

## Item No. 13

<b>APPLICATION NUMBER</b>	<b>CB/16/01011/FULL</b>
<b>LOCATION</b>	<b>ASDA Stores Ltd, Court Drive, Dunstable, LU5 4JD</b>
<b>PROPOSAL</b>	<b>Erection of a 3 pump petrol filling station to include forecourt canopy, control room and car park reconfiguration.</b>
<b>PARISH</b>	<b>Dunstable</b>
<b>WARD</b>	<b>Dunstable Icknield</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs McVicar &amp; Chatterley</b>
<b>CASE OFFICER</b>	<b>Peter Vosper</b>
<b>DATE REGISTERED</b>	<b>15 April 2016</b>
<b>EXPIRY DATE</b>	<b>10 June 2016</b>
<b>APPLICANT</b>	<b>ASDA Stores Ltd</b>
<b>AGENT</b>	<b>Pegasus Group</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>The Development Infrastructure Group Manager recommends that the application be determined at Committee given the ownership of the land by the Council, the impact on the local environment, and the objection lodged by Dunstable Town Council</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Recommended for Refusal</b>

### Summary of Recommendation:

The proposed development would be harmful to the visual amenity of a prominent town centre location and incompatible with the street scene. It would also be harmful to the setting of the adjacent Conservation Area and Grove House Gardens, and would result in the loss of landscape planting and trees without identified mitigation. Furthermore, insufficient information has been provided to enable an accurate assessment of the application in terms of the junction capacity and its implications on the public highway, and to show that the proposed internal road layout serving the development can be accommodated in a manner that would not cause increased danger and inconvenience to users of the public highway. Also, the proposal makes inadequate provision for a satisfactory vehicular access to accommodate commercial traffic generated by the proposal and is likely to lead to an increase in congestion and additional hazards for highway users. In the absence of a noise survey there is also insufficient information to gauge the impact of the proposal on neighbouring occupants, and there is a lack of information to demonstrate the protection and prevention of pollution of controlled waters from potential pollutants associated with current and previous land uses. The proposal is therefore considered to be in conflict with policies BE7 and BE8 of the South Bedfordshire Local Plan Review 2004, and Sections 4, 11 and 12 of the National Planning Policy Framework, March 2012.

### Site Location:

The application site of 0.58 hectares forms part of the car park of the ASDA Dunstable Supermarket. It is to the west of the store building. The ASDA car park,

including that inside and outside the application site, comprises 387 standard car parking spaces, 36 disabled spaces, 12 parent and toddler spaces, and four Click & Collect spaces. Vehicular access to the site is from a mini roundabout on Court Drive.

The site is in Dunstable town centre and the area around the site contains a variety of uses. To the south and south west is part of the Main Shopping Area (South Bedfordshire Local Plan Review (SBLPR) 2004 Policy TCS2). There is also residential development to the east in Kingscroft Avenue and Dorchester Close. Grove House Gardens are to the west (SBLPR Policy BE7); the Gardens are in the Dunstable Conservation Area. Dunstable Library/Vernon House is immediately to the south east.

### **The Application:**

Planning permission is sought for a three pump, six filling position Petrol Filling Station (PFS). The PFS would be provided by ASDA in association with the adjacent supermarket, and would incorporate a 'pay at the pump' facility (thereby negating the need for a payment / retail kiosk). The PFS would be a 7 day, 24 hour operation.

The PFS would have a forecourt canopy with a length of 20.6m, a width of 7.7m and a height of 5.0m.

A PFS control room, with a length of 1.95m, a width of 2.15m and a height of 2.3m, and two underground fuel storage tanks each with a capacity of 75,000 litres, is also proposed.

A 2.0m high blast wall, vent pipes and underground storage tanks are also proposed.

The PFS would require the reconfiguration of the car park, resulting in the loss of 27 standard car parking spaces (387 to 360), the loss of two parent and toddler spaces (17 to 15), and the gain of one disability space (36 to 37).

The internal road layout and pedestrian crossings would also be reconfigured / re-positioned to accommodate the PFS. There is currently a pedestrian crossing running across Court Drive from Grove House Gardens which continues across an internal road within the ASDA car park and links to a footpath and further pedestrian crossings before reaching the entrance to the supermarket. The proposal would result in this changing by way of the pedestrian crossing across the internal road being realigned and instead crossing the forecourt where vehicles would exit the PFS.

The existing vehicular access would be retained, albeit the kerb would be widened to facilitate fuel tanker tracking.

### **Relevant Policies:**

#### **National Planning Policy Framework (NPPF) (March 2012)**

Section 1: Building a strong, competitive economy

Section 2: Ensuring the vitality of town centres  
Section 4: Promoting sustainable transport  
Section 7: Requiring good design  
Section 11: Conserving and enhancing the natural environment  
Section 12: Conserving and enhancing the historic environment

### **South Bedfordshire Local Plan Review (January 2004)**

BE7 Consideration and Enhancement of Historic Parks and Gardens  
BE8 Design Considerations  
T8 Controlling the Supply of Public Car Parking  
TCS1 Sustaining and Enhancing the District's Town Centres  
TCS2 Main Shopping Areas

The NPPF advises of the weight to be attached to existing local plans for plans adopted prior to the 2004 Planning and Compulsory Purchase Act, as in the case of the South Bedfordshire Local Plan Review. Due weight can be given to relevant policies in existing plans according to their degree of consistency with the Framework. It is considered that Policies BE7, BE8, T8, TCS1 and TCS2 are broadly consistent with the Framework and carry significant weight.

