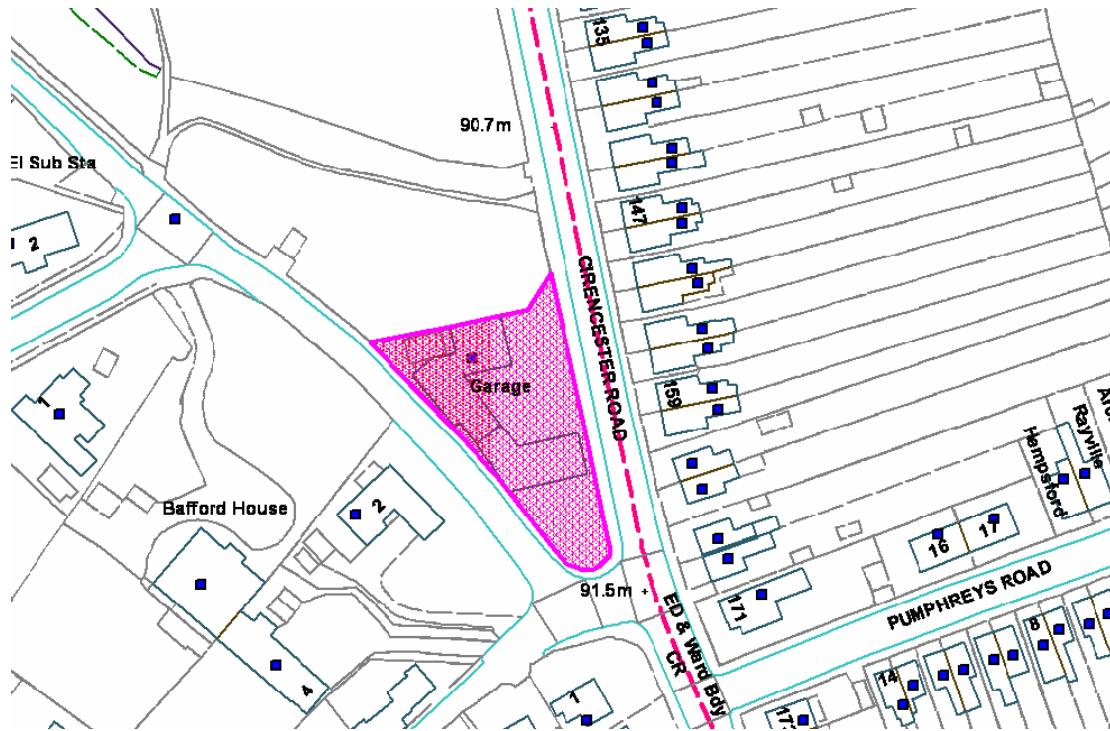


<b>APPLICATION NO:</b> 13/02174/FUL	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 8th January 2014	<b>DATE OF EXPIRY:</b> 5th March 2014
<b>WARD:</b> Charlton Park	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	CTC (Gloucester) Ltd
<b>AGENT:</b>	Hunter Page Planning Ltd
<b>LOCATION:</b>	86 Cirencester Road, Charlton Kings, Cheltenham
<b>PROPOSAL:</b>	Erection of a new convenience store (A1) with associated parking (following demolition of existing buildings on the site)

**RECOMMENDATION:** Permit



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## **1. DESCRIPTION OF SITE AND PROPOSAL**

- 1.1** This application is before Committee at the request of Councillor Penny Hall. The reasons for referral are to allow debate on the proposal's potential to affect the amenities of local residents and the effect on traffic in surrounding roads with reference to Local Plan Policy CP4. There has also been considerable concern expressed by local residents about the proposed development both prior to and following submission of this planning application. A total of 114 letters of objection and a petition with 950 signatures have been received by the Council.
- 1.2** The applicant proposes the erection of a new convenience store (A1) with associated parking, following demolition of all existing buildings on the site. Landscaping, replacement boundary treatment and alterations to the existing access to the site are also proposed.
- 1.3** The scheme as originally submitted proposed an additional two A3 units with a total area of around 93 sq metres adjacent to and slightly forward of the main A1 store near the corner of the site and fronting Cirencester Road. The amended scheme, submitted in May 2014, removes the two A3 units. There are also changes to the design, materials and layout. The servicing/storage area has been relocated to the rear with access either through the store or via a side door fronting the car park. The car park is now slightly larger with one additional parking space and reconfigured spaces to allow better use of the car park. The delivery/loading bay remains at the front of the store but delivery vehicles would be required to access the site from the north and egress in a southerly direction only. There are additional alterations and enhancements to the landscaping and boundary treatment particularly along the Newcourt Road elevation and on the corner at the junction with Bafford Lane.
- 1.4** The scheme has been revised largely in response to the lengthy discussions that have taken place with Officers and County Highway Engineers and the issues raised during these negotiations.
- 1.5** In addition to those relating to design and planning policy, the application submission includes a number of detailed reports and statements covering transport, parking and highway safety issues, delivery/service management, environmental and noise impact, site contamination and a retail impact assessment. The majority of these documents have been revised during the course of negotiations and following receipt of the amended scheme. The only additional document is a Delivery Management Plan (DMP) submitted alongside the revised scheme. The DMP seeks to regulate deliveries to the site to prevent pedestrian/vehicular conflict and minimise disturbance to local residents.
- 1.6** Given the proximity of the proposed development to existing neighbourhood shopping centres and the potential harm to the vitality and viability of those centres the Council also sought an independent assessment of the applicant's Retail Impact Statement.
- 1.7** It is also worth noting that there has been extensive pre-application advice given in relation to this site over the past three years and various proposals have been put forward to the Council which have included mixed use development in the form of a retail unit on the ground floor with residential above.
- 1.8** During pre-application discussions the Council had concerns about the height and scale of development proposed for this suburban location where existing development is typically two storey and domestic in scale. Earlier proposals would have dominated not only this corner plot but the open parkland to the north and neighbouring dwellings, particularly those facing the site on Cirencester Road. The corner of the site at the junction with Bafford Road and Newcourt Road is narrow and not significant in townscape terms and sits in the streetscene fairly discreetly, however its shape and corner position make it

clearly visible when approaching from both the north and south with the open space to the north creating an important backdrop.

## **1.9 Site Context**

- 1.10** The application site is a corner plot fronting Cirencester Road, Newcourt Road and Bafford Road. The site is accessed via Cirencester Road (A435) which is one of the main approaches into Cheltenham from the south. The site and its context has, generally, a suburban feel and lies adjacent to an open area of parkland to the north with the remainder of surrounding development being predominantly red brick and two storey with Victorian cottages immediately opposite the site and later mid 19<sup>th</sup> century residential development further south. Newcourt Road abuts the rear boundary of the site and research indicates that this is an ancient track, now sunken and tree lined. The boundary with Newcourt Road is lined by a low overgrown wall and self-seeded trees and shrubs and has a distinctive country lane feel. The property at the rear of the site is a single storey dwelling but separated from the site by Newcourt Road. Within the immediate locality, Bafford House further north on Newcourt Road is a grade II listed building (currently used as a nursing home) and 1 Bafford Road opposite the corner of the site is locally listed.
- 1.11** The Cirencester Road Local Neighbourhood Shopping Centre is located approximately 100 metres further south on Cirencester Road/Croft Road and consists of a Nisa convenience store, a butcher shop and hairdressers. Further east are the well established local centres of Charlton Kings offering a range of shopping and other local facilities.
- 1.12** The site is currently used as a hand car wash facility but its previous use was a petrol filling station. It has also more recently been used for car sales and car repairs/workshop. Despite its current use, it has retained the appearance of a service/petrol filling station with characteristic features remaining; a large hard standing covering virtually the entire site, a canopy and various buildings which once occupied a kiosk and car repair workshop. The pumps and some ancillary buildings have been removed from the site but the underground tanks are believed to be intact. The application site is therefore in existing commercial use and is classified as a brownfield site (previously developed land).

## **2. CONSTRAINTS AND RELEVANT PLANNING HISTORY**

### **Constraints:**

Landfill Sites boundary  
Smoke Control Order

### **Relevant Planning History:**

#### **70/00281/PF 13th October 1970 PER**

Charlton Kings Garage Cheltenham Gloucestershire - As Cb08798/02 except Provision of 3 Areas for Display of Cars For Sale and Re-Siting 2 New Vehicular Accesses (Amendments And Additions to Proposals Above Approved On 19.5.70)

#### **74/00310/PF 30th September 1974 PER**

Charlton Kings Garage Cheltenham Gloucestershire - Omission Of Car Wash And Erection Of Service Bay Attached To Existing Workshop For Maintenance Of Cars

**91/00260/PC 25th April 1991 PER**

Amendment To Previously Approved Area For The Display Of Cars For Sale On Forecourt

**94/00215/PF 28th April 1994 REF**

Redevelopment Of Existing Car Sales And Service Station Premises To Provide Additional Service Bay And Administration Accommodation

**96/00984/PC 16th January 1997 PER**

Change Of Use To Used Car Sales From Existing Used Car/ Fuel Sales

**09/00407/FUL 5th May 2009 PER**

Extension of opening hours of existing car wash to seven days a week 9am-7pm

### **3. POLICIES AND GUIDANCE**

#### Adopted Local Plan Policies

CP 1 Sustainable development  
CP 2 Sequential approach to location of development  
CP 4 Safe and sustainable living  
CP 5 Sustainable transport  
CP 7 Design  
BE 12 Advertisements and signs  
GE 1 Public green space  
GE 5 Protection and replacement of trees  
GE 6 Trees and development  
NE 4 Contaminated land  
EM 1 Employment uses  
RT 1 Location of retail development  
RT 4 Retail development in local shopping centres  
RT 6 New local shopping centres  
RT 7 Retail development in out of centre locations  
RT 8 Individual convenience shops  
UI 2 Development and flooding  
UI 3 Sustainable Drainage Systems  
TP 1 Development and highway safety  
TP 3 Servicing of shopping facilities  
TP 6 Parking provision in development

#### Supplementary Planning Guidance/Documents

Flooding and sustainable drainage systems (2003)  
Landscaping in new development (2004)  
Planning obligations (2003)  
Planning obligations: transport (2004)  
Security and crime prevention (2003)  
Shop front design guide SPD (2007)  
Sustainable buildings (2003)  
Sustainable developments (2003)

#### National Guidance

National Planning Policy Framework

## 4. CONSULTATIONS

### **Architects Panel**

*5th February 2014*

#### Comments on the Application

The development footprint is broken down into various single storey retail units which are set back from the main road frontage which would create unpleasant urban spaces as currently designed. The form and massing whilst perhaps echoing what is there currently, do not respond to the grain of the area; a more considered analysis and response to the grain would benefit the scheme and more vertical scale could benefit this corner site.

We believe a mixed use scheme with residential units over the retail could provide this scale and make better use of the site and also provide more visual interest and natural surveillance. Aesthetically the scheme is competent but below what we would like to see on a key site like this.

#### Summary

We could not support the scheme in its current form.

*4th June 2014*

The panel was disappointed to see that the scheme appears to have gone backwards from the pre-application proposal, with an apparent loss of confidence in how to handle the previous scheme. The drum that enabled the building to address the tapered end of the site has been lost and the building is now a very basic almost crude cranked, single storey brick shed with attached, flat roofed outbuildings. Apart from being an improvement over the existing semi abandoned forecourt the proposal itself will contribute little to this prominent location. The view from the north is now particularly disappointing.

The panel felt that the material palette was over fussy, particularly with the unnecessary introduction of rusticated Cotswold stone simpler render would probably work better. The large windows, but then covered with garish posters is unpleasant. In this domestic setting, views into the building would make it more inviting, from the car park, street and approaching from the north. The design has lost any robustness could the eaves be extended as a small canopy could the entrance be articulated more strongly, along with more careful handling of the bicycle parking, paving etc?

Regrettably the panel would not support the application in its current form.

### **Cheltenham Civic Society**

*10th February 2014*

This is a reasonable and unexceptional design for a convenience store

### **Parish Council**

*28th January 2014*

#### OBJECT

EXCESS TRAFFIC COMING ONTO MAJOR ROAD.

POTENTIAL PROBLEMS WITH DELIVERIES AND CROSSING OF THE MAIN ROAD BY CHILDREN.

