

DELEGATED

AGENDA NO

PLANNING COMMITTEE

9 July 2014

**REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

14/0985/FUL

**Sainsburys Supermarkets Ltd, Whitehouse Farm, Bishopton Road West, Stockton-On-Tees
Erection of 3-pump petrol filling station, associated kiosk and plant room and alterations to
car park layout and landscaping**

Expiry Date 3 August 2014

SUMMARY

This application seeks planning permission for the erection of a 3-pump petrol filling station, an associated kiosk and plant room, and associated alterations to car park layout and landscaping at Sainsbury's supermarket, Whitehouse Farm located off Bishopton Road West, Stockton on Tees.

The proposed site relates to 470sqm of land to the south of the main store within the existing car park and landscaping area along the southern boundary of the site, adjacent to Bishopton Road West (south) and Bishopton Avenue (east). The 3-pump petrol filling station would consist of a canopy with flat roof design. The canopy would be supported by 3 stanchions. The proposed kiosk would be sited to the west of the filling station. A small plant room/storage unit would be sited to the south of the proposed kiosk. Additional landscaping is proposed along the southern boundary.

The main store building is set back from Bishopton Road West (south) with a car park to the front (south) and side (east) of the main store. The store and car park is accessed from Barlborough Avenue (west). Beyond the highway of Bishopton Avenue to the east are residential properties along Bishopton Avenue and Bishopton Road (south east). Beyond Bishopton Road West to the south of the application site are properties along Bishopton Road West, playing fields and Stockton Sixth Form college (south west). The residential properties of No's 1-9 (odds) Barlborough Avenue are present to the west of the site, of which this road leads into a wider residential estate. 'Senators' public house is adjoined to the store on the north east elevation. Tree planting and soft landscaping is present along the southern boundary.

The Head of Technical Services has raised no objections to the application in terms of highway safety, car parking and vehicular traffic. The Council's Landscape Officer has raised no objections to the scheme subject to final details of soft landscaping and soft landscape management, which are secured by planning conditions.

No objections have been received from Environmental Health Unit subject to conditions relating to lighting, hours of delivery, hours of use, and hours of construction. Northumbrian Water Limited and the Environment Agency have also raised no objections.

Objections have been received from Councillor Cherrett and Councillor Kennedy. 30 letters of objection have been received to date and a further 4 objections have been received in respect of the proposed scheme but submitted under an associated advert consent application, reference

(14/1123/ADV), which are summarised in the main report but include the impact on the amenity of neighbouring properties in terms of noise disturbance and fumes/smells, the impact on highway safety and network capacity, the scheme is not suitable for a predominantly residential area and the site is prone to flooding.

Subject to the imposition of the relevant planning conditions which address the impacts of the development, the scheme is considered to accord with the general principles of the National Planning Policy Framework. The scheme as proposed is therefore not considered to have an unacceptable adverse impact on the character and appearance of the area or lead to an unacceptable loss of amenity for neighbouring land users. It is considered that the scheme will not have an adverse impact on highway safety and is satisfactory in respect of other material planning considerations including drainage.

The application is recommended for approval accordingly.

RECOMMENDATION

That planning application 14/0985/FUL be approved subject to the following conditions and informatives below;

01 *The development hereby approved shall be in accordance with the following approved plan(s);*

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>SBC0001</i>	<i>17 April 2014</i>
<i>SBC0002</i>	<i>11 April 2014</i>
<i>SBC0003</i>	<i>11 April 2014</i>
<i>SBC0004</i>	<i>11 April 2014</i>
<i>1121-01 REV D</i>	<i>11 June 2014</i>
<i>EO2B 14</i>	<i>12 June 2014</i>

Reason: To define the consent.

Conditions to be discharged prior to commencement

02. *Materials*

Notwithstanding any description of the materials in the application, no above ground construction of the buildings shall be commenced until precise details of the materials to be used in the construction of the external walls and roof of the buildings, including the canopy, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to allow the Local Planning Authority adequate control over the appearance of the development and to comply with CS3(8).

03. *Hard landscaping*

Prior to the development hereby approved being occupied, the proposed surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. These details shall include car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and construction methods. The development shall be implemented in accordance with the approved scheme.

Reason; To prevent increase risk of flooding from surface water run off in accordance with Core Strategy Policy CS3.

04. Site and floor levels

Notwithstanding the information submitted as part of the application, details of the proposed site levels and finished floor levels for the development shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with these approved details.

Reason: To define the consent

05. External lighting

Prior to the commencement of any development, full details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail elements including the height of lighting columns, their positions, their style, colour and appearance, the light type, its lux, angle of direction and shielding.

Reason: To control lighting and its associated impacts on surrounding residents and in the interests of the visual amenities of the area

Conditions which will remain in perpetuity

06. Restricted sales use

Notwithstanding the development hereby approved, no more than 5 sqm (five square metres) of gross internal floorspace of the kiosk building hereby approved shall be used for the display or sale of goods to visiting members of the public. The remainder of the floorspace is to be used for storage and other back of house activities ancillary to the permitted A1 Use Class retail sales only.

Reason: For the avoidance of doubt and in the interests of the vitality and viability of defined retail centres, and to comply with Core Strategy Policy CS5 (Town Centres).

