

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND PLANNING ENFORCEMENT APPEAL

Planning Inspectorate Reference:
APP/J3720/C/18/3213430

District Planning Authority Reference:
16/00732/ENGENT

Location: Service Station,
Banbury Road, CV35 0HA

Appellant: EURO Garages Limited

Breach in Planning Control: Without planning permission the erection of two extensions (in the approximate positions shaded on the Plan) and associated engineering operations to reconfigure the parking layout on the Land.

Statement of Stratford-on-Avon District Council

List of Documents being submitted

Appendix 1	Enforcement Notice for 16/00732/ENGENT
Appendix 2	Copy of Planning Decision Notice for 16/02749/FUL
Appendix 3	Copy of Appeal Decision APP/J3720/W/17/3190869
Appendix 4	Local Enforcement Plan (February 2018)
Appendix 5	Decision to Take Action report for 16/00732/ENGENT
Appendix 6	Copy of Appeal Decision APP/J3720/W/18/3210224
Appendix 7	Copy of Plans submitted with application 18/03008/FUL
Appendix 8	WCC Highways comments to 18/03008/FUL (8 May 2019)
Appendix 9	WCC Highways comments to 18/03008/FUL (20 February 2019)
Appendix 10	Copy of Decision Notice for 18/03008/FUL
Appendix 11	Copy of Delegated Officer Report for 18/03008/FUL

1. Introduction

- 1.1 This is not a linked appeal however there is a planning application which has recently been determined by the Local Planning Authority on the Land for a similar development. The reference of this planning application is 18/03008/FUL. The decision of this planning application is a material consideration which will have an impact on this Enforcement Appeal. The current status of this application is discussed below.
- 1.2 It is relevant to note that the Inspector did not agree for the appeal to be held in abeyance until the current planning application had been determined however a decision Notice has now been issued by the Local Planning Authority.
- 1.3 The Enforcement Notice on the Land was issued on 2 October 2018 under delegated authority. The reasons for the Notice are outlined below:

The unauthorised development extends the retail floorspace of the existing lawful sales building. The extension is occupied by a further franchise which increases the level of choice available (retail offer) to potential customers visiting the site. To accommodate the increased level of customers likely to visit the site by vehicles, associated with the extended retail outlet, engineering operations have been carried out to create additional parking spaces on the forecourt area. The reconfiguration of the parking layout has resulted in new parking spaces being created within the visibility splays of the southern vehicular access of the site.

The reconfiguration of the parking layout results in the provision of new parking spaces in a location which significantly deteriorates the visibility splays associated with vehicles as they egress the site onto the Gaydon Road. The unauthorised development is therefore considered to introduce a detrimental impact to highway safety which is contrary to Policy CS.26 of the Stratford-on-Avon Core Strategy (2011-2031) and paragraph 102 of the NPPF.

- 1.4 A copy of the Enforcement Notice is attached as **Appendix 1**.
- 1.5 The Appellant has submitted two grounds for appeal against the Enforcement Notice. The appeal is lodged against Grounds f) and g) which are addressed below.
- 1.6 A list of relevant planning policies and documents is attached to the Appeal Questionnaire which has been submitted separately.

2. Background

- 2.1 The planning history for the land is outlined below:

Recent Relevant Planning History

<u>Application reference</u>	<u>Proposal</u>	<u>Dates and decision</u>
18/03008/FUL	Proposed Shop extension at side and replacement storage unit at rear (retrospective) and reconfiguration of parking area.	Refused 22.5.2019
18/00298/FUL	Redevelopment of the existing petrol station and adjoining land, comprising the erection of replacement forecourt, canopy, pump island, underground tanks and sales building (A1) and Starbucks drive thru coffee shop (A1/A3/A5) (240m2) with car parking, landscaping and associated works at Gaydon Services, Banbury Road, Gaydon.	Refused 04.05.2018 Appeal Dismissed 19.12.2018 (reference APP/J3720/W/18/32 10224)
17/02337/FUL	Redevelopment of existing Petrol Filling Station and adjoining land, comprising demolition of existing shop, garage and buildings and erection of replacement forecourt, canopy, pump island, underground tanks and sales building (Use Class A1) and drive through coffee shop (Use Class A3) with car parking, landscaping and associated works.	Withdrawn 03.10.2017
16/02749/FUL	Proposed shop extension at side, replacement storage unit at rear and reconfiguration of parking area (retrospective)	Refused 19.10.2017 Appeal dismissed 18.4.2018 (reference APP/J3720/W/17/31 90869)
16/01458/FUL	Retrospective erection of an ATM installed in a new purpose built steel secure room with steel floor plate. ATM fascia with black bezel surround and white illuminated lettering 'Free Cash Withdrawals' out of black background. Blue LED halo illumination to ATM surround. New concrete base.	Approved 28.10.2016
16/01458/ADV	The retention of an ATM installed in a new purpose built steel secure room with steel floor plate. ATM fascia with black bezel surround and white illuminated lettering 'Free Cash Withdrawals' out of black background. Blue LED halo illumination to ATM surround.	Granted 28.10.2016
16/00391/VARY	Variation of Condition 8 (opening hours) of planning permission 05/00567/FUL (Demolition of existing sales shop and existing canopy. New sales building, forecourt, pumps and canopy) to remove condition and allow unrestricted opening hours.	Approved 02.06.2016

- 2.2 The breach in planning control was first brought to the Council's attention on the 15 November 2016. Plans showing the works undertaken were incorporated into an existing planning application (reference 16/02749/FUL).

This application was refused on the 19.10.2017. A copy of the decision notice is attached as **Appendix 2**. The decision was subject to an appeal which was dismissed on 18 April 2018. The appeal decision notice is attached as **Appendix 3** (reference APP/J3720/W/17/3190869).

- 2.3 Two subsequent planning applications have been submitted and considered for different schemes on the site under planning application references 17/02337/FUL and 18/00298/FUL.
- 2.4 In line with the Council's adopted Local Enforcement Plan (paragraph 5.16) the planning enforcement case was held in abeyance whilst the planning applications were determined. The Local Enforcement Plan is attached as **Appendix 4**.
- 2.5 Planning enforcement case (16/00732/ENGENT) was reviewed in September 2018. The assessment of the breach in planning control is set out in the Decision To Take Action report attached as **Appendix 5**.
- 2.6 It was not considered appropriate to invite a further planning application and, as such, an Enforcement Notice was issued under delegated authority on 2 October 2018.
- 2.7 Since the planning Enforcement Notice (which is the subject of this Appeal) was issued the planning appeal which was associated with the refusal of planning application 18/00298/FUL was determined and was dismissed. A copy of the Inspectors Decision (reference APP/J3720/W/18/3210224) is attached as **Appendix 6**.
- 2.8 The Enforcement Notice was issued prior to the submission of planning application 18/03008/FUL which sought planning permission for the same extensions identified within the Enforcement Notice but with a revised parking layout.
- 2.9 Planning application 18/03008/FUL has now been determined by the Local Planning Authority. As the revisions considered as part of application 18/03008/FUL had a different parking layout the Local Planning Authority did not decline to determine the application.

3. Planning Assessment

- 3.1 The main issue relating to this appeal is highways safety. Although there is no ground a) appeal, the reasons for issuing the Notice are relevant to justify the steps (ground f) and period for compliance (ground g).
- 3.2 Core Strategy Policy CS.26 relates to Transport and Communication and seeks to ensure that any adverse highways impact raised by a development is suitably mitigated. In addition, CS.26 seeks to ensure that sufficient parking provision is provided for developments.
- 3.3 Furthermore Core Strategy Policy AS.10 also seeks to ensure that proposals avoid a level of increase of traffic on rural roads which would be harmful to the local area.

- 3.4 Since the Decision to Take Action report was finalised the NPPF has been revised (February 2019). Paragraph 108 part b) of the NPPF seeks to ensure that safe and suitable access to the site can be achieved for all users.
- 3.5 The Appellant recognises in their statement that the Planning Inspector for appeal APP/J3720/W/17/3190869 (the retrospective development on the site) raised concerns with the visibility splays.
- 3.6 Since the determination of the appeal for planning application 16/02749/FUL new highway related information has been submitted by the Appellant to the Local Planning Authority as part of planning application 18/03008/FUL. In relation to this planning enforcement case WCC Highways Authority raised concerns in relation to the lack of parking on the site and the substandard visibility splays associated with the unauthorised development.
- 3.7 Due to the sites' size, open nature, use (which requires areas for vehicles to manoeuvre safely) and orientation to the road alternative parking provision outside of the existing access visibility splays is limited.
- 3.8 The unauthorised extensions facilitate a greater retail choice to customers/visitors to the site. This in turn is likely to result in a greater demand for parking and therefore triggers a requirement to provide additional parking spaces in line with the Council's Emerging Parking Standards.
- 3.9 The draft parking standards have recently been out for consultation which closed on the 15 March 2018 and therefore currently attracts limited weight. The standards do however provide some useful guidance when considering development proposals. Based on the size of the unauthorised extensions and the associated increase in retail offering for customers insufficient parking provision (having regard to the Council's draft Parking Standards) is likely to be achieved without adversely affecting the visibility splays. As such, it is the use of the building which results in the planning harm not the built form.
- 3.10 WCC Highways has advised that the reinstatement of the parking arrangement originally approved in 2005 as part of planning permission 05/00567/FUL and later varied by 16/00391/VARY would overcome the issues associated with the visibility splays on the Land. The previously approved parking plan does not have parking spaces to the west or south of the site and therefore is not considered to provide sufficient parking for the increased retail offering on the site (accommodated as a result of the extensions).
- 3.11 Having regard to the above the unauthorised development is considered to introduce an adverse impact on highways safety through the reduction in the visibility splays on the Land and the provision of insufficient parking associated with the use. It is therefore considered the development would conflict with Core Strategy Policy CS.26 and paragraph 108 of the NPPF which seeks to ensure that potential impacts can be appropriately mitigated and that safe and suitable access for all users is achieved.

4. Response to Grounds of Appeal Against the Enforcement Notice

- 4.1 The Grounds submitted to date outline the key issues but it is understood that these matters may be expanded upon in the Appellant's appeal statement which is yet to be received. The Council therefore reserves its right to make further representations upon receipt of the Appellant's Statement.

Ground f)

- 4.2 The Appellant has stated that changes could be made to the development to make it acceptable. The Appellant has advised that both the Planning Inspector and the Council have considered the extensions to be acceptable.
- 4.3 As outlined above there is no objection to the built form of the extensions however the extensions directly facilitate the increased retail offering on the Land which results in a greater demand for parking on a constrained site.
- 4.4 When considering formal action, alternative layout options were considered with the relevant consultees. Based on the information available revised parking layout were considered having regard to the Council's draft Parking Standards and the visibility splays associated with the site but no alternatives were identified. Formal action was therefore taken to remedy the harm to highways safety.
- 4.5 As explained above planning application 18/03008/FUL has now been determined by the Local Planning Authority. This scheme included a revised parking layout. Copies of the plans submitted to accompany planning application 18/03008/FUL are attached as **Appendix 7**. Comments from the Highways Authority (received 8 May 2019) in response to planning application 18/03008/FUL raised an objection to the development. A copy of the comments are attached as **Appendix 8**. The comments refer back to earlier WCC Highway Authority comments which were received by the Local Planning Authority in February 2019 and are attached as **Appendix 9**.
- 4.6 Planning application 18/03008/FUL was refused on the 22 May 2019. A copy of the Decision Notice is attached as **Appendix 10** and a copy of the Delegated Report is attached as **Appendix 11**.
- 4.7 Planning application 18/03008/FUL was refused for the following reasons:
1. The Local Planning Authority considers that the proposed site layout and access arrangements do not provide adequate visibility splays allowing for safe and suitable access to or from the site. The proposals would therefore result in an unacceptable impact on highway safety. Furthermore, the Local Planning Authority considers that, in the absence of a Stage 1 Road Safety Audit, insufficient information has been provided to demonstrate that the proposed highway arrangements are safe. The application therefore does not comply with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109 and 110 of the National Planning

Policy Framework (2019) and Policies LUT8, RS22 and RS25 of the Warwickshire Local Transport Plan 2011 - 2026.

2. The Local Planning Authority considers that, by virtue of the proposed parking layout, parking and access arrangements and the forecourt layout, congestion could be caused within the site which would result in the backing up of the public highway, B4100 (Gaydon Road). This would consequently cause undue harm by obstructing the free-flow of traffic on the B4100 and would result in a significant detriment to highway safety. The application therefore does not comply with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109, 110 and 111 of the National Planning Policy Framework (2019) and Policies RS22 and RS25 of the Warwickshire Local Transport Plan 2011 - 2026.

3. The Local Planning Authority is not satisfied that the impact of the proposed development can be adequately assessed based on the information submitted in terms of trip generation. In the absence of the above information the authority is not satisfied that the application accords with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109, 110 and 111 of the National Planning Policy Framework (2019) and Policies RS22 and RS25 of the Warwickshire Local Transport Plan 2011 - 2026.

4.8 Having regard to the above it is not considered that the steps of the Notice are excessive in this case.

Ground g)

4.9 The Appellant considers that it is unreasonable to give 4 months to comply with the Notice. This is namely due to the extent of the works required and the fact that the extensions to the shop are currently occupied by a franchise business and providing storage for the shop.

4.10 The Appellant has advised that more time would be required to enable suitable storage arrangements to be identified, access to be restricted to customers during the works and a re-configuration of the existing building.

4.11 In light of the Appellant's circumstances outlined above, the Council would raise no objection to extending the compliance period for Steps 5 a) to e) of the Enforcement Notice to 6 months. This is considered to be a reasonable period for compliance given the circumstances of the case advanced by the Appellant.

5. Conclusion

5.1 For the reasons listed above and the Highways Authority comments contained within the Appendices the Inspector is respectfully requested to dismiss the appeal.

- 5.2** The Council reserves its right to submit further comments upon receipt of the Statement of Case from the Appellant.

Appendix 1 Enforcement Notice for 16/00732/ENGENT

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: STRATFORD-ON-AVON DISTRICT COUNCIL ("the Council")

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act; at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and enclosures to which it refers contain important additional information.

2. **THE LAND AFFECTED**

Gaydon Service Station, Banbury Road, Gaydon, Warwickshire, CV35 0HA ("the Land"), shown edged red on the attached plan ("the Plan")

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the erection of two extensions (in the approximate positions shaded on the Plan) and associated engineering operations to reconfigure the parking layout on the Land.

4. **REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last 4 years.

1. The unauthorised development extends the retail floorspace of the existing lawful sales building. The extension is occupied by a further franchise which increases the level of choice available (retail offer) to potential customers visiting the site. To accommodate the increased level of customers likely to visit the site by vehicles, associated with the extended retail outlet, engineering operations have been carried out to create additional parking spaces on the forecourt area. The reconfiguration of the parking layout has resulted in new parking spaces being created within the visibility splays of the southern vehicular access of the site.

The reconfiguration of the parking layout results in the provision of new parking spaces in a location which significantly deteriorates the visibility splays associated with vehicles as they egress the site onto the Gaydon Road. The unauthorised development is therefore considered to introduce a detrimental impact to highway safety which is contrary to Policy CS.26 of the Stratford-on-Avon Core Strategy (2011-2031) and paragraph 102 of the NPPF.

The District Council does not consider that planning permission should be granted because planning conditions could not overcome the objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- a) Demolish the extensions which are identified in the shaded areas on the attached Plan.
- b) Reinstall the north and east elevation of the sales building with external facing materials to match the host building.
- c) Remove all materials associated with the demolition of the extensions and re-instatement of the sales building elevations (as required by steps a) and b) above) from the Land.
- d) Re-instate the parking arrangement approved by planning permission 16/00391/VARY in accordance with Drawing No. 020 Rev.A received by the Local Planning Authority on the 4 April 2005 (a copy is attached to this Notice).
- e) Re-instate the kerb lines which are shown to be retained on Drawing No. 020 Rev.A received by the Local Planning Authority on the 4 April 2005 (a copy is attached to this Notice).

6. TIME FOR COMPLIANCE

- a) – e) inclusive within 4 months from the date this Notice takes effect

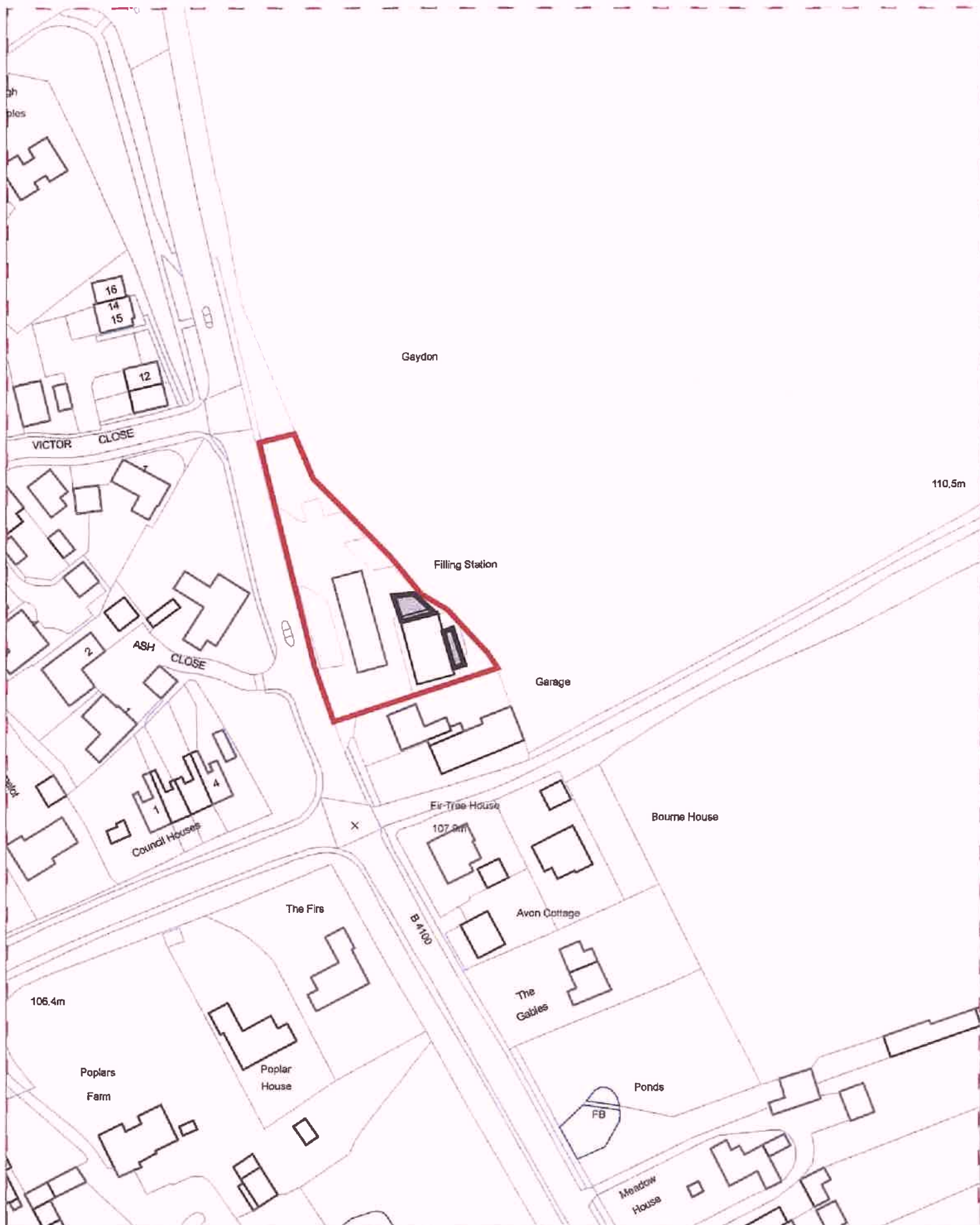
7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **6 November 2018** unless an appeal is made against it beforehand.

