

## Officer Report On Planning Application: 16/02971/S73

<b>Proposal :</b>	S73 application to vary conditions 1 & 4 of approval 11/03159/FUL, to allow for an increase in permitted retail sales area.
<b>Site Address:</b>	Boots Pharmacy Dykes Way Wincanton
<b>Parish:</b>	Wincanton
<b>WINCANTON Ward (SSDC Member)</b>	Cllr Nick Colbert Cllr Colin Winder
<b>Recommending Case Officer:</b>	Adrian Noon Tel: 01935 462370 Email: adrian.noon@southsomerset.gov.uk
<b>Target date :</b>	8th September 2016
<b>Applicant :</b>	Boots UK Ltd
<b>Agent: (no agent if blank)</b>	Mr Duncan Bennett 140 London Wall London EC2Y 5DN
<b>Application Type :</b>	Other Change Of Use

### UPDATE

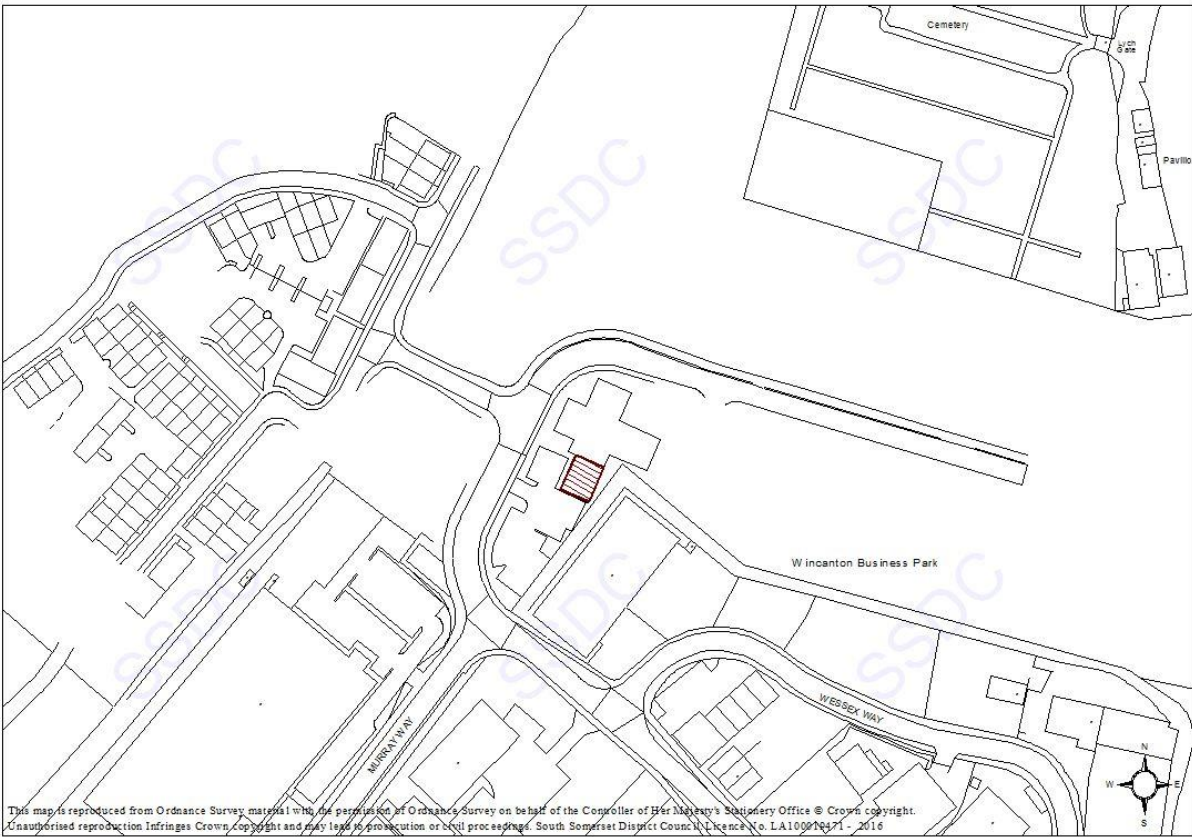
This application was considered at the September meeting of Area East when it was deferred to enable the applicant to clarify their intentions for their existing outlet on the High Street. It has been confirmed that there is no intention to close the High Street store and applicant is willing to offer a unilateral undertaking not to close it for a period of 5 years from the date of any permission granted in relation this application.

The report, updated to reflect this information and observations received since the previous report was drafted, is set out below.

### REASON FOR REFERRAL

At the request of the ward members to enable the impact on the town centre to be debated.

