

## **PLANNING COMMITTEE – 4 JUNE 2019**

Application No:	18/01137/OUTM		
Proposal:	Variation of condition 25 attached to planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/Open A1/Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food).		
Location:	Land Off North Gate, Newark On Trent		
Applicant:	Newark Property Development Ltd – Mr Phillip Rowe		
Registered:	29 June 2018	Target Date:	28 September 2018
	Extension of time agreed until 7 June 2019		

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Newark Town Council currently objects to the application which differs to the professional officer recommendation. If Newark Town Council withdraw the objection and the Council’s retail consultants conclude, as expected, that there is no significant adverse impact of this (and cumulatively other schemes) upon Newark Town Centre this matter will be delegated.**

### **The Site**

The application site forms an area of vacant land approximately 1.65 hectares in extent accessed via North Gate. The site abuts the river edge and forms part of the wider North Gate development site which as discussed below has been subject to an extensive planning history.

The proposal site is situated within Newark Conservation Area and is adjacent to the former malting of Northgate Brewery (which is Grade II listed) and the substantial former officers and brew house which front North Gate (also Grade II listed). The proposal site was formerly part of the Wellington Foundry, being part of an extensive industrial landscape along the river. The Millennium Bridge is located to the south-west of the site and Kings Marina is located to the north-west on the opposite side of the riverbank. To the south-west are offices and car parking belonging to No. 67 North Gate, together with a BP petrol filling station which fronts North Gate.

The surrounding area has a mixed commercial and residential character, taking in modern edge of centre retail stores, a petrol station and office development intermixed with Edwardian and Victorian terraced dwellings.

The majority of the site is within Flood Zone 2 and a small proportion immediately adjacent to the River Trent is within Flood Zone 3 according to the Environment Agency maps.

The site, including the Warwick and Richardson’s Brewery site is identified in the Allocations and Development Management DPD Map 1 - Newark North Proposals map as R/Ho PP ‘retail housing site with planning permission.’

## Relevant Planning History

The site has been subject to an extensive planning history which has been detailed below. The applications highlighted in bold text are considered most relevant to the determination of the current application.

**16/01958/RMAM** - Reserved Matters Application for the erection of retail development Bulky Goods/Open A1/Open A1 Convenience uses and provision of associated parking pursuant to outline permission 13/00997/OUTM. Approved 29 March 2019.

**18/02320/DISCON** - Application for confirmation of discharge of planning conditions 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 19, 22, 24 of planning permission 13/00997/OUTM Proposed Erection of Retail Development Bulky Goods / Open A1 / Open A1 Convenience uses and provision of car parking to serve same. Approved 8 January 2019.

**18/01160/NMA** - Application for a non-material amendment to planning application 13/00997/OUTM to allow amendment to Condition No. 7. Approved 28 December 2018.

**18/01154/NMA** - Application for a non-material amendment to planning permission 13/00997/OUTM to request minor amendments to the footprint of proposed Unit C. Withdrawn.

**17/00904/NMA** - Application for a non-material amendment to planning application 13/00997/OUTM - Proposed Erection of Retail Development. Approved 7 June 2017.

**15/01858/OUTM** - Application to vary condition 25 of planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food). Application refused by committee in February 2016 for the following reason:

*"The proposal to vary Condition 25 in order to allow for the sale of non-food goods would result in a broadening and change in character of goods sold, resulting in an intensification of the retail use of Unit B, with the effect that there would be a greater level of trade draw from the Town Centre when compared with the consented scheme. It is considered that this increased level of trade draw would result in an unacceptable level of harm to the vitality and viability of the Town Centre and so be contrary to the provisions of Core Policy 8 of the Core Strategy DPD, Policy DM11 of the Allocations & Development Management DPD and the National Planning Policy Framework which forms a material consideration. Accordingly the applicant has failed to adequately demonstrate that the Condition deemed necessary to control the range of goods sold from the development in order to protect the vitality and viability of the Town Centre is no longer necessary."*

Appeal allowed 9 September 2016. However, the time period for applying for reserved matters approval pursuant to this outline planning permission has now expired, and this outline permission has therefore now lapsed.

**14/01864/OUTM** - Proposal consists of 28 semidetached townhouses/mews houses with 56 integral car parking spaces, these intended to occupy a site currently consented for 99 apartments and two retail units. Application withdrawn.

**13/00997/OUTM** - Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Application approved by Committee in December 2013 (sought to amend the retail layout on the site of 11/01607/OUTM).

**11/01607/OUTM** (Appeal Reference APP/B3030/A/12/2174284) – Proposed erection of retail development comprising bulky good/open A1/open A1 convenience uses and provision of car parking to serve same. Appeal allowed 8 February 2013.

**10/01489/OUTM** - Application for replacement outline planning permission for residential development in order to extend the time limit for implementation. The application was withdrawn.

**07/01608/RMAM** - Erection of 90 dwellings and 116 car parking spaces. Approved 16<sup>th</sup> April 2008 under delegated powers. This related to the south-eastern part of the wider site (adjacent to the Almshouses and brewery). According to the applicants this approval was commenced on site within the lifetime of the application and is therefore extant.

**05/02004/OUTM** - Residential development was approved on 6<sup>th</sup> December 2005 by Committee as recommended. This related to the south-eastern part of the site (adjacent to the Almshouses and brewery).

**05/01984/FULM** - Erection of 99 apartments with integral parking and creation of 2 retail units and public piazza space. Approved under delegated powers on 6<sup>th</sup> December 2005. This application is considered an extant application due to a lawful commencement in December 2008. Crucially the application was subject to a legal agreement which connected to the outline scheme considered on the wider site at the same time (05/02004/OUTM). The S106 required the works in application 04/01241/FULM for the Brewery and Maltings Building to be completed. These have been done and as such the terms of the S106 have been met.

**04/03092/OUTM** - Residential Development relating to the south-eastern part of the site adjacent to North Gate was refused on 16<sup>th</sup> June 2005 by Committee due to lack of affordable housing and inadequate play facilities.

**04/01241/FULM** – The refurbishment and extension of adjacent Warwick & Richardson Brewery & Maltings to form 49 residential units and 3 retail units and the refurbishment and extension of Maltings to form bar/café/ restaurant plus associated parking was approved 23<sup>rd</sup> December 2004. This permission has been implemented.

**03/02997/FULM** - Erection of 99 apartments with integral parking and creation of 2 retail units and public piazza space. This application was refused on 16<sup>th</sup> June 2005 by Committee on the grounds of a lack of affordable housing and play facilities and detrimental impact on the Conservation Area and Listed Brewery building.

