

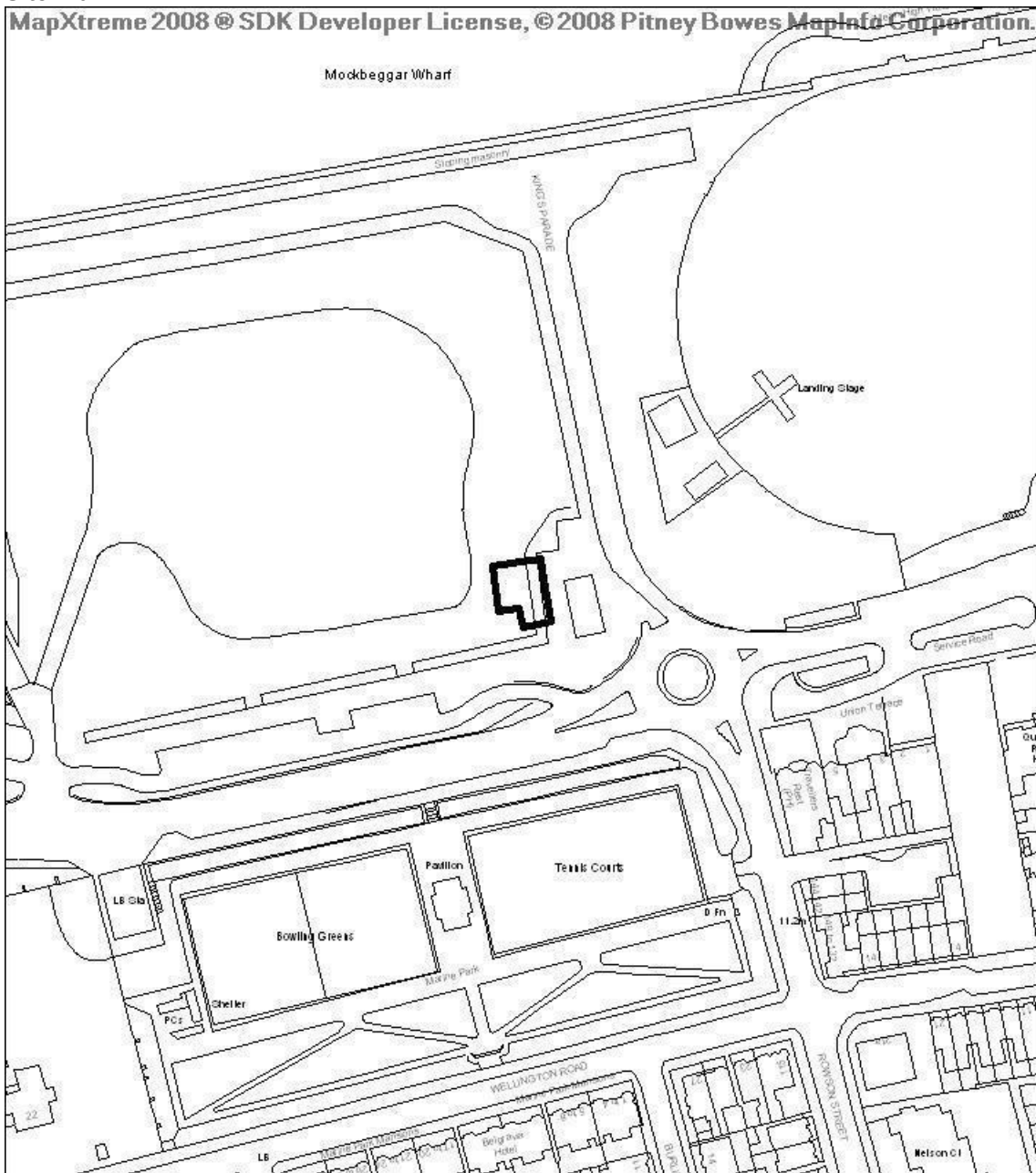
# Planning Committee

27 March 2012

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| <b>Reference:</b><br><b>APP/11/01176</b> | <b>Area Team:</b><br><b>North Team</b> | <b>Case Officer:</b><br><b>Mrs S Lacey</b> | <b>Ward:</b><br><b>New Brighton</b> |
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| <b>Location:</b>  | Land north of Kings Parade, MARINE PROMENADE, NEW BRIGHTON   |
| <b>Proposal:</b>  | Change of use of unit 14, Wallasey waterfront retail park and leisure park from A3/A4 use to A1 pharmacy |
| <b>Applicant:</b> | WM. Morrison Supermarkets PLC  |
| <b>Agent :</b>    | Peacock & Smith Ltd  |

