

Parish:
Ward:
8

Committee Date: 16 February 2023
Officer dealing: Mr Mark Russell
Target Date: 18th July 2022
Date of extension of time:

22/01117/FUL

Application for continuation of site operations as a petrol station and retail shop (including deli element) to include food preparation area for sale on premises. Alterations to the arrangement for the provision of parking, manoeuvring with turning area.

At: Will and Freddie's, North Road Garage, Shipton by Beningbrough, North Yorkshire
For: Mr Thomas Brooke

This application is brought to Members given the complex planning history.

1.0 Site, context and proposal

- 1.1 The site lies approximately 1.2km to the north of the village of Shipton and is sited on the eastern side of the A19. The site lies within the York Green Belt. A dwelling lies immediately to the north of the application site with 2 more dwellings approximately 70m further north. The Wilson building lies immediately to the south of the application site and shares the same access, though approval has been given (22/01435/FUL) for an access from the A19 to site. This building is currently vacant.
- 1.2 The building was previously used as a car showroom, servicing, MOT station and petrol filling station; the petrol pumps are still in operation at the front of the site. A shop associated with the filling station used to occupy an area of 110sqm, approximately 40% of the original building.
- 1.3 The application seeks permission for the continuation of site operations as a petrol station and retail shop (including deli element) to include food preparation area for sale on the premises, and alterations to the arrangement for the provision of parking, manoeuvring with turning area.
- 1.4 The applicant has confirmed that the application is not retrospective. Some of the existing on-site operations are lawful (as addressed below) and others have been implemented pursuant to planning permission granted under application reference number 13/01238/FUL, "the 2013 permission".
- 1.5 The applicant further confirms that the red line plan approved as part of the 2013 permission was incorrect and so neither condition 4 nor condition 5 of the 2013 permission could be wholly complied with. A subsequent application (20/00794/MRC) to vary these 2 conditions was refused. notice. A subsequent appeal was dismissed as the red line plan was incorrect and the applicant had failed to serve the appropriate land ownership notice.

- 1.6 A further application was submitted under application reference 21/00209/MRC to vary condition 3 of planning permission 13/01238/FUL and enable the preparation of food for sale from the premises. This application was approved by the Council then challenged and subsequently the planning permission was quashed. The issue again related to an incorrect red line application plan and the appropriate service of notice.
- 1.7 A total of 13 car parking spaces are proposed including 4 disabled drivers' spaces, and 1 light goods vehicle space. The application indicates that two full time and 6 part time workers would be employed.
- 1.8 The original planning permission 13/01238/FUL imposed a number of conditions specifically those as set out below:

Condition 3 Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' the premises shall not be used for any purpose other than a Class A1 Shop for the sale of convenience goods as shown on drawing number 13- SHIP-PFP received by Hambleton District Council on 14 June 2013 and no food shall be prepared on the premises for sale.

Condition 4 Within 2 months of the date of this decision the vehicle parking, manoeuvring, and turning areas shall be constructed in accordance with the submitted Drawing no. 13-SHIP-PSP Rev A). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Condition 5 The permission hereby granted shall not be undertaken other than in complete accordance with the location plan and drawings numbered 13-SHIP-PFP, 13-SHIP-PE1, 13-SHIP-PE2 and 13-SHIP-PSP Rev A received by Hambleton District Council on 14, 27 and 28 June, 21 August and 8 October 2013 unless otherwise approved in writing by the Local Planning Authority.

- 1.9 In essence the applicant has confirmed that the current application seeks to gain planning permission to continue the use of the of site operations as a petrol station and retail shop (including deli element) to include food preparation area for sale on premises through submission of an accurate red line plan together with alterations to the arrangements for the provision of parking, manoeuvring and turning areas within the site.

2.0 Relevant Planning History

- 2.1 2/79/131/0019D - Construction of a forecourt canopy. Permission granted 30/8/1979.
- 2.2 10/00378/ADV - Application for advertisement consent to display 7 non illuminated signs. Consent granted 12 April 2010
- 2.3 10/00377/FUL - Re-siting of two underground petrol tanks and three petrol pumps, alterations to the existing shop/car showroom and forecourt canopy and creation of car parking areas. Permission granted 12 May 2010.

