



TO: Planning Committee South

BY: Head of Development and Building Control

DATE: 24 April 2021

DEVELOPMENT: Removal of Condition 21a of previously approved application DC/14/1420 (Proposed new service area (operating between the hours of 6am to 10pm) development comprising of petrol filling station (sui generis use) and ancillary shop (A1 use), forecourt canopy, 5 no. pump islands, automatic car wash and associated service facilities (ATM, air/water point, jet wash etc) Restaurant with Drive-Thru facility (A3 and A5 uses) and associated sewage treatment plant) Relating to the operational hours and delivery times.

SITE: Petrol Filling Station London Road Ashington Pulborough West Sussex RH20 3AT

WARD: West Chiltington, Thakeham and Ashington

APPLICATION: DC/20/2543

APPLICANT: **Name:** Chloe Ballantine **Address:** C/O Planning Agent Chloe Ballantine 33 Jermyn Street London SW1Y 6DN

REASON FOR INCLUSION ON THE AGENDA: More than eight persons in different households have made written representations within the consultation period raising material planning considerations that are inconsistent with the recommendation of the Head of Development and Building Control.

RECOMMENDATION: To approve planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.2 The application seeks to amend condition 21 of planning approval DC/14/1420 which currently states:-

21 *The operational hours of the land and buildings comprising the application site shall be as follows:*

a) *The operational hours of the petrol filling station, retail unit and restaurant (i.e. the times when fuel is sold from the premises) shall be restricted to 0600 hours - 2200 hours.*

- b) *The hours of operation of the car wash, car vacuum, jet wash and airline shall be between the hours of 0800 hours to 1800 hours Monday to Saturday and between 0900 hours to 1600 hours on Sundays and Bank Holidays.*

Reason: In the interests of the amenities of the locality and in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies.

- 1.3 The application seeks to remove part (a) of this condition. The applicant has advised that the alteration to condition 21 is sought in order for the PFS operator to meet modern business needs, and for the established service area to meet the requirements and safety of its customers.
- 1.4 The initial proposal also sought to remove condition 22 of planning approval DC/14/1420, which would have allowed deliveries to take place at any time during the day or night (and on any day of the week). However, following discussions with the applicant this element has been removed from the application.

DESCRIPTION OF THE SITE

- 1.5 The application site is located immediately to the north of the built-up area of Ashington between London Road and the A24, and comprises a triangular piece of land used as a Petrol Filling Station and ancillary shop and a car sales showroom and workshop (subject of planning approval DC/16/0643).
- 1.6 The site is predominantly laid to hardstanding with the boundaries of the site defined by hedging and trees. The nearest residential property is located approximately 80m from the access point, with a number of residential dwellings located to the south and west of the site, beyond the public highway.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

2.2 National Planning Policy Framework

2.3 Horsham District Planning Framework (HDPF 2015)

- Policy 1 - Strategic Policy: Sustainable Development
- Policy 2 - Strategic Policy: Strategic Development
- Policy 3 - Strategic Policy: Development Hierarchy
- Policy 4 - Strategic Policy: Settlement Expansion
- Policy 7 - Strategic Policy: Economic Growth
- Policy 9 - Employment Development
- Policy 10 - Rural Economic Development
- Policy 12 - Strategic Policy: Vitality and Viability of Existing Retail Centres
- Policy 13 - Town Centre Uses
- Policy 24 - Strategic Policy: Environmental Protection
- Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
- Policy 26 - Strategic Policy: Countryside Protection
- Policy 32 - Strategic Policy: The Quality of New Development

- Policy 33 - Development Principles
- Policy 35 - Strategic Policy: Climate Change
- Policy 36 - Strategic Policy: Appropriate Energy Use
- Policy 37 - Sustainable Construction
- Policy 40 - Sustainable Transport
- Policy 41 - Parking
- Policy 42 - Strategic Policy: Inclusive Communities

