

**Committee Report - For consideration to agree the Council's position in relation to the non-determination appeal currently being considered by the Planning Inspectorate.**

Item No. 7B

Reference: DC/21/06333

Case Officer: Gemma Walker

Ward: Elmswell & Woolpit

Ward Member/s: Cllr Sarah Mansel & Cllr Helen Geake.

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**RECOMMENDATION – AGREE PUTATIVE REASON(S) IN RESPONSE TO APPEAL AGAINST NON-DETERMINATION REF APP/W3520/W/22/3312743**

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**Description of Development**

Full Planning Application - Development of a petrol filling station, a drive-thru restaurant and coffee shop, together with various infrastructure and landscaping works.

**Location**

Land Off A14, Elmswell, Suffolk

**Expiry Date:** 30/09/2022

**Application Type:** FUL - Full Planning Application

**Development Type:** Minor Retail distribution & servicing

**Applicant:** Euro Garages Ltd.

**Agent:** Mr James Bailey

**Parish:** Elmswell

**Site Area:** 1.03 hectares (ha)

**Density of Development:**

Gross Density (Total Site): Na.

Net Density (Developed Site, excluding open space and SuDs): Na. (620 square metres of planted amenity and screening areas proposed - 6% of the site area)

**Details of Previous Committee / Resolutions and any member site visit:** Members of MSDC Development Control Committee B previously considered the application proposal at the meeting on the 28<sup>th</sup> September 2022 and resolved the following:

Members were  **minded to refuse**  for the following reasons, subject to further highways and heritage advice and a risk assessment on the below reasons for refusal (See Appendix A):

1.

The proposed development, by reason of the design and layout of the proposed vehicle egress onto the A1088 and resulting increase in uncontrolled traffic levels, and the resultant conflicts between vehicles exiting the site and those using the existing A14 egress slip road, would result in severe detrimental impact on existing highway safety. On this basis the development would

be contrary to the provisions of saved Policy T6, T10 of the Development Plan and paragraphs 110, 111 and 130(f) of the National Planning Policy Framework.

2.

The proposal results in a level of less than substantial harm to the significance of heritage assets, due to the increased prominence of modern development within the setting of the historic parish churches at Woolpit and Elmswell. This is not outweighed by the limited public benefit of the provision of an additional petrol filling station in an area with sufficient provision, such that the proposal does not comply with paragraphs 199 and 202 of the NPPF.

Members also delegated to officers to review whether the proposed development would fail to safeguard against crime and disorder.

**Has a Committee Call In request been received from a Council Member:** No

**Has the application been subject to Pre-Application Advice:** Yes - Reference: DC/21/04292 – dated 13<sup>th</sup> September 2021.

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## **Introduction**

The Council has received notification of an appeal lodged by the Applicant (now Appellant) on grounds of non-determination. That appeal has not yet, at the time of drafting this report, received a start date from the Planning Inspectorate (“PINS”) but there is no reason to consider that the appeal will not be found to be valid and a start date set promptly. This likely being the case, there remains an application to determine but with an understanding that there is a likelihood the appeal will start before a formal decision can be taken within the Council’s Development Control committees. Time is thus considered to be of the essence to represent the position of the Local Planning Authority (LPA) in the non-determination appeal.

The report is informed by the “minded to refuse” resolution of Committee which has been minuted as described above.

On that basis, a recommendation is set out that will either: [a] authorise officers pursue the refusal of the application for the reason(s) set out; or, [b] resolve putative reasons for refusal upon which to defend the appeal i.e. resolve to agree those reason(s) on the basis that the Council would have refused planning permission had the appeal not been registered. As the registration of that appeal is outside the hands of the local planning authority and the Council’s resolution does not constitute the conclusive resolution and authority for the issue of a decision notice, it is procedurally appropriate to ensure that both [a] or [b] are authorised for the LPA lest the appeal be registered after the Council has reached such resolution but before the decision notice has been issued.

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application is referred to MSDC Development Control committee for the following reason/s:

Your Planning Officers consider the application is of a controversial nature and in the interest of openness and transparency request the proposal be considered and resolved by committee.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

NPPF - National Planning Policy Framework  
NPPG - National Planning Policy Guidance  
FC1 - Presumption In Favour Of Sustainable Development  
FC1.1 - Mid Suffolk Approach To Delivering Sustainable Development  
FC3 - Supply Of Employment Land  
CS1 - Settlement Hierarchy  
CS2 - Development in the Countryside & Countryside Villages  
CS3 - Reduce Contributions to Climate Change  
CS4 - Adapting to Climate Change  
CS5 - Mid Suffolk's Environment  
CS6 - Services and Infrastructure  
CS12 - Retail Provision  
GP1 - Design and layout of development  
HB1 - Protection of historic buildings  
HB14 - Ensuring archaeological remains are not destroyed  
H16 - Protecting existing residential amenity  
H17 - Keeping residential development away from pollution  
E9 - Location of new businesses  
E10 - New Industrial and commercial development in the countryside  
New Industrial and commercial development in the countryside  
S7 - Provision of local shops  
CL8 - Protecting wildlife habitats  
T2 - Minor Highway improvements  
T6 - Petrol filling stations and other road side services  
T9 - Parking Standards  
T10 - Highway Considerations in Development

## **Neighbourhood Plan Status**

This application site is within the Elmswell Neighbourhood Plan Area.

The Elmswell Neighbourhood Plan is currently at:-

Stage 1: Designated neighbourhood area

Stage 2: Preparing a draft neighbourhood plan

**Stage 3: Pre-submission publicity and consultation**

Stage 4: Submission of a neighbourhood plan

Stage 5: Independent Examination

Stage 6: Referendum

Stage 7: Adoption by LPA

Accordingly, the draft Elmswell Neighbourhood Plan is considered to have little weight currently, in consideration and determination of planning applications.

