

Planning Committee

03 January 2012

Reference:
APP/11/01118

Area Team:
South Team

Case Officer:
Ms C Berry

Ward:
**Birkenhead and
Tranmere**

Location: Land to the North, South and East of Gasholders, Hind Street, Birkenhead, Wirral CH41 5DA

Proposal: Application to replace an extant planning permission 2005/07764 - Erection of non food retail, office, trade sales, restaurant/public house, car showroom and crèche (Outline)

Applicant: National Grid Property Holdings LTD and Homes and Communities Agency
Agent : Indigo Planning Ltd

Site Plan:



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Development Plan Designation and Policies:

Employment Development Site
Primarily Industrial Area
Major Highway Scheme

Planning History:

OUT/05/07764 - Erection of non food retail, office, trade sales, restaurant/public house, car showroom and crèche (Outline) approved subject to Section 106 12.1.09

OUT/88/05158 - Erection of a 76,000 sq ft retail floorspace and layout of car parks, pedestrian access and bus lay-by at former railway land south east of Mollington Street, refused 06.07.1988

APP/88/06253 - Erection of a 40,000 sq ft retail store and car parking at land bounded by Tunnel Road, Borough Road East, Waterloo Place and Railway.
Refused, 06.07.1988

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

Having regard to the Council's Guidance on Publicity for Planning Applications, 329 notifications were sent to surrounding properties and a site notice was displayed. At the time of writing, no representations have been received.

CONSULTATIONS:

Merseyside Cycling Campaign commented that cycle parking provision and storage facilities should be provided.

Director of Law, HR and Asset Management (Pollution Control Division) - No objections subject to conditions.

Director of Technical Services Traffic & Transportation Division) - No objections subject to conditions.

Director's Comments:**REASON FOR REFERRAL TO PLANNING COMMITTEE**

The proposal is a major planning application as defined in the Council's Scheme of Delegation for Determining Planning Applications which requires the application to be determined by Planning Committee.

INTRODUCTION

The proposal is to renew an extant outline planning permission for the erection of non food retail (A1), office (B1), trade sales, restaurant/public house (A4/A3), car showroom and crèche (D1) previously approved in January 2009 under reference OUT/2005/07764. The details previously approved as part of the outline application were the means of access to the site and the layout of the buildings. The design and external appearance of the proposal and the landscaping of the site were reserved for subsequent consideration as part of any reserved matters.

PRINCIPLE OF DEVELOPMENT

The site is located within an area allocated as an Employment Development Site and designated as part of Primarily Industrial Area in the Wirral UDP. The principle of the development has been established due to the previous outline approval.

SITE AND SURROUNDINGS

The site is bounded by Hind Street, the rail tunnel leading to Birkenhead Central railway station to the south, Birkenhead Central railway station to the west and a redundant railway line to the east.

POLICY CONTEXT

National Planning Policies in PPS1 - Delivering Sustainable Development and PPS4 - Planning for Sustainable Economic Growth are relevant.

There has been no material change in the Unitary Development Plan (as saved upon Direction of the Secretary of State on 28th September 2007) in relation to the current proposal. The site is located within an area allocated as an Employment Development Site and designated as part of Primarily Industrial Area in the Wirral UDP. Development within this area is subject to UDP Proposal EM3 and Policies EM8 and EM9 although Policies SHO1, SH9, SH10, TR5, TR8, TR9 and TR12 are also relevant. In addition to this, the Council has since approved the use of 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, 15th February 2010, minute 97 refers).

However, new Regional and National Planning Policy has been introduced since the Planning Committee resolved to grant outline planning permission for the scheme in 2007.

The North West of England Regional Spatial Strategy to 2021(RSS) was issued by the Secretary of State in September 2008). For Wirral, Birkenhead is identified within the inner area of the Liverpool City Region where plans and strategies should focus programmes to maximise economic potential and promote urban renaissance. Although the Government intends to abolish the Regional Spatial Strategy, subject to the outcome of Strategic Environmental Assessment, it is currently part of the Development Plan for Wirral and should be used in conjunction with the UDP policies. RSS Policies DP2, DP3, DP4, DP5, DP7, DP9, RDF9, LCR1 and LCR2 are relevant. If RSS is abolished, the Council's Broad Spatial Strategy in Preferred Option PO4 for the future Local Development Framework Core Strategy is to continue to focus jobs and promote urban regeneration in Birkenhead.

