

Erection of service station side extension and erection of fencing to create a relocated bin storage area and associated works at Fosseway Service Station Fosseway Lower Slaughter Cheltenham Gloucestershire GL54 2EY

Full Application 22/03418/FUL	
Applicant:	Motor Fuel Limited
Agent:	JMS Planning
Case Officer:	Helen Cooper
Ward Member(s):	Councillor Len Wilkins
Committee Date:	8th May 2024
RECOMMENDATION:	PERMIT

1. Main Issues:

- (a) Principle of Development
- (b) Design and Appearance
- (c) Impact on the Cotswold's National Landscape (AONB)
- (d) Impact on Residential Amenity
- (e) Land contamination
- (f) Highways Safety
- (g) Biodiversity
- (h) Other Matters

2. Reasons for Referral:

2.1 This application has been referred to Planning and Licensing Committee following assessment by the Committee Review Panel and further to the following request by Cllr Wilkins:

2.1.1 *'I have a number of concerns on Highway Safety. This application was originally turned down by Highways as unsafe but then permission was granted following further representations. The circumstances that applied at the time have now been altered and make this application unsafe for pedestrians and road users. Since this application was seen by Highways the Bourton Vale Car Park closed to coaches at the beginning of the year. This has led to a displacement of coaches and other vehicles and we now have coaches parking on the Fosse and peak time traffic congestion. This closure has led to a lack of adequate parking and no driver facility for rest and/or food. The Coach and Horses Inn which is almost opposite the application site was closed at the time when Highways considered this application is now to reopen.*

2.2.2 *In addition the Hawkstone Brewery festival site now has permission to hold 10 festival a year with a maximum capacity of 4,000 attendees. Therefore the assumptions used in the original Highways on parking adequacy are likely to be false. In any event this site does not have sufficient parking spots. It already offers a number of grocery items and when these customers are added to the potential fast-food customers there is insufficient parking.*

- 2.2.3 The cumulative impact of this together with any extra traffic from the Greggs application is a major concern.
- 2.2.4 The application states hours of opening to be 6am to 11pm As other nearby food retailers open from 7am to 10pm the applicant is likely to attract customers between 6am and 7am and 10pm and 11pm which will cause disturbance to nearby neighbours during the early morning and late at night. I am also concerned that there will a temptation for residents and tourists leaving local pubs to make their way to the application site as the only source of fast food. This could also lead to levels along the A429 to increase.
- 2.2.5 Local plan states that businesses whose use is class E should not be in the open countryside.
- 2.2.6 Policy EC8 states the preferred sequence of locations for this type of business is a. Primary Shopping Area b. Town Centre c. Edge of Centre d. Out of Centre. Only if there are no suitable sites available should out of centre sites be considered. Policy EC8 d) is quoted in the report. This advises that there are no comparable food takeaway outlets similar to Greggs within the Bourton-on-the-Water area. The statement advises that the proposal would not harm the existing snack bars/coffee shops within Bourton-on-the-Water as these mainly cater for pedestrians. Sorry this is wrong. Firstly if there are no equivalents why is it necessary to say they won't be harmed? The report suggests that there is nothing comparable to this site in Bourton. Sorry, this misrepresents the facts. There are a number of comparable business nearby in Bourton who would lose customers to this application they are:-
- 1 Bakery on the Water
 - 2 Cornish Bakery
 - 3 Midcounty's Food Hall
 - 4 Midcountie'Coop Service station offering meal deals, coffee etc
 - 5 Budgens - Bourton High Street
 - 6 Boxbush House - Bourton High Street
- 2.2.7 Business 1 has no nearby parking, No 2 has parking until 11.00am, Others have parking facilities and businesses 4 and 5 open into the late evening and it is possible that they would all lose business to Greggs.
- 2.2.8 Also under Policy EC8 - There is very limited public transport to the site. I do not know of anyone who would catch a bus at a £4 cost (£2 each way) to buy fast food when local shops provide the same or better products. Equally walking and cycling to this location is dangerous. For Bourton residents it would mean crossing the Fosse so I contest this is a reason for refusal. I also question that the health and wellbeing of residents will be improved by a fast-food diet.
- 2.2.9 EN16 - Dark Skies . This application will produce additional lighting in late afternoon, especially in Winter. In will add to an already impacted light pollutant.
- 2.2.10 Noise and smells are also a concern. This site backs on to rural land and the impact of noise and smells on the sensitive animals that use this wildlife corridor is a concern. There are foxes, badgers, deer owls and bats that will be affected.