07. Hours of operation - Petrol filling Station and kiosk

The Petrol Filling Station and associated kiosk/shop shall not be open for use outside of the hours of 0600 and 2300 hours Monday to Sunday.

Reason: In the interests of the amenity of the neighbouring occupiers.

08. Delivery times

No deliveries shall be made to the hereby approved buildings and petrol filling station outside the hours of 0700 and 2200 hours Monday to Sunday.

Reason: To prevent noise and disturbance in the interests of the amenity of the neighbouring occupiers.

Other Conditions

09. Hours of construction on site

No construction/building works or deliveries shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 9.00am and 1.00pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.

Reason: To prevent noise and disturbance in the interests of the amenity of the neighbouring occupiers.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative 1: NPPF

The decision has been taken having reference to the guidance within the National Planning Policy Framework

Informative 2: Requirements for Petrol Filling Station Licence & Environmental Permit

The applicant should contact the Council's Environmental Health Unit (and Petroleum Licensing Officer) with respect to obtaining a Petroleum License for the petrol filling station, and an Environmental Permit in respect to the regulation of odours and fumes.

The applicant should contact the Council's Environmental Health Unit on 01642 526575 to discuss these matters further.

Informative 3: Trade Effluent Consent

The applicant should contact the water and sewerage company for any consents required in relation to trade effluent or waste water disposal.

BACKGROUND

1. The application site has been subject to a number of planning applications, which include the following;

S492/75; Refused application for a filling station on traffic grounds, decision dated 2nd May 1975.

S820/79; An outline application for the provision of a petrol filling station (no details provided) in the south west corner of the car park was refused on 21st May 1979 for the following reasons;

- 1) the proposed use would interfere with the parking provision of the supermarket complex and to disrupt the organisation and efficient functioning of the car park
- 2) the proposal would lead to an increase in traffic on the surrounding road network to the detriment of highway safety and free flow of traffic
- 3) the additional traffic would lead to a deterioration in the residential environment and the amenity the local residents may be reasonably expected to enjoy.
- 4) the development proposed on the location shown would be visually obtrusive in the street scene to the detriment of visual amenity

S408/80; A second outline application for a petrol filling station was refused for the same four reasons on 12th December 1980.

90/0348/P; Extension to internal and external refurbishment and provision of new car park layout (then occupied by 'Prestos Superstore'). The application was approved on 3rd December 1990

subject to a number of conditions including a restriction on hours of delivery to *'there shall be no deliveries to the premises between the hours of 10 p.m and 7 a.m. on any day following the occupation of the extension to the store as hereby approved'*.

97/0830/P; External Alterations, approved 18th June 1997 (then occupied by Safeway)

97/1333/P; Erection of covered trolley bay area, approved 3rd September 1997

00/1826/P; Retrospective application for roof mounted plant, approved January 2001

00/1827/P; Erection of a temporary storage container and 3m screen fence, approved 10th January 2001

04/3876/FUL; Retrospective application for the erection of a safety guard rail on roof of store, approved 22nd March 2005 (applicant Sainsbury's)

05/1372/FUL; Erection of 2 no. acoustic screen fences 1.8m high above flat roof level around existing plant on store roof, approved 23rd June 2005

14/1123/ADV; An application was registered on 29th April 2014 for the erection of advertisements associated with proposed 3-pump petrol filling station to include 1 no. internally illuminated totem sign, 5 no. internally illuminated fascia signs and 7 no. non-illuminated other signs. The application is the subject of a separate agenda item.

SITE AND SURROUNDINGS

2. The application site relates to Sainsbury's supermarket, Whitehouse Farm located off Bishopton Road West, Stockton on Tees. The main store building, which has been extended and altered through various permissions, is set back from Bishopton Road West (south) with a car park to the front (south) and side (east) of the main store.
3. Beyond the highway of Bishopton Avenue to the east are residential properties along Bishopton Avenue and Bishopton Road (south east). Beyond Bishopton Road West to the south of the application site are No's 1 and 3 Bishopton Road West, playing fields and Stockton Sixth form college (south west). The store and car park is accessed from Barlborough Avenue (west). The residential properties of No's 1-9 (odds) Barlborough Avenue are present to the west of the site, of which this road leads into a wider residential estate. 'Senators' public house is adjoined to the store on the north east elevation. Tree planting and soft landscaping is present along the southern boundary. Within this tree planting (along the southern boundary), a 1984 Tree Preservation Order indicated the siting of 2 elm trees, however, the Landscape Officer has advised that these trees have since been removed (and replaced) and are not reflected by the existing presence of trees on site.

PROPOSAL

4. This application seeks planning permission for the erection of a 3-pump petrol filling station, an associated kiosk and plant room and associated alterations to car park layout and landscaping.
5. The proposed site relates to 470sqm of land to the south of the main store within the existing car park and landscaping area along the southern boundary of the site, adjacent to Bishopton Road West (south) and Bishopton Avenue (east). The 3-pump petrol filling station would consist of a canopy measuring approximately 20m in length x 7m in width x 5m in height with flat roof design. The canopy would be supported by 3 stanchions.

