

## Delegated Decision

### Sign off Sheet

|                                              |                                                                                                   |                                        |                    |
|----------------------------------------------|---------------------------------------------------------------------------------------------------|----------------------------------------|--------------------|
| <b>Ref. No:</b>                              | DM/24/1689                                                                                        | <b>Case Officer:</b>                   | Steven King        |
| <b>Application Type:</b>                     | Removal/Variation of Condition                                                                    |                                        |                    |
| <b>Proposal:</b>                             | Variation of condition no 7 relating to planning application DM/21/2400.                          |                                        |                    |
| <b>Site:</b>                                 | East Grinstead Service Station, 147 - 149 London Road, East Grinstead, West Sussex, RH19 1ET, , , |                                        |                    |
| <b>Validation Date</b>                       | 9 Jan 2025                                                                                        | <b>Overall Expiry Date:</b>            | 25 Apr 2025        |
| <b>Pre-Commencement Conditions Required:</b> |                                                                                                   | <b>Pre-Com Conditions Date Agreed:</b> |                    |
| <b>Recommendation:</b>                       | Permission                                                                                        | <b>Recommendation Date:</b>            | 2 Apr 2025         |
| <b>Target Date:</b>                          | 6 Mar 2025                                                                                        | <b>Recommending Officer Signature:</b> | <i>Steven King</i> |

|                                                        |  |                               |   |
|--------------------------------------------------------|--|-------------------------------|---|
| <b>Date Legal Agreement Completed: (if applicable)</b> |  | <b>No of Representations:</b> | 0 |
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|                              |                        |              |             |
|------------------------------|------------------------|--------------|-------------|
| <b>Signed and Agreed By:</b> | <i>Stephen Ashdown</i> | <b>Date:</b> | 28 Apr 2025 |
| <b>Comments:</b>             |                        |              |             |

## MID SUSSEX DISTRICT COUNCIL

**DM/24/1689**

**East Grinstead Service Station, 147 - 149 London Road, East Grinstead, West Sussex, RH19 1ET,**

**, Variation of condition no 7 relating to planning application DM/21/2400.**

**Motor Fuel Group LTD**

### **SUMMARY OF REPRESENTATIONS**

None received.

### **SUMMARY OF CONSULTEES**

#### **Environmental Health Officer**

##### Original Comments

A noise impact assessment has been submitted to address the likely impact of allowing later deliveries, given the nearby residential premises. As part of this assessment, BS4142 methodology has been used, as is appropriate for this type of noise. However, the acoustic correction penalties applied as part of the BS4142 have not been fully justified.

The standard suggests the following penalties (to be added together arithmetically)

Tonality: just perceptible at receptor 2dB, clearly perceptible 4dB, highly perceptible 6dB

Impulsivity: just perceptible 3dB, clearly perceptible 6dB, highly perceptible 9dB

Intermittency: if readily distinctive 3dB

Other characteristics: 3dB

Given that the expected deliveries and collections are likely to include lorry engine noise, refrigeration unit noise, reversing beepers, tailgate noise, lorry door slams, cages being moved, bin emptying etc, it is not clear how the report can justify only using a 3dB intermittency penalty for all deliveries. The adjacent Parkview House overlooks the site, so the sounds identified above are likely to be clearly perceptible during the evening period that is relevant for this variation.

I request that the applicants review the chosen penalties or provide clear justification for how they are so low despite the likely tonal (reversing) and impulsive (tailgate, door slams, cages) or other (refrigeration unit) elements.

In the event that the penalties are increased, the applicants may need to consider whether any mitigation measures are appropriate. These could include for example, reduced hours (eg till 2200 hours rather than 2300 hours), smaller delivery vehicles, a non-reversing route/path for vehicles, low noise cages, relocation of delivery bay, acoustic shielding etc

I am not presently able to support the application to vary hours of deliveries, until the penalties are reviewed and any necessary mitigation measures implemented. However, I would welcome further discussion to reach a satisfactory resolution.

##### Additional Comments

The additional information is very helpful and provides the necessary reassurance that allowing the extension of delivery hours is not likely to lead to any significant adverse impact in terms of neighbouring residential amenity. On this basis we have no objection to the application and do not recommend any additional conditions.

