the shopping trip to Tesco with an activity in Douglas Town Centre. 68% of this proportion shop for non-food items in Douglas Town Centre. It is clearly the case that as the comparison offer in Tesco is now only accommodated in 261m² the probability must be that the number of linked trips would reduce if the comparison goods floorspace was expanded to 2,625m² (net).

168. **IoMRSU** As for convenience goods the IoMRSU identified little quantitative scope for further retail floorspace. Instead the IoMRSU considered there was scope for improving quality and the distribution of convenience shops throughout the Island.

169. The limited nature of the proposed expansion of convenience floorspace appears to be consistent with the IoMRSU.

170. For comparison goods the opposite is true. The study showed that using clothes/shoes as a proxy for all comparison goods Douglas manages to retain 70% of the expenditure on High Street comparison goods. The IoMRSU identified a quantitative capacity up to 2017 of 3,390m² (net) of floorspace. On a more optimistic scenario relating to that of increased market share the figure for 2017 could amount to 5,410m².

171. If the proposed comparison floorspace were to trade at the average levels assumed for Douglas the proposal would exceed the total Island requirements to 2012, and would represent between 49% and 77% of the comparison floorspace requirement to 2017.

172. In all probability the comparison element of the proposal would trade at significantly higher levels. Tesco deploy a figure of £6,109/m² for this application. This figure comes from applying 32% to the current comparison turnover of £19,089/m². Mr Skelton regards the Tesco turnover figure as likely to be significantly under estimating the likely turnover. The existing comparison element in the store is currently trading at twice the company average, as is the convenience floorspace. The Douglas Tesco is not therefore an average store. At the Kirkby Tesco inquiry the figure put forward for the 1,651m² comparison floorspace at the existing Tesco store at Prescott was £9,436/m², while the proposed 5,452m² comparison floorspace at Kirkby was assumed to be £10,166/m². At the more

recent application at Old Trafford the figure submitted for Tesco significantly exceeds £9,000/m² [CD10.10].

173. The figure used by Mr Skelton for DoLGE of £9,000/m² is realistic. In fact it can be regarded as conservative because Tesco Douglas performs above average and will continue to perform well post-redevelopment.
174. Little weight should be given to Tesco's argument for a significant diminution in likely turnover by reference to the experience of extensions generally. Interrogation of that data is impossible, as it is regarded as commercially confidential. It must be questioned if the proposal can be regarded as analogous to that data. No weight should be given to the Tesco assertion unless the data is examined.
175. If Mr Skelton's figure of £9,000/m² comparison turnover is used the turnover at 2012 would be £23.2m and £26.7m by 2017 – assuming a 2.9%/annum efficiency growth. This is different from Tesco's £14.4m. The store turnover would exceed the level of residual comparison expenditure across the whole Island until 2017. It follows that this level of turnover can only be achieved by diverting expenditure from Douglas or other centres on the Island or retaining expenditure that is presently leaving the Island. Tesco assume that about 5% of the turnover would be derived from expenditure currently leaving the Island.
176. The IoMRSU assumes an improvement to market share through improved range and scale of the comparison offer principally in Douglas. The reason for this is that the IoMRSU indicates that a substantial proportion of comparison expenditure is going off Island because quality retailers and upper market goods were not available locally.
177. The proposed Tesco comparison offer is broadly the offer that is currently available within Douglas Town Centre. The ability of Tesco to stem off Island leakage must therefore be questioned.
178. The Tesco proposal is contrary to the IoMRSU recommendations in 4 ways. First, the scale and range of the proposal is inappropriate for an out of centre location. Second, the floorspace exceeds the identified requirements. Third, the range of goods proposed to be sold would not enhance the retail offer. It would also not have a major effect on reducing leakage to off island locations. Fourth, it would inevitably therefore have to draw trade from Douglas and other centres thereby affecting the prospects of retail led regeneration.
179. **Household Income and Expenditure Survey [HIES]** Tesco used UK average expenditure [J Francis Proof Appendix 7 Table F] to determine the amount of comparison expenditure available to support the proposal. In doing so the approach adopted in the original DPP Retail & Planning Assessment [CD1.3 paragraph 7.18] was abandoned. Mr Francis had expressed surprise at the HIES findings where IoM residents had a greater disposable income than on the UK.
180. The 2006 HIES should be given considerable weight. It is the best publicly available data. The quality of the data is immeasurably better than the DPP survey data. Notwithstanding the small sample size [0.3% of the population] there are 4 reasons why it carries considerable weight. First, it involved a diarised methodology that sought to elicit and record all “on island” expenditure over 2 weeks. Second, the fact that recorded convenience expenditure is similar to that of UK residents tends to support rather than detract from the likely accuracy of the analysis. If the spending of respondents on convenience goods is unsurprising, it can be taken that the record keeping of respondents on comparison goods should be regarded as equally accurate. Third, the need for the

Treasury to get the information right is obvious. Calculation of the RPI would be based amongst other things on the information derived from this study. Fourth, Mr Skelton interrogated those responsible for this information in the Department of Economic Affairs in order to determine whether it was sufficiently soundly based to be used for the Retail Study.

181. In Table 7.7a of the IoMRSU it can be seen that about 18% of available comparison goods expenditure goes “off island” or to internet sales. This result comes from the RTP Household survey. This means that the amount of expenditure that Tesco have assumed to be available to support the additional floorspace is simply not there. The 2 assumptions in relation to turnover and availability of comparison goods expenditure have significant implications for determining the extent to which there is (1) the availability of comparison goods expenditure to support the proposal; and (2) what the turnover of the store would be.

182. **Impact** The proximity of the Tesco proposal and the similarity of catchment and similarity of the range of goods likely to be sold from the proposed extension means that Douglas Town Centre is likely to experience the greatest trade diversion. Mr Skelton for DoLGE suggests nearly 80%. Mr Francis for Tesco suggests 70%.

183. If the extension were built, Douglas Town Centre comparison turnover would be between 11-14% lower in 2012 and 2014. These levels of impact are significant and would produce at least 5 unacceptable land use consequences in relation to the viability and vitality of Douglas Town Centre. First, there would be an immediate reduction in turnover for many of the town centre retailers competing directly with goods that are likely to be sold from the Tesco store. Second, there would be a reduction in expenditure by those retailers in terms of reinvestment in their properties. Third, there would be a depressing effect on rentals available within the town centre. Fourth, there would be an increased likelihood of disinvestment in the fabric of the town centre by freeholders and landlords. Fifth, there would be a diminution of the prospects of redevelopment of the wider centre.

Retail conclusions

184. There are 5 retail conclusions: (1) the proposal is out of the retail centre of Douglas; (2) there are compelling policy reasons for refusing the application; (3) the existing Tesco store operates as an out of centre facility; (4) the proposal would consolidate its out of centre location and contribute to severing the limited functional relationship between the town centre and the store; and (5) the impact upon Douglas Town Centre would be unacceptable in terms of viability and vitality.

Highway issues

185. The DoT has serious concerns about the applicant’s approach to the development of this site.

Modelling

186. **Trip generation** The DoT is not satisfied that the assumptions leading to the October TA conclusions for trip generation are sound. The concern is that the assumptions would underestimate the likely traffic to be generated. The applicant’s approach is to base the trip generation calculation on an April 2005 study of other store extensions and the consequent traffic generation post-extension.

187. The limited nature of the information available in respect of the stores studied [CD10.11] is insufficient to provide a sound basis for the conclusions reached by Mr Summers. The Tesco reduction in trip rates is not justified. Eight stores were involved in the study; six involved an extension of about 30% of the existing store; the remaining two involved extensions of less than 70% of the existing store. In this case the extension is very nearly 120% of the existing store. Little information was available as to the nature of the goods to be sold in the extended stores. No information was made available that addressed the reason for the extension. For example was the extension to address overtrading as a convenience store? A further point is that the data was incomplete; only 3 of the 8 stores have both Friday pm peak and Saturday peak data available.
188. It also was not clear whether the circumstances were analogous to this proposal. In this case nearly all the increase would be devoted to comparison goods. With this proposal there would be a readily accessible mezzanine from a decked car park that would enable the 2 components of the development to be used by the public in a completely separate fashion.
189. Consideration of CD10.11 shows its unreliability. Using the Ashford store as a proxy and using the study methodology a trip rate of 0.74 could be warranted. In this case a trip rate of 0.5 [Saturday peak] was used. The inevitable conclusion is the trip rate assumptions in the applicant's case must be regarded as at best doubtful. They are not sufficiently robust to enable proper conclusions to be drawn. Consequently either better data should be obtained to justify diminution in trip generations, or a more pessimistic assumption is relied on to reflect better development circumstances proposed.
190. In this regard, the recent Tesco replacement application in Walkden, Manchester [SHOP20] showed the use of the TRICS database by Ms France. These gave figures of 5.52 in and 5.80 out on Friday and 5.79 in and 5.81 out for Saturday. Mr Almond for DoT also noted in his evidence the availability of TRICS data and that it reflected the reduction in turnover per m² as size of store increased.
191. The appellants in an attempt to address the force of this point had resort to the argument that the Douglas Tesco has a larger than normal bulk storage area. Thus it is said that the larger than normal non trip generating bulk storage area is such that one can safely conclude the development is acceptable. This is not accepted. First, the approach to net down the existing GFA figure is wrong when the other stores are all considered on a GFA basis. Second, there is no evidence before the inquiry as to what would represent a normal Tesco bulk storage area. Third, the existing store has 39% given over to bulk storage. The store post development would have some 36% given over to bulk storage. Thus there would be little change in bulk storage. It is therefore inappropriate to net down from a figure that is already accounted for in the trip generation characteristics of the store.
192. The implications of all this are clear. By reliance on the 2005 study and applying the reduction in movements to the application significantly underestimates the traffic likely to be generated by the redeveloped store. This has implications for the applicant's analysis of capacity and wider safety issues.
193. In the modelling update [CD12.2] the table for 2020 pedestrian and no pedestrian stages show how tight the junction would be. The input figures from Mr Summers are based on trip rates derived from the 2005 study. If these underestimate the likely trip generation from the store as redeveloped, the impact would be greater than shown. There

is very little capacity. For the pedestrian stage every cycle the DoS on links 12, 62, 70 and 73 are at or above 90.

194. **Operational assessment** The TA provided no details of the existing traffic conditions. This could have been queue lengths and delays experienced on the network. There has been no assessment of how the development traffic and proposed changes would impact on the network. Absence of comparable data means it is impossible to determine whether the situation, post-development, would be made worse as a consequence of the proposal.
195. The DoT made it clear to the applicants that they wish to have an assessment in which it is possible to compare queue lengths and delays with that that is likely to arise post-development. Information is required to determine whether the development proposals achieve a “no worse than” situation. The failure of the applicants to provide that information of itself is a justifiable criticism. The fact that there is an absence of such information may lead to the inference that there will be significant detriment to the current operation of the highway network.
196. It is clear the queues at Banks Circus junction would be significantly longer. Queues in the region of 180m from the junction stop line would lead back to the existing store and interfere with the bus depot’s access and egress. Furthermore the design of the Banks Circus junction shows that buses turning right from Bank Hill into Banks Circus conflict with the right turn lane on Banks Circus. If occupied, public service vehicles will not be able to execute the manoeuvre anticipated at this junction.

Design and safety

197. **Drawing 31** On Drawing 31 the footways are narrowed to accommodate the increase in carriageway width necessary to facilitate the development. The north footway would be 1.8m in width whereas the southern footway would only be 1.1m. As a consequence at 1.1m two adult pedestrians cannot walk side by side. The southern footway would be substandard by reference to BS 8300:2009 [CD8.22] - a point accepted by Tesco.
198. In addition the narrowing of the footway takes no account of the Railway Hotel portico. That would be an additional obstruction and may involve risk of damage to the portico itself as a consequence of the narrowing of the carriageway of this junction.
199. The proposal also involves the removal of the loading bay of the garage/tyre depot. Use of the highway to service this site will involve unacceptable obstruction to traffic travelling west.
200. On Drawing 31 the entry of buses is prevented when the east bound right turn lane is occupied.
201. Planning permission could not be granted on the basis of Drawing 31.
202. **Visibility splays** Drawing 208624-33 [CD12.3] purports to show visibility splays for the service yard are satisfactory. There is a significant disparity between the measurements prepared by Mr Summers. At an “x” distance of only 1m – in itself an inappropriate measurement - visibility to the left is 35m and not the 64m shown. The important distance is not to the kerb, but to the point where opposing vehicles can be seen. TD42/95 gives the appropriate guidance. The “y” figure of 36m is correct; this would be at 45° to the highway, so visibility to the right would be behind the driver.

203. The “x” distance of 1m used by Mr Summers is not justified by a demonstration of “exceptional circumstances” required by the guidance in paragraph 2 of Annex D of PPG13 [CD8.24]. The “y” distance of 33m used by Mr Summers falls significantly short of the distance required. Using an “x” distance of 2m a visibility splay of 43m to the left and 19m to the right could be obtained – again both distances are less than is required by PPG13. Consequently the design of this service yard access would be unsafe, as required safe visibility splays cannot be achieved.
204. For 20mph the “y” distance should be 45m and the “x” distance should be 4.5m, as this access point should be regarded as a “busy private access”. This access is not “simple” and is not “very minor”. It is similar to a factory. There could be about 12 HGV movements a day and about 10 Tesco.com delivery vehicles a day – Tesco have not provided an estimate of these vehicles. The “y” distance should be no less than 45m. Speed surveys with the presence of the mini-roundabout operating as a constraint on speed cannot justify a low “y” distance. The minimum should be consistent with the design approach of Table B in PPG13 – this is 45m. There is no evidence that the applicants could achieve this visibility splay.
205. **Emergency services** Lake Road and Banks Circus is a cul-de-sac. It is intended to serve up to 350 dwellings, plus additional office and retail development on the allocated site, a 9,295m² store, bus depot and train station, public house and garage business. Manx Roads, the guidelines used by the DoT, would normally require 2 access points to the highway network to serve a comparatively modest development of 100 dwellings.
206. The Fire and Rescue Service letter dated 30 May 2009 also expresses a concern that remains unaddressed by the applicants. The concern relates to the traffic signal control of Bank Hill. The problem would arise at the splitter island. The experience of the Service is that their ability to make headway through traffic is hampered by traffic, particularly at signal controlled junctions. The Service always uses this bridge route, as the other bridge might be up, and they think the signal controlled junction is a problem.
207. **Pedestrians** The SP gives pedestrians a high priority. Transport Policy 6 says that pedestrians needs will be given similar weight to other road users. It is therefore inappropriate for Tesco not to quantify pedestrian trips from the development or from committed residential development. There is no assessment against pedestrian accessibility and safety. There is no data on pedestrian flows or pedestrian desire lines.
208. The DoT approach was consistent with the guidance in “Guidelines for Traffic Impact Assessment - IHT” [CD8.13] and “Guidance on Transport Assessments – DoT”. Pedestrian accessibility was a key issue for the assessment of the sustainability of the development.
209. **Parking** Tesco proposed 557 spaces. There is no clear justification for this figure, or the approach taken by Tesco. There was no parking accumulation study as requested by the DoT. There is simply not sufficient evidence on which to arrive at an informed decision that there would be sufficient spaces for the expected levels of traffic. DoT does not have any parking guidance for this type of development. PPG13 would be a starting point; the 557 figure is less than the PPG13 standard.
210. **North Quay** North Quay is a pedestrian priority area. It is a single lane one way route in an easterly direction with footways on either side. It has received recent public investment in order to create an attractive environment to encourage the cafe culture. One of the consequences of the development would be a significant increase in flow of traffic

along North Quay. This would be contrary to the approach stated in the Planning Statement for the DoT North Quay application which sought for vehicular traffic to be kept to an absolute minimum.

