

Application No: Y16/1228/SH

Location of Site: Seapoint Filling Station Seabrook Road Hythe Kent

Development: Erection of extension of existing shop including addition of an extra storey for offices and storage

Applicant: Mr Rajamenon
Seapoint Filling Station
Seabrook Road
Hythe
Kent
CT21 5RL

Agent: Mr Gus Naidoo
UN Architects
77 Oakhill Road
Putney
London
SW15 2QJ

Date Valid: 10.11.16

Expiry Date: 07.03.17

Date of Committee: 28.02.17

Officer Contact: Mrs Wendy Simpson

RECOMMENDATION: That planning permission be granted subject to the conditions set out at the end of the report.
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1.0 THE PROPOSAL

- 1.1 This application is for the construction of a part two-storey and part first floor extension to the existing petrol filling station kiosk building at the site. The development would provide a larger shop area at ground floor level and reprovide the office facilities and storage room to the first floor level. (Following demolition of part of the existing kiosk building.)
- 1.2 The resultant building would be a flat roofed two-storey building with the upper floor being externally clad with a coated aluminium cladding, such as the product 'Trespa' panelling, and a slim profile roof. The overall height of the resultant building would be 5.8m high. The external width would be 18.6m and depth 8.1m. At ground floor level there will be incorporated a modern, full-height, glazed retail frontage across much of the eastern facade with powder coated aluminium frames throughout. The existing stone finish is to be removed and at ground floor level the external walls will be of a painted render.
- 1.3 The proposal also involves the provision of an additional 7 on-site parking spaces, resulting in a total of 9 parking spaces on the site which are independent of parking at the fuel pumps. The provision of these parking

spaces would involve the closing up of one of the two existing entrance points into the garage forecourt.

- 1.4 The proposal includes the continued 24 hour opening of the petrol filling station and shop and an increase in staff numbers from 2 full-time equivalent workers to 4 full-time equivalent workers.
- 1.5 The applicant has undertaken amendments to the design of the building and in respect to other aspects of the proposal during the course of the application. The design of the building has been amended by the redesigning the roof form to a slim profile roof, reducing the height of the building by about 0.3m, amending the external cladding material at first floor level from PVCu cladding to a flat aluminium cladding product, emphasis of the depth of the window reveals and the use of powder coated aluminium frames throughout. In terms of other changes to the proposal the applicant has revised the proposal to create an additional seven parking spaces on the site and the inclusion of an enclosed service yard to the rear of the building.

2.0 LOCATION AND DESCRIPTION OF SITE

- 2.1 The application site is that an existing petrol filling station located within the urban area and on the A259, at the boundary between Sandgate Parish Council and Hythe Town Council areas but within the Hythe Town Council boundary.
- 2.2 To the north of the site, on the opposite side of the A259, is housing, to the south is the coast, to the east is a public car park and to the west is a single storey restaurant building and two new-build, three-and-a-half storey high apartment blocks.
- 2.3 The Environment Agency [EA] flood hazard maps show the site as being within Flood Zone 3 but the newly issued EA 'detailed maps' show the site as: not at risk of flooding from sea or river; not subject to ground water flooding; and, not within a groundwater protection area. The Shepway Strategic Flood Risk Assessment 2115 (adjusted for climate change) also shows that the site is not at risk of flooding. The local plan maps also show half of the site is within an area of known land instability (latchgate).

3.0 RELEVANT PLANNING HISTORY

The site has been the subject of many planning applications. The most relevant of which are listed below.

- | | | |
|-------------|---|---|
| Y04/0244/SH | - | Erection of an extension to existing sales building together with the erection of a jet wash and relocation of existing jet wash (Approved)
PLANNING PERMISSION EXPIRED AND NOT IMPLEMENTED. |
|-------------|---|---|

84/0770/SH - Modernisation of service station including provision of a new canopy forecourt alterations erection of an extension to the petrol kiosk to provide sales area and erection of a restaurant/cafeteria (as amended by letters dated 27th July 1984 and 13th September 1984 plans accompanying letter dated 23rd August 1984 and amplified by letter dated 17th September 1984) (Approved)

CH/4/65/53/145 - Establishment of petrol filling station (Approved)

4.0 CONSULTATION RESPONSES

4.1 Hythe Town Council

Support due to the benefit of this being a local amenity.

