

Committee: **PLANNING**

Date of Meeting: **09 February 2010**

Title of Report: **S/2010/1645**
Shell Garage Liverpool Road, Formby
(Ravenmeols Ward)

Proposal: Construction of a new petrol filling station including: the erection of a convenience store, forecourt canopy, individual jet wash bays, parking and landscaping

Applicant: The Kay Group

Executive Summary

This application is for the reintroduction of a petrol filling station and associated facilities onto this vacant site. The issues concern the principle of the use in relation to other possible land uses, compliance with UDP policy H10 in respect of amenity and hours of operation and consideration of details of access, design, tree loss, landscaping and lighting.

Recommendation(s) Approval

Justification

The proposed use reintroduces a petrol filling station with associated facilities onto the site. In respect of UDP Policy H10 the applicant has demonstrated that no significant loss of amenity would occur and the proposals meet the other requirements of relevant UDP policies. Taking these policies into consideration together with local objections and all other material considerations, approval is recommended as set out in the report.

Conditions

1. T-1 Full Planning Permission Time Limit
2. X1 Compliance
3. M-2 Materials (sample)
4. L-1 Protection of trees
5. Con-1 Site Characterisation
6. Con- 2 Submission of Remediation Strategy
7. Con-3 Implementation of Approved Remediation Strategy
8. Con-4 Verification Report
9. Con-5 Reporting of Unexpected Contamination
10. S106 Agreement
11. B-3 Delivery hours
12. All external plant and machinery , including jet washes/vacuum/air/water shall

- be operated outside the hours of 0700-2100 unless otherwise agreed in writing by the Local Planning Authority
13. Before such equipment is installed, full details of the plant and equipment associated with the shop operation shall be submitted for approval to confirm noise levels within the criteria of the noise assessment.
 14. The acoustic fence hereby permitted, shall be erected in accordance with the approved detail and shall have no holes or gaps. The fence shall be maintained as such at all future times.
 15. The submitted Supplementary statement in relation to the overnight operation of the site shall be implemented in full at all future times. Fuel sales shall be restricted to the two forward fuel pumps between 11 pm and 7 am.
 16. Before the development is first brought into use the applicant shall set up a local liaison group as outlined in the Supplementary statement and in accordance with details which shall be agreed in writing with the Local Planning Authority.
 17. L-4 Landscape Implementation
 18. L-5 Landscape Management Plan
 19. H-1 Remove existing vehicular/pedestrian access
 20. H-2 New vehicular/pedestrian access
 21. H-5 Off-site Highway Improvements
 22. H-6 Vehicle parking and manoeuvring
 23. H-12 Servicing Areas

Reasons

1. RT-1
2. RX1
3. RM-2
4. RL-1
5. RCON-1
6. RCON-2
7. RCON-3
8. RCON-4
9. RCON-5
10. R106
11. RB-3
12. In the interests of residential amenity and to comply with policy EP6 in the Sefton Unitary Development Plan.
13. In the interests of residential amenity and to comply with policy EP6 in the Sefton Unitary Development Plan.
14. In the interests of residential amenity and to comply with policy EP6 in the Sefton Unitary Development Plan.
15. RP-4
16. To ensure proper management of the site to prevent unreasonable noise and disturbance to neighbouring occupants in the interests of residential amenity and to comply with policies DQ1, CS3 and EP6 in the Sefton Unitary Development Plan.
17. RL-4

18. RL-5
19. RH-1
20. RH-2
21. RH-5
22. RH-6
23. RH-1

Notes

1. The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Highways Development Control Team on Tel: 0151 934 4175 to apply for a new street name/property number.
2. The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Section on 0151 934 4175 or development.control@technical.sefton.gov.uk for further information.
3. 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 must not commence until conditions 5-9 above 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 by the Local Planning Authority in writing, until condition 9 has been complied with in relation to that contamination. Contaminated land planning conditions must be implemented and completed in the order shown on the decision notice above.

Drawing Numbers

M10-29- 02 rev 01, 04 rev 05, 05 rev 03, M10-34-09

Tree survey and landscape design as amended by email received 28/01/11; lighting and canopy lighting calculations; noise impact assessment; supplementary statement in respect of overnight operation; retail appraisal and DAS.

