



**NORTHAMPTON**  
**BOROUGH COUNCIL**  
Planning Committee

**PLANNING COMMITTEE:** 2 October 2012  
**DIRECTORATE:** Regeneration, Enterprise and Planning  
**HEAD OF PLANNING:** Susan Bridge

**N/2012/0010:** Variation of condition 2 of planning permission 95/0866 to allow retail sale of food and convenience goods and an ancillary customer café at Unit B, Sixfields Retail Park Gambrel Road, Northampton

**WARD:** Old Duston

**APPLICANT:** Universities Superannuation Fund  
**AGENT:** JL Planning

**REFERRED BY:** Head of Planning  
**REASON:** Wider implications of proposal

**DEPARTURE:** No

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**APPLICATION FOR DETERMINATION:**

**1. RECOMMENDATION**

1.1 **APPROVAL** of variation of condition for the following reason –

The proposed variation of condition to allow retail sales of food as well as a customer café is acceptable due to the limited impact on the town centre and the absence of any available sequentially preferable sites. The proposal therefore complies with guidance in the National Planning Policy Framework.

**2. THE PROPOSAL**

2.1 Variation of condition to allow retail sales of food and ancillary customer café at Unit B of this retail park. The condition in question states “The retail units hereby permitted shall only be used for non-food retail purposes only”. Unit B has a floor space of measure 1394m<sup>2</sup>.

**3. SITE DESCRIPTION**

3.1 Existing retail unit within an established out of centre retail park located to the north of Weedon Road and east of Gambrel Road.

## **4. PLANNING HISTORY**

- 4.1 The original development was approved under reference 95/0866 on 24-09-1997 as “Proposed retail development (A1) with associated parking”.
- 4.2 In 2007 applications for the sub division of Unit B and the insertion of mezzanine floors into each of the new units, together with external alterations, were made and withdrawn.
- 4.3 In 2009 similar sub division and mezzanine applications to those withdrawn in 2007 were refused and appeals were dismissed following a public inquiry. External alterations were however approved at that time.
- 4.4 New fencing to the rear was approved in 2010 and external alterations were approved in 2012.
- 4.5 An application for a certificate of lawful development for the retail sale of food and convenience goods remains undetermined at the time of writing.

## **5. PLANNING POLICY**

### **5.1 Development Plan**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

### **5.2 National Policies:**

National Planning Policy Framework and specifically the following paragraphs:

- Paragraph 17 sets out the core principles of planning including the promotion of sustainable developments; seeking to achieve high quality buildings, a good standard of amenity and that planning be a plan lead system that provides a practical framework for the determination of planning applications.
- Paragraph 23 of the National Planning Policy Framework states that retailing is a main town centre use and such centres should be the primary location for retailing.
- Paragraph 24 requires that a sequential test be applied to applications for town centre uses.
- Further to this point, Paragraph 27 directs refusal of applications that have failed to comply with the requirements of the sequential test.

Previous national guidance relating to retail and economic development was contained within PPS4 – Planning for Sustainable Economic Growth, which has now been superseded by the National Planning Policy Framework. However, the accompanying PPS4 Practice Guide remains a material, for although it does not constitute formal policy, the guidance within it remains pertinent to this application. In particular, the definitions provided in terms of what constitutes ‘convenience’ and ‘comparison’ goods sales is still referred to in the context of this report

**5.3 The East Midlands Regional Plan (March 2009)**

Policy 3 - Distribution of new Development

Policy 11 - Development in the Southern Sub-area

Policy 19 - Regional Priorities for Regeneration

Policy 22 - Regional Priorities for Town Centres and Retail Development

Policy MKSM SRS Northamptonshire 3 - Northampton Central Area

**5.4 Northampton Borough Local Plan**

E20 – New Development

**5.5 Supplementary Planning Guidance**

Parking

Planning out Crime

**5.6 Emerging Planning Policies**

On 23<sup>rd</sup> April 2012, Full Council approved the Central Area Action Plan (CAAP) for submission to the Secretary of State. The document has now been submitted and the examination in public took place earlier this month (September 2012). Given the advanced stage in preparation of the CAAP, it is therefore considered that the relevant policies can be given substantial material weight in the decision making process.

5.7 The CAAP establishes a number of policies that are pertinent to the determination of this application. In particular, Policy 11 requires that developments for main town centre uses (such as retailing) be subject to a sequential assessment when over 1000m<sup>2</sup> of gross floor space is proposed. Policy 12 defines the town centre as being the main focus for shopping within Northampton. In addition, Policy 14 established a need to deliver 45,000m<sup>2</sup> of net comparison goods retail floor space and 3,000m<sup>2</sup> of net convenience goods retailing within the town centre in the period leading up to 2026.

**6. CONSULTATIONS/ REPRESENTATIONS**

6.1 **Environmental Health** – No comments to make.

6.2 **Police Crime Prevention Design Adviser** – No formal objection to the application in its current form.