2.2.11 *Local Plan Policy EN15 stated that development will be permitted where there will be no unacceptable risk to public health or safety, the natural environment or the amenity of existing land uses. This includes impacts from pollution, noise and light as well as other disturbances such as spillage and smell. I content that these risks exist. Firstly in that access from Bourton, Lower Slaughter and Wyck Rissington can only safely be made by car which adds to pollution. Secondly there is limited parking available. It is now likely that more users of the service station will take advantage of the fast-food facilities and clog up this limited parking. The natural environment will suffer from noise, smells and pollution. Whilst there are only a few local residents adjacent to the site there are hundreds on the other side of the Fosse who could be inconvenienced with this application.*

2.2.12 *Lastly I note that there is no mention in the report of the potential changes brought around by the permission already granted to raise the fuel court canopy. At present Heavy Goods Vehicles cannot use the site due to a lack of available height. When this change is made both they and coaches could make use of the site, the fast food facilities and sorry there is just not room.*

2.2.13 *I have not mentioned the views of the Parish Councils of Bourton on the Water or Lower Slaughter but perhaps the committee would like to consider these also.'*

3. Site Description:

3.1 The application site comprises an existing fuel station, located approximately 0.6 km to the north of Bourton-on-the-Water. It is located on the western side of the A429 (Fosseway). The site currently has a canopy with fuel pumps to the front, single-storey shop associated with this, with additional parking to the side. A yard/bin store area with wooden gates adjoins the shop.

3.2 A detached residential property 'Westwood' lies to the rear of the site and residential properties are also set opposite the site.

3.3 The site is located outside of any defined Development Boundaries, but within the Cotswolds National Landscape (Area of Outstanding Natural Beauty (AONB)).

4. Relevant Planning History:

4.1 02/00392/ADV 2 No. single sided free-standing advertisement display units internally illuminated (only at night) - Permitted 11.04.2002

4.2 06/00613/ADV Display of illuminated free standing sign (retrospective) -Permitted 21.04.06

4.3 16/04110/FUL Retention of ATM -Permitted 29.11.2016

4.4 16/04111/ADV Integral illumination and screen to ATM fascia, internally illuminated Free Cash Withdrawals sign above ATM fascia and blue LED halo illumination to ATM surround - Permitted 29.11.2016

4.5 20/00908/FUL Existing canopy to be raised from 3.5m to 4.8m - Permitted 07.05.2020

- 4.6 21/04731/FUL Installation of 1 x self-service jet wash bay - withdrawn 17.11.22
- 4.7 23/00723/FUL Creation of an EV charging zone, erection of EV chargers, erection of canopy, erection of sub-station enclosure and associated forecourt works - Withdrawn
- 4.8 23/01501/FUL Existing canopy to be raised from 3.5m to 4.8m - Permitted 29.06.2023

5. Planning Policies:

- TNPPF The National Planning Policy Framework
- EC1 Employment Development
- EC3 All types of Employment-generating Uses
- EC7 Retail
- EC8 MainTown Centre Uses
- EC9 Retail Impact Assessments
- EN2 Design of Built & Natural Environment
- EN4 The Wider Natural & Historic Landscape
- EN5 Cotswolds AONB
- EN8 Bio & Geo: Features Habitats & Species
- EN15 Pollution & Contaminated Land
- INF4 Highway Safety
- INF5 Parking Provision

6. Observations of Consultees:

- 6.1 Environmental and Regulatory Services Contamination: No objection.
- 6.2 Environmental and Regulatory Services Noise: No objection.
- 6.3 Environmental and Regulatory Services Air Quality: No objection.
- 6.4 Gloucester County Council (GCC) Highways: No objection.
- 6.5 National Highways: No comment, it's a significant distance from our network.