### **TOWN COUNCIL OBSERVATIONS**

### Original Comments

The Committee felt the proposed timeframes for deliveries were excessive at the weekends and would propose that a shorter window be implemented for Sundays and Bank Holidays to respect local residents. Committee resolved to support the changes but would recommend the 8am start on a Saturday be maintained, and that on Sundays and Bank Holidays the times be restricted to between 9am - 9pm.

### Additional Comments

No additional comments received on additional information.

## **INTRODUCTION**

This application seeks planning permission for a variation of condition no 7 relating to planning application DM/21/2400.

## **RELEVANT PLANNING HISTORY**

Of most relevance is planning permission DM/21/2400, which granted consent for the following development: Existing Sales building, surrounding offices and forecourt canopy to be completely demolished. Construction of New single storey sales building with new forecourt canopy, Underground fuel storage tanks, 2no. New jet wash bays, New EV charging bays with associated EV infrastructure and Shopfront parking bays. Amended plans received 9 November showing changes to jet wash and a Noise Impact Assessment.

## **SITE AND SURROUNDINGS**

The site of the application is a petrol filling station located on the north side of the London Road in East Grinstead. The petrol station has been rebuilt pursuant to the planning permission granted under reference DM/21/2400.

To the southeast of the site there is some landscaping and then beyond this is a footpath and an area of open landscaping. To the northwest there is a four storey block of flats. In front of this block of flats is a part single and part two storey building that is occupied by Jewson builders' merchants. On the opposite side of the road to the southwest is a three storey block of flats. To the northeast of the site there is King Georges Field, a public recreation area containing two football pitches.

The London Road is a one way route at this point. The site is within the built up area of East Grinstead.

## **APPLICATION DETAILS**

This application seeks planning permission for a variation of condition no 7 relating to planning application DM/21/2400. The condition states:

'No deliveries or collections of commercial goods or waste outside the following hours:

Monday to Friday: 07:00 to 19:00 hours

Saturday: 08:00 to 19:00 hours

Sundays and Bank/Public Holidays: none permitted

Reason: to protect the amenity of local residents and to comply with policies DP26 and DP29 in the District Plan 2014-2031.'

The application seeks to amend the condition to read:

'No deliveries or collections of commercial goods or waste outside the following hours:

Monday to Friday: 07:00 to 23:00 hours

Saturday: 07:00 to 23:00 hours

Sundays and Bank/Public Holidays: 07:00 to 23:00 hours'

The applicants explain the reason for the change as follows:

*'The proposal for extended delivery hours is essential due to the station's approved 24 hour operation, catering for motorists 24-hours a day seven days a week. Extending delivery hours will help ensure that fresh stock is consistently available, especially during peak demand periods in the early morning. This adjustment will also allow deliveries to occur in the evening and avoid 'rush hour' times, which is intended to reduce potential disruption to on-site operations during busy periods, particularly in the morning period between 5am - 9am.'*

*'Waste collection for the site, currently managed by a third-party service provider, occurs only twice a week within the permitted hours. Given the current frequency and logistics of these collections, it is unlikely that the number of waste collections will increase with the proposed changes to delivery hours. Instead, the focus remains on optimising delivery schedules avoiding rush hour and peak times on site (0500-0900) to support uninterrupted service and a consistently stocked facility, aligning with the site's operational needs and customer demand.'*

The applicants have provided a Servicing Noise Impact Assessment to support the application, together with a Technical Memorandum.

## **LEGAL FRAMEWORK AND LIST OF POLICIES**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically, Section 70 (2) of the Town and Country Planning Act 1990 states:

*'In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the Mid Sussex District Plan (MSDP), Site Allocations Development Plan Document (SADPD) and the East Grinstead Neighbourhood Plan (EGNP).

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

## **Mid Sussex District Plan**

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP1: Sustainable Economic Development  
DP21: Transport  
DP26 Character and Design  
DP29 Noise, Air and Light Pollution

## **Site Allocations DPD**

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

Relevant policies.

SA38 - Air Quality

## **Neighbourhood Plan**

No relevant policies.

## **Other Material Considerations**

### *Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)*

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of the Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPE1: Sustainable Economic Development  
DPN6: Pollution  
DPN7: Noise Impacts

### National Planning Policy Framework (NPPF) (December 2024)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective.

