

**ITEM NO:**

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| <u>Location:</u>  | <b>Service Station<br/>Bedford Road<br/>Hitchin<br/>Hertfordshire<br/>SG5 2UG</b>  |
| <u>Applicant:</u> | <b>Mr V Thayaparan</b>   |
| <u>Proposal:</u>  | <b>Redevelopment and enlargement of shop, works to existing canopy and increase number of parking spaces (as amended by drawings received 16/10/2019).</b> |
| <u>Ref .No:</u>   | 19/01598/FP  |
| <u>Officer:</u>   | <b>Kate Poyser</b>   |

**Date of expiry of statutory period:** 27 August 2019 and an extension of time has been agreed to 23 December 2019.

**Reason for delay:** Negotiations.

**Reason for referral to committee**

The application has been called to committee by Cllr Ian Albert on the grounds of public interest. The following concerns are added to the request to call-in.

“Residents have a number of concerns, some of which span both licensing and planning. I have tried to set out here the issues where at least more information may be needed. The application is less than expansive in explanations.

1. The forecourt area and grass at the back of the garage slope away significantly from the front. It's not clear how this will be drained when the grass area is removed to create parking. Residents in King George's Close are concerned about the risk of at least minor flooding to their properties with heavy rain.
2. On that issue, Anglian Water has visited. They said that they were not aware of the planning application and may have some issues themselves.
3. Part of this is also due to the fact that the properties in King George's Close are built on stilts I believe as the site was formerly a pond. Residents are concerned about potential subsidence and damage to their properties as a result of building work on the garage site.
4. It's not clear whether the forecourt will be levelled. At the moment, as I mentioned earlier, the new parking spaces will be herring boned. But inevitably, this will mean that most cars will drive in front first. This will mean that residents will have headlights shining in their windows, particularly intrusive late at night. And for residents using their gardens in the daytime, additional car fumes added to existing petrol smell.

5. Further to this, presumably the car park area will itself be lit. What lights are planned, what hooding of lights will there be? But there will be light gain experienced by residents neighbouring the garage which is a detriment to residents' enjoyment of their property.
6. A number of trees are planned to be removed as well as the grass area. Some of these existing trees would provide some cover to houses. But this will not be true in future as the car park spaces are up against the fence of residents without much additional screening if I read the plans correctly. What new trees will replace them? Could some more mature trees be planted? But screening is the key question here.
7. I noticed on the plans that the car park spaces seem very deep as currently designed – about 15 metres I think. This seems way more than necessary. There was an earlier plan to put in a roadway for a new car wash facility which was rejected I believe. Having expanded car parking spaces would leave it open for a future application. I know this is speculative but it does beg a question.
8. Residents are rightly concerned about additional noise, particularly at night time with a larger shop and especially if the shop remains as 24/7 opening with a much larger footfall planned presumably.
9. It's worth noting that there a number of properties impacted by this application including in Bedford Road itself, Deacons Way and King George's Close. It's not clear how many residents are aware of what's happening or been informed directly by any NHDC mailing.
10. The owner has stated that he will be able to use existing air conditioning units for the new shop even though it is much bigger. I'm not a technical expert to know if this is possible or indeed where the units will be sited in relation to existing properties and whether this will increase noise.
11. A new canopy for the forecourt is undoubtedly needed. However, it will be larger and more intrusive for residents.
12. There has been a long running issue about the siting of the fuel tanks which is fairly near residential properties both in terms of safety and smell. Are they at a safe distance?

I hope this is helpful to your considerations. Residents I have spoken to are not completely against change at the garage. Indeed, they may use the facilities themselves from time to time. But they do not want to be detrimentally impacted by the plans and at this time they feel that this may well be the case. And a number of people did not pick up that the garage was moving to 24/7 opening until after it was too late."

## 1.0 **Site History**

- 1.1 84/00137/1 Redevelopment of sales building, pump and UG storage. Refused for the following reason:

"The proposed forecourt canopy by reason of its size and design would resent an unduly prominent feature to the detriment of the visual amenities of the residential area within which the premises are located."

