

# Planning Committee

27 March 2012

**Reference:**  
**APP/12/00031**

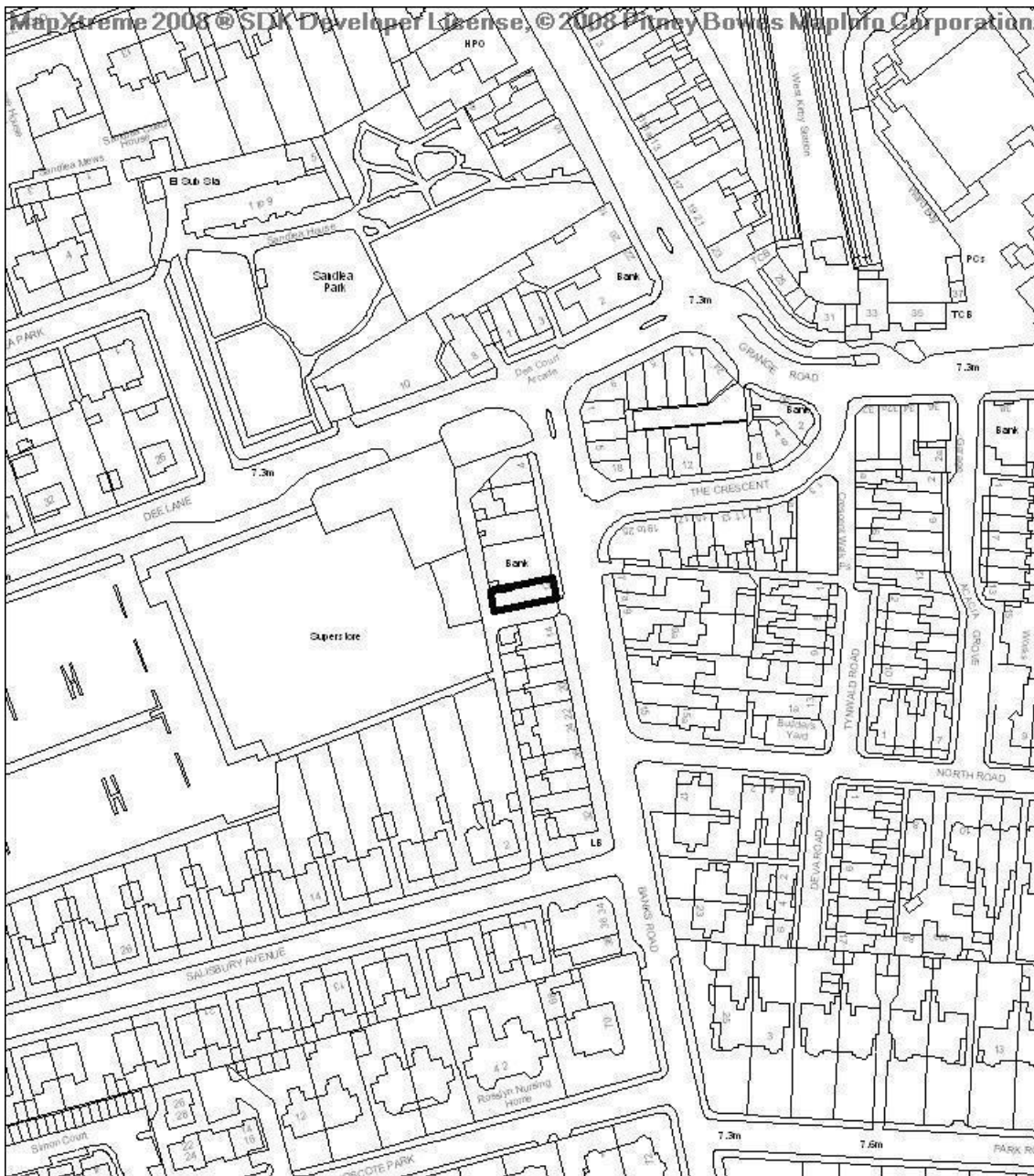
**Area Team:**  
**North Team**

**Case Officer:**  
**Miss S McIlroy**

**Ward:**  
**Hoylake and Meols**

**Location:** Scotts Country Produce, 12 BANKS ROAD, WEST KIRBY, CH48 4HB  
**Proposal:** Change of use from A1 to A5  
**Applicant:** Easynax  
**Agent :**

## Site Plan:



## **Development Plan Designation:**

Key Town Centre  
Tourism Development Site

## **Planning History:**

No relevant planning history

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

### **REPRESENTATIONS**

Having regard to the Council Guidance on Publicity for Applications, 14 notifications were sent to adjoining properties. A site notice was also displayed. As a result 6 letters of objections were received from occupiers at 12a Banks Road, 14 Banks Road, 6 Salsbury Avenue, 1 Woodlands Lane, 19 Hydro Avenue and 32 Eaton Road. Objections can be summarised as:

1. Over populated use within area
2. Rubbish
3. Fumes
4. Affecting other established businesses of same use
5. Parking issues
6. Noise

Additionally, a qualifying petition has been received listing signatures from 36 separate households objecting to the proposed change of use on the grounds of additional noise and light pollution, odours, littering, possible attraction of late night disorderly behaviour to the neighbourhood.

