

The Application seeks to vary condition 3 of planning permission 11/00611/FUL which granted planning permission for the existing store.

Condition 3 as worded in the decision notice is as follows:

*The permission hereby granted relates to a single retail unit of 13,010 m<sup>2</sup> gross internal floorspace with a sales area floorspace of no more than 8,962 m<sup>2</sup>, of which no more than 7,973 m<sup>2</sup> shall be for the display of comparison goods and no more than 989 m<sup>2</sup> shall be for the display and sale of convenience goods only.*

The reason given for the condition within the decision notice was;

*For the avoidance of doubt, to ensure the development does not unduly affect the vitality and viability of Newcastle-under-Lyme town centre, and the City Centre and in accordance with Policy TC1 of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011, Policy SP1 of the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026 and the aims and objectives of the National Planning Policy Framework.*

The variation that is being sought is to increase the amount of floorspace for the display and sale of convenience goods to 1,496 m<sup>2</sup> but the sales area floorspace would remain unaltered.

The site lies within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

**The 13 week period for this application expires on 25<sup>th</sup> February 2021.**

### **RECOMMENDATION**

**PERMIT the variation of condition 3 of 11/00611/FUL so that it reads as follows:**

**The permission hereby granted relates to a single storey retail unit of 13,010m<sup>2</sup> gross internal floorspace with a sales area floorspace of no more than 8,962m<sup>2</sup>, of which no more than 7,973m<sup>2</sup> shall be for the display of comparison goods and no more than 1,496m<sup>2</sup> shall be for the display and sale of convenience goods only.**

**and subject to the imposition of all other conditions attached to planning permission 11/00611/FUL that remain relevant at this time.**

### **Reason for Recommendation**

The proposal would not result in any additional retail floorspace in this out of centre location and as such there is no requirement to undertake either a sequential or an impact assessment as defined in the NPPF. In addition parking at the retail park would remain acceptable.

Subject to the imposition of the same conditions as were imposed on 11/00611/FUL that remain relevant at this time it is not considered that there are any adverse impacts of the development that would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

### **Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

This is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

## Key Issues

The application seeks a variation of condition 3 of planning permission reference 11/00611/FUL which permitted a new store at Wolstanton Retail Park, now occupied by Marks and Spencer. The condition, the subject of this application, has previously been varied in 2017 under reference 16/00958/FUL. The 2017 planning permission was subsequently not implemented and as such has lapsed.

Condition 3 sets an upper limit on the amount of floorspace within the building, limiting the overall amount of sales floorspace to 8,962m<sup>2</sup> specifying that sales floorspace for the display and sale of convenience goods (food, drinks etc.) should not exceed 989m<sup>2</sup>. The variation sought is an increase in the amount of floorspace dedicated to convenience goods to 1,496m<sup>2</sup> (an additional 507m<sup>2</sup>). The additional floorspace is not proposed by the extension of the existing store, or by increasing the overall amount of sales floorspace within the building, the increase in convenience goods floorspace as proposed is at the expense of the overall amount of comparison goods floorspace within the building.

The applicant, Marks and Spencer, have a modernisation and improvement strategy for its food stores that has been reassessed in light of the current pandemic. The pandemic has led to a trend towards increased food shopping that is expected to continue. It is indicated within the submission that the increased space will allow for product showcasing and a more spacious layout.

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

- The principle of the proposed increase in convenience goods floorspace
- Parking
- Are further section 106 planning obligations required.

### Principle of the proposed increase in convenience goods floorspace

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 86, indicates that LPAs 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. At paragraph 87 it states that 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 states the following, at paragraph 89.

*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.*

No change to the sales area floorspace of 8,962m<sup>2</sup> is proposed and as such the variation of condition,

if implemented, would result in a reduction in the amount of floorspace dedicated to comparison goods. As the amount of sales area floorspace would remain unchanged the variation of condition as proposed would therefore allow some flexibility so that a subsequent reduction in the overall amount of convenience goods floorspace, and an increase in comparison goods floorspace, could take place without any further need to vary the condition.

Given that no additional main town centre use floorspace is proposed there is no policy requirement to apply a sequential test or impact assessment to the proposal. Notwithstanding this the applicant has sought to consider retail opportunities in Newcastle and Hanley, concluding that none are both 'suitable' and 'available to accommodate the scale and form of retail floor space being tested (equivalent in size to a retail unit of 13,000m<sup>2</sup>). The submission also sets out that the trading impact of the proposals will most likely fall upon the various large-format mainstream food stores which surround the application site and are within a short driving distance. These stores are not protected by planning policy given they are not located within any existing centres. Such conclusions are noted.

In light of the above it is concluded that there are no objections to the principle of the proposal and it would not conflict with the guidance and requirements of the NPPF.

#### Parking

It was previously concluded, when determining application 16/00958/FUL that the proposed change would not have any material impact on the adequacy of the parking provision at this location. Whilst the amount of parking within the Retail Park has reduced since that decision was reached such conclusions still remain valid.

#### Are further Section 106 obligations required?

The previous permission was only granted following the entering into of two Section 106 Agreements securing a number of matters, of which a number remain relevant. As the original permission was implemented and the obligations set out in the Agreements have been triggered there is no requirement for a further S106 obligation/s to be entered into to secure the Council's position in respect of those obligations that remain relevant and extant.

## APPENDIX

### **Policies and proposals in the approved development plan relevant to this decision:-**

#### [Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

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

#### [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy T16: Development - General Parking Requirements  
Policy T18: Development – Servicing Requirements

### **Other Material Considerations include:**

#### [National Planning Policy Framework \(2019\)](#)

#### [Planning Practice Guidance \(2014 as updated\)](#)

#### Relevant Planning History

Planning permission was granted for the demolition of existing retail warehouse units, distribution unit and redundant methane pumping station. Construction of new retail store with ancillary refreshment facilities, new and altered car parking, servicing and sewerage facilities under application reference 11/00611/FUL.

Condition 3 of planning permission 11/00611/FUL was varied to increase the amount of floorspace within the M&S store that can be used for convenience goods sales to 1,496sqm under application reference 16/00958/FUL.

#### Views of Consultees

**Cadent Gas (National Grid)** advises that they have apparatus in the vicinity of the site which may be affected by the activities specified.

The **Economic Regeneration Section, Stoke City Council** and **East Newcastle LAP** have not provided any comments by the due date and so are assumed to have no observations upon the application.

#### Representations

None received.

#### Applicant's/Agent's submission

The application form and location plan and supporting information are available for inspection on the website that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00985/FUL>

#### Background papers

Planning files referred to  
Planning Documents referred to

#### Date report prepared

20<sup>th</sup> January 2020