- 1.2 85/00017/1 Redevelopment sales building, pumps and UG storage. Refused as above, but allowed on appeal.
- 1.3 13/02426/1 New access road from existing hand car wash to front of retail shop, with freestanding canopy over hand car wash. Refused for the following reason:  
 “The car wash activities of the existing site, in conjunction with the 24 hour use of the service station as a whole, already have adverse impacts upon the living conditions of the adjacent properties, namely 1-4 Kings Georges Close. The proposed access road would not only result in an intensified and increased activity of the car wash operation of the site, but would also bring these impacts closer to the neighbouring properties. By reason of this intensified use of the car wash operation and the resulting impacts of noise, vehicle fumes, spray, loss of privacy, and general increased disturbance from the proposed access road, in the opinion of the Local Planning Authority, the living conditions and quality of life of occupiers of these neighbouring properties would be unacceptably harmed. The proposal is therefore contrary to Paragraph 123 of the National Planning Policy Framework. “
- 1.4 14/00009/1 Freestanding canopy over existing hand car wash area. Conditional permission.
- 1.5 18/02270/PRE Redevelopment and enlargement of shop, works to existing canopy and increase number of parking spaces.
- 1.6 There have been several applications for advertisement consent, including one application being dismissed at appeal.

## 2.0 **Policies**

### 2.1 **North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)**

- Policy 8 – Development in towns
- Policy 42 – Shopping
- Policy 55 – Car parking standards

### 2.2 **Supplementary Planning Documents**

- Vehicular Parking at New Development

### 2.3 **National Planning Policy Framework**

- Section 2 – Achieving sustainable development
- Section 4 – Decision-making
- Section 6 – Building a strong, competitive economy
- Section 7 – Ensuring the vitality of town centres
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport
- Section 12 – Achieving well-designed places

### 2.4 **North Hertfordshire District Local Plan 2011-2031 (awaiting Inspector’s final report)**

- Policy ETC7 – Scattered local shops and services in towns and villages
- Policy T2 – Parking
- Policy D1 – Sustainable design
- Policy D3 – Protecting living conditions
- Policy HC1 – Community facilities

### 3.0 **Representations**

3.1 Environmental Health (noise and nuisance) – initially raised an objection due to general noise and disturbance that would be caused by cars parking adjacent residential boundaries throughout the night. However, following negotiations and the receipt of amended drawings, the objection has now been withdrawn.

“I am satisfied that the proposed rising bollards to these spaces for the night time period (23.00hrs to 07.00hrs) will ensure that such noise sources are further away from the residential dwellings and therefore will not have a significant adverse effect. I include a Condition below relating to the hours of use of the bollards.”

The recommended condition is copied in the recommendation below, together with a further recommended condition requiring noise measure controls relating to fixed plant and machinery.

3.2 Hertfordshire Highways – considers the development would not generate a significant number of trips to the site; notes existing access arrangements and raises no objections. Advisory notes for the construction process are given.

3.3 Environmental Health (land contamination) – no objections are raised and a standard condition is recommended requiring a preliminary environmental risk assessment report (Phase 1) prior to the commencement of work on site.

3.4 Anglian Water – any comments received will be reported to the Planning Control Committee orally at the meeting.

3.5 Local Residents – 11 letters of objection have been received from the occupiers of 1, 2, 5, 6, 8, 9, 11 and 16 Deacons Way, 4 King Georges Close and 210 Chaucer Way. The objection can be summarised as follows:

- Highway matters – increase in traffic, danger to school children, no loading/unloading area, insufficient parking leading to parking in Deacons Way, insufficient space for construction vehicles.
- Residential amenity – increase in general noise and disturbance, increase in noise and disturbance during night/early morning, site already attracts gathering of “boy racers” during unsocial hours and a complaint has already been made to police and Environmental Health, no restriction on delivery times, adverse effect on living conditions of No. 1 Deacons Way due to close proximity of parking spaces and intrusion on rear garden, exacerbate disturbance from lights.
- Appearance - unsightly, over-development of site.
- Other matters - loss of trees, increase in litter, loss of property value to 1 Deacons Way, would further encourage children to buy sweets and energy drinks.

### 4.0 **Planning Considerations**

#### 4.1 **Site and Surroundings**

4.1.1 Westmill Service Station is a petrol filling station with a small convenience store and is located on Bedford Road, between Deacons Way and King Georges Close. It is in a primarily residential area and a petrol filling station has occupied this site for at least 40 years. The service station currently operates a 24 hour service, 7 days a week.

