

**North Yorkshire Council**

**Community Development Services**

**Thirsk and Malton Area Constituency Committee**

**16th November 2023**

**22/01117/FUL - Application for continuation of site operations as a petrol station and retail shop, including preparation area for hot and cold food for sale on premises. Alterations to the arrangement for the provision of parking, manoeuvring with turning area. (Amended description, illustrative food items for sale (13.9.2023), amended site layout plan (18.8.2023) and amended highways statement 13.9.2023)**

**At: Brookes, North Road Garage, Shipton by Beningbrough, York, North Yorkshire, YO30 1AL**

**For: Mr Thomas Brooke**

**Report of the Assistant Director Planning – Community Development Services**

**1.0 Purpose of the Report**

1.1 To determine a planning application for the continuation of site operations as a petrol station and retail shop, including preparation area for hot and cold food for sale on premises. Alterations to the arrangement for the provision of parking, manoeuvring with turning area. (Amended description, illustrative food items for sale (13.9.2023), amended site layout plan (18.8.2023) and amended highways statement 13.9.2023) at Brookes, North Road Garage, Shipton by Beningbrough, York, North Yorkshire, YO30 1AL on behalf of the Assistant Director – Planning.

1.2 It is considered that this application is appropriate to be determined by the Planning Committee given the public interest generated and the planning history associated with the site.

1.3 This application was proposed to be deferred by Officers and agreed by Members of the Planning Committee at the Hambleton District Council Planning Committee of 16 February 2023 to allow further consideration of relevant highways matters including signage.

1.4. Corresponding application ref. no.: 22/01288/ADV - Application for advertisement consent for '1No. site entry and 1No. exit non-illuminated signage for existing on-site business' at this site was withdrawn on the 16 February 2023 as the previously proposed

signage is no longer proposed given that this was proposed in the highway verge but did not meet relevant legal requirements to be placed in this location as advisory signage.

1.5 The application has subsequently been amended and re-consultation undertaken. The following report has been updated from that prepared for consideration at the Hambleton District Council Planning Committee of the 16 March 2023, in the light of the updated information and amended plans.

1.6 The petrol station element and the shop (including the preparation of hot and hot food for sale) are already in operation. The alterations for the provision of parking and manoeuvring as proposed in the planning application have not been carried out.

## 2.0 Executive Summary

**RECOMMENDATION:** That planning permission be **GRANTED** subject to the conditions set out in section 12 of this report:

- 2.1 The application seeks planning permission for the continuation of site operations as a petrol station and retail shop, including preparation area for hot and cold food for sale on the premises as well as proposed alterations to the arrangement for the provision of parking and manoeuvring on the site.
- 2.2 During the course of the application the description has been amended to account for the preparation and sale of hot and cold food and an illustrative list of food prepared and sold has been submitted, as well as an amended site layout plan removing originally proposed internal site and external signage (which is reflected in an amended highways statement submitted by the applicant). An amended application form and an amendment to the red line boundary has also been received. Notice has been served on the Council as Highways Authority in relation to a strip of land to the frontage of the site (within the red line boundary) which is highway maintainable at public expense in relation to the surface of the highway being changed from grass to concrete (concerning an area of the grass verge bordering the A19).
- 2.3 The amended Highways Statement sets out that the proposal seeks to ensure the efficient layout of the site and a number of alterations are proposed to the internal layout. Additional customer parking is provided as well as an area for the manoeuvring of service vehicles delivering to the site and customer routeing throughout the site. No additional floor area is proposed.
- 2.4 The proposals for the re-arranged site include the reorganisation of parking spaces for the existing store, the introduction of a new internal one-way circulation system and formalisation of a delivery / servicing area to the rear of the store. The parking spaces are proposed to the western boundary (5 spaces) and to the eastern boundary (8 spaces) inclusive of disabled parking.
- 2.5 The relocation of parking creates two formal parking areas and facilitates the introduction of a specific delivery area to the rear of the main building. A designated company van parking space would be provided to the north of the jet car washing facility. To ensure the relocated

parking spaces are accessible following the use of the pumps, a one-way system would be put in place using lining, directing vehicles around the southern extent of the store through directional road markings. Full vehicle tracking drawings have been provided, including for a 12m rigid delivery vehicle accessing and egressing the store in a forward gear.

- 2.6 A total of 13 car parking spaces are proposed including 4 disabled drivers' spaces, and 1 light goods vehicle space (there are 12 spaces existing). The application indicates that two full time and 6 part time workers would be employed.
- 2.7 The application site lies approximately 1.2km to the north of the village of Shipton and is sited on the eastern side of the A19. The site lies within the York Green Belt. A dwelling lies immediately to the north of the application site with two more dwellings approximately 70m further north. The Wilson building lies immediately to the south of the application site and originally shared the same access, though planning permission has been granted (ref. no.: 22/01435/FUL) for an access from the A19 to serve the Wilson building, on 28 October 2022 and has been implemented. This building was previously vacant but is now occupied by a fish and chip shop, albeit at the time of writing the operation had yet to open for business.



- 3.2. During the course of the application, an amended layout plan has been submitted with relevant updates to the highways statement to reflect this amended layout. The revised layout plan shows the removal of external and internal signage and inclusion of directional ground arrow markings only. The description has also been amended to reflect the preparation and sale of hot and cold foods (with an illustrative list of food submitted). An amended application form has also been received which confirms that notice has been served on the Council as Highways Authority in relation to a strip of highway land to the frontage of the site (that falls within the red line boundary).
- 3.3. The petrol station element and the shop (including the hot and cold food preparation and sale) are in operation. The alterations for the provision of parking and manoeuvring as detailed have not been carried out.
- 3.4. The following planning history is considered relevant.

2/79/131/0019D - Construction of a forecourt canopy. Permission granted 30/8/1979.

10/00378/ADV - Application for advertisement consent to display 7 non illuminated signs. Consent granted 12 April 2010

10/00377/FUL - Re-siting of two underground petrol tanks and three petrol pumps, alterations to the existing shop/car showroom and forecourt canopy and creation of car parking areas. Permission granted 12 May 2010.

12/02368/MRC - Application to vary condition 02 of planning approval 10/00377/FUL to amend the position of the pumps and tanks. Permission granted 8 February 2013.

13/01238/FUL - "the 2013 permission" - Demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates. Permission granted on the 31 October 2013.

20/00794/MRC - Application for variation of condition No:4 (new drawing number for vehicle parking numbers SHIP-APR20) & No:5 (approved drawings - new drawing SHIP-APR20 - inclusion of shipping container for storage purposes only and to move and increase parking spaces from 12no to 16no, to remove fence and gate and the addition of 2no electric charge points) to previously approved application reference: 13/01238/FUL for the demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates as amended by plan received by Hambleton District Council on 21 August 2013 - Refused on 7 July 2020 for the following reason:

"The revised layout of the site fails to provide a safe environment for customers to visit whilst utilising the shop and deli facility. The absence of appropriate on-site parking and turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users. The proposal is therefore contrary to Local Development Framework policies CP1,

DP3 and DP4 and as the proposal would result in an unacceptable impact on highway safety the proposal is also contrary to the NPPF, noting particularly the provisions of paragraph 109."

21/00209/MRC - Application for removal of condition 3 (specifically to no food shall be prepared on the premises for sale) to previously approved application 13/01238/FUL for Demolition of existing extension, change of use of existing car showroom, MOT car servicing garage to class A1 use (retail) along with external alterations, single storey extension, formation of car parking and construction of boundary fence and gates as amended by plan received by Hambleton District Council on 21 August 2013.

The was granted planning permission on 6 May 2021, that decision was challenged and subsequently the decision was quashed (as referred to below). Following that quashing of permission, the planning application was withdrawn.

