



Leeds
CITY COUNCIL

Originator: Kate Mansell

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Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 4th December 2014

Subject: 14/05329/FU: Installation of a two pump fully automated petrol filling station with associated 4.5m high canopy, control room and underground storage tanks to existing car park.

Asda Stores, Old Lane, Beeston, LS11 8AG

APPLICANT

ASDA Stores Ltd.

DATE VALID

25th September 2014

TARGET DATE

11th December 2014

Electoral Wards Affected:

Beeston and Holbeck

Y

Ward Members consulted
(Referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

GRANT PERMISSION subject to the following conditions:

- 1 Development to commence within three years of the date of decision.
- 2 Development in accordance with the approved plans.
- 3 Trading of the Petrol Filling Station to be limited to between 0600 to 2400 hours Monday to Saturday and between 1000 to 2200 on Sundays and Bank Holidays for a 12 month period after which time (unless a further application is received) it would be limited to between 0800 - 2300 Mondays to Saturdays and 1000 - 2200 on Sundays and Bank Holidays.
- 4 Deliveries to the Petrol Filling Station only between the hours of 0600 and 2300 Mondays to Saturdays and between 0700 and 2200 on Sundays and Bank Holidays.
- 5 Submission of a delivery management plan.
- 6 Submission of a remediation strategy.
- 7 Proposal for unexpected contamination if encountered.

- 8 Remediation in accordance with the approved strategy.
- 9 Details of surface water drainage works.
- 10 Details of an oil interceptor.
- 11 30% reduction in surface water flows to be achieved.
- 12 Details of lighting.
- 13 Lighting to be switched off at least between the hours of 0030 and 0530 on any day.

1.0 INTRODUCTION:

- 1.1 This application seeks to construct a new Petrol Filling Station to be sited adjacent to the proposed new Asda store on Old Lane in Beeston. The whole site was originally built for Netto but the store was subsequently taken over by Asda, who currently operate the premises. In December 2013 Asda secured outline planning permission to re-develop the site for a new Asda store in accordance with 11/04306/OT with the Reserved Matters relating to appearance, landscaping, layout and scale approved under Delegated Authority in October 2014 in accordance with 14/02462/RM.

2.0 PROPOSAL:

- 2.1 This application seeks full planning permission to construct a 2-pump self-service petrol filling station (PFS) on part of a site that is to be re-developed to provide a new Asda store in place of the existing Asda store. The PFS is located on an area of land identified for future development within the Reserved Matters application noted above. It is positioned along the northern boundary of the site with the edge of the PFS set back circa 21 metres from the boundary of the site with Old Lane.
- 2.2 The PFS will provide two fuel pumps (4 vehicles) and an air and water pump. The two fuel pumps are positioned beneath a canopy that is 4.52 metres to its maximum height, 12.34 metres in length and 5.39 metres in depth. The edge of the canopy is circa 29 metres to the north-east of the proposed new store, which is set back towards the rear of the site. A 1 x 55,000 Litre Diesel and 1 x 55,000 Litre unleaded double skinned steel tanks will be sited beneath the PFS. Vehicular access to the PFS will be achieved from the existing access onto Old Lane.
- 2.3 As part of the original submission, Asda confirmed that they were proposing to operate the petrol filling station 24 hours a day, 7 days a week with tanker deliveries taking place between 0500 and midnight seven days a week. However, in response to concerns raised by local residents and following further discussions with Asda, the opening hours and delivery have been revised. It is now proposed that the opening hours of the PFS reflect the opening hours of the store, which were agreed by the South and West Plans Panel on 4th September 2014. As such, it is proposed that for an initial 12 month period from the date of opening, the PFS will operate for a trial period between the hours of 0600 to 2400 hours Monday to Saturday and between 1000 to 2200 on Sundays and Bank Holidays. After that time, unless a further application is received, the opening hours would revert to 0800 - 2300 Mondays to Saturdays and 1000 - 2200 on Sundays and Bank Holidays. The temporary period allows the impact of the opening hours to be assessed in situ.
- 2.4 With regard to deliveries, the applicant advises that a petrol filling station of the size proposed generally receives one tanker delivery a day. In terms of hours, it is proposed that deliveries take place between 0600 and 2300 Mondays to Saturdays and between 0700 and 2200 on Sundays and Bank Holidays.

3.0 SITE AND SURROUNDINGS:

- 3.1 This application relates to 0.086 hectares of land that sits in the north-east corner of the Asda site on Old Lane. The site in its entirety is currently occupied by a small food store located centrally on the plot surrounded by area of hard surfacing and parking, which formerly traded as a Netto but it is now an Asda store. The site is accessed from Old Lane
- 3.2 The application site adjoins the northern boundary of the wider store site. To the north it is adjoined by under utilised industrial units within the Enterprise Park Industrial Estate beyond which is an area of cleared land and hard standing. To the west of the Asda store site is a further area of vacant land that has been cleared of buildings and is hard surfaced. This area is bounded by high fencing beyond which are further industrial units and then residential dwellings on Waincliffe Square.
- 3.3 To the Old Lane frontage to the east there is presently a wide grassed verge with tree planting. The southern boundary is also lined with trees and hedges and is adjoined by the route of a pedestrian footpath. These trees are protected under TPO 1974/28 but they are unaffected by the application proposal and outside of the red line boundary.
- 3.4 The site is set within a predominantly residential area with properties of varying ages and character. The closest dwellings are opposite adjoining the site on Old Lane to the east, and to the south of the footpath. The character is of medium density two-storey residential streets, with large areas of industrial and commercial uses spread throughout.
- 3.5 As noted above, Asda have secured planning permission for the construction of a new larger Asda store on this site in accordance with outline approval 11/04306/OT and reserved matters approval 14/02462/RM. The outline approval granted consent for the construction of a new 3000 square metre store with a gross internal floorspace of 2895 square metres (compared to the 777 square metre existing store). The subsequent Reserved Matters application resolved matters of layout, landscaping, scale and appearance and confirmed the siting of the store in the south-west corner of the site. This reserved matters application also resolved on-site parking levels, taking account of the proposed PFS, which was identified as an area of future development within the Reserved Matters application, to deliver 167 parking spaces; this was deemed acceptable following the submission and consideration of a Transport Assessment.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 There is an extensive planning history to this property, the most relevant of which is summarised below:
- 4.2 14/02462/RM: Reserved matters application to determine matters of layout, scale, landscaping and appearance.
Approved: 22nd October 2014

