

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

APPEAL by BP Oil UK Limited against the decision of Rother District Council to refuse planning permission for construction of petrol filling station, canopy, sales building, ATM, AC/refrigeration units, refuse compound, parking and associated works at Udimore Road – land north of, Rye, TN31 6AA.

Planning Inspectorate References : APP/U1430/W/18/3196157
APP/U1430/W/18/3205029

Rother District Council Reference s : RR/2017/1231/P
RR/2018/545/P

1.0 INTRODUCTION

1.1 The Council's planning reports for application references RR/2017/1231/P and RR/2018/545/P have previously been submitted to the Inspectorate for consideration. The Council's reports along with this additional statement comprise the Council's full case.

2.0 THE APPEAL SITE AND ITS SURROUNDINGS

2.1 The appeal site relates to a parcel of open land some 0.6 hectares in area to the north-west side of Udimore Road (B2089), to the west of Rye. The site is located on a ridge of land above the town of Rye opposite the medieval farmstead of Cadborough Farm. The land drops away to the north across the valley to the River Tillingham and to the south towards Cadborough Cliff. Due to the surrounding topography residential properties along Udimore Road and in the valley to the north sit at a much lower level than the site.

2.2 The site is located outside the development boundary for Rye as defined within the Rother District Local Plan (2006). Whilst it is set outside, it is

closely surrounded on three sides by the High Weald Area of Outstanding Natural Beauty (AONB).

3.0 POLICIES

3.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance are material considerations. The following parts are particularly relevant to the appeal and have been updated in relation to the recent publication of the new NPPF (24 July 2018).

- Section 12. Achieving well-designed places, which reflects Section 7 of the NPPF March 2012.
- Section 15. Conserving and enhancing the natural environment, which reflects Section. 11 of the NPPF March 2012.
- Paragraph 172 protection of the AONB, which reflects paragraph 115 of the NPPF March 2012.

3.2 The following policies of the Rother Local Plan Core Strategy are relevant to the proposal:

- OSS2 – Use of development boundaries.
- OSS4 – General development considerations.
- RY1 – Policy framework for Rye and Rye Harbour.
- RA2 – General strategy for the countryside.
- RA3 – Development in the countryside.
- CO6 – Community safety.
- EN1 – Landscape stewardship.
- EN3 – Design.
- EC7 – Retail development.

4.0 THE PROPOSALS

4.1 The appeals concern separate proposals for the construction of petrol filling station, canopy, sales building, ATM, AC/refrigeration units, refuse compound, parking and associated works. As the appeals have common issues the Council has produced a single statement, although where necessary this statement distinguishes between issues that are unique to one or other of the appeals.

4.2 Application RR/2017/1231/P – Appeal APP/U1430/W/18/3196157

The development area of this proposal covers approximately 0.6Ha and would incorporate a total of eight filling points across the four pump islands under an overhead canopy 6m in height. The flat roof, brick facing sales building with a height of 5m would provide 287.5sqm net / 500sqm gross retail floor space. Parking provision would include thirty spaces (including two bays for disabled users and four parent and child bays). Pre-cast concrete retaining walls and 2m high close board fencing is proposed to the north-west and south-west boundaries respectively. A 3m high pre-cast concrete retaining wall and earthed landscaped banking is proposed to the north-east boundary. A large extent of the existing mature highway boundary hedge is proposed to be removed, apart from the vehicular access points, low level landscaping is proposed on this boundary.

4.3 Application RR/2018/545/P – Appeal APP/U1430/W/18/3205029

In this proposal the number of filling points and pump islands and size of the sales building is the same. However, this revised application repositions the sales building 6m to the east on lower terrain within the site and the overall height of the canopy is reduced by 0.5m. Parking provision includes twenty-six spaces (including two bays for disabled users and eight parent and child bays). The revised proposal includes 1m of landscape buffer accommodated along the northern boundary, 2m of landscape screening to the western

boundary; while the planting nearest the roundabout junction is also indicated to be strengthened.