7. View of Town/Parish Council:

7.1 Lower Slaughter Parish Council (LSPC):

7.1.1 'Whilst Lower Slaughter Parish Council recognise the need for this service station to explore options to support its commercial sustainability, we wish to object to this planned "change of use" to fast food retail on highway and operational safety grounds due to the resulting increase in vehicles moving around and onto and off the petrol station forecourt.

7.1.2 The planning application states replace open yard abutting existing forecourt shop building with new shop building extension. Provide new fenced refuse bin yard. The

drawings confirm the proposal to introduce a Greggs on the site. Any such approval would create an unacceptable precedent in this location for fast food retail of any description.

7.1.3 We would expect a significant increase in traffic that would put additional strain on the highway network with the Gravel Pits site, the garage, bus stop, residential properties, the potential EVCS and planned road widening scheme, and access junctions to Lower Slaughter and Wyck Rissington all in close proximity. There will also be a significant increase in waste and servicing vehicle trips to the site which again impact on safety. We therefore request that the proposal be rejected on grounds of both highway safety, site constraints and unacceptable end use in this location in the AONB. These issues have been raised previously following serious road incidents in the area and in respect of the recent application for a car wash facility on the site.

7.1.4 In addition, there is insufficient car parking to accommodate forecourt users as well as both staff and non-fuel customers which we feel would prevent the site from operating safely.'

8. Other Representations:

8.1 Bourton-on-the-Water Parish Council:

8.1.1 'Bourton-on-the-Water Parish Council objects to the application due to overdevelopment of the site in respect of inadequate car parking and volume of traffic accessing the site from the Fosseway on a 50mph stretch of road.

8.1.2 In addition, there will be a cumulative impact with other local development (22/04004/FUL Grafters, C/22/01474/PRMV The Cotswold Brewing Co, and 22/03763/FUL Land parcel south of Meadow View, Stow Road) in terms of light pollution, impact on road safety and the wildlife corridor.'

8.2 Two representations have been received from the public. One from the adjacent neighbour at Westwood, Fosseway and another from Slaughter Pike, Lower Slaughter objecting to the proposal. To summarise the following concerns have been raised:

- Concern raised in respect of the car wash and potential noise. Request that any noisy equipment is located away from the boundary shared with Westwood.
- Request a fence is installed to prevent refuse being put onto Westwood's property.
- Lack of parking on the site and vehicles are regularly parked on the carriageway of the main A429 Fosseway to facilitate their occupants.
- This parking is on a very busy 50mph route
- Concerned that if the premises is to be extended offering more services then surely there has to be a condition that further parking is part of the plan, as it's a safety issue.

- Risk of accidents

9. Applicant's Supporting Information:

- Design and Access Statement
- Sequential Test Planning Statement
- Phase One Environmental Assessment
- Parking Standards Review
- Photographs and Photomontages
- Transport Note

10. Officer's Assessment:

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'
- 10.2 The starting point for the determination of this application is therefore the current development plan for the District which is the adopted Cotswold District Local Plan 2011 - 2031.
- 10.3 The policies and guidance within the revised National Planning Policy Framework (NPPF) are also a material planning consideration.

Background and Proposed Development

- 10.4 This application seeks permission for the erection of a service station side extension and erection of fencing to create a re-located bin storage area and associated works. The proposed extension would replace the existing bin storage area and the extension would measure approximately 8.8 metres in depth, 4.2 metres in width and 4.4 metres at its highest point and approximately 3.2 metres in height on the flat roof section. The extension would accommodate a Greggs outlet. In addition, the existing filling station and shop would be internally reconfigured. The entrance to the filling station would be re-located to the centre of the building and this would serve both the petrol sales, associated shop as well as the Greggs outlet.
- 10.5 The proposed site plan has been amended during the application process and the jet wash has been omitted from the plan following the withdrawal of the associated planning application 21/04731/FUL Installation of 1 x self-service jet wash bay. The proposed site plan has also been amended to show additional car parking spaces on the forecourt. There are now 3no. car parking bays proposed at the site for staff car parking and 6 no. customer parking bays, including one which is disabled. An ATM pod would be set adjacent to the south west elevation of the building and the bin store has been relocated to sit adjacent to the south west elevation behind a close board fence.
- 10.6 It should be acknowledged that permission has been granted for the existing canopy at the site to be raised from 3.5m to 4.8 metres under application 23/01501/FUL, which was permitted on the 29.06.2023. This permission is extant, although it has not

yet been implemented at the site. This permission will allow larger vehicles, such as heavy goods vehicles or coaches to use the service station.