National Planning Policy Statement PPS4 'Planning for Sustainable Growth' was published on 29th December 2009, which introduced new tests on economic development and town centre uses. This supersedes the former PPS6. PPS1, & PPG17 remain as material considerations, although it should be noted that the Government has consulted on a National Planning Policy Framework, which is intended to replace existing PPS's, PPG's and associated guidance.

Uses within the proposed development

The mix of uses is unchanged from the existing planning permission, which include:

A1 non-food retailing		8,500 sq m
B1 office/commercial		1,800 sqm
'Trade Sales'		2,000 sq m
Car showroom		1,500 sq m
A4/A3 Restaurant/public house	400 sq m	
D1 Crèche		200 sq m

The B1 and car showroom uses are consistent with the allocation and designation of the land under EM8/EM9, although offices continue to be identified as a town centre use under the terms of PPS4. Trade counters can also be accepted subject to the same condition to ensure the floorspace remains ancillary to main industrial/storage use within the buildings.

The A1, A3/A4 and D1 uses however, remain contrary to UDP Policies EM8 and EM9. UDP Policy EM9 specifically states that retail use would not be permitted on land allocated for employment purposes. UDP Policy EM8 only makes provision for B1, B2 and B8 or for the reconstruction of existing businesses in primarily industrial areas.

The applicant has produced an updated town centre assessment to take account of PPS4 and the RTP report. The assessment considers the application proposals against the various policy tests in PPS4 – EC10, EC15 and EC16.

In relation to EC10, The Local Planning Authority accepts the applicants' conclusions that the criteria in EC10 largely replicate the considerations applied to the original granting of planning permission, albeit in a different form and that so far as it is possible to consider at outline stage, the application proposals will have a positive impact against the criteria in EC10

Updated Sequential Assessment PPS4, EC15

The applicant has been asked to consider the change in circumstances whereby vacant town centre premises at the Former Rank Bingo Hall, Conway Street and land at Europa Boulevard are no longer committed to proposals for long term use. Vacant buildings at the Former TJ Hughes, Borough Pavement and Wirral Point, Claughton Road have also been taken into account. These premises are capable of accommodating some of the town centre uses in the proposed development. However, the Hind Street scheme is capable of delivering significant edge of centre regeneration benefits including improved linkage to the town centre and has the potential to create 550 jobs in one of the most deprived areas in the Borough. It remains the case that there are no sites and/or premises in sequentially preferable locations which would be capable of accommodating the proposed development as a whole. The proposed retail element is considered to be a key enabling component for achieving comprehensive development and the associated regeneration benefits. Thus, in these particular circumstances, it can be reasonably contended that it would not be appropriate to require the applicant to disaggregate parts of the scheme to the vacant town centre sites.

The crèche is not classified as a main town centre use in PPS4, and given the small amount of floorspace proposed; this can be almost regarded as an ancillary activity to the main development on the site

Retail Impact PPS4, EC16

The quantitative assessment in the RTP Report 2009 concluded there would be no capacity in customer spending power to support additional retail floorspace for compassion goods within the Borough until 2014; the position on spending power is likely to have deteriorated in the current economic circumstances. However, the RTP Report concluded that there is a qualitative need to enhance the offer of comparison goods retail in Birkenhead Town Centre to retain or claw back spending power of Wirral residents and stave of the some of the competition from Liverpool and Chester.

The applicant has provided a further impact assessment against the matters outlined in PPS4, EC16.1 and contends that the Hind Street scheme represents a key means by which trade retention can be achieved and that any impact would be neutral impact on the vitality and viability and future investment Birkenhead Town Centre

It can still be concluded that the proposed development would not jeopardise the spatial planning strategy for Wirral in general, nor alter its role in the hierarchy of centres. It should if anything, help to safeguard the role of Birkenhead as a sub-regional centre and as the main shopping centre for Wirral. Enhancement of the pedestrian routes would also provide the opportunity for linked shopping trips between the application site and the town centre. In addition to this, the scheme can bring considerable improvement to the quality of the environment in the southern approaches to the town centre, with the development of a vacant underused site in a prominent gateway location.