## 4.2 Proposal

- 4.2.1 The proposal is to demolish the existing convenience store and replace it with a larger shop. The existing store measures approximately 99 square metres and the proposed store would measure 256 square metres, an increase in 157 square metres. 5 new car parking spaces are proposed. The provision of a compound for goods just delivered and the relocation of the air/water facility also form part of the proposed works. The existing petrol pumps would remain. The existing canopy would also remain, changed only by the removal of the link with the existing store. The underground petrol storage tanks would not be affected.
- 4.2.2 Negotiations have taken place with the applicant following an initial objection from Environmental Health relating to night time noise and disturbance to adjacent residents. The amended scheme now includes retractable bollards to 4 of the 5 car parking spaces and an agreement to have them in the raised position from 11pm to 7am. The purpose of this is to stop cars parking adjacent residential boundaries during the night. This matter will be considered later in the report.
- 4.2.3 Following negotiations, the replacement shop has also been reduced in footprint to bring it further from the side boundary with 1 Deacons Way.

## 4.3 Key Issues

### 4.3.1 Principle of the development

National and local policies encourage small scale shops to serve a local population. Larger retail units will require a sequential test to ensure new proposals would not have an adverse effect on the vitality and viability of established town centres. The proposed shop is small scale and no such test is required in this case.

- 4.3.2 For evidence of this I would refer you to the National Planning Policy Framework (NPPF), paragraph 83 (d) which requires planning decisions to enable:

*“the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open spaces, cultural buildings, public houses and places of worship.”*

In the emerging Local Plan 2011 – 2031 Policy ETC7 is relevant. It advises that:

*“Planning permission for small-scale proposals providing new shops and services will be granted within existing settlements to serve the local community as an exception to the sequential approach set out in Policy ETC3(a).”*

(The threshold for the impact test in Hitchin is 2,500 square metres.)

Saved Policy 42 of the NHDLP No. 2 with Alterations does not require a sequential test for shops below 1,500 square metres.

**I, therefore, conclude that there is no objection in principle to this development.**

#### 4.3.3 Residential Amenity

The closest residential property to the proposed shop is 1 Deacons Way. The original submission showed the side wall of the new shop to virtually abut the side boundary with this property, project 5 metres beyond the rear wall of the house and reaching a maximum roof height of 5 metres. It was felt that this would have an overbearing effect on the rear aspect of that residential property. Following negotiations amended plans have been submitted that reduces the footprint of the building and moves it to 3 metres away from the residential boundary. I consider the scheme now overcomes this particular objection.

4.3.4 Consideration has been given to any noise and disturbance that may be caused to nearby residential properties as a result of the proposed work. The applicant has submitted a Noise Impact Assessment carried out by acousticians, Cass Allen. The Council's Environmental Services has also been consulted. It has been noted that there is not time limit restriction to these premises and that the petrol filling station and shop have operated 24 hours a day for some time.

4.3.5 It is felt that any increase in vehicular traffic would not be great enough to have a significant effect on residential amenity due to noise.

4.3.6 There are currently no car parking spaces laid out on site for visitors to the shop. Five parking spaces are proposed to be marked out close to the shop and towards the rear of the site, just over 3 metres from the property boundary with 1 to 4 King Georges Way and close to 1 Deacons Way. The Council's Environment Health Officer initially objected due to the likely noise associated with the parking of cars during all hours of the night (banging of car doors, revving of engine, car radio etc.) and the effect it would have on the living conditions of the adjacent residential properties. Following negotiations, the applicant has amended the scheme to prevent use of the car parking spaces during the night. Rising bollards would be installed in front of 4 of the bays, to be placed in the raised position each night. This would prevent customers parking close to neighbouring properties when background noise is low enough for the use of cars here to cause disturbance. The Environmental Health Officer is now satisfied and has withdrawn the objection. It is felt that parking further from the boundary within the site would not be detrimental to occupiers' living conditions. The use of the rising bollards can be secured by condition and this is included in the recommendation.

4.3.7 A compound for the short-term storage of retail items is to be located abutting the side boundary with the rear garden of 1 Deacons Way. The compound would be formed using acoustic fencing. The Environmental Health Officer considers the acoustic fence would be effective and raises no objections to this.