Dated: 2 OCTOBER 2018

Signed.....
Clare Eynon - Planning Manager
(Performance, Appeals & Enforcement)

On behalf of:-
Stratford-on-Avon District Council,
Elizabeth House,
Church Street,
STRATFORD-UPON-AVON,
Warwickshire
CV37 6HX



Legend

16/00732/ENGNEF

Gaydon Service Station, Banbury Road, Gaydon, Warwickshire

Scale 1:1,250



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Ordnance Survey 100024287



ANNEX

YOUR RIGHT OF APPEAL

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **6 November 2018**.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924 for the deemed application. You should pay the full amount of the fee to Stratford-on-Avon District Council.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

If you submit a retrospective planning application after the enforcement notice is issued, the Local Planning Authority may decline to determine your application under section 70C of the Act (as amended). You cannot appeal against a decision to decline to determine your planning application. Therefore if the Local Planning Authority does decline any retrospective application the only way you could ask for the planning merits of the alleged development to be considered is to appeal on ground (a) on your enforcement appeal and pay the fee.

However if you (or anyone else) had already submitted a retrospective planning application and the enforcement notice is issued before the time to decide the application has expired, no-one can appeal against the enforcement notice on ground (a). Although a planning appeal can be pursued if the Local Planning Authority refuse or fail to determine the planning application. This is specified at section 174 (2A)(b) of the Act (as amended).

The Planning Inspectorate has published new guidance on how to Appeal against an Enforcement Notice. It relates to all Notices served on or after 6 April 2012.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on **6 November 2018** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

LIST OF NAMES AND ADDRESSES OF THE PERSONS ON WHOM A COPY OF THE ENFORCEMENT NOTICE HAS BEEN SERVED

EURO Garages Limited
(Co.Regn.No. 4246195)
of Euro House
Beehive Trading Park
Haslingden Road
Blackburn
BB1 2EE

Lloyds Bank PLC
(Co.Regn.No.00005065)
25 Gresham Street
London
EC2V 7HN

The Manager
Gaydon Service Station
Banbury Road
Gaydon
Warwickshire
CV35 0HA

①



BANBURY ROAD

05100567, FUL

[illegible]

All directions to be worked on the day the day listed indicated of any discrepancy. All directions of the specifications should be read in conjunction with the Health and Safety Plan of the project should be reported to the Planning Department.

bourne riley architects

1000 15th St., Suite 1000, San Francisco, CA 94103
Tel: 415.774.2200 Fax: 415.774.2201
www.bourneriley.com

ESSE

COTEBA
LUMBER

1000 15th St., Suite 1000, San Francisco, CA 94103
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Priority Checked for Date Rate
CJR/CS FEB 05 1:100

GAYDON SERVICE STATION
BANBURY ROAD
GAYDON

Drawing PROPOSED REDEVELOPMENT PROPOSED SITE LAYOUT	Job No. 6018	Drawing No. 020	Sheet A
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Appendix 2 Copy of Planning Decision Notice for 16/02749/FUL



Notice of Decision

REFUSAL

Town and Country Planning Act, 1990
Town and Country Planning (Development Management Procedure) Order, 2015

Graham Cockburn
GC Town and Country Planning
10 Peebles Close
Huddersfield
HD3 3WD

THE STRATFORD-ON-AVON DISTRICT COUNCIL, having considered the application for permission to develop land at:-

Gaydon Service Station, Banbury Road, Gaydon, CV35 0HA

Submitted by: Euro Garages Ltd

Received by the Council on 24 August 2016

HEREBY GIVE YOU NOTICE that PLANNING PERMISSION is REFUSED for the following development, namely:-

Proposed shop extension at side, replacement storage unit at rear and reconfiguration of parking area (retrospective)

The reason(s) for the Council's decision to refuse permission for the development are:-

1. The proposed application would result in the alterations of existing parking layout and access into the service station. As a result, there would be a significant deterioration of visibility splays for vehicular egress from the service station, and users of the adjacent property and the cross junction at Pimple Lane. Therefore, in the opinion of the Local Planning Authority, it is considered that the proposed application is detrimental to highway safety, and contrary to Policy CS.26 of the Stratford-on-Avon Core Strategy (2011-2031) and paragraphs 32, 35 and 39 of the NPPF.

Notes

1. The Local Planning Authority has taken into account the National Planning Policy Framework, including paragraphs 186 and 187 which detail the need to work positively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Case Officer: Joe Brooke
Reference No. 16/02749/FUL



DATED 19 October 2017

AUTHORISED OFFICER OF THE COUNCIL.....



IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS FORM

STRATFORD-ON-AVON DISTRICT COUNCIL
ELIZABETH HOUSE, CHURCH STREET, STRATFORD-UPON-AVON CV37 6HX

Appendix 3 Copy of Appeal Decision APP/J3720/W/17/3190869



Appeal Decision

Site visit made on 21 March 2018

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 18 April 2018

Appeal Ref: APP/J3720/W/17/3190869

Gaydon Service Station, Banbury Road, Gaydon CV35 0HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Euro Garages Limited against the decision of Stratford-on-Avon District Council.
 - The application Ref 16/02749/FUL, dated 19 August 2016, was refused by notice dated 19 October 2017.
 - The development proposed is a shop extension at side and replacement storage unit at rear (retrospective).
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The description of the development that appears on the appeal form and decision notice is 'proposed shop extension at side, replacement storage unit at rear and reconfiguration of parking area (retrospective)'. I am content that this description adequately describes the development and I shall use it in the determination of this appeal.

Main Issue

3. The development for which permission is sought consists of an extension to the garage shop and storeroom and an increase in on-site parking from 8 to 21 spaces. It is common ground that the principle of the shop extension and replacement storage unit complies with policies CS.1 and AS.10 of the Stratford-on-Avon Core Strategy which support economic growth in rural areas. I agree with that position.
4. The development has been carried out in accordance with the plans that accompanied the application. On the basis of the Council's reason for refusal the main issue in this appeal is the effect of the development on highway safety.

Reasons

5. Gaydon Service Station is the first building encountered on the eastern side of Banbury Road when entering the village from the north. Vehicles enter and exit the service station in a southbound direction. The wide grass verge in front of the service station between its entrance and exit provided an unrestricted view on oncoming traffic from the north. However, as part of the development it has been replaced by parking spaces orientated at ninety

degrees to the road. Parking spaces along the southern side boundary of the site have also been created.

6. At appeal stage a traffic speed survey was carried out by the appellant which identified that the 85th percentile speed for southbound traffic on the same side of the road as the service station was 35.5mph and for northbound traffic on the opposite side of the road it was 30.8mph. As a result of these speeds not exceeding 37 mph, the guidance in relation to visibility splays contained within Manual for Streets (MfS) and the advice within Manual for Streets 2 (MfS2), rather than the guidance in Design Manual for Roads and Bridges, is relevant to the development.
7. In such circumstances, for a vehicle exiting the service station a visibility splay of 2.4m x 59m in relation to oncoming southbound traffic on the same side of the road as the service station, and a splay of 2.4m x 45m in relation to northbound traffic on the opposite side of the road, are sought by MfS. At present, the arrangement of parking spaces along the front boundary perpendicular to Gaydon Road has resulted in a visibility splay with regard to oncoming southbound traffic that is extremely substandard.
8. The appellant has demonstrated how altering the layout of the parking spaces, Nos 9 to 15, could achieve a visibility splay of 2.4m x 43m in both directions. On the basis that on-site parking is altered accordingly, permission is sought for the development. However, in relation to oncoming southbound traffic on the same side of the road as the service station such provision would be markedly below the recommended standard. As a result, drivers seeking to exit the service station would have a significantly reduced window in which to execute their manoeuvre and safely join the highway. Consequently, in my judgement, there would be a significant risk of collision between vehicles exiting the service station and southbound vehicles approaching the appeal site along Banbury Road if such a splay was to be provided.
9. MfS2 advises at paragraph 10.7.1 that parking within visibility splays does not appear to create significant problems in practice. It is clear though from the rest of the paragraph and the accompanying drawings that this comment relates to on road parking in built up areas where speeds are low. Such circumstances do not exist in this case.
10. Paragraph 10.5.9 of MfS2 advises that, unless there is local evidence to the contrary, reduction in visibility below recommended levels will not necessarily lead to a significant problem. Clearly though this advice falls well short of supporting reduced levels of visibility in all situations and for the reasons given above, in my judgement, problems would occur.
11. The lack of accidents in the vicinity of the appeal site has been cited in support of the scheme. However, the accident data relates to the five year period 2012 to 2016 and the application form states that the development was started and completed in July 2016. Prior to the development it is clear from the submitted plan that visibility in relation to oncoming traffic from the north was unrestricted. As a result, the effect of the development on highway safety is not reflected by these accident statistics and the absence of incidents does not demonstrate that substandard visibility at the service station exit would be safe.
12. Department of Transport Circular 01/2013 provides guidance to traffic authorities on speed management. The appellant argues that this document means that it is the responsibility of the Highway Authority to ensure that the

speed limit is being adhered to, rather than the appellant's responsibility to ensure that site layouts are designed to conform to visibility splay requirements for speeds in excess of the speed limit. However, whilst this Circular is a material consideration, policy CS.26 of the Core Strategy clearly states that new development will only be permitted if the necessary mitigation is provided. This approach is consistent the National Planning Policy Framework ('the Framework'). As a result, this consideration has not altered my finding in relation to this appeal.

13. Reference has been made to paragraph 32 of the Framework which, among other matters, advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe. In my view though, when read as a whole, this paragraph addresses highway capacity and congestion issues, rather than highway safety in itself. As a consequence, this paragraph does not indicate that permission should be granted in this instance.
14. For all of these reasons, I therefore conclude that the parking layout as constructed, or as proposed to be altered to create 2.4m x 43m visibility splays, unacceptably harms highway safety, contrary to policy CS.26 of the Stratford -on-Avon Core Strategy and paragraphs 32 and 35 of the Framework. This policy and the paragraphs of the Framework referred to, amongst other matters, seek to prevent such harm. Therefore, although the principle of the development would comply with the Core Strategy, I find that the scheme as constructed, or altered as proposed, would be contrary to the development plan when considered as a whole. The appeal should therefore be dismissed.

Ian Radcliffe

Inspector

Appendix 4 Local Enforcement Plan



LOCAL ENFORCEMENT PLAN

1st published - OCTOBER 2012
Revision 1 - July 2015
Revision 2 - July 2016
Revision 3 - Feb 2018

1.0 Introduction

- 1.1 Although planning enforcement is discretionary and not a mandatory function of Local Planning Authorities, it is commonly recognised that the integrity of the Development Management process depends upon an Authority's commitment to take effective action against unauthorised development. This Local Enforcement Plan sets out how the Council deals with complaints relating to breaches of planning control.
- 1.2 The topics covered within this Local Enforcement Plan are listed as follows:
- Policies applicable within Stratford on Avon District
 - Type of breaches of planning control
 - Resources available for enforcing planning control
 - Procedure for investigating planning enforcement complaints
 - Tools available to enforce breaches of planning control
 - Review of Local Enforcement Plan
 - Privacy statement
- 1.3 The Council's Local Enforcement Plan was first published in October 2012 and last updated in July 2016. This is the latest updated version following changes to resources and a review of the procedure for dealing with enforcement complaints.

2.0 Policies applicable within Stratford on Avon District

- 2.1 The main policies applicable within Stratford on Avon District are those contained within the Development Plan which comprises:
- Stratford-on-Avon District Core Strategy (2011-2031)
- 2.2 In addition to Council policy, national policy is contained within the National Planning Policy Framework, published in March 2012. The government also published guidance on enforcement within the Planning Practice Guidance in March 2014 which is regularly updated.
- 2.3 Council wide policy on Enforcement is contained in the following documents:
- Stratford District Council Enforcement Policy Statement
 - Stratford District Council – Corporate Enforcement Protocol
- 2.4 There are various designations of the landscape within the District. These include: Green Belt, Cotswolds Area of Outstanding Natural Beauty, Special Landscape Areas and Areas of Restraint.

- 2.5 Stratford-on-Avon District currently contains 75 designated Conservation Areas. The District also contains over 3300 buildings included in the statutory lists of buildings of Special Architectural and/or Historic Interest.

3.0 Type of breaches of planning control

- 3.1 The Council receives nearly 700 planning enforcement complaints each year. Many of these are dealt with (or resolved) in a relatively short period of time, as there is either no breach of planning control, or the enquiry relates to minor technical breaches of planning control which can be resolved without formal action.
- 3.2 A range of complaint types occur throughout the District from extensions to residential properties, building works, breaches of planning conditions, unauthorised change of use, engineering operations, advertisements, works to Listed Buildings and works to protected trees.

4.0 Resources available for enforcing planning control

- 4.1 A team of five staff within Planning & Housing is employed to investigate cases. The team is made up of 3.5 Planning Enforcement Officers who are managed by the Planning Manager (Performance, Appeals & Enforcement). There is also a permanent Senior Planning Officer (Enforcement) within the team. A further Senior Planner is based in the team but deals primarily with Lawful Development Certificate applications.
- 4.2 Legal support is given by the Legal Team and administrative support is provided by Customer Support Services.

5.0 Procedure for investigating enforcement complaints

- 5.1 The following section of this Local Enforcement Plan sets out the sequence in which enforcement complaints progress, from initial receipt through enforcement to compliance. It is consistent with government guidance on ensuring effective enforcement.
- 5.2 When an enforcement complaint is received it will be registered on the Council's planning database system. Anonymous complaints will only be investigated if the alleged breach relates to unauthorised works to a listed building or works to trees which are in a Conservation Area or protected by Tree Preservation Order.
- 5.3 The name and address of all complainants is kept confidential. It may be necessary that the complainants details are required to be disclosed for legal reasons. However, prior approval will be obtained.

- 5.4 The complaint will be acknowledged and the complainant will be advised which Planning Enforcement Officer (PEO) will be dealing with the matter.
- 5.5 Following a Review of the Local Enforcement Plan in late 2017/early 2018, a revised scheme of prioritisation for investigating complaints was agreed. A copy of the scheme of prioritisation is attached as **Annex 1**. This does not mean that no action will be taken for 'Desirable' cases. It simply means that such cases may take longer to resolve, as resources will concentrate on cases relating to more serious breaches including 'Critical' cases and those with potential to have a 'Significant Impact'.
- 5.6 After receipt of an enforcement complaint, the PEO will investigate the planning history of the site and assess whether or not the complaint constitutes a breach of planning control. A breach of planning control is defined as "the carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted". If there has been no breach of planning control the case will be closed and the complainant advised of this decision.
- 5.7 Some complaints may relate to works which do not fall within the definition of a breach of planning control. These include:
- Display of advertisements without advertisement consent
 - Works to trees within Conservation Areas or those trees protected by Tree Preservation Orders
 - Alterations to Listed Buildings without Listed Building Consent
 - Unauthorised removal of hedgerows
 - Non-compliance with a formal Notice or Order
- 5.8 These complaints will be dealt with in the same way as breaches of planning control, whereby the PEO will check to see if the works need consent from the Local Planning Authority. If the works do not require consent, the case will be closed and the complainant advised.
- 5.9 In some cases a site visit may be necessary before the PEO can determine whether or not there has been a breach of planning control or if consent is required. For 'Critical' matters where the unauthorised works are in progress the Council aims to carry out an initial site visit within 24 hours of the receipt of the complaint. For alleged breaches which may have a 'Significant Impact' or there is a high level of public interest, these will be given a higher priority than the 'Desirable cases'. For such cases it is anticipated that site visits will be carried out within 10 working days. For 'Desirable cases, an initial site visit (if considered necessary) may take up to 4 weeks to carry out.
- 5.10 If following the site visit it is evident that there has not been a breach the case will be closed and the complainant advised.

- 5.11 Where it is clear that development has taken place without the relevant consent and it may be necessary to control the development by conditions, an application will be invited to regularise the development. This follows government guidance on ensuring effective enforcement.
- 5.12 Requesting a retrospective planning application has the advantage of the Council being able to obtain full details of the works that have been carried out and enables interested parties to be formally consulted before a decision is made. It may also be possible to make amendments to the scheme or impose conditions which overcome the concerns of interested parties.
- 5.13 A period of 1 month will normally be given for a valid application to be submitted for breaches which relate to householder works. However for all other unauthorised works a 2 month period will be given for a valid application to be submitted.
- 5.14 Where the reported breach is only a minor technical breach and does not result in any planning harm, an application will not be invited. In these cases the PEO will seek consent from the relevant Ward Member to close the case. This enables resources to focus on the more serious breaches of planning control.
- 5.15 For some cases however where the breach is causing significant harm, the Local Planning Authority will consider whether it is expedient to take formal enforcement action rather than inviting a planning application. The type of enforcement action available for such cases is outlined in Section 6.
- 5.16 When a retrospective application is received, the planning application will be determined on its own merits. Unless the breach is causing serious harm it is normal practice to await the determination of the planning application before deciding whether to take enforcement action. The enforcement case however will remain open until the application has been determined. If the retrospective application is approved, the enforcement case will be closed.
- 5.17 If the application is refused the case will remain open until the breach is satisfactorily resolved. Under the Constitution, the Head of Planning & Housing has delegated authority to issue an Enforcement Notice if an application has been refused. Where a retrospective application has been refused, enforcement cases will not normally be held in abeyance for an appeal to be lodged and determined. This would allow for a linked appeal if an appeal is lodged against the refusal and the Notice.
- 5.18 If an application is not submitted the Local Planning Authority must decide whether or not it is considered expedient to take formal enforcement action. In making this decision, the Local Planning Authority will have regard to the provisions of the Development Plan and any other material considerations, to assess whether the breach causes an unacceptable level of planning harm. Matters assessed may include the location of the breach, its visual impact, its effect on neighbours' amenity or its impact on highway safety.

- 5.19 This assessment will inform the likely outcome of a planning application, had it been made, and will therefore inform a decision on the best course of action.
- 5.20 Consistent with national government guidance on enforcement, formal action will not be taken where there is a trivial or technical breach of planning control which causes no material harm or adverse impact on the amenity of the site or the surrounding area.
- 5.21 In some cases, it may be appropriate for Officers to enter into negotiations with the alleged contravenor to either secure compliance with a condition or permission, or to negotiate changes to a development to make it more acceptable in planning terms. These negotiations may negate the need to take formal enforcement action. The timescale for officers to engage in negotiations will not extend beyond the timescale given for the submission of a retrospective planning application (as described above). Following this period the case will be reviewed with consideration given to formal action.
- 5.22 Where a breach of planning control has occurred, the enforcement case will only be closed, where there is agreement between the PEO and the relevant Ward Member. If there is not agreement between the PEO and the Ward Member for the case to be closed, the issue will be reported to the Regulatory Committee for decision as an exempt item. If the case is closed under delegated powers or following a committee meeting the complainant will be advised of the decision.
- 5.23 For cases where the unauthorised development is causing significant harm which cannot be satisfactorily overcome or mitigated by conditions or changes to a development, it may be appropriate for the Council to take formal enforcement action. The type of enforcement action to be taken will be dependent on the circumstances of the case. The type of action taken must also be proportionate to the nature of the breach of planning control. The different forms of enforcement action which are available to a Local Planning Authority are summarised in Section 6.
- 5.24 The Head of Planning & Housing has delegated powers to take appropriate enforcement or legal action as identified in the Constitution. For some types of action agreement must be sought from the relevant Ward Member before taking formal action. If there is not agreement between the PEO and the Ward Member the issue will be reported to the Regulatory Committee for decision as an exempt item. The complainant will be advised when a decision has been made.
- 5.25 Both the National Planning Policy Framework and Planning Practice Guidance on enforcement confirm that enforcement action is discretionary and advise Local Planning Authorities that they should act proportionately in responding to suspected breaches of planning control.