Overall it can be accepted that there is a qualitative need for the retail element of the development and that there would be no conflict with the requirements of Policy EC 16 in PPS4.

APPEARANCE AND AMENITY ISSUES

The outline proposal includes the means of access to the site and the siting of the units. The remaining issues of design, appearance and landscaping were reserved in the original outline approval for subsequent consideration as reserved matters. This proposal is to renew the original permission and there are no proposed changes to layout or the means of access as previously approved. The layout of the proposal, the redevelopment as a whole will significantly improve the appearance of the area by providing physical and economic regeneration.

The proposed buildings (8 in total) would be located around the site with the two largest buildings (the non-food retail units) being located to the south of the site and the Public House and one of the B1 Office Units being located to the north of the site in close proximity to the train station. The precise design of the units and the landscaping of the site would be considered under the subsequent reserved matters application.

SEPARATION DISTANCES

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

HIGHWAY/TRAFFIC IMPLICATIONS

Vehicular access to the development will be via the existing Borough Road/ Argyle Street roundabout to the north and the A41 New Chester Road/Chester Street/Mollington Link roundabout to the east. Mollington Link will be extended to connect with Hind Street, enhancing vehicular, pedestrian and cycle linkage to the town centre. The extension of Mollington Link will also increase accessibility from the town centre and the proposed development to the established Rock Retail Park.

The original outline approval was subject to a section 106 agreement for highway improvements. The requirement for the section 106 was relaxed and replaced with a Grampian style planning condition, which effectively seeks details of the highway works prior to the occupation and/or commencement of use of the building. This was agreed by Planning Committee in January 2009 and a copy of the report is attached for information. The agreed condition is proposed for this renewal application.

The proposed development will incorporate a number of sustainable transport improvements including pedestrian linkages with the town centre to encourage linked trips and providing cycle lanes. The imposition of a planning condition for the required highway improvements will serve to improve the highway network and public transport infrastructure surrounding the site.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

PPS4 introduces the requirement to assess proposals for economic development against impact considerations such as climate change and quality design. The applicant has addressed such issues and states that the development will be built to a high design specification including sustainable construction and carbon reduction measures and details will be submitted at reserved matters stage.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

The only changes in circumstances since the previous outline approval is the need for proposals to accord with National Planning Policy PPS4, which replaces PPG6, the adoption of the 2009 RTP report as a material consideration and for the applicant to consider more up to date information on vacant sites in Birkenhead Town Centre. . It is considered that the applicant has provided satisfactory justification against the key policy tests relating to the town centre uses in the proposed development, in terms of sequential approach and retail impact. The proposals have the potential to deliver significant urban regeneration benefits and the redevelopment of the site will have a positive impact on the physical and economic regeneration of the area whilst increasing accessibility to a wider range of services and employment opportunities. The renewal of the outline approval is therefore recommended for approval.

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 only change in circumstances since the previous outline approval is the need for retail proposals to accord with National Planning Policy PPS4, which replaces PPG6 and for the applicant to consider more up to date information on alternative sites in Birkenhead Town Centre. It is considered that the applicant has provided satisfactory justification against the key policy tests relating to the town centre uses in the proposed development, in terms of sequential approach and retail impact. The proposals have the potential to deliver significant urban regeneration benefits and the redevelopment of the site will have a positive impact on the physical and economic regeneration of the area whilst increasing accessibility to a wider range of services and employment opportunities. The renewal of the outline approval is therefore recommended for approval.

Recommended **Approve**
Decision:

Recommended Conditions and Reasons:

1. Approval of the detail of the design and external appearance of the building(s) and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before the development is commenced.

Reason: To comply with the Town and Country Planning Act 1990

2. Application for approval of reserved matters must be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004

3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: {To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4. 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 31st May 2007.