4.2 Sandgate Parish Council

We object on the basis of the scale of the second floor, but do not have an objection in principle to the ground floor extension. The second floor makes the form and massing of the building unacceptable.

4.3 KCC Highways And Transportation

Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters:

The proposals now provide an extra 7 car parking spaces which is adequate for the proposals. The existing access onto Princes Parade will be removed which will require the footway to be reinstated and the double yellow lines to be amended.

Therefore if permission is granted the following should be secured by condition:

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.

Completion and maintenance of the footway reinstatement with the necessary licences as shown on the submitted plans within three months of the erection of extension commencing.

Please note: Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

INFORMATIVE: It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

4.4 Building Control Officer

This application will not need the standard Latchgate condition.

4.5 Environmental Health

No objection regarding the granting of this application subject to the contaminated land condition complied with as stated by our contractors Merebrook dated 25/11/2016.

4.6 Merebrook

Thanks for your recent consultation. The environmental report submitted (Groundsure Screening ref: GS-3430730 dated 8 Nov 2016) is a basic/preliminary screening report which highlights potentially significant contamination issues due to use of the site as a fuel filling station. The report does not fulfil the detailed requirements of Shepway's standard land contamination condition and further detail and assessment is required. This should be in accordance with EA CLR11 Guidance and include a Site Conceptual Model and Source-Pathway Receptor risk assessment process.

4.7 Environment Agency

We have assessed this application as having a low environmental risk. We therefore have no comments to make.

4.8 Southern Water

Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

We request that should this application receive planning approval, the following informative is attached to the consent:

"A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 30'3 0119) or www.southernwater.co.uk".

There is a dedicated surface water sewer system in the vicinity of the site. Southern Water would prefer that onsite surface water discharges to the dedicated public surface water sewer system.

It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order

Adequate soakaway or infiltration system

b Water course

c Where neither of the above is practicable sewer

Southern Water supports this stance and seeks through appropriate Planning Conditions to ensure that appropriate means of surface water disposal are

proposed for each development.

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol /oil interceptors.

The application contains a proposal for vehicle washing facilities. Areas used for vehicle washing should only be connected to the foul sewer after consultation with Southern Water. The applicant is advised to discuss the matter further with Southern Water's Trade Effluent Inspectors. Please see <https://www.southernwater.co.uk/trade-effluent> for further information.

5.0 PUBLICITY

5.1 Neighbours notified by letter. Expiry date 12.12.2016

5.2 Site Notice. Expiry date 24.12.2016

6.0 REPRESENTATIONS

6.1 16 letters/emails received objecting on the following grounds:

- Additional traffic using the 'one way triangle' for pedestrians crossing from the beach;

- Loss of light for residents in Olivia Court and houses to the north;
- Loss of privacy to residents in Olivia Court;
- Increased noise and disturbance during the daytime and nighttime from deliveries and customers;
- Adverse effect on the natural conservation area;
- Increased light pollution;
- Will detract from the local beauty of the area;
- Harm to the street scene with a 'concrete jungle';
- Increased hazard to road conditions at junctions;
- Restricted parking related confrontations and haphazard parking on pavements;
- Harm to the vitality of businesses in Sandgate;
- Potential for damage to sewer infrastructure.

Matters raised in respect to fuel deliveries are not material to this proposal but are discussed in the 'Amenities' section of this report for completeness. Other matters raised are not material to planning discussed in the section 'Other matters'.

7.0 RELEVANT POLICY GUIDANCE

- 7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.
- 7.2 The following policies of the Shepway District Local Plan Review apply: SD1, BE1, BE8, BE19, U10a, TR11, TR12
- 7.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3, SS4
- 7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework (particularly paragraphs): 7, 17, 19, 32, 56, 94, 100, 109

8.0 APPRAISAL

Relevant Material Planning Considerations

- 8.1 Matters for consideration in this assessment are :

- Principle;
- Design;
- Neighbours' amenities;
- Highways and Parking;
- Contamination;
- Land instability;
- Flood risk.