### The Proposal

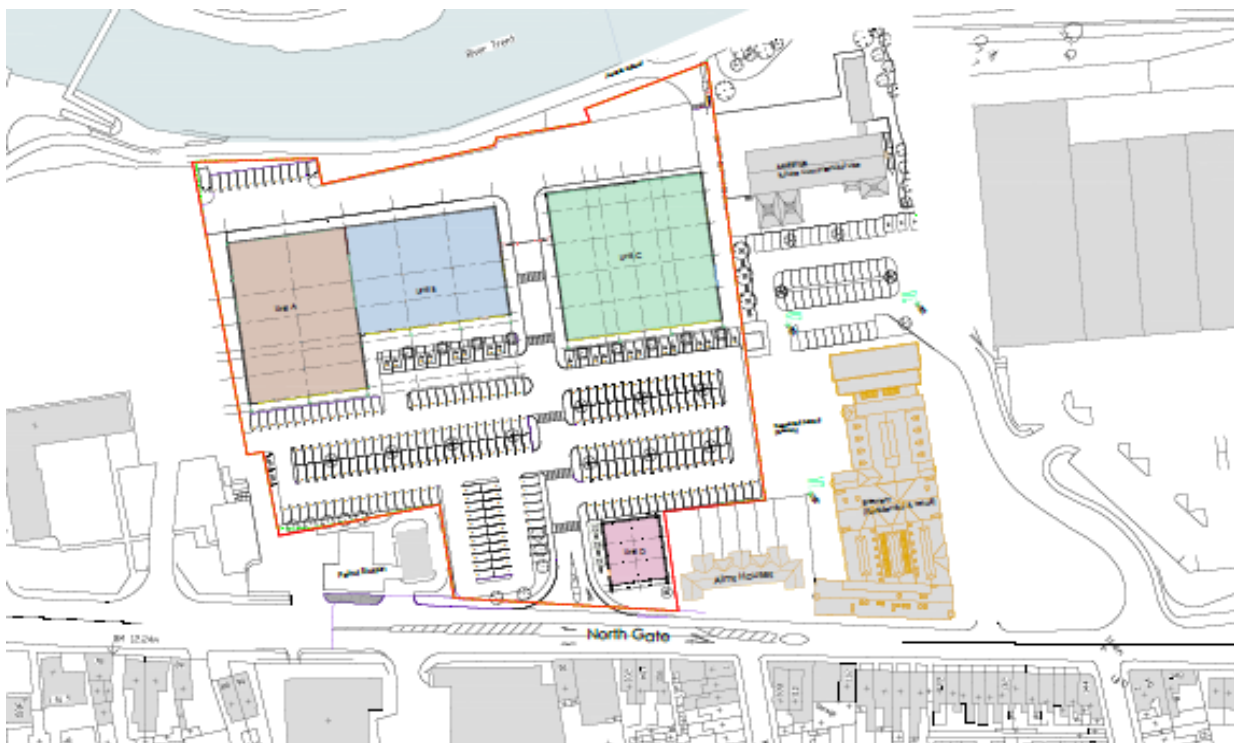
In December 2013 outline planning consent (13/00997/OUTM) was granted for the erection of a retail development comprising 4 units. The units comprised a total gross floor space of 6753m<sup>2</sup> and were broken down as follows:

Unit No.	Use	Proposed Floor Space (gross)
A	Open A1/Open A1 Convenience	1,520 sq m
B	Bulky Goods	1,325 sq m
C	Bulky Goods	1,850 sq m

D	Open A1	264 sq m
Mezzanine Space	Bulky Goods/Open A1/Open A1 Convenience	1,794 sq m details of the units to be provided with mezzanines is not specified
		<b>Total of 6,753 sq m</b>

The application relied on the submission documents of the 11/01067/OUTM application which was allowed at appeal.

The development was laid out with the access and spine road located in the position previously approved under 11/01067/OUTM. The remainder of the site was reconfigured with the units, other than Unit D being towards the rear of the site (riverside boundary). Units A and B were positioned in the western quarter of the site whilst Unit C was located in the northern quarter abutting The Malting's building. Units A and B were separated from Unit C by the access road which serves the customer parking to the front. A shared servicing area was shown to the rear of Units A, B and C extending across the rear of the site. Unit D was proposed located adjacent to the Almshouses and is significantly smaller than the approved building in the same position under 11/01067/OUTM. Unit D was not provided with a service area and would be serviced from the customer parking area.





The 13/00997/OUTM application was permitted subject to numerous conditions and condition 25 stated:

*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:*

*Unit A on Drawing PL08 Rev K shall not exceed 1,520 square metres gross floorspace;*

*Units B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705 square metres gross floorspace and shall not be used for the sale of any goods other than those within the following categories:*

*(a) Electrical goods and other domestic appliances*

*(b) Bathroom suites - furniture and accessories; kitchen units - furniture and accessories, floor and wall tiles*

*(c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles*

*(d) Motor and cycle goods*

*(e) Furniture, bedding, floor coverings, soft furnishings and textiles;*

*Unit D on Drawing PL08 Rev K shall not exceed 528 square metres gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.*

*Reason: In order to protect the vitality and viability of the town centre from significant harm, to ensure that the range of goods sold is appropriate for the sites location and layout and to control the character of the development.*

An application was submitted in 2015 (15/01858/OUTM) to revise the wording of the above condition to essentially remove the restriction points a) to e) from Unit B thus allowing a more open A1 use within Unit B, to allow more than just bulky goods to be sold, but prevent the sale of convenience goods (ie food). This application was refused by Committee in February 2016 but approved on appeal in September of the same year. The revised wording of the condition stated:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:

Unit A on Drawing PL08 Rev K shall not exceed 1,520 sq m gross floorspace;

Unit B on Drawing PL08 Rev K shall not exceed 2,225 sq m gross floorspace and shall not be used for the sale of convenience goods;

Unit C on Drawing PL08 Rev K shall not exceed 2,480 sq m gross floorspace and shall not be used for the sale of any goods other than those within the following categories:

- (a) Electrical goods and other domestic appliances
- (b) Bathroom suites – furniture and accessories; kitchen units – furniture and accessories, floor and wall tiles
- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit D on Drawing PL08 Rev K shall not exceed 528 sq m gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.”

