

The Application is for full planning permission, on a site measuring 4.82 hectares (ha), for the demolition of 5 existing units with a gross floor area of 7,511 square metres (sqm). and their replacement with a two storey building, within a footprint of 6,505 sqm., and with a total gross floor area of 13,010 sq m. which will comprise the following elements:-

- | | |
|---|-----------|
| • Convenience goods (food hall) | 989 sqm |
| • Furniture/homewares | 1,858 sqm |
| • General Merchandise (clothing, footwear etc.) | 6,115 sqm |
| • Hospitality | 372 sqm |
| • Storage/staff facilities | 3,676 sqm |

together with ancillary works including the redevelopment of a methane pumping station and provision of both car parking and service yard.

The site lies within the Newcastle Urban South and East Neighbourhood Area on the Local Development Framework Proposals Map.

The site is accessed off Grange Lane (A527), which links the A500, which is part of the Staffordshire Strategic Highway Network as indicated on the key diagram of the Structure Plan, to May Bank and Wolstanton. The A500 is also part of the Primary Route Network as identified in the Regional Spatial Strategy

The statutory 13-week period for the determination of this application expired on 2 March 2012.

RECOMMENDATIONS

(a) That the Council should notify the Secretary of State that it is minded to grant the planning permission on the following terms.

Subject to the Secretary of State not 'calling in' the application and subject to the applicant entering into Section 106 obligations by 18 June 2012 that secure the following:

- (i) The proposed store to only be occupied by M&S for a period of 5 years from date of occupation.**
- (ii) Under the Marks and Start programme, M&S to work with a number of local residents that are long term unemployed, homeless or under care of local charities and provide them with work placements at the store within 12 months of opening. This will be repeated each year after. The number of placements to be offered to be agreed.**
- (iii) Within the public area of the store, M&S to provide an area for community displays in order to promote Newcastle-under-Lyme town centre in accordance with details to be agreed and appropriate parameters that are specified;**
- (iv) If Newcastle-under-Lyme operates either a Town Centre Management Scheme or a Business Improvement District (or similar) then M&S Wolstanton to contribute £10,000 per annum. This will continue until the earlier of M&S ceasing to trade at Wolstanton or M&S opening a Simply Food store in the town centre with an option for M&S to continue thereafter;**
- (v) No more than 10% of the gross internal floorspace of the building to be occupied in aggregate by concessions/franchises.**
- (vi) M&S to commit to operate at least a full Simply Food store, of a minimum size to be agreed, on a site which provides for a tenancy at market-prevailing terms within Newcastle Town centre prior to them opening to trade on this out of centre site;**
- (vii) M&S to participate in up to 6 half day workshops in order to provide training and advice for both existing and potential retailers in the town centre during**

- (viii)** the first year of opening at Wolstanton;
The provision of a bus service to connect the site to/from Newcastle town centre for a minimum period of 3 years from the date of occupation to run at a 30 minute frequency between the hours of 0800 and 1800 Monday to Saturday;
- (ix)** A payment of £94,331 towards the Newcastle Transport and Development Strategy (NTADS);
- (x)** The provision of a Travel Plan bond of £75,000;
- (xi)** A Travel Plan monitoring fee of £6,200 to be paid to the Highway Authority;
- (xii)** £10,000 towards the provision of bus stop infrastructure on the public highway in the vicinity of the site;
- (xiii)** A commitment to trade from Hanley for a period of 5 years from opening at Wolstanton.

Permit subject to conditions relating to the following matters:-

- (1)** Standard time limit condition.
- (2)** Implementation in accordance with the approved plans and supporting documents.
- (3)** The permission relates to a single retail unit of 13,010 sq.m. of gross floorspace with a sales area floorspace of no more than 8,962 sq.m. of which no more than 7,973 sq.m. will be for the display of comparison goods and no more than 989 sq.m. shall be for the display and sale of convenience goods.
- (4)** No subdivision of the store without the express consent of the lpa.
- (5)** Prior approval of a construction management plan to include wheel washing facilities and the management and routing of construction traffic, hours of construction, delivery times and internal compound arrangements.
- (6)** Prior approval of external facing and surfacing materials.
- (7)** Prior approval of a landscaping scheme and implementation in first planting season after commencement of development.
- (8)** Prior approval of a tree constraints plan.
- (9)** Prior approval and implementation of a tree protection plan to BS5837:2005.
- (10)** Development to proceed in accordance with the Travel Plan.
- (11)** Prior approval of piling.
- (12)** Contaminated land conditions.
- (13)** Prior approval and implementation of any combined heat and power system.
- (14)** Prior approval and implementation of a fume extraction system.
- (15)** Prior approval and implementation of a grease trap.
- (16)** Prior approval and implementation of a safe and drainage system.
- (17)** Construction of store to achieve a BREEAM Retail 2008 rating of at least 'very good', with an Energy Performance Certificate A-rating.
- (18)** Provision of parking/turning/servicing/bus stops/improved pedestrian links before the development is brought into use and maintained as such for the life of the development.
- (19)** Prior approval of the recyclable materials and refuse storage and collection arrangements.

(b) That should the matters referred to above not be secured within the above period, that the Head of Regeneration and Planning Services be given delegated authority to refuse the application on the following grounds:-

- (i)** In the absence of a planning obligation that secures the obligations referred to in (i)-(v) the proposed development would have an unacceptable and adverse impact on the vitality and viability of Newcastle Town Centre.
- (ii)** In the absence of a planning obligation that secures a Newcastle (urban) Transport and Development Strategy (NTADS) contribution, and Travel Plan monitoring contribution, and the provision of a bus service to the site, the proposal would not achieve a sustainable form of development.
- (iii)** In the absence of a planning obligation that secures a Travel Plan Bond necessary off site highway improvements could not be undertaken should the modal targets set out in the Travel Plan not be achieved and additional

- (iv) **vehicular movements are generated by the proposal than is expected. In the absence of a planning obligation that secures the continued presence of Marks and Spencer on a site within the defined City Centre (Hanley) boundary for a minimum period of five years; the trigger date being the date of first occupation of the proposed Wolstanton store; and secures their occupation in a single store of no less than 4400sq.m Net Sales Area (the same size as their existing City Centre Store), the proposed development would have an unacceptable and adverse impact on the vitality and viability of Hanley City Centre.**

Reason for Recommendation

It is considered, on balance, that the applicants have provided sufficient evidence to demonstrate that the proposal meets the sequential test and would not have an adverse impact on planned investment in the Town Centre or on the vitality and viability of the Town Centre or other centres. In addition the proposal will create a significant number of jobs and result in visual improvement to the retail park. Whilst the proposal, by virtue of its location which does not have good access to modes of transport other than the private car, could not be considered to be as sustainable as a town centre location it is considered that the broader locational context (i.e. within the conurbation) taken together with the benefits of the development would outweigh the above concerns. Notwithstanding this due to the scale and nature of the development the application must be notified to the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009

Policies and Proposals in the Approved Development Plan Relevant to This Decision:-

West Midlands Regional Spatial Strategy (WMRSS) 2008

- Policy UR1: Implementing Urban Renaissance – the Major Urban Areas (MUAs)
- Policy UR3: Enhancing the role of city, town and district centres
- Policy PA1: Prosperity for All
- Policy PA6: Portfolio of employment land
- Policy PA11: The Network of Town and City Centres
- Policy PA13: Out of Centre Retail Development
- Policy QE1: Conserving and Enhancing the Environment
- Policy QE2: Restoring degraded areas and managing and creating high quality new environments
- Policy QE3: Creating a High Quality Built Environment for all
- Policy T2: Reducing the Need to Travel
- Policy T7: Car Parking Standards and Management

Staffordshire and Stoke on Trent Structure Plan (SSSP) 1996 – 2011

- Policy D1: Sustainable Forms of Development
- Policy D2: The Design and Environmental Quality of Development
- Policy D3: Urban Regeneration
- Policy D8: Providing Infrastructure Services, Facilities and/or Mitigating Measures Associated with Development
- Policy T1A: Sustainable Location
- Policy T4: Walking
- Policy T6: Cycling
- Policy T7: Public Transport Provision
- Policy T12: Strategic Highway Network
- Policy T14: Routes of National and Regional Significance
- Policy E8: Loss of Employment Land and Buildings
- Policy T18A: Transport and Development
- Policy NC18: Listed Buildings
- Policy TC1: Ensuring the future of Town Centres

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS) (adopted 2009)

Strategic Aim 7: To enhance the City Centre of Stoke-on-Trent's role as a sub regional commercial centre: to help Newcastle Town Centre to continue to thrive as a strategic centre, both within a network of accessible and complementary, vital, vibrant and distinctive North Staffordshire town centres.

Strategic Aim 16: To eliminate poor quality development and establish a culture of excellence in built design by developing design skills and understanding, by requiring good, safe design by developing design skills and understanding, by requiring good, safe design as a universal baseline and distinctive design excellence in all development proposals, and by promoting procurement methods which facilitate the delivery of good design.