Principle

- 8.2 The site is located within the built up area boundary where new development is generally acceptable in principle. The site is not within an area that has any restrictive policies in respect to commercial uses.

Design

- 8.3 The NPPF and saved local plan policy BE1 requires development to be of high quality housing in term of the appearance of the development, ensuring that the development density is appropriate for its location, the impact on the street scene and character of the area and also the functionality and layout of the development design. Paragraph 9 of the NPPF seeks positive improvements in the quality of the built environment. Para 56 of the NPPF says that 'good design is a key aspect of sustainable development'.
- 8.4 In terms of existing building it is of a stone finish (on the frontage) with a flat roof. (To the rear/side the building is rendered.) There is currently a shipping container to the southern end of the building associated with the garage/retail use on the site. As the site is that of a petrol filling station the kiosk building is closely located to the canopy over the pumps. The existing kiosk building is about 12.1m width.
- 8.5 The proposed width of the building is to a width of about 18.6m. The overall height of the extended building would be about 6.1m with the addition of a full first floor element. The resultant building would be about 0.8m higher than the existing canopy over the fuel pumps.
- 8.6 The building is of a suitable design for its commercial use and being closely located to the existing canopy over the pumps is of a suitable height, being seen in combination with it. The site itself is in a prominent location at the approach to Hythe when travelling west along the A259 and the various changes that the applicant has undertaken to improve the appearance of the proposed building were considered necessary given the prominence of the site within the street scene.
- 8.7 The current building looks tired and dated. This proposal would result in a building of a more contemporary and cleaner appearance, with the ground floor level being rendered, the first floor level clad with flat, coated, aluminium panelling and with a slim roof profile. The design includes a long, full-height glazed shop front on the eastern facade and upper floor windows are set in deep reveals and create a strong rhythm in their separated and repeated form. Windows and doors are to be of a powder-coated aluminium frame.
- 8.8 Overall therefore it is considered that the scale, design and appearance of the works are considered to be acceptable and will not harm the character or appearance of the area in which the petrol filling station is located.

Neighbouring Amenity

- 8.9 Policy BE8 and SD1 of the Shepway District Local Plan Review and paragraph 17 of the NPPF require that there is consideration of the potential for harm to neighbours' amenities.
- 8.10 Neighbours have particularly raised concern in respect to loss of daylight and privacy to surrounding apartments/houses, light pollution and increased noise and disturbance due to increased traffic movements and activities on the site.
- 8.11 However, the extended building will remain in excess of 29m from the apartments to its western side and over 27m from dwellings to its northern side. With separation between buildings of these distances the building would not cause a loss of daylight to surrounding apartments/houses and would not cause a loss of privacy to those apartments/houses. Also due to the separation distances the extended building will not be a dominating or overbearing structure within the outlook from these apartments/houses.
- 8.12 In terms of light pollution, the distances between buildings means that internal room lights in the upper office at night time are at a sufficient distance that they will not harm neighbours' amenities. Often houses face each other at much closer distances and at nighttime drawing curtains/blinds also lessens any impact from neighbouring room lights. In terms of commercial lighting related to the petrol filling station aspect of this premises, this does not form part of the current proposal. If new illuminated advertisements are to be utilised as a result of the proposed development they will need planning permission in their own right.
- 8.13 In terms of noise and disturbance from increased activity and traffic – given the very historic nature of the garage, including shop, the planning history does not appear to restrict the hours of operation of the premises. Nor are any planning restrictions found in respect to hours of control for deliveries and collections.
- 8.14 It should be noted however that the current proposal is not related to the operation of the petrol-filling aspect of the site's use and as such cannot address or amend details of the use of the petrol-filling station, such as hours of opening for fuel or hours of tanker deliveries, which neighbours have raised causes disturbance. Notwithstanding this, following the receipt of representation letters the agent has spoken with the applicant in this case who confirms that they do operate night time fuel deliveries, and have done so for many years. In speaking with the applicant the agent advises that *"This is the first time we have been made aware of any concerns regarding night deliveries of fuel and the client has offered to contact BP to see whether day deliveries are possible. Nighttime fuel deliveries are cheaper and this is effectively passed onto the consumer at the pump."* [It is also noted that the Council's Environmental Protection Officer confirms that they have no record of any complaints in respect to noise and disturbance from deliveries to this site.]
- 8.15 The current proposal is related to the retail element at the site, which will occupy the additional floor area space at ground floor level being created under this proposal, with the re-provision of ancillary space at first floor level. The agent advises that as a petrol filling station the garage is open for 24

