

**WELWYN HATFIELD BOROUGH COUNCIL  
ASSISTANT DIRECTOR (PLANNING)**

**DELEGATED APPLICATION**

**Application No:** 6/2023/0708/PN14  
**Location:** Stadium Service Station Stanborough Road Welwyn Garden City AL8 6XA  
**Proposal:** Demolition of the existing structures as part of site redevelopment to include installation of EV charging, and upgrade to shop facilities and fuel infrastructure  
**Officer:** Mr Raymond Lee  
**Recommendation:** Prior Approval Required and Refused

6/2023/0708/PN14

<b>Context</b>	
<b>Site and Application description</b>	This application seeks prior approval for the demolition of the existing structures at the Shell Welwyn Garden Petrol Filling Station, Welwyn Garden City.
<b>Constraints (as defined within WHDP 2005)</b>	CA - Conservation Area: WGC1; - Distance: 0 SAG - 0 - Distance: 0 Wards - Handside - Distance: 0
<b>Relevant planning history</b>	<p>Application Number: D6/1949/0424/ Decision: No Information Decision Date: 31 December 1949 Proposal: Proposed petrol station and motel.</p> <p>Application Number: E/1960/0401/ Decision: Granted Decision Date: 14 April 1960 Proposal: Site for petrol station and showrooms.</p> <p>Application Number: E/1960/0924/ Decision: Granted Decision Date: 14 June 1960 Proposal: Erection of petrol station and showroom.</p> <p>Application Number: E/1961/0787/ Decision: Granted Decision Date: 30 May 1961 Proposal: Erection of showroom and offices.</p> <p>Application Number: E/1963/0070/ Decision: Granted Decision Date: 22 February 1963 Proposal: Offices And Store</p>

Application Number: E/1967/0070/  
Decision: Granted  
Decision Date: 01 February 1967  
Proposal: Minor works to garage.

Application Number: E/1967/1291/  
Decision: Granted  
Decision Date: 28 July 1967  
Proposal: Use of part storage building as workshop.

Application Number: E/1967/2084/  
Decision: Granted  
Decision Date: 29 November 1967  
Proposal: Extensions to autoshop.

Application Number: E/1968/1670/  
Decision: Granted  
Decision Date: 04 November 1968  
Proposal: Greasing bay extension.

Application Number: N6/1974/0073/  
Decision: Granted  
Decision Date: 04 June 1974  
Proposal: Extensions and alterations to form mess room and extension to lubrication bay

Application Number: N6/1974/0576/  
Decision: Granted  
Decision Date: 04 December 1974  
Proposal: New canopy, conversion to self service operation and new 6000 gallon underground tank

Application Number: N6/1977/0086/  
Decision: Granted  
Decision Date: 21 April 1977  
Proposal: Alterations to forecourt and access to provide new parking area

Application Number: C6/1985/0050/  
Decision: Granted  
Decision Date: 15 March 1985  
Proposal: Amendment to forecourt layout and resiting pumps and new canopy

Application Number: C6/1987/0592/FP  
Decision: Granted  
Decision Date: 12 February 1988

Application Number: N6/1989/0450/FP  
Decision: Granted  
Decision Date: 18 August 1989  
Proposal: Variation of Condition 7 of Planning Permission Ref. No. N6/042/89/FP to permit operation of the shop and car wash only between 0600 and 2300 and the sale of petrol at any time