Relevant policies of the current draft Elmswell Neighbourhood Plan are as follows:

- ELM 1 - Planning Strategy
- ELM 5 - Employment Sites

Whilst not directly relevant to the application site it is prudent to mention the Woolpit Neighbourhood Plan at this juncture, as the site lies adjacent to the plan area.

The Woolpit Neighbourhood Plan was formally adopted by MSDC on 31<sup>st</sup> October 2022 and, as such, forms part of the District's adopted development plan, with full weight being attributed in consideration and determination of planning applications within the plan area.

Policies and community actions and objectives of the adopted Woolpit Neighbourhood Plan to note are as follows:

- WPT6 - Location and Sustainability of Business Sites
- WPT11 - Settlement Gaps and Key Views
- WPT12 - Footpaths and Cycleways
- Community Action - Pavements and Footpaths
- Community Action - Cycle path to Elmswell
- WPT13 - Public charging points for electric vehicles
- WPT14 - Design
- WPT15 - Design and Character

## **Consultations and Representations**

During the course of the application Consultation and Representations from third parties have been received. These are summarised below together with a post September 2022 update.

### **A: Summary of Consultations**

[Click here to access Consultee Comments online](#)

#### **Town/Parish Council**

##### **Elmswell Parish Council - 18<sup>th</sup> January 2021:**

Urges rejection:

- Highway safety - including likelihood of right turns into the site from the A1088;
- Highway safety - The Transport Assessment does not address the shortcomings previously expressed by SCC-Highways;
- The potential for vehicles queueing on the A14 eastbound and westbound slip roads has been ignored - This is a very real possibility at peak times;
- The application fails to satisfy the requirements of NPPF Paragraph 112;
- The application relies on future provision of the Elmswell-Woolpit footway/cycle link - It has no relevance in mitigating the harm that this application proposes;
- Concerns with regards the capacity of the roundabout during peak times;
- New developments at Woolpit and Elmswell will result in impediments to traffic flows and need to be taken into account when assessing this proposal;
- Concerns that HGVs will still use the site for refreshment and comfort breaks, despite no provision proposed.

##### **Woolpit Parish Council - 14<sup>th</sup> December 2021 and 23<sup>rd</sup> March 2022:**

Strongly object to the proposals:

- The exit from the site is extremely hazardous;
- The slip and roundabout from the A14 are not of a sufficient standard to accommodate the increase in traffic;
- There will be potential queueing on the A14 and also blocking the roundabout;
- No changes proposed mitigation highway safety issues for which the previous application was refused;
- Developments in Elmswell, Woolpit and surrounding villages will double local traffic volume, exacerbating current concerns regarding road safety;
- Litter will result - detrimental to the environment;
- Light pollution;
- Proposal will result in contamination of the site;
- Pedestrian and cyclist safety concerns;
- Harm to the land and surrounding area outweighs gains;
- Concerns with regards comments made by National Highways;
- Consider proposal is contrary to policies E9, E10, T6, T10, NPPF 108 & 109.

##### **Norton Parish Council - 18<sup>th</sup> January 2022 and 8<sup>th</sup> March 2022:**

Strongly reject this application:

- Area in question is too small for the proposed development;
- Access and egress present a grave concern and surrounding roads are not of a sufficient standard;
- Likely to be queuing on the A14 and hindrance of users of the roundabout;
- Traffic volume raised road safety concerns;
- Affect on local services and facilities of surrounding villages;
- Impact of litter on the surrounding area and local environment.

### **National Consultees**

#### Anglian Water - 26<sup>th</sup> November 2021:

Have no comments - There is no connection to the Anglian Water sewers.

#### Environment Agency - Initial Response - 22<sup>nd</sup> December 2021:

Holding Objection - Insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable - Guidance on overcoming objection given.

#### Environment Agency - Final Response - 18<sup>th</sup> February 2022:

Recommend lifting previous objection - Have reviewed the Fuel Storage Feasibility Assessment and overall agree with the conclusion of this report - No further comments provided measures suggested are implemented as approved.

#### Historic England - Initial Response - 15<sup>th</sup> December 2021:

Concerns regarding the application on heritage grounds - Advise the LPA seek amendments, safeguards or further information as set out.

#### Historic England - Subsequent Response - 7<sup>th</sup> March 2022:

Do not offer further advice - Suggest the LPA seek the views of their specialist conservation and archaeological advisers.

#### National Highways - 2<sup>nd</sup> February, 17<sup>th</sup> March, and 5<sup>th</sup> August 2022:

Offer no objection - Subject to condition requiring delivery of the roundabout prior to opening for trading.

### **County Council Responses**

#### SCC - Highways - Initial Response - 6<sup>th</sup> January 2022:

Do not consider this proposal acceptable, with the A14 J47 westbound off-slip junction in its current form, and the significant increase in queue lengths that would result, and consider that it would result in an unacceptable impact upon highway safety, contrary to NPPF paragraph 111 - Also: Maintain concerns with regards the proposed type of layout accommodating significantly increased vehicular movements - Do not accept the significant increase in queue lengths on the A14 J47 westbound off-slip as a result on the proposal.

#### SCC - Highways - Subsequent Response - 14<sup>th</sup> March 2022:

Further to the latest submitted documents and discussions: SCC-Highways are now in a position to remove their previous objection, subject to the imposition of planning conditions to ensure: Access improvements; Egress improvements; Upgrade to existing A1088/A14 westbound slip-road junction to a roundabout; Provision and retention of proposed visibility splays; Manoeuvring and parking; EV Charging; PTW parking and secure cycle storage; Construction management plan; Bin storage and collection points - S106 contribution also required towards provision of a pedestrian crossing refuge and paved connections, in a suitable location.