RELEVANT NEIGHBOURHOOD PLAN

2.4 **Ashington Parish Neighbourhood Plan** – Regulation 16 Consultation

- Policy ASH1: Overall Spatial Strategy for Ashington
- Policy ASH3: Parking Provision
- Policy ASH5: Landscaping and Countryside Access
- Policy AHH6: Noise Impacts

2.5 PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/14/1420	Proposed new service area (operating between the hours of 6am to 10pm) development comprising of petrol filling station (sui generis use) and ancillary shop (A1 use), forecourt canopy, 5 no. pump islands, automatic car wash and associated service facilities (ATM, air/water point, jet wash etc) Restaurant with Drive-Thru facility (A3 and A5 uses) and associated sewage treatment plant	Application Permitted on 20.11.2014
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3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

- 3.2 **HDC Environmental Health (*Initial Response – 10 February 2021*)**: Concerns with regards to the BS 4142:2014 assessment detailed in the report. Firstly, it is not clear why only one 3db correction has been applied when, in our view, intermittency and impulsivity could both have been applied to the assessment. Secondly, some of the rated levels in the assessment are marginally below 'significant adverse impact' which is a concern.
- 3.3 The L_Amax values during the night values are also a concern. The assessment has not fully captured the potential impact from these noise events. Would welcome further commentary on this and the pattern of activity that has been modelled based on predicted use i.e. how many deliveries/L_A max events are expected during the 2200 to 0600 night-time period.
- 3.4 There is no commentary or justification in the proposals as to why deliveries are needed during the night-time period.
- 3.5 No information has been provided on the potential impacts on amenity from lighting as a result of the proposals.
- 3.6 **HDC Environmental Health (*Subsequent Response – 08 April 2021*)**: As detailed in previous comments, given the close proximity of residential dwellings to the site and the low background noise levels during the night time period, there is concern that activity at the petrol filling station during the night time period, especially L_Amax events associated with deliveries, have the potential to have a significant impact on residential amenity.

- 3.7 In review of the Sharps Redmore Addendum to Noise Assessment, dated 19.03.21, the view remains that the impact from night time deliveries has not been fully quantified. Given this and the fact that it is still not clear why there is a need for deliveries during the night time period, the removal of condition 22 could not be supported.
- 3.8 It is fully accepted that external lighting is required for a development of this nature and that no additional lighting is proposed as part of this application. There is concern however regarding the impact the existing lighting will have on amenity between 2200 hours and 0600 hours, when residents of the dwellings closest to the site will be trying to sleep and the impacts of any lighting will be most noticeable. We are of the view that the impact of lighting on residential amenity as a result of the proposals has not been adequately assessed.
- 3.9 **HDC Environmental Health (Subsequent Response – 13 April 2021):** Taking everything into account, no objection subject to the impact and any mitigation to be assessed/addressed via a condition.

OUTSIDE AGENCIES

- 3.10 **WSCC Highways:** Both the condition to be varied and that to be removed relate to the operational hours of the existing road side facility. Neither condition were required by WSCC Highways to make the development acceptable. There would be no highway objection to the proposed changes.

PUBLIC CONSULTATIONS

- 3.11 **Ashington Parish Council: Objection**
Recognised that the site offers an important amenity in the village, but concerns in respect of the following:-
- Additional residential properties since the planning approval, and the conditions are now even more important.
 - Inconsistencies and subjectivities with the rationale behind the Needs Report
 - Toilets and amenities are available within a reasonable distance and are not required in this location
 - Antisocial behaviour
 - Additional vehicle movements
 - Littering
 - Light pollution
- 3.12 18 letters of objection were received from 12 separate households, and these can be summarised as follows:
- Additional lorry parking
 - Increase light pollution
 - Motorists well supported in the area
 - Additional noise during the evening
 - Extra rubbish and waste along the road
 - Antisocial behaviour
 - Additional pollution
 - Increased vehicle movements and traffic
 - Light pollution
 - Impact on the community
 - No local need
 - No need for extended hours
- 3.13 1 letter of support was received, and this can be summarised as follows:
- 24 hour of service will be of benefit to the community

- Additional employment opportunities

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

- 6.1 The application seeks to amend condition 21 of planning approval DC/14/1420, which the removal of subsection (a) of this condition, with the removal of condition 22 entirely.