5.0 THE COUNCIL'S REASONS FOR REFUSAL

5.1 Whilst it is accepted that the provision of an additional petrol filling station may have some benefits to the local community, it is essential that the correct location for such a facility is sought. The appeal site is not that location for the following reasons, given in relation to both decisions:

1. The petrol filling station would extend the development of Rye into open countryside beyond the clearly established town edge, introducing a discordant addition at the approach to the town, adversely affecting the rural character of the area and the entrance to the High Weald AONB. Given the surrounding topography the new urban development would appear unduly prominent and have a significant intrusive impact on the wider rural character, being visible across a significant area beyond simply localised views. Moreover, the illumination associated with the function and hours of operation of the premises would exacerbate the adverse landscape impact and impinge on the intrinsically dark night skies of the rural location including the High Weald AONB. As such the proposal is contrary to the objectives of Policies RA2 (ii), RA3 (v), EN1 (i), (v) and (vii) and OSS4 (iii) of the Rother Local Plan Core Strategy and paragraph 115 of the NPPF March 2012.

2. The use of the site over a 24 hour period with its associated illumination, in close proximity to neighbouring properties no. 174 Udimore Road, Cadborough Oast and properties in Oast House Drive, would have a detrimental impact upon the residential amenities of these properties particularly at times when residents could reasonably expect their amenities to be safeguarded. As such the proposal would be contrary to the objectives of Policy OSS4 (ii) of the Rother Local Plan Core Strategy.

5.2 The following section explains these considerations in more detail making

reference to the appellant's Grounds of Appeal (GOA). In section 6 below, the County Council's Landscape Architect provides specific commentary on the content of the appellant's statement that specifically concerns landscape and visual impact assessment.

5.3 Explanatory comments

Character and appearance of locality

5.3.1 The appeal site is located outside the identified development boundary for Rye. The site is visibly separated, by virtue of the change in land levels, from the recently constructed housing at Valley Park and the residential properties in Udimore Road to the north-east which all fall within the boundary and mark the extent of the built up area of Rye. The character of the area changes considerably to the south-west of the roundabout serving Wellington Avenue (Valley Park), where the town gives way to open countryside. While there are a few buildings to the south side of the Udimore Road, beyond the roundabout, these are predominantly agricultural in form and not an uncommon feature in the countryside outside of the built up confines of a town.

5.3.2 The appellant makes reference in their GOA that the site forms part of land referred to as 'DS4'. For purposes of clarification this relates to a now superseded policy in the Local Plan (2006), which states;

"Outside of the development boundaries of the towns and villages set out in Policy DS3 and defined on the Proposal Map, the remainder of the area is shown as countryside where existing uses shall remain for the most part unchanged during the period of this Plan. Proposals for new development therein will be required to accord with relevant Structure Plan and Local Plan policies and, unless there is specific provision in these policies for the proposed form of development to be located in the countryside, the proposals will also be required to demonstrate that a countryside location is necessary for the development."

It is the case that the site remains outside of the development boundary for Rye (Policy DS3 of the Rother District Local Plan (2006) remains extant), and therefore falls within an area of countryside where development is carefully controlled (Policy OSS2 of the Local Plan Core Strategy) to prevent intrusive and unacceptable development from eroding the countryside settings of towns and villages.

5.3.3 The appellant in their GOA makes reference to the 'Market Towns and Villages Landscape Assessment August 2009 Volume 1' and 'The Rye and Rye Harbour Study – Part 1, Main Report (August 2011)' and the appellants have attached extracts as appendices 6 and 7 to their statement relating to application RR/2018/545/P. The County Council's Landscape Architect has addressed these points, see paragraphs 6.1–6.6 of this statement. Whilst these reports do provide a general broad base in landscape assessment terms as to where development could be accommodated in and around the District (including Rye), it is not a site specific landscape assessment tool. In terms of the appeal site, the reports conclude that any development should be close to the built up edge; however the appeal site is clearly physically separate from existing development on Udimore Road and in Valley Park. Moreover, the reports state that a strong landscape framework is required, which has not been proposed in either appeal proposal, notwithstanding this, the necessary landscaping required to screen a petrol filling station would appear contrary and artificial in this particular location.