SCC - Lead Local Flood Authority - Initial Responses - 25<sup>th</sup> November 2021 and 26<sup>th</sup> January, and 20<sup>th</sup> June 2022:

Holding Objection - Advice given regarding actions required in order to overcome holding objection.

SCC - Lead Local Flood Authority - Final Response - 29<sup>th</sup> June 2022:

Recommend Approval - Subject to suggested conditions: Surface Water Disposal Strategy; Surface water drainage verification report; and Construction surface water management plan (CSWMP).

SCC - Archaeology - 23<sup>rd</sup> December 2021:

No objection to development on the site - Do not believe that any mitigation is required.

SCC - Fire and Rescue - 25<sup>th</sup> November 2021:

Recommend that fire hydrants be installed within this development on a suitable route for laying hose - Not possible, at this time, to determine the number of fire hydrants required.

Recommend that consideration be given to the benefits derived from the provision of an automatic fire sprinkler system.

SCC - Travel Plan Officer - 24<sup>th</sup> November 2021:

No comment to make - The development does not meet the threshold that requires a Travel Plan.

Suffolk Police - Initial Response - 28<sup>th</sup> January 2022:

In view of the historical and current evidence of the rise in crime at similar locations, Suffolk Police regrettably cannot support this application - Areas of concern raised:

- Good security required due to location around an arterial road network to reduce risk of crime and assist in identifying offenders;
- Risk of antisocial behaviour likely should major disruption and queuing result in the area, for reasons such as fuel shortages;
- Staff should have clear view of all pumps, backed up with CCTV;
- The petrol station should have a NACOSS gold monitored alarm, with a panic button, with remote operated secure main entrance door;
- The counter area should be at a higher level on the staff side to provide protection for staff, safes should be provided, as well as a retreat room for staff;
- Strong brick walls should be proposed;
- Security glazing should be proposed;
- Security bollards should be proposed around the ATM;
- Service pipes and fittings should be fully enclosed to prevent vandalism;

- Whole area should be well lit.

Would be pleased to work with the agent and/or the developer to ensure the proposed development incorporates preferred crime reduction elements.

Suffolk Police - Subsequent Response, following amendments received - 27<sup>th</sup> September 2022:

As initially stated, it is a known fact that petrol stations increase crime in areas, either through offenders failing to pay for petrol, shoplifting or robbing these locations to obtain larger quantities of items, such as cigarettes or alcohol or lottery scratch cards, along with antisocial behaviour.

This report highlights how such establishments, especially when combined with fast food outlets, coffee shops and extra parking, increases crime and in particular antisocial behaviour. As a result Suffolk Police cannot support this application.

**Internal Consultee Responses**

MSDC - Heritage - 17<sup>th</sup> December 2021 and 16<sup>th</sup> March 2022:

Proposal would result in a very low to low level of less than substantial harm to the identified designated heritage assets, due to the proposal's noticeable, unsympathetic intrusion into their setting - Conditions recommended should the LPA be minded to approve.

MSDC - Ecology Consultants (Place Services) - 5<sup>th</sup> January and 1<sup>st</sup> April 2022:

No objection subject to ecological mitigation and enhancement measures.

MSDC - Landscape Consultants (Place Services) - Initial Response - 21<sup>st</sup> December 2021:

Planning and landscape plans submitted provide sufficient information - Recommend tree planting is amended to northern boundary to include a mix of species - Flowering lawn mix should also be proposed in amenity areas.

MSDC - Landscape Consultants (Place Services) - Subsequent response - 22<sup>nd</sup> March 2022:

Agree with findings of landscape assessment submitted - Revised planting plan also takes into consideration recommendations stated in previous consultation response.

MSDC - Environmental Protection - Air Quality Issues - 7<sup>th</sup> December 2021 and 3<sup>rd</sup> March 2022:

No objections with regard to air quality.

MSDC - Environmental Protection - Land Contamination Issues - 3<sup>rd</sup> December 2021 and 11<sup>th</sup> March 2022:

No objection - Subject to Land Contamination investigation and any remediation necessary being undertaken prior to commencement.

MSDC - Environmental Protection - Sustainability Issues - 11<sup>th</sup> February and 18<sup>th</sup> March 2022:

Water, energy and resource efficiency measures, for the lifetime of the development, should be agreed prior to commencement and implemented as approved.

MSDC - Environmental Protection - Noise/Odour/Light/Smoke Issues - 7<sup>th</sup> December 2021 and 3<sup>rd</sup> March 2022:



No objection - Subject to lighting and fumes and odour treatment conditions.

MSDC - Waste Manager - 26<sup>th</sup> November 2021:

Waste Services would not have any involvement in the construction phase of the project, as we do not collect construction waste and therefore have no comments about this aspect.

**Further consultee responses, post Committee meeting on 28<sup>th</sup> September 2022**

Independent Highways / Transport Consultee - Transport Planning Associates - Initial Assessment received 17<sup>th</sup> November 2022 (See Appendix B):

Believe that there would be merit us (Transport Planning Associates) undertaking the assessment, to support your Members' 'minded to' refuse this application.

Notwithstanding the strategic and local highway authorities' consultation responses, we believe that Dynamic Transport Planning (DTP) (The applicant's highways consultants) has undertaken a rather rudimentary and superficial trip attraction calculation that, in our view given the proximity of this site to the Strategic Road Network and the County Council's primary route network is highly likely to have underestimated the traffic attraction of the proposed development. In our view, this proposed development will act as a roadside service facility on the A14 and we consider that the average trip rates employed by DTP in its analysis have been 'diluted' by the selection of inappropriate proxy sites within the TRICS (Trip Rate Information Computer System) database.