However, the time period for applying for reserved matters approval pursuant to this outline planning permission has now expired and this outline permission has therefore now lapsed.

The purpose of the current application is to seek approval for the identical revision to Condition 25 attached to 13/00997/OUTM, as previously approved under reference 15/01858/OUTM. The covering letter with the application states:

*The District Council will be aware that the previous amendments to condition no 25 were sought to meet the requirements of Next which had been seeking to relocate from its existing store within Newark. The Council will also be aware that on the basis of changing market conditions, retailers such as Next have been re-considering their store investment and opening programmes. However, this should have no bearing on the acceptability of amendments now sought as the appeal decision in respect of planning permission 15/01858/OUTM made very clear that these amendments would be acceptable in policy terms regardless of whether Unit B was occupied by Next or another retailer.*

*Paragraph 16 of the appeal decision in respect of planning permission 15/01858/OUTM stated that:*

*“whether Unit B would or would not be taken up by Next is irrelevant; the key issue whether the change to the condition relating to Unit B would have a significant adverse impact on the town centre, irrespective of the end occupier. Both retail experts for the appellants and the Council consider that it would not. Whilst I note that this relates to the specific use of the unit by Next, given the range of sales/density and net floorspace figures tested by PBA and AN, including a higher net floorspace ratio by AN, a reasonably*

*robust range of potential occupiers and demonstration of their impacts would be encompassed by the retrospective reports.”*

*Critically, paragraph 17 of the appeal decision goes on to state that:*

*“based on the evidence presented to me and the respective reports the difference between the effect of the scheme with or without the proposed condition would not, in my view, result in a significant adverse effect on the vitality and viability of the town centre, even if Next are not the eventual occupiers of the unit.”*

*Given the range of scenarios that were tested as part of the previous application (including a worst case scenario which the Council’s retail expert concluded would not give rise to significant adverse impacts), and the conclusions of the previous appeal decision, we do not consider it necessary for this application to be supported by a new retail impact assessment.*

However, following receipt of an objection from Newark Town Council on the grounds that an up-dated Retail Impact Assessment has not been provided, additional information has been submitted to seek to demonstrate that there will be no material change in the retail impacts arising from this proposal since the matter was previously considered at appeal in 2016.

*“Since the time of the previous appeal, the Council has published a new Town Centre and Retail Study prepared by Carter Jonas. As noted in our previous submissions, this study found that the overall health of Newark Town Centre had improved in recent years. The Town Centre and Retail Study also provided updated estimates of the existing and future comparison retail turnover of Newark Town Centre. Taking a proportionate approach, we have applied these updated figures to the turnover and trade diversion assumptions applied by Alyn Nicholls Associates in its advice to the District Council in respect of planning application 15/01858/OUTM.*

	2016	2021
Turnover of Newark Town Centre	£131.0 million	£150.8 million
Approved Development		
Trade Diversion		£7.98 million
Trade Impact		-5.3%

<i>Proposed Development</i>		
<i>Trade Diversion</i>		<i>£9.26 million</i>
<i>Trade Impact</i>		<b>-6.1%</b>

*This revised assessment shows that, notwithstanding the updated comparison retail turnover figures for Newark Town Centre presented within the Council's Town Centre and Retail Study, trade impacts would be identical to those considered previously by the appeal Inspector. It is clear on the basis of these figures that, as with planning permission 15/01858/OUTM (to which Newark Town Council did not object), the proposed variation of condition no 25 would have no significant adverse impacts on Newark Town Centre. The application proposals would therefore accord with Core Policy 8, Policy DM11 and para 89 of the NPPF."*

However, having sought further advice from retail consultants, the case officer requested further information to demonstrate an up-to date assessment. A Retail Statement was submitted by White Young Green dated March 2019 which provides more detailed assessment of the retail impact of the proposal. This report concludes that :-

- a sequential assessment finds that there are no available, suitable or viable sequentially preferable sites to accommodate the proposed development and as such the application site remains the most sequentially preferable site to accommodate the proposed development;
- an up-to-date health check and quantitative impact assessment, accounting for all commitments, has been prepared which demonstrates low levels of impact that are not likely to give rise to any significant adverse impact on any existing, committed or planned public or private investment within the town centre, nor its vitality and viability;
- considers that the proposal represents "sustainable development" for which there is a 'presumption in favour' and as such should be 'approved without delay;'
- The proposal is considered to continue to accord with both the Development Plan and national guidance contained within the NPPF and PPG; and
- There has been no material change in circumstances which would justify a different decision to that taken previously in permitting the proposals under 15/01858/OUTM.

#### Departure/Public Advertisement Procedure

Occupiers of fifty-five properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

##### The Development Plan

**Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**



Spatial Policy 1: Settlement Hierarchy  
Spatial Policy 2: Spatial Distribution of Growth  
Spatial Policy 6: Infrastructure for Growth  
Spatial Policy 7: Sustainable Transport  
Core Policy 6: Shaping our Employment Profile  
Core Policy 8: Retail & Town Centres  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 14: Historic Environment  
NAP1: Newark Urban Area

### **Allocations & Development Management DPD (adopted July 2013)**

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM3 – Developer Contributions and Planning Obligations  
Policy DM5 – Design  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM10 – Pollution and Hazardous Materials  
Policy DM11 – Retail and Town Centre Uses  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Newark and Sherwood Town Centre and Retail Study 2016

### **Consultations**

**Newark Town Council** – “Objection was raised to this application as Members felt they were unable to assess the application properly without an updated Retail Capacity Study for the Town.”

**The Town Council has been re-consulted on the latest Retail Statement that has been submitted and their comments will be reported as an up-date to this report at Committee.**

**NSDC Retail Consultants** – “In summary, we are of the opinion, the applicant in planning terms has not fully provided a sequential or impact assessment (especially cumulative impact) or current health check of Newark town centre to enable a robust assessment of the application.”

**The Council’s retail consultants have been re-consulted on the latest Retail Statement that has been submitted and their comments will be reported as an up-date to this report at Committee.**

**NCC Highways Authority** – “This proposal will have negligible impact on the public highway. Therefore, no objections.”

**Environment Agency** – No formal comment to make as the EA did not request the planning condition that the applicant is seeking to vary.

**Canals and Rivers Trust** – No comment to make.

**Trent Valley Internal Drainage Board** – “The site is outside of the Trent Valley Internal Drainage Board district but within the Board’s catchment. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving water courses must not be increased as a result of the development. The Design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local planning Authority.”