- 5.26 A reasonable balance therefore needs to be achieved, between protecting amenity and other interests of acknowledged importance and enabling acceptable development to take place, even though it may initially have been unauthorised. Where the balance of public interest lies will vary from case to case.
- 5.27 In considering whether to take enforcement action, the Council must also take into account the Human Rights Act 1998 and the Articles contained therein with particular reference to the Right to a Fair Trial, the Right to a private family life and the protection of property.
- 5.28 The Council also has a duty to work towards the elimination of unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups in the carrying out of their functions, in accordance with The Equality Act 2010.
- 5.29 Once the decision has been made to take formal enforcement action, the relevant notice will be issued either by the Enforcement team or Legal team. When a Notice has been issued the Enforcement Register is updated. If a notice has been complied with the Register is also updated.
- 5.30 An electronic version of the Enforcement Register can be viewed on the Council's website. This is updated on a quarterly basis.
- 5.31 Depending on the type of enforcement action taken, there are various rights of appeal, which may suspend the effect of a notice until the appeal is heard. Further information on this is contained within Section 6.
- 5.32 Formal notices give the person responsible for the breach a specified time limit in which to remedy the breach. Once this time period has expired the PEO will check whether the notice has been complied with. If the notice is complied with, no further action will be taken by the Authority and the file closed. If, however, the notice has not been complied with, the Local Planning Authority in liaison with Legal must consider whether or not to prosecute, and/or to apply for an Injunction requiring an activity to cease or for certain development to be removed. In some cases the Local Planning Authority may take Direct Action to secure compliance. These forms of action are explained in more detail in Section 6 below.

6.0 Tools available to enforce breaches of planning control

- 6.1 The following section of this Local Enforcement Plan provides a summary of the various tools available to deal with alleged breaches of planning control. The Local Planning Authority must assess, in each case, which power (or combination of powers) is best suited to dealing with any particular anticipated/apprehended, or actual, breach of control to achieve a satisfactory, lasting and cost effective remedy, having regard to the circumstances of the case.

6.2 It should also be noted that the type of enforcement action taken should be commensurate and proportionate with the breach of planning to which it relates.

6.3 There are three 'requisition' powers for planning enforcement purposes:

- Section 330 of the Town and Country Planning Act 1990
- Section 16 of the Local Government (Miscellaneous Provisions) Act 1976
- Section 171C of the Town and Country Planning Act 1990 (Planning Contravention Notice)

Section 330 of the Town and Country Planning Act

6.4 This power may be used in order to obtain relevant information at an early stage of the enforcement process. It involves serving a notice on either the occupier of the premises or the person receiving rent for the premises.

6.5 This form of notice may also be used for investigating enforcement under the Planning (Listed Buildings and Conservation Areas) Act 1990 functions.

Section 16 of Local Government (Miscellaneous Provisions) Act 1976

6.6 These provisions are primarily intended to enable an authority to establish the facts about ownership of land.

Planning Contravention Notice (Section 171c)

6.7 The main method for Local Planning Authorities to obtain information about activities on land, when it appears to the Local Planning Authority that a breach of planning control has occurred, is to serve a Planning Contravention Notice (PCN). A PCN takes the form of a series of questions relating to the suspected breach of planning control. It is an offence to fail to respond to the notice within 21 days, or to make false or misleading statements in reply. This notice however is not available for use in respect of suspected works to listed buildings or protected trees.

Powers of Entry for Enforcement Purposes

6.8 In addition to the investigative powers outlined above, Officers also have power to enter land, specifically for enforcement purposes. This right is limited to what is regarded as necessary, in the particular circumstances, for effective enforcement of planning control. A notice period of 24 hours, however, is required before entry can be demanded to a dwellinghouse. Prior notice is not required for access to domestic outbuildings or garden land industrial, commercial or farmland etc.

6.9 A Code of Practice introduced in April 2015 recommends that contact should be made with owners/occupiers before exercising powers of entry, unless it is impracticable to do so or would defeat the purpose of the inspection. The full version of the code can be found at <https://www.gov.uk/government/publications/powers-of-entry-code-of-practice>

6.10 Powers of entry also exist in accordance with a warrant, and procedures in respect of those matters can also be found within the above Code of Practice.

- 6.11 The following section refers to types of formal enforcement action which may be taken by the Local Planning Authority in order to require a particular use or development to cease or for works to be removed or modified:

Enforcement Notice

- 6.12 An Enforcement Notice can only be served when the Local Planning Authority is satisfied that there has been a breach of planning control and when it is considered expedient to do so. An Enforcement Notice requires specific steps to be taken which may include a use to cease or for a structure to be removed. It must also specify the period for compliance.
- 6.13 An Enforcement Notice must contain an explanation of the reasons it is being issued. The reasons should be carefully considered and be specific to the case. Failure to comply with an Enforcement Notice is a criminal offence.
- 6.14 The recipient of an Enforcement Notice has a right to appeal to the Secretary of State. Such an appeal will suspend the effect of the Notice until the appeal is determined. If an appeal is lodged all complainants and interested parties will be advised of the appeal details and how to make representations.

Listed Building Enforcement Notice

- 6.15 A Local Planning Authority may serve a Listed Building Enforcement Notice if unauthorised works have been or are being carried out to a listed building. Like an Enforcement Notice the recipient of this type of Notice has a right to appeal to the Secretary of State.

Breach of Condition Notice

- 6.16 This form of notice may be used as an alternative to the Enforcement Notice to remedy against failure to comply with any condition attached to a planning permission or limitation specified in The Town and Country Planning (General Permitted Development)(England) Order 2015. It does not apply to breaches of conditions attached to listed building consent or advertisement consent.
- 6.17 There is no right of appeal for a Breach of Condition Notice.

Stop Notice

- 6.18 When the effects of unauthorised activity are seriously detrimental, a Stop Notice may be served to ensure that an activity does not continue if an appeal is lodged against the Enforcement Notice. A Stop Notice can only be served where an Enforcement Notice has been issued. A Stop Notice can relate to any, or all, of the uses or activities specified in the Enforcement Notice. It does not apply to works to a listed building.
- 6.19 It is an offence to contravene a Stop Notice. Whilst there is no right of appeal against a Stop Notice, the validity of a Notice or the decision to issue the Notice can be challenged in the Courts by an application for Judicial Review.

Temporary Stop Notice

- 6.20 Where the Local Planning Authority considers that a breach of planning control should stop immediately it may serve a Temporary Stop Notice. Such a notice expires 28 days after it has been served and during this period the Council must decide whether it is appropriate to take further enforcement action. Once a Temporary Stop Notice has been served it is not possible to serve further Temporary Stop Notices for the same breach of planning control.
- 6.21 There are restrictions on the use of temporary stop notices; for example, such a notice cannot prohibit the use of a building as a dwelling house and may not prevent the continuance of an activity which had been carried out for a period of four years.

Discontinuance Notice

- 6.22 The Town and Country Planning (Control of Advertisement) Regulations enable a Local Planning Authority to take discontinuance action against any advertisement, which normally has the benefit of any of the categories of deemed consent.
- 6.23 A Discontinuance Notice may only be served if the planning authority is satisfied it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public.
- 6.24 There is a right of appeal against a Discontinuance Notice.

Section 215 Notice/Untidy Land Notice

- 6.25 Under Section 215 of the Town and Country Planning Act, a Local Planning Authority may serve a notice on the owner or occupier of the land, if it appears that the amenity of a part of their area, or an adjoining area is adversely affected by the condition of the land.
- 6.26 A Section 215 notice may deal with 'buildings' as well as land. There is an appeal provision, where the recipient may challenge the notice in the Magistrate's court.

Completion Notice

- 6.27 A Completion Notice may be served if the Local Planning Authority is of the opinion that development (which has started within the statutory 3 year period) will not be completed within a reasonable period. For this type of Notice, the period for compliance has to be a minimum of 12 months. The Local Planning Authority must also refer the Notice to the Secretary of State for confirmation.
- 6.28 There is a right of appeal against a Completion Notice.

Injunction

- 6.29 A Local Planning Authority can apply to the High Court or County Court for an injunction to restrain an actual or apprehended breach of planning control. An injunction can be sought whether or not other enforcement action has been taken and when the identity of the person responsible for the breach is unknown.
- 6.30 When a planning obligation (Section 106 agreement) has not been complied with the Council may apply for an injunction to secure compliance with the legal agreement.
- 6.31 A Local Planning Authority may also apply for an injunction to restrain a breach or apprehended breach of tree preservation or listed building control.
- 6.32 The decision whether to grant an injunction is always in the absolute discretion of the Court. The Court will need to be satisfied in the case of every injunction application that enforcement action in this form is proportionate.

Tree Replacement Notice

- 6.33 It is a criminal offence to
- a) cut down, uproot or wilfully destroy a tree protected by a Tree Preservation Order (TPO)
 - b) wilfully damage, top or lop a tree protected by a Tree Preservation Order in a way that is likely to destroy it
- If any of these works are carried out, the Council must decide whether or not to prosecute.
- 6.34 A Local Planning Authority may issue a Tree Replacement Notice requiring the owner to plant a tree or trees of appropriate size and species if a tree has been removed in contravention of a TPO or if a protected tree has been removed because it was dead or dangerous.
- 6.35 The cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of trees within a Conservation Area is also a criminal offence. A Tree Replacement Notice can also be served in respect of the unauthorised removal of tree(s) in a Conservation Area.
- 6.36 An appeal can be lodged against a Tree Replacement Notice.

Hedgerow Replacement Notice

- 6.37 It is a criminal offence to intentionally or recklessly uproot or otherwise destroy a hedge protected by the Hedgerows Regulations 1997 (which includes hedgerows on or adjacent to agricultural, equine or common land etc). If any of these works are carried out, the Council must decide whether or not to take Direct Action.

6.38 A Local Planning Authority may issue a Hedgerow Replacement Notice requiring the owner to replant a hedgerow of appropriate size and species if a hedgerow has been removed in contravention of these Regulations.

6.39 An appeal can be lodged against a Hedgerow Replacement Notice.

High Hedge Remedial Notice

6.40 The Local Planning Authority may issue a High Hedge Remedial Notice if an evergreen/semi evergreen hedge is found to be a 'nuisance' when assessed in accordance with the Anti-Social Behaviour Act 2003, part 8, High Hedges.

6.41 If an owner or occupier of the land where the hedge is located fails to comply with the Notice the owner or occupier will be guilty of an offence.

6.42 An appeal can be lodged against a High Hedge Remedial Notice.

Prosecution

6.43 The Local Planning Authority may prosecute for unauthorised works to trees, listed buildings, and the display of advertisements without consent.

6.44 The Local Planning Authority may also prosecute against the failure to comply with the majority of the types of Notices described above.

6.45 The decision on whether to prosecute is based on the Evidential Test and also a Public Interest test. In determining the fine the Court is required to have regard to any financial benefit which has accrued or appears likely to accrue in consequence of the offence.

6.46 Where a criminal offence has occurred, and the Defendant(s) has been found guilty, the Local Planning Authority may request that the Court makes a Confiscation Order under the Proceeds of Crime Act 2002. The Confiscation Order will relate to any financial benefit arising from a criminal activity.

Direct Action/Default Powers

6.47 Section 178 of the 1990 Act allows Local Planning Authorities to enter land and carry out any of the requirements of a Notice themselves. The Local Planning Authority may recover any expenses reasonably incurred with the direct action from the owner of the land. Such expenses, until recovered, become a charge on the land, binding on the successive owner.

Legal agreements

6.48 Legal agreements can be used to restrict development or the use of land, or to require specific operations or activities to be carried out. The advantage is that the Agreement goes with the land and not an individual.

6.49 In April 2012 new powers were introduced through the Localism Act 2010. These include:

Section 70C

- 6.50 A Local Planning Authority may decline to determine a retrospective application for development which is the subject of an Enforcement Notice served after 6 April 2012.

Section 171BA – Planning Enforcement Order

- 6.51 A Local Planning Authority may apply to the Court for a Planning Enforcement Order if evidence comes to light that a breach of planning control has been concealed. This prevents the development from becoming immune from enforcement action if it has been deliberately concealed.

Section 225A – Removal Notices

- 6.52 Section 225A allows a Local Planning Authority to remove, and then dispose of, any display structure in their area which, in the Local Planning Authority's opinion, is used for the display of advertisements in contravention of the regulations. This power is subject to the Council first serving a 'Removal Notice' upon the persons who appear to be responsible for the structure.
- 6.53 There is a right of appeal against a Removal Notice to the Magistrate's court.
- 6.54 In 2014 new powers were introduced for Councils through the Anti-Social Behaviour, Crime and Policing Act 2014. Those powers which can be used to deal with planning enforcement complaints include:

Community Protection Notice (CPN)

- 6.55 This can be used where the behaviour of a person, business or organisation is considered to have a detrimental effect on the quality of life of those in the locality. The behaviour has to be of a persistent or continuing nature.
- 6.56 This form of action can be used as an alternative approach to Section 215 notices referred to above.
- 6.57 There is a right of appeal and the failure to comply with a CPN is a criminal offence.

7.0 Review of Local Enforcement Plan

- 7.1 To enable continuous improvement of the enforcement function, the key elements of this Local Enforcement Plan will be reviewed. These key elements include:
- relevant policies
 - type of breaches of planning control
 - resources available
 - procedures for investigating complaints
 - tools available to enforce breaches of planning control
- 7.2 The operational review of these elements will enable the Council to identify where changes need to be made to the Local Enforcement Plan and how procedures can be improved to provide a more efficient enforcement function.

- 7.3 The workload of the Enforcement team is reported to the Regulatory Committee on a regular basis.

8.0 Privacy Statement

- 8.1 The Council has published its Privacy Notice which sets out how data will be handled and made available to the public. A copy of the latest version of the Privacy Notice can be viewed on the Council's website.

References

National Planning Policy Framework (March 2012)

Planning Practice Guidance

Annex 1

CASE PRIORITY

Critical – Matters which will be dealt with immediately (if the works are in progress)

- Demolition and alteration of Listed Buildings
- Demolition of buildings in Conservation Areas
- Unauthorised works to trees covered by a Tree Preservation Order or in a Conservation Area
- Unauthorised removal of protected hedgerows

Significant Impact/High Public Interest

- **Non-compliance with Construction Management Plans**
- **Non-compliance with tree protection/landscaping conditions**
- **Development commenced prior to discharge of conditions**

Desirable - Matters which will be dealt with as resources permit

- All other cases

Appendix 5 Decision to Take Action report for 16/00732/ENGENT

DECISION TO TAKE FORMAL ACTION

Enforcement reference	16/00732/ENGENT
Location	Gaydon Service Station, Banbury Road, Gaydon, Warwick, CV35 0HA
Decision Made	To take formal action
Decision Date	14.9.2018

Legal Background

The enforcement role of a Local Planning Authority is discretionary. The powers conferred to a Local Planning Authority for dealing with breaches of planning control are contained within Part VII of the Town and Country Planning Act 1990.

The National Planning Policy Framework (NPPF) has been revised and was published on 24th July 2018, replacing the previous 2012 version of the NPPF. Paragraph 58 of the revised NPPF states that Local Planning Authorities should act proportionately in responding to suspected breaches of planning control.

Description of Breach of Planning Control

Without planning permission the erection of two extensions and associated engineering operations to increase the parking spaces available for customers on the Land.

Description of the Site

The site lies to the eastern edge of Gaydon Village and falls just within the draft Built Up Area Boundaries for the settlement. The site lies adjacent to open countryside and has an existing in/out vehicular access arrangement from the B4100 (Gaydon Road). The speed limit for the B4100 is 30mph and slopes down passed the site. Gaydon Road is served by two footways one on each side and has two pedestrian refuge areas assist the crossing of the Gaydon Road in close proximity to the site. Opposite the site a development for new homes has recently been completed and occupied. The closest neighbouring property lies to the south of the site and is known as 'Service Station Bungalow' and has a vehicular access to the south of the site onto the Gaydon Road. The Gaydon Inn which is a Grade II heritage asset lies opposite the site.

DEVELOPMENT PLAN AND MATERIAL CONSIDERATIONS

Development Plan

Stratford-on-Avon District Core Strategy (2011-2031)

Relevant Policies in the Development Plan for this development are:

- CS.1 (Sustainable Development)
- CS.2 (Climate Change and Sustainable Construction)
- CS.3 (Sustainable Energy)
- CS.4 (Water Environment and Flood Risk)
- CS.5 (Landscape)
- CS.6 (Natural Environment)
- CS.8 (Historic Environment)
- CS.9 (Design and Distinctiveness)
- CS.15 (Distribution of Development)
- CS.20 (Existing Buildings and Housing Stock)
- CS.26 (Transport and Communications)

- AS.10 (Countryside and Villages)

Neighbourhood plan

- None applicable to the site.

Central Government Policy and Guidance

National Planning Policy Framework (2018)

National Planning Policy Guidance (2014)

Relevant sections Ensuring Effective Enforcement

Other Material Considerations

- Stratford-upon-Avon Town Design Statement (September 2002)
- Council's District Design Guide 1996
- Draft Development Requirements SPD (Draft pre-consultation version March 2018) – The emerging development requirement SPD has limited weight having completed its public consultation stage at the end of April 2018. The draft SPD includes draft parking standards which have been endorsed by Cabinet. The emerging parking standards guidance part of the emerging SPD currently has limited weight but, has been endorsed by the District Council as a material planning consideration. Due to its emerging status the SPD is afforded limited weight.

Legislation

- Human Rights Act 1998
- Equality Act 2010
- Natural Environment and Rural Communities (NERC) Act 2006
- The Conservation of Habitats and Species Regulations 2010
- Localism Act 2011
- Equalities Act 2010 (Public Buildings)
- Housing and Planning Act 2016
- Countryside and Rights of Way Act 2000

ASSESSMENT OF THE KEY ISSUES

Background

The site was granted planning permission in 2005 (reference 05/00567/FUL) for the redevelopment of the existing site. Planning permission was granted for a new sales building, forecourt, pumps and canopy. This permission was subject to conditions to ensure that sufficient parking is available for customers. The planning permission also limited the hours of operation for the business and lighting. Various advertisements were approved to support the business use.

Planning permission 05/00567/FUL was later varied by planning permission 16/00391/VARY which granted permission to extend the opening times of the business to customers. As part of this planning permission conditions were added to ensure that the development would be in accordance with the approved plans from planning permission 05/00567/FUL and that the parking spaces were retained. The hours the business can operate and illumination were also restricted by this planning permission.

In June 2016 it was brought to the Council's attention that extensions to the sales building were being carried out. No planning permission has been granted for this development. In November 2016 the Council investigated an extension to the hardstanding area on the site. These works were carried out to increase the parking spaces available for customers on the Land.

Planning application 16/02749/FUL was submitted to seek to regularise the breaches in planning control identified above. The planning application was refused on highways safety grounds. The decision was appealed and dismissed at appeal by the Planning Inspectorate.

