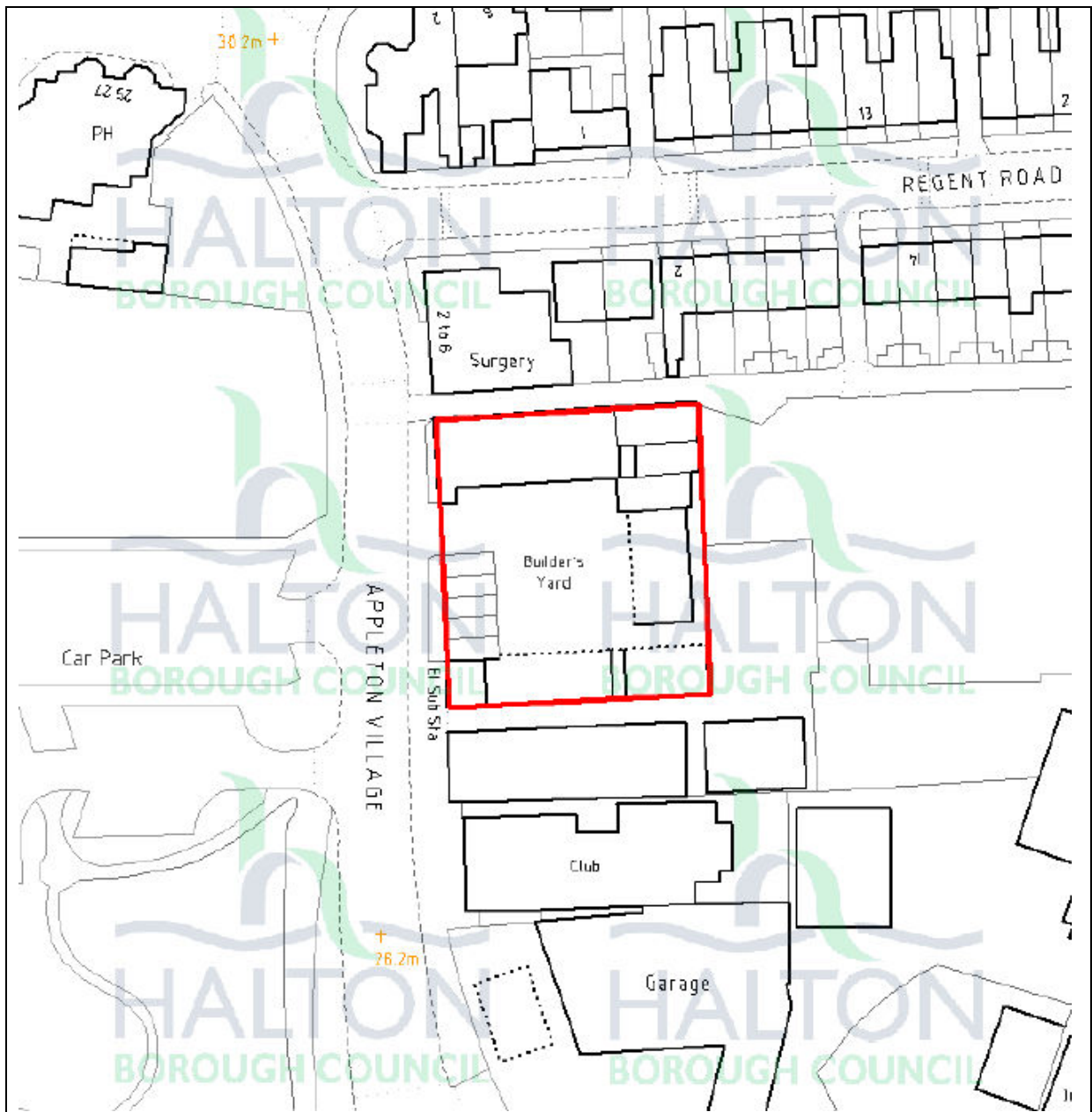


APPLICATION NO:	13/00381/COU
LOCATION:	Whitfield & Brown, Appleton Village, Widnes
PROPOSAL:	Retrospective application to retain change of use from offices (use class B1) to a chemist/pharmacy and new shop (use class A1)
WARD:	Appleton
PARISH:	NA
CASE OFFICER:	Pauline Shearer
AGENT(S) / APPLICANT(S):	Mr Nabil Nasr
DEVELOPMENT PLAN ALLOCATION:	Primarily Residential
DEPARTURE	No
REPRESENTATIONS:	8 objections
RECOMMENDATION:	Approve
SITE MAP	



MEMBERS UPDATE:-

Members will be aware that a similar application was approved at the July 2013 Committee. The application approved at that July 2013 Committee is the subject of judicial review proceedings. The claim for judicial review has been made by an objector, Cooke's Limited, to the grant of planning permission. The claim advanced 3 grounds of challenge. One of the grounds was not pursued following the submission of the Council's grounds of defence and one ground was considered unarguable by the Judge. The Judge concluded that one aspect of one of the grounds of challenge was arguable and he has allowed the claim to move forward to a hearing in respect of that issue only, albeit that Cooke's Limited has confirmed that it will renew its application for permission to bring the claim on the other grounds as well. The issue on which permission has been granted by the Judge relates to the way in which the need for a planning obligation, in relation to the prohibition of a needle exchange,

was dealt with by the Council in deciding to grant planning permission. The Council has confirmed to Cooke's Limited that it is prepared to consent to the quashing of the planning permission on that issue alone, and the parties are engaged in the preparation of the necessary consent order to dispose of the proceedings. Once quashed, the previous application for planning permission (that led to the grant of consent in July 2013) will fall to be re-determined by the Committee

In the meantime, the premises has opened and is in use but with some minor alterations to layout as compared to that approved by the July 2013 planning permission. With this retrospective proposal now before Committee, the applicant seeks retrospective permission for the existing use of the site and the operational development associated with it.