### SITE DESCRIPTION AND PROPOSAL



This site sits at the foot of the hill, adjacent to the approved access to the New Barns key-site from the Wincanton Business Park. The allocation (KS/WINC/1) comprises residential,

employment, education and community uses. The site as a whole has outline permission (05/00960/OUT) for residential development, industrial and community uses including a primary school, an extension to the cemetery and associated landscaped areas.

Two reserved matters approvals have been granted, 09/00979/REM for 283 houses, eleven employment units and an attenuation pond (to serve the whole development) and 10/00014/REM for medical centre, industrial units and retail units with flats above. Subsequently a full, standalone permission (11/03159/FUL) was granted (at appeal) for a medical centre, associated parking and landscaped areas and a pharmacy with a dedicated retail display area of 18m<sup>2</sup> at ground floor as shown on the approved plan.

Condition 5 of the Inspector's decision limits the retail sales area to the 18m<sup>2</sup> as shown on drawing 06010 51. Condition 4 limits the range of goods to those specified on an attached list of restricted pharmacy products and services.

Subsequently a S73 application (12/00971/S73) was approved to vary the sales area to 18sqm. This did not seek to change the list of restricted pharmacy products and services.

This application now seeks to substitute a different ground floor plan to show an increased sales area of 66sqm. No other changes are proposed.

## RELEVANT HISTORY

05/00960/OUT	<p>Outline planning permission granted for mixed-use development of land together with new primary school, riverside park and associated infrastructure (28/12/06). An associated S.106 Agreement, which has been amended by a supplementary agreement covers:-</p> <ul style="list-style-type: none"><li>• Affordable housing (35%)</li><li>• Provision and maintenance of landscaped public open space and play facilities</li><li>• Provision of the cemetery extension site</li><li>• Education contributions;</li><li>• Off-site highway and travel plan costs</li></ul>
09/04736/NMA	<p>Minor amendments agreed to 09/00979/REM to allow changes to plots 41-58, 94, 115, 116-139 and 143.</p>
10/00014/REM	<p>Reserved matters approved for the erection of a medical centre, 3 industrial units, 4 retail units, 7 residential duplexes and associated works. The proposal did not include a pharmacy with the medical centre and condition 10 stated:-</p> <p><i>“None of the retail units hereby approved shall be used as a pharmacy without the express grant of planning permission.</i></p> <p><i>“Reason: To safeguard the vitality and viability of the town centre in accordance with policies MC3 and MS2 of the South Somerset Local Plan.”</i></p>
10/05187/MNA	<p>Minor amendments agreed to 10/00014/REM to allow inclusion of photovoltaic and solar panels to the roof and 6 high-level sun-tube terminals to roof of medical centre.</p>

11/00246/NMA	Minor amendments agreed to 10/00014/REM to allow revisions to medical centre.
10/05038/FUL	<p>Planning permission refused for the erection of a new Health Centre including pharmacy on the grounds that:-</p> <p><i>“It is not considered that it has been demonstrated that the provision of a pharmacy within the medical centre would not be prejudicial to the vitality and viability of the town centre. As such the proposal is contrary to with policies MC3 and MS2 of the South Somerset Local Plan, adopted 2006.”</i></p>
11/03159/FUL	Planning permission refused for the erection of a new Health Centre including pharmacy. Allowed at appeal 23/02/12.
11/04690/ADV	Signage to pharmacy approved.
12/00971/S73	Variations to conditions 1 (plans) and 5 (retail sales area) of 11/03159/FUL approved.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

The policies of most relevance to the proposal are:

### **South Somerset Local Plan 2006 - 2028**

SD1 – Sustainable Development  
 EP9 – Retail Hierarchy  
 EP11 – Location of main town centre uses (the sequential approach)  
 EP12 – Floorspace threshold for impact assessments  
 EP14 – Neighbourhood centres  
 EQ2 – General Development  
 TA5 – Transport impact of new development  
 TA6 – Parking standards

### **National Planning Policy Framework**

## **CONSULTATIONS**

**Wincanton Town Council** – No objection.

**County Highway Authority** – No observations

**SSDC Highways Consultant** – Does not consider that the proposed changes would lead to a significant increase in vehicular traffic to/from the site.

**Area Development** - make the following comments

*“I recognise that the pharmacy meets the needs of registered patients but suggest it is also the ‘first choice’ provision, by virtue of its location, for the many from the neighbouring residential estate and much of the Blackmore Vale so there is a very fine*

*balance to be struck between enhancing a now established/valued service and the likely longer term impacts an increased retail sales area could have on the town centre provision.*

*“As you are aware, the Area Development Team has consistently opposed increasing edge of town facilities on the grounds they would adversely affect the town centre and having reviewed the case history I am minded to maintain this position. Within this application it is stated that ‘the majority of trade generated by the proposed increased retail sales area would be diverted from existing out of town supermarkets’ (Lidl & Morrisons); we are also told that Boots is committed to the future of its town centre store and widening of the permitted range of goods is not proposed.*

