

Reference:	PS Development Code	Case Officer:	Ward:
APP/24/00200	Q20 - Change of use	Mrs S Williams	Bidston and St James

Location:	231 - 231a Beckwith Street, Birkenhead, Wirral, CH41 4HW
Proposal:	Change of use from indoor children's play space (Use Class E(f)) to a convenience retail store (Use Class E(a))
Applicant:	Mr VENKADESH ARULAMPALAM
Agent:	Mr Mike Carr, MAT DESIGN LIMITED

Reason for referral to Planning Committee	Two separate qualifying petitions of objection have been received, one containing approximately 325 signatures and one containing approximately 68 signatures
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Site Plan:



1. Development Plan designation:	Primarily Residential Area
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2. Relevant Planning History:	<p>APP/76/06304 Continuation of use as a vehicle repair and service business Approved 02/05/1977</p> <p>APP/17/00647 Change of use from car repair garage to a convenience grocery store and off licence Refused 17/08/2017 Dismissed at Appeal 20/12/2017</p> <p>APP/18/00434 Change of use from car repair garage to a convenience grocery store and off licence - Re-submission of planning application APP/17/00647 Refused 20/07/2018</p> <p>APP/19/00188 Change of use from vehicle maintenance workshop (Use Class B2) to indoor children's play space (Use Class D2) with external alterations. Approved 14/05/2019</p>
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3. Summary Of Representations and Consultations Received:
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3.1 Ward Member Comments	No comments received.
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3.2 Summary of Representations	<p><u>REPRESENTATIONS</u></p> <p>Having regard to the Council Guidance on Publicity for Applications and the Statement of Community Involvement, 6 notification letters were sent to neighbouring properties on 28th February 2024. In response, 2no. petitions of objections have been received containing approximately 68 and 325 signatures, in addition to 7 individual objections. The reasons for objection can be summarised as:</p> <ul style="list-style-type: none"> • Impact on privacy; • Impact on safety; • Not appropriate site for convenience store; • Encourage loitering around; • Sale of alcohol attracts trouble to area; • Noise and disturbance; • Party wall between shops sales and counter to residential property; • Increase in traffic (early morning and late evening); • Already enough shops within area; • Negative impact on other businesses; • Vaping products attract younger crowds; • Kids on bikes not mindful of pedestrians; • Not bringing anything new to the area; • Highly residential area; • Older residents distressed; • People with younger kids feel distressed; and
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	<ul style="list-style-type: none"> School nearby.
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	<p><u>CONSULTATIONS</u></p> <p>Environmental Health - No objection</p> <p>Traffic and Transportation - No objection</p>
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4. Site and Surroundings and Planning History	
4.1	<p>231 Beckwith Street is a commercial building most recently in use as a children's play centre. Prior to this, it had been in use as a vehicle maintenance (motor repairs) workshop. It is situated in a Primarily Residential Area of mainly high-density terraced housing, on the corner of Aspinall Street. The building is finished externally in a mix of render and red brick with a mix of concrete tile and metal sheet roofing. To its front elevation with Beckwith Street, two glazed entrances have been installed for the children's play centre use, which replaced the previous openings for the motor repairs workshop. Its side elevations are blank and abut the pavement to Aspinall Street to the west and a gated pedestrian alley to the east, which is shared with properties on Newling Street. Its rear elevation directly abuts the residential dwelling of 43 Aspinall Street.</p>
4.2	<p>As noted, the building had been previously used as a vehicle maintenance workshop, although it is unclear when that use ceased. The most recent use was as a children's play centre, which was granted planning permission in 2019 (ref: APP/19/00188). This permission restricted the hours of use to between 9am to 6pm (Monday to Saturday), and 10am to 4pm (Sundays).</p>
4.3	<p>Prior to this planning permission being granted, two applications had been submitted to change the use of the building to a convenience store - APP/17/00647 and APP/18/00434. These applications were both refused. APP/17/00647 was dismissed at Appeal, and APP/18/00434 attempted to overcome the Planning Inspectors concerns but was refused by Planning Committee (but not appealed) for the following reason: "The proposed use is considered inappropriate having regard to Policy HS15 of Wirral's Unitary Development Plan in this predominantly residential area and therefore would be detrimental to the amenities of adjoining occupiers which would result in unacceptable levels of nuisance and disturbance'.</p>
4.4	<p>Following these two refusals, and as noted, planning permission was granted to change the use of the premises from a motor repairs centre to an indoor children's play space (ref: APP/19/00188). Whilst the primary use of this business was an indoor soft play for children, it also provided small elements of food and beverages, mostly for customers using the facility but it also appears that this was also available on a takeaway basis. The premises has now closed due to a decline in visitors and the building is therefore currently vacant.</p>

5. Proposed Development	
5.1	<p>This application now proposes to change the use of the premises from an indoor children's play space (Use Class E(f)) to a convenience retail store (Use</p>

	Class E(a)). There are no external alterations proposed.
5.2	This change of use would not normally require planning permission due to changes in the Use Class Order implemented in 2020, which amalgamated business and commercial uses into one Use Class E (within which uses can change without planning permission). However, condition 5 attached to the planning permission (APP/19/00188) granted to change the use to a children's play space removed permitted development rights for any change of use, including any change to other uses falling within the same use class. Planning permission is therefore required for the change of use from Class E (f) to Class E (a) in this instance.

