

<b><u>No:</u></b>	<b>BH2020/02587</b>	<b><u>Ward:</u></b>	<b>Woodingdean Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Woodingdean Service Station 534 - 540 Falmer Road Brighton BN2 6ND</b>		
<b><u>Proposal:</u></b>	<b>Variation of conditions 3 (opening hours) and 4 (machinery operating hours) of application BH2002/01601/FP (Change of use of former car showroom at ground floor to use for vehicle inspection and testing for MOT certification with sales area for accessories and customer reception at ground floor and lower ground floor level.) so that the premises can be opened until 18:00 on Saturdays with machinery operating hours on Saturdays extended until 17:00.</b>		
<b><u>Officer:</u></b>	Rebecca Smith, tel: 291075	<b><u>Valid Date:</u></b>	21.09.2020
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	16.11.2020
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	N/A		
<b><u>Applicant:</u></b>	Woodward Automotive Ltd Autovets 536-540 Falmer Road Brighton BN2 6ND		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan			14 September 2020

2. Not used.
3. The premises shall not be open except between the hours of 0800 to 1900 hours Mondays to Fridays; 0800 to 1800 on Saturdays; and not at any time on Sundays or Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to accord with policy QD27 of the Brighton & Hove Local Plan.
4. No machinery shall be operated, no process shall be carried out, no vehicles shall be repaired either mechanically or to the bodywork and no spraying shall take place outside the following times: 0800 to 1800 hours Mondays to Fridays;

0800 to 1700 hours on Saturdays; and not at any time on Sundays or Bank or Public Holidays.

**Reason:** To safeguard the amenities of the locality and to accord with policy QD27 of the Brighton & Hove Local Plan.

5. At no time outside the main building shall vehicles be either repaired or sprayed.  
**Reason:** To safeguard the amenities of the locality and to accord with policy QD27 of the Brighton & Hove Local Plan.
6. No flue, vent or chimney or other means of extraction system shall be installed without the prior written consent of the Local Planning Authority. Such installation shall be carried out strictly in accordance with a scheme submitted to and approved by the Local Planning Authority prior to works commencing on site.  
**Reason:** To safeguard the amenities of the locality and to accord with policy QD27 of the Brighton & Hove Local Plan
7. Not used.
8. Not used.
9. The windows on the north and east elevation of the building shall be permanently locked shut.  
**Reason:** To safeguard the amenities of the locality and to accord with policy QD27 of the Brighton & Hove Local Plan.
10. No panel beating shall be carried out at the premises at any time.  
**Reason:** To safeguard the amenities of the locality and to accord with policy QD27 of the Brighton & Hove Local Plan.
11. The ground floor windows to the east and north elevations shall be obscure glazed and thereafter permanently retained to the satisfaction of the Local Planning Authority.  
**Reason:** To prevent overlooking to residential properties and to accord with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application site is a commercial car repair/MOT garage on the eastern side of Falmer Road in Woodingdean, Brighton.

- 2.2. The application seeks planning permission to vary two conditions on the original permission BH2002/01601/FP for the MOT garage relating to opening hours (condition 3) and machinery operating hours (condition 4).
- 2.3. During consideration of the application, the description was amended (following Environmental Health comments) and the earlier opening hours on (07:20 - 08.00) weekdays was removed from the proposal. The application is now only seeking later opening and machinery operating hours on Saturdays. The revised application seeks later opening on Saturdays from 16:00 to 18:00 and later machinery operating hours from 13:00 to 17:00 on Saturdays.

### 3. RELEVANT HISTORY

- 3.1. BH2002/01601/FP - Change of use of former car showroom at ground floor to use for vehicle inspection and testing for MOT certification with sales area for accessories and customer reception at ground floor and lower ground floor level. Approved 06.09.2002.

