

# Report to Planning Committee

**29 November 2023**

<b>Application Reference</b>	DC/23/68559
<b>Application Received</b>	10 August 2023
<b>Application Description</b>	Proposed variation of condition 12 of DC/13/56229 (Proposed variation of condition 12 of DC/31470 to extend opening hours from 07:00 to 23:00 on any day to 05:00 to midnight Monday to Saturday and 7.00 to 23.00 on Sundays and Bank Holidays) to extend opening hours to 24 hours any day.
<b>Application Address</b>	Gateway Service Station, 76 Birmingham Road, Great Barr, Birmingham, B43 6NT
<b>Applicant</b>	Motor Fuel Group Limited
<b>Ward</b>	Great Barr With Yew Tree
<b>Contact Officer</b>	Douglas Eardley <a href="mailto:douglas_eardley@sandwell.gov.uk">douglas_eardley@sandwell.gov.uk</a>

## 1 Recommendations

- 1.1 It is recommended that Condition 12 of planning permission DC/13/56229 be varied to read as follows:

“The application premises may be open for custom 24 hours any day for a period of 1 year from the date of this permission”




1.2 Consequently conditional temporary permission is recommended on a 1-year temporary basis, subject to the same conditions as imposed on DC/13/56229 and additional conditions relating to the following:

- i) Between the hours of 23:00 and 05:00 on any day no sales other than of petrol or diesel fuel shall be allowed.
- ii) Electric vehicle recharging points shall only be operated between the hours of 07.00 hours and 23.00 hours on any day.
- iii) All amplified or electronic PA systems used to amplify sound external to the premises shall only be operated between the hours of 07.00 hours and 20.00 hours on any day.
- iv) The air-line machine and any associated compressor shall only be operated between the hours of 07.00 hours and 20.00 hours on any day.
- v) Tankers shall only deliver fuel between the hours of 07.00 hours and 20.00 hours on any day

## 2 Reasons for Recommendations

2.1 The proposal to extend the opening hours to 24 hours any day of the Gateway service Station would upgrade the use and function of the existing site.

## 3 How does this deliver objectives of the Corporate Plan?

	A strong and inclusive economy
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## 4 Context

4.1 The application is being reported to your committee as the application has generated 3 objections.

4.2 To assist members with site context, a link to Google Maps is provided below:

[Gateway Service Station, 76 Birmingham Road, Great Barr, B43 6NT](#)



## 5 Key Considerations

- 5.1 The site is not allocated within the Development Plan.
- 5.2 Material planning considerations (MPCs) are matters that can and should be taken into account when making planning decisions. By law, planning decisions should be made in accordance with the development plan unless MPCs indicate otherwise. This means that if enough MPCs weigh in favour of a development, it should be approved even if it conflicts with a local planning policy.
- 5.3 The material planning considerations which are relevant to this application are: -

Planning history (including appeal decisions).

Environmental concerns – Noise, light pollution, traffic, general disturbance and anti-social behaviour.

## 6. The Application Site

- 6.1 The application site relates to an existing petrol filling station (Gateway Service Station) on the western side of Birmingham Road, Great Barr. The site is bounded by residential properties to the north, west and south and to the east are residential properties on the opposite side of Birmingham Road.

## 7. Planning History

- 7.1 Relevant planning applications are as follows:

DC/23/68230	Retention of jet wash machine and Amazon Locker.	Grant Conditional Retrospective Consent – 07.08.2023
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DC/19/63105	Proposed raising of existing canopy from 3.8m to 4.6m.	Grant Permission – 12.06.2019
DC/15/58557	Proposed removal of condition 11 of planning permission DC/14/57256 - to allow permanent consent for use as petrol filling station with opening hours of 05.00 to 00.00 Monday to Saturday and 07.00 to 23.00 on Sundays and Bank Holidays.	Grant Conditional Retrospective Consent – 08.10.2015
DC/14/57256	Proposed removal of condition 12 (DC/13/56229) to allow permanent consent for opening hours of 05.00 to 00.00 Monday to Saturday and 07.00 to 23.00 on Sundays and Bank Holidays.	Grant Temporary Retrospective Consent – 05.09.2014
DC/13/56229	Proposed variation of condition 12 of DC/31470 to extend opening hours from 07:00 to 23:00 on any day to 05:00 to midnight Monday to Saturday and 7.00 to 23.00 on Sundays and Bank Holidays.	Grant Permission Subject to Conditions – 10.10.2013
DC/13/6024A	Proposed internally illuminated ATM surround.	Grant Advertisement Consent – 21.08.2013