hours per day. Currently the shop element is also open for 24 hours per day and does not close to public access as some garages do, which will then only operate a night time kiosk service for shop goods.

- 8.16 In respect to the shop element of the proposal the agent advises that *'All shop deliveries are made during the day (7am to 7pm) One delivery per day of fresh produce, and a maximum of four deliveries a week for shop stock, this will not change.'* As it is an increase in the desired retail floor area that is the reason for the proposed development, and also taking in to account that there has been much residential development in the immediate area since the opening of the garage in the 1960s, it is reasonable to use a planning condition to restrict the delivery times on Sundays and Public Holidays to a slightly later time in the mornings of 8am. This can be controlled by planning condition.
- 8.17 Likewise, with an increase in the size of the shop the number of waste/recycling collections may increase. It is usual practise in current times that recycling is taken away from retail sites by the delivery vehicles and waste collection will be provided by a private contractor. The waste/recycling collection hours for the extended shop unit can also be controlled to reflect those of the shop deliveries to protect residential amenity.
- 8.18 Furthermore, given the location of the garage close to residential dwellings it is appropriate that a Construction Management Strategy be agreed – which will include details such as the damping down of dust and times of working, to ensure the living conditions of neighbours are protected during the construction phase.
- 8.19 In terms of the hours of opening of the shop, which are currently 24/7, it is not considered that an extension to the existing retail floor space would result in a level of additional night-time trade to the shop that would significantly increase noise and disturbance to neighbours.
- 8.20 In terms of bin storage the agent advises that it is to take place within the proposed service yard. A planning condition can be used to prevent the placement of bins in the open around the unit, outside of the service yard.
- 8.21 On balance of all aspects of the proposal on neighbours' living conditions, subject to the use of planning conditions related to shop deliveries and waste/recycling collections, it is not considered that the proposal would result in harm to neighbours' living conditions nor warrant the refusal of the planning application.

Highways/Parking

- 8.22 Policy TR12 of the Shepway Local Plan Review relates to car parking levels to serve new development. Policy TR11 relates to the impact of new development on the highway network. Policy TR5 relates to the provision of cycle parking. Paragraph 32 of the National Planning Policy Framework states that *'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'*
- 8.23 This proposal allows for the provision of an additional seven parking spaces on the site for customer parking to the shop. In addition to the two parking spaces already on the site the total parking spaces provided for shoppers is

nine. This is considered by the KCC Highways and Transportation Officer to be a sufficient number for this size of store.

- 8.24 The provision of the additional parking spaces would mean that one of the existing entrances to the site would be closed off. An entrance and exit related to the site would remain off Seabrook Road. Again this is considered to be acceptable by the KCC Highways and Transportation Officer.
- 8.25 Subject to suggested conditions by the KCC Highways and Transportation Officer, and that the additional car park spaces be provided prior to the extended shop becoming operational, there are no objections to the proposal in terms of highways and parking matters.

Contamination

- 8.26 Saved policy U10a relates to contamination with respect to the health and safety of occupiers of residential development and the contamination of land and watercourses by the development.
- 8.27 In this case the use of the land as a petrol filling station is such that the risk of the works introducing new pathways for contamination has to be considered.
- 8.28 The Environment Agency requested that the case officer officially consult them but following assessment they advise that *'We have assessed this application as having a low environmental risk. We therefore have no comments to make.'*
- 8.29 The Council's Land Contamination consultants advice that *'The requirement for a phase 1 investigation (desk top study) with respect to contamination can be adequately required by the use of the standard contamination conditions in this instance.'*
- 8.30 As such, subject to a suitably worded planning condition, no objection is raised to the proposal in respect to contamination.