### 4. REPRESENTATIONS

- 4.1. **Six (6) letters** have been received objecting to the proposed development for the following reasons:
  - Additional traffic
  - Detrimental effect on property value
  - Noise
  - Too close to boundary
  - Extended hours would exacerbate existing issues
  - Overdevelopment
  - Already working later on Saturdays, bank holidays and some evenings
  - Residential amenity

### 5. CONSULTATIONS

- 5.1. **Environmental Health:** No objection  
Due to the proximity of residential properties in the vicinity of the service station and the noises that are reasonable to assume with its normal/daily operations, have concerns that earlier opening of the premises could have a significant and detrimental impact upon the amenity of these properties.
- 5.2. However, due to the increased background level of noise in the area (directly adjacent to a very busy main road) would not object to extended opening hours on a Saturday.
- 5.3. Should the applicant wish to resubmit details that do not include earlier opening hours, will be happy to consider this.

- 5.4. However, without further details clearly demonstrating that nearby residential will not be affected by earlier opening hours, currently would not be happy to approve an extension of opening hours as proposed in the current application.

## **6. MATERIAL CONSIDERATIONS**

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation, which closed on 30 October 2020.

#### Brighton & Hove City Plan Part One

SS1            Presumption in Favour of Sustainable Development

#### Brighton and Hove Local Plan (retained policies March 2016):

SU9            Pollution and nuisance control  
SU10          Noise Nuisance  
QD14          Extensions and alterations  
QD27          Protection of amenity

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to whether the proposed extension to opening hours is acceptable in terms of the impact on the amenity of adjoining neighbours and the local area.
- 8.2. The application site is currently permitted to open between the hours of 08:00 and 19:00 Mondays to Fridays and 0800 to 1600 Saturdays. The permitted machinery hours are currently 0800 to 1800 Monday to Friday and 0800 to 1300 hours on Saturdays. No opening or machinery operating at any time is permitted on Sundays or Bank or Public Holidays.
- 8.3. The application as amended seeks to introduce longer opening and machinery operating on Saturdays with opening hours increased to 1800 hours and machinery operation until 1700 hours. As originally submitted, permission was also sought to open the premises earlier at 07.20, however, this was deleted from the proposal following comments received from Environmental Health.

**Impact on Amenity:**

- 8.4. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.5. The proposed extended opening and operating hours on a Saturday have not been objected to by Environmental Health. While the comment received did set out significant and detrimental impact concerns from proposed earlier opening hours during the week, which have now been removed from the proposal, it did not raise similar heightened concerns regarding alterations to Saturday closing hours. No concerns were raised in respect of the later opening (condition 3) and operating (condition 4) hours on Saturdays. The restrictions on not opening on Sundays and Public or bank Holidays are unaffected by this proposal and the premises would continue to be restricted on those days.
- 8.6. While it is acknowledged that the extended opening hours will create a longer duration of noise on a Saturday it is not considered that this would be significantly harmful to warrant refusal.
- 8.7. It is also noted that in addition to restrictions placed on the original permission requiring the premises to open during set times and only use machinery during set times, the premises are also subject to other restrictions. These are that there shall be no panel beating at any time, vehicles shall not be repaired or sprayed outside the building at any time and that the windows of the north and east elevation shall remain permanently shut. These conditions are recommended to remain in place to safeguard the amenities of the locality in accordance with policy QD27.
- 8.8. Some conditions from the decision notice for BH2002/01601/FP have been updated to reflect current development plan policies. Others referred to were pre-commencement matters and as such conditions have not been re-applied to this decision as the use has long begun and these would now be unenforceable so

serve no value being added now. To ensure consistency with condition number the conditions that no longer apply have been stated as 'not used'.

- 8.9. Overall subject to compliance with the attached conditions, it is not considered that the proposed extended Saturday opening and machinery operating hours would have a significant detrimental impact on the amenities of neighbouring properties that would warrant refusal of the application.
- 8.10. Objections received regarding effect on property values is not a material planning consideration. The objections also refer to non-compliance with the existing opening hours. The failure to comply with hours restricted by a planning condition should be reported to the Council's enforcement team for investigation and is not a consideration in the determination of this planning application.

**9. EQUALITIES**  
None identified