This application approved details of siting, layout, appearance and scale. The approved application takes into account the proposed siting of the PFS and the reconfiguration of the car park to provide 167 spaces from the 195 spaces approved at outline stage. The applicant submitted a further Transport Assessment to consider the loss of parking; in considering this application, the Council's Highways Officer concluded that it was not likely to lead to issues of highway safety and that coupled with the off-site highway works being provided as part of the outline

approval, the scheme was acceptable in highways terms.

- 4.3 14/02461/FU: Section 73 Application to vary conditions relating to outline approval in accordance with 11/04306/OT to include a variation to the hours of opening and delivery.

Approved by South and West Plans Panel: 9th September 2014

This application sought to vary a number of conditions relating to 11/04306/OT below, including Condition 5 (opening hours) and Condition 6 (delivery hours). It was agreed at Plans Panel that the opening hours of the store be amended to allow a 12 month trial of opening hours between 0600 hours to 2400 hours Monday to Saturdays and 1000 hours to 2200 hours on Sundays and Bank Holidays after which time (unless a further application is received) it would revert back to the approved outline hours of 0800 hours to 2300 hours Mondays to Saturdays and 1000 hours to 2200 hours on Sundays and Bank Holidays. With regard to delivery hours, a 12 month trial of deliveries between 0600 and 2300 on any day from Monday to Saturdays and between 0700 and 2200 on Sundays or Bank Holidays is approved after which time (unless a further application is received) it will revert back to 0700 hours to 2300 hours Mondays to Saturdays and between 0800 hours and 2200 hours on Sundays and Bank Holidays.

- 4.4 11/04306/OT: Retail food store.
Approved 20th December 2013

This application granted outline consent to consider access only with matters of siting, layout, appearance and scale all reserved to permit the construction of a new 3000 square metre store. This application was supported by a full Transport Assessment, which considered the cumulative highway impact of the development, which, at the time, was primarily an assessment of the impact on the highway if both this and the adjacent Tesco proposal should go ahead. It is also noted that this application was approved subject to a detailed Section 106 agreement which included securing £50,000 as a traffic monitoring fee for the monitoring of traffic during development and the implementation of Traffic Regulation Orders should they prove necessary as well as alterations to the Beeston Road approach to the Old Lane/Town Street roundabout to improve traffic flow and the provision of pedestrian refuges on Old Lane.

As part of this application, the approved opening hours were 0800 – 2300 Monday to Saturday, 1000 – 2200 on Sundays and Bank Holidays and delivery hours to be between 0700 – 2300 Mondays to Saturdays, 0800 – 2200 on Sundays and Bank Holidays.

- 4.5 The remaining history on site reflects its long use as an A1 food store. Prior to this, the unit was a car showroom and the remainder of the site history demonstrates its industrial past.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant did not engage in any formal pre-application discussion with Officers prior to the submission of this application.

- 5.2 It is noted that the applicant did undertake a public consultation event for local residents soon after the submission of this application held on Wednesday 15th Oct at Beeston Library. Asda advise that 247 invitation letters were sent out, including to Ward Members. Asda report that 5 residents attended the meeting and raised

questions about the size and opening times of the PFS. It is reported that the proposed PFS at Beeston is smaller than the residents had originally thought and they were reassured about its size.

- 5.3 Nevertheless, in light of the concerns raised by residents as part of the public consultation exercise and also following consultation with the Council's Environmental Health Officer, considered in the report below, it is noted that Asda proposed a reduction in the opening hours of the PFS and in delivery hours from 24 hour opening and deliveries between 0500 and midnight seven days a week to those now proposed above, which align with the approved opening hours of the new store.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application itself was advertised by means of site notices and direct neighbour notification.

- 6.2 A total of eight representations have been received from neighbouring residential occupiers objecting to the proposed development on the following grounds (note: the objections are in response to the original proposal for 24-hour opening):

- i. Traffic on Old Road is already heavy and, at times, congested and this proposal will make it worse;
- ii. There are already 4 petrol stations within a one mile radius so there is no need for this proposal;
- iii. Concern about fumes from the vehicles using the pumps;
- iv. Increased noise levels due to car doors being open and shut;
- v. Old Road already has too much traffic;
- vi. The present Asda store is sufficient and a bigger store is not needed;
- vii. Noise and disturbance from 24-hour opening is unacceptable;
- viii. The last thing that is needed on Old Road is anything that will result in an increase in traffic.

