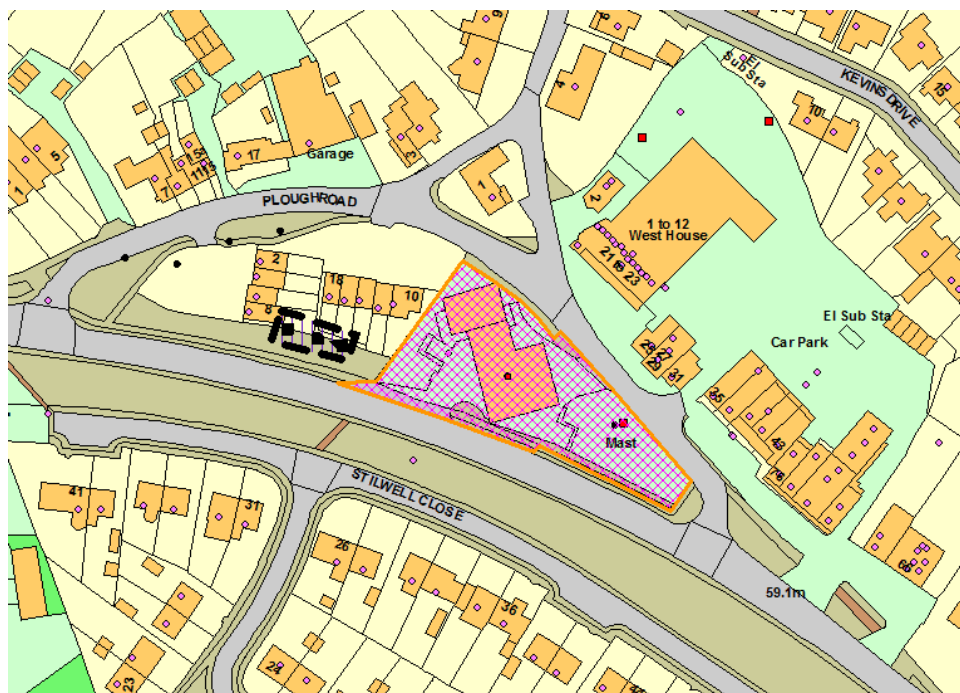


**COMMITTEE REPORT**  
**ITEM NUMBER:**

APPLICATION NO.	21/02607/AMCON
LOCATION	<b>Co-operative Retail Services Ltd 13 Reading Road Yateley Hampshire GU46 7UH</b>
PROPOSAL	Variation of Condition 13 attached to Planning Permission 21/00151/FUL dated 02/06/2021 to amend the delivery times to allow extended delivery hours.
APPLICANT	P5 Yateley Ltd
CONSULTATIONS EXPIRY	29 December 2021
APPLICATION EXPIRY	1 December 2021
WARD	East Yateley
RECOMMENDATION	<b>Grant</b>



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## **BACKGROUND**

This application has been referred to the Planning Committee for determination at the request of a Ward Member and due to the number of objections received from local residents.

## **SITE**

The application site comprises 13 Reading Road, Yateley. It has a stated area of 0.23 hectares and is a roughly triangular shaped site situated between Reading Road (B3272) and Plough Road.

The site is occupied by a petrol filling station that comprises a forecourt area with eight pumps underneath a canopy, associated single storey convenience retail store, a vehicular washing facility and vehicular air pumps. There are two points of vehicular access/egress, from Reading Road to the south and from Plough Road to the north.

There are a number of existing land uses within the vicinity of the site. Principally, these include the commercial uses within Yateley District Centre to the north and east and the residential dwellings of Fry's Lane, Plough Road and Stilwell Close to the north (also), west and south of the site. There is a commercial garage to the north-west on Plough Road.

## **PROPOSAL**

This S73 application seeks the variation of Condition 13 attached to Planning Permission: 21/00151/FUL dated 02/06/2021 to: "Amend the delivery times to allow extended delivery hours"

## **RELEVANT PLANNING HISTORY**

The only relevant history of the site is the planning permission the subject application relates to, which is:

21/00151/FUL - Replacement petrol station, including pumps, canopy, and shop. Approved 02.06.2021.

There is a separate planning application (Ref. 21/03212/AMCON) which is currently pending consideration for the Variation of Condition 2 (Approved Plans) attached to Planning Permission: 21/00151/FUL dated 02/06/2021 to allow for a building relocation amendment.

## **CONSULTEES RESPONSES**

Yateley Town Council:

No objection.

