Expiry Date - 10/12/2024

Development Control – Delegated Officer Report

Application Number: AWDM/1316/24 **Recommendation – REFUSE**

Site: **331 Brighton Road Worthing West Sussex BN11 2HP**

Proposal: **Demolition of existing structures / buildings and removal of existing underground tanks. Redevelopment to provide new forecourt, (canopy, pumps, underground tanks), Class A1 sales building, ATM, car-wash, car care facilities, car parking, landscaping and revised access. (Re-submission of previously refused application WB/02/01304/FULL).**

Application to Vary Condition 13 of approved 03/00817/FULL to extend opening hours to allow for forecourt pumps and shop to be open 24 hours, seven days a week

Site Visit: 29.10.24

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The application relates to a petrol filling station and associated shop on the north side of Brighton Road (the seafront), with Brooklands Pleasure Grounds to the east and residential development to the north and west.
The sales building is situated at the eastern end of the site, with a car wash building beyond this. The petrol pumps and canopy are located towards the western part of the site, with customer car parking on either side of this, including 5 spaces on the western side of the site close to the main vehicular entrance.

The site is a 6 pump / 12 bay petrol filling station at 331 Brighton Road. In addition to fuelling facilities the site includes a shop facility which includes a sales area, coffee shop and customer toilet. There is currently an automatic "drive through" car wash located to the east of the sales building as well as an air/water facility in a dedicated bay in the west part of the site. The underground fuel tank fill point and associated vents are located towards the north west corner of the site and would not be affected by the proposals.
To the north of these customer car parking spaces is the air and water machine. The west boundary with Seamill Park Avenue is marked with a brick wall, with shrubs planted on the inside of the wall.

Large acoustic timber fences bound the north and east boundaries of the petrol station, with the northern fence separating the existing site from the residential properties to the north, and a grassed area to the east of their rear

gardens, which belongs to the applicant, but does not currently form part of the petrol station site.

Proposal

The application proposes an amendment to condition 13 of **03/00817/FULL** which stated:

The petrol filling station hereby approved (including the shop and fuel pumps) shall not be open for sales other than between the hours of 0600 – 2300 Mondays to Sundays.

Reason: To safeguard the residential amenities of the area.

The application proposes amending the wording to "The petrol filling station hereby approved (including the shop and fuel pumps) shall be open 24 hrs"

The applicants' agent has provided the following operational statement:

The additional opening hours are for the benefit of people working outside the current opening hours; healthcare workers, delivery drivers, agricultural workers, service industry employees. All would gain from an accessible forecourt

Relevant Planning History:

The petrol station appears to date back to the early 1990s or possibly earlier. The provision of an 'additional floodlit jet wash bay' was approved in 1994 (94/05069/FULL).

Redevelopment of the site was permitted in 2003 (reference 03/00817/FULL - *Demolition of existing structures / buildings and removal of existing underground tanks. Redevelopment to provide new forecourt, (canopy, pumps, underground tanks), Class A1 sales building, ATM, car-wash, car care facilities, car parking, landscaping and revised access. (Re-submission of previously refused application WB/02/01304/Full).*

The '*installation of various internally illuminated signs'* was permitted in 2003 (03/01297/ADV refers).

Permission was granted in January 2019 for *'Relocation of ATM to west elevation of building for Brooklands Service Station and installation of full-height glazing to south and west elevations to facilitate new internal cafe area with seating'* (AWDM/1758/18).
Permission was granted in May 2019 for *'Installation of replacement of 4 no. internally illuminated fascia signs, 1 no. updated internally illuminated Totem sign'* (AWDM/0515/19).

An application was submitted in November 2020 for *'Installation of 8no. new electric vehicle chargers with canopy and associated infrastructure. New 2.4m high timber compound to be installed'*. This application was withdrawn in March 2021 (AWDM/1825/20) due to concerns regarding the proposed location of the development on undeveloped land to the north of the petrol station compound and its impact on the residential amenity of nearby houses.
AWDM/1342/20- Installation of 2No. Jet Wash Machines and associated works- Approved

AWDM/0678/21-Installation of 8no. new electric vehicle chargers with canopy and associated infrastructure. New 2.4m high timber compound to be installed-Refused:
The proposed development on land to the rear of properties in Seamill Park Avenue would constitute an unneighbourly form of development and result in a loss of residential amenity. In particular, the commercial use of this undeveloped land by virtue of vehicle movements, lighting and general activity would be detrimental to the amenities of residents of Nos. 2-6 Seamill Park Avenue. As such, the proposal is contrary to Saved Local Plan Policies H18 and RES7, National Planning Policy Framework paragraph 127, and Submission Draft Worthing Local Plan Policy DM5.