## Site Plan:



**Development Plan allocation and policies:**

Coastal Zone  
Tourism Development Site

**Planning History:**

OUT/07/06508 Mixed use regeneration scheme incorporating commercial, leisure and tourism facilities, C1 hotel, A1 retail store, A3/A4 units, upgrading public realm and marine lake; ancillary facilities and associated infrastructure (outline) Approved 14/11/2007

DLS/09/05572 Reserved matters application for commercial, leisure and tourism facilities, C1 hotel, A1 retail store, A3/A4 units, upgrading public realm and marine lake; ancillary facilities and associated infrastructure (OUT/07/06508) Approved 23/09/2009

**Summary Of Representations and Consultations Received:****REPRESENTATIONS:**

A site notice was displayed. No objections were received.

Councillor Hackett wrote in support of the application, and requested it be removed from delegation. He set out the Marine Point scheme is the first step to regenerating New Brighton as a whole, and will link Victoria Road to the proposed development, and these two areas should not be segregated. The shops and cafes at Marine Point (such as Morrisons) will compete with those in Victoria Road (such as Forbers greengrocers).

Councillor Glasman wrote in objection to the proposal stating the shops in Victoria Road serve the local population and the loss of the pharmacy would result in a gap in the local shops on offer. For elderly and disabled people and non-drivers the promenade is a less than welcoming place in winter.

**CONSULTATIONS:**

The New Brighton Partnership objected to the application on the grounds the outline consent stated no pharmacies, there is a pharmacy within 0.1 miles of the proposal and 11 in the wider area which will be affected. The units should be for leisure use.

The Merseyside Cycling Campaign objected on lack of secure internal cycle parking for staff and lack of cycle parking for customers.

**DIRECTORS COMMENTS:****REASON FOR REFERRAL TO PLANNING COMMITTEE**

Councillor Hackett requested the application be removed from delegation.

**INTRODUCTION**

The application proposes a change of use from A3/A4 use to an A1 pharmacy for unit 14 at the Marine Point Retail leisure park. .

**PRINCIPLE OF DEVELOPMENT**

The proposed pharmacy is in area allocated as tourism development site, where Policies TLR1, TL2 and Proposal TL4 in the UDP are directly applicable. Retail use is taken to fall outside the definition of tourism in TLR1 and the proposal is not acceptable in principle.

**SITE AND SURROUNDINGS**

The site comprises of a vacant unit adjacent to the supermarket and cinema.

## **POLICY CONTEXT**

UDP Policies TLR1, TL2 & Proposal TL4, SH2 and SH9, RSS Policy W5, and Policies EC10, EC13, EC14, EC15, EC16 & EC17 are relevant. In addition to this, the Council has approved the Wirral Strategy for Town Centres, Retail and Commercial Leisure Report (RTP report, 2009) as a material consideration in the determination of planning applications (Council, 15<sup>th</sup> February 2010, minute 97 refers).

The applicant's agent has submitted a retail and planning statement and two letters with supplementary information on policy matters in January and February 2012.

### **The Statutory Development Plan**

The proposed pharmacy is in area allocated as tourism development site, where Policies TLR1, TL2 and Proposal TL4 in the UDP are directly applicable. Retail use is taken to fall outside the definition of tourism in TLR1 and in line with the existing condition, the proposed pharmacy is not considered essential to support tourist and visitor attractions in the area. Out of centre retail development can only be permitted under UDP Policies SH9 if the Local Planning Authority is satisfied that the benefits outweigh the disadvantages when assessed against criteria, which seeks to ensure the vitality and viability of existing centres is not undermined, takes account of regeneration and environmental benefits, accessibility considerations and ensures there is no adverse impact on overall travel and car use.