- 10.7 Fosseway Service Station comprises a petrol filling station on its forecourt and an associated shop which has a sui generis use. A Greggs outlet would normally fall under Schedule 2, Part A use class E 'Commercial, Business and Service' of the Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020. Class E, criteria (a) is 'for the display or retail sale of goods, other than hot food, principally to visiting members of the public'. In this instance, the Greggs outlet will be accessed via the existing forecourt shop through a re-positioned central access door and as such is considered to be ancillary to the main use of the site rather than a separate unit. As the Greggs is considered to be ancillary and forms part of the wider service station provision it is considered to fall within the existing sui generis definition. As such a change of use is not sought by this planning application.

(a) Principle of Development

- 10.8 Section 6 of the NPPF 'Building a strong, competitive economy' and in particular paragraphs 88 and 89 which relate to supporting a prosperous rural economy are relevant to this proposal. Paragraph 88 states:

Planning policies and decisions should enable:

- a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;*
- b) *the development and diversification of agricultural and other land-based rural businesses;*
- c) *sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) *the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

- 10.9 Paragraph 89 states:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 10.10 Section 7 of the NPPF 'Ensuring the vitality of town centres' is relevant. Paragraph 91 advises that 'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in

accordance with an up-to -date plan.' Paragraph 93 advises that 'This sequential approach should not be applied to applications for small sale rural offices or other small scale rural development.'

10.11 Policy EC7 'Retail' sets out the retail hierarchy in Cotswold District. This advises that main town centre uses should be focussed primarily within Cirencester town centre, the key centres of Bourton-on-the-Water, Chipping Campden, Moreton-in-Marsh, Stow-on-the-Wold and Tetbury, the district centres of Fairford and Lechlade and the local centres within North Leach and South Cerney. Following this provision is made for small local shops and services in settlements that are not listed *if they would enhance a settlement's viability and help to meet the needs of, and are conveniently accessible to, the local community.*

10.12 Policy EC8 'Main Town Centre Uses' of the Cotswold District Local Plan is relevant. This advises the preferred sequence of locations for Main Town Centre Uses in Cirencester and other Principal Settlements. Numbers 7 and 8 relate to main town centre uses beyond the identified Centre boundaries and outline a number of criterion that should be met by proposals as outlined below:

7. *When considering proposals for main town centre uses beyond the identified Centre boundaries, (in edge of centre or out of centre locations), proposals will be permitted that are:*

a. accessible and well connected to the Centre by public transport, walking and cycling;

b. contribute to the quality, attractiveness and character of the settlement and the street frontage within which the site is located;

c. maintain or improve, where possible, the health and wellbeing of the District's residents through increased choice and quality of shopping, leisure, recreation, arts, cultural and community facilities; and

d. except where the proposal is in conformity with an allocation for main town centre uses elsewhere in the Plan, comply with the sequential test, by demonstrating that there are no sequentially preferable sites or premises to accommodate the proposed development, taking into account the need for flexibility in the scale and format of proposals.

8. *In addition to Clause 7 criteria (a)-(d) proposals for retail, leisure and office uses outside of defined centres will be assessed in relation to their impact on:*

a. the vitality and viability of those defined town centres within the catchment area of the proposal; and

b. existing, proposed and committed town centre investment in defined centres within the catchment area of the proposal.

Such assessments should, where appropriate, extend to an assessment of the cumulative effects, taking into account other committed and recently completed developments.