## 7. APPRAISAL

### *Principle of the Development*

- 7.1 The Northampton Local Plan does not have a remaining allocated use for the application site; however it is clear from existing national and local planning policies that retail developments should be located within the town centre, with options being investigated for locating the development within district and local centres and only then following sequentially preferable options outside of these recognised centres.
- 7.2 The majority of policies relating to new retail provision in the Local Plan (including unsaved Policy R4 for non-food retail that had previously applied to the application site) were not saved and, due to its age, it is considered that the Northampton Local Plan has largely been superseded in terms of assessing retail developments by more recent national policies and specifically, the National Planning Policy Framework. However, Appendix 15 of the Local Plan provides a schedule of 66 recognised shopping centres but does not distinguish between any of these in terms of scale or hierarchy. Sequentially, these established centres are a more preferable location for developments of the type proposed. Therefore, the proposal pursued in this instance represents a less sequentially preferable option and is clearly in an out of centre location.
- 7.3 In terms of local planning policies, the Development Plan for the area currently comprises the East Midlands Regional Plan (RSS8) and the saved policies of the Northampton Local Plan. Whilst the Government has made clear its intention to revoke this through legislation in the Localism Bill, the East Midlands Regional Plan (RSS8) remains part of the Development Plan and is therefore a material consideration in the determination of this planning application. The age of the Northampton Local Plan (which was adopted in June 1997) is a consideration in that the National Planning Policy Framework states that this is of relevance in determining the weight that can be placed on any 'saved' policy.
- 7.4 The policies within the RSS8, which are considered relevant to the determination of this application are Policy 22, Policy MKSM SRS Northamptonshire 2 (Northampton Implementation Area) and Policy MKSM SRS Northamptonshire 3 (Northampton Central Area). The policies within the RSS8, as can be expected due to the broader overview of such a planning policy documents, are of a strategic nature, but its aims are broadly consistent with those aims of the National Planning Policy Framework. Policy MKSM SRS Northamptonshire 2 identifies Northampton as the Principal Urban Area for the sub-region and Policy MKSM SRS Northamptonshire 3 identifies Northampton's Central Area the main destination for office, retail and leisure proposals. MKSM SRB Northamptonshire 1 establishes that Northampton is a major focus for growth in the sub-region.

- 7.5 The National Planning Policy Framework gives an element of weight to emerging planning policies, which as identified within Section 5 of this report, comprises the Central Area Action Plan and the West Northamptonshire Joint Core Strategy. The National Planning Policy Framework states that the amount of weight that can be placed upon such policies is determined by the stage at which the plans have reached in terms of preparation, the extent to which there are any unresolved objections to relevant policies and the degree of consistency with the aims and objectives of the National Planning Policy Framework.
- 7.6 Given the above, significant weight can be attached to the policies of the Central Area Action Plan (specifically, Policies 11 and 14) and whilst the site falls outside of the area covered by this plan, it does clearly define the optimal location for retail developments. Policies 12 and 14 also indicate that Northampton Primary Shopping Area will be the main focus for shopping activity within the Borough and that 61,000 square metres (gross) / 45,000 square metres (net) of comparison retail floor space and 4,500 square metres (gross) / 3,000 square metres (net) of convenience floorspace will be accommodated within the Town Centre in the period to 2026. Reference should also be made to the requirements of Paragraph 17 of the National Planning Policy Framework, which states that planning should operate within a plan lead system.
- 7.7 Although focussing on a more strategic level, Policy S9 of the emerging West Northamptonshire Joint Core Strategy clearly identifies that new retailing facilities should be located within the town centre, with other sites being sequentially assessed after this point if no town centre sites are available.
- 7.8 Whilst the proposal is for a variation of condition and would not create additional floor space bearing in mind that the lawful use of the site falls with Class A1 Shops. Nonetheless, the effect of the proposal would be to create an open A1 consent, allowing food to be sold alongside or instead of other goods. Whilst this site is an established retail location it is considered that the sale of food rather than comparison goods would be likely to attract more custom than the current use and to divert this from the town centre and other designated centres.
- 7.9 The principal issue to consider in this case is, therefore, the impact of the proposal on the vitality and viability of the town centre and other district centres.

#### ***Sequential Assessment / Site Selection***

- 7.10 As discussed above it necessary to demonstrate that there are no sequentially preferable sites available which could be used in preference to this site, bearing in mind that it is not within a centre designated in the Development Plan or in an emerging planning policy document.