RSS Policy W5 makes it clear that proposals should not undermine the vitality and viability of any other centre or result in unsustainable shopping patterns. It should be noted that the Government intends to revoke RSS, subject to the outcome of consultation on Environmental Assessment. RSS will remain part of the statutory development plan until formally revoked.

### **National Policy**

One of the Government's main objectives in PPS4 for achieving sustainable economic growth is promote the vitality and viability of existing centres. Development management policies relating to town centre uses, include the sequential and impact tests set out at Policies EC15 and EC16 and are applicable to proposals to vary or remove planning conditions, which change the range of goods to be sold (Policy EC14.1 refers). The town centre first approach is retained in the draft National Planning Policy Framework (NPPF).

#### *Applications Affecting Shops & Services in Local Centres (EC13)*

EC13.1 (b) indicates that Local Planning Authorities should refuse applications that fail to protect existing facilities that provide for peoples day to day needs. Pharmacies are listed as a typical local shopping centre use in the definitions set out in Annex B of PPS4. New Brighton (Victoria Road) is classed as a Traditional Suburban Centre under Wirral UDP Policy SH2.

According to the Wirral NHS Pharmaceutical Needs Assessment 2011, [www.wirral.nhs.uk/document\\_uploads/Medicines-Mgt/WirralPNAissue1Jan11.pdf](http://www.wirral.nhs.uk/document_uploads/Medicines-Mgt/WirralPNAissue1Jan11.pdf) the existing pharmacy in Victoria Road provides essential local dispensary services including palliative care medicine supply, smoking cessation support, emergency hormonal contraception etc, drugs misuse, alcohol screening and sharps disposal.

The agent has now confirmed that the NHS has approved the relocation of the pharmacy to Morrisons and that the intention is to continue use of the premises in Victoria Road as a non-prescription store with an advice service on healthy eating, weight loss, exercise and body building.

Although the agent indicates that the NHS Regulations enable a pharmacy to relocate elsewhere within 500 metres if there are no significant accessibility barriers, the NHS decision letter does not make clear that topographical and highway barriers have been taken into account. The loss of the pharmacy service and its associated custom to an out of centre location could therefore be grounds for refusal. The potential effects on existing centres from the proposed pharmacy are considered below under terms of PPS4 Policies EC15 and 16.

### *Sequential Approach (EC15)*

A survey by the agent during October 2011 claims 4 vacant units in the New Brighton (Victoria Road) Traditional Suburban Centre are not suitable or viable because they are not within or adjacent to the existing Morrison's Store. It is stated that it is not company practice to operate a stand alone pharmacy. It is also indicated none of the sites were being actively marketed or showed signs of availability. The agent subsequently clarified in January 2012 that the area of search was restricted to Victoria Road local centre in order to comply with the NHS Pharmaceutical Regulations where the process of relocating a pharmacy licence to premises less than 500 metres distant from the existing site is generally more straightforward.

In their February submission, the agent reports the outcome of a site visit in February 2012 which identified two vacant units within the centre. The first, 120 Victoria Road (former Midland Bank) whilst being marketed and therefore available, was considered unsuitable because of the lack of large display windows, the lack of a use for the basement and first floor and on-street parking restrictions immediately outside the premises and unviable because of building costs and no income generating potential of the two vacant floors. The second - 92-94 Victoria Road (former convenience store) was not being actively marketed and therefore considered not available. Proximity to the existing pharmacy, the need for retrofitting and lack of available parking in close proximity (a factor also detrimental to the existing business) rendered the premises unsuitable. The agent does not comment on viability in the absence of evidence of marketing.

Para 6.45 of the PPS4 Practice Guide indicates that more central sites should not be rejected on the basis of self-imposed requirements or preferences and there is no compelling evidence to suggest there have been genuine flexibility in the search for alternative sites due to a self imposed business model. The grounds for rejecting the two premises surveyed in February are unconvincing. The windows at 120 are not that dissimilar to the existing premises. There is only limited evidence of negotiation on terms in relation to 120 Victoria Road or to contact the owners of 92-94. The concerns about car parking should not be taken as a reason for undermining the town centre first approach, especially when shared arrangements are available and their argument is arguably weakened given the applicants stated intention to retain the premises as a drug store.