10.13 Policy EC3 (Proposals for All Types Of Employment-Generating Uses) is relevant to the proposal. Section 2 as follows is relevant to this application:

2. *Outside Development Boundaries, and outside established employment sites, proposals for small-scale employment development appropriate to the rural area will be permitted where they:*

a. do not entail residential use as anything other than ancillary to the business; and

b. are justified by a business case, demonstrating that the business is viable; or

c. facilitate the retention or growth of a local employment opportunity

Assessment

10.14 The application site is located outside of settlement boundaries as identified within the Cotswold District Local Plan and within the open countryside.

10.15 As outlined above, the petrol filling station has a sui-generis use which comprises an existing forecourt shop. The proposal would extend the existing service station provision and a change of use is not sought by the application. The proposal to extend the existing service provision is therefore considered acceptable in principle.

10.16 Notwithstanding this, concerns have been received in relation to the potential impact that the proposal may have upon cafes in Bourton-On-The-Water. A food outlet such as Greggs can constitute a main town centre use and this is considered in more detail below against relevant policies within the Local Plan.

10.17 A retail impact assessment in respect of Policy EC9 is not required due to the scale of the proposal (required for retail development with a net increase of 100sqm or more outside identified centres).

10.18 Policy EC8 'Main Town Centre Uses' is of relevance in respect of the concerns raised. This advises the preferred sequence of locations for Main Town Centre Uses in Cirencester and other Principal Settlements. EC8 section 7 and 8 relate to main town centre uses beyond the identified Centre boundaries and outline a number of criterion that should be met by proposals outlined above. In this instance, the proposal is considered to represent small scale development and as outlined by paragraph 93 of the NPPF a 'sequential approach should not be applied to applications for small scale rural offices or other small scale rural development'. However, a sequential test planning statement supports the application, and this is considered to accord with Policy EC8 7 d).

10.19 The supporting sequential test advises that there are not considered to be any comparable food takeaway outlets similar to Greggs within the Bourton-on-the-Water area. The statement advises that the proposal would not harm the existing snack bars/coffee shops within Bourton-on-the-Water as these mainly cater for pedestrians. The service station effectively 'bypasses the town, and consists mainly of transient motorists stopping for fuel and a rest break.' Officers have reviewed the statement

and agree that due to the nature of the proposal the service station is an acceptable location and will enhance the existing onsite provision.

- 10.20 Whilst Fosseyway Services is outside of a settlement, bus stops are in close proximity to the site and it is not so isolated that it couldn't be reached through sustainable transport modes such as cycling and public transport in accordance with Policy EC8 7. a). It is also considered that the proposal is likely to improve the appearance of the site and enhance the existing retail provision in accordance with Policy EC8 7. b) and c).
- 10.21 It is considered that the proposal complies with Policy EC3 2. criteria c) as the extension will facilitate the retention or growth of a local employment opportunity.
- 10.22 The extension, which would accommodate a Greggs food-to-go outlet, is therefore considered to comply with Policies EC3 and EC8 of the Local Plan. The proposal will support employment development within this area of the District and enhance the provision offered by the existing service station. The design and appearance, residential amenity, contaminated land and highway safety are addressed within the following sections of the report.

(b) Design and Appearance

- 10.23 Section 12 of the NPPF requires good design, providing sustainable development and creating better place to live and work in.
- 10.24 Local Plan Policy EN2 supports development which accords with the Cotswold Design Code and respects the character and distinctive appearance of the locality.
- 10.25 The extension is set down from the original filling station and will appear subordinate to the main building. The use of a pitched roof along the front elevation with a flat roof across the bulk of the structure to the rear is acceptable and this will also help reduce its visibility in the wider area and from the neighbouring property, 'Westwoods', which is set to the rear of the site.
- 10.26 The proposed bin storage area has been repositioned during the application process and will be set behind proposed fencing and this will not appear uncharacteristic within the site. As such the proposal is considered to accord with Policy EN2 in respect of its design.