Policy SP1: Spatial Principles of Targeted Regeneration

Policy SP2: Spatial Principles of Economic Development

Policy SP3: Spatial Principles of Movement and Access

Policy ASP4: Newcastle Town Centre Area Spatial Policy

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Policy CSP1: Design Quality

Policy CSP2: Historic Environment

Policy CSP3: Sustainability and Climate Change

Policy CSP10: Planning Obligations

Newcastle under Lyme Local Plan (NLP) 2011

Policy E11: Development of Employment Land for Other Uses

Policy T16: Development - General Parking Requirements

Policy T18: Development – Servicing Requirements

Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

National Planning Policy Framework (NPPF) (March 2012)

This sets out a presumption in favour of sustainable development where such applications are in accordance with the development plan and unless material considerations indicate otherwise. In seeking to deliver sustainable development it sets out policy under a number of headings including ensuring the vitality of town centres.

Other National Guidance/Documents

Companion document to PPS1: The Planning System: General Principles (2005)

Planning for Town Centres - Practice guidance on need, impact and the sequential approach – (2009)

Circular 11/1995 – The use of conditions in planning permissions

Circular 02/2009 – The Town and Country Planning (Consultation) (England) Direction 2009

Supplementary Planning Documents (SPDs)

Developer Contributions Supplementary Planning Document (October 2007)

Newcastle-under-Lyme Town Centre Supplementary Planning Document (2009)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document (2010)

The Newcastle-under-Lyme Retail and Leisure Study 2011

Newcastle (urban) Transport and Development Strategy (NTADS)

Reports to Full Council meetings of 23 March and 29 June 2011 regarding the strategic site acquisition (Sainsbury's) and town centre regeneration partnership

The Secretary of State's Announcement of His Intention to Abolish RSS

The Secretary of State has made it clear that it is the Government's intention to revoke RSSs and the Localism Act 2011, which includes powers to give effect to that intention, received Royal Assent on 15 November 2011. However, pending the making of a revocation order in accordance with the new Act, the

RSS remains part of the statutory development plan. Nevertheless, the intention to revoke the RSS and the enactment are material considerations.

Relevant Planning History

Outline planning permission was granted in 1987 (reference N16472) on part of the former Wolstanton Colliery site for the demolition of existing buildings, reclamation of land and retail development incorporating a multi-screen cinema and covered tennis courts with access from A500. All matters of detail, other than the means of access, were reserved for subsequent approval. The amount of area to be used for retailing under this permission was restricted to an area not exceeding 245,000 square feet (22,760 square metres) gross floor space, measured internally. A further restriction was imposed on the amount of retail floor space to be used for the selling of food and other convenience goods to an area not exceeding 27,000 square feet (2,508 square metres) net, measured internally.

In 1988 reserved matters approval was granted for a retail development measuring 245,000 square feet (22,760 square metres) gross floor space. The approved layout provided an Asda supermarket and a further five retail units (some capable of subdivision).

In 1991 (reference N20658) planning permission was granted for the change of use of vacant non food retail units (totalling 9,331 square metres) for uses falling with classes B1, B2 and B8. The planning permission included the remaining units that were not occupied by Asda and Texas Homecare (now Homebase). This planning permission has been partially implemented and three of the 5 units to be demolished are considered to have a lawful use falling within Class B (this amounts to approximately 5,783 sq m of floorspace).

Views of Consultees

The **Environmental Health Division** indicate that the demolition and construction has the potential to create noise and fugitive dust disturbance to nearby properties, in addition the traffic generated by the development has the potential have an impact upon air quality. Further discussion is being undertaken with regard to noise from loading/unloading and vehicle movements in the service yard. In view of the issues arising from this development conditions relating to the following are recommended:-

- Prior approval and implementation of a Construction Management Plan
- Piling
- Contaminated land
- Prior approval and implementation of the combined heat and power system
- Prior approval and implementation of air cooling/air extraction systems.
- Prior approval and implementation of external lighting.
- Prior approval and implementation of a fume extraction system.
- Prior approval of a grease trap, and installation prior to opening.

The **Environment Agency** considers, on the issue of flood risk, that the proposed development will only be acceptable if a condition requiring prior approval and implementation of a safe and sustainable drainage scheme is imposed. In respect of the protection of controlled waters they have no objection subject to the requirement that if contamination not previously identified is found to be present on the site the developer must submit and gain approval for a remediation strategy.

The **Police Architectural Liaison Officer** has no comment to make on the external layout. He fully supports and endorses the intention to have monitored CCTV on the site. All potential points of access should be designed at least to the minimum standards for security or higher.

The **Landscape Development Section** indicate that they cannot fully comment upon the application until they have had sight of an appraisal of existing landscaping that has been referred to in the submitted Design and Access Statement. In addition they state that a significant number of existing trees are to be removed to accommodate the proposed car parking areas and, although these are not mature, their removal will mean a delay in establishing a sufficient tree cover. They therefore request that trees within the car park areas, and a proportion of trees in the proposed buffer planting areas, are planted as larger extra heavy standards and semi-mature trees. Also, that the proposed buffer planting on the northern boundary is increased in width. Consideration should be given to carrying out planting on the slopes within the application site to the north of the site to better integrate the proposals with the surrounding area.

A tree constraints plan and tree protection plan to BS5837:2005 for the construction phase should be submitted for approval before any works commence on site.

Following receipt of the appraisal they further observe that there are a not insignificant number of category B trees that are proposed to be removed. These are mainly relatively immature however it is hoped that it would be possible to retain some of them (which would involve a revision to the car park layout). All category B trees to be removed should be replaced by semi-mature trees to mitigate their loss.

The **Highways Agency** initially issued a direction to the Council not to permit the application while additional information and clarification was sought; however the direction has now been withdrawn. They welcome the applicants' commitment to significantly increase their Travel Plan Bond from £30,000 to £75,000 should modal targets set out in the Travel Plan not be achieved. They direct that a condition relating to the following should be imposed on any planning permission:-

- The development to proceed and be maintained in accordance with the Travel Plan. The results of the monitoring to be submitted to the Local Planning Authority within one month of each monitoring period. Where the targets are not achieved the Travel Plan co-ordinator will be notified in writing by the Local Planning Authority.

The **Highway Authority** has no objections on highway grounds subject to the following conditions:

- Provision of parking/turning/servicing/bus stops before the development is brought into use and maintained as such for the life of the development.
- Wheel cleaning/washing facilities to be installed on site in accordance with approved details before construction commences.
- Before construction commences a Traffic Management Plan to be agreed detailing the management and routing of construction traffic, delivery times and internal compound arrangements.

It further states that the applicant must enter into S106 Agreement to secure the following;

- An NTADS contribution of £94,331.
- A "Measures Travel Plan" containing targets and remedies.
- A Travel Plan monitoring fee of £6,200.
- The provision of a bus service to connect the site to/from Newcastle town centre for a minimum period of 3 years from the date of occupation to run at a 30 minute frequency between the hours of 0800 and 1800 Monday to Saturday.
- £10,000 towards the provision of bus stop infrastructure on the public highway in the vicinity of the site.

They go on to state that the development proposal is located close to the A500 which comes under the jurisdiction of the Highways Agency. It is understood that the impact of this development on its network has been assessed by the Highways Agency and the resulting consultation response has been sent under separate cover to the Local Planning Authority.

In respect of the impact on the Staffordshire County Council highway network this has been assessed by quantifying the predicted traffic generation of the proposals (making an allowance for traffic generated by the existing uses to be demolished) and distributing this traffic onto the highway network. Junctions on the surrounding network were modelled (future date of 2021) to quantify this impact which showed sufficient capacity existed to accommodate the development traffic. The main reason for this is the predicted distribution of development traffic being an 80% split to/from the A500, with 20% of traffic being predicted to use the A527.

A contribution towards the Newcastle Transport and Development Strategy (NTADS) is sought from the applicant to assist in the mitigation of additional traffic generated by the development onto the public highway. NTADS is a 5 year plan which contains measures to ease congestion, encourage public transport use and improve safety within the Newcastle urban area.

The Highway Authority acknowledges the sustainable challenges of the site and accordingly no reduction on vehicular trip rates to reflect public transport use has been due to the limited appeal of non car access to the

site. However the applicants' agent has proposed measures as part of the application to make the site more sustainable. This includes the submission of a travel plan which will attract subsequent monitoring and the provision of a bus service (and associated infrastructure) that directly serves the site for a minimum period of 3 years; both these measures (and the NTADS contribution) are recommended to be included within a Section 106 agreement if the application is recommended for approval.