To have underestimated the traffic attraction of the proposed development clearly has implications for the conclusions drawn in respect of the capacity of the roundabout on the A1088 (and, in particular, its interaction with the proposed vehicular egress from the proposed development), and for the propensity of excessive queuing on the A14 off-slip roads. Both of those issues have implications in respect of the conclusions drawn with regard to highway safety, in the context of the severity test in the NPPF. To that end, we would also recommend the commissioning of another independent Stage 1 Road Safety Audit informed by the findings of our further traffic attraction and junction capacity analysis.

Independent Heritage Consultee - Place Services Historic Environment Team - 15<sup>th</sup> November 2022 (See Appendix C):

Note that the LPA's 'in-house' heritage team has identified the nearby heritage assets of: Crossways (a Grade II listed building - list entry number: 1032471); St John Church Elmswell (Grade II\* listed - list entry number: 1032468); and the Church of St Mary Woolpit (Grade I listed - list entry number: 1181376) as potentially susceptible to harm to their heritage significance, due both to their proximity to the site and their potential visibility from within it.

All three buildings possess architectural and historic interest, which is acknowledged in their designations.

The two churches possess a tower/spire which is visible across the landscape, meaning the buildings also function as landmarks and way markers within the landscape, whilst the farmhouse has an intrinsic functional link to the agrarian landscape which surrounds it.

As a parcel of land, the application site forms part of the wider setting of all three buildings, however it is not a contributing factor to the significance of any.

The formation of the A14 has had a fundamental impact upon the appearance of the application site, which is utilitarian and urban in appearance, comparative to the surrounding landscape, which is characterised by open fields, beyond the confines of the A14. Whilst the church spires can be seen within the site, this is an incidental view.

As the proposed development will not compete with the spires for dominance, nor affect any designed view, in the professional opinion is that **no harm will occur to the setting and significance of either St Johns or St Marys church, were this scheme to be implemented.**

**Similarly, the proposed development will have negligible to no impact upon the significance of Crossways** (The nearby Grade II Listed Farmhouse).

Although the proposal would not result in harm to the setting of the identified heritage assets, the consultee advice is that the proposals could be more sympathetic in design and relate better to their countryside location. Section 130 of the NPPF is therefore applicable in this instance.

## **B: Representations**

At the time of writing this report at least 68 letters/emails/online comments have been received. It is the officer opinion that this represents 66 objections, 2 support and 0 general comments. A verbal update shall be provided as necessary.

Views are summarised below:-

### **Objections**

#### Character

- Impact on the green character of the entrance to Elmswell;
- Impact to the setting of the Norman Church (Church of St John);
- Impact on the peace and tranquility of the Church Cemetery;
- Proposal would impact character of Elmswell and Woolpit villages, making them more urbanised and less rural;
- Elmswell would become akin to a motorway services;
- Consider other disused filling station and fast food services in the vicinity should be utilised before consideration is given to such new-build locations;
- The proposal would result in unwanted urbanisation.

#### Social

- The proposal would congest the existing road junction, bridge and roundabout linking Elmswell and Woolpit to the detriment of residents;
- Increase traffic will impact those needing to access Woolpit Health Centre and Elmswell Train Station;

- Funding for the Woolpit / Elmswell cycle/pedestrian path needs to be resolved;
- The applicant states that local consultation has been carried out but no consultation has been carried out with Woolpit residents;
- Local resident's needs are for a new school and a cycle/footpath route to the surgery, not for another petrol station;
- The proposed services and facilities are not wanted/needed by local residents and there would be no local benefits.

#### Economic

- The proposal would impact local business and existing retail, cafes, takeaways, and the existing service stations in the area, which may result in them closing - Should the proposed businesses then fail, the villages will then be left with no such services and facilities;
- Existing facilities in the villages are accessible by those without a car, the proposed facilities are not;
- The proposed petrol filling station is not needed as there is plenty of existing provision in the area;
- The proposal contravenes sustainable communities policy as the resultant loss of Woolpit and Norton service stations and attached shops would be detrimental to the sustainability of these villages.

#### Environmental

- The proposal would have a detrimental impact on the environment and would result in increased global warming;
- Increased petrol and diesel sales are in conflict with the government's policy to reduce carbon;
- A climate emergency has been declared locally and nationally - Proposals such as these should, therefore, be rejected;
- Consider people should be thinking and living greener;
- Petrol stations are becoming anachronistic and, therefore, no new provision should be considered/permitted;
- Increased fast food sales are in conflict with the government's policy to reduce obesity;
- Impact on priority species, most notably Hedgehogs;
- Increased litter on and surrounding the site;
- Increased vermin;
- Increased light pollution.

#### Highways

- Consider no difference to prior application DC/17/02349, for a similar development, refused on highway safety grounds in November 2019 - Traffic will access and egress from the site in the same way;
- Consider proposal will result in drivers exiting the site whilst consuming food and beverages, which would be detrimental to highway safety;
- Consider the site will still attract HGVs, even with no provision on officer, resulting in confusion and increased highway safety impacts;
- Consider the existing slip roads, road junctions and roundabout required to access the site are unsuitable for such a proposal, would result in cars queuing on the A14, and would be detrimental to highway safety;
- Additional traffic from proposed new housing in Elmswell and Woolpit, and that resulting from the existing Driver and Vehicle Standards Agency site, should also be considered when assessing the suitability/safety of the existing junction slip roads and roundabout;

- Note that positive weight has been given by SCC-Highways to the proposed new roundabout, adjacent to Woolpit, in considering the proposal – This is, however, irrelevant as the current applicant has no control over the provision of this roundabout, which may never be delivered/constructed/provided;
- The applicant's reference only to the westbound slip road exit from the A14 is entirely misleading;
- Congestion will inevitably be result both on the roundabout and roads leading to;
- The eastbound A14 junction is short and has a blind 90 degree bend prior to merging almost immediately with the proposed exit/egress from the site - Significant highway safety concerns raised;
- Do not consider the Stage 1 Road Safety Audit produced by the applicant has any value;
- Recent petrol shortages have produced long queues at filling stations - Even a short queue to get on to the site would create danger and possibly block access to Woolpit via the bridge;
- Concern that increased traffic would use Kiln Lane, Elmswell as a 'rat run', especially as it is national speed limit, which should be reduced to 30mph;
- The proposal would impact the safety of pedestrians and cyclists, with no proposals to cater for their needs;
- Consider the proposal would result in vehicle queuing on the A14, disrupting traffic flows and freight needing to reach Felixtowe container port;
- Question whether SCC-Highways officers have visited the site and/or properly considered the proposal - Also general distrust of SCC-Highways Officers.