*“This is clearly the state at present but I am concerned that incrementally we will be moving towards a position where, if this application is approved, it leaves an application for ‘another day’ to lift the condition relating to the restrictive list at which point, the long term viability of the (currently) Boots operated town centre provision is further compromised. This risk was acknowledged by the Appeal Inspector and makes me feel it is worth reiterating some of the points made previously in relation to this site:*

- The vulnerability of the original funding for the new health centre, was an influential factor in the Area East Committee (June 2010) decision to approve the health centre on its present site, at the same time the Committee prevented the use of nearby retail units as a pharmacy; the intent was clear - it wished to protect town centre pharmacies*
- In February 2011 NHS Somerset commented that ‘Boots’s other pharmacy at 29-31 High Street would remain (although obviously we cannot pre-judge what commercial decisions Boots may make in the future)’*
- In August 2011 the Design & Access Statement ‘The pharmacy will only provide items from the restricted list and therefore should have no effect on the retail outlets in the town’.*
- In November 2011, the appeal submission stated that ‘the primary purpose of the pharmacy is to dispense prescriptions, and the retail element being so small, it is considered a sui generis use’.*
- In February 2012, the Planning Inspector commented ‘The proposed facility therefore has to be called a pharmacy, but its role could be controlled to be as close as possible to that of a dispensary. This could be ensured by conditions which restrict the retail element in terms of use, range of goods, floor area’”*

It is confirmed that out of 85 units on the High street 11 are vacant, of which 2 are understood to be under offer by prospective occupants.

## **REPRESENTATIONS**

11 letters of objection, including representations from the Wincanton Chamber of Commerce have been received raising concerns about the impact on the viability of the high street due to loss of footfall. The need to the proposal is questioned given the existing outlet on the High Street. Concern is raised that should the High Street outlet close vulnerable residents without access to a car would not be able to access the pharmacy at the medical centre. Concern is raised about the impact of the medical centre increasing its ranges of goods – these should remain restricted to medical products.

A further letter has been received from a Town Councillor objecting on the grounds that the proposal is contrary to planning policy and would adversely affect the viability of the town centre. The councillor considers that the application demonstrates that Boots wishes to close their High Street branch and should be stopped.

## **Applicant's Case**

In response to local concerns the applicants have provided a statement that sets out:-

*An analysis of Wincanton Town Centre including a survey in September 2015 has shown it to be relatively healthy in retail terms with a vacancy level of 8.75% (7 vacant units) compared to a national average vacancy rate of 12.30%. The survey showed a number of new independent retailers entering the town centre including an Arts & Crafts shop, a sewing shop, a café and a sandwich shop. One of the vacant public houses had also been re-opened and another vacant unit was the subject of ongoing restoration works at the time of the survey. This shows the health of the town centre to be improving with a focus on independent retailers.*

*Boots is the only pharmacy and the main personal care goods retailer in the town centre. Only limited personal care goods are sold within the Co-op Supermarket on Carrington Way within the town centre. As such Boots High Street store would be the main retail outlet for such goods in the town centre potentially impacted by trade draw generated by the proposed expanded retail sales floorspace in the Wincanton Health Centre.*

*There are two main out-of-centre retail outlets .....sell an element of personal care goods, with the Morrisons store featuring approximately 204 sq.m of personal care sales, and the store Lidl featuring approximately 40 sq.m of personal care sales.*

*We would contend that the majority of trade generated by the proposed increased retail sales floorspace at the Wincanton Health Centre Pharmacy would be diverted from these two out of centre stores rather than the town centre as patients and local residents would already travel to these stores for personal care goods rather than travel into the town centre, and would not choose to travel the extra distance to the town centre for these goods. This trade is already lost from the town centre and its diversion from the existing out-of-centre stores would have no impact on the town centre.*

*Boots is committed to the future of its town centre store in Wincanton, indeed where Boots have opened a pharmacy within a health centre, apart from the closure of the store from which the pharmacy contract was relocated, the remaining store(s) in the town have been kept open.*

*In Wincanton Boots relocated its pharmacy contract from its store at 13 Market Place to the relocated health centre in March 2012 and closed the store. Boots retained its store at 29/32 High Street.*

*Since opening, the staff at the Boots pharmacy at the Health Centre have received a considerable amount of feedback from customers with regard to the level of retail provision within the pharmacy. Customers have been asking questions such as 'when are you going to finish the store' and on a daily basis customers are telling staff they would like to be able to buy a wider range of Boots products. This clearly demonstrates a local demand for increased retail provision within the pharmacy.*

*The additional sales floorspace would only be used to sell goods within the current restricted range of goods. Widening of the permitted range of goods is not proposed.*

*We consider that the case put forward in the submitted planning statement and the above additional supporting information provides a robust case for the proposed*

*additional retail sales floorspace being fully compliant with national and local planning policy and provides reassurance to the Council and interested parties that the proposed additional retail sales would be beneficial in meeting local retail needs and would not have a detrimental impact on the town centre or put Boots town centre store at risk.*

The applicant has further confirmed a willingness to provide an undertaking not to close their High street store for a period of 5 years.