Financial Implications

CAPITAL EXPENDITURE	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
REVENUE IMPLICATIONS				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

List of Background Papers relied upon in the preparation of this report

History referred to
Policy referred to



Sefton Council
Planning & Economic
Regeneration Department
 Andy Wallis - Director
 Planning & Economic Regeneration is part of the
 Regeneration & Environmental Services Directorate

S/2010/1645
 Shell Garage
 Liverpool Road
 Formby
 L37 6BT
 OSGR: 330219, 406428 Sheets: 2066 Area: 2649 sqm

Standard Site Plan
 Scale: 1:1250
 Date: 29/12/2010
 Drawn By: EBERT on

Ward(s): Ravenmeols
 Postcode Sector(s): L37 6
 Polling District(s): P4
 Parish(es): Formby Cp

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The Site

This application concerns the site of the former Shell Garage on the corner of Liverpool Road and Royal Crescent, Formby. The site has been out of use for some while and has now been cleared and secured. 'The Royal' Public House adjoins the site and there are houses to the rear in Royal Close.

Proposal

Construction of a new petrol filling station including: the erection of a convenience store, forecourt canopy, individual jet wash bays, parking and landscaping.

History

Several applications concerning developments and advertisements at the former petrol filling station. Most significant are;

- N/1987/0822 Erection of extension to canopy, additional pumps, rollover cash wash and lance wash – Approved 27/01/1988
- N/1998/0162 Redevelopment of site to include sales building with drive through restaurant, enclosed car wash; new tanks pumps and islands; air/water and vacuum facilities - refused 01/10/98
- N/1999/0134 Redevelopment of site to include sales building with drive through restaurant, enclosed car wash; new tanks pumps and islands; air/water and vacuum facilities - refused 13/05/99 Appeal dismissed 11/02/2000
- N/2001/0977 ATM on front elevation of sales building -Approved

Consultations

Highways Development Control – The existing footway across the Liverpool Road frontage of the development site is approximately 1.6m and there are a number of lengthy sections of footway crossing which will become redundant once the site has been redeveloped. Given the potential increase in pedestrian traffic along the footway as a result of the large retail element of the development and the need to reinstate the redundant footway crossings, the existing footway across the entire frontage of the site on Liverpool Road should be completely reconstructed and widened to a minimum of 2.0m, incorporating flush kerbs and tactile paving either side of each new vehicular access and either side of Royal Crescent. In addition, there is a redundant footway crossing on Royal Crescent which will need to be reinstated as footway to match the existing. The new area of footway will need to be dedicated as highway and adopted under S228 of the Highways Act 1980.

A total of ten off-street parking spaces (including one which will be marked out for use by disabled persons) will be laid out to the front and side of the shop together

with four 'Sheffield' stands for cycle parking. This level of car and cycle parking is acceptable. There is an also adequate space within the site for drivers of fuel tankers and other delivery vehicles to carry out safe and convenient manoeuvring.

Conditions and informatives should be added to any approval notice.

Environmental Services - No objections. The site has previously been a 24 hour petrol station and sporadic complaints about this have been received. Due to the time period involved all physical records have been cleansed.

The noise impact assessment reviews noise impact on nearby dwellings and confirms that subject to operational restrictions during the night time period the 24 hour opening should not be a cause for concern.

The noise impact assessment recommends :

- all deliveries to the shop and fuel to be undertaken 0700-2300
- restrict fuel pumps to the first two bays of pumps from Liverpool Road between 2300-0700
- restrict the use of external plant and equipment – jet wash/vacuum, air/water to 0700-2300
- details of plant and equipment for shop to be approved prior to installation to confirm noise levels
- acoustic fence to be erected and maintained

Signs should request that car radios are turned off and that customers are quiet and respectful of residential neighbours.

I have read through the appeal documents you have sent, the appeal seems to look at the loss of amenity from the A3/A5 use and the auto car wash to the rear of Rolay Terrace. The only further comment I would make concerning the current application would be it may well be worth while further limiting the use of the proposed plant and equipment associated with the petrol station (jet wash, vacuum, air /water etc) to 08:00 to 22:00 hours. Further we need to be satisfied that the new operation will be well managed to minimise disturbance during night time periods of operation.

Police Architectural Liaison Officer - In the main, I am satisfied as to the proposed crime prevention measures as detailed in the Design and Access Statement. I am in agreement with the agent in regard to 24 hour trading increasing security. My only concerns are in respect of 'drive-off' offences and safety of ATM users and replenishers.

I realise that in the main, prevention of 'drive-offs' is a management issue for the operator, but reasonable steps can be taken to prevent offences, which could include such measures as customers being required to pay for fuel prior to filling during certain times of the day/night, or CCTV/Automated Number Plate Recognition (ANPR) cameras at both the entrance and exit. I am sure the applicant and agent are well aware of the options available, but I can provide more detailed advice if necessary.

Safety of ATM users and replenishers is the other concern, and I have attached some guidance

In conclusion, I am supportive of the application

Merseyside fire and Rescue – access for fire appliances is considered adequate; water supplies for fire fighting should be risk assessed.

