

## Item No. 11

<b>APPLICATION NUMBER</b>	<b>CB/15/00741/FULL</b>
<b>LOCATION</b>	<b>Downs Service Station, 3 Tring Road, Dunstable, LU6 2PX</b>
<b>PROPOSAL</b>	<b>Change of use from redundant workshop to A1 retail including demolition of the front section of the building to provide additional car parking</b>
<b>PARISH</b>	<b>Dunstable</b>
<b>WARD</b>	<b>Dunstable Watling</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Hollick &amp; Young</b>
<b>CASE OFFICER</b>	<b>Debbie Willcox</b>
<b>DATE REGISTERED</b>	<b>24 February 2015</b>
<b>EXPIRY DATE</b>	<b>21 April 2015</b>
<b>APPLICANT</b>	<b>Platinum Retail Ltd</b>
<b>AGENT</b>	<b>Jennings Design Ltd</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called in by Councillor Young due to concerns in regards to the amenity of neighbouring occupiers.</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Recommended for Approval</b>

### **Summary of Recommendation**

The principle of the change of use of the redundant building on the site of an existing petrol station to a retail unit of this scale is considered to be acceptable in principle. The proposal would have an acceptable impact on the character and appearance of the site and its surroundings and, subject to the imposition of conditions, would not give rise to an unacceptable loss of amenity to surrounding residents, or have a detrimental impact on the surrounding highway network. The proposal is therefore considered to be in accordance with the National Planning Policy Framework, policies BE8 and T10 of the South Bedfordshire Local Plan Review, policies 11, 12, 25, 27, 43 and 44 of the emerging Development Strategy, and the Central Bedfordshire Design Guide.

### **Site Location:**

The application site comprises the curtilage of a petrol station and a disused workshop located on the south side of Tring Road on the outskirts of Dunstable. To the immediate east of the application site is a restaurant and to the west is a row of residential properties. Immediately to the rear of the site is the beginning of the Dunstable Downs and the site inclines steeply upwards as it runs from front to back.

The existing petrol station comprises 8 petrol pumps on the forecourt and a building with an internal gross floor area of approximately 750 square metres. Of this some 85 square metres is used as a sales area, handling petrol sales and a small level of grocery sales. The remainder of the building is a disused workshop. The height of the building is some 6m at the front, however, it is built into the incline and therefore the height reduces towards the rear of the site. The building runs the full width of the site and there is no external access to the rear of the site.

There are two vehicular accesses to and from the petrol station from Tring Road,

which has four lanes in the vicinity of the petrol station. The speed limit on Tring Road in this location is 30 miles per hour. There are currently no formal parking spaces on the site, except those at the petrol pumps.

### **The Application:**

The application seeks planning permission for the change of use of the workshop to A1 retail, with the intention of selling convenience and complementary items. The applicant has proposed opening 24 hours, including Sundays and Bank Holidays.

The proposal also includes operational development comprising the demolition of the front 7.6m depth of the whole width of the building to provide 8 echelon car parking spaces in front of the building. The existing retaining wall on the boundary with No. 7 Tring Road would be retained at its full height. The proposal would result in a net sales area of 278 square metres. The existing access arrangements would be retained.

### **RELEVANT POLICIES:**

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

#### **South Bedfordshire Local Plan Review Policies**

BE8 Design Considerations

T10 Parking - New Development

*(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policy BE8 is still given significant weight. Policy T10 is afforded less weight).*

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

*(The draft Development Strategy was submitted to the Secretary of State on the 24<sup>th</sup> October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspector's findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the Secretary of State.)*

Policy 11: Town Centre Uses

Policy 12: Retail for Neighbourhood Centres and the Rural Area

Policy 25: Functioning of the Network

Policy 27: Car Parking

Policy 43: High Quality Development

Policy 44: Protection from Environmental Pollution

#### **Supplementary Planning Guidance**

Central Bedfordshire Design Guide: A Guide for Development (2014)

#### **Relevant Planning History**

SB/05/00743 - Refusal of planning permission for redevelopment of existing petrol filling station including new buildings and canopy.

SB/96/00516 - Planning permission granted for redevelopment of petrol filling station, including shop, forecourt and jet wash - not implemented, permission expired.

SB/94/00423 - Refusal of planning permission for redevelopment of petrol filling station, including shop, forecourt and jet wash.