Highway and traffic conclusion

211. There is one conclusion: the information, assumptions and conclusions of the Tesco TA are seriously flawed and cannot be relied upon in order to support the proposal. The main flaw is that traffic generation has been underestimated in the TA; the proposal would have a larger impact on the highway network than Tesco suggest.

SHOPRITE/MY WAY LTD

The material points are:

Introduction

212. Shoprite/My Way support regeneration of town and village centres. However the proposed development by Tesco is fundamentally contrary to the key planning principles of supporting retail development in town centres. The proposed development would be contrary to Douglas Local Plan and Strategic Plan policies. The proposed development would be contrary to recommendations in the Isle of Man Retailing Study.

213. This objection does not concern commercial competition. It is based on planning reasons.

Extension v new build

214. The evidence clearly demonstrates that this is a case of demolition and new build. The application form states that the proposal is a “*store extension including mezzanine*”. This has enabled the applicant to assess the additional floorspace as an extension rather than new build.

215. Using the plans [CD11.1] and answers given in cross-examination the following facts emerge:

- The intention is to create a full 2 storey building
- Each level would have its own independent entrance
- It will be possible to walk a short distance from car to store with no change of level
- It will be possible to easily access each floor from the other by lift, travelator or stair
- The current east gable wall will be demolished to accommodate the new build
- The roof will be removed
- The south wall will be part demolished to accommodate further development
- The west wall will be demolished to accommodate travelators, lobbies and stairs

216. It is clear that the entire building will be demolished to enable new build. The existing walls would not have been designed to support another floor and roof, particularly if glass. Indeed the architect’s drawings state “*store under construction*”.

217. Further the proposed development cannot be regarded as a mere extension. This is a new development creating a 2 storey retail facility. The suggestion that the proposal is for a “mezzanine” is wholly misleading. A consideration of the sizes of existing and proposed confirms that this is a new 2 storey development of very considerable proportions. The sizes are 4,435m² gross existing and 9,295m² gross proposed.

218. These findings are important as they have a direct bearing on the approach to be adopted in relation to turnover calculations.

Development plan

219. The 2007 Strategic Plan is up to date. Considerable weight should be attached to it.

220. Paragraph 3.4(d) sets out a key objective of the SP. This is to maintain and enhance the vitality and viability of town centres by controlling the location and nature of new retail development. This requires a consideration of whether the site is town centre or not regardless of whether the vitality or viability is maintained or enhanced or otherwise.

221. SP9 directs all new retail development to locations within town and village centres. This proposal is new retail development – whether or not it is an extension is irrelevant. The floorspace does not exist and would therefore be new. It is not a refurbishment. The site is not in Douglas Town Centre. The site is in an area allocated for retail in the DLP, but only for retail warehousing.

222. BP9 states that support would be given for new retail provision at a scale appropriate to a town or village centre which would not have an adverse effect on adjacent retail areas. The DLP says this provision should be retail warehousing. This proposal is not retail warehousing. This proposal would adversely affect Douglas Town Centre. BP10 states that retail development is only permitted in established town and village centres.

223. BP9 and BP10 must be read together. BP9 supports retail in existing retail areas at a scale appropriate to the area and which will not have an adverse impact on adjacent retail areas. BP10 only permits new retail in established town or village centres.

224. In conclusion, it is certain that if the site is not in the town centre, it will conflict with the SP. Further if the proposal adversely affects the vitality and viability of the town centre or other town centres it will further conflict with the SP.

225. The DLP Map No 1 was approved in 1998. The site is zoned for retail warehousing. The proposal is not for retail warehousing. Accordingly the proposal conflicts with the Local Plan Map.

226. The DLP Written Statement went to a public inquiry but it was not expressly published as a Circular. Apparently the relevant Director thought this had been done, but he may be in error. Notwithstanding this confusion, it is necessary to refer to the Written Statement to understand the Map. The 1988 Order states that site specific policies are to be read in conjunction with the maps. This means that the Written Statement is an important and relevant material consideration, and so great weight should be attached to it.

227. The Written Statement has the following provisions:

- paragraph 3.4 seeks to maintain confidence in town centres
- paragraph 3.5 identifies and describes the “retail centre”

- paragraph 3.6 identifies limited additional retail areas
- paragraph 3.7 is headed “*Retail outside Town Centre*”. There is then mentioned 2 locations: Prospect Terrace and Bucks Road. One is within and one outwith the black line on the Map. From these considerations alone, it is beyond reasonable argument that the town centre cannot be regarded as the same as the black line on the Map.
- Policy D/Ret/P1 restricts retail development to the town centre [except bulky goods]. This policy is to be rigorously maintained – paragraph 3.14.
- Policy D/Ret/P3 seeks to maintain the existing retail area of the town centre and seeks to prevent extension of this area
- Policy D/Ret/P4 concerns the application site, but permits “large span retail warehousing” in the existing coal yard area for bulky goods. This form of development is not defined in the Written Statement. The term usually means a large single storey warehouse selling predominantly bulky comparison goods. The proposal would conflict with this policy.

228. It is clear that the proposal conflicts with all the relevant policies.

Town centre or out of centre

229. This is an important consideration. The application site is outwith the town centre. There are 8 reasons which support this submission. First, the site is within the Central Area insert – but this does not define the town centre. This is simply demonstrated by considering the retailing areas at Prospect Terrace and Bucks Road, which are stated to be outside the town centre [Written Statement paragraphs 3.7 & 3.8]. Second, the Map defines the application site for retail warehousing. This is a use not usually found in a town centre, but often outwith the town centre. Third, the site is 400m at its nearest point from the area of predominantly shopping use. The entrance is 580m distant. Fourth, the 1998 Local Plan Inspector, Mr Bexson, found the site to be outside the town centre.

230. Fifth, the significant retail issues before that inquiry were to restrict retail to the town centre plus additional large span retail warehousing in the coal yard area. Sixth, Mr G Black of Black Grace Cowley considers that Douglas Town Centre is the pedestrianised shopping streets and that Lake Road is part of Douglas urban [CD10.9]. Seventh, two Tesco Transport Assessments clearly confirm the site is out of centre; paragraphs 2.1, 2.3, 3.1 and 7.15 of the January TA and paragraph 7.12 of the October TA show this point. Eighth, the Town Centre Regeneration Area in J Francis Proof App DDP6 confirms the site is out of centre.

231. It is beyond doubt that the site is outwith the town centre. Further given the minimum distance of 500m to the site from the town centre, and 580m to the store entrance, it is clear the site should be regarded as out of centre. This fact is confirmed because the easiest route is about 1km and crosses 3 busy roads.

Retail impact

232. On sales density there is a significant divergence between the figure advanced by Tesco [£6,108/m²] and all objectors [CD4.2A]. For 2014, DoLGE/RTP suggest £10,917/m², Shoprite/MyWay/HWPL suggest £12,657, DDP/RM suggest £12,698m² and Heritage Homes/Peacock suggest £9,135/m².

233. Tesco's evidence on this is simply not credible for six reasons. First, the store currently trades at more than twice the UK average [217% for comparison and 211% for convenience]. Second, the £6,108m² figure is less than a third of current trading levels. Third, this figure is suggested in a context where it is intended to significantly improve the store layout. These improvements might lead to a conclusion that the store would provide an even more attractive environment with even higher sales levels. It is therefore difficult to understand why the sales density should drop by two thirds.
234. Fourth, with the Old Trafford Tesco proposal, an average sales density of £9,241/m² was applied to about 20 Tesco stores and a company average turnover of £9,731/m² was applied to the additional non-food sales area [CD10.10 Table 10]. Fifth, the comparison goods floor would have at grade parking for about 300 cars.
235. Sixth, Tesco's suggestion that a sales density of about £6,000/m² should be used because the proposal is an extension is absurd and unreasonable. The plans confirm that this proposal is a not a mere "extension including mezzanine". This description is factually inaccurate and misleading. This proposal involves demolition and new build. There is no proper basis for the £6,000 figure. The figure comes from a Tesco study. The study was not produced and is not available. The size of extensions in the study is not known; what is in the extensions is not known. No evidence was advanced as to why sales density should reduce from a UK average of in excess of £9,000 down to £6,000.
236. In conclusion, no reliance should be placed on Tesco's suggested figure of £6,000m². Instead the evidence of Mr Hargest and Mr McLean should be preferred. The Old Trafford sales density figures should also be accepted. All this means that a figure in excess of £12,600/m² is appropriate and should be accepted.

Impact

237. Tesco's calculations are fundamentally flawed. The sales density figures are wrong. Other areas of dispute enable those representing Tesco to reduce the impact calculations. The Tesco/DPP approach allows an underestimate of the impact. This is no mere coincidence.
238. There is a dispute about the impact test year. It should be 2012. This assumes: planning inquiry February 2010; planning approval summer 2010; store opening autumn 2011; first year of trading 2012 [SHOP2 paragraphs 2.1-2.4]. Tesco did say that an optimistic scenario could see the store opening at the end of 2011, but added that this was unlikely. Tesco selected 2014. This selection allows impact to be reduced by factoring in a greater growth of expenditure between 2012 and 2014.
239. Tesco/DPP failed to assess the cumulative impact of the Tesco proposal together with Lord Street. The Lord Street scheme enjoys Government support and encouragement. This derelict brown field site should be developed. The scheme is a key to secure regeneration between the Town Centre and North Quay. Heads of terms and financial terms are agreed. The scheme includes 72,000sq ft gross of retail. This is necessary to finance the hotel. It is beyond doubt that Lord Street should have been assessed by Tesco/DPP in the Retail Assessment. Approval of the Tesco proposal would endanger the prospects of the Lord Street scheme proceeding.
240. In relation to VAT changes it is clear that Tesco/DPP overestimated available expenditure on the Island. This overestimate reduced the impact of the proposals. The UK Government recently announced radical changes to VAT treatment for the Isle of

Man. There will be an immediate reduction of £90m/annum to the Isle of Man. This will increase to £140m for 2011-2012 without limit of time. Overall costs will be greater as a result of the multiplier effect.

241. The assessment of Mr Hargest, with its sensitivity tests, should be preferred [SHOP2 amended]. In Douglas Town Centre in 2014, with the Lord Street scheme, the impact on convenience goods would be 10-14%, on comparison goods 19-27% and on all goods 18-26%. In 2012, without Lord Street, the impact on convenience goods would be 6-10%, on comparison goods 12-20% and on all goods 12-19%. All these impact figures are high and unacceptable and should lead to refusal.
242. Evidence from the Chamber of Commerce and Douglas Development Partnership and Douglas Borough Council confirmed that a prospective tenant for the cafe in the Strand Centre has not signed up because of Tesco. In addition it seems tenants are moving to month to month leases until the Tesco outcome is known.
243. In conclusion, Tesco's retail assessment significantly underestimates the likely impact. The comparison impact figures in 2014 of up to 27% from Mr Hargest should be accepted. This sort of figure is already having an adverse effect on the vitality and viability of Douglas Town Centre. The proposal should be refused on the basis of its adverse impact.

Isle of Man Retail Study

244. This consultant's report should only have limited weight. But it shows the convenience floorspace proposed would be greater than the capacity identified in this study. It also shows that the proposed comparison floorspace would account for 40% of the identified comparison goods capacity for 2012. When the Lord Street scheme is taken into account the Tesco proposal results in floorspace significantly in excess of the capacity identified for general comparison goods, and accounts for almost all the capacity for all comparison goods. In short, the proposal is in conflict with the recommendations of the IoMRSU in terms of retail development capacity.

Traffic and transportation

245. No reliance can be placed on the TA submitted by Tesco. No reliance can be placed on the other evidence on traffic submitted by Tesco. All the written and verbal evidence is fundamentally flawed. It was rather telling that Mr Summers in cross examination said that he was simply told the size of the floor plate and instructed to try to justify it. He was not asked what floorspace could be supported at this location. This is a key to understanding what has happened here. The following 6 points show flawed evidence.
246. First, the widths of the approaches to the initial Bank Hill junction are in error, for whatever reason. This error will give additional capacity of 100pcus/hour/m.

	Model	Actual
Links 61 & 62	3.25m	3.0m
Links 63 & 64	3.5m	3.1m

247. Second, link lengths at 61 and 62 are in error. In the model they are 60m; in reality they should be 38m.

248. Third, existing store flows should be less than total traffic flows. The following figures show very significant errors in the Tesco modelling. Figures in brackets are from the sensitivity test, CD12.2 4(b) and 4(d).

	Existing traffic	Tesco	Difference
	2(a)	2(c)	
Bank Hill – Banks Circus	221 (245)	309 (324)	+88
Lord St – Bank Hill left	73 (73)	117 (123)	+44
Lord St – Bank Hill right	131 (131)	193 (202)	+62
Saturday	3(a)	3(c)	
Bank Hill – Banks Circus	283	398	+115
Lord St – Bank Hill left	77	150	+73
Lord St – Bank Hill right	171	247	+76

249. Fourth, the complete absence of a Friday pm peak survey is a fundamental error. This cannot be overcome by a “mix and match” of incomplete data from different sources on different days.

250. Fifth, Ms France confirmed that her firm used trip rates of 5.52 inbound and 5.8 outbound in the pm peak for a Manchester Tesco store involving additional floorspace. The same trip rates were used for the new floorspace and the existing floorspace [SHOP 20]. The table in CD10.11 showing % change in traffic at various stores gives no support to Tesco. For this proposal the applicants used 3.46 and 3.18 respectively. This is significantly less, with no adequate justification.

251. Sixth, the modelling does not give a true representation. The calculations are invalid. Existing flows are wrong; additional floorspace is incorrect. Accordingly impact on the network is unknown and uncertain.