6. To facilitate the development, two, 60,000 litre underground fuel tanks would need to be installed (approximately under the land with the canopy and filling station above).
7. The proposed kiosk would be sited to the west of the filling station and would measure approximately 4.5m x 6m x 4.1m in height with a flat roof design. The proposal would feature a predominantly glazed frontage with access doors in the front and side elevations. The submitted plans/information indicate that the unit would be operated/staffed by a single person. The submitted supporting statement indicates that the total net sales area would be limited to 5m² for cigarettes only.
8. A 2m x 2.8m plant room/storage unit would be sited to the south of the proposed kiosk. The unit would measure approximately 2.4m in height with a low pitched roof and double opening doors in the front/east elevation.
9. A scheme for additional tree planting and soft landscaping has been submitted for the southern boundary. An element of existing soft landscaping and a non-protected tree will need to be removed to facilitate the proposed landscaping scheme and the proposed development.
10. The scheme would require the removal of 27 car parking spaces, with 245 spaces retained.
11. The submitted plans indicate the provision of various signage, however this forms part of associated advertisement consent application (reference 14/1123/ADV), which is the subject of a separate agenda item.

CONSULTATIONS

12. The following Consultations were notified and any comments received are set out below:-

Head of Technical Services

Highways Comments

The applicant has carried out a parking survey during the shop's peak hours showing that peak occupation of the car park was 142 spaces (12:00 - 12:30 Saturday). This equates to 52% occupation of the existing car park of 272 spaces and 58% of the proposed 245 spaces. While it is noted that the survey was carried out in March and peak use is in December, this would leave 103 spaces available to accommodate seasonal differences and is considered to be acceptable in this instance.

The applicant has demonstrated that a tanker can enter the site and exit in a forward gear using the existing one-way system within the site and any vehicles queuing to use the PFS would be contained within the site due to the location of the proposed PFS.

TRICS has been used to predict the traffic generated by the proposed PFS during peak times; the proposed 6 bay PFS would generate 41 arrivals and 42 departures in the week day peak (15:45-16:45) and 55 arrivals and 56 departures in the Saturday peak (11:30-12:30). Some of these trips will be linked to use of the existing store and will therefore not be new trips to the site. The applicant has used TRICS and surveys carried out at other Sainsbury's stores to determine how many of these trips will be to the PFS only; 29 arrivals and 31 departures in the week day peak (15:45-16:45) and 35 arrivals and 35 departures in the Saturday peak (11:30-12:30).

The applicant has carried out video surveys (Friday 28th March 15:00 - 19:00 and Saturday 29th March 10:00 - 15:00) and modelled the Sainsbury's/Barlborough Avenue and Barlborough Avenue/Bishopton Road West junctions. The highway impact at the junctions has been assessed

using PICADY. PICADY results refer to Ratio of Flow to Capacity (RFC) and predicted queue lengths in Passenger Car units (PCUs). An RFC value of 1 indicates that the arm of a junction is operating at its theoretical capacity and an RFC of 0.85 is accepted as showing that the junction is approaching capacity.

The PICADY results show that the Sainsbury's/Barlborough Ave junction currently operates at a maximum RFC of 0.532, while the Barlborough Ave/Bishopton Road West junction operates at a maximum RFC of 0.718. These figures show that the junctions currently operate within capacity. While concerns have been raised that the junctions are at capacity at school leaving time, these figures show that the peak time for these junctions is Saturday 11:30-12:30.

The PICADY results for the predicted traffic flows show the Sainsbury's/Barlborough Ave junction operating at a maximum RFC of 0.589 and the Barlborough Ave/Bishopton Road West junction operating at a maximum RFC of 0.820; again the peak time is Saturday 11:30-12:30.

The applicant has demonstrated that there is sufficient capacity within the car park to remove 27 bays and that while there will be an increase in trips to the site both the Sainsbury's/Barlborough Ave and Barlborough Ave/Bishopton Road West junctions will still operate within capacity. NPPF states that applications should only be refused on highway grounds where there is reasonable evidence that the impacts of the development on the highway network would be severe. There is no evidence that there would be a severe impact on the highway network, therefore there are no highway objections.

Landscape & Visual Comments on the landscape drawing submitted on 11 June 2014

The low growing Cotoneaster has been replaced by the higher Elaeagnus 'Limelight', as requested in the previous memo to provide softening of the petrol filling station when viewed from the highway and therefore the landscape plan drawing ref 1121-01 rev D is acceptable.

Environmental Health Unit

I have no objection in principle to the development, however, I do have some concerns regarding noise from access and egress to the site and light intrusion. I would recommend the conditions as detailed be imposed on the development should it be approved.

Light Intrusion

Adequate screening shall be provided to protect residential properties from light intrusion from the development. The lighting provided shall be arranged so as not to shine directly towards any dwelling and shall be shielded to prevent light spillage beyond the boundary of the property.

Noise disturbance from access and egress to the premises

The opening hours should be limited to 06.00 to 23.00 hours Monday to Sunday to ensure that adjacent premises are not adversely affected by either customers using the premises or from vehicles servicing the premises at unsocial hours.

Noise disturbance from deliveries

No deliveries shall be made to the hereby approved buildings outside the hours of 07.00 to 22.00hrs Monday to Sunday.

Construction Noise

All construction operations including delivery of materials on site shall be restricted to 8.00 a.m. - 6.00 p.m on weekdays, 9.00 a.m. - 1.00 p.m. on a Saturday and no Sunday or Bank Holiday working.