#### Judicial Review

The decision to grant the above planning permission (21/00209/MRC) was the subject of a Judicial Review. The Claimant, Mr Wilson, who owns the building to the south of the subject site applied for permission to judicially review this decision on the following grounds:

- Grounds 1 and 2 related to the applicant's failure to notify Mr Wilson (as owner of part of the application site) of the application.
- Ground 3 related to the implications of the applicant not owning part of the site.
- Ground 4 related to the consideration of highways matters in determining the application.
- Ground 5 was an additional ground of claim which was submitted after the Council filed its defence. The Council had relied on a 'Highways Note' in consideration of the application. However, that Highways Note was not published on the Council's website.

Ultimately, the Council consented to judgment on Ground 5.

## **4.0 Site and Surroundings**

4.1 The site lies approximately 1.2km to the north of the village of Shipton by Beningbrough and is sited on the eastern side of the A19. The site lies within the York Green Belt. A dwelling lies immediately to the north of the site with 2 more dwellings approximately 70m further north. The Wilson building lies immediately to the south of the application site and originally shared the same access, though planning permission has been granted (ref. no.: 22/01435/FUL) for an access from the A19 to site on 28 October 2022 and has been implemented. This building was previously vacant but is now occupied by a hot food takeaway (yet to commence operation).

4.2 The building subject to this application was previously used as a car showroom, servicing, MOT station and petrol filling station. The petrol pumps are in operation at the front of the site. A shop associated with the filling station used to occupy an area of 110sqm,

approximately 40% of the original building. The application site has been operating as a petrol filling station for a number of years. There is reference in the officer's report relating to planning application ref. no.: 13/1238/FUL to an historic application - 79/131/0019D – for the construction of a forecourt canopy, which suggests that the site has been operating in some motoring related capacity for a number of years.

## **5.0 Description of Proposal**

- 5.1 The application seeks permission for the continuation of site operations as a petrol station and retail shop, including preparation area for hot and cold food for sale on premises as well as alterations to the arrangement for the provision of parking and manoeuvring.
- 5.2 The amended Highways Statement sets out that the proposal seeks to ensure the efficient layout of the site, a number of alterations are proposed to its internal layout. Additional customer parking is provided as well as an area for the safe manoeuvring of service vehicles delivering to the site and customer routeing throughout the site. No additional floor area is proposed.
- 5.3 The proposals for the site include the reorganisation of parking spaces for the existing store, the introduction of a new internal one-way circulation system, and formalisation of a delivery / servicing area to the rear of the store. The parking spaces are proposed to the western boundary (5 spaces) and to the eastern boundary (8 spaces) inclusive of disabled parking.

The relocation of parking creates two formal parking areas and facilitates the introduction of a specific delivery area to the rear of the main building. A designated company van parking space will be provided to the north of the jet car washing facility. To ensure the relocated parking spaces are accessible following the use of the pumps, a one-way system will be put in place using lining, directing vehicles around the southern extent of the store through directional road markings. Full vehicle tracking drawings are provided, including for a 12m rigid delivery vehicle accessing and egressing the store in a forward gear.

- 5.4 A total of 13 car parking spaces are proposed including 4 disabled drivers' spaces, and 1 light goods vehicle space (there are 12 spaces existing). The application indicates that two full time and 6 part time workers would be employed.
- 5.5 The applicant has confirmed that the red line plan approved as part of the 2013 permission was incorrect and so neither condition 4 nor condition 5 of the 2013 permission could be wholly complied with. A subsequent application (20/00794/MRC) to vary these 2 conditions was refused for the following reason:

The revised layout of the site fails to provide a safe environment for customers to visit whilst utilising the shop and deli facility. The absence of appropriate on site parking and turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users. The proposal is therefore contrary to Local Development Framework policies CP1, DP3 and DP4 and as the proposal would result in an unacceptable impact on highway safety the proposal is also contrary to the NPPF, noting particularly the provisions of paragraph 109.



A subsequent appeal was dismissed as the red line plan was incorrect and the applicant had failed to serve the appropriate land ownership notice.

- 5.6 A further application was submitted under application reference no.: 21/00209/MRC to vary condition 3 of planning permission 13/01238/FUL and enable the preparation of food for sale from the premises. This application was approved by the Council then challenged and subsequently the planning permission was quashed. One of the issues again related to an incorrect red line application plan and the appropriate service of notice.
- 5.7 The original planning permission 13/01238/FUL imposed a number of conditions including the following:

Condition 3 - Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' the premises shall not be used for any purpose other than a Class A1 Shop for the sale of convenience goods as shown on drawing number 13- SHIP-PFP received by Hambleton District Council on 14 June 2013 and no food shall be prepared on the premises for sale.

Condition 4 - Within 2 months of the date of this decision the vehicle parking, manoeuvring, and turning areas shall be constructed in accordance with the submitted Drawing no. 13-SHIP-PSP Rev A). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Condition 5 The permission hereby granted shall not be undertaken other than in complete accordance with the location plan and drawings numbered 13-SHIP-PFP, 13-SHIP-PE1, 13-SHIP-PE2 and 13-SHIP-PSP Rev A received by Hambleton District Council on 14, 27 and 28 June, 21 August and 8 October 2013 unless otherwise approved in writing by the Local Planning Authority.

- 5.8 In essence the applicant has confirmed that the current application seeks to gain planning permission for the continuation of site operations as a petrol station and retail shop, including a preparation area for hot and cold food for sale on the premises (with the benefit of an accurate red line plan) together with alterations to the arrangements for the provision of parking, manoeuvring and turning areas within the site.

## **6.0 Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

Hambleton Local Plan – February 2022  
Minerals and Waste Joint Plan, adopted 2022



### Emerging Development Plan - Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

## **7.0 Consultation and Re-consultation Responses**

### Re-consultation

- 7.1 A 21 day consultation was undertaken on 20.9.2023. The following consultation responses have been received which are summarised (please see website for full details).
- 7.2 Shipton by Beningbrough Parish Council - No further comments to make.
- 7.3 Trading Standards (Petroleum certificate) - Awaiting formal re-consultation response
- 7.4 Highways Authority consultation response (19 October 2023): Note to the Planning Officer: This recommendation supersedes the recommendation dated 05 October 2023. The following is a commentary regarding various aspects of the application to help Members with their decision when determining the application. There are some issues that have been raised as part of the consultation process and this preamble is provided to give some background on some of the pertinent matters raised. In preparation of the recommendation officers have visited the site to consider the planning application.

### Description of Network and the site

The application site is on the eastern side of A19 approximately 1 mile north of Shipton by Beningbrough. The A19 is a highway which is maintainable at the public's expense by North Yorkshire Council acting as Local Highway Authority. Previously the A19 was a Trunk Road however Highways England de-trunked the A19 in 2003 whereupon North Yorkshire County Council took over the statutory duties in relation to this main road. Due to the recent Local Government Reorganisation North Yorkshire County Council ceased to exist and now the new Council, North Yorkshire Council is the Local Highway Authority for the A19 between the A168 at Thirsk and the City of York boundary. The application site itself has been operating as a petrol filling station for a number of years. Indeed, there is reference in the Officers report to application 13/1238/FUL which makes reference to an historic application - 79/131/0019D - construction of a forecourt canopy which would suggest that the site has been operating in some capacity for at least 40 years.

### Proposals

The proposal seeks permission for continuation of site operations as a petrol station and retail shop (to include hot and cold food preparation for sale on premises). There are also alterations to the arrangement for the provision of parking, manoeuvring and turning also to be considered as part of the application. The petrol station element and the shop (including the hot and cold food preparation) are in operation now. Whilst there may be an element of primary trips generated by the hot and cold food use, given that it is currently in operation,

any trips generated by this use are already present on the network. The alterations for the provision of parking and manoeuvring as detailed have not been implemented.