Since the consideration of the above application planning permission has been granted for further advertisements and an ATM. Two additional planning applications have been submitted on the land for the re-development of the Land to include a drive-through. Planning application 17/02337/FUL was withdrawn and planning application 18/00298/FUL was refused. An appeal has been lodged against planning application 18/00298/FUL.

Principle of Development

The Council is required to make a decision on planning matters in line with the Development Plan, unless material considerations indicate otherwise (Section 38(6) PCPA 2004 and Section 70(2) TCPA 1990). The National Planning Policy Framework (NPPF) is a key material planning consideration.

Core Strategy Policy CS.1 relates to Sustainable Development and seeks to ensure that a high quality environment, managed economic growth and social equity are of equal importance.

CS.15 relates to the dispersal of both business and residential development during the plan period and sets out a distribution strategy for development across a number of sustainable sites and settlements within the District. Gaydon is identified as a Category 4 Local Service Village. In line with Policy CS.15 development will only be supported in Local Service Villages for small-scale schemes on unidentified but suitable sites within the Built Up Area Boundary (BUAB) or physical confines of a settlement. The site falls within the draft Built Up Area Boundaries for Gaydon settlement.

Core Strategy Policy AS.10 relates to development in Countryside and Village Locations. Policy AS.10 supports a number of development forms in principle. Part m) of Policy AS.10 supports small-scale expansion of an existing group of buildings where the site is readily available by means of transport other than the use of the private car. In addition part n) of Policy AS.10 supports the extension to a business in its established location. The associated Development Management Considerations for Policy AS.10 state that the scale and nature of the existing business is a consideration. Paragraph 83 of the NPPF which seeks to support the sustainable growth and expansion of all types of businesses in rural areas.

Policy CS.20 relates to Existing Buildings and Housing Stock. Policy CS.20 seeks to ensure that any alterations or modifications to a building are of an appropriate scale and subservient in relation to the existing building.

The works on site relate to the extension of the sales building and associated engineering operations to create additional parking spaces. The extensions project beyond the north facing and east facing elevations. The plans submitted with

planning application 16/02749/FUL identify that the flat roof projections measure approximately 3m in height to the ridge and sit below the eaves of the host building. The side extension measures approximately 8.5m in depth and 5.9m in width. The rear extension measures approximately 3m in depth and 9.5m in width. The extensions result in the footprint of the building increasing by approximately 44%. By reason of the size, design and siting of the extension I consider that they would represent a small scale addition to the host building and site having regard to the provisions of Policy AS.10, CS.15 and CS.20.

As part of planning application it was determined that the use of the extension by a concession would be ancillary to the main use of the site. I have no reason to dispute this.

In light of the above the principle of the development is supported by the relevant policies.

Highways Matters

Core Strategy Policy CS.26 relates to Transport and Communication and seeks to ensure that any adverse highways impact raised by a development are suitably mitigated. In addition, CS.26 seeks to ensure that sufficient parking provision is provided for developments. Policy AS.10 also seeks to ensure that proposals avoid a level of increase of traffic on rural roads which would be harmful to the local area. Paragraph 102 of the NPPF seeks to ensure that the potential impacts of development can be appropriately avoided or mitigated.

The site has an in/out vehicular access from Gaydon road with vehicles able to enter the site in southbound direction. The speed limit along the Gaydon Road is 30mph. To the south of the site the adjacent neighbouring dwelling has a vehicular access onto the Gaydon Road. The site is open in character with a covered forecourt area and the sales building set to the east of the site set back from the road.

Engineering operations have created new parking spaces to the west of the site in an area which was formally soft landscaping. This area was cordoned off at the time of the site visit by cones in response to concerns raised by the Council. Additional parking spaces have been made available along the southern boundary of the site in an existing hardstanding area. The parking spaces to the south of the site have not been clearly demarked but were in use at the time of the site visit.

The Inspector whilst considering the unauthorised development as part of the appeal of planning application 16/02749/FUL advised that the 'the arrangement of parking spaces along the front boundary perpendicular to Gaydon Road has resulted in a visibility splay that is extremely substandard'. In his view the Inspector noted that the location of the site is not in an area where speeds on the Gaydon Road are low. At the time of planning application 16/02749/FUL the information submitted by the applicant was not considered by the Inspector to outweigh the highways safety concerns. The Inspector concluded that the revised parking arrangement, as constructed, with parking to the south and west of the site, introduced unacceptable harm to highways safety contrary to Core Strategy Policy CS.26 and the NPPF.

WCC Highways Authority has been consulted, post the determination of the appeal of planning application 16/02749/FUL. In their view the unauthorised parking spaces have raised concerns not only with the visibility splays associated with the access of the site but also the lack of parking and parking to south of the site which could

impact on the turning space required by articulated HGVs which need to safely deliver fuel to the site.

WCC Highways has advised that the reinstatement of the parking arrangement originally approved in 2005 as part of planning permission 05/00567/FUL and later varied by 16/00391/VARY would overcome the issues with the reduced visibility splays on the Land. The previously approved parking plan does not have parking spaces to the west or south of the site.

The unauthorised development on the land includes extensions to the Sales building. The additional parking spaces have been created to facilitate the increased retail building. As there has been an increase in floorspace the number of parking spaces available for customers is a material consideration. The Council's emerging Parking Standards are therefore a relevant consideration. The parking standards are set out within the Draft Development Requirements SPD. This guidance attracts limited weight at this time due to its emerging status.

The SPD guidance seeks to ensure that there is sufficient parking space available for Food Retail developments. In this case the number of parking spaces for less than 500sqm floorspace would be one space per every 15 sqm of floor space. Having regard to the approximate floorspace of the extended building calculated as 226.6 sq.m 15 parking spaces would be required on the site in line with this guidance.

WCC Highways Authority has advised that the re-configuration of the parking to the previously approved layout would not overcome the increased demand of parking associated by the extended retail outlet. Due to the size of the site and location of the existing extensions it is unlikely that the 15 parking spaces required could be easily achieved without compromising the visibility splays and turning circles of larger articulated HGVs visiting the site.

The existing parking spaces have been achieved on the Land by compromising the visibility splays and turning spaces associated with the site. Any formal action would therefore have to be directed towards the re-configuration of the parking layout and the unauthorised extensions as the parking spaces have been created to facilitate the increased retail outlet.

Having regard to the above the unauthorised development is considered to introduce an adverse impact on highways safety through the reduction in the visibility splays on the land and insufficient parking. I therefore consider the development would conflict with Core Strategy Policy CS.26 and paragraph 102 of the NPPF which seeks to ensure that potential impacts can be appropriately mitigated.

Impact on the character of the area

Core Strategy Policy CS.9 relates to Design and Distinctiveness and seeks to ensure that developments are sensitive to the setting, neighbouring uses, topography and existing built form within locality. Policy AS.10 also seeks to ensure that proposals minimise their impact on the character of the local landscape.

The extensions by reason of their size, design, siting and materials are considered to be subservient to the host building and are set back from the road which enable them to be viewed within the context of the main site. In addition, the proposed parking configuration would be within the limits of the existing site which is open in character. The re-configuration works by reason of their location and design are not considered to introduce significant harm to the character of the area.

The development is therefore not considered to be contrary to Policies AS.10 and CS.9 of the Core Strategy in this regard.

Impact on Heritage Assets

Core Strategy Policy CS.8 relates to Heritage Assets and states that the Historic Environment is protected and enhanced. CS.8 states that priority will be given to protecting heritage assets such as listed buildings in addition to non-designated heritage assets.

In addition to the above, considerable importance and weight should be to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved.

The unauthorised works by reason of their scale, design, siting, materials and finish are not considered to introduce harm to the setting and therefore special interest of the Gaydon Inn which is a grade II Heritage Asset. The development is therefore considered to accord with Policy CS.8 with this regard.

Neighbouring Amenity

Policy CS.9 seeks to ensure that proposals are sensitive to their setting and do not result in an unacceptable impact on neighbouring properties' amenity through overbearing loss of light, overlooking or adverse surroundings. Policy AS.10 also seeks to ensure proposals minimise their impact on the occupiers and users of properties in the surrounding areas.

The proposed works by reason of their siting, design and associated use are not considered to introduce an adverse impact on the close neighbouring properties' amenity through adverse surroundings. The proposal therefore complies with Policy CS.9 and AS.10 with this regard.

Other Matters

The unauthorised development is not likely to raise any adverse material considerations with respect to impact on ecology or flood risk.

Conclusions

The principle of the unauthorised development complies with Core Strategy Policies CS.15, AS.10 and CS.20. The unauthorised development by reason of the parking layout, as constructed, is considered to have a significant adverse impact on the visibility splays associated with the Land due to the location of the parking. This is considered to result in a significant detrimental impact on highways safety which is contrary to Core Strategy Policy CS.26 and paragraph 102 of the NPPF both of which seek to ensure that development appropriately mitigates against adverse impacts. Due to the constraints associated with the site it is not considered that the level of parking required to serve the extended retail outlet can be achieved on the Land without introducing adverse highways safety impacts. Formal action is therefore directed at all aspects of the unauthorised development as the parking spaces are required to facilitate the extended retail use.

Alternatives

Alternative Option	Reason why rejected
Allow a further period of time for the submission of a retrospective application	A planning application for the unauthorised works was refused and dismissed at appeal. Since the determination of this application two further planning applications have been considered by the Council. It is not considered appropriate to allow time for a further application to be submitted.
To allow the breach to remain	This would result in the planning harm identified above contrary to the Development Plan.
To negotiate with the owner over remedying part of the breach	<p>A temporary solution has been negotiated on the site to assist with the visibility splays associated with the access. It is not considered that the 15 parking spaces required to serve the increased retail development can be achieved on the Land with the existing built form without adversely impacting the visibility splays associated with the access of the site.</p> <p>An appeal has been lodged against the refusal of planning application 18/00298/FUL. In line with the Council's Local Enforcement Plan the planning enforcement case will not be held in abeyance whilst the appeal is considered. It is noted that the development considered by planning application 18/00298/FUL is materially different to the existing development on the Land.</p>

Reason

1. The unauthorised development extends the retail floorspace of the existing lawful sales building. The extension is occupied by a further franchise which increases the level of choice available (retail offer) to potential customers visiting the site. To accommodate the increased level of customers likely to visit the site by vehicles, associated with the extended retail outlet, engineering operations have been carried out to create additional parking spaces on the forecourt area. The reconfiguration of the parking layout has resulted in new parking spaces being created within the visibility splays of the southern vehicular access of the site.

The reconfiguration of the parking layout results in the provision of new parking spaces in a location which significantly deteriorates the visibility splays associated with vehicles as they egress the site onto the Gaydon Road. The unauthorised development is therefore considered to introduce a detrimental impact to highway safety which is contrary to Policy CS.26 of the Stratford-on-Avon Core Strategy (2011-2031) and paragraph 102 of the NPPF.

Recommendation

Officers are satisfied that this form of enforcement action is expedient and reasonable. It is also proportionate to the breach of planning control in order to safeguard the public from the planning harm identified.

Agreement from Ward Member(s)

Not required as planning permission 16/02749/FUL was refused.

Name/signature of Delegated Officer

C Eynon 2.10.18

Appendix 6 Copy of Appeal Decision APP/J3720/W/18/3210224



Appeal Decision

Site visit made on 6 December 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2018

Appeal Ref: APP/J3720/W/18/3210224

Gaydon Service Station, Banbury Road, Gaydon CV35 0HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Euro Garages Limited against the decision of Stratford on Avon District Council.
 - The application Ref 18/00298/FUL, dated 20 February 2018, was refused by notice dated 4 May 2018.
 - The development proposed is redevelopment of existing petrol filling station and adjoining land comprising the erection of replacement forecourt, canopy, pump island, underground tanks and sales building (A1) (465m²) and Starbucks Drive Thru Coffee Shop (A1/A3/A5) (240m²) with car parking, landscaping and associated works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be an acceptable form of development in this location having regard to the development plan strategy for the location of businesses
 - its effects on the character and appearance of the area
 - its effects on the safe and efficient operation of the local highway network

Reasons

Development plan strategy

3. The site lies along the eastern side of the B4100 Banbury Road and at the edge of Gaydon. The majority of the built-up area of the settlement extends to the west although there is a ribbon of development along Banbury Road that extends to the south on the same side as the appeal site. In addition to the existing shop, forecourt and small parking area, there are also a garage building and bungalow within the confines of the site.
4. Policy AS.10 of the Stratford-on-Avon District Core Strategy (2016) (the CS) sets out a number of situations in which business development is considered acceptable in principle in the countryside and villages. These include (i) the redevelopment at a similar scale of an existing building where it would result in a more effective use of the site; and (ii) small-scale expansion of an existing

group of buildings for business uses where the site is readily accessible by means of transport other than the private car.

5. The proposed development would substantially increase the size of the site and there would be a greater spread of buildings across it in addition to a much larger car parking area and other hardstanding areas. On any reasonable assessment, it would be logical to conclude that the proposal would not accord with the principles in policy AS.10.
6. Gaydon is categorised as a Local Service Village within the development plan and it does not have an adopted defined Built-Up Area Boundary (BUAB). BUABs currently only exist for Stratford-upon-Avon and the Main Rural Centres (MRCs). Although a BUAB is proposed for Gaydon, it is to come forward as part of a Site Allocations Plan and accordingly, despite already having been drawn up, it does not have the force of adopted policy.
7. Nevertheless, the appeal site marks the northern extent of the settlement's built-up area along Banbury Road. Beyond this, the landscape is in agricultural use and is of rural character. The 'drive-thru' coffee shop and much of its associated car parking and other hardstanding areas would be located within what is currently part of the agricultural field. Thus, the proposal would extend built development into the open countryside beyond the clearly recognisable physical confines of the village. For this reason it would conflict with policy CS.15 which says that development will take place on sites identified in a Neighbourhood Plan (NP) and through small scale schemes on unidentified sites within the BUABs (where defined) or otherwise within the village's physical confines. There is no NP for Gaydon.
8. The appellant argues that the existing facility does not provide an efficient or modern forecourt which meets the demands of modern motorists and consumers. However, at my site visit the facility was busy and I saw nothing to suggest that there are any clear issues with the efficient operation of the forecourt or that the facilities on offer are in some way substandard, although I accept that space within the building is somewhat restricted.
9. Moreover, in my view the facility as it currently stands seems entirely appropriate, in terms of its scale and offering, to a modestly sized rural settlement notwithstanding that elements of this do not apparently have planning permission. The proposal would result in a development at odds with its more low-key context.
10. The appellant suggests that the MOT garage and residential bungalow are obsolete. However, no substantive evidence has been provided to support that assertion and there is no certainty that these buildings could not be put to a suitable future use.
11. I accept that it may be desirable to enhance the economic viability of the site but do not consider this necessitates a development on the scale proposed and which would encroach into the open countryside.
12. I have already identified that the proposal would conflict with policies AS.10 and CS.15. Policy CS.22 says that opportunities for business development will be provided in the countryside in accordance with policy AS.10. Therefore, by extension, the proposal also runs counter to policy CS.22.

Character and appearance

13. Policy AS.10 also includes the requirement that all proposals will be thoroughly assessed against the principles of sustainable development including through minimising the impact on the character of the local landscape, communities and environmental features. This is broadly reflected in policy CS.22 which, amongst other things, seeks to protect the character and appearance of the local area and, in more detailed terms, in policy CS.5 that has similar objectives.
14. The landform of the field next to the site rises generally to the east which would prevent the proposed development from being widely seen from further to the east and north-east. However, whilst the character of the field is influenced by the existing development opposite and indeed by the existing development on the site, it nonetheless has a distinctly different character that reads as part of the wider rural landscape and thus shares a greater affinity with it than to the built-up area.
15. Moreover, the appeal site, as it currently stands, provides an unambiguous edge between the built-up part of the village and the rural landscape beyond. The proposed development would breach this by introducing a far greater spread of built form across a larger area that would urbanise part of the rural landscape and appear at odds with the low-key rural village character.
16. In views from along Banbury Road to the north, the appeal site is currently inconspicuous primarily because of the two existing Poplar trees on its boundary (which would be removed to facilitate the development). Whilst development on the opposite side of the road is visually prominent, there is a sense of there being a general absence of built form spreading beyond the east of Banbury Road and the appeal site only comes into view at closer quarters on the approach from the north.
17. Furthermore, when looking from the other direction, the rural landscape can be seen extending beyond the site as the viewer is able to see between the shop and forecourt pumps and also between the pumps themselves. The line of vegetation along the section of the B4100 that heads to the north-east from its roundabout junction with Kineton Road can clearly be seen in these views.
18. Whilst the effects would be localised, the proposal would nonetheless result in a dramatic and noticeable change to the local landscape, the effects of which would be adverse.
19. I note the conclusions in the appellant's Landscape and Visual Impact Assessment that the visual effects of the proposed development would reduce over time as planting matures. However, from the submitted plans, it is unclear where there would be sufficient space within the site for any meaningful planting that would eventually screen the development. Consequently, the buildings and the proposed surrounding timber fencing would result in residual landscape and visual harm.
20. I accept that the surrounding land is not a valued landscape - having particular regard here to the National Planning Policy Framework (the Framework). However, Framework paragraph 127 says, amongst other things, that planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area not just for the short term but over

the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and c) are sympathetic to local character including the surrounding built environment and landscape setting while not discouraging appropriate innovation or change. The aforementioned CS policies are reflective of these objectives.

21. The proposal would result in localised but nonetheless serious harm to the character and appearance of the area in conflict with policies AS.10, CS.22 and CS.5. It would also conflict with policy CS.9 which requires all forms of development to improve the quality of the public realm and enhance the sense of place, reflecting the character and distinctiveness of the locality.

Safe and efficient operation of the local highway network

22. The appellant has provided a number of documents that aim to demonstrate that there would be no adverse effects on the local highway network. The list of sites within the TRICS Outputs data is based on suburban, edge of town and neighbourhood centre locations. On the face of it, the data gathered from these locations cannot be readily applied to a modestly sized rural settlement.
23. Furthermore, there is a clear difference between a petrol filling station and shop and a development which not only includes a larger convenience store but also a drive-thru coffee outlet. I do not consider that the assessment of the trips generated can be based on anything other than the overall retail floor space if it is to provide robust evidence.
24. However, the evidence does indicate that there is no correlation of stores with a larger gross floor area (GFA) generating higher trip rates and that there is a downward trend in the AM peak in comparison to higher trip rates associated with stores that have a lower GFA. The evidence does however, point to a small increase in terms of the PM peak.
25. The proposed development would not be located on a strategic route and on a straightforward analysis, would most likely serve local traffic and provide facilities for existing residents of Gaydon in respect of most trip types. Whilst I note the Council's highways concerns, I do not consider that there would be severe residual and cumulative impacts on the road network.
26. I turn now to parking provision. The development would provide 35 spaces including 4 disabled bays. It would be logical to conclude that users of the drive-thru facility would not park. In addition, it is likely that a number of people purchasing fuel would leave their vehicles next to the pump whilst also purchasing convenience store goods. Whilst other people would drop in at the convenience store on the way to or from home, it seems to me that the overall proposed parking provision would be adequate to cope with the likely number of vehicles that would be parked at any one time.
27. Reference is made in the evidence to maximum parking standards. However, the Framework is clear that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network. I do not have such justification before me. The Council's draft parking standards have been consulted upon as part of the Supplementary Planning Document (SPD) they feature in. However, I have not been provided with any details of the outcome of that consultation and moreover, the SPD is still in

draft form. I therefore give only limited weight to the adopted and draft parking standards.

