

# Planning Committee

10 November 2016

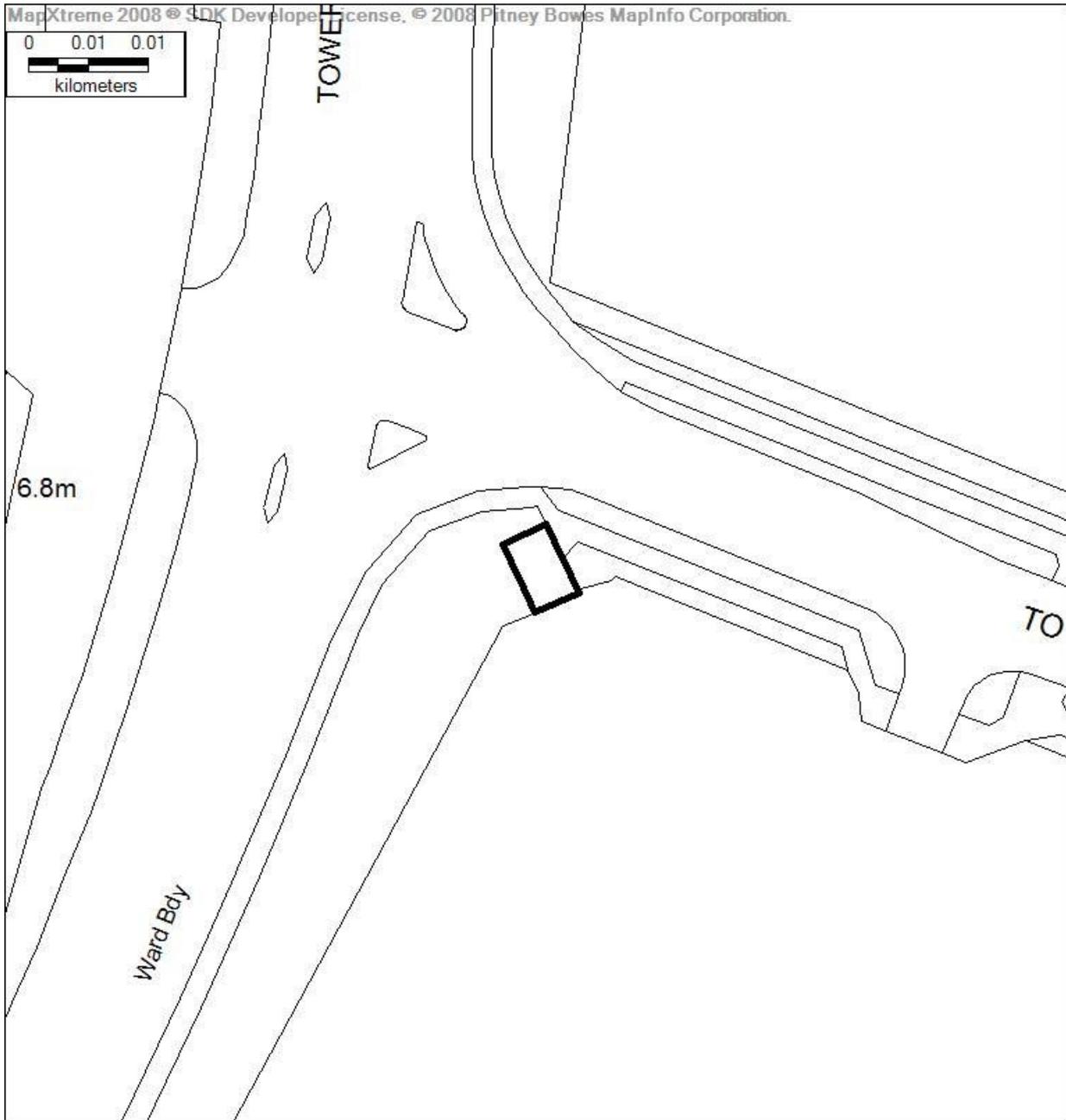
**Reference:** APP/16/00535      **Area Team:** South Team      **Case Officer:** Ms J Storey      **Ward:** Birkenhead & Tranmere