### **Development Strategy for Central Bedfordshire (June 2014)**

At the meeting of Full Council on 19 November 2015 it was resolved to withdraw the Development Strategy. Preparation of the Central Bedfordshire Local Plan has begun. A substantial volume of evidence gathered over a number of years will help support this document. These technical papers are consistent with the spirit of the NPPF and therefore will remain on our website as material considerations which may inform further development management decisions.

### **Supplementary Planning Guidance/Other Documents**

Central Bedfordshire Design Guide (March 2014)

### **Relevant Planning History:**

The planning history relates to the supermarket itself and other developments within the car park.

Application Number	CB/15/00401/ADV
Description	Advertisement Consent: Erection of a 'Click & Collect' canopy within the Asda store's customer car park.
Decision	Conditional Advertisement Consent
Decision Date	7 April 2015
Application Number	CB/15/00400/FULL
Description	Erection of a 'Click & Collect' canopy within the Asda store's customer car park.
Decision	Conditional planning permission
Decision Date	7 April 2015

Application Number	CB/14/01207/FULL
Description	Construction of seasonal canopy
Decision	Conditional planning permission
Decision Date	5 June 2014
Application Number	CB/13/02027/FULL
Description	New home shopping facility including the formation of a new up and over service door, the existing up and over service door and fire exit door will be made wider to the service yard area.
Decision	Conditional planning permission
Decision Date	6 August 2013
Application Number	CB/12/02394/FULL
Description	Removal of planting within Asda car park and construction of exit from car park to Vernon Place
Decision	Conditional planning permission
Decision Date	30 August 2012
Application Number	CB/11/01055/FULL
Description	Erection of single storey extension to warehouse/marshalling area of superstore and HGV dock leveller and approach ramp
Decision	Conditional planning permission
Decision Date	16 June 2011
Application Number	CB/09/00013/VOC
Description	Variation of condition 1 of Planning permission SB/TP/06/1330 to extend opening hours.
Decision	Conditional planning permission
Decision Date	11 March 2009
Application Number	SB/TP/99/0651/FULL
Description	Demolition of Queensway Hall and erection of Class A1 foodstore with associated car parking and service areas
Decision	Conditional planning permission
Decision Date	19 April 2000

### **Consultees:**

Dunstable Town Council	Members strongly object to the proposal to site a petrol station at the proposed location. Members feel that the proposal is an unnecessary imposition on the visual amenity of this prominent town centre location and is not in keeping with the street scene and the adjacent award winning (Green Flag) Grove House Gardens. Indeed much has been done to improve the visual amenity of this area with attractive high quality landscape planting some of which will be lost as a result of the development. It is further considered that the canopy, blast wall, venting pipes and PFS control room will be a blight on the street scene. Despite the
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mitigation contained in the application relating to loss of parking and additional traffic flow Members are of the view that the proposal will likely increase congestion at peak periods and increase the need for additional HGVs using Court Drive.

## Archaeology

The proposed development site lies within the core of the Roman and medieval towns of Dunstable (HER 135 and 16986) and immediately adjacent to an area of early Roman settlement activity (HER 11270). Under the terms of the *National Planning Policy Framework* (NPPF) these are heritage assets with archaeological interest.

This application proposes the erection of a petrol station within the car park of the existing ASDA supermarket on Court Drive. Prior to the erection of the supermarket a number of archaeological investigations were undertaken including a geophysical survey; test pitting, a watching brief and an excavation. These investigations demonstrated the presence of at least one partial enclosure, and pits and ditches indicative of settlement activity, which was dated to the 1st century AD. The area where the proposed petrol station is to be located was not found to contain any archaeological remains (Mudd 2004).

This application is accompanied by an *Archaeological Desk-Based Assessment* (Pegasus Group, April 2016), which summarises the known archaeological background for the proposed development site and its immediate surroundings. The document correctly identifies that the area where the proposed petrol station will be located has previously been the subject of an archaeological watching brief. Archaeological watching briefs are the most 'light touch' of investigations and therefore remains can be missed depending upon the conditions in which the archaeological contractor is working. In addition, the proposed petrol station will have underground tanks for the storage of fuel, which will result in a greater impact than the previous re-surfacing of the car park. However, on balance, it is unlikely that any significant archaeological remains now survive at this location and as a consequence; I have no objection to this application on archaeological grounds.

## Trees and Landscape

### Initial Submission

I have examined the plans and documents associated with this application, and contrary to what is declared in Section 15 "Trees and Hedges" of the application there

are a number of trees that were an integral part of the original landscape scheme for the car park that will be adversely affected by the development.