### **CONSULTATIONS**

Director of Technical Services (Traffic and Transportation Division) - Raised no objection

Director of Law, HR and Asset Management (Environmental Health Division) - Raised no objections subject to conditions

## **Directors Comments:**

### **REASON FOR REFERRAL TO PLANNING COMMITTEE**

A qualifying petition has been received listing signatures from 36 separate households objecting to the proposed change of use on the grounds of additional noise and light pollution, odours, littering, possible attraction of late night disorderly behaviour to the neighbourhood.

### **INTRODUCTION**

The proposal seeks planning permission for the change of use from A1 and A5.

### **PRINCIPLE OF DEVELOPMENT**

In principle the proposal is considered acceptable subject to the consideration of policies contained within Wirral's Unitary Development Plan, notably Policy SH1.

### **SITE AND SURROUNDINGS**

12 Banks Road is a vacant building located within the Key Town Centre of West Kirby. As such, commercially used buildings bound the application site to the north, east, south and west. There is a vehicle access which divides the application site and 14 Banks Road, this building operated as a fish and chip shop/restaurant

### **POLICY CONTEXT**

The planning application relates to the change of use from A1 to A5 (Hot Food Takeaway). Policy SH1 - Criteria for Development in Key Town Centres of Wirral's Unitary Development Plan and Supplementary Planning Document 3 - Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments are directly relevant in this instance.

The main issues to consider when assessing applications relating to A5 uses is whether such a use would cause a detrimental level of noise and nuisance to neighbouring properties. SPD3 requires that A5 uses achieve a 40 metre separation distance from the nearest building solely in use as a residential dwelling. This distance is measured along the public highway. Policy SH1 of Wirral's Unitary Development Plan directs hot food takeaways towards designated town centres.

### **APPEARANCE AND AMENITY ISSUES**

The nearest residential property, 2 Salsbury Avenue is measured to be 73 metres away from the application site. The proposal therefore meets the required separation distance stated in SPD3 and is not considered to result in any potential harm to residential amenity.

The Director of Law, Human Resources and Asset Management (Pollution Control Division) was consulted with regards to the proposal. No immediate objections were raised subject to the imposition of conditions requiring a noise insulation scheme and a fume extraction scheme to be submitted to and approved by the Local Planning Authority. It is considered that concerns raised relating to potential odours will be controlled with the installation of a fume extraction system.

The applicant has detailed within the application forms that they wish to trade the hours of opening from 11.00-23.00 Monday-Sunday, including Bank Holidays. Concerns have been raised relating to late night disturbance. As the building is located within a Town Centre, the request of the opening hours of the premises and the proposal complying with the 40 metre separation distance specified within SPD3, it is considered that any potential late night disturbance would be minimal to local residents. The requested hours are consistent with the advice within Planning Policy Statement 24: Planning and Noise, which identifies 23.00 to 07.00 as the hours when high levels of noise should be avoided, and when people are normally sleeping.

The requested opening hours do not seem unreasonable due to the premises location being in a Town Centre. However, a condition will be attached to ensure the enforceability of the opening hours. Subject to the condition, it is considered that the proposed use would result in minimal impact to the surrounding area in relation to noise and disturbance.

Overall, there is a wide variety of commercial uses within West Kirby Town Centre. Whilst it is acknowledged that there are several other hot food takeaways within the area it is not considered that the proposal will not result in an over-concentration of such uses. The proposed development will alleviate one of the vacant units in the town centre which should be encouraged.

The applicant has agreed to enter into a Section 106 Agreement to provide one litter bin outside the premises which will help to alleviate any potential problems with regards to litter around the immediate area of the site.

Concerns raised relating to the proposal affecting other established businesses of the same use and light pollution do not warrant a refusal on the application.

### **SEPARATION DISTANCES**

2 Salsbury Avenue is the nearest residential dwelling to the application site, measured to be 73 metres away from the application site and complying with the 40 metre separation distance specified within SPD3.

### **HIGHWAY/TRAFFIC IMPLICATIONS**

There are no significant highway implications relating to this proposal. The Director of Technical Services (Traffic and Transportation Division) has raised no objection to the proposal.

### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

There are no significant environmental/sustainability issues relating to these proposals. The Director of Law, Human Resources and Asset Management (Pollution Control Division) has raised no objection to the proposal subject to conditions being imposed relating to a noise insulation and fume extraction scheme to be submitted

### **HEALTH ISSUES**

There are no significant health implications relating to this application.

## **CONCLUSION**

The proposal complies with Policy SH1 of Wirral's Unitary Development Plan and Supplementary Planning Document 3. The proposal is not considered to have an adverse impact to the surrounding area nor to the amenities of neighbouring uses.

### **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 complies with Policy SH1 of Wirral's Unitary Development Plan and Supplementary Planning Document 3. The proposal is not considered to have an adverse impact to the surrounding area nor to the amenities of neighbouring uses.

**Recommended Decision:**                      **Approve subject to a s106 Legal Agreement**

### **Recommended Conditions and Reasons:**

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. A suitable noise insulation scheme between the ground floor and the first-floor residential accommodation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use hereby approved. The approved scheme shall be implemented in full, prior to the use commencing and retained as such thereafter.

**Reason:** In the interest of residential amenity.

3. A suitable scheme of fume extraction shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use hereby approved. The approved scheme shall be implemented prior to the use commencing, and retained and operated as such thereafter.

**Reason:** In the interests of amenity

4. Trading at the premises shall only take place between the hours of 11:00 and 23:00 Monday - Sunday, including Bank Holidays.

**Reason:** In the interests of amenity.

**Last Comments By:** 21/02/2012

**Expiry Date:** 05/03/2012