

Planning Committee: 05 July 2011

Item Number:

Application No: W 10 / 1607

Town/Parish Council: Cubbington
Case Officer: Rob Young

Registration Date: 12/01/11

Expiry Date: 09/03/11

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Comptons Garage, Rugby Road, Cubbington, Leamington Spa, CV32 7HY

Redevelopment of existing petrol filling station and garage/workshop to provide new petrol filling station and garage/workshop along with associated ancillary features and alterations to the existing vehicular access FOR Simon Smith Group

This application is being presented to Committee because the Parish Council are in support of the application and it is recommended that planning permission is refused.

SUMMARY OF REPRESENTATIONS

Parish Council: Support. It is essential for a petrol filling station to be retained at this site as it is an important asset for the local community.

The Parish Council have subsequently submitted further comments to reiterate their strong support for the proposals and confirm that they are of the opinion that the retail aspects will have no significant impact on the other shops in the area.

Public Response: 4 neighbours have objected to the application. 3 further neighbours have stated that they do not object to the principle of the development, but raise concerns about certain aspects of the proposals. The following concerns have been raised:

- detrimental to highway safety;
- traffic will be a particular problem at school opening and closing times when parents use the parking bays opposite the site;
- the existing access onto Kenilworth Road is little used at present but the proposals will greatly increase the use of this access;
- the existing mini roundabout does not cope well with existing traffic flows and this will be worsened by the proposals;
- inadequate parking;
- increased air pollution due to additional traffic on Kenilworth Road;
- there is no need for such a large retail outlet;
- there are existing shops that will be affected in the near vicinity;
- there is no need for a bakery because there is one in the village;
- the area does not need a petrol site or retail premises open from 0600 to 2300 hours;
- light pollution;
- increased litter;
- noise from the car wash;
- the noise assessment has not considered the most significant noise making activity - high pressure water hitting car bodies;
- the application does not make clear over what hours the car valeting operation will take place - this should be controlled by condition;

- a condition should be imposed to require the doors to the valeting bay to be kept closed when the bay is in operation;
- the proposed plan does not show any containers associated with the valeting bay (i.e. the ISO container and ancillary IBCs) - these would have a visual impact;
- noise from increased traffic;
- the acoustic fence around the condenser units indicates that there will be noise;
- smells from the bakery prep area;
- increase in crime and nuisance;
- overdevelopment;
- overdominance and scale of development;
- visual intrusion;
- detrimental to the character of the area; and
- there are currently a high number of signs on the Rugby Road frontage and these may migrate to the Kenilworth Road frontage if the access arrangements are changed.

The applicant has submitted a petition of 155 signatures in support of the application.

Environment Agency: We have no objection to the proposed development and would recommend the following comments and conditions be applied to any permission granted.

Site Contamination: Over the past four years we have been involved with Compton's Garage and the Site Investigation, Risk Assessment and Remedial Strategy have all been agreed prior to this planning application. We are in agreement with the current approach to remediation and wish to impose a condition to ensure detailed remedial strategies are agreed with the LPA and completed whilst development is taking place (i.e. during time when old tanks have been taken out). Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application.

Foul Drainage: We would have no objection to the connection of foul water to the mains foul sewer, as proposed. The LPA must ensure that the existing public mains sewerage system has adequate capacity to accommodate this proposal, in consultation with the relevant Sewerage Utility Company.

Export & Import of wastes at site: Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised. Should it be proposed to import waste material to the site for use in the construction of the development (e.g. for the construction of hard-standings, access tracks etc) a waste management licence, PPC Permit, or Exemption may be required. Please contact telephone 08708 506506 for further information with regard to the waste requirements.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities.

WCC (Highways): No objection, subject to conditions.

WCC (Ecology): The site has no nature conservation designation and no protected species have been recorded on site. The Ecology Unit has no grounds to object to this proposal, although should Warwick District Council be minded to grant approval to the application, we would recommend that a number of advisory notes are attached as a guide to the developer.

Bats will frequently utilise buildings during the summer months as roosting and maternity locations. Such a location is protected throughout the year, even if individuals are not in permanent residence. The garage and workshop are brick built structures, with a part flat roof and a part pitched, covered by corrugated sheeting. Neither building would appear to have a separate roof void. Although these features would suggest the buildings are likely to be of low value for bats, as they can be found roosting in unlikely locations, it is recommended that a bat note be attached to any decision notice. The use of a breeding bird note is also advised. Any works that would affect the canopy fascia of the petrol filling area are unlikely to create any ecological concerns, but the above mentioned notes should still be borne in mind. Owing to the proposed soft landscaping of the site, it is also recommend that a native planting note be attached for the benefit of the developer.

