

**Planning Committee:** 22 February 2011

**Item Number:**

**Application No:** W 10 / 1521

**Town/Parish Council:** Kenilworth  
**Case Officer:** Alex Smith

**Registration Date:** 23/11/10

**Expiry Date:** 18/01/11

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**Shell Petrol Filling Station, 173 Warwick Road, Kenilworth, CV8 1HY**

Removal of Condition 10 to allow 24 hour trading for the Shell petrol filling station FOR Shell UK Oil Products Limited

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This application is being presented to Committee as a petition of 1,183 people in support of the application was provided and it is recommended for refusal.

**SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** "Members OBJECTED strongly to the proposal on the grounds that:

It was contrary to section DP2 of the WDC Local Plan, being situated in a designated residential area and would create a serious loss of amenity.

Additional to the unneighbourly increase in noise and light pollution for Clarkes Avenue, there was also a grave risk of the proposal acting as a magnet for anti-social behaviour."

**Warwickshire Police:** All sales will be served through a serving hatch, members of the public will not be allowed into the shop during the extended hours.

**Warwick District Council's Community Safety Team:** The Community Safety Team has not received any official complaints of anti social behaviour related to the petrol station in the past. There has been one unofficial suggestion of problems at this location made by a resident previously.

**Jeremy Wright - MP (Kenilworth and Southam):** Objects on grounds that the petrol station is located very close to a number of residential properties in the immediate vicinity and has been site of several incidents of anti-social behaviour. Believes longer opening hours for the petrol station will become a magnet for further such behaviour.

**Public Response:** 31 Objections - 1 Support

The objections recieved were primarily from residents of Clarke Avenue and Warwick Road which are adajcent to the application site. The objections relate to:

Increased noise at unsociable hours.

Site became a meeting place during the early hours of the morning.

Garage previously operated 24 hour without permission.

Patrons of the old 24 hour garage caused vandalism and litter.

Area already operates as an informal taxi drop off point.

Potential for anti-social behaviour at unsociable hours.

Increased requirements for policing in the area.  
Would be detrimental to quality of life.  
Detrimental to Bed and Breakfast businesses on Warwick Road.  
Insufficient traffic to require 24 hour opening and other 24 hour garages in region available for use not in residential areas.  
Petition does not reflect local need.  
Area is predominately residential, so the application does not consider the local residents.  
Contrary to Policy DP2 of the Warwick District Local Plan.  
Increased traffic to site at unsocialable hours.  
Increased light pollution.

The comments in support of the application relate to:

Creation of jobs.  
No garages in Kenilworth open early in the morning.

### **RELEVANT POLICIES**

- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)

### **PLANNING HISTORY**

A garage has been in existence on the site since pre-1949. However, its original form was as a car sales garage.  
Permission was granted in 1976 for the demolition of the existing premises and erection of shop, canopy, car wash, petrol pumps and underground tanks (W/79/105). Condition 7 on this decision notice stated "The petrol station hereby permitted shall be open only between the hours of 7am and 11pm daily".

Since the granting of this permission the garage opened 24 hours in breach of condition and no enforcement action was taken against this breach.

In 2006 an application was granted for the erection of a replacement petrol filling station, ancillary shop and canopy (W/06/1194). During the public consultation on this application 7 neighbours (including Jeremy Wright - MP) objected that the existing garage was operating 24 hours and impacting the amenity of the surrounding dwellings.

Due to this, and on the recommendation of Environmental Health, Condition 10 was attached to the decision notice stating "The use of the whole premises for the purposes of the shop and fuel station shall be restricted to between the hours of 7am and 11pm". This condition on the newly constructed garage has since been adhered to.

### **KEY ISSUES**

#### **The Site and its Location**

The application relates to a petrol filling station and ancillary shop at the southern end of Warwick Road. The site is adjacent to the St Johns Conservation Area and shares an eastern and northern boundary line with residential properties on Clarke's Avenue and Warwick Road.

Within the surrounding area of the site is a public house, offices, St Johns Church, a hotel and bed and breakfast's. Despite the busy main road and surrounding businesses, the area is predominately residential in character, with a number of dwellings in close proximity to the site.

### **Details of the Development**

The application is for the removal of Condition 10 from Decision Notice W/06/1194 to allow 24 hour trading for the petrol filling station.

### **Assessment**

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

#### Benefit to the community against the impact to the amenity of the neighbouring dwellings.

As part of the application a petition was submitted with 1,183 signatures of support, with 560 being from addresses in Kenilworth. The applicant outlines in a supporting statement that this is evidence of strong local support for a 24 hour operation in Kenilworth. The public consultation for this application returned only one respondent supporting the 24 hour operation. If there was a strong local demand for this service, then it would be anticipated that more than one letter of support would be provided from the consultation process.

In a letter to the council dated 24<sup>th</sup> January 2011, the applicant detailed a number of signatories from 12 streets who live in close proximity and support the application. Having analysed this information I am of the opinion that the streets whose amenity would be directly affected by the application would be Warwick Road, Clarke's Avenue and St John's Street, only 7 of the signatories live in these streets. During the consultation process 31 residents, Kenilworth Town Council and the MP for Kenilworth and Southam all raised objections to the proposed 24 hour trading. The majority of these residents live in Clarke's Avenue and St Johns Street.

At present the nearest 24 hour petrol station is 5km away at Guy's Cliffe, Warwick. This site has no directly adjacent residential properties and is therefore more suited to 24 hour operation than the applicant site.

The area surrounding the application site is residential in character, and the majority of bars and pubs in Kenilworth are licensed to close at Midnight to protect the amenity of their surrounding residential dwellings. The Shell Garage in Kenilworth acts as an informal taxi drop off point at weekends, as taxi drivers' offer discounted rates to drop off at this location. When the garage previously opened on a 24 hour basis it acted as magnet for people to congregate, as it was the only place open to purchase food in Kenilworth after midnight. The objection letters state that people visiting the garage late at night led to increased noise at unsociable hours in the morning, along with some antisocial behaviour.

The applicant has provided evidence from Warwickshire Police that their data relating to anti-social behaviour has no correlation to the garage opening 24 hours. Also the Warwickshire Police, WDC's Anti-Social Behaviour Officer and Environmental Health have raised no objection to the application.

The benefit of granting this application would be to allow a few members of the community access to local petrol and food at the early hours of the morning. However, a 24 hour operation in such close proximity to residential dwellings

would have a serious impact on the amenity of the surrounding residents and this would far outweigh the potential benefits to the wider community.

The residents surrounding the application site have lived through the experience of the previous 24 hour garage. The objection letters demonstrate their view that granting this application would impact on their quality of life and enjoyment of their homes. I believe the strength of objection from the consultation process is sufficient grounds for refusal under Policy DP2 of the Warwick District Local Plan.

The applicant has also requested a temporary removal of the condition to allow a trial period of six months, at which point the impact to the neighbouring residential dwellings could be monitored. I am of the opinion that the temporary removal of the condition would again impact on the amenity of the local residents contrary to Policy DP2 of the Warwick District Local Plan.

**RECOMMENDATION: REFUSE**

**REFUSAL REASONS**

- 1 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.

The removal of the existing condition would lead to increased usage of the garage at unsociable hours of the day. The associated noise would negatively impact the amenity of the adjacent dwellings and would affect the quality of life of these residents.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy.

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