5.3.4 The appellant attaches great weight to the recent development at Valley Park and how the Inspector in that case (who was dealing not with the principle of the development but solely a premature release argument) concluded that it would have an acceptable impact in landscape terms. It should be noted that the Council agreed with the Inspector's conclusions in regard to that site and indeed had specifically allocated the site for housing. However, the area of the 2006 allocation for housing was deliberately defined by the Council so that the housing development would nestle into the valley and clearly relate to the existing development along Udimore Road. In this way Valley Park adheres to

the landscape assessment ensuring that the development does not unduly intrude into the countryside which surrounds Rye. This is apparent in wider views of this development from Rye Cemetery and the Leasam Ridge (**APPENDIX 1**), to the north. It should be noted that the view with the naked eye is much clearer than suggested in the photographs provided by both the appellant and Council. In comparison the appeal site which occupies a much more elevated position at the top of Udimore Road is clearly far more prominent and separate beyond the built up gateway of Rye, as the photographs in **APPENDIX 1** also show. It is also apparent how the appeal site is viewed as part of the countryside to the west and north-west rather than the more built up area of Rye to the north-east. In this context the appeal proposal would introduce a noticeably isolated urban development/use beyond the current boundary of Rye in open countryside. This clear urban use and built structures would not only result in the encroachment of Rye into open countryside beyond the established development edge, but would appear prominent and have a significant intrusive impact on the rural character, being visible across a much wider area, including in local views but also in longer views given the surrounding topography. Notable longer views are from the north around Leasam Lane and Rye Cemetery, **APPENDIX 1**. Moreover, the illumination associated with such a function and hours of operation would exacerbate the adverse landscape impact and in this respect the appeal site would be seen not only directly, but by introducing night-time illumination would also expose the ridge site to a wider area including from Wincheslea and the A259 (T) to the south and southeast.

5.3.5 The appellant in their GOA make reference to the fact that the housing development at Valley Park has ten metre high lighting columns to the roundabout junction at Udimore Road. Whilst this is acknowledged, these lighting columns were a highway safety requirement of the County Council as the highway authority to ensure that the roundabout was appropriately lit but notwithstanding this, they do not significantly extend beyond the built up area of the Rye. As is evident in photographs in **APPENDIX 2**, it is clear how dark the site currently is, and notwithstanding the claims of the appellant within

their GOA any extension of lighting at this point will appear unduly intrusive.

5.3.6 Whilst the appeal site itself does not fall within the High Weald Area of Outstanding Natural Beauty (AONB), the boundaries of the site are close to the site and surround it on three sides (**APPENDIX 3**). The High Weald AONB Unit were a consultee on both planning applications, objecting to both, their comments can be viewed in full in **APPENDIX 4**. Given the proximity of the appeal site to the AONB the development has the potential to have an adverse impact on the setting of the AONB landscape and this needs to be considered. The Landscape and Visual Impact Assessment (LVIA) submitted with the appeal proposals concludes that the impact on views from public footpaths in the surrounding countryside would be minor or negligible. However, the submitted LVIA omits to include views from the public bridleway/footpaths along the Leasam ridge (nos. 8a, 10a and 18), which are within the High Weald AONB and from where the site is clearly visible. The County Council's Landscape Architect explains in detail the harm the appeal proposals would have on the High Weald AONB (section 6 of this statement). Notwithstanding this, it would not be possible to mitigate the proposed petrol station in this location as it is on rising ground and highly visible from key viewpoints in the AONB. As such, the building, canopy and signage would stand out as an intrusive feature in the rural landscape. The development would introduce a jarring and damaging addition to such a sensitive boundary area, adversely affecting not only the entrance to the AONB travelling west along the Udimore Road, but also, heading east, on the outskirts of the medieval town of Rye. Furthermore, the amount of lighting required for this use would impinge on the intrinsically dark night skies of the High Weald AONB, particularly in this area which is beyond the lit envelope of the town and bordering some of the darkest skies in the AONB and South East generally. The impact on the AONB would be significant.