6. Development Plan	
6.1	<p>Under the provisions of section 70(2) Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 and the provisions of the NPPF (paragraph 2) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.</p> <p>The statutory development plan at present 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 for Merseyside and Halton (adopted 18 July 2013).</p>
6.2	<p>The following Wirral Unitary Development Plan 2000 Policies are relevant to the determination of this planning application:</p> <p><u>Policy HS15: Non-Residential Uses in Primarily Residential Areas</u> Policy HS15 aims to support small scale built development and changes of use for non-residential uses provided that the scale is appropriate to the surrounding development, the proposal does not result in a detrimental change to the character of the area or cause nuisance to neighbouring uses, particularly in respect to noise and disturbance, on street parking and deliveries by vehicle</p>

7. Other Material Planning Considerations	
7.1	<p><u>The National Planning Policy Framework</u></p> <p>Paragraph 97 sets out that planning policies and decisions should plan positively for the provision of the services the community needs including community facilities such as shops.</p>
7.2	<p><u>The Emerging Local Plan</u></p> <p>Wirral Borough Council has submitted the Wirral Local Plan 2021-2037 for examination.</p> <p>On the 21 March 2022 full council approved publication of the Draft Local Plan Under Regulation 19 of the Town and Country Planning Act (Local Planning)</p>

	<p>(England) Regulations 2012 before submission to the Secretary of State. The plan was published in May 2022 and representations were available to be submitted until 25th July 2022. The Local Plan was submitted to the Secretary of State on the 26th October 2022. The local plan and supporting evidence base can be viewed online at www.wirral.gov.uk/lpexam</p> <p>On 4 March 2024 the Council received the post-hearing note prepared by the Planning Inspectors appointed to carry out the examination into the Wirral Local Plan. The note sets out the Inspectors' view on certain matters and what should now be done. It should be read as the Inspectors' initial thinking and is without prejudice to any findings they may ultimately come to. The Inspectors' view is that the Plan, as submitted, is unsound. Their view is also that the Plan may be capable of being made sound via main modifications. For the purposes of decision making, the post-hearing note does not change the status of the emerging Local Plan. The Plan is at an advanced stage and weight may be given to relevant policies in the emerging Plan in accordance with the requirements of paragraph 48 of the National Planning Policy Framework as set out in the officer report.</p> <p>In attaching weight to individual policies, paragraph 48 of the NPPF is relevant as it states:</p> <p>"Local planning authorities may give weight to relevant policies in emerging plans according to:</p> <ol style="list-style-type: none"> 1. the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); 2. the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and 3. the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)." <p>The following emerging plan policies are relevant to the determination of this planning application:</p> <p>Policy WD10 – Non-Residential Uses in Primarily Residential Areas</p>
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8. Assessment	
8.1.1	<p>The main issues pertinent in the assessment of the proposal are:</p> <ul style="list-style-type: none"> • Principle of Development; • Impact on Residential Amenity; • Design; • Highways

8.2 Principle of Development	
8.2.1	<p>The principle of a commercial development within a Primarily Residential Area is acceptable, subject to relevant policies and material considerations. Whilst the proposed convenience store would be a 'main town centre use', it is accepted that the scale of the floorspace proposed would not detract from the</p>