IMPACT ON NEIGHBOURS

DETRIMENTAL ENVIRONMENTALLY UNNECESSARY ADDITIONAL RETAIL UNITS

10<sup>th</sup> June 2014

The proposal is contrary to both the Parish objective and policy of ensuring that we make best and most sustainable use of our resources and protect the areas and features that residents of Charlton Kings most value, and to the NPPF and JCS principle that “ The purpose of planning is to help achieve sustainable development”. In this respect an additional convenience store would work against a sustainable future for existing businesses, there being 3 existing convenience stores within a half mile radius and a further 3 within a 1 mile radius. The development site is neither large enough, nor in an appropriate location, to service and manage customer access to a supermarket that would, by its position, be of greatest benefit to passing trade.

In more detail our objections are:

- A new supermarket would impact on other similar retail units in the near vicinity. Despite the applicant's contention that other similar shops could thrive alongside a new supermarket, it is our view that the NISA, Co-op foodstore, and Budgen's Smith and Mann stores would suffer a significant drop in business, which could lead to local job losses and possible store closures. Of particular concern is the potential impact on the footfall in Budgen's Smith and Mann in Lyefield Road West, which has only recently taken on the village Post Office following the failure of the previous Post Office franchise. Should this application be approved, it would have the potential to jeopardise the viability of Budgen's Smith and Mann and hence the survival of its integrated Post Office which is easily accessible and in the centre of the village. This would be a serious loss to the community. Given the current difficulties of the Co-op Group, it's possible that a drop in the profitability of its store in Church Piece would lead to closure and hence a big hole in the centre of the currently vibrant precinct. In addition there would be adverse impact on local specialist shops such as the butchers on Cirencester Road. For the community rather than the applicant in isolation, we believe that a development of this type on this site would be likely to reduce, rather than enhance the economic sustainability of the overall retail sector in Charlton Kings, and any local jobs generated by the development, would be offset by job losses elsewhere in the local economy.
- The proposal fails to meet Strategic Objective 5 of the Joint Core Strategy to ensure that “all new developments are valued by residents as they .....provide *well-located* (our italics) infrastructure which meets the needs of residents.” This proposal would generate an increase in vehicle movements along an already busy stretch of Cirencester Road, and there would be a considerable traffic hazard caused by vehicles entering and leaving the site which is close to a bend in the road. The development would create a potential hazard caused by vehicles parking on Cirencester Road itself, either side of the new building. Although some provision is made for on-site delivery vehicles we feel it would be unlikely to be effective in restricting all deliveries within the curtilage of the development and would cause significant hazard on the Cirencester Road.
- It also fails the NPPF test of “improving the character and quality of an area *and the way it functions* (our italics)” and the Joint Core Strategy Core Policy SD5 safety and security objective of contributing to safe communities by reducing conflicts between traffic and cyclists or pedestrians. Because this site is on the other side of the Cirencester Road to where most local customers are located, in the absence of yet another set of pedestrian-controlled traffic lights, there would be considerable risks to pedestrians including the many schoolchildren who pass this way.
- A development of this nature would impact negatively on those residents living opposite and near the proposed store in terms of their quality of life; extra traffic, multiple daily deliveries, long opening hours causing noise and exhaust pollution from cars coming and going and light pollution from the site for many hours per day.

The Council is aware of the mix of feelings both for and against but in our view, there are valid planning-related reasons for refusal, as outlined above, including the longer-term impact on local businesses and employment.

**Should the Borough Council be minded to approve this application, the Parish Council requests that the following conditions be attached:**

- The developer should fund a traffic regulation order to introduce no waiting at any time along the boundary of the site comprising A435 Cirencester Rd and Newcourt Rd in order to maintain safety for through traffic and pedestrians using the A road and to prevent obstruction and allow freedom of movement along Newcourt Rd.
- There should be restrictions on the hours of operation and the periods when deliveries can be made, in order to reduce the impact on the quality of life of local residents, in particular noise levels for those residents in the immediate vicinity.

### **GCC Highway Development Management**

*10<sup>th</sup> June 2014*

#### Proposal

Erection of a new convenience store (A1) with associated parking (following demolition of existing buildings on the site)

#### Introduction

This is a complicated site, with a use that often generates some high emotions with residents. The consultation process has been lengthy, and has involved much dialogue with the applicants transport consultants, and the highway authority. The key issues are servicing of the units, and car parking for customers. The original proposal has reduced from the A1 and 2 A3 units, to a single A1 unit.

The original servicing arrangement was an on plot service bay controlled by demountable bollards operated by staff through a Delivery Management Plan (DMP), which would be secured by a planning condition and enforced by CBC. Gloucestershire County Council as the local highway authority has assessed this application in light of the National Planning Policy, and the CBC Local Plan.

In determining the type of recommendation the highway authority primarily needs to assess if:-

- the cumulative impact from the application is severe
- safe and suitable access for all can be achieved
- the opportunities for sustainable transport modes have been taken up
- the development will generate high turnover on-street parking.
- any adverse impacts do not significantly and demonstrably outweigh the benefits of allowing the proposal

It is disappointing that at a very late stage in the application process, the applicant has changed the servicing arrangement from that negotiated during the last few months. The applicant is now proposing a servicing arrangement similar to a relatively new store in Tuffley, Gloucester. Whilst this arrangement is similar it does not currently operate as expected, partly due to the lack of a fully enforced DMP. Given that the likely occurrence of right turning HGV's into the site will be low, and certainly well below any requirement for right turn measures, and the fact that fuel tankers could have made this manoeuvre, I do not consider that this would not conflict with the severe criterion at paragraph 32 of the NPPF

### Fall Back Position

A key factor in determining this application is the previous uses of the site. The current use is a hand car wash, which has permitted opening hours of 9am – 7pm seven days a week. Previous to that use, it was petrol filling station. The petrol station would have generated significant vehicle trips accessing the site from 2 access points, and had fuel servicing for the underground tanks. The ancillary shop would have generated some non-car trips also.

The applicant has undertaken a vehicle trip analysis (Table 6.3 of the Transport Statement), and determined that the proposed development will result in less vehicular traffic (-391 daily trips), when compared with the previous Petrol Filling Station. This is a key factor in determining the degree of impact in use which will have a positive impact on highway safety and capacity.

### Layout

The internal layout has undergone many versions, during protracted negotiations with the applicant. This final version now proposes just a single retail unit, with access via the north east corner, car parking to the north and a service/refuse area to the rear. Main servicing will be at the front of the store via a dedicated lay bay, controlled by rising bollards on egress. An ATM is located next to the entrance along with cycle stands. An existing street light will need to be relocated.

### Service Bay

As part of the application a Delivery Management Plan (DMP) has been submitted. This DMP will detail exactly how servicing will operate safely and efficiently, to ensure that the car park pedestrians are not affected and that servicing will not be carried out on the adjacent highway. The DMP should be conditioned so that if it is not complied with CBC can act on any breach.

### Accessibility

The new retail unit will attract increased pedestrian footfall and NPPF policy requires that safe and suitable access is made for all users. Consideration has been given to new pedestrian facilities taking into account the existing signal controlled crossing to the south of the site, the signal controlled junction at the Cirencester Road/Moorend Road/ junction, and the build out north of the site. GCC considers that pedestrian permeability can be improved by narrowing the junction width of Newcourt Road with Cirencester Road and another build out can be created on the southern radii of this junction.

### Car parking

17 spaces are shown of which 2 disabled have been provided at the entrance. Again car parking has been the subject of much discussion, but GCC now feel that with the single retail unit and the parking accumulation work that has been carried out, the spaces will accommodate for the majority of the users. It is impossible to stop all indiscriminate parking, but the layout should be attractive for the users, and as attractive as parking on street. Notwithstanding this GCC is seeking a contribution to control any future abuse, which could be as simple as waiting restrictions along the site frontage or strategically placed street furniture to deter kerbside or part footway parking. CBC is not keen on an over proliferation of street furniture so this will be used as a reactive measure.

### Mitigation

1. Delivery Management Plan – Conditioned
2. Pedestrian crossing facility likely to be a build out. This should have the added benefit of reducing speeds discriminate parking – Contribution £14,252.53 (Mitigation 2 & 3 combined)
3. Reduce the junction width of Newcourt Road with Cirencester Road, to improve the pedestrian safety. This should have the added benefit of reducing speeds, discriminate parking – Contribution (see above)



4. Future waiting restrictions and kerbside street furniture to deter discriminate adjacent parking – Contribution - £10,000 (£5,000 TRO + £5000 Street furniture)

Contribution Total - £24,252.53

#### Conclusion

The servicing of the unit should operate safely if the DMP is adhered to, and this will mean strict monitoring and enforcement by CBC. The car parking level is adequate but some drivers will park on the carriageway. Therefore we need to be able to implement future measures, to reduce this impact. Therefore if the Delivery Management Plan is operated correctly, then the cumulative impact from the application should not be severe, and a safe and suitable access for all users can be achieved. Furthermore if the customers of the store use the adequate parking provision, then the development should not generate high turnover on-street parking. If indiscriminate parking is found to be causing a severe highway problem in the future, then the proposed parking mitigation will allow the highway authority to cost effectively mitigate any issues.

Therefore having regard to the previous uses of the site, the highway authority considers that as the cumulative impact from the application will not be severe, and safe and suitable access can be provided, it raises no highway objection to the proposal subject to the recommended contributions and conditions.

#### **Cheltenham Cycle Campaign**

*21st January 2014*

I wish to register an objection to this application on behalf of Cheltenham & Tewkesbury Cycling Campaign with regard to the provision of cycle parking. This organisation neither endorses nor opposes the scheme as a whole, which is a matter for the wider community.

According to the Transport Statement (para 5.3.7) the developer proposes to provide 6 cycle parking stands enabling parking for "at least 12 bicycles". Aside from the fact that 6 stands could not possibly provide for more than 12 cycles (each stand being suitable for only 2 cycles), the site layout provided with the Transport Statement (Appendix A) shows only 3 stands and these are located at the far end of the car park, in an inconvenient, unsuitable and potentially hazardous location. Moreover, the drawing suggests that two faces of the stands would be unusable due to the proximity of the boundary fence and adjacent car parking.

6 Sheffield/Universal stands for cycle parking should be provided close to the store entrance and where cyclists do not have to ride through the car park, where there would be potential conflict with cars manoeuvring and reversing. The stands need to have sufficient clearance on all sides (at least 1 metre) for access and not be liable to obstruction in any way. The most appropriate place for cycle parking in the proposed development would be in the area protected by bollards adjacent to the store entrance and Cirencester Road.

In addition, provision should be made of covered long-term cycle parking for store staff so that they may be encouraged to cycle to work.

I would be grateful to see revised plans for cycle parking and would be happy to liaise with the developer to ensure that this is achieved satisfactorily.

## **Environmental Health**

Revised Comments 6<sup>th</sup> June 2014

In relation to application 13/02174/FUL for the site 86 Cirencester Road, Charlton Kings, Cheltenham, Gloucestershire, GL53 8DA please can I add the following conditions and advisory comments:

This proposal includes an amount of demolition of existing buildings, this will inevitably lead to some emissions of noise and dust which have a potential to affect nearby properties, including residential property. I must therefore recommend that if permission is granted a condition is attached along the following lines:

Condition: The developer shall provide a method statement detailing how they will control noise, dust, vibration and any other nuisances from works of construction and demolition at the site, as well as how the waste will be stored and removed from the site and/or recycled on site. The statement should also include controls on these nuisances from vehicles operating at and accessing the site from the highway. Such a statement is to be submitted to and approved by the Local Planning Authority before work commences on site.

Reason: To protect the amenity of the residents in nearby residential properties.

Condition: Prior to the commencement of any development at this site, the end user of the proposed A1 unit (and any subsequent user(s)) of the units shall submit a waste management plan which will be reviewed and if deemed to be satisfactory approved by the Local Planning Authority. The plan shall indicate where the waste and recycling for all units will be stored and the proposed means of collection and how the waste collection contractor will reduce the impact from noise on near by residential premises. The approved plan shall be implemented upon first opening of the unit and continued for the duration of the use. Please note that part of this condition is that all waste and recycling collections can only take place between the hours of 08:00 - 18:00.