252. Further reasons for refusal include the conflict between HGVs, buses and traffic on Banks Circus. SHOP 13 and SHOP 14 illustrate this. Also there is the failure to provide adequate parking during construction. The proposed parking is reduced to 200 spaces for an uncertain period. This would be wholly inadequate and will lead to queuing on Lake Road. Another construction problem is conflict between the service yard and vehicle access areas. Drawing 34 shows no visibility to the east for exiting cars because of the service yard and fence.

253. Provision for delivery HGVs and smaller vans has not been considered or provided for during construction or thereafter. This is very important given the nature of ferry delivery during the evening peak hour. This would cause trailers to arrive – possibly 10 or more – at peak pm. It may mean trailers or vans queuing on Banks Circus or Lake Road to gain entry to the service yard. It will lead to trailers in the middle of Lake Road during construction and this will lead to queues and delays. This will all be compounded by cars queuing to enter the undersized car park. This would adversely affect pedestrian safety.

254. Pedestrian safety will be compromised by the narrow footpath at the Railway Hotel. The proposal is in conflict with BS8300 2009. This is on the natural desire line for pedestrians going to the east. Pedestrians will naturally cross the road to this south footway due to the existence of the service yard and bus depot. There are no adequate crossing facilities.

Conclusion on highways and traffic

255. Permission should be refused for all the foregoing reasons. In addition the applicant's evidence should be regarded as not credible or reliable. Ms France's evidence by comparison was professional, balanced, honest and not overstated.

Overall Conclusions

256. Tesco propose a new store on two independent levels, each with dedicated parking of very significant proportions. The reason advanced for a more than doubling in floor space from 4,270m² gross to 9,295m² was to relieve current overtrading. The veracity of that claim was exposed in the Freudian slip by Mr Warren who confirmed that convenience overtrading would continue in stating "it will continue to overtrade" when cross-examining Mr Hargest on 11 February.

257. In a moment the justification disappeared. A consideration of the additional convenience floorspace [424m²] confirms that Mr Warren is indeed correct. This scheme is to do with Tesco's quest in the UK and now Isle of Man for market dominance. It was accepted by Mr Francis that Tesco dominates the Isle of Man convenience market. Mr Francis agreed that Tesco have "a very dominant market position". The intention is also to provide the second largest comparison unit in the Isle of Man, with 2,625m² net, with a turnover the highest on the Island. The market share will be 13% of all comparison goods in 2012 [CD8.2 paragraph 8.4]. It is little wonder therefore that local Chambers are concerned. It is little wonder that there is opposition on the basis of impact. The matter is made worse because the proposal is beyond doubt out of centre and contrary to development zoning. The approach to traffic and transportation issues was at very best completely unreasonable.

258. The application should be refused.

HERITAGE HOMES

The material points are:

Introduction

259. Heritage Homes is a major developer and landowner within the Island. It is important to its interests that the Island should retain vital and viable town centres. Heritage Homes is developing an allocated site adjacent to the Tesco proposal. The proposal would have a significant detrimental impact upon the development and operation of the Heritage Homes site.

Retail issues overview

260. The location is contrary to the provisions of the DLP and SP. It is out of scale in the area and will have an adverse impact on the Town Centre.

Development plan

261. The development plan comprises the 2007 SP and the 1998 DLP.

262. The DLP was produced in the conventional form of a proposals Map and Written Statement, but it appears that only the proposals Map was formally adopted. The reasons for this are unclear as the Written Statement has undergone all the relevant procedures leading up to adoption. It is consistent with the proposals Map; there is nothing to indicate that there was any concern about the details of the Written Statement and it appears that the author of the document thought that the Written Statement had been adopted. In the circumstances whilst the Written Statement may not form part of the development plan it is clearly a material consideration which must be accorded very considerable weight. Although Mr Warren in cross-examination sought to question the weight to be given to the Local Plan, Mr Francis for Tesco stated in his proof at paragraph 6.6 that “*the written statement has to be regarded as an important and relevant material consideration.*”

Compliance with the Local Plan Map

263. If consideration of the Local Plan is limited to the Proposals Map alone it is clear that the proposal is contrary to the Local Plan. The application site is specifically identified as a site for “*Retail Warehousing*”. Mr Francis accepts that the proposal is not for retail warehousing and does not accord with the site specific designation. The proposal is therefore in conflict with the Local Plan.

264. It is no answer to this point to refer to the fact that by the time of the adoption of the Local Plan planning permission had been granted for the foodstore proposal which ultimately became the current Tesco store. The important point to note is that the specific allocation for retail warehousing was retained despite the consent for the foodstore; the planning permission was clearly not considered to set any precedent for further development or to warrant any alteration to the specific allocation for retail warehousing. The fact that the allocation was not altered in the light of the planning permission merely serves to confirm the importance attached to retaining the allocation for retail warehousing.

265. It is similarly no answer to rely upon the washing over of the site with green which the key to the Map identifies as “*Area of Retail/Commercial*”. This is consistent with the specific allocation of the site for retail warehousing and clearly where a specific use is identified for a site it is the specific allocation which dictates the allocation in the plan.

266. In the circumstances if one were to limit consideration simply to the adopted Map it is clear that the proposal is in conflict with the Local Plan. This conclusion is strengthened by the provisions of the Written Statement.

Conflict with the Written Statement

267. Written Statement paragraph 3.5 identifies the retail centre of Douglas. It is common ground that this is the area shown blue on the Map with the designation “*APSU*”. The application site does not fall within that area.

268. The application site is specifically referred to in paragraph 3.19. This is the first reference to the site. The paragraph introduces Policy D/Ret/P4.

269. Policy D/Ret/P1 provides: “*Retail development in the town of Douglas will be restricted to that area defined within the town centre. An exception to this Policy is that*

non food stores for the sale of bulky goods may be located outside the defined town centre and locations appropriate to this use should be identified. Redevelopment of established uses should also be accepted.”

270. A number of points can be made about this policy – all of which were accepted by Tesco’s retail witness, Mr Francis. They are first, retail development in Douglas is to be restricted to a defined area; second, the defined area is within Douglas Town Centre; third, the only defined area in the context of this policy is the shaded blue APSU; fourth, the policy is clearly restricting retail development in Douglas Town Centre to the blue APSU; fifth, the policy does provide for an exception for non food stores for the sale of bulky goods which may be located outside the defined town centre and states that appropriate locations for this use should be identified; sixth, the requirement to allocate site outside the town centre for bulky non food goods is met by Policy D/Ret/P4, which allocates the application site for this use; seventh, this confirms that the application site is considered in the Local Plan as being outside the Town Centre and confirms the significance of the specific allocation on the Map.
271. The principle of confining retail development to the defined area within the Town Centre is further emphasised within the Written Statement. Paragraph 3.14 provides that: *“The Town Centre as illustrated on the accompanying mapping of Douglas has....been defined as an area within which the principle retail uses should be located. This current policy will be rigorously maintained and no further significant retail development will be permitted outside the Town Centre.”* Paragraph 3.17 observes that: *“The retail area of the Town Centre as currently defined is considered to be adequate in its extent for the needs of the foreseeable future. In the light of the number and variety of new retail developments underway and envisaged, and the remaining potential for refurbishment and expansion of existing shops in the main shopping street the principle should be maintained.”* This results in Policy P/Ret/P3 which provides that: *“No further extension beyond the area currently defined will be permitted”*.
272. Then paragraph 3.19 records that the provision of land for large span retail warehousing in this location is considered to be adequate for the immediate future but provides for some expansion land; this is then allocated under Policy D/Ret/P4 which clearly restricts any development of the application site to non-food bulky goods.
273. It is important to note that the DLP adopts a stricter approach than that found in PPS4, or formerly in PPS/PPG6. The Plan does not allow for retail development outside the defined area. There is no scope for applying a sequential approach as Mr Francis accepted in cross examination.
274. Mr Francis also accepted that the proposal conflicts with Policies D/Ret/P1, D/Ret/P3 and D/Ret/P4 but he argued for a non-literal interpretation of the policies. He argued that whereas D/Ret/P1 referred to “area” in the singular, it should be reinterpreted to mean “areas” in the plural. He also argued that one should disregard the various statements in the Written Statement which confirm that the application is outside the Town Centre.
275. This approach was a remarkable proposition as consideration of the Inspector’s report into the Local Plan confirms that these policies were intended to be interpreted in this literal fashion. The Inspector’s conclusions on retail were [CD10.6 paragraph 28] that he saw *“little or no objection to confirming or limiting development to the defined town centre but, as a number of objectors stated some flexibility is necessary. I agree with this view in order to encourage some secondary shopping in residential areas or tourist areas*

to provide a facility. The planning consent for a new and large Superstore in an area for “retail warehousing” outside the town centre indicates that a flexible approach is already in being”. This confirms and supports the approach taken by DoLGE in promoting the Plan. Mr Vannan on behalf of DoLGE explained that the Plan restricted “retail development to the Town Centre plus additional large span retail warehousing in the Coal Yard area”.

276. As Mr Francis accepted the Inspector’s conclusions and Mr Vannan’s submissions make it clear that the application site was considered to be outside the Town Centre, and retailing was to be restricted to the defined blue APSU, with the exception that the application site could be used for retail warehousing. This restriction remained despite recognition that the site had received consent for a large superstore. Furthermore whilst it was accepted that there should be a degree of flexibility this was to provide for secondary shopping in residential or tourist areas; the Tesco proposal clearly does not come within that category.

277. Mr Francis for Tesco was unable to explain why one should depart from a literal interpretation of the Written Statement when that accorded with the intention of the authors of the Plan and the Inspector reporting on that Plan. This is not surprising as there can be no sensible basis for departing from a literal interpretation of the Written Statement in those circumstances.

278. It follows that the proposal conflicts with the provisions of the DLP: both the adopted Map and the Written Statement.

Compliance with the Strategic Plan

279. It is important to remember that the SP is not intended to replace relevant provisions of the DLP. The SP provides that local and site specific proposals will generally remain the subject of Area Plans [SP paragraph 1.3.4]. Existing Local Plans will remain in effect until they are replaced by new Area Plans [SP 1.4.3]. The SP does not therefore affect the relevant policies of the DLP and cannot be interpreted as allowing development which conflicts with the land use allocations in the Map or the policies in the Written Statement.

280. BP9 provides that: “The Department will support new retail provision in existing retail areas at a scale appropriate to the existing area which will not have an adverse effect on adjacent retail areas. Major retail development proposals will require to be supported by a Retail Impact Assessment.” BP 10 provides that: “Retail development will be permitted only in established town and village centres, with the exception of neighbourhood shops in large residential areas and those instances identified in Business Policy 5.”

281. In interpreting these policies it is important to keep in mind SP9 which provides that: “All new retail development.....must be sited within the town and village centres on land zoned for those purposes in Area Plans.....”

282. It is clear from these policies that retail development such as that proposed by Tesco is restricted to town centres on land zoned for the relevant use. In this case it is accepted that the application site is not zoned for the intended retail use and this is sufficient on its own to establish that the proposal is contrary to the SP, but the conflict goes further than this.

283. The SP restricts this form of development to town and village centres on land zoned for that purpose. The SP does not define the town centre for these purposes; clearly any designation of the town centre is to be found in the Local/Area Plan. In this case the DLP

does not provide a clear definition of the town centre. For Douglas, the Town Centre is a wider area of which the main shopping area is a part.

284. For Tesco, Mr Francis, argues that Douglas Town Centre is to be equated with the Central Area set out in DLP Map No 1. There is no support for this conclusion either within the Local Plan or on the ground.

285. Map No 1 is entitled the Central Area not the Town Centre. It is clear from consideration of the Written Statement that areas within the Central Area [including in particular the application site] are not considered to be within the Town Centre. Policy D/Ret/P1 and Policy D/Ret/P4 and paragraph 3.19 confirm that the application site is outside the Town Centre. The reference in paragraph 3.8 shows Bucks Road is outside the Town Centre even though within the Central Area. It is also obvious from a consideration of Map No 1 alone that large areas within the Central Area could not sensibly be considered to be within the Town Centre – for example the substantial residential area around Nobles Hospital. This is confirmed by any walk around the Central Area; this reveals many areas in the Central Area – including the application site and its vicinity – which could not be considered to be a part of the Town Centre.

286. The fact that the application site is not in practice part of the Town Centre was also recognised in the January 2009 and October 2009 Tesco Transport Assessments. These indicated that:

- i. The existing foodstore is to the south east of the main shopping area within Douglas Town Centre. [January & October TAs paragraph 2.1]
- ii. Lake Road connects to North Quay which in turn provides access to Lord Street which is the main thoroughfare to Douglas Town Centre. [January TA paragraph 2.3]
- iii. The site is in close proximity to the Town Centre and benefits from links to the Town Centre. [January & October TAs paragraph 3.1]
- iv. That given the proximity to Douglas Town Centre there could be linked trips. [January TA paragraph 7.16 & October TA paragraph 7.17]

287. Despite Mr Summer's protestations to the contrary these Transport Assessments clearly proceeded on the basis that the site is not within the Town Centre.

288. It is important to note that the SP does not direct retail development to any location within the Town Centre. Retail development is directed and restricted to the area within the Town Centre which is zoned [or allocated] for that use. In this case the DLP has made it plain that retail development is directed to the blue APSU and that the application site is an exception restricted to non-food bulky goods. The proposal is plainly in conflict with the SP.

Relationship to the Town Centre

289. The site is outside the Town Centre. The Town Centre is a wider area than the blue APSU; it would include secondary frontages. It is common ground that the site is some 410m from the blue APSU, and the store's entrance is some 630m from the blue APSU. The nearest part of the APSU to the store is North Quay, but that is a secondary shopping area. The prime retail area at the junction of Duke Street and Lord Street is closest to the application site at a distance of 830m. It is the distance to this area which is of most significance.

290. The distance of the site from the APSU and primary shopping area is such that it must be considered out of centre in PPS4 terms. This is something which is exacerbated by the unattractive walk between the site and the town centre; the walk is subject to level differences and physical barriers in terms of major roads.
291. The development plan does not provide for a sequential assessment and prohibits major retail development outside the identified locations. However even if a relaxation were being considered it is clear that this site does not relate well to the Town Centre, and Tesco have not established that there are no other sites better related to the Town Centre.

Scale

292. The Tesco store is already the largest foodstore on the Island by a considerable margin with 44% of market share. The October Transport Assessment recognises that the store is particularly large for its catchment noting that the catchment is much smaller for this size of store elsewhere, and it is much larger for its catchment than such stores normally are. Tesco is the dominant foodstore on the Island.
293. The proposal would more than double the retail floorspace of the store [from 2,473m² net to 5,261m² net]. Almost all of this additional floorspace would be devoted to comparison goods. Current comparison floorspace is some 261m², but this would increase to 2,625m². This provision is totally out of scale for the Island, particularly in an out of centre location.
294. SP9 states that new retail development will be supported at an appropriate scale. The existing store is the largest in the Isle of Man. No information has been submitted to show how doubling the net sales area would represent an appropriate scale of development.