## Support

- With a growing population the proposal would create local jobs;
- The proposal would place Elmswell 'on the map' for tourism;
- The Driver and Vehicle Standards Agency site went through planning and was approved and so should this proposal;
- The proposal cleverly uses a small area of land for a useful services facility, which is directly accessible from the A14;
- The proposal would be obvious and accessible from the A14 - other existing services in the area are not so and require turning off the A14 and searching;
- Local people can choose whether or not to support this type of facility but it is not imagined that they will be its primary users.

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

## PLANNING HISTORY

<b>REF:</b> DC/17/02349	Planning Application - Proposed development of 1 no. petrol filling station and 2 no. drive through restaurants, together with various infrastructure and landscaping works	<b>DECISION:</b> REF 05.11.2019
<b>REF:</b> 1347/13	Provision of Road Side Enforcement Site with inspection Building, 2-Storey Office and	<b>DECISION:</b> GTD 17.01.2014

## Associated Landscaping

REF: 3512/10

Change of use of agricultural land to vehicle enforcement site, erection of office building, construction of weighbridge, hardstanding parking and inspection areas, vehicle access and egress and attenuation pond.

**DECISION:** GTD  
05.08.2011

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## **PART THREE – CURRENT ASSESSMENT OF APPLICATION PROPOSAL**

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### **1. The Site and Surroundings**

- 1.1. The proposal site extends to approximately 1.03 hectares (ha) and lies to the north-east of the A14 Trunk Road, at Junction 47. The existing Driver and Vehicle Standards Agency development lies adjacent to the site to the north-east. The A1088 Elmswell to Woolpit Road, and associated road bridge over the A14, lies to the north-west.
- 1.2. The villages of Elmswell and Woolpit lie to the north and south respectively. The site is currently undeveloped grassland. The surrounding area predominantly comprises a mix of strategic road networks, commercial / industrial premises, residential development and agricultural land.
- 1.3. The means of access to the site is to the north, via the existing A1088 roundabout. The means of egress is adjacent to the existing A14 Junction 47 slip road, before the A1088 roundabout. Both the site's access and egress are in the approximate locations of those used by the existing Driver and Vehicle Standards Agency development.
- 1.4. The proposal site directly affects the setting of 3 no. listed buildings in the vicinity of the proposal site: The Church of St John, Elmswell, a Grade II\* Listed medieval parish church, restored in the 19<sup>th</sup> Century, to the north; The Church of St Mary, Woolpit, a Grade I Listed medieval parish church, to the south; and Crossways, a Grade II Listed early 19<sup>th</sup> Century farmhouse, including associated potentially curtilage listed structures, to the east.
- 1.5. The site lies completely within Environment Agency Flood Zone 1, where there is a very low probability (less than 1 in 1000 annually) of flooding. The nearest EA Flood Zone 2 or 3 lies approximately 85 metres to the north of the site, within the adjacent agricultural field, on the opposite side of the A1088. As such the proposal site is not considered to be at significant risk of flooding.

### **2. The Proposal**

- 2.1. The application seeks full planning permission for the erection of 1 no. petrol filling station, inclusive of ancillary retail store, and 2 no. drive through restaurants, together with access, parking, landscaping, and associated infrastructure works.
- 2.2. The proposed development comprises the following:
  - Erection of 1 no. 4 pump petrol station, including canopy structure and ancillary retail sales building - 484.83 square metres (sqm) of floorspace;

- 1 no. drive through restaurant building - 262 sqm of floorspace;
  - 1 no. drive through coffee shop building - 148.31 sqm of floorspace;
  - Construction of a new internal spine road, leading from the existing access point (to the west of the existing A1088 roundabout) to the existing egress point (to the south of the A1088 roundabout);
  - Vehicle parking for 51 cars (including 6 no. disabled spaces) and 9 no. cycle stands;
  - 8 no. Electric Vehicle Charging points/parking bays;
  - Hard and Soft Landscaping, Surface Water Drainage and Infrastructure works; and
  - Off-site highways improvements.
- 2.3. The proposed petrol filling station (PFS) would be located to the west of the site, adjacent to the site access, and specifically comprises the main 4 pump island (to be accessed from either side) which will be covered by a rectangular flat roof, free standing canopy, at a maximum height of 6.6 metres, and sits directly in front of the rectangular shaped kiosk sales building, and with 2 no. electric vehicle charging points/parking bays in between.
- 2.4. The kiosk building incorporates a shopping area, back of house office space, storage facilities and also accommodates space for public toilets, as well capacity for a modest sized, ancillary retail area and a food-to-go outlet. Secure ATMs are also proposed, accessed from the exterior. 7 no. rows of solar photovoltaic panels are proposed to be affixed to the roof of the kiosk building. Proposed materials to the walls of the kiosk building predominantly comprise of a combination of full height glazing with sliding doors, composite wall panels (colour grey), with vertical boarded sections. The proposed PFS kiosk building would have a maximum height of 5.3 metres.
- 2.5. The proposed drive through restaurant building would be located at the centre of the site, surrounded by a drive through access road. The restaurant building would comprise an internal service and customer dining area, with customer toilets and back of house staff facilities, office space and food preparation areas. An enclosed service yard area is also proposed to the rear of the building. 11 no. rows of solar photovoltaic panels are proposed to be affixed to the roof of the restaurant building. Proposed materials to the walls of the restaurant building predominantly comprise of a combination of full height glazing with sliding doors and composite wall panels in varying styles and shades of grey colour. The proposed restaurant building would have a maximum height of 5.3 metres.
- 2.6. The proposed drive through coffee shop building would be located to the east of the site, adjacent to the site's egress, again surrounded by a drive through access road. The coffee shop building would comprise an internal service and customer seating area, with customer toilets and back of house staff facilities and preparation areas. An enclosed service yard area is also proposed to the east of the building. 5 no. rows of solar photovoltaic panels are proposed to be affixed to the roof of the coffee shop building. Proposed materials to the walls of the coffee shop building predominantly comprise of a combination of full height glazing with sliding doors and vertical boarding, with composite wall panels (colour light brown). The proposed coffee shop building would have height of 3.9 metres, with central tower feature, of a maximum height of 6.9 metres.
- 2.7. 8 no. Electric Vehicle Charging Points/Parking Bays are proposed across the whole site, 2 no. adjacent to the PFS kiosk building, and 6 no. to the north of the central car park, in between the proposed restaurant and coffee shop buildings.
- 2.8. 51 no. car parking spaces (in addition to those described above, for the parking of electric vehicles) are proposed across the site, in the areas described below:
- 12 no. spaces (including 2 no. disabled spaces) adjacent to PFS kiosk building;