Environment Agency - historic contamination reports referred to have not been submitted.

United Utilities – no objection but site should be drained on a separate system.

Neighbour Representations

Last date for replies: 18/12/10

A petition of 47 signatures endorsed by Councillor David McIvor has been received objecting on a number of grounds (set out in full on attachment).

- plans/submissions are inaccurate and out of date
- 24 hour opening is detrimental to amenity
- too close to residential property
- anti-social behaviour is not currently a problem but was when the previous garage was open
- noise and spray from car wash unacceptable
- no parking facilities for staff
- site should be used for housing

Formby Parish Council – supports the petition. Welcomes the desire to develop the site but 24 hour retailing is not welcome. Impacts on traffic, environment, safety of pedestrians and values of properties are of concern. Recommends refusal of this application in favour of a new petrol station site nearer to the A595 and allocation of the present application site for housing in the Core strategy.

Formby Civic Society - no criticism of layout or design or operation until 9pm. Oppose all night opening as too close to houses (no acoustic measurements made to west side and no acoustic screening there). Concerned that noise from cars and their occupants and pedestrians using the shop at night would be a problem.

Individual objections received from 8 Royal Close, 44, 50, 52, 58 Liverpool Road. These raise objections as follows :

- effect of proposal on livelihood of existing local businesses
- antisocial behaviour has much reduced since the former garage closed
- need for houses
- too close to houses for a petrol filling station
- it seems a backward step to re-contaminate the site after much time has been spent clearing up the contamination.
- retail appraisal is factually inaccurate and out of date.

- congestion and lack of parking
- size is inappropriate and the development is unnecessary
- trees on the site block light from 8 Royal Close and should be heavily trimmed or removed.

A letter has been received from the licensees of the Royal Hotel, next door. They live above the pub. They feel that the closure of the petrol station previously on the site had a detrimental effect on their business and would support the construction of a new one. They are in favour of a 24 hour facility to support general safety and security in the area. Whilst they support the need for affordable housing, they don't think that residential use is the answer here and are concerned that housing construction has stalled on several sites (including that at the rear of the Royal). They would like to see the site developed.

Policy

The application site is situated in an area allocated as primarily residential on the Council's Adopted Unitary Development Plan.

AD1	Location of Development
CS3	Development Principles
DQ1	Design
DQ3	Trees and Development
EP3	Development of Contaminated Land
EP6	Noise and Vibration
EP7	Light Nuisance
H10	Development in Primarily Residential Areas
R1	Retail Development Strategy

Comments

This proposal is for the redevelopment of this cleared site for its former use as a petrol filling station with associated facilities. The main issues to consider are the principle of the use; impact on residential amenity; highway safety, design/landscaping and impact on trees/ecology. The site has been remediated, but further consideration of the details of this are also required.

Principle of the use

The site has long been a petrol filling station and it is hard to object to the resumption of that longstanding use, subject to other planning considerations. The proposals introduce a significantly larger retail unit (280m²) with an ATM together with replacement petrol pumps, jet wash bays and vacuum bays. 9 customer parking spaces plus 2 for staff are also proposed. The provision of car wash bays and vacuum bays reintroduce former facilities to a more modern standard. These will be considered in more detail in respect of amenity implications.

In retail terms the proposed unit is of modest size and would not in itself cause any significant concern with regard to retail policy. Corrections/updates have now been made to the retail report.

Some objectors point out that there is a housing need in Formby and consider that this site would be better used for housing. The Director does not disagree and has sought to encourage residential use on the site. However the present applicant has made an application for a petrol filling station and this proposal needs to be assessed in the context of the existing UDP Policies. There is no policy within the adopted UDP which would give preference to housing on this site. The proposed use would be acceptable in principle provided that it meets Policy H10. The present application therefore has to be considered on its own merits. The Queen's Counsel advising the Council's Core Strategy considers that refusal primarily on the basis of preferred residential use is unlikely to be successful at appeal on this site.

Amenity

Amenity considerations are the key concern. UDP Policy H10 states that non-residential development will be permitted in Primarily Residential Areas provided that it can be demonstrated that the proposal

- (a) will not have an unacceptable impact on residential amenity, and
- (b) is otherwise compatible with the residential character of the area.