Impact

295. The new convenience floorspace would not have any detrimental impact. For the new comparison floorspace, the inquiry has been given various figures for the potential trade draw of the Tesco proposal and its consequent impact. Tesco sought to minimise the impact by arguing that as an extension, sales density would be considerably below the company average and that it would be affected by the comparison floorspace being on a mezzanine.
296. It is recognised that in some circumstances it is appropriate to apply a discount to sales density figures of store extensions compared with new stores. In this case there is no justification for that approach. In practical terms the new comparison floorspace would be similar to a new store. At present the comparison offer at 261m² is limited; the proposal at 2,625m² would provide almost 10 times as much floorspace. The proposal cannot be considered to be an “extension” in any meaningful sense of the word. It would provide a new product range over and above just improving the existing offer. In reality the proposal is a new store.
297. Similarly whilst it may be the case that mezzanines generally trade at a lower density than surface level floorspace, the position is more complicated in this case. The proposed mezzanine floorspace is at grade with the first floor car park with entrances from that car park as well as good links from the ground floor.
298. Likely levels of trade diversion would have a serious impact on Douglas Town Centre. Furthermore the store would use up all the additional capacity coming from growth in the foreseeable future. The proposal would hinder further investment in Douglas Town

Centre and other centres. It would have an adverse impact on linked trips to the Town Centre. It would harm the vitality and viability of that centre.

Needs and benefits

299. For Tesco, Mr Francis devoted a considerable portion of his proof to identifying alleged deficiencies with the current Tesco store and related claimed benefits. Closer examination reveals that there are no significant problems and that the proposals are not needed to deliver the claimed benefits.

300. The current store is said to be overtrading and that significant benefits would come from addressing overtrading. The store is almost entirely given over to convenience floorspace and the proposal would provide only a very modest increase in convenience floorspace. Mr Francis accepted that only a small additional amount of floorspace would address the overtrading issues. Thus overtrading problems could be satisfactorily addressed by a modest extension to the convenience floorspace and an extension to the bulk store. There is no need for the majority of the new floorspace, which would provide a radically different comparison offer in an out of centre location.

Conclusion on retail issues

301. The proposal conflicts with the DLP and SP as well as the DLP Written Statement. It is out of scale for the area and would have a harmful impact on Douglas Town Centre.

Highway objection overview

302. The fundamental highway objection is that the traffic likely to be generated by the proposal cannot be accommodated in the Banks Circus junction. The junction is too small. The absence of space results in narrow lanes and this cannot be resolved given the presence of surrounding buildings. The problems are further compounded by the geometry of the turns with tight radii and lack of intervisibility.

303. This will result in a number of problems with the functioning of the junction involving queues, speed, distance between vehicles and narrow lane widths. These problems would be detrimental to highway safety and the safety of all users of the junction. Further safety issues arise for pedestrians given the narrow footway widths proposed, particularly where HGVs will be carrying out turning manoeuvres which will bring them very close to the kerb.

304. These problems will occur on the basis of the flows and modelling carried out on behalf of Tesco. These concerns are compounded by the doubts which surround the accuracy of the work undertaken and the information which has been provided by DoT initially and even to the inquiry. Furthermore the junction is so tight there is no ground for believing this can be resolved.

305. In addition to these objections, there is also a major issue raised by the impact of the proposal on the Heritage Homes' allocation, and policy objectives for North Quay.

306. **Transport Assessments** The two Tesco TAs do not comply with "Guidance on Transport Assessment" [CD8.16]. A TA should provide a full description of existing site information which should include, as a minimum, a detailed description of existing land uses in the vicinity of the site, including development plan allocations or potential future uses in the case of undeveloped sites [CD8.16 paragraph 4.7]. The assessment of impact of the development should include trips from all committed development that would

impact significantly on the transport network, particularly where they overlap, such as at the same junctions and /or on the same roads as the proposed development. Committed development includes development plan allocations [CD8.16 paragraph 4.50]. The Heritage Homes site is a development plan allocation for predominantly residential use which is being developed. Mr Summers accepted that the TA should include trips from the full development of the Heritage Homes site, but this had not been done. Mr Summers' reason for this was that he did not know the precise number of units that would be provided – although he had not asked. This provides no excuse as development plan allocations often do not have precise numbers of units attached to them. An assessment needs to be made of the likely number of trips associated with an allocated site. In this case a figure was available in the TAs for the Heritage Homes site. There was therefore no justification for this failure to comply with relevant guidance. This had the result of the TA underestimating the impact of the proposal. This was finally addressed in the “sensitivity” test provided on 18 December 2009 [CD12.2]. This was not a true sensitivity test. It was the minimum requirement from the guidance and must be considered to be the minimum basis upon which the proposal should be judged.

307. Another important reason why earlier assessments must be rejected is that they treated the Banks Circus link as 2 full lanes [links 61 and 62] of 60m length and had assumed that the right turn lane was capable of accommodating at least 6 vehicles. These assumptions do not match the reality of Drawing 31. The distance from the stop line on Banks Circus to the box junction is 38m; from that point onwards it is not possible for 2 vehicles to queue side by side. The maximum useable length of the right turn lane [link 61] is therefore 38m; this is only capable of accommodating 6 vehicles. Once vehicles start to queue on the other side of the box junction it will not be possible for right turning from the back of the queue to access the right turn lane. In other words once there are 6 vehicles queuing to go straight on it will no longer be possible for right turning vehicles to access the right turn lane.
308. Tesco's TRANSYT results for the pm peak hour – with or without pedestrians – result in mean max queues of 14 straight on [link 62] and 6 turning right [link 61]; and for Saturday the result is – without pedestrians – 19 and 3, and – with pedestrians – 21 and 3. Clearly a proportion of right turning vehicles in each situation will not be able to access the right turning lane. This means the output is wrong and overestimates the capacity of the junction. This means the queues will be worse than modelled. It must furthermore be remembered that a mean max queue will be exceeded 50% of the time. This means the junction must be modelled as a flare. This was accepted by Mr Summers. The only analysis of the proposal as a flare is the “sensitivity” analysis of 18 December 2009.
309. **Queues** The proposal must be assessed against the latest “sensitivity” analysis. This analysis results in a mean max queue on Banks Circus/Lake Road of 23 pcus with no pedestrians, and 30 pcus with pedestrians. This is the only analysis with the Heritage Homes development and a flared approach and therefore it is on this basis that the proposal must be assessed.
310. A queue of 30 vehicles will extend to the taxi rank outside the Tesco store close to its entrance. Such a queue is unacceptable, and will be exceeded 50% of the time. Such a queue would have a severe impact upon the allocated Heritage Homes site. All traffic from this site would need to access Lake Road. Such traffic would not be able to access Lake Road when there is queuing traffic outside the site entrance or when such traffic is attempting to get through the junction before the green phase ends. Mr Summers claims that the queue would clear every time, but the queue analysis has not been produced to

demonstrate this. Mr Hall confirmed that his queue analysis revealed the queue did not clear each time – he was not challenged on this point. Furthermore even if the queue cleared the junction each cycle, it would be forming again once the red cycle started and there would be conflict with vehicles leaving the Tesco store and travelling towards Banks Circus. At that point in the cycle any traffic wishing to leave the Heritage Homes site would also have to cross the traffic accessing the store. All of this would cause significant problems for the Heritage Homes site. The situation would also clearly be unacceptable for general road users.

311. Mr Summers claims that the predicted queues would clear each cycle on other days – this was not established – Mr Hall said that when other days were modelled with a flare the queue failed to clear on those days as well. The queues also failed to clear if the impact of random arrivals and oversaturation were taken into account. Mr Summers has not modelled that situation on those days. Mr Hall’s evidence on this was not challenged. Mr Hall’s modelling for the weekday evening peak hour with a flared approach resulted in a queue of 37 vehicles and on Saturdays the queue is 39 vehicles. There was no challenge to these conclusions.

312. Mr Hall used LinSig for his assessment. This allowed analysis of the effects of random arrivals and oversaturation. In this assessment the signal settings established by Mr Summers’ TRANSYT analysis were used. This therefore took into account the relationship with the remainder of the network. Mr Hall calibrated the model against Mr Summers’ model without a flare and obtained very similar results. Mr Hall’s use of LinSig was not challenged. It must therefore be concluded that when the junction is modelled appropriately as a flare on the Lake Road/Banks Circus approach unacceptable queues will occur and these queues will not clear.

313. **Degree of confidence in the assessment** Although the above is sufficient to rule out the proposal alone, there are further points to remember which give grounds for concern that the position may be worse than identified to date. These matters include: (1) there is no modelling from Mr Summers for ordinary weekday peaks or Saturday which include the full Heritage Homes development or which correctly model the approach as a flare. (2) There are significant discrepancies in inputs to the model. (3) The inputs “lose” significant volumes of traffic between North Quay and Quines Corner. (4) The distribution of store traffic is wrong. The October TA has right turns for store traffic into Banks Circus of 309 even though the total surveyed flow carrying out that manoeuvre was only 221 [CD2.3 Appendix 5 Diagrams 2a & 2c]. The total flow would include store traffic and all other traffic and would therefore have to exceed the figure for store traffic. Similar errors occur with respect to traffic turning into Bank Hill: left turns store traffic 117 but total traffic only 73 and right turns store traffic 193 but total traffic only 131[CD2.3 Appendix 5 Diagrams 2a & 2c]. Again this is not possible.

314. (5) The December 18 2009 analysis added additional traffic to Lake Road but did not account for this traffic elsewhere on the network. (6) The various models incorporated and mixed various counts from different years and different days of the week without any attempt to provide a consistent analysis. (7) There was no consideration of turning movements which are critical to junction capacity. (8) A major concern was the failure to validate or calibrate the model. It has not been demonstrated that the base position in the model reflects the position on the ground and therefore there can be no confidence that it starts from a realistic basis. (9) The capacity of a junction in the model is critically affected by the saturation flows and these in turn are influenced by the width of the individual links. In this case the model had used erroneously wide links which would

increase the capacity over that which would actually be available. Links 61 and 62 were modelled as 3.25m wide when they were only 3m wide, whilst links 63 and 64 were modelled as 3.5m wide when they would only be 3.1m wide. Mr Summers tried to explain this by saying that on the stop line Bank Hill would widen out, but this does not alter the effective width of the link to the stop line and provides no explanation for the error in the case of Banks Circus. (10) The capacity of a junction will also be affected by the speed of vehicles through the junction. The model adopted figures which served erroneously to increase the capacity of the junction. The model used a speed of 30mph, when traffic carrying out turns would probably be as slow as 5mph and when the speed limit on North Quay is only 20mph.

315. All these factors cast doubt upon the reliability of the model and give cause for serious concern that the position will be even worse than that modelled on 18 December 2009.

316. Much was made of the size of the bulk store. It was suggested by Tesco that some discount should be given for this. But the ratio of net to gross floorspace remains the same and therefore the bulk store cannot result in an overestimate of trip generation.

317. The conclusion must be that the network in the vicinity of Banks Circus cannot accommodate the traffic associated with the Tesco proposal.

Junction geometry

318. Well founded concerns about the capacity of the Banks Circus junction are compounded by the geometry of the junction.

319. The only swept path analysis presented to the inquiry which addressed Drawing 31 was produced by Mr Hall in BGH15. This shows the junction layout is not acceptable. Both single and double decker buses would be unable to undertake the right turn into Banks Circus from Bank Hill without going into the right turning lane for vehicles exiting Banks Circus. However vehicles can be expected to be waiting at the stop lane to turn right into Bridge Road and therefore the junction would not work.

320. This was confirmed by Mr Summers. He sought to minimise the degree of conflict claiming that the vehicle clipped the lane. He did not produce his own swept path analysis to show this, even though he had known of this conflict since December. It appears that he had not intended to alert the inquiry to this conflict. Furthermore the swept path submitted in the inquiry with the supplementary evidence clipped the right turn lane even when the stop line was set back, and even though the bus touched the kerb. Given this result Mr Summers' unsubstantiated claims appear improbable.

321. There is also a major problem with vehicles turning left from Bridge Road into Banks Circus as shown in Mr Hall's swept path analysis. An articulated vehicle making this manoeuvre would swing out obstructing the path of vehicles turning right into Bridge Road. The green phase for Bridge Road coincides with the green phase for Banks Circus; there would be direct conflict between these two turning movements. The net result is the junction does not work. This is compounded by the lack of inter-visibility between these 2 stop lines. Inter-visibility is an essential safety requirement.

322. **Pedestrian safety** The constrained nature of the junction and its unsuitability to take this level of traffic has important consequences for pedestrian safety.

323. The reduced widths of the footway are a major issue. This arises from the attempt to squeeze in a right turning lane. A bad example of this problem is in the vicinity of the

hotel portico, where the footway will be reduced to a width of 1.1m over a distance of 4.3m. Mr Summers first argued that this was acceptable on the basis of BS 8300:2001. But this was not an appropriate standard [CD8.23] given that it addressed “Design of buildings and their approaches...” and is not addressing highway requirements. However even if the standard were to be applied it is fatal to Tesco’s proposal. BS 8300:2001 was superseded in February 2009 by BS 8300:2009 [CD8.22]. The current standard provides that a minimum width of 1.2m should be provided and that this should not extend for more than 2m in length [CD8.22 paragraph 5.3 & Figure 6]. The proposal fails on both dimensions. It was surprising that Mr Summers should rely on a withdrawn and superseded standard. It was even more remarkable that he should then refuse to accept the proposal was unacceptable given its failure to meet the standard which he thought was acceptable.

324. The inadequate width of the footway is particularly serious given its location adjacent to where large vehicles would be carrying out turning manoeuvres; this would result in them being very close to the kerb with the potential for a wing mirror to overhang the pavement and therefore strike pedestrians. There is no evidence that the area beneath the portico can be used by the public, but in any event it is inadequate in width and does not address the inadequate width of the footway.

325. **Conclusions on junction** The proposal generates more traffic than can safely be accommodated on the local highway network. The highway proposals seek to squeeze a quart into a pint pot and give rise to serious highway concerns. The concerns have not been addressed. A Stage 1 Safety Audit has not been undertaken; this is a serious failing in this situation of a physically constrained junction. If permission were to be granted there would be no ability to prevent the development proceeding even if it were unsafe. The evidence has established that the proposal is unsafe and will cause unacceptable queues and delays. The proposal should be rejected on these grounds.

Impact on North Quay

326. The DoT’s long standing strategy for North Quay is based on restricting traffic on North Quay in favour of pedestrian priority [BGH2]. The strategy was based on reducing the domination and intrusion of vehicles to an absolute minimum [BGH3]. To further this strategy the DoT has made North Quay one way from Banks Circus to Quines Corner and banned right turning movements from Bridge Road to North Quay. The DoT developed a scheme to remove the mini-roundabout on Lake Road so as to remove u-turning vehicles which currently use North Quay.