	vitality and viability of nearby centres, as concluded by the Planning Inspector for the previous appeal.
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8.3 Impact on Residential Amenity	
8.3.1	As set out above, relevant planning history for the site includes two previous refused applications to convert the building into a convenience store.
8.3.2	The first of the refused applications (APP/17/00647) was dismissed at Appeal due to the potential impact on residential amenity. The Inspector noted that "the proposed opening hours would extend from 0700 or 0800 in the morning to 2300 at night, 7 days a week. Given the extensive time periods that the proposal would be open and the proximity to neighbouring residential properties, this would result in the potential for a prolonged period of associated noise and disturbance."
8.3.3	The applicant for this current application has agreed with proposed opening hours of between 08:00 and 20:00. This hours restriction will limit the impact on residential amenity - by reducing the amount of time the shop will operate for, as well as ensuring that the use is only operating during daytime hours and does not extend into anti-social, late night hours.
8.3.4	As with the previous applications, the previous uses of the premises is considered a significant material consideration. The previous motor repairs use was likely to have associated noise nuisance - however, given that it had been vacant for some time at the time of the previous applications, it may have been difficult to fully appreciate the potential noise impacts from the established use, where there would likely be plant and machinery used in association with vehicle repairs, along with vehicle noise itself, both inside and outside of the unit. The Planning Inspector noted that these types of uses usually only operate during daytime hours and not at weekends and therefore the period of associated noise, disturbance and nuisance would be considerably less. However, it is still necessary to note that there were no opening hours restrictions on such a use - a use which would have been considerably more out of keeping with the residential nature of the area than a small, convenience store.
8.3.5	The change of use of the premises to an indoor children's play centre has removed the potential fallback of the motor repairs use but this new use is not without potential noise implications. This use was allowed because it was identified as more of a daytime use, and therefore the fallback position was considered of greater relevance. A condition attached to that permission allowed opening hours of 9am - 6pm Mondays to Saturdays, and 10am - 4pm on Sundays. This therefore introduced an element of weekend operations which the Inspector had specifically used as a reason to dismiss the previous appeal. Therefore, the opening hours proposed under this application (8am - 8pm) are not significantly different than the extant use and will remain as daytime operating hours which do not extend into more anti-social hours.
8.3.6	In addition to this, it is also difficult to conclude that the change of use of the premises to a small convenience store would have a significantly greater impact on the amenities of surrounding properties than the extant use as an indoor children's play centre. The extant use would involve fairly regular comings and goings and whilst this would likely be less than a convenience

	<p>store, it would be more likely to attract more customers who travel by car (with associated disturbance of car engines and car doors shutting), as opposed to a convenience store which, by nature, is more suited to attract customers within walking distance. Indoor children's play centres are also likely to involve higher levels of noise due to the presence of young children playing in a safe environment with reasonably high levels of uncontrolled screaming, shouting, laughing etc. It's acknowledged that the children's play centre was only small in comparison to many other similar centres and this will have limited the noise - but this same assessment should therefore be taken against the proposed convenience store use, which will only have a sales floor area of approximately 80 square metres. This will limit the number of customers at any one time, and ensures that the store will have a similar impact to a traditional corner shop, the likes of which are found throughout the country within high-density residential areas such as this.</p>
8.3.7	<p>It should also be noted that the main entrance into the building is on Beckwith Street, which would lessen the noise and disturbance to the adjoining property from comings-and-goings, and would generally lessen the disturbance to other properties on Aspinall Street and Newling Street. It is also noted that, given the apparent internal layout of the adjoining property, much of the wall between the two properties will adjoin the hallway of the adjoining property (as opposed to it adjoining a habitable room) and this will further lessen direct noise and disturbance issues. A condition attached to secure noise insulation along this wall will further lessen any direct noise or disturbance.</p>
8.3.8	<p>In addition to this, and as set out briefly above, it is also important to note that the Use Class Order was changed in 2020, through the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. This was the most significant change to the Use Classes since 1987 and had the effect of amalgamating the majority of commercial uses into a new Use Class E (Commercial, Business and Service). This included the proposed convenience store use of the application property (A1), as well as the most recent use as a children's play centre (D2). This in effect means that planning permission would not normally be required to change between the uses within Use Class E.</p>
8.3.9	<p>In this instance, a condition attached to the permission to change the use to a children's play centre (restricting the use only to a children's play centre) means that planning permission is required to now change the property into a convenience store. However, the change to the Use Class Order is still considered to be a material consideration. The amalgamation of commercial and business uses into one use class (E) with the ability to change use within that broad use class represents a relaxing of the use classes and indicates that there should be a broader approach to allowing greater flexibility between different uses, provided they are generally within a similar, broad use.</p>
8.3.10	<p>It is also necessary to highlight the small-scale nature of the premises and reflect that this is unlikely to have a significant impact on the character of the residential area or the amenities of surrounding properties. The customer floorspace will amount to approximately 80 square metres, giving the proposal the scale of a traditional small corner shop, the type often found within areas of high-density, terraced housing - such as this location. It is acknowledged that the opening hours of the convenience store would be slightly greater than the extant use, but the opening hours proposed would still ensure that it is a daytime use.</p>
8.3.11	<p>The NPPF states that in order to provide the services the community needs that</p>

	<p>local planning authorities, in making planning decisions, should plan positively for the provision of community facilities such as shops. It is acknowledged that there are other convenience stores located within reasonably close proximity to the site, most notably on Duke Street to the west of the application site. However, the proposed store would provide an additional service in much closer proximity than any other stores, particularly for those properties to the north and east of the application site where there are less convenience store options. This would mean that this new store would be much closer and would provide a valuable service for residents in close proximity to the site, thus complying with this broad principle of the NPPF.</p>
8.3.12	<p>On balance therefore, it is considered that the established use of the premises as a commercial building, the proposed restriction to opening hours, inclusion of suitable sound insulation, the small-scale nature of the premises, and the residential location of the site (similar to traditional convenience stores serving the local community) are considered sufficient justification to outweigh the potential nuisance and disturbance to neighbouring properties. As such, the proposal is considered to adequately comply with Wirral Unitary Development Plan Policy HS15, the National Planning Policy Framework and Policy WD10 of the emerging Local Plan.</p>