**NCC, Lead Local Flood Authority** – Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by the Government for those applications that do require a response from the LLFA.

**NSDC Archaeology Consultant** – “No archaeological input is required for the variation of condition 25 on this site.”

**NSDC, Planning Policy** – “The Development Plan context is provided by Core Policy 8 (as adopted) and Policy DM11, both of which set a 2,500 sq m threshold for application of the impact test. Nevertheless CP8 as proposed for amendment through the Amended Core Strategy is a material consideration and, applying the tests at Para 216 of the NPPF, can in my view be afforded significant weight. Within Newark Urban Area this would require impact from retail development located outside of a defined centre and which has a gross floorspace equaling or exceeding 400 sq m to be considered through the undertaking of a proportionate assessment. The proposal clearly exceeds this threshold.

I am mindful of the need for any assessment to be proportionate, and that the no longer extant consent which previously varied Condition 25 was supported by an impact assessment. This was assessed on our behalf by Alyn Nicholl Associates, who tested a worst case scenario and recommended that the level of impact on Newark Town Centre fell below significant adverse. Following refusal by Planning Committee the Inspector which dealt with the appeal considered that on the basis of the range of sales/density and net floorspace figures tested a reasonably robust range of potential occupiers and demonstration of their impacts had been provided for, and neither suggested an significant adverse impact. Significantly there is also a fallback position provided by the consent which remains extant, and on which the Inspector concluded that the difference between the scheme with and without the propose condition would also not result in a significant adverse impact on the vitality and viability of Newark Town Centre.

From my perspective the key issue is therefore whether anything has materially changed, or whether there are other reasons why the previous assessment and conclusions reached by the appeal Inspector should be considered no longer relevant. I am unaware of any change in conditions, including the health of Newark Town Centre, which would indicate a revisit of the assessment as being necessary from that point of view. Moving on, the applicant’s assessment was undertaken in December 2015, over 2 ½ years ago, and through the appeal process we highlighted concerns that the applicants assessment took trade draw figures from 2011 as their starting point, now potentially approaching 7 years ago. Nevertheless the Inspector was satisfied that the assessment provided a suitable basis for contributing towards a decision issues in September 2016, almost 13/4 years ago now. On balance whilst I still hold some reservations about the use of a trade draw dating back to 2011, I am therefore inclined to advise that in my opinion, the assessment (and conclusions reached through its appraisal) would continue to indicate a level of likely impact below that of significant adverse.

I would therefore offer no objection to the proposal on that basis.”

**NSDC, Environmental Health (Contaminated Land)** - “The original application (13/00997/OUTM) is subject to a contaminated land planning condition for which matters are still outstanding. This latest application appears to be for variation of conditions which are not related to contamination, we would therefore have no comments to make, providing that the requirements of the contamination condition on 13/00997/OUTM are still in place.”

**NSDC, Access and Equalities Officer** – No observations.

**Representations have been received from one local resident/interested party objecting to the application on the following grounds:**

- Object to the use of this site for retail, despite this use having been previously allowed on appeal;
- Prior to that previous application, the site has been proposed and permitted for housing – a more appropriate use for the location and one for which need has only increased in the meantime;
- The existing consent should be allowed to lapse and use for housing should be resurrected by the owner.

#### Comments of the Business Manager

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

- (a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
- (b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

Whilst the application has defined the condition that is sought to be varied, the local planning authority has the power to vary or remove other conditions if minded to grant a new planning consent.

The outline planning permission (13/00997/OUTM) was granted in December 2013 (which remains extant) subject to a number of conditions. The condition sought to be varied is Condition 25, to allow for open A1 (non-food) use in Unit B.

Essentially the principal assessment will be the impacts that would arise from the variation of the condition proposed, notably on the retail impact on Newark Town Centre. Exactly the same proposal was approved on appeal in September 2016, when the Inspector concluded:

*“A key factor in this case is clearly the effect of the extant consent. This represents a significant fallback position. Given the reasonably small difference in the AN report worst case figures of an effect of -6.1% as opposed to -5.3% of the scheme on the turnover of Newark Town Centre (comparison goods) in 2020, as based on the evidence presented to me and the respective reports the difference between the effect of the scheme with and without the proposed condition would not, in my view, result in a significant adverse effect on the vitality and viability of the town centre, even if Next are no the eventual occupiers of the unit.”*

The crucial material planning consideration will be whether there has been any material change to the retail impact on the town centre since September 2016. Much of the discussion from the 2013 approval (13/00997/OUTM) is still relevant and for clarity the text from this committee report has been included in italics.

### Principle of Retail Development

In policy terms the application site is classed as ‘out of centre’. It lies outside the defined boundaries of the Newark Town Centre, identified on the Allocations and Development Management DPD Map 1 – Newark North Proposals but has the benefit of a very recent extant planning permission, allowed on appeal in February 2013 after the Inspector’s Examination had closed and proposed modifications had been published.

The Inspector’s appeal decision letter made clear that the Council and the appellant, both of whom had undertaken a detailed assessment of the retail capacity of Newark for bulky goods provision and a town centre Retail Impact Assessment.

The Inspector advised in paragraph 17 and 18 of his letter under the Statement of Common Ground that:

*“The parties agree that the appeal proposal would have no significant adverse impact on the vitality and viability of Newark town centre, subject to the imposition of appropriately worded conditions that have been agreed.”*

In assessing the proposal the Inspector commented:

Paragraph 54 *“Finally, I turn to consider the factors that weigh in favour of the appeal site as a sequentially preferable out of centre location for a retail warehouse development. The Framework at paragraph 24 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.”*

Paragraph 55. *“The principle factor in favour of the appeal site is its location on a main road between the town centre and Northgate Retail Park. It enjoys good accessibility and good visibility to the passing public.”*

Paragraph 56. *“It is adjacent to Northgate Retail Park, a well-established retail warehouse location that serves the Newark catchment area. While the profile of this retail park has strengthened in recent years, the profile of some solus retail warehouses elsewhere has declined. The appeal site*

*would benefit from the profile of the retail park and the clustering effect that comes from close proximity to it, as have the solus retail units of Aldi and Halfords. It would therefore be well placed to take advantage of the customer base that the retail park attracts.”*

Paragraph 57. *“I consider that the appellant company has applied the appropriate degree of flexibility to the appeal proposals. I conclude on the first main issue that there are no suitable or available sequentially preferable locations for this type of retail development in Newark.”*