Further to my previous comments regarding the above application, I would like to make the additional advisory comments;

Odours and fumes are regulated by the Environmental Permit process at Stockton Borough Council which regulates emissions to air.

The Petrol Filling Station will also be subject to a Petroleum License application being approved by Stockton Borough Council's Environmental Health Department.

Additional comments received from Environmental Health Officers on submitted lighting plan

I have assessed the attached technical data and I am satisfied with the proposed lighting which includes angled reflectors. The luminance levels at the boundary of the site are less than 20 lux and this level is satisfactory when assessed against Guidance for the Reduction of Obtrusive Light. I am happy for the following condition to be imposed;

Prior to the commencement of any development, full details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be assessed against The Institute of Lighting Engineers' Guidance notes for the Reduction of Obtrusive Light 2005 and shall be installed prior to the development coming into use and thereafter maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation.

Reason: To protect the appearance of the area, the environment, and local residents from light pollution.

The Environment Agency

The report entitled 'Fuel Storage Feasibility Assessment' dated 5th June 2014 contains sufficient information to allow us to **withdraw** our previous objection.

Although specific details of the underground tank construction have not been included, we are aware that the operator employs a strict environmental policy. As such, we would expect BAT would be employed in regards to the proposed tanks (i.e. double skinned with appropriate monitoring systems).

Our previous comments relating to water vole, pollution prevention, surface water disposal and disposal of foul sewage still apply.

Northumbrian Water Limited

In making our response Northumbrian Water assess the impact of the proposed development on our assets and assess the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. We do not offer comment on aspects of planning applications that are outside of our area of control.

Having assessed the proposed development against the context outlined above I can confirm that at this stage we would have no comments to make.

Stockton Police Station

No comments received

Councillor J M Cherrett

In June 1979 (ref S820/79) and again in February 1980 (ref S408/80) applications were made for a petrol station at this same location. On both occasions, permission was refused for the same 4 reasons:

- 1) The proposed use would interfere with the parking provision for the supermarket complex and disrupt the organisation and efficient functioning of the car park.
- 2) The proposal would lead to an increase in traffic on the surrounding road network to the detriment of highway safety and free flow of traffic,
- 3) The additional traffic would lead to a deterioration in the residential environment and the amenity the local residents may be reasonably expected to enjoy.
- 4) The development proposed on the location shown will be visually obtrusive in the street scene to the detriment of the local amenity.

Over 30 years on I submit that these comments are still equally, if not more valid. Car ownership and traffic volume has inevitably increased in that time. Barlbrough Avenue is the only road in and out of the Whitehouse Farm estate. Approximately 250 properties on Aireborough Close, Alford Lane, Barlbrough Avenue, Chatsworth Court, Kedlestone Close, Mexborough Close, Mossbrough Close, Newstead Avenue, Spenborough Road, Tollerton Close and Woodborough Lane have no other route in and out than via Barlbrough Avenue. This situation is made worse at school opening and closing times when parents at Whitehouse Primary School park on Barlbrough Avenue. The junction at Bishopton Road West is regularly gridlocked.

There is a current planning restriction on deliveries to this store which states all deliveries must be between 7am - 10pm. Therefore, any refuelling would need to take place during these hours when the car park will be used by store customers. It is difficult to see how a petrol tanker would negotiate the car park whilst vehicles are using it. These restrictions were imposed to give peace and quiet to the nearby residents. Allowing opening times from 6am - midnight will destroy that. Many of the affected residents have bedrooms that face onto Barlbrough Avenue so noise disruption would be maximised.

The site has also been subject to anti-social behaviour in recent years by skateboarders and mini motor users who claim that the attraction for them was that the site is lit and so makes them feel safe. Thus it can be reasonably expected that lighting the site up until midnight will encourage perceived anti-social behaviour with additional calls on resources of local police and asb officers

Councillor Elliot Kennedy

As Ward Councillor for Bishopsgarth and Elmtree

I object to the development of a Petrol Station at Sainsbury's Whitehouse Farm.

1. This development will mean an increase of traffic into an already busy junction. This road serves over 240 households on Whitehouse Farm and Barlbrough Avenue is the only entrance to this estate.

I undertook a traffic survey on Wednesday 7th May 2014 between the hours of 1.30 pm & 2.30 pm with a comparison hour between 2.30 pm & 3.30 pm.

The results are as follows: between 1.30 pm - 2.30 pm 158 vehicles entered the junction of Bishopton Rd West / Barlbrough Avenue and 125 exited at same point.

From 2.30 pm - 3.30 pm there were 277 vehicles entering at this point and 300 exiting. Not all were traffic generated by Sainsbury's store, indeed many were probably school traffic but the pressure on this junction at busy times, and the associated tailbacks on Barlbrough Avenue and Bishopton Road West is already a problem without adding extra pressures.

2. The residents immediately affected by this development are 1, 3, 5, 7, and 9, Barlbrough Avenue.

Their bedroom and sitting rooms over look Sainsbury's entrance and exit.

There is already an embargo for deliveries to Sainsbury's between 10 pm and 7 am.