## **CONSIDERATIONS**

No physical changes are proposed to the previously approved structure, nor are any amendments to the site layout, landscaping, parking arrangements etc. requested. As such it is not considered that there are any implications for policies EQ2 TA6 or TA5. The sole revision is the repositioning of the retail sales area within the ground floor.

Although an increase of 48sqm is proposed no variation to the range of goods to be sold is sought. The pharmacy serves primarily the medical centre, and also the substantial residential area at New Barns. Accordingly whilst such a facility would normally be steered to the town centres of larger settlements (EP9, EP11) it is considered that a justifiable case exists for such a service in this location.

The proposed increase in floor area is not of a scale that triggers the need for an impact assessment (policy EP12); rather it is considered commensurate with a facility that might reasonably be expected in a neighbourhood centre (EP14) where there is a GP surgery.

Local concerns are noted, however as the area development team point out 11 out of 85 units are currently vacant (13%), with the prospect that this may reduce to 9 (10.5%). This compares favourably to the nation average of 12.5% (Retail Gazette, March 2016)

On this basis it is not considered that its repositioning as shown on the alternative ground floor plan would have any adverse impact on the town centre. As such the proposal complies with the policies of the local plan and the policies contained within the NPPF.

As this is a S73A application it is necessary to treat any approval as a fresh permission and in this respect all other issues, being unchanged, are considered acceptable any remain compliant with the relevant saved policies and the NPPF. Accordingly all other conditions, with the exception of the time limit (the development is now complete) as imposed by the inspector should be attached to the permission. The plans condition should be updated to include the new ground floor condition to be referred to in the amended version of condition 5.

The offer of an undertaking to not close the High Street store with 5 years is a welcome assurance of the applicant's commitment to the town centre.

## **RECOMMENDATION**

Grant planning permission subject to the following conditions.

### **Justification**

The proposed medical centre and pharmacy would be of an appropriate scale, with a suitable design and layout, parking and access arrangements that would not be prejudicial to visual amenity, the character of the locality or highways safety. It is considered that it has been

demonstrated that the provision of a pharmacy within the medical centre, which would meet a specified need, would not be prejudicial to the vitality and viability of the town centre. Safeguarding conditions could reasonably ensure that the pharmacy would be restricted to ensure that it caters for the demonstrated need. As such the proposal complies with policies SD1, EP9, EP11, EP12, EP14, EQ2, TA5 and TA6 of the South Somerset Local Plan 2006 – 2028 and the policies contained within the National Planning Policy Framework.

**SUBJECT TO THE FOLLOWING:**

01. The development shall be carried out generally in accordance with the previous approved plans, namely plans 06010 50A;06010 51; 06010 52A; 06010 53A; 06010 54B; 06010 55A; 06010 56A; and 06010 57. With regard to the ground floor pharmacy drawing 06010 51 shall be superseded, in part, by drawing titled Planning Application (drawing number 1309/C215742/GF received 07/07/16 as set out by condition 4 below.

Reason: To define the development hereby approved.

02. The sales area hereby approved shall remain as a pharmacy and for no other retail use within use class A1 of the Use Classes Order 1995 (as amended).

Reason: To ensure that the pharmacy meets the need identified and to safeguard the vitality and viability of the town centre in accordance with policies EP11 and EP14 of the South Somerset Local Plan 2006 - 2028.

03. The goods and services to be provided by the pharmacy hereby approved shall be limited to those specified on the “restricted list of pharmacy products and services to the public” provided as Appendix 1 attached to this permission.

Reason: To ensure that the pharmacy meets the need identified and to safeguard the vitality and viability of the town centre in accordance with policies EP11 and EP14 of the South Somerset Local Plan 2006 - 2028.

04. The pharmacy and retail area hereby approved shall be limited to shown on drawing titled Planning Application (drawing number 1309/C215742/GF) received 07/07/16.

Reason: To ensure that the pharmacy meets the need identified and to safeguard the vitality and viability of the town centre in accordance with policies EP11 and EP14 of the South Somerset Local Plan 2006 - 2028.

05. With the exception of out of hours emergency dispensing, the opening hours of the pharmacy hereby approved shall be limited to the opening hours of the medical centre. There shall be no retail sales outside the opening hours of the Healthcare Centre.

Reason: To ensure that the pharmacy meets the need identified and to safeguard the vitality and viability of the town centre in accordance with policies EP11 and EP14 of the South Somerset Local Plan 2006 - 2028.