28. Adequate visibility splays could be secured by a suitably worded condition in the event that planning permission was granted in addition to other necessary highways works.
29. For the above reasons, I do not find that the proposal would result in adverse effects on the safe and efficient operation of the local highway network. Accordingly, there is no conflict with CS policy CS.26 which includes a number of requirements aimed at avoiding unacceptable transport impacts and a requirement for parking provision to reflect local circumstances.

Other matters

30. The grade II listed Gaydon Inn lies directly opposite the appeal site. However, it is surrounded by residential development including what appears to be a fairly recent development to the rear. Its setting is also influenced by the existing service station and the other buildings on the site. In addition, the listed building relates more to the built environment to the west of Banbury Road than that to the east of it. In this context, the proposed development would not have a harmful effect on the setting of the designated heritage asset and its significance would be preserved.
31. The proposal would add to the availability of shops and services within Gaydon. I accept that it could result in the creation of jobs although this has not been quantified. Accordingly, I give the proposal's economic and social benefits limited weight. On the other side, I give very substantial weight to the conflict with the development plan in terms of both the principle of development and its harmful effects on the character and appearance of the area. Whilst I have not found harm in respect of highways matters, this is a neutral factor in the overall planning balance.

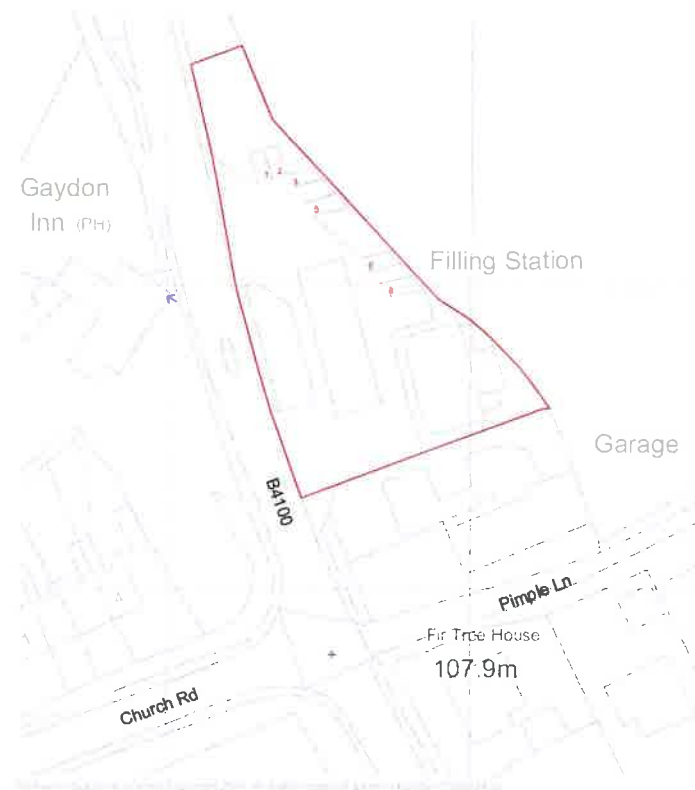
Conclusion

32. For the above reasons, I conclude that there is nothing to indicate that my decision should be taken other than in accordance with the development plan. The appeal does not succeed.

Hayden Baugh-Jones

Inspector

Appendix 7 Copy of Plans submitted with 18/03008/FUL



Location Plan
Scale 1:1250 @ A4



Euro House
Beehive Trading Park
Haslingden Road
Blackburn
Lancashire
BB1 2EE

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W www.eurogarages.com

Site / Project Name:

Gaydon

Banbury Road, Gaydon, Warwickshire
CV35 0HA

Sheet Title:
Location Plan

Project Group:
NA

Drawing No: **pln039.06.A4.AL**
Issue Date: **02.10.2018**
Revision Date: **---**

Drawn: **AL**
Checked: **---**

Scale:
1:1250 @ A4

Revision Notes

Date	Rev	By	Description
02.10.18	1	AL	Issue for Planning

Drawing Issue:

- ☐ Draft Proposals
- ☐ Scheme
- ☒ Planning Approval
- ☐ Building Regulations
- ☐ Other

This drawing is the copyright of Euro Garages Ltd and no reproduction is allowed without prior permission. All Drawings must be checked and verified prior to commencement of work on site. All dimensions are in millimeters, unless otherwise stated. Anyone using this drawing (e.g. Contractor, Client, Supplier) is to check all dimensions on site prior to carrying out work or ordering of materials.

DO NOT SCALE EXCEPT FOR PLANNING PURPOSES.



LOCATION PLAN

GENERAL NOTES

1. This plan has been prepared for the submission and approval under Town and Country Planning only.

SCHEDULE OF AREAS	
Total Site Area - Imp. Area	0.33 ha / 0.81 Acre
Pre-Existing PWS Slump (IG LA)	1.20ha ² / 2.95 Acre
Pre-Existing PWS Slump (IG LA)	1.33ha ² / 3.28 Acre
Pre-Existing PWS Slump (IG LA)	1.33ha ² / 3.28 Acre
Existing PWS Slump (IG LA)	2.80ha ² / 6.93 Acre
Existing PWS Slump (IG LA)	2.20ha ² / 5.45 Acre
Pre-Existing parking	8.4 square
Existing parking	21 square
Proposed parking	20 square



A	24 JUL 88	Rev	Date	Comments
		STATUS		PLANNING
		PROPOSAL		Proposed service station
		SITE LOCATION		GAYDON SERVICE STATION Gaydon Industrial Development Gaydon, CV25 9HA
		TITLE		PRE-EXISTING SITE PLAN



JENNINGS DESIGN LIMITED

York House, Valley Court, Canal Road,
Bradford, West Yorkshire, BD1 4SP

Drawn by: SF	Checked by: HLL
Date: OCTOBER 2018	Scales: 1:200 @ A3
PLAN NO. 160584 - PL - 100a	

0 10 20
SCALE - METRES - 1:200





DAYM



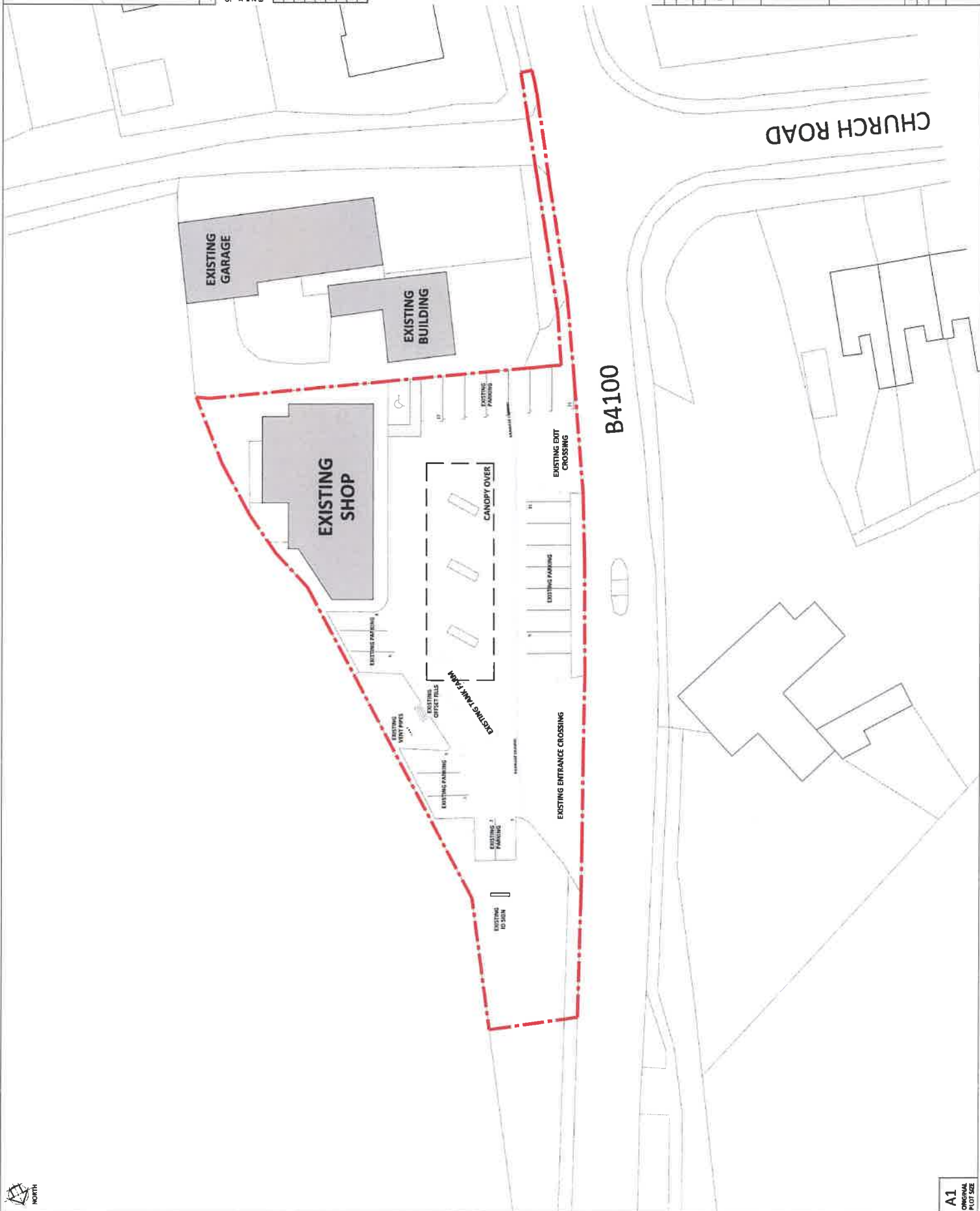
LOCATION PLAN

1:1250 SCALE

GENERAL NOTES

- This plan has been prepared for the submission and approval under Town and Country Planning only.

SCHEDULE OF AREAS	
Area 5/19 Area - Red land	0.33 Ha / 0.83 Acre
Pre-Existing P15 Shop (in R.A)	4 Days / 18 days ¹
Pre-Existing P15 Shop (2.0 A)	13/30 ¹ / 14/35 ¹
Existing P15 Shop (0.2 A)	23/30 ¹ / 24/35 ¹
Existing P15 Shop (10.1 A)	21/30 ¹ / 22/30 ¹
Pre-Existing Parking	8 spaces
Existing Parking	23 spaces
Proposed Parking	23 spaces



A	ITEM	Date	Comments
	PROPOSAL		PLANNING
	SITE		Proposed Service Station
	LOCATION		GAYDON SERVICE STATION Bachley Road Gaydon, CV35 9HA
	TITLE		EXISTING SITE PLAN



JENNINGS DESIGN LIMITED

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Drawn by: SF	Checked by: AJJ
Date: OCT08ER 2018	Scale: 1:250 @ A1

PLAN NO. 160984 - PL - 102a



A1

GENERAL NOTES

1. This plan has been prepared for the submission and approval under Town and Country Planning only. It is not to be used for any other purpose without the written consent of the Planning Department.
2. The plan has been prepared in accordance with all relevant current legislation and Environmental Standards and Regulations.

SCHEDULED USE AREAS	
Total Site Area	0.33 Ha / 0.83 Acre
Pre-Existing FTS Shop (C1A)	710sqm / 7,820sqft
Pre-Existing FTS Shop (B1A)	550sqm / 5,920sqft
Existing FTS Shop (C1A)	2,800sqm / 30,100sqft
Existing FTS Shop (C1A)	210sqm / 2,260sqft
Pre-Existing Parking	8 spaces
Existing Parking	23 spaces
Proposed Parking	20 spaces

Proposed alterations to parking layout

- 2.4m 30m Visibility Splay - Left Crossing
- 2.4m 30m Visibility Splay - Adjacent Cottage/Range
- 2.4m 30m Visibility Splay - People Lane



A 10.10.18 Proposed parking layout reduced to 10 m scale

Rev	Date	Comments
1	10.10.18	PLANNING
2	10.10.18	PROPOSAL
3	10.10.18	PROPOSED SERVICE STATION
4	10.10.18	PROPOSED SERVICE STATION
5	10.10.18	PROPOSED SERVICE STATION
6	10.10.18	PROPOSED SERVICE STATION
7	10.10.18	PROPOSED SERVICE STATION
8	10.10.18	PROPOSED SERVICE STATION
9	10.10.18	PROPOSED SERVICE STATION
10	10.10.18	PROPOSED SERVICE STATION
11	10.10.18	PROPOSED SERVICE STATION
12	10.10.18	PROPOSED SERVICE STATION
13	10.10.18	PROPOSED SERVICE STATION
14	10.10.18	PROPOSED SERVICE STATION
15	10.10.18	PROPOSED SERVICE STATION
16	10.10.18	PROPOSED SERVICE STATION
17	10.10.18	PROPOSED SERVICE STATION
18	10.10.18	PROPOSED SERVICE STATION
19	10.10.18	PROPOSED SERVICE STATION
20	10.10.18	PROPOSED SERVICE STATION



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Drawn by: SF

Date: OCTOBER 2018

Scale: 1:200 (P/A1)

Plan No: 160984 - PL - 104g

Scale: METRES - 1:200

Scale: METRES - 1:200

Scale: METRES - 1:200

Scale: METRES - 1:200

Scale: METRES - 1:200

Scale: METRES - 1:200

Scale: METRES - 1:200



GENERAL NOTES

This plan has been prepared for the submission and approval under Town and Country Planning only.
Fuel installation to be fully compliant with all relevant current Urethane and Environmental Standards and Regulations.

[illegible]

Personal + Narrative to writing here.

A 55m Visibility Safety - Exit Counting

4 x 50cm Vellum Sewing - Adjoining Customer Diagram

247 Optical - Joseph A. Manna, MD, PhD

4 x 57mm Viability Safety • Endurance Crimping

B4100

PIMPLE LANE

CHURCH ROAD

20.11.18	Verbalty update added in air-racety counting & some barometers added to proposal
22.10.19	Prepared a book on the subject of the 2018-19 season.

REV	DATE	COMMENTS
		PLANNING
		Proposed Service Station
		GAYDON SERVICE STATION
		Barlbury Road,
		Gordon, CY5 9HA
		PROPOSED SITE PLAN



JENNINGS DESIGN LIMITED

fork House, Valley Court, Canal Road,
Bradford, West Yorkshire, BD1 4SP.

TEL. No. 01274 395422
FAX. No. 01274 395427

e-mail: officet@jan305.com

Submitted by: SF	Checked by: NJJ
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Scale:	1:200 @ A1
October 2018	

4 2000 1 21 10 11

PLAN NO. 160584 • PL - 1046

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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SCALE - METRES - 1:200

A1

**ORIGINAL
PILOT STUDY**

Existing Fencing



Lock to Lock Time	5.079m
Corb to Corb, Turning Radius	18.2m
	1.525m
	0.310m
	1.831m
	4.00s
	5.900m

Forward Gear (Vehicle Body)
Reverse Gear (Vehicle Body)
Forward Gear (Chassis)
Reverse Gear (Chassis)

Rev	Unit	Thk'd	Sp'd	Description	Date
P01	KK	WA	WA	FOR INFORMATION	Oct 2018

Purpose of Issue

Classification

Client

EUROGARAGES

Project

GAYDON HIGHWAYS

Drawing

**SWEEP PATH ANALYSIS
LARGE CAR**

Scale @ A3	Drawn	Checked	Approved
1:250	KK	WA	-

Project No. _____ Date _____

CS091269-01

Oct 2018

Drawing Identifier

Drawing Identifier	BS1192 Compliant

Project - Originator

Project - Originator - Asset - Location - File Type - Role - Number REV

CS091269-CAP-0100-PW-DR-C-0009 P01

CS091269-CAP-0100-PW-DR-C-0009 P01

CAPITA

Highways & Infrastructure

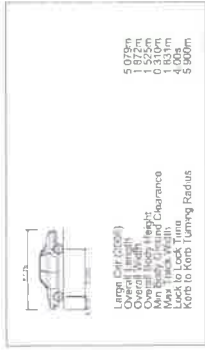
Castle Way House, 17 Preston New Road, Blackburn BB2 1AU

01254 273000

www.capila-property.co.uk

KEY:

- 2.4m x 59m Visibility Splay at:
 - Adjacent Cottage/Garage
 - Site Egress
 - Pimple Lane
 - Vehicle Profile



- Forward Gear (Vehicle Body)
- Reverse Gear (Vehicle Body)
- Forward Gear (Chassis)
- Reverse Gear (Chassis)



Rev	Drawn	Chkd	Description	Date
INFORMATION				
Classification				
Client				

EUROGARAGES

GAYDON HIGHWAYS

Drawing
PROPOSED PARKING WITH
SWEEP PATH ANALYSIS &
VISIBILITY SPY

Scale @ A3	Drawn	Checked	Approved
AS SHOWN	KK	WA	
Project No			
Date			
CS091269-01			
AUG 17			
Drawing Identifier			
BS1192 Compliant			
Project - Originator - Asset - Location - File Type - Role - Number			
CS091269 -CAP-0100-PW-DR-C-0007			
I01			

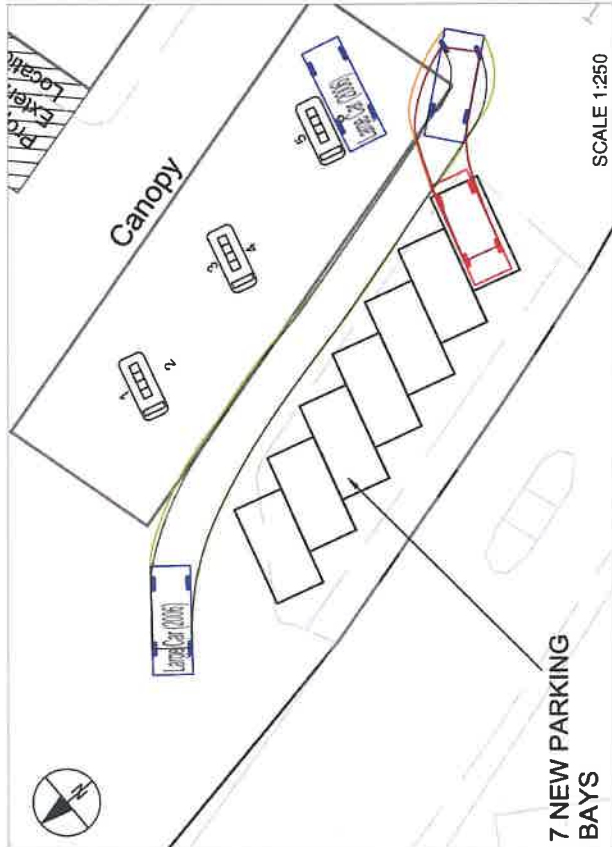
CAPITA

Highways & Infrastructure

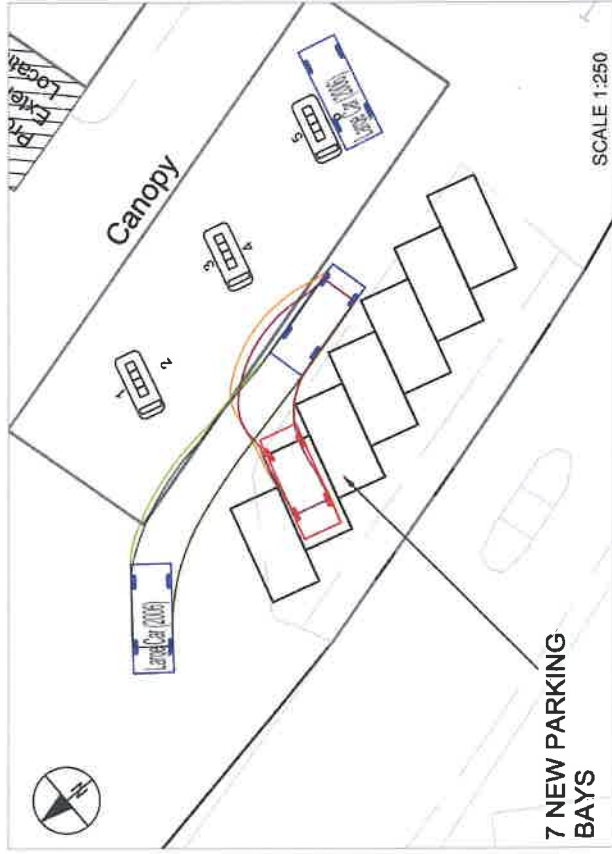
CastleWay House, 17 Preston New Road, Bickburn, BB2 1AU
01254 273000
www.capita-property.co.uk
Capita Property and Infrastructure Ltd.