Reason: For the avoidance of doubt

5. Notwithstanding the provision of Class A1 of the schedule to the Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment), none of the following goods shall be sold from the retail stores:
 - (a) food and drink for consumption off the premises;
 - (b) any clothing, footwear (other than specialist items related to the carrying out of DIY and home improvements), handbags, fashion accessories, jewellery and silverware;
 - (c) books, newspapers, magazines and stationery (other than specialist publications relating to the carrying out of DIY and home improvements);
 - (d) crockery, glassware, china and kitchenware (other than ancillary to the sale of kitchens);
 - (e) toys (excluding outside play equipment);
 - (f) pets and pet products;
 - (g) sports equipment and clothing (including walking and climbing equipment);
 - (h) camping equipment;
 - (i) cosmetics, pharmaceuticals and toiletries;
 - (j) audio visual equipment, computers and computer games, cameras and films, watches, electrical and non-electrical musical instruments;
 - (k) Videos, DVDs, CDs, audio cassettes and records (other than specialist items relating to the carrying out of DIY and home improvements);
 - (l) mobile phones and other household/personal telecommunications equipment;
 - (m) electrical and gas fires, gas storage heaters, irons, vacuum cleaners, sewing machines;
 - (n) dishwashers, electrical and gas cookers, washing machines, microwaves, refrigerators and freezers and other cooking equipment (unless sold as ancillary to the sale of other types of goods such as kitchen units);
 - (o) tobacco;
 - (p) florist items;

(q) travel agency;
(r) soft furnishings and household textiles (other than beds and other upholstered furniture).

Reason: To safeguard the vitality and viability of Birkenhead Town Centre in accordance with Policy SH1 of the Wirral Unitary Development Plan

6. Any units to be used for the sale of goods under Class A1 of the schedule to the Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment) must be a minimum of 1000 sq m gross internal floorspace (ideally to be agreed with applicant prior to determination).

Reason: To safeguard the vitality and viability of Birkenhead Town Centre in accordance with Policy SH1 of the Wirral Unitary Development Plan

7. The Gross Retail floorspace for the whole of the development hereby approved shall not exceed 8,500 sq metres.

Reason: To safeguard the vitality and viability of Birkenhead Town Centre in accordance with Policy SH1 of the Wirral Unitary Development Plan

8. The percentage of floorspace in units described as Trade or Trade Counter uses given over to trade counter use should not exceed 10% of the total gross floorspace of the unit. Such units should be used for no purpose within Use Class A1 of the schedule to the Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment).

Reason: To safeguard the vitality and viability of Birkenhead Town Centre in accordance with Policy SH1 of the Wirral Unitary Development Plan

9. No work shall commence until detailed plans of the junction with the Mollington Link and the access with The Rock Retail Park and Wickes DIY store have been submitted to and agreed in writing with the Local Planning Authority and have been subject to a stage 1 and 2 Safety Audit. The approved scheme of works shall be carried out in full accordance with the approved scheme of works prior to any part of the development first being brought into use and shall be retained as such thereafter.

Reason: In the interests of highway safety

10. 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) and in the interests of sustainable transport.

11. The reserved matters application shall include full details of the proposed opening hours of all of the proposed uses.

Reason: In the interests of amenity

12. A ground contamination survey shall be undertaken, taking into account any potential contaminants from all known previous land uses. Should this survey identify any such contaminants, then a scheme of remediation to render the site suitable for use shall be submitted to and agreed in writing with the Local Planning Authority. A statement giving precise details of the nature and extent of any such remediation, together with certification that the site has been made suitable for its intended use shall be submitted to and approved by the Local Planning Authority. All operatives on site should be made aware of the health and safety implications from any contaminants present on site prior to commencing work. Development shall be carried out in accordance with the approved remediation scheme.

Reason: In the interests of public health and environmental protection and in the interests of the safety of users of the site

13. No building or any part thereof constructed as authorized by this permission shall be occupied or be open for trading unless and until:

(a) The Local Planning Authority has approved in writing a full scheme of works:

(i) to convert the three existing pelican crossing facilities at (specify locations) to puffin crossings,

(ii) to carry out works of improvement to the New Chester Road Mollington Link/A41 Chester Street Junction Roundabout;

(iii) to carry out works to provide a traffic signal control at the junction of Central Roundabout Argyle Street/Hind Street; and,

(iv) to carry out works associated with the alteration of existing traffic regulation order to make Hind Street two traffic flow.

And

(b) The approved works have been completed in accordance with the Local Planning Authority's written approval and have been certified in writing as complete on behalf of the Local Planning Authority,

unless alternative arrangements to secure the specified works have been approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

Last Comments By: 28/10/2011 14:42:23
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