- 6.3 In addition to these letters, a further 1351 letters have been received on behalf of the 'Save our Beeston' campaign. These letters make reference to this application by application number as well as to application 14/06007/FU, which is the pending proposal at the former IcePak factory building for a mixed use development including a sports hall, teaching and community facility. The letters are in the form of two templates; they do not raise site-specific objections to these two applications but rather make the following general points in relation to any development within Beeston.

The first template makes the following points:

- i. Residents of Beeston Village are becoming 'incensed' at the massive over-development of the area without any thought to the cumulative impact on the health and well-being of the residents of Beeston village;
- ii. They demand that Leeds City Council stop any major development plans and specific planning applications in the Beeston Village area until the Council has fully engaged with the residents to develop a comprehensive local plan for the area;
- iii. They demand it on the basis that a number of developments have been allowed to go ahead – the Park and Ride scheme at Elland Road, the Asda supermarket at Old Lane, the expansion of the White Rose Centre, the Police Station at Elland Road and a major hotel at Elland Road.

- iv. Their letter also makes reference to the change of use at the DePuy factory to a research centre with up to 450 employees, a 50% increase in Beeston Primary School and Hugh Gaitskell Primary School, a 30% increase in the size of Cockburn High School and the creation of the Elliot Hudson College adjacent to the White Rose Centre (a free school proposal);
- v. They request these letters be taken into account on any other major planning applications in the Beeston Village area;

The second template makes the following points:

- i. No more major developments in the Beeston Village area to be granted planning permission until a health and well-being impact assessment has been carried out on the cumulative impacts created so far by the planning permissions that have been recently implemented or are still awaiting implementation;
- ii. No more major developments in the Beeston Village area to be granted until Leeds City Council has engaged with local residents to develop a comprehensive local plan for the area;
- iii. No more major developments the Beeston Village area to be granted before a comprehensive plan for the area has been agreed and implemented.

6.4 Ward Councillor Gabriel originally wrote to advise that she would not support 24 /7 for these pumps and certainly not deliveries for 5 until midnight. She was subsequently consulted on the revised hours but no formal response has yet been received.

7.0 CONSULTATIONS RESPONSES:

Statutory

7.1 Environment Agency – no objection.

Non-Statutory

7.2 Environmental Health: In response to the original 24/7 proposal with deliveries from 5am, Environmental Health noted that the application site is in a mixed use area with the nearest residential housing being on Old Lane and Waincliffe Square. It is acknowledged that Old lane is a busy road and a main thoroughfare to the local area but background noise levels will decrease at night. Environmental Health consider that the addition of a petrol filling station, even though it has only two pumps, will increase traffic to the area as the transport assessment states. They consider that the increase of vehicles to the area will cause noise from banging car doors and noise from car stereos. There is also the potential of noise from air compressors and jet washers (Note: this is because they are not proposed as part of this application). These noise sources do not appear to have been included in the noise assessment (note: because they are not proposed in this case). Environmental Health also comment that petrol tankers tend to have diesel engines, which can be noisy, and this vehicular movement along Old Road may cause disturbance at 05:00 hours although they acknowledge that the noise assessment states there will be a slight increase to the background noise from 05:00 to 07:00 hours but it will have negligible effect. Indeed, the noise report concludes that there will be no adverse effect on nearby residents. Environmental Health therefore originally recommended that should the application be approved, tanker deliveries should be restricted to 07:00 hours to 22:00 hours Monday to Saturday and 09:00 to 16:00 hours on Sundays and Bank Holidays and the opening hours be restricted to

07:00 to 23:00 hours Monday to Saturday and 08:00 to 22:00 hours on Sundays and Bank Holidays. The scheme was subsequently revised in light of comments from Environmental Health and concerns from local residents and Environmental Health are satisfied that the revised hours will overcome the potential for noise disturbance, as the opening hours now relate to those approved for the store itself.

7.3 Highways: Following the submission of further vehicle tracking information, Highways consider the applicant has demonstrated the safe tracking of a petrol tanker within the site. With regard to highway generation, this application has been considered in light of the proposals to re-develop the store itself and in this regard, it is concluded that taking into account that an increase in vehicular trips is likely not to cause a significantly detrimental increase in junction queuing at peak times over the existing approved outline consent assessment, there is a wider highway network where some traffic can distribute to avoid peak time queuing at junctions. Furthermore, the applicant is providing a £50,000 traffic monitoring and highway works contributions to improve the highway where necessary (as part of the outline approval for a new store) following monitoring of the sites impact on the local network such that the proposed petrol station is, on-balance, acceptable in relation to traffic impact.

7.4 Flood Risk Management: This site is in the EASEL (East and South-East Leeds) catchment and severe restrictions have been placed on development in the area because of known flooding problems in the catchment in general. However, this site is relatively small so that the council will allow the surface water drainage to be in keeping with our Minimum Development Control Standards for Flood Risk, which requires only a 30% reduction of the existing runoff from the site, post development, to the public sewer if infiltration drainage methods/ soakaway is proven not to be feasible at the site.

7.5 Drainage: No objection subject to conditions relating to surface water drainage and oil interceptors.

7.6 Contaminated Land: No objection subject to conditions.

7.7 Forward Planning: No objection as there is no retail element to the petrol filling station.

8.0 PLANNING POLICIES:

8.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

8.2 The Development Plan for Leeds currently comprises the following documents:

1. The Leeds Core Strategy (Adopted November 2014).
2. Saved UDP Policies (2006), included as Appendix 1 of the Core Strategy.
3. The Natural Resources & Waste Local Plan (NRWLP, Adopted January 2013) – with the exception of remitted Policy Minerals Policies 13 and, which are subject to further consultation, prior to submission and examination
4. Any Neighbourhood Plan, once Adopted.