Green Infrastructure Manager: No objection. Recommends a condition to require the existing trees to be protected by fencing to BS5837:2005 at the edge of the grass verge.

Environmental Health (original proposals): The above site is well known to our department from a contaminated land perspective and as such we have been party to several reports detailing the results of ongoing investigative and remediation work on the site. Various conditions are recommended to deal with the issue of contamination. With regard to noise, is it possible to confirm from the applicant that the proposed valeting bay will not include any wash facilities as described by their noise consultants.

I am surprised and concerned that the planning applicant has not discussed any potential changes to the petrol installation with me. Requirements of an Environmental Permit re petrol vapours etc. could potentially affect any layout you are being asked to approve.

Environmental Health subsequently confirmed that their concerns have been allayed in respect of the Environmental Permit.

Environmental Health (following amended noise assessment): Following the request for confirmation that the proposed valeting bay will not include any wash facilities, the applicant confirmed that the valeting bay would in fact include jet wash apparatus and an amended noise assessment was submitted to address this. Environmental Health made the following comments in relation to the amended noise assessment.

External Plant: The noise assessment predicts rating levels 5dB and 3dB above the lowest measured background noise level for day and night-time periods respectively. Standard planning condition requirements for plant noise are that this should not exceed the background noise level by more than 3dB(A). The predicted noise levels are borderline and cannot be stated with confidence to prevent nuisance to noise sensitive premises. We would require that the proposed screening is improved to meet the requirements of the standard conditions (not exceeding background levels by more than 3dB day or night).

Garage facilities (Jet Wash): I have serious concerns regarding the proposed use of the jet wash area with the shutter doors open. The noise assessment undertaken has only used sound power levels from operational plant to predict a rating level at noise sensitive receptors. The assessment needs to consider the noise from the jet wash making contact with vehicle body work as this noise is likely to be the dominant noise from the jet wash. The noise prediction as it stands is not a valid prediction of the noise likely to be created by use of the jet wash area with the shutter doors open.

Workshop and MOT areas: The predicted rating level is 14db above the lowest measured background noise level for the day time period. We would require a detailed justification that the roller shutter doors proposed to be closed will provide the required attenuation.

Light Nuisance potential: Due to the lack of information provided on the proposed external lighting for the development we would recommend a condition to require details of all external lighting to be submitted for approval.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

PLANNING HISTORY

There have been a number of previous planning applications relating to the application site. These were mostly relatively minor applications relating to alterations to the petrol filling station and workshop and therefore these are not directly relevant to the consideration of the current proposals. The most recent applications relating to the application site were for residential development and these are listed below.

In 2003 outline planning permission was granted for "Erection of 9 dwellings" (Ref. W02/1231).

In 2006 reserved matters for the 9 dwellings were approved (Ref. W06/0375).

In 2008 planning permission was granted for "Variation of condition 14 of pp W2002/1231 to allow for phased provision of site remediation works" (Ref. W07/2066).

It is understood that a material start has been made on the residential development authorised by the above permissions and therefore the redevelopment of the site for residential purposes could be recommenced at any time without the need for a further planning permission.

KEY ISSUES

The Site and its Location

The application relates to a petrol filling station that occupies a corner position at the junction of Rugby Road and Kenilworth Road. The site has frontages to Rugby Road and Kenilworth Road, with vehicular accesses on both frontages (two on Rugby Road and one of Kenilworth Road). A single storey brick building occupies the centre of the site and this is divided into a sales area and a workshop. The fuel pumps are situated to the front of this building on the Rugby Road frontage, with a canopy over. The majority of the site is covered in hard surfaces, although there is a landscape strip of grass and small trees along the frontages of the site (situated within the public highway). There is a further smaller strip of landscaping within the application site along the north-western boundary.

The site is situated within a predominantly residential area. Dwellings adjoin the south-western and north-western boundaries of the site and face the site from the opposite side Rugby Road and Kenilworth Road.

