

# Addendum

## LA01/2021/0933/F

### 1.0 Update

- 1.1 Mr A Stephens during a telephone conversation with the Planning Department on 16 February set out points of objection to the planning application. These were in summary:
- The application was not readvertised when the Retail Statement Addendum was submitted.
  - The proposal does not comply with the Northern Area Plan 2016.
  - The approach is inconsistent with that on the recent application for a 40,000 sq ft/ 3716 sqm retail warehouse seeking a bulky goods permission at Riverside Regional Centre which was refused (Ref: LA01/2018/1106/F).
  - Assessment of the main food/ top-up shopping split is incorrect.
  - The existing Marks and Spencer store at The Diamond, Coleraine shall close.
  - The former JJB Store at Hanover Place, Coleraine could accommodate the proposal.
  - The catchment of the proposal is larger than as stated and includes Ballymoney.
- 1.2 In assessing the application, the Planning Department requested further information on alternative sequentially preferable site selection. This was submitted on 13 January 2020 in the form of a Retail Statement Addendum. Having regard to the content of Development Management Practice Note 14 Publicity Arrangements and Neighbour Notification, this circumstance did not require re-advertisement of the application. This is on the basis that the nature of the information was not considered to be sufficiently significant to warrant re-advertisement, mindful that no third parties had made representations on this issue.
- 1.3 Paragraph 2.4 of the Planning Committee Report sets out the provisions of the Northern Area Plan 2016 regarding retailing proposals at Riverside Regional Centre. Paragraph 8.24 of the

Planning Committee Report comments that “in retail impact terms and the Retailing and Town Centre planning policy as per the SPPS, there is no objection to the proposal”. Therefore, to date, the proposal was found consistent with the relevant provisions of the Northern Area Plan 2016.

- 1.4 This proposal is considered differently from the application for the 40,000 sq ft/ 3716 sqm retail warehouse at this location (Ref: LA01/2018/1106/F) as while it was for bulky comparison goods, the subject application is for convenience goods, principally food. Therefore, the retail impact on Coleraine Town Centre has been assessed on convenience stores and a different approach taken to the assessment of alternative sites given the nature of the retailing.
- 1.5 Comment regarding incorrect assessment of the main food/ top up shopping split has not been substantiated to allow for further consideration. Comment on this matter is made in the Development Plan Consultation response.
- 1.6 The future of the existing Marks and Spencer store at The Diamond, Coleraine is addressed at Paragraph 4.11 of the Planning Committee Report. Whether the existing store shall close is a matter of speculation. However, the Planning Department has tested the retail impact of the proposal on Coleraine Town Centre in the scenario that it were to close and found that it would not be significantly adverse.
- 1.7 The reasons why the former JJB Store at Hanover Place, Coleraine is not considered suitable for the proposal is provided at Paragraph 8.47 of the Planning Committee Report.
- 1.8 The catchment used to assess the proposal in the retail impact assessment prepared by Inaltus on behalf of the applicant is that of “Zone 2” as defined by Nexus, a retail consultant on behalf of the Council who prepared a Retail and Commercial Leisure Capacity Assessment in 2017. “Zone 2” is the extent of catchment draw for all the main convenience shops in Coleraine. “Zone 2” includes Coleraine, Portstewart, Portrush, Bushmills, Garvagh and Kilrea. It excludes Ballymoney on the basis that it has large convenience stores that form a separate catchment. On review of the objection, the Planning Department considers that the proposal as a 1603 sq m gross (1122 sqm net) Marks and Spencer food store selling

5000 lines would have a significant catchment that would likely extend beyond “Zone 2” to include Ballymoney. This type of large, prestige food retailing store is likely distinguishable from the conventional retailing offer available from most convenience retailers considered when “Zone 2” was defined. As Ballymoney does not have a Marks and Spencer store, some of the population would likely make the short journey to Riverside Regional Centre (10- 15 minutes by car) to avail of the large range of goods on offer at the proposed Marks and Spencer store. Therefore, if the catchment is larger, the retail impact assessment study would require adjustment. Furthermore, if Ballymoney is identified as being within the proposal’s whole catchment, alternative sequentially preferable sites in Ballymoney would need to be considered.

- 1.9 The case of *R. (Sienkiewicz) v South Somerset DC (2013) EWHC 4090 (Admin)* considered the matter of the relevance of a specific end user. Mr Justice Lewis noted that the “usual position” is that planning permission is concerned with the use of the land, rather than the identity of the user. This serves to clarify that there can be exceptions. This is one such exception where the specific end user as a prestige food retailer warrants specific consideration based on its catchment which is likely distinguishable from a conventional food store/ supermarket. Therefore, in this instance the identity of the operator, which is fully disclosed and not a matter of speculation, is a relevant material consideration to the application.

## **2.0 Recommendation**

- 2.1 That the Committee note the contents of this Addendum and agree with a new recommendation to **defer the application** to enable the Planning Department to obtain a revised retail impact assessment from the applicant with (if applicable) a revised alternative site selection assessment. This recommendation supersedes that set out in Paragraph 1.1 of the Planning Committee Report.