Hampshire County Council (Highways):

No objections.

Natural England:

Have no comments to make.

HDC Drainage Officer:

No comments to make as drainage will not be affected by the proposals relating to delivery hours.

HDC Environmental Health Officer:

Object to this planning application on environmental noise and nuisance grounds

There are concerns that extending the hours of delivery times may exacerbate disturbances that nearby objectors claim they are experiencing. Whilst Environmental Health have not received recent and relevant complaints regarding this site, it is apparent the neighbours may well be working themselves with the site to resolve issues related to these alleged disturbances.

However, if the planning department is minded to approve this planning application, I would recommend that the applicant will need to address all points raised from the objector's comments in relation to noise control and incorporate the applicant's letter and these points into a Noise Management Plan that that can be enforced through planning condition.

Joint Waste Client Team:

No comments regarding this application because it relates to a commercial premises with no impact on the domestic waste collection service.

HDC Tree Officer:

No objections.

## **NEIGHBOUR COMMENTS**

### **First Round**

In the initial round of public consultation, neighbouring letters were posted advising to submit representations by 09.11.2021. In response a total of six representations were received in response to the Council's public consultation exercise, raising the following objections and comments (in summary):

- local residents have to suffer extended delivery hours because they can't manage their stock amounts and sell by dates.
- Bank holidays and Sundays offer respite from the operations of the filling station operations.
- The comings and goings of deliveries cause noise and environmental disturbance, which could be exacerbated by these proposals.
- Lack of governance by store and delivery drivers. Despite the signage, and the current delivery windows, these are both not being adhered to or governed by the store management, resulting in noise and disturbance.
- Residents have worked directly with the filling station to manage noise complaints and have not escalated these complaints using the Hart District Council's Environmental Health & Licensing Enforcement Plan, but it doesn't mean there haven't been issues.
- To allow an additional 52 Sundays per year and an extra 2.5 hours per day (24 hours extra per week) for deliveries is completely disproportionate for the 8 Bank Holidays we have per year.
- Local residents should not have to suffer extended delivery hours because the operators cannot manage their stock amounts and sell by dates.

## Second Round

A second round of public consultation was undertaken in December 2021. This was on the basis that the applicants had submitted a Noise Management Plan (dated 24th November 2021), therefore further consultation letters were posted to surrounding residents to notify them and allow the opportunity to review and comment on the Noise Management Plan. In the second round of public consultation, neighbouring letters were posted advising to submit representations by 29.12.2021. In response a total of two (additional) representations were received in response to the Councils public consultation exercise, raising some of the same issues addressed in the first round of comments as indicated above), along with the following issues and concerns (in summary):

- There are already existing noise management issues, which would be exacerbated by the proposals.
- The submitted Noise Management Plan would not be enforceable in practice.
- The Christmas consultation period will not allow for proper consultation/responses from residents.
- Extending the delivery hours increases the duration of noise, traffic, litter and general disturbance.
- Extending the store will amount to more deliveries, customers and noise, which is already a problem.

## **POLICY AND DETERMINING ISSUES**

### DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant plan for Hart District is the saved policies of the Hart District Local Plan (Replacement) 1996-2006. Although these policies pre-dates the National Planning Policy Framework (NPPF); the Council considers its saved policies to be consistent with the NPPF (2021).

Hart Local Plan – Strategy & Sites 2032:

SD1 - Sustainable Development  
NBE12 – Pollution

Saved Policies of the Hart District Council Local Plan 1996 - 2006

GEN1 - General Policy for Development

Yateley, Darby Green & Frogmore Neighbourhood Plan (Submission Plan Version):

YDFNP1 – Delivering Sustainable Development  
YDFNP5 – Yateley Village Centre

National Planning Policy Framework 2021 (NPPF)  
Planning Policy Guidance (PPG)

## **CONSIDERATIONS**

### ASSESSMENT

The previous planning permission (ref: 21/00151/FUL, dated 02/06/2021) was granted conditionally by the Planning Committee. Condition 13 of the permission attached to the planning permission reads:

Deliveries to, and waste collection from, the convenience store shall only take place between 07:30 and 18:00 hours Monday to Saturday. No deliveries or waste collection shall take place on Sundays, Bank Holidays or Public Holidays.

Reason: To protect the amenity of nearby residential occupiers and to satisfy Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

The applicant seeks to vary the above condition (13) to extend the delivery times, with the proposed variation to the wording of Condition 13 sought by this application:

"Deliveries to and waste collection from the convenience store shall only take place between 07:00 and 20:00hrs Monday to Saturday, and 08:00 and 17:00 on Sundays."