- 3 no. spaces adjacent to Air/Water service bay, to the south-east of the PFS pumps canopy;
  - 5 no. spaces (including 2 no. disabled spaces) adjacent to the drive through restaurant Order Bay space, to the east of the drive through restaurant;
  - 16 no. spaces between the drive through restaurant and coffee shop buildings;
  - 5 no. spaces (including 2 no. disabled spaces) adjacent to the south/frontage of the drive through coffee shop building; and
  - 10 no. spaces to the south of the drive through coffee shop building, adjacent to the Order Bay space.
- 2.9. 9 no. bicycle stands/parking spaces are also proposed across the site: 3 no. adjacent to the PFS kiosk building; 3 no. adjacent to the restaurant building and 3 no. adjacent to the coffee shop building.
- 2.10. The current proposal follows prior planning application ref: DC/17/02349, which was refused planning permission in May 2019 for the following reasons:
- “The proposed development, by reason of the design and layout of the proposed vehicle egress onto the A1088 and resulting increase in uncontrolled traffic levels, and the resultant conflicts between vehicles exiting the site and those using the existing A14 egress slip road, would result in severe detrimental impact on existing highway safety. On this basis the development would be contrary to the provisions of saved Policy T10 of the Development Plan and paragraphs 108 and 109 of the National Planning Policy Framework.”
- 2.11. Planning decision DC/17/02349 is material in consideration of the current application.

### **3. The Principle of Development**

- 3.1. The proposal is considered to be suitably located for such a development, adjacent to an existing dual carriageway A road junction and established vehicle testing site, adjacent to the existing principal highway network.
- 3.2. The proposal is considered to deliver economic benefits, in terms of expected job creation, and social benefits, in terms of providing additional services and facilities for local persons, as well as others using the A14 in this location.
- 3.3. The principle of the development proposal is, therefore, considered broadly acceptable in accordance with the provisions of development plan policies CS2 and T6, subject to acceptability when assessed against all other material planning considerations, assessed as matters of detail below:

### **4. Landscape**

- 4.1. The application is supported by a landscape assessment, which has been reviewed by Council Landscape Consultants and revised following their initial assessment and comments. Council Landscape Consultants have raised no objection to the latest landscape proposals submitted by the applicant.
- 4.2. Your heritage officers have advised additional tree planting is provided, in the interest of affording better screening of heritage assets in the landscape, to be secured by way of condition.

## **5. Heritage Assets**

- 5.1. The resolution of Members of MSDC Development Control Committee B on 28<sup>th</sup> September 2022 was that the proposal results in a level of less than substantial harm to the significance of heritage assets, due to the increased prominence of modern development within the setting of the historic parish churches at Woolpit and Elmswell. It was the opinion of Members that this is not outweighed by the limited public benefit of the provision of an additional petrol filling station in an area with sufficient provision, such that the proposal does not comply with paragraphs 199 and 202 of the NPPF.
- 5.2. Counter to this 'minded to' resolution of member, Officer's would advise members note that Historic England have do not raised objection to the latest layout and design proposed, subject to the assessment of Council Legal Advisors.
- 5.3. Your Heritage Officers have identified a low level of less than substantial harm to the significance of heritage assets (the Churches and Farmhouse referred to in the consultee responses), due mainly to the increased prominence of modern development within the setting of the historic parish churches at Woolpit and Elmswell, it is, however, considered that conditions requiring increased tree planting/screening and control of external illumination could do much to mitigate this identified harm.
- 5.4. Further to this, independent Heritage advice received from the Council's consultants, Place Services, post committee and Member's 'minded to' resolution has concluded that no harm would occur to the setting and significance of either St Johns or St Marys church, and that a negligible to no impact upon the significance of the listed farmhouse would occur, were this scheme to be implemented.
- 5.5. Having considered the above professional advice from different professional sources, it is the consideration of planning officers that the proposal would result, at worst in a low level of less than substantial harm to the significance of the heritage assets, as identified by Council Heritage Officers. NPPF paragraph 202 is, therefore, relevant and states the following:  
  
*"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*
- 5.6. The advice of planning officers, having considered all of the above, is that the public benefits associated with the delivery of the proposed businesses and services and facilities, which would include economic benefits in terms of expected job creation, and provision of services and facilities which would have more than local benefits, attract material weight by reason of paragraph 81 of the NPPF 2021 and can be considered to outweigh the low level of less than substantial harm to the significance of the heritage assets identified by your heritage advisors.