5.3.7 The appellant in their GOA relating to APP/U1430/W/18/3205029 have referenced an approved application (20th April 2018) for a 60 bed care home (RR/2017/2097/P), the details of which the appellant has attached as

Appendix 3 to their statement. The appellant has stated that this is in a more sensitive landscape area than the appeal site and that the Council has not applied the correct level of weight on landscape and visual matters in determination of the care home application and the two appeal proposals. The Council refutes this, each site and the relevant applications were given the same thorough examination. Notwithstanding this, it is clear that the appeal site and that of the care home are viewed in two completely different contexts. The care home site would effectively create an infill development between existing healthcare facilities in Kiln Drive to the north-east and residential development in Hilltop Drive and Old School Place to the south-east. The building would not extend further into the countryside than the existing cluster of dwellings in Old School Place. The conclusions of the care home proposal were that, whilst the development would encroach into the AONB designation, it would not be a substantial protrusion of built development into the rural landscape. In long views the development would appear as part of the existing urban envelope; it was therefore concluded that in landscape terms the proposal was acceptable. In comparison the appeal site set on an elevated ridge beyond the built up edge of Rye, would not be read as part of the existing built form, but rather would be seen as a separate isolated urban development encroaching into the countryside, where it would appear prominent and have a significant intrusive impact on the rural character and appearance of the area. In this regard it is clear that the two sites/proposals are not comparable. Moreover, it is the case that each site/application should be considered on its individual merits. The County Council's Landscape Architect provided the Council with comments in relation to application RR/2017/2097/P, and has also responded to the appellant's comments in their GOA.

- 5.3.8 The appellant in their GOA has correctly highlighted that the Inspector when allowing appeal APP/U1430/A/07/2060029 (Valley Park development) stated that a gateway feature shall be provided on Udimore Road to the west of the proposed location of the mini-roundabout (condition no. 5 of the appeal decision). It was intended that this feature was to slow down east-moving

traffic on the B2089 descending the slope towards town (para. 17 of APP/U1430/A/07/2060029), rather than mark the entrance to Rye. The appellant has suggested that the petrol filling station would provide a gateway feature at the entrance to the built up area. However, the character of this part of Rye is of small scale residential development. The new housing development on either side of Udimore Road with associated landscape schemes will in time provide a well-defined vegetated edge to the built up area. These developments and the mini-roundabout with associated planting in fact provide the gateway. In contrast the proposal would extend beyond this built up area and intrude into open countryside. Far from being a gateway feature it would be a stand-alone building having no gateway function.

5.3.9 The Council assessed the two applications under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and came to the conclusion that the proposals did not have significant effects within the meaning of the Regulations and therefore an EIA was not required. The local effects of the proposal, including landscape impacts were considered as part of the determination of the two planning applications.

Impact upon neighbouring amenities

5.3.10 A petrol filling station is likely to result in the increase in activities (both vehicular movement and human) and the duration of these activities throughout the day and night. The Council acknowledges that while a building of the scale proposed and nature of the use will be visible to neighbouring properties, the separation distance afforded to the majority of these properties is sufficient to ensure that whilst their outlook will change, in physical terms alone the development of this site will not be overbearing to their amenities. Notwithstanding this, no. 174 Udimore Road (with Cadborough Farm beyond) is directly opposite the site and while Udimore Road (B2089) separates the properties the actual operations involved in the use of the site over a 24 hour period – traffic flows and forecourt activities - and associated illumination would have a detrimental impact upon the residential amenities of no. 174

Udimore Road, Cadborough Oast and properties in Oast House Drive, at times when they could reasonably expect their amenities to be preserved.