Land Instability

- 8.31 Saved policy BE19 of the Shepway Local Plan Review requires that development in areas of land instability will not be granted unless investigation and analysis has been undertaken which clearly demonstrates that the site can be safely developed and the proposed development will not have an adverse effect on the slip area as a whole.
- 8.32 In this case the front (northern) part the site is within an area identified on the Local Plan maps as being of known land instability. However the site is level and the Building Control officer advises that no conditions or further work is required in respect to land instability.

Flood Risk

8.33 The NPPF (paragraph 100) states that *'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.'* A shop is classified as 'less vulnerable' on the Government's Flood Risk Classification Table.

8.34 Although the site falls within Flood Zone 3 on the Environment Agency [EA] flood hazard area map it falls outside of any area at risk of flooding (from sea/river and surface water) on the EA's 'detailed maps' and the Shepway Strategic Flood Risk Assessment 2115 flood hazard map (adjusted for climate change).

8.35 As such there is no objection to the extension of the shop on the grounds of flood risk.

Other Issues

8.36 Neighbours have raised the matter of a loss of view due to the proposal but an existing view is not protected under planning policy and cannot form part of the consideration of this development.

8.37 The matter of litter on the site has been raised. As such, the matter of litter from the site can only be addressed so far as part on this application. There are a number of litter bins already on the site but more closely located to the fuel pumps. These are not particularly appropriate for the use of shoppers on foot as they are being required to cross the garage/vehicle forecourt to access the bins. With the increased size of the shop footprint a condition can be used to provide an additional bin(s) on the site for shoppers.

8.38 It has been raised by a local resident that the increased size of the unit may cause harm to the businesses in Sandgate. However there is already a shop at this site and there are no specific planning policies in place that can take account of the point raised or object to an extension of the existing shop's floorspace on this ground. This is considered more to be a matter of competition pressure as opposed to being a planning matter.

8.39 Concern has also been raised in respect to the potential for damage to sewer infrastructure by the proposed works. This would be a matter for the statutory undertaker if damage did occur. It should also be noted that the matter of 'drainage' falls under the control of Building Regulations, which would need approval for this development.

Financial Matters

8.40 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant

authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

- 8.41 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning obligations for infrastructure improvements in the area. For new business floor space the levy is charged at £0 per square metre.

Human Rights

- 8.42 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.
- 8.43 This application is reported to Committee as Sandgate Parish Council object to the mass and the form of the proposed first floor element of the proposed building.

9.0 SUMMARY

- 9.1 The extension of the existing building at Seapoint Filling Station will allow for the creation of an increased retail floorspace, and replacement storage and office space at first floor level.
- 9.2 Planning policy and guidance supports commercial development and increased employment opportunities, subject to the impacts of such development being acceptable. The scale design and of the building is considered to be acceptable for its location. The delivery and collection times to/from the extended shop can be restricted by planning condition, as can the storage of waste/recycling, and the proposed development is not considered to result in harm to neighbours' amenities.
- 9.3 The creation of additional parking spaces on site will ensure there is no additional parking pressure within the surrounding streets. The closing up of an existing access point to the site is considered to be acceptable by the Local Highway Authority.
- 9.4 Subject to the use of suitable planning conditions there is no objection to the proposal.

