

1. Introduction

1.1 This application is to be determined by Local Area Committee.

2. Description of the Proposal

2.1 This application refers to an existing A1 retail unit situated within the Westmoorland Retail Park, Cramlington. This application seeks a variation of condition 16 (Delivery times) on approved planning application 12/02835/VARYCO in order to alter the time of deliveries to the M&S store.

2.2 The current application allows for delivery 05.00am till 9.00pm Mon to Sat and 7.00am till 7.00pm Sundays and Bank holidays, extending the hours from (6.30am till 9.00pm Monday to Saturday and 08.30am till 7.00pm Sundays and Bank Holidays).

3. Planning History

Reference Number: 12/01131/VARYCO

Description: Variation of condition numbers 6, 16 and 18 for application 10/S/00526/VARYCO - predicted energy use, hours of construction work/deliveries and in accordance with approved plans (as amended by e-mail dated 12 July 2012).

Status: Approved

Reference Number: 12/02488/DISCON

Description: Discharge of conditions 2 (Materials), 5 (wheel wash facility), 9 (temporary car park) and 13 (investigation and assessment of contamination) for application 12/01131/VARYCO

Status: Approved

Reference Number: 12/02543/DISCON

Description: Discharge of conditions 6 and 7 relating to planning permission 12/01131/VARYCO (Variation of condition numbers 6, 16 and 18 for application 10/S/00526/VARYCO - predicted energy use, hours of construction work/deliveries and in accordance with approved plans (as amended by e-mail dated 12 July 2012))

Status: Approved

Reference Number: 12/02835/VARYCO

Description: TO PROVIDE ADDITIONAL FLEXIBILITY OVER THE TIMING OF DELIVERIES TO UNIT 1 OF THE NEW DEVELOPMENT (TO BE OCCUPIED AS A MARKS & SPENCER SIMPLY FOOD STORE) AND ALLOW THEM TO OPEN AS PLANNED FROM 08.00 HOURS - DELIVERIES/COLLECTIONS AND WASTE REMOVAL ACTIVITIES TO THE REAR SERVICE AREA SHALL BE RESTRICTED TO WITHIN THE HOURS OF 6.30 AM TILL 9.00 PM MONDAY TO SATURDAY AND 08.30 AM TILL 7.00 PM SUNDAYS AND BANK HOLIDAYS (Variation of condition number 16 for application 10/S/00526/VARYCO)

Status: Approved

Reference Number: 13/02052/NONMAT

Description: Non-material Amendment to application 12/01131/VARYCO

Status: Approved

Reference Number: 13/02683/DISCON

Description: Discharge of condition 19 relating to planning application 12/01131/VARYCO

Status: Approved

Reference Number: 14/03610/NONMAT

Description: Non-material amendment relating to planning permission

12/01131/VARYCO (Variation of condition numbers 6, 16 and 18 for application 10/S/00526/VARYCO - predicted energy use, hours of construction work/deliveries and in accordance with approved plans - as amended by e-mail dated 12 July 2012)

Status: Approved

Reference Number: B/86/C/163

Description: Further development of Cramlington Town Centre within the designated site to include a range of commercial, leisure and service uses appropriate to a town centre locations together with 15.000 sq metres (gross) of primarily non food retail space with assoc car parking and landscape works.

Status: Approved

Reference Number: B/07/00427/FUL

Description: Erection of three retail units (within use class A1) associated alterations to car park, service yard and construction of new service access and footpath (Amended Plans 9/10/7)

Status: Approved

Reference Number: 10/S/00526/VARYCO

Description: To extend planning permission 07/00427/FUL - For erection of three retail units associated alterations to car park service yard and construction of new service access and footpath

Status: Approved

Reference Number: 11/03217/FUL

Description: Demolition of retail unit and former garden centre, and erection of four retail units including service yards, reconfiguration of car park, landscaping, new service vehicle access and highway improvements.

Status: Approved

Reference Number: 12/02627/DISCON

Description: Discharge of conditions numbered 3, 4 and 10 relating to planning permission 12/01131/VARYCO (Variation of condition numbers 6, 16 and 18 for application 10/S/00526/VARYCO - predicted energy use, hours of construction work/deliveries and in accordance with approved plans (as amended by e-mail dated 12 July 2012))

Status: Approved

Reference Number: 13/02052/NONMAT

Description: Non-material Amendment to application 12/01131/VARYCO

Status: Approved

Reference Number: 13/02480/DISCON

Description: Discharge of condition 19 relating to planning permission

12/01131/VARYCO (Variation of condition numbers 6, 16 and 18 for application

10/S/00526/VARYCO - predicted energy use, hours of construction work/deliveries and in accordance with approved plans (as amended by e-mail dated 12 July 2012))

Status: Approved

Reference Number: 13/02683/DISCON

Description: Discharge of condition 19 relating to planning application 12/01131/VARYCO

Status: Approved

Reference Number: 13/00049/LIC

Description: New premises licence

Status: No Objection

Reference Number: 14/02859/NONMAT

Description: Non material amendment for application 12/01131/FUL (Variation of condition numbers 6, 16 and 18 for application 10/S/00526/VARYCO - predicted energy use, hours of construction work/deliveries and in accordance with approved plans) to relocation of entrance doors to the front elevation, repositioning of masonry to the front elevation and reconfiguration of the mezzanine floorspace.