It is recommended that members approve the application.

1. APPLICATION SITE

1.1 The Site and Surroundings

The site consists of former offices and buildings used by a development and construction company, Whitfield and Brown. The proposal relates to an existing building fronting the site (annotated as Building 1 on the submitted Drawing A EX SITE 2/F) and includes an internal area to the side/rear for car parking. The site is within an allocated primarily residential area which has a mix of character being residential; commercial; leisure; service and education. The site is accessed directly from Appleton Village to the west.

1.2 Planning History

The site has benefited from the following previous planning permissions:- 77/13573F – Extension and alteration to retail sales area; Ref:04/00522/ful - Redevelopment of doctors surgery and builders yard with replacement 2 storey offices, surgery (the drawings of which included a pharmacy) and 18 No. flats in a three storey building; Ref:07/00271/ful – Demolition of offices and erection of 1 No. three storey and 1 No. two storey apartment block of 36 units; Ref:12/00370/COU approved by Development Control Committee in July 2013 as referred to above which sought permission for “proposed change of use from offices (B1) to a chemist/pharmacy (A1) and new shop, including stepped and ramped accesses, shop front and car parking”. The Council has accepted planning permission should be quashed. On completion of the consent order in the current judicial review proceedings, the application will fall to be re-determined by the Committee. Accordingly, no weight should be given to the Council's decision to grant planning permission in respect of application ref: 12/00370/COU in its determination of the current application.

2. THE APPLICATION

2.1 Proposal Description

Full retrospective planning permission is sought for the change of use of the existing office building (Building 1) which fronts Appleton Village for use as a pharmacy/chemist with retail. The change of use relates to the front part of the Building 1, approximately 135 square metres of gross floorspace. Officers

have scaled a measurement from drawings of 135.625 sqm gross where external walls are included. It is considered that the inconsistency with the floorspace which is identified on the submitted drawing is not material in the determination of the proposal and the remainder of the report will refer to the approximate floorspace of 135 sqm. To ensure the enforceability of the conditions listed in the recommendation, the floorspace has been restricted to 136 sqm. The application includes the provision of 9 car parking spaces plus one DDA space within the site; provision of a stepped and ramped access and new shop front. Several alterations have been made to the site which were the subject to conditions through the previously approved planning permission as follows: - access improvements; removal of leylandii tree and three other leylandii pruned back; installation of lighting around the car parking area; installation of a 2m metal screen fence between Building 2 and Building 3; securing of Building 4 and Building 5; internally opening side fire exit door; provision of bin store and; provision of cycle stand.

The main issues arising as a result of this application are; retail considerations, highway safety, impact on residential amenity, and the risk and public perception of crime and anti-social behaviour resulting from the use.

3. POLICY CONTEXT

3.1 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published in March 2012 to set out the Government's planning policies for England and how these should be applied.

Paragraph 196 states that the planning system is plan led. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise, as per the requirements of legislation. The NPPF is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

For the purposes of decision taking, paragraph 14 of the NPPF states that the presumption in favour of sustainable development means that development proposals that accord with the development plan should be approved without delay (subject to material considerations indicating otherwise). Where a development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF; or specific policies within the NPPF indicate that development should be restricted.

Other policies within the NPPF are material to the determination of this application. They include the following;

Achieving Sustainable Development

Section 2, paragraphs 24-27 – This is the over-arching national framework in which planning decisions for main town centre uses need to be made (the formulation of policy in respect of town centre issues is addressed at paragraph 23 of the Framework). It ensures that such proposals that are in out of centre locations and do not accord with an up to date development plan policy, are subject to a sequential test. For such proposals that are over 2,500 sqm (or a locally set threshold) and do not accord with an up to date development plan, an impact assessment will be needed. Where proposals fail to satisfy the sequential test or are likely to have a significant adverse impact on centres, an application should be refused. Town centre uses are defined as retail, leisure, entertainment, offices, arts, culture and tourism.

Section 4, paragraphs 32, 35, 39 – These emphasise the need for safe layouts to minimise highway conflicts and promote the opportunities for sustainable modes of transport.

Section 8, paragraphs 69, 70 – Paragraph 69 seeks the delivery of safe and accessible environments where crime and disorder and the fear of crime, do not undermine quality of life or community cohesion. Paragraph 70 states that planning decisions should aim to deliver community facilities, such as shops and other local services to enhance the sustainability of communities and residential environments, and in addition, to ensure an integrated approach when considering the location of economic uses and community facilities and services.

Decision-taking, paragraphs 186-187, 196-197 – These encourage planning decisions to deliver sustainable development and work positively with developers to seek solutions to achieve developments to improve the economic, social and environmental conditions of the area. Paragraphs 203 - 206 deal with the proper approach to planning obligations and conditions. Planning obligations should only be sought where they meet all of the following tests:-

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

3.2 Halton Unitary Development Plan (UDP) (2005)

The following Halton Unitary Development Plan saved policies (which form part of the statutory development plan) are relevant to this application: -

- BE1 General Requirements for Development
- BE2 Quality of Design
- BE16 Alterations and New Shop Fronts
- BE22 Boundary Walls and Fences
- PR2 Noise Nuisance
- PR4 Light Pollution and Nuisance
- TP6 Cycling Provision as part of New Development

TP7 Pedestrian Provision as Part of New Development
TP12 Car Parking
TP17 Safe Travel for All
TC6 Out of Centre Retail Development
H8 Non Dwelling House Uses

3.3 Halton Core Strategy (2013)

The other component of the statutory development plan is the Halton Core Strategy. The following Halton Core Strategy policies are of relevance to this application:

CS2 Presumption in Favour of Sustainable Development
CS5 A Network of Centres
CS7 Infrastructure Provision
CS15 Sustainable Transport
CS18 High Quality Design

3.4 Relevant SPDs

Designing for Community Safety SPD and Shop Fronts and Advertising SPD are of relevance.