4.3.8 Plant, such as relating to chiller units, is proposed to the rear of the shop, which would face Deacons Way. The units would generate some noise. The Council's Environmental Health Officer raises no objections to this subject to a condition requiring noise measure controls to be approved and implemented.

4.3.9 Concern has been raised by some local residents to noise caused by the congregation of youths here during unsociable hours. A complaint has been lodged with the police and Environmental Health Services. Such human behaviour is not a planning matter that can result in the withholding of planning permission, but is a matter for the police or other legislation.

4.3.10 Concern has been raised by local residents to noise from delivery vehicles. There is currently no restriction on when delivery vehicles can visit the site. It is felt that the proposal would not generate a significant increase in deliveries to justify restricting any planning permission.

4.3.11 Concern has been raised by local residents to intrusive lighting from the site. The proposed scheme does not include any additional lighting. The existing situation would remain. Any concerns can be controlled under environmental health legislation.

4.3.12 **I consider there would be no significant harm to residential amenity, subject to a condition to ensure the operation of rising bollards restricting night time use of 4 new car parking spaces.**

4.3.13 Highway matters

There is an existing in and out vehicular access to this site. No changes are proposed to the access, so the existing arrangement would remain. The Highway Authority has been consulted and consideration has been given to any increase in traffic the larger shop may generate. It is not felt to be significant and no objections are raised.

4.3.14 There would be an increase in floor space of 157 square metres and one additional member of staff proposed. Five new parking spaces are proposed, which is a shortfall of one space according to the current car parking standards for retail units. However, this is not a standalone shop, but part of a service station, where it is reasonable to expect some shop customer to be combining their trip will filling up with petrol and as such would use the parking areas associated with the petrol pumps. I can see no objections to the number of proposed new parking spaces.

4.3.15 Four of the five new parking spaces would be barred from use between 11pm and 7am by the use of rising bollards. I consider it reasonable to expect that there would be fewer customers during these hours and therefore fewer parking spaces required. The size of the site and hard surfaced area is such that customers could find other places to park within the site during these hours, which includes the nine spaces associated with the petrol pumps. The highway authority has been consulted specifically on this matter and no objections have been raised. I, therefore, consider that there are no sustainable planning objections to raise in relation to the proposed parking facilities of the development.

4.3.16 **I can see no sustainable planning objections relating to the highway and parking considerations of the scheme.**

4.3.17 Appearance

The existing shop is a buff brick, box-shaped building of a functional rather than aesthetic design. The canopy over the petrol pumps has been extended over part of the roof of the building. The proposed new shop is essentially a simple, contemporary brick building, rectangular in footprint with a curved roof. The external walls would mostly be of a buff brick with large areas of glazing. There would be grey cladding panels above the glazed areas. The curved roof would be of dark grey profile composite sheeting. The roof would curve upwards towards the centre of the site to a maximum height of 5 metres. The part of the canopy extending over the existing building would be removed. I consider the proposed building would be of a better quality design than the existing, although it would be a more prominent building due to its larger size.

4.3.18 The increased footprint of the new building and four of the parking spaces would result in the loss of some soft landscaping to the rear of the site and to the Deacons Way side of the site. There is currently a wide grassed area with a conifer tree between the shop and footpath of Deacons Way. The tree would go and the strip of land reduced to 6 metres deep. I consider that this would still be a substantial area for landscaping. The applicant leaves the details of planting to a condition should permission be granted.

4.3.19 I consider that the conifer tree, which would be lost, does not make a particularly positive contribution to the appearance of the area and I can see no objection to its loss. I feel that the 6 metre wide strip is sufficient space for an effective planting scheme. **Overall, I consider the appearance of the scheme could result in a slight improvement on the current appearance of the site.**

#### 4.3.20 Other Matters

Local residents have expressed concern that the replacement shop would result in increased traffic entering and exiting the site and as such would increase danger to school children travelling to and from Priory School. The service station is approximately 235 metres from the Priory School entrance. The highway authority considers that the proposal would not generate a significant increase in traffic to amount to highway danger and no objections are raised.

4.3.21 Concern is also expressed by local residents about the possible increase in litter, and that the increased size of shop would result in school children buying more sweets and energy drinks which are bad for their health. These are not material planning matters that could result in a sustainable planning objection.

4.3.22 The location of the proposed parking spaces would result in the loss of a second conifer tree at the back of the site. Due to its location and species, the tree makes a limited contribution to the visual amenities of the area and I can see no objections to its loss.