MADE, the Midlands based Design Review Panel, have considered the proposal and their comments are summarised as follows:-

- The issue of sustainability is a matter for the local planning authority but remains pertinent even though the proposal involves the replacement or upgrading of an existing 'strip mall'.
- As much as possible must be done to make pedestrian routes to, and within, the site as pleasant and straightforward as possible. Existing pedestrian routes are poorly defined and the sweeping access/service road around the site gives a clear message that this is not a place to come on foot. A clear commitment to bringing a regular bus service to the site needs to be secured.
- Throughout the site, and around it, the environment seems inhospitable and degraded. Improving the architecture of a section of some of the retail buildings may not trigger the wider improvements that are needed. This should be the opportunity to look at the environment of the entire site.
- The developer and local authority should work together on a major landscape design and improvement initiative for the site and its environs. This should be led by a firm with specific expertise in landscape design and should precede the design of the car park. Further tree-planting on the slopes could be part of this.
- The current regimented arrangement of the car park should be broken up and consideration given to how users walk across the car park once they leave their cars. The windswept nature of the car park needs to be mitigated by suitable planting. The pedestrian quality of areas around the building should be improved, and aside from the provision of a small 'drop-off' area there is no reason why either should be a road across the front of the store.
- The panel was generally content with the massing, the elevations and choice of materials for the building, but expressed concern about the roofscape. The roof is overlooked from nearby areas and it would be better if items of plant were either removed from the roof or were completely screened. Opportunities should be taken to introduce natural light to the store, particularly around the entrance and restaurant areas.
- Given the opportunity of designing a new store with a client keen to display their green credentials, the aim of BREEAM Very Good seemed under ambitious.

The **Recycling Strategy and Commissioning Manager** in the **Waste Management Division** indicates that he is generally happy with the layout of the proposed store. The Council has an existing recycling centre on the site, located near to Asda, which he would be keen to keep and enhance should there be any further development of this site. With regard to the current proposal he would wish to see a condition on any planning approval for approval of full and precise details of the recyclable materials and refuse storage, including designated areas to accommodate sufficient recyclable materials and refuse receptacles to service the retail development and the collection arrangements for waste and recycling materials.

The **Coal Authority** agrees with the recommendations of the submitted Geo-Environmental Appraisal that the void beneath the cap of one of the mine shafts should be treated prior to the commencement of development and this should be secured by condition. They consider that the content and conclusions of the Geo-Environmental Appraisal are sufficient and as such raise no objection.

Stoke-on-Trent City Council comment that whilst it would like it to be noted that they are supportive of economic development, it is concerned that the 'City Central' site is an in-centre, sequentially preferable, location which is critical to the planned regeneration of the City Centre and that without a Marks and Spencer store within the City Centre the impact of the proposed Wolstanton store would be significantly higher and a major cause for concern. As such the City Council objects to the proposed development, unless such objections can be overcome by the conclusion of any necessary Section 106 (S106) Agreement which:

- (a) secures the continued presence of Marks and Spencer on a site within the defined City Centre (Hanley) boundary for a minimum period of five years; the trigger date being the date of first occupation of the proposed Wolstanton store; and
- (b) secures their occupation in a single store of no less than 4400sq.m Net Sales Area (the same size as their existing City Centre Store).

No comments have been received from the **East Newcastle and Town Centre LAPs, Staffordshire Wildlife Trust**, and Staffordshire County Council as **Strategic Planning Authority** by the due date and therefore it must be assumed that they have no observations.

Representations

A representation in support of the application has been received from **Cllr Sophie Olszewski** and is summarised below:-

- The development would benefit Wolstanton and the Borough as a whole. M&S have a keen interest in the Wolstanton Retail Park site and this is an opportunity that the Council would be foolish to push aside.
- A store of that size (which will rival stores in Manchester and London) would attract a vast amount of visitors, in turn improving our economy and may even attract further development from other well known retailers. Representatives of M&S have suggested that this will be the only location in which they wish to site their megastore, knowing this, would it not be more beneficial for the Borough to accept this fantastic opportunity rather than lose this highly profitable possibility.
- More locally, it would be great to see Newcastle-under-Lyme aspire to achieve retail parks on par with Stoke on Trent's Festival Park. That is a successful out of town shopping complex that even offers food outlets. The only solution to our longing to attract shoppers is to offer them a store like this which cannot be found in close proximity to Newcastle.
- Furthermore, this M&S development will attract people from Crewe, Nantwich to the north and Stone, Stafford or the south. It is highly likely that these visitors may decide to spend part of the visit in the town centre as they have had to travel so far, whereby without such an attraction a visit to the area would not be worthwhile.

A letter has been received from the **Newcastle Civic Society** which indicates that they welcome the intention to establish a department store in Newcastle but consider that the Blackfriars site would be more suitable, both in terms of footfall and ease of access. They indicate that the Blackfriars site was considered to be too small for the enlarged, single-storey Tesco proposal, however the M&S proposal is for a two storey building that was approximately the size suggested at the Tesco inquiry as a suitable size for that site. They note that the application offers a subsidised bus service to the Wolstanton site and wish to remind the Committee that the free bus services to both ASDA at Wolstanton, and to Tesco at Trent Vale soon stopped, with the consequent increase in car traffic. A condition must be made extending the M&S support (for such a service) for a minimum of 10 years.

A letter of objection has been received from the **Newcastle-under-Lyme Chamber of Trade and Enterprise** for the reasons summarised below:-

- The impact upon the town centre is understated as is the loss of convenience shopping from town centre stores because shoppers will probably make linked trips to the ASDA and this will exacerbate diverted expenditure.
- Linked trips to ASDA will divert more convenience expenditure from edge of centre stores and this will have the effect of removing footfall from the town centre.
- Many retail premises are in a marginal position and loss of consumer expenditure may cause their failure.
- The sequential test as submitted is not definitive.
- The developer indicates that the route to the store should be the A500 which will draw local traffic onto a route that is crucial for the regeneration of North Staffordshire and will undermine the work that has been done to remove holdups.
- They note that the 2011 Retail and Leisure Study records a significant leakage to Festival Park. If the development is permitted it is possible that Wolstanton could become a rival destination to the town centre.

The Chamber consider that, whilst they welcome a M&S major store in Newcastle Borough, the application should be refused and that the applicants consider one of the vacant development sites in the town centre. In addition the Council should delay the determination of the application until the Government decides upon its High Street Policy following the Mary Portas Review.

The **Thistleberry Residents Association** are not averse to the proposal and a large M&S store in Wolstanton which would be more accessible geographically and in terms of parking than in any of the current sites available in the town centre but they have the following reservations:-

- As this is not an outline application this could deny residents their say in the type of store they would like.
- There is concern that this could be a 'reduced price' store and there are already sufficient of these in Newcastle.
- It is difficult to assess the impact on the surrounding area before the store is up and running.
- The proposed development would be an improvement on this site. Whilst the architecture is shed-like it would not be out of place.
- There could be more glazing at first floor level given the lack of roof glazing shown on the plan.
- Its green credentials are impressive.
- A lot more planting than is proposed is necessary and this should be secured by condition.
- The proposal could have a negative impact on Wolstanton and Newcastle High Street stores and some form of academic study should be undertaken before and after to assess any impact, adverse or otherwise.
- Small family enterprises can't compete with large companies such as M&S. To this end a condition should be placed on any approval requiring M&S to pass on some of their expertise to small family run businesses. This could require M&S taking on an empty shop in both high streets to advertise jobs and services and a help line for small businesses. They could sponsor new private enterprises. A S106 agreement could incorporate a scheme for improved parking in both towns with the money being ring-fenced for that purpose.
- A condition should be imposed requiring, once the store is up and running, details of the jobs created in terms of full/part time by gender and ethnicity, the same by salary scale, numbers of local people employed and at what grade, numbers of employees imported from outside the locality etc. and that this information is published.

Three further **letters of representation** have been received, the main points of which are summarised below:-

- Visibility at the Church Lane pedestrian crossing is obscured to a large degree by the height and location of the Moreton House boundary wall and people using that crossing, which includes infant and junior school children, are not visible to drivers bound for May Bank.
- The curved line of the Moreton House boundary wall results in a restricted width of the footpath serving Grange Lane and the Church Lane crossing.
- With the cooperation of the owners of Moreton House a short part of the curved boundary wall should be demolished and rebuilt in order to increase the footpath width at the area adjacent to both crossings which will improve lines of visibility. Any S106 money should be in part used for this work.
- Whilst a M&S store is long overdue it should be located in the town centre.
- The developer's public consultation exercise was flawed as questions asked have not been replied to.
- It is hard to believe that the impact upon the town centre is minimal as stated. If shoppers divert to M&S from Morrisons and Sainsbury's then they will probably also divert to ASDA and as such footfall will decline in greater numbers than suggested.
- The applicant has not presented an impact assessment that is fit for purpose and has therefore failed to meet the requirements of PPS4 Policy 16.1a.
- It is hard to believe that additional traffic flow to the site will be as low as suggested and this does not correlate with their expected turnover figure. It is worth noting that the M&S in Handforth Dean generates far more traffic than is projected for Wolstanton.
- The Sequential Test submitted by the developer should not be accepted and the application has failed to address the requirements of PPS4 Policy 15.1 for sequential assessments.
- Significant further evidence is required to satisfy these policy requirements in accordance with PPS4 policy EC17.1
- It would be premature for the planning application to be decided prior to the Government's response to the Portas review being published.
- If planning permission is to be granted a direct bus service to all parts of the Borough should be provided at regular frequency.
- Additional works are required to ensure that the traffic generated by the proposal does not conflict with traffic using Church Lane and the nursery and schools in this location.