4. CONSULTATIONS

4.1 HBC Highways – No objection. See body of the report.

4.2 HBC Open Spaces – No objection. The existing trees on site are of poor quality. One leylandii is removed due to it restricting highway visibility and replacement planting could take place. It is considered however, that in view of the limited value of the removed tree and the lack of opportunity within the site to achieve it, replacement planting is neither practical, nor necessary in this situation. The proposal is acceptable.

4.3 HBC Environmental Health Officer – No objection. See body of the report.

5. REPRESENTATIONS

5.1 The application was advertised by a site notice displayed near to the site. The nearest affected occupiers of the adjacent residential and commercial properties were notified by letter, as too were those who had previously made representations to the Council on the earlier approved application.

At the time of writing the report, 8 objections have been received as a result of the consultation process, 5 of which are from rival chemists, as follows:-

- Plans not visible on Council's website.
- The Council need to ensure the statutory consultation period is adhered to.
- Do not need a late night pharmacy in the vicinity.

- Increase in traffic.
- Increase in noise.
- Increase in light pollution.
- Increased disturbance.
- Applicant wishes to develop the whole of the site which the residents are not aware of.
- Inserted a door into the side situated in the entry which is a security risk for residents.
- No limitations for use have been applied to the pharmacy in comparison to the Nursery 50m away.
- Appleton is in the top three areas of Widnes with a drug problem.
- A 'supervised administration of methadone' and a 'needle and syringe exchange' will increase existing problems.
- There are already five facilities offering this service, why is another needed.
- Planning committee need to listen to the concerns of residents, schools, nurseries, businesses in the area.
- The pharmacy owner has previously told the Widnes Weekly News in July 2013 that he would not be offering a methadone dispensary or needle/syringe exchange service, but his NHS Application states he will be providing this service.
- Victoria Park has suffered from anti-social behaviour which has required police involvement, but which could be strewn with needles and become unuseable as children will be unable to go there safely.
- People park illegally already which blocks the junction.
- There are two shops in the area and no further shops are required.
- Nuisance from noise and light early morning and late at night for residents from customers.
- The hours of the pharmacy should be reduced to ease the fears of crime in the area, particularly in the morning, from 7am to 11pm at night.
- Many differences between Cooke's, Widnes Late Night Pharmacy: - i) was a planned development lead by Halton & St Helens PCT and was invited to tender. There are now 2 further late opening pharmacies, Tesco and Asda; ii) It operates as part of the Beaconsfield Primary Care Centre which has parking for 27 patient cars + 3 DDA spaces, 20 additional staff car parking spaces and separate drop off with 2 loading bays and emergency vehicle access for 2 ambulances; iii) it has a separate access road from Peel House Lane; iv) the closest residential properties are on Peel House Lane; v) The building is not allowed to open before 8am in the morning and its late night 11pm opening has no residential impact as the surrounding houses are a much greater distance away and has on site car parking; vi) Reducing the hours of the proposed surgery will calm traffic concerns and safety of residents late into the evening, reduce noise and light pollution.
- The owner has never made clear what he is to do with the site, over 1000 sqm, which the Design & Access Statement states will be developed for associate uses with planning permission.
- Committee previously advised to ignore issues raised.

- A pharmacy will tell the health authority that they need to provide a needle/syringe exchange service because of the amount of methadone etc they are dispensing and the amount of heroin or other drug of choice that the addicts are injecting.
- Users of schools, nursery, businesses and church do not want to see drug addicts hanging around waiting for their next fix.
- Drug dealers will also move into the area.
- Asda, Tesco and Widnes Late Night Pharmacy also have 100 hr licences but do not offer a methadone dispensary or needle/syringe exchange.
- A needle/syringe exchange is not used in the home care/treatment of cancer.
- When home cancer treatment is given via a needle, the needles need to be taken to specific pharmacies for disposal and there are five already in the area.
- There is no intention of the pharmacy becoming linked with the adjacent surgery.
- Door to the side is only accessed through alley gates which would need to be left open and are therefore a security risk.
- No democracy in previous planning meeting.
- A1 retail is not justified nor allowances made for residential occupiers.
- There are few non-residential uses in the area.
- Hours of use will be particularly disturbing for elderly people in this area.
- Does not comply with H8 due to disturbance caused and highway issues.
- Methadone users keep anti-social hours and will cause disturbance arriving by vehicle or on foot in the evening.
- The dropping of the S.106 on a previous approval has not been fully dealt with by the Council.
- The Council is not addressing the highway situation adequately and has altered its approach since granting permission for the nearby day nursery.
- Methadone dispensing should only take place in town centres.

6. ASSESSMENT

6.1 As stated, the main issues in deciding this application relate to retail considerations, highway safety, impact on residential amenity, and the risk and public perception of crime and anti-social behaviour resulting from the use. Each of these is addressed below in the context of relevant policy, as are other matters not included within those main issues.

6.2 Retail Considerations – Relevant policies of the NPPF, with Section 2, paragraphs 24-27 are summarised above. Policies of the development plan relevant to the control of town centre uses are saved policy TC6 of the Halton Unitary Development Plan and policy CS5 of the Halton Core Strategy.

The proposal is for a small retail/pharmacy outlet of approximately 135 square metres gross, of which there are approximately 60.8 square metres to the front of the unit which is to be used for retail sales, including a consulting booth.