SB/73-00263 - Planning permission granted in 1951 for erection of extension to garage to form workshop, store and office.

**Representations:  
(Parish & Neighbours)**

Dunstable Town Council No objections

Neighbours (7, 9, 11 & 13 Tring Road)

Object to the application for the following reasons:

- The removal of the boundary wall by the moving back of the building would result in a loss of privacy for neighbouring occupiers, would allow the LED signage to light up the rooms of neighbouring occupiers and would increase noise pollution;
- The extra traffic visiting the new shop will increase the risk of accidents on Tring Road;
- No allocated parking for staff;
- The lowering of the height of the building would mean that the building height would be at the same level as the garden of No. 7;
- The new business use should not have 24 hours a day opening hours. This would disturb privacy with the noise it would create. This is a residential area and consideration should be given to residential occupiers. Currently the petrol station is open until 9.30pm;
- Deliveries and opening hours should be restricted to 8am to 9.30pm;
- Has the premises applied for a licence to sell alcohol?
- Off-street parking would have to be added to the rear of the site, which would have a negative impact on the Downs;
- The extent of the building work planned, particularly at the rear, would harm the character and appearance of the area and the open nature of the Downs;
- There are already two general stores locally and another shop would take trade from these shops.

**Consultations/Publicity responses**

Site Notice (05.03.2015) No responses.

Environment Agency

This site is located above a Principal Aquifer and we consider the previous and current use to be potentially contaminative. Therefore, the site is considered to be of high sensitivity and could present potential pollutant / contaminant linkages to controlled waters.

**Environment Agency Position**

We consider that planning permission could be granted to the proposed development as submitted if the supplied

planning conditions are included. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application.

Public Protection Officer Further to the submission of the noise assessment (report reference: GA-2015-0016-R1) I can respond as follows.

I think that there should be a restriction on the hours of opening of the premises. The noise report indicates that the opening hours would be from 06.00 hours to 00.00 hours daily. I would suggest that the hours are restricted to 23.00 hours in the evenings as this represents day time acoustically. Whilst it is acknowledged that there are currently no restrictions on the use of the premises, the current proposals represent a potential intensification of the use.

In addition to the retention of the existing 6m high wall on the residential boundary, I would also recommend the supplied conditions be placed on any permission.

Public Protection  
(Contaminated Land)  
Officer

No comments.

Highways Officer

The applicant wishes to change the use of the existing workshop/car showroom facility at the Downs Service Station to an A1 retail shop.

The existing workshop and sales area are to be reduced in size by cutting back the existing building line by approximately 7.6m, which equates to approximately 205m<sup>2</sup>.

There appears to be no existing parking bays marked out, except for the eight spaces needed at the fuel pumps. The applicant is proposing to construct an additional eight parking spaces to the front of the new shop front in an echelon fashion. The new customer parking area complies with the current parking standards for A1 use.

I am a bit concerned regarding the affect the proposed staffing levels may have on the off street parking provision. The staffing levels are anticipated to double from six to twelve full time equivalent posts. The applicant has stated that staff will access the site as they do at present, which is a mixture of public, private transport and on foot. However, there is a concern that staff could use some of the customer parking spaces reducing the availability of off-street parking for users of the shop. I can only suggest that you consider imposing a condition

to restrict parking to customers only. I can offer the wording of a condition for your consideration.

There is no provision made for cycle parking, therefore I shall impose a condition for a scheme for the parking of cycles on the site to be submitted and approved.

There are no additional structures proposed within the forecourt which will restrict the tanker movements, therefore this will remain as it is now.

There are no reported traffic accidents in the vicinity of the site between 2005 and 2013.

I would not wish to raise any highway objection to the application subject to the supplied conditions.

### **Determining Issues**

The main considerations of the application are;

1. **Principle of the Development**
2. **Design Considerations**
3. **Impact on Residential Amenity**
4. **Highway Implications**
5. **Other Issues**

### **Considerations**

#### **1. Principle of the Development**

The application seeks permission to change the use of an existing, redundant workshop to provide retail space to complement the existing petrol station. The proposal would increase the number of people employed at the site from 6 full time equivalent to 12 full time equivalent. The National Planning Policy Framework supports proposals which would bring redundant buildings back into use, increase employment opportunities and provide local shopping facilities, and this is also supported by Policy 12 of the emerging Development Strategy for Central Bedfordshire, which encourages the provision of local shopping facilities within residential areas, providing the proposal is of a suitable scale.