Principle of Development

- 6.2 The principle of development was established under the most recent application reference DC/14/1420 when the service area was approved. The principle of the use is therefore established, with the current conditions restricting hours of opening and deliveries seeking to overcome concerns regarding potential amenity impact.

- 6.3 The Planning Statement submitted in support of the application outlines that 24-hour opening and unrestricted deliveries is sought in order to meet the business requirements of the PFS operator and the needs and safety of its customers. The PFS Needs Assessment submitted with the application outlines that there is a need for overnight roadside facilities and electric charging facilities within the locality, with the site considered to be impacted by a significant volume of passing traffic during night hours. Given this level of traffic movement it is considered beneficial to offer overnight service in order to reduce the impact on tiredness and possibility of accidents. The assessment therefore considered that the overnight need within this section of the road network would be substantially addressed by the proposal.

- 6.4 While recognised that the extended opening hours would provide some social and economic benefits to users and the business, and is therefore considered acceptable in principle, this needs to be weighed and balanced against the potential harm arising to neighbouring occupiers and users of land. As such, the main considerations for the extended operational hours include the impact on residential amenity, as discussed in detail below.

Amenity Impacts

- 6.5 Policy 32 of the HDPF states that development will be expected to provide an attractive, functional, accessible, safe, and adaptable environment that contributes a sense of place both in the buildings and spaces themselves. Policy 33 continues that development shall be required to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land.

- 6.6 Policy ASH6 of the draft Ashington Parish Neighbourhood Plan states that development, which by virtue of its proximity to the A24 road, could experience detrimental health impacts in terms of noise levels, must demonstrate that all such impacts can be adequately mitigated. This includes both indoor and outdoor.

- 6.7 It is necessary to note that the 24-hour operation of the site was considered under the previous planning approval reference DC/14/1420. At this stage, the Head of Public Health and Licensing considered that the operation of the Petrol Filling Station on a 24-hour basis would be a cause of concern. As although the site is close to the A24 the prevailing ambient noise levels at night are low. As such noise from the arrival and departure of vehicles and patrons, particularly impulsive noise such as slamming of car doors and car stereos, may have combined to cause night-time disturbance to local residents. It was therefore recommended that conditions, including restricted hours of operation and restrictions on deliveries, were necessary to ensure noise from the site is properly controlled.
- 6.8 As part of this current application an Environmental Noise Assessment has been submitted to establish the actual impact of the now operational service area and current background noise levels. As part of the current application the assessment therefore allows the impact of noise from a 24-hour operation on the residential properties adjacent to the site to be accurately modelled. The Report outlines that existing noise levels are dominated by road traffic on the London Road and the A24, and the survey data shows no significant difference in noise levels between 21:30 and 22:00 hours when the PFS was trading and 22:00 and 23:00 when the PFS was closed. Noise within the forecourt was assessed and the Report concludes that this noise is significantly below the WHO daytime and night-time guideline values. Predicted noise levels would also be below existing ambient and maximum noise levels. Based on the above, it is concluded that there would be no impact on neighbour amenity during the night-time period.
- 6.9 The initial consultation response from the Environmental Health Officer raised concerns regarding the assessment detailed within the Environmental Noise Report. Specifically, there were concerns regarding the rated level in the assessment, the noise source (LA_{max}) values used in the assessment, and the limited justification provided in response to the necessity for night-time deliveries. Furthermore, no information regarding the potential impact of the existing lighting was provided.
- 6.10 In response, an Addendum to the Noise Assessment dated 19 March 2021 has been submitted. This outlines that the impulsive nature of noise would attract attention, rather than the intermittency of the noise. Based on the noise levels and the existing noise climate, it is considered that the impulsive noise will be just audible, with an appropriate character correction applied. No feature correction is applied for intermittency because it is not the intermittent nature of the delivery noise which attracts attention. Contextual matters that should be considered include the level and character of the existing noise level and absolute level of the sound. It is noted that in some cases the absolute level may be as, or more, relevant that the margin by which the rating level exceeds the background. This is especially true at night when the receptor is indoors, and the main impact is on sleep disturbance. Noise from trading activity is predicted to be below the WHO guidelines night-time criteria. The WHO guidelines are based on the level at which the onset of sleep disturbance may occur and therefore can be considered to be the lowest observed adverse effect level.
- 6.11 In addition, the Applicant has outlined that no additional external lighting other than that already approved under the previous planning permission (DC/14/1420 and DC/20/1097) would be installed. Notwithstanding this, external lighting is necessary to ensure the safety and security of staff, customers, and the PFS facilities. This is an established roadside site, sitting immediately adjacent to the strategic road network, which itself benefits from external lighting to ensure highway safety. It is thereby recognised that external lighting exists within the vicinity, with the application site bound by well-established vegetation. On the basis, the existing external lighting is considered adequate, albeit that it would be used for an extended period of time during the night-time hours.
- 6.13 Following further clarification and discussion with the Environmental Health Officer, the extended hours of operation to facilitate 24-hour opening is considered acceptable, provided that it is demonstrated that the existing lighting fittings approved under reference DC/14/1420