Injury Collision History of the A19 in the vicinity of the site - in terms of injury collision history adjacent to the site on the A19 there have been no reported injury collisions within 100m of the site over the last 5 years. The Local Highway Authority are not aware of a recurrent injury collision problem at this site and are not proposing any highway improvements on road safety grounds to the area.

#### Site red line and extent of the highway

The current red line of the site includes an area of highway maintainable at the public expense. The surfacing of this area has changed since 2013 when a previous planning application here was determined. A section of highway verge has been hard surfaced in concrete and is utilised as part of the forecourt; however, the relevant permissions (e.g., a Section 278 or Section 184 agreement) from the Local Highway Authority cannot be found. The Local Highway Authority has reviewed this matter and does not object to the change of surfacing and is not intending to pursue the issue. Whilst the surfacing of the highway has changed, it is not considered that this prevents the public from exercising their rights to pass and repass. Any brief parking or loading in this area is consistent with similar activity that commonly takes place on the public highway. The applicant may wish to "Stop Up" under Section 247 of the Town and Country Planning Act 1990 the area of highway maintainable at public expense to regularise the status of this area. The term "Stop Up" relates to a process whereby the highway status is removed from an area of land and the control reverts to the freeholder of the sub soil. The Local Highway Authority would not object in principle to the area becoming private should the applicant wish to pursue this option.

#### Highways Support Statement

As part of the ongoing discussions with the Planning Authority and the Applicant's agent a Highways Support Statement has been submitted to support the proposals. This is the document dated 12 September 2023. There is also a revised site plan within the document (drawing AMA/21033/SK002 Issue P1 Dated 12 September 2023). Within the statement there are plans showing how the forecourt, parking spaces and deliveries will operate with a new layout. The plan indicates that extra lining will be implemented to direct users around the site. The proposals are reliant on good common sense from the drivers visiting the site and are acceptable to the Local Highway Authority. The plans show that the site can be accessed by delivery vehicles and that the cars visiting the site can access the parking spaces proposed independently ie. access to the spaces does not rely on adjacent spaces being unoccupied. Local representations have been raised with respect to the absence of customer HGV or Tractor parking however our standards do not require such facilities for this land use. The Local Highway Authority does not have any concerns with the submitted Statement or revised site plan.

Issues raised by an objector in relation to parking and queuing on the A19

As part of the application process issues have been raised and the Local Highway Authority has been provided some evidence of parking and queuing on the A19 in the vicinity of the site. The evidence has been considered however the Local Highway Authority is not aware of a persistent problem in relation to parking and queuing here. Indeed we are not aware of any other representations from the Police, Parish Council or the general public in relation to these matters. The injury accident history at this location also suggests that there is not a significant problem here in relation to parking or queuing concerns raised.

#### Other matters

An objector has submitted a Safety Audit of the site they commissioned themselves. Many of the issues were raised were in relation to the internal layout of the petrol station which the applicant has sought to address. It is apparent that there are access issues associated with this site and the neighbour to the south; however, this is considered a civil dispute and not a matter for the Local Highway Authority. The effects that the proposals as submitted would have on the highway safety on the A19 are matters for the Local Highway Authority which have been considered as part of the application process.

#### Conclusion

The advice in the Government document National Planning Policy Framework paragraph 111 states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The Local Highway Authority has considered the aspects of this application and the matters raised by third parties. As such, it is the opinion of the Local Highway Authority that a refusal based on the proposal's effect on highway safety could not be sustained. We would however recommend that the proposed layout is implemented to formalise the traffic management within the site which will have benefits to the users/ visitors within the site and ultimately to those users/visitors accessing and egressing the A19. Consequently the Local Highway Authority recommends that the following condition is attached to any permission granted: Provision of Approved Turning and Parking Areas The parking, manoeuvring and turning areas for all users shall be constructed in accordance with the details on drawing number AMA/21033/SK002 Issue P1 Dated 12 September 2023. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times. Reason for Condition: To ensure that the parking and servicing areas are kept accessible to vehicles and that circulation areas are available for the free flow of traffic on the site. In the interests of highway safety and general amenity of the development.

#### Officer Note:

The Highway Authority was asked the specific of the necessity or otherwise for entry and exit signage from the site. The Highway Authority has made the following statement on this point:

"Ultimately, as there is no relevant collision history linked to the current operation of the site in the last five years – it would be difficult insist that the applicant provide signage. A refusal on this point on highway safety grounds would be difficult to sustain. Typically filling stations in the UK operate on a left in, left out basis, which is the case here. "

- 7.5 National Highways: No objection.
- 7.6 North Yorkshire Police: No comments to make in relation to designing out crime.
- 7.7 Environmental Health (Contaminated Land) – No objections.
- 7.8 Environmental Health (residential services) - No additional comments to make over and above those already submitted.
- 7.9 Licensing Team: Confirm that the premises is licensed and any changes to the premises licence plans will require a variation application. Other than this, have no comments or observations.
- 7.10 A 10 day re-consultation exercise was undertaken on the 15.5.2023. The representations received are summarised below (please see website for full comments).
- 7.11 Highways England: No objections.
- 7.12 Highways Authority: Superseded by response dated 19 October 2023
- 7.13 Environmental Health (residential services): No additional comments
- 7.14 Neighbour -objects as summarised; The objector is concerned that the routeing does not work and seeks to demonstrate this by the submission of a video entitled "*Caravan Stuck In North Road Garage Car Park*" which forms part of the representations available to view on public access.
- 7.15 A 10-day re-consultation exercise was undertaken on 20.3.2023. The representations received are summarised below, however, please see website for full comments:
- 7.16 Environmental Health (residential services) - No additional comments to make over and above those already submitted.
- 7.17 Environmental Health (contaminated land) - No comments.
- 7.18 Highway Authority – Superseded by consultation response dated 19 October 2023, set out above.
- 7.19 National Highway Authority – Offer no objection
- 7.20 Parish Council: Will not be making any comments or response.
- 7.21 Neighbour – Objects as follows in summary: The Plan submitted is incorrect as it fails to show the Highway correctly. All that has been denoted is that which is tarmac. The grass verge has been omitted. As there is no stopping up order in place, as per Highway and Planning legislation, the grass verge is still part of the Highway. This confirms that the Plans are incorrect. On the Application Form the applicant fails to state that the application encroaches onto the Highway without the required consent and stopping up order. This confirms that the Application Form is also incorrect as the applicant does not have

permission of the owner of the Highway. If required I have evidence to prove the true location of the Highway.

- 7.22 Neighbour- Objects as follows in summary: As the takeaway aspect of the “retail shop” is dominant, especially when consideration is given to customer circulation, the application is not for the correct use. The application must be for A5 Use Class.
- 7.23 Neighbour- Object as follows: I have extensive evidence in both video and images of large vehicles using the facilities at the Brookes Garage site:
1. Parking on the A19 and causing obstruction to use the takeaway aspect of the site.
  2. Parking in such a manner on the forecourt as to cause significant inconvenience to others by blocking manoeuvring areas that must be kept free at all times.
  3. Parking in the entrance to the car park, between Brookes Garage and my site, and thus preventing others using the car park.
  4. Being unable to navigate the concrete bollards and then performing dangerous three-point turn and reversing manoeuvres in the car park between Brookes Garage and my site.
  5. Large vehicles becoming trapped in the car park having to rely on all the car parking spaces, including the disabled bays, being empty, between Brookes Garage and my site, to be able to perform dangerous three point turns and reversing manoeuvres.
  6. Trespass onto my site by using the entrance to my site to perform three-point turns.  
NB: Moving forward, no vehicle from Brookes Garage will be able to use the entrance to my site to perform three point turns as I will soon be securing a highly robust gate to my entrance due to the aggravated trespass. This is in breach of the Criminal Justice and Public Order Act 1994 – 33 – 68. I refer to <https://www.legislation.gov.uk/ukpga/1994/33/section/68> . The large vehicles include: HGVs 1. Tractors 2. Caravans 3. Various vehicles with trailers. Given the issues stated above the applicant must provide parking on his site for large vehicles and demonstrate that it works. If the applicant fails to provide parking for large vehicles on their site and fail to demonstrate that it works this application must be refused.
- 7.24 Neighbour- Objects as follows in summary: I refer to AMA One Way System. This route is impossible to operate as numerous times a month a fuel tanker (please see Petroleum Certification) parks for up to two hours between the “totem” and “forecourt” with no route through. The access to the site cannot be closed for delivery of fuel as I have a right to use both accesses, in both directions, 24/7. This makes the one-way system a non-starter and a potential danger to life. In addition, when the tanker is making a delivery, vehicles are forced to back up onto the A19 creating a danger to road users.
- Please be mindful that potential danger to life is a material consideration in the assessment of this proposal. As such this must be mitigated. If the applicant fails to mitigate the potential danger to life or fails to ensure that the one-way system is kept free 24/7, this application must be refused. The objector has provided images which seeks to highlight their concerns which forms part of their representation available to view on public access.
- 7.25 Neighbour- Objects as follows: The applicant has failed to:
1. Address the concerns raised in Road Safety Review - A19 North Road, Brooke's Garage - 17 March 2022.