Details of the Development

The application proposes the redevelopment of the site to provide a new petrol filling station and garage/workshop along with associated ancillary features and alterations to the existing vehicular access. The proposed sales building and workshop would occupy a single building towards the centre of the site with a canopy on the front of the building covering the new fuel pumps that would be located towards the front corner of the site fronting onto Rugby Road and Kenilworth Road. One of the existing accesses onto Rugby Road would be blocked up and the development would use the other existing access onto Rugby Road and the existing access onto Kenilworth Road. The proposed building would include a valeting bay to one side. The proposed building would be larger than the existing building on the site and would include a larger shop. Marked parking bays would also be included around the site.

The following amendments have been made to the application:

- alteration to layout of parking spaces;
- provision of additional parking spaces alongside the boundary with No. 77 Rugby Road;
- provision of cycle parking; and
- confirmation that the valeting bay will include jet-wash apparatus.

Assessment

The main issues relevant to the consideration of this application are as follows:

- the impact on the living conditions of neighbouring dwellings;
- the impact on the vitality and viability of nearby local shopping centres;
- the impact on the character and appearance of the area;
- car parking and highway safety; and
- contamination.

Impact on the living conditions of neighbouring dwellings

There are dwellings in close proximity to the application site. Environmental Health have raised concerns about the revised noise assessment that has been submitted. The applicant's acoustic consultant had initially stated that the valeting bay would not include washing facilities, but it is now stated that jet wash equipment will be used. This is a cause for concern because the noise assessment only considers the noise of the machinery itself and does not consider the noise of the water striking the vehicle, which is the main source of noise from jet wash equipment. Consequently the noise assessment does not demonstrate that the use of jet wash equipment in the valeting bay would not cause undue noise and disturbance for neighbouring dwellings.

Environmental Health have also raised concerns about noise from external plant. The predicted noise levels in the noise assessment would be borderline in terms of what is considered to be acceptable and therefore it cannot be stated with confidence that the external plant will not cause nuisance to nearby dwellings. Environmental Health have also stated that there is insufficient information to demonstrate that the roller shutter doors would provide adequate sound attenuation for the workshop.

Taking into account the comments from Environmental Health, I do not consider that sufficient information has been submitted to demonstrate that the proposals would not cause undue noise and disturbance to nearby dwellings. Therefore I consider that planning permission should be refused for this reason.

In terms of the physical impact of the development, the proposals are for a single storey building set off the site boundaries and therefore I do not consider that this would cause undue loss of light or loss of outlook for neighbouring dwellings.

I note the concerns that the repositioning of the pumps closer to Kenilworth Road would cause visual intrusion, increased noise, air pollution and litter for nearby residents. I also note the concerns about increased traffic on Kenilworth Road as a result of the revised access arrangements. However, I do not consider that the proposals would cause demonstrable harm in these respects. The repositioned pumps would be no closer to the houses on the opposite side of Kenilworth Road than the existing pumps are to the houses on the opposite side of Rugby Road.

With regard to the concerns that have been raised about smells from the bakery preparation area, I note that Environmental Health have not raised this as an issue and therefore I do not consider that the proposals would have an adverse impact on nearby residents in this respect.

Impact on the vitality and viability of nearby local shopping centres

Local Plan Policy UAP3 states, amongst other requirements, that retail development will not be permitted unless it can be demonstrated that the proposal would not have a significant adverse impact on the vitality and viability of town centres, district centres and local centres. This is consistent with advice in Planning Policy Statement 4: Planning for Sustainable Economic Growth. There are two local shopping centres near to the site. The Rugby Road Local Shopping Centre is situated 250m to the south-west on the same road. The Queen Street Local Shopping Centre is situated 625m to the south-east. In assessing the impact on the vitality and viability of these centres, I have had regard to a very recent appeal decision relating to the redevelopment of the

Stratford Road Filling Station in Warwick (Ref. W10/0557). That application proposed the redevelopment of the site to include a new forecourt, an enlarged shop and a car wash.

The applicant in the current case has argued that the proposals for the Stratford Road site are not comparable with their proposals for the Comptons Garage site. They contend that the proposals for the Comptons Garage site are for a larger mixed use development including a large workshop. They have also pointed out that the proposals for the Comptons Garage site would include more fuel pumps. However, having considered the differences between the two schemes, I do not consider that the differences are so significant as to render the Stratford Road decision irrelevant. Rather, I find that there are sufficient similarities between the two schemes, to make that previous decision highly relevant to the consideration of the current proposals.