Several objections have raised retail issues as follows:-

- The proposal would be a serious breach of town centre protection policies both at national and local level.
- There is no need for a late night pharmacy in the vicinity.
- There are two shops in the area and no further shops are required.
- There are already five facilities offering this service, why is another needed.
- A1 retail is not justified nor allowances made for residential occupiers.
- The proposal would be a serious breach of town centre protection policies both at national and local level.

Policy TC6 is a saved policy within the UDP. Its content is addressed below. It was prepared and adopted against a national policy framework which has since moved on. Relevant national guidance which informed the preparation and adoption of policy TC6 was contained within Planning Policy Guidance Note 6 ("PPG6"). PPG6 was replaced by Planning Policy Statement 6 ("PPS6"), and thereafter, by Planning Policy Statement 4 ("PPS4"). A particular change caused by that replacement was the removal of any "needs test" on the part of applicants for town centre uses in out of centre locations. The NPPF replaced PPS4 in March 2012. As in the case of PPS4, the NPPF contains no requirement for applicants to demonstrate need for retail proposals in out of centre locations. The relevance of this change in national policy with regard to the weight to be given to elements of UDP policy TC6 is addressed below.

Paragraph 215 of the NPPF makes it clear that weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

Assessment of UDP Policy TC6 and Core Strategy Policy CS5:-

Policy TC6 is divided into two parts: Part 1 applies in all cases where Part 2 does not apply. Part 2 applies to small scale retail proposals which are designed to serve purely local needs within a Primary Retail Area (PRA) or a Primary Employment Area (PEA) that is some distance from existing retail facilities.

If a proposal satisfies that description it will be permitted if the following criteria are satisfied:-

- the local need that is to be addressed has been clearly demonstrated;
- the size of the store is of an appropriate scale and nature to address local need;

- it passes a vitality and viability test in respect of nearby neighbourhood centres (i.e. causes no harm, individually or cumulatively, to the vitality or viability of nearby neighbourhood centres as a result of trade diversion or putting off investment).

If the proposal does not fall within the parameters of Part 2 of TC6 (i.e. small scale designed to serve local needs within a PRA or PEA at some distance from existing facilities), it is tested against Part 1 of the policy.

Part 1 of the policy is permissive of retail development in out of centre locations if the following criteria are met:-

- a need has been demonstrated and sequential approach applied;
- it causes no harm to the vitality and viability of town centres;
- it causes no harm to the vitality and viability of neighbourhood centres;
- it avoids creating an increase in the need to travel by car and is accessible by a choice of means of transport.

As set out above, within national policy, the requirement to demonstrate need for the development of a town centre use in an out of centre location has been deleted from national policy. That deletion is reflected in the most up to date component of the development plan, namely the Core Strategy. Policy CS5 of the Core Strategy does not require applicants for permission for town centre uses in out of centre locations to demonstrate a need for their proposals. Requirements in respect of a sequential approach and impact continue to apply (again, as set out above).

Accordingly, insofar as saved policy TC6 of the UDP requires applicants to demonstrate need, it is inconsistent with more recent national and local policy. No significant weight should be given to the policy's requirements in that respect.

In terms of impact on the health of existing centres, subject to the setting of local thresholds above which impact assessments will be required, the NPPF sets a default threshold for such assessments at 2,500 sqm.

The Core Strategy is the most recent component of the development plan. Its policy CS5 imposes a requirement for impact assessments in respect of unallocated retail and leisure proposals in excess of 2,000 sqm (gross) floorspace in locations outside Primary Shopping Areas.

Accordingly, in light of recent policy at national level (the NPPF) and local level (Core Strategy policy CS5), it is concluded that there is no requirement for small scale developments (i.e. below the threshold of 2,000 square metres) to show an absence of impact on town centres (including neighbourhood centres) through an impact assessment. The requirements within UDP policy TC6 that applicants for out of centre retail proposals demonstrate no harm to the vitality and viability of existing centres is

inconsistent with later policy, and should be afforded only limited weight. Application of policy CS5 to the current application (which has a gross floor area of some 135 square metres) does not generate a requirement for impact assessment.

Core Strategy policy CS5 also makes provision for application of the sequential test. It states that retail proposals in excess of 200 square metres (gross) and not within or adjacent to a defined centre or allocated in a Local Plan will be subject to sequential assessment. Accordingly, the requirement in saved UDP policy TC6 for a sequential test to be applied to all proposals for out of centre retail developments (within Part 1 of the policy, there is no such requirement in Part 2) is inconsistent with the most up to date policy within the development plan. Application of policy CS5 to the current application (which has a gross floor area of some 135 square metres) does not generate a requirement for sequential assessment.

In summary, given the size of proposed development, it gives rise to no breach of policy CS5 of the Core Strategy (it falls below the threshold of 2,000 square metres for impact assessment, and below the threshold of 200 square metres for sequential assessment). All policy requirements within Part 2 of saved policy TC6 of the UDP are either related to the question of need or directed at the issue of impact (without reference to a size threshold for impact assessment). Accordingly, the requirements of Part 2 of that policy are inconsistent with more up to date national and local policy. Save for the requirement to avoid creating an increase in the need to travel by car and to be accessible by a choice of means of transport, the requirements of Part 1 of the policy TC6 are similarly inconsistent with later national and local policy (for the reasons set out above).

Given the location and small scale of the proposals in this case, officers are satisfied that the remaining requirement of policy TC6 (with regard to car travel and choice of transport) is satisfied in this case.

The application proposals accord with up to date elements of retail policy within the development plan, and with retail policies within the Framework.

6.3 Highway Safety – Relevant policies of the NPPF within its Section 4 and relevant to the issue of highway safety have been referred to above.

Relevant policies within the development plan include the following.

