

Planning Committee

31 March 2011

Reference:
APP/11/00051

Area Team:
South Team

Case Officer:
Mr M Rushton

Ward:
**Birkenhead and
Tranmere**

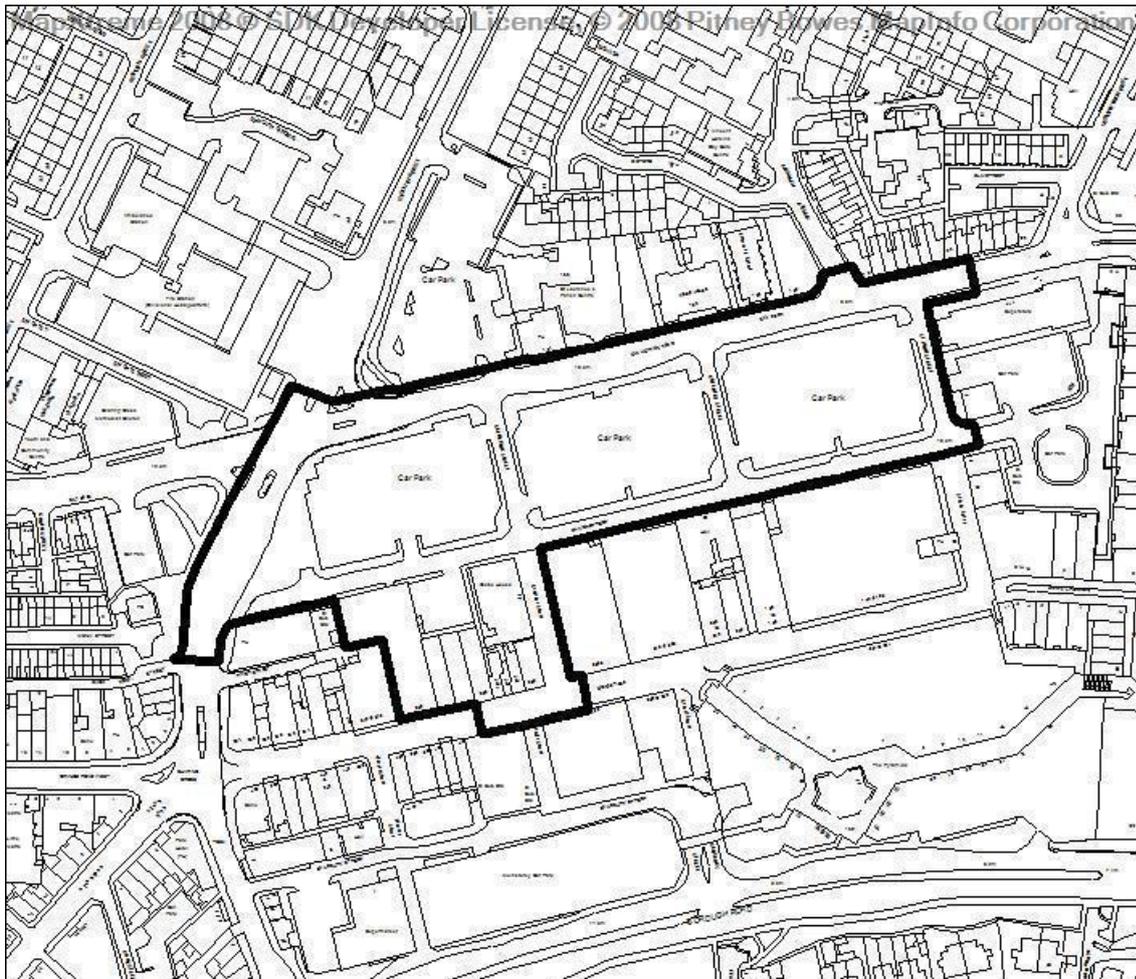
Location: Land bounded by Cloughton Road, St John Street, Grange Road, Exmouth Street, Catherine Street and Oliver Street, Birkenhead, Wirral CH41 6EB

Proposal: Erection of foodstore and associated car parking. Amended proposal without compliance with Condition 11 of planning permission APP/2010/01052 to allow servicing of the store to take place between 6am and 10pm Monday to Saturday, and 6am and 6pm on Sundays.