Informative: It has been confirmed to this department that for the A1 unit all waste made up of stock and packaging will be removed by the delivery vehicle once empty and therefore, the only waste receptacle necessary for this unit will be a bin to hold staff waste only. As this has now been confirmed by the applicant, this now needs to be set as a definite control for the site.

Reason: To protect the amenity of the residents in nearby residential properties.

Condition: The delivery management plan (dated May 2014) which has been submitted with this application will be adhered to by the end user of the A1 unit and all subsequent users. Any required amendments must be submitted in writing to the Local Planning Authority and may only be implemented once approved by this authority. The plan submitted details measures to minimise the possibility of noise nuisance being created by deliveries to the store. If the plan is approved all deliveries to all units at this site shall only take place in accordance with the plan submitted.

Informative: The scheme includes measures to control noise from all sources involved with the loading bay area including: vehicle movements, use of chiller units on vehicles, handling of cages, use of dock levellers and lifts, voices of staff, vehicle radios, audible reversing alarms from vehicles etc. The plan should be subject to regular review.

Reason: To protect residents of local property from loss of amenity due to noise from regular deliveries by HGV's, refrigerated vehicles running, loading equipment etc.

Condition: Deliveries to the A1 unit may only be made between:

- 07:00 – 19:00 Monday to Friday
- 08:00 - 18:00 Saturday
- 10:00 - 14:00 Sunday or a Bank Holiday

On the current noise impact assessment it states that a single delivery will be made between 06:00 – 07:00 with other deliveries made between 07:00 – 23:00. These timings are not in keeping with the condition as set above and the condition will remain going forward with this application.

I would recommend that the developers have reference to the "quiet deliveries demonstration scheme" more information is available at:

<http://www.dft.gov.uk/publications/quiet-deliveries-demonstration-scheme/>

Reason: To protect residents of local property from loss of amenity due to noise from regular deliveries by HGV's, refrigerated vehicles running, loading equipment etc.

Condition: Newspaper deliveries and smaller milk/bread etc. deliveries to the A1 unit may only be made from 06:00 onwards. The delivery vehicle must pull in and park within the customer car park for the site and not on the highway - this is to increase the distance the delivery vehicle will be from the near by residential properties during the delivery time.

Reason: To protect the amenity of the residents in nearby residential properties.

Condition:

The premises planned for this site may only be open to customers from 07:00 – 23:00 from Monday - Saturday and 07:30 - 22:30 on a Sunday and Bank Holiday.

In the current noise impact assessment it states the opening hours to be 06:00 – 23:00 Monday to Sunday. These timings are not in keeping with the condition as set above and the condition will remain going forward with this application.

Reason: To protect the amenity of the residents in nearby residential properties.

The times as detailed in the above conditions for deliveries and opening hours for all of the units as proposed for this site, have been decided by Environmental Health in conjunction with the Planning Officer using a number of factors. Research was undertaken into the opening and closing times for six other similar sites which are based in heavily populated residential areas in Cheltenham. These times were reviewed and found to vary by up to two hours later in the morning and hour earlier at night from the applicants proposed opening hours. This information was taken into consideration as well as the very close proximity of the residential houses to the front and rear of this site when the officer was compiling these comments and the times stated in them.

In the future (if this application is given permission) and the site is fully functioning and we in the Environmental Health department were to receive a noise complaint, we would assess the noise under the Environmental Protection Act 1990 to decide if it is a statutory nuisance or not. This assessment would be undertaken by a fully qualified and authorised EHO and they would subjectively decide through monitoring which can be completed by the complainant as well as the officer, if the noise generated by the source is severe enough that it would unreasonably interfere with the use or enjoyment of another property (i.e. the complainants home) and the officer must see evidence that the problem is occurring regularly and is continuing for a period of time that makes it unreasonable. If we judged that the noise was causing a statutory nuisance, we are legally obliged to serve an abatement notice which states that the nuisance described in the notice is to be abated. If the notice is not complied with or is breached we have the power to initiate prosecution proceedings.

When reviewing planning applications such as this time and deciding upon time limits for conditions we have to decide if in our professional judgement if the proposals are likely to give rise to a statutory nuisance, if we do, then we can compile comments/proposed conditions in order to change the activity or site in order to reduce this likelihood before it is built or the activity has begun. When reviewing the proposed opening, closing and delivery

times for this site it was our judgement that the times put forward were too early and had the likelihood to potentially cause a statutory nuisance for the people living in the residential properties near to the site. Therefore, we have proposed times which we feel are in line with other similar sites in the town as well as being in line with other activities recommended times for work.

Condition: If any premises on the site will host an external cash point, it must be a silent operation pre 08:00 and post 22:00.

Reason: To protect the amenity of the residents in nearby residential properties.

#### Plant and extraction equipment for the A1 use premises

Condition: The proposed unit on the site will require air conditioning plant, chiller units for the refrigeration systems as well as extraction systems. Details for all of the extraction and ventilation equipment for the unit shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved extraction and ventilation schemes for each of the units shall be implemented on site prior to the opening of any of the units and shall be maintained in accordance with the manufacturer's recommendations.

Reason: To protect the amenity of occupiers of nearby properties.

#### Condition:

(If applicable) Prior to the first use of part of the A1 unit as a cook off area/catering unit, the schemes detailing the means of ventilation for the extraction and dispersal of cooking odours must be submitted to and approved in writing by the Local Planning Authority (part of which has been requested above).

The approved scheme shall be installed before the use hereby permitted commences and thereafter maintained in strict accordance with the manufacturers and installers instructions, details of which must be submitted as part of the scheme.

Reason: To protect the amenity of the residents in nearby residential properties.

#### Informative:

The complete extraction system serving the area should be designed and commissioned by competent specialist engineers. The design of air pollution control equipment should be based on peak load conditions, i.e. the worst case scenario.

The scheme shall include the following:

- Full details of the system layout
- Housing of filters, motor and fan inside the building where possible
- Integrated grease baffle filters
- Suitable odour treatment plant to render the exhaust odourless at nearby residential property
- Specification of a motor and axial fan with variable speed controller
- An acoustic report detailing the predicted noise levels from the extraction equipment as they affect nearby residential properties.
- Circular section ducting preferred with a minimum of bends
- High level exhaust point fitted with a vertical discharge cowl that achieves maximum efflux velocity. This shall be at least 1 metre above roof ridge level of the host building

Condition: Notwithstanding the submitted details, fascia signs on each retail unit shop frontage hereby approved shall be limited to one small 'halo' lit or externally illuminated fascia sign.

Reason: To protect the amenity of the residents in nearby residential properties.

Condition: The total noise generated from all units and all items of plant and equipment associated with this application shall be controlled to the extent that the rating level (in accordance with BS 4142: 1997) as measured or calculated at 1m from the façade of the nearest noise sensitive premises shall not exceed a level of 5dB below the existing LA90 background level with no tonal element to the plant. This control shall be demonstrated by an assessment which shall be sent to this authority prior to the end users occupying the units at site. Should any changes be made to the building or the plant serving it by new occupants of the site in the future, these alterations will need to be forwarded to this authority prior to being made and may only be undertaken once the planned changes have been reviewed and approved.

Reason: To protect the amenity of occupiers of nearby properties.

Advisory:

- 1) Should a survey of the existing building (prior to any work beginning) indicate the presence of any asbestos containing materials, the demolition of the building will need to be undertaken in accordance with the legislation surrounding asbestos removal and the demolition of buildings containing asbestos and the waste disposed of in a legally compliant manner.
- 2) It has been confirmed to this department that the totem pole as detailed in the application is to be removed from these proposals; the removal of this would be supported by this authority.

**Contaminated Land Officer**

*14th January 2014*

Please can you add the full standard contaminated land condition to this application due to previous use as a fuel filling station.

**Urban Design**

*6th March 2014*

The proposal is for a retail development on a former filling station, currently a hand car wash.

The site is within a well-established residential suburb on Cirencester Road - an arterial approach to the town centre. It is a constrained, triangular site opposite housing and adjacent to an open space. The neighbourhood is well provided with a range of facilities (schools, shops, open space, pubs etc) which make it a pleasant place to live.

There are two main areas of concern the character of the built form in relation to context and the impact of the proposal on the quality of life of those around it. Both are considered important determining factors within the NPPF.

Following negotiation, the built form is considered acceptable in terms of mass, layout, materials etc. Landscape discussions are moving positively.

In terms of the quality of life of neighbours and those who use the area, the proposal is unconvincing. It seems likely that the nature of the site and its locations will combine with the nature of the proposed use to have adverse impacts on the quality of life of those around it.

### The site and its context

The site sits on the corner of Cirencester Road (a main approach to Cheltenham from the south east at this point passing through Edwardian suburban development), Bafford Road (a comparatively narrow old farm lane to the west) and Newcourt Road (which appears to be an ancient track, now a sunken tree-lined suburban road to the northwest). It is currently a car wash and was formally a petrol filling station and car sales site.

The site is adjacent to an open area of parkland which sits between the Newcourt and Cirencester Roads. Much of the surrounding development is early 20th Century, predominantly 2-storey; opposite on Cirencester Road buildings are red-brick under slate roofs; to the south, white render predominates in 2-storey Victorian cottages and later mid-20th century development. Nearby Bafford House on Newcourt Road is an earlier Grade II listed building and 1 Bafford Road (immediately opposite to the south) is locally listed. The neighbourhood is well-established and has a range of facilities locally, including shopping, schools, library, pubs etc.

The site itself is typical of a service station/garage with a large hard-standing, canopy and buildings which previously formed a kiosk and car sales display area. It is now used as a hand car wash. It is unattractive on its frontage to Cirencester Road (where its boundary is marked by a low post and chain fence) and the corner (where there is scrappy vegetation and a low stone wall). To the rear, Newcourt Road is sunken and the boundary is lined by a low overgrown stone wall, topped by self-seeded trees and shrubs, backed by a 2m fence and a breezeblock wall (to one of the out-buildings). To the open space, part of the site is open across the low stone wall through parkland trees; part is enclosed by the buildings. The site serves a useful function currently, but as a brownfield site in a suburban area it is underutilised.

### Considerations

Negotiations on the design of the proposal have centred on the sensitivity of the site and its context both in character and quality of life terms.

### Character

Previous pre-application negotiations on design, over a number of months, have moved the proposal from high four storey block (residential over retail) on a steady building line, to the current proposal - a single-storey block with a staggered building line. The basis for this approach has been:

1. The 4-storey height was uncharacteristic of this suburban setting, where there are few buildings greater than 2-storeys - none in the immediate area.
2. The presence of a 4-storey block was likely to dominate neighbouring properties and the open space in a manner which was over-bearing and would adversely affect residential amenity and the general character of the streetscene both in the area and on the approach to Cheltenham.
3. The applicant initially considered that the height could be used to mark the corner. However it was considered that that this is unnecessary because the junction is not significant in townscape terms and sits in the streetscene fairly anonymously but for the presence of the existing garage, which although unattractive lends to the sense of space here and is lost in a backdrop of trees on the approach from the south.

Some objectors to the scheme suggest that a flat roof is not contextually sensitive. Whilst most roofs in the neighbourhood are pitched, a flat roof on an acceptably designed building of this size and footprint is considered preferable. This is because, as outlined above, an important part of the design negotiations has been focussed on losing height from the original proposal. Additionally, the lowering of height sets the proposal better within the context of the adjacent park setting with its backdrop of trees on the southern approach. In order to span a building of this depth a pitched roof would dominate the building, would most likely be unacceptably high and would be prominent in the street scene.

The comments from the architects' panel appear to seek a solution akin to that which was originally put forward in pre-application (residential over retail). This is not considered appropriate on the site for the reasons discussed above.

Reflecting on comments submitted it is reasonable to say that a residential scheme could sit well on the site, and provide a more vernacular building style which fits well within its context. There would be an ability to break up the building mass and it might well work in 2-storeys with a pitched roof. However, the scheme under consideration is not residential and the built form design needs to reflect the requirements and function of the proposed use.

The visual impact of development on Newcourt Road, which is sunk below the level of the site, was a concern in negotiations. The small overgrown retaining wall and unkempt hedge give the street an almost rural character. However the site is not deep and tapers to the south, so it seems likely that any redevelopment would see the removal of this planting as part of the building works and, notwithstanding any replanting, this will alter the lane's character. Negotiations through the Council's Landscape Architect are seeking a reinstatement of planting in some form on this frontage.

