

MC/16/0713

Date Received: 15 April, 2016

Location: Asda, 387 Maidstone Road, Chatham, ME5 9SE

Proposal: Construction of 4-pump, fully automated petrol filling station within the curtilage of the existing ASDA Store, involving reconfiguration of car parking bays, installation of new fuel storage tanks, associated pipework, overhead canopy, forecourt surfacing, air and water facilities, erection of CCTV and lighting columns

Applicant: ASDA Stores Limited

Agent: Mr Gleave Deloitte LLP 1 City Square Leeds West Yorkshire (Met County) LS1 2AL

Ward Rochester South & Horsted

Case Officer Majid Harouni

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 27 July 2016.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing (200)03 Rev E, (200) 04 Rev D and (400)01 Rev C received 16/06/2016, Risk Assessment and Ground Investigation Report produced by DTS RAEBURN March 2016, Environmental Risk Assessment ASDA Maidstone Road Chatham, (PA)01 Rev B, (PA)03 Rev F, (PA) 04 Rev E, (PA)05 Rev C, (PA)07 Rev C, (PA)09 Rev A and (PA)10 Rev B received 3 May 2016.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping (hard and soft). All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following opening of the Petrol Filling Station to the public or completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Authority gives written consent to any variation.

Reason: Required prior to commencement of development in order to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written consent of the Local Planning Authority.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 5 Prior to commencement of the development, details of measures to maintain the flow of traffic on to the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the provision of "Keep Clear" markings in front of the access to petrol filling station forecourt on the northbound side of the internal access road (or alternative means,

demonstrated as part of the submitted details), to ensure that vehicles queuing at the signalised junction do not block access to and from the petrol filling station. The approved measures shall thereafter be implemented prior to first use of the development.

Reason: Required prior to commencement of development in the interest of free flow of traffic and highway safety and in compliance with Policies T1 of the Medway Local Plan.

- 6 No deliveries to the petrol filling station shall take place outside the hours of 5:00 hours to 24:00 hours on Mondays to Saturdays (inclusive) and 07:00 hours to 24:00 hours on Sundays and National / Bank Holidays.

Reason: To regulate and control the development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 The use hereby permitted shall only operate between the hours of 7am to midnight on Mondays, 24 hours on Tuesdays to Fridays inclusive and between the hours of midnight to 10pm on Saturdays and 10am to 4pm on Sundays and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation shall not commence until conditions 9 to 11 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 11 has been complied with in relation to that contamination.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 9 An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 10 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 11 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 9 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 10.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application seeks permission for the construction of a 4-pump Petrol Station on two islands providing 8 filling positions with a canopy to shelter motorists when they are using the services. The Petrol Station would not have a kiosk. The pumps would be fully automated, self service, operated by means of customer's credit/debit cards authorisations only; there would be no cash sales. Customers would use the existing access to the ASDA store from A229 (Maidstone Road). The site would also have an air and water unit facility for customers. The petrol stations would be served by two 75000 litre underground fuel storage tanks diesel and un-leaded Gasoline and associated pipe work. In addition the proposal would also consist of reconfiguration of car parking bays resulting in the loss of 46 parking spaces out of the current total of 532 parking spaces, overhead canopy, forecourt surfacing, erection of a control room (2.31mhx2.1mwx2.35m long), erection of 2 CCTV columns 6m tall and relocation of 2 existing lighting columns and erection of an additional light column (a statutory requirements for fuel tanker delivery procedure) 8m tall. Operation of the Petrol Station would be monitored using CCTV automatic number plate recognition cameras.