AWDM/1586/24- Extension of existing sales building to Accommodate a new 'food-to-go' including drive-thru, removal of car wash, provision of two jet washes and relocated car care bay, reconfiguration of car parking, new bin store and associated works -APPROVED

Consultations:

WSCC Highways

This application seeks to vary Condition 13 of approved 03/00817/FULL to extend opening hours to allow for forecourt pumps and shop to be open 24 hours, seven days a week.

Whilst the extended opening times will likely result in a material intensification of use of the existing access points, the LHA note that this will be outside of road network peak times and would not be anticipated to be a significant increase over what the site currently generates.
From inspection of WSCC mapping, there are no apparent visibility concerns with the existing points of access on Brighton Road. In addition, I have reviewed five year collision data provided to WSCC by Sussex Police, and this reveals no recorded injury accidents within the vicinity of the site attributed to the use of the existing vehicular access points. Therefore, there is no evidence to suggest the existing accesses have been operating unsafely or that the proposed change in opening times would exacerbate an existing safety concern.

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative

impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 115), and that there are no transport grounds to resist the proposal.

Adur and Worthing Council

Environmental Health Public Health

I am objecting to this application on the grounds of potential noise nuisance to neighbouring homes.

The service station is overlooked by residential property, with number 2 Seamill Park having rear bedroom windows around 27m to the nearest customer parking spot. The amenity of these homes at night time is protected by the current planning condition which curtails the opening hours of the premises and I am of the opinion that there is no case to remove this safeguard against potential nuisance.

It should be noted that the premises owners have applied to vary their premises licence under the Licensing Act 2003 to include late night refreshment and 24 hour alcohol sales. Therefore we are looking at this premises as a filling station, retail store and as a destination for late night refreshment.

Customer noise is my main concern here and we have no way of knowing what level of new custom a change in hours will attract to the premises in these early hours or what potential nuisance they may cause. Whether it is one customer or a hundred customers a night, it will be permitted under these changes. Any conversation or shouting on the forecourt, or music from car stereos is going to impact bedrooms and peoples sleep in the nearest property, particularly during the summer when windows are open. Our brains continually assess sounds whilst we are asleep and if a sound is deemed a threat then we will awaken. Most people will sleep through anonymous sounds such as distant traffic, but conversation or music, even at a relatively low noise level can cause awakening.

The applicant has provided a BS4142 noise assessment with the application which is not relevant to my concerns. If we consider the scope of BS4142 copied below we will see it is not to be used to determine nuisance, nor is it to be used to assess noise from people or from music. So there is no way of rating what level of music or people noise is acceptable in this situation.

Scope
1.1 This British Standard describes methods for rating and assessing sound of an industrial and/or commercial nature, which includes:
a) sound from industrial and manufacturing processes;
b) sound from fixed installations which comprise mechanical and electrical plant and equipment;
c) sound from the loading and unloading of goods and materials at industrial and/or commercial premises; and

d) sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes, such as that from fork-lift trucks, or that from train or ship
movements on or around an industrial and/or commercial site.

The methods described in this British Standard use outdoor sound levels to assess the likely effects of sound on people who might be inside or outside a dwelling or premises used for residential purposes
upon which sound is incident.

1.2 This standard is applicable to the determination of the following levels at outdoor locations:
a) rating levels for sources of sound of an industrial and/or commercial nature; and
b) ambient, background and residual sound levels, for the purposes of:
1) investigating complaints;
2) assessing sound from □existing,□ proposed, new, modified or additional source(s) of sound of an industrial and/or commercial nature; and
3) assessing sound at proposed new dwellings or premises used for residential purposes.

1.3 The determination of noise amounting to a nuisance is beyond the scope of this British Standard.
Sound of an industrial and/or commercial nature does not include sound from the passage of vehicles on public roads and railway systems.
The standard is not intended to be applied to the rating and assessment of sound from:
a) recreational activities, including all forms of motorsport;
b) music and other entertainment;
c) shooting grounds;
d) construction and demolition;
e) domestic animals;
f) people;
g) public address systems for speech; and
h) other sources falling within the scopes of other standards or guidance.