327. The Tesco proposal would involve the removal of the mini-roundabout but the benefits to North Quay would be negated by the proposal. The TA diagrams show the following:

Am peak – removal of mini-roundabout removes 325 vehicles and Tesco add 36, a net reduction of 289 vehicles

Pm peak – removal of mini-roundabout removes 135 vehicles and Tesco add 151, an increase of 16 vehicles

Friday peak – removal of mini-roundabout removes 149 vehicles and Tesco add 149, an increase of 49 vehicles

Saturday peak – removal of mini-roundabout removes 69 vehicles and Tesco add 224, an increase of 155 vehicles

328. The proposal is in clear conflict with the DoT strategy for North Quay. The proposal will result in levels of traffic that will exceed the environmental capacity of North Quay. This is contrary to the strategy pursued in accordance with the DLP Written Statement.
329. Tesco argued that as they would pay for the removal of the mini-roundabout they are entitled to the benefit of its removal. This is a completely misconceived and arrogant approach. The mini-roundabout is to be removed to benefit North Quay. The Tesco proposal makes it impossible for North Quay ever to receive this benefit and in fact makes the traffic situation on North Quay worse than it currently is.
330. Tesco also argue that without their proposal the mini-roundabout will not be removed. Even if this were true, it would not provide justification for adding traffic to North Quay. In fact the claim is not correct. It is not clear that the DoT will not implement the approved scheme. Even if DoT does not implement the scheme, it would be provided by the Heritage Homes scheme. Importantly the Heritage Homes scheme would not add similar levels of traffic to North Quay; this scheme would result in substantial reductions in traffic on North Quay.

Nil detriment

331. Tesco failed to establish that their proposal would result in nil detriment. They claimed they could not do this because of the proposal to link the traffic signals and the inability to model the before situation in TRANSYT. This does not provide an acceptable excuse. Mr Hall explained that the current network could have been assessed by considering junctions individually and indeed Tesco had considered some of the individual junctions.
332. In at least two respects the evidence has clearly established that there would be a significant detriment as a result of the Tesco proposals. On Lake Road there would be significant queues where there are none. The proposal adds traffic to North Quay where the strategy is to reduce traffic. The assessment fails to address the key issue which is to ensure the development achieves nil-detriment.

Conclusion

333. The proposal conflicts with the relevant development plan policies relating to retail development. It is out of scale for the area and will have a harmful impact on the vitality and viability of Douglas Town Centre. The traffic impacts are similarly unacceptable. The application should be rejected.

ISLE OF MAN CHAMBER OF COMMERCE, DOUGLAS DEVELOPMENT PARTNERSHIP & DOUGLAS DEVELOPMENT PARTNERSHIP

The material points are:

Introduction

334. The following statement addresses retail matters. The traffic statement is found within the Shoprite/My Way case.
335. Tesco's application refers to an extension and the insertion of a mezzanine. This description is a misrepresentation of the proposals. A mezzanine is an intermediate floor inserted between others. Tesco's proposal comprises the effective demolition of the

existing single storey store and the construction of a new 2 storey store – or more precisely, 2 single storey stores one on top of the other, each with at grade car parking, tills and separate entrances. The application should be considered in this way and not as a simple extension.

336. Tesco claim the need for the redevelopment is to relieve problems from overtrading of their convenience offer. The redevelopment proposed seems unlikely to meet that need as the modest increase in convenience floorspace would be virtually offset by the introduction of travelators.

337. Tesco did not provide any evidence of support for the proposal except its own commercial ambition to increase its comparison market share on the Isle of Man.

Location

338. Location is the main concern. All 4 objecting parties at the inquiry have presented evidence showing the application site is not within Douglas Town Centre, and that therefore the proposal is contrary to SP9, BP9 and BP10.

339. A summary of the reasons why the application site is outwith the Town Centre are the following:

- The site is not within the blue shaded APSU are shown on DLP Map No 1.
- The Written Statement makes references to the Town Centre which show that Lake Road is not within the Town Centre.
- Tesco's Traffic Assessment refers to the Lake Road site being outwith the Town Centre, by saying Lord Street is a route from the store into the Town Centre.
- Tesco's argument about the application site is within the Town Centre goes beyond any reasonable interpretation of Map No 1 and outrageously exploits any ambiguity in that Plan. The Tesco contention that the Central Area boundary is equivalent to the Town Centre boundary is grasping at straws. The Central Area plan is a plan which shows the central area of the town, as opposed to the northern and southern areas of the town.
- The most recent official designation of Douglas Town Centre comes from an area designated as Town Centre Regeneration Area for Douglas [DDP6]. The application site is well outside this area.
- PPS4 guidance would exclude the Tesco site from being an edge-of-centre site because of its distance from the APSU area. The APSU should represent the Town Centre for Douglas. The site is more than 900m from the prime retail pitch and much more than the recommended 300m from the nearest edge of the APSU. PPS4 would define the site as out-of-centre.

340. The Tesco site is a separate retail destination to Douglas Town Centre. It is a standalone centre. The proposed increase in comparison floorspace would reduce linked trips to the Town Centre and reduce footfall in the Town Centre.

Scale and retail impact

341. The proposed comparison floorspace would amount to nearly 10% of the Town Centre comparison floorspace, and nearly 23% of its turnover. The total turnover of the extended

store would equate to 66% of the total turnover of the Town Centre. This would exacerbate competition with the Town Centre, such that shoppers would visit the Town Centre less frequently.

342. In Tesco's retail impact calculations a low comparison floorspace turnover was applied to the new floorspace. This dramatically reduced the trade diversion from Douglas Town Centre. The 32% reduction for extensions from a confidential study is not justified and cannot be explained. The turnover for the new comparison floorspace should be 25% above the Tesco average. This gives a turnover of the proposed comparison floorspace of nearly £30m – not the £14.4m suggested by Mr Francis of Tesco.
343. Comparison retail expenditure should use HIES survey data. This reflects Manx circumstances. Tesco/DPP use average UK expenditure data; this is unusual and inaccurate. The Askett-Hawk Lord Street scheme should have been included in the impact assessment. Tynwald support this scheme, so it should be regarded as a planning commitment.
344. Impact on Douglas Town Centre ranges from 21% assuming the effect of the VAT change down to 14%. These are damning levels of impact. Also the combined effect of both the Tesco proposal and the Lord Street scheme would amount to about £45m in 2014; this would be well in excess of the projected expenditure capacity [DDP3 Tables 1-5].
345. Practical consequences of the impact of the Tesco proposal are given in the proofs of evidence of Mr S Bradley, Mr J Shakespeare, Mr C Blatcher, Mr M Chapman and Mr C Pycroft.

WRITTEN OBJECTIONS

346. Written objections were received from Ramsey Town Commissioners, Castletown Town Commissioners, Port St Mary Commissioners, Peel Town Commissioners, Ramsey Chamber of Trade, Manx Electricity Authority, T H Colebourn Ltd, JAC Distribution Ltd, Twickenham Investments Ltd, Isle of Man Friends of the Earth, Christopher Berry, Jonathan Christian, Mona Christian [Arcadia 5 Strand Street], W E Ashworth, D L Leatherbarrow & E A Midgley, Chris Reynolds and Monica Gerrard.
347. These written objections addressed the 3 main issues in different ways. No new evidence was submitted. The main points made in the written objections have been covered within the cases reported above.

CONDITIONS

348. Discussion at the end of the inquiry on the draft list of conditions in the planning SoCG led to the draft conditions contained in Appendix B.

INSPECTOR'S ASSESSMENT

349. The main issues are:

- first, whether the proposals comply with Strategic Plan or any other development plan retail policies in respect of the location of the site in relation to Douglas Town Centre [SP paras 9.2.5, 9.4.2 & 9.4.4 and Strategic Policy 9, Business Policies 9 and 10],
- second, whether the proposals would have an adverse effect on adjacent retail areas [Business Policy 9],
- and third, whether the proposals comply with Strategic Plan transport policies in respect of the impact of traffic generated by the extension on the existing highway network [General Policy 2 & Transport Policies 1 and 4].

First issue - location of application site

350. Retail policy guidance for the first issue is spread over 3 SP policies - Strategic Policy 9 and Business Policies 9 and 10 - and can be found in the approved 1998 Douglas Local Plan. Relevant guidance can also be found in PPS4.

351. Retail policy in the SP aims to direct new retail development to town and village centres. It is worth noting where this approach to new retail development came from. SP paragraph 9.2.5 describes how Tynwald came to resist out of town retailing in 1987. The Tynwald resolution stated that “*no further major out of town retailing developments should be permitted.*” Since then Area or Local Plans and the Strategic Plan have proposed that retailing should be concentrated in existing centres.

352. With this retail policy background, I wanted to understand precisely why the application site was developed for convenience retailing in 2000. I asked DoLGE to provide the 1996 Officer report which recommended that planning consent should be given to the Manx Co-op food store [CD5.2]. Unfortunately this report gave no clear or legible reasons for the recommended approval. I find this very surprising as it was an important and controversial decision. It was also a decision that was not in accord with the 1989 Local Plan policies for large span retail warehousing on the site. Predictably this permission for a grocery store on the Lake Road site was a decision that Tynwald debated and questioned on 15 December 1998 [CD10.4] when the Douglas Local Plan was considered. But unfortunately the question as to precisely why a food supermarket was allowed on the Lake Road application site in 1996 remains unanswered.

353. To return briefly to the 3 Strategic Plan policies, it is agreed by all parties in the inquiry that these policies require new retail development to be located within existing town and village centres. Even though BP9 uses the term “*existing retail areas*”, this is taken to mean town and village centres. There was no serious dispute about this interpretation.

354. However there is an immediate difficulty with applying any of the relevant Strategic Plan policies to Douglas and this proposal. This is because there is no explanation of the term “*Town Centre*” in the Strategic Plan. In these circumstances it is normally possible to find an explanation of such a term in a relevant local or area plan.

355. Unfortunately in the approved 1998 Douglas Local Plan, the term “*Town Centre*” is not defined. Also a Town Centre boundary is not shown on Central Area Map No 1.

356. The absence of any explanation as to what Town Centre means for Douglas or any other town in the Isle of Man led to extensive arguments in the inquiry. Tesco claim the term “*Central Area*” on Map No 1 means Douglas Town Centre. This assertion is disputed by all other parties.
357. Unfortunately this important point cannot be easily resolved because one document which should explain how Central Area and Town Centre are defined on Map No 1 is the 1998 Douglas Local Plan Written Statement [CD8.3]. But this document was not approved by Tynwald and published as a Circular [CD10.8]. It is very unusual to approve plans or maps without also approving an explanation for the plans or maps in the form of a written statement. Surprisingly, no explanation was given for this confusion. To add to the confusion, the Director of Development at the time, Mr Vannan, recently told me at another inquiry in January 2010 that he believed the Written Statement had been formally approved by Tynwald. He was wrong.
358. After hearing all the many arguments about the Written Statement I find the evidence shows that the Draft Written Statement is inconsistent about the term “Town Centre”. This inconsistency may have been one of the reasons why the document was abandoned and never approved. For all these reasons the unadopted Written Statement should be given limited weight.
359. The inquiry therefore has to make the best of the evidence put before it on the DLP Written Statement, however unsatisfactory it is. I consider it would be reasonable to place most weight on the DLP policies. The relevant policies are D/Ret/P1, D/Ret/P3 and D/Ret/P4. These policies – P1 and P3 - clearly state that retail development should be restricted to the defined shopping area. P4 proposes large span retail warehousing on the application site for non-food bulky goods. There is no support from the policies in this Draft document for new comparison shopping on the application site. Incidentally there is no support for a food supermarket on the same site.
360. Elsewhere in the Written Statement are completely contradictory messages about where the Town Centre might be located. On the one hand, paragraph 3.8 states that Bucks Road and Nobles Hospital are outside the Town Centre. This obviously implies that the Town Centre is smaller than the Central Area boundary shown on Map No 1. On the other hand, paragraph 3.11 says that retail warehousing should be restricted to the Town Centre. This contradicts Policy D/Ret/P1 and implies that the application site lies within the Town Centre. Nowhere does the Written Statement unequivocally state that the Central Area boundary represents Douglas Town Centre. Nowhere does the Written Statement define the Town Centre.
361. Thus from the Written Statement it would be reasonable to conclude there is no direct support for the Tesco proposal. There is instead policy opposition to new retail development outside the defined shopping area – the blue shaded APSU area on Map No 1.
362. Turning now to the approved DLP, Map No 1 unfortunately this includes certain ambiguous designations. First, there are areas zoned for Mixed Use and labelled TC [Town Centre] on Map No1 – but there is no explanation anywhere as to what TC means. Although this is confusing, it was not a major point at issue in the inquiry.
363. Second the Tesco application site is zoned for retail/commercial in the Key but labelled “*Retail Warehousing*” on the Map. This designation is strange because about 2 years before the Map was published the site had been given planning permission [CD5.1]

for a Manx Co-op food supermarket and not for retail warehousing. To label or designate a site for retail warehousing on a Map and refer specifically to a policy for large span retail warehousing on the same site in the Written Statement is peculiar, when it is well known that the site has planning permission for a food supermarket. In fact the Local Plan Inquiry Inspector referred to the Superstore on the Lake Road site in July 1997 in his Local Plan report.

364. These omissions are more striking when it can be seen that office development in Written Statement Appendix B relied on information gained as late as February 1998. And for industrial development in the Written Statement, the Chief Minister's 1998 Report is mentioned. Why important information about retail development available in 1996 was ignored entirely is curious. To say the very least the Draft Written Statement and Map No 1 needed much more careful drafting and editing.

365. To conclude on the approved DLP Map No 1, it is clear the application site is not within or near the established shopping centre of Douglas. It is instead located on a site designated for retail warehousing. It follows that the approved DLP Map No 1 gives little or no support to the proposed Tesco extension.

366. Turning now to SP policies, it is necessary to try to understand what the 3 relevant SP policies mean when they aim to direct new retail development to town centres.

367. SP9 calls for new retail development to be sited within town centres on land zoned for retail purposes in Area Plans. A strict reading of the approved DLP Map No1 and the Written Statement would mean that the Tesco proposals would not be on land zoned for the purposes proposed. Strategic Policy 9 indicates that new retail development should be located within the designated main shopping centre of Douglas. The Tesco proposal would conflict with this policy.

368. BP9 supports new retail provision in existing retail areas. The preceding paragraphs refer to the adverse impact on town centre high streets of out-of-town retail developments. It seems likely that in this context existing retail area means town centre high street or main shopping area. Again this area for Douglas is the shaded blue APSU shown on DLP Map No 1. The Tesco application site is a long way – some 800m - from this shopping area. It follows that the Tesco proposal would conflict with this policy.