The Inspector went on to conclude in paragraph 62 of his letter that *“There is no evidence to show that it would have a materially adverse impact on nearby centres, including the town centre, or that there is a better location in Newark for retail warehouse development of the type proposed. It would therefore assist, not undermine, the objectives of Core Strategy Policies CS8 and NAP1.”*

Paragraph 64. *“Moreover, it would assist the regeneration of under-used land that is close to Newark town centre and on an important arterial route to it. It would also assist in securing the retention and the effective use of ‘The Maltings’, a listed building which is in urgent need of restoration.”*

Paragraph 70 summarizes the Inspector’s assessment as *“I believe that significant benefits would arise from the appeal proposal and they should be realized sooner rather than later. Having regard to the presumption in favour of sustainable development, which is at the heart of the Framework, and the exhortation that decision making “means approving development proposals that accord with the development plan without delay” (paragraph 14), it is clear to me that planning permission should be granted.”*

Since the Inspector’s decision in 2011, the site has been subject to an extant permission for retail development noting the scheme has evolved through the approval of reference 13/00997/OUTM which altered the layout on the site. It is a material consideration that the site has an extant permission for retail development at this quantum of development and therefore the principal of development is already established.

Notwithstanding this, the variation in condition sought would have potential implications to the occupiers of the units proposed and thus could potentially impact upon the retail offer of the Town Centre. The original application submission included no justification or retail impact assessment (RIA) in connection with the current proposal. However a RIA was requested to assess the previous application to alter Condition 25 in 2015 (15/01858/OUTM) and this was produced by Peter Brett Associates LLP and dated December 2015.

That RIA confirmed that the purpose of the application was to meet the requirements of NEXT, who are currently located adjacent to the site at the Northgate Retail Park. It was intended that if condition 25 was to be varied, it would allow the unrestricted non-food retail sale of goods including clothing, footwear, fashion accessories and homewares. The RIA went on to detail the turnover and trade draw of the proposed development before moving on to outline the Town Centre impacts. The RIA concluded that the proposed development would not lead to any significant adverse impacts on the vitality and viability of the Town Centre. This same information was originally submitted in summary form to support this current application.

The RIA was based on the RIA submitted with the 2011 application (the appeal application). At the time of the appeal, various criticisms and reservations were raised in regard to the RIA. An independent review was undertaken by Carter Jonas on behalf of the LPA during the assessment of the 2015 application, which estimated that the potential turnover of the proposed development at 2020 is about £21.5 million. The potential uplift in turnover arising from the occupation of Unit B by NEXT is a little under £3.5 million. This separate impact assessment undertaken on behalf of the LPA was completed adopting the same set of information and analysis as utilised in the assessment of the 2011 appeal proposal. It was concluded that the existing scheme (without the change to Condition 25) diverts about -£7.8 million of expenditure from the town centre which amounts to an impact of -5.3%. The proposed scheme (with the proposed change to Condition 25) may divert -£9.26 million which represents an impact of -6.1%.

For the purposes of the planning appeal in 2016, it was accepted that the appeal proposal would not have a significant adverse impact on the vitality and viability of the town centre so long as a condition was imposed to ensure that the character of retail uses on the site did not change from that proposed at that time. The Inspector also concluded that this was the case whether Unit B was to be occupied by NEXT or some other comparison retailer.

In response to the Town Council's initial objection to this application, the agent (Peter Brett Associates) submitted some additional information (but no new assessment). The additional information has taken the existing and future comparison turnover of Newark Town Centre from the 2016 Carter Jonas Study and applied Alyn Nicholl's turnover and trade diversion assumptions from the 2016 appeal to those figures. The agent also takes the view that the health of Newark Town Centre was shown to have improved in the 2016 Carter Jonas Study and so this would cancel out any increased impact from an increased turnover and trade diversion and therefore the level of impact on Newark Town Centre of the 2016 appeal and the existing proposed application to vary Condition 25 is effectively the same. However, the Town Council continued to object on the lack of a new Retail Impact Assessment.

Following the advice from the Council's retail consultants, additional and up-to-date information was requested to be submitted to draw on the outputs of the Council's 2016 Retail Study and also take into account other commitments in the intervening period to provide a cumulative impact, a fresh sequential assessment and a broader assessment of the current health of Newark town centre. A Retail Statement dated March 2019 has been submitted by new agents (White Young Green) and a summary of its findings set out within the Proposals section of this report above. The comments of the Council's Retail Consultants were not available at the time of writing this report, but they will be reported in full to the Planning Committee prior to the determination of the application. The Town Council's response to the new Retail Assessment will also be reported to the Planning Committee.

To conclude, there is no guidance or rule of thumb as to the level of impact on a town centre that would be unacceptable. Each case has to be assessed on the particular circumstances arising at that time. The key issue is therefore whether anything has materially changed, or whether there are other reasons why the previous assessment and conclusions reached by the appeal Inspector should be considered no longer relevant. There have been changes since 2016 in terms of the

departure of M&S and Brighthouse in the town centre (and the effect on the health of the centre) and the likely impact of consented or resolved out of centre and District schemes, notably in South Kesteven. In addition, it has been confirmed that NEXT will not be moving to this site as a Certificate of Lawfulness (Proposed use) was approved last year for the expansion of the existing NEXT store at Northgate Retail Park via a mezzanine. That said. The initial view of the Council's retail consultants (to be confirmed post agenda print) is that would not be detrimental to the vitality and viability of Newark Town Centre.

#### Other material matters

Issues of scale, layout and access of the development on the site have been assessed in detail within the extant outline permission under 13/00997/OUTM. Since this approval the scale and layout of the proposed development have undergone some minor alterations through the approval of non-material amendments and the Reserved Matter application (which also approved appearance and landscaping and reduced the height of Units A, B and C). The currently approved scheme is shown on the plan and street scenes inserted within the Proposals section of this report.

Material planning considerations such as impact on heritage assets, highway safety, flood risk and amenity matters have all been considered within the applications already approved on the site. Given that the current proposal relates to a change of use restricted by condition, I see no reason to deviate from the approval of previous applications and therefore find that the scheme is acceptable in relation to all other material planning considerations.

The approval of a discharge of condition application pursuant to 13/00997/OUTM was consented in January in 2019 and therefore any conditions imposed on this new Section 73 outline consent would need to reflect the details already approved through the discharge of all the pre-commencement conditions.