- The dumbbell double roundabout arrangement under the A500 will need to be redesigned to cope with volumes, in particular the north-bound access onto the western roundabout where there is a poor sightline for drivers to spot traffic, with right of way, from the eastern roundabout.
- M&S should do more work with town centre uses, the Chamber of Trade and Enterprise and the Council to find and develop a format that will work in, or near, the town centre.

The **owners of the Blackfriars site** have objected on the following grounds:-

- The PPS 4 Sequential Test Assessment supplied with the application is flawed, as Morston have not been approached regarding the possible use of the site for a 14,000 sq m Marks and Spencer Store. Morston are currently in detailed dialogue with all owners on the site (including the Telephone Exchange) who have expressed an interest in redeveloping the site for a large retail-led scheme. In particular, Morston would disagree with the findings of the report that the Telephone Exchange site is unavailable, as the operator has indicated to Morston that part of the building, plus the car parking, could be made available. This is not addressed in the Sequential Test and thus a scheme should be assessed which retains the essential infrastructure required at the Telephone Exchange, whilst developing part of the building and associated car park;
- It is not possible for the applicants to determine whether the site is viable, as Morston have not had any dialogue with them regarding values or a method of disposal (freehold or leasehold);
- The option of bridging over the A34 to create a link to the town centre has not been considered in the schemes presented in Appendix 3 of the Planning & Retail Statement. This option has been considered by Morston in the past to link the town centre to the Blackfriars site and it has in turn been discussed in some detail with the council;
- The proposed mitigation to address highways impact upon the A500 Wolstanton Junction is insufficient. Due regard should be taken to the emerging proposals for development at Etruria Valley, which will be the subject of a forthcoming Supplementary Planning Document for an employment led mixed use regeneration scheme. This scheme should not, in particular, be seen to erode capacity on that junction, thus restricting the ability to access the Etruria Valley development site via the A500 Wolstanton Junction.

Applicants'/Agent's Submission

The application is supported by a number of documents as follows:-

Planning and Retail Statement (which has been supplemented by further information) – a summary of the main points not set out in the key issues section is provided:-

The site and scheme development proposals

- The existing retail park was constructed in accordance with a planning consent granted in 1987 for development of 22,760 square metres of retail floor space to comprise a food superstore of approximately 7,900 square metres and non food retailing of 14,870 square metres.
- The scheme represents an investment of £30m in the site.

The M&S shopping region

- The Stoke/Newcastle conurbation is one of the largest population centres in the UK that does not have easy access to the full range of M&S stores and has one of the narrowest offers throughout the UK.
- In terms of the Stoke/Newcastle conurbation, customer information held by M&S shows that many people from the area are travelling to the company's large stores at Handforth and Warrington (Gemini). As a result there is a significant outflow of trade and leakage of expenditure which from M&S perspective is not satisfying customer needs and choice and also results in unsustainable shopping patterns.
- In order to address the needs of the Stoke/Newcastle conurbation M&S is considering a number of options including a store at Wolstanton, as proposed, and heads of terms has been agreed to take a new store within the City Central scheme in Hanley. In addition the company will be seeking opportunities to develop Simply Food outlets within the conurbation.

The existing retail context

- The Newcastle Retail and Leisure Study 2011 concluded that there was capacity for additional convenience and comparison goods floorspace in the Borough.
- A Household telephone Survey was undertaken in September 2011 which showed that a large percentage of residents are travelling to an M&S store outside their immediate area to undertake food and non-food shopping. A large proportion of the population are not using a M&S store because there is no local store or the nearest store is too far away.

Design and Access Statement – a summary of the conclusions are set out below:-

- The proposed development has taken account of an extensive consultation exercise.
- It has taken account of a detailed appraisal of the site and the local area surrounding the site.
- The proposal provides a well designed modern retail store which will promote the revitalization of an otherwise flagging retail park.
- It delivers safe, secure parking spaces.
- The scheme looks to encourage other non car forms of transport to the store by virtue of improved pedestrian access, provision of cycle parking, provision of a new bus stop and promotion of bus services.
- It is well connected to a key transport corridor.
- The proposal caters for people with special needs and provides access for all.
- It incorporates a robust and sensitive landscape scheme.
- It is environmentally and economically sustainable.

Transport Assessment – the conclusion of which is summarised:-

- The access is provided from an existing junction with the A500/A527. The A527 links to the A53/A52 and routes to local residential areas. The A500 is a strategic route offering access to destinations further afield and connecting with the M6.
- The site is accessible by walking, cycling, bus and rail services. There are several bus services serving stops in the vicinity of Church Lane. The site is therefore accessible by a choice of transport.
- Pedestrian and cycle access to the site will be improved and as part of the development 3-4 parking spaces with charging points will be provided for electric vehicles.
- The developer is proposing to commit to a maximum contribution of £400,000 towards the cost of pump priming the diversion of an existing bus service into the site for 3-5 years.
- Compared to the existing retail/industrial uses, it has been demonstrated that the proposed store would generate a net increase in new trips of 130 vehicles during the weekday PM peak hour and a net increase of 245 vehicles in the Saturday peak hour.
- With regards to traffic impact, it has been demonstrated that the site access would operate within capacity. The wider highway network would also be able to accommodate traffic from the development. Therefore no mitigation measures are required.
- It is propose to implement a Travel Plan.
- This proposal will have a beneficial impact in terms of promoting alternative travel choices to the proposed M&S unit and the retail park as a whole.

Ecology Report – the conclusion of which is summarised:-

- No habitats recorded on site are of ecological importance.
- No plant species listed in Section 41 of the Natural Environment and Rural Communities Act 2006 as being of principal importance for the conservation of biodiversity in England were recorded on site.
- Two plant species listed in Schedule 9 of the Wildlife and Countryside Act (which lists species that it is an offence to cause to grow in the wild) occurred within the ornamental planting surrounding the car park. It is recommended that these species should be removed.
- There is reptile habitat along the embankment on the edge of the site. With suitable mitigation measures any impact from construction could be avoided and therefore no further survey would be required.
- The trees and scrub on site have potential to support nesting birds. All birds, their eggs and nests are protected by law and as such, where possible, the buildings and vegetation on site should be cleared outside of the breeding season which is March to September inclusive.

- No other species of conservation interest were found to be present on site.

Flood Risk Assessment – which concludes that the proposed development will not be affected by current or future flooding from any sources and that the development will not increase the flood risk elsewhere.

Air Quality Assessment – concludes that impacts during construction of the proposed development, such as dust generation and plant vehicle emissions, are predicted to be of short duration and only relevant during the construction phase. Implementation of mitigation measures should reduce the impact of construction activities to medium, or even low risk. Changes in pollutant concentrations associated with the operation of the development are expected to be imperceptible and are not deemed significant. The proposed development does not conflict with policies at a regional or local level and there are no constraints to the development in the context of air quality.

Noise Assessment – the conclusion of which is summarised:

- Limiting noise levels for services plant have been set, based on the measured levels of background noise and following guidance of BS 4142:1997.
- Providing the plant times and activities associated with the service yard are limited to the noise levels given within the document complaints regarding noise are unlikely.
- Should planning permission be granted, it is anticipated that plant selections, activity schedules, working practices and mitigation measures could be detailed by the sub-contractors dealing with the core/fit out such that the levels given could be achieved.

Also provided is a **Report on Consultation, Statement for Incoming/External Services; a Drainage Statement; details of External Lighting; CCTV description; Framework Travel Plan; and a Geotechnical and Environmental Appraisal.**

A **letter** has been received in response to points raised by consultees/interested parties. The main points, where not covered elsewhere in the report, are as follows:-

- M&S would not consider a town centre site for their current proposal or a reduced full offer store, and therefore if the proposal did not proceed at the Wolstanton site the investment would be lost altogether. M&S has indicated that it would give serious consideration to a Simply Food store within the Ryecroft site if a suitable scheme came forward even with the Wolstanton store in place.
- Bus services to retail parks need to demonstrate their viability and the guarantee of a bus service to the Wolstanton site for 10 years cannot be given.
- A bus service every 5 minutes into the site from all parts of the Borough during and after trading hours would be totally unviable. A viable bus service is put forward with a guaranteed operating period (3 years).
- Accident records do not show highway safety issues on the pedestrian crossings at the junction of Grange Lane and Church Lane which can be attributed to issues of visibility or any other similar contributory factors. The NTADS contribution will be available to the Highway Authority to fund any appropriate improvements.
- The public consultation event was undertaken even though there is no statutory obligation to do so. It was widely publicised and representatives were there to answer questions. Hard copies of main reports were provided even though they were available on the web site.
- The conditions requested by the Thistleberry Residents Association would not meet the normal tests, but they confirm that M&S takes its responsibilities to the local community very seriously and does assist local enterprise and community groups.