The store is open between 8 am and 8 pm. Monday to Saturday and 10 am to 4 pm Sundays. An additional 1530 hours p.a. of opening time has been proposed. The Petrol Station, in addition to selling fuel will be selling other products and may be used (as a corner shop) for additional 1530 hours per annum: 6 am to 11.59 pm Monday to Saturday and 8 am to 8 pm Sundays and Bank Holidays.

These additional hours will mean that there will be an increase in light pollution, noise and traffic for the residents of Whitehouse Farm.

3. It is reasonable for the residents to expect to enjoy a good quality of life without being woken at 6 am and not having to suffer noise and light pollution until midnight. If approved, this proposal would mean that nearby residents get only 6 hours of peace and quiet per night between midnight and 6 am.

4. A proposal to open a Petrol Station on this site has been refused twice, in 1979 and again in 1980. During the last 34 years traffic has increased and is even more of a problem than in previous years and I submit that the reasons for refusal of these previous two applications are still valid and urge that this application be again refused.

PUBLICITY

13. 30 objections have been received to date from the following addresses;

1. Mrs M West, 5 Barlborough Avenue (x2)
2. Mr Anthony Ayre, 5 Newstead Avenue
3. Mr Robert Trewhitt, 50 Barlborough Avenue (x2)
4. Andrea Dalton, 27 Barlborough Avenue
5. Mr and Mrs Armstrong, 30 Barlborough Avenue
6. Sharon and David Robinson, 15 Barlborough Avenue
7. Mrs M Mineham, 20 Barlborough Avenue
8. P and C Gardner, 9 Tollerton Close
9. JR and A Metcalfe, 7 Barlborough Avenue
10. Mrs Margaret Allen, 49 Woodborough Lane
11. Mr and Mrs S Hogg, 3 Barlborough Avenue
12. Norma Twizell, 21 Barlborough Avenue
13. Mr Harry Hutton, 9 Barlborough Avenue
14. Mrs Sharon Fahy, 9 Spenborough Road
15. S M Coulthard, 35 Barlborough Avenue
16. Mr P Bellerby, 39 Bishopton Avenue
17. Sheila Herrington, 11 Barlborough Avenue
18. Mrs Elizabeth Cole, 38 Bishopton Road West
19. Mr G Taylor, 19 Barlborough Avenue
20. Dr John Mansfield, 43 Bishopton Avenue
21. Mrs Sheila Balmer, 9 Whitehouse Drive
22. Mr and Mrs TW Kennedy, 6 Tollerton Close
23. Ms Angela Parkinson, 47 Woodborough Lane
24. Miss Doreen Begg, 17 Barlborough Avenue
25. Mr Ian Basford, 202 Bishopton Road
26. Mrs Jacqueline Waites, 37 Bishopton Avenue
27. Mrs Suzanne Fletcher, 3 Hoylake Way, Eaglescliffe
28. Mr L. Moore, 45 Bishopton Avenue
29. Karen Heritage, 51 Bishopton Avenue
30. W.J. Taylor, 53 Bishopton Avenue

In respect to the submitted application for the associated proposed adverts (reference 14/1123/ADV), objections have also been received, which make direct comment towards the current planning application. These objections were received from the following addresses;

Mr Colin Scott, 4 Mossbrough Close; Sidney and Marion Hogg, 3 Barlborough Avenue; Mr C Hutchinson, 1 Mossbrough Close; Mr George Morland, 45 Woodborough Lane.

Objections have also been received from Councillor Cherrett and Councillor Kennedy, set out in full above.

The objections received are summarised as follows;

- Adverse visual impact/the proposal would be visually obtrusive
- Increase in anti-social behaviour including vandalism and congregation of 'youths'
- Increase in litter
- Impact on amenity in terms of noise disturbance as a result of opening times, loss privacy and fumes/smells
- Impact on residents' 'quality of life'
- Impact of lighting
- Deliveries to the current store is currently limited to 7am to 10pm
- Potential danger to residents' health as a result of storage tanks and smells/fumes
- The surrounding area is residential and proposed development is not suitable
- Increase in traffic/congestion and impact on highway and pedestrian safety in terms of access/egress onto wider residential estate from Barlborough Avenue and Bishopton Road West, exacerbating existing problems, particularly in respect of the surrounding schools and colleges
- Impact on pedestrian safety for pedestrians/customers within the site as a result of tankers driving through site
- The loss of car parking spaces will result in on street car parking along Barlborough Road
- Such impacts should be considered in the context of application 14/0105/FUL for development at Stockton Town FC, Bishopton Road West
- The site floods and there are drainage problems
- Property devaluation
- There are other petrol filling stations in close proximity
- Previous refusals of an outline application for a petrol filling station are still relevant
- The objection from 4 Mossbrough Close has commented that neighbour consultation should have been wider and subsequently this is an 'underhand tactic'

PLANNING POLICY

14. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan
15. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations
16. The following planning policies are considered to be relevant to the consideration of this application:-

National Planning Policy Framework

Paragraph 14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking;

For decision-taking this means:

approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or -specific policies in this Framework indicate development should be restricted.

Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel

Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

Additionally, in designing new development, proposals will:

_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;

_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;

_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;

_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

Core Strategy Policy 5 (CS5) - Town Centres

No further allocations for retail development will be made other than in or on the edge of Stockton Town Centre during the life of the Core Strategy.