- 2.4 12/02368/MRC - Application to vary condition 02 of planning approval 10/00377/FUL to amend the position of the pumps and tanks. Permission granted 8 February 2013.
- 2.5 13/01238/FUL - "the 2013 permission" - Demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates. Permission granted on the 31 October 2013. The officer recommendation was to refuse the planning application, but this was approved at the Planning Committee on the 12 September 2013.
- 2.6 20/00794/MRC - Application for variation of condition No:4 (new drawing number for vehicle parking numbers SHIP-APR20) & No:5 (approved drawings - new drawing SHIP-APR20 - inclusion of shipping container for storage purposes only and to move and increase parking spaces from 12no to 16no, to remove fence and gate and the addition of 2no electric charge points) to previously approved application reference: 13/01238/FUL for the demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates as amended by plan received by Hambleton District Council on 21 August 2013 - Refused on 7 July 2020 for the following reason:

"The revised layout of the site fails to provide a safe environment for customers to visit whilst utilising the shop and deli facility. The absence of appropriate on-site parking and turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users. The proposal is therefore contrary to Local Development Framework policies CP1, DP3 and DP4 and as the proposal would result in an unacceptable impact on highway safety the proposal is also contrary to the NPPF, noting particularly the provisions of paragraph 109."

- 2.7 21/00209/MRC - Application for removal of condition 3 (specifically to no food shall be prepared on the premises for sale) to previously approved application 13/01238/FUL for Demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates as amended by plan received by Hambleton District Council on 21 August 2013.
- The was granted planning permission on 6 May 2021, that decision was challenged and subsequently the decision was quashed (as referred to below). Following that quashing of permission, the planning application was withdrawn.

Judicial Review

- 2.8 The above planning permission (21/00209/MRC) has been the subject of a Judicial Review. The Claimant Mr Wilson who owns the building to the south of the subject site applied for permission to judicially review this decision on the following grounds:
- Grounds 1 and 2 related to the applicant's failure to notify Mr Wilson (as owner of part of the application site) of the application.

- Ground 3 related to the implications of the applicant of not owning part of the site.
- Ground 4 related to the consideration of Highways matters in determining the application.
- Ground 5 was an additional ground of claim which was submitted after the Council filed its defence. The Council had relied on 'Highways Note' in consideration of the application, however, that Highways Note was not published on the Council's website.

Ultimately, the Council consented to judgment on Ground 5 as set out above.

3.0 Relevant Planning Policies

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990. Relevant policies of the Development Plan include;

Local Plan Policy S1: Sustainable Development Principles
 Local Plan Policy S5: Development in the Countryside
 Local Plan Policy S6: York Green Belt
 Local Plan Policy E2: Amenity
 Local Plan Policy IC2: Transport and Accessibility
 Local Plan Policy EG3: Town Centre Retail and Leisure Provision
 Local Plan Policy EG7: Businesses in Rural Areas
 Local Plan Policy EG8: The Visitor Economy

4.0 Consultations

- 4.1 Shipton-by-Beningbrough Parish Council – The Parish Council would note there is no Highways report regarding the proposals in the application. The PC notes cars entering and exiting this garage are a cause of frequent accidents on the A19. While the entrance/ exit system is felt to be a positive step to trying to mitigate dangers, there is concern that the proposed signage (Entrance Only/ Exit Only) is too large (particularly too high) and will block visibility further for cars exiting the forecourt onto the A19. The visuals of the signs show the station logo which makes the signs considerably larger than necessary. The Parish Council is also confused with regards to the proposed flow pattern once cars are on the forecourt – the logical pattern for cars to maximise flow and minimise obstruction would appear to be a clockwise flow around the back of the building for those parking up to use the shop only. This does not appear to be the case on the plans. Can this be clarified, and an explanation be given?
- 4.2 NYCC Highways – Offer no objection. The highway engineer sets out: I do not have an objection to the proposal. I have previously visited the site and assessed the routeing and measured the “pinch point” and confirmed that it works. I have also agreed to the placing of signage within the public highway to give some clarity to the

use of access and flow around the site subject to a size and location that does not impact driver visibility. The details shown within planning application 22/01288/ADV accord with the requirements of the Local Highway Authority.

