



Report of the Chief Planning Officer

PLANS PANEL (EAST)

Date: 13th May 2010

Subject: APPLICATION 10/00758/FU – Variation of Condition 12 of application no. 07/04625/FU to allow 24 hour delivery of fuel at Moortown Filling Station, 401 Harrogate Road, Moortown, Leeds.

APPLICANT
Valli Forecourts

DATE VALID
19/02/2010

TARGET DATE
16/04/2010

Electoral Wards Affected:

Moortown

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:

Conditions

1. Time Limits
2. Approved plans
3. Implementation of Landscape Scheme
4. Replacement of Trees
5. Notwithstanding the details in the approved Landscape Plan and Management Specification, the existing and proposed laurel hedge on the western boundary shall be allowed to grow, and thereafter maintained at a height of between 3.5m and 4m unless otherwise agreed in writing by the Local Planning Authority.
Reason – To ensure an appropriate degree of screening for the adjacent residential properties.
6. The car wash, jet wash, car vacuum and air compressor facilities hereby approved shall only be operational between the hours of 0800 hours to 2200 hours Monday to Saturday, and 1000 hours to 2100 hours on Sundays and Bank Holidays and at no other times.
Reason - In the interests of amenity of nearby residents.

7. Within 3 months of the date of this permission, a delivery management plan detailing measures to minimise noise and disturbance between the hours of 2200 and 0700 shall be submitted to and approved in writing by the local planning authority. The plan shall include measures such as silencing of reverse beepers and switching off of engines and radios during deliveries.

Reason – In the interests of minimising noise and disturbance for neighbouring residents.

8. The proposed shop shall only be used for purposes ancillary to the main use of the premises as a petrol filling station and shall not at any time be separated from or operated separately from the petrol filling station.

Reason – As the site is not located in a town or other centre where a separate retail use would be appropriate.

9. The hours of delivery, including refuse collection, shall be restricted to 08.00 hrs to 18.00 hrs Monday to Saturday, with no deliveries or collections on Sundays or Bank Holidays, with the exception of the delivery of fuel which is permitted on a 24 hour basis.

Reason – In the interests of the living conditions of nearby residents.

Reasons for approval: The application is considered to comply with Policy GP5 of the UDP Review, as well as guidance contained within PPS1 and PPG24. It is not considered that the proposed changes to fuel delivery hours would result in an unacceptable increase in noise and disturbance or harm to the amenities of neighbouring residents. Therefore, having regard to all other material considerations, the proposal is considered to be acceptable.

1.0 INTRODUCTION:

1.1 Members may recall that permission was granted in July 2009 by the Plans Panel for the redevelopment and modernisation of the existing petrol filling station located on the corner of Harrogate Road and the Ring Road in Moortown. A condition was imposed restricting delivery times to the site to protect the living conditions of the residents within Church Gardens towards the rear.

1.2 The proposal relates to a Section 73 application to vary Condition No. 12 which restricted delivery times and relates to the delivery of fuel only. The application is reported to Panel as the condition was previously agreed by the Plans Panel.

2.0 PROPOSAL:

2.1 Planning permission has been recently granted for a replacement petrol filling station and retail store. This permission has been implemented and the petrol station and retail store have been trading for several weeks. A condition was imposed restricting delivery times to the site to prevent 24 hour deliveries.

2.2 A Section 73 application now seeks to vary this condition which would allow deliveries of fuel only on a 24 hour basis. The relevant condition, Condition No. 12, states:

“The hours of delivery, including refuse collection, shall be restricted to 08.00 hrs to 18.00 hrs Monday to Saturday, with no deliveries or collections on Sundays or Bank Holidays.

Reason – in the interests of the living conditions of adjacent residents.”

Permission is now sought to vary to wording of the condition to:

The hours of delivery, including refuse collection, shall be restricted to 08.00 hrs to 18.00 hrs Monday to Saturday, with no deliveries or collections on Sundays or Bank Holidays, with the exception of the delivery of fuel which is permitted on a 24 hour basis.

Reason – In the interests of the living conditions of nearby residents.