2. Provide an accredited Road Safety Report. If the applicant fails to address the concerns raised in Road Safety Review - A19 North Road, Brooke's Garage - 17 March 2022 or provide an accredited Road Safety Report.

7.26 Neighbour –Objects as follows: I provide the following evidence that clearly demonstrates Highways has made a significant error of judgement. This is only a selection of what I witnessed on 20 March 2023 and 22 March 2023.

1. 20 March 2023 – Dalton van obstructs car park
2. 20 March 2023 – Oil Tanker completes three point turn
3. 22 March 2023 – Customer obstructs car park entrance/egress
4. 22 March 2023 – Oil NRG undertakes full reverse action

22 March 2023 – Oil NRG undertakes full reverse action (video)

- there is a full 1 minute and 38 seconds of the dangerous manoeuvre. It is reasonable to conclude that persons at Brookes Garage fully witnessed all of this taking place, as everything happened while the shop was open, either in full view of the shop window or the CCTV. Given that on not one occasion did said persons attempt to rectify or alleviate the situations it is reasonable to believe this is standard practice and that the incidents happen numerous times every day

Officer note: Images and video forms parts of the objectors representation available to view on public access.

In relation to this application, NYCC Highways originally was not in agreement with my position that signage on the Highway must be contained in the TSRGD yet the application was ultimately withdrawn. The above evidence clearly demonstrates that the opinion of Highways was wrong in relation to the access to the car park as it does not work. In light of, and based on, these two fully evidenced failures of NYCC Highways, it suggests that their opinions are clearly not robust enough to be relied upon in relation to Planning or Highways matters. The objector advises that they reserve their right to use the evidence highlighted above, and all other related evidence taken on those days stated and previous days in any future Court of Law.

7.27 Neighbour-The following objection is in relation to notice provided to the objector advising that the application and a previous application for advert consent were scheduled to be determined at the Hambleton District Council Planning Committee in February 2023 which the objector advises was a blatant failure of Duty of Care by both HDC Planning and NYCC Highways.

The objector advises that, 'To ensure full transparency, and given that the previously approved application resulted in my successful challenge via a Judicial Review that quashed the approval, it has been suggested that I highlight the following with you. This is to ensure that full consideration can be given by HDC and NYCC before a decision is made on Thursday, as to the cost implications to the public purse, discrediting the planning system, wasting of the Courts time and the burden that this will place on the new North Yorkshire Council at the start of their existence'.



The following is the objectors response to the published officer committee reports in relation to the above mention planning committee meeting.

Advisory Signage TSRGD “The Highway Authority have commented that the Traffic Signs Regulations and General Directions 2016 (TSRGD) is not relevant to this application. The signs are advisory only.” I refer to The Traffic Signs Regulations and General Directions 2016 – Schedule 11 - Signs that give information, are advisory or guide traffic <https://www.legislation.gov.uk/ukxi/2016/362/schedule/11/made> “PART 1 Provisions applying to signs in Part 2 1. Except for item 75, a warning or information of a description in column 2 of an item in the Part 2 sign table must be conveyed by a sign which is— (a)of the colour and type; and (b)complies with the requirements as to size,” and “PART 2 – 74 - Diagrams 833, 834, 835 and 836 - Signs regulating the movement of vehicular traffic into and out of premises with more than one access to a road” Please see TSRGD - Schedule 11 - Part 2 – 74 (attached). This confirms that the statements by NYCC are incorrect and thus the application must be refused.

Condition 3 states: “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.”

The applicant and HDC Planning have had 8 months to ensure that this was actioned but instead it is to be a condition within a month of approval. It must be remembered that HDC Planning failed for 9 years to enforce conditions for the 2013 application at this site. As such, it is reasonable to conclude that they will not enforce this condition. As “manoeuvring with turning area.” is a fundamental part of the application the condition prevents NYCC Highways and the public a lawful right to consult on the key aspect of the application. The condition negates any approval by NYCC Highways as they are unable to give reasoned consideration without this information. The attempt to condition this aspect demonstrates a fail of the Duty of Care by both HDC Planning and NYCC Highways.

Planning Application – Advisory. It is claimed that “The signs are “advisory” and those with a right of access (easement) are not prohibited from access against the direction indicated in the signage” This negates the full application. As “manoeuvring with turning area.” is a fundamental part of the application. In essence, instead of having a free for all, this application proposes having both the free for all and a one way system. With all due respect, that is utter madness, a danger to road users and those visiting my site. This proposal will incite road rage and make the well documented issues even worse.

My Right of Access. It is reasonable to conclude that no law abiding motorist would drive against the direction of the “advisory signs”. It would be doubtful that an insurance company would approve a claim when driving in the wrong direction.

This clearly demonstrates that “The advisory signs would not preclude access to the Wilson building via either the entry or exit route.” is incorrect.

The objector highlights further concerns below in relation to the following paragraphs of the previously published officer planning committee report.



1. 1.1 – “This building is currently vacant.” – This is a false statement and thus this application must be refused.
2. 2.6 – “The absence of appropriate on-site parking and turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users.” – As Condition 3 states – “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.” – This still remains unaddressed and this failure prevents the required consultation prior to approval.
3. 4.1 – “The Parish Council is also confused with regards to the proposed flow pattern once cars are on the forecourt” – Given that the Parish Council are confused it is reasonable to say that everyone will be confused.
4. 4.2 – “NYCC Highways – Offer no objection.” - As Condition 3 states – “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.” – It is impossible for NYCC Highways to make such a conclusion.
5. 4.2 – “The highway engineer sets out: I do not have an objection to the proposal.” - As Condition 3 states – “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.” – It is impossible for NYCC Highways to make such a conclusion.
6. 4.2 – “I have previously visited the site and assessed the routeing and measured the “pinch point” and confirmed that it works.” - As Condition 3 states – “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.” – It is impossible for NYCC Highways to make such a conclusion.
7. 4.2 – “I have also agreed to the placing of signage within the public highway” – Please see Advisory Signage TSRGD above.
8. 4.2 – “The details shown within planning application 22/01288/ADV accord with the requirements of the Local Highway Authority.” Please see Advisory Signage TSRGD above.
9. 5.1 – “It is important to consider whether the previous reason for refusal 20/00794/MRC that set the following has been addressed. “...turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users.” - As Condition 3 states – “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.” – That which is “important” remains unaddressed as such this application must be refused.