- 4.3 Yorkshire Wildlife Trust – No comments
- 4.4 North Yorkshire Police: Having reviewed the accompanying documents and drawings that were submitted with the application, I have no comments to make in relation to Designing Out Crime.
- 4.5 Environmental Health (contaminated land)- I have assessed the application, and from a contaminated land perspective I have no observations/comments at this stage. Therefore, I have no objections to this application.
- 4.6 Environmental Health (Residential Services) This service has considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact. Therefore, the Environmental Health Service has no objections to the application.
- 4.7 National Highways – offer no objections and recommend approval stating the reason: The improvement works should improve the onsite operation and subsequently minimise the impact on the A19.

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

- 4.8 MOD – Offer no safeguarding objection.
- 4.9 Site notice/local residents – 9 letters of objection have been received from one person who owns the building south of the subject site. A summary of these are as follows:

Blocking of entrance to objectors' site - regularly congested and obstructed by customers of, and deliveries to, Brookes Garage despite the requirement of planning condition 4 to the 2013 Planning Permission requiring that such areas must be "...maintained clear of any obstruction and retained for their intended purpose at all times". The objector will not surrender the easement across the highway frontage of Brookes Garage that passes between the A19 and the fuel pumps.

Petroleum Certificate -The NYCC Petroleum License can often prevent the objector's use of the North entrance as temporary closure of access to the Hazardous Zone Area is required during tanker refuelling operations. If HDC approve the current Planning Application for Brookes, the objector claims that access to his site would be fully prevented as users will be unable to enter via the south entrance.

Unaccredited Statements - HDC have accepted and published unaccredited documents (Highways Supporting Statement and a Design & Access Statement).

Parking - On the Planning Application it is claimed that the parking spaces will increase from 12 to 13. The objector considers that the parking provision is inadequate, that parking occurs on the lawful access route to the adjoining site to the south and on the exit route from the Brookes garages site, that the scheme is an overdevelopment and alleges that the increase is dependent on:

- Removing the requirement for landscaping where the site joins objector's site.
- The parking spaces 6 to 11 (6 parking places) on the "Site Plan as Proposed" are marked in the area previously allocated for landscaping. NB: This is currently used for "unofficial" parking.
- When the landscaping is put in place this will result in parking spaces reducing from 12 to 7, of which 2 are for disabled parking. A loss of 5 parking places.
- The application makes no allowance for up to 4 cars that usually park at the residential dwelling.
- The application makes no allowance for staff parking.
- The application makes no allowance for the parking of fuel tankers.
- The application makes no allowance for the parking of vehicles queuing to use the jet wash – this will obstruct the "one-way system" and the delivery access.
- The application makes no allowance for the parking of vehicles to pick up heavy gas bottles from the front of the shop.
- No coach parking or turning space is available.

Parking Signage

Entry – One Way sign is suggested to be placed behind the objector's "concrete buffers". The objector states that the applicant has no right of a view across his site.

Highway Safety –

- The proposal fails to address highway safety adequately.
- The site layout results in vehicles waiting on and reversing on to and off the A19, resulting in a dangerous obstruction to traffic on the A19
- The signage at the entry and exit will be a clear obstruction to the required sight lines and thus cause a danger to road safety on the A19.
- As all signage must give their message to road users clearly and unambiguously, how will this be achieved after the entrance?
- As evidenced by the Land Registry the grass verge next to Brookes Garage is not owned by the applicant so where would the required signage be erected?
- All signage on the Public Highway must be contained in the Traffic Signs Regulations and General Directions (TSRGD) 2016 – the suggested signage is not contained in the TSRGD.
- Any prohibition on the Public Highway - as these signs will - can only be enforced with lawful signage and would require a TRO (Traffic Regulation Order). An advertisement consent cannot be approved in relation to giving messages to road users.