The building and layout proposal is a consequence of the negotiations based on the proposed use. In terms of built form, mass, block layout and landscape. In these terms the proposal is satisfactory (subject to the Council's Landscape Architect's detailed negotiations, which are on-going at the time of writing). Since earlier negotiations, the height is significantly reduced, the staggered building line on the Cirencester Road breaks up the mass and reinstates some space (albeit for service requirements see comments below); the small landscape area on the south will soften the built form; the trees to the north continue to provide a useful screen and backdrop.

### Quality of Life

The NPPF makes a number of statements which indicate that quality of life is important part of the planning system and in determining planning applications. These include:

- Paragraph 9 which states that sustainable development involves positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including improving the conditions in which people live
- Paragraph 56 good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Paragraph 58 decisions should aim to ensure that developments will function well and add to the overall quality of the area (and) establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit

From these statements it is evident development proposals should benefit the daily lives of the people they affect and that, in this respect, the way which developments function is as important as the way they look. In terms of quality of life, a balance needs to be struck between local impacts and benefits to the wider community, and this may require a different

weight in consideration of strategically important proposals and those with little strategic value.

Servicing for the site has been a concern throughout the discussions. The Highway Authority will comment on general access, parking and service arrangements. However, servicing, traffic and parking related to stores of this nature in suburban situations can create amenity issues and during negotiations on this site, on-going concerns on similar developments elsewhere in the town have been a concern.

It is proposed to access this site from the Cirencester Road which is the only realistic option. Using the space between the building and the open space for parking seems appropriate and use of a bespoke boundary treatment which allows indivisibility between the site and the open space would settle the site better in its context.

However, a desire to ensure that servicing is not direct from the busy highway has placed it within the site, on the most prominent frontage. The space available is tight and to ensure its availability for servicing, access controls are proposed and bollards will run along the boundary to Cirencester Road. Visually this is little better than current boundary arrangements (low posts and chain) and is not the betterment which might be expected from a bespoke design. Notwithstanding this, the main concern is the functioning of service arrangements and their impact on the quality of life of neighbours. The space available is tight. Servicing may function as intended in ideal circumstances but there is little margin for error before noise and disturbance from manoeuvring cars and delivery vehicles, reversing alarms, movement of cages etc. begin to affect the amenity of those living around it or using the open space.

Undoubtedly the uses on the site (both current and past) will have generated movement, traffic and noise but it seems unlikely that this will have been at the intensity of the use now proposed. The circumstances of the site (its constrained size; its situation on a busy arterial route into the town; its location within an established suburb) and the nature of the proposed use (retail with long opening hours, deliveries from large vehicles, frequent customer visits) suggest that it may not function in a manner which enhances the quality of life of those living near it, and it seems most likely it will have adverse impacts. It seems doubtful that these concerns can be addressed by conditions to control hours (avoiding busy traffic conditions, peak times for trading and quiet times for neighbours).

In terms of the quality of life of neighbours and those who use the area, the proposal is unconvincing.

## **Landscape Architect**

5<sup>th</sup> June 2014

Drawing Title: Landscape Proposals Drg. No. 02 Rev: C

There is information missing from this revision which was included on Rev B. Rev C should be amended as follows:

- North boundary with Newcourt Park: The drawing should show the extended dry-stone wall as previously agreed and shown on Rev B. This should be labelled, 'Extended dry-stone wall to match existing boundary wall'.
- Boundary with Newcourt Road: The new stone retaining wall should be drawn and labelled on the plan, so that it is consistent with the Proposed Rear (West) Elevation shown on Drawing 'Proposed Elevations Sh2' Drg. No. 13 Rev J. It should be labelled, 'Stone retaining wall. Materials to match the proposed rebuilt stone wall on the southern boundary of the site'.



- Planting: There are changes to the planting proposals from Rev B to Rev C. Most are acceptable, but the following require consideration and clarification.

*Rosa 'Meidland'*

In Rev B there were 74 No. *Rosa 'Meidland'* in the planting bed at the top of the retaining wall along Newcourt Road. These have been omitted in Rev C. The drawing should be amended to include the *Rosa 'Meidland'* hedge. If it is no longer the intention to plant these roses, please submit alternative planting proposals.

*Lavandula spica 'Hidcote'*

74 No. *Lavandula spica 'Hidcote'* are shown planted at the back of the SE border. Lavender requires full sun in order to thrive. Although this border is SE facing, the lavender is planted behind 3 No. *Betula utilis jacquemontii*, which will cast dappled shade. Consider replacing the lavender with a more shade tolerant species.

*Car park, Hebe 'Marjorie' and Lonicera pileata*

There is a planting space next to the NW border with the car park. In Rev B this was planted with *Hebe 'Marjorie'* and *Lonicera pileata*. In Rev C the planting has been omitted. This planting should be reinstated.

Drawing Title 'Proposed Elevations Sh2' Drg. No. 13 Rev J

- Boundary with Newcourt Road:

A band of blue engineering brick is shown running along the base of the building and extending as a wall towards the NW corner of the site.

The use of blue engineering brick along this boundary should be reconsidered. If engineering bricks are required below DPC, consider red bricks instead in order to limit the palette of colours and so create a less visually cluttered boundary.

**Tree Officer**

22nd January 2014

The Tree Section has no objections to this application providing the following conditions can be attached:

No roots over 25mm to be severed

Any works taking place in the root protection area shall be carried out by hand and no roots over 25mm to be severed without the advice of a qualified arboriculturist or without written permission from the Local Planning Authority's Tree Officer.

Reason: To safeguard the retained/protected tree(s) in accordance with Local Plan Policies GE5 and GE6 relating to the retention, protection and replacement of trees.

Protective Fencing

Tree protective fencing shall be installed in accordance with the specifications set out within the Arboriculture Report dated December 2013 and Drawing Number CC TP1.

The fencing shall be erected, inspected and approved in writing by the Local Planning Authority prior to the commencement of any works on site (including demolition and site clearance) and shall remain in place until the completion of the construction process.

Reason: In the interests of local amenity, in accordance with Local Plan Policies GE5 and GE6 relating to the retention, protection and replacement of trees.

### Protection of RPA's

All sequencing and detail of works taking place on site (including demolition and site clearance) to take place in accordance with the Method Statement within the Arboricultural Report dated December 2013.

Reason: In the interests of local amenity, in accordance with Local Plan Policies GE5 and GE6 relating to the retention, protection and replacement of trees.

Overall, from the Tree Section's perspective, the proposed landscaping is acceptable and the 3 x *Betula utilis jacquemontii* will compliment this corner of the site well. However, I have some reservations about the suitability of the proposed *Prunus laurocerasus* 'Otto Luyken' to the south west of the site along Newcourt Road. This does not contribute much to wildlife, nor will it have much impact along this part of the lane where an existing (if informal) 'hedge' will have to be removed to facilitate this development. I have requested CBC's Landscape Architect to put forward some suitable alternatives for this area.

### **Strategic Land Use Team**

*25th March 2014*

This is formal acknowledgement that the Strategic Land Use Team of Cheltenham Borough Council concurs with the policy assessment of the proposed development as outlined within the submitted DPDS report.

## **5. PUBLICITY AND REPRESENTATIONS**

Number of letters sent	<b>95</b>
Total comments received	<b>114</b>
Number of objections	<b>112</b>
Number of supporting	<b>2</b>
General comment	<b>0</b>

- 5.1** A total of 95 local residents were notified of the proposals and three site notices displayed within the vicinity of the site (Cirencester Road, at the junction with Croft Road and Newcourt Road). This exercise was repeated in respect of the revised scheme and a further three week period was allowed for local residents to submit further representation.
- 5.2** As a result of the two public notification exercises, a total of 112 representations have been received by the Council from individuals/households (110 objecting and 2 in support). There have also been a number of repeat and additional objections received by some local residents in relation to the amended scheme.
- 5.3** A petition with 950 signatures has also been submitted to the Council. The concerns raised by local residents are all very similar and can be summarised as follows:-
- Impact on existing neighbourhood shopping centres and potential closure of existing shops (in particular the Nisa store)
  - No evidence of demand or need in the area for another A1 convenience store. Existing centres provide adequate range of services for the local community
  - Flaws and inaccuracies in the applicants Retail Impact Statement produced by Mango
  - Sustainability of proposed scheme questioned when majority of customers will arrive by car
  - Increase in traffic and street parking, indiscriminate parking on road, highways safety implication of road junctions with Cirencester Road/Bafford Lane and Newcourt Road.

- Insufficient off-road parking spaces provided in car park
- Impact of early morning deliveries on neighbouring residents
- Impact on amenity of local residents in terms of noise, disturbance, late night disturbance and antisocial behaviour, excessive lighting and litter
- Proposed development is contrary to Policy CP4 of the Local Plan.
- A3/A5 use likely to generate significant parking and noise nuisance/disturbance issues
- Site is more suitable for residential purposes
- The revised scheme fails to address previous issues of need, road congestion and highway safety and impact on amenity.

**5.4** The two petitions of 600 and 350 signatures are headed “we oppose any proposed convenience shop at 86 Cirencester Road, the hand car wash centre, as it is contrary to the Local Plan Policy CP4, ‘it does not maintain the vitality and viability of the town centre and district and local shopping facilities’.”

**5.5** The Charlton Kings Parish Council has also objected to the proposed development.

**5.6** Due to the volume of comments received from local residents, a copy of all third party representations (including the petition) will be available to view in the Members’ lounge and planning reception at the Council Offices.

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

**6.1.1** The key issues in the determination of this application are:-

- The principle of the redevelopment of this brownfield site for retail purposes
- The impact of the proposed development upon the vitality and viability of existing neighbourhood shopping centres
- Traffic, parking and highway safety issues associated with the three proposed retail units
- Delivery and service management of the site
- Impact on the amenity of local residents (particularly those living opposite the site and to the rear) in terms of noise, disturbance and light pollution

### **6.2 Principle of Retail Development**

**6.2.1** This site is currently in commercial use as a hand car wash and has previously been used as a petrol filling station and more recently for car sales and a vehicle workshop. The site serves a useful function and provides a local facility but as a brownfield site within an urban area it is underutilised. In principle therefore, the redevelopment of this site for retail use is acceptable.

**6.2.2** Officers had suggested to the applicant at pre-application stage that a purely residential scheme would be preferable for this site and would provide opportunities for a more vernacular building style which would fit well within its context of neighbouring residential development and would potentially have less impact on the locality in terms of noise and disturbance. However, the applicant has submitted a proposal for retail development and the Council must consider this proposal on its merits. The fact that Officers and local residents consider a residential scheme preferable for this site is not a material consideration in the determination of this application.

### **6.3 Policy Considerations**

- 6.3.1** The following paragraphs should be read in conjunction with both the applicant's retail impact statement (Mango report) and the Council's independent review of this assessment carried out by DPDS Consulting. Both documents are available to view on the Council's website.
- 6.3.2** Policy RT1 of the Local Plan states that retail development will be permitted subject to the availability of suitable sites or buildings which relate to their catchments and sets out the sequence of locations within the borough where retail development should be accommodated, with the order of preference being the Central Shopping Area, Montpellier and High Street West End, elsewhere in the Core Commercial Area, district and neighbourhood shopping centres and then out of centre sites which are accessible by a regular choice of means of transport. Policy CP2 also sets out a sequential approach to the location of all new development which generates a significant number of trips.
- 6.3.3** Policy RT4 states that proposals for retail development within defined boundaries of district and neighbourhood shopping centres will be permitted provided development is appropriate in scale and function to the centre, would not harm the vitality or viability of the town centre as a whole and would not conflict with the movement of through traffic. Policy RT6 states that proposals for new local shopping centres will only be permitted in an area of identified deficiency.
- 6.3.4** Policy RT7 states that retail development will only be permitted outside of defined shopping areas where a need for the additional floorspace has been demonstrated and the proposals would not harm the vitality and viability of the town centre or a district or neighbourhood centre.
- 6.3.5** Policy RT8 relates to proposals for individual convenience stores which are permitted outside of any defined shopping areas subject to a size limitation of 100 sq metres.
- 6.3.6** The policy guidance of the NPPF in relation to retail development continues the long established sequential and impact tests and where proposals fail to comply with these tests the advice is that they should be refused. The threshold for requiring a retail impact assessment is 2,500 sq metres unless there is a locally set threshold in a development plan. The proposed development is well below this threshold and there is no Local Plan policy which sets a local threshold.
- 6.3.7** However, given the proximity of neighbourhood shopping centres to the site, it is reasonable to assume that retail impact will be a material consideration in the determination of this application. The applicant has therefore submitted an impact assessment in support of the application which is discussed in more detail in section 6.4 below.
- 6.3.8** The application site is not within any defined shopping centre and more than 100 sq metres of retail floor space are proposed. The proposed development thus falls to be considered under Policy RT7 of the Local Plan. However, as identified in the DPDS review of the applicant's retail impact assessment, Policy RT7 is not entirely up to date in its reference to 'need' for new retail floorspace. There is no reference to need in the NPPF and DPDS subsequently advise that the Council should not place any great weight on the demonstration of need. However, the remainder of Policy RT7 and consideration of harm to the vitality and viability of an existing centre are consistent with the NPPF and should be afforded due weight.