8.4 Design	
8.4.1	<p>There are no external alterations proposed to the building as part of this application, with existing openings onto Beckwith Street utilised ensuring the 'shop front' will continue to face onto Beckwith Street. The building has had a commercial appearance for a number of years and it is considered that the visual impact of the development is acceptable.</p>

8.5 Highways	
8.5.1	<p>The proposed change of use from an indoor children's play space to a retail unit is unlikely to result in a significant rise in vehicle numbers visiting the location given the small-scale nature of the proposed convenience store. The site is fully accessible by public transport being located within 300m of Birkenhead Park Merseyrail train station on Duke Street and the frequent bus services along this route, together with Duke's Street associated shops and other businesses.</p>
8.5.2	<p>For those customers or staff who do travel by private vehicle there is adequate parking available in dedicated bays within Beckwith Street close to the building.</p>
8.5.3	<p>Servicing to the building can be carried out from the adopted highway of Beckwith Street via the alleyway which is an appropriate arrangement. The development will not require a highway license as it is all contained within the private curtilage and does not oversail the adopted highway. On that basis Traffic and Transportation would have no objection to the proposed change of use.</p>

9. Summary of Decision (planning Balance)	
9.1	<p>Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination</p>

	of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. Having regards to the individual merits of this application this recommendation has been made having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000), Joint Waste Local Plan for Merseyside and Halton and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following: -
9.2	On balance, it is considered that the established use of the premises as a commercial building, the proposed restriction to opening hours, inclusion of sound insulation (where the premises adjoins the neighbouring property), the small-scale nature of the premises, and the residential location of the site (similar to traditional convenience stores serving the local community) are considered sufficient justification to outweigh the potential nuisance and disturbance to neighbouring properties. As such, the proposal is considered to adequately comply with Wirral Unitary Development Plan Policy HS15 and the National Planning Policy Framework and draft Wirral Local Plan

10. Recommended Decision:	Conditional Approval
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Recommended Conditions and Reasons:	
1. The development hereby permitted shall begin not later than [3] years from the date of this decision.	Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.
2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 14th March 2024 and listed as follows: Drawing Number 2.	Reason: For the avoidance of doubt and to define the permission
3. Trading at the premises shall only take place between 08:00 hours and 20:00 hours.	Reason: In the interests of residential amenity
4. A scheme of sound insulation to protect the existing residential dwellings at 43 Aspinall Street from the proposed use shall be submitted to and approved in writing by the Local Planning Authority prior to the proposed change of use taking place/ development commencing. The soundproofing shall be carried out in accordance with the approved scheme before the proposed use is brought into use and retained as such thereafter.	Reason: To prevent unreasonable noise and disturbance to neighbouring occupants in the interests of residential amenity and to comply with Policy HS15 in the Wirral Unitary Development Plan.
5. Notwithstanding the provisions of Town and Country Planning (Use Classes Order) 1987, The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any subsequent re-enactment) and the Town and Country Planning General Permitted Development Order (2015) (or any subsequent re-enactment), the premises shall only be used for a use within Use Class E(a) and for no other purpose.	Reason: For the avoidance of doubt and to allow for an alternative use to be assessed in terms of

potential impact on residential amenity having regards to Wirral Unitary Development Plan Policy HS15 and the National Planning Policy Framework.

6. Arrangements for the storage and disposal of refuse including recycling facilities and vehicle access thereto shall be installed before the premises are brought into use for the purposes hereby approved, in accordance with details to be submitted to and agreed in writing by the Local Planning Authority, and shall be retained as such thereafter.

Reason: To ensure that would include the re-use of limited resources, and to ensure that the amount of waste for landfill is reduced in accordance with Policy WM9 of the Waste Local Plan.

7. Deliveries and servicing of the premises shall only take place between 08:00 hours and 20:00 hours.

Reason: In the interests of residential amenity having regard to Wirral UDP policy HS15.

Infomative(s):

1. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Wirral Metropolitan Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission is considered to be one which **will not** require the approval of a biodiversity gain plan before development is begun because the following statutory exemption or transitional arrangement is considered to apply:

Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 where:

- i) the application for planning permission was made before 2 April 2024; or
- ii) planning permission is granted which has effect before 2 April 2024; or
- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

Last Comments By:	22-03-2024
Expiry Date:	19-07-2024