- 7.11 In this case the applicants have argued that the town centre itself cannot be considered in searching for sequentially preferable sites, as the main M&S store is within the town centre and it is their intention for this to remain open and for food sales to continue. This would, therefore, result in M&S competing with its own store as the only potential site identified was very close to its existing store on Abington Street.
- 7.12 Other sites throughout the Borough have therefore been considered, by the applicants in their retail statement and then challenged and assessed by officers in liaison with an independent retail adviser (Planning Prospects). In this analysis it emerged that there is a limited availability of sites of a suitable, comparable size to the floor area of the proposed food retail unit (1394m<sup>2</sup>), with many smaller units being dismissed as unsuitable due to their size following a similar process to that used when assessing the other proposed out of centre food retail floorspace including the recently permitted applications for new food stores at the former sorting office on Barrack Road (N/2011/0998) and the Waitrose store Newport Pagnell Road (N/2011/1160).
- 7.13 Although many sites were identified but dismissed due to their size / availability, a vacant building (formerly an Asda / Co-op) to the north of St James Road located within the St James local / district centre which has planning permission for food retailing was both available and of a suitable size. However the applicants argued that this site did not meet the applicant's criteria as this location does not represent their typical customer base, also this site was considered by them to be too close to the town centre. It was also cited that a condition attached to the planning permission for this use prevents deliveries on a Sunday and that this would be an unacceptable limit on the applicant's proposed use.
- 7.14 Nevertheless, this site was considered by officers to be sequentially preferable, as having made a reasonable assessment of the facts it was considered to be available and of an appropriate size and type having regard to the terms of the NPPF. Further work was therefore carried out to assess whether Sunday deliveries might be possible, without detriment to the amenities of nearby residents. This work indicated that this would be difficult without significant redevelopment, but would be possible in theory.
- 7.15 However, in the course of this work the site was sold at auction, and further investigations have shown that this has been bought by a national food retailer, which plans to open a store. Consequently it has to be considered that this unit is no longer available and hence that there is no sequentially preferable site.

### ***Retail Impact***

- 7.16 In assessing retail impact, regard should be paid to the National Planning Policy Framework, which establishes a number of criteria

against which retail developments should be judged. Therefore, developers are required to submit an impact assessment covering the following:

- 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.

7.17 The applicants have submitted a retail assessment with the application. The question of retail impact is a key concern in the consideration of this application. The National Planning Policy Framework is explicit in requiring that applications should be refused where there would be a 'significant adverse' impact upon existing centres. The nature of any such assessment is therefore, to predict the change to shoppers' behaviour should any particular development be approved. The consequence of this is that a number of assumptions need to be made regarding likely behavioural patterns. In this respect it is noteworthy that in contrast to other recently considered applications for new out of centre comparison retail floorspace, the application site is an existing retail unit which is proposed to be allowed to be used for food retailing.

7.18 Retail impact must also be assessed in terms of the cumulative impact of the proposed development along with that of other proposed and approved retail development. In the case of the current proposal there are two other significant proposed new food stores as referred to in paragraph 7.12 above.

7.19 As set out in the Committee reports for both of these applications (Items 10a and 10b of the Planning Committee agenda of its meeting on 24 July 2012), the proposal that it the subject of the current planning application was considered by the Council's independent retail adviser alongside these two other applications and they were tested for their cumulative impact. This process concluded that all three schemes combined (i.e. the food store schemes for the former sorting office site on Barrack Road, Waitrose on Newport Pagnell Road and the application reported herein for determination) would be at the margins of acceptability but acceptable nonetheless when assessed against the impact criteria of the NPPF.

## **8. CONCLUSION**

8.1 It is considered that there are no suitable sequentially preferable sites for the proposed use for food retail, which are available. Furthermore it is considered that the proposed use will not have a significantly detrimental impact on the town centre or on local and district centres, either individually or cumulatively with other recent approvals.

- 8.2 The condition should therefore be varied as request, but this must be limited to Unit B only, as set out in the recommended wording of the amended condition below. Other conditions, where relevant, should also continue to be applied; key among these is the prevention of any subdivision of the unit or the insertion of mezzanine floors.

## **9. CONDITIONS**

(1) With the exception of Unit B, as identified on drawing no. URB SF [08] 00 01 Revision A 02 dated September 2011 and forming part of application N/2012/0010, the retail units permitted under planning permission N/1995/0866 shall be used for non-food retail purposes only. In Unit B a maximum of 790sqm net sales floorspace may be used for the sale of food and convenience goods and a maximum of 120sqm net sales floorspace may be used for an ancillary in-store customer café.

Reason – For the avoidance of doubt to prevent the use of additional retail floorspace within the application site being used for food retail purposes as would be likely to have a detrimental retail impact on recognised centre in accordance with the NPPF.

(2) The retail units within the application site shall not be subdivided or merged without the further written consent of the local planning authority (LPA).

Reason – To afford the LPA opportunity to assess the impact of such works in the interests of ensuring that they would not have a detrimental retail impact on recognised centre in accordance with the NPPF.

(3) The car park spaces shall at all times be reserved for the parking of vehicles and there shall be no storage of goods, materials, refuse, pallets or skips thereon.

Reason – To ensure that car parking area is used only for that purpose in accordance with the NPPF.

(4) No additional or mezzanine floors shall be erected within the retail units without the prior written consent of the local planning authority.

Reason – To prevent the use of additional retail floorspace within the application site being used for food retail purposes as would be likely to have a detrimental retail impact on recognised centre in accordance with the NPPF.

## **10. BACKGROUND PAPERS**

- 10.1 N/2012/0010, N/2011/1160 and N/2011/0998.



## **11. LEGAL IMPLICATIONS**

11.1 None.

## **12. SUMMARY AND LINKS TO CORPORATE PLAN**

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: N/2012/0010  
 Date: 20th September 2012  
 Scale: 1:1250  
 Dept: Planning  
 Project: Planning

**Title**  
**Unit B JJB Sports Sixfields Retail Park, Gambrel Road**

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