- 2.3 In support of the application, the owner has submitted information to demonstrate that the variation of the condition is considered to be reasonable in light of previous delivery regimes to the site. Information has also been submitted to support the proposal, including delivery tickets of fuel loads over the past 12 months and information relating to the delivery procedure.
- 2.4 The applicant has confirmed that the proposal relates only to the delivery of fuel, with all deliveries to the shop and waste collections taking place in accordance with the agreed times.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site relates to the existing petrol filling station located on the corner of Harrogate Road (A61) and the Ring Road (A6120) within Moortown. The site currently comprises a retail kiosk, a new canopy covering part of the forecourt area and a total of four fuel islands which are capable of accommodating 8 vehicles at any one time. The site also includes a car wash as well as a jet washing bay.
- 3.2 The site is within a mixed area comprising the Co-op with internal Post Office and small parking forecourt area directly to the south. To the west are two storey semi-detached properties within Church Gardens. Directly to the north is the Urban Green Corridor and green verge adjacent to the Ring Road (A6120). On the opposite side of Harrogate Road (dual carriageway) is a small terrace of residential properties. There are two separate pedestrian crossing facilities along this stretch of Harrogate Road which facilitates crossing to either side of Harrogate Road.
- 3.3 There is a Tree Preservation Order that covers the trees along the rear boundary which backs onto the rear gardens of the properties within Church Gardens. The soft landscaping associated with the recent planning permission is yet to be implemented but consists of numerous trees and plating adjacent to the rear part of the retail store, adjacent to the ring road.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 09/03771/FU – Removal of Condition No. 12 (hours of delivery) of planning permission 07/04625/FU: Refused on 22nd October 2009. This sought to completely remove the condition, rather than vary it, and no supporting information was submitted.
- 4.2 07/04625/FU - Redevelopment of existing petrol filling station comprising new shop, canopy, car wash, underground fuel storage tanks and fuel pumps: Approved by the Plans Panel at the meeting on 30th July 2009. The decision notice is dated 5th August 2009.
- 4.3 06/06321/FU - Redevelopment of existing petrol filling station comprising new shop, canopy, car wash and fuel pumps: Withdrawn in March 2007.

- 4.4 30/246/98/FU – Cash machine to petrol filling station: Approved in August 1999
- 4.5 30/79/94/FU – Petrol filling station with 4 pump islands, canopy, shop, and detached car and jet wash: Refused in September 1994.
- 4.6 H30/160/85 – Petrol filling station comprising car wash, shop, office and 3 petrol pumps: Approved in August 1985. A condition was imposed restricted deliveries to 08.00 hrs to 18.00 hrs.
- 4.7 H30/158/84 – Alterations and extension for form enlarged canopy and 3 storage tanks to petrol filling station: Approved in July 1984.
- 4.8 H30/863/75 – Alterations and extension for form enlarged petrol pump island: Approved in April 1976.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 This application has been the subject of discussions with the applicant and with the Council's Environmental Health Officer, resulting in the submission of further information to support the proposal.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 This application was advertised by way of site notices which were posted on 24th February 2010 and letters which were sent to local residents. To date, a total of 2 letters of objection have been received from the residents of nos. 3 and 5 Church Gardens. The objections raised relate to the following issues:

- Allowing for time for deliveries would increase noise, fumes, light pollution and disruption to the community;
- The applicant has not followed conditions in the past;
- Dangerous to residents to the rear.

7.0 CONSULTATIONS RESPONSES:

- 7.1 **Statutory:** None

Non-statutory:

- 7.2 **Neighbourhoods and Housing:** In light of the further information submitted by the applicant, no objections are raised.

8.0 PLANNING POLICIES:

- 8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. Given the strategic

nature of the RSS, it is not considered that there are any policies relevant to the determination of the current proposal.

Leeds Unitary Development Plan (Review 2006) Policies:

- 8.2 Part of the application site is located within the Urban Green Corridor as designated within the UDP (Review 2006). The following policy is therefore relevant:

Policy GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

National

- 8.3 Planning Policy Statement 1: Delivering Sustainable Development (PPS1)
Planning Policy Guidance Note 24: Planning and Noise (PPG24)

9.0 MAIN ISSUES

1. Whether the Condition is Required in Relation to Circular 11/95
2. Consideration of Objections

10.0 APPRAISAL

Whether the Condition is Required in Relation to Circular 11/95

- 10.1 In considering the application the guidance given in Circular 11/95 needs to be taken into consideration. This makes it clear that conditions should not be imposed unless they are both necessary and effective and do not place unjustifiable burdens on applicants. The circular also indicates that, as a matter of policy, conditions should only be imposed if they satisfy all of the following tests:

- i) necessary;
- ii) relevant to planning;
- iii) relevant to the development to be permitted;
- iv) enforceable;
- v) precise; and
- vi) reasonable in all other respect.