- 8.3 In relation to point (4) above it is noted that there is presently no adopted Neighbourhood Plan for the Beeston Area. The Beeston Community Forum is in the early process of developing a neighbourhood plan. A period of consultation concluded on 14th November 2014 to legally establish the Beeston Plan Forum, who will draft the plan. Their stated ambition is to develop a neighbourhood plan that will give Beeston residents a greater say on how the community develops in the next 10 to 15 years. Leeds City Council approved the Beeston designated area on 24th February 2014. The designated area includes the area bounded by the northern edge of Cross Flatts Park, the M621, the Leeds Outer Ring Road and the western edge of Middleton Woods. The Beeston Plan website notes that the land around Elland Road associated with Leeds United football club is within the scope of Leeds City Council development plans and is not included within the Beeston Plan.

Saved UDP Policies

- 8.4 The site is unallocated within the UDP. The following UDP policies are relevant to the consideration of the application:

GP5 – General Planning Considerations
BD5 – General Amenity Issues

Leeds Core Strategy

- 8.5 The Leeds Core Strategy was adopted by Full Council on 13th November 2014 such that the policies within it can now be afforded full weight. The most relevant Policies from the Core Strategy are as follows:

P10 – High quality design.
T2 – Accessibility.

National Planning Policy

- 8.6 The National Planning Policy Framework (NPPF) was published on 27th March 2012 and replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.
- 8.7 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 8.8 Of most relevance to this application is Paragraph 32 of the NPPF, in relation to transport, which advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Additionally, Paragraph 123 of the NPPF advises that planning decisions should aim to avoid noise from giving rise to adverse impacts on health and quality of life as a result of new development.

9.0 MAIN ISSUES

9.1 The main issues in the determination of this application include the following:

- (i) Principle of the development – Policy and Land Use
- (ii) Impact on the amenity of adjoining occupiers and;
- (iii) Highway considerations;
- (iv) Design;
- (v) Landscape.

The Council must also consider relevant material representations received as a result of the public consultation exercise.

10.0 APPRAISAL

Principle of development - Policy and Land Use

10.1 The application site is unallocated within the UDP such that any application must be considered on its merits. In this case, a petrol filling station is a sui-generic use such that it falls outside of any specific use class. There is no retail use associated with the proposal and therefore no requirement to consider the impact of the PFS on other such facilities. Indeed, there is also no policy requirement to consider the need for a PFS, particularly given that the requirement to demonstrate need has been omitted even for retail proposals.

10.2 The previous outline planning permission (11/0406/OT) has clearly established the acceptability of the wider site, of which the PFS is a part, for retail purposes both in terms of its current use and its proposed re-development for a new Asda store. It is considered that a PFS is a function that is consistent with and complementary to the site's use as a retail store such that the primary issues to consider in the determination of this application relate to matters of highway safety and the amenity of adjoining residential occupiers as considered in the report below and there is no objection in principle to its location on this site.

Impact on the amenity of adjoining occupiers

10.3 Saved Policy GP5 of the UDP advises that development proposals should resolve detailed planning considerations. They should also seek to avoid problems of (as relevant to this application) loss of amenity. Policy BD5 of the UDP states that:

'All new buildings should be designed with consideration given to both their own amenity and that of their surroundings.'

This is consistent with guidance within the NPPF, which advises that planning decisions should aim to avoid noise from giving rise to adverse impacts on health and quality of life as a result of new development. The NPPF also advises at Paragraph 120 that planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 123 advises that planning decisions should aim to mitigate and reduce to a minimum adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

10.4 In this case, the primary consideration in relation to residential amenity (in addition to highway impacts considered below) is noise impact arising from the use of the

petrol filling station. It must be acknowledged that the wider site already benefits from planning permission for the construction of a new Asda store and this proposal sits within the context of that permission. However, to support the application, a full Noise Assessment has been submitted

- 10.5 The Noise Assessment includes noise monitoring, which was undertaken between the hours of 22.00 hours on Tuesday 11th March 2014 to 09.00 hours on Wednesday 12th March 2014 and 05.00 to 08.00 hours on Sunday 9th March 2014. The Assessment makes reference to a number of assessment tools including a change in LAeq,T assessment; the World Health Organisation (WHO) recommended LAFmax internal noise criteria as well as the requirements of the National Planning Policy Framework 2012 (NPPF), Noise Policy Statement for England 2010 (NPSE) and Planning Practice Guidance – Noise 2014 (PPG).
- 10.6 As noted above, the NPPF confirms at Paragraph 123 that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. Within the Noise Policy Statement, it is the Government's intention to avoid significant adverse impacts on health and quality of life from environmental and neighbourhood noise (as relevant to this proposal), mitigate and minimise adverse impacts and effectively manage and control such noise to improve health and quality of life. The NPS clarifies the definition of 'significant adverse' and 'adverse' impact with reference to World Health Organisation definitions – No Observed Effect Level (NOEL) (no detectable effect on health and quality of life due to noise) and Lowest Observed Adverse Effect Level (LOAEL) (the level above which adverse effects on health and quality of life can be detected). It also introduces SOAEL (Significant Observed Adverse Effect Level), which is the level above which significant adverse effects on health and quality of life occur.
- 10.7 Notably, however, the guidance states that it is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It acknowledges that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise and not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.
- 10.8 The National Planning Policy Guidance advises that when noise is not noticeable, there is by definition no effect. It determines that noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise). When the noise causes a material change in behaviour, such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present, this is considered to represent a significant observed adverse effect. This can include the potential for sleep disturbance.
- 10.9 Significantly, the NPPG notes that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected.