(c) Impact on the Cotswolds National Landscape

- 10.27 The site is located within the Cotswold's National Landscape. Section 85 (A1) of the Countryside and Rights of Way (CROW) Act 2000 states that relevant authorities have a statutory duty to conserve and enhance the natural beauty of the National Landscape.
- 10.28 Section 15 of the NPPF seeks to conserve and enhance the natural environment.
- 10.29 Local Plan Policy EN5 relates specifically to the Cotswolds National Landscape (AONB), and states that in determining development proposals within the Area of

Outstanding Natural Beauty, or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.

- 10.30 The proposal is located within an existing petrol filling site off the Fosseyway (A429). The extension is considered to be a subordinate addition to the building and as such will not have an adverse impact upon the Cotswold National Landscape character or appearance in accordance with Policy EN5.
- 10.31 Concerns have been received in relation to protecting dark skies within the National Landscape. It is not considered that the proposal will increase any existing light spill from the site and as such is acceptable.

(d) Impact on Residential Amenity

- 10.32 Local Plan Policy EN2 refers to The Design Code (Appendix D) which sets out policy with regard to residential amenity. This expects proposals to respect amenity in regards to garden space, privacy, daylight and overbearing effect. Section 12 of the NPPF requires good design with a high standard of amenity for existing and future users.
- 10.33 Local Plan Policy EN15 stated that development will be permitted where there will be no unacceptable risk to public health or safety, the natural environment or the amenity of existing land uses. This includes impacts from pollution, noise and light as well as other disturbances such as spillage and smell.
- 10.34 Westwoods, a residential property is situated next to the site and is approximately 2.3 metres away from the proposal at its closest point. A conservatory belonging to this property is set to the rear of the proposed extension and a gable end belonging to the property is in proximity to the proposal. This is single storey in height with a window serving primary living accommodation. A group of residential properties near to the road named, Slaughter Pike, are set on the other side of the A429.
- 10.35 The proposed extension is a subordinate addition to the building. The flat roof element of the extension which is in proximity to the neighbouring property Westwoods, measures approximately 3.2 metres in height. Whilst close, the extension is not set directly in front of the single storey gable end window belonging to Westwoods and taking into account the existing boundary wall, on balance, it is not considered that the height increase would lead to a level of harm though loss of light, privacy or overbearing impact as to warrant refusal.
- 10.36 Due to the separation distance to other residential properties nearby it is not considered that the single storey extension would be overbearing or cause loss of light or privacy in accordance with Policy EN2.
- 10.37 The existing service station is open from 6 am until 11pm and the Design and Access Statement advises that the site opening hours will remain the same. As the proposal seeks to extend the existing service station provision it is not considered reasonable to restrict the opening hours of the extension. A planning condition is therefore recommended to ensure the Greggs shares the same opening hours and this includes delivery times to minimise disturbance to the surrounding area.

- 10.38 With regard to traffic movements the supporting Transport Note advises that as the food-to-go is not a major takeaway outlet many of the customers are likely to be purchasing fuel. LPA Officers consider that a large number of trips will be linked to the existing petrol filling station. Due to the existing character of the site and proximity to the A429, on balance any increased vehicular movements are unlikely to materially lead to a level of harm that would warrant refusal in respect of Policy EN2 and EN15.
- 10.39 Environmental and Regulatory Services Noise initially raised concerns in respect of the location of the air conditioning units and noise levels. Further information has been submitted during the application process relating to the food preparation area and extract installation systems and following review the details are considered acceptable. As such it is not considered that the proposal would harm residential amenity in respect of noise levels. It should also be noted that the granting of planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received. A condition has been recommended to ensure that only low odour food is heated up at the premises and it is considered that this will help safeguard residential amenity.
- 10.40 Environmental and Regulatory Services Air Quality have advised the following *With regards to air quality, I acknowledge the products which will be cooked on the premises will generate low odour which, if I understand correctly, will be diluted by other air flows from other areas of the building, e.g. office, staff room etc. I also acknowledge the position of the exhaust vent will direct emissions away for the closest residential buildings. Consequently I agree cooking odours emitted from the ventilation/extraction system are unlikely to cause a nuisance. However, the applicant should be aware that once operational, should the proposed system prove to be inadequate in controlling odours at anytime in the future, resulting in justifiable complaints, the applicant will be required to reconfigure the ventilation/extraction system to ensure nuisance odours are removed from the extracted air before leaving the building or dispersed at height using a suitable stack.*
- 10.41 Concerns have been received from the neighbouring property Westwoods, in relation to refuse being pushed through gaps in the shared boundary fence. The bin store has been re-positioned during the application process and is now contained in the area to the southwest of the building. It is considered that the position of the bin store is acceptable and littering is subject of separate legislation which cannot be addressed through the planning process.
- 10.42 Officers are satisfied that subject to planning condition the proposed development is acceptable in residential amenity terms and therefore accords with Policies EN2 and EN15, and paragraph 130 of the NPPF.