- 2013 Application – False Plans. The application must be considered in full knowledge that the application was only approved due to false plans being submitted. These plans claimed that the objector’s land was owned or leased by the applicant. This was, and continues to be, incorrect.

HGV manoeuvres –

- HGVs are unable to both manoeuvre and turn around on the Brookes Garage site and therefore a danger to Highway Safety, resulting in reversing on to and off the A19.

5.0 Analysis

- 5.1 The issues to be considered include the principle of development; whether the continuation of the existing uses is still acceptable in this location; the impact on the amenity of neighbouring residents, highway matters and the petroleum certificate relating to the subject site. It is important to consider whether the previous reason for refusal 20/00794/MRC that set the following has been addressed. “...turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users.”

Principle of development

- 5.2 The principle of a shop (but not the on-site preparation of food for sale) has already been established through the planning consent, reference number 13/01238/FUL. The petrol station element was established in 1957. The site is in both open countryside and within the York Green Belt and Local Plan strategic policies S1, S5 and S6 apply (including reference to the NPPF), as no additional built development is proposed and the scheme is not a material change of use of land, the determination is made with reference to the Local Plan development management policies referred to in the remainder of this report.

Continuation of the current uses

- 5.3 It is necessary to consider whether the use of the Site as a petrol station and retail shop (including deli element) to include the on-site preparation of food for sale on the premises is acceptable.
- 5.4 It is considered the petrol station with the retail element is a rural business and therefore Local Plan Policy EG7: Businesses in Rural Areas is engaged here. The Policy states that employment generating development will only be supported in locations outside the main built form of a defined settlement in the settlement hierarchy where it involves:

- a. the expansion of an existing business where it is demonstrated that there is an operational need for the proposal that cannot physically or reasonably be accommodated within the curtilage of the existing site; or
- b. the re-use of an existing building of permanent, structurally sound construction that is capable of conversion without the need for substantial extension, alteration or reconstruction and can accommodate the functional needs of the proposed use including appropriate parking provision; or

- c. a new building provided that it is well-related to an existing rural settlement and where it is demonstrated that the proposal cannot be located within the built form of a settlement or an identified employment location; or
- d. other proposals specifically requiring a countryside location.

- 5.5 As set out in paragraph 1.7 of this report a condition 3 attached to the planning permission 13/01238/FUL prohibits the on-site preparation of food for sale. Notwithstanding that prohibition, the on-site preparation of food and the sale of that food is sought through this planning application.
- 5.6 The purpose of Policy EG7 is to promote a vibrant rural economy within the district's extensive countryside to support businesses with a genuine need to be located in the countryside. In terms of this Policy, it is considered that the proposal is compliant with sub-paragraph (d). It comprises a change to the operation of an existing business (to allow the on-site preparation of food for sale), that requires a countryside location (given the existing location of that business).
- 5.7 Local Plan Policy EG3 states under *Outside defined Town, District and Village Centres* that outside the defined centres in the hierarchy, the Council will seek to maintain and, where appropriate, enhance retail facilities that provide for local needs. It is considered that the retail element of the business does provide further retail provision in the local area with the further provision of food prepared and sold on the premises. It is noted there is no known facility of this kind within the village of Shipton by Beningbrough, which is the nearest settlement being less than a mile away from the subject site and therefore it can reasonably be concluded that the expanded on-site food preparation and retail function of the proposal will serve local needs and some weight can be afforded to this benefit.
- 5.8 It is considered that retail element of the proposal is in accordance with the Council's Local Plan Policies.