Applicant: Asda Stores Ltd

Agent : Wcec Architects

Site Plan:



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Development Plan Allocation and Policies:

Primarily Commercial Area

Primarily Residential Area

Key Town Centre

Planning History:

APP/1997/8988 Construction of a car park with 410 spaces. Approved conditionally 15/02/1978
APP/2004/5751 Erection of a foodstore and associated car parking. Approved conditionally 24/06/2005
APP/2007/5951 Erection of a foodstore and associated car parking. Approved conditionally 09/10/2007
APP/2010/01052 Variation of Condition 15 to APP/2007/5951 (for the erection of a foodstore and associated car parking) to revise elevations and reduce massing - Approved conditionally 29/09/2010

Summary Of Representations and Consultations Received:

REPRESENTATIONS

53 letters of neighbour notification were issued and a Site Notice displayed. At the time of writing, one objection has been received, outlining the following concerns:

- most people are sleeping between the hours of 2300 and 0700, and these hours are reasonable - approval of 0600 would cause unacceptable intrusion to town centre residents, especially those living in Menai Street
- residents already experience noise and disturbance from Town Centre uses
- commercial considerations should not be given weight
- queuing of vehicles accessing the servicing yard should be addressed through other legislation

CONSULTATIONS

Director of Technical Services (Traffic Management/Highway Maintenance) - no objection subject to the reiteration of conditions imposed to the grant of permission APP/2010/01052.

Director of Law, HR and Asset Management - no objections.

Director's Comments:

INTRODUCTION

The application is made under section 73 of the Town and Country Planning Act 1990. Section 73 (s73) permits the determination of applications to develop land without compliance with conditions previously attached. In this case, the application seeks to vary the requirement to comply with condition 11 of planning permission APP/2007/5951. Condition 11 reads as follows:

Servicing of the store shall only take place between 7am and 10pm Monday to Saturday and between 7am and 6pm on a Sunday.

The condition would be varied to read:

Servicing of the store shall only take place between 6am and 10pm Monday to Saturday and between 6am and 6pm on a Sunday.

The development which the application under s.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. These applications should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, but Local Planning Authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.

PRINCIPLE OF DEVELOPMENT

As noted above, the principle of development was established by the previous grant of permission APP/2007/5951. Consideration must be given to the impacts of the revised servicing proposed, having particular regard to residential amenity and the character of the area.

SITE AND SURROUNDINGS

The site is approximately 2.81ha and is located within Birkenhead Key Town Centre. It is situated on the corner of Exmouth Street and Claughton Road. The majority of the site is occupied by the Claughton Road 'pay and display' car park, however the development also involves the demolition of

retail premises nos 222 to 238 Grange Road. The surroundings, beyond the roads that immediately bound the site, include a mixture of uses through Use Classes A, B, C and D. The nearest residential properties are located to the west on Menau Street, west of Exmouth Street and north of Claughton Road.

POLICY CONTEXT

Wirral Unitary Development Plan:

Policy SH1 - Criteria for Development in Key Town Centres

National:

Planning Policy Statement 4: Planning for Sustainable Economic Growth

PPS24: Planning and Noise

The application site remains within Birkenhead Key Town Centre, as defined within the proposals map of the adopted Unitary Development Plan. UDP Policy SH1 outlines that such A1 applications will be permitted in Key Town Centre locations, subject to consideration of eight criteria.

Since the grant of permission APP/2007/5951, Planning Policy Statement 4 (PPS4) has replaced the previous guidance in Planning Policy Statement 6. PPS4 identifies that Local Planning Authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.

APPEARANCE AND AMENITY ISSUES

The grant of APP/2007/5951 gave permission for demolition of 222 to 238 Grange Road and Globe house (Catherine Street/Oliver Street), and the erection of a foodstore of 8,800 square metres gross floorspace, 5,998 sq metres net floorspace. The proposal included the erection of a decked car park on the site of the existing Claughton Road Car Park. The car parking deck would be accessible by shoppers to the proposed store and the general public visiting Birkenhead Town Centre. The main pedestrian entrance to the store would be from Grange Road at the junction with Catherine Street, with secondary entrances at Catherine Street through the two levels of the proposed parking areas. The service yard would have access from Exmouth Street. Below the store, and making use of the fall in levels between Grange Road and Claughton Road, would be an undercroft car parking area, with surface access on the east side of the store near Claughton Road, but becoming a basement car park towards Grange Road.

The grant of APP/2010/01052 gave permission for a revised scheme, with alterations to the external elevations of both the foodstore and car park, including a reduction in the massing of the buildings, design amendments and a simplified internal layout to the car park.

The current application seeks planning permission to alter servicing to permit earlier access to the store. Servicing would take place from 6am each morning. No alteration is sought to the evening restriction to servicing, or to opening hours for the store.