### *Impact Tests (EC16):*

It can be accepted that there are no implications arising under tests a, c, and e in EC16.1. Impacts on the remaining tests are considered as follows:

#### *(b) Impact on town centre vitality and viability.*

The agent notes evidence reported to Cabinet on 21 July 2011, which shows the Victoria Road Centre is showing signs of weakness and decline, but goes on to assert that their own health check confirms the centre is vital and viable and that the centre is over-represented in the chemist, toiletries and opticians sector. The agent's original assessment acknowledges that key elements which would have an adverse impact include the loss of trade, loss of evening economy and loss of key services and noted that the pharmacy was classed as a key service within the Wirral Strategy for Town Centres Retail and Commercial Leisure ("RTP report"). At that stage it was assumed that the Victoria Road pharmacy would continue trading alongside the opening of the pharmacy at Morrisons.

Following clarification in January 2012 that the pharmacy licence was being transferred to Morrisons, the agent indicated that the existing premises would continue to operate as a non-prescription drug store. As such the agent states that there would be no effect on the level of vacancies in the centre. In terms of quantifying the impact of the loss of pharmacy customers, the agent indicates that there could be a reduction in footfall to the Victoria Road premises of 37.5% - which they do not consider to be significant. However, it could be counter contended that this level of footfall diversion away from Victoria Road could have adverse implications by reducing the opportunity for and attractiveness of linked trips to other shops and services in the centre. There is no evidence to show that the retained store minus the pharmacy function could remain viable in competition with existing stores such as the Co-op Home Bargain and Morrisons. Furthermore retention of the existing premises as a drug store could not be secured under planning legislation.

As indicated under EC13 above, the Wirral NHS Pharmaceutical Needs Assessment 2011 shows that the pharmacy in Victoria Road provides essential dispensary **and other** services. It could be reasonably concluded that this pharmacy provides a valuable and distinct social service for the local community and that the loss of a key service such as this is likely to have an adverse effect on vitality and viability of the Victoria Road centre as whole.

The RTP report and evidence for the forthcoming LDF indicates that there is currently a negative floorspace requirement for comparison retailing within the Borough. There is support for this conclusion through the NHS Pharmaceutical Needs Assessment, which found, after public consultation, that there is no identified need for pharmaceutical services which would be met by commissioning additional pharmacy contracts. It further concluded that the period of growth in commissioning enhanced services in line with local health needs now needs to be matched by a period of consolidation which is focused on ensuring that there is good access and consistent provision across the population for both enhanced and advanced services from existing contractors. With the transfer of the pharmacy licence to Morrisons, it could therefore be difficult for any other business to secure an NHS licence for a pharmacy in Victoria Road centre in the future.

(d) Impact on trade/turnover

The estimate supplied by the agent suggests that the proposed pharmacy would divert £0.35m from a total expenditure rate of £97.83m for comparison goods in the Zone 3b based on the CH45 post code area. This assessment is spread across the centres at Liscard, Wallasey Village, Victoria Road, Seabank Road and out centre pharmacies such as that at Field Road. It is claimed that the impact on Victoria Road would be £0.03m (or 0.37%) from a turnover of £7.59m (based on the original assumption that a pharmacy function would be retained in the Victoria Road unit).

While, the agent contends this is negligible and that trade division should be considered on the any of the centres as whole, it is clear in the Practice Guidance (para, 7.12 & D.30) issued with PPS4 that like for like effects, which can fall disproportionately on competing stores, should be taken into account.

There has been no updated information on the turnover for the pharmacy at Victoria Road since it has been made clear that the proposal involves relocation. Although, it is feasible that there might be a draw on the trade at the Asda Pharmacy (Liscard), it could be reasonable to conclude that impact on the Victoria Rd pharmacy would be more significant than the agent suggests in the original statement dated November 2011.

*Consideration of Town Uses not in a Centre (EC17)*

Policy EC17 PPS4 makes it clear that out of centre retail development should be refused where applicants have not demonstrated:

- a) compliance with the sequential test;
- b) or where there is clear evidence that the proposal will lead to significant adverse impacts in terms of any impact listed in EC10.2 and 16.1.