Impact on residential Amenity

- 5.9 Policy E2 Amenity states that all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use. The purpose of this policy is to ensure that the physical environment created by new development protects and promotes a high standard of amenity both for future occupiers and users, and for surrounding uses. Whilst the policy is particularly relevant to residential development it is still applicable here to this proposal.
- 5.10 The site is located adjacent to the A19 and one residential property which is within close proximity to the site. The applicant has confirmed that all ingredients will be sourced from existing suppliers who are already delivering to the site and the preparation of food on site would not lead, it is considered, to an increase in delivery vehicles visiting the site.
- 5.11 Having regard to the policy E2 and in particular, to the eight limbs of the policy a - g inclusive it is considered that the proposal is compliant with this policy for the following reasons:

- There would be no loss of daylight or sunlight from the proposed use and will not result in any significant effects of overshadowing and the need for artificial light;
- The proposal would not be overbearing, oppressive or overbearing impacts, and in particular will not result in overlooking causing loss of privacy for any residents;
- there would be no significant adverse impacts in terms of noise including internal and external levels, timing, duration and character, Additionally the Environmental Health service have commented that it has considered the potential impact on amenity and the likelihood of the development to cause a nuisance, and consider that there will be no negative impact. Therefore, the Environmental Health Service has no objections to the application.
- adequate and convenient provision is made for the storage and collection of waste and recycling to the rear of the main building;
- there would be no adverse effect on safety near a notifiable installation and no increase in the number of people that would be put at risk in the vicinity of a notifiable installation;

5.12 It considered taking all this into account that the development is in accordance with Local Plan policy E2.

Highway matters

5.13 The applicant proposes a number of alterations to the internal layout. These are described by the applicant as follows:

- Additional customer parking is provided compared to 12 existing car parking spaces as well as an area for the manoeuvring of service vehicles delivering to the site and customer routing throughout the site.
 - Relocation of the five parking spaces to the rear of the existing store, the introduction of a new internal one-way circulation system and the formalisation of the delivery area and company van parking to the rear of the store.
1. The parking spaces would be relocated to the south of the building regularising the parking area adjacent to spaces 11 and 12.
 2. One additional parking space would also be provided, taking the total car parking provision to 13 spaces and 1 light goods vehicle space. The relocation of parking creates two formal parking areas and facilitates the introduction of a specific delivery area to the rear of the main building.
- A designated company van parking space would be provided to the north of the jet car washing facility.
 - A one-way system would be put in place, directing vehicles around the southern extent of the store through directional road markings.

- Before the parking area to the south, signage would be added to the south-eastern corner of the store setting out: 'Entry – One Way'; and 'Entry – Max Width 3.2m'. Signage would be placed at the back of the highway verge at the site access and egress (on private land that is owned by the applicant and off the adopted highway) that sets out 'Entry Only' and 'No Exit' for the ingress and 'Exit Only' and 'No Entry' for the egress. The applicant has stated that the introduction of the concrete bollards by the adjacent landowner to delineate his boundary leaves a 3.7m distance between the bollards and the building. This has been reduced to 3.2m to provide an additional safe distance for vehicles. These details together with the proposed internal site movement arrangements, parking and signage have all been discussed and agreed with NYCC highways who have raised no objections to the application proposals.
- Signage will also be placed to the north of the store that sets out 'Deliveries Only to Rear of Building'; and 'Parking to Right of Building' to provide directional instructions for both customer and delivery trips.
- Refuse Collection and Servicing will be conducted to the rear of the store, forming a service area which is facilitated by the relocation of the five car-parking spaces.

5.14 The proposal does not reduce the need for travel, although given the location of the site adjacent to the A19 journeys to the site are necessary. As part of the application, the applicant is seeking to prepare and sell food products on site. Food is currently sold on site as part of the business, however this is prepared off site by third party suppliers and delivered to site by those companies using their delivery service vehicles. If food is prepared on-site, the applicant has confirmed that all ingredients will be sourced from existing suppliers and the level of deliveries will remain the same.

5.15 It is considered that the provision of food prepared on the premises may attract visitors to the shop without making a linked trip for fuel. It is considered that the trip generation from this source is likely to remain small and not significant to the overall level of activity at this Site. The applicants submitted Highway Statement concludes that the proposals will regularise the existing layout by creating a formalised parking area to the south of the main building and a one-way system throughout the site to facilitate customer and delivery trips to/from the site. The relocated parking area and increased parking provision will provide an improvement to the existing situation leading to the safer operation of the site.