Two **letters** have been submitted assessing the impact of the proposal on the planned redevelopment of the Ryecroft site, the main points of which are summarised below:

- The proposed development at Wolstanton and the Ryecroft site are materially different and aimed at a different 'audience'. The Wolstanton proposals are designed to compliment the existing M&S town centre offer in Hanley in providing a full offer store with a regional draw that will prevent leakage of custom outside the larger catchment.
- The proposal at Wolstanton is for M&S who have stated that they are not interested in the Ryecroft site for a large store and would not take space for a full offer store even if Wolstanton was refused. In

addition M&S is a very unique retailer in that it sells own brand goods which are not currently sold in Newcastle. Therefore the impact of such sales on existing and proposed retailers in Ryecroft must by logic, be limited or negligible.

- The redevelopment of the Ryecroft site would require an anchor store of circa 30,000sq.ft (2,787 sq.m.) and would be more likely to comprise a convenience food operator or one or more comparison retailer such as Next and Primark than a department store such as Debenhams.
- Such a development will require considerable architectural input and consultancy with key stakeholders and at best take 5 years and potentially up to 10 years to deliver.
- Given that the proposed M&S application at Wolstanton is proposed to open in 2014 there is likely to be a significant time lapse between the opening of this store and the completion of Ryecroft.
- The presence of such a large destination store will only add to Newcastle Town Centre's position in the retail hierarchy of the region. Unlike a department store which would have multiple brand names, M&S is a retailer that sells only its brand and therefore would not prevent other retailers entering the town centre. Furthermore, customers always want choice and therefore it is envisaged greater number of linked trips will take place from Wolstanton to the high street where there is a greater choice of shopping available.
- Warrington is a town where M&S already have a flagship store at Gemini Park. Ten years ago Warrington town centre was a town centre in decline however investment was put into extending Golden Square and this is now anchored by Debenhams.

The following obligations/conditions have been offered in various correspondence:

- Acceptance that the proposed store can only be occupied by M&S for a period of 5 years.
- An obligation by M&S to consider suitable sites within Newcastle town centre for a Simply Food store. This will run for 5 years from the grant of planning permission. If a site within the town centre comes forward for retail development and it offers car parking in close proximity to a unit of c.15,000 sq ft GIA, then M&S will enter into negotiations for a new store. If M&S can agree terms that are commercially acceptable then they will present the proposal to the Board. The final decision as to whether or not M&S proceed lies with the M&S Board.
- Under the Marks and Start programme, M&S will work with a number of local residents that are long term unemployed, homeless or under care of local charities and provide them with work placements at the store within 12 months of opening. This will be repeated each year after. The number of placements to be offered is to be agreed.
- Within the public area of the store, M&S will provide an area for community displays in order to promote Newcastle-under-Lyme town centre.
- If Newcastle-under-Lyme operates either a Town Centre Management Scheme or a BID then M&S Wolstanton will contribute £10,000 per annum. This will continue until the earlier of M&S ceasing to trade at Wolstanton or M&S opening a Simply Food store in the town centre.
- M&S will participate in up to 6 half day workshops in order to provide training and advice for both existing and potential retailers in the town centre during the first year of opening at Wolstanton.
- A payment of £400,000 towards bus service provision to the site;
- A payment of £94,331 towards Newcastle Transport and Development Strategy (NTADS);
- A payment of £50,000 towards the improvement of cycling facilities;
- The provision of a Travel Plan bond of £75,000;
- A contribution of £100,000 for off site landscaping;
- A commitment to trade from Hanley for a period of 5 years from opening at Wolstanton.

All of the above documents are available for inspection at the Guildhall, and on www.newcastle-staffs.gov.uk

Key Issues

The application seeks full planning permission for a two storey building for use as a shop (Class A1). The proposal involves the demolition of existing units which are used for purposes falling within Class A1, B1/B2 (business or industrial) and B8 (warehousing and distribution). A redundant methane pumping station will be removed and it is proposed that the existing car park is reconfigured and extended.

The key issues for consideration in the determination of this application are:

- The principle of the development, including consideration of sustainability

- Highway capacity and parking
- Design and impact on the form and character of the area, and
- Residential amenity

Principle of development

Planning permission was granted in 1988 for a retail development comprising 22,760 sq.m of floorspace.

Following planning permission in 1991 5,738 sq.m of the total floorspace was changed to uses falling within Classes B1, B1 and B8, leaving 16,977 sq.m. of retail floorspace.

The proposal involves the demolition of 5 units (and the construction of a new store with a total gross floorspace of 13,010 sq.m of which 8,962 sq.m is retail sales area floorspace.

In summary the gross additional retail floorspace is:-

- 11,282 sq.m. over and above the existing retail floorspace at the Retail Park,
- 10,882 sq.m. over and above the existing, when additional retail floorspace is taken into consideration which could be added without the need for planning permission, or
- 4,491 sq.m. over and above that originally granted planning permission in 1988.

In considering the principle of the proposed development it is necessary to consider four main areas: sustainability; the sequential assessment; the potential impact on planned Town Centre investment and the potential impact on Town Centre vitality and viability.

Sustainability

The application represents the development of a brownfield site, an existing out-of-centre retail park which, the applicants argue, is sustainable as it is accessible to the neighbouring residential area by foot and by bus. In addition the applicants' submission also considers that the majority of vehicular trips to the site will not be new trips on the road network as people within the primary catchment area of the site are currently travelling to Handforth, Manchester, Chester and Warrington and as such their overall trip length will be shorter.

The site, however, is located at a lower level than the nearest residential properties and access into the site involves steps and ramps of varying steepness and, given that the nearest operating bus-stop is off-site and up a bank 600m away on Church Lane, access on foot and by bus is currently limited.

Some improvements to the existing pedestrian routes into the site are proposed, however the use of the pedestrian accesses would remain limited to those who are physically able to negotiate the steps and slopes as only one pedestrian access will be at grade and those using it would still have to negotiate the relatively steep gradient of Grange Lane (A527). It is not considered that any further improvements could be achieved without significant costs and as it is considered that such improvements would be limited it is considered that the cost would be unjustified.

Currently there is no bus service onto the site, although there is a bus stop sited close to the ASDA store within the Retail Park. The submission indicates that a further bus stop will be provided within the Retail Park and the applicant has offered a payment of up to £400,000 towards the provision of a bus service into the site. The Highway Authority has indicated that the subsidy of a bus service of a certain frequency for a period of at least three years is required although they have not calculated what that would cost. It is considered that a 3 year service of a certain frequency could be secured through a Section 106 obligation and at the end of this period hopefully the viability of the service will have been established - thus improving the sustainability of the site. In addition there is an opportunity to secure a commitment from M&S to promote Newcastle Town Centre and the bus service which would be beneficial to the Town Centre and improve sustainability by promoting linked trips.

The Highway Authority is seeking a financial contribution to NTADS of £94,331 to ensure appropriate funds are provided to the Strategy of public transport measures across the borough. The estimated number of additional trips on the network arising from the development has not been reduced to reflect public transport use as it is considered by the Highway Authority that the site has limited appeal for access by modes of transport other than the car. The applicants have proposed measures to improve the sustainability of the site

including the submission of a travel plan and a contribution towards a bus service. The contribution to NTADS, together with the travel plan and bus service are considered necessary and appropriate for this development and can be secured through a Section 106 Agreement. The Highway Authority is satisfied with the proposed 3-year duration of the subsidised bus service.

The applicants have also offered through a Section 106 obligation a payment of £50,000 towards the improvement of cycling facilities. It is noted that the Highway Authority have not requested such a contribution and at this point in time no specific cycling facilities improvements have been identified that are directly related to the development and the site. Further views of the Highway Authority are sought on this matter and if any such improvements can be identified then a further report will be given

Notwithstanding the improvements proposed the site could never be viewed as being as sustainable in comparison with Newcastle town centre or the City Centre both of which have a bus station, with services of varying frequencies from a wide area. It is acknowledged, however, that when considered in the context of the wider conurbation the site is fairly centrally located, at a similar distance from Newcastle and Hanley and close to a large number of households.

Economic Development

One of the core planning principles set out in the NPPF is that planning should proactively drive and support sustainable economic development. It goes on to state, at paragraph 19, that

“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

The applicants indicate that a total of 250 people will be permanently employed in the store and up to 100 people will be employed in the construction and fit out stages of the scheme. However in order to enable an estimate to be made of the net additional employment impact generated by the proposed development, it is necessary to consider the potential for displacement of jobs from elsewhere, including Newcastle-under-Lyme Town Centre. The applicants state that no jobs would be lost from the two existing M&S stores in Hanley and Talke and assert that no other retailers would be likely to lose any jobs. There is potential for other retailers other than M&S to be affected by trade diversion – either directly or indirectly, as a consequence of reduced footfall levels, and so it is not accepted that there will not be a reduction in employment levels from other retailers as a result of this development. Nonetheless it is considered that the scheme is likely to deliver a significant number of new jobs, even though the number of net additional permanent jobs associated with the proposed development could conceivably be lower than the 250 figure put forward by the applicants.