10. 5.13 – “Signage would be placed at the back of the highway verge at the site access and egress (on private land that is owned by the applicant and off the adopted highway)” - This is a false statement.
11. 5.21 – “The Highway Authority have commented that the Traffic Signs Regulations and General Directions 2016 (TSRGD) is not relevant to this application. The signs are advisory only.” – Please see Advisory Signage TSRGD above.
12. 5.21 – “The location and size of the signage was discussed with NYCC Highway Authority and this has been confirmed by them.” – Please see Advisory Signage TSRGD above.
13. 5.21 – “The applicant has confirmed that the application proposals do not impact on the adjacent landowners (objectors) easement (registered on the 23rd of December 2019) or their right of way.” - This is a false statement.
14. 5.21 – “The advisory signs would not preclude access to the Wilson building via either the entry or exit route.” - This is a false statement and thus this application must be refused.
15. 5.21 – “it must be borne in mind that planning permission has been granted (reference 22/01435/FUL) for the formation of a new access from the A19 highway” – No application can consider a previous application that has been granted until such time as it is actioned. This must not be borne in mind. This is a false statement.
16. 5.21 – “objectors vacant premises” - This is a false statement and thus this application.
17. 5.21 – “Signage will be placed at the back of the highway verge at the site access and egress (on private land that is owned by the applicant and off the adopted highway)” - This is a false statement.
18. 5.25 – “This is an existing business that has been lawfully established for a number of years.” – Given that conditions remain outstanding from a 2013 Planning Approval I consider this statement disingenuous.
19. 5.25 – “manoeuvring with turning area have been addressed appropriately.” – As confirmed by Condition 3 this is a false statement.
20. 6.1 – 3 – “Within 1 month of the date of this decision a plan to show the areas of manoeuvring and turning shall be submitted for the written approval of the Local Planning Authority. Within 1 month of the date of the approval of the plan showing the areas of manoeuvring and turning the areas shall be made clear and kept clear of any obstruction and retained for their intended purpose at all times.” – Please see Condition 3 above.

#### Advertisement Consent application

1. 2.0 – “Relevant planning history” – This is incomplete.
2. 4.2 – “Highways North Yorkshire - The details shown within planning application 22/01288/ADV accord with the requirements of the Local Highway Authority.” – Please see Advisory Signage TSRGD above.
3. 4.4 – “The applicants have confirmed that the signage will be non- illuminated.” – This will be a danger to road users as it will not be seen in the dark.
4. 4.4 – “The signage is to be sited on adopted highway land.” – This, according to statements on the previous application is false “(on private land that is owned by the applicant and off the adopted highway)”.
5. 5.10 – “The Highways Authority have commented that the proposed signage accords with their requirements” - Please see Advisory Signage TSRGD above.
6. 5.11 – “The signs are “advisory” and those with a right of access (easement) are not prohibited from access against the direction indicated in the signage.” - Please see Planning Application Advisory above.

7. 5.12 – “The Highway Authority have confirmed that the Traffic Signs Regulations and General Directions 2016 (TSRGD) is not relevant to this application. The signs are advisory only” – Please see Advisory Signage TSRGD above.
8. 5.12 – “the signage would still be visible to users.” - This is a false statement.
9. 5.12 – “The applicant has confirmed that the application proposals do not impact on the adjacent landowners (objectors) easement (registered on the 23rd of December 2019) or their right of way.” - This is a false statement.

I am of the opinion that which is highlighted above demonstrates a gross failure of statutory requirements and Duty of Care of HDC Planning and NYCC Highways. These failures are clearly sufficient grounds for a Judicial Review if these applications are approved. I place on the public record that I fully reserve my right to refer any future decision in relation to these applications for a judicial review.

- 7.28 RAF Linton on Ouse - After reviewing the application documents, I can confirm the MOD has no safeguarding objections to this proposal.
- 7.29 Contaminated Land – No comments received
- 7.30 Trading Standards (Petroleum certificate)- No comments received.
- 7.31 Natural England – No comments received
- 7.32 Yorkshire Wildlife Trust – No comments received
- 7.33 Yorkshire Water Services Ltd – No comments received
- 7.34 North Yorkshire Police (Designing Out Crime)- No comments

#### Original Consultation

- 7.35 The following consultation responses have been received in relation to the application as originally submitted and have been summarised below.
- 7.36 Shipton-by-Beningbrough Parish Council – The Parish Council would note there is no Highways report regarding the proposals in the application. The PC notes cars entering and exiting this garage are a cause of frequent accidents on the A19. While the entrance/ exit system is felt to be a positive step to trying to mitigate dangers, there is concern that the proposed signage (Entrance Only/ Exit Only) is too large (particularly too high) and will block visibility further for cars exiting the forecourt onto the A19. The visuals of the signs show the station logo which makes the signs considerably larger than necessary. The Parish Council is also confused with regards to the proposed flow pattern once cars are on the forecourt – the logical pattern for cars to maximise flow and minimise obstruction would appear to be a clockwise flow around the back of the building for those parking up to use the shop only. This does not appear to be the case on the plans. Can this be clarified, and an explanation be given?
- 7.37 Highways Authority – Offer no objection. The highway engineer sets out: I do not have an objection to the proposal. I have previously visited the site and assessed the routing and

measured the “pinch point” and confirmed that it works. I have also agreed to the placing of signage within the public highway to give some clarity to the use of access and flow around the site subject to a size and location that does not impact driver visibility. The details shown within planning application 22/01288/ADV accord with the requirements of the Local Highway Authority.

- 7.38 Yorkshire Wildlife Trust – No comments
- 7.39 North Yorkshire Police - Having reviewed the accompanying documents and drawings that were submitted with the application, I have no comments to make in relation to designing out crime.
- 7.40 Environmental Health (contaminated land)- I have assessed the application, and from a contaminated land perspective I have no observations/comments at this stage. Therefore, I have no objections to this application.
- 7.41 Environmental Health (Residential Services) This service has considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact. Therefore, the Environmental Health Service has no objections to the application.
- 7.42 National Highways – offer no objections and recommend approval stating the reason: The improvement works should improve the onsite operation and subsequently minimise the impact on the A19.
- 7.43 MOD – Offer no safeguarding objection.
- 7.44 Site notice/local residents – 10 letters of objection have been received from one person who owns the building south of the subject site. A summary of these are as follows:

Neighbour: I will never stand back and watch Government bodies appear to play Russian Roulette with the public’s safety. The objector has submitted six videos highlighting concerns that the proposed traffic system is incapable of working and that traffic using Brookes Garage is a danger to public safety on the A19.

Blocking of entrance to objectors’ site - regularly congested and obstructed by customers of, and deliveries to, Brookes Garage despite the requirement of planning condition 4 to the 2013 Planning Permission requiring that such areas must be “...maintained clear of any obstruction and retained for their intended purpose at all times”. The objector will not surrender the easement across the highway frontage of Brookes Garage that passes between the A19 and the fuel pumps.

Petroleum Certificate -The NYCC Petroleum License can often prevent the objector’s use of the North entrance as temporary closure of access to the Hazardous Zone Area is required during tanker refuelling operations. If HDC approve the current Planning Application for Brookes, the objector claims that access to his site would be fully prevented as users will be unable to enter via the south entrance.

Unaccredited Statements - HDC have accepted and published unaccredited documents (Highways Supporting Statement and a Design & Access Statement).

Parking - On the Planning Application it is claimed that the parking spaces will increase from 12 to 13. The objector considers that the parking provision is inadequate, that parking occurs on the lawful access route to the adjoining site to the south and on the exit route from the Brookes garages site, that the scheme is an overdevelopment and alleges that the increase is dependent on:

- Removing the requirement for landscaping where the site joins objector's site.
- The parking spaces 6 to 11 (6 parking places) on the "Site Plan as Proposed" are marked in the area previously allocated for landscaping. NB: This is currently used for "unofficial" parking.
- When the landscaping is put in place this will result in parking spaces reducing from 12 to 7, of which 2 are for disabled parking. A loss of 5 parking places.
- The application makes no allowance for up to 4 cars that usually park at the residential dwelling.
- The application makes no allowance for staff parking.
- The application makes no allowance for the parking of fuel tankers.
- The application makes no allowance for the parking of vehicles queuing to use the jet wash – this will obstruct the "one-way system" and the delivery access.
- The application makes no allowance for the parking of vehicles to pick up heavy gas bottles from the front of the shop.
- No coach parking or turning space is available.