The site is located on the corner of Liverpool Road with Royal Crescent and directly adjoins dwellings in Royal Close. A block of 4 apartment units is immediately to the rear of the site and semi-detached houses look towards the rear of the site from the other side of Royal Close. There are also houses on the opposite side of Liverpool Road and to the north of the site on Liverpool Road. A public house is located immediately to the south with the access to the car park adjacent to the southern site boundary. New houses are under construction to the rear of the public house

In dismissing an earlier appeal on this site for a redevelopment for a petrol filling station incorporating a number of other activities including a car wash, shop and fast food drive through, the Inspector clearly stated that the amenity considerations were paramount. He concluded that the fast food drive through in particular was likely to result in noise and disturbance which would cause real harm to residential amenity.

The present proposal does not include a drive through or fast food facility and this element of intensification and potential noise and disturbance is therefore removed.

The proposal as now submitted includes 4 car wash bays, but these are adjacent to the Royal Crescent frontage rather than to the rear as previously proposed. There are 2 vac bays included at the rear.

The facilities now proposed except for the increased retail area, are not significantly different from those previously existing, albeit more modern.

In terms of general amenity considerations the applicant has requested 24 hour operation. The previous use as a petrol filling station was not time limited, but it was

established at the time of the previous appeal that a condition could nevertheless limit hours of operation if required. However the applicant has stated that 24 hour opening is part of their business model and has submitted a night time management plan which could be enforced by condition. The applicant has experience of 24 hour working at their other sites and that they have won awards for the quality of their operations. They want to pursue 24 hour opening as they feel this is needed to provide safety and security for the site with more surveillance and less possibility of antisocial behaviour. Overnight trading helps offset the costs of having someone on site overnight. The site is purpose designed to facilitate night management and cctv is proposed. The jet washes would close at 9pm by which time use of all plant/machinery on the site would cease and lighting would be switched off (except canopy) the two forward pumps only would operate at night time.

Their experience at their other sites, they claim, has demonstrated that 24 hour operation improves the safety and security on the site. At one of their other sites they have set up a local liaison group and they are willing to offer this here. This would seem appropriate and is included in the recommended conditions. The Police Architectural Liaison Officer supports 24 hour opening as does the licensee of the pub next door who lives on the premises. Formby Civic Society and other objectors oppose the 24 hour opening on the basis that cars and pedestrians visiting the premises at night could be noisy but FCS recognises the difficulties of quantifying this. The local liaison group would be in a position to manage this if problems arose in the future.

On the basis of the submitted Noise Assessment taken together with the supplementary overnight management statement and the offer of community liaison, the Director considers that refusal on the grounds of noise and disturbance from 24 hour operation could not be substantiated.

In more detail, the noise assessment identifies a number of measures to ensure that noise levels remain at a level which does not cause undue loss of amenity. These are :

- all deliveries to the shop and fuel to be undertaken 0700-2300
- restrict fuel pumps to the first two bays of pumps from Liverpool Road between 2300-0700
- restrict the use of external plant and equipment – jet wash/vacuum, air/water to 0700-2300
- details of plant and equipment for shop to be approved prior to installation to confirm noise levels
- acoustic fence to be erected and maintained (to south and east)

The Director of Environmental Services has examined this assessment and further recommends that the jet/vacuum wash be further limited to 2200 and that signs be erected to ask customers to turn off car radios

Since these comments were made, the applicant has submitted the Supplementary Statement which states that the external plant/equipment including jet/vacuum wash

would cease after 9pm and is willing to accept a condition to this effect.

On this basis it is hard to argue that there would be any significant loss of amenity to local residents and the proposal would therefore meet the requirements of UDP Policy H10.

Light pollution

The proposal includes 2 single floodlights and 3 twin floodlights and canopy lighting. The floodlights would be automatically turned off at 9pm. This is considered acceptable in amenity terms.

Traffic and access

Highways Development Control raise no concerns on traffic or access matters. Conditions are recommended including the need to reinstate the footpath on the Liverpool Road frontage. This can be required by condition. Parking space for 9 cars for customers (including one disabled bay) plus two for staff would be marked out on the site and this is considered appropriate.

Design and visual impact

The site is presently vacant and fenced off.

The site layout locates the shop at the southern end of the site adjoining the access to the pub. The shop building would face the forecourt and would be constructed of metallic silver micro rib cladding panels. Some glazing is incorporated on the corner of the building to add some interest to the street elevation. The design of this building and its position and presentation on site is considered acceptable and to comply with UDP Policy DQ1. The south elevation would present a blank elevation to the public house and this boundary would be fenced with an acoustic fence.

The proposed car wash bays are located on the northern part of the site adjoining the Royal Crescent frontage. This would result in a 2.3m high timber screen fence (with profiled sheeting on the inner face to the jet wash) along this frontage. The applicant has sought to mitigate the visual impact of this fence by providing 5 recessed bays along its length with tree and shrub planting adjacent to the pavement.

