Expiry Date - 11/12/2024

Development Control – Delegated Officer Report

Application Number: AWDM/1317/24 **Recommendation – REFUSE**

Site: **Shell Worthing Service Station Sompting Avenue Worthing West Sussex**

Proposal: **Outline Planning Application and Reserved matters for Petrol Station.**

Application to Vary Condition No. 3 of Previously approved AWDM/0115/16 which varied WB/0742/68. Amendment: to allow the use of the petrol filling station shop and forecourt pumps 24 hours every day.

Site Visit: 29.10.24

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The application property is a petrol filling station with car wash. It is situated in a residential area on a large roundabout. Residential terrace exists to north and west. These are orientated so the rear windows face onto the service station.

Proposal

The application proposes an amendment to condition 3 of **AWDM/0115/16 which varied WB/0742/68** which stated:

The use of the petrol filling station shop and forecourt pumps shall only occur between the hours of 06:00am and 11:00pm of the same day every day, and the use of the car wash bay shall only occur between the hours of 07:00am and 07:00pm of the same day every day.

Reason: In the interests of amenity having regard to saved policies RES7 and H18 of the Worthing Local Plan

To

The use of the petrol filling station shop and forecourt pumps shall be 24 hrs every day, and the use of the car wash bay shall only occur between the hours of 07:00am and 07:00pm of the same day every day

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:

WB/0742/68/FULL- Outline and reserved matters for petrol station – Approved

AWDM/0115/16- Application to vary condition 5 of WB/07/0742/68 to allow filling station to open from 6am- APPROVED

Consultations:

WSCC Highways

The preceding application AWDM/0115/16 sought earlier opening hours from 6am. WSCC in its capacity as Local Highway Authority (LHA) were consulted for this application, raising no objections to these proposals.
For the current submission, 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 Sompting Avenue. 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 located on a B road, on which there will be relatively little through traffic at night. It is overlooked by residential property, some of which on

Beaumont Road are only around 15m from the forecourt canopy. 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.

Representations: .

126 Marlowe Road

Noise from early morning deliveries
Damage to property from additional traffic

120 Marlowe Road
This is ridiculous, the garage already cannot keep the noise down. Consistently they strim the grass outside the garage at 11pm or between 6-8am. My son sleeps in the back bedroom and has been broken many times with their noise. Also consistently there are queues of cars beeping at unsocial hours if they close pumps plus in the early mornings. Also you can hear their pumps clicking all day as they are hard to use. You can hear them open up every morning and then close up. If there is a petrol shortage the traffic and noise pollution is horrendous. If they open 24 hours a day then this will drive even more inconsiderate drivers to the area, the later drivers tend to play music really loud, they burn rubber around the roundabout. This is a recipe for making Worthing a really unsociable area. We 100% disagree with this, it's greedy and has nothing to do with making things better for the residents it's actually 100% against that. It's pure greed and will just make living in this part of Worthing hideous

72 Broadwater Street East

We live adjacent to the Shell Worthing Service Station and wish to formally express our opposition to the proposed extension of their operating hours to a 24-hour schedule. Our primary concern is the anticipated increase in light and noise pollution during nighttime hours. As a family with young children, we believe that any additional disturbances could adversely affect their sleep patterns, thereby impacting our overall quality of life

Relevant Planning Policies

National Planning Policy Framework
National Planning Practice Guidance
Worthing Local Plan Policies SP1, SP2, SP3, DM5, DM22

Planning Assessment

The main issue is the impact on residential amenity of the extended hours of opening.

Residential Amenity

The property is situated in

The principle of the use and hours from 6am 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 sides and rear. The back gardens share a boundary with the site above and within the upper floors of adjoining properties and to the rear. Although on a main road on a roundabout within no other commercial uses other than a shop, 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 the service station is located on a B road, on which there will be relatively little through traffic at night. It is overlooked by residential properties, some of which are only around 15m from the forecourt canopy.

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 amenity of these homes at nighttime is protected by the current planning condition which curtails the opening hours.

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, the application has been assessed as a filling station, retail store and as a destination for late night refreshment.

The applicant has provided a BS4142 noise assessment with the application which is not considered relevant to the EHOs concerns. The scope of BS4142 set out 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.

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 within close proximity would change the character of the area and result in further unacceptable impact on residential amenity and the 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.

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 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 recommends applying for 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: 28/11/2024