369. BP10 only permits retail development in established town centres. As BP10 immediately follows BP9, it is likely that established town centre means town centre high street or main shopping area. For Douglas this is the blue shaded APSU area on the DLP Map No 1. The Tesco application site is a long way – some 800m - from this shopping area. The Tesco proposal would conflict with this policy.

370. If Ministers consider I am wrong on my understanding of where Douglas Town Centre is located for the purposes of SP policy, and there is some merit in the Tesco argument about a much larger Town Centre, then this other argument now needs to be considered. In short, Tesco say that the Central Area dotted line on Map No 1 represents Douglas Town Centre. Tesco say that this is a reasonable Town Centre boundary.

371. I have two points to make about Tesco's Town Centre arguments. Tesco's case rests on the application site being within Douglas Town Centre.

372. First, the Tesco proposal is not in the primary shopping area or retail centre of Douglas - the proposed store entrance would be some 900m from M&S and some 600m

from the nearest part of the APSU, as zoned on the DLP Map No 1. This point was accepted by all parties in the inquiry.

373. Second, the Central Area dotted black line boundary shown on DLP Map No 1 should not represent Douglas Town Centre. Tesco dispute this. The Central Area boundary includes land uses and areas which are not traditional or functional Town Centre uses. I do not regard the following areas as being within any reasonable definition of Douglas Town Centre: River Douglas, the light industrial area south of Peel Road, Steam Railway Station site including the sidings, [Noble's] hospital site and large areas of housing north of Peel Road, west of Circular Road and north of the Government buildings and east of Bucks Road. All these areas are within the Central Area dotted black line boundary on Map No 1. However all these areas have minimal physical relationship with any normal definition of a Town Centre and also have little functional relationship with any reasonable definition of a Town Centre. They are not town centre uses, and they are not close to the main shopping area. I therefore disagree with Tesco's arguments on Central Area Map boundary = Town Centre boundary.
374. I find support for my comments about the Central Area boundary not representing an appropriate boundary for Douglas Town Centre from the 2009 PPS4 "Planning for Sustainable Economic Growth" [CD8.8]. I am always reluctant to use guidance from other jurisdictions for planning cases on the Island as the guidance may be inappropriate. However in this case because of the significant confusion arising from the absence of any definition of town centre, or Douglas Town Centre in particular, it does seem appropriate to have regard to this new policy guidance. To do so, would follow the advice in paragraph 1.6.1 of the Strategic Plan about using UK or EU guidance in the absence of Manx guidance. Tesco are wrong to argue that there is adequate guidance on this subject – the inquiry spent almost 2 days examining this single issue largely because there was no Manx guidance. I do not believe that Tynwald and DoLGE carefully considered (1) whether the Douglas Local Plan Map No 1 represented Douglas Town Centre or (2) whether the Central Area boundary on Map No 1 represented Douglas Town Centre for the purposes of interpreting shopping policy in the Strategic Plan. There is no record of any consideration whatsoever of this matter. Both the Douglas Local Plan and the Strategic Plan are silent on this important matter.
375. By contrast, PPS4 provides clear definitions of town centre, out-of-centre, edge-of-centre and out-of-town for use in dealing with retail development. I noted that all professional witnesses at the inquiry stated that some weight should be given to PPS4, or to recently cancelled guidance such as PPS6.
376. PPS4 in Annex B defines Town Centre in the following way: "*Defined area, including the primary shopping area and areas of predominantly leisure, business and other main town centre uses within or adjacent to the primary shopping area. The extent of the town centre should be defined on the proposals map.*"
377. To return to the arguments about how the Tesco application site relates to Douglas Town Centre requires consideration of a number of points. First, this inquiry is not the appropriate forum to define a precise Douglas Town Centre boundary – the Area Plan should have that task. Second, it is however possible to reach conclusions about Douglas Town Centre and its relationship to the Tesco proposal. Third, the Tesco site is not close to the Douglas main shopping centre focused around and along Strand Street, and finishing up at North Quay to the east of Ridgeway Street. This is borne out practically by the very small percentage of shoppers [6%] who walk to Douglas shopping centre from

Tesco compared with the 93% who use private transport to reach this centre after shopping at Tesco. It is also shown by the 900m walking distance between M&S and the proposed store entrance.

378. Fourth, the Tesco site is clearly separated from areas zoned as Predominantly Offices – most of these areas could be reasonably regarded as being within the Town Centre. Fifth, the 1997 Local Plan Inquiry Inspector stated that the application site was outside the Town Centre. This conclusion was in response to objections about the superstore outside the Town Centre and allowing retail development outside defined areas; at the inquiry the Director of Planning implied that the site was outside the Town Centre in setting out the major inquiry issues. These clearly expressed opinions in 1997 should carry more weight than the confusing and contradictory Written Statement. Whether these comments meant that the Town Centre was the blue APSU area on Map No 1, or some other larger area, the message is the same, the application site is not within Douglas Town Centre.
379. Sixth, both Tesco Transport Assessments [January and October 2009] weaken Tesco's argument that the application site is within the Town Centre. Paragraphs 2.1 [CD1.4 & CD2.3], 2.3 [CD1.4], 3.1 [CD1.4 & CD2.3], 3.2 [CD1.4 & CD2.3], 3.3 [CD1.4 & CD2.3], 7.15 [CD1.4], 7.17 [CD2.3] and 10.4 [CD1.4 & CD2.3] all indicate that the authors of these Tesco assessments considered the application site was outside Douglas Town Centre.
380. In short, the Tesco application site is not within Douglas Town Centre however that Town Centre is defined. It follows that this site is out-of-centre when applying retail policies.
381. For all these reasons above the proposed Tesco retail development conflicts with SP9, BP9 and BP10. All these policies indicate that new retail development should be within town centres. The proposal can be rejected on these grounds alone.
382. The Peel Shoprite appeal decision requires comment [Tesco Retail Rebuttal Proof Appendix 1]. In rebuttal evidence and during the inquiry Tesco argues that this decision means that BP9 should apply favourably to the proposed Tesco application.
383. A proper approach to the Peel case would mean that relevant development plan guidance should come from both the approved Peel Local Plan and the Strategic Plan. It is clear that the Derby Road Shoprite is not in Peel's main retail centre. Tesco accept this and the Planning Authority acknowledges this in its Peel inquiry evidence; it is also clearly stated in paragraph 2.1 of the Peel Written Statement [CD8.21]. Due to the very unusual circumstances applying in Peel, such as the Conservation Area, set out in paragraph 2.3 of the Written Statement, the location of the Shoprite site should be regarded as a special case. This arrangement does not readily match any SP policy. I therefore do not entirely follow the Inspector's conclusions as to why BP9 and BP10 provide supporting guidance. More detailed explanation is required to justify these conclusions. It is possible that this detailed explanation may have been submitted in evidence at the Peel inquiry, but not reported. Returning to the policies, the term "existing retail area" in BP9 means town centre; if it directly applied to free standing retail areas away from town centres such as the Peel Shoprite, it could also include locations such as Tynwald Mills. Both SP policies aim to direct retail development to town centres. The Peel Shoprite is not in Peel Town Centre, or in the retail centre. Further retail development on this site would therefore have to be a reasonable exception to these

policies. For these reasons I do not consider the Peel Shoprite decision should have specific relevance to the Tesco proposal.

384. To finally conclude on the first issue, it is reasonably clear that the Tesco proposal conflicts with development plan retail policies governing the location of new retail development. In other words the Tesco proposal is in the wrong location in relation to SP9, BP9 and BP10, and the provisions of the older DLP material. The site is not in Douglas Town Centre and therefore it conflicts with all these policies.

385. Even if Ministers considered the application site is in Douglas Town Centre, it is too far away from the main shopping area to be an appropriate addition to Town Centre shopping. To allow major additions of retail development on a site some 800m from the main shopping area would set a dangerous precedent for future shopping policy and retail investment on the Island. This is not a case where an exception to normal retail policy may be allowed such as with the sale of bulky items under Business Policy 5.

386. Given these firm conclusions on the first issue of location, there is no strict policy requirement from BP9 to go on to examine scale or retail impact. But to be fair to the applicant, and to help Ministers in case they disagree with me about the Tesco site being outside Douglas Town Centre, I will now assess scale and impact.

Second issue - scale

387. BP9 calls for the scale of new development to be appropriate to the town centre. BP9 assumes the new retail development would be within that town centre. In this case this proposal is not in Douglas Town Centre. For this reason alone the scale of the proposal would be inappropriate. All other arguments about scale are affected by this point about the store's location.

388. For example other main arguments about scale heard at the inquiry related first, to the size of the proposed comparison floorspace compared to the total comparison floorspace in Douglas Town Centre, and second, to whether the proposal would affect the hierarchy of town centres in the Island. The evidence suggests the new Tesco comparison floorspace would be about 11% of the total comparison floorspace in Douglas Town Centre. This low % would be appropriate if the proposal was in the Town Centre. Similarly the proposal would not affect the hierarchy of town centres in the Island, if the store was within the Town Centre.

389. In short, the proposal would be out of scale and inappropriate simply because the location of the store is not within Douglas Town Centre. Furthermore the extended store would be the largest store in the Island; it would be inappropriate for the Island's largest single store to be in an out-of-centre location.

Second issue – retail impact

390. Turning to impact – BP9 calls for a Retail Impact Assessment - there was insufficient evidence to show that the relatively small addition of new convenience floorspace – some 424m² – would lead to any material harm to Douglas Town Centre or any other centre.

391. It is the impact of the new comparison floorspace that was disputed in the inquiry. On one side, Tesco say the impact would be not be seriously damaging to the vitality and viability of Douglas Town Centre. On the other side, all objectors say the impact would be significant and detrimental to Douglas Town Centre.

392. In assessing impact, the key factors that are disputed are first, available non-food expenditure on the Island, second, appropriate sales density or turnover levels for the new comparison floorspace, and third, trade diversion from Douglas Town Centre.
393. A frustrating aspect of the inquiry was the apparent reluctance of retail witnesses to get together before the inquiry in order to agree common ground and to focus sharply on the main points of difference. It was not even possible to persuade the retail witnesses to produce a Retail SoCG on the required matters: test year, available expenditure, growth, turnover and trade diversion. Consequently it was difficult in the inquiry to compare like with like, as each witness approached the same issue using very different assumptions.
394. **Expenditure** Arguments about available non-food expenditure on the Island were not resolved during the inquiry. Tesco says that UK average non-food expenditure levels should be used. DoLGE says that HIES non-food expenditure levels and retail surveys should be used. The difference between the 2 sources of data is about 20%. This % is a very large sum of money. Table 8.4 of the IoMRSU [CD8.2] suggests the difference to be about £40m in 2009. The evidence suggests that the missing 20% is due largely to off-island spending. This is not surprising as there is less choice of non-food products available on the island compared to the UK. Despite the small sample size, the HIES survey seems a reasonable source of information for Island non-food spending. From the evidence it is more appropriate to use information collected on the Island, rather than assume Island spending correlates well with UK non-food average expenditure figures.
395. **Turnover** Turnover arguments concentrated on selecting the most reasonable sales density figures for the proposed non-food floorspace. Tesco suggest £6,108/m². Other parties suggest a range from £9,000/m² - £12,657/m². Various sales density figures were produced from recent UK public inquiries and current planning applications. The Tesco average sales density of about £7,000/m² for non-food floorspace in Tesco Extra stores was also mentioned.
396. The Tesco suggestion that the proposed sales density should be £6,108/m² because certain extensions trade at about 32% of comparable existing floorspace was not made out. This is because the Tesco study that proposes this 32% reduction was not submitted to the inquiry. It was therefore impossible for me to verify how the 32% was calculated or test whether it had any relevance to this Tesco scheme. Consequently very limited weight can be given to evidence that could not be tested in the inquiry.
397. To use Tesco company averages must invariably be controversial, as average figures can be grossly misleading for particular stores. Caution must always be exercised with company averages. I consider a reasonable approach to turnover would be to not accept Tesco store averages because the Douglas Tesco overtrades significantly and exceeds Tesco store average turnover figures now for both comparison and convenience floorspace. Currently the store trades at almost twice the company average for comparison floorspace. Mr G Fryett Tesco Property Director [J Francis Proof Appendix A3] states that the store “*returns one of the highest sales per square foot of any store in the Tesco portfolio.*” There is no reason why this very successful store would not continue to overtrade and easily beat Tesco average turnover figures for comparison goods. Insufficient evidence was submitted to show that company average figures would be appropriate for predicting the performance of this store in the future.
398. The variation in comparison sales density for stores at Kidlington, Kirby, Old Trafford, Prescott and those proposed at this inquiry all suggest that turnover assessment

is not an exact science. On the evidence I consider it would be reasonable to accept a sales density figure of at least £9,000/m². This figure is not far above the Tesco average turnover for non-food sales. It is close to figures used recently in public inquiries and Tesco planning applications. This £9,000m² gives a comparison turnover of about £23.2m for 2012 and £26.7m for 2017, using Mr Skelton's assumptions, which I prefer. These figures can be compared to the £14.4m suggested by Tesco for 2014.

399. **New store v extension** As for the “*new store v extension*” argument, I am not convinced that the additional comparison floorspace should be regarded as though it was an entirely new store. Although much of the existing store would be largely removed, most of the extended store would be on the footprint of the existing store. In terms of trading I would expect that the extended store would attract new customers, but not on a scale similar to the opening of an entirely new store. In order to apply reasonable sales density figures for the “extension” it would have been helpful to examine similar proposals elsewhere in the UK which had before and after sales density results. The huge variations in sales density would make it dangerous to apply company averages or specific high or low estimates to this proposal. In the absence of this information, and from the evidence I would have thought that the “extension” should not be regarded simply as an extension, and also not simply as a completely new store. Somewhere between the two would seem reasonable.

400. **Assessment year** The appropriate test year for the impact assessment was disputed. If planning permission was given later in 2010, construction could start early in 2011. Construction was expected to take about 11 months. Construction could be therefore completed early in 2012. This would allow trading to start in 2012 or 2013. The impact assessment should follow after about 1-2 years after completion of development [CD8.20 Annex D.2]. This would be some time in 2013 or 2014. The assessment could therefore be in 2013 or 2014. 2014 is therefore a reasonable year for the impact assessment, to take account of unforeseen delays. It was unsatisfactory that such a simple matter could not have been agreed between the parties before the inquiry opened.

401. **Committed development** The Lord Street/Askett Hawk scheme should not be part of the impact assessment. This remains a speculative proposal that has not reached the stage of the submission of a planning application. The SP Glossary rules out inclusion of this scheme from its definition of Retail Impact Assessment.