The changes, whilst going beyond the window that is outlined in PPS24 as that time when people would normally be sleeping (0700 to 2300), would take place within a Key Town Centre location. The nearest residential properties are located approximately 90m from the proposed servicing yard to the store, separated from the development by the busy Exmouth Street. The servicing yard would be relatively enclosed, and as such potential for noise and disturbance would be reduced. The applicant has outlined rationale for the variation of condition sought, given the requirement for fresh food to be unloaded prior to store opening and the need to avoid lorries queuing on the adopted highway.

The changes are considered acceptable having regard to UDP Policy SH1 and PPS24.

SEPARATION DISTANCES

Separation distances remain unaltered by the application.

HIGHWAY/TRAFFIC IMPLICATIONS

The Director of Technical Services (Traffic Management and Highway Maintenance) has raised no objection to the proposed development.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

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

CONCLUSION

The proposal is acceptable in terms of adopted Unitary Development Plan Policy SH1, Planning Policy Statement 4 and Planning Policy Statement 24, and to preserve residential amenity.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal is acceptable in terms of adopted Unitary Development Plan Policy SH1, Planning Policy Statement 4 and Planning Policy Statement 24, and to preserve residential amenity.

Recommended Decision: **Approve**

Recommended Conditions and Reasons:

1. The development to which this permission relates must be begun not later than the 9th October 2010.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The details shall include the construction of a sample panel of proposed brickwork and pointing on site. The development shall be carried out in accordance with the approved materials and sample panel detailing. The approved sample panel shall be retained on site until removal is authorised by the local planning authority.

Reason: In the interests of visual amenity having regard to UDP Policy SH1.

3. Development shall not commence until a scheme for the provision of cycle parking has been submitted to and agreed in writing by the local planning authority. The cycle parking facility shall be erected in accordance with the approved details prior to the occupation of the development hereby approved and retained as such thereafter.

Reason: To promote the use of more sustainable forms of transport. This condition is imposed having regard to policy TR12 (Requirements for Cycle Parking) of the Wirral Unitary Development Plan.

4. Details of land / surface water drainage shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The drainage scheme shall be carried out in accordance with the approved details prior to the development hereby approved being brought into use.

Reason: To ensure satisfactory land drainage and to prevent flooding.

5. The car parking area(s) shall be suitably formed and hard-surfaced concurrently with the remainder of the development to the satisfaction of the Local Planning Authority in accordance with details to be submitted to and agreed in writing with the Local Planning Authority before development commences. The car parking area(s) shall be retained thereafter.

Reason: In the interests of highway safety.

6. Details of any security or floodlighting shall be submitted to and agreed in writing with the Local Planning Authority before any such lighting is brought into use.

Reason: To ensure that adequate and appropriate lighting is provided, having regard to Policy SH1 of the Wirral Unitary Development Plan.

7. Development shall not be commenced until a Travel Plan has been submitted to and approved in writing by the local planning authority. The provisions of the Travel Plan shall be implemented and operated in accordance with the timetable contained therein and shall not be varied other than through agreement with the local planning authority.

For the avoidance of doubt, such a plan shall include:

- Access to the site by staff and visitors;
- Information on existing transport services to the site and staff and visitor travel patterns;
- Travel Plan principles including measures to promote and facilitate more sustainable transport;
- Realistic targets for modal shift or split;
- Identification of a Travel Plan co-ordinator and the establishment of a travel plan steering group;
- Measures and resource allocation to promote the Travel Plan; and
- Mechanisms for monitoring and reviewing the Travel Plan, including the submission of an annual review and action plan to the local planning authority.

Reason: In accordance with PPG13 paragraph 89, the Government considers that travel plans should be submitted alongside planning applications which are likely to have significant transport implications, including those for: All major developments comprising jobs, shopping, leisure and services (using the same thresholds as set out in annex D).

8. The gross retail floorspace of the building hereby permitted and as shown on the approved plans, shall not exceed 5,998 square metres. For the avoidance of doubt, the gross floor space is shown shaded purple on the approved drawing numbers 445-080H and 445-081J.

Reason: Having regard to Policy SH1 of the adopted Wirral UDP and advice contained within PPS4, it is considered important to ensure that no additional development is carried out without the permission of the Local Planning Authority.

9. There shall be no sub-division or creation of additional floorspace within the buildings hereby permitted and as shown on the approved plans.