Stockton will continue in its role as the Borough's main shopping centre. Up to 2011, the need for additional capacity can mostly be met through committed developments and the occupation and reoccupation of vacant floorspace. Beyond 2011, there may be a requirement to bring forward new retail developments within the town centre in the first instance, to improve quality and widen the range of the shopping offer in the Borough. The creation of specialist roles for Stockton, for example as a sub-regional historic market town, or through the concentration of a mix of ethnic retailers or small independent chrysalis stores, will be supported. Other initiatives will include: Improving the main approaches to the town via the Southern, Eastern and Northern Gateways, through creating new development opportunities and promoting environmental improvements; Promoting a balanced and socially inclusive cultural sector and 24-hour economy across the town centre, particularly in the vicinity of Green Dragon Yard; Providing additional leisure opportunities, and other town centre uses, in accordance with Planning Policy Statement 4: Planning for Sustainable Economic Growth; Improving pedestrian links to the riverside.

Billingham, Thornaby and Yarm will continue to function as district centres. Priority to regeneration initiatives will be given to:

Thornaby centre

Billingham centre

Proposals which support Yarm's specialist niche role in offering higher quality comparison shopping, together with leisure and recreation opportunities will be supported, provided that the residential mix within the district centre is not compromised.

Elsewhere, within the local shopping centres of Billingham Green in Billingham, Myton Way at Ingleby Barwick, Norton High Street and High Newham Court in Stockton, and the neighbourhood centres, development will be promoted and supported provided that it complements and does not adversely impact upon the regeneration of the town and district centres, and where it is in accordance with Planning Policy Statement 4: Planning for Sustainable Economic Growth.

Should any planning application proposals for main town centre uses in edge or out-of centre locations emerge, such proposals will be determined in accordance with prevailing national policy on town centre uses as set out in Planning Policy Statement 4: Planning for Sustainable Economic Growth or any successor to Planning Policy Statement 4.

MATERIAL PLANNING CONSIDERATIONS

Principle of development

The National Planning Policy Framework (NPPF)

17. The National Planning Policy Framework (NPPF) sets out the Government's aims and objectives for the planning system. The general ethos of the NPPF is to promote and encourage development that accords with the definition of sustainable development (made up of three components; social; economic; and environmental) and sets out core planning principles.
18. Paragraph 14 of the NPPF states that at the heart of the NPPF is the presumption in favour of sustainable development which is a '*golden thread running through both plan-making and decision-taking*'. For plan-making this includes local planning authorities positively seeking 'opportunities to meet the development needs of their area'. For decision-making it means:
 - 1) *approving development proposals that accord with the development plan without delay; and*
 - 2) *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - 3) *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - 4) *Specific policies in this Framework indicate development should be restricted.*
19. Notwithstanding the acceptability of the scheme in relation to the material considerations set out below, the application site is located within the defined limits to development and the development would be within the curtilage of an established commercial site/supermarket. The principle of a proposed petrol filling station and kiosk are considered to be appropriate to this established commercial setting. Although the use is one that would primarily rely on vehicles travelling to the site, the site's proximity to residential areas and being within the defined limits are noted. As such the site is considered to be sustainable and accords with the general provisions of the National Planning Policy Framework.
20. The NPPF places a strong emphasis on promoting and supporting the vitality and viability of the town centres. Paragraph 24 sets out that a sequential test for main town centre uses not in an existing centre should be applied, the preference being for town centres, then edge of centre locations and only then if suitable sites are not available, should out of centre sites be considered.

Given that the proposed Petrol Station would not be classed as a town centre use and in respect of the scale of the proposed kiosk (the applicant has confirmed that the sales area would be limited to 5m² for cigarette sales only), the proposal is not considered to adversely impact upon the vitality and vitality of existing defined retailing centres and is therefore considered to be acceptable in this respect.

21. In view of the above, the principle of development is considered to be acceptable subject to the proposal satisfying other material considerations as set out below.

Character, appearance and visual amenity of the surrounding area (including landscape matters)

22. One of the core principles of the NPPF (para 17) is to *‘always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and building’*.
23. Furthermore online National Planning Policy Guidance (PPG, published March 2014) reaffirms the importance of good design, as promoted in the NPPF and states that *‘Local planning authorities are required to take design into consideration and should refuse permission for development of poor design’*.
24. Within the submitted supporting statement, the applicant has commented that *‘consideration has been given to the removal of the kiosk, and a card-payment only system in substitution. However, an unmanned site would not reduce the footprint, which is very modest, because as a control building would be required which would be the same size as the small kiosk. A manned kiosk is considered to be preferable. The canopy is as small scale as is possible to cover customers and their cars during use’*. These comments are acknowledged.
25. The visual appearance of the proposed buildings and canopy are considered to be standard for a development of this nature. Views would be achievable towards the development although the main bulk/length of the development would front onto Bishopton Road West (south) with the road and playing fields immediately to the south of the development. Furthermore, the site perimeter abounds roads to the south, east and west with residential properties beyond; the proposal; would be sited approximately 80m from the nearest properties to the west along Barlborough Avenue, at an oblique distance of approximately 50m from 1 and 3 Bishopton Road West to the south west, approximately 60m to the nearest properties to the south east (including 123 Bishopton Road and 106 Oxbridge Avenue), approximately 50m from the nearest properties to the east (including 202 Bishopton Road) and approximately 70m from the nearest properties to the north east along Bishopton Avenue with the public house approximately 70m to the north.
26. Furthermore, it is considered that the retention of some of the existing tree planting and soft landscaping, supplemented by additional tree planting and soft landscaping would assist in reducing any adverse visual impact on the amenity of the surrounding area. The Council’s Landscape Officer has considered the landscape plans which have been submitted (drawing 1121-01 REV D) and commented that the proposed landscaping will soften the view of the petrol station from the highway and has raised no landscape or visual objection to the proposed scheme.
27. In view of the above considerations, including separation distances to the nearest residential properties and the landscaping scheme submitted, it is considered that the overall appearance and layout of the scheme is generally considered to represent an appropriate form of development in terms of its impact on the character and appearance of the surrounding area and visual amenity. The proposal is therefore considered to accord with the provisions of the NPPF and Core Strategy Policy CS3 (8).

