

## 17 MARCH 2020 PLANNING COMMITTEE

6c PLAN/2019/1120

WARD: Mount Hermon

LOCATION: Lion Retail Park, 151 Oriental Road, Woking, Surrey

PROPOSAL: Use of land in the centre of the car park for the siting of 4no. kiosk units to provide ancillary A1, A3 and A5 uses, and use of land at the eastern boundary for the siting of a car wash facility.

APPLICANT: Mary Street Estates Limited

OFFICER: James Kidger

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### **REASON FOR REFERRAL TO COMMITTEE**

The application proposes the erection of non-residential structures, which falls outside the scope of delegated powers as set out by the Management Arrangements and Scheme of Delegation.

### **PROPOSED DEVELOPMENT**

Planning permission is sought to use land in the centre of the car park for the siting of up to four kiosk units, and to use land on the eastern boundary for the siting of a car wash facility. The proposed kiosks would provide ancillary A1, A3 and A5 uses and their design and appearance – as well as that of the car wash – would not be fixed, so that different operators could come and go without the need for further permission.

### **PLANNING STATUS**

- Contaminated Land

### **RECOMMENDATION**

GRANT planning permission subject to conditions.

### **SITE DESCRIPTION**

The application site comprises a rectangular shaped plot of land in the centre of the car park serving the Lion Retail Park, and an elongated strip of land along its eastern side.

### **PLANNING HISTORY**

- PLAN/1995/0290 – original consent for the retail park – approved 11<sup>th</sup> August 1995.
- PLAN/2002/1495 – mobile snack trailer – approved 13<sup>th</sup> February 2003.
- PLAN/2012/1122 – Costa – approved 22<sup>nd</sup> May 2013.
- PLAN/2014/0418 – S73 for Asda's opening and delivery hours – approved 11<sup>th</sup> August 2014.
- PLAN/2018/0263 – clothes recycling office – approved 12<sup>th</sup> June 2018.
- PLAN/2019/0585 – permanent retention of clothes recycling office – approved 26<sup>th</sup> September 2019.

### **CONSULTATIONS**

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Environmental Health – No objection subject to recommended conditions.

Highway Authority – No objection.

### **REPRESENTATIONS**

Twenty-seven (27) representations have been received objecting to the proposed development for the following reasons:

- Increase in the volume of traffic and consequent congestion in the area;
- Danger to pedestrians as a result of increased traffic;
- Pollution from increased traffic would lower the air quality in the area;
- Loss of parking spaces;
- Car wash unnecessary as there is one close by already;
- Food/drink outlets unnecessary as provided on site already;
- Existing businesses in the area would lose custom;
- Noise;
- Increase in litter and waste;
- The kiosks would be ugly/incongruous/out of character;
- Odour from cooking;
- Pollution from chemicals used in the car wash;
- It would be harder to navigate the car park;
- The retail park should not be further developed;
- Deliveries may be at anti-social hours;
- Hours of operation and delivery should remain as at present;
- Light pollution to neighbours;
- Increased congestion will put pressure on the disabled spaces;
- Overdevelopment of the site;
- Food consumption in a polluted car park should not be encouraged;
- The kiosks would be unregulated;
- No locational need for the kiosks has been substantiated;
- It is unclear how waste would be collected; and
- Development of this nature should be located in the town centre.

*Officer note: further competition to existing businesses is not a material planning consideration.*

### **RELEVANT PLANNING POLICY**

#### National Planning Policy Framework (NPPF) (2019):

Section 2 – Achieving sustainable development

Section 6 – Building a strong, competitive economy

Section 7 – Ensuring the vitality of town centres

Section 8 – Promoting healthy and safe communities

Section 9 – Promoting sustainable transport

Section 12 – Achieving well-designed places

#### Development Management Policies DPD (2016):

DM7 – Noise and light pollution

DM8 – Land contamination and hazards

#### Woking Core Strategy (2012):

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CS18 – Transport and accessibility  
CS21 – Design  
CS24 – Woking's landscape and townscape  
CS25 – Presumption in favour of sustainable development

### Supplementary Planning Documents (SPDs):

Parking Standards (2018)  
Woking Design (2015)  
Climate Change (2013)  
Outlook, Amenity, Privacy and Daylight (2008)

### **PLANNING ISSUES**

1. The main planning considerations material to this application are the principle of the development proposed, the impact on the character of the area, the impact on neighbouring amenity and the impact on transport and parking provision.