In their supporting letter dated 5th October 2021, the applicants have stated (inter alia) that the operator (CO OP) would implement a range of measures and practices to ensure that there would be no unacceptable impacts from noise upon surrounding residential occupiers, which would include:

#### Stores responsibilities:

- Ensuring that the service area is accessible prior to vehicles arriving.
- Ensuring that the delivery door is well maintained to minimise noise when opening and closing.
- Switch off any internal radios/tannoy systems when the delivery doors are open.
- Ensure that all empty trolleys, roll cages and other equipment are prepared within the store, prior to being taken to the delivery vehicle.
- Consider minimising contact between hard surfaces such as ramps to reduce noise.

#### Delivery driver responsibilities:

- All store drivers to turn their refrigeration units off prior to arrival and these will not be switched on again until the vehicle has left the servicing area;
- Delivery drivers will be briefed and issued with an instruction pack with details of necessary actions to be undertaken. This would include turning off the refrigeration unit before approaching this store. The final approach to the store will be made with a minimal amount of noise as will the exit from the site.
- Opening and closing of vehicle doors will be minimised and care will be taken when lowering tail lifts (where applicable) to minimise noise. Extra time should be allocated for unloading quietly.
- While vehicles are stationary within the site, engines and radios will be switched off. After dark, headlights will be switched off.
- When approaching, leaving and within the service area, drivers will engage gears quietly, keep engine revs to the minimum, apply brakes gently and close doors quietly.
- All loading and unloading shall be undertaken with suitable care and attention in order to minimise unnecessary noise generation. Activities such as shouting and unnecessary dropping of items within trailers shall be avoided.

#### Review Procedure:

The applicants have also advised that there would be a "review procedure" in place. Staff and drivers would regularly be made aware of their responsibilities and the importance to keep noise to a minimum. It has been stated that such messaging could be reinforced with signage at prominent locations, with management ensuring that measures are adhered to.

In the case of any complaints received from residents or any contraventions of the service management plan noted, it has been stated by the applicants that CO OP will investigate and, where necessary, undertake remedial action immediately. Details of complainants can be provided to the Local Planning Authority upon request. The store manager would be notified of all complaints received and contraventions of the Service Management Plan (SMP) as noted. The SMP would be reviewed periodically taking into account any issues which have arisen, to ensure that additional measures required are implemented.

As noted above, the Councils Environmental Health team, whilst objecting in principle, noted that the noise mitigation measures and controls can be secured by condition in the form of a Noise Management Plan.

The NPPF states that planning policies and decisions should aim to mitigate and reduce to a minimum, adverse impacts resulting from noise. The Noise Policy Statement for England states (inter alia) that "all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life".

In this case, in order to offer a robust justification of the proposed extended delivery hours and respond to consultee comments, it should be noted that at the advice of Officers, the applicants have since provided a Noise Management Plan (dated 24th November 2021) (hereafter referred to as the "NMP"), which has been the subject of officer review and scrutiny and has also been posted on the Councils website and subject to a further round of public consultation. To clarify, the Noise Management Plan was requested by Environmental Health colleagues (please refer to the consultation section of this report).

The submitted NMP has firstly identified the nearest noise sensitive receptors, being residential windows on the north side of Plough Lane and on the south side of Plough Lane to the west of the store.

In terms of delivery noise:

- There are expected to be up to two deliveries in any day, all made by 12.2m long rigid lorries, however, smaller vehicles may be used such as for milk and newspapers.
- Vehicles would approach from the west along Reading Road, entering the forecourt in forward gear, then reverse to the service yard and goods entrance.
- The delivery bay will be controlled in order that incoming deliveries will be able to enter immediately without waiting along Reading Road.
- Trolley's will be rolled directly from the rear tail-lift of the lorry into the front of the store.
- Delivery vehicles will exit the store car park in forward gear heading east along Plough Road and from there onto Reading Road.

The submitted NMP provides a series of recommendations of adverse noise impact mitigation from deliveries, which include (inter alia):

- Lorries should be able to drive directly into the delivery area without waiting on Reading Road and off-loading should begin as soon as practical after arrival of the vehicle.
- Drivers should contact the store prior to their arrival to ensure that staff are ready and prepared to assist.
- Deliveries should be scheduled and agreed with the store in advance.