It is on this basis I request that a tree survey is undertaken to show which trees are being removed, and the mitigation measures being proposed.

#### Further Submission Following Receipt of Tree Removal Plan

I confirm my objection on the basis of the loss of 5 trees that were provided as part of the original landscape scheme, and that no mitigation strategy has been proposed by the applicant.

Highways (Development A Transport Statement has been submitted by the Management) applicant detailing the proposal for a 3 pump, 6 filling position at Asda stores on Court Drive in Dunstable incorporating a pay at the pump retailing facility.

The filling station is accessed off Court Drive at the existing access to the Asda store

The proposal involves the loss of 27 customer parking spaces reducing the existing provision of 387 to 360.

The opening hours of the existing store are as follows:

Mon – Fri – 07:00 to 11:00pm

Sat. – 07:00 to 10:00pm

Sun. 10:00 to 16:00pm

Car park surveys have been undertaken to determine maximum car park occupancy.

The proposal is such that all vehicles accessing the petrol filling station, including petrol tankers, would use the existing car park access which is currently served by a mini roundabout.

In terms of the proposed trip generation the applicant makes assumptions that new trips being generated by the filling station will have an insignificant impact on the highway network as many will be passing by anyway.

It assumes that 70% of trips are associated with the existing food store. I would appreciate additional information on the source of this assumption.

The database used for the proposed trip generation is TRICS. The applicant has used version 7.2.1, however

there is an updated version 7.3.1, the difference between the two versions does not represent a significant variation for this development.

The additional trip generation appears to have been represented in various tables which indicate the arrival trips to the development rather than the combination of the arrival and departures. Instead, the applicant has addressed this within the summary by doubling the amount of arrival trips to obtain the overall total.

The additional trips (this is assumed to be 30% of the total generated by the proposed development) will consist of pass by traffic and new trips. It is also assumed that the pass by traffic represents 30% of the additional trips during the weekday and 10% at weekends.

Based on the applicant's figures, the proposed petrol filling station will generate 1104 vehicle trips per weekday of which 331 trips will be additional trips. Of these 331 trips, 232 trips will be 'new' trips not already present on the network. In terms of the weekend figures the survey data is based on a Saturday count. It suggests that the total daily trip generation for that day is 878 trips, of which 263 trips will be additional trips. Of these 263 trips, 237 trips will be 'new' trips not already present on the network.

Although the Asda store is already serviced along Court Drive it is not serviced from the car park access. It is stated that 'The road geometry adjacent to the store prevents articulated vehicles from making certain movements at the store access junction, consequently, articulated trucks may only enter the site from the north-east by turning left from Court Drive. Similarly, vehicles leaving the site must turn left and head to the south-west', exiting Dunstable via Vernon Place, Queensway and the A5. This information is borne out by the tracking information supplied.

It is clear then that despite some minor alterations proposed to the entry and exit kerb radii, the proposal does not provide for an adequate junction to serve the development and with no means of enforcing the applicant's intended servicing arrangements, I could not support this application in its present form.

Currently there is a 7.5T weight restriction on Kingsway and the residential streets off it. There is also a 7.5T restriction on part of Court Drive, up to the existing service yard, and Queensway, such that HGVs should

access Asda via College Drive, rather than Dunstable High Street. This was introduced as part of the Court Drive enhancement works and therefore any requirement for petrol tankers to turn left out of the site would not only compromise that order but also the objectives for that order being created. In addition, the signage strategy for HGV's post opening of the Woodside and A5-M1 link is such that Heavy Goods Vehicles should be removed from the High Street.

There is also no information provided as to the volume of HGV's which would be estimated to serve the filling station or the times at which they are likely to operate making it impossible to quantify the HGV impact on both Court Drive or the A5 and upon the two pedestrian crossings located either side of the site access. It would also then have been useful to present the accident history for Court Drive in terms of measuring any potential impact.

The applicant has not demonstrated that there will be no adverse impact on the capacity of their junction with Court Drive.

It could be said that the pass by traffic is already on the network and therefore makes very little difference. However, the pass by traffic will create additional turning movements in to and out of the Asda junction, the effect of which has not been sufficiently considered by the applicant.

Whilst detailed junction modelling is not usually required within a Transport Statement, given the nature and location of this proposal junction modelling would have highlighted any capacity issues and the mitigation required. In addition there is no information provided with regard to the Vernon Place/Queensway junction or the Queensway/A5 High street junctions.

On site, the proposal makes provision for a right turning lane off the existing 2 way route in the car park for a dedicated access to the filling station and although some 'stacking' capacity has been included there is no analysis of whether queuing traffic might cause traffic accessing the store to back onto Court Drive if it reaches capacity. This should have been investigated as part of any modelling of the access junction.

In addition I have the following observations to offer in terms of the internal parking and access layout:



Traffic exiting from the two parking aisles on to the main access road will have to turn right across the right turn lane for the PFS. Obviously, if the right turn lane is occupied this will prevent vehicles from undertaking this manoeuvre causing inconvenience to those customers. There is also the likelihood of these vehicles exiting the two aisles partially blocking the pedestrian crossing route as they wait at the giveway markings.