#### Principle of development

2. The application site and the wider area occupied by the Lion Retail Park does not fall within any of the centres defined by policy CS1 of the Woking Core Strategy. Paragraph 86 of the National Planning Policy Framework (NPPF) establishes that main town centre uses proposed for out of centre locations should be subject to sequential assessment if they are not in accordance with an up to date development plan.
3. The uses proposed are 'main town centre uses' as defined by the NPPF and no up to date plan policy directly relates to the site. However, the application indicates that the proposed kiosks and car wash are intended as complementary to the existing retail park and are not intended to become destinations in their own right. It is therefore inferred that the proposed uses are intended to be ancillary to the existing use of the site.
4. Whether a use is ancillary to another is a matter of fact and degree in each case, but it must be functionally dependent upon the main use. In this case the proposed kiosks and car wash would acquire the large majority of their custom from visitors to the retail park, surrounded as they would be by over 300 parking spaces 'exclusively for users and staff of the retail units' (Condition 16 to PLAN/1995/0290). It is considered that the viability of the proposed kiosks and car wash would be largely derived from the existence of the retail park in its current form, and that without this there would be no impetus for the development proposed. There is therefore a clear functional dependency, on the part of the kiosks and car wash proposed, to the main retail park use of the site.
5. A further indicator of ancillary use is the limited scale of the proposed kiosks (up to 200 square metres floorspace) when set against the wider site (over 7000 square metres floorspace). Their significance in the context of the wider site would be small. The scale and function of the kiosks would be similar to that of the existing Costa Coffee unit on the site, and this unit was also considered ancillary when permission was granted (delegation report, PLAN/2012/1122).
6. For these reasons the proposed development is considered ancillary to the existing retail park and the applicant's contention that they would not be destinations in their own right is accepted. As such, the proposed development would not constitute new 'main town centre uses' for the purposes of paragraph 86 of the NPPF and a sequential test is not required.

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7. The principle of the development proposed is therefore considered acceptable subject to the planning considerations discussed below.

### Character of the area

8. As discussed above the proposed kiosks and car wash would be ancillary to the existing retail park and the character of the use (i.e. as a retail park) would not materially change.
9. The site is dominated by the retail units on the northerly side, whilst the car park to the south is set down from the surrounding roads which serves to limit the visual prominence of parked vehicles. The proposed kiosks would not be significantly larger than the existing 'mobile snack trailer' (permitted under PLAN/2002/1495) and are not considered out of place in the context of a retail park environment, while few solid structures would be required to facilitate the proposed car wash. There would be no significantly harmful impact to the visual amenity of the area.

### Neighbouring amenity

10. The main considerations in amenity terms are those of noise and odour toward neighbouring properties. The proposed kiosks would be sited in the centre of the car park and would be approximately 60m from the nearest residential properties at Little Riding, which are located at the other side of Oriental Road to the south. In this context the noise generated by, for example, the preparation of food or customers sat outside would not be materially greater than that of the existing retail park environment and adjacent roads.
11. The proposed kiosks may have need of air conditioning units, electricity generators or similar such equipment. In order to prevent undue noise, a condition will be added requiring any plant or generator equipment be subject to the approval of the Council before being installed.
12. It is considered appropriate in view of their ancillary nature to apply the same hours of use condition to the kiosks and car wash as that applied to most of the retail units (Condition 17 of PLAN/1995/0290 restricts them to 0800 to 2000 daily). This would effectively mitigate noise early in the morning and late in the evening.
13. The proposed kiosks would be flexible and all could, if desired, be hot food based at the same time. As such, a condition to control potential odour generation and fume emission is also considered appropriate.
14. Subject to these conditions, the proposed development would not be significantly harmful to the amenity of nearby residential properties.

### Transport

15. As set out above the proposed kiosks and car wash would be ancillary to the existing retail park and are not considered a destination in their own right. Significant additional traffic would not therefore be generated and the impact to the nearby roads would be minimal. It is further noted that the Highway Authority have no objection to the proposed development.
16. Based on the submitted site plan, the existing car park is made up of 376 spaces. Of these, 3 are occupied by the approved clothes bank and 2 by the snack trailer. The

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proposed kiosks would occupy a further 16 and the proposed car wash 14. 341 spaces would remain.

17. The Council's Parking Standards SPD recommends a maximum - rather than a minimum - provision for non-residential development. Based on the existing retail floorspace this amounts to 393 spaces. The remaining 341 spaces would fall well within this figure.
18. It is further noted that the applicant has submitted car park monitoring data indicating that the average occupancy level of the car park rarely exceeds 50%. Though not comprehensive, it was undertaken during the typically busy pre-Christmas period and is afforded some weight. In any case, there is no information before the Council suggesting otherwise.
19. Given the above, the loss of parking spaces as a result of the proposed development would not have a material impact to the operation of the retail park or to nearby roads, and the number of remaining spaces would be policy compliant.

### Other matters

20. The retail park is sited on land previously used for industrial and manufacturing purposes and therefore potentially contaminated. No groundworks are proposed and as such the development would not be affected.
21. The listed Shah Jahan Mosque and Salar Jung Memorial Hall are located around 140 and 105m south-west of the application site respectively, and are screened by a variety of trees. There would be no harm to their setting as a result of the proposed development.

### Local Finance Considerations

22. The additional floorspace proposed would be in excess of 100 square metres and would thus be liable for a financial contribution under the Community Infrastructure Levy (CIL).

## **CONCLUSION**

The proposed development is considered acceptable in principle and would not be significantly harmful to the character of the area or to the amenity of nearby residential properties, while the parking provision at the retail park would remain adequate. The application is therefore recommended for approval subject to conditions.

## **BACKGROUND PAPERS**

Site Photographs dated 31<sup>st</sup> January 2020.