Saved policy BE1 of the UDP requires development to; satisfactorily provide design and layout of roads, footpaths, accesses and servicing areas to comply with Council standards; make adequate provision for pedestrians and cyclists with easy access to existing rail networks; not overload the capacity of the surrounding highway network nor be detrimental to highway safety. Policy TP6 requires development to provide safe and convenient cycle access; cycle links to existing routes; safe, secure and covered cycle parking in accordance with minimum standards. TP7 requires development to provide safe and convenient pedestrian footways or other safe pedestrian routes and links to existing pedestrian networks and to public transport and local facilities where

appropriate. Policy TP12 requires development to provide appropriate levels of off-street car parking. TP17 requires development to maintain or improve highway safety and to provide safe access into the transport network and safe on-site circulation. Policy CS15 of the Halton Core Strategy is of relevance and encourages the promotion of sustainable modes of transport.

Several of the objections related to highway safety are as follows:-

- Increase in traffic.
- People park illegally already which blocks the junction.
- No limitations for use have been applied to the pharmacy in comparison to the Nursery 50m away.
- The Council is not addressing the highway situation adequately and has altered its approach since granting permission for the nearby day nursery.
- During school times the drop-off and pick-up of kids makes the traffic situation worse and the pharmacy next to the surgery has not helped.

The application proposal provides 10 car parking spaces on site (this is in excess of the required standard of 7 spaces), removal of one leylandii tree, pruning of other leylandii, an access improvement to the existing footway crossing and kerb radii improvements. These measures are considered to be acceptable and will enable safe access in and out of the site as well as providing appropriate levels of car parking. It is noted that at present there is some inappropriate parking adjacent to the access but the above improvements will ensure that a suitable standard of access can be achieved.

Objections have been received in relation to the increase in traffic and congestion in the area. Observations of the area have been made at various times of the day and over a period of time including pre- and post-opening of the nearby nursery, and, in addition pre- and post-opening of the pharmacy for which planning permission is sought. Observations showed that traffic congestion does occur around the time of school drop-off and pick-up. That congestion is not directly related to the operation of the pharmacy. However, even at those times, it was observed that parking spaces were still available within the parking area for the pharmacy. In addition, most trips to the pharmacy are expected and have appeared to be linked to existing trips within the area i.e. to the doctors or picking up and dropping off at school times, with very few new trips generated by the pharmacy at times when the local highway network suffers from congestion. Indeed, the number of new vehicle movements associated with the pharmacy at any given time is not considered to be significant. In addition, the site has previously operated as a builders yard with retail capability. That operation generated vehicle movements and remains the lawful use of the site.

During school collection and drop-off parking on both sides of the road was observed. The carriageway is 8 metres wide. On street parking on one side of the road only (assuming a required width of 2.4m) leaves a 5.6 metre carriageway which can operate in both directions. A single yellow line restricting waiting and parking on the west side of Appleton Village is in place

and is capable of being enforced. Enforcement would address some of the congestion issues. In any event, as already stated, it is not considered that operation of the pharmacy (which has been observed) contributes significantly to traffic generation on the local highway network.

It is not considered necessary to provide traffic management measures as part of this application. It is considered that the pharmacy is well-located so as to encourage access by non-car modes of transport.

Whilst it is claimed by objectors that the Council has altered its approach since granting permission for the nearby day nursery, it should be noted that the highway issues in respect of the change of use from Public House to Nursery were associated with the change in hours of occupation and increased vehicle movements and parking particularly during the morning peak. The public house use of that site had generated no significant traffic at that time. There was also the addition of long stay parking to be associated with the residential element of the application. Accordingly, different considerations arose, and there is no inconsistency in the Council's approach.

This application has been judged on its merits and on the observed existing highway conditions, and on this basis the above assessment satisfies highway safety requirements and complies with Policies BE1, TP6, TP7, TP12 and TP17 of the Halton Unitary Development Plan in this regard.

6.4 Amenity of Existing Residents –Relevant to consideration of this issue are policies of the NPPF, including paragraph 17 which requires decisions to be based on a good standard of amenity for all existing and future occupants of land and buildings, and, within section 8, paragraphs 69-70 seeking the inclusion of communities in the decision making process and the delivery of local services to enhance the sustainability of communities and residential environments.

Saved policies of the Unitary Development Plan that are of relevance include; policy BE1 which requires development to avoid unacceptable loss of amenity to occupiers or users of adjacent land or buildings by virtue of noise disturbance, noxious fumes, and dust or traffic generation; development must be compatible with existing and proposed surrounding uses. Policy PR2 prevents development that will contain a new noise source likely to cause a significant increase in ambient noise levels for either day or night where it affects residential sites. PR4 prevents development that will be likely to have an unacceptable effect on levels of light pollution or nuisance by visual intrusion of artificial light. Policy H8 allows development of non-residential uses in residential areas providing the development does not detract from the character of the area or the amenity of residents and it would not result in an over-concentration of non-dwelling house uses to the detriment of the character of the area or the amenity of residents.

Policy CS18 of the Core Strategy is also of relevance and expects development to be attractive and appropriate to its setting. Regard should also be had to the Community Safety SPD which seeks appropriate design of boundary treatments.