Sequential Assessment

CSS Policies SP1 and SP2 seek to direct retail development to Newcastle town centre or Hanley City Centre. CSS Policy ASP5 indicates that any retail development outside of Newcastle Town Centre will be within a local centre and that its nature and scale should be appropriate to that local centre and will primarily meet the identified local requirements.

The NPPF, at paragraph 24, indicates that LPA should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants **and** local planning authorities should demonstrate flexibility on issues such as format and scale.

The NPPF therefore does not represent a significant national policy shift in that the requirement to apply a sequential test remains. It should be noted, however, that PPS4 which is replaced by the NPPF required that sites were assessed for their availability, suitability and viability whilst the NPPF no longer makes reference to viability in any sequential assessment.

Paragraph 5.5 of the PPS4 Practice Guidance (which has not been replaced by the NPPF) indicates that significant weight is attached to the outcome of the sequential site assessment (and impact assessment), however it is for the decision maker to judge the extent to which the applicant has demonstrated, with evidence, compliance with the sequential approach.

Part 6 of the Practice Guidance provides advice in relation to 'the need for flexibility'. It states that :-

'The decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable. In every case it will be necessary to strike an appropriate balance between the requirements of the commercial sector and the requirements of national policy based upon local circumstances. While there is no policy requirement to demonstrate need, an operator claiming that it is unable to be flexible about its chosen 'business model' would be expected to demonstrate why a smaller store or stores could not meet a similar need.'

Applicants' case

The applicants have considered sites in Newcastle as part of the sequential assessment as follows:-

- The Ryecroft site (including the site of the Civic Offices).
- The former St Giles and St George School.
- Land in between Lower Friar Street and High Street (containing 13 shop premises with offices above, a multi-storey car park and the Vue Cinema).
- Blackfriars site.
- The Brunswick Street/Barracks Road site (including the Jubilee Baths, Cannon gym and other retail units).

As M&S already has a store in Hanley they have considered it inappropriate and unnecessary to consider sites in Hanley and it should be noted that they have indicated that they are prepared to commit to, within a S106 obligation, to trading from there for at least the next 5 years.

The applicants advise that the sequential assessment that has been undertaken was carried out on a number of criteria including the provision of a minimum of 450 car parking spaces. A further letter of clarification has been submitted indicating that for a large format store, as proposed, the minimum number of spaces required will be at least 650.

All of the sites considered are not commercially suitable to meet M&S's format requirements or business strategy for the Staffordshire area. M&S are already a key retail anchor in both Hanley Town Centre and Stafford Town Centre. In nearby Hanley, M&S are committed to retaining their current store but would also like to provide a new flagship offer to serve the Staffordshire area, and particularly the conurbation of Stoke on Trent. A key component of the store will be household furnishings, home wear, textiles and other 'bulkier' items which are not generally stocked in M&S's in-centre stores as they require collection by private car. Accordingly, the retail format proposed requires an appropriate level of car parking and accessibility to all M&S customers. As such, the above in-centre sites are not considered suitable for the business model proposed by the retailer.

In addition the earliest that a scheme could be open on the Ryecroft site would be 2017, although this is still optimistic given the difficulties many investors and developers are experiencing in funding projects.

Clearly, therefore, the timeframe for delivery of retail development at the Ryecroft site appears to be a considerable number of years in the future and it is noted that, unlike PPS4 and its accompanying Practice Guide, the NPPF does not set out a timescale over which the sequential test should be applied. The applicants consider that the inference is that if a suitable site is not available at the time the development is due to take place then it should be dismissed as the NPPF seeks to deliver investment and growth. As such, given the likely timescales for the delivery of retail development on the Ryecroft site it is considered that this location cannot be considered to be sequentially preferable in the context of the planning application currently before the Council.

They indicate that if planning permission was refused at Wolstanton this would not result in M&S considering a town centre or edge of centre site. They have indicated, however, that if a suitable site is made available in time then they would actively pursue developing a Simply Food store as part of the Ryecroft redevelopment.

Officer comments (taking account of advice received from a specialist retail consultant)

The applicants' conclusions in respect of the former St Giles and St George School, Lower Friar Street and High Street, and Brunswick Street/Barracks Road site are accepted. It is necessary, however, to give more detailed consideration of the Ryecroft site (an in-centre site) and the Blackfriars site (an edge of centre site).

In their original submission M&S do not refute that the Ryecroft and Blackfriars sites are physically capable of accommodating a 13,000 sq.m store, or that the sites are available. Instead within the Planning and Retail Statement they focus on the viability component of the sequential test, stating that they have a specific desire for a 'major out-of-centre full offer store' and that the store is 'aimed at meeting the needs of car-borne shoppers (although reference is made within a letter attached at Appendix 4 that the incorporation of the Civic Offices into the Ryecroft site would lead to site costs rising significantly). M&S then dismiss the Ryecroft and Blackfriars sites on the basis that neither satisfies the specific business model that the company has in mind. The NPPF which was recently introduced and replaced the previous relevant national planning policy statement, PPS4, however no longer makes reference to viability rather it only refers to the suitability and availability of sites (although PPS4 Practice guidance which is not replaced by the NPPF still refers to viability).

The applicants have more recently sought to develop their case with regards to the sequential test largely focussing on the suitability of the sites in light of the NPPF, although the arguments advanced are very similar as considerations of suitability and viability overlap.

As indicated above the applicants highlight that M&S already have stores in two nearby town centres, Hanley and Stafford and that they are committed to retaining such stores. They, however wish to provide a new flagship store which sells 'bulkier' items that are not generally sold in their in-centre stores as they require collection by car. Whilst they have indicated that the Blackfriars and Ryecroft site can physically accommodate a building of the scale proposed they do not consider that either of the sites could provide an appropriate level of car parking and accessibility.

The application submission identifies a deficiency in M&S retail provision in the sub-region indicating that the Newcastle-Stoke conurbation is one of the largest population centres in the UK without easy access to a large format store that provides the full range M&S goods. Given that at present customers wishing to shop in such a large format store are currently travelling some distance to Handforth, Chester and Manchester, this is accepted. It is also accepted that a proportion of those customers travelling outside of the catchment area may not be attracted to a store in or on the edge of a town centre such as Newcastle because such a site is not as accessible by car as Wolstanton Retail Park which has very good access to the A500 and M6, regionally important routes. Notwithstanding this it is considered that the applicants have not conclusively proven that a large-format retail scheme with a suitable amount of car parking could not be provided on either the Ryecroft or Blackfriar sites.

It is clear that the applicants have a business model that does not solely focus on large scale out of centre stores but includes High Street Stores and Simply Food Stores both of which are suitable for in-centre and edge of centre sites. Nevertheless M&S's unwillingness to operate from Newcastle Town Centre is, arguably, due to them being inflexible in their business model and not in accordance with Government guidance on the sequential test.

In addition to the arguments advanced regarding suitability of sites, the applicants have also more recently argued that Ryecroft site cannot be considered a sequentially preferable site as it would not be brought forward within a reasonable timeframe that would accord with the spirit of the NPPF which seeks to remove the perceived planning barriers that unacceptably delay economic development – and as such the site is unavailable.

It is accepted that any development on the Ryecroft, or the Blackfriars site, would not be available in the same time frame as the site at Wolstanton Retail Park. It is considered reasonable to assume that any development on these sites could be achieved within the next 3-5 years. In the absence of any appeal decisions that assist

in the interpretation as to what is meant by 'available' this could be argued to be a reasonable time period and in accordance with the NPPF.

It is clear that the sequential test arguments are finely balanced and the Council has to consider whether it could advance a reason for refusal on the basis that the application fails the sequential test on the grounds that the applicants are operating a business model that is not flexible and that there are sequentially preferable sites that are suitable and available. Such concerns have to be balanced with the practical reality that M&S will not revert to either the Ryecroft or Blackfriars site for a large-format, or in-centre, retail store if planning permission is refused. It is also clear that the proposal will bring about benefits in terms of jobs created and improvements to the appearance of the Wolstanton Retail Park. In addition it has to be acknowledged that the site is fairly centrally located in the North Staffordshire conurbation, accessible to a very large population including the potential workforce. Weighing these factors against such concerns it is considered that, on balance, it is concluded that the development meets the spirit and intent of the sequential test and that the Council could not substantiate refusing the application on such grounds.

