

Recommendation: **GRANT PERMISSION**

A temporary planning permission was granted in August 2016 to allow 24 hour use, 7 days a week, of the forecourt with a payment hatch such that there is no customer access to the shop between 2300hrs and 0600hrs. This was granted for a year's trial period with conditions also limiting no deliveries of fuel and/or groceries between 2300hrs and 0600hrs, aswell as some management measures including switching off some of the lighting over night; 2 fuel pumps nearest car wash switched off over night; coning off the Park Drive entrance with all access and egress being via Purbrook Way overnight; and signage requesting patrons to keep noise to a minimum.

2 Relevant Planning History

98/51870/10 - Redevelopment of site to provide new petrol filling station with canopy, sales building, pumps, car wash, plant room & associated parking and landscaping - pp 8/10/1998 conditions include limiting hours to: Forecourt - 0600 to 2400 7 days a week; Shop 0600 to 2300 7 days a week; car wash 0800 to 2200 Mon-Sat and 0830 to 2100 Sundays & bank holidays

and more recently:

APP/15/00067 - Single storey extensions to north and south elevations; installation of a jet wash and additional parking- awaiting determination

APP/11/00892 - Display of lighting strip to canopy on north west and south east elevations Grant Adv Consent 3/8/11

APP/10/01032 - Replacement underground fuel tanks and associated works
Permission 9/8/11

APP/15/00067 - Single storey extensions to north and south elevations; installation of a jet wash bay and additional parking. Permitted 27/05/15

APP/15/00400 - Variation of Condition 8 of Planning Permission 98/51870/10 to allow operation of the forecourt and shop 24 hours a day, 7 days a week Withdrawn 3/6/15

APP/15/00633 - Variation of Condition 8 of Planning Permission 98/51870/10 to allow 24 hour use, 7 days a week, of the forecourt with payment of petrol and shop goods between 2300hrs and 0600hrs via a proposed new night-hatch on the west elevation; no customer access to the shop between 2300hrs and 0600hrs., Permitted for 1 year temporary 24/07/2015

APP/15/00937 - Application for non-material changes to Planning Permission APP/15/00067 relating to variation of extensions; reduce height of extension to 3.1m and alteration in materials from brick to block and render, PERM,23/09/2015

APP/15/01362 - Display of 1No. internally illuminated fascia sign to main building; 3No. non-illuminated fascia signs; 12No. non-illuminated flat dibond panels; 4No. non-illuminated dibond panels to existing totem BP sign., PERM,28/01/2016

APP/16/00686 - Variation of Condition No.1 of Planning Permission APP/15/00633 to extend temporary permission to allow 24 hour use, 7 days a week, of the forecourt with payment of petrol and shop goods between 2300hrs and 0600hrs via a proposed new night-hatch on the west elevation; no customer access to the shop between 2300hrs and 0600hrs., Temporary Permission granted 23/08/2016, expiring 1 September 2017.

3 Proposal

Removal of Condition 1 of Planning Permission APP/16/00686 to allow permanent 24 hour use, 7 days a week, of the forecourt with payment of petrol and shop goods between 2300hrs and 0600hrs via a proposed new night-hatch on the west elevation; no customer access to the shop between 2300hrs and 0600hrs.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)
CS4 (
CS6 (Regeneration of the Borough)
DM10 (Pollution)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)
AL3 (Town, District and Local Centres)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health

I have reviewed commercially confidential supporting information submitted directly to Environmental Health for the purpose of evidencing exercise of the temporary planning consent. I am satisfied that the temporary consent has implemented, and 24 hour trading in operation since early November 2016. This trading has seen a reasonable customer response. No relevant (related) complaints have been made to Environmental Health, and so it is concluded that the 24hr trading activity has not been a cause of any noise or other nuisance disturbance, and there is therefore no reason to object to the temporary consent being made permanent.

This application is supported.

Development Engineer

The Highway authority have no adverse comment on this application.

Hampshire Constabulary

I have the following comments to make with reference to crime prevention.

During the year ending 28th August 2017, Hampshire Constabulary have recorded 2 relevant incidents relating to this premises. One of the incidents relates to anti-social behaviour, however, this incident occurred at 20:30hrs, the other incident was criminal damage at the premises which occurred at 01:53hrs.

I was unable to find any other relevant incidents relating to this premises

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 44

Number of site notices: 2

Statutory advertisement: Not applicable.

Number of representations received: 3

Comment	Officer Comment
3 letters of objection:	
Since the trial 24hour operations were introduced there has been increased litter in the adjacent roads, pavements and private gardens. Referring to the branding (Subway, Costa) of this litter it appears with little doubt to originate from the subject premises.	
There has also been a noticeable increase in both antisocial driving (drifting, burnouts etc) and general antisocial noise from pedestrians near to and at the adjacent roundabout between the hours of 23:00 and 06:00, which I feel is not purely a coincidence.	
Since the trial period commenced we have been disturbed by the forecourt lighting and on numerous occasions we have been woken by the noise of deliveries. Petrol tankers arriving after 23.00 and before 6.00am. This is not acceptable. Also we find unacceptable, antisocial noise from motor bike riders who visit the forecourt at night. Taxi drivers who meet up and don't turn off their engines	
Since the petrol station has remained open for 24 hours per day not slept a full night, thanks to the light from the petrol station flooding our bedroom.	