- 5.7. Your officers, therefore, advise against refusal of the application on heritage harm grounds, as previously indicated by members, as part of their 'minded to' resolution of the 28<sup>th</sup> September 2022.

## **6. Site Access, Parking and Highway Safety Considerations**

- 6.1. The "minded to" resolution of Members of MSDC Development Control Committee B on 28<sup>th</sup> September 2022 was that the proposed development, by reason of the design and layout of the proposed vehicle egress onto the A1088 and resulting increase in uncontrolled traffic levels, and the resultant conflicts between vehicles exiting the site and those using the existing A14 egress slip road, would result in severe detrimental impact on existing highway safety. On this basis the development would be contrary to the provisions of saved Policy T6, T10 of the Development Plan and paragraphs 110, 111 and 130(f) of the National Planning Policy Framework. This resolution was contrary to advice given by the National Highways and the Local Highway Authority who did not consider the proposal would result in highways harm significant enough to justify refusal of planning permission on such grounds.
- 6.2. Following Members' "minded to" resolution at committee on the 28<sup>th</sup> September 2022, Independent Highway and Transport advice has been sought, and received, on behalf of the Council. 'Transport Planning Associates' have reviewed the application proposal on the Council's behalf and have indicated their support for Member's "minded to" resolution, on highway safety grounds.
- 6.3. Notwithstanding the strategic and local highway authorities' consultation responses, it is the view of the Council's highway and transport consultants that the applicant's transport consultants (DTP) have undertaken a rather rudimentary and superficial trip attraction calculation that, in the view of the Council's consultants, given the proximity of this site to the Strategic Road Network and the County Council's primary route network, is highly likely to have underestimated the traffic attraction of the proposed development.
- 6.4. In the view of the Council's consultants, the proposed development would act as a roadside service facility on the A14 and they consider that the average trip rates employed by DTP in its analysis have been 'diluted' by the selection of inappropriate proxy sites within the TRICS (Trip Rate Information Computer System) database.
- 6.5. The advice of the Council's transport consultants is that: "to have underestimated the traffic attraction of the proposed development clearly has implications for the conclusions drawn in respect of the capacity of the roundabout on the A1088 (and, in particular, its interaction with the proposed vehicular egress from the proposed development), and for the propensity of excessive queuing on the A14 off-slip roads". It is advised that both of these issues have implications in respect of the conclusions drawn with regard to highway safety, in the context of the severity test in the NPPF.
- 6.6. To that end, the Council's transport consultants recommend the commissioning of another independent Stage 1 Road Safety Audit informed by the findings of our further traffic attraction and junction capacity analysis, in support of the Council's appeal case.

- 6.7. Having considered the initial view at committee in September 2022 and the professional advice and recommendation received from the Council's independent transport consultants, as above, your officers consider Member's above 'minded to' resolution to be appropriate reasons to refuse the application on highway safety grounds, and/or to defend a planning appeal on this basis.

## **7. Ecology, Biodiversity and Protected Species**

- 7.1. Council Ecology consultants have reviewed the Extended Phase 1 Habitat Survey (Rachel Hacking Ltd, October 2021), provided by the applicant, relating to the likely impacts of development on designated sites, protected and priority species and habitats. In addition, your consultants have assessed the Planting Plan (DEP Landscape Architecture LTD, October 2021), the Planting Plan (DEP Landscape Architecture LTD, October 2021) and the external lighting plan (Kingfisher Lighting Ltd, October 2021), also provided by the applicant.
- 7.2. Your consultants are satisfied that there is sufficient ecological information available for determination. Information provided by the applicant is considered to provide certainty for the LPA of the likely impacts on designated sites, protected and priority species/ habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- 7.3. Your consultants advise that the mitigation measures identified in the Extended Phase 1 Habitat Survey (Rachel Hacking Ltd, October 2021) should be secured and implemented in full. It is advised that this is necessary to conserve protected and Priority Species. In addition, your consultants note that the external lighting plan will result in relatively high lux levels on the boundary habitat for this development. However, given that the location of the development and that the habitats on site have relatively low foraging and commuting value for bats, it is indicated that your consultants also support the proposed external lighting scheme for this application.
- 7.4. Furthermore, your consultants approve the details contained within the proposed planting plan as this is considered to outline suitable planting for native species hedgerows, scrub and wildflower meadows, as well as appropriate aftercare and management for these features.
- 7.5. Your consultants note that additional reasonable biodiversity enhancements have been recommended within the Extended Phase 1 Habitat Survey (Rachel Hacking Ltd, October 2021) to secure net gains for biodiversity, as outlined under Paragraph 174 (d) of the NPPF. Therefore, it is advised that these additional enhancements should be outlined within a Biodiversity Enhancement Strategy to be secured by way of planning condition. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.
- 7.6. Your Ecology consultants conclude that impacts as a result of the proposed development would be minimised such that the proposal is considered acceptable in Ecology terms, subject to the imposition of conditions requiring the development to be carried out in accordance with Ecological Appraisal Recommendations and requiring the submission and approval of a Biodiversity Enhancement Strategy prior to commencement of development above slab level.

## **8. Land Contamination**

- 8.1. The application site is considered to comprise potentially contaminated land, due to its location adjacent to an existing vehicle assessment and maintenance site and adjacent to the principle highway network.
- 8.2. In addition elements of the proposed development, namely the proposed Petrol Station and Car Parks, are considered to relate to potentially contaminating land uses.
- 8.3. As such a detailed land contamination assessment and Fuel Storage Feasibility Assessment have been submitted in support of the application proposal.
- 8.4. Your environmental protection officers have assessed the land contamination assessment provided and are accepting of the principle of the proposed development on the site, subject to further intrusive land contamination investigation, and remediation, where necessary, being carried out prior to commencement. Such further investigation and remediation is recommended to be secured by way of condition.
- 8.5. The Environment Agency have reviewed the Fuel Storage Feasibility Assessment, provided by the applicant. Overall the EA agree with the conclusion of this report and raise no objection, subject to the measures suggested being implemented as approved.