Similarly, the Noise Policy Statement confirms that it is not possible to have a single objective noise-based measure that defines the particular levels of effect noted above such that it is clearly not an exact science, having to take account of factors such as the source of noise and the time of day that it occurs, the frequency and pattern of noise and its spectral content.

- 10.10 The Noise Assessment effectively concludes that PFS trading 24 hours a day, 7 days a week and PFS tanker deliveries between 05.00 hours to midnight, 7 days a week (as originally proposed by Asda) would be acceptable in accordance with guidance contained in the latest noise policy documents noted above. In each case, however, it also states that existing traffic noise on Old Lane is a strong influence on the findings and an important consideration that has a direct influence on the outcome of the Noise Assessment. Old Lane separates the proposed PFS from the nearest dwellings and is identified as a busy through route with regular traffic movements during the proposed PFS trading hour.
- 10.11 The Council's Environmental Health Officer has considered the Noise Assessment and notes its conclusions. However, they are of the view that even though it has only two pumps, it will increase traffic to the area, which will cause noise from banging car doors and also noise from car stereos. It is for this reason that they originally recommended that should the application be approved, tanker deliveries should be restricted to 07:00 hours to 22:00 hours Monday to Saturday and 09:00 to 16:00 hours on Sundays and Bank Holidays and the opening hours be restricted to 07:00 to 23:00 hours Monday to Saturday and 08:00 to 22:00 hours on Sundays and Bank Holidays.
- 10.12 However, it must be acknowledged that the Council has granted the following in relation to the opening hours and delivery period of the new Asda store:
- 'The opening hours of the store shall be restricted to 0800 - 2300 Mondays to Saturdays and 1000 - 2200 on Sundays and Bank Holidays, with the exception of a period of 12 months, commencing from the date of first occupation of the store, when the opening hours of the store shall be restricted to 0600 to 2400 hours Monday to Saturday and 1000 to 2200 on Sundays and Bank Holidays.'*
- 'There shall be no deliveries to the premises before 0700 or after 2300 on any day Monday to Saturdays, or before 0800 or after 2200 on Sundays or Bank Holidays, with the exception of a period of 12 months commencing from the date of first occupation of the store, during which there shall be no deliveries to the premises before 0600 or after 2300 on any day from Monday to Saturday, or before 0700 or after 2200 on Sundays and Bank Holidays.'*
- 10.13 Taking into account the approved opening hours of the store, the findings of the submitted Noise Assessment, which acknowledges that there will be a slight increase to the background noise from 05:00 to 07:00 hours but this will have negligible effect due to the level of existing background noise, and the element of judgment within an assessment of adverse impacts with no definitive noise standard within planning policy documents, it is considered that it would be unreasonable to restrict the opening hours of a two-pump PFS to hours that are shorter than the approved store, which is likely to generate more traffic. There is therefore merit in aligning the opening hours of the PFS with the store. As noted above, the opening hours of the store are subject to a 12-month trial period on first opening to enable the LPA to assess the impact of extending opening particularly in the early morning between 0600 and 0800 and at night between 2200 and midnight. It is recommended that this approach is also reflected within the proposed opening

hours of the petrol filling station; this is consistent with advice within the NPPF that recommends a trial run in order to assess the effect of the development.

Accordingly, the following condition is proposed as part of this application:

The two-pump petrol filling station hereby approved shall only operate between the hours of 0800 - 2300 Mondays to Saturdays and 1000 - 2200 on Sundays and Bank Holidays except for a period of 12 months from the first day of opening of the petrol filling station when it shall operate only between the hours of 0600 to 2400 hours Monday to Saturday and between 1000 to 2200 on Sundays and Bank Holidays.

- 10.14 With regard to deliveries, as part of the approved delivery strategy for the new Asda store, deliveries are generally permitted between the hours of 0700 and 2300 on any day Monday to Saturdays and between 0800 and 2200 on Sundays or Bank Holidays, with the exception of a period of 12 months commencing from the date of first occupation of the store, during which deliveries to the premises are permitted between 0600 and 2300 on any day from Monday to Saturday and between 0700 and 2200 on Sundays and Bank Holidays. This application for the PFS originally proposed deliveries between 0500 and midnight seven days a week, which has been revised in the course of the application to between 0600 and 2300 Mondays to Saturdays and between 0700 and 2200 on Sundays and Bank Holidays. This is consistent with the delivery hours approved on a temporary period for the Asda store. However, a trial temporary period is not considered necessary in relation to the PFS delivery on the basis that a two-pump petrol filling station will generate the requirement for only one tanker delivery and taking into account the submitted Noise Assessment and particularly background noise levels on Old Lane, it is considered that one tanker would not result in undue noise disturbance to local residents. As such, the following condition is proposed in relation to deliveries to the PFS:

Deliveries to the petrol filling station shall be restricted to between the hours of 0600 and 2300 Mondays to Saturdays and between 0700 and 2200 on Sundays and Bank Holidays.

A condition is also proposed requiring the submission of a Delivery Management Plan for tanker delivery drivers to minimize any potential noise impact and to address issues such as leaving the engine running, turning the cab radio off before exiting the vehicle and minimizing the use of reversing beepers etc.