Similarly when drivers turn left in to the two aisles from the access road, they are immediately faced with the pedestrian crossing point, which if in use by pedestrians would cause the driver to stop at the aisle junction partially obstructing traffic along the main access road entering the site.

A minor point with regard to the road markings, the hatching within the right turn lane is angled in the wrong direction.

The A5 in the vicinity of the junction of High Street/Church Street is itself an Air Quality Management Area (AQMA) which should have been detailed in the TS in terms of any increase in HGV movements.

I recommend the application is refused for the following reasons.

Insufficient information has been provided to enable an accurate assessment of the application in terms of the junction capacity and its implications on the public highway.

The application contains insufficient information to show that the proposed internal road layout serving the development can be accommodated in a manner that would not cause increased danger and inconvenience to users of the public highway.

The proposed development makes inadequate provision for a satisfactory vehicular access to accommodate commercial traffic generated by the proposal and is likely to lead to an increase in congestion and additional hazards for highway users.

Transport Strategy

With reference to application reference CB/16/01011/FULL I should like to advise that significant financial investment is being provided to deliver the A5-M1 link and Woodside Connection which are, in part, being delivered to reduce the number of HGV's from the current A5 route through Dunstable. From a strategic perspective the High Street is seen as an integral

element of the overall regeneration plans for the town centre and the objectives for the Strategic plans for the High St are to:

- Create a more pleasant, safer and attractive environment for non car users by minimising the dominance of the car
- Improve the overall management of traffic and circulation within the centre of town reducing levels of congestion and improving air quality
- Improve accessibility between and within the different parts of the town centre, facilitating the opportunities to increase footfall to local shops and key destinations within the centre of Dunstable
- Create good quality streets and spaces that contribute to improved public realm.
- Improve people's perceptions of Dunstable through design improvements that enable a move away from a typical heavily trafficked route/'Trunk road' and towards a more traditional town centre multi-mode area

Furthermore we have a HGV Signage Strategy that will route HGV's on to the appropriate roads of the CBC highway network post opening of the A5-M1 Link road in Spring 2017 and as such Vernon Place, Queensway and High Street North will not be appropriate routes for HGV's post opening of the A5-M1 Link due to the HGV restrictions that will be in place. Access routes to ASDA from the M1 Motorway will need to be from the North via the new M1 Junction 11a, Woodside Link, College Drive and from the South M1 Junction 11, Luton Road, Boscombe Road, College Drive.

There is a draft plan of the proposals enclosed however please note that the public consultation for this strategy will take place post the EU referendum June 2016.

Taking all this into consideration my opinion as an officer is that I cannot support the applicants current proposed routing of HGV's and that alternative routes should be explored that better meet our Strategic objectives for the area.

Public Protection

Topics considered:

Air Quality  
Contaminated Land  
Noise  
Light  
Odour

In relation to land contamination, the Ground Investigation reports submitted with this application appear sound and I believe that this aspect of the application could be dealt with by suitable conditions attached to any permission.

The information submitted in terms of lighting, likewise appears acceptable.

However, for noise, the covering letter states that the nearest property is 133 metres away which means that noise will not affect residential amenity. However, the units above the shops on Vernon Place have permission to become residential flats (7 in total: planning reference CB/14/02841). These units are around 30m from the proposed PFS. Additionally, there are some residential units above the shop premises on Queensway which is only a little farther away.

We need to consider noise generation in relation to these premises and without this I am not in a position to make a decision on the impact on residential amenity.

I, therefore, object to the proposals as they stand due to having insufficient information on noise.

Environment Agency

Initial Submission

Environment Agency position:

We object to the application as submitted because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater resources from which supplies of potable water are obtained can be safely managed. Without a risk assessment showing the contrary, the risks to groundwater/surface water from this development are considered unacceptable. We recommend that planning permission should be refused on this basis.

Reasons:

To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3) (and the relevant position statements in "*Groundwater Protection: Principles and Practice (GP3)*", section D "*Storage of pollutants*". Specifically, statements "*D1: Principles of storage and their transmission*", "*D2: Underground storage (and*

*associated pipe works)*” and *“D3: Sub water table storage”*).

Advice to LPA / Applicant:

The application documents uploaded on the website do not document that the risks of pollution are understood, as a Preliminary Risk Assessment (including a desk study, conceptual site model and initial assessment of risk) has not been provided. It requires a proper assessment whenever there might be a risk, not only where the risk is known.

The site is located above the Holywell Nodular and New Pit Chalk Formation (undifferentiated), which are classified as a Principal Aquifer, used for potable water supplies, and where we carefully monitor development proposals of all types. In this instance the proposed development could threaten potable water supplies due to the proposed underground (potentially sub-water table storage) of hazardous substances.