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Crime
- (iii) Impact upon residential amenity

- (i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The site also

forms part of the Middle Park Way Local Centre where Policy AL3 seeks to support the vitality and viability of Local Centres and Policy CS4 supports developments appropriate to the hierarchy of identified centres.

Therefore the existing use of the site as a petrol filling station with associated retail functions is supported by Policy and not in debate, but it is the impact of the proposed extension of opening to 24/7 that must be considered. Since the 24hr use has been in operation on a years trial period, the impact of the use can be more readily assessed. Data has been submitted that indicates that the percentage of trade ie customer visits, between 06.00 and 23.00 is 97.3% compared to just 2.7% overnight. It is stated that over a 40 week period the number of customers served per hour between 23.00 and 06.00 was just over 4. The impact of this overnight use on local amenity and crime is considered as follows:

(ii) Crime

The feedback from the Crime Prevention Advisor is that only one occurrence of criminal damage has occurred during the overnight period over the past year. This has been further discussed and it is noted that the current management have demonstrated an ability to keep overnight incidents to an acceptable minimal level and less than the shops opposite. On this basis there is no objection to the continued 24/7 opening on the same basis of night hatch use only. Future management changes cannot be controlled via planning.

It is also noted that the justification for the need to open 24 hours a day is based on improved site security to reduce incidents of break-in's and ram-raiding which generally occur when garages are closed at night and unmanned. It is contended that having the site manned 24 hours reduces the risk of crime. However there is a cost implication of providing a night staff presence which is offset by being able to trade for 24 hours.

(iii) Impact upon residential amenity

When temporary permission was granted in August 2016 specific letters were sent to the objectors at the time requesting that any breaches of planning conditions or incidents of noise, smells, rats and any anti-social behaviour should be reported throughout the year to enable a full assessment of the extended opening. Despite encouraging the reporting of any incidents over the year, none were received by either the Planning Department or Environmental Health during the course of the year.

The 3 letters of objection now received relate to litter, anti-social driving, overnight petrol tanker deliveries, lighting, and noise from motor bike riders and taxi drivers not turning off engines. The agent has responded to the issues, summarised as follows:

Litter - the site has 6 external waste bins to accommodate litter

Anti-social driving - little opportunity on Park Lane side for such activities as coned off over-night

Overnight Petrol Tanker deliveries - from data available from 1/1/17 to 30/9/17 it is known that 220 tanker deliveries were made in that 9 month period and that of those, 14 tankers arrived within the restricted hours of 23.00 to 06.00. If tankers arrive too early in the morning, then they wait until 06.00 to unload the fuel. It takes about 45 minutes to unload the fuel so on occasions, although the tanker has arrived before

23.00 the process goes on beyond.

Lighting - it is likely that the light pollution referred to comes from the tanker delivery floodlights which are required by Health & Safety regulations. These floodlights are located adjacent to the Park Drive entrance and are only lit when a tanker is making a delivery.

Noise from motor bike riders and taxi drivers not turning off engines - Polite notices prominently located can remind for the need to turn off engines and not make excessive noise.

It is considered that the impact of the extended opening hours on neighbouring amenity is relatively marginal. Regard must be had to the fact that the siting is on a busy roundabout with street lighting. The submitted data shows that the customer usage overnight is minimal and whilst there have been a few incidents of tankers arriving between 23.00 and 06.00 they are not generally unloading the fuel until 06.00. The floodlights need to be on during a fuel unload and this is therefore before 23.00 or after 06.00.

With respect to light pollution it is also noted that this could be from headlights of vehicles exiting the site - the houses and residents objecting are in Park Lane directly to the east of that egress point. To address this issue the Park Lane entrance is coned off overnight and this would be expected to continue to minimise lighting impact.

Policy DM10 and CS16 seek to protect the amenity of neighbours from noise and pollution. It is considered that with the continued use of the night hatch, delivery restrictions and lighting and access management measures, then the noise and disturbance can be satisfactorily conditioned and controlled to comply with these policies.

8 **Conclusion**

On balance, the actual harm to neighbouring amenity from the extended opening site activities is considered insufficient to justify a reason for refusal. The benefits of the proposal in terms of supporting local businesses within an identified Local Centre and its associated employment, is considered to outweigh any limited and acceptable impact on neighbouring amenity.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/17/00915

(A) subject to the following conditions

- 1 There shall be no customer access to the shop premises between 2300hrs and 0600hrs 7 days a week and all fuel and goods sold shall be paid for via the hereby approved night-hatch only.
Reason: To prevent the site becoming a 'meeting point' in order to protect the amenities of nearby residential properties having due regard to policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 2 There shall be no deliveries of fuel and/or groceries to or from the site between the hours of 2300 and 0600 hours 7 days a week.
Reason: In the interests of the amenities of occupiers of nearby residential properties and having due regard to policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 3 The ongoing management measures with respect to minimising light pollution and advisory signage regarding noise, as detailed in the Design & Access Statement (submitted with APP/16/00686) on pages 4 and 5, shall continue to be implemented in full at all times between 2300hrs and 0600hrs unless agreed in writing with the Local Planning Authority.
Reason: To protect the neighbouring residents from light and noise, having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:
1:1250 Site Location Plan
Design & Access Statement
and Design and Access Statement submitted as part of APP/16/00686
Reason: - To ensure provision of a satisfactory development.