Application Number: N6/1991/0321/FP

	<p>Decision: Withdrawn  Decision Date: 01 October 1991  Proposal: Erection of a new petrol filling station, convenience store, car wash and ancillary facilities</p> <p>Application Number: N6/1991/0322/FP  Decision: Withdrawn  Decision Date: 17 November 1992  Proposal: Erection of a new petrol filling station, convenience store, car wash and ancillary facilities (duplicate application)</p> <p>Application Number: N6/1993/0791/FP  Decision: Granted  Decision Date: 17 February 1994  Proposal: Erection of petrol filling station, canopy, retail convenience shop, car wash, landscaping and ancillary facilities. (Renewal of permission N6/0042/89/FP)</p> <p>Application Number: N6/1993/0793/FP  Decision: Granted  Decision Date: 17 February 1994  Proposal: Erection of petrol filling station, with shop, forecourt refueling area, forecourt canopy, automatic car wash, No.2 jet washes, tank installation and surfaced areas, alterations to access</p> <p>Application Number: N6/1997/0671/FP  Decision: Granted  Decision Date: 12 December 1997  Proposal: Erection of an extension to existing petrol filling sales building, change of use to A1 (Retail) purposes, new plant room building, new binstore enclosure, and conversion of jet washes to rollover car wash facilities</p> <p>Application Number: N6/2001/0684/FP  Decision: Granted  Decision Date: 30 July 2001  Proposal: Retention of 1.0m diameter satellite antenna</p> <p>Application Number: 6/2021/2260/FULL  Decision: Granted  Decision Date: 14 June 2022  Proposal: Redevelopment of petrol station; including demolition of existing sales building, canopy link and car wash/jet washes, erection of a new sales building, provision of car parking spaces, provision of EV charging bays and associated plant, erection of a new bin store, retention of forecourt and canopy, and associated works</p> <p>Application Number: 6/2022/1749/COND  Decision: Granted  Decision Date: 25 November 2022  Proposal: Submission of details pursuant to conditions number 3 (remediation strategy), 4 (monitoring and maintenance plan), 6 (material samples), 10 (external lighting), 13 (remediation verification report), 14 (unexpected contamination), 15 (borehole installation scheme) and 16 (intrusive groundwork consent), on planning permission</p>
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	6/2021/2260/FULL		
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 0	Object: 1	Other: 0
<b>Publicity</b>	Site notice displayed on 1 <sup>st</sup> March 2023 by the applicant in accordance with the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).		
<b>Summary of neighbour responses</b>	47 Handside Lane - Comment: <i>'I have not been able to find any information on the type of EV charging infrastructure which will be installed on site. Installing EV chargers should not be a tick-box exercise. Instead, and given the great location, and the lack of adequate rapid (&gt;50kw) or ultra-rapid (&gt;150kw) EV charging infrastructure in WGC, I would expect a minimum of 4 charge points (4 parking bays) to be equipped with rapid or ultra rapid chargers on the new site. Without this, the site is not future-proofing itself considering the 2030 combustion engine ban, and WGC will have lost another opportunity to install rapid or ultra rapid charging infrastructure which would help EV uptake in the town (rapid and ultrarapid charging is what all EV owners will rely on, particularly those without access to home or workplace charging). I would be grateful to receive more detailed plans and information on the EV charging infrastructure planned for this site.'</i>		
<b>Consultees and responses</b>	<p><b>WHBC - Public Health and Protection</b> – No objections, suggested conditions.</p> <p><b>WHBC - Councillor Fiona Thomson</b> - <i>'I note this application (demolition) is part of a wider proposal to demolish and rebuild the Shell garage, to include new EV charging points. The Stanborough Road site is located in a residential area of Handside, and I would request that Premier engage with neighbouring residents at the earliest opportunity to make them aware of the proposals and also to allay any concerns residents may have about this 20 week build and the impact it will have on them and the immediate local area.'</i></p> <p><b>WHBC - Councillor Gemma Moore</b> - <i>'My two primary concerns are that 1) due to the proximity of the garage to neighbouring housing, residents are consulted and informed of the timetable and progress of the works. Any delays in the programme would have a significant impact. 2) That the impact on the pavement is minimal and suitable provision to safely navigate pedestrians is provided as there is no alternative pavement on this section of road (i.e. the opposite side of the road is grass verge).'</i></p>		
<p><b>The main issues are:</b></p> <p><b>1. Whether the proposed works are permitted development by virtue of Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended</b></p> <p><b>Part 11: Heritage and demolition</b>  <b>Part B: Any building operation consisting of the demolition of a building</b></p> <p><i>These applications are for an assessment as to whether prior approval of those matters detailed within the legislation is required from the Council. However, other matters have</i></p>			

*been considered below in line with the supporting information provided as part of the application but are not referred to as part of the decision letter. The contents of matters other than the prior approval considerations therefore cannot be relied upon as to the development's lawfulness. These require confirmation, if required by the developer, through the submission of an application for a Certificate of Lawful Use with appropriate evidence to demonstrate full compliance with the legislation.*

The demolition of some buildings falls within Class B, Part 11, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which states that any building operation consisting of the demolition of a building (unless specified in B.1) is permitted development subject to the conditions specified at B.2.

Development is not permitted by Class B if—

(a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;

- **Welwyn Hatfield Borough Council (WHBC) are not in the possession of any evidence to suggest this is the case.**

(b) the demolition is “relevant demolition” for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area); or

- **The Town and Country Planning (General Permitted Development) England Order 2015 (as amended) gives permitted development rights for the demolition of buildings, subject to a prior approval process and various conditions. This means that certain demolition works do not require planning permission. However, one of the exclusions to this permitted development right is if the demolition is “relevant demolition” for the purposes of section 196D of the Act (which includes the demolition of an unlisted building located within a conservation area). The buildings are in a Conservation Area. The development is therefore not permitted by Class B.**

(c) the building is used, or was last used, for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, including a purpose as described in Class AA (drinking establishments with expanded food provision) of Part 3 of Schedule 2 to this Order.; or

- **Welwyn Hatfield Borough Council (WHBC) are not in the possession of any evidence to suggest the buildings are being used for this purpose.**

(d) the building is used, or was last used, for the purpose of—

- (i) a concert hall;
- (ii) a venue for live music performance; or
- (iii) a theatre; or

- **Welwyn Hatfield Borough Council (WHBC) are not in the possession of any evidence to suggest the buildings are being used for this purpose.**

(e) the demolition relates to a statue, memorial or monument (“a commemorative structure”) in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—

- (i) that is a listed building;
- (ii) that is a scheduled monument;
- (iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;
- (iv) within the grounds of a museum or art gallery; or
- (v) within the curtilage of a dwellinghouse.