Potential unacceptable risks arising from the proposed construction and operation of the petrol & diesel filling station. (This part of the assessment should be supported by a comprehensive groundwater risk assessment carried out using the results of the site investigations including groundwater monitoring, with consideration of the hydrogeology of the site and the degree of any existing groundwater and surface water pollution. The risk assessment should also consider the foundation and drainage designs, as any intrusive foundations and infiltration Sustainable Drainage System (SuDs) may provide a fast route to groundwater for contaminants, both during and after construction.)

A detailed scheme to include the full structural details of the installation for the proposed fuel filling station is required which should include:

- Excavation
- The tanks
- Tank surround, associated pipe work and stock monitoring system (including the fuel delivery pipework)
- Drainage details for the forecourt and drainage within the tanker off loading area
- A management plan detailing how traffic will be directed onto and off-site, including how fully laden delivery tankers will avoid fuel delivery pipework between pumps and tanks
- Leak detection systems (including the location

and design of groundwater monitoring boreholes comprising of at least one up hydraulic gradient and two down gradient boreholes, one of these to be located down gradient of the underground fuel tanks. The information must include proposed frequency of monitoring and reporting to relevant regulatory authority and the suite of substances that will be tested in each groundwater sample from the site. These boreholes must be constructed in a manner that ensures they do not provide a pathway for spillages to enter the ground or groundwater from the site surfacing)

- A site specific staff training manual that explains to site staff specific environmental risks associated with the petrol filling station, and actions to be taken in the event of an incident.

NB. The infrastructure design method statement should meet BAT and reduce the risk to groundwater and comply with appropriate engineering standards including but not restricted to:

- the Blue Book, APEA & EI, 2011
- “Groundwater protection code: petrol stations and other fuel dispensing facilities involving underground storage tanks” Defra, 2002
- PPG2: Above Ground Oil Storage Tanks, EA, 2011a
- PPG3: Design and Operation of Oil Separators, EA, 2006
- PPG7: Safe Operation of Refuelling Facilities, EA, 2011b

PPG21: Incident Response Planning, EA, 2009

#### Further Submission Following Receipt of Preliminary Risk Assessment And Ground Investigation Report

We maintain our Objection.

The submitted report (ref: Preliminary Risk Assessment And Ground Investigation Report For a Proposed Petrol Filling Station At ASDA, Court Drive, Dunstable, Contract No. E12893/1 Prepared By Dts Raeburn Limited Dated March 2016) only deals with the previous uses of the site not the proposed use as a petrol filling station. The site investigation also does not include boreholes that are deep enough to measure the groundwater table and its seasonal variations (other site investigations carried out under planning in the vicinity & BGS website indicate the groundwater table is expected between 16-20m below ground level). Therefore, the conceptual site model is incomplete.

Overcoming our objection:

The applicant should provide information to satisfactorily demonstrate to The Local Planning Authority that the risk to controlled waters (both from historic contamination and the installation and operation of the petrol filling station) has been fully understood and can be addressed through appropriate measures.

Advice to LPA / Applicant:

Please see our previous response for the full details of what is required to be submitted.

Conservation and Design Proposed filling station and associated structures, signage and lighting in currently open, designed interface between the new and old parts of Dunstable Town Centre, an area forming the setting to the designated Town Centre Conservation Area and also the setting of the important and locally valued green open space of Grove House Gardens within it.

I consider that the proposed development weakens the essential and designed openness of this key area of 'transition' in the local townscape and is, in itself, development which is inappropriate in the context of the adjoining public park, an important element of conservation area character. As such, I find the proposal harmful to local character and the contribution this character makes to the quality of Grove House Gardens, and to wider Conservation Area setting.

In view of the above, I consider that the proposed filling station and associated structures, signage and lighting fail key tests for new development set out as paragraphs 131 and 137 of the NPPF, and I recommend refusal accordingly.

Highways England

Offer no objection.

Highways Act Section 175B is not relevant to this application.

**Other Representations:**

Neighbours

Four representations were received from No. 50 Hillyfields, No. 63 Beechwood Court, and Woolpack Close (No. not given), Dunstable; and 100 Westminster

Gardens, Houghton Regis raising the following objections:

Opposed to having petrol station in middle of busy retailing area.

Concerned for safety of pedestrians that move westwards from the ASDA store across zebra crossings towards the Grove House area.

Need assurance that the scheme has the agreement of Highways.

Town currently has an adequate number of fuel stations on the surrounding roads.

Proposal will do little for employment.

Proposal will reduce volume of parking available which is already inadequate at weekends around the ASDA store.

Application needs to be considered very carefully, due to proposed redevelopment of the leisure facilities and probable demolition of the towns library when it is relocated in the redeveloped sports and leisure centre.

Congestion, air pollution and road disruption to Court Drive.

Changes need to be made which make it a pleasure to live and work in Dunstable.

The area is not pleasant to use by any mode of travel. A petrol station will only add to this disorder.