(e) Contaminated Land

- 10.43 Environmental and Regulatory Services Contamination initially advised that *many petrol filling stations have various generations of tank farms, redundant pipework and not fully surveyed fuel legs etc. Hence, there may be former tanks present beneath the area to be developed. We would expect information from the applicant upfront, including a desk study and possibly a survey to understand the possible presence of any underground features present.*

10.44 Following receipt of a Phase One Environmental Assessment Environmental and Regulatory Services advised that it is unlikely that any further underground storage tanks are located on the site. The conclusions of the assessment are supported and it is considered that no further investigation or remedial works are required. However, a watching brief during excavations with a suitably qualified person present is recommended within the report and a condition is recommended in respect of this requirement.

10.45 It is therefore considered that the risk of land contamination can adequately be mitigated for. This aspect of the proposal is therefore considered to comply with Policy EN15.

(f) Highway Safety

10.46 Policy INF4 states that development will be permitted that provides safe and suitable access and has regard, where appropriate, to the Manual for Gloucestershire Streets. Policy INF5 states that development will provide residential and non-residential vehicle parking where there is clear and compelling evidence that such provision is necessary to manage the local road network. This is supported by Section 9 of the NPPF.

10.47 A Transport Note accompanies the planning application.

10.48 The Local Highway Authority (LHA) initially objected to the proposal, on grounds that the total staff on site would be 8 full time and 6 part time and that there were 5 car parking spaces and one additional space proposed. The proposals for parking and access for staff and delivery vehicles were not considered suitable in respect of Policy INF4 and INF5.

10.49 The applicant provided a response to the LHA's comments and highlighted that the revised parking meets the Cotswold District Council Parking Standards Review Parking Guidance Note.

10.50 The revised layout drawing provides 6 no car parking spaces, including one disabled space and 3 no. car parking spaces. The jet wash which was originally shown on the drawing and was subject of a separate application (reference: 21/04731/FUL-withdrawn) has also been removed from the site layout.

10.51 Following a review of the applicant's response and revisions the LHA have reconsidered the application and provided a response of no objection on the 30th January 2024.

10.52 The Local Highway Authority (LHA) Officer's detailed comments state

1. *'The proposed extension is 55.6sqm of additional retail floorspace, To comply with the parking standards that would require two parking spaces for a new use. In this case it may be considered that there will be a significant percentage of linked trips and that the extension in and of itself will not generate a significant level of traffic over and above that already accessing the site. There is likely to be a number of customers who purchase goods sold in the extension whilst buying fuel on the forecourt and would not therefore require an additional parking space.'*

2. *The objectors refer to existing parking on the Fosse Way and whilst we accept that this may well be the case the applicant has asked for "the data showing this" and there is currently no data available to the LHA. In order that the LHA could object to the extension it would need to not only identify the issue but to quantify how that issue would be made worse following the completion of the development and it is not considered that it would be possible to identify an unacceptable increase in this parking following the development. It is the case that if there is any dangerous parking it would constitute an offence and could be enforced. There have been some collisions in the vicinity of the filling station, but none are directly linked to the accesses or activities on the site.*
3. *There are no changes proposed to the accessing arrangements to the existing filling station.*
4. *It is considered that the onsite car parking coupled with the unmarked space on the forecourt and the likelihood of liked trips with customers using the fuel pumps is likely to be sufficient to serve any additional demand created by the extension.'*

10.53 Officers are therefore satisfied that the proposal would not have an unacceptable impact to highway safety and is in accordance with Local Plan Policies INF4, INF5 and the NPPF.