5.16 In regard to the parking on the site, a specific layout was approved under the 2013 planning permission. However, it became evident to the Council that the parking had not been laid out as shown in accordance with these plans. A subsequent application was submitted to vary the approved plans under planning reference: 20/00794/MRC, and was refused planning permission for the following reason:

"The revised layout of the site fails to provide a safe environment for customers to visit whilst utilising the shop and deli facility. The absence of appropriate on-site parking and turning space for deliveries results in

vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users. The proposal is therefore contrary to Local Development Framework policies CP1, DP3 and DP4 and as the proposal would result in an unacceptable impact on highway safety the proposal is also contrary to the NPPF, noting particularly the provisions of paragraph 109."

5.17 At the time of the 2020 application NYCC Highways recommended the refusal of the planning application on the following grounds:

"The Planning Authority considers that in the absence of adequate on-site parking and manoeuvring space the proposed development would be likely to result in vehicles being parked in a manner that is detrimental to the free flow of traffic within the site with consequent danger to users."

5.18 The applicant appealed against the 2020 decision to the Planning Inspector who dismissed the appeal owing to the fact that third party evidence including a Land Registry Title Plan showed part of the land subject to the planning appeal, to be outside the ownership of the appellant. The Inspector concluded that in such instances Section 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates.

5.19 Additionally in arriving at his decision the Inspector commented that he was not presented with any evidence that the above requirements of notification to other owners have been complied with and so on this basis the appeal should be dismissed.

5.20 North Yorkshire County Council (Highways) in relation to this 2022 planning application (22/01117/FUL) have raised no objection to the application.

5.21 As set out in 4.9 of this report the application has received a number of objections, some of which focus on highway safety issues. Regarding these, the following should be noted:

- The Highway Authority have commented that the Traffic Signs Regulations and General Directions 2016 (TSRGD) is not relevant to this application. The signs are advisory only and would be subject to a separate licence between the Local Highway Authority (LHA)] and the applicant.
- The location and size of the signage was discussed with NYCC Highway Authority and this has been confirmed by them. The Highway Authority also confirm that the size and location does not impinge on the required visibility.
- The applicant has confirmed that the application proposals do not impact on the adjacent landowners (objectors) easement (registered on the 23rd of December 2019) or their right of way.
- The applicant has confirmed that proposed signage is to make traffic and visitors to the site aware of what manoeuvring is expected of them. This has been discussed

with NYCC highways with the objective of enhancing the safety of road users and traffic using the application site's facilities.

- The applicant has confirmed that the current application does not amend any of the entrance or exit points to the site. They remain as they are currently. The arrangements proposed have been discussed and agreed with NYCC highways to improve the overall situation and no objections are raised to the proposals.
- The Highway Authority have confirmed that sign is not a "prohibition" sign and that the signs are "advisory" only and siting of the signs would be subject to a separate licence between the Local Highway Authority and the applicant. The advisory signs would not preclude access to the Wilson building via either the entry or exit route.
- In relation to the objector's observations, it must be borne in mind that planning permission has been granted (reference 22/01435/FUL) for the formation of a new access from the A19 highway into the objector's vacant premises to the south of the subject site. This new access would be formed some 10 metres north of the vacant building. A supporting statement accompanying the planning application dated April 2022 states that *the proposed new access would be formed in the verge in the position indicated on the accompanying plans and be formed to create a one-way system within the site to avoid potential conflict at the entrance.*
- The Supporting Statement concludes *that the proposed access would significantly improve the safety of vehicles entering and leaving both the garage and retail unit site and reduce the likelihood of conflict at the entrance and exits which would avoid undue delay reducing the frequency of stationary vehicles on the main highway.*
- It is considered that the proposed alterations to the arrangement for the provision of parking, manoeuvring with turning area would a more efficient use of the site with the additional customer parking as well as an area for the manoeuvring of service vehicles delivering to the site and customer routing throughout the site.
- There would be no additional floor space resulting from the proposal and it is further considered there would be limited intensification of the existing uses.
- The relocation of the five parking spaces to the rear of the existing store; the introduction of a new internal one-way circulation system; and formalisation of delivery area and company van parking to the rear of the store is to be welcomed and means that any potential conflict to the front of the site where most vehicle movements would occur between the applicants and the site to the south should be kept to a minimum.
- Similarly, the applicant is proposing to relocate parking spaces to the south of the building regularising the parking area adjacent to spaces 11 and 12 as set out in the existing site layout plan. One additional parking space will also be provided, taking the total parking provision to 13 spaces.
- The relocation of parking creates two formal parking areas and facilitates the introduction of a specific delivery area to the rear of the main building. A designated company van parking space will be provided to the north of the jet car washing facility. To ensure the relocated parking spaces are accessible following the use of