The nearest residential occupiers affected by the proposal are those on Regent Road. 'Raymede' is the closest to the site. Several of the objections have raised residential amenity as an issue as follows:-

- Increase in noise.
- Increase in light pollution.
- Increased disturbance.
- Inserted a door into the side situated in the entry which is a security risk for residents.
- Nuisance from noise and light early morning and late at night for residents from customers.
- Many differences between Cookes, Widnes Late Night Pharmacy: - i) this was a planned development lead by Halton & St Helens PCT and was invited to tender. There are now 2 further late opening pharmacies, Tesco and Asda; ii) It operates as part of the Beaconsfield Primary Care Centre which has parking for 27 patient cars + 3 DDA spaces, 20 additional staff car parking spaces and separate drop off with 2 loading bays and emergency vehicle access for 2 ambulances; iii) Separate access road from Peel House Lane; iv) the closest residential properties are on Peel House Lane; v) The building is not allowed to open before 8am in the morning and its late night 11pm opening has no residential impact as the surrounding houses are a much greater distance away and has on site car parking; vi) Reducing the hours of the proposed surgery will calm traffic concerns and safety of residents late into the evening, reduce noise and light pollution.
- There are few non-residential uses in the area.
- Hours of use will be particularly disturbing for elderly people in this area.
- Does not comply with H8 due to disturbance caused and highway issues.

The properties which adjoin the site are in commercial use, with Appleton Surgery to the north. Facing the site is the car park serving St Bede's church and school.

The proposal includes controlling the use of the other buildings on site, which are not included in this proposal and the remainder of the land to east, also in the applicant's control. The submitted drawings identify the buildings which are secured and the areas fenced off. A planning condition can be attached to a permission to ensure this is retained throughout the lifetime of the development to minimise potential misuse and prevent their usage undermining the availability of on-site car parking. Whilst this control was originally anticipated to be delivered via a planning obligation in the context of the last planning application (determined in July 2013), that position has been reviewed by officers. It is the view of officers that there is no reason why a planning condition (together with the Council's normal development management functions) could not adequately address the control of use of other buildings on site and adjoining land.

Although it is acknowledged that residents may experience some additional footfall and vehicle activity resulting from the use, it is considered that, given the existing lawful commercial use of the site, the proposed use in itself will not result in significant impact on the amenity of the surrounding residential occupiers by virtue of noise and disturbance. It should be noted that an existing pharmacy on Peel House Lane is also located within a residential designation with no control over opening times and offers no serious source of complaints from the residential occupiers.

Lighting: - The proposal has two rows of low level pole lighting located within the car parking area. Given that the entrance and car parking area is approximately 20m from the nearest residents on Regent Road, and that the application site building will screen the majority of lighting, it is considered that the lighting of the site will not cause significant harm to residential amenity, but will provide practical lighting of the car park and access to the front of the building. As such the requirements of policies: BE1, PR4 and H8 of the Halton Unitary Development Plan and Core Strategy Policy CS18 are complied with.

Noise: - The proposed pharmacy building is approximately 12m from the rear facades of the properties on Regent Road. In considering the application we have looked at the nature of the development and the history of noise problems from similar developments. In considering the application we have taken into account the following:

- The unit does not have any large chillers or freezers or associated plant which would result in tonal noise emanating from the site and in the experience of Environmental Health this is the most likely reason that residents complain about small retail units.
- There is no indication that deliveries are expected outside of the opening hours. It is recognised that early morning deliveries (before 7am) at small scale retail units can cause disturbance to residents. Delivery times could be the subject of a planning condition to ensure that deliveries of supplies do not take place outside of the opening hours.

Noise from vehicles using the small car park is not considered to generate significant impact. In addition, in this case the retail unit itself offers screening between the cars and the properties on Regent Street. The applicant has agreed to retain the existing out buildings on the site and this will further assist in mitigating the noise levels from vehicles parking on the site. Environmental Health officers do not consider that noise from vehicles on the site will give rise to noise disturbance, taking into account the hours of opening requested by the applicant. As such the development meets the requirements of Halton Unitary Development Plan policies BE1, PR2 and H8 and Core Strategy policy CS18.

The Council's Environmental Health Officer having considered this case, found that there is minimal disturbance to existing residential occupiers and has received no complaints to date since the opening of the unit relating to these issues. As such the proposal satisfies the policies of the NPPF paragraph 17, Section 8, paragraphs 69, 70 of particular relevance, policies

BE1, H8, PR2 and PR4 of the Halton Unitary Development Plan; CS18 of the Halton Core Strategy and the Community Safety SPD.

6.5 Risk and Perception of Crime and Anti-Social Behaviour –Relevant to consideration of these issues are the policies of the NPPF, in particular, those within its section 8, where, at paragraph 69 the NPPF advises that decisions should aim to promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion of particular relevance. Saved policy BE1 of the UDP requires development to be designed in such a way that minimises the fear and risk of crime. Policy CS18 of the Core Strategy requires development to promote safe and secure environments through the inclusion of measures to address crime, fear of crime and anti-social behaviour. In addition, the Designing for Community Safety SPD addresses specific design issues relating to the development.

Several of the objectors have raised issues as follows:-

- Appleton is in the top three areas of Widnes with a drug problem.
- A 'supervised administration of methadone' and a 'needle and syringe exchange' will increase existing problems.
- Victoria Park has suffered from anti-social behaviour which police have been involved, but which could be strewn with needles and become unusable as children will be unable to go there safely.
- The hours of the pharmacy should be reduced to ease the fears of crime in the area particularly in the morning from 7am to 11pm at night.
- The majority of pharmacies do not stock methadone as a stock item, therefore if an addict comes in with a prescription for it, they would need to wait at least 24 hrs or go to a pharmacy that did.
- A pharmacy will tell the health authority that they need to provide a needle/syringe exchange service because of the amount of methadone etc they are dispensing and the amount of heroin or other drug of choice that the addicts are injecting.
- Users of schools, nursery, businesses and church do not want to see drug addicts hanging around waiting for their next fix.
- Door to the side is only accessed through alley gates which would need to be left open and therefore a security risk.
- Methadone users keep anti-social hours and will cause disturbance arriving by vehicle or on foot in the evening.
- The dropping of the S.106 on a previous approval has not been fully dealt with by the Council.
- Methadone dispensing should only take place in town centres.