The Inspector in the Stratford Road case concluded that the proposed retail floorspace would not be ancillary to the sale of fuel, would have a wider draw than passing motorists and would harmfully affect the vitality and viability of the Shakespeare Avenue Local Shopping Centre. An earlier appeal in relation to the Stratford Road site was also dismissed for the same reasons. In comparison, the proposals for the Comptons Garage site would include a larger shop (net retail floorspace of 139 sq m compared with 121 sq m for the Stratford Road proposals) and would be closer to the nearest Local Shopping Centre (250m compared with 340m for the Stratford Road proposals). I would note that the existing shop on the Comptons Garage site is slightly larger than the existing shop on the Stratford Road site. However, they are both currently very small shops and the difference in size is not so significant that comparisons cannot be drawn between the two sites. The existing net retail floorspace on the Stratford Road site is 26 sq m, whereas the existing net retail floorspace on the Comptons Garage site is 44 sq m (excluding the sales counter in both cases).

The applicant has contended that the proposed retail floorspace would be ancillary to the sale of fuel. However, given the amount of retail floorspace proposed, I do not consider that this can be considered to be ancillary. In addition to serving the needs of motorists purchasing fuel, this size of shop is likely to attract a significant number of customers to the site just to visit the shop. This is in accordance with the conclusions of the Inspector in the Stratford Road appeal. The retail statement submitted with the application states that the shop is likely to be branded a format closely associated with local shopping such as Londis or Budgens. This adds weight to my conclusion that the shop would not be ancillary to the sale of fuel but would be a destination in its own right.

The retail statement in support of the application concludes that the proposals would not have any negative impact on any retail floorspace within the local area. However, as the shop would not be ancillary to the sale of fuel, I believe that there is a real prospect that it would draw trade away from nearby local shopping centres. In this case the nearest local centre is very close and therefore particularly vulnerable to any retail development on the application site. The Rugby Road Local Shopping Centre is 250m from the site and situated on the same road. The Rugby Road shops comprise 8 units including a newsagents and a convenience store. Consequently 2 of the 8 units would be affected by the proposed additional retail floorspace on the application site, i.e. a quarter of the centre. Given the longer opening hours and significantly larger floorspace, I consider that the proposed shop on the application site is likely to draw a significant amount of trade away from the newsagents and convenience store on Rugby Road. As this would have a significant impact on a quarter of the units in the local shopping centre, I consider that this would seriously undermine

the vitality and viability of the centre. I am further of the opinion that the small size of this centre renders it particularly vulnerable to competition from nearby retail facilities.

With regard to the other nearby local shopping centre at Queen Street, this is slightly further away and not on the same road. However, given the size of the proposed shop, I still consider that the Queen Street shops would be affected by the proposals. The Queen Street Local Shopping Centre comprises 7 units including 3 convenience stores, a post office / newsagents and a bakery. Consequently 5 of the 7 units would be affected by the proposed additional retail floorspace on the application site, i.e. over two-thirds of the centre. Again, given the longer opening hours and significantly larger floorspace, I consider that the proposed shop on the application site is likely to draw a significant amount of trade away from the convenience stores, newsagents and bakery on Queen Street. As this would have a significant impact on more than two-thirds of the units in the local shopping centre, I consider that this would seriously undermine the vitality and viability of the centre. Again, I am of the opinion that the small size of this centre renders it particularly vulnerable to competition from nearby retail facilities.

The applicant has stated that the development would bring significant benefits in terms of preserving an important local facility, being the only petrol filling station in the northern part of Leamington. In considering this issue I am also conscious of the strong support of the Parish Council and the petition that has been submitted in favour of the proposals. However, having carefully considered this issue, I do not consider that these benefits would outweigh the harm to the vitality and viability of nearby local shopping centres or the conflict with Local Plan Policy UAP3 or PPS4. I would also be concerned that granting planning permission for these proposals would not be consistent with the decisions that the Council has made in relation to the Stratford Road site which have been upheld at appeal.