SCALE 1:500



SCALE 1:250



SCALE 1:250

KEY:

- Highway Maintainable at Public Expense
- Highway to be Stopped Up
- Site's Red Line Boundary
- 2.4m x 59m Visibility Splay at the Exit Crossing
- 2.4m x 59m Visibility Splay at the Pimple Lane Junction
- 2.4m x 59m Visibility Splay at the Entrance Crossing Access

Rev	Chg	Description	Date
P01	KK	WA	Nov 2018

Purpose of Issue
INFORMATION
Classification

Client

EUROGARAGES

Project

GAYDON HIGHWAYS

Drawing

STOPPING UP PLAN

Scale @ A3	Drawn	Checked	Approved
1:500	KK	WA	WA

Project No. Date

CS091269-01 Nov 2018

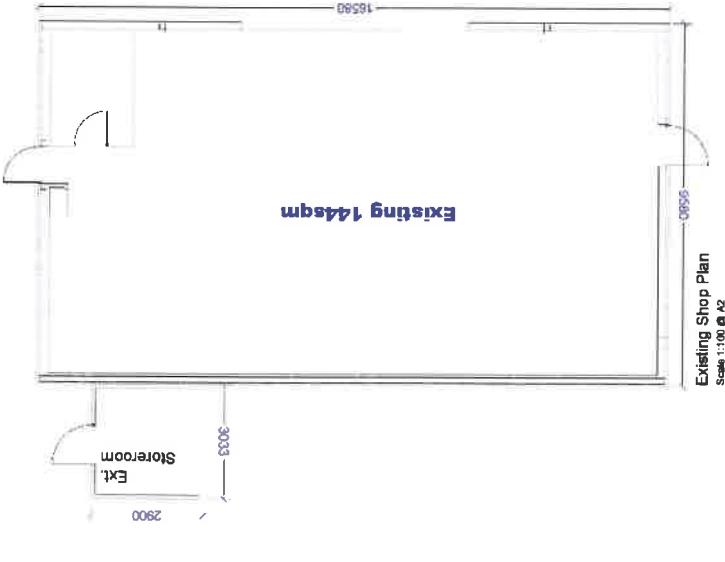
Drawing Identifier
Project - Originator - Asset - Location - File Type - Role - Number
CS091269 - CAP-0100-PW-DR-C-014 P01

CAPITA

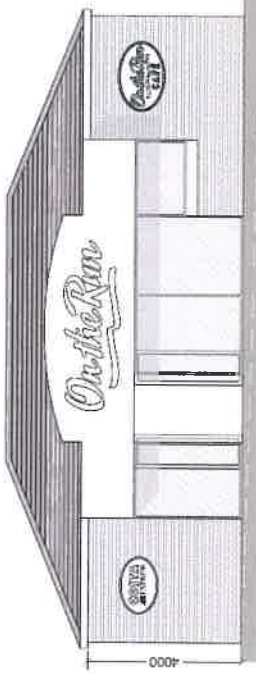
Highways & Infrastructure

Castle Way House, 17 Preston New Road, Blackburn, BB2 1AU
01254 275000
www.capita-property.co.uk
Capita Property and Infrastructure Ltd.

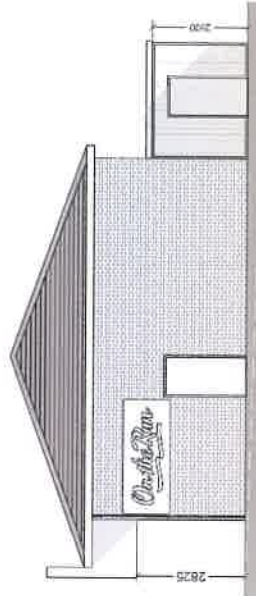




Existing Shop Plan
Scale 1:100 @ A2



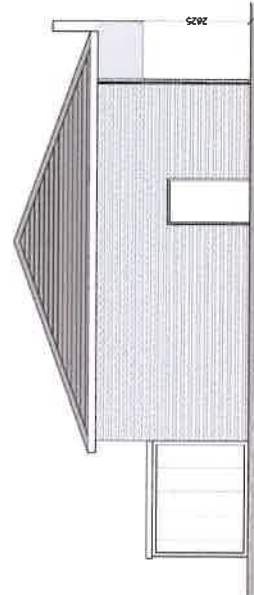
Proposed Shop Front Elevation (West Elevation)
Scale 1:100 @ A2



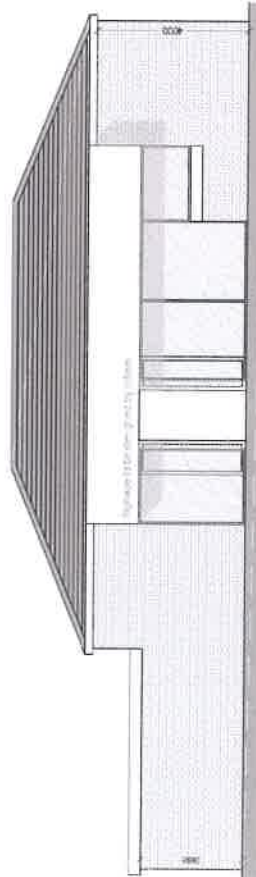
Proposed Shop Side Elevation (South Elevation)
Scale 1:100 @ A2



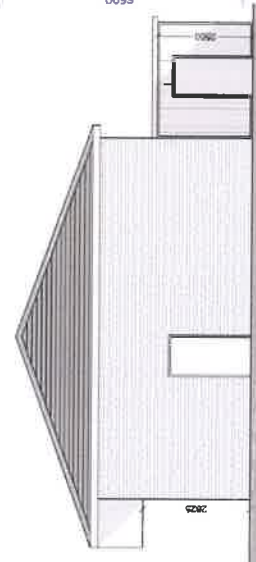
Proposed Shop Rear Elevation (East Elevation)
Scale 1:100 @ A2



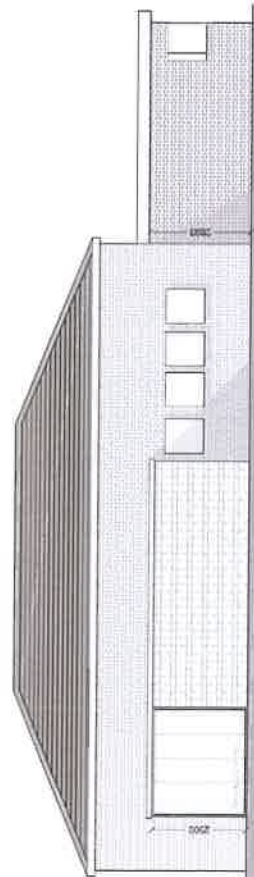
Existing Shop Side Elevation (North Elevation)
Scale 1:100 @ A2



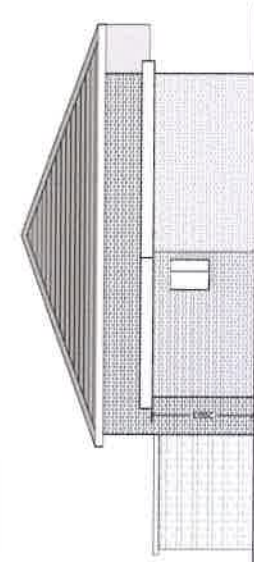
Proposed Shop Front Elevation (West Elevation)
Scale 1:100 @ A2



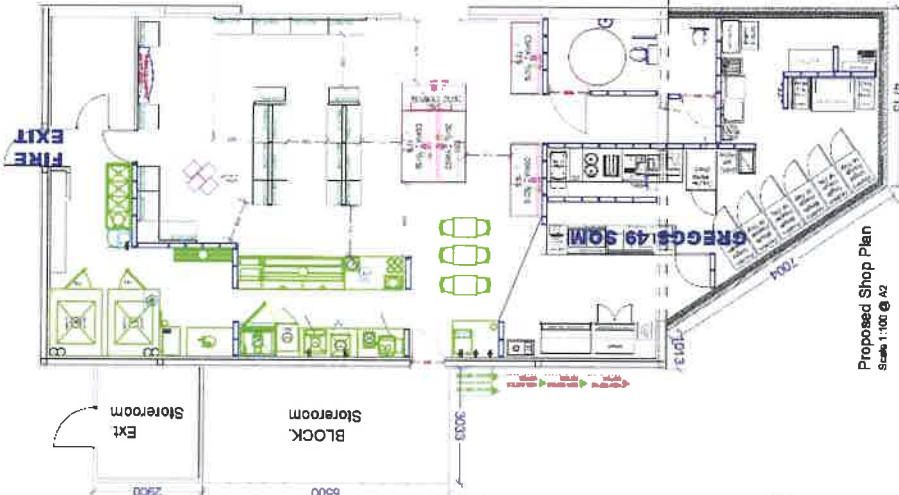
Proposed Shop Side Elevation (South Elevation)
Scale 1:100 @ A2



Proposed Shop Rear Elevation (East Elevation)
Scale 1:100 @ A2



Proposed Shop Side Elevation (North Elevation)
Scale 1:100 @ A2



Proposed Shop Plan
Scale 1:100 @ A2



Appendix 8 WCC Highways comments to 18/03008/FUL (8 May 2019)

Your ref: 18/03008/FUL
My ref: 183008



Communities

PO Box 43
Shire Hall
Warwick
CV34 4SX

Robert Weeks
Head of Environment & Planning
STRATFORD-ON-AVON DISTRICT COUNCIL
Elizabeth House, Church Street
Stratford-upon-Avon
CV37 6HX

FAO: Joe Brooke

[Redacted]
[Redacted]
[Redacted]
www.warwickshire.gov.uk

8th May 2019

Dear Mr Weeks

PROPOSAL: Proposed Shop extension at side and replacement storage unit at rear (retrospective) and reconfiguration of parking area
LOCATION: Gaydon Service Station Banbury Road Gaydon
APPLICANT: Euro Garages Limited.

Warwickshire County Council, hereby known as the 'Highway Authority', been requested by Stratford District Council, in its function as Local Planning Authority, based on additional information, matters being raised by the District Ward Member. And the applicants further response dated March 2019.

Based on this request the Highway Authority has undertaken a full review of the planning application and maintains its response to one of **objection**.

The justification for this decision is set out below;

ANALYSIS:

The planning application submitted is a full planning application at the Gaydon Service Station on the Banbury Road in Gaydon. The development proposals are for the provision of a shop extension at the site and replacement storage unit at the rear, which is a retrospective element, and reconfiguration of the parking arrangements.

The development proposals have been assessed in line with the following national policy and guidance documents;

- National Planning Policy Framework published by Department for Communities and Local Government in March 2018;
- National Planning Practice Guidance: Travel plans, transport assessments and statements in decision making published by Department for Communities and Local Government in March 2014;

*Working for
Warwickshire*

- Department for Transport Circular 01/2013; Setting Speed Limits published by the Department for Transport in January 2013;
- Warwickshire Local Transport Plan 2011 – 2026 published by Warwickshire County Council in 2011; and,
- Stratford – on – Avon District Core Strategy 2011 – 2031 adopted by Stratford – on – Avon District Council on the 11th July 2016.

The following text provides a summary of the Highway Authority's consideration of the additional information provided.

Trip Generation:

Whilst the Highway Authority does not agree with Capita that a Greggs Hot Food Counter in a convenience store can be considered the same as a drive-thru hot food takeaway, which are standalone facilities in general.

The Highway Authority concludes that the proposed trip generation is robust, as the identified rates will be higher than the actual use and therefore will not maintain an objection on this matter.

Transport Assessment:

Whilst the comments made by Capita are relevant, the Highway Authority can reserve the right where it considers suitable that a Transport Statement should be provided. Based on the development proposals, location and planning history the Highway Authority considers that the provision of a Transport Statement would have aided the assessment of this application, in accordance with Paragraph 111 of the National Planning Policy Framework.

However this is not a matter for objection nor a planning reason for one to be maintained. It is just a point to be noted for future reference for further amendments or development on the site.

Site Access Arrangements:

Having considered the information provided by Capita, I do not consider it addresses the points raised by the Highway Authority, in response to the Ward Members submission. Instead it just reviews the appeal decisions from their prospective. In addition there is a clear discrepancy between the Planning Inspectors. In addition the Highway Authority does not accept that the visibility splays can be simply conditioned, any revisions to access arrangements and visibility splays should be supported by a Road Safety Audit Stage 1.

The Highway Authority maintains its position on this matter as set out in the Highway Authority response dated 20th February 2019.

Site Layout:

The Highway Authority has considered the additional information which has been provided, most notably the vehicle and trailers tracking. Based on this assessment I am concerned that access can be blocked to pumps by a vehicle and trailer.

In addition due to the proximity and orientation of the parking spaces facing the B4100 Banbury Road, poor positioning would exacerbate this matter. Which could restrict the capacity of the site, leading to blocking back onto the highway network to the detriment of highway safety. The Highway Authority therefore maintains its objection on this matter.

CONCLUSION:

The Highway Authority concludes that greatest weight should be given to the Inspectors decision related to the appeal APP/J3720/W/17/3190869, the justification being that the current planning application is a near replication of the proposals set out in the dismissed appeal.

Also, the revised National Planning Policy Framework, published in 2018, puts greater inference on the provision of safe and suitable access arrangements within the three paragraphs identified in this response, when compared to the former Framework, published in 2012. The Highway Authority therefore concludes that the reasons on which the appeal was dismissed remain.

In addition some weight should be given to the requirements which should be provided as part of the application, notably about identifying a suitable trip generation, and that a petrol station and a convenience store are not comparable. Therefore the ascertain the impact of the development in terms of trip generation uplift then a transport statement should be submitted in accordance with Paragraph 111 of the National Planning Policy Framework.

Finally the Highway Authority concurs with the District Ward Member, that the parking layout, arrangements, and the tight forecourt layout could lead to delay within the site. Which could lead to vehicles waiting and queuing to access the pumps leading to queuing which could extend back onto the highway. The Highway Authority concludes that the potential operation would the site forecourt would be inefficient which would lead to queuing on to the highway, causing an obstruction to the free-flow of traffic on the B4100 Gaydon Road to the detriment to highway safety.

The Highway Authority therefore concludes that the development proposals contrary to the following documents and policies.

National Planning Policy Framework:

Paragraph 108:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 109:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 110 Item C:

Within this context, applications for development should:

- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

Warwickshire Local Transport Plan:

Policy LUT 8: Road Safety Audits:

The County Council will require an appropriately stated Safety Audit to accompany and planning application that required certain works within the highway to be carried out...

Policy RS22: A Safer Road Network:

The County Council will manage safety across the whole road network. Casualty studies will be carried out to identify patterns or trends.

Policy RS25: Building Safety into New Schemes:

The County Council will carry out road safety audits on all new schemes and alterations to the existing road network proposed by ourselves or others.

Stratford – on – Avon Core Strategy:

Policy CS.26: Transport and Communications:

A. Transport Strategy

Development proposals should be consistent with and contribute to the implementation of transport strategies and priorities set out in the Warwickshire Local Transport Plan (LTP), including its are strategies. Stratford – on – Avon District Council, Warwickshire County Council and, where appropriate, Highways England, will work together to achieve the objectives and implement the proposals in the LTP, with particular emphasis on encouraging modal shift with greater use of more sustainable forms of transport and improving the safety of all road users.

B. Transport and New Development

Development will only be permitted if the necessary mitigation is provided against any unacceptable transport impacts which arise directly from that development. This will be achieved, as appropriate, through

1. The submission of a Transport Statement or Assessment and the implementation of measures arising from it;
2. Ensuring that the scale of traffic generated by the proposal is appropriate for the function and standard of the roads serving the area;

The Highway Authority therefore maintains its position of objection based on the above conclusions based on a review of the planning application and full consideration of the matters raised by District Ward Member.

Yours sincerely

Ben Simm

Ben Simm
Development Group
CC –

FOR INFORMATION ONLY
COUNCILLOR WILLIAMS – KINETON & RED HOUSE

Appendix 9 WCC Highways comments to 18/03008/FUL (20 February 2019)

Your ref: 18/03008/FUL
My ref: 183008



Communities

PO Box 43
Shire Hall
Warwick
CV34 4SX

Robert Weeks
Head of Environment & Planning
STRATFORD-ON-AVON DISTRICT COUNCIL
Elizabeth House, Church Street
Stratford-upon-Avon
CV37 6HX

FAO: Joe Brooke



20th February 2019

Dear Mr Weeks

PROPOSAL: Proposed Shop extension at side and replacement storage unit at rear (retrospective) and reconfiguration of parking area
LOCATION: Gaydon Service Station Banbury Road Gaydon
APPLICANT: Euro Garages Limited.

Warwickshire County Council, hereby known as the 'Highway Authority', been requested by Stratford District Council, in its function as Local Planning Authority, based on additional information and matters being raised by the District Ward Member. Based on this request the Highway Authority has undertaken a full review of the planning application and revises its response to one of **objection**.

The justification for this decision is set out below;

ANALYSIS:

The planning application submitted is a full planning application at the Gaydon Service Station on the Banbury Road in Gaydon. The development proposals are for the provision of a shop extension at the site and replacement storage unit at the rear, which is a retrospective element, and reconfiguration of the parking arrangements.

The development proposals have been assessed in line with the following national policy and guidance documents;

- National Planning Policy Framework published by Department for Communities and Local Government in March 2018;
- National Planning Practice Guidance: Travel plans, transport assessments and statements in decision making published by Department for Communities and Local Government in March 2014;

*Working for
Warwickshire*

- Department for Transport Circular 01/2013; Setting Speed Limits published by the Department for Transport in January 2013;
- Warwickshire Local Transport Plan 2011 – 2026 published by Warwickshire County Council in 2011; and,
- Stratford – on – Avon District Core Strategy 2011 – 2031 adopted by Stratford – on – Avon District Council on the 11th July 2016.

The following text provides a summary of the Highway Authority's assessment of the planning application, the comments of the District Ward Member and the justification for the decision which has been made.

Comments from the District Ward Member:

In light of the Highway Authority response, dated the 3rd January, of no objection based on the appeal decision APP/J3720/W/18/3210224, the District Ward Member has raised a number of matters which they consider have not been fully considered or identify areas where further clarification and assessment is required. These areas were fully set out in their email dated 7th February 2019 issued the Planning Officer.