Impact Assessment

The NPPF requires the M&S proposal to be subject of an impact assessment; the criteria for this assessment contained in the NPPF is streamlined compared to the previous criteria set out in the replaced Policy Planning Statement 4. The relevant policy is as follows:

26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

Applicants' case

- The vacancy rate of retail units in Newcastle Town Centre is in line with the national average. Overall the town centre is considered to be a generally healthy, vital and vibrant town centre which meets the local needs of its catchment but with scope for improvement.
- Overall Hanley appears generally vital and vibrant especially within the core of the centre. Vacancy rates are notably above average which is of concern but some of this relates to site assembly issues related to redevelopment and oversupply of small units in secondary locations.
- Only 1.1% of trade will be drawn from Hanley of which a sizeable proportion will be from the M&S store itself and the company has no concerns about this effect and is offering to enter into a S106 Agreement to ensure that its store remains in Hanley town centre or that the company relocates to new premises with a greater level of floorspace than existing.
- Newcastle town centre has different characteristics to Hanley with no M&S and no large clothing and footwear outlets. Despite its proximity to Hanley City Centre it is a generally successful and robust shopping centre. They calculate, on the basis of the sales densities they consider they will achieve at this store, that trade draw from the centre will be less than 1% which would not be noticeable. Taking into account the applicants' average sale densities, which they do not consider will be achieved at the proposed store, the trade draw from Newcastle would be 1.4% which is the worst case scenario.
- No centre outside the Primary Catchment Area will experience any material trade diversion.
- The indication of impact (regarding comparison goods) assumes that the new retail development is a wholly new scheme. However they say that there is existing retail floor space which will be demolished and as such it will involve some replacement retail floorspace. The impact set out in the submission is the 'worst case scenario'.
- M&S in Hanley is estimated to experience a draw from its food hall equating to an impact of 8.4% reflecting that it is the only M&S food representation in the conurbation. Other supermarkets on the edge of Newcastle town centre and Asda at Wolstanton Retail Park will be affected but not to the extent that it would be noticeable.

- As the levels of impact predicted are generally low they do not expect a material effect on the vitality and viability of Newcastle town centre, Stoke City Centre or any other centre within the Primary Catchment Area (PCA).
- There is more than sufficient capacity identified in the Newcastle Retail Study to accommodate both the comparison and convenience elements of the proposed M&S without it adversely impacting on existing, committed and planned public and private investment (including redevelopment of the Ryecroft site). In addition they consider that the development would not have a significant adverse impact upon any existing, committed or planned comparison goods retail investment within any other centres.
- Assessing the proposal against advice in paragraph 7.21 of the PPS4 Practice Guidance there is no clear and robust evidence that the proposal would result in a significant adverse impact in relation to the prospects of the planned Ryecroft development coming forward at some point in the future.

Officer comments (taking account of advice received from a specialist retail consultant)

The NPPF requires an assessment of the impact of the proposal on existing, committed and planned public and private investment in Newcastle Town Centre and impact of the proposal on the Town Centre's vitality and viability.

There is a clear intention by the owners (Newcastle Borough Council and the County Council) to secure a retail-led redevelopment of the former Sainsbury's site at Ryecroft as evidenced by the site's acquisition last year. It was made clear in the Borough Council's resolution to purchase the site that any redevelopment scheme could incorporate the site of the Civic Offices which is also in the ownership of the Borough Council. This intent is further evidenced by the Councils' recent appointment of a specialist advisor with a specific remit to secure a developer/investor to bring forward such a redevelopment scheme and it is considered that a retail-led scheme could be delivered within a reasonable period of time.

It should also be noted that the owners of the Blackfriars site have been seeking, over a number of years, to achieve an appropriate redevelopment of that site which may also include retail development. However as this site is not within the Town Centre the NPPF does not require any assessment of the impact of the application proposal on this planned private investment.

Paragraph 7.21 of the PPS4 Practice Guidance sets out a checklist of matters that must be taken into consideration when undertaking an assessment of whether a proposed development would have an adverse impact on planned investment in a town centre as follows:-

- What stages have they reached e.g. are they contractually committed? At present there is no contractual commitment with any developers or retailers and as indicated above no planning permission has been granted or development partner identified. It must therefore be concluded that the development of the Ryecroft site is at a very early stage.
- The policy 'weight' attached to them? The site is not identified as a key provision within the Development Plan and as such the proposed redevelopment does not have any significant policy weight other than the fact that it is located within a town centre.
- Whether there is sufficient 'need' for both? The Newcastle-under-Lyme Retail and Leisure Study 2011 has identified that there is sufficient capacity to support in excess of 13,000 sq.m. (net) of comparison goods floorspace within the catchment over the next ten years and this would be sufficient to support both the M&S proposals and a significant increase in town centre retail floorspace.
- Whether they are competing for the same market opportunity, or key retailers/occupiers? As the Ryecroft scheme is in a very early stage with no development partner in place it is difficult to predict. However the proposal is for a single M&S store on a site that does not have any further capacity for retail development and as such the proposed development would not compete for other key retailers or occupiers. In addition the development at Wolstanton and the Ryecroft scheme would take place at different times and the M&S store would have been trading for some time before any development on the Ryecroft site opens.
- Whether there is evidence that retailers/investors/developers are concerned; and whether the cumulative impact of both schemes would be a cause for concern? There have been two objections received from those with a commercial interest in sites however as these sites are not within a town centre the NPPF does not require that consideration be given to the impact on such planned

investment. There is no evidence that there is any cause for concern with regard to the cumulative impact of the proposal at Wolstanton Retail Park and on the Ryecroft site.

Notwithstanding the clear intention to develop the Ryecroft site when the application proposal is considered against the checklist as set out above your Officer considers that it would be extremely difficult to argue that the proposal will have a significantly adverse impact on this planned investment. This is particularly the case when, as required by the Practice Guidance, this is balanced against the benefits arising from the proposal most particularly the jobs that are to be created. M&S have also offered a number of commitments (listed above under the heading applicant/agents submission). Such commitments are aimed at strengthening, and reducing the impact on, the Town Centre and with the possible exception of the intention to participate in training and advice workshops for existing and potential retailers in the town centre, are all considered to meet the tests set out at paragraph 204 of the NPPF in that they are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.

Also evidence has been submitted to illustrate how some out-of-town M&S stores have traded in a complementary way to existing Town Centres and that this has not prevented major retailers from moving into such centres as follows:-

- Warrington and Gemini.
- St Albans and Colney.
- Newton Abbot and Torbay.
- Leeds City Centre and Pudsey.
- Brighton and Shoreham.
- Cardiff and Culverhouse Cross.

The retail led development that is likely to be promoted on the Ryecroft site is expected to involve a number of retail units and, by the nature of such schemes, is likely to be anchored by one or two larger retail stores. The proposed M&S store if it were to be constructed on the Ryecroft site would leave no room for other retailers. Whilst there is no doubt that a single M&S on the site would bring benefits to the Town Centre it could be argued that such a development is unlikely to be as beneficial to the Town Centre as a range of individual and independently branded stores (given the restricted choice in goods that would be available – i.e. M&S brand only). That said it is necessary to consider whether allowing the proposed development at Wolstanton would undermine the prospects of a town centre scheme being anchored by a suitable retailer.

Turning to impact on the vitality and viability of the Town Centre, whilst it could be argued that the applicants have underestimated the trade diversion impacts on Newcastle Town Centre and therefore the trade diversion is likely to be higher than the 0.9-1.4% figure quoted, nevertheless it is anticipated that it would not exceed approximately 4% and, at this level, the impact could not be considered to be 'significantly adverse'. Therefore there is no evidence that indicates that the proposal would have an unacceptable impact on the vitality and viability of the Town Centre.

The applicants also assert that their store at Wolstanton would perform a complementary, and not a competing, role with the town centre. This is because the store will only sell M&S branded goods and therefore would not provide the same choice of comparison goods shopping as is found within a town centre. It is accepted that those wishing to have a large choice of comparison goods may choose to shop at M&S Wolstanton in addition to Newcastle (or Hanley) Town Centre and those who are only seeking to buy M&S branded goods may never come to Newcastle Town Centre in any event.

In conclusion it is considered that the proposal satisfies the impact test although in reaching this conclusion it must be acknowledged that the case advanced by the applicants and assessed by your Officer is to a very large extent based upon the proposal being for a single retail unit to be occupied by M&S.

Circular 11/95 on conditions indicates that a personal permission will scarcely ever be justified in the case of a permission for the erection of a permanent building and as such it would not be possible to ensure that only M&S can occupy the store. However through a combination of a S106 obligation and conditions it would be possible to ensure that M&S would be the first occupier of the building, no other retailer could occupy the building for a period of 5 years (although it is known that the applicant has entered into a 50 year lease with a 25 year break out clause), the building could not be subdivided and the amount of floorspace given over to concessions/franchises restricted. This would give the LPA control, which it wouldn't otherwise have, over any proposals for the occupation of the building by another department store or a number of retailers at a later

date, which would potentially have a greater impact on the Town Centre, and would also give some certainty for a reasonable period of time for those who are considering investing in the Ryecroft site. Importantly the applicants have sought to improve the economic viability of the town centre by supporting a number of initiatives which, in turn, should increase the likelihood of customers undertaking linked trips thereby achieving wider economic benefits to the Borough.