#### Other matters not material to this determination

Following the determination of this application, the developers have indicated their desire to rearrange the retail uses on the site and 'swop' the approved uses between Unit A and Unit C. This would transfer the open A1 retail use from Unit A to Unit C and transfer the sale of bulky goods only from Unit C to Unit A. This would require the submission of a further Section 73 application to amend Condition 25 but provided the gross floorspaces of each of the retail use does not change, there would be no additional retail impacts that would require assessment, as legal Counsel has now confirmed. It is understood that this is to facilitate the occupation of Unit C by a Marks and Spencer food store. This information is not a material consideration in the assessment of this application and is offered for information only to be dealt with via another s73 application should this permission be granted.

#### Conclusion

It is my view that the proposal requires assessment as to the impact of the lifting of the current restrictions on the sale of bulky goods only within Unit B on the vitality and viability of Newark

Town Centre. In September 2016 an application for the identical variation was considered to be acceptable and concluded to not result any significant adverse effect on the town centre.

In the context of the 2016 appeal decision and having regard to changes at the time it is likely (subject to the final report from the Council's retail consultants) that the proposed alteration to the wording of Condition 25 (again) would not have a significant adverse impact such as to justify refusing planning permission.

#### Assessment of the remaining conditions

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has not begun, the time condition needs to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and **bolded text** used to indicate new wording. The conditions have been reworded where details have been provided to discharge previously imposed conditions. Commentary is also provided where this is considered necessary.

#### RECOMMENDATION

**That outline planning permission is approved subject to the conditions and reasons set out below.**

##### Conditions

01

~~Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.~~

The development hereby permitted shall begin not later than ~~two years from the date of approval of the last of the reserved matters.~~ **29 March 2021.**

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

*All reserved matters have now been approved and the implementation date must reflect that of the original permission.*

02

~~No development shall be commenced on site until details of a phasing scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall also detail how the phases that are not developed out in the early stages, will be secured and treated. The development shall thereafter be constructed in accordance with the approved phasing scheme unless otherwise agreed in writing by the Local Planning Authority.~~



**The development hereby approved shall be built out in one single phase within a continuous build programme in accordance with the details submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.**

Reason: In the interests of visual amenity.

*The single phasing detail has been approved as part of the discharge of condition application.*

~~03~~

~~Details of the appearance and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins pursuant of its respective phase and the development shall be carried out as approved.~~

~~Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.~~

*No longer required as all reserved matters have now been submitted and approved.*

~~04~~

~~Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the following documentation, unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the consent.~~

~~Maximum scale parameters for the buildings are: Buildings A to c would be a maximum height of 14m (including any chimneys) whilst Building D would have a maximum height of 7m.~~

~~Drawing No. PL01 (Location Plan)~~

~~Drawing No. PL02 (As Existing Site Plan)~~

~~Drawing No PL03-05 Rev A (As Existing Site Sections AA, BB, CC, DD)~~

~~Drawing No. PL07 Rev A (Site Layout)~~

~~Drawing No. PL08 Rev K (Proposed Ground Floor Plan)~~

~~Drawing No. PL09 Rev A (Proposed Roof Plan)~~

~~Drawing No. PL10-12 Rev C (Proposed Site Sections AA, BB, CC)~~

~~Drawing No. BMT-120-TT-001-RP3 (Proposed access arrangements)~~

~~Design and Access Statement (dated July 2013)~~

~~Reason: The application is in outline and the Local Planning Authority wishes to ensure that the details which have not yet been submitted are in accordance with the scale parameters set out in the outline application.~~

*No longer required as the reserved matters application has now been approved in accordance with this condition.*

~~05 03~~

~~No development shall take place within the application site until details of a scheme for archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in full accordance with the approved details. The scheme shall be implemented in full accordance with:-~~

- **SW146-001 Archaeology Statement;**
- **Method Statement for the Archaeological Excavation and Recording at the Former Warwick's and Richardson's Brewery, Northgate, Newark by Archaeological Project Services Nov 2008;**
- **Archaeological Evaluation and Watching Brief on Land at the former Warwicks & Richardsons Brewery, Northgate, Newark by Archaeological Project Services Report No: 34/11 dated March 2011;**
- **1 March 2018 submission of revised Mitigation Strategy and Method Statement for Archaeological Monitoring and Recording at North Gate, Newark by Peak and Trent Archaeology dated February 2018;**

**comprising the written scheme of investigation submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.** The developer shall afford access to the site at all reasonable times to any archaeologist nominated by the local planning authority and allow the archaeologist to observe the excavations and record items of interest and finds.

Reason: In order to afford appropriate protection for the potential archaeological significances of the site.

06 04

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### **Part A: Site Characterisation**

~~An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include the matters i) to iii) below:~~

~~(i) a survey of the extent, scale and nature of contamination;~~

~~(ii) an assessment of the potential risks to:~~

- ~~• human health,~~
- ~~• property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,~~
- ~~• adjoining land,~~
- ~~• groundwaters and surface waters,~~
- ~~• ecological systems,~~
- ~~• archaeological sites and ancient monuments;~~

~~(iii) an appraisal of remedial options, and proposal of the preferred option(s).~~

~~This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.~~

#### **Part B: Submission of Remediation Scheme**

~~A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and~~

~~historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.~~

**The scheme shall be implemented in full accordance with the Detailed Quantitative Risk Assessment at The Maltings Retail Park, Northgate, Newark, Report No: NE2711F, October 2016 by Sub Surface North East Limited submitted to discharge Parts A and B of this condition, and approved on 8 January 2019 under application reference 18/02320/DISCON.**

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

07 05

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) 03/09/13-NWT/1500/FRA Rev C-BWB Consulting (D Harvey) and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1:100 critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
2. Provision of compensatory flood storage on a level for level basis as detailed in Appendix D and ~~Appendix E.~~ **the revised Floodplain Compensation Plan (Drawing No: MNN-BWB-DDG-XX-DR-D-1500 Rev P5 which was approved as a non-material amendment on 28 December 2018 under reference 18/01160/NMA.**
3. Finished floor levels are set no lower than 11.87 m above Ordnance Datum (AOD). The mitigation measures shall be fully implanted prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: 1) To prevent flooding by ensuring the satisfactory storage of disposal of surface water from the site. 2) To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided. 3) To reduce the risk of flooding to the proposed development and future occupiers.