402. **Trade diversion** On diversion from Douglas Town Centre, I prefer the higher 80% figure suggested by DoLGE. At the moment Douglas Town Centre accounts for 72% of spending on all comparison goods. Given the overlapping catchments and the similar offers in the extended store compared with Douglas Town Centre it is reasonable to assume that the Town Centre would suffer a greater trading impact than any other part of the Island. I am not convinced that B&Q and Tynwald Mills would be much affected by the Tesco proposals. It follows that the Tesco comparison offer would mostly impact on stores in Douglas Town Centre selling similar goods. This is not a science; a precise figure cannot be given with any confidence, but I prefer about 80% diversion from Douglas Town Centre as suggested by DoLGE, rather than the 70% suggested by Tesco.

403. **Impact** The arguments about predicted impact on Douglas Town Centre were important but unfortunately inconclusive. Tesco suggested 5.7% using £6,108/m² sales density and 7.8% using company average sales density of £8,340/m² at 2014. DoLGE suggested 11% and 14% at 2012 and 2014 using £9,000/m². As I prefer the use of a 70%

diversion from Douglas Town Centre and the HIES rather than the UK average for non-food expenditure, this brings the trade diversion closer to the 14% level for 2014.

404. But even at this level there was insufficient evidence to show that the 14% impact would cause specific harm to Douglas Town Centre. From the evidence submitted the most that could be said is that there might be harm in terms of existing retailers losing turnover and reducing future improvements. Another possible harm might be a reduction in Town Centre redevelopment prospects. Potentially harmful effects were only expressed in general terms.

405. **VAT, Douglas Town Centre decline & Independent traders** Evidence on more qualitative aspects of assessing impact was not persuasive. Evidence about the precise effect of VAT changes on retail expenditure proved to be inconclusive. Arguments about the decline of Douglas Town Centre were also inconclusive. The most that can be said with confidence is that this Town Centre has declined relative to UK town centres in the last 5 years – the MHE shopping index ranked Douglas at 405 in 2008, down from 243 in 2003. Fears about the effect of the proposals on independent traders were not made out; these traders offer a different service and products to customers. On the evidence submitted it is uncertain whether independent traders would be adversely affected by the Tesco proposals.

Retail issues – conclusion

406. There is no doubt that the Tesco Extra proposal would be welcomed by many shoppers. It would be convenient for car borne shopping and popular. It would also provide new jobs and new investment. It would claw back some of the “lost” off-island spending. It would be likely to be successful.

407. On the location issue: the Tesco site is out-of-centre; its customer entrance is about 800m from the prime part of Douglas’ shopping centre. The Tesco site is outside a reasonable understanding of where Douglas Town Centre is located. All this means that the Tesco proposal conflicts with the most recent and relevant development plan retail policies. These policies require new retail development to be within town centres on the Island. These policies should be supported.

408. As for the impact issue, the proposal would probably divert up to about 14% of trade on comparison goods from Douglas Town Centre. This trade diversion would obviously not help to enhance the vitality and viability of Douglas. Inevitably the predicted loss of trade would reduce footfall in the centre and could deter future retail investment. Precise impacts were not predicted. The most that can be said is that the trade attracted to Tesco would be likely to damage existing stores in Douglas Town Centre and might hinder future chances for new retail investment. This outcome would be unwelcome. But on its own, this uncertain level of impact would not amount to a compelling reason for refusal.

409. On balance for the retail issues, the Tesco proposal should be refused. This is because it conflicts with the long standing Manx retail policy of directing retail development to town centres, and with more recent development plan retail policies. In addition there is a risk of harm to Douglas Town Centre from the trading power of the proposal; this is not so serious as to merit a reason for refusal on its own, but it should be weighed in the balance when considering the overall merits of the scheme.

Third issue – traffic and highway matters

410. The traffic and highway issue can be split into two main subjects: (1) traffic modelling and (2) the design of the Banks Circus/Bridge Road/Bank Hill/North Quay junction. Other subjects examined – North Quay and parking – are of less weight in judging this issue.
411. Complicated technical arguments about modelling and design took a considerable amount of inquiry time. This was disappointing, as a number of disputed points could and should have been resolved in discussion before the inquiry opened.

Traffic modelling

412. It would be fair to say that the objectors submit that the Tesco TAs and further modelling updates are fundamentally flawed and unacceptable, while Tesco argue that its TAs are extremely robust, as they are based on reasonable data and assumptions. Tesco further argue that though there were some errors in the modelling, they do not affect the important conclusions in the latest TA and sensitivity tests.
413. Suggested flaws include trip rates, “mix and match” data, committed development, absence of “no worse off” assessment and sensitivity tests.
414. **Trip rates** On trip rates the evidence submitted comes mostly from Tesco. Existing trip rates for the store are given; these are not in dispute. Reduced trip rates for the proposed floorspace are suggested by Tesco; they are based on discount factors derived from an April 2005 Waterman Boreham study of 8 store extensions. The only other trip rates submitted by objectors come from a replacement Tesco proposal in Walkden, Manchester. But use of the TRICS database for these Walkden trip rates is of limited assistance, as this single Manchester scheme seems very different to the Douglas proposal. The Waterman Boreham study of 8 different sites involving increased Tesco floorspace proposes average trip rate estimates for extensions. However this Tesco study was not available to the inquiry. Similar relevant characteristics between the proposal and the 8 store extensions were not confirmed in the inquiry. None of the 8 store extensions were similar to the Tesco proposal. The findings of this 2005 study and its direct relevance to this proposal therefore have limited weight.
415. Variation in trip rates can obviously lead to significant increases or decreases in estimates of vehicles in TRANSYT modelling. There are no agreed trip rates. Thus unanswered questions remain about this important variable in the TRANSYT modelling. This is a matter which could and should have been resolved in a clearer fashion before the inquiry opened.
416. **Data errors** The criticism of “mix and match” data has some merit. Clear errors were identified. For example the North Quay – Quines Corner traffic flows did not match well. Tesco accepted that these were wrong. But it appears from evidence given that these wrong flows were not used in TRANSYT modelling.
417. **Committed development** As for committed development, earlier modelling did not take account of the Heritage Homes allocated residential scheme on Lake Road. This was a mistake. It has now been rectified by the 18 December 2009 sensitivity modelling exercise; this new exercise actually over-estimates the proposed number of residential units by about 20-25%.

418. **Nil detriment** Turning to “nil detriment”, I do not see why the TAs did not provide information to show whether the proposal would achieve a “no worse off” situation for the surrounding network. Mr Almond told me that he requested this information from the start of his meetings with Waterman Boreham in 2008. I am not convinced by Tesco’s assertion that a comparison between what exists now in terms of queues and delays and what queues and delays would occur as a result of the proposal could not have been presented. I appreciate that many changes would be made to the highways around the site, including the introduction of a signalised junction at Banks Circus, removal of the mini roundabout and signalling changes to the Lord Street corridor. Even so I see no good reason why existing and predicted queue lengths and delays could not have been clearly identified for various highways, together with careful explanations as to the differences between the existing situation and the circumstances created by the proposal. The absence of this requested comparative assessment is a serious deficiency of the TA.
419. **Sensitivity tests** On sensitivity tests, the evidence was complicated and strongly disputed. This again was a matter that should have been more sharply focused at the inquiry. Many disputes on sensitivity testing between the parties should have been tackled and resolved before the inquiry opened. There was sufficient time between the 1st PIM in September 2009 and the start of the inquiry to allow for productive discussions. There was also certainly sufficient time between the start of discussions in 2008 and the first PIM in September 2009.
420. The arguments about sensitivity tests were not resolved in the inquiry. While I note all the Tesco submissions about the conservatism of the assumptions made for the TRANSYT runs, there remain serious doubts about predicted lengths of queues, delays and whether queues would clear in each cycle for Lake Road. For link 62 the TRANSYT run in CD12.2 for 2020 with the “ped every cycle” shows a pm peak mean maximum queue of 30 vehicles along Lake Road and 23 vehicles with “no ped” – these would be queues of some 175-180m and 125-130m. The longer queue would almost reach the Tesco store entrance and taxi parking. I appreciate that a “ped every cycle” is unlikely, so this means the queue could be predicted to be shorter, but the shorter queue length would still be exceeded 50% of the time. It would still be a long queue, where there is now no evidence of any queue at all. Furthermore the LinSig modelling suggests longer queues in the weekday evening peak hours. This brings me back to the absence of the “no worse off” assessment in the TA. There is simply no evidence to show whether these long queues would be much worse than existing queues – if there are any - or whether the delays would be much worse than existing delays at the junction – if there are any. There is also no clear evidence that these queues would clear every cycle. Yet in answer to me, Mr Summers said there would be no queues, as queues would clear every cycle, and there would be no delays. From the evidence there remains doubt about this statement. There is also no clear evidence that traffic emerging from the Heritage Homes site would be able to enter Lake Road due to the existence of the queue. In addition there seems to be little reserve capacity at junction links 12, 62, 70 and 73 given that they are at or just above 90 DoS. Any errors in predicting trip generation by way of under-estimation would lead to longer queues and delays at all these links.
421. All this means that there are serious doubts about the future performance of the revised Banks Circus junction, and other junctions. TRANSYT modelling, in particular the latest sensitivity testing [CD12.2], does not give unequivocal confirmation of junctions without problems. It seems to me to be strange that if the Banks Circus Junction could cope satisfactorily with predicted traffic from the proposal and committed development,

then this matter would have been clear in the first TA in January 2009 [CD1.4] and confirmed in the second TA in October 2009 [CD2.3]. This did not happen. Discussions between Tesco and DoT started in 2008; this is more than sufficient time to resolve modelling matters. Last minute changes to design and the late sensitivity testing and the absence of the “no worse than” assessment all question the reliability of the many traffic and highway assessments and analyses. In short, I am not confident that I can say that the proposal would be acceptable in terms of traffic and highway matters. The inquiry examined too many problems that were not satisfactorily addressed.

422. It follows that for traffic modelling the evidence leads to doubts about the ability of the revised Banks Circus junction to deal satisfactorily with the traffic generated by the proposal and committed development. There remain questions about the performance of this junction that should have been unequivocally resolved by the work undertaken in the two TAs. It would be inappropriate to permit the proposal while these questions and doubts exist.

Junction design

423. **Visibility splays** On visibility splays, there was a dispute between the DoT and Tesco about the required “x” and “y” distances that would be available at the service yard entrance. I find that the 1m by 33m does not comply with the guidance in PPG13 Annex D. In particular the “x” distance of 1m is insufficient. The offer by Tesco to provide a 2m x 33m visibility splay by means of a condition is noted. But the 2m “x” distance does not strictly follow the PPG13 Annex D guidance. A Tesco service yard for a Tesco Extra can hardly be equated with single dwellings, or a small cul-de-sac of 6 dwellings, as described in Annex D paragraph 2. A Tesco service yard could also not be equated with a petrol filling station. The service yard falls somewhere between these examples given in PPG13. Unfortunately the inquiry was not provided with likely HGV movements or an accurate prediction of dot.com vehicles. Given that speeds would be likely to be low – perhaps 20mph or lower - because of the lights and the bends in Lake Road/Banks Circus it seems reasonable to accept a lower “x” distance and “y” distance. In these circumstances the proposed 2m x 33m should be acceptable.

424. **Rescue services** The concern expressed by Rescue Services in the letter dated 30/5/09 [CD10.12], supported by objectors was not made out. Fire appliances might be slowed down in reaching premises on South Quay, North Quay and the Tesco store and the Heritage Homes development by the proposed signal controlled junction at Banks Circus. But this problem applies to most signal controlled junctions on busy highways and the Fire Service could probably deal with this matter reasonably during an emergency. Moreover this problem already exists with the current arrangement at the Banks Circus junction. No more highway or traffic hazards would be formed by the proposed signal controlled junction. There would be little change to the prospects of a fire tender reaching North Quay or South Quay via Bank Hill caused by the proposal.

425. **Pedestrian issues** Pedestrian issues include safety along Banks Circus and across Bank Hill. Concern was expressed about the narrowing of the footways by the Railway Hotel. I find the proposed narrowing of the footway on the south side of Banks Circus from about 2m to 1m for over 4m by the portico of the Railway Hotel would present a danger to pedestrians from time to time. This narrowing could be particularly dangerous when buses are turning right into Banks Circus and where the visibility for drivers is restricted when approaching from Bridge Road. Possible use the area behind the portico as a footway is not a satisfactory response to this problem. In my view a footway should

be about 2m wide; 1m is too narrow alongside a highway where buses and vehicles are turning. I am not convinced that BS 8300:2009 [“Design of buildings and their approaches to meet the needs of disabled people] offers suitable guidance for footway widths adjacent to public highways. This narrowing of the footway is a serious defect of Drawing 31.

426. Another safety issue was pedestrian movement across Bank Hill. This concern was not made out. No current safety issue for pedestrians at this junction was identified. There is now no signal control to provide red time for crossing. With the proposed signal control, crossing would be safer during red time.

427. **Drawing 31** The Tesco suggestion that a condition could try to deal with some of the scheme’s failings as shown on Drawing 31 is at first glance, plausible. The land in question is highway land. Required changes are within the highway boundary. They include setting back the Banks Circus right turning stopline; dropped kerbs and tactile paving at Bank Hill pedestrian crossing. A Grampian condition should ensure the changes were implemented. However these changes, particularly the setting back of the Banks Circus stop line, may or may not resolve problems of buses and articulated vehicles turning into Banks Circus and being obstructed by right turning traffic. This matter was not tested in detail at the inquiry because the evidence using swept path analysis was not submitted in time and not able to be examined properly. There is also a doubt about the space required by left turning articulated vehicles moving from Bridge Road into Banks Circus. In short, it is not clear whether the junction would work satisfactorily. Such matters cannot be left to be resolved by a Grampian condition. This is another defect of the proposal.

North Quay

428. North Quay has recently become a more attractive waterfront part of Douglas, particularly for pedestrians. Objectors say the introduction of more traffic along North Quay would harm this amenity area. The evidence shows that the proposal would lead to more traffic along North Quay, except during the am peak. This additional traffic, especially on Saturdays, would not be welcome to pedestrians. This would be unsatisfactory.

Parking

429. I did not find convincing evidence to support the proposed 557 car parking spaces. Mr Summers for Tesco says he agreed the parking provision with the DoT. Mr Almond for the DoT says there is very little justification for the 557 spaces and adds that there is no standard in the Island for retail parking. In these circumstances I again find it strange that such a simple matter was not resolved between the start of discussions between DoT and Waterman Boreham in 2008 and December 2009. Parking provision remains unresolved. This is also unsatisfactory.

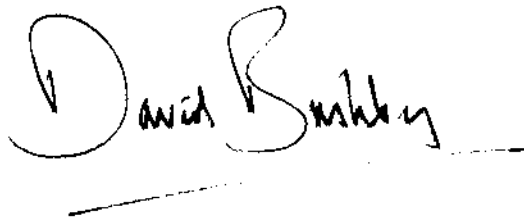
Conclusion on traffic and highway matters

430. The arguments are complicated. On traffic modelling there are too many unresolved doubts and questions about the ability of the revised Banks Circus junction to satisfactorily accommodate predicted traffic generated by the proposal and committed development. Insufficient evidence was submitted on existing and predicted queue lengths and delays. It would be inappropriate to permit the proposal while these doubts and questions remain.