the pumps, a one-way system would be put in place, directing vehicles around the southern extent of the store through directional road markings.

- Signage is proposed at the south-eastern corner of the store setting out: 'Entry – One Way'; and 'Entry – Max Width 3.2m'. Signage will be placed at the back of the highway verge at the site access and egress (on private land that is owned by the applicant and off the adopted highway) that sets out 'Entry Only' and 'No Exit' for the ingress and 'Exit Only' and 'No Entry' for the egress. Signage to the north of the store is proposed to state: 'Deliveries Only to Rear of Building'; and 'Parking to Right of Building' to provide directional instructions for both customer and delivery trips.

5.22 Taking the above into account it is considered that highway safety would not be compromised as a safe physical access can be provided to the proposed development from the highway networks. Additionally adequate provision for servicing access can be incorporated and appropriate provision for parking.

5.23 It is therefore considered that having regard to the above that the proposal from a highways perspective is compliant with Local Plan Policy IC2: Transport and Accessibility and the overarching principles of the National Planning Policy Framework.

5.24 Weighing up all the policies and the issues raised as set out above it is considered that the proposal is acceptable and meets the terms of the Local Plan policies as set out accordingly. The alterations to the manoeuvring and further car parking provision are supported by the Highway Authority who offer no objection.

5.25 In arriving at this recommendation consideration has been given to the objector's comments which has raised important issues relative to the determination of the application. These have been considered accordingly with input from statutory consultees including NYCC Highways and Trading Standards but ultimately this recommendation has been arrived at independently based on the provisions of the Local Plan and the nature of the proposal that is being proposed.

5.26 This is an existing business that has been lawfully established for a number of years. The inclusion of a food preparation area for sale on premises and alterations to the arrangement for the provision of parking, manoeuvring with turning area have been addressed appropriately. There are no reasons that would justify a refusal of planning permission on highway matters.

Petroleum Certificate

5.27 As set out in paragraph 4.13 concerns have been raised in respect of the extant petroleum certificate.

5.28 NYCC Trading Standards were consulted in relation to this. Their comments made via letter dated 28 October 2022 are in relation to: general considerations of the petroleum certificate, turning circle, submitted plans (in relation to the petroleum certificate), concrete blocks, plans and right of way. These are as follows:

General consideration - It should be noted that the criteria for the consideration of the issue of a petroleum certificate are solely those set out in Regulation 6 of the

Petroleum (Consolidation) Regulations 2014. That is, whether North Yorkshire County Council, as the petroleum enforcement authority, is ‘...satisfied that the containment system for petrol at the dispensing premises, including storage tanks, pipework, and dispensers, may reasonably be used to store petrol and would not create an unacceptable risk to the health or safety of any person.’ The petroleum enforcement authority shall only provide comment in respect of matters outlined above by addressing the requirements of Regulation 6 of the Petroleum (Consolidation) Regulations 2014.

Turning circle - For fuel delivery tankers accessing the site, the position and location of the tanker stand follows the APEA Blue Guide by allowing tankers to enter the site and unload without the need to reverse or make other manoeuvres and provides a clear exit route in a forward direction. In this instance, upon entry to the site via the north entrance/exit, the fuel delivery tanker drives onto the designated fuel delivery stand parallel to the A19. Following the fuel drop, the tanker drives forward to exit the site via the south entrance/exit.

The designation of the tanker stand means that the tanker does not use a turning circle or other similar manoeuvre. Consideration has been made of other on-site activities and vehicle movements such as shop or car wash customers and other delivery vehicles on the site, based on the submitted plans and a site visit. The Blue Guide sets out considerations for vehicle movements as far as such movements could impact on the safety of containment and dispensing of petrol.