#### Parking Signage

Entry – One Way sign is suggested to be placed behind the objector's "concrete buffers". The objector states that the applicant has no right of a view across his site.

#### Highway Safety –

- The proposal fails to address highway safety adequately.
- The site layout results in vehicles waiting on and reversing on to and off the A19, resulting in a dangerous obstruction to traffic on the A19
- The signage at the entry and exit will be a clear obstruction to the required sight lines and thus cause a danger to road safety on the A19.
- As all signage must give their message to road users clearly and unambiguously, how will this be achieved after the entrance?
- As evidenced by the Land Registry the grass verge next to Brookes Garage is not owned by the applicant so where would the required signage be erected?
- All signage on the Public Highway must be contained in the Traffic Signs Regulations and General Directions (TSRGD) 2016 – the suggested signage is not contained in the TSRGD.
- Any prohibition on the Public Highway - as these signs will - can only be enforced with lawful signage and would require a TRO (Traffic Regulation Order). An

advertisement consent cannot be approved in relation to giving messages to road users.

- 2013 Application – False Plans. The application must be considered in full knowledge that the application was only approved due to false plans being submitted. These plans claimed that the objector's land was owned or leased by the applicant. This was, and continues to be, incorrect.

HGV manoeuvres –

- HGVs are unable to both manoeuvre and turn around on the Brookes Garage site and therefore a danger to Highway Safety, resulting in reversing on to and off the A19.

## **8.0 Environment Impact Assessment (EIA)**

8.1 This development is not Schedule 1 or 2 development and is not considered to require an Environmental Statement.

## **9.0 Main Issues**

9.1. The key considerations in the assessment of this application are:

- Principle of Development
- Highway safety
- Impact on amenity of neighbouring residents
- Petroleum certificate

## **10.0 Assessment**

Principle of Development

10.1 It is necessary to consider whether the principle of the use of the site as a petrol station and retail shop to include the on-site preparation of hot and cold food for sale on the premises is acceptable.

10.2 The principle of a shop (but not the on-site preparation of hot and cold food for sale) has already been established through planning permission, reference number 13/01238/FUL. The petrol station element was established in 1957. The site is in both open countryside and within the York Green Belt and Local Plan strategic policies S1, S5 and S6 apply (including reference to the NPPF).

10.3 Policy S1 sets out the Council's priorities in terms of Sustainable Development Principles and states that the Council will seek to ensure that development makes a positive contribution towards the sustainability of communities, enhances the environment and adapts to and mitigates the impact of climate change.

10.4 It is considered that the development would support existing communities and makes effective and efficient use of land given the utilisation of the existing site and building and



the services offered, providing services for the local community. The proposal is in line with promoting Hambleton as a recognised location for business by meeting the needs of expanding businesses and recognising the contribution of the rural economy.

- 10.5 Policy S5, Development in the Countryside, seeks to ensure that new development recognises the intrinsic beauty, character and distinctiveness of the countryside as an asset that supports a high-quality living and working environment, contributes to the identity of the district, provides an attractive recreational and tourism resource and is a valued biodiversity resource. Development in the countryside will only be supported where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located
- 10.6 The site is an existing petrol station. No built development is proposed. The proposals are not considered to harm the character, appearance or environmental qualities of the area given the nature and location of the existing site.
- 10.7 Policy S6, the York Green Belt is also relevant. Within the Green Belt there is a need to maintain strict controls over the types of development which can be permitted. Proposals for development in the Green Belt will be determined in accordance with relevant national policy.
- 10.8 NPPF Paragraph 147 states that, 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 148 states that, 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'. Paragraph 149 states that, 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.
- 10.9 No new buildings are proposed as part of this application and the proposals are not considered to be inappropriate development in the Green Belt. The proposals preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The proposal adds an additional food use into an existing building with is of a permanent and substantial construction.
- 10.10 Whilst the application is for Full Planning Permission and notwithstanding the retrospective nature of the proposals, the site is occupied by a longstanding petrol station activity. Taking into account the existing use of the site and extent of development on the site, it is considered that the proposal is not in conflict with the requirements of Policies S1, S5 or S6.
- 10.11 It is considered the petrol station with the retail element is a rural business and therefore Local Plan Policy EG7: Businesses in Rural Areas is engaged. The Policy states that employment generating development will only be supported in locations outside the main built form of a defined settlement in the settlement hierarchy where it involves:
- a. the expansion of an existing business where it is demonstrated that there is an operational need for the proposal that cannot physically or reasonably be accommodated within the curtilage of the existing site; or



- b. the re-use of an existing building of permanent, structurally sound construction that is capable of conversion without the need for substantial extension, alteration or reconstruction and can accommodate the functional needs of the proposed use including appropriate parking provision; or
- c. a new building provided that it is well-related to an existing rural settlement and where it is demonstrated that the proposal cannot be located within the built form of a settlement or an identified employment location; or
- d. other proposals specifically requiring a countryside location.

10.12 As set out in paragraph 5.8 of this report condition 3 imposed on planning permission 13/01238/FUL prohibits the on-site preparation of food for sale. Notwithstanding that prohibition, the on-site preparation of food and the sale of that food is sought through this planning application.

10.13 The purpose of Policy EG7 is to promote a vibrant rural economy within the district's extensive countryside to support businesses with a genuine need to be located in the countryside. In terms of this Policy, it is considered that the proposal is compliant with sub-paragraph (d). It comprises a change to the operation of an existing business (to allow the on-site preparation of food for sale), that requires a countryside location (given the existing location of that business).

10.14 Local Plan Policy EG3 states that outside the defined centres in the hierarchy, the Council will seek to maintain and, where appropriate, enhance retail facilities that provide for local needs. It is considered that the retail element of the business does provide for local needs and that the provision of food prepared and sold on the premises will enhance that provision. It is noted that there is no facility of this kind within the village of Shipton by Beningbrough, which is the nearest settlement (and less than a mile away from the site).

10.15 It is considered that uses comprised in the proposal, and therefore the principle of the proposed development, accord with the Council's Local Plan Policies.

#### Impact on Residential Amenity

10.16 Policy E2 Amenity states that all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use. The purpose of this policy is to ensure that the physical environment created by new development protects and promotes a high standard of amenity both for future occupiers and users, and for surrounding uses.

10.17 The site is located adjacent to the A19. One residential property is sited directly adjacent the site. This dwelling is sited within the submitted blue line area and is owned by the applicant.

10.18 Having regard to relevant provisions of policy E2, it is considered that the proposal is compliant for the following reasons:

- There would be no loss of daylight or sunlight as a result of the proposed use and no significant overshadowing effects;

- The proposal would not be overbearing or oppressive, and will not result in overlooking causing a loss of privacy for any residents;
- There would be no significant adverse impacts in terms of noise including internal and external levels, timing, duration and character, Additionally the Environmental Health service have commented that it has considered the potential impact on amenity and the likelihood of the development to cause a nuisance and consider that there will be no negative impact. The Environmental Health Service has no objections to the application.
- Adequate and convenient provision is made for the storage and collection of waste and recycling to the rear of the main building;
- There would be no adverse effect on safety near a notifiable installation and no increase in the number of people that would be put at risk in the vicinity of a notifiable installation.