do not result in adverse harm the amenity of the nearby residential properties. The Applicant has provided further clarification in regard to the existing lighting, and it is generally considered that the existing lighting would not result in adverse harm to the nearby residential receptors. It has however been suggested by the Environmental Health Officer that the requirement to submit a Validation Report to confirm the findings be submitted, and an appropriately worded condition has been recommended in this regard. Subject to such condition, the variation of condition 21, with the removal of 21(a), is considered acceptable.

- 6.15 The initial proposal related to the removal of condition 22 of planning approval DC/14/1420. Concerns were raised by the Environmental Health Officer regarding noise and disturbance resulting for 24-hour deliveries at the site as previously proposed. There were concerns that the noise and activity generated from deliveries to the shop, which would take place to the southern-most portion of the site, and thus in close proximity to the nearest residential receptors, would result in adverse harm to the amenities of residential properties during the night-time. It was also considered that limited justification had been provided to demonstrate why this was a necessity, and it was not considered that there was sufficient business need for such delivery schedule. For these reasons, the removal of condition 22 as initially proposed was omitted from the application.
- 6.16 Notwithstanding the above, it is noted that planning approval DC/14/1420 included the provision of a restaurant, with condition 21(a) also referring to opening hours for the approved restaurant. This part of the permission was not built out, with a subsequent application under reference DC/16/0643 permitting the use of this section of the site for car sales and maintenance. This permission has been implemented, with Ashington Auto Sales now operating from this site. The removal of reference to the restaurant within the list of conditions is therefore considered appropriate and acceptable.

Highways Impacts

- 6.17 Policy 40 of the HDPF seeks to direct development to areas which are integrated with sustainable transport networks, encourage sustainable transport choices and ensure that new development is safe for all modes of transport, including vehicles, cyclists and pedestrians. In addition, proposals should minimise conflict between traffic, cyclists and pedestrians. Policy 41 of the HDPF aims to ensure that developments are served by adequate parking facilities including provision for cycle, motorcycle, low emission vehicles and the mobility impaired.
- 6.18 Following consultation from WSCC Highways, the subject conditions were not imposed on highways grounds, and the proposed variation and removal of the conditions are not therefore considered to impact on the function and safety of the highway network. No highway objections have therefore been raised.