### **Determining Issues:**

The main considerations of the application are:

1. Principle of Development
2. Design
3. Tree Impact
4. Highways and Parking
5. Neighbouring Amenity
6. Impact on Controlled Waters
7. Archaeological Impact
8. Other Considerations

### **Considerations:**

- 1. Principle of Development**

- 1.1 The covering letter submitted with the application (Pegasus Group, 4 March 2016) states that the development of the site for a PFS will fulfil a requirement of ASDA to complement the neighbouring supermarket offer with a petrol sales offer, meeting customer requirements in the area. As stated above, the application site is in Dunstable town centre, but outside the Main Shopping Area.
- 1.2 As the PFS would be located in a car park and outside the Main Shopping Area, the use would in principle be unlikely to have an adverse impact on the vitality and viability of the town centre in which the primary function is retail. The PFS would extend the range of facilities offered in the town centre.
- 1.3 However, the PFS would be positioned in a large open space between the ASDA supermarket and buildings opposite in Vernon Place; a space which extends and widens out into Grove House Gardens, a site of local historic interest and amenity value, to the north west. The car park and road / bus route in Vernon Place and Court Drive form part of the designed interface between the old and new parts of Dunstable town centre. This area also forms part of the setting to the designated Dunstable Conservation Area and the locally valued green open space of Grove House Gardens.
- 1.4 The proposed PFS, including a forecourt canopy, control room, blast wall and vent pipes, would weaken the essential and designed openness of this key area of 'transition' in the local townscape and would be development which is harmful to the visual amenity of a prominent town centre location and incompatible with the street scene. The proposal would also result in the loss of landscape planting adjacent to the boundary with Vernon Place, and would be inappropriate in the context of the adjoining public park, an important element of the Conservation Area character.
- 1.5 Therefore, a PFS in the location proposed would be harmful to the street scene, and to local character and the contribution this character makes to the quality of Grove House Gardens, and to the wider Conservation Area setting.
- 1.6 The proposal is therefore contrary to Policies BE7 and BE8 of the South Bedfordshire Local Plan Review 2004 as it would harm the character and appearance of the setting of an historic park. It is also contrary to paragraphs 131 and 137 in Section 12 of the National Planning Policy Framework (NPPF) as it would fail to make a positive contribution to local character and distinctiveness, and would fail to enhance or better reveal the significance of the neighbouring Conservation Area.

## **2. Design**

- 2.1 The design of the PFS per se, with materials in line with the ASDA brand, would give it an appearance compatible with the ASDA supermarket. However, this is notwithstanding the wider concern of the proposal being harmful to the street scene and local character, and to the setting of the neighbouring Conservation Area.



### **3. Tree Impact**

- 3.1 The original planning permission for the supermarket (reference SB/TP/99/0651/FULL) included a landscape scheme for the car park. This provides an element of relief to the large expanse of hardstanding.
- 3.2 CBC requested a tree survey to show which trees are being removed, and the mitigation measures being proposed. A plan ((PA)11 A) was subsequently submitted identifying the loss of five trees, which form part of the original landscape scheme, to accommodate the PFS. However, the plan does not identify a mitigation strategy. The proposal is therefore contrary to Policy BE8 of the South Bedfordshire Local Plan Review 2004 which states that proposals should take full account of the need for soft landscaping in order to integrate development into its surroundings.

### **4. Highways and Parking**

- 4.1 The application is accompanied by a Transport Statement (SIAS, April 2016). This identifies that the PFS would generate 1104 vehicle trips per weekday of which 331 trips would be additional trips. Of these 331 trips, 232 trips would be 'new' trips not already present on the network. In terms of the weekend figures the survey data is based on a Saturday count. It suggests that the total daily trip generation for that day would be 878 trips, of which 263 trips would be additional trips. Of these 263 trips, 237 trips would be 'new' trips not already present on the network.
- 4.2 Although the ASDA store is already serviced along Court Drive it is not serviced from the car park access. It is stated that *'The road geometry adjacent to the store prevents articulated vehicles from making certain movements at the store access junction, consequently, articulated trucks may only enter the site from the north-east by turning left from Court Drive. Similarly, vehicles leaving the site must turn left and head to the south-west'*, exiting Dunstable via Vernon Place, Queensway and the A5.
- 4.3 Highways (Development Management) state that despite some minor alterations proposed to the entry and exit kerb radii, the proposal does not provide for an adequate junction to serve the development and with no means of enforcing the applicant's intended servicing arrangements, the application cannot be supported in its present form.
- 4.4 Currently there is a 7.5T weight restriction on Kingsway and the residential streets off it. There is also a 7.5T restriction on part of Court Drive, up to the existing service yard, and Queensway, such that HGVs should access ASDA via College Drive, rather than Dunstable High Street. This was introduced as part of the Court Drive enhancement works and therefore any requirement for petrol tankers to turn left out of the site would not only compromise that order but also the objectives for that order being created. In addition, the signage strategy for HGV's post opening of the Woodside and A5-M1 link is such that Heavy Goods Vehicles should be removed from the High Street. This is to help achieve the objectives for the strategic plans for the High Street which are listed in the Transport Strategy consultation response above.