Rye Neighbourhood Plan / Alternative sites

5.3.11 Rye is in the process of preparing a Neighbourhood Plan; Regulation 14 pre-submission consultation took place between 23 February 2018 and 6 April 2018. Analysis of the consultation responses is currently being undertaken by the Rye Neighbourhood Plan Steering Group, this includes representations made by the appellant.

5.3.12 The Steering Group has identified the need for an additional petrol station within Rye; a point that the appellant has noted. In this regard, pre-submission version 11 of the Neighbourhood Plan (19 August 2018) states on page 53 paragraph 4.51;

“Given the interest by BP to establish a petrol station and convenience store in Rye, it is considered appropriate to identify a site of up to 2000 sq m close to the centre and on the A259 trunk road to cater for any developer proposing a petrol station and convenience store of up to 500 sq m.”

The Neighbourhood Plan, version 11, has identified the former Freda Gardham School as the preferred location for a petrol filling station; this intention is set out in draft Policy B3. Policy B3 is attached at **APPENDIX 5**.

5.3.13 The Council does acknowledge that the local community may benefit from an additional petrol station, but it is essential that the correct location for any such facility is sought. It is clear from the reason for refusals and as detailed above that this site is inappropriate by virtue of its highly sensitive landscape position and impact on immediate neighbouring properties. Furthermore, given that this is still an emerging Neighbourhood Plan only limited weight can be afforded to it. In this context though both applications resulted in a significant level of objection from local residents.

5.3.14 The appellant prepared and submitted a Sequential Assessment (with both

planning applications) where alternative sites and their merits, or not, were discussed. It should be noted that the Council did not require a retail impact assessment to be carried out, as the retail element associated with the petrol filling station was not in excess of 500sqm (Local Plan Core Strategy Policy EC7). The appellant has rightly stated that much of Rye falls within Flood Zone 3, but has used this as a reason to dismiss many of the alternative sites. However, petrol filling stations are defined as 'less vulnerable' in table 2 'Flood risk vulnerability classification' within the National Planning Practice Guidance. Uses falling within this classification are acceptable within Flood Zone 3, (table 3 'Flood risk vulnerability and flood zone compatibility'). Table 2 and table 3 have been attached at **APPENDIX 6**. Notwithstanding this, if alternative sites are currently unavailable this does not mean that this inappropriate site should be considered acceptable given the environmental harm that a petrol filling station would cause in this highly sensitive landscape position. The benefits of another petrol filling station is not an over-riding need.

Planning Balance

5.3.15 Paragraph 8 of the NPPF states that there are three overarching objectives to achieving sustainable development; an economic objective, a social objective and, an environmental objective.

5.3.16 It is acknowledged that the proposal would contribute to the economic role of sustainable development by creating jobs during the construction stage and then employing staff thereafter.

5.3.17 However, the appeal schemes would fail to contribute to the environmental role of sustainable development, due to the harm caused to the open countryside beyond the built up limits of Rye and on the setting of the High Weald AONB, and to part of the social role, by failing to deliver a high quality built environment.

6.0 LANDSCAPE RESPONSE TO APPELLANT'S GROUNDS OF APPEAL

6.1 The following paragraphs constitute the County Landscape Architect's assessment of the appellant's GOA.

6.2 *Rother District Council Local Development Framework, Rye and Rye Harbour Study, Main report August 2011.*

6.2.1 This study identifies that the urban fringe areas around the town of Rye which are not in the AONB are influenced by the presence of the urban area. This identifies that development opportunities around the urban fringes would need to be carefully located and mitigated so that they can enhance the interface between the built up area and the AONB.