**Location:** Tower Wharf Contact Company Office Development Site, 2 Tower Wharf, Tower Road, BIRKENHEAD, CH41 1LD

**Proposal:** Change of use only of existing vacant substation building to create Class A1 convenience store

**Applicant:** Contact Company Ltd  
**Agent :** The Planning Studio Ltd

## Site Plan:



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**Development Plan Designation:**

Coastal Zone  
Primarily Industrial Area

**Planning History:**

Location: 12 Quays, Wallasey, Morpeth & Egerton Docks, , Birkenhead, Wirral  
Application Type: Outline Planning Permission  
Proposal: Extension of planning permission for Ro Ro Ferry Terminal and associated facilities and parking areas, Business and Science Park, Business/Residential/ Tourist Village, Hotel, access roads, parking and landscaping and filling of part of Wallasey Dock  
Application No: OUT/98/06772  
Decision Date: 23/04/1999  
Decision Type: Approved

Location: Land at Tower Wharf, Birkenhead, CH41 1NE  
Application Type: Full Planning Permission  
Proposal: A four storey new commercial development with new associated car parking and landscaping.  
Application No: APP/14/00694  
Decision Date: 24/07/2014  
Decision Type: Approved

Location: Tower Wharf, Birkenhead, Wirral, CH41 1NE  
Application Type: Advertisement Consent  
Proposal: Application for 2 x fascia signs, 2 x hoardings & 1 x new floor mounted free standing totem sign illuminated.  
Application No: ADV/15/00957  
Decision Date: 27/08/2015  
Decision Type: Approved

Location: Land to north of Egerton Dock, (fronting Tower Wharf), Tower Road, Birkenhead, Wirral, CH41 1FN  
Application Type: Full Planning Permission  
Proposal: Erection of a call centre and associated car parking  
Application No: APP/99/06764  
Decision Date: 10/12/1999  
Decision Type: Approved

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

Having regard to the Councils Guidance on Planning Applications 3 notifications were sent to surrounding properties and site notices were displayed near the site. At the time of writing, no objections have been received.

**CONSULTATIONS:**

**Head of Environment and Regulation (Traffic and Transport Division) - No objections**

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

This application is a departure from the Development Plan and as such is required to be determined by the Planning Committee.

**INTRODUCTION**

This application is for the conversion of an existing decommissioned substation to a convenience store (Use Class A1). The building measures 30m<sup>2</sup> and the applicants have stated that there will be a net sales floor space of 25m<sup>2</sup> with the remaining 5m<sup>2</sup> used for storage. The main users of the site are likely

to be the employees of the contact centre and the students from the nearby Wirral Met College.

### **PRINCIPLE OF DEVELOPMENT**

The proposed development is a departure from the Wirral Unitary Development Plan, as the site is identified as a Primarily Industrial Area on the UDP Proposals map and UDP Policy EM8 only makes provision for employment development within Use Classes B1, B2 and B8 and alterations to existing businesses to protect employment land from other forms of development. Material considerations must be identified to outweigh the provisions of the statutory development plan in favour of the application before planning permission could be granted.

### **SITE AND SURROUNDINGS**

The application site comprises of a de-commissioned electricity substation within the recently constructed Tower Wharf contact company office development. The site is bounded by Tower Wharf to the north, Egerton Wharf to the south and to the west by Tower Road.