Highway capacity and parking

A Transport Assessment has been submitted to accompany the application. The site would continue to be served from the A527 which links to the A500 by a dumbbell roundabout, and from Church Lane, Wolstanton, via a traffic light controlled junction. The Assessment concludes that the wider highway network would be able to accommodate traffic from the development and that no mitigation measures are required.

The Highways Agency has considered the impact of the proposal on the A500 and is satisfied that subject to an agreed Travel Plan being secured by condition the amount of traffic generated by the proposal will not have an adverse impact on the capacity of this part of the Primary Route Network. In addition a Travel Plan Bond of £75,000, as offered by the applicants, is welcomed by the Highways Agency and would be used to carry out highway improvements if the measures within the Travel Plan are not as successful as predicted and more trips are therefore generated by the proposal. This could be secured by S106 obligation.

The Highway Authority have commented upon the impact of the proposal on the County Council's highway network by quantifying the predicted traffic generation of the proposal, making an allowance for traffic generated by the existing uses to be removed, and distributing this traffic onto the highway network. They consider that, on the basis that 80% of the traffic will be distributed via the A500 junctions, the surrounding network would have sufficient capacity to accommodate the traffic from this development.

The proposal involves the reconfiguration of the car park and the introduction of additional retail floor space which will generate a high level of demand for parking spaces. It is therefore necessary to consider whether the proposed level of parking is appropriate.

Policy T16 of the Local Plan sets out, in the associated Annex, maximum parking standards for different uses. The maximum number of parking spaces for ASDA, Homebase, Matalan and the proposed M&S store (given the level of floorspace for food retailing is 1 space per 14 sq.m of floor space and for non-food retailing 1 space per 20 sq.m) is 1,551 spaces. The submission indicates that there will be a total of 1,479 parking spaces for the whole retail park. Consequently the proposed number of spaces, just 72 spaces short of the maximum, is considered within a reasonable tolerance level.

Design and impact on the form and character of the area

The NPPF, at paragraph 56, indicates that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It goes on to state, at paragraph 57, that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. SSSP Policy D2 and CSS CSP1 reflect this national policy. In addition the Urban Design Guidance SPD sets out design principles and policies against which the design of the development should be assessed.

The proposal comprises a two storey building measuring around 10.1m to the eaves with a total ridge height of around 11.7m (which compares to the existing units that measure about 7.6m to eaves and 9.2m to ridge). The building will be clad in polished masonry blockwork at ground floor on the eastern elevation (facing towards the A500), the majority of the northern elevation (looking towards the Bloor Homes Grange Lane development), and a further two sections on the southern elevation (facing towards Matalan). The remainder of the walls are to be clad with flat panel cladding predominantly in white at first floor level, with mid grey sections at ground floor and the remainder of the first floor. The shallow pitched roof is to be clad in a colour-coated aluminium standing seam cladding system, with a mid grey standing seam aluminium parapet. There is to be plant sited on the roof and this is to be enclosed in white colour coated louvres.

The store is to have two entrances. One is located centrally on the eastern elevation with frameless glazing at either side at ground and first floor level. The second entrance is located on the northern elevation (close to the north eastern corner of the building). Glazing is proposed at ground and first floor level between the

entrance on the northern elevation and the north east corner of the building. The first floor glazing extends around onto the eastern elevation where the café is located. Both entrances are sited beneath signage towers that project from the face of the building. A feature glazed canopy extends along the length of the eastern elevation and along part of the northern and southern elevations. A largely opaque glazing system is also proposed at first floor level along part of the northern elevation which will contain a small clear glazed section providing natural light to the staff areas.

The proposed building, whilst not innovative in design, is an improvement on the appearance of the existing buildings on site. The choice of materials for the building are considered to be appropriate, durable and easy to maintain and would accord with Policy E8 of the Urban Design Guidance SPD.

Due to the topography of the surrounding area, the rear service yard and roofscape of the building are visually important in this location however the design doesn't reflect that it will be visually prominent from a number of views. This was a concern expressed by MADE, the urban design review panel that have considered the proposal and is also a matter that is addressed in Policy E9 of the Urban Design Guidance SPD which states that the design of roofs and roofscapes need to be carefully considered in relation to the context and should respond to whether and how they will be viewed. Discussions with the applicant have taken place with regard to possible amendments to the roof of the building however it is accepted that any meaningful amendments would be at a significant cost that could not be justified. Amended plans have been received incorporating an additional belt of trees along the top of the existing western bund alongside the A527 to filter/limit the views of the roof and the service yard and additional planting is shown along the service yard fence line.

The proposal involves the removal of areas of landscaping within the car park and around the methane pumping station. In addition the car parking area will extend in a northerly and easterly direction into the area at the top of the steep, landscaped, embankment adjoining the access road and the A527. A number of trees will be lost (28 category B trees in total). The trees to be lost are relatively immature and in principle the loss of these trees, where they cannot be retained, is acceptable providing that suitable replacement planting is secured.

The trees will, to some extent, be replaced by landscaping along the western and northern boundaries of the site, in addition to some within the parking area. As indicated above amended plans have already been received providing further planting of the embankment on the western side of the site is possible to fill in the gap between the existing landscaping and that proposed. In addition, in line with the advice of the Landscape Development Section, the amended plans received incorporate more tree planting and underplanting in the landscape buffer that adjoins the northern boundary of the parking area. The requirement, of the Landscape Development Section, that the replacement trees has been addressed as the plans identify that the trees are to be Extra Heavy Standards.

The plateau forming the retail park does not provide a pleasant environment for shoppers when arriving on foot, by bus or when parking their vehicles to access the buildings as has been raised by MADE. It is considered that the proposal provides an opportunity to significantly improve the customers' experience of the retail park, and amended plans have been received in an attempt to achieve this. The amended layout achieves the following:-

- An improved and direct pedestrian link from the new bus stop to the front of the store. This link will be covered by a canopy and as such will provide a sheltered route through the car park.
- The vehicle circulation route that ran along the entire frontage of the store has been 'broken' in three places. This should reduce traffic flows along the store frontages where the focus of pedestrian movements is greatest.
- Additional tree planting (Extra Heavy Standard) is shown within the car park together with additional planting beds.

It is considered that these amendments improve the car park layout and internal access routes providing customers with an easier and safe route across the car park, with some shelter provided and increasing the amount of landscaping to soften the appearance of what otherwise is a "sea of tarmac".

In response to MADE's request that the developer and the local authority work together on a major landscaped design and improvement initiative for the site and its environs, the applicant has offered a financial contribution of £100,000 for off site landscaping. This is a significant sum of money and such off site landscaping is likely to require the cooperation of the Highway Authority and possibly the Highways Agency.

At this point in time it cannot be concluded that such a contribution is justified and that the necessary agreement, in principle of the appropriate landowner can be secured. It is hoped that further information can be reported on this matter before the meeting.

Residential amenity

There is the potential that the noise from plant and vehicles loading and unloading could cause disturbance to nearby residents. The submitted acoustic assessment indicates, through noise modelling, that adequate noise attenuation will be achieved given the existing topography, landscaping and buildings. It is understood that a screen is to be provided which is to be a 3m masonry wall which will run into the existing 3m high earth bund.

Whilst further discussions are taking place between the Environmental Health Division and the acoustic consultant to ensure that the noise levels that the report advises can be achieved is realistic, it is considered that this matter can be satisfactorily resolved through the use of appropriate conditions.

The proposed building is located towards the northerly end of the retail park and therefore is located closest to the dwellings on Grange Lane and those recently constructed at Wulfstan Park (the Bloor Homes development). The proposed store is taller than the existing building by about 2.2m and closer to the nearest dwellings at Wulfstan Park by about 5m, and those on Grange Lane by about 18m. Nevertheless the dwellings will still be at a higher level than the proposed buildings and the separation and the intervening highway ensures that the development would not be overbearing or have an otherwise unacceptable impact on the outlook of the occupiers of these dwellings.

Conclusion

The NPPF indicates, at paragraph 27, that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on planned investment in a town centre or on town centre vitality and viability, it should be refused. It is considered that the applicants have submitted sufficient evidence to satisfy the sequential test and that the proposal would not have an adverse impact on these matters. In addition the proposal will create a significant number of jobs and result in visual improvement to the retail park. Whilst the proposal, by virtue of its location which does not have good access to modes of transport other than the private car, could not be considered to be sustainable it is considered that the benefits of the development would outweigh the above concerns.

Ability of the LPA to determine the application

The Town and Country Planning (Consultation) (England) Direction 2009 applies to any application for planning permission which is for certain development outside town centres. In this particular case the proposal involves the creation of more than 2,500 sq.m. of retail floor space which is not in accordance with the approved development plans for the area and as such if the Council are minded to approve the proposal the Secretary of State must be consulted. The purpose of this consultation is simply to give the Secretary of State an opportunity to decide whether to exercise his power to "call in " the application.

Background Papers

Planning file

Planning documents referred to

Date Report Prepared

2 April 2012