Given that this is a Primarily Residential area with a school, nursery and church in very close proximity, officers have considered the risk and potential public perception of risk that this development could result in a rise in crime and anti-social behaviour in the area.

There is no evidence to suggest that the development would result in an increase in crime and/or anti-social behaviour. Neither the Council nor the Police have received complaints regarding the current use since the unit opened in August 2013. Members should note the existence of other pharmacies permitted by the Council which provide a full and complete dispensing service and where no increased incidents have arisen as a result.

With particular regard to use of the pharmacy as a needle exchange and the dispensation of methadone, the following is noted.

First, if the needle exchange service were to be commissioned, this would be a controlled operation and managed within the premises. There is no reason to presume that anti-social behaviour would occur outside of the premises which would be directly related to this service.

Secondly, any pharmacy is obliged to dispense methadone if a valid prescription is presented. The Borough already has several pharmacies all able to do this. The Council is not in receipt of any evidence to suggest that this activity (or use as a needle exchange) directly results in anti-social behaviour. Members should note that the Council's Development Control committee has previously approved other pharmacies with unrestricted use, in or adjacent to the existing residential areas of Peel House Lane and Moor Lane.

In terms of design, the development has provided appropriate fencing around the internal car park which, in addition to serving to prevent use of the buildings, also restricts trespassers onto the undeveloped land to the east and minimises potential future anti-social issues that could arise as a result. The alleyway to the north of the building is secured through an existing alleygate and has only restricted access by key holders. Although the pharmacy has an emergency door to the side which opens onto this alleyway, given the layout of the premises the door can clearly only be used by staff.

The internal car park has low level lighting which serves to illuminate this area and ensure that it is safe. This lighting is new and the previous use did not provide this on site. The lit car parking area can be seen from the windows and windowed door of the south side of the shop. It is considered that sufficient design measures are incorporated within the development to ensure that the aims of the Designing for Community Safety SPD are met.

It is accepted that some local residents have a fear that anti-social behaviour will result from the use of the premises as a pharmacy and through its use as a needle exchange. However, in the absence of any evidence of actual risk, limited weight should be given to the perceived risk held by some residents.

Given the lack of evidence of the development resulting in anti-social behaviour and the on-site measures taken in this proposal to ensure that the car park has sufficient lighting and the added security, aside from preventing use of the buildings, that the fencing provides, it is considered that the proposal complies with policies of the NPPF, with Section 8, paragraph 69,

Halton Unitary Development Plan policy BE1, Core Strategy policy CS18 and the Designing for Community Safety SPD.

6.6 Other Matters

Committee members may recall the issue of a planning obligation associated with the previous application for planning permission, granted in July 2013 but thereafter subject to challenge by Cooke's Limited (as set out at the beginning of this report). The sole issue on which the permission has been granted by the Court in that judicial review claim concerned the question of a planning obligation. The applicant in the current application does not offer a planning obligation nor is one considered necessary by officers. Given the circumstances of the previous application (including the challenge by Cooke's Limited), the background to that application and the issue of whether a planning obligation in association with it is actually needed, are addressed below.

The chronology of the previous applications in relation to how the planning obligation was dealt with is as follows.

The original officer's report for the 7 January 2013 meeting of the Development Control Committee stated that, "Through s106 controls, there is no evidence to suggest that it would result in an increase in crime and/or anti-social behavior in this area."

The officer's reports to members at the 11 February and the 11 March 2013 Committees also referred to and relied upon a control via a planning obligation and at its meeting on 11 March 2013, the Council's Development Control Committee resolved to grant planning permission subject to the execution of a planning obligation restricting use of the site to prevent its use as a needle exchange.

After the 11 March 2013, the applicant reverted to the Council when it transpired that the NHS had a requirement for pharmacies to provide the full range of dispensing services which would include the potential to provide a needle exchange and requested that the application be approved without execution of a planning obligation prohibiting the operation of a needle exchange.

The officer's report prepared for the Committee meeting of 1 July 2013 made reference to this and stated that, "Whilst the s.106 was recommended in the previous report to members, this was on the basis that the applicant had volunteered it". The report then proceeds to make reference to the officer's view that limited weight should attach to public perceptions of fear of crime and anti-social behavior, and to the fact that other pharmacies operate without restriction close to residential areas. Further evidence in the form of commentary from Cheshire Constabulary was presented verbally to the committee at that meeting, although this was not documented. Members subsequently approved the application without the requirement for execution of a planning obligation.

The issue of harm (and perceived risk of harm) associated with the use of the current application scheme (including as a needle exchange and dispensary for methadone) has been assessed afresh by officers. It is confirmed that the Anti-Social Behavior Sergeant for Halton is not aware of any trends of additional anti-social behavior at pharmacies and there are no known incidents of crime linked to chemists that offer a needle exchange service. Customers with prescribed methadone are given this under supervision in the pharmacy and not taken outside. In dealing with this proposal (which is for retrospective planning permission), it is noted that there is no evidence of harm associated with the pharmacy since it commenced operation in August 2013.

As set out above (in section 6.5) there is no tangible evidence that operation of pharmacies (including as needle exchanges and dispensaries for methadone) cause an increase in anti-social behaviour or crime in the surrounding area. Accordingly, there is no basis for requiring execution of a planning obligation prohibiting use of the development as a needle exchange.

In addition, it is noted that the previously submitted planning obligation contained a further requirement relating to securing the buildings on the site. This latter element was subsequently removed and the committee report and decision notice relied upon the annotated plans which showed the buildings as secured and a fence to be erected. The construction of the fence was the subject of a planning condition.