The introduction of a one-way system for vehicles accessing the site, along with clear signage, would also follow the APEA Blue Guide by further reducing the possibility of vehicles making unnecessary manoeuvres on the forecourt as this activity takes place to the rear or side of the shop. Designated parking spaces and the area for non-petroleum deliveries are currently sited outside of the immediate forecourt area and allows manoeuvres to be made without compromising safety around the fuel dispensers.

Plans -The plans that were submitted to our service are satisfactory for petroleum certification purposes and have been considered during a site visit. Our inspector did note that whilst parking spaces to the rear of the shop building were depicted on the plans they were not actually marked up for use as parking areas on site, this in turn gave greater space for vehicle manoeuvre to the rear of the shop. This is not in the vicinity of the forecourt area or any dispensing of fuel. It does not impact arrangements for the containment or dispensing of petrol.

Concrete blocks - The blocks on the site perimeter do not affect the containment system for petrol and are not in the vicinity of the forecourt area.

Right of way - Issues relating to rights of way are civil matters, and not a consideration for petroleum certification. The objector has been advised previously that this is the case. NYCC Trading Standards (in a further letter to the Objector dated 14 November 2022) states that during tanker fuel delivery it is not necessary to close this site in full, however, it is necessary to temporarily close areas that are within the hazardous zone. It is possible to close off all fuel deliveries without closing down the whole site.

The bollards are not sited on the tanker delivery area and the tanker does not enter the area where the concrete blocks are located. The tanker or fuel delivery is not inhibited by the concrete bollards and the bollards are not within the hazardous zone. Details associated with the rights of access are not a petroleum licensing function.

Planning Balance

- 5.29 The application for the continuation of site operations as a petrol station and retail shop (including deli element) to include food preparation area for sale on premises including alterations to the arrangement for the provision of parking, manoeuvring with turning area is considered acceptable and is compliant with those policies as set out above in this report.
- 5.30 The Economic Objective - The economic benefits are, in accordance with the NPPF, afforded reasonable weight as the operation of the development generates full-time jobs and be likely to generate spin off employment with the applicant indicating that there would be the creation of two new full time staff jobs.
- 5.31 The Social Objective - The proposed development has a small benefit by improvement to the retail function and has been afforded limited weight. The development is not inappropriate development in the Green Belt and there is no harm to the York Green Belt. The proposal would provide accessible facilities for residents and road users.
- 5.32 The Environmental Objective – There is no significant environmental impact.
- 5.33 The proposal would support the Council's objectives through promoting Hambleton as a recognised location for business by meeting the needs of new and expanding businesses. It is considered that the proposal provides improved parking arrangements, to reduce congestion and the likelihood of vehicles queuing or reversing onto the highway.

6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **GRANTED** subject to the following condition:
1. The development hereby permitted shall be begun within three years of the date of this permission.
 2. Within 2 months of the date of this decision the vehicle parking, shall be marked on the ground in accordance with the submitted Drawing no. 002 Rev B dated 8.4.2022).
 3. Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times

4. Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' the premises shall not be used for any purpose other than a petrol station and retail shop (Use Class E)(including deli element) including food preparation area for sales on the premises as shown on drawing number 002 Rev B dated 08.04.2022 (Site plan as proposed) and drawing number 004 Rev A 8.4.2022 (Floor plan as proposed) received by Hambleton District Council on 5 May 2022.

The reasons are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with Local Plan Policies E2: Amenity Local Plan Policy IC2: Transport and Accessibility.
3. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with Local Plan Policies E2: Amenity Local Plan Policy IC2: Transport and Accessibility
4. The development is only considered acceptable as an exception to the control of retail uses outside defined centres on the basis that Shipton does not have a village store and the development provides a similar facility and in order to prevent any alternative use, which would require further consideration by the Local Planning Authority in terms of location, access, parking and amenity in accordance with Local Plan Policies.

Informative

The permission granted does not include use of the premises as a Hot Food Takeaway.