- **The buildings are not considered to meet any of the above criteria.**

Demolition is permitted by Class B subject to the following conditions –

- (a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;

- **Not applicable as prior approval has been sought by the applicant.**

- (b) where the demolition does not fall within paragraph (a) and is not excluded demolition—

- (i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site;

- **The demolition proposed by this application does not fall within B.2(a) as the developer has applied to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required for the method of demolition and any proposed restoration of the site. In respect of the method of demolition, the application has included a Demolition Management Plan (by Premier, dated 03/03/23). This document sets out the detailed process for the demolition of the existing structures onsite and include details such as the recycling and removal of materials/waste from the site and traffic management measures in place to avoid conflict with vehicular and pedestrian movements outside of the site. The duration of the works has been estimated to take approximately 20 weeks and the working hours is stated to be between 8.00am and 6.00pm Monday to Friday only. It is considered that the submitted documents/information provide adequate details of the proposed method of demolition and outlines measures to ensure that the demolition will be carried out in a safe manner.**

For the purposes of Class B— “excluded demolition” means demolition—

- (a) on land which is the subject of a planning permission, for the redevelopment of the land, granted on an application or deemed to be granted under Part 3 of the Act (control over development),
- (b) permitted to be carried out by a consent under Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 (scheduled monument consent) ,
- (c) permitted to be carried out by a consent under Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listed building consent),
- (d) required or permitted to be carried out by or under any other enactment, or
- (e) required to be carried out by virtue of a relevant obligation;

- **It is noted that an application was approved at the site in June 2022 under reference 6/2021/2260/FULL for the redevelopment of the petrol station including demolition of existing sales building, canopy link and car wash/jet washes, erection of a new sales building, provision of car parking spaces, provision of EV charging bays and associated plant, erection of a new bin store, retention of forecourt and canopy, and associated works. The applicant should be mindful of the planning conditions attached to this permission, and in particular, the 'pre-commencement' elements of the conditions. An informative to this effect will be included on the decision notice in the event of an approval.**

(ii) an application described in paragraph (b)(i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;

- **A description was included on the application form and in the supplied demolition plan. A copy of the notice was also provided with the application and the date of display on the site notice is shown as 01/03/2023. A fee has also been paid.**

(iii) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;

- **The onus is on the applicant to comply with this requirement.**

(iv) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

- **The onus is on the applicant to comply with this requirement.**

(vi) the development must not begin before the occurrence of one of the following—

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

- **This will be determined by the decision on this prior approval application**

(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application;

- **The onus is on the applicant to comply with this requirement.**

(ix) the development must be carried out—

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii)

- **The onus is on the applicant to comply with this requirement.**

#### Other considerations

One of the conditions under this part of the GPDO notes that site notice” means a notice containing—

(a) the name of the applicant,

(b) a description, including the address, of the building or buildings which it is proposed to be demolished,

(c) a statement that the applicant has applied to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site,

(d) the date on which the applicant proposes to carry out the demolition, and

(e) the name and address of the local planning authority, and which is signed and dated by or on behalf of the applicant;

- **The site notice provided by the applicant contains all the relevant information listed above. The date in which the applicant proposes to carry out the demolition is 03/05/2023 and this has been mentioned in the site notice.**

#### Consultation

It is noted that the Council has undertaken a consultation which was not necessary in line with the legislation. The consultation however is still ongoing and ends on 29<sup>th</sup> April 2023, which is after the determination period of this application. Due consideration has been given to this and it is considered that as the applicant would receive prior approval following the expiration of 28 days since the date of submission regardless, it is considered that it is reasonable to make a decision.

Whilst it is acknowledged that an objection has been received from a neighbouring resident and the concerns raised are noted, this however does not fall to be considered within this application and thus no further comment can be made.

#### **Conclusion**

Having regard to all of the above, the buildings to be demolished are located in a Conservation Area, therefore the development is not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 11, Class B.1(b). Consequently, prior approval is required and refused.



**Reasons for Refusal:**

1. The buildings to be demolished are located in a Conservation Area. Therefore, the development is not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 11, Class B.1(b).

REFUSED DRAWING NUMBERS

2.

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
		Location plan	29 March 2023

**Determined By:**

Ms Emily Stainer  
26 April 2023