### **POLICY CONTEXT**

The statutory development plan consists of the Wirral Unitary Development Plan (UDP adopted February 2000 and saved by Direction of the Secretary State on 18 September 2007) and the Joint Waste Local Plan (adopted 18 July 2013). UDP policies relevant to this application include:

Policy SHO1	Principles for New Retail Development
URN1	Development and Urban Regeneration
Policy EM8	Development within Primarily Industrial Areas
Policy GR5	Landscaping and New Development
Policy SH9	Criteria for Out-of Centre and Edge of Centre Retail Development
Policy SH10	Design and Location of Out of Centre and Edge of centre Retail Development
Policy GR5	Landscaping and New Development
Policy TR9	Requirements for Off-Street Parking
Policy WA1	Development and Flood Risk
Policy WA2	Development and Land Drainage
Policy WA5	Protecting Surface Waters

Relevant Policies in the Joint Waste Local Plan (adopted 18 July 2013) include:

Policy WM8 – Waste Prevention and Resource Management  
Policy WM 9 – Sustainable Waste Management Design and Layout for New Development,

The site is designated as part of a Primarily Industrial Area as shown on the Unitary Development Plan (UDP) Proposals Map. Strategic UDP Policy URN1 seeks to ensure full and effective use of land is made within urban areas. This should be read in conjunction with UDP Policy EM8, which makes provision for uses within Use Classes B1, B2 and B8 and proposals for the reconstruction, extension or expansion of existing business. Thus the proposal for retail development is a departure from the UDP and has been advertised as such.

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

### **Material Considerations**

The National Planning Policy Framework (NPPF) became a material planning consideration on 27th March 2012. This indicates that the purpose of the planning system is to contribute to the achievement of sustainable development and that paragraphs 18 to 219 taken a whole constitute the Governments view of what this means in practice for the planning system.

The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

Para 24 of the framework that a sequential test should be applied through which local planning authorities should require retail uses to be located in town centres. Out of centre sites should only be considered where suitable town or edge of centre site are not available. NPPF paragraph 27 confirms that where an application fails the sequential test, it should be refused.

National Planning Guidance NPPG paragraph 11 ID: 2b-011-20140306 on ensuring the vitality and viability of town centres indicates that the use of the sequential test should recognise that certain town centre uses have particular market and locational requirements, which means they may only be located in specific locations. Robust justification must be provided where this is the case.

The Council has also resolved that the Core Strategy Local Plan - Proposed Submission Draft (December 2012) will be material consideration for the purpose of determining planning applications. Policy CS17 would continue to safeguard land in the Primarily Industrial Area, but makes provision for alternative uses where there is no reasonable prospect of employment uses coming forward in the longer term

The principal material considerations in relation to this application include:

- the prospects of the site being used for employment uses;
- the consequences of the proposal for existing centres,
- appearance and amenity issues (design, access and landscaping).

### **Prospects of Employment Use**

The proposal in this particular case is for the re-use of a small substation building in the corner of the site. The overall use of the larger associated site will remain in employment use with the recent new Tower Wharf development employing 1200 people.

The applicants have stated that the unit is vacant and has been for some time. The proposal would bring back into use a neglected property and provide an amenity that would serve a large number of employees within easy walking distance thereby reducing the need for travel by car.

### **Implications for Existing Town Centres**

The proposed store would have a gross external floor area of 30m<sup>2</sup>.

The applicants indicate that the proposal is intended to serve a specific localised catchment through the sale of very limited convenience goods to the workers of Tower Wharf development and other employment activities in the immediate area. For this reason, a search to ascertain if any of the vacant units within Borough's town centres has not been undertaken by the applicant.

Given the scale of the building and the modest range of items that would be sold the proposal is not likely to have an adverse impact on the vitality and viability of the nearest centres at Birkenhead, Liscard and Seacombe (Borough Rd/Poulton Rd).

### **APPEARANCE AND AMENITY ISSUES**

The proposed development will utilise the existing building which is brick built with a tall zinc roof. The scale and design of the building will remain unaltered. The only changes will be the alteration of two existing windows to provide service counters and the provision of roller shutters. It is therefore considered that this proposal will not have a detrimental impact on the visual quality of the area.

### **SEPARATION DISTANCES**

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

### **HIGHWAY/TRAFFIC IMPLICATIONS**

The proposed development is intended to serve the adjacent employment uses and is not considered to be a significant generator of traffic. The developments traffic impact can be safely accommodated within the Local Highway network without severely impacting on the capacity of the proposed access arrangements.