The use of the site in this way results in a site frontage to Royal Crescent which lacks activity. This is not ideal in visual terms but the introduction of activity in relation to a petrol station on this frontage would not be appropriate in amenity or highway safety terms.

Overall the applicant has produced an acceptable landscaping scheme which would provide an attractive planting area on the frontage to Liverpool road and suitable screening for the rear of the site. Trees are discussed below.

Trees

The site contains a number of existing trees including two protected sycamores towards the southern boundary. The health of the protected trees is being further investigated, but the trees are very one sided due to previous pruning and it was accepted at the time of the previous appeal that their removal to be replaced by good quality new planting on the frontage can be justified in amenity terms. The proposed replacement planting would achieve this with a group of new trees on the Liverpool Road frontage.

In terms of UDP Policy DQ3, 12 trees would be lost and 11 parking spaces proposed, giving a requirement of 35 trees required. 24 are proposed in the scheme so a S106 agreement is required for 11 trees (£5,064 at 2010/11 rates).

Contact Officer: **Mrs S Tyldesley Telephone 0151 934 3569**

1645

Petition against proposed plans for former Shell Garage, Liverpool Road, Formby

SEFTON COUNCIL
16 DEC 2010 9F
REGENERATION BSU

We as residents of Formby and Little Altcar object to the proposed development of the former Shell Garage on Liverpool Road for the following reasons.

- The plans are inaccurate and refer to a study carried out over six years ago. It states there are no convenience stores nearby, One Stop convenience store is only 200 yards up the road and a new convenience store has opened up just four doors away from the proposed site.
- It also states there are no ATM's nearby when there are two, one at the local post office and one at One Stop.
- The application refers to Redgate shops being run-down, they have been redeveloped and now has a large brand new convenience store. The newsagents on Liverpool Road also sells a selection of grocery items.
- The opening of another convenience store would be very harmful to these existing businesses.

Other reasons why this application must be refused

- The application is for twenty four hour opening. This is detrimental to the homes of the people living on the edge of this development. It will greatly reduce the quality of life for the residents who will have to endure, noise pollution, light pollution and it will create an increase in traffic during the night (the traffic on the road is greatly reduced after 11pm).
- The site is too close to residential properties, the gardens of some homes in Royal Close border the proposed site which will detract from the pleasure the residents can get from their gardens.
- There are homes on all four sides of the site, as there are new homes being built on the former beer garden at the back of the Royal Public House.
- The planning application states that there has been an increase in vandalism and anti social behaviour on the site. This couldn't be further from the truth the site has never had any vandalism and the area is very quiet since the Shell Garage was demolished. The former petrol station attracted gangs, drunks coming from local pubs and nightclubs, shouting loudly through the night pay window which meant that residents couldn't sleep with bedroom windows open during hot summer nights
- Noise and Spray from the 4 Car Wash bays would be unacceptable to residents and pedestrians walking past the site.
- Parking on Liverpool Road is already a problem as staff from the Ultimate Dental Laboratory park along the road and according to the plans there doesn't appear to be any parking facilities for people working at the proposed site.
- The press has recently revealed that discussions are taking place for building on Greenbelt land because of the requirement for new build homes – this site would be better suited for housing.
- This site in the middle of a residential area is unsuitable for a development on this scale and opening twenty four hours a day, there are sites close by which have time restrictions and this should not be any different.

Name	Signature	Address	Date
J DONOGHUE	J Donoghue	52 Liverpool Rd, Formby	9.12.10
A. DONOGHUE	A Donoghue	52 Liverpool Road, Formby	9.12.10.
A. KENNY	A. Kenny	48 Liverpool Road Formby	9.12.10.
L. MOORE	L. Moore	64 Liverpool Rd Formby	9.12.10.
S TURLEY	S Turley	66 LIVERPOOL RD FORMBY	9-12-10
J. TOMLINSON	J. Tomlinson	60 LIVERPOOL RD, FORMBY	9-12-10.
J KILDARE	J KILDARE	50 LIVERPOOL RD FORMBY	9-12-10
L GWYHER	L Gwyther	56 LIVERPOOL RD FORMBY.	9-12-10
A GWYHER	A Gwyther	56 LIVERPOOL RD FORMBY	9-12-10
	G Callaghan	58 LIVERPOOL RD	11/12/10
J JACKSON	J Jackson	62 Liverpool Rd.	11/12/10
B ROSE	B Rose	62, Sweetford Road	11-12-10
L FORSLAW	L Forslaw	54 Liverpool Road	11-12-10
GACAWAGHAN	GACAWAGHAN	58. Liverpool Road	12-12-10