Reason: Having regard to Policy SH1 of the adopted Wirral UDP and advice contained within PPS4, it is considered important to ensure that no additional development is carried out without the permission of the Local Planning Authority.

10. No customer shall be admitted to the premises after 22:00 or before 08:00 hours Monday to Saturday and after 17:00 or before 10:00 hours on Sundays and Bank Holidays.

Reason: To ensure that the store is not used at a time, which would be likely to cause nuisance or disturbance to nearby residents, having regard to Policy SH2 of the Wirral Unitary Development Plan.

11. Servicing of the store shall only take place between 6am and 10pm Monday to Saturday and between 6am to 6pm on a Sunday.

Reason: In the interests of residential amenity.

12. No development shall be commenced until full details of soft and hard landscaping have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall detail the locations, species and heights of all existing and proposed trees, shrubs and hedge planting and all existing and proposed grassed and hard surfaced areas and any other natural or proposed features.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and having regard to Policy GR5 (Landscaping and New Development) of the Wirral Unitary Development Plan.

13. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years from the completion of the scheme shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and having regard to Policy GR5 (Landscaping and New Development) of the Wirral Unitary Development Plan.

14. All hard and soft landscape works shall be carried out in accordance with the approved details as set out in Condition 12. The works shall be carried out in accordance with a programme to be agreed with the Local Planning Authority.

Reason: For the avoidance of doubt.

15. The development hereby approved shall be carried out in accordance with the details shown on the plan(s) received by the local planning authority on 6 August 2007 (for the avoidance of doubt, the approved plans are numbered as 445-002E, 445-080H, 445-081J, 445-082E, 445-086A, 445-089E, 445-098B, 445-101 and 445-103H); on 21 August 2007 (for the avoidance of doubt, the approved plan is Singleton Clamp drawing no. SCP/04303/PHW01D), and; on the 17th September 2010 (for the avoidance of doubt the approved plans are numbered 09-083 PL-01 Rev A, 09-083 PL-02 Rev B and 09-083 PL-100).

Reason: For the avoidance of doubt.

16. Prior to the commencement of development a suitable scheme of fume extraction for all in store cooking processes shall be submitted to and approved in writing by the Local Planning Authority. Upon receipt of written approval all details must be implemented in full prior to the opening of the development hereby approved and retained as such thereafter.

Reason: In the interests of amenity having regard to Policy SH1 of the Wirral UDP.

17. Prior to the commencement of development a suitable scheme of sound insulation for roof mounted plant machinery shall be submitted to and approved in writing by the Local Planning Authority. Upon receipt of written approval all details must be implemented in full prior to the opening of the development hereby approved and retained as such thereafter.

Reason: In the interests of amenity having regard to Policy SH1 of the Wirral UDP.

18. The servicing area, including space for manoeuvring, loading and unloading of servicing vehicles, shall be formed and hardsurfaced concurrently with the development to which it relates, in accordance with the details to be submitted to and agreed in writing by the Local Planning Authority before the development commences.

Reason: In the interests of amenity having regard to Policy SH1 of the Wirral UDP.

19. The servicing area, including space for manoeuvring, loading and unloading of servicing vehicles, shall be formed and hardsurfaced concurrently with the development to which it

relates, in accordance with the details to be submitted to and agreed in writing by the Local Planning Authority before the development commences.

Reason: To provide adequate servicing facilities to serve the development.

20. That should the opening of the food store be delayed beyond 2010, an addendum to the submitted Transport Assessment must be submitted prior to opening that addresses possible changes to the highway network performance based on a scope to be agreed with the local planning authority. Upon receipt of written consent from the Local Planning Authority all development must be carried out in full accordance with the documentation hereby approved.

Reason: To identify the impact of possible material changes to the highway network performance should the construction period be delayed and to identify any further appropriate mitigation measures.

21. The customer car park must be closed by 23:00 or before 07:00 hours Monday to Saturday and after 18:00 or before 09:00 hours on Sundays and Bank Holidays.

Reason: In the interest of residential amenity.

22. The developer covenants not to permit any building or any part thereof (save for the car park or any part thereof) constructed on the development land pursuant to the permission to be occupied for or open for trading without the written consent of the Council unless and until the highway works as defined in drawing number SCP/04303/EXT/02 Rev C in the Section 278 Agreement have been completed and every Certificate of Substantial Completion has been issued in accordance with the Agreement.

Reason: In the interests of highway safety

Last Comments By: 16/03/2011 10:44:12
Expiry Date: 15/04/2011