6.2.2 The new development of houses off Wellington Avenue (Valley Park) does successfully achieve this policy aim with a substantial landscape buffer to the countryside. The development also creates a new and well defined gateway to the residential area of this part of the town. The roundabout and associated trees, hedges and open spaces contribute to this effect and provide an enhancement to the hard edged urban fringe. This provides a new gateway to the residential area of Udimore Road.

6.2.3 In this context the proposed garage development would not appear as part of the existing urban envelope as it would extend into the countryside beyond this gateway landscape. The appellant's response in paragraph 6.38 of their GOA would suggest that the site is not appropriate for this type of development as there would be insufficient scope for mitigation; *'It is important to recognise that it is not possible to flood the northern boundary with trees, as the roots would cause significant issues with the fuel storage tanks'*.

6.3 *Rother District Council Local Development Framework, Core Strategy Market*

6.3.1 The character areas which have been identified within this assessment are areas of differing character around the urban fringes of the towns and villages. The evaluation and conclusions about capacity for each area are broad and decisions with regard to the suitability of specific types of development would be subject to closer analysis of the identified local character areas. The extracts from this assessment and reproduced as the table under 6.6 and Appendix 7 in the appellant's GOA, have been taken out of context as the accompanying maps and tables have not been reproduced here. The actual map and table from the assessment are attached as **APPENDIX 7** to this statement.

6.3.2 The conclusion for 'R5 Udimore Road' in this assessment was that the area had a moderate capacity for housing development and low capacity for business type units. As in the following extract,

“Comments

Development would be acceptable close to the built up edge. A strong landscape framework would be needed to minimise impact from views on the Leasam ridge and on the AONB.

There would be some scope to mitigate new development by replanting lost hedgerows and strengthening tree belts.”

6.3.3 The conclusion for 'R1 Playden West' was that the area had a low capacity for housing and no capacity for business:

“Comments

Encroachment of new development onto the open slopes would impact on AONB countryside. The countryside outside the AONB is a landscape buffer. There would be some scope to redefine the urban edge and create a woodland buffer to the AONB countryside. It would not be desirable to enclose long views out.”

6.4 Assessment of Appellant's Landscape and Visual Impact Assessment
Impact From viewpoints

- 6.4.1 The appellant's Landscape and Visual Impact Assessment (LVIA), Aitchison Raffety February 2018 provides an accurate description of the baseline landscape and visual characteristics of the site and surrounding area.
- 6.4.2 The LVIA assessment of visual impacts concludes that the impact on views from public footpaths in the surrounding AONB countryside would be minor or negligible. It is acknowledged that The East Sussex County Landscape Architect's comment on application RR/2018/545/P dated 23.3.18 with regard to visual assessment and selected viewpoints are misleading. LVIA visual assessment would not usually be expected to include views from private locations. This comment was meant to express that the impact on designated landscape should not be simply about the visual impact of a development. It is about the impact on the intrinsic character of the area or the setting. This sentence should be reworded as follows: *Negative impacts on the character or setting of the AONB countryside need to be considered even where there are no views into the site from public areas.* There are long views across the site from the elevated parts of the AONB and in these views the site is clearly within the rural setting of the designated area.
- 6.4.3 The development would be a major part of the view for travellers and pedestrians approaching the site along Udimore Road from the south west. The LVIA (Viewpoints 3 and 4) concludes that the impact on these views would be minor adverse. These vistas are currently enclosed by native hedgerows on both sides and are predominantly rural in character with longer views to a wooded ridge beyond. The built up edge of Udimore Road begins to appear more prominent closer to the housing. The proposed petrol station and associated signage, access etc. would be a dominant part of the view on the approach to the built up area and would close the currently open views over countryside.