## **6.4 Retail Impact Assessment**

- 6.4.1** Given the strength of local concern about the potential impact on existing neighbourhood shopping centres and the complexities of assessing this impact, the findings of the DPDS review of the applicant's retail impact statement are outlined in considerable detail in the following paragraphs. For ease, a highlighted summary is provided at the end of the section. Members should also be mindful that, for the purposes of determining this application, an assessment of retail impact upon the existing neighbourhood centres must be made on objective grounds only and emotive, non-material issues put aside.
- 6.4.2** A short addendum to the retail impact assessment was submitted in light of the amended scheme and the removal of the two A3 units. In summary, whilst the gross floor area of the A1 unit has increased from 373 sq metres to 423 sq metres, the proposed net tradeable floor area of the A1 unit has not and remains at 280 sq metres. As such, there is no requirement for further assessment by Mango of the retail impact issues associated with the proposals. Although the Mango report addresses the impact in terms of both the A3 and A1 units, one could argue that the overall trade draw and impact on existing neighbourhood centres will be less given that the A3 units have been removed.
- 6.4.3** As stated above, the main policy issues are the impact of the proposed development on the vitality and viability of identified shopping centres and the availability of sequentially preferable sites.
- 6.4.4** In terms of the sequential test, DPDS have identified that there are no opportunities to accommodate the proposed development in the three nearest neighbourhood centres to the application site; there are no available sites or properties suitable to accommodate a store of this type and size. It is also accepted that the purpose of the proposed development is to provide convenience shopping facilities for the local catchment and therefore any available town centre site could not be considered suitable for this purpose. On this basis, DPDS conclude that it would be unreasonable of the Council to sustain an argument that the proposed development failed to comply with the sequential test.
- 6.4.5** There are three neighbourhood centres within a reasonable travelling distance from the application site; Croft Road/Cirencester Road, Church Street and Lyefield Road West. The nearest, Croft Road, consists of 4 retail units, two of which sell food (Nisa and an independent butcher shop) the other two being a hairdressers and beauty salon. This centre has limited off road parking and street parking. DPDS conclude that the Nisa is a well stocked shop which offers a range and choice of goods which reflect its role within a neighbourhood centre.
- 6.4.6** Church Street centre is larger and offers more facilities, including a Co-op store and there is considerable overlap in catchment areas. Similarly, the Lyefield Road centre has a Budgens store and a range of other retail units, including a post office.
- 6.4.7** Overall, DPDS consider the area well served with local shopping with no significant shortage of shopping facilities for local residents.
- 6.4.8** DPDS has carried out an assessment of the expected turnover figures of the proposed convenience store suggested by Mango and in turn the expected trade draw from existing retail stores in the locality and beyond. Various sales densities have been put forward by Mango to estimate turnover. DPDS have commented on the basis of the higher sales density expected assuming the worst case scenario of a national multiple retail operator occupying this site.
- 6.4.9** Mango's figures for turnover and trade draw are based on the assumption that 80% of the trade of the proposed store would be drawn from Morrison's at Up Hatherley, Sainsbury's in Priors Road, Waitrose and other supermarkets further afield. DPDS has questioned that assumption on the basis that all the above stores are located a long distance from the site

and it is unlikely that top-up shopping from this area is currently taking place from these stores to any great extent. DPDS point to the broad view that like competes with like and the impact of the proposed new store would be felt most by existing local top-up facilities.

**6.4.10** DPDS do however point out that the proposed store is on a busy main road carrying not only local traffic but traffic from Cheltenham to Cirencester and beyond. DPDS consider that with off road parking also available, a significant proportion of the new store's trade could be expected to come from passer-by traffic. In contrast, the existing centres, given their location and lack of parking opportunities would be expected to generate little turnover from passing traffic. DPDS therefore state that, in comparison with existing local centres, the proposed store would be attractive to local residents travelling by car due to ease of parking and it is reasonable to expect a considerable proportion of the estimated £1.7 m turnover to come from the local centres as well as passer-by traffic.

**6.4.11** DPDS take into account that not all top-up shopping will take place locally but question Mango's low estimate of top-up shopping expenditure in the local area generally and in particular the Nisa store. DPDS claim that the Mango analysis is not credible and that the impact on the Nisa store would be much greater. This is because Mango have underestimated the likely turnover of the proposal and made unrealistic assumptions about trade draw. DPDS consider that if a national retailer was the end user the impact would be in excess of Mango's worse case 13-15% trade impact estimate. Despite this, Mango's calculations indicate a significant impact on the Nisa store and if you also take into account DPDS's criticisms in their analysis of turnover and trade draw estimates, DPDS consider the closure of the Nisa store likely.

**6.4.12** The future of the butcher shop is less uncertain. Although some direct competition with the new store would be expected butchers do trade near to small supermarkets and can compete in price and quality. Whilst the butcher shop is likely to lose some turnover, the amount is difficult to estimate since little is known of its trading circumstances.

**6.4.13** DPDS agree with Mango in that the impact on Budgens and the Co-op would be less and that the closure of these stores is significantly less likely and in the case of the Co-op unlikely.

**6.4.14** In summary, DPDS conclude that the impact on Church Street and Lyefield Road West neighbourhood centres is unlikely to be sufficient to justify the refusal of planning permission on retail impact grounds. The impact on the Croft Road centre would be severe and the closure of the Nisa store is likely.

**6.4.15** Whilst the proposed development would therefore be contrary to Policy RT7, DPDS considers that a refusal of planning permission on this basis would not be supported at appeal. DPDS state that the protection of local centres does not generally receive much support at appeal and points out that planning decisions have to be made in the public interest and should not be used to protect private interests. The Croft Road centre consists of 4 private businesses, two of which are unlikely to be affected by the proposed development. DPDS argue that the proposed wider and better range of local shopping facilities afforded by the potential replacement of an existing shop with a better store nearby could be considered to be in the public interest. Of particular relevance is the following comment from DPDS:

*"If the public interest that lies behind the policy to protect neighbourhood centres is to ensure the widespread availability of local shopping facilities, that objective would not be harmed. On the contrary, the proposal could be seen as enabling the modernisation of local facilities and as a refusal as protecting what are essentially private interests"*

**6.4.16** DPDS conclude that there is no 'qualitative need' for a new convenience store in the area which is already well served by existing facilities. The Policy considerations must focus on the sequential and impact tests recognising that Local Plan Policy is

not wholly up to date in relation to 'need'. The issue of need therefore, should not be given significant weight. The sequential test is largely irrelevant since the aim of the proposal is to serve the local catchments. Town centre locations would be unsuitable for this purpose. Similarly, there are no other suitable sites in the three existing neighbourhood centres.

**6.4.17** Although DPDS are not convinced by Mango's assessment of impact on existing centres, as detailed above, this is tempered by acknowledgment of the difficulties in assessing the trade patterns of independent retailers. However, DPDS conclude that food stores in Church Road and Lyefield Road West centres are unlikely to close as a result of the proposal and any impact on these stores would not warrant refusal of this application.

**6.4.18** The impact on the Croft Road store would however be severe and there would be significant risk that the Nisa store would close. The proposed development is therefore contrary to Policy RT7 (and CP4). However, DPDS argue that the objective of this policy is protected in that if the Nisa store were to close, the public would still have access to local and arguably better shopping facilities. DPDS warn that refusing planning permission on impact grounds could be considered as protecting private interests and would place the Council at considerable risk at appeal.

**6.4.19** Additional information was also requested from the applicant with regard to Mango's estimated turnover figures and an Addendum to both the Mango and DPDS statements has been submitted. The conclusions reached by DPDS remain unaltered despite Mango's suggestion that a Spar or Londis type of store would have less turnover and therefore less impact on existing local centres.

**6.4.20** Officers concur with the conclusions reached by DPDS in respect of the impact of the proposed development on existing neighbourhood shopping centres and do not consider that there is sufficient evidence to be able to put forward a refusal on retail impact grounds and one which Officers consider the Council could substantiate at appeal.

## **6.5 Layout of Proposal**

**6.5.1** The proposed development consists of the demolition of all existing buildings and structures on the site and the erection of a single storey convenience store with a gross internal area of approximately 372 sq metres and a trading area of 280 sq metres. The applicant states that the trading area of the A1 unit may vary depending on the operator and their specific 'back of house' requirements but, in any case, would not exceed 280 sq metres due to Sunday trading restrictions. The Council is also informed that the amount of trading floorspace proposed is typical of a 'local' convenience store operated by one of the larger national supermarket chains.

**6.5.2** To the side/rear of the main store is an enclosed service area with refuse store, cage store, cold store and freezer and staff facilities. External access to this area is provided through a door on the side elevation facing the customer car park. An ATM is also proposed to the left of the shop entrance on Cirencester Road.

**6.5.3** A loading bay is provided at the front of the store with vehicular access from Cirencester Road. Lorries will enter the site from the northern crossover access from Cirencester Road and will exit from the southern access. Vehicular access is not restricted to this loading bay from the north but is restricted by automated bollards at the southern crossover which would be lowered only when deliveries to the site took place. A new, second access onto Cirencester Road (and the possible relocation of a street lamp) is also proposed to allow for servicing to the front of the store. A comprehensive Transport Statement and Delivery Management Plan have been submitted with the application and this is discussed in more detail later in the report.

- 6.5.4** A customer car park with 17 spaces (including 2 disabled) is located at the side of the proposed building adjacent to the parkland and cycle storage for up to six bicycles located outside the customer entrance. Landscaping and replacement walls and boundary treatment are proposed along the west and north boundaries and on the corner at the junction with Bafford Lane. A detailed landscaping scheme incorporating a landscape buffer along the Newcourt Road boundary has been submitted as part of the application.
- 6.5.5** The applicant proposes opening hours from 6:00 to 23:00 hours seven days a week. All operational considerations including delivery and servicing requirements are discussed later in the report.
- 6.5.6** Although there appears to have been much local speculation, the end user of the proposed convenience store has not been identified as part of the application details. Therefore, rumours about any particular store having an interest in this site should not form part of the decision making process and are not a material consideration.