Status: Approved

Reference Number: B/90/C/260

Description: Retail warehousing _ leisure development

Status: Not determined

Reference Number: 15/02939/ADE

Description: Advertisement consent for the removal and replacement of existing signs with new brand flex face signs, window vinyl and a remote totem sign

Status: Approved

Reference Number: B/90/C/261

Description: Retail Warehousing and leisure Development at Westmorland Way/Station Road Cramlington

Status: Approved

Reference Number: 15/03432/FUL

Description: Installation of 1 temporary refrigerated (20ft) container (between 1st November and 31st January annually)

Status: Approved

Reference Number: B/90/C/261/A

Description: Retail Warehousing and leisure Development at Westmorland Way/Station Road Cramlington

Status: Approved

Reference Number: B/86/C/163

Description: Further development of Cramlington Town Centre within the designated site to include a range of commercial, leisure and service uses appropriate to a town centre locations together with 15.000 sq metres (gross) of primarily non food retail space with assoc car parking and landscape works.

Status: Approved

Reference Number: B/93/C/0479/P

Description: Illuminated fascia signs

Status: Approved

Reference Number: B/98/C/0120/P

Description: Erection of PVC conservatory

Status: Approved

Reference Number: 20/00062/ADE

Description: Advertisement Consent for 1 no. new halo illuminated fascia sign

Status: Approved

4. Consultee Responses

Cramlington Town Council	No response received.
Highways	No objections.
Public Protection	No comment.
Waste Management - South East	No response received.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	39
Number of Objections	1
Number of Support	0
Number of General Comments	1

Notices

General site notice,

News Post Leader 1st October 2021

Summary of Responses:

Neighbours

One neutral letter of representation has been submitted stating the following:

- No issues with deliveries from 0630hrs onwards.
- Bin truck collections prior to 0630hrs, which has happened, is unacceptable.

Cllr Swinburn

The submitted document refer to P.185 of the NPPF (2021) which to ensure that all new development in appropriate for its location. The proposal is an existing development, not a new development.

Residents have been flexible with businesses during the relaxed regulations due to Covid, however this should not become the normal practice. Nearby residents, and residents along the (transport) feeding route to the town centre should not have to be disturbed at 0500hrs each morning. Nothing earlier than 0600hrs should be allowed.

The above is a summary of the comments. The full written text is available on our website at: <http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=QZ46ROQSJ3B00>

6. Planning Policy

6.1 Development Plan Policy

Cramlington Neighbourhood Plan (March 2020)

CNP1: The Sustainable Development of Cramlington;
CNP10: Growth in Employment and the Economy;
CNP12: Ensuring a Vital and Vibrant Town Centre;

Blyth Valley District Local Development Framework: Development Control Policies Development Plan Document (DPD)(2007):

DC1 - General Development; and
DC22 - Noise Pollution.

6.2 National Planning Policy

National Planning Policy Framework (2021) (NPPF); and
National Planning Practice Guidance (2021, as amended) (NPPG).

6.3 Emerging Planning Policy

Northumberland Local Plan Publication Draft Plan (NLPPD)(Regulation 19)(Jan 2019) and proposed minor modifications (May 2019):

STP 1 - Spatial strategy (Strategic Policy);
STP 2 - Presumption in favour of sustainable development;
STP 3 - Sustainable development;
QOP 2 - Good design and amenity; and
TRA 2 - The effects of development on the transport network.

7. Appraisal

7.1 The main issues for consideration in the determination of this application are as follows:

- Principle of development;
- Residential amenity; and
- Transport and Highway.

7.2 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the

development plan, unless material considerations indicate otherwise. In this case the development comprises policies in the Blyth Valley Core Strategy (July 2007), Blyth Valley District Local Development Framework: Development Control Policies Development Plan Document (DPD)(2007) and the Cramlington Neighbourhood Plan (March 2020) as identified above. The National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are material considerations in determining this application.

7.3 Paragraph 48 of the NPPF states that weight can be given to policies contained in emerging plans dependent upon three criteria: the stage of preparation of the plan; the extent to which there are unresolved objections to policies within the plan; and the degree of consistency with the NPPF. The Northumberland Local Plan - Publication Draft Plan (Regulation 19) (NLP) was submitted to the Secretary of State for Ministry of Housing, Communities and Local Government on 29 May 2019, and is currently going through the examination process.