Amenity

28. Several objections, including those from Councillor Cherrett and Councillor Kennedy have raised concerns over the proposed development in terms of its impact on the amenity of residential properties primarily as a result of noise disturbance, and fumes/smells.
29. In terms of noise, the submitted application indicated that the petrol filling station would be open between 0600-2359 hours, seven days a week. A number of objectors and Councillor Cherrett have referenced the existing control of hours for deliveries to the store, which restrict deliveries to 0700-2200 hours. It is understood from the store's website, that the store currently operates between 0800-2100 Monday to Friday, 0800-2000 on Saturdays and 1000-1600 on Sundays.
30. The Environmental Health Unit has considered the submitted information and has requested that fuel deliveries are restricted to the same delivery hours as the main store (between 0700-2200 hours, seven days a week). With respect to hours of opening, the EHU considers that these should be limited to 0600-2300 hours seven days a week, which the applicant has been made aware of and is agreeable to. Whilst each application is assessed on its own individual merits, this is consistent with the restricted hours of use for a petrol filling station recently approved at another location.
31. It is considered that similar controls will be required to ensure that both the kiosk and petrol filling station are not operational outside of the hours of operation recommended by the Environmental Health Unit and that deliveries are also restricted to those of the main store (as per a condition on the 1990 approval reference 90/0348/P). It is considered that these restrictions would assist in limiting noise disturbance and ensure reasonable levels of residential amenity are preserved at unsociable hours.
32. Whilst the proposed development will undoubtedly have some impacts on the amenity of the neighbouring residential properties, in view of the above referenced separation distances to surrounding residential properties (as set out in full previously), the EHU raising no objections to the scheme and the imposition of appropriate planning conditions, it is considered that any associated impacts on the amenity of neighbouring land users in terms of noise disturbance are not considered to be so significant, in planning terms, to justify a refusal of the application.
33. In line with the Environmental Health Officers recommendation, planning conditions are also recommended in respect of controlling lighting and preventing light spillage, as well as restricting the hours of construction activity.
34. In view of the scale, design and siting of the structure in relation to surrounding residential properties, and the established commercial setting of the site, it is considered that the proposal will not adversely affect the amenity of surrounding residential properties in terms outlook, overlooking and overbearing.
35. With respect to fumes/odours and concerns from residents regarding the siting of underground storage tanks, the Environmental Health Unit has confirmed that odours and fumes are regulated by the Environmental Permit process which regulates emissions to air and the applicant would need to obtain approval for a Petroleum License from the Council's Environmental Health Unit. As such, these matters would be controlled by separate legislation to planning.

Highway related matters

36. It is noted from the submitted objections, that historically, there have been refusals for petrol filling stations at the site (in 1975, 1979 and 1980). However, it is considered that national (and local) planning policies have significantly changed since these refusals and therefore the current application will need to be considered in the context of the current framework of national and local planning policies.

37. A number of objections from residents and local ward councillors have been raised suggesting that there is already excessive traffic and congestion on the surrounding highway network particularly access/egress onto Barlborough Avenue (which serves a wider residential area) at peak times including those around school start/finishing times; the proposal would result in the loss of car parking spaces and could result in on street car parking and that the area cannot cope with any additional traffic, all of which residents consider would cause risk to highway and pedestrian safety.
38. Objections have also commented that such impacts should be considered in the context of application 14/0105/FUL for development at Stockton Town FC, Bishopton Road West (*Construction of an Artificial Turf Pitch (ATP) with perimeter ball-stop fencing, floodlights and clean access with outdoor storage for maintenance equipment. Construction of a stand to serve the existing natural turf pitch along with changing room, toilet and refreshment areas*). The Head of Technical Services has been made aware of this objection.
39. Councillor Kennedy has also provided the results of a traffic survey that he has undertaken, which were passed onto the Head of Technical Services.
40. The proposed scheme would result in the loss of 27 car parking spaces with a total of 245 parking spaces remaining within the car park. The applicant has submitted a Transport Statement and has undertaken traffic surveys, which indicate that *'occupancy peaks at around 144 spaces, which means only 56% of the car park would be used, leaving 101 parking spaces free at peak times'*.
41. In response, the Head of Technical Services (HoTS) has confirmed that the applicant has demonstrated that there is sufficient capacity within the car park to remove 27 bays and that whilst *'there will be an increase in trips to the site both the Sainsbury's/Barlborough Ave and Barlborough Ave/Bishopton Road West junctions will still operate within capacity'*.
42. The NPPF states that applications should only be refused on highway grounds where there is reasonable evidence that the impacts of the development on the highway network would be severe. The HoTS has confirmed that *'there is no evidence that there would be a severe impact on the highway network, therefore there are no highway objections'*.
43. In view of the above considerations, it is considered that the proposed development will not result in an adverse loss of highway and pedestrian safety as to warrant a refusal of the application.