## **6.6 Design and external appearance**

- 6.6.1** The removal of the two A3 units has prompted the architect to re-evaluate the layout and design of the proposed store, notably the relocation of the shop entrance to the corner facing the car park and the back-of house servicing to the rear and less visible part of the site but now easily accessible from the car park. The proposed A1 unit reads as one single storey structure with the southern section articulated and set at a slight angle to the remainder of the building.
- 6.6.2** Whilst the building is fairly uniform in its appearance, the mix of materials proposed and increase in fenestration should add visual interest and break up an otherwise expanse of brickwork. The building incorporates a zinc, overlapping, duo-pitched roof with predominantly brick facing walls with rough faced natural stone detailing on the end south elevation and part rendered side and rear elevations. Stone mullions have been introduced on the front elevation to add interest and attempt to reflect the proportions of the bay windows of the houses opposite.
- 6.6.3** The main store is otherwise fully glazed beneath a fascia fronting Cirencester Road but with this increase in fenestration the shop front is considered generally more active with views into the store. A 300mm course of blue engineering brick runs along the bottom of the entire building below DPC level and continues at the rear of the site to form a higher retaining wall. A new Cotswold stone wall is proposed along the boundary with Newcourt Road which wraps around the corner of the site at the junction with Bafford Lane.
- 6.6.4** The building is approximately 5.5 metres in height when measured to the ridge (3.7 eaves height) but with a slight step down in height at the rear facing Newcourt Road (4 metres when measured from car park level). The buildings are described in the architect's Design Development Statement as "a more contemporary aesthetic, utilising high quality materials ...a contemporary appearance, but will look familiar in the context in terms of form, scale and materials'.
- 6.6.5** The staggered building line on the Cirencester Road breaks up the mass of the building. The corner of the site is exposed and allows for some landscaping which should soften the built form with the trees along the north boundary continuing to provide a beneficial green visual buffer between the proposed car park and store and open parkland beyond.
- 6.6.6** The scheme as originally submitted was not that dissimilar in design, basic form, position on the plot and use of materials but included a flat, concealed membrane roof over the entire building and timber cladding detail. Many of the local objectors commented that this flat roof was contextually inappropriate. Officers consider that a flat roof on an acceptably designed building of the size and footprint is appropriate. To span a building of this depth would normally necessitate a high pitched roof (or alternative contrived roof form),



increasing the overall scale and bulk of the building and hence would dominate the building and appear prominent in the street scene. However, the proposed duo-pitched roof is considered both an improvement on the previous flat roof and is achieved without significantly increasing the overall height and bulk of the building. There have been no specific comments in relation to the proposed zinc roof following the second public consultation exercise.

- 6.6.7** Although the extent of built form along the west boundary will increase, the building height here is single storey and the sunken lane characteristics of Newcourt Road should be largely protected. A new retaining wall and planting is proposed along the west boundary and similarly a low stone wall along the north boundary with the park.
- 6.6.8** The Council's Landscape Architect has concerns about the use and extent of blue engineering brick along the Newcourt Road boundary. Engineering brick is normally used for retaining wall structures but the colour of the brick could be easily amended and approved via planning condition. This would improve the visual amenities and rural feel of Newcourt Road.
- 6.6.9** The Architects' Panel has commented on the revised scheme and considers the proposed building '*a very basic – almost crude – cranked, single storey brick shed with attached, flat roofed outbuildings*'. The Panel also felt '*that the material palette was over fussy, particularly with the unnecessary introduction of rusticated Cotswold Stone – simpler render would probably work better*'. There was also concern about the windows being covered with garish posters.
- 6.6.10** Firstly, the 'pre-application' drawings to which the Architects' Panel refer to in their comments relate to an earlier set of revised drawings submitted for discussion only but were presented to the Panel for their thoughts on the overall design concept. This scheme incorporated a tilted 'drum' element on the southern end of the site set much higher than the remainder of the mono-pitch zinc roofed building. Although the comments of the Panel were complimentary on many aspects of the revised scheme and not overly negative, the applicant chose not to pursue the 'drum' concept but adopt a more familiar contemporary approach to the proposed design.
- 6.6.11** Officers consider the comments from the Architects Panel perhaps a little too harsh. The use of stone detailing and recessed and exposed panelling on the front, side and rear elevations breaks up an otherwise expanse of brick work and render. There is some use of Cotswold stone within the locality and at the rear of the site and the proposed new and replacement side and rear boundary walls are proposed as stone walls. The duo-pitch standing seam zinc roof is commonly used in commercial buildings and mimics the traditional slate roofs of neighbouring development. The pitched roof form is considered an improvement on the previous flat roof; it adds interest and reduces the impression of bulk.
- 6.6.12** The relocated store entrance under a canopy is welcomed and reduces the potential for pedestrian/vehicular conflict during deliveries. The content and number of advertising panels occupying the glazing on the front elevation will require advertisement consent and could be adequately controlled. Similarly, the amount of opaque glazing proposed could be reconsidered to enable clearer views through the shopfront into the sales area. The internal layout of the store, although not a material consideration of this application, could be easily configured to prevent unsightly racks being positioned against windows.
- 6.6.13** Although Officers consider the scheme acceptable in its current form, the Panel's comments in relation to the roof/eaves overhang, articulation of the entrance and location of cycle racks are valid considerations. These are design details which could improve the overall appearance of the scheme and would be subject to approval via a suitably worded planning condition.

- 6.6.14** Notwithstanding the above comments, with careful consideration of quality, durability and how the individual elements of the proposed materials would work together, the scheme should deliver a building of acceptable and good quality appearance. Similarly, the approval of the detail of the proposed materials and fenestration could be satisfactorily dealt with via planning condition.
- 6.6.15** Whilst the proposed building is modern, functional but not remarkable in its appearance, Officers consider the overall layout and design satisfactory and the proposed buildings should sit comfortably on what is an awkward shaped site which tapers to the south. In comparison with the original proposals, the revised scheme offers improvements in architectural detailing, choice of materials and the way the building addresses the street.
- 6.6.16** Whilst the site would be more developed in terms of built form than the existing scenario, the proposed development should not appear prominent in the street scene when approaching from either direction. As such the proposed development adheres to Policy CP7 of the Local Plan.

## **6.7 Access and highway issues**

- 6.7.1** The application site is located on Cirencester Road (B435) which is a classified road and one of main arterial routes into and out of Cheltenham. The proposed development would generate a significant number of vehicular movements to and from the site on a daily basis. There are 17 customer car parking spaces provided on site and include disabled parking facilities. Cycle parking is also provided outside the main shop entrance.
- 6.7.2** An off road loading bay is provided at the front of the store which will be accessed from Cirencester Road. This servicing and loading bay will be used only by delivery and service vehicles and not for customer parking. To prevent indiscriminate parking and reduce pedestrian/vehicular conflict during deliveries, this area would be controlled via bollards placed at its southern entrance and road markings on the northern entrance to the loading bay. The bollards would be lowered only when a delivery vehicle needed to leave the site.
- 6.7.3** The original scheme proposed a similar loading bay at the front of the shore but delivery vehicles were restricted to entering the site from the south on Cirencester Road and leaving from the north. The amended scheme proposes a switch in direction with delivery vehicles now proposed to enter the site from the northern access and leave the site from the south. Deliveries will then be made either via the main shop entrance or the side service door. A revised vehicular tracking diagram and amended Transport Statement have also been submitted to illustrate the feasibility of this approach.
- 6.7.4** There has been lengthy and detailed discussion between the County Highways Officer and the applicant's highway consultant in relation to the highway issues associated with the proposed development. A number of surveys and further analysis on pedestrian safety and accumulated parking estimates have also been undertaken.
- 6.7.5** In consultation with Officers and the County Council, the applicant has also submitted a Delivery Management Plan (DMP) which would form part of any planning approval for this site. This document seeks to control and manage all retail and service deliveries to the site in a manner which should prevent the parking or waiting of delivery vehicles on the public highway and deliveries taking place directly from Cirencester Road, Newcourt Road or Bafford Lane. Any breach of the requirements of the DMP would potentially result in a breach of condition notice being served on the user of the site and appropriate enforcement action being taken. The DMP would apply to the end user of this site and any subsequent A1 user of the site, in perpetuity.
- 6.7.6** The DMP also includes reference to delivery times (in accordance with the suggested conditions relating to opening hours and delivery times), a warning system alerting the store of the arrival of a delivery vehicle, restrictions on the size of vehicles delivering to the site,

the need to switch engines off when deliveries take place, careful use of tail lifts to reduce noise disturbance and the use of rubber wheel cages. School drop off and pick up times would also be avoided.

- 6.7.7** To minimise HGV movements to the site, all waste products from the store will be removed in the returning delivery vehicle. General refuse will be collected from the store once a week. All cages and other storage units will be contained in the back of house area and will at no time be left in the delivery bay or customer car park. Importantly, third party suppliers will be informed in advance of the DMP.
- 6.7.8** The Noise Impact Assessment has also been reviewed in light of the DMP and amended layout. Tested against the worst case scenario of HGV vehicles arriving between 06.00 and 07.00 am, the assessment indicates that proposed delivery vehicle movement noise levels are likely to have an insignificant effect on the existing ambient noise levels at the adjacent residential properties.
- 6.7.9** Further information was also requested in relation to parking accumulation and the layout and usability of some of the parking spaces. These issues are now largely resolved following the removal of the A3 units and resultant increase in the customer car park and more efficient use of space. The relocation of the customer entrance to face the car park should also reduce the potential for pedestrian/vehicular conflict in the loading bay area. It should also encourage the use of the car park in line with customer parking habits. The width of the service door has also been widened to allow easy manoeuvre of refuse bins and cages to the back of the store.
- 6.7.10** The Highways Officer considers the revised layout of the building and the location of the loading bay acceptable. The revised positioning and removal of bollards is also acceptable and should ensure that a vehicle is never waiting on Cirencester Road for the bollards to be lowered due to operator error or malfunction. The minimal use of bollards at pavement edge is deemed necessary to prevent private cars using the loading bay.
- 6.7.11** There have been concerns however, about the switch in direction with delivery vehicles now proposed to enter the site from the northern access and leave the site from the south. This is a fundamental change from the discussions and general agreement that had taken place prior to the submission of the revised scheme in May. The Highways Officer has assessed the implications of delivery vehicles on Cirencester Road waiting to cross the north bound carriageway and pedestrian/vehicular conflict at the Northern Cross over into the site opposite the shop entrance. In conjunction with the DMP, he is satisfied that servicing will operate safely and efficiently to ensure that pedestrians using the site will be unaffected and deliveries will not take place from the adjacent highway.
- 6.7.12** There are also issues relating to existing pedestrian infrastructure (crossings/desire lines etc) within the vicinity of the site and its capabilities of accommodating the likely increase in pedestrian flows. The location of a suitable crossing point/build-out facility immediately outside the proposed store and reducing the junction width of Bafford Lane/Newcourt Road plus tactile provision have been explored by the County Highway Development Management Team. They consider that pedestrian permeability can be improved by narrowing the junction width of Newcourt Road with Cirencester Road and an additional build out facility can be created on the southern radii of this junction. The Highway Officer's full consultation response will be available as an update.
- 6.7.13** The layout and level of car parking on the site is considered to accommodate for the majority of users of the proposed development. Although impossible to prevent all indiscriminate parking on the highway, the proposed layout should be attractive to customers and as attractive as parking on the street (which is always difficult in this location). Notwithstanding these comments, GCC is seeking a financial contribution from the applicant to control future parking abuse (i.e. waiting restrictions, street furniture).

- 6.7.14** The Highways Officer has also considered the previous uses of the site (the fall back position). The petrol filling station would have generated significant vehicular trips accessing the site at two points with frequent serving and deliveries to the underground fuel stores. The ancillary shop would also likely have generated non-car trips. The applicant's vehicular trip analysis concluded that the proposed development would result in less daily vehicular traffic when compared with the previous petrol filling station. The Highways Officer considers this a key factor in determining the degree of impact of the propose use; the result being a positive impact on highway safety and capacity.
- 6.7.15** In conclusion and with regard to the previous uses of the site, the highway authority considers that the cumulative impact of the proposed development will not be severe and safe and suitable access can be provided. No highway objection is raised subject to conditions and the applicant entering into a legal agreement to ensure the provision of necessary highway works.