08 06

~~Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full accordance with:-~~

- **BWB Statement Summary – WJ/NTH2312 – dated 23 Nov 2016;**
- **500 – P1 – Existing Catchment Areas Layout;**
- **501 – P1 – Proposed Catchment Areas Layout;**
- **550 – P1 – Proposed Drainage Layout;**
- **560 - P1 – Drainage Details Sheet 1 of 2;**
- **561 – P1 – Drainage Details Sheet 2 of 2;**
- **WJ 25.11.16 BWB Micro-Drainage Model;**
- **WJ25.11.16 Micro-Drainage Network Details;**

~~before the development is completed which comprises the surface water drainage scheme submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:~~

- ~~The utilisation of holding sustainable drainage techniques;~~
- ~~The limitation of surface water run off to existing rates with a reduction in rates where practicable;~~
- ~~The ability to accommodate surface water run off on site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and~~
- ~~Responsibility for the future maintenance of drainage features.~~

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage system.

09 07

~~The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved in full accordance with~~

- **BWB Summary Statement – WJNTH2312 – dated 23 November 2016;**
- **Proposed Drainage Layout (dated 24.11.2016 ref: NTW/2380/550) incorporating the separators into the drainage plan**

**Submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.**

Reason: To protect ground and surface water from pollution

010 08 (unaltered)

No part of the development hereby permitted shall be brought into use until:

- a) details of (i) the permanent closure of existing site accesses that have been made redundant as a consequence of this permission and (ii) the reinstatement of the access crossing as a footway, have been submitted to, and approved in writing by, the Local Planning Authority.
- b) The works have been carried out in full accordance with the approved details.

Reason: In the interests of Highway safety.

*This condition remains undischarged and of relevance and should remain.*

~~011~~ 09

~~The development hereby permitted shall not be commenced until details of the pedestrian link between the development and the Riverside Walk and the adjacent Maltings in accordance with drawings PL08 Rev K and PL09 Rev A have been submitted to and approved in writing by the local planning authority. These details shall include a full specification of surface treatment and any means of enclosure. The approved scheme shall be implemented~~ **in full accordance with Drawing Nos: 03/360/16 Rev A and SW146-405A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON** prior to first occupation.

Reason: To provide adequate and safe access to neighbouring developments and promote sustainable transport links.

~~012~~ 010

No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority (LPA). The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the LPA and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable transport.

*This condition remains undischarged and of relevance and should remain.*

~~013~~ 011

~~No development shall be commenced until details of measures to prevent the deposit of debris upon the adjacent public highway shall be submitted and approved in writing by the Local Planning Authority. The approved measures shall be implemented~~ **in accordance with Drawing No: SW146-101A and SW146-CM01 Issue A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON** prior to any other works commencing on site.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc).

~~014~~ 012

No part of the development hereby permitted shall be brought into use until provision has been made within the application site for parking of cycles in accordance **with Drawing No: SW146-400B submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.** ~~details submitted to and approved in writing by the Local Planning Authority. The details shall include the design, materials, amount and specification. The cycle stands shall be located near to the main entrance to the development, be covered and t~~ That area shall not thereafter be used for any purpose other than the parking of cycles. No part of the development hereby permitted shall be brought into use until provision has been made for the parking of cycles in accordance with the approved scheme.

Reason: To promote sustainable transport.

~~015~~ 013 (Unaltered)

No part of the development hereby permitted shall be occupied or brought into use until the parking/turning/servicing areas are provided in accordance with the approved plans. The parking/turning/servicing areas shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.

Reason: To ensure that adequate off-street parking, servicing and turning provision is made to reduce the possibility of the proposed development leading to on-street parking in the area, and in the interests of safety and convenience on the site.

*This condition needs to be complied with in accordance with Drawing No: Proposed Site Plan (Drawing No: SW146-102 Rev C) received 19 November 2018 as approved under reference 16/01958/RMAM) and so is re-imposed.*

~~016~~ 014

~~The development hereby permitted shall not be commenced until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 of the matters listed a) to e) below been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved building details~~ **approved on 29 March 2019 under reference 16/01958/RMAM and listed below**, unless otherwise agreed in writing by the local planning authority.

~~a) external windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.~~

~~b) treatment of window and door heads and cills~~

~~c) verges and eaves~~

~~d) rainwater goods and~~

~~e) extractor vents~~

- **Proposed Units A, B, C Elevations (Drawing No: SW146-300 Rev B) received 4 February 2019;**
- **Proposed Units A, B, C Elevations Sheet 2 (Drawing No: SW146-301 Rev B) received 4 February 2019;**
- **Proposed Units A, B, C Elevations Sheet 3 (Drawing No: SW146-302 Rev B) received 4 February 2019;**
- **Proposed Unit D Elevations Sheet 4 (Drawing No: SW146-303 Rev A) received 4 February 2019;**
- **Proposed Visuals (Drawing No: SW146-304 Rev A) received 4 February 2019.**

Reason: In the interests of visual amenity.

~~017~~ 015

~~Any application for Reserved Matters shall be accompanied by a detailed scheme for both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species. The details shall include:~~

~~a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities.~~

~~b) proposed finished ground levels or contours;~~

~~c) proposed means of enclosures (including noise attenuation measures adjacent to the service yard);~~

~~d) car parking layouts and materials;~~

~~e) other vehicle and pedestrian access and circulation areas;~~

- ~~f) — hard surfacing materials;~~
- ~~g) — minor artefacts and structures for example, furniture, refuse units, signs, lighting etc.)~~
- ~~h) — retained historic landscape features and proposals for restoration, where relevant.~~

**Development shall be undertaken in accordance with the hard and soft landscaping details approved on 29 March 2019 under reference 16/01958/RMAM and listed below,**

- **Detailed Landscape Proposals (Drawing No: 01/360/16 Rev B) received 4 February 2019;**
- **Detailed Landscape Proposals 1 of 3 (Drawing No: 02/360/16 Rev B) received 4 February 2019;**
- **Detailed Landscape Proposals 2 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019; and**
- **Tree Grilles added to Carpark 3 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019.**

Reason: In the interests of amenity and biodiversity.

~~018~~ 016 (Unaltered)

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented in full.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

*This condition needs to be complied with and so is re-imposed.*

~~019~~ 017

No raw materials, equipment, finished products or waste materials shall be stored outside buildings other than in accordance with ~~details to be approved in writing by the local planning authority prior to the commencement of such storage.~~ **Drawing Nos: SW146-102 Rev C, SW 146-WM01, SW146-103 Rev A and the Waste Removal, Management and Recycling Statement submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.** ~~Thereafter~~ Any external storage shall be located in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

~~020~~ 018 (Unaltered)

The premises (Units A to D) hereby approved shall not be open to members of the public outside the following times: 08.00 a.m. to 20.00 p.m. on any day.