Residual Matters

Drainage, flooding and other matters

44. A number of objections have raised concerns regarding drainage, flooding at the existing site, which would be worsened by the proposal, and concerns regarding the contamination of existing water sources by the underground storage tanks.
45. The site is situated within flood zone 1 presently not at risk of either tidal or fluvial flooding.
46. In terms of drainage, Northumbrian Water Limited (NWL) has been consulted and has raised no objections to the scheme. The scheme is therefore considered to be acceptable in this respect.
47. With respect to the siting of the underground storage tanks, the Environment Agency have been consulted. The Environment Agency have commented that following the submission of the 'Fuel Storage Feasibility Assessment' they have no objections to the proposal and would advise the applicant that Best Available Technique (BAT) should be employed with regards to the tanks (i.e double skinned with appropriate monitoring systems). The Environment Agency consultation comments have been provided to the applicant and contain further advice with regards to surface water drainage, water voles, pollution prevention and disposal of foul sewerage.

Community Safety Implications

48. A number of objections have raised concerns regarding the proposal resulting in an increase in anti-social behaviour, including vandalism and congregation of 'youths' within the surrounding area. Issues such as fear of crime and a scheme increasing anti-social behaviour/vandalism in an area are based on assumptions and not supported by evidence as to the characteristics of the future occupiers or users of facilities and should therefore not be taken into account in the determination of this proposal.
49. Section 17 of the Crime and Disorder Act 1998 places a duty on the authority to consider the crime and disorder implications of the proposal. Whilst there is no evidence to link such issues to the proposed use, any potential problems arising from this behaviour can be dealt with by other methods such as the police service or community enforcement section and would not be a reason to warrant refusal of the application. Furthermore, Stockton Police have been consulted on the application and have raised no objections to date.
50. The provisions of Section 17 of the Crime and Disorder Act 1998 have therefore been taken into account in the preparation of this report.

Other matters

51. Objections have been received in relation devaluation of property prices and the availability/provision of existing petrol filling stations in the surrounding area. These matters are not considered to be material planning considerations.
52. With respect to matters of litter, whilst these comments are noted, in view of the nature of the use being one that should not normally generate litter from visitors (as opposed to a use such as a takeaway or a larger shop/kiosk that would), it is not considered reasonable to request the provision of litter bins on the site in this instance. As such, any further matters would be controlled under separate legislation to planning.
53. An objection has been received from No 4 Mossbrough Close, states that neighbour consultation should have been wider and that subsequently this is an 'underhand tactic' to receive less objections. In response, the Local Planning Authority consulted 37 surrounding residential and non-residential properties, in addition to a site notice being placed along Bishopton Road West (which is not a formal requirement for this type of application). This consultation is therefore considered to be satisfactory.
54. The objection received from 3 Hoylake Way has commented that the applicant has failed to comply with the previous store delivery time restrictions and therefore raises concerns regarding the control over delivery times for the proposed petrol station.
55. In response, the proposed petrol filling station hours and delivery times have been considered and are deemed to be acceptable. As such, should the applicant operate outside of the approved hours of operation condition or delivery times condition, the Local Planning Authority could take enforcement action to remedy a breach of control arising from failure to comply with any planning condition or limitation.
56. For clarification, the existing siting of the recycling containers would not need to be re-located as part of the development, as indicated on the proposed plans.

CONCLUSION

57. The impacts of the proposal have been considered against national and local planning guidance. Material considerations have been considered in detail and the development as proposed is considered to be acceptable including design and layout, highway safety and it does not adversely impact on the amenity neighbouring properties as to warrant a refusal of the application.
58. In view of the above considerations, it is considered that the proposed scheme would address the reasons for refusal of petrol stations in 1975, 1979 and 1980.
59. It is recommended that the application be Approved with Conditions for the reasons specified above.

**Corporate Director of Development and Neighbourhood Services
Contact Officer Miss Debra Moody Telephone No 01642 528714**

WARD AND WARD COUNCILLORS

Ward **Bishopsgarth And Elm Tree**
Ward Councillor **Councillor J M Cherrett**

Ward **Bishopsgarth And Elm Tree**
Ward Councillor **Councillor Elliot Kennedy**

IMPLICATIONS

Financial Implications:
As Report

Environmental Implications:
As Report

Human Rights Implications:
The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:
The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers
The Town and Country Planning Act 1990.
National Planning Policy Framework
Stockton on Tees Local Plan Adopted Version June 1997
Core Strategy Development Plan Document March 2010
Supplementary Planning Document 3: Parking Provision for New Developments (2011)

Refused applications;
S492/75; Refused application for a filling station on traffic grounds, decision dated 2nd May 1975.
S820/79; An outline application for the provision of a petrol filling station (no details provided) refused on 21th May 1979
S408/80; A second outline application for a petrol filling station was on 12th December 1980.