## **6.8 Impact on neighbouring property**

- 6.8.1** The site is currently used by a hand car wash facility which uses a jet washing operating system. The car wash operates seven days a week although opening hours are restricted to reduce noise and disturbance to local residents (09:00 to 18:00 hours Monday to Saturday and 10:00 to 14:00 hours on Sundays and Bank Holidays). One cannot argue that this use does not generate noise. The previous use of the site as a petrol filling station, a car workshop and for car sales would also have generated a certain level of daily vehicular movement, customer activity and noise and disturbance to local residents. Fundamentally, this is a brownfield site, on a busy road and currently in commercial use. Therefore, the proposed commercial use of the site must be considered acceptable in principle.
- 6.8.2** What does need to be assessed however, is the potential increase in noise and disturbance likely to be generated by the proposed convenience store and the impact of that increase upon the amenities of occupiers of neighbouring properties. The potential for noise would come from deliveries to the site, the use of the adjoining car park, the ATM, plant and ventilation equipment and the daily pedestrian activity on the site. There are also issues of light pollution to consider.
- 6.8.3** The majority of the concerns raised by local residents (in addition to the 'need' for this store) relate to noise and disturbance and the potential problems associated with delivery vehicles.
- 6.8.4** In consultation with the Council's Environmental Health Officer, Officers recommend that the opening hours are reduced slightly to that proposed by the applicant. To reduce the potential for noise and disturbance to local residents, particularly those living opposite the site, the suggested opening hours of the store are between 07:00 to 11:00 Monday to Saturday and 7:30 to 10:30 on Sundays and Bank holidays. These times are not dissimilar to those of other small local supermarkets and convenience stores across the County although many do open at 6:00. Given the proximity of residential properties and the site's out of town location, Officers consider this later opening restriction reasonable and appropriate.
- 6.8.5** Deliveries to the site would only be permitted to take place between 07:00 and 19:00 hours Monday to Friday, 08:00 and 18:00 Saturday and 08:00 and 10:00 and 14:00 on Sunday and Bank holidays. The applicant anticipates that there would be one, possibly two main deliveries each day. Newspaper deliveries would be allowed outside of these hours but not before 06:00 hours.
- 6.8.6** The Delivery Management Plan has been amended to include specific reference to the opening and delivery times of the store. The remaining stipulations of the DMP should further reduce the potential for noise break out; there are controls, for example, relating to the cage stores and delivery vehicle engines.

- 6.8.7** The Environmental Health Officer has assessed the 'Environmental Noise Survey and Noise Assessment Report' submitted by the applicant. This report considers, inter alia, estimated plant noise emission, vehicular noise measurements (from both the car park and delivery vehicles) and an overall delivery and customer noise impact assessment. She has no concerns about impact on nearby residential properties, particularly those opposite the site and the bungalow at the rear, subject to a number of conditions being imposed which relate to opening and delivery hours and the approval of ventilation/refrigeration equipment.
- 6.8.8** The totem sign initially proposed at the entrance to the site nearest to the parkland has been removed from the scheme. A condition has also been added to ensure that future signage and illumination of signs and adverts is kept to a minimum to reduce the potential for light glare. There is also a condition relating to the approval of lighting within the car park and security lights across the site. Members should note that all advertisements and signage would be subject to a separate application for advertisement consent. Anything shown on the submitted drawings is indicative only.
- 6.8.9** With all the above restrictions in place and accompanied by the Delivery Management Plan, Officers consider that there should be no significant harm to the amenities of occupiers of nearby properties caused by deliveries and the use of all the store's facilities and car park. What is proposed is a convenience store/small supermarket which would not require the level of deliveries and servicing normally associated with the larger supermarkets. One main delivery each day should not cause significant harm to amenity. Similarly, the use of the customer car park throughout the day should not generate noise disturbance significantly above the level of noise of existing traffic on Cirencester Road.
- 6.8.10** As stated previously, the site is currently in commercial use and the existing car wash business generates noise on a daily basis alongside vehicular movements and general activity on the site. This site is located adjacent to a busy arterial road with a considerable and constant flow of traffic which also generates noise. One should also bear in mind the other fall back situation of this site again being used as a petrol filling station which could also include a retail element.
- 6.8.11** Particular regard has been paid to the effect of the proposed development upon the amenities and living conditions of those living directly opposite the site, especially in relation to the potential for early morning deliveries to the site. However, on balance Officers consider that any noise and disturbance and subsequent harm to amenity generated by the proposed convenience store should be no worse than that caused by the current use of the site as a car wash facility and the location adjacent to a busy road. Although the characteristics and activity on the site would differ with an A1 use, any harm caused would not be significant enough to warrant refusal of the proposed development. The proposed development therefore adheres to Policy CP4 of the Local Plan.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1** The application site is a former petrol filling station and currently used as a hand car wash facility. The site serves a useful function and provides a beneficial service to the local community but as a brownfield site within an urban area it is underutilised and generally detracts from the character and appearance of the locality.
- 7.2** Given that the site is currently in commercial use, the proposed redevelopment of the site for retail purposes is considered acceptable in principle. Any preference for residential development on this site should not be a material consideration.
- 7.3** Officers are aware of the extent of local opposition to this convenience store and the majority of comments focus on the lack of 'need' for another small supermarket within the

Charlton Kings catchment and the impact that a new store would have on existing shops and services. Given the proximity of three Neighbourhood Shopping Centres the Council sought an independent review of the applicant's Retail Impact Assessment.

- 7.4** The appointed Consultants, DPDS, have assessed the proposed development in terms of both need and impact and with reference to the Development Plan and National Planning Policy Guidance. Although DPDS conclude that there is no 'qualitative need' for a new convenience store in the area which is already well served by existing facilities, they clearly point out that Policy RT7 of the Local Plan is not up to date in its reference to 'need' for new retail floorspace. Importantly, there is no reference to 'need' in the NPPF and DPDS subsequently advise that the Council should not place any great weight on the demonstration of need. However, consideration of the sequential tests and harm to the vitality and viability of an existing centre are consistent with the NPPF and should be afforded due weight.
- 7.5** DPDS conclude that the impact on the Croft Road Nisa store would be severe and there would be significant risk that this shop would close. The proposed development is therefore contrary to Policy RT7. However, DPDS argue that the objective of this policy is protected in that if the Nisa store were to close, the public would still have access to local and arguably better shopping facilities. DPDS warn that refusing planning permission on impact grounds could be considered as protecting private interests and would place the Council at considerable risk at appeal.
- 7.5.1** With regard to the previous uses of the site, the highway authority considers that the cumulative impact of the proposed development will not be severe and safe and suitable access and adequate parking can be provided. The DMP should ensure that all servicing and deliveries to the site will operate safely and not from the adjacent highway. No highway objection is raised subject to conditions and the applicant entering into a legal agreement to ensure the provision of necessary highway works.
- 7.6** An A1 unit on this site would certainly generate noise and activity associated with customers visiting the site and deliveries. However, consideration of loss of amenity to the occupiers of neighbouring properties must focus on whether the harm caused would be significant and severe enough to warrant refusal of the proposed development.
- 7.7** The existing car wash facility generates noise and vehicular movements to and from the site on a daily basis. Cirencester Road is a busy road and traffic flow also generates considerable noise. Officers argue that any noise and disturbance generated by a convenience store should not be any worse than the current scenario. In consultation with the Council's Environmental Health Officer, opening hours and deliveries would be restricted to minimise early morning disturbance and the end user of the site would need to adhere to the Delivery Management Plan which would form part of any planning approval.
- 7.8** Following careful consideration of all the issues (particularly those relating to amenity) and with regard to the strength of local opposition to this scheme, Officers have no overriding objection to the proposed development in terms of the principle of a retail use on this site, loss of amenity to the locality, impact on existing neighbourhood centres, design and layout and highway safety.
- 7.9** It is therefore recommended that planning permission be granted subject to conditions and the applicant entering into a legal agreement with the County Council to ensure the provision of necessary highway works.
- 7.10** A full list of conditions will follow as an Update.

<b>APPLICATION NO:</b> 13/02174/FUL	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 8th January 2014	<b>DATE OF EXPIRY:</b> 5th March 2014
<b>WARD:</b> Charlton Park	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	CTC (Gloucester) Ltd
<b>AGENT:</b>	Hunter Page Planning
<b>LOCATION:</b>	86 Cirencester Road Charlton Kings Cheltenham
<b>PROPOSAL:</b>	Erection of a new convenience store (A1) with associated parking (following demolition of existing buildings on the site)

## Update to Officer Report

### 1. OFFICER COMMENTS

- 1.1. A full list of conditions is included at the end of this report.
- 1.2. For the avoidance of doubt, Members should be aware of a couple of drafting errors in the Officer's Report circulated last week. Cirencester Road is inaccurately referred to as the B435 instead of the A435. Both Planning Officers and the Highway Officer have been fully aware of the road's status during the consideration of the proposed development.
- 1.3. The opening hours of the car wash business currently on site were inaccurately quoted (they refer to the hours proposed by the applicant when planning permission was first sought). The approved hours of opening of the car wash are 09:00 to 18:00 Monday to Saturday and 10:00 to 14:00 on Sundays and Bank Holidays. Again, these restricted opening hours were known by both the Environmental Health Officer and Planning Officers during consideration of the proposed development.
- 1.4. The Council has also received a number of additional third party representations since the Committee Schedule was published and these are attached.
- 1.5. In response to some of the more recent comments and concerns raised by local residents, the applicant has submitted a Technical Note regarding the switch in direction for deliveries to the site. This Note also indicates that the layout of the proposed store will enable deliveries to take place in either direction should problems arise with a southern approach. This document is available to view on public access.
- 1.6. At the request of the County Highways Officer a swept path analysis/tracking diagram has also been submitted which shows the HGV cab position coinciding with the visibility envelope at the egress point for either a north or south exit from the site. This diagram will be displayed at Committee but is also available to view on public access.
- 1.7. Members will also be aware of a suggestion from one local resident to have a lorry parked on the site for Members to assess to visibility from the driver's position at the southern egress point. The County Highway Officer is satisfied that there would be adequate visibility from the southern access and therefore a lorry on site would not alter his assessment of the proposed development or his recommendation.
- 1.8. The applicant has also provided written confirmation and assurance from their appointed Environmental Consultants that the equipment used during the noise survey carried out earlier this year does not appear to have been tampered with or damaged, as reported by local residents. They have reviewed the data and can confirm that based on the survey results, the measurement position does not appear to have been obstructed and there

was no evidence of any obstruction or tampering when the equipment was collected. This equipment was also positioned approximately 5 metres above ground level and was locked for the duration of the survey. This letter is also attached.

## 2. CONDITIONS/INFORMATIVES

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with drawing numbers 655 01655 08 Rev U, 655 13 Rev J, 655 12 Rev K, 655 17 Rev B, 655 18, 483 02 Rev d received 19th December 2013, 15th May 2014, 6th June 2014 and 9th June 2014.  
Reason: To ensure the development is carried out in strict accordance with the approved drawings.
- 3 The development hereby approved and all deliveries and servicing of the development hereby permitted shall be carried out in strict accordance with the 'Delivery Management Plan 13-00234/DMP/01/Rev E June 2014' received by the Council on 6th June 2014, unless otherwise agreed in writing by the Local Planning Authority. Should any variation of the Delivery Management Plan (DMP) be deemed necessary, then the applicant or current occupier of the development hereby approved shall submit a revised DMP to be approved in writing by the Local Planning Authority. The development hereby permitted and all deliveries and servicing of the development hereby permitted shall thereafter be carried out in strict accordance with the revised approved DMP.  
Reason: To ensure the development and all deliveries and servicing of the site are carried out in strict accordance with the approved Delivery Management Plan in the interests of highway safety and to protect local amenity, in accordance with Policies TP1 and CP4 of the Local Plan.
- 4 The development hereby approved shall not commence on site until the following condition has been complied with and satisfactorily agreed, in writing, by the Local Planning Authority.

### i) Site characterisation

A site investigation and risk assessment should be carried out to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report must include:

- a) a survey of the extent, scale and nature of contamination
- b) an assessment of the potential risks to:
  - human health
  - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
  - adjoining land
  - ecological systems
  - groundwaters and surface water
  - archaeological sites and ancient monuments



- c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'

ii) Submission of a remediation scheme

Where remediation is required, a detailed remediation scheme to bring the site to a condition suitable for the intended use should be produced and will be subject to the approval, in writing, by the Local Planning Authority prior to implementation. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.

iii) Implementation of approved remediation scheme

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of the development, other than that required to carry out remediation. Following completion of measures identified in any approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval, in writing, by the Local Planning Authority.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination until section (iv) has been complied with in relation to that contamination.

iv) Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with section i) and a remediation scheme submitted in accordance with section ii). Following completion of measures identified in the approved remediation scheme, a verification report must be produced in accordance with section (iii).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Plan Policy NE4 relating to development on contaminated land.

- 5 Prior to commencement of development full details of the proposed vehicular accesses and layout of the proposed delivery bay shall be submitted to and approved by the Local Planning Authority and prior to the first beneficial occupation of the development they shall be completed in all respects in accordance with details approved under this condition and shall be retained as such thereafter.  
Reason: To minimize hazards and ensure a safe and suitable means of access for all users of the development hereby approved in accordance with Local Plan Policy TP1 relating to development and highway safety.
- 6 Prior to the first occupation of the development, the car parking area shall be completed and marked out in accordance with the approved plan(s). The car parking area shall thereafter be retained in accordance with the approved plans and kept available for use as car parking.