## **Relevant Planning History**

MC/13/3282	Variation of condition 16 on planning permission ME/92/0481/A (details pursuant to outline for the, erection of a food store with car parking and, access onto the A229) to allow for deliveries between the hours of 5AM to Midnight (12:00AM) on Monday to Saturday and 7AM to Midnight (12:00AM) on Sunday and Bank Holidays.  Decision Approval With Conditions Decided 3 April, 2014
MC/06/1259	Installation of 1,392 square metres of floorspace at mezzanine level and improvements to parking facilities Decision Approval With Conditions Decided 30/10/2007
92/0481/A	Details pursuant to outline for the erection of a food store with car parking and access onto the A229 Decision Approval with Conditions Decided 07/02/1996

92/0481

Outline application for erection of 55,000 sq ft (gross) for food retailing, petrol, filling station, car parking and access onto A229

Decision Refusal

Decided 31/05/1994

## **Representations**

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**Four letters** of representations have been received expressing concern about the following:-

- Additional traffic generated by the proposed development would aggravate traffic congestion on A229 (Maidstone Road), especially during the peak period;
- Loss of car parking spaces would result in customers having problems parking at the store car park;
- The existing access to ASDA is inadequate and a secondary access should be provided.

**Tonbridge and Malling Council:** has no objection.

**The Environment Agency:** has no objection provided the development is carried out in accordance with the agreed design and specifications.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

## **Planning Appraisal**

### *Principle*

The ASDA store received planning permission for a superstore in the early 1990s and has been operating successfully for many years and during this period the store has evolved and expanded in response to the market and customer demand.

The proposed Petrol Filling Station is a Sui Generis use and although would be within the grounds of ASDA and appears as a complementary to the service provided by the superstore for its customers, but would function and operate independently.

The store is situated within the urban area as defined by the Medway Local Plan 2003. The site is not subject to any specific area-based local plan policies. Therefore, there is no in principle policy objection to the proposed development and the development would be in compliance with Policy BNE1 of Medway Local Plan.

## *Highway Safety*

The proposed development would be served by the existing access off A229 (Maidstone Road) that serves ASDA Superstore.

The application site has been identified by the applicant for the following reasons:

1. The site has a road frontage thus gives it a prominent location with easy access for customers. However, due to level difference between the road (A229) and the proposed petrol station, the application site would not be visible from the road;
2. Good access for oil tanker deliveries from Maidstone Road without impacting on the rest of the ASDA car parking area;
3. Customers would be able to buy petrol as they leave the store site.

The proposed development would result in the loss of 46 customer parking spaces, leaving a total of 486 parking spaces.

Parking surveys undertaken over a five week period in October and November 2015 indicate that the maximum occupancy of the car park was 86% (455 spaces), which occurred on a Saturday. The maximum occupancy on the surveyed days (Thursdays – Sundays) ranged between 71% and 86%. This data indicates that, whilst the proposal would reduce the total number of car parking spaces, there would still be sufficient capacity at peak trading times.

The proposed development would not remove the existing 24 disabled parking space provision and 27 parking spaces available to parent and child.

The Transport Statement uses traffic data from other ASDA sites with petrol filling stations to estimate that the proposed development may generate a small increase of around 32 and 68 new trips during the Friday and Saturday peak hours respectively. The majority of customers (around 58%) are expected to link their visit to the petrol station with a trip to the ASDA store; around 30% of trips would be passing the store on the local network during the evening peak and around 10% of trips on a Saturday. Accounting for pass-by trips, the proposal would increase the number of new visits to the local network to 22 and 61 during the Friday and Saturday peak hours respectively. The small increase in trips during the Friday and Saturday peak hours would result in around one new trip every 1 to 3 minutes accessing the site via the signal-controlled junction with the A229 Maidstone Road. The proposal would not therefore have a material or severe impact on the site access junction or the surrounding highway network.

Vehicle tracking analysis has been undertaken for the proposed layout, which demonstrates that the proposed layout is suitable for oil tanker access. It is anticipated that an oil tanker would deliver 3 to 5 times a week during the off-peak period to service this petrol filling station.

The proposal would provide 8 filling positions with an additional area at the rear of the

forecourt to accommodate any queues. The Transport Statement indicates that queuing would be minimal due to the reduced total transaction time with pay-at-pump facilities, which produces a faster throughput of vehicles.

Access to the forecourt is proposed from the main aisle to ensure that no queues form at the site access and impact upon vehicle movements at the site access junction, it is recommended that a condition be imposed requiring implementation of measures to maintain the flow of traffic comprising "Keep Clear" markings in front of the access to the petrol station forecourt, on the northbound side of the internal access road. This would ensure that vehicles queuing at the signalised junction do not block access to and from the petrol station.