The Highway Authority has reviewed these and provides a response to each of the matters below;

1. *The Appeal (APP/J3720/W/18/3210224) was fundamentally different in both scale and layout to this application. The Inspector questioned the validity of the traffic data supplied by the applicant on two grounds;*
 - a) *In paragraph 22 of his report that the source of the TRICS data, being suburban or edge of town could not be readily applied to a modest rural settlement; and,*
 - b) *In paragraph 23 the raised concerns that the site description of the sites tested did not correspond with the application site.*

The Highway Authority does not disagree with the District Ward Member on this matter, and that the scale of the development, considered under this appeal, was much greater than is being considered under this application. In addition the Highway Authority concurs that the layout is different.

The Highway Authority also concurs with the two grounds in regards to the evidence base which was considered flawed and fully identified and justified by the Highway Authority within its written statement supporting the Local Planning Authority at appeal. However, the Planning Inspector concluded in paragraph 25 of his appeal decision that;

The proposed development would not be located on a strategic route and on a straight forward analysis, would most likely serve local traffic and provide facilities for existing residents of Gaydon in respect of most trip types. Whilst I note the Council's highway concerns, I do not consider that err would be severe residual and cumulative impacts on the road network.

Yet when considering this response and the information provided within that Inspectors response and the current application, there are further matters which need to be considered.

In Paragraph 23 of the appeal decision letter, the Inspector comments that there is a clear difference between the existing land use in the form of a petrol filling station and the proposed development, noting a larger convenience store and not comparable, and therefore the assessment of the trips generated from development proposals greater than a petrol station should be based on anything other than the overall retail floorspace if it is provide a robust assessment.

The Inspector then goes on the state that in the evidence submitted for the appeal that smaller convenience stores with a lower gross floor area (GFA) tend to generate a higher level of trips.

In regards to this application the applicants nor their consultants have submitted a transport statement or any evidence to demonstrate the change in the trip generation based on the expansion of the retail area and maintaining of the retrospective element of the development. Therefore based on the Inspectors comments in relation to the appeal (APP/J3720/W/18/3210224) the applicants should provide a clear evidence based demonstrating the change and potential uplift the development proposals will have on the trip generation of the site.

Further to this, the Highway Authority considers that the Inspector has not considered the suitability of the access arrangements and whether they can suitably manage the level of traffic. Within the Highway Authority's Written Statement, the Highway Authority clearly states it cannot assess the suitability of the access arrangements without a trip generation being suitably identified. Therefore the proposals set out in this application the Highway Authority considers that a transport statement should be submitted to support the development proposals in accordance with Paragraph 111 of the National Planning Policy Framework.

Whilst the Inspector has not raised an issue in operational capacity of the access arrangements, they have not stated whether the access is suitable in highway safety terms which is explicitly identified within Paragraph 109 of the National Planning Policy Framework, which states;

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

In paragraph 28 the Inspector considers that the visibility splays can be conditioned but are vital to demonstrate that a suitable access is safe and in the Highway Authority's view need to be accepted at the determination of the application and supported by a Road Safety Audit as required by policy LUT8 of the Warwickshire Local Transport Plan, which states;

'The County Council will require an appropriately stated Safety Audit to accompany and planning application that required certain works within the highway to be carried out, for example new junctions, ghost islands junctions and significant alternation to existing junctions...'

Based on this the Highway Authority considers that the position of parking within the development site which impacts on the site operation and visibility of access arrangements need to be fully considered and assessed. This matter conveniently leads onto the second matter raised by the District Ward Member.

2. A previous application 16/02749/FUL, which was, other than the layout of car parking, in general terms identical to this application, was refused by SDC following a WCC Highway objection on grounds of highway safety. This decision was appealed. The Inspector, Ian Radcliffe, in the same year 2018, agreed with the WCC Highways evidence and supported the refusal issued by SDC on highway grounds alone.

The Highway Authority is aware of the Inspectors decision under the appeal reference APP/J3720/W/17/3190869 and the justification to dismiss the appeal for a near identical application.

The Planning Inspector, Mr Radcliffe, primarily considered the access arrangements as this was the reason for refusal of the application, and therefore considered this matter in-depth, when compared to the assessment of Mr Baugh-Jones for the other appeal.

Mr Radcliffe in his decision clearly identifies that whilst Manual for Streets can be applied as the suitable guide for visibility splay requirements, however concluded that perpendicular parking to the Gaydon Road would impact on highway safety. The Inspector therefore concluded that ;

'For all the reasons, I therefore conclude that the parking layout as constructed, or as proposed to be altered to create 2.4m x 43m visibility splays, unacceptably harms highway safety, contrary to policy CS.26 of the Stratford – on – Avon Core Strategy and paragraphs 32 and 35 of the Framework. This policy and the paragraphs of the Framework referred to other matters, seek to prevent such harm. Therefore, although the principle of the development would comply with the Core Strategy, I find that the scheme as constructed, or altered as proposed would be contrary to the development plan when considered as a whole. The appeal should therefore be dismissed.

Having considered this decision in partnership with the proposed development proposals, the site layout conforms to the revised scheme which the appellants submitted during the appeal process. However this has been considered substandard by the Planning Inspector.

In addition, since the determination of the appeal (APP/J3720/W/17/3190869) a new National Planning Policy Framework has been published by the Government. The refreshed Framework clearly identifies safe access arrangements and the prevention of conflicts between pedestrians, cyclists and vehicles being important consideration in the determination of planning applications. Notably through the following paragraphs;

National Planning Policy Framework – Paragraph 108;

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*

- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

National Planning Policy Framework – Paragraph 109:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

National Planning Policy Framework – Paragraph 110 Item C:

Within this context, applications for development should:

- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*

The Highway Authority concludes having considered the revised Framework gives greater weight the decision of Mr Radcliffe in assessing the acceptability of the development site, which does not adequately resolve the matters raised in the Inspectors decision letter which resulted in the application being dismissed.

3. *I would also like WCC Highways to reconsider the tracking and access both to the fuel pumps and leaving those pumps, particular those further from the entrance to the filling station, for vehicles with trailers, and especially builders or agricultural pickups with an attached trailer, if the car parking spaces are moved towards the pumps and were fully occupied by cars, small or larger commercial vehicles.*

The Highway Authority notes the comments made by the District Ward Member, and accepts that due to the site being located within a rural settlement, there is a greater likelihood for large vehicles, such as horse boxes, or vehicles with trailers accessing the petrol station. Therefore the concerns raised are valid.

The applicants have provided tracking demonstrating a standard car accessing the petrol pumps and the parking spaces. However no tracking has been provided of a larger vehicle nor a vehicle with a trailer. If a vehicle was to park in a poor manner this could prevent vehicles suitably accessing the pumps, leading to vehicles waiting and queuing.

Due to the tight nature of the petrol station forecourt this could prevent vehicles queuing back onto the highway which presents another highway safety concern, resulting in an obstruction to the free-flow of traffic on the Gaydon Road.

In addition the orientation of the parking spaces mean that a vehicle accessing from the northbound access to park in the perpendicular parking spaces, requires a vehicle to drive past the space and reverse back into it. This leads to a further delay within the forecourt as vehicles waiting to access the pumps being forced to wait for the parking vehicle to manoeuvre in a safe manner in a very tight area. Once again the Highway Authority is concerned that this could lead to queuing back onto the highway to the detriment of its safe operation. This matter would be further exacerbated by larger vehicles and those with trailers.

CONCLUSION:

The Highway Authority has undertaken a full review of the District Ward Members comments alongside the planning application. In addition consideration has been given to the following Planning Inspectorate decisions for this site as set out below;

- APP/J3720/W/17/3190869 – Gaydon Service Station, Banbury Road, Gaydon
- APP/J3720/W/18/3210224 – Gaydon Service Station, Banbury Road, Gaydon.

The Highway Authority concludes that greatest weight should be given to the Inspectors decision related to the appeal APP/J3720/W/17/3190869, the justification being that the current planning application is a near replication of the proposals set out in the dismissed appeal.

Also, the revised National Planning Policy Framework, published in 2018, puts greater inference on the provision of safe and suitable access arrangements within the three paragraphs identified in this response, when compared to the former Framework, published in 2012. The Highway Authority therefore concludes that the reasons on which the appeal was dismissed remain.

In addition some weight should be given to the requirements which should be provided as part of the application, notably about identifying a suitable trip generation, and that a petrol station and a convenience store are not comparable. Therefore the ascertain the impact of the development in terms of trip generation uplift then a transport statement should be submitted in accordance with Paragraph 111 of the National Planning Policy Framework.

Finally the Highway Authority concurs with the District Ward Member, that the parking layout, arrangements, and the tight forecourt layout could lead to delay within the site. Which could lead to vehicles waiting and queuing to access the pumps leading to queuing which could extend back onto the highway. The Highway Authority concludes that the potential operation would the site forecourt would be inefficient which would lead to queuing on to the highway, causing an obstruction to the free-flow of traffic on the B4100 Gaydon Road to the detriment to highway safety.

The Highway Authority therefore concludes that the development proposals contrary to the following documents and policies.

National Planning Policy Framework:

Paragraph 108:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 109:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 110 Item C:

Within this context, applications for development should:

- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

Warwickshire Local Transport Plan:

Policy LUT 5: Transport Assessments:

The County Council will require Transport Assessments/Statements to be submitted to support planning applications where it is deemed appropriate. The information should follow the general guidance on Transport Assessments as published by the Department for Transport.

Policy LUT 8: Road Safety Audits:

The County Council will require an appropriately stated Safety Audit to accompany and planning application that required certain works within the highway to be carried out...

Policy RS22: A Safer Road Network:

The County Council will manage safety across the whole road network. Casualty studies will be carried out to identify patterns or trends.

Policy RS25: Building Safety into New Schemes:

The County Council will carry out road safety audits on all new schemes and alterations to the existing road network proposed by ourselves or others.

Stratford – on – Avon Core Strategy:

Policy CS.26: Transport and Communications:

A. Transport Strategy

Development proposals should be consistent with and contribute to the implementation of transport strategies and priorities set out in the Warwickshire Local Transport Plan (LTP), including its strategies. Stratford – on – Avon District Council, Warwickshire County Council and, where appropriate, Highways England, will work together to achieve the objectives and implement the proposals in the LTP, with particular emphasis on encouraging modal shift with greater use of more sustainable forms of transport and improving the safety of all road users.

B. Transport and New Development

Development will only be permitted if the necessary mitigation is provided against any unacceptable transport impacts which arise directly from that development. This will be achieved, as appropriate, through

1. The submission of a Transport Statement or Assessment and the implementation of measures arising from it;
2. Ensuring that the scale of traffic generated by the proposal is appropriate for the function and standard of the roads serving the area;

18/03008/FUL - Gaydon Service Station Banbury Road Gaydon

The Highway Authority therefore revises its position back to one of objection based on the above conclusions based on a review of the planning application and full consideration of the matters raised by District Ward Member.

Yours sincerely

Ben Simm

Ben Simm
Development Group
CC –

FOR INFORMATION ONLY
COUNCILLOR WILLIAMS – KINETON & RED HOUSE

Appendix 10 Copy of Decision Notice for 18/03008/FUL



Notice of Decision

REFUSAL

Town and Country Planning Act, 1990
Town and Country Planning (Development Management Procedure) Order, 2015

Mrs Rachael Martin
ID Planning
7th Floor
The Balance
2 Pinfold Street
Sheffield
S1 2GU

THE STRATFORD-ON-AVON DISTRICT COUNCIL, having considered the application for permission to develop land at:-

Gaydon Service Station , Banbury Road, Gaydon, CV35 0HA

Submitted by: Euro Garages Ltd

Received by the Council on 11 October 2018

HEREBY GIVE YOU NOTICE that PLANNING PERMISSION is REFUSED for the following development, namely:-

Proposed Shop extension at side and replacement storage unit at rear (retrospective) and reconfiguration of parking area.

The reason(s) for the Council's decision to refuse permission for the development are:-

1. The Local Planning Authority considers that the proposed site layout and access arrangements do not provide adequate visibility splays allowing for safe and suitable access to or from the site. The proposals would therefore result in an unacceptable impact on highway safety. Furthermore, the Local Planning Authority considers that, in the absence of a Stage1 Road Safety Audit, insufficient information has been provided to demonstrate that the proposed highway arrangements are safe. The application therefore does not comply with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109 and 110 of the National Planning Policy Framework (2019) and Policies LUT8, RS22 and RS25 of the Warwickshire Local Transport Plan 2011 - 2026.
2. The Local Planning Authority considers that, by virtue of the proposed parking layout, parking and access arrangements and the forecourt layout, congestion could be caused within the site which would result in the backing up of the public highway, B4100 (Gaydon Road). This would consequently cause undue harm by obstructing the free-flow of traffic on the B4100 and would result in a significant detriment to

Case Officer: Joe Brooke
Reference No. 18/03008/FUL



highway safety. The application therefore does not comply with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109, 110 and 111 of the National Planning Policy Framework (2019) and Policies RS22 and RS25 of the Warwickshire Local Transport Plan 2011 - 2026.

3. The Local Planning Authority is not satisfied that the impact of the proposed development can be adequately assessed based on the information submitted in terms of trip generation. In the absence of the above information, the authority is not satisfied that the application accords with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109, 110 and 111 of the National Planning Policy Framework (2019) and Policies RS22 and RS25 of the Warwickshire Local Transport Plan 2011 - 2026.

Notes

1. The Local Planning Authority has taken into account paragraph 38 of the National Planning Policy Framework 2019, which details the need to work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

DATED 22 May 2019



AUTHORISED OFFICER OF THE COUNCIL.....

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS FORM

STRATFORD-ON-AVON DISTRICT COUNCIL
ELIZABETH HOUSE, CHURCH STREET, STRATFORD-UPON-AVON CV37 6HX

PRE-START CONDITIONS

You are reminded that some of the conditions attached to planning permissions (pre-start conditions) require details and schemes to be submitted and approved in writing before any work commences on site. You should therefore submit any details required at least 8 weeks prior to starting work and obtain the Council's written approval, if required, in order to comply with the planning condition.

Failure to comply with pre-start conditions may result in your planning permission being void.

FEES FOR THE DISCHARGE OF PLANNING CONDITIONS

In accordance with Statutory Instrument 958, a fee is now payable where a written request is made for the discharge of one or more planning conditions on the same permission or for the written confirmation of compliance with a planning condition or conditions. Further guidance on this process together with the associated fees is available on the Council's website

<https://www.stratford.gov.uk/planning-regeneration/the-application-process.cfm>

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Planning Inspectorate under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within **six months** of the date of this notice. For appeals against the refusal of Householder applications (i.e.: works to a dwelling or development within the garden of a dwelling) or Minor Commercial Development you must lodge your appeal within **12 weeks** of the date of the decision.

If the development is the same (or substantially the same) as that specified in an Enforcement Notice served on the same land, an appeal must be lodged within

- A) 28 days of the date of the planning decision if there is an extant Enforcement Notice served up to 2 years prior to the date of the decision
- B) 28 days of the date of the Enforcement Notice if the Notice is served after the date of the decision of the planning application for the same development

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>.

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Planning Inspectorate can allow a longer period of giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements to the provisions of the Development Order and to any directions given under the Order.

In practice, the Planning Inspectorate does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

PURCHASE NOTICES

If either the Local Planning Authority or the Planning Inspectorate refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Planning Inspectorate on appeal or on reference of the application to him.

These circumstances are set out in Part V of the Town and Country Planning Act 1990.

ADDRESSING YOUR NEW BUILDINGS

When you require the address(es) for this development contact "Street Naming and Numbering" at Stratford-on-Avon District Council, either by post or email 3720snandn@stratford-dc.gov.uk. You need to do this 6 weeks before utility contacts are required.

There will be an administrative charge for this service.

Information to include in your request can be found on www.stratford.gov.uk

Appendix 11 Copy of Delegated Officer Report for 18/03008/FUL

DELEGATED REPORT

Application Ref.	18/03008/FUL
Site Address	Gaydon Service Station, Banbury Road, Gaydon, CV35 0HA
Description of Development	Proposed Shop extension at side and replacement storage unit at rear (retrospective) and reconfiguration of parking area.
Applicant	Euro Garages Ltd
Case Officer	Joseph Brooke
Ward Member(s)	Councillor C Kettle
Parish/Town Council	Gaydon
Description of Site Constraints	<ul style="list-style-type: none">▪ Built up Area Boundary▪ Air Safeguarding▪ Highway Safety
Summary of Recommendation	REFUSE
Target Determination Date:	22.11.2018
EOT:	12.04.2019

DESCRIPTION OF SITE AND SURROUNDINGS

The application site is situated on the eastern edge of Gaydon, on the B4100. The site contains a petrol station with a canopy and an associated shop.

The site generally comprises of an irregular rectangular shaped piece of land with the long axis aligned, approximately, north-west to south-east with maximum dimensions of 100m and 45m. The north-east of the site includes a small portion of a larger agricultural field that extends off site to the north and east. This portion of the site is approximately 1m higher than the remainder of the site and is separated from the main site area by a hedgerow, post and wire fence running north-west to south-east.

The main area of the site is occupied by an active fuel station. The fuel filling apparatus and supplementary equipment are located centrally with offset fills and associated underground storage tanks (UST's), located in the northern portion of the site. An existing retail outlet is sited in the east of the site, which comprises a single storey, brick built structure with sloping tiled and flat roof. The majority of this area comprises of tarmac and concrete hardstanding at the surface for vehicle access and parking with limited areas of soft landscaping in the north and north-east.

DESCRIPTION OF DEVELOPMENT

The application is seeking retrospective planning permission for a side-on extension and a replacement storage unit with minor alterations, to the rear of the existing petrol service station shop, from hereon known as 'the shop'.

Firstly, the side extension is an ancillary use to the A1 shop which is currently occupied by the national retail chain, Greggs Franchise. The application is adjoined to the west of the front elevation of the shop (north to the application site) and is irregular in shape, providing an overall net increase in floorspace of 34.5sqm. The extension is constructed out of red brick and has a flat roof with a fascia.

Secondly, the application is also seeking planning permission for the replacement, and a slight overall extension, to the rear storage unit to the main shop. Previously, there was a two element extension to the rear shop. Steel storage containers were used to provide additional storage which equated to an overall floor space of 48.4sq.m (this is in reference to the overall footprint of the extension, not the entire footprint of the shop), with two access points to the west and south elevation. The east-wing of the extension was/is set inwards by 1.2m and protrudes 2.8m from the rear elevation. The application is proposing to align the east-wing extension with the west-wing by reducing the previous protruding storage containers. The extension is set at 10m wide x 2.8m length, equating to 28sq.m of additional floorspace.

Access to the application site is to be attained from the B4100. Alterations to the parking layout have been made in respect of the application, retrospectively.

DEVELOPMENT PLAN AND MATERIAL CONSIDERATIONS

Stratford-on-Avon District Core Strategy (2011-2031):

The Core Strategy 2011-2031 was formally adopted by Stratford-on-Avon District Council on 11th July 2016 and provides the strategic planning policy framework for the District to 2031. The relevant planning policies of Stratford-on-Avon District's statutory Development Plan have been taken into account in the assessment of this application.