(g) Biodiversity

10.54 Local Plan Policy EN8 outlines that development will be permitted that conserves and enhances biodiversity and geodiversity, providing net gains where possible. Furthermore, it outlines that proposals that would result in the loss or deterioration of irreplaceable habitats and resources, or which are likely to have an adverse effect on internationally protected species, will not be permitted.

10.55 Section 15 of the NPPF also outlines that development should conserve and where possible enhance biodiversity and geodiversity and should not result in the loss or deterioration of irreplaceable habitats and resources.

10.56 The existing use of the site where the extension would be sited comprises hardstanding. It is therefore not considered that the proposal would have an adverse impact upon Biodiversity at the site.

(h) Other Matters

10.57 The proposed development is not liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). This is because it is less than 100m² of new build that does not result in the creation of a dwelling, and therefore benefits from Minor Development Exemption under CIL Regulation 42.

11. Conclusion:

11.1 The proposal would enhance the existing retail provision at Fosseway Service Station and any associated traffic generation is likely to be linked to the existing operation at the site. The design and appearance of the proposal is in keeping with the character of the site and on balance it is not considered that the proposal would harm residential

amenity. The proposal is considered to accord with all relevant policies of the Cotswold District Local Plan and as such is recommended for permission.

12. Proposed Conditions:

1. The development shall be started by 3 years from the date of this decision notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be implemented in strict accordance with the following approved plans:

Site location plan, FOSSE-WPS-MFG-527-P04 Rev E, FOSSE-WPS-MFG-527-P-05 Rev D, WPS-MFG-527-P-06 Rev C

Reason: For purposes of clarity and for the avoidance of doubt, in accordance with the National Planning Policy Framework.

3. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building and shall be permanently retained as such thereafter. The proposed close board fence shall be constructed from materials to match those of the existing boundary treatment and shall be permanently maintained and retained as such thereafter for the lifetime of the development.

Reason: To ensure a satisfactory standard of external appearance and to accord with Policy EN2 of the Cotswold District Local Plan 2011-2031 (Adopted) August 2018 and the National Planning Policy Framework.

4. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and which is subject to the approval in writing of the Local Planning Authority.

Reason: To prevent pollution of the environment in the interests of the amenity in accordance with Cotswold District Local Plan Policy EN15 and Section 15 of the NPPF

5. The use hereby permitted shall only be open to customers between the hours of 06:00 and 23:00 Monday to Sunday. No deliveries shall be taken or despatched from the site outside of these approved operating hours.

Reason: In order to minimise disturbance to residential amenity in accordance with Policies EN2 and EN15 of the adopted Local Plan.

6. There shall be no cooking of any hot food on the premises other than that of toasting of sandwiches, or similar low odour heating of pre-prepared food.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy and the National Planning Policy Framework.

7. No construction site machinery or plant shall be operated, no process shall be carried out at the site except between the hours 08:00 and 18:00 on Mondays to Fridays, between 08:00 and 13:00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of Residential Amenity in accordance with Policies EN2 and EN15 of the adopted Local Plan.

8. Prior to the development hereby permitted being first brought into use the parking spaces outlined on the approved drawing FOSSE-WPS-MFG-527-P04 Rev E shall be provided. The car parking spaces shall be retained and maintained in accordance with this approved drawing.

Reason: In the interests of highway safety in accordance with Policies INF4 and INF5 of the adopted Local Plan.

9. The mechanical extraction and ventilation system and the air condition condensers shall be installed in accordance with the details contained in the document 'Greggs Facility – Food Preparation Area Extract Installation' and shall be maintained and retained in accordance with these approved details thereafter.

Reason: In the interests of Residential Amenity in accordance with Policy EN15 of the Local Plan.'

Informatives:

1. Please note that the proposed development is not liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) because it is less than 100m² of new build that does not result in the creation of a dwelling, and therefore benefits from Minor Development Exemption under CIL Regulation 42.
2. Advertisement consent is likely to be required for any associated signage and a separate advertisement consent application should be submitted in respect of this.