#### Highway Matters

- 10.19 National Planning Policy Framework paragraph 111 states: “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
- 10.20 Policy IC2 Transport and accessibility states that the Council will work with other authorities and transport providers to secure a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all.
- 10.21 The applicant proposes a number of alterations to the internal layout. These are described by the applicant as follows:
- Additional customer parking is provided compared to 12 existing car parking spaces as well as an area for the manoeuvring of service vehicles delivering to the site and customer routing throughout the site.
  - Relocation of the five parking spaces to the rear of the existing store, the introduction of a new internal one-way circulation system and the formalisation of the delivery area and company van parking to the rear of the store.
  - The parking spaces would be relocated to the south of the building regularising the parking area adjacent to spaces 11 and 12.
  - One additional parking space would also be provided, taking the total car parking provision to 13 spaces and 1 light goods vehicle space. The relocation of parking creates two formal parking areas and facilitates the introduction of a specific delivery area to the rear of the main building.
  - A designated company van parking space would be provided to the north of the jet car washing facility.
  - A one-way system would be put in place, directing vehicles around the southern extent of the store through directional road markings.
  - The applicant has stated that the introduction of the concrete bollards by the adjacent landowner to delineate his boundary leaves a 3.7m distance between the bollards and the building. This has been reduced to 3.2m to provide an additional safe distance for vehicles.

- Refuse Collection and Servicing will be conducted to the rear of the store, forming a service area which is facilitated by the relocation of the five car-parking spaces.

10.22 As part of the application, the applicant is seeking permission for the preparation of hot and cold food for sale on premises. This activity is currently taking place on site (without the benefit of permission). Food was sold on site as part of the business; however, this was prepared off site by third party suppliers and delivered to site by those companies using their delivery service vehicles. In relation to the preparation of food on-site, the applicant has confirmed that all ingredients are sourced from existing suppliers and the level of deliveries will remain the same (i.e. when compared with the delivery of prepared food only).

10.23 The description of the proposal has been amended to reflect the preparation and sale of hot and cold food. It is considered that the provision of food prepared on the premises may attract visitors to the shop who are not making a linked trip for fuel. The applicant has given an indication of the relatively extensive range of food that would be provided as follows:

Sandwiches (Hot and Cold, including things like Bacon and Sausage)

Pastries (savoury and sweet)

Salads

Pastas

Quiche

Wraps

Cakes

Brownies

Pate

Cooked Meats & Charcuterie

Smoked Salmon & other seafood lines

Cheeses

Coffee & Hot Drinks to Go

Hot food to go - sausage rolls, bakes

10.24 The applicant's agent has indicated that all cooking will be done in a conventional oven sited within the stock room of the premises. There will be no indoor seating and all food would be taken off the premises.

10.25 The Highways Authority have advised that, whilst there may be an element of primary trips generated by the hot and cold food use, given that it is currently in operation, any trips generated by this use are already present on the network. As far as the level of trip generation is concerned, the Highways Authority raises no objection in terms of the impact of the proposal on the safe operation of the highway network.

10.26 In regard to the parking on the site, a specific layout was approved under the 2013 planning permission. However, it became evident to the Council that the parking had not been laid out as shown in accordance with these plans. A subsequent application was submitted to seek to vary the approved plans under planning reference no.: 20/00794/MRC. This was refused planning permission for the following reason:

"The revised layout of the site fails to provide a safe environment for customers to visit whilst utilising the shop and deli facility. The absence of appropriate on-site parking and turning space for deliveries results in vehicles parking in a manner that is detrimental to the free flow of traffic on the A19, the adjoining highway, and would be a danger to all road users. The proposal is therefore contrary to Local Development Framework policies CP1, DP3 and DP4 and as the proposal would result in an unacceptable impact on highway safety the proposal is also contrary to the NPPF, noting particularly the provisions of paragraph 109."

- 10.27 At the time of the 2020 application the Highways Authority recommended the refusal of the planning application on the following grounds:
- "The Planning Authority considers that in the absence of adequate on-site parking and manoeuvring space the proposed development would be likely to result in vehicles being parked in a manner that is detrimental to the free flow of traffic within the site with consequent danger to users."
- 10.28 The applicant appealed against the 2020 decision to the Planning Inspector who dismissed the appeal owing to the fact that third party evidence including a Land Registry Title Plan showed part of the land subject to the planning appeal to be outside the ownership of the appellant. The Inspector concluded that in such instances Section 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates.
- 10.29 Additionally in arriving at his decision the Inspector commented that he was not presented with any evidence that the above requirements of notification to other owners have been complied with and so on this basis the appeal was dismissed.
- 10.30 The Highways Authority in relation to this specific planning application (22/01117/FUL) have raised no objection.
- 10.31 As set out in the consultations section of this report the application has received a number of objections, some of which focus on highway safety issues. Regarding these, the following should be noted:
- No signage, either internal or external is now proposed as part of the amended application so consideration of the Traffic Signs Regulations and General Directions 2016 (TSRGD) does not arise.
  - The applicant has confirmed that the application proposals do not impact on the adjacent landowners (objectors) easement (registered on the 23rd of December 2019) or their right of way.
  - The applicant has confirmed that the current application does not alter any of the entrance or exit points to the site.
  - It must be borne in mind that planning permission has been granted (reference 22/01435/FUL) for the formation of a new access from the A19 highway into the objector's premises to the south of the subject site. This new access has been formed some 10 metres north of the adjacent building. A supporting statement

accompanying the planning application dated April 2022 states that the proposed new access would be formed in the verge in the position indicated on the accompanying plans and be formed to create a one-way system within the site to avoid potential conflict at the entrance.

- There would be no additional floor space resulting from the proposal.
- Similarly, the applicant is proposing to relocate parking spaces to the south of the building, regularising the parking area adjacent to spaces 11 and 12 as set out in the existing site layout plan. One additional parking space will also be provided, taking the total parking provision to 13 spaces.
- The relocation of parking creates two formal parking areas and facilitates the introduction of a specific delivery area to the rear of the main building. A designated company van parking space will be provided to the north of the jet car washing facility. To ensure the relocated parking spaces are accessible following the use of the pumps, a one-way system would be put in place, directing vehicles around the southern extent of the store through directional road markings.
- The current red line of the site includes an area of highway maintainable at the public expense. The surfacing of this area has changed since 2013 when a previous planning application here was determined. A section of highway verge has been hard surfaced in concrete and is utilised as part of the forecourt; however, the relevant permissions (e.g., a Section 278 or Section 184 agreement) from the Local Highway Authority cannot be found. The Local Highway Authority has reviewed this matter and does not object to the change of surfacing and is not intending to pursue the issue. Whilst the surfacing of the highway has changed, it is not considered that this prevents the public from exercising their rights to pass and repass. Any brief parking or loading in this area is consistent with similar activity that commonly takes place on the public highway.

10.32 Within the applicant's supporting Highways Statement there are plans showing how the forecourt, parking spaces and deliveries will operate with a new layout. The plan indicates that extra lining will be implemented to direct users around the site. The proposals are acceptable to the Highways Authority. The plans show that the site can be accessed by delivery vehicles and that the cars visiting the site can access the parking spaces proposed independently ie. access to the spaces does not rely on adjacent spaces being unoccupied. Local representations have been raised with respect to the absence of customer HGV or Tractor parking however the Highways Authority's standards do not require such facilities for this land use. The Highway Authority does not have any concerns with the submitted Statement or revised site plan.

10.33 As part of the application process the Highways Authority has been provided with some evidence of parking and queuing on the A19 in the vicinity of the site. However, the Highways Authority does not consider there to be a persistent problem in relation to parking and queuing at this location on the A19. The Highways Authority are not aware of any other representations from the Police, Parish Council or the general public in relation to these matters. The injury accident history at this location also suggests that there is not a significant problem here in relation to the parking or queuing concerns raised.

