

# Addendum 3

## LA01/2021/0933/F

### 1.0 Update

- 1.1 The following provides an update on representations received on the application.
- 1.2. Further to receipt of the revised retail impact assessment on 31 March 2022, the Planning Department re-advertised the application in the Coleraine Chronicle. The re-advertisement was published on 13 April 2022. Re-advertisement of the application on this basis was consistent with the content of Development Management Practice Note 14 Publicity Arrangements and Neighbour Notification.
- 1.3 Addendum 2 explains that while adjustments were required to in-flow trade into the catchment for the proposal, the Planning Department resolved that the catchment can remain as representative of the main catchment for the proposal. As Ballymoney is located outside the main catchment for the proposal, consideration of sequentially preferable sites within Ballymoney is not required. This includes consideration of a site at Meetinghouse Street, Ballymoney, identified by Mr A Stephens in objection to the proposal.
- 1.4 Mr A Stephens refers to the *ABO Wind NI Ltd.* judgement which refers to the precedent value of appeal decisions and he makes specific reference to appeal 2015/A0129 for relocation of a 464sqm retail showroom at Riverside Regional Centre. The decision in that appeal concluded that there was no persuasive argument that precedent would be limited.
- 1.5 While the relevance of appeal decisions are recognised, appeal 2015/A1029 was for an open A1 consent, unlike the current proposal which is for a convenience food store, with a condition applied to limit the range of goods that could be sold. Therefore,

appeal decision 2015/A0129 is not directly comparable to the proposal.

- 1.6 A representation of objection form Retail NI refers to the provisions of the Northern Area Plan 2016 and the SPPS regarding town centres. It states that alternative sequentially preferable sites are available and that the proposal would set a precedent. It refers to the changing pattern of shopping, moving away from the once of week big shop, that stores rely on a mix of big trolley, small trolley and basket shopping and concludes that the proposal would attract a significant part of the catchment's top-up shopping. It is argued that the catchment is larger and that it extends beyond Zone 2, having the effect of bringing further alternative sites into consideration. Regarding employment benefits, it is argued that these are overstated and that it is simply not the case that these jobs will be lost if the proposal does not proceed. Use of a planning agreement is suggested to ensure the occupancy of the existing unit.
- 1.7 Commentary on similar points applies to this objection. Regarding top-up shopping, the scale of the proposal, offering some 5000 lines, is likely to approve attractive to trolley shoppers, meaning that sites need to be considered suitable for trolley users. The employment implications if the proposal were not to proceed are unclear.
- 1.8 The applicant has advised that they have worked closely with Council staff and commend Council on their approach to date. They state that the previous recommendation to defer the application, on the basis of a last minute objection, was disappointing to Marks and Spencer. They considered this recommendation not necessary or balanced given the amount of work and investment put into the process. They add that the objector had not followed due process given the timing of their objection. The applicant advises 70 jobs are proposed.
- 1.9 While the objections of 16 February 2022 and 23 February 2022 were received at short notice before the Planning Committee Meeting on 23 February 2022 at which the application was scheduled, as the application remained underdetermined, they required consideration.

- 1.10 The employment benefits of the proposal are a material consideration. These are considered at Paragraph 8.50 of the Planning Committee Report.
- 1.11 A representation of support was received on 16 March 2022 from a resident in Coleraine. The representation states that the proposal would: complement other stores in the area; introduce a competitive element to Sainsbury's and; offer improved car parking relative to the store in the town centre.
- 1.12 A representation of objection was received on 20 May 2022 from the Coleraine Business Improvement District (BID) Manager. The representation, while welcoming the investment of Marks and Spencer in Coleraine, makes points of objection on the assumption that the existing town centre store is to close. It is stated that a move out of the town centre would be: contrary to the "town centre first approach" in regional planning policy; cause adverse impacts to the vitality and viability of Coleraine Town Centre; will increase vacancy; impact upon investor confidence and; set a wide-ranging precedent for other retailers to move to Riverside Regional Centre. The objection outlines the value of Marks and Spencer as attracting footfall to The Diamond, that Marks and Spencer is a key anchor tenant which consumers choose to visit and that the Diamond may see more vacancies with the closure of banks and insurance providers. The objection expresses concern about a change from Riverside Regional Centre accommodating bulky goods retailers to accommodating convenience retailers to move from the town centre. The objection reports that a poll has been carried out by Coleraine BID and that 90% of existing business respondents agreed that the proposed move will have a negative impact along with substantial changes in visitor shopping patterns and linked trips to other town centre premises. The objection concludes by requesting that Marks and Spencer consider several available alternative sites for them to remain "in town".
- 1.13 The original and revised retail impact assessment prepared by the Agent assesses the proposal on the basis that the existing store at The Diamond, Coleraine continues to trade. As set out in Paragraph 1.5 of Addendum 2, it is matter of speculation whether the existing store is to close. The same paragraph sets out how if the existing store were to close, the proposal would remain

acceptable. While retention of the existing store is desirable, it is not critical to the acceptability of the proposal. Paragraph 8.49 of the Planning Committee Report concludes that alternative sites have been explored and are deemed, on balance, not suitable, available or viable for the proposed development.

- 1.14 Further representations of objection from Mr A Stephens received on 23 May 2022 are on the assumption that the existing town centre store is to close. He states that the assessment of the Council lacks balance and is inconsistent relative to the stance taken to previous applications at Riverside Regional Centre. He adds that the recommendation is perverse and irrational. He refers to Section 1 of The Planning Act (Northern Ireland) 2011 which requires the formulation and co-ordination of policy for the orderly and consistent development of land. He states that the proposal is inconsistent with the provisions of the Northern Area Plan 2016, the “town centre first approach” of the SPPS and that alternative sites are available within the catchment. He questions how the development at an out of centre retail park, reliant on the private car, would be sustainable. He alleges that the Planning Committee Report is devoid of actual consideration of these matters and amounts to “sleepwalking” of the Planning Committee into an unlawful decision. He refers to *Duff V Causeway Coast and Glens Borough Council (2022) NIQB11* which refers to the Council accepting that its consideration in that case gave rise to a “legal vulnerability”.
- 1.15 Previous applications for retail development at Riverside Regional Centre are distinguishable from this proposal by reason of: the different types of goods to be sold; a difference in the size of the proposal’s catchment (based on the types of goods sold) and; assessment of alternative sites at that time. Section 1 of The Planning Act (Northern Ireland) 2011 refers to the functions of the Department, rather than Councils, in the development of land. Notwithstanding that, the Planning Department does not consider the recommendation in this application disorderly or inconsistent with the position taken on other retail proposals at Riverside Regional Centre. The proposal is not considered contrary to the provision of the Northern Area Plan 2016 which requires development at Riverside Regional Centre to be complementary to, rather than competing with, town centres and that it does not

adversely affect the vitality and viability of the latter. The “town centre first” approach has been applied in assessment of the application and the proposal found acceptable in terms of sequentially preferable sites, retail impact and retail need. All relevant issues have been addressed in the Planning Committee Reports and Addenda. Accordingly, no “legal vulnerability” in the consideration of the application is evident.

## **2.0 Recommendation**

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.