Reason: To ensure adequate car parking within the curtilage of the site in accordance with Local Plan Policy TP1 relating to development and highway safety.

- 7 Prior to the commencement of development a phasing programme for the development hereby approved shall be submitted to and approved in writing by the local planning authority and the local highway authority. This phasing programme will need to ensure that the highway authority can implement highway works prior to the beneficial opening of the retail unit hereby approved.

Reason: To minimize hazards and ensure a safe and suitable means of access for all users of the development hereby approved in accordance with Local Plan Policy TP1 relating to development and highway safety.

- 8 Prior to the commencement of any development on the site, including any works of demolition, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall provide for and include the following information:-

- a) the parking of site operatives' and visitor's vehicles
- b) the type and number of vehicles expected to occupy the site during the development phases (including demolition)
- c) the means of loading and unloading plant and materials
- d) the areas on site to be used for the storage of plant and materials used in construction and any resultant materials from demolition works
- e) wheel washing facilities
- f) access routes into and out of the site of all construction operations and vehicles
- g) measures to control the emission of dust and dirt during construction and demolition

The provisions of the approved statement shall be adhered to throughout the construction and demolition phases of the development.

Reason: To provide safe access to site during the construction period in accordance with Policy TP1 of the Local Plan.

- 9 The cycle parking provision shown on the approved plans shall be completed prior to the first occupation of the development and thereafter kept free of obstruction and available for the parking of cycles only.

Reason: To ensure adequate provision and availability of cycle parking in accordance with Local Plan Policy TP6 relating to parking provision in development.

- 10 Notwithstanding the submitted details, prior to the commencement of development, the design and details (including materials and finishes) of the following shall be submitted to and approved in writing by the Local Planning Authority:

- i. the main shop entrance, canopy and supporting posts, fascia detail and glazing
- ii. eaves, soffit and parapet detail
- iii. windows, doors and shopfront glazing panels (including reveals, cills and any obscure glass)
- iv. stone panelling to glazing surrounds and stone banding detail
- v. rainwater goods
- vi. vents, flues and any other pipework
- vii. bollards and any other street furniture
- viii. security lighting and all external light fittings installed within the curtilage of the application site
- ix. bicycle stands

The design and details shall be accompanied by elevations and section drawings where considered necessary by the Local Planning Authority. The works shall thereafter be implemented strictly in accordance with the agreed details.

Reason: To ensure a satisfactory form of development in accordance with Local Plan Policies CP3, CP4 and CP7 relating to sustainable environment, safe and sustainable living and design, and national guidance set out within the National Planning Policy Framework. These are important details which need to be constructed in the traditional local manner to ensure that the development is compatible with its surroundings.

- 11 Prior to the commencement of development, a detailed scheme for boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and the boundary walls, fences or other means of enclosure shall be erected before the development hereby permitted is first occupied.

Reason: To ensure that the development is completed in a manner that is sympathetic to the site and its surroundings in accordance with Local Plan Policy CP7 relating to design.

- 12 Prior to the commencement of development, samples of the proposed facing and roofing materials and boundary and retaining wall materials, including a sample panel of the stone walling on the proposed south elevation, shall be submitted to and approved in writing by the Local Planning Authority. The materials used in the development shall be in accordance with the samples so approved.

Reason: To ensure a satisfactory form of development in accordance with Local Plan Policy CP7 relating to design.

- 13 Prior to the commencement of development, plans detailing the specification and location of all hard surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. All new hard surfacing areas shall be formed from permeable materials or provision shall be made to direct run-off from the hard surface to a permeable or porous area (soakaway) within the site.

Reason: To maximise the absorption of rainfall on site in accordance with Local Plan Policy CP1 relating to sustainable development.

- 14 Prior to the commencement of development, a detailed scheme for landscaping, tree and/or shrub planting and associated hard surfacing (which should be permeable or drain to a permeable area) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall specify species, density, planting size and layout. The scheme approved shall be carried out in the first planting season following the occupation of the building or completion of the development, whichever is the sooner.

Reason: To ensure that the development is completed in a manner that is sympathetic to the site and its surroundings in accordance with Local Plan Policies CP1 and CP7 relating to sustainable development and design.

- 15 Prior to the commencement of any works of demolition or construction a Method Statement detailing the control of noise, dust, vibration and any other nuisances arising from works of construction and demolition (including the methods for storage, removal and/or recycling of waste/salvaged materials) shall be submitted to and approved in writing by the Local Planning Authority. The statement should also include controls on noise and nuisance from construction and delivery vehicles operating at and accessing the site from the public highway.

Reason: To protect the amenity of the residents in nearby residential properties in accordance with Policy CP4 of the Local Plan.

- 16 All works relating to the development hereby approved, including works of demolition or preparation prior to operations, shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the residents in nearby residential properties in accordance with Policy CP4 of the Local Plan.

- 17 Prior to the commencement of development, the end user of the proposed A1 unit (and any subsequent user(s)) of the unit) shall submit a waste management plan which shall be approved in writing by the Local Planning Authority. The plan shall provide details of where the waste and recycling for all units will be stored, the proposed means of collection and the methods the waste collection contractor will adopt in reducing the impact from noise on nearby residential premises. The provisions of the approved waste management plan shall be implemented upon the proposed retail unit being first open to customers and thereafter implemented for the duration of the use.  
Reason: To protect the amenity of the residents in nearby residential properties in accordance with Policy CP4 of the Local Plan.
- 18 All deliveries to the site (including the collection of waste) shall only take place between the hours of 07:00 and 19:00 Monday to Friday, 08:00 and 18:00 Saturdays, 10:00 and 14:00 Sundays and Bank Holidays.  
Reason: To protect the amenity of the residents in nearby residential properties in accordance with Policy CP4 of the Local Plan.
- 19 The use hereby permitted shall only be open to customers between the hours of 07:00 to 23:00 Monday to Saturday, 07:30 to 22:30 on Sundays and Bank Holidays.  
Reason: To protect the amenity of the residents in nearby residential properties in accordance with Policy CP4 of the Local Plan.
- 20 The proposed ATM shall operate in silent mode outside the hours of 08:00 to 22:00.  
Reason: To protect the amenity of the residents in nearby residential properties in accordance with Policy CP4 of the Local Plan.
- 21 Prior to the commencement of the use hereby permitted, details of the means of ventilation and extraction from air conditioning plant, chiller and refrigeration systems and the dispersal of cooking smells/fumes, including details of method of construction, odour control measures, noise levels, its appearance and finish shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed before the use hereby permitted commences and the store is open to customers and maintained in strict accordance with the manufacturer's and installer's instructions thereafter.  
Reason: These details need careful consideration and formal approval to safeguard the amenity of adjoining properties and to protect the general environment in accordance with Local Plan Policy CP4 relating to safe and sustainable living.
- 22 The total noise generated from all items of plant and extraction and ventilation equipment associated with the use hereby permitted shall be controlled to the extent that the rating level (in accordance with BS 4142: 1997) as measured or calculated at 1m from the façade of the nearest noise sensitive premises shall not exceed a level of 5dB below the existing LA90 background level with no tonal element to the plant. This control shall be demonstrated by a noise assessment which shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any plant of extraction/ventilation equipment. Should any changes be made to the building or the plant and equipment serving it, the detail of these alterations shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The plant and extraction/ventilation equipment shall be installed and thereafter operated strictly in accordance with the approved details.  
Reason: These details need careful consideration and formal approval to safeguard the amenity of adjoining properties and to protect the general environment in accordance with Local Plan Policy CP4 relating to safe and sustainable living.
- 23 Prior to the commencement of development, the surface water drainage system shall be designed in accordance with the principles of Sustainable Drainage Systems

(SUDS). This shall include a maintenance strategy and full details (including calculations) shall be submitted to and approved by the Local Planning Authority. Prior to the first occupation of any part of the development, the surface water drainage system shall be completed in all respects in accordance with the details approved and shall be retained as such thereafter.

Reason: To ensure the surface water drainage system does not contribute to flooding or pollution of the watercourse in accordance with Local Plan Policy UI3 relating to sustainable drainage systems.

- 24 Any works taking place in the root protection area shall be carried out by hand and no roots over 25mm shall be severed without the advice of a qualified arboriculturalist or without the written consent of the Local Planning Authority'.

Reason: To safeguard the retained/protected tree(s) in accordance with Local Plan Policies GE5 and GE6 relating to the retention, protection and replacement of trees.

- 25 Tree protective fencing shall be installed in accordance with the specifications set out within the Arboricultural Report dated December 2013 and Drawing Number CC TP1. The fencing shall be erected, inspected and approved in writing by the Local Planning Authority prior to the commencement of any works on site (including demolition and site clearance) and shall remain in place until the completion of the construction process.

Reason: In the interests of local amenity, in accordance with Local Plan Policies GE5 and GE6 relating to the retention, protection and replacement of trees.

- 26 All sequencing and detail of works taking place on site (including demolition and site clearance) shall take place in accordance with the Method Statement within the Arboricultural Report dated December 2013.

Reason: In the interests of local amenity, in accordance with Local Plan Policies GE5 and GE6 relating to the retention, protection and replacement of trees.

#### INFORMATIVES :-

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, the authority sought revisions to the detail of design, landscaping enhancement, boundary treatment, removal of signage, and additional information on highway delivery management and noise emissions.

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The complete extraction system serving the unit should be designed and commissioned by competent specialist engineers. The design of air pollution control equipment should be based on peak load conditions, i.e. the worst case scenario.

The scheme shall include the following:

- Full details of the system layout
  - Housing of filters, motor and fan inside the building where possible
  - Integrated grease baffle filters
  - Suitable odour treatment plant to render the exhaust odourless at nearby residential property
  - Specification of a motor and axial fan with variable speed controller
  - An acoustic report detailing the predicted noise levels from the extraction equipment as they affect nearby residential properties.
  - Circular section ducting preferred with a minimum of bends
  - High level exhaust point fitted with a vertical discharge cowl that achieves maximum efflux velocity. This shall be at least 1 metre above roof ridge level of the host building
- 3 Given the proximity of neighbouring residential development, the number and size of fascia signs and other signage, graphics and advertisements and the level and amount of illuminated signage on the shop frontages should all be kept to a minimum.
- 4 Should a survey of the existing building (prior to the commencement of any works on site) indicate the presence of asbestos containing materials, the demolition of the building will need to be undertaken in accordance with the legislation surrounding asbestos removal and the demolition of buildings containing asbestos and the waste disposed of in a legally compliant manner.

<b>APPLICATION NO:</b> 13/02174/FUL	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 8th January 2014	<b>DATE OF EXPIRY:</b> 5th March 2014
<b>WARD:</b> Charlton Park	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	CTC (Gloucester) Ltd
<b>AGENT:</b>	Hunter Page Planning
<b>LOCATION:</b>	86 Cirencester Road Charlton Kings Cheltenham
<b>PROPOSAL:</b>	Erection of a new convenience store (A1) with associated parking (following demolition of existing buildings on the site)

## Update to Officer Report

### 1. OFFICER COMMENTS

- 1.1. The decision has been taken to defer the above planning application and remove it from the Schedule for discussion at the Planning Committee meeting of Thursday 19th June.
- 1.2. Having reviewed the revised layout of the proposed delivery bay at the front of the store, the County Highways Officer has concerns about HGV driver visibility at the southern egress point.
- 1.3. The Highways Officer (Mark Power) has revisited the site this week and met with a local resident. The visibility problem identified is an HGV driver potentially having difficulty in seeing traffic approaching on the southbound carriageway i.e. cars travelling towards Cirencester.
- 1.4. The problem identified may necessitate a switch in direction of delivery vehicles with all servicing and deliveries taking place from the south bound direction only. This goes back to the original proposal and, in principle is likely to be acceptable in terms of highway safety. However, given the many sensitive and complex issues associated with this application, which includes traffic and access considerations, it is felt that time should be allowed for all Officers to fully assess both the current proposed delivery arrangement and the proposed alternative and to carry out any necessary additional survey work in relation to the two access points
- 1.5. Members and local residents would also have sight of any amended drawings and Delivery Management Plan and an opportunity to comment on these in writing.