The proposed retail area would be around 278 square metres, which is well below the 500 square metre threshold at which an impact assessment would be required. It is therefore considered that the proposal is of a suitable scale to function as a local shopping facility. It is noted that there are two existing shops within the vicinity, however, competition is not a planning matter.

It is therefore considered that the principle of the proposed change of use would be acceptable.

#### **2. Design Considerations**

The proposal would not involve any alterations to the rear of the existing building and therefore there would be no impact on the character and openness of the Downs. No access would be provided to the rear and thus there would be no

parking at the rear of the site. The retained section of the building would not be altered in height and the existing retaining wall between No. 7 and the application site would be retained in its existing position and at full height, therefore there would be no alteration in views of the site from No. 7.

It is considered that the proposed alterations would not have a detrimental impact on the character and appearance of the application site or its wider surroundings and therefore the proposal is considered to conform with policy BE8 of the South Bedfordshire Local Plan Review, policy 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

### **3. Impact on Residential Amenity**

Following the submission of the application and the receipt of the comments of the neighbouring occupiers, the proposal has been revised to retain the existing 6m high wall on the boundary between the application site and the nearest neighbouring residential occupier at No. 7 Tring Road. It is considered that this would prevent any loss of privacy or increase in light pollution as a result of the proposal.

It is however, considered that the proposal would intensify the use of the site and it is noted that the application suggested 24 hour, seven days a week opening hours. It is considered that this would have a detrimental impact on the occupiers of neighbouring residential properties as it would give rise to greater levels of noise and disturbance.

A noise report has been submitted and analysed by the Council's Public Protection Officer. The noise report suggested that the opening hours should be restricted to 6am to midnight, Mondays to Sundays. Based on the noise information, the Public Protection Officer is not objecting to the scheme, subject to a further restriction of the opening hours and the imposition of conditions restricting mechanical noise and requiring the submission and implementation of a noise management plan. In regards to the opening hours, it should be noted that there is currently no restriction on the existing petrol station, which could open 24 hours a day, seven days a week, nevertheless, it is considered that the intensification of the site provides sufficient justification to restrict the opening hours of the proposed retail use and a condition is therefore suggested limiting the opening hours from 6am to 11pm daily in accordance with the recommendations of the Public Protection Officer.

Subject to the imposition of this condition and the other conditions recommended by the Public Protection Officer, it is considered that the proposal would not give rise to an unacceptable increase in noise and disturbance to the occupiers of neighbouring dwellings and the proposal is thus considered to be in accordance with policy BE8 of the South Bedfordshire Local Plan Review, policies 43 and 44 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

### **4. Highway Implications**

The comments of the Highways Officer are noted and it is considered that, subject to the imposition of the recommended conditions, the proposal would not have a detrimental impact on highway safety.

## 5. Other Issues

It is unknown whether the applicants have applied for an alcohol licence, however, this is not a material planning consideration in the determination of this application.

### Human Rights issues

The proposal raises no Human Rights issues.

### Equality Act 2010

The Design and Access Statement states that level access will be afforded to the proposal, which would be DDA compliant. Nevertheless, it is considered appropriate to include an informative, advising the applicants of their responsibilities under the Equality Act 2010.

## Recommendation

That Planning Permission be GRANTED subject to the following:

### RECOMMENDED CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The retail premises shall only be open to customers between the hours of 6am to 11pm Mondays to Sundays.

Reason: To safeguard the residential amenity which the occupiers of neighbouring properties might reasonably expect to enjoy.  
(Policy BE8, SBLPR and Policies 43 and 44, DSCB)

- 3 No deliveries shall be taken at the site outside the hours of 6am to 11pm on Mondays to Sundays.