In terms of the sequential test, the agent's assessment has only covered the New Brighton (Victoria Road) Traditional Suburban Centre and no reasons have been put forward for not including other centres such as Liscard and Wallasey Village other than the requirements of the licence transfer process. In any case, Morrisons business practice not to operate a stand alone pharmacy is not considered to be a compelling reason for rejecting vacant units in the Victoria centre and there is insufficient evidence to demonstrate that the use of vacant in-centre premises has been genuinely sought.

In terms of impact under EC16.1, the main concern is that the draw on trade from the proposed pharmacy could have a negative effect on the existing premises in Victoria Road even if retained as a drug store. The identified reduction in footfall resulting from the loss of the pharmacy function reinforces these concerns. The loss of such a key service in could undermine vitality and viability of the Victoria Road centre as whole and could perpetuate vacancy levels in area that has been subject to regeneration initiatives over the past 20 years to support the local community with a more sustainable neighbourhood.

This needs to be considered with any wider impact considerations under EC10.2. In this regard the agent notes that the existing premises on Victoria Road are two units amalgamated into one, resulting in a unit of differing depths, uneven levels and a restrictive layout which precludes the creation of any further consultation area and with difficulties over wheelchair access. Benefits might be accrued by bringing the new unit adjacent to Morrison's into use, which remains vacant since completion in 2011, and the applicant indicates that 5 full time and 6 part time jobs would be provided. Other potential benefits of the Morrisons location highlighted by the agent include the availability of plentiful car parking, longer opening hours (7 days per week), greater employment opportunities (2 staff minimum working 18 hours per week), 'while you wait' seasonal flu vaccination service, travel health service, weight management service, smoking cessation service, testing/monitoring for cholesterol, blood pressure and blood glucose and enhanced product ranges.

However, while the application site is part of the overall scheme to bring about mixed use tourism related development in the regeneration the New Brighton Waterfront, it be contended that the adverse impacts, which could occur in the Victoria Road centre would outweigh any benefit from introducing a new pharmacy in this particular location.

#### **APPEARANCE AND AMENITY ISSUES**

There are no appearance or amenity implications relating to this proposal.

#### **SEPARATION DISTANCES**

Separation distances do not apply in this instance, as no residential properties will be affected by the proposed development.

#### **HIGHWAY/TRAFFIC IMPLICATIONS**

There are no highway implications relating to this proposal.

#### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

There are no environmental/sustainability issues relating to these proposals.

#### **HEALTH ISSUES**

There are no health implications relating to this application.

#### **CONCLUSION**

The effect of this planning application would be the relocation of an existing pharmacy service - which provides an essential service in the New Brighton (Victoria Road) Traditional Suburban Centre - to a new unit at the Marine Point development, and whose loss has the potential to undermine the vitality and viability of this centre as a whole. No compelling reasons have been put forward to justify why vacant premises in existing centres cannot be utilised for the proposed use and any benefits of the proposal are likely to be outweighed by the adverse effects that be could experienced in the existing centre.

**Recommended                  Refuse**  
**Decision:**

#### **Reason:**

1. The applicant has not demonstrated that the tests in relation to the use of a more central site and the impact on existing centres at Policies EC15 and EC16 of National Planning Policy Statement PPS4 "Planning for Sustainable Economic Growth" (29 December 2009) can be fully satisfied, in which case the proposed use as a pharmacy has the propensity to adversely affect the vitality and viability of the New Brighton (Victoria Road) Traditional Suburban Centre where the loss of an essential service provided by the existing pharmacy could undermine the function of the centre as a whole. The proposed use would, therefore, be contrary to National Planning Policy PPS 4 "Planning for Sustainable Economic Growth"; Policy W5 "Retail Development" of the Regional Spatial Strategy for the North West; and the Wirral Unitary Development Plan Policy SH9 "Criteria for Out of Centre & Edge of Centre Retail Development".

**Last Comments By: 04/01/2012 11:41:47**

**Expiry Date: 16/01/2012**