4.3.23 Objections are raised to the loss of value of nearby residential properties. Again, this is not a material planning objection that could result in a sustainable planning objection.

4.3.24 One of the reasons for the call-in from the ward Councillor relates to the possibility of flooding due to the creation of the parking spaces. I do not consider there to be a significant slope to the site. The area for the parking spaces is small and consultation of the Lead Local Flood Authority is not necessary for this small scale development. I can see no sustainable planning objection for this reason.

4.3.25 There is not a statutory requirement to consult Anglian Water, but given the concern raised in the reason for the call-in, a consultation has been carried out and any advice will be reported to the Meeting orally.

4.3.26 Concern is raised to the possibly excessive depth of the parking spaces of 15 metres, by the ward Councillor. The parking spaces would be of a standard size of 4.8 metres by 2.4 metres. The herringbone arrangement may give the impression of being longer.



4.3.27 Referring to further concerns raised by the ward Councillor, I have the following advice:

- No new canopy is proposed. The part of the canopy projecting over the existing shop would be removed.
- The proposal does not affect the existing fuel tanks.
- It is proposed that the existing lighting arrangement would remain and no new lighting is proposed.

#### **4.4 Conclusion**

4.4.1 There are no sustainable planning objections to raise to the development, subject to the recommended conditions.

#### **4.5 Climate Change Mitigation**

4.5.1 There would be a loss of two conifer trees and some grassed areas. The mitigation is for new planting in the remaining landscaped area. This would be the subject of a condition and could include a greater diversity of planting than the site currently holds. There would be a balance between a possible increase in vehicular traffic caused by the development and the provision of a local facility negating the need for some car journeys.

#### **4.6 Alternative Options**

None applicable

#### **4.7 Pre-commencement Conditions**

Agreed with the applicant.

#### **5.0 Legal Implications**

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

#### **6.0 Recommendation**

6.1 That planning permission be GRANTED subject to the following conditions:

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

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Before the occupation of any part of the floor space hereby permitted, the parking and loading/unloading facilities shown on the approved plan, drawing number 180656-PL-12-B, shall be marked out and made available, and shall thereafter be kept available solely for parking in connection with the premises, subject to the requirements of Condition 4 of this planning permission.

Reason: To ensure the provision of satisfactory vehicle parking and loading/unloading facilities clear of the public highway to meet the needs of the development.

4. Prior to the first use of the development hereby permitted, the rising bollards to the car parking spaces shown on drawing number 180656-PL-12-B shall be installed and shall be in the raised position between 23.00 hours and 07.00 hours.

Reason: To protect the living conditions of nearby existing residents.

5. Prior to the first use of the development hereby permitted, a scheme including noise control measures shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate that the rating level of sound emitted from any external fixed plant and/or machinery associated with the development shall not exceed the existing background level inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics when measured or calculated according to the provisions of BS4142:2014 (Method for rating assessing industrial and commercial sound) and/or its subsequent amendments. No plant shall be installed and operated at the site until the noise survey has been approved by the Local Planning Authority.

Reason: To protect the living conditions of existing nearby residents.

6. Prior to the occupation of the building hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also be implemented as approved prior to the building being brought into use. The scheme shall include a scaled landscape drawing of scale 1:100 and shall include the following:

- o Existing trees to be removed;
- o Location, species and planting size of any proposed trees or plants;
- o Proposed maintenance to establish the trees and plants;
- o Any fences, hedges, walls or other boundary treatment;
- o Location and materials of all hard surfaces.

7. (a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:

(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;  
(ii) The results from the application of an appropriate risk assessment Methodology

(c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

(d) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

(e) Any contamination, other than that reported by virtue of condition (a) and (b), encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters.

**Proactive Statement:**

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**Informative/s:**

During the demolition and construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.

In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 08.00hrs Monday to Saturday, nor after 18.00hrs on weekdays and 13.00hrs on Saturdays, not at any time on Sundays or Bank Holidays.

Prior to the commencement of demolition of the existing building, a survey should be undertaken in order to identify the presence of asbestos containing materials. Any asbestos containing materials should be handled and disposed of appropriately. Where necessary this should include the use of licensed contractors and waste disposal sites licensed to receive asbestos.