It is therefore considered that there are no unacceptable highways safety concerns and the proposed development would not create any highway danger or create any congestion in the adjoining roads and as such the proposal would be in compliance with the Council's Policies T1 and T13 of Medway Local Plan.

### *Residential Amenity*

The application site is on much lower ground level than the road or the dwellings to the north and west and as such would be substantially screened by the existing retaining wall to the west and the land levels to the north. Also the proposed canopy would not adversely impact on the visual amenities of the nearby residential properties to the north and west.

Given the storage capacity of the fuel tanks, the proposal would potentially generate up to 3 to 5 tanker deliveries per week, which is considered to be minor increase when compared to the number of vehicular movements per week to this ASDA. Moreover, according to a survey study carried out by the applicant on similar ASDA superstores with petrol station elsewhere, substantial number of customers, more than 58%, would link their visit to petrol station with trip to shop at the ASDA store. Therefore there would not be a material increase in vehicle trips and generation of substantial additional traffic, noise and general disturbance.

The proposed additional lighting and relocation of two of the existing light columns would not impact on the amenities of the occupiers of the residential properties to the north and west due to their distance with the application site and other background lighting in the locality.

The location and direction and purpose of the CCTV would be inward-looking to capture activities within the petrol filling station and record cars, registration number and safety of the customers purchasing fuel and as such these CCTV cameras would not impact on the amenities of the occupiers of the residential properties to the north and west.

With respect to the opening hours of the petrol filling station, the applicant has stated that it would operate during the same hours as the opening hours of the existing ASDA store. The existing opening hours of the store are as follows:

Monday – 7am to midnight;



Tuesday to Friday – 24 hours;  
Saturday – midnight to 10pm;  
Sunday – 10am to 4pm.

The proposal is not considered to be detrimental to the amenities of the occupiers of the nearby residential properties and would be in compliance with Policy BNE2 of the local plan 2003.

### *Landscaping*

The proposal seeks to retain all the existing trees along the western and northern boundaries of the site except for two small trees. The retention of the existing landscaping would help to ensure that the petrol station would be partially screened in the locality.

To ensure that the remaining landscaping would be protected, a condition is recommended that protective measures are introduced to ensure that the remaining trees/landscaped area are protected during the construction period and further landscaping is carried out post-construction. The proposal therefore, would be in compliance with Policy BNE6 of the Medway Local Plan.

### *Impact on the chalk aquifer*

The site overlies a chalk aquifer and is in a Source Protection Zone for a public water supply. Following the submission of additional information, the Environment Agency has advised that based on the information submitted in relation to the operational management of the proposed petrol filling station, the EA raises no objection, but has advised that construction would need to be carried out in accordance with the design and specifications set out in the application and that conditions should be attached, with the Environment Agency consulted on final details relating to construction.

### *Other Matters*

The site is located on former Military land and borders a historical landfill site; it is therefore recommended that contamination conditions are imposed.

Due to level difference and the height of the existing retaining wall to the west (adjoining footpath) and the height of proposed canopy over the petrol filling station, concern was expressed that the canopy roof might be breached and customers safety prejudiced; the applicant has confirmed that following the revision to the proposal, the canopy roof as amended would be in excess of 6.9m away from the back edge of the footpath and the retaining wall and as such it is unlikely that the canopy roof would be breached.

### *Local Finance Considerations*

None relevant to this application.

## **Conclusions and Reasons for Approval**

The scheme would comply with Development Plan Policies in principle. The application site forms part of the wider ASDA superstore and the proposal would expand and enhance the range of facilities available to the customers of the ASDA store in this part of the Borough.

It is considered that the proposal would be modest in scale and size and would not result in the generation of significant additional traffic or cause harm to the amenities of the occupiers of the nearest residential properties to the north or west.

The proposal would be acceptable and in compliance with Policies BNE1, BNE2, BNE6, T1 and T13 of the Medway Local Plan.

The application is being reported to Planning Committee due to the number of representations received contrary to the officer recommendation.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>