- 10.2 The circular also suggests that when considering whether a condition is necessary authorities should ask themselves whether planning permission would have to be refused if the requirements of the condition were not imposed. The circular advice goes on to state that “the same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73: a condition should not be retained unless there are sound and clear-cut reasons for doing so.”

- 10.3 It is therefore important to consider whether the condition, in its present form, fails the tests set out in Circular 11/95 and must carefully take into account the information provided by the applicant and any relevant comments submitted by local neighbours.

- 10.4 Historically, a petrol filling station has operated at this site since at least the 1950's and has been modernised since this period, including in the mid 1980's which included a new canopy, car wash, shop and 3 petrol pumps. It was apparent that deliveries to the site in the 1990's and last decade took place on a 24 hour basis, in breach of the delivery condition.

- 10.5 The recent planning permission imposed a similar condition to restrict 24 hour deliveries to the site, although the applicant did attempt to remove this condition. This was refused due to a lack of supporting information. The current application therefore seeks to vary the condition insofar as it relates to the delivery of fuel only. Delivery tickets have been provided over a period of the last 12 months to understand and demonstrate the recent delivery pattern of fuel lorries to the site. This indicates that deliveries have been taking place on a 24 hour basis regularly.
- 10.7 The applicant has also provided information to demonstrate that the current delivery regime to this refurbished site is far better than previously existed. For example, all tankers will enter and leave the site in forward gear, resulting in no vehicle having to reverse and therefore have their reverse beepers on. In addition, all tankers switch their engines off when stationary and the fuel is gravity fed into the new fuel nozzles. This was not the case in the previous situation where the underground fuel tanks were accessed through the metal surface lids, which were noisier when manually lifted. Furthermore, the new fuel system incorporates vastly improved vapour recovery technology than the previous system. The new pumps will emit significantly reduced odour emissions which would be beneficial to local residents.
- 10.9 Advice from the Council's Environmental Health Officer suggests that there have been no complaints as a result of delivery vehicles to the site in recent years. However, of the complaints that have been reported, these related to odour nuisance from the fuel pumps. Given that deliveries have already been taking place on a 24 hour basis and no noise nuisance complaints have been received, it would seem unreasonable to restrict the delivery of fuel on a 24 hour basis and the variation of the condition should be permitted.
- 10.9 Consideration of Objections
The site abuts a number of residential properties to the rear within Church Gardens, although the petrol filling station and these properties have co-existed for a number of decades. The site has also operated on a 24 hour basis and the refurbished petrol station continues to do so. However, the impact of the redeveloped petrol filling station on the living conditions of these residents must be considered.
- 10.10 The proposal has the potential to impact on the living conditions of adjacent neighbours due to noise and disturbance as a result of fuel deliveries on a 24 hour basis. The objections received from the local residents within Church Gardens primarily relate to increased noise and odour, and the fact that the applicant has not adhered to conditions in the past. However, in light of the further information submitted by the applicant which indicates that deliveries have previously taken place on a 24 hour basis without complaint, plus the improvements in vapour recovery and the delivery routine, it is considered that the proposal would not have a significant impact on the living conditions of neighbours.