## **RECOMMENDATION**

It is recommended that planning permission be GRANTED subject to the following conditions:

1. The development for which permission is hereby granted shall be commenced not later than the expiration of three years beginning with the date of this permission.

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Reason: To accord with the provisions of Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:

16001 – Site Location Plan – received 18<sup>th</sup> November 2019

Reason: For the avoidance of doubt and to ensure that the development is completed in accordance with the approved plans.

3. The kiosks and car wash hereby approved shall not be open to customers outside the hours of 0800 to 2000 Mondays to Saturdays inclusive, and 0900 to 1700 on Sundays, Bank or Public Holidays.

Reason: To protect the environment and amenities of the occupants of nearby properties.

4. Deliveries, waste collection, servicing and other logistical support (including the set up or removal of the units themselves) to the kiosks and car wash hereby approved shall not take place outside the hours of 0700 to 2230 Mondays to Fridays inclusive, and 0900 to 1800 on Saturdays, Sundays, Bank or Public Holidays.

Reason: To protect the environment and amenities of the occupants of nearby properties.

5. ++ No kiosk hereby approved shall be brought into use until a scheme for the installation of equipment to control the emission of fumes and smell from the kiosk has been submitted to and approved in writing by the Local Planning Authority, and the approved scheme has been fully implemented. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with the approved details and retained as such thereafter, or until the kiosk in question is removed from the site.

Reason: To protect the environment and amenities of the occupants of nearby properties and prevent nuisance arising from fumes and smell.

6. No fixed plant and equipment associated with air moving equipment, compressors, generators or plant or similar equipment shall be installed until details, including acoustic specifications have been submitted to and approved in writing by the Local Planning Authority. Such plant and equipment shall not be installed otherwise than in strict accordance with the approved specifications.

Reason: To protect the environment and amenities of the occupants of nearby properties.

7. The kiosks hereby approved (and any associated seating, waste bins and other paraphernalia) shall be sited so that each one occupies one of the groups of four parking spaces in the corners of the red line site boundary, and do not obstruct the pedestrian walkway spanning the length of the site, nor the vehicular access across the width.

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Reason: To maintain a coherent car park layout in the interests of pedestrian safety.

### **Informatives:**

1. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of the National Planning Policy Framework 2019.
2. The applicant is advised that Council Officers may undertake inspections without prior warning to check compliance with approved plans and to establish that all planning conditions are being complied with in full. Inspections may be undertaken both during and after construction.
3. The applicant is advised that under the Control of Pollution Act 1974, works which will be audible at the site boundary will be restricted to the following hours: 8.00 a.m. - 6.00 p.m. Monday to Friday; 8.00 a.m. - 1.00 p.m. Saturday; and not at all on Sundays and Bank Holidays.
4. The applicant is advised that the development hereby permitted is subject to a Community Infrastructure Levy (CIL) liability. The Local Planning Authority will issue a Liability Notice as soon as practical after the granting of this permission.

The applicant is advised that, if he/she is intending to seek relief or exemptions from the levy such as for social/affordable housing, charitable development or self-build developments it is necessary that the relevant claim form is completed and submitted to the Council to claim the relief or exemption. In all cases (except exemptions relating to residential extensions), it is essential that a Commencement Notice be submitted at least one day prior to the starting of the development. The exemption will be lost if a commencement notice is not served on the Council prior to commencement of the development and there is no discretion for the Council to waive payment. For the avoidance of doubt, commencement of the demolition of any existing structure(s) covering any part of the footprint of the proposed structure(s) would be considered as commencement for the purpose of CIL regulations. A blank commencement notice can be downloaded from:

[http://www.planningportal.gov.uk/uploads/1app/forms/form\\_6\\_commencement\\_notice.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_6_commencement_notice.pdf)

Claims for relief must be made on the appropriate forms which are available on the Council's website at:

<https://www.woking.gov.uk/planning/service/contributions>

Other conditions and requirements also apply and failure to comply with these will lead to claims for relief or exemption being rendered void. The Local Planning Authority has no discretion in these instances.

For full information on this please see the guidance and legislation here:

<https://www.gov.uk/guidance/community-infrastructure-levy>

<http://www.legislation.gov.uk/all?title=The%20Community%20Infrastructure%20Levy%20Regulations%20>

Please note this informative provides general advice and is without prejudice to the Local Planning Authority's role as Consenting, Charging and Collecting

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Authority under the Community Infrastructure Levy Regulations 2010 (as amended).

5. Your attention is specifically drawn to the condition(s) above marked ++. These condition(s) require the submission of details, information, drawings, etc. to the Local Planning Authority PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT ON THE SITE or, require works to be carried out PRIOR TO THE COMMENCEMENT OF THE USE. Failure to observe these requirements will result in a contravention of the terms of the permission and the Local Planning Authority may serve Breach of Condition Notices to secure compliance.
6. The applicant is advised that the development hereby permitted relates to the use of the land only and does not permit the erection of permanent structures on either part of the application site. If permanent operational development is proposed a further grant of planning permission would be required from the Local Planning Authority.