

DATE: 9 January 2023  
MY REF: Planning Committee –  
Supplemental Item  
YOUR REF:  
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### **To Members of the Planning Committee**

Cllr. Lee Breckon JP (Chairman)  
Cllr. Mike Shirley (Vice-Chairman)

Cllr. Cheryl Cashmore  
Cllr. Tony Deakin  
Cllr. Richard Holdridge


Cllr. Dillan Shikotra  
Cllr. Bob Waterton  
Cllr. Bev Welsh

Cllr. Neil Wright

Dear Councillor,

A meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber - Council Offices, Narborough on **THURSDAY, 11 JANUARY 2024 at 4.30 p.m.** Please find attached a number of supplemental items that are required for the meeting and are in addition to the agenda and report pack that has already been circulated.

Yours faithfully



**Louisa Horton**  
**Monitoring Officer**

### **SUPPLEMENTAL ITEM**

4. Applications for Determination (Pages 3 - 6)



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22/1204/FUL

Registered Date  
13<sup>th</sup> December 2022

Mr Andrew Mott, Exagen SPV02 Ltd

**Construction and operation of battery energy storage facility, along with associated structures, access and landscaping**

**Land North East Of Earl Shilton, Earl Shilton Road, Earl Shilton**

**Report author: Tom White  
Senior Planning Officer  
Contact Details: Council Offices. Tel 0116 250 3078**

## **Committee Update**

Since the publication of the Planning Committee agenda, there has been further discussion between Officers and the applicant regarding the temporary permission condition (condition 4).

It is recommended that the temporary permission be extended to 40 years rather than 30 years, and so the summary of condition 4 is altered to the following:

*“Permission granted for a period of 40 years from first export of electricity and site decommissioned and restored after this period”.*

It is noted that many recent appeal decisions for battery storage facilities across the country have given a 40 year temporary permission. The applicant has also indicated that the additional 10 years would deliver substantial benefits for longer. In addition, in the final 10 years the site would benefit from the established landscaping. The applicant has advised that in this time some batteries will need to be upgraded but the ancillary infrastructure will still be operating satisfactorily. The applicant has also advised that a 40 year permission also aligns with recent solar farm applications in the UK. It is still considered that a temporary planning permission is required, however, to ensure that the land can revert to its existing agricultural use at the end of this period given the countryside location and given that technology is likely to progress substantially in the next 40 years. A temporary permission would ensure that the site is not converted to a different type of industrial use, instead but reverts to agricultural use.

23/0622/VAR

Registered Date  
19<sup>th</sup> July 2023

Marks and Spencer Plc

Variation to condition 8 attached to planning permission 08/0833/1/VY to specify the net sales area to be used for the sale of food.

Fosse Park Shopping Centre, Fosse Park Avenue, Enderby

Report Author: Stephen Dukes,  
Development Services Team Leader  
Contact Details: Council Offices. Tel: 0116 272 7520

### Committee Update

Since the publication of the Planning Committee agenda, there has been further discussion between Officers and the applicant regarding the revised conditions.

#### Condition 6

It is proposed that condition 6 of the recommendation be amended to the following:

*“No individual unit hereby permitted shall be less than 929 square metres gross external measurement save that within the terraces washed yellow and green on plan 1902-100 (within the Section 106 agreement between Wexford Retail LLP and Blaby District Council, dated 14<sup>th</sup> November 2014) no more than six units at any one time may be occupied in units each of less than 929 square metres gross external measurement.”*