Climate Change

- 6.19 Policies 35, 36 and 37 require that development mitigates to the impacts of climate change through measures including improved energy efficiency, reducing flood risk, reducing water consumption, improving biodiversity and promoting sustainable transport modes. These policies reflect the requirements of Chapter 14 of the NPPF that local plans and decisions seek to reduce the impact of development on climate change.
- 6.20 Given the nature of the proposed development, and the established nature of the site, it is not considered that the proposal would result in any further impact on climate change. The existing conditions on planning approval DC/14/1420 are considered sufficient to address potential climate change mitigation.

Conclusion

- 6.21 The extended opening hours would provide social and economic benefits to users of the road network and residents of the locality, and would also improve the operation and viability of the established business. The variation of condition 21, and the removal of condition 21(a) to facilitate 24-hour operation, is therefore considered acceptable in principle.
- 6.22 It has been sufficiently demonstrated that the noise and activity resulting from the night-time operating hours would not result in significant adverse impact on the amenities and sensitivities of nearby residential receptors, with sufficient information provided in regard to potential light spillage and impact. On the balance of these considerations, the variation of condition 21 and the removal of 21(a) is considered acceptable.

7. RECOMMENDATIONS

- 7.1 To approve the application subject to the following conditions.

1 **Approved Plans**

- 2 **Pre-Occupation Condition:** The extended hours hereby permitted shall not commence until an assessment of the lighting impact arising from the operation of the existing lighting fixtures has been submitted to and approved in writing by the Local Planning Authority.

The assessment of the lighting impact shall be undertaken in accordance with criteria laid out within the ILE Guidance Note 01/20 Guidance Note For The Reduction of Obtrusive Light and current best practice, and shall include a scheme of attenuation measures where necessary. The scheme shall be implemented in accordance with the approved details and attenuation measures prior to the extended operating hours taking effect, and they shall be permanently retained and maintained in working order for the duration of the use and their operation.

Reason: To protect the amenities of adjoining occupiers and the surrounding area in accordance with Policies 32 and 33 of the Horsham District Planning Framework (2015).

- 3 **Regulatory Condition:** The screen walls and/or fences as approved under reference DISC/15/0061 shall be retained and maintained in accordance with the approved details.

Reason: In the interests of amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 4 **Regulatory Condition:** The refuse and recycling facilities as approved under reference DISC/15/0061 shall be retained and maintained in accordance with the approved details.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** The burning of any materials from any other source shall not take place within 10m of the furthest extent of the canopy of any tree, group of trees, or hedgerow, targeted for retention on the site or on land adjoining.

Reason: To protect trees and vegetation from fire damage in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies to BS 5911:1982 with an overall capacity compatible with the site being drained.
- Reason: To prevent pollution of surface water and in accordance with Policy 24 of the Horsham District Planning Framework (2015).
- 7 **Regulatory Condition:** The Landscaping Plan and Management Plan as approved under DISC/15/0192 be retained and maintained in perpetuity.
- Reason: To ensure a satisfactory development and in the interests of amenity and nature conservation in accordance with Policy 25 and 33 of the Horsham District Planning Framework (2015).
- 8 **Regulatory Condition:** The operational hours of the land and buildings comprising the application site shall be as follows:
- a) The hours of operation of the car wash, car vacuum, jet wash and airline shall be between the hours of 0800 hours to 1800 hours Monday to Saturday and between 0900 hours to 1600 hours on Sundays and Bank Holidays.
- Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 9 **Regulatory Condition:** Deliveries to or from the premises shall be restricted to between the hours of 0600 hours and 2200 hours.
- Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 10 **Regulatory Condition:** No externally located plant or equipment serving the petrol station, retail unit and restaurant shall be installed or operated without the prior written approval of the LPA.
- Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 11 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than that shown on the approved plans. All such lighting shall be maintained in accordance with the approved details.
- Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 12 **Regulatory Condition:** No lighting fitment shall be installed or at any time operated on the site from which the source of light is directly visible from the public highway.
- Reason: In the interests of amenity and road safety and in accordance with Policy 33 of the Horsham District Planning Framework (2015).