- 10.15 On the basis of the above conditions it is considered that sufficient regard has been had to the residential amenity of adjoining occupiers, taking into account the cumulative context of the PFS site adjacent to the proposed new Asda store and that the conditions will avoid problems of loss of amenity and will mitigate and reduce to a minimum adverse impacts on health and quality of life arising from noise from the new development. On this basis, the proposal is considered to accord with Saved Policies BD5 and GP5 of the UDP and guidance within the NPPF.

Highway Impact

- 10.16 Policy T2 of the Core Strategy advises that new development should be located in accessible locations and with safe and secure access for pedestrians, cyclists and people with impaired mobility with appropriate parking provision. With regard to traffic impact within the NPPF, it advises at Paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 10.17 In this case it is relevant to note that the planning application for the Reserved Matters in relation to the new Asda store in accordance with 14/02461/FU was approved on the basis of a detailed Transport Assessment undertaken on the basis of the 167 proposed car parking spaces and on the basis of the off-site highway works approved as part of the outline application (11/04306/OT). Indeed, the original outline planning approval was also the subject of a detailed Transport Assessment that considered the cumulative traffic impact of this development and others in the locality. These permissions establish the principle that an Asda supermarket of the size approved with parking for 167 vehicles can operate without creating or materially adding to problems of safety, environment or efficiency on the highway network and ensuring a safe access.
- 10.18 Accordingly, this application has been assessed on the basis of the additional traffic generated by the provision of a two-pump petrol filling station compared to a similar sized store where there is no petrol filling station. As a result of the small scale of the PFS, the Transport Assessment as part of this application is in the form of a Technical Note as an addition to the Transport Assessment (TA) produced by AECOM in October 2011 in support of the outline planning application for the store.
- 10.19 Using the standard database for Transport Assessments the Technical Note advises that average vehicle trip generation for a food superstore (without a PFS) would be typically 486 two-way movements at Friday peak hours (1700-1800 during the week) and 396 two-way movements at peak hours (1200-1300) on a Saturday. For a food superstore with a PFS, these two-way movements are averaged at 489 and 501 respectively such that the addition of a petrol filling station would generate an estimated 3 and 106 gross two-way vehicle trips in the Friday and Saturday peak hours respectively. A stand-alone 2 pump PFS is estimated to generate 44 two-way movements in the Friday peak (1700-1800) and 52 on a Saturday peak (1400-1500).
- 10.20 In this particular situation however, the Transport Note advises that research undertaken for other ASDA/PSF applications helps to understand how many of the trips to the PFS are trips to the petrol filling station only and how many are trips that are linked to the store. This research indicates that on average, 50% of visits to the PFS are linked trips, 40% are pass-by trips and 10% are new trips specifically to use the PFS. If these are applied to the data at Beeston the Transport Note states that there will be no more than a maximum of 10 two-way new trips associated with the PFS across both peak hour periods. This would not generate a material impact on the local highway network.
- 10.21 On the basis that the Council have already considered the traffic impact on the network generated by the Asda store to be acceptable subject to specific highway improvements and given the small number of new trips that would be generated by the PFS in itself, it is concluded that the increase in vehicular trips is not likely to cause a significantly detrimental increase in junction queuing at peak times over the existing approved outline consent assessment. Furthermore, the applicant is providing a £50,000 traffic monitoring and highway works contributions to improve the highway where necessary (as part of the outline approval for a new store) following monitoring of the sites impact on the local network such that the proposed petrol station is, on-balance, considered acceptable in relation to traffic impact.
- 10.22 It is therefore concluded that the traffic impact of the proposed PFS, even when considered in the context of the Asda store, for which the cumulative traffic impact has been assessed as part of the previous outline and reserved matters approvals, will not result in severe cumulative impacts such that it could not be refused in

accordance with guidance within the NPPF. It is also concluded that it will not create or materially add to problems of safety, environment or efficiency on the highway network and is sufficiently accessible and will provide a safe and secure access in accordance Policy T2 of the Leeds Core Strategy.

Design

- 10.23 Within the Leeds Core Strategy, Policy P10 reinforces the requirement for new development that is based on a thorough contextual analysis to provide good design that is appropriate to its scale and function; that respects the scale and quality of the external spaces and wider locality and protects the visual, residential and general amenity of the area.
- 10.24 In this case, in addition to the two pumps, the application incorporates a typical petrol station canopy that extends to a maximum height of 4.5 metres above ground level. To Old Lane, however, it presents a narrow canopy width of only 5.3 metres such that it will not be a dominant feature within the streetscene, particularly given the substantial set back from the highway. It is therefore considered to be of sufficiently good design that is appropriate to its scale and function in accordance with Core Strategy Policy P10.

Landscape

- 10.25 The red line boundary of this application extends only to the area associated with the PFS and including the access onto Old Lane. As such, the existing grassed frontage falls outside the red line boundary of this application. However, landscaping around the boundary of the site and within the site was considered in full as part of the Reserved Matters application 14/02462/RM. This application approved a range of landscape measures including a grassland and wild flower area to the site frontage on the existing embankment, retention of the existing trees along with supplementary planting, native hedge planting to the front and along the northern boundary, small areas of tall and medium height shrubs and two new trees to the northern boundary as well as further hedge, shrubs and grass/wildflower to the southern boundary. This scheme did permit a number of existing trees to be removed albeit with some replacement planting to take place. It also included for the provision of bird and bat boxes amongst the trees with an invertebrate box within the tall shrubs. It is therefore concluded that landscaping has been adequately addressed within the Reserved Matters approval, which requires the scheme to be implemented in accordance with a programme to be agreed. It is proposed, however, to request details of lighting as part of this application and to require that the lighting be switched off at least between the hours of 0030 and 0530 to protect the amenity of adjoining occupiers and to support the bio-diversity enhancements noted above.