The service station has no control over how customers will present themselves at the premises or how they will behave, but even normal behaviour has the potential to disturb sleep and this is not acceptable. There is no other 24 hour business in this locality so why change the character of the area in this instance.

Finally, I am concerned about the background noise levels used in the assessment as these appear very high. I suspect the measurements have captured the sound of the shingle moving on the beach from the waves. This noise will vary depending on tides and the roughness of the sea due to the wind. High winds will also affect the measurements. The author of the report notes the weather conditions when the survey starts but then relies on data from a nearby weather station, that he does not specify, for the rest of the monitoring period.

image.png
With reference to the Method Implementation Document for BS4142 Paragraph 6.4, which I have copied below. You will see that weather data should be monitored near to the microphone position. This is an exposed coastal area and conditions here are unlikely to be replicated at other weather stations. This has not happened. A cursory look at Shoreham Airports weather data for the survey period shows high wind gusts, which are not reported in this acoustic assessment. In my opinion there is too much procedural uncertainty to take these background measurements at face value.

6.4 Weather conditions
You must fully report weather conditions. You may need to perform measurements in a range of conditions. The weather conditions must be the same during ambient sound and residual sound measurements, particularly wind speed and wind direction. In situations where meteorological conditions are likely to affect sound levels you must follow one of the approaches described in BS 7445-1.

You must measure wind speed and wind direction at the monitoring location using a hand-held anemometer or logging weather station. You must report both wind speed and direction. Cup anemometers are more accurate than fan anemometers for erratic wind directions.

During attended measurements, you should log the wind speed and wind direction:

at the start
every 15 minutes during the measurement period
at the end
You should note any events like gusts or changes in wind direction. For unattended monitoring, you must use a logging weather station.

Meteorological data from a third-party weather station is not acceptable, even if local. You must assess weather at the microphone location and monitor it in real-time. You must not use weather archive websites (for example, wunderground.com) to report weather conditions

You should not use specific, residual or background sound measurements taken during or immediately after rainfall. The SLM operator must wait until any standing road water has disappeared before starting acoustic monitoring.

You must use microphone windshields for every acoustic measurement.

Representations:

Summary of objections from the following properties:

1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 20, 31, 32, 36, 46, 48 Seamill Park Avenue

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Flat 3, 205 Brighton Road, 311, 323, 329, 329A Brighton Road
28 Ophir Road
1, 3 Wychwood Gardens
16 Meadow Close
56 Annweir Ave Lancing
8, 17 The Court Flats , 170 Brougham Road
Flat 2 11 Queens Road
12 Bramber Road
Flat 2, 7, 9 Meadow Court Meadow Road
Fisherman Locker 57
21 King Edward Avenue
Friends of Brooklands Park
We are pollinator pioneers CIC
31 Malvern Close
4 Mansfield Road
10, 12 Pearsons Retreat, Brougham Road
48A Southfarm Road
45 London Street
39 Brittany Road
1A Newland Road
133 Chesswood Road
1A Pendine Avenue
1 St Georges Road
Flats 1, 2, 11, 12A, 23, 27 Onslow Court

- The details are not clear on the website
- Additional noise and disturbance
- Additional noise from vehicles running, starting up, loudspeaker calls, music
- Additional Loudspeaker announcements made by garage staff
- The roads are dangerous and additional movements will cause accidents
- The noise report bears no relation to reality
- Additional traffic on Seamill Park Avenue
- Additional traffic noise
- Danger to residents accessing drives and parking spaces within Seamill Park Avenue
- Extra traffic on The A259
- Inadequate parking
- Anti-social behaviour
- Additional litter
- 24 hour opening will attract people to congregate in the adjacent car park and garages which is also subject to antisocial behaviour
- No benefits to the local area
- Contrary to strategic objectives of the WLP to provide a healthy environment and lifestyle, enhancing wellbeing, safeguarding the character and amenity of residential areas and protecting green space and the beach
- Encouraging unhealthy lifestyles

- Out of character with this relatively quiet area supported by residents, wind and kite surfers, walkers and visitors.
- No regard for the well-being and lives of the local community or natural environment
- The area should be protected for its conservation
- A similar application was refused in 2002
- Additional illumination through the night, disturbing to residents and wildlife
- Additional Overlooking
- Traffic pollution

Relevant Planning Policies

National Planning Policy Framework
National Planning Practice Guidance
Worthing Local Plan
SP2, SP3, DM5, DM15, DM22

Planning Assessment

The main issues are the impact on residential amenity of the extended hours of opening and highways impacts.