Reason: To safeguard the residential amenity of neighbouring properties.  
(Policy BE8, SBLPR and Policies 43 and 44, DSCB)

- 4 **No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:**

1. **A Preliminary Risk Assessment (PRA) including a Conceptual Site Model (CSM) of the site indicating potential sources, pathways and receptors, including those off site.**
2. **The results of a site investigation based on (1) and a detailed risk assessment, including a revised CSM.**
3. **Based on the risk assessment in (2) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall**

**include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long term monitoring and maintenance plan as necessary.**

- 4. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation strategy in (3). The long term monitoring and maintenance plan in (3) shall be updated and be implemented as approved.**

**Reason: The condition must be pre-commencement 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).**

**(Policy BE8, SBLPR and Policies 43 and 44, DSCB)**

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

**Reason: 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).**

**(Policy BE8, SBLPR and Policies 43 & 44, DSCB)**

- 6 **No development shall take place until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.**

**Reason: 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).**

**(Policies 43 and 44, DSCB)**

- 7 All external plant, machinery and equipment installed or operated in connection with this permission shall be so enclosed, operated and/or attenuated that noise arising from such plant shall not exceed a level of 5dBA below the existing background level (or 10dBA below if there is a tonal or distinctive quality) when measured or calculated according to BS4142:2014, at the boundary of any neighbouring residential dwelling.



Reason: To ensure that the residential amenity of neighbouring occupiers is not prejudiced by excessive noise.

(Policy BE8, SBLPR and Policies 43 & 44, DSCB)

- 8 **Development shall not begin until a noise management plan has been submitted to and approved in writing by the Local Planning Authority. Any noise mitigation measures shall include those contained in the recommendations from the noise assessment submitted with this application report reference: GA-2015-0016-R1. Any works which form part of the approved plan shall be completed before the new premises becomes operational unless an alternative period for completion is agreed with the Local Planning Authority.**

**Reason: The noise scheme must be agreed prior to construction works beginning to minimise noise disturbance to the occupiers of neighbouring residential properties.**

**(Policy BE8, SBLPR and Policies 43 & 44, DSCB)**

- 9 The retail use hereby approved shall not commence until the parking scheme shown on Drawing No. PLG3B has been completed. The scheme shall thereafter be retained for this purpose.

Reason: To ensure provision for car parking clear of the highway.

(Policy T10, SBLPR and Policy 27, DSCB)

- 10 The use hereby permitted shall not commence until a scheme for the parking of cycles on the site has been submitted to and approved in writing by the Local Planning Authority and the scheme has been fully implemented. The scheme shall be retained for this purpose thereafter.

Reason: To ensure the provision of cycle parking to meet the needs of occupiers of the proposed development in the interests of encouraging the use of sustainable modes of transport.

(Policy 24, DSCB)

- 11 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 140654-PLG1, 140654-PLG2, 140654-PLG3B, 140654-PLG4B.

Reason: To identify the approved plans and to avoid doubt.

### **Notes to Applicant**

1. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the emerging Development Strategy for Central Bedfordshire (DSCB).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

3. The applicant's attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

The Equality Act 2010 requires that service providers must think ahead and make reasonable adjustments to address barriers that impede disabled people.

These requirements are as follows:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage to take reasonable steps to avoid that disadvantage;
- Where a physical feature puts disabled people at a substantial disadvantage to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function;
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage to provide that auxiliary aid.

In doing this, it is a good idea to consider the range of disabilities that your actual or potential service users might have. You should not wait until a disabled person experiences difficulties using a service, as this may make it too late to make the necessary adjustment.

For further information on disability access contact:

The Centre for Accessible Environments ([www.cae.org.uk](http://www.cae.org.uk))  
Central Bedfordshire Access Group ([www.centralbedsaccessgroup.co.uk](http://www.centralbedsaccessgroup.co.uk))

4. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from The Street Works Co-ordinator, Bedfordshire Highways, by contacting the Highways Helpdesk 0300 300 8049.
5. The applicant is advised that photographs of the existing highway that is to be used for access and delivery of materials will be required by the Local Highway Authority. Any subsequent damage to the public highway resulting from the works as shown by the photographs, including damage caused by delivery vehicles to the works, will be made good to the satisfaction of the Local Highway Authority and at the expense of the applicant. Attention is drawn to Section 59 of the Highways Act 1980 in this respect.
6. The applicant is advised that all cycle parking to be provided within the site shall be designed in accordance with the Central Bedfordshire Council's "Cycle Parking Annexes – July 2010".

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

It is recommended that planning permission be granted for this proposal. The Council

acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**DECISION**

.....

.....