Reason: In the interests of amenity and to reduce conflicts between customers and deliveries/servicing of the units.

*This condition needs to be complied with and so is re-imposed.*

~~021~~ 019 (Unaltered)

Servicing of Units A to D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason:

In order to reduce conflict between customers/pedestrians and service vehicles.

*This condition needs to be complied with and so is re-imposed.*

~~022-020~~

~~The development hereby permitted shall not be commenced until a Service Management Plan in relation to the servicing of Unit F of the development has been submitted to and approved in writing by the local planning authority. Thereafter Unit F D shall be serviced only in accordance with the agreed Plan~~ **set out on Drawing Nos: SW146-103 Rev A and SW 146-SM01 submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.**

Reason: In the interests of safety and convenience of the public using the adjacent parking area.

~~023-021 (Unaltered)~~

No part of the development hereby permitted shall be occupied or brought into use until full details of any proposed air conditioning equipment or other external plant has been submitted to and approved in writing by the local planning authority. The approved equipment and plant shall be installed strictly in accordance with the approved details.

Reason: In the interests of residential amenity.

*This condition needs to be complied with and so is re-imposed.*

~~024-022~~

~~The development hereby permitted shall not be commenced until a scheme detailing security measures for designing out crime at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the provision of CCTV covering the public spaces within the curtilage of the site, appropriate external lighting and details of any physical barriers to lock off areas when the premises are closed. The approved details approved on Drawing No: SW146-104 Rev C submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON, shall be installed on site prior to first occupation.~~

Reason: In the interests of designing out crime and in order to fulfil the duties under Section 17 of the Crime and Disorder Act.

~~025-023~~

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:

Unit A on Drawing PL08 Rev K shall not exceed 1,520 square metres gross floorspace;

~~Units B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705 square metres gross floorspace and shall not be used for the sale of any goods other than those within the following categories:~~

**Unit B on Drawing PL08 Rev K shall not exceed 2,225 sq m gross floorspace and shall not be used for the sale of convenience goods;**

**Unit C on Drawing PL08 Rev K shall not exceed 2,480 sq m gross floorspace and shall not be used for the sale of any goods other than those within the following categories:**

(a) Electrical goods and other domestic appliances

(b) Bathroom suites - furniture and accessories; kitchen units - furniture and accessories, floor and wall tiles



- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit D on Drawing PL08 Rev K shall not exceed 528 square metres gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.

Reason: In order to protect the vitality and viability of the town centre from significant harm, to ensure that the range of goods sold is appropriate for the sites location and layout and to control the character of the development.

*Wording of condition revised as sought by this application.*

~~026~~-024 (Unaltered)

No retail unit shown on Drawing PL08 Rev K shall be subdivided to create a unit with a gross floorspace of less than 523 square metres.

Reason: In order to protect the vitality and viability of the town centre from significant harm and to control the character of the development.

*This condition needs to be complied with and so is re-imposed.*

~~027~~-025

No development shall commence on any part of the application site unless or until a priority junction on Northgate has been provided as shown for indicative purposes only on drawing BMT/120/TT/001 Rev P3 to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

*This condition needs to be complied with and so is re-imposed.*

~~028~~-026

The development hereby permitted shall not be commenced unless or until improvements to the Northgate/Queens Road junction has been made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

*This condition needs to be complied with and so is re-imposed.*

### **Note to Applicant**

01

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

02

An advisory booklet is available Developing Land in Nottinghamshire: A guide to submitting planning applications for land that may be contaminated. This is available from Planning Services, the Proactive Team of Environmental Services or the NSDC website using the following link:

<http://www.newark-sherwooddc.gov.uk/pp/gold/viewGold.asp?IDType=Page&ID=7895>.

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England

Block 6 & 7 Government Buildings  
Chalfont Drive  
Nottingham  
NG8 3SN  
Tel: 0115 929 1191  
Fax: 0115 929 4886  
Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

English Heritage  
Ancient Monuments Inspector  
44 Derngate  
Northampton,  
NN1 1UH  
Tel: 01604 735400  
Fax 01604 735401  
E-mail: [eastmidlands@english-heritage.org.uk](mailto:eastmidlands@english-heritage.org.uk)

Heritage Planning Specialists  
Nottinghamshire County Council  
Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham  
NG2 6BJ  
Tel: +44 (0)115 977 2162  
Fax: +44 (0)115 977 2418  
E-mail: [heritage@nottscc.gov.uk](mailto:heritage@nottscc.gov.uk)

to prevent damage or harm to the historic environment.

03

The Environment Agency advises that further information on SUDS can be found in:

The CIRIA C697 document SUDS manual

HR Wallingford SR666 Use of SUDs in high density developments

The Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS.

The Interim Code of Practice is available on [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) and CIRIA's website at [www.ciria.org.uk](http://www.ciria.org.uk)

04

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans tel 01623 520735 for details see [www.leics.gov.uk/index/htd.htm](http://www.leics.gov.uk/index/htd.htm)

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

Advice regarding travel plans can be obtained from the travel plans officer at Trent Bridge House, Fox Road, West Bridgford, Nottingham NG2 6BJ, tel 0115 9774523

05

The applicant is advised that under the CIL Regulations improvements to the Northgate/Queens Road junction will be made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) and a priority junction shall be provided on Northgate.

06

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

07

The applicant is advised that a public sewer is located within the site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent.

You are advised to contact Severn Trent Water to discuss the proposal further.

08

"The applicant is advised to contact the Works Engineers team of the Canal and River Trust at the Fazeley office (contact Jonathan Pritchett on 01827 252052) to ensure that any necessary consents are obtained and the works are compliant with the current Code of Practice for Works affecting the Canal & River Trust."

"The application documents indicate that surface water is to be discharged to the waterway. The applicant is advised that such discharge will require consent from the Canal & River Trust. Please be advised that canal and River trust is not a land drainage authority and that such consent is not granted as of right, and will be subject to completion of a commercial agreement where it is granted. Please contact Nick Pogson at the Newark office on 01636 675719 for further advice. Please note that it is likely that a silt trap/oil interceptor will be required."

The application as amended is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

09

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

#### **BACKGROUND PAPERS**

Application case file.

For further information, please contact Julia Lockwood on ext 5902.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Director Growth and Regeneration**

# Committee Plan - 18/01137/OUTM