I have further concerns about the generous customer waiting area for the workshop because this would be located within the same room as the proposed retail floorspace with no physical subdivision between the two. Whilst a condition could be imposed to prohibit this area from being used as retail floorspace, this would still add to the circulation space available for the shop (the access to the shop would be through this area) and it may be hard to prevent the retail floorspace from extending into this area in the future. This would have an even greater impact on the vitality and viability of the nearby local centres and therefore this adds to my concerns on this issue.

In conclusion on this issue, I consider that the proposals would cause unacceptable harm to the vitality and viability of the nearby local shopping centres at Rugby Road and Queen Street. I therefore consider that the proposals would be contrary to PPS4 and Local Plan Policy UAP3.

Impact on the character and appearance of the area

I am satisfied that the proposals would have an acceptable impact on the character and appearance of the area. The design and form of the replacement building would be appropriate for this location and would be in keeping with the established pattern of development in the area. Therefore I do not consider that the proposals would represent an overdevelopment of the site, as has been suggested by objectors.

Car parking and highway safety

The Council's Parking Standards would require a total of 34 parking spaces, based on the standards for a shop and vehicle repair / garage. The application has been amended to provide additional parking spaces, but there would still only be a total of 21 spaces. However, I note that there has been no objection from the Highway Authority on highway safety grounds and the application has been amended to provide cycle parking. Furthermore, as the site contains a mix of uses, there would be some scope for parking to be shared between the different uses. Also, a proportion of the car-borne customers visiting the shop would be purchasing fuel and so would leave their cars parked at the pump rather than taking up parking spaces. I am also conscious that parking was considered in relation to the Stratford Road appeal and the Inspector concluded in that case that a shortfall in spaces in relation to the Parking Standards did not justify a refusal of planning permission. Taking all these factors into account, I do not consider that a refusal of planning permission would be justified on parking grounds.

I note that a number of the objectors raise concerns about highway safety. A number of neighbours are particularly concerned about the alterations to the access arrangements and specifically the increased use of the Kenilworth Road access. However, I am conscious that there has been no objection from the Highway Authority and therefore I am satisfied that the proposed access arrangements are acceptable from a highway safety point of view. In reaching this conclusion I have also had regard to the fact that the proposals would replace an established filling station, albeit on a larger scale, and that there is an established access onto Kenilworth Road.

Contamination

The Environment Agency and Environmental Health have not objected to the proposals in relation to the issue of contamination. Therefore, if the proposals had been considered to be acceptable in other respects it would have been possible to deal with the contamination issues by imposing appropriate conditions on any planning permission.

Other matters

The issue of potential light pollution could be dealt with by a condition requiring details of external lighting to be submitted for approval.

The application proposes the installation of an air source heat pump to meet 10% of the predicted energy requirements of the development, in accordance with Local Plan Policy DP13.

I note the concerns that have been raised about increased crime and nuisance. However, as this is an established petrol filling station site, I can see no reason why crime or nuisance should be any worse as a result of the redevelopment proposals.

RECOMMENDATION

REFUSE, for the reasons stated below.

REFUSAL REASONS

- 1 Policy UAP3 of the Warwick District Local Plan 1996-2011 states (inter alia) that retail development will not be permitted unless it can be demonstrated that the proposal would not have a significant adverse impact on the vitality and viability of town centres, district centres and local centres. This is consistent with advice in Planning Policy Statement 4: Planning for Sustainable Economic Growth.

The application proposes retail development in an out of centre location. In view of the amount of retail floorspace proposed, this would not be ancillary to the sale of fuel and therefore the proposals are likely to attract a significant number of customers to the site just to visit the shop. Consequently the proposals are likely to draw trade away from the nearby Rugby Road and Queen Street Local Shopping Centres. In the opinion of the District Planning Authority this would cause unacceptable harm to the vitality and viability of those local shopping centres.

The proposals are therefore considered to be contrary to the aforementioned policies.

- 2 Policy DP2 of the Warwick District Local Plan 1996-2011 states (inter alia) that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents. Furthermore, Policy DP9 states that development will only be permitted which does not give rise to noise pollution which could cause harm to sensitive receptors.

The application site is surrounded by residential properties and the application proposes some potentially noisy activities and the use of some potentially noisy machinery, including the workshop, jet washing equipment and external plant. In the opinion of the District Planning Authority, the noise assessment that has been submitted with the application does not provide sufficient information to demonstrate that the proposals would not cause undue noise and disturbance to nearby dwellings.

The proposals are therefore considered to be contrary to the aforementioned policies.