Residential Amenity

The property is situated on Brighton Road on an area of the road which has residential development to the north and west and a car park and park to the east and shoreline to the south. Other than the petrol station and associated shop the area is not commercial, this is a site which has grown incrementally since its original use and intension in the 1950s.

Notwithstanding its history the principle of the use and hours from 6am to 11pm has been accepted by the previous approval and conditions. The main issue is the extended hours and the additional impact.

The property has two storey residential properties to the north and west. No 2 Seamill Park Avenue shares a boundary with the current application site and further properties in Seamill Park Avenue and Brighton Road closely oversee. Although on a main road with no other commercial uses the uses would generally involve a reduction in ambient noise after 11pm.

The applicants' agent has indicated that the additional opening hours are for the benefit of people working outside the current opening hours; healthcare workers, delivery drivers, agricultural workers, service industry employees.

The EHO has raised objection indicating that customer noise is the main concern and there is no way of knowing what level of new custom a change in

hours will attract to the premises in these early hours or what potential nuisance they may cause.

The applicant has provided a BS4142 noise assessment with the application which the EHO considers is not appropriate for their concerns. The scope of BS4142 as highlighted above is not to be used to determine nuisance, nor is it to be used to assess noise from people or from music. So there is no way of rating what level of music or people noise is acceptable in this situation.

The service station has no control over how customers will present themselves at the premises or how they will behave, but even normal behaviour has the potential to disturb sleep and this is not acceptable. There is no other 24 hour business in this locality so why change the character of the area in this instance.

The EHO is also concerned about the background noise levels used in the assessment as these appear very high. They suspect the measurements have captured the sound of the shingle moving on the beach from the waves. This noise will vary depending on tides and the roughness of the sea due to the wind. High winds will also affect the measurements. The author of the report notes the weather conditions when the survey starts but then relies on data from a nearby weather station, that he does not specify, for the rest of the monitoring period. The Method Implementation Document for BS4142 Paragraph 6.4 indicates that that weather data should be monitored near to the microphone position. This is an exposed coastal area and conditions here are unlikely to be replicated at other weather stations. In the EHOs opinion there is too much procedural uncertainty to take these background measurements you must fully report weather conditions.

A significant number of local residents have raised a number of concerns in connection with the proposed extension of hours as highlighted above. It is clear that local residents are already disturbed by noise, lighting, overlooking and antisocial behaviour caused by the existing use. The extension of the hours through the night would further exasperate those concerns.

The proposal would create night time destination by predominantly vehicle users. It is not considered that the reasons for the additional hours indicated by the applicant would outweigh the fundamental concerns in relation to the application.

Granting permission for an extension of hours which includes residential and a natural environment within close proximity would change the character of the area and further unacceptable impact on residential amenity and the natural environment.

Accessibility and parking

The proposal is for additional hours of use. The LHA indicate that the extended hours will likely result in a material intensification of use of the existing access points, however they indicate that this will be outside of road

network peak times and would not be anticipated to be a significant increase over what the site currently generates. They also indicate that there is no evidence to suggest the existing accesses have been operating unsafely or that the proposed change in opening times would exacerbate an existing safety concern.

Local residents have raised concerns about additional traffic and residents in Seamill Park Avenue have raised individual concerns regarding access to drives and parking. It is appreciated that the use will attract further custom and concerns on residential amenity as highlighted above although a specific highway refusal could not be sustained.

Recommendation

REFUSE for the reason:-

The extended hours proposed would have a detrimental impact on the amenities of occupiers of nearby properties, due to unacceptable levels of noise and disturbance from customers using the premises and surrounding environment with the further detrimental impact on the character of the area. The proposal would therefore be contrary Policies SP3, DM5 and DM22 of the Worthing Local Plan and the relevant guidance within the NPPF

Informative

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Jackie Fox Date: 27.11.24

Authorised by: Louise Prew Date: 27/11/2024