- 4.5 There is also no information provided as to the volume of HGV's which would be estimated to serve the PFS or the times at which they are likely to operate making it impossible to quantify the HGV impact on both Court Drive or the A5 and upon the two pedestrian crossings located either side of the site access.
- 4.6 The Transport Statement has not demonstrated that there will be no adverse impact on the capacity of the junction of the site with Court Drive.
- 4.7 It could be said that the pass by traffic is already on the network and therefore makes very little difference. However, the pass by traffic would create additional turning movements into and out of the ASDA junction, the effect of which has not been sufficiently considered by the Transport Statement.
- 4.8 Whilst detailed junction modelling is not usually required within a Transport Statement, given the nature and location of this proposal, junction modelling would have highlighted any capacity issues and the mitigation required. In addition there is no information provided with regard to the Vernon Place/Queensway junction or the Queensway/A5 High street junctions.
- 4.9 On site, the proposal makes provision for a right turning lane off the existing 2 way route in the car park for a dedicated access to the PFS and although some 'stacking' capacity has been included there is no analysis of whether queuing traffic might cause traffic accessing the store to back onto Court Drive if it reaches capacity. This should have been investigated as part of any modelling of the access junction.
- 4.10 In addition, there are the following observations to offer in terms of the internal parking and access layout:
- 4.11 Traffic exiting from the two parking aisles on to the main access road would have to turn right across the right turn lane for the PFS. Obviously, if the right turn lane is occupied this will prevent vehicles from undertaking this manoeuvre causing inconvenience to those customers. There is also the likelihood of these vehicles exiting the two aisles partially blocking the pedestrian crossing route as they wait at the giveway markings.
- 4.12 There is currently a pedestrian crossing running across Court Drive from Grove House Gardens which continues across an internal road within the ASDA car park and links to a footpath and further pedestrian crossings before reaching the entrance to the supermarket. The proposal would result in this changing by way of the pedestrian crossing across the internal road being realigned and instead crossing the forecourt where vehicles would exit the PFS, and then crossing two lanes of traffic on the internal road, causing increased danger and inconvenience to pedestrians.
- 4.13 Similarly when drivers turn left in to the two aisles from the access road, they would be immediately faced with the pedestrian crossing point, which if in use by pedestrians would cause the driver to stop at the aisle

junction partially obstructing traffic along the main access road entering the site.

- 4.14 The A5 in the vicinity of the junction of High Street/Church Street is itself an Air Quality Management Area (AQMA) which should have been detailed in the Transport Statement in terms of any increase in HGV movements.
- 4.15 The PFS would result in the loss of 27 standard car parking spaces (387 to 360). A car parking occupancy survey (four days a week for five weeks) was undertaken as part of the Transport Statement. The observed maximum car park occupancy was 340 (88%) of available spaces, leaving a surplus of 47 spaces. Assuming the observed maximum demand remains unchanged following the loss of 27 spaces, in peak shopping times car park occupancy would increase from 88% to 94%. The calculated surplus of available spaces would be reduced from 47 to 20. On the basis of a five week long survey period revealing a surplus of 20 spaces during peak operational periods, it is considered reasonable to assume that the proposals can be accommodated without detriment to parking operations. However, most of the car parking spaces lost would be in the part of the car park nearest to the Main Shopping Area of the town centre. This could have an impact on linked trips, for example from people shopping in ASDA and in the Main Shopping Area, thereby adversely affecting the vitality and viability of the town centre.
- 4.16 However, in view of the above, the proposal is unacceptable as insufficient information has been provided to enable an accurate assessment of the application in terms of the junction capacity and its implications on the public highway. Furthermore, insufficient information has been provided to show that the proposed internal road layout serving the development can be accommodated in a manner that would not cause increased danger and inconvenience to users of the public highway. Also, the proposal makes inadequate provision for a satisfactory vehicular access to accommodate commercial traffic generated by the proposal and is likely to lead to an increase in congestion and additional hazards for highway users.
- 4.17 The proposal is therefore contrary to paragraph 32 in Section 4 of the National Planning Policy Framework (NPPF) as it fails to demonstrate that a safe and suitable access to the site can be achieved for all people.

## **5. Neighbouring Amenity**

- 5.1 The application site forms part of the car park of the ASDA Dunstable Supermarket. As stated above, the area around the site contains a variety of uses. This is typical of a town centre location outside the Main Shopping Area. The uses include residential; the covering letter submitted with the application (Pegasus Group, 4 March 2016) states that the nearest residential property to the proposal is 133m away. This is presumably in Dorchester Close. However, at the closest point properties in Dorchester Close are 85m distant. Also, a Prior Approval application was granted on 10 September 2014 for the change of use of the first and

second floors of Finbar House (24 Vernon Place) from offices to residential use consisting of seven flats (reference CB/14/02841/PADO). This is directly opposite the proposed PFS at a distance of approximately 30m. Whilst this development has not yet been implemented, the proposal could have a noise impact on potential occupants if it is implemented. Additionally there are some residential units above the shop premises in Queensway a little further away.