- 6.4.4 There would be an adverse impact on open views for travellers driving or walking out of the town to the south west along Udimore Road (LVIA Viewpoints 1 and 2). The LVIA concludes that these impacts would be Moderate Adverse. In the local context this would be significant as the new roundabout and associated landscaping provide an improved interface between the countryside and the residential urban edge in this location. As the trees associated with this new landscape mature this landscaped edge will become even more defined. The narrow strip of planting proposed as part of the garage development would provide some mitigation to the lower part of the building; however it is clear from the site elevations that the building canopy would extend above this planting. There is no space available for tree planting along the boundary with Udimore Road and the existing established native hedge would be lost to the development. As noted in paragraph 6.2.3 above there would be inadequate space for mitigation on the northern boundary. The widely spaced trees and narrow hedge planting along the western boundary would also be an inadequate buffer in the context of the setting of the AONB. Petrol stations are usually prominent in the landscape as the signage and lighting are designed to be seen by passing motorists.
- 6.4.5 A longer distance viewpoint has been assessed from the cemetery on Playden Road (LVIA Viewpoint 13) as having a minor to negligible effect. This view and those from the public rights of way on Leasam ridge (which have not been assessed) provide wide vistas across the AONB countryside and the edge of this part of Rye. The vista encompasses the houses on Udimore Road and the new development of Wellington Way nestled in the valley to the west of this. The character of the development is of residential roofscapes which do not break the ridgeline beyond. The proposed petrol station development would break the skyline. The development would be an intrusion into the countryside and clearly of a different and more urban character than the residential area.

6.4.6 The LVIA concludes that the proposed development would not have an impact on the character of the wider countryside or significant features within the site. The LVIA also suggests that the development would provide a gateway feature at the entrance to the built up area. The character of this part of Rye is of small scale residential development. The new housing development and the mini roundabout with associated planting in fact provide the gateway. The proposed development would extend beyond this built up edge and intrude into open countryside. The large building, concrete walls, extensive close board fencing, canopy, signage and car parking would be out of character with the residential setting and would extend beyond the established development edge. The access points would require the removal of sections of the existing hedge and would have an urbanising effect on the rural character of this section of Udimore Road.

6.4.7 The open nature of this landscape would make it difficult to integrate this type and scale of development, notwithstanding the proposed landscape mitigation. The development would have an adverse impact on the setting of the AONB which wraps around the site on three sides.

6.4.8 It would not be possible to mitigate the proposed garage development in this location as it is on rising ground and highly visible from key viewpoints in the AONB. The landscape mitigation for the proposed garage development would not achieve the same level of buffer as has been provided with housing development. The impact on these wider views would not be adequately mitigated by the proposed planting due to the elevated location of the site. The proposed buffer planting would not be effective in screening the development from wider views within the AONB, even in the longer term when the planting has established, as these views look down on the site over the proposed planting. The building, canopy, signage and lighting would stand out as intrusive features in the semi-rural landscape.

6.5 *New nursing care home Peasmarsh Road (RR/2017/2097/P)*

6.5.1 Landscape comments were submitted in response to a consultation on this application on 19.12.17. Some short comings were identified in the accuracy of the LVIA prepared by Tooley Foster Partnership. There was also concern that the LVIA did not follow the Guidelines for Landscape and Visual Assessment, LI and IEAM 2013. The issues raised did not alter the conclusions with regard to the likely impact and acceptability of the proposed development.

6.5.2 The concluding recommendations with regard to the application were as follows:

“The proposed layout and design of the building has taken into account the potential impacts on the wider AONB countryside and the amenity of neighbouring houses. The development would impact on an area of open pastoral field scape, however in the context of the adjacent hospital and residential development these impacts could be acceptable. The design of the new build has addressed the mitigation of these impacts as follows:

- i) The building line would not extend further into the countryside than the existing built form.*
- ii) The proposed building would be cut into the slope and this would help to reduce its scale and massing.*
- iii) The suggested material for use on the building facades would be in keeping with the local vernacular and landscape character.*

The Landscape Concept drawings by PLACE Design would provide a landscape mitigation strategy for the proposed building and help to integrate it into the landscape. The native mixed planting to the boundaries and specimen tree planting within the site will be of particular importance in this context. It is recommended that if the planning authority is minded to grant permission for the development that this masterplan is required to be implemented as a condition of the development.”