Equality

- 10.26 The Equality Act 2010 requires public bodies to have due regard to eliminate discrimination and to advance equality of opportunity. In this instance the petrol filling station will be accessible and sufficiently well-lit such that in relation to its function and purpose, it is not considered to conflict with the objectives of the Equality Act.

Response to Representations

- 10.27 The letters received from immediately adjoining residents primarily related to concerns about traffic congestion, fumes associated with vehicles and increased noise and disturbance. This was on the basis of 24 hour opening and both traffic congestion and noise disturbance are considered fully in the report above. With regard to fumes associated with vehicles using the pumps, it is advised that vehicles must switch off their engines during re-fuelling such that it should not give rise to undue fumes. In any event, Petrol Filling Stations are subject to a separate environmental permit licencing procedure.
- 10.28 In response to the template letters submitted by the Save our Beeston campaign, the following is advised:
- a. In response to a request for an assessment of the cumulative impact on the health and well being of residents, it is assumed that the residents are requesting that a Health Impact Assessment be undertaken. In response, it is advised that this application seeks the provision of two petrol pumps; consequently, the site area is only 0.086 hectares such that it does not constitute a major planning application (1+ hectares). Furthermore, there is no statutory requirement in planning legislation to undertake a Health Impact Assessment. This application is also significantly below the thresholds for consideration of an Environmental Impact Assessment. The closest description to a PFS within the EIA Regulations might be an industrial estate project or an urban development project where the threshold is identified as development exceeding 0.5 hectares. In relation to the storage of petroleum, the threshold for an EIA is storage of more than 200 tonnes of petroleum or chemical products. In this case, there are two storage tanks of 55,000 litres each of diesel and unleaded. These tanks have an approximate weight of 10 tonnes equates such that they will be significantly below the 200 tonnes threshold. Accordingly, the scale of development is such that an EIA would not be warranted in this instance and the application could not be deferred or refused on the grounds of seeking a Health Impact Assessment for which there is no statutory requirement. The traffic impact associated with the Asda store, which is the primary traffic generator in this case, was considered with regard to its cumulative impact as part of the original outline approval.
 - b. In response to the demand that Leeds City Council stop any major development plans and specific planning applications in the Beeston Village area until the Council has fully engaged with the residents to develop a comprehensive local plan for the area, it is advised that the Council have a duty to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. The Development Plan would include an Adopted Neighbourhood Plan but there is presently no neighbourhood plan in place for Beeston Village. The Council must therefore determine the application in accordance with the Development Plan at the present time, which constitutes (as relevant to this application) relevant Saved policies within the UDP and the Leeds Core Strategy as well as any other material considerations. This assessment is set out in the report above. The Beeston Plan is in the early stages of preparation and clearly, the Save Beeston Village group can fully engage in that process.
 - c. It is noted that the Save our Beeston make their demands on the basis that a number of developments have been allowed to go ahead – the Park and Ride scheme at Elland Road, the Asda supermarket at Old Lane, the expansion of the White Rose Centre, the Police Station at Elland Road and a major hotel at Elland Road. Even if the Beeston Plan were to be in place, with the exception

of the Asda store, these applications lie outside the boundary of the proposed Plan, which excludes Elland Road and the White Rose Centre such that the Neighbourhood Plan would not have been a material consideration in the determination of these applications in any event. In reviewing the representations to the outline application for the Asda store, it is noted that this application generated only 6 objections with 11 representations in support including a petition with 1000 signatures, which would suggest some level of local support for the store.

- d. In response to the reference to the DePuy factory, the 50% increase in Beeston Primary School and Hugh Gaitskell Primary School, the 30% increase in the size of Cockburn High School and the creation of the Elliot Hudson College adjacent to the White Rose Centre (a free school proposal) it is unclear how these percentage increases have been calculated. For example, in October 2009 the Council's Executive Board considered a report requesting permission to consult on the proposal to expand Beeston Primary School from 420 to 630 places Beeston Primary School. An application for a two-storey extension was subsequently submitted and approved (13/01546/FU) in August 2013, which would enable an increase from 420 places to 630 places to serve the local catchment by September 2016; an increase of 33% rather than 50%.
- e. In response to the suggestion within the second template letter that no more major developments in the Beeston Village area be granted planning permission until a health and well-being impact assessment has been carried out – this is addressed above.
- f. With regard to the reference to no more major developments in the Beeston Village area to be granted until Leeds City Council has engaged with local residents to develop a comprehensive local plan for the area, this is also addressed above and it is noted that this proposal does not constitute a major application.