## **ENVIRONMENTAL/SUSTAIN ABILITY ISSUES**

Both national and local planning policy seeks to direct retail stores towards existing centres in order to facilitate and promote sustainable development.

## **HEALTH ISSUES**

There are no health implications relating to this application.

## **CONCLUSION**

Approval of this application could introduce a retail use in an out of centre location on a site that is designated as a Primarily Industrial Area contrary to the adopted development plan.

The proposal in this particular case is for the re-use of a small vacant building in the corner of the site which is unlikely to attract a traditional employment use (B1, B2 of B8) in the foreseeable future.

As the proposal is intended to serve a specific localised catchment through the sale of limited convenience goods to local workers in the immediate area the proposal is not likely have an adverse effect on vitality and viability of the nearest centres at Birkenhead, Liscard and Seacombe (Borough Rd/Poulton Rd).

It is considered that the proposed design for the alterations to the building and landscape proposals are acceptable. Therefore, having regard to relevant policies in the statutory development and the relevant material considerations, it is considered on balance that the benefits from bringing an empty building back into use to serve local workers on this occasion outweigh the provisions of the Wirral Unitary Development Plan and the application is 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), the Joint Waste Local Plan (Adopted July 2013) and all relevant material considerations including national planning policy and guidance. In reaching this decision the Local Planning Authority has considered the following:-

- the prospects of the site being used for employment uses;
- the consequences of the proposal for existing centres,
- appearance and amenity issues (design, access and landscaping).

The proposal in this particular case is for the re-use of a small substation building in the corner of the site which is unlikely to attract a traditional employment use (B1, B2 of B8) in the foreseeable future.

As the proposal is intended to serve a specific localised catchment through the sale of limited convenience goods to local workers in the immediate area the proposal is not likely have an adverse effect on vitality and viability of the nearest centres at Birkenhead, Liscard and Seacombe (Borough Rd/Poulton Rd).

It is considered that the proposed design for the alterations to the substation building and landscape proposals are acceptable.

Therefore, it is considered, on balance, that benefits from bringing an empty building back into use to serve local workers on this occasion outweigh the provisions of the Wirral Unitary Development Plan and the application is recommended for approval.

**Recommended Decision:**                      **Approve**

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

1. The development hereby permitted shall be begun before the expiration of 3 years from the

date of this permission.

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

2. Prior to the occupation of the unit, the proposed roller shutters shall be powder coated in a colour to be agreed in writing with the Local Planning Authority and shall be maintained as such thereafter.

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

3. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 12th August 2016 and listed as follows: 04-90-008 & 04-90-009

**Reason:** For the avoidance of doubt and to define the permission.

4. Notwithstanding the provisions of the Town and Country Planning (Development Management Procedure) Order 2015 and the Town & Country Planning (Permitted Development) Order 2015 (or any subsequent re-enactment) there shall be no creation of additional floor space, including any mezzanine floor space, or extension of the development hereby permitted as shown on the approved plans. The retail unit shall have gross internal floor space no greater than 30 square metres with a net trading area no greater than 25 square metres.

**Reason:** For the avoidance of doubt and because an alternative format could have the potential to harm the vitality and viability of existing town centres. This enables the local planning authority to consider the implications of other formats as and when they may be put forward having regard to Wirral Unitary Development Plan Policy SH9 and the National Planning Policy Framework.

5. Notwithstanding the provisions of Class A1 of the schedule to the Town and Country Planning (Use Classes Order) 1987 and the Town & Country Planning (Permitted Development) Order 2015 (or any subsequent re-enactment) the premises shall only be used for the sale of convenience goods, cold food and drink for consumption off the premises, and for no other purpose.

**Reason:** For the avoidance of doubt and because an alternative format could have the potential to harm the vitality and viability of existing town centres. This enables the local planning authority to consider the implications of other formats as and when they may be put forward having regard to Wirral Unitary Development Plan Policy SH9 the National Planning Policy Framework.

#### **Further Notes for Committee:**

**Last Comments By:** 02/11/2016

**Expiry Date:** 07/10/2016