- 5.2 In view of the proximity of these residential properties to the PFS, which is proposed to have a continual 7 day, 24 hour operation, there could be a noise and disturbance impact to neighbouring occupants. However, in the absence of a noise survey submitted with the application, there is insufficient information to gauge this impact. The proposal is therefore contrary to Policy BE8 of the South Bedfordshire Local Plan Review 2004 which states that proposals likely to generate noise and disturbance should not unacceptably disturb or otherwise affect adjoining properties. It is also contrary to paragraph 109 in Section 11 of the National Planning Policy Framework (NPPF) as it would adversely affect existing development by reason of unacceptable levels of noise pollution.
- 5.3 Given the separation between the forecourt canopy and control room, and the nearest existing and potential residential properties, the proposed physical structures would not cause any loss of amenity, for example in terms of overbearing or loss of light impact.

## **6. Impact on Controlled Waters**

- 6.1 An initial consultation response from the Environment Agency objected to the application on the grounds of the application submission not documenting that the risks of pollution are understood, as a Preliminary Risk Assessment (PRA) had not been provided. Subsequently a Preliminary Risk Assessment And Ground Investigation Report (Contract No. E12893/1 Prepared By Dts Raeburn Limited Dated March 2016) was submitted. However, this only deals with the previous uses of the site, not the proposed use as a PFS. The site investigation also does not include boreholes that are deep enough to measure the groundwater table and its seasonal variations. Therefore, the conceptual site model is incomplete, and insufficient information has been provided to demonstrate that the risk to controlled waters, both from historic contamination and the installation and operation of the PFS has been fully understood and can be addressed through appropriate measures. The Environment Agency therefore maintain their objection.
- 6.2 The lack of information to demonstrate the protection and prevention of pollution of controlled waters from potential pollutants associated with current and previous land uses renders the proposal contrary to paragraphs 109, 120 and 121 in Section 11 of the National Planning Policy Framework (NPPF) which require the planning system to contribute and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution.

## **7. Archaeological Impact**

7.1 Prior to the erection of the ASDA supermarket, a number of archaeological investigations were undertaken. This revealed that the area where the proposed PFS is to be located was not found to contain any archaeological remains (Mudd 2004).

7.2 This application is accompanied by an Archaeological Desk-Based Assessment (Pegasus Group, April 2016), which summarises the known archaeological background for the proposed development site and its immediate surroundings. The proposed PFS would have underground tanks for the storage of fuel, which would result in a greater impact than the previous re-surfacing of the car park. However, on balance, it is unlikely that any significant archaeological remains now survive at this location and as a consequence the proposal is acceptable in archaeological terms.

## **8. Other Considerations**

8.1 Human Rights issues:

The proposal raises no Human Rights issues.

8.2 Equality Act 2010:

The proposal raises issues under the Equality Act 2010 with regard to the reconfiguration of the car park involving the gain of one disability space and the satisfactory provision of pedestrian access routes through the Petrol Filling Station and car park.

### **Recommendation:**

That Planning Permission be REFUSED for the following reasons:

### **RECOMMENDED REASONS**

1. The development of a Petrol Filling Station in the location proposed would weaken an area of openness in the local townscape and would be harmful to the visual amenity of a prominent town centre location and incompatible with the street scene. It would also be inappropriate in the context of and harmful to the setting of the adjacent Conservation Area and Grove House Gardens, a site of local historic interest and amenity value, and would result in the loss of landscape planting and trees without identified mitigation. The proposal is therefore contrary to Policies BE7 and BE8 of the South Bedfordshire Local Plan Review 2004, and Sections 7 and 12 of the National Planning Policy Framework, March 2012.
2. The application submission contains insufficient information to enable an accurate assessment of the proposed Petrol Filling Station in terms of the site junction capacity and its implications on the public highway, and to show that the proposed internal road layout serving the development can be accommodated in a manner that would not cause increased danger and inconvenience to users of the public highway. Also, the proposal makes inadequate provision for a satisfactory vehicular access to accommodate

commercial traffic generated by the proposal and is likely to lead to an increase in congestion and additional hazards for highway users. The proposal is therefore contrary to Section 4 of the National Planning Policy Framework, March 2012.

3. In the absence of a noise survey submitted with the application there is insufficient information to gauge the impact, in terms of noise and disturbance, of the proposal on existing and potential neighbouring residential occupants. The proposed 7 day, 24 hour operation of the Petrol Filling Station could therefore have an unacceptable impact on neighbouring amenity. The proposal is therefore contrary to Policy BE8 of the South Bedfordshire Local Plan Review 2004, and Section 11 of the National Planning Policy Framework, March 2012.
4. The application submission contains insufficient information to demonstrate that the risk to controlled waters, both from historic contamination and from the installation and operation of the Petrol Filling Station has been fully understood and can be addressed through appropriate measures. The proposal is therefore contrary to Section 11 of the National Planning Policy Framework, March 2012.

**Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35**

In the Council's view the proposal is unacceptable for the reasons stated. The applicant did not seek pre-application advice and was invited to withdraw the application to enable discussion in respect of the areas of concern. However, the applicant chose not to withdraw the application. The Council has therefore complied with the requirements of the Framework (paragraphs 186 and 187) in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**DECISION**

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