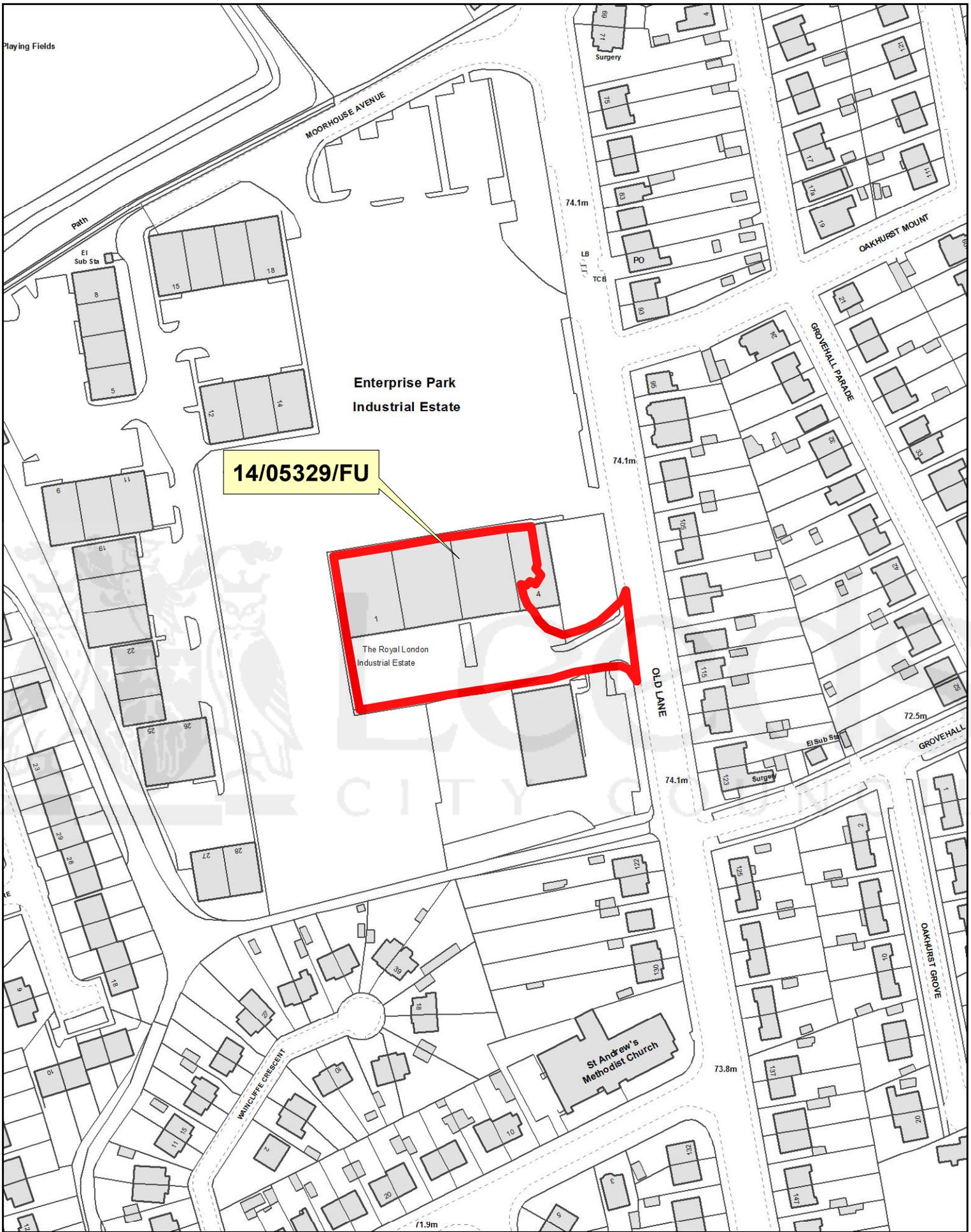
11.0 CONCLUSION

- 11.1 This application seeks full planning permission to construct a 2-pump self-service petrol filling station (PFS) with associated canopy and air and water pump on part of a site that is to be re-developed to provide a new Asda store. For an initial 12 month period from the date of opening, the PFS will operate for a trial period between the hours of 0600 to 2400 hours Monday to Saturday and between 1000 to 2200 on Sundays and Bank Holidays. After that time, unless a further application is received, the opening hours would revert to 0800 - 2300 Mondays to Saturdays and 1000 - 2200 on Sundays and Bank Holidays. The temporary period allows the impact of the opening hours to be assessed in situ. It is proposed that deliveries take place between 0600 and 2300 Mondays to Saturdays and between 0700 and 2200 on Sundays and Bank Holidays.
- 11.2 A petrol filling station constitutes a sui-generic use and the application site is unallocated such that the application must be considered on its merits. With regard to the principle of development it is concluded that planning permission for the use of the wider site for retail purposes has been clearly established and this small PFS is a function that is consistent with the site's use as a retail store such that the primary issues to consider in the determination of this application relate to matters of highway safety and the amenity.

- 11.3 Following the submission of a Noise Assessment and an amendment to the originally proposed 24/7 operation, subject to conditions to restrict opening hours and delivery times noted above, it is concluded that these conditions will mitigate, and reduce to a minimum adverse impacts on health and quality of life arising from noise from new development such that the proposal is considered to accord with Saved Policies BD5 and GP5 of the UDP and guidance within the NPPF.
- 11.4 The traffic impact arising from the PFS, given its small scale, even when considered in the context of the Asda store, will not result in severe cumulative impacts such that it could not be refused in accordance with guidance within the NPPF. It is also concluded that it will not create or materially add to problems of safety, environment or efficiency on the highway network and is sufficiently accessible and will provide a safe and secure access in accordance with Saved Policy T2 of the UDP and Policy T2 of the Leeds Core Strategy.
- 11.5 Finally, the design and scale of the PFS canopy is appropriate to its scale and function in accordance with Policy P10 of the Core Strategy whilst the landscaping of the site has been adequately addressed within the previous Reserved Matters approval for the Asda store.
- 11.6 In conclusion, it is determined that the proposed development is in accordance with the development plan such that the application is recommended for approval subject to conditions.

Background Papers:

Application and history files.
Certificate of Ownership



14/05329/FU

Enterprise Park
Industrial Estate

The Royal London
Industrial Estate

SOUTH AND WEST PLANS PANEL

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