Again, the current proposal has been assessed afresh and on its own merits. It clearly shows the remaining buildings within the site edged red as being secured and a 2m metal screen fence which prevents access to the buildings. Both have been implemented on site and a condition is recommended to ensure that this is retained throughout the development lifetime. The requirements of the Designing for Community Safety SPD are met, as it results in an acceptable form of fencing for the internal area of the site. The securing of the buildings meet the need to prevent future interference with the car parking and service area provided.

It is considered, therefore, that there is no requirement for the execution of any planning obligation for the reasons set out in this report.

6.7 Other Issues Raised Through Objections

- The owner has never made clear what he is to do with the site, over 1000 sqm which the Design & Access Statement states will be developed for associate uses with planning permission.

Comment – The application deals with one part of the site edged red. The applicant has correctly confirmed his interest in the remaining land to the east, which is edged blue. Should the client wish to pursue other development (whether within the red or blue land) then a further application would be necessary.

- Committee were previously advised to ignore issues raised.

Comment – There was no suggestion by officers that members should ignore material factors in dealing with this application.

- A needle/syringe exchange is not used in the home care/treatment of cancer.

Comment – The treatment of cancer is not an issue of particular relevance to the determination of this application. Officers have raised this previously for comparative purposes only.

- Pharmacy hours do not match the surgery and should be reduced with no weekend openings.

Comment – The proposal is not linked to the surgery and there is no planning requirement for both opening times to be the same.

- When home cancer treatment is given via a needle, they need to be taken to specific pharmacies and there are five already in the area.

Comment – As above.

- Drug dealers will also move into the area.

Comment – This is speculation and the Council has received no comments from the Police that this would be the case.

- Asda, Tesco and Widnes Late Night Pharmacy also have 100 hr licences but do not offer a methadone dispensary or needle/syringe exchange.

Comment - This is of no relevance to this application.

- Pharmacy hours do not match the surgery and should be reduced with no weekend openings.

Comment - This is of no relevance to this application. The application needs to be determined on the basis of what is submitted. Issues of noise and traffic are considered above in this report.

- The pharmacy owner has previously told the Widnes Weekly News in July 2013 that he would not be offering a methadone dispensary or

needle/syringe exchange service, but his NHS Application states he will be providing this service.

Comment –The impact of these uses are addressed above.

- Planning committee need to listen to the concerns of residents, schools, nurseries, businesses in the area.

Comment – The Development Control Committee considers the concerns that are raised through the planning application process before making planning decisions.

- Plans not visible on Council's website.

Comment – The Council was made aware of the problem with plans not being available online early on during the application process. The problem was rectified and the plans loaded correctly and a full public consultation took place following that.

- The Council need to ensure the statutory consultation period is adhered to.

Comment – This has been done.

- There is no intention of the pharmacy becoming linked with the adjacent surgery.

Comment – This is not part of this application and the linking of the pharmacy to the surgery is not material to the determination of this application.

- No democracy in previous planning meeting.

Comment - This is a separate application. The procedures at the previous committee meetings relating to this site have been appropriate.

- Applicant wishes to develop the whole of the site which the residents are not aware of.

Comment – The development of the remainder of the land in the applicant's ownership is a matter for future consideration through the planning process and not material to the determination of this application.

- The majority of pharmacies do not stock methadone as a stock item, therefore if an addict comes in with a prescription for it, they would need to wait at least 24 hrs or go to a pharmacy that did.

Comment – This is a statement of fact and not material to determining this application.

7 CONCLUSIONS

The application proposes a modestly sized change of use development, comprising alteration of the existing Whitfield & Brown office building to form a pharmacy with retail, including provision of on-site car parking, cycle store and new shop front and boundary fencing. It is considered that the development will not result in any significantly harmful effects whether in respect of existing residents, users of other facilities in this area, or in any other respect. It is considered that acceptable provision has been made for highways and servicing and maintains the safety of users of the facility and the amenity of the surrounding residents.

On the basis of the analysis above it is considered that the proposal is in accordance with the National Planning Policy Framework, the Core Strategy, and those elements of policies of the Halton Unitary Development Plan which are up to date. The proposal accords with the Designing for Community Safety SPD, Shop Fronts & Advertising SPD.

8 RECOMMENDATIONS

That the application be approved.

9 CONDITIONS

- 1 Plans (BE1)
- 2 Hours of opening (BE1)
- 3 Doors adjacent to the emergency access on to alleyway to open inward throughout the lifetime of the development (BE1)
- 4 Improvements to vehicle access to remain throughout the lifetime of the development (BE1)
- 5 Restriction of gross area to 136 square metres (BE1, H8, TC6 and CS5)
- 6 Boundary treatment to rear of the site to remain throughout the lifetime of the development (BE1)
- 7 Cycle parking to remain throughout the lifetime of the development (TP7)
- 8 Refuse storage to remain throughout the lifetime of the development (BE1)

- 9 No deliveries to the site shall take place outside the permitted opening hours of 07:00 to 23:00 Mon to Fri; 08:00 to 22:00 Sat; 10:00 to 16:00 Sun (BE1)
- 10 Details of alarm and CCTV system to be submitted (BE1 and BE2)
- 11 All external lighting shall be compliant with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light throughout the lifetime of the development (BE1 and PR4)
- 12 Prevention of public use of doorway to north onto alley (BE1)
- 13 Buildings shown to be secured on the plans to be remain secure for the lifetime of the development.

10 SUSTAINABILITY STATEMENT

As required by:

- Paragraph 186 – 187 of the National Planning Policy Framework;
- The Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012; and
- The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2012.

This statement confirms that the local planning authority has worked proactively with the applicant to secure developments that improve the economic, social and environmental conditions of Halton.