Other Material Considerations

Central Government Guidance

- National Planning Policy Framework 2019 (NPPF)
- Planning Practice Guidance

Other Planning Documents & Guidance

- Stratford on Avon District Design Guide – Whilst no longer having the status of a Supplementary Planning Document, it still contains substantial and relevant guidance on design.
- Site Allocations Plan – identifies draft Built Up Area Boundaries for identified settlements – consultation closed on 9 March 2018 and therefore carries limited weight.
- Warwickshire Local Transport Plan
- Development Requirements SPD – The Council has formally adopted the following parts of the Development Requirements Supplementary Planning Document on 10th December 2018:

- Part A: Achieving Good Design
- Part B: Character and Local Distinctiveness
- Part C: Access and Connectivity
- Part D: Buildings and Layout
- Part E: Architectural Style, Construction and Materials
- Part F: Residential Amenity
- Part G: Agricultural and Rural Buildings
- Part J: Self-Build and Modular Housing
- Part L: Open Space
- Part M: Landscape Design and Trees
- Part N: Biodiversity and Green Infrastructure
- Part P: Refuse and Recycling
- Part Q: District Heating Networks
- Part S: General and Local Housing Needs
- Part T: Specialised Housing
- Part U: S.106 Planning Obligations

These parts therefore have full weight and form a material consideration in the planning balance.

SUMMARY OF RELEVANT HISTORY

<u>Reference Number</u>	<u>Proposal</u>	<u>Decision and date</u>
05/00567/FUL	Demolition of existing sales shop and existing canopy. New sales building, forecourt, pumps and canopy.	Granted 3.6.2005
16/00391/VARY	Variation of Condition 8 (opening hours) of planning permission 05/00567/FUL (Demolition of existing sales shop and existing canopy. New sales building, forecourt, pumps and canopy) to remove condition and allow unrestricted opening hours.	Granted 2.6.2016
16/01458/FUL	Retrospective erection of an ATM installed in a new purpose built steel secure room with steel floor plate. ATM fascia with black bezel surround and white illuminated lettering 'Free Cash Withdrawals' out of black background. Blue LED halo illumination to ATM surround. New concrete base.	Granted 28.10.2016
16/01458/FUL	Retrospective erection of an ATM installed in a new purpose built steel secure room with steel floor plate. ATM fascia with black bezel surround and white illuminated lettering 'Free Cash Withdrawals' out of black background. Blue LED halo illumination to ATM surround. New concrete base.	Granted 28.10.2016
16/02749/FUL	Proposed shop extension at side, replacement storage unit at rear and reconfiguration of parking area (retrospective)	Refused 19.10.2017 Appeal dismissed 18 April, 2018 (APP/J3720/W/17/3190869)
17/02337/FUL	Redevelopment of existing Petrol Filling Station and adjoining land, comprising demolition of existing shop, garage and buildings and erection of replacement forecourt, canopy, pump island, underground tanks and sales building (Use Class A1) and drive through coffee shop (Use Class A3) with car parking, landscaping and associated works.	Withdrawn
18/00298/FUL	Redevelopment of the existing petrol station and adjoining land, comprising the erection of replacement forecourt, canopy, pump island, underground tanks and sales building (A1) and Starbucks drive thru coffee shop	Refused: 04.05.2018 Appeal dismissed 6 December, 2018 (APP/J3720/W/18/3210224)

	(A1/A3/A5) (240m2) with car parking, landscaping and associated works at Gaydon Services, Banbury Road, Gaydon.	
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It is noted that appeal, APP/J3720/W/17/3190869 (16/02749/FUL), was dismissed on technical grounds in relation to highway constraints.

It is noted that appeal, APP/J3720/W/18/3210224 (18/00298/FUL), was dismissed on the basis of overdevelopment of the site and impact on the character and appearance of the area.

REPRESENTATIONS

Applicant's Supporting Documents

The following documents were submitted with the planning application:

- Design and Access Statement
- Plans
- Highway Statement

Ward Member - Councillor C Kettle – Objection (17.10.2018)

Object to the application for the following planning grounds:

'The existing unauthorised parking between the canopy and the edge of the road, which is still being used in breach of an existing enforcement notice, provides limited room for vehicles, including vehicles with trailers, to manoeuvre to the fuel pumps. By moving the spaces forwards, although at an angle, will further limit that space making the use of the end pumps even more difficult than is currently the case.

This may lead to unintended congestion if LGVs are restricted by the lack of space to using any but the first filling pumps.

I also question, having seen a lorry parked sideways in the existing unauthorised space due to lack of space, whether there is adequate parking for LGVs or even HGVs. The existing disabled space is currently permanently occupied by wheeled waste bins preventing disabled drivers from using that space. It is not clear where waste bins will be parked. The current situation cannot be maintained.

Given the existing data captured by the community speed watch programme suggests that there are repeated breaches of the current 30mph speed limit and the existence of the cross roads to the immediate south of the site, I question whether the 59 metre visibility splay is adequate.'

Further Correspondence (06.02.2019)

'Further to our conversation, I have reviewed the three letters from WCC Highways, two of objection and one removing those objections.

Although the third letter does not give any details, I understand that WCC removed the objection based on the comments made by Inspector Burgh Jones in his decision on SDC's refusal to grant permission for application 18/00298/FUL. However I would point out:

The appeal that the Inspector refused was fundamentally different in both scale and layout to this application;

The Inspector questioned the validity of the traffic data supplied by the applicant supplied on two grounds;

- in para 22 of his report that the source of the TRICS data, being suburban or edge of town could not be readily applied to a modest rural settlement; and
- in para 23 he raised concerns that the site description of the sites tested did not correspond with the application site;
- A previous application 16/02749/FUL which was, other than the layout of car parking, in general terms almost identical to this application, was refused by SDC following a WCC Highway objection on ground of highway safety. This decision was appealed. The Inspector, Ian Radcliffe, in the same year 2018, agreed with the WCC Highways evidence and supported the refusal issued by SDC on highway grounds alone;
- WCC have until this latest appeal decision has consistently objected to the four recent retrospective applications proposed on this site;
- Given the Inspector, in the 18/00298/FUL, appeal has not provided any evidence to justify his comments about highways, and they were not decisive in his refusing the appeal, these comment, given the lack of evidence in his report, should carry little planning weight when compared to Inspector Radcliffe's comments.

I would also like WCC Highways to reconsider the tracking and access both to the fuel pumps and leaving those pumps, particular those further from the entrance to the filling station, for vehicles with trailers, and especially builders or agricultural pickups with an attached trailer, if the car parking spaces are moved towards the pumps and were fully occupied by cars, small or larger commercial vehicles.'

Town/Parish Council – Objection (17.10.2018).

Object to the application for the following planning grounds:

This application was discussed at our last Parish Council meeting. Councillors agreed unanimously to object for the following reasons:

- The parking spaces at the front of the garage next to the B4100 are not suitable. If cars park in the spaces not only does it still make visibility difficult it also creates issues for large vehicles such as HGV s, coaches and passenger cars with trailers to get to the petrol pumps. This means that they can only use the first pump (closest to the roundabout), which then blocks access to the remaining pumps and often creates a line of queuing traffic on the B4100. We don't think the proposed angled parking spaces will fix the issue.
- The B4100 is now a very busy road especially when Jaguar Land Rover and Aston Martin are leaving work, and is a M40 relief road.
- The garage does not have sufficient parking provision for large vehicles such as HGV s, coaches and passenger cars that are

looking to use the services it is providing. This is evidenced by the calls to the Police, which should be recorded, reporting visibility issues from Pimple Lane. Calls were made on various dates but we have 24th May recorded when 2 vehicles were parked on the road and footway between the garage and Pimple Lane making exiting Pimple Lane on to the B4100 difficult.

- The Police should also have a record of an accident between a coach, which was parked opposite Victor Close, and a car (we believe a Mercedes) last summer. The car had to be removed by a breakdown truck. The driver of the coach was parked so as he could access the garage. This reinforces our view that there is insufficient parking for large vehicles.
- There have been more accidents but I'm afraid we do not have the details. Our Community Speedwatch team and the Police may have details.

Third Party Responses

Full responses are available within the case file, online.

The Council have received 4 letter of objection raising the following planning issues:

- 24 hours opening times is damaging to the village through noise and light impact.
- Increase in traffic and public highway safety.
- Insufficient parking.
- Unhygienic behaviour.
- External lighting.
- Damage to the Grade II listed building.
- Harm to the existing residents.
- Unreasonable hours.
- The plans do not adequately reflect the existing development.
- Litter
- Visibility splays (13.11.2018)

Other, non-related planning comments have also been made.

Consultations

Full responses are available within the case file, online.

WCC Ecology

No representation (23.10.2018)

WCC Highways

Objection (08.05.2019).

Warwickshire County Council, hereby known as the 'Highway Authority', has undertaken a full review of the planning application and the Inspector's report relating to appeal APP/13720/W/18/321 00224 and maintains its response to one of objection.

Based on the appraisal of the development proposals the Highway Authority has no objection (03.01.2019).

SDC Environmental Health

No comments have been received.

ASSESSMENT OF THE KEY ISSUES

Principle of Development

The Council is required to make a decision in line with the Development Plan, unless material considerations indicate otherwise. (Section 38(6) PCPA 2004 and Section 70(2) TCPA 1990). The National Planning Policy Framework (NPPF) is a key material planning consideration.

The application is seeking retrospective planning permission for a side and rear extension of the existing forecourt shop and as a result, the retrospective application is proposed on the existing forecourt.

Policy CS.22 of the districts adopted Core Strategy (2011-2031) supports economic development for the provision of a wide range of business and commercial activities and uses, in sustainable locations, in order to support and foster growth of the districts economy.

Policy CS.22 states:

'A flexible approach will be taken to accommodating a wide range of employment-generating uses, including public community uses, on existing industrial areas. This is subject to the specific provisions of other policies in the Core Strategy.'

In addition, Policy CS.22 supports business development in the countryside, provided it is in accordance with Policy AS.10, Countryside and Villages.

Policy AS.10 of the Core Strategy relates to development within the Countryside and Villages and supports a number of developments, in principle. AS.10 and the Core Strategy read as whole, aims to maintain a strong rural economy and the vitality of rural communities by helping to support a wide range of activities and developments in the rural parts of the district.

Policy AS.10 supports development for business and economic growth within the district's Villages and Countryside, where appropriate. AS.10 states:

'The following forms of development and uses in the countryside are acceptable in principle:

(n): An extension to a business in its established location, particularly if it would be unreasonable to expect the business to relocate in order to expand.'

Accordingly, Policy CS.1 applies the principle that planning will aim to secure a high level of environmental quality, managed economic growth and social quality and will be measured in equal importance in the balance of decision making. Paragraph 14 of the NPPF, seeks to ensure all applications are determined in accordance with the presumption of sustainable development and to support applications that accord to the area's development plan, unless material consideration(s) and/or adverse impacts that significantly and demonstrably outweigh the benefits of the development, indicate otherwise.

Therefore, due to the scale of the development and its intended use, I cannot reasonably consider that this application would significantly and demonstrably cause undue harm to the locality, setting and the surrounding area to determine the 'principle' as an unsustainable form of development.

In reaching the above conclusion, I am mindful of application 16/02749/FUL, which was refused by delegated decision on the 19 October 2018 and subsequently dismissed at appeal (APP/J3720/W/18/3210224) on the 21 March

2018. That application sought retrospective permission for the '*proposed shop extension at side, replacement storage unit at rear and reconfiguration of parking area,*' and although it was dismissed the Inspector's consideration established that the principle of development for the proposed side extension was acceptable. The application and the subsequent appeal were refused solely on highway grounds.

In due consideration to the area's Development Plan and the relevant national policy, I considers that the principle of the proposed development is acceptable, subject to an assessment of the relevant material considerations, as set out below.

Impact on the Landscape and Character of the Area

Policy CS.5 seeks to ensure that development takes place in a manner that minimises and mitigates its impact on the landscape character and quality of the District.

Policy CS.9 states that proposals should improve the quality of the public realm and enhance the sense of place whilst reflecting the character and distinctiveness of the area.

Policy CS.15 states that all development in existing settlements is expected to protect and enhance the character of the settlement involved and its setting. Various principles are set out to achieve this.

The side extension is relatively minor in comparison to the existing development at Gaydon Service Station, and in consideration of the design and the materials that have already been implemented; the development does not look untoward and/or out of keeping in context of the Service Station.

The proposed development to the rear of the application site constitutes a minor alteration to the already existing building. The extension is not visible to the general public from the B4100, and is well screened by mature foliage and fencing from views to the west of the site, across the open countryside.

The application site is not situated in any designated landscape areas and as such, the impact on the landscape and character of the area is considered to neutral. In addition, the respective applications would not cause an additional increase to external lightening as to what is already present on the application site.

In my opinion, the proposal, by reason of size, siting of the application and vernacular style, does not cause undue harm to the character, appearance or setting of wider area to justify refusal. Overall, I consider the development is acceptable having taken in regard Policies CS.5 and CS.9 of the Core Strategy.

Highways Matters

Policy CS.26 Part B states that development will only be permitted if the necessary mitigation is provided against any unacceptable transport impacts which arise directly from that development. It goes on to identify a number of requirements that are necessary to achieve this including, inter alia, ensuring that the scale of traffic generated by the proposal is appropriate for the function and standard of the roads serving the area.

Part C of this policy also provides details of the parking standards that will be required for different types of developments. It maintains that parking provision will reflect local circumstances and have regard to the need to promote sustainable transport outcomes. Development should not have excessive on-site parking but provision will need to be sufficient in relation to an individual scheme to avoid unacceptable impact on the amenity of the local area or highway safety.

The application, if approved, would see the existing highway and pedestrian access to the site to remain in situ (retrospectively). Provision would also be made within the site for 21 parking spaces with disabled parking to be positioned as close to each building, as conceivable.

The County Highway's Authority in their latest response, 8th May, stated that they had undertaken a full review of the planning application and consequently, maintains an overall 'objection' to the application. The Authority's detailed response maintains that the applicant's updated information (Transport Technical Note 003) does not address the points raised by the Highway Authority (in response to the Ward Members request), instead it just reviews the appeal decisions from their perspective of which there is a clear discrepancy between the Planning Inspectors. Furthermore, the Highway Authority does not accept that the visibility splays can be simply conditioned - any revisions to access arrangements and visibility splays should also be supported by Road Safety Audit, Stage 1.

In regards to the site layout, the Highway Authority has evaluated all additional information, most notably the vehicle and trailers tracking. Based on the submitted information, the Highway Authority is concerned that the access to the pumps can be blocked by a vehicle and trailer. Additionally, due to the close proximity and orientation of the parking spaces facing the B4100 (Banbury Road), poor positioning would exacerbate this matter and could restrict the capacity of the site, leading to blocking back onto the highway network to the detriment of highway safety. The Highway Authority concluded that the parking layout, arrangements and the tight forecourt layout could lead to delays within the site and would extend back onto the public highway. Consequently, the proposed operation(s) for the site forecourt are inefficient and would lead to queuing on the public highway thus causing an obstruction to the free-flow of traffic on the B4100, to the detriment of highway safety.

The Highway Authority determined that the greatest weight should be given to the Inspector's decision, APP/J3720/W/17/3190869, the justification being that the current planning application is a near replication of the proposals set out in the dismissed appeal.

Furthermore, the revised Framework puts greater inference on the provision of safe and suitable access arrangements compared to the former Framework, 2012. It is also considered that weight should be afforded to identifying a suitable trip generation. The Authority considers that a petrol station and convenience store are not comparable. Therefore, to determine the impact of development in terms of trip generation uplift, a suitable Transport Statement should be submitted in accordance Paragraph 111 of the Framework.

Consequently, having regard to the above, the application is deemed to be unacceptable and does not accord to Policy CS.26 of the Core Strategy, Paragraphs 108, 109, 110 and 111 of the Framework, as well as Policy LUT 8, Policy RS22 and Policy RS25 of the Warwickshire Local Transport Plan.

Neighbouring Residential Amenity

Policy CS.9 (9), requires, that proposals should ensure a good standard of space and amenity for occupiers. Furthermore, occupiers of neighbouring buildings will be protected from unacceptable impacts.

Policy CS.15 states that the design of the development should be well-related to, and can be readily integrated with, the existing form of development.

There are no neighbouring properties within the vicinity of the proposed application and consequently, would not cause any undue harm to the neighbouring residential amenity in terms of material overlooking of neighbouring properties and the blocking of natural daylight, as defined by National and Local Policy.

During the consultation period a number of issues were raised including external lightening, noise and unsociable hours of operation. The application is only for a minor extension to the existing property and therefore, would not cause any significant impact in terms of noise and lighting, and will also not seeking, or result in, a change of operating hours associated with the service station.

Therefore, in light of the above, the Council considers that the development accords to Paragraph 115 of the NPPF and Policy CS.9 and CS.15 of the districts' Core Strategy.

Drainage and Flood Risk

The site is located within Flood Zone 1 and no further conditions would be required to deal with any anticipated flood risk on-site.

Having regard to the above, I consider the development complies with policy CS.4 of the Core Strategy.

Community Infrastructure Levy - CIL

Although the application is considered CIL Liable, in accordance with CIL Regulations, the application is assessed as being under 100sq.m and therefore, is not considered CIL chargeable.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

Whilst Community Infrastructure Levy payments are a material consideration and can be regarded as a benefit, CIL is applied to fund infrastructure to support the development of the Council's area generally and it is therefore afforded only limited weight in the planning balance.

Conclusions and Planning Balance

I consider that the current application should be determined in accordance with the adopted Development Plan. I can identify no material considerations that warrant an alternative approach.

Policy CS.1 states, that the Council will take a positive approach to applications that reflect the presumption in favour of sustainable development contained in the NPPF.

The application is considered not to comply with the provisions of CS.26 of the adopted Core Strategy and would be detrimental to existing highway network and highway safety.

I have concluded that the proposal is not sustainable development because it does not meet the stipulations of the adopted Core Strategy, the NPPF and the Local Transport Plan. I therefore consider that the presumption in favour does not apply in this case and that Planning Permission should be refused.

RECOMMENDATION

It is therefore recommended that the application be REFUSED for the following reason(s):

1. The Local Planning Authority considers that the proposed site layout and access arrangements do not provide adequate visibility splays allowing for safe and suitable access to or from the site. The proposals would therefore result in an unacceptable impact on highway safety. Furthermore, the Local Planning Authority considers that, in the absence of a Stage 1 Road Safety Audit, insufficient information has been provided to demonstrate that the proposed highway arrangements are safe. The application therefore does not comply with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109 and 110 of the National Planning Policy Framework (2019) and Policies LUT8, RS22 and RS25 of the Warwickshire Local Transport Plan 2011 – 2026.
2. The Local Planning Authority considers that, by virtue of the proposed parking layout, parking and access arrangements and the forecourt layout, congestion could be caused within the site which would result in the backing up of the public highway, B4100 (Gaydon Road). This would consequently cause undue harm by obstructing the free-flow of traffic on the B4100 and would result in a significant detriment to highway safety. The application therefore does not comply with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109, 110 and 111 of the National Planning Policy Framework (2019) and Policies RS22 and RS25 of the Warwickshire Local Transport Plan 2011 – 2026.
3. The Local Planning Authority is not satisfied that the impact of the proposed development can be adequately assessed based on the information submitted in terms of trip generation. In the absence of the above information the authority is not satisfied that the application accords with the provisions of Policy CS.26 of the Stratford-on-Avon Core Strategy 2011 - 2031, paragraphs 108, 109, 110 and 111 of the National Planning Policy Framework (2019) and Policies RS22 and RS25 of the Warwickshire Local Transport Plan 2011 – 2026.

Notes

The local planning authority has taken into account the National Planning Policy Framework, including paragraph 38 which detail the need to work positively with

applicants to secure developments that improve the economic, social and environmental concerns of the area

ROBERT WEEKS
HEAD OF PLANNING AND HOUSING

Team Leader: K. G P Tate
Date 22.05.2019