## **9. Impact on Residential Amenity**

- 9.1. The separation distance to the nearest residential properties at Kiln Lane, Church Road and Church Lane, Elmswell are such that the impact resulting from the proposed development with regards increased noise and disturbance, odour and light spillage impacts would not likely be considered significantly harmful, particularly when one considers the existing impacts associated with the adjacent A14 dual carriageway, the existing principal highway network, and existing commercial uses hereabouts (Goldstar, to the south-east of the site, within Woolpit parish, in particular).
- 9.2. It is noted that your Environmental Protection Officers raise no objection to the proposed development in relation to potential noise, odour, light and dust impacts, subject to lighting, fumes and odour treatment to be secured by way of conditions.
- 9.3. The potential impact of the proposed development on the amenities currently enjoyed by nearby land-users is not, therefore, considered to be significantly adverse. The proposal is, therefore, considered to be consistent with local and national policy (particularly development plan policy H16 and NPPF paragraph 130) in regard to safeguarding residential amenity.

## **10. Flood Risk and Surface Water Disposal**

- 10.1. The current application is supported by a site specific flood risk assessment and surface water drainage strategy, carried out by a suitably qualified Company (Nicola Sugg - Consultant Hydrogeologist and Hydrologist).
- 10.2. The final report and recommendations are considered to satisfactorily demonstrate that the proposed development is classified as 'less vulnerable' in flood risk terms, and is appropriate and sustainable with regards to flood risk.
- 10.3. SCC - Lead Local Flood Authority (LLFA) have been consulted on the application proposal and, following negotiation and receipt of revised and further information from the applicant, resolved to recommend approval of this application on basis of the most recent proposals submitted, subject to conditions.
- 10.4. In assessing the proposal, your officers consider the surface water drainage scheme, as currently proposed would suitably manage surface water runoff from the proposed development and would not demonstrably result in significant increased flood risk on the site or elsewhere.

### **11. Parish Council Comments**

- 11.1 It is considered that the matters raised by Elmswell, Woolpit and Norton Parish Councils have been addressed in the above report.
- 11.2. Further elaboration can be provided at the committee meeting, as necessary.

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## **PART FOUR – CONCLUSION**

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### **12. Planning Balance and Conclusion**

- 12.1 The broad principle of the proposed development is considered to be consistent with the provisions of development plan policies CS2 and T6, having had regard to the proposed location of development, adjacent to the existing principle highway network.
- 12.2. Subject to compliance with conditions as recommended by your heritage officers and landscape consultants, the proposal is not considered to result in a significant adverse impact on the existing landscape character and quality of the locality and is not considered to result in significant harm to the setting and significance of any heritage asset(s).
- 12.3. The proposal site is not considered to be at significant risk of flooding and the application is considered to propose suitable sustainable surface water drainage that would not significantly increase flood risk on the site or elsewhere, consistent with the requirements of development plan and section 14 of the NPPF.
- 12.4. The proposal site is not considered to result in a significant risk to future users of the development with regards land contamination and, should proposed mitigation measures be implemented, the proposed potentially contaminating land use (Petrol Filling Station) would not result in a significant impact on the existing land and water environment in the locality.

- 12.5. Should mitigation and enhancement measures be implemented, as proposed and secured by way of condition, the development proposal would not result in a significant impact on protected and priority species and their habitats.
- 12.6. Having considered the proposed siting and scale of the development in relation to existing neighbouring residential properties in the site vicinity, the existing impacts of adjacent developments, and subject to conditions to control fumes, odour and light spillage, the proposed development is not considered to result in a significant impact on the amenities currently enjoyed by occupants of nearby residential properties.
- 12.7. The proposal is considered to deliver economic benefits, in terms of expected job creation, and social benefits, in terms of providing additional services and facilities for local persons, as well as the wider national population. Whilst the proposal would result in a level of environmental harm in landscape and heritage asset setting, it is considered that such impacts can be successfully mitigated to acceptable levels, by way of design and the imposition of planning conditions. As such the overall low resultant level of harm is considered to be outweighed by the economic benefits of the proposal, in heritage terms.
- 12.8. Notwithstanding the above, and having considered independent highways advice following the prior committee meeting of 28<sup>th</sup> September 2022, it is considered that the proposed development, by reason of the design and layout of the proposed vehicle egress onto the A1088 and resulting increase in uncontrolled traffic levels, and the resultant conflicts between vehicles exiting the site and those using the existing A14 egress slip roads, would result in severe and detrimental impact on existing highway safety. On this basis the development would be contrary to the provisions of saved Policies T6 and T10 of the Development Plan and paragraphs 110, 111 and 130(f) of the National Planning Policy Framework.
- 12.9. Overall the proposal is therefore not considered to represent sustainable development, on the basis of the highway safety harm identified in paragraphs 6.1 to 6.9 and 12.9 above, having had regard to the provisions of the current adopted development plan and the provisions of the NPPF, taken as a whole.

## **RECOMMENDATION**

That the Council resolve to: REFUSE planning permission, or in the event that the appeal has begun agree the following putative reason for refusal, for the following reason:-

- 1) The proposed development, by reason of the design and layout of the proposed vehicle egress onto the A1088 and resulting increase in uncontrolled traffic levels, and the resultant conflicts between vehicles exiting the site and those using the existing A14 egress slip roads, would result in severe and detrimental impact on existing highway safety. On this basis the development would be contrary to the provisions of saved Policies T6 and T10 of the Development Plan and paragraphs 110, 111 and 130(f) of the National Planning Policy Framework (NPPF).