

Agenda Item A9	Committee Date 27 July 2009	Application Number 09/00507/VCN
Application Site BP Filling Station Scotforth Road Lancaster Lancashire	Proposal Application for variation of conditions 4 and 5 regarding opening hours and hours of deliveries/collections on application 03/01157/FUL	
Name of Applicant Mr Inayat Munshi	Name of Agent Ms Susan Hughes	
Decision Target Date 21 July 2009	Reason For Delay Awaiting consultee responses	
Case Officer	Mr Martin Culbert	
Departure	No	
Summary of Recommendation	Approve, 1 year temporary permission	

1.0 The Site and its Surroundings

- 1.1 This site is the existing service station which fronts on to the eastern side Scotforth Road A6. The Bowling Green Public House and Booths Supermarket lie to the south of the site but otherwise it is almost completely surrounded by residential development. The main service station building, which also contains a shop and an automated teller machine, is situated alongside the southern boundary of the site. Jet wash, vacuum and airline facilities are set back from the road in the centre of the site beyond the fuel pump forecourt area. A car wash building is situated adjacent to the northern boundary of the site, next to the nearest dwelling. The opening hours of the service station are restricted by condition 2 of permission 87/0325 and condition 4 of permission 03/01157/FUL to 0:700 to 23:00 Monday to Saturday and 08:00 to 22:00 on Sunday,

2.0 The Proposal

- 2.1 This proposal is complementary to application 09/00506/VCN and should be considered in association with that application.

This proposal is a full application to amend condition 4 of permission 03/01157/FUL, to modify the opening hours of the Service Station to 06:00 to 23:00 Monday to Sunday for a trial period of 12 months (as with the modification of condition 2 of 87/0325) and to amend condition 5 of permission 03/01157/FUL to prevent deliveries taking place outside the hours of 07:00 to 23:00 Monday to Saturday and 08:00 to 22:00 on Sunday and Bank Holidays, ie. their existing approved hours.

3.0 Site History

- 3.1 This site has a long and complex history of which very little is of direct relevance to the consideration of this application.

Planning permission was originally granted for the development of this site as a petrol filling station in 1979 under application 79/1024. This restricted opening hours to 07:30 to 22:00 Monday to Sunday.

In 1987 permission 87/0325 was granted to extend the opening hours to 07:00 to 23:00 Monday to Saturday and 08:00 to 22:00 on Sunday.

In 1993 an application 93/00711, to extend opening to 24 hours was refused on the grounds that it would cause unacceptable disturbance and loss of amenity to the residents of nearby dwellings.

In 2003 an application 03/01157/FUL for a jet wash facility was approved subject to restricting its hours of use to 08:00 to 18:00 Monday to Sunday.

In 2006 an application 08/00699/FUL to extend opening to 24 hours was refused for the same reasons as the previous similar application.

In 2007 a subsequent appeal 07/00009/REF was dismissed by the Inspector for the following reason:-

"I conclude on balance that continuing to open the service station on a 24 hour basis as proposed would be likely to unacceptably harm the living conditions of neighbouring residents, with particular reference to noise and disturbance late at night and in the early hours of the morning, contrary to LP Policy EC6 and the aims of PPG24 and PPG4. Furthermore, I conclude that condition no. 2 is reasonable and necessary as a means of safeguarding the living conditions of those residents and I am also satisfied that it meets the other tests of conditions set out in Circular 11/95."

4.0 Consultation Responses

4.1 The following responses have been received from statutory consultees:

Statutory Consultee	Response
Chief Environmental Health Officer	No objection to 12 months temporary permission
County Highways	No observation

5.0 Neighbour Representations

5.1 Seven letters have been received from residents in the local area objecting to the proposal on the grounds of increased noise and disturbance from cars, deliveries, use of air machine and HGC parking on both sides of the A6 to use the shop, all at an unsocial time before 07:00.

No need to open at 06:00, very little traffic at that time, general noise and disturbance has increased dramatically in recent times following the closure of Toll Bar Filling Station and the introduction of cycle lanes on the A6 which have reduced the carriageway to one lane causing frequent queues past the filling station entrances and difficulties for people entering and leaving the site.

6.0 Principal Development Plan Policies

6.1 The preamble to Policy EC15 of the Lancaster District Local Plan (Business and Industrial Development Outside Employment Areas), a copy of which is appended to this statement, suggests that:-

"Whilst most employment development will take place on identified sites, some services uses can satisfactorily be located in residential areas. Some businesses outside employment areas may also need to expand and appropriate employment development outside employment areas will be allowed where compatible with other policies of the Local Plan".

However, it also goes on to advise that:-

“Where proposals for employment use are located close to houses, residential amenity will be for the primary consideration”.

The policy itself states that:-

“Business uses will be permitted outside established employment areas provided that there will be no significant impact on the amenities of adjoining residents and businesses.”

7.0 Comment and Analysis

7.1 The first element of this submission is to amend condition 4 regarding the hours of opening on Application No. 03/01157/FUL. This is an identical to the request on the previous agenda item Application No.09/00506/VCN. As mentioned in that report the hours of opening for the station site were identically controlled in two separate applications in 1987 and 2003. For administrative reasons and consistency it is important that the approved hours are identical in both submissions, hence this application which in part duplicate the earlier one.

Having said that the reasons for supporting the amended hours of opening are all set out in the preceding report and are not repeated here.

On balance officers have concluded that a temporary permission for extended opening hours could be supported and recommended accordingly.

The second part of this application also seeks the modification of condition 5 of application 03/01157/FUL. This was aimed at controlling deliveries to the site and currently states:-

“No deliveries or collections shall take place outside the hours of business hereby approved”.

This condition was imposed to ensure that deliveries such as petrol tanker supplies did not take place at unsocial hours, outside the normal hours of opening of the business causing unacceptable nuisance. With the extended hours of opening now proposed, modest as they are, the potential for additional harm to the amenity of the area has been recognised by the applicants and they have suggested that control of delivery hours should remain as per the present opening hours i.e. 0700 hrs to 23.00 hours Monday to Saturday and 08.00 hours to 22.00 hours on Sundays and Bank holidays

This is considered to be a further essential safeguard by your officers to avoid potential nuisance to nearby residents and is fully supported

8.0 Conclusions

8.1 The conclusions with regard the extended opening hour are detailed in the conclusion to the previous report (09/00506/VCN). It is considered the modest extension to the existing opening hours can be supported for a temporary period of twelve months to allow the authority to monitor the situation. The retention of the existing controls over deliveries in seen as a further safeguard to protecting the amenity of the area and is also supported

Recommendation

That Planning Permission **BE GRANTED** for a temporary period of 12 months subject to the following conditions:

1. This permission relates to the temporary modification of condition nos. 4 and 5 of Permission 03/01157/FUL only and does not purport to grant consent for any other matters.
2. Condition No. 4 of Permission 03/01157/FUL hereby temporarily modified to read:-
“The petrol filling station shall only between 06:00 hrs and 23:00 hrs Monday to Sunday, and at no other time without the express consent of the Local Planning Authority. Such hours of operation

shall be for a limited period, being the period of twelve months from the date of this decision. At the end of that period the opening hours of the petrol filling station shall return to between 07:00 hrs to 23:00 hrs Monday to Saturday and 08:00 hrs to 22:00 hrs on Sunday and Bank Holidays, and at no other time without the express consent of the Local Planning Authority.

3. "No delivery shall take place at or be dispatched from the site outside the hours of 07:00 hrs to 23:00 hrs Monday to Saturday and 08:00 hrs to 22:00 hrs on Sundays and Bank Holidays".

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

1. None