11.0 CONCLUSION

Conclusion

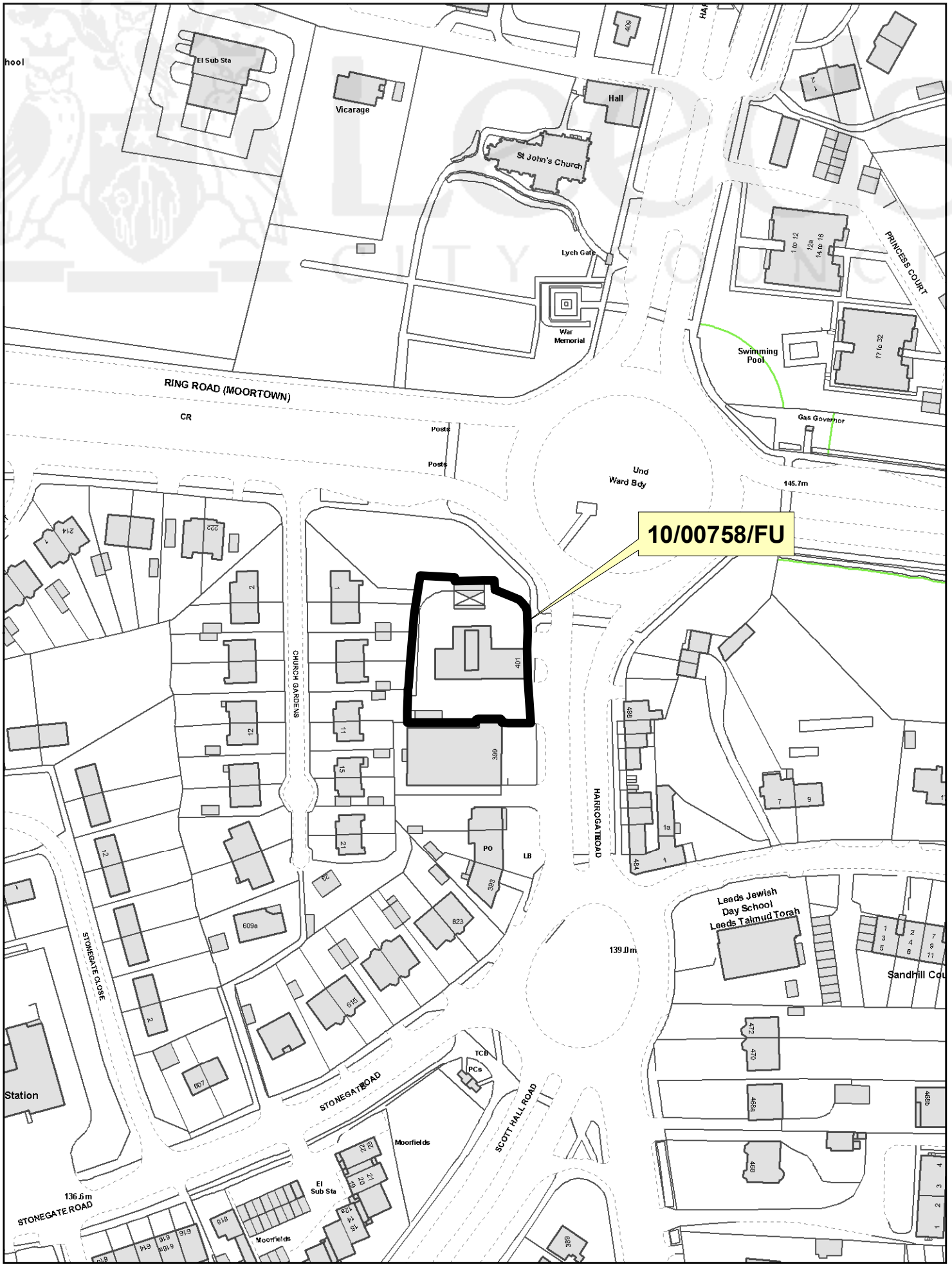
- 11.1 It is considered that the proposal to vary Condition No.12 complies with the relevant policies in the UDP and national planning guidance, and officers have balanced the proposal against other material considerations, including the tests in Circular 11/95 regarding conditions. On balance, and in light of the above, it is considered that the delivery of fuel on a 24 hour basis would not result in significant harm to the amenities of neighbouring residents, and the application is considered to be

acceptable, and approval is recommended. All other relevant conditions relating to the original application will still take effect

Background Papers:

Application files 07/04625/FU and 10/00758/FU

Certificate of Ownership: Signed as applicant.



EAST PLANS PANEL

Scale 1/1500

PRODUCED BY COMMUNICATIONS, GRAPHICS & MAPPING, LEEDS CITY COUNCIL
 This map is based upon the Ordnance Survey's Digital data with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office.
 (c) Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
 (c) Crown Copyright. All rights reserved. Leeds City Council O.S. Licence No. - 100019567