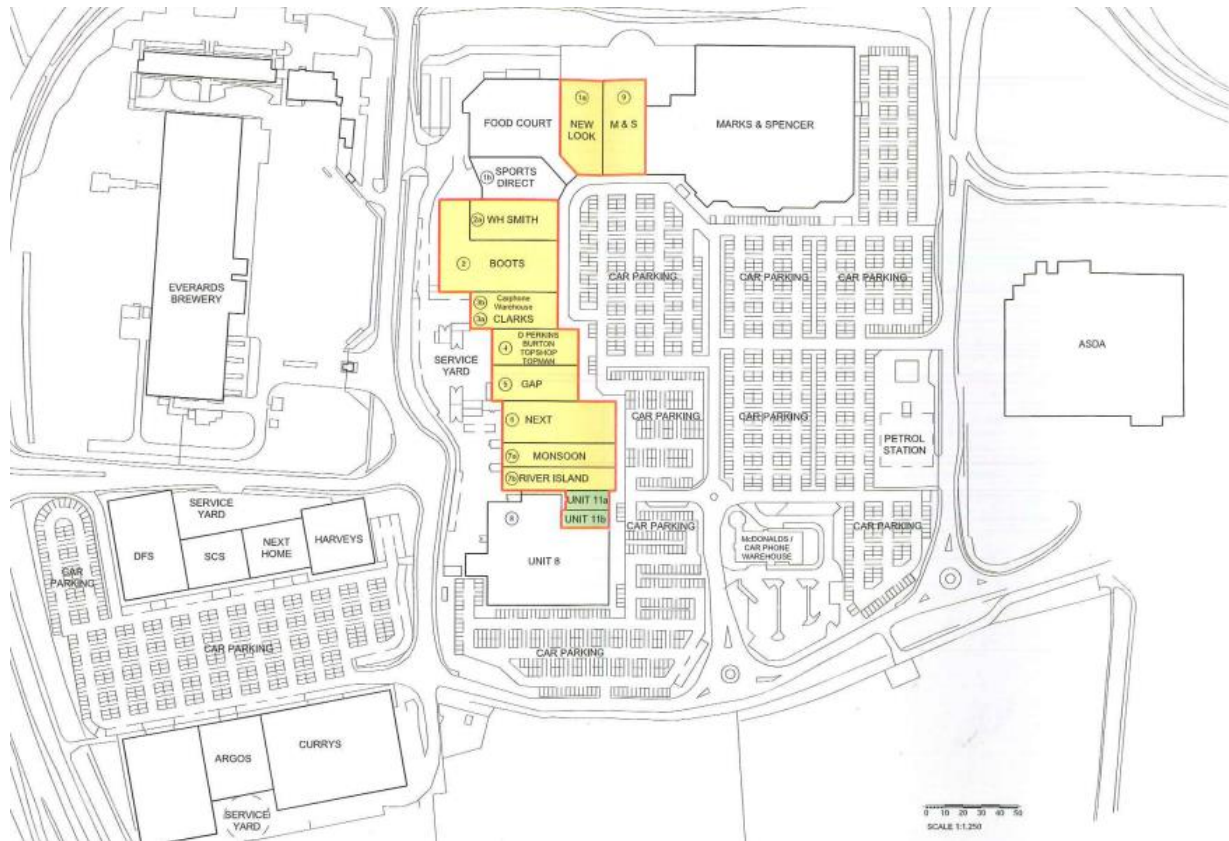
Since the agenda was published it has come to your Officers' attention that since the 08/0833/1/VY permission was issued (which allowed up to six units of less than 929 square metres at Fosse Park North), a separate permission has been granted for alterations to create the Primark store (14/0667/1/PX). This permission included two smaller units (measuring less than 929 square metres) alongside the Primark store (currently occupied by Levi's and Pandora) which were not within the original area where smaller units were permitted (shaded yellow on the 08/0833/1/VY plan).

To ensure that the two additional smaller units alongside the Primark store were not in addition to the six smaller units permitted by 08/0833/1/VY (but rather formed part of the six), the applicant entered into a Unilateral Undertaking which obligated as follows:

*“The Owner covenants that unless authorised by a planning permission granted after the date of the Planning Permission [i.e. the 14/0667/1/PX permission] not to cause or permit the sub-division of any of the Specified Units [i.e. those washed yellow and green on the S106 plan] if, when sub divided, there would be more than 6 retail units of less than 929 sq m within the Specified Units.”*

To avoid any ambiguity, your Officers therefore consider that the new condition 6 should reference the S106 plan in the 14/0667/1/PX permission, not the plan in the 08/0833/1/VY permission. This indicates that the six units measuring less than 929 square metres may in the areas shaded both yellow or green on Plan 1 below.

Condition 6 has been amended accordingly.



### **Condition 8**

It is proposed that condition 8 of the recommendation be amended to the following:

*“Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any subsequent reenactment with or without modification) no more than 20,000 sq ft (1,859 sqm) net sales space within the unit edged yellow on plan 0369-LFP173-A-415 shall be used for the sale of food; and no more than 5% of the net sales area of any other 3 retail units or up to a maximum total of 225 sqm net (whichever is the lesser) shall be used for the sale of ancillary food and drink for consumption off the premises. This restriction shall not apply to any instore café or restaurant.”*

As set out in the main report, a 5% allowance for food sales in three other units has been included in the amended condition 8 to reflect the current situation, where three other units (aside from M&S) sell ancillary food (aside from confectionary). It has been noted that if units were to combine in future, however, the 5% allowance could allow for a larger total floorspace than intended. To address this, a 225 square metre cap on the maximum food floorspace across these three other units is to be applied.

The applicant has indicated that the three stores which currently sell some ancillary food totals 2,606 sq m (Boots), 1,210 sq m (WH Smith) and 766 sq m (Superdrug) (gross internal areas). The 225 square metre cap has been arrived at by taking a 2,000 sq m gross store size (1,500 sq m net) and calculating 5% of this total (and applying across three stores). If the three stores average less than 2,000 sq m gross, however, the 5% will apply instead (as would be the case currently). The 225 sq m cap would allow for some flexibility if, for example, one of the current three units were to change format and stop selling food or leave Fosse Park North altogether, the food allowance could be applied to a different unit.

Consideration has been given to whether the three other units which may sell food should be specified (in the same way the unit occupied by M&S is being specifically referenced). However, the applicant wishes to retain some flexibility as to which three other units could sell food. Furthermore, it is noted that the 20,000 sq ft allowance for food in the current 08/0833/1/VY permission does not specify specific units and therefore specifying units could be overly restrictive.

Overall, capping the food floor space allowance for the three other units at 225 sq m would ensure the increase in food floor space permitted at Fosse Park North is limited.

Regarding the overlap with condition 7, which allows confectionary to be sold from any unit, it is not intended to alter this as condition 8 applies to other food which is not classed as confectionary.