10.0 BACKGROUND DOCUMENTS

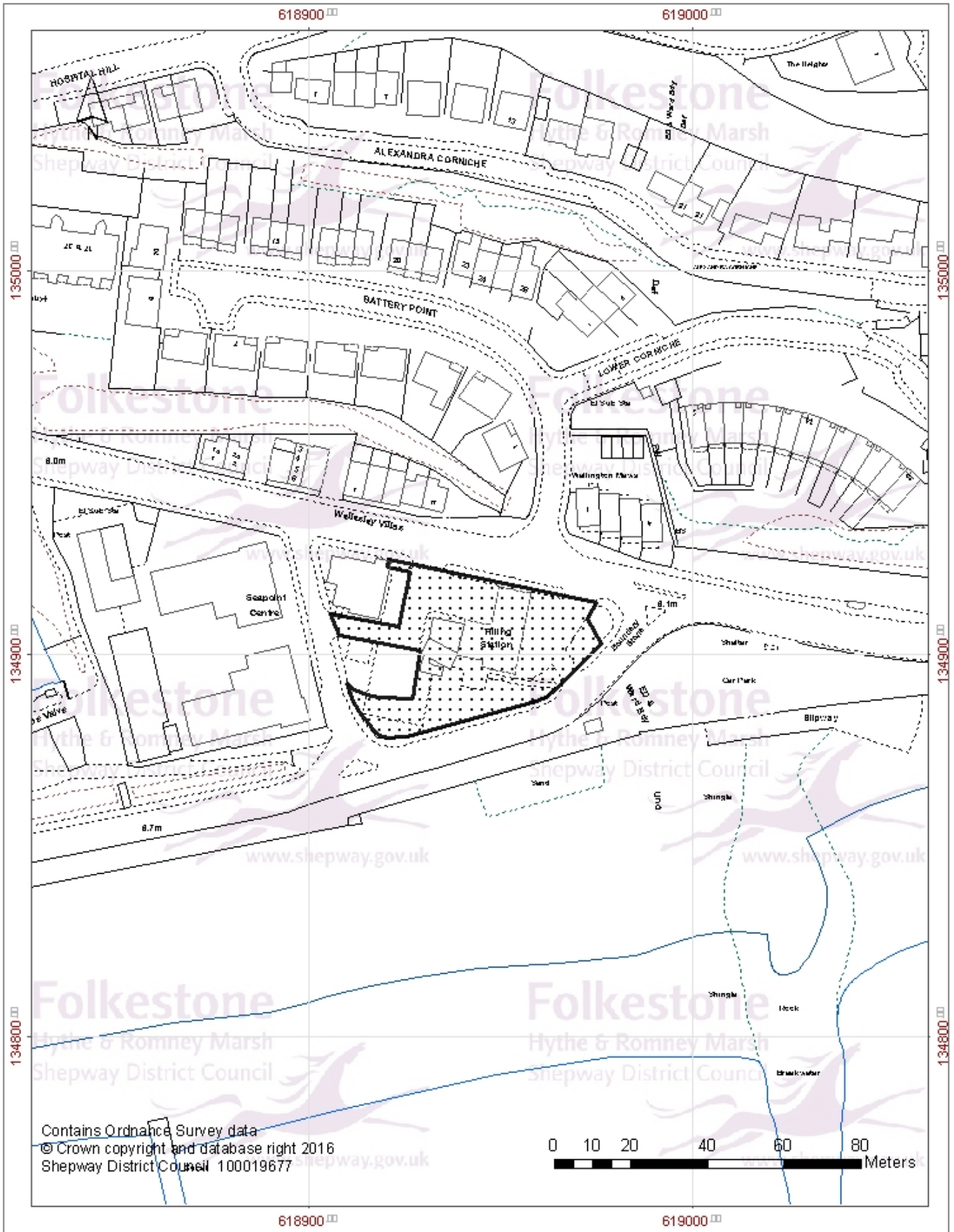
10.1 The consultation responses set out at Section 4.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That planning permission be granted subject to the following conditions :

1. Standard time condition
2. Approved plan condition
3. Control of shop delivery hours
4. Control of waste/recycling collection hours
5. Provision of additional litter bin(s) targeted for shoppers
6. External materials (including service yard fencing)
7. Provision of additional on-site parking spaces
8. Re-instatement of the pavement across the closed-off access
9. Construction Management Plan
10. No sub-division of the unit
11. No outside storage
12. Standard contamination condition.

Decision of Committee

Y16/1228/SH
Seapoint Filling Station
Seabrook Road
Hythe



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Shepway District Council 100019677

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