Paragraph 12 of the NPPF states '*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*'

Paragraph 39 of the NPPF states '*Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*'

With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

## National Planning Policy Guidance

### **ASSESSMENT**

This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. The Act states that '*On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and-*

*(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*

*(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.'*

Accordingly, it is not necessary to reassess all of the issues from the original planning application; it is only necessary to assess the issues that are relevant in relation to the condition/s that are proposed to be amended.

It is considered that the main issues that need to be considered in the determination of this application are as follows;

#### **Impact on the business**

Policy DP1 in the MSDP is supportive of business development. These policies reflect the guidance in paragraph 85 of the NPPF, which states in part,

*'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'*

It is acknowledged that the proposed change to the hours condition that controls deliveries and waste collection would benefit the operation of the business that operates from the site. The above policy and guidance therefore weigh in favour of the proposed change.

#### **Neighbour amenity**

Policy DP26 in the MSDP seeks to avoid 'significant harm' to neighbouring amenities from new development. In respect of noise and light pollution, policy DP29 in the MSDP states:

*'The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

*Noise pollution:*

*o It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*

*o If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

*Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.*

*In appropriate circumstances, the applicant will be required to provide:*

*o an assessment of the impact of noise generated by a proposed development; or*  
*o an assessment of the effect of noise by an existing noise source upon a proposed development;*

*Light pollution:*

*o The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*  
*o The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;*

*The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'*

Policy SDA38 in the SADPD replaces the part of policy DP29 dealing with air pollution.

Following initial queries that were raised by the Councils Environmental Health Officer (EHO), the applicant provided further information regarding the delivery activities that would take place at the site. This additional information provides details of each delivery operation, along with additional commentary on the expected noise impact. The conclusion of this additional information stated:

*'EEC Ltd has observed each of the specific delivery operations on site that were previously assessed using library data.*

*Based on our review and site measurements, actual delivery operations are quieter than those initially assessed. Noise from stock cages is lower due to the use of rubberized wheels. The +3dB corrections applied in our BS4142 assessment—whether for tail lift noise during Pret deliveries or cage rattling during Booker deliveries—are considered robust and sufficient. No additional corrections are necessary. Additionally, all delivery vehicles manoeuvre only in forward gear, avoiding the need for reversing alarms. Deliveries take less than 25 minutes, and refrigeration units are not expected to operate during unloading.*

*Fuel delivery noise is largely limited to vehicle arrival and departure. Given the existing noise climate, dominated by forecourt activity and stop-start traffic, tanker arrivals and departures do not stand out as intrusive and are part of the existing, established soundscape.*

*Based on our site-specific survey, the conclusions from the original acoustic assessment (EC18447-7) remain valid, confirming that noise from typical delivery operations within the proposed extended delivery window will have a low impact on Parkview House residents.'*

The EHO has considered this additional information and has raised no objection to the proposed change to the planning condition. Your Planning Officer has no reason to dispute the views of the EHO on this matter.

In light of this, it is considered that the applicants have demonstrated that the proposed change to the wording of the condition would not result in a significant loss of residential amenity to the occupiers of the properties that adjoin the site.

Given the nature of the change requested to the condition and the existing lawful use of the site, it is not considered the change would have any implications in relation to air quality, and therefore there is no conflict with policy SA38 in the SADPD.

## Transport

Policy DP21 in the DP seeks to ensure that development avoids significant additional traffic congestion and protects the safety of road users and pedestrians. Paragraph 116 of the NPPF states *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.'*

It is not considered that the proposed change to the condition will have any material impact on the highway network and therefore the proposal complies with policy DP21 in the MSDP and the aims of paragraph 116 in the NPPF.

## Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This planning permission is being granted on an application made under Section 73 of the Town and Country Planning Act 1990 and the original planning permission to which the Section 73 planning permission relates was granted before 12th February 2024. This application is therefore exempt from the requirement to provide biodiversity net gain.

## **PLANNING BALANCE AND CONCLUSION**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the MSDP, the SADPD and the EGNP.

The issues to consider in this case relate solely to the impact of the proposed change to the hours of deliveries and collections at the site.

The proposed change to the condition would assist the operation of the business. Development plan policy and national guidance provide support for sustainable economic development and this weighs in favour of the application.

With the additional information that has been provided, it is considered the applicants have shown that the proposed change would not cause a significant loss of amenity to the residential properties around the site. There would be no material impact on air quality from the change.

The proposed change would not have a material impact on the local highway network.

In light of all the above it is considered that this application can be supported.

Decision:       Permission

Case Officer: Steven King