10.34 An objector has submitted a Safety Audit that they commissioned. Many of the issues raised were in relation to the internal layout of the petrol station which the applicant has sought to address. The effect of the proposals on the safe operation of the A19 have been considered

by the Highways Authority (as referred to above). It is apparent that there are access issues associated with this site and the neighbour to the south; however, this is considered a civil dispute. The effects that the proposals as submitted would have on the highway safety on the A19 are matters for the Local Highway Authority which have been considered as part of the application process.

- 10.35 The Highway Authority have confirmed that, in terms of injury collision history adjacent to the site on the A19 there have been no reported injury collisions within 100m of the site over the last 5 years. The Highways Authority are not aware of a recurrent injury collision problem at this site and are not proposing any highway improvements on road safety grounds to the area.
- 10.36 In regards to the removal of signage from the proposal the Highway Authority Have advised that ultimately, as there is no relevant collision history linked to the current operation of the site in the last five years. A refusal on this point on highway safety grounds would be difficult to sustain. Typically filling stations in the UK operate on a left in, left out basis, which is the case here.
- 10.37 In summary, the Highways Authority has considered this application and the matters raised by third parties. It is the opinion of the Highways Authority that a refusal based on the proposal's effect on highway safety could not be sustained. They do however recommend that the proposed layout is implemented to formalise the traffic management within the site which will have benefits to the users/ visitors within the site and ultimately to those users/visitors accessing and egressing the A19.
- 10.38 Taking the above into account it is considered that highway safety would not be compromised as a safe physical access can be provided to the proposed development from the highway network. It is considered that the highway network can accommodate the development. Additionally adequate provision is made for servicing access together with appropriate provision for parking. It is acknowledged that given the location and nature of the site the development is less well integrated with footpath and cycling networks and public transport and does not minimise the need for travel or maximise sustainable travel options.
- 10.39 It is therefore considered that having regard to the above, the proposal is largely compliant with Local Plan Policy IC2: Transport and Accessibility and the overarching principles of the National Planning Policy Framework.

#### Petroleum Certificate

- 10.40 As set out in the consultation section of the report, concerns have been raised in respect of the extant petroleum certificate.
- 10.41 Trading Standards officers were consulted in relation to this issue. Their comments made via letter dated 28 October 2022 are in relation to: general considerations of the petroleum certificate, turning circle, submitted plans (in relation to the petroleum certificate), concrete blocks, plans and right of way. These are as follows:



- 10.42 It should be noted that the criteria for the consideration of the issue of a petroleum certificate are solely those set out in Regulation 6 of the Petroleum (Consolidation) Regulations 2014. That is, whether North Yorkshire County Council, as the petroleum enforcement authority, is ‘...satisfied that the containment system for petrol at the dispensing premises, including storage tanks, pipework, and dispensers, may reasonably be used to store petrol and would not create an unacceptable risk to the health or safety of any person.’ The petroleum enforcement authority shall only provide comment in respect of matters outlined above by addressing the requirements of Regulation 6 of the Petroleum (Consolidation) Regulations 2014.
- 10.43 For fuel delivery tankers accessing the site, the position and location of the tanker stand follows the APEA Blue Guide by allowing tankers to enter the site and unload without the need to reverse or make other manoeuvres and provides a clear exit route in a forward direction. In this instance, upon entry to the site via the north entrance/exit, the fuel delivery tanker drives onto the designated fuel delivery stand parallel to the A19. Following the fuel drop, the tanker drives forward to exit the site via the south entrance/exit.
- 10.44 The designation of the tanker stand means that the tanker does not use a turning circle or other similar manoeuvre. Consideration has been made of other on-site activities and vehicle movements such as shop or car wash customers and other delivery vehicles on the site, based on the submitted plans and a site visit. The Blue Guide sets out considerations for vehicle movements as far as such movements could impact on the safety of containment and dispensing of petrol.
- 10.45 The introduction of a one-way system for vehicles accessing the site, along with clear signage would also follow the APEA Blue Guide by further reducing the possibility of vehicles making unnecessary manoeuvres on the forecourt as this activity takes place to the rear or side of the shop. Designated parking spaces and the area for non-petroleum deliveries are currently sited outside of the immediate forecourt area and allows manoeuvres to be made without compromising safety around the fuel dispensers. (officer note: consultation response in relation to the removal of signage from the proposal is awaited),
- 10.46 The plans that were submitted to our service are satisfactory for petroleum certification purposes and have been considered during a site visit. Our inspector did note that whilst parking spaces to the rear of the shop building were depicted on the plans they were not actually marked up for use as parking areas on site, this in turn gave greater space for vehicle manoeuvre to the rear of the shop. This is not in the vicinity of the forecourt area or any dispensing of fuel. It does not impact arrangements for the containment or dispensing of petrol.
- 10.47 The concrete blocks on the site perimeter do not affect the containment system for petrol and are not in the vicinity of the forecourt area.
- 10.48 Issues relating to rights of way are civil matters, and not a consideration for petroleum certification. NYC Trading Standards (in a further letter to the Objector dated 14 November 2022) states that during tanker fuel delivery it is not necessary to close this site in full, however, it is necessary to temporarily close areas that are within the hazardous zone. It is possible to close off all fuel deliveries without closing down the whole site.



10.49 The bollards are not sited on the tanker delivery area and the tanker does not enter the area where the concrete blocks are located. The tanker or fuel delivery is not inhibited by the concrete bollards and the bollards are not within the hazardous zone. Details associated with the rights of access are not a petroleum licensing function.

### **11.0 Planning balance and conclusion**

11.1 The proposal is considered to be compliant with relevant policies of the Development Plan as set out in this report. In addition, the proposal meets complies with relevant aspects of national policy and accords with the 3 strands of sustainability contained within that national policy.

11.2 The Economic Objective - The economic benefits are, in accordance with the NPPF, afforded some positive weight. The applicant has indicated that there would be the creation of two new full time staff jobs.

11.3 The Social Objective - The proposed development generates some benefit by improvement to the retail function of the shop.

11.4 The Environmental Objective – There is no significant environmental impact.

11.5 It is considered that the proposals comply with the Development Plan as a whole.

### **12.0 Recommendation**

12.1 That planning permission be **GRANTED** subject to conditions listed below:

#### **Recommended conditions:**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The parking, manoeuvring and turning areas for all users shall be constructed in accordance with the details on drawing number AMA/21033/SK002 Issue P1 Dated 12 September 2023. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To ensure that the parking and servicing areas are kept accessible to vehicles and that circulation areas are available for the free flow of traffic on the site. In the interests of highway safety and general amenity of the development.

3. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings:

Site Location Plan submitted 12 May 2023

Site Plan as proposed. Drawing 002 Rev. E. Submitted 18 August 2023

Proposed Floor Plan. Drawing 004 Rev. A. Submitted 12 May 2023

Highways Supporting Statement submitted 13 September 2023

AMA/21033/SK002 Issue P1 Dated 12 September 2023

Reason: In order that the development provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with Local Plan Policies E2: Amenity Local Plan Policy IC2: Transport and Accessibility.

4. Planning permission is granted for food to be prepared and sold on the premises only. There should be no indoor or outdoor seating or standing space provided for the consumption of food and food should be consumed off the premises.

Reason: To clarify the scope of the planning permission and limit the food use to that of preparation and sale only.

5. Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' the premises shall not be used for any purpose other than a petrol filling station and associated shop for the sale of convenience goods and for the preparation and sale of hot and cold food on the premises for consumption off the premises in accordance with the note entitled 'illustrative food items for sale' dated 13.9.2023 and Proposed Floor Plan. Drawing 004 Rev. A. Submitted 12 May 2023.

Reason: To clarify the scope of the planning permission and limit the planning permission to that applied for and considered.

**Target Determination Date:** 20 February 2023

**Case Officer:** Ann Rawlinson- [ann.rawlinson@northyorks.gov.uk](mailto:ann.rawlinson@northyorks.gov.uk)