DC/13/56082	Proposed installation of ATM.	Grant Permission Subject to Conditions – 21.08.2013
DC/99/3994A	Garage forecourt signage.	Grant Advertisement Consent – 08.04.1999
DC/98/34770	Installation of 2No. 1 tonne liquefied petroleum gas storage vessels and dispenser.	Grant Permission Subject to Conditions – 11.12.1998
DC/32013	Installation of jetwash and vacuum.	Allowed with Conditions – 09.10.1996
DC/31470	Demolition of petrol filling station and rollover car wash. Development of petrol filling station.	Allowed with Conditions – 20.03.1996
DC/3504A	Forecourt signs, shop/canopy fascia, freestanding monolith.	Grant Advertisement Consent – 14.11.1995
DC/17563	Installation of 3,000 gallon above - ground diesel storage tank & forecourt dispenser.	Grant Permission – 11.07.1984

## 8. Application Details

- 8.1 The application is for the proposed variation of condition 12 of DC/13/56229 (Proposed variation of condition 12 of DC/31470 to extend opening hours from 07:00 to 23:00 on any day to 05:00 to midnight Monday to Saturday and 7.00 to 23.00 on Sundays and Bank Holidays) to opening hours of 24 hours any day.

## 9. Publicity

- 9.1 The application has been publicised by neighbour notification letters with 3 objections being received.



## 9.2 Objections

Objections have been received on the following grounds:

- i) Environmental concerns – Noise, light pollution, traffic, general disturbance and anti-social behaviour.

Non-material objections have been raised regarding loss of property value.

These objections will be addressed in section 13 (Material considerations).

## 10. Consultee responses

### 10.1 Pollution Control (Noise and Air Pollution)

They have reviewed the submitted noise impact assessment report and they recommend a 1-year temporary permission for 24 hour opening subject to the following conditions:

- i) Between the hours of 23:00 and 05:00 on any day no sales other than of petrol or diesel fuel shall be allowed.
- ii) Electric vehicle recharging points shall only be operated between the hours of 07.00 hours and 23.00 hours on any day.
- iii) All amplified or electronic PA systems used to amplify sound external to the premises shall only be operated between the hours of 07.00 hours and 20.00 hours on any day.
- iv) The air-line machine and any associated compressor shall only be operated between the hours of 07.00 hours and 20.00 hours on any day.
- v) Tankers shall only deliver fuel between the hours of 07.00 hours and 20.00 hours on any day



## 10.2 West Midlands Police

No objection.

## 10.3 Highways

They state that the extended opening hours proposed for the petrol station do not fall within the network peak times, the trips at these times would also not generate a significant increase in parking accumulation. Highways have no objections.

## 11. National Planning Policy

11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

## 12. Local Planning Policy

12.1 None relevant.

## 13. Material Considerations

13.1 National and local planning policy considerations have been referred to above in Sections 11 and 12. With regards to the other material considerations, these are highlighted below:

### 13.2 Planning history (including appeal decisions)

The planning history for this site is detailed within section 7.1 of this report. It is evident that the site has been the subject of various planning applications over the years, which has included applications to alter the opening hours of the premises. Therefore, it is considered that the planning history associated to this site is a material planning consideration, and that when coupled with the other factors (objections and consultee responses) for this application, that a temporary





conditional 1-year permission would be the appropriate course of action regarding DC/23/68559.

### 13.3 Environmental concerns – Noise, light pollution, traffic, general disturbance and anti-social behaviour

Given the concerns raised by neighbours pertaining to noise, light pollution, traffic, general disturbance and anti-social behaviour in relation to the proposal for DC/23/68559, it is considered that a permission on a permanent basis of the application would be unsuitable at this time. It is noted that Highways have no objection, therefore in line with the comments received from Pollution Control (Noise and Air Pollution) in section 10.1 of this report, a conditional temporary permission for a period of 1 year is recommended, which would give the local planning authority the opportunity to review the proposal again in relation to the impact of the extended hours on the amenity of the area. Moving onto anti-social behaviour, it is noted within section 10.2 of this report that the West Midlands Police has no objection to DC/23/68559. Nevertheless, if anti-social behaviour manifests because of the proposal for DC/23/68559, then this can be adjudged in conjunction with the other factors raised by the objectors when the proposed temporary 1-year period for DC/23/68559 expires.

## 14. Conclusion and planning balance

14.1 All decisions on planning applications should be based on an objective balancing exercise. This is known as applying the “planning balance”. It is established by law that planning applications should be refused if they conflict with the development plan unless material considerations indicate otherwise. This essentially means that the positive impacts of a development should be balanced against its negative impacts.

14.2 On balance, there are no significant material considerations which warrant refusal that could not be controlled by conditions; and a conditional temporary 1-year permission is considered appropriate at this





junction to enable the local planning authority the opportunity to review the proposal again at the end of this period.

## 15 Alternative Options

15.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion the proposal is compliant with relevant policies and there are no material considerations that would justify refusal.

## 16 Implications

<b>Resources:</b>	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
<b>Legal and Governance:</b>	This application is submitted under the Town and Country Planning Act 1990.
<b>Risk:</b>	None.
<b>Equality:</b>	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
<b>Health and Wellbeing:</b>	None.
<b>Social Value</b>	None.
<b>Climate Change</b>	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.



## 17. Appendices

### Context plan