6.5.3 The type and scale of development proposed for this site (nursing home application) was considered to be acceptable in terms of the potential impacts on landscape character and visual amenity.

7.0 SUMMARY AND CONCLUSION

7.1 The proposed petrol filling station would be sited on an elevated ridge line above the built up gateway of Rye and would introduce a relatively isolated urban development south-west of the current boundary of Rye in the open countryside adjoining the High Weald AONB. This urban use and the associated built structures would result in an undesirable encroachment into open countryside beyond the established development edge, representing a discordant and damaging feature on the edge of the town boundary.

7.2 It would adversely affect not only the entrance to the AONB, travelling southwest along the Udimore Road, but also, heading east, on the outskirts of the medieval town of Rye. The development would also appear prominent and have a significant intrusive impact on the wider rural character, being visible across a wide area, including in localised views but also longer views given the surrounding topography.

7.3 Moreover, the illumination associated with such a function and hours of operation would exacerbate the adverse landscape impact and would impinge on the intrinsically dark night skies of the High Weald AONB, particularly in an area bordering some of the darkest skies in the AONB and South East generally.

7.4 The Council acknowledges that while a building of the scale proposed and nature of the use will be visible to neighbouring properties, the separation distance afforded to the majority of these properties is sufficient to ensure that whilst their outlook will change, in physical terms alone the development of this site will not be overbearing to their amenities. Notwithstanding this, no.

174 Udimore Road (with Cadborough Farm beyond) is directly opposite the site, the actual operations involved in the use of the site over a 24 hour period – the coming and goings of traffic and activity on the forecourt – and associated illumination would have a detrimental impact upon the residential amenities of no. 174 Udimore Road, Cadborough Oast and properties in Oast House Drive, at times when they could reasonably expect their amenities to be preserved.

- 7.5 The Council does acknowledge that the local community may benefit from an additional petrol station, but it is essential that the correct location for any such facility is sought. The appellant had prepared and submitted a Sequential Assessment, where alternative sites and their merits, or not, have been discussed. The appellant has dismissed many of these alternative sites as unacceptable, given their location within Flood Zone 3. However, petrol filling stations are defined as ‘less vulnerable’ in table 2 ‘Flood risk vulnerability classification’ within the National Planning Practice Guidance; uses falling within this classification are acceptable within Flood Zone 3. Therefore there is no reason to discount such sites, but notwithstanding this, if alternative sites are currently unavailable this does not mean that this inappropriate site should be considered acceptable given the environmental harm that a petrol filling station would have in this highly sensitive landscape position.
- 7.6 For the reasons identified within the original planning application reports, the decision notices and as expanded above, the identified harm of the appeal schemes would significantly and demonstrably outweigh the benefits when assessed against the local development plan and the NPPF taken as a whole. For these reasons, the Inspector is respectfully requested to uphold the Council’s decision and refuse planning permission.
- 7.7 Without prejudice to the Council’s position an agreed set of conditions will be sent as a separate document at a later date.

APPENDICES

1. Photographs from Rye Cemetery and Leasam Lane looking towards the appeal site.
2. Night time photographs of the appeal site taken from Udimore Road, October 2017.
3. Map of AONB in relation to appeal site.
4. Consultee responses from High Weald AONB Unit in respond to planning applications.
5. Rye Neighbourhood Plan version 11 extract.
6. Table 2: Flood risk vulnerability classification and Table 3: flood risk vulnerability and zone 'compatibility' from National Planning Practice Guide
7. Rother District Council Local Development Framework, Core Strategy: Market Towns and Villages Landscape Assessment August 2009 – Map of landscape character areas and landscape capacity table assessment conclusions.

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