431. On junction design, there is a pedestrian safety issue by the Railway Hotel, an unresolved problem of the space available in the highway for buses turning into Banks Circus from Bank Hill and approaching right turning parked vehicles, a possible problem of lack of space available for articulated vehicles turning from Bridge Road into Banks Circus.
432. There is also an issue arising from more vehicles generated by the proposal intruding into the attractive North Quay pedestrianised waterfront area. All these traffic and highway matters together add up to another reason for not permitting the proposal.
433. The unresolved parking provision numbers are a further unsatisfactory aspect of the proposal. I have not however made it a reason for refusal, as I was not given sufficient evidence to justify such a conclusion.

RECOMMENDATION

434. I recommend that the application should be refused.
435. I have attached draft conditions discussed during the inquiry in case Ministers disagree with my recommendation and consider the various planning and highway and traffic objections are not serious enough to justify refusal.

A handwritten signature in black ink that reads "David Bushby". The signature is written in a cursive style and is positioned above a horizontal line.

David Bushby
Independent Inspector

Date: 30 March 2010

APPENDIX A

APPEARANCES

For Tesco Stores Limited

Mr Robert Warren Counsel

He called:

Mr John Francis

DPP, Manchester

Mr Michael Summers

Waterman Boreham, Glasgow

For DoLGE & DoT

Mr John Barrett QC

He called:

Mr Ian Brooks

DoLGE

Mr Nick Skelton

Roger Tym & Partners, Glasgow

Mr Kevin Almond

DoT

For Shoprite/MyWay Ltd

Mr Gordon Steele QC

He called:

Mr Keith Hargest

Hargest & Wallace Planning Ltd, Edinburgh

Ms Alison France

Sanderson Associates, Huddersfield

For Heritage Homes Limited

Mr Vincent Frazer

He called:

Mr Stephen Buckley

Peacock and Smith, Leeds

Mr Bryan Hall

Bryan G Hall, Leeds

For Isle of Man Chamber of Commerce, Douglas Development Partnership, Douglas Borough Council

Mr Roderick MacLean

Roderick MacLean Associates,

He gave evidence and called:

Mr Stephen Bradley

Chairman of IoM Chamber of Commerce Retail Committee

Mr John Shakespeare

Manager, Strand Shopping Centre

Mr Chris Blatcher

Director of JAC Distribution

Mr Michael Chapman

Michael Chapman & Company

Mr Chris Pycroft

Development Manager, Douglas Development Partnership

APPENDIX B**SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall commence before the expiration of four years from the date of this notice.
2. This permission relates to the erection of store extension including mezzanine and bulk store extension, temporary store, decked car park and alterations to existing highway network as shown in drawing numbers SC953-00-01, SC953-00-02, SC953-01-01, SC953-BG2, SC953-BG4, SC953-BG6, SC953-BG7 date stamped 25th February 2009, SC953-10-00 Rev. A, SC953-10-01 Rev. A, SC953-10-02 Rev. A, SC953-50-01 Rev. A SC953-50-02 Rev. A, SC953-BG1 Rev. A date stamped 2nd November 2009, Retail & Planning Assessment date stamped 25th February 2009, Retail Assessment – Technical Note Update date stamped 2 November 2009, Transport Assessment date stamped 2nd November 2009, Letters from DPP dated 30th January 2009 and 30th October 2009.
3. No facing material (excluding cladding) and roofing materials shall be used for the store other than materials similar to those used on the existing building.
4. No facing materials for the service yard wall shall be used other than material similar to those used on the existing building.
5. Prior to the commencement of works, samples of the cladding and timber slats to be used in the development shall have been submitted to and approved in writing by the planning authority, and thereafter the development shall be carried out in accordance with the approved samples.
6. Prior to the commencement of works, details of the service yard gates must have been submitted to and approved in writing by the planning authority, and thereafter the development shall be carried out in accordance with the approved details.
7. Prior to the commencement of works, a revised plan showing details of the covered parking shall be submitted to and approved in writing by the Planning Authority and these works shall be carried out in accordance with the approved details prior to first use of the extended store.
8. The extended store hereby permitted shall not be used except in accordance with a Travel Plan, which shall include a timetable for implementation, to be submitted to and approved in writing by the planning authority.
9. The extended store hereby permitted shall not be occupied until the vehicular access and pedestrian means of access have been constructed in accordance with the approved plans. Those means of access shall thereafter be kept available at all times for their respective purposes.

10. The extended store hereby permitted shall not be occupied until the car-parking, manoeuvring areas and delivery yard have been provided in accordance with the approved plans, and those areas shall thereafter be kept available at all times for their respective purposes.
11. No construction works, comprising store extension or car park, shall take place until:
 - 1) the signalised junction at the Bank's Circus/North Quay/Bridge Road/Bank Hill junction has been installed; and
 - 2) the mini-roundabout at the junction of Lake Road and Bank's Circus has been removed.
12. Prior to the commencement of works, detailed design of the junction including street furniture, statutory undertakers' infrastructure, road signs, drainage, traffic lights and tactile paving to be used at the signalised junction shall have been submitted to and approved in writing by the planning authority, and thereafter the development shall be carried out in accordance with the approved details.
13. Notwithstanding the provisions of Section 6 (3) of the Town and Country Planning Act 1999, the building must not be sub-divided into separate retail units falling within Class 1, Schedule 4 of The Town and Country Planning (Permitted Development Order 2005).
14. The type of comparison goods to be sold from the extended store shall be restricted to the list set out in Appendix A in "Planning for Town Centres – Practice Guidance" December 2009.
15. The building shall only be used as shown drawing numbers SC953-10-01 Rev.A and SC953-10-02 Rev.A. For clarification, areas shown for particular use, e.g. café, may not be used for other purposes without planning permission, unless agreed with the local planning authority.
16. The phasing of the construction of the extended store with decked car parking area must be carried out in accordance with drawing number SC953-50-01 and a construction method statement, unless agreed with the local planning authority.
17. Plans of revised visibility splays for the temporary service yard and service yard shall be submitted to the local planning authority, and thereafter the development shall be carried out in accordance with the approved details.
18. Prior to the opening of the extended store, the temporary store must have been dismantled and removed from the site.
19. Prior to the commencement of works, details of the lighting scheme for the decked car parking area shall be submitted to and approved in writing by the planning authority, and thereafter the development shall be carried out in accordance with the approved details.

APPENDIX C

DOCUMENTS

Core Documents

ORIGINAL APPLICATION DOCUMENTS

- CD1.1 Planning Application Forms
- CD1.2 Covering Letter
- CD1.3 Retail and Planning Assessment (PL/PL/755706/R001m)
- CD1.4 Transport Assessment (MG/S/208624)
- CD1.6 Bundle of Plans (indexed separately)

REVISED APPLICATION DOCUMENTS

- CD2.1 Covering Letter
- CD2.2 Retail Assessment Technical Note Update (ST/ST/755706/R002m)
- CD2.3 Transport Assessment (SS/S/208624)
- CD2.4 Bundle of Revised Plans (indexed separately)

RESPONSES TO APPLICATION

- CD3.1 Call-in Letter from Chief Secretary's Office
- CD3.2 Consultation Responses (indexed separately)
- CD3.3 Letter stating reason for call-in from Office of Council of Ministers

INQUIRY DOCUMENTS

- CD4.1 Statement of Common Ground: DoLGE
- CD4.2 Statement of Common Ground: DPP
- CD4.2A Comparative Table of expenditure, turnover and diversion
- CD4.3 Statement of Common Ground: Transport
- CD4.4 Pre-Inquiry Minutes/Inspector's Notes

PLANNING HISTORY DOCUMENTS

- CD5.1 Application 96/0634 Decision Notice
- CD5.2 Application 96/0634 Officer's Report
- CD5.3 Application 97/0418 Decision Notice
- CD5.4 Application 97/0418 Officer's Report
- CD5.5 Application 97/0097 Decision Notice (03/06/97)
- CD5.6 Application 97/0097 Decision Notice (13/01/98)
- CD5.7 Application 97/0097 Officer's Report
- CD5.8 Application 98/1872 Decision Notice in Respect of Part A
- CD5.9 Application 98/1872 Appeal Decision in Respect of Part B
- CD5.10 Application 98/1872 Officer's Report

DEVELOPMENT PLAN POLICY

- CD6.1 Isle of Man Strategic Plan 2007
- CD6.2 Douglas Local Plan 1998 Map No.1 (Central)
- CD6.3 Douglas Local Plan 1998 Map No.2 (South)
- CD6.4 Douglas Local Plan 1998 Map No.3 (North)

NATIONAL PLANNING POLICY

- CD7.1 Conservation of the Historic Environment (PPS1/01)

OTHER POLICY CONSIDERATIONS

- CD8.1 Roger Tym and Partners Isle of Man Retailing Study – August 2008
- CD8.2 Roger Tym and Partners Isle of Man Retailing Study Update – May 2009
- CD8.3 Douglas Local Plan Written Statement 1998
- CD8.4 Douglas Local Plan 1989 - Central Area and Written Statement (Circular 2/89)
- CD8.5 Douglas Local Plan 1989 - Central Area (Map No.1)
- CD8.6 Douglas Local Plan 1989 – Map No.2 and Written Statement (Circular 2/89)
- CD8.7 Douglas Local Plan 1989 – Map No.2
- CD8.8 PPS4: Planning for Sustainable Economic Growth
- CD8.9 PPS6: Planning for Town Centres
- CD8.10 PPG13: Transport
- CD8.11 Hierarchy of the Islands Road Network – Department of Transport
- CD8.12 Manx Roads Guidelines – Department of Transport
- CD8.13 Guidelines for Traffic Impact Assessment – The Institution of Highways & Transportation – September 1994
- CD8.14 Guidelines for Providing for Journeys on Foot - The Institution of Highways & Transportation – 2000
- CD8.15 Transport in the Urban Environment - The Institution of Highways & Transportation – June 1997
- CD8.16 Guidance on Transport Assessments – Department for Transport
- CD8.17 Northern Ireland draft PPS5
- CD8.18 Republic of Ireland – Retail Planning Guidelines January 2005
- CD8.19 Scotland SPP8 Town Centres and Retailing
- CD8.20 Planning for Town Centres: Practice Guidance
- CD8.21 Peel Local Plan 1989 (Written Statement and Map)
- CD8.22 BS 8300 2009
- CD8.23 BS 8300 2001
- CD8.24 PPG13 (1994)

STATUTORY POLICY/ORDERS

- CD9.1 Town and Country Planning Act 1999
- CD9.2 The Town and Country Planning Acts 1934 to 1981 – Isle of Man Planning Scheme (Development Plan) Order 1982
- CD9.3 The Town and Country Planning Acts 1934 to 1991 – Isle of Man Planning Scheme (Douglas Local Plan) Order 1998
- CD9.4 The Town and Country Planning (Development Procedure) Order – 2005
- CD9.5 The Town and Country Planning (Isle of Man Strategic Plan) Order – 2007
- CD9.6 1982 Development plan Use Classes Order

OTHER RELEVANT DOCUMENTS

- CD10.1 NEMS Household Shopping Survey 2006
- CD10.2 NEMS EXIT Survey 2009
- CD10.3 Isle of Man Household Income and Expenditure Survey 2006/07
- CD10.4 DoLGE Departmental Minutes; Tynwald debate 15 December 1998 (Local Plan Debate)
- CD10.5 DoLGE Departmental Minutes; Tynwald debate 20 October 2009 (Douglas Quayside Development Scheme Debate)
- CD10.6 Report of Inspector Mr Bexson into draft Douglas Local Plan
- CD10.7 DoLGE's position in relation to the application (18/12/09)
- CD10.8 Statement regarding status of the Douglas Local Plan Written Statement signed by Mr Watterson, MHK
- CD10.9 Email from Estate Agent [G Black] of BGC dated 11/1/10
- CD10.10 G L Hearn report re: Old Trafford store
- CD10.11 Mr Almond's extract from Waterman Boreham table showing Tesco extension's trip generation figures; analysis of 8 stores
- CD10.12 Letter from Isle of Man Fire & Rescue Service
- CD10.13 DoT plans
- CD10.14 Transport Assessment of B G Hall & Co for Heritage Homes – August 2005
- CD10.15 Extract of Transport Assessment of B G Hall for Heritage Homes – August 2009

- CD10.16 Flare widths on Bank Hill
- CD10.17 p26 of TRANSYT model handbook
- CD10.18 Working extract from TRANSYT run referred to in CD12.2
- CD10.19 Extract from DB32
- CD10.20 Waterham Boreham supplied list of local authorities previously accepting reduced trip generation figures proposed.

PLANS

- CD11.1 Final Set of Application Plans (indexed separately)

UPDATED TRANSPORT INFORMATION

- CD12.1 Waterman Boreham Transyt Modelling Update December 2009
- CD12.2 Waterman Boreham Technical Note – Outstanding Issues December 2009
- CD12.3 Waterham Boreham update circulated to known parties 22 December 2009

Tesco documents

- J Francis: Proof of evidence and Appendices.
- J Francis: Rebuttal Statement
- M Summers: Proof of evidence and Summary Proof

DoLGE documents

- I Brooks: Proof of evidence and Appendices
- N Skelton: Proof of evidence and Appendix
- K Almond: DoT Written Statement

Shoprite/MyWay documents

- K Hargest: Proof of evidence and Appendices SHOP 2-10
- A France: Proof and Appendices SHOP 12-16

- SHOP 17: email exchange on sales densities

SHOP 18: Comments on Waterman Boreham Rebuttal Submission

SHOP 19: Extract about saturation flow calculations

SHOP 20: Extract about trip rates for replacement Tesco store at Walkden

Heritage Homes documents

S Buckley: Proof of evidence and Appendices

B Hall: Proof of evidence and Appendices

IoM Chamber of Commerce, Douglas Development Partnership, Douglas BC documents

R MacLean: Proof of evidence

S Bradley: Proof of evidence

J Shakespeare: Proof of evidence

C Blatcher: Proof of evidence

M Chapman: Proof of evidence

C Pycroft: Proof of evidence

DDP 1: Extract from PPS6

DDP 2: Pedestrian survey on Lake Road

DDP 3: R MacLean retail tables

DDP 4: Survey of Douglas independent retailers

DDP 5: M Chapman's maps and plans

DDP 6: Douglas Town Centre Regeneration Scheme

DDP 7: Extracts from Douglas Development Partnership Business Case for Improving Douglas Town Centre

DDP 8: Letter to Douglas retailers accompanying survey