7.4 On 9 June 2021, the Council published for consultation, a Schedule of proposed Main Modifications to the draft Local Plan which the independent Inspectors examining the plan consider are necessary to make the plan 'sound'. As such the plan is at an advanced stage of preparation, and the policies in the NLP - Publication Draft Plan (Regulation 19) (Jan 2019) as amended by proposed Main Modifications (June 2021), are considered to be consistent with the NPPF. The NLP is a material consideration in determining this application, with the amount of weight that can be given to specific policies (and parts thereof) is dependent upon whether Main Modifications are proposed, and the extent and significance of unresolved objections.

Principle of Development

7.5 This variation of condition applies to an existing retail unit within the Westmoorland Retail Park which is sited within the Cramlington Town Centre Boundary as identified by the Cramlington Neighbourhood Plan. As the application refers to an existing use and does not seek to alter the material planning use of the development, the principle of the development is considered to be acceptable.

7.6 Having regard to the above, the proposal is deemed to comply with policies CNP 1, CNP10 and CNP12 of the Cramlington Neighbourhood Plan, DC1 of the Blyth Valley District Local Development Framework: Development Control Policies Development Plan Document (DPD)(2007) and policies STP 1, STP 2 and STP 3 of the Emerging Northumberland Local Plan.

Residential Amenity

7.7 The proposed variation of conditions seeks to extend the time period in which the delivery and collections of goods and the removal of waste from the store to allow collections, deliveries and waste removal from 0500hrs Monday to Saturday and from 0700hrs on a Sunday and Bank Holidays. 0500 is considered to be a night-time period.

7.8 The applicant has submitted a noise report in support of the application, which has been reviewed by the Public Protection team, who have offered no objection to the proposal.

7.9 The submitted noise report has been carried out by a suitably qualified noise consultant, and the noise report concludes that the measured and predicted noise levels would not rise to a significant adverse impact on night-time hours (between 2300hrs and 0700hrs).

7.10 In light of the Noise Report evidence and the response of the Public Protection team, the proposal is considered to be acceptable in terms of residential amenity. As such, the proposal is deemed to comply with policies CNP 1, CNP10 and CNP12 of the Cramlington Neighbourhood Plan, DC1 and DC 22 of the Blyth Valley District Local Development Framework: Development Control Policies Development Plan Document (DPD)(2007) and policy QOP2 and of the Emerging Northumberland Local Plan.

Transport and Highway Safety

7.11 The proposed variation of condition would not create any additional floor space or intensification of the existing use, and the proposed delivery, collection and waste removal hours would not impact on peak travel times. There are no proposed alterations to the existing to the existing parking or service areas.

7.12 The Highways Network Manager has raised no objections to the proposal and as such the proposal is considered to be acceptable in terms of transport and highway safety. The proposal would therefore comply with policy CNP 1 of the Cramlington Neighbourhood Plan, DC1 of the Blyth Valley District Local Development Framework: Development Control Policies Development Plan Document (DPD)(2007) and policy TRA 4 of the Emerging Northumberland Local Plan.

Equality Duty

7.13 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

7.14 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

7.15 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

7.16 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

7.17 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 The main planning considerations in determining this application have been set out and considered above stating accordance with the relevant Development Plan Policy. The application has also been considered against the relevant sections within the NPPF and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.

8.2 The proposal has addressed the main considerations and would accord with relevant policy and is considered acceptable. The proposal is therefore recommended for approval.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. The hereby approved development shall be retained in accordance with the Proposed Material Palette and drawing no. OX4852 T 311 REV A as approved in discharge of condition application 12/02488/DISCON.

Reason: To ensure the development is retained in accordance with the previously approved details.

02. All drainage to be retained as rigidly separate.

Reason: In order to provide adequate drainage.

03. Deliveries/collections and waste removal activities to the rear service area shall be restricted to within the hours of 05.00 a.m. till 9.00 p.m. Monday to Saturday and 7.00 a.m. till 7.00 p.m. Sundays and Bank Holidays.

Reason: In the interests of the amenity of nearby residential properties.

04. Except where modified by the conditions attached to approval 12/02835/VARYCO, the development shall be retained in accordance with the details shown on plan numbers 073006-D-03N, 073006-D-05T, 073006-D-06M, and 073006-D-08G.

Reason: To ensure the development is carried out in accordance with the approved plans

05. The hereby approved development shall be retained in accordance with plan no. 126 dated 22.05.13 as approved in discharge of condition application 13/02683/DISCON.

Reason: To ensure the approved trolley bays are retained as approved in the interest of visual amenity.

06. The hereby approved variation of the delivery, collection and waste removal hours shall be carried out in strict accordance with the recommendations and mitigation measures of Report 2120620: An Environmental Noise Assessment of a Proposal to Extend Store Delivery Hours by Sharps Redmore Acoustic Consultants (dated 26.08.2021)

Date of Report:

Background Papers: Planning application file(s) 21/03574/VARYCO