- Bays should be cleared in advance of delivery vehicle arrivals which will enter the site in forward gear (as noted above).
- Noise generated from unloading must be kept to a minimum. Particular sources of noise include noise from the engine and refrigeration units, doors slamming, impacts of the tail lift on the ground and trolleys in motion over the ground surfaces, therefore:
  - Engines and refrigeration units must be switched off upon arrival.
  - Radios in lorry cabins to be muted or switched off upon arrival.
  - Avoid excess vehicle door slamming.
  - Store doors to be maintained in good operating condition.
  - Use isolating mats under the tail lift to prevent impacts with the ground.
  - Drivers and employees instructed to not raise voices.
- Minimal amount of vehicular manoeuvring should be implemented on site, and excessive over-revving of engines avoided.

The submitted NMP also notes that it is recommended that a set of guidelines is provided to store staff, detailing how to process and manage any complaints received from neighbours, which will include details of the member of staff/management who would be responsible for recording and investigating any complaints received.

It is considered that the submitted NMP is a robust approach to noise management and mitigation, and that its recommendations and practices are logical and would be enforceable in planning terms, as an effective management tool for safeguarding neighbouring residents from any harmful levels of additional noise and disturbance as a result of the proposed increased delivery hours as sought by this application.

#### Highways Matters:

The proposal to amend (extend) the delivery hours would not result in any fundamental increase in associated HGV or traffic movements to and from the site, above and beyond that previously considered by the previously approved application. To this effect, it is important to note that the (Hampshire) County Highways team have reviewed this application and do not raise any objections.

### **CONCLUSION**

As a result of the submission of the detailed Noise Management Plan, it is considered that residents would not suffer adverse amenity impacts in connection with the extended delivery times as sought by this s73 application, which are not considered unreasonable for the subject facility. Moreover, the submitted management plan offers a robust and comprehensive set of guidelines, mechanisms, and practices to control noise and disturbance, and be responsive to any complaints from neighbours at a time when the extended delivery hours are in practice. As such, this application is recommended for a conditional approval.

### **RECOMMENDATION - Grant**

#### **CONDITIONS**

- 1 The development hereby permitted shall be begun before 03 June 2024.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following

plans:

Approved under Ref. 21/00151/FUL dated 02/06/2021:  
Proposed Site Elevations 190508-04C  
Proposed Site Layout 190508-03J  
Proposed Site Layout (1:200 Scale) 190508-03-1I  
Proposed Building Details 190508-05B  
Tracking Layout 190508-06E  
Landscape Plan 4630 01 Rev C

and

Approved under this s73 application:

Cover Letter dated 5th November 2021  
190508-01C

Reason: To ensure that the development is carried out in accordance with the approved plans and particulars.

- 3 No development shall commence until a Remediation Strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy shall include:

1. A site investigation scheme, based on the Phase One Environmental Risk Assessment Report (Preliminary Risk Assessment) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall take place in accordance with the approved Remediation Strategy.

Reason: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policy NBE11 and the National Planning Policy Framework.

- 4 No construction shall take place until a Surface Water Drainage Scheme for the site, based on sustainable drainage principles, has been submitted to, and approved in writing by, the Local Planning Authority.

Any proposed drainage system for the infiltration of surface water to the ground must be supported by an assessment of the risks to controlled waters.

The development shall take place in accordance with the approved Surface Water Drainage Scheme.



Reason: To ensure that the proposed development would not increase the risk of flooding elsewhere, be safe from flooding and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policy NBE5 and the National Planning Policy Framework.

- 5 Prior to the installation of any external fixed plant or machinery, details of such plant and machinery shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall include:

1. Proposed location(s)
2. Specific manufacturer's details
3. Expected noise emissions
4. An assessment of the expected cumulative noise impact of all fixed plant and equipment for which approval is sought under this condition
5. Specifications for any noise mitigation measures proposed.

The development shall take place in accordance with the approved external fixed plant details and plant and equipment shall be maintained so as to operate in accordance with the submitted details.

Reason: To ensure a satisfactory noise environment and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policy NBE11, saved Policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 and the National Planning Policy Framework.

- 6 Prior to the installation of any external lighting, an External Lighting Scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The Scheme shall include details of locations, direction, Lux levels, hours of operation and maintenance.

External lighting shall only be installed, operated and maintained in accordance with the approved External Lighting Scheme.

Reason: To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

- 7 Prior to the occupation and use of the development hereby approved, details of infrastructure for the future provision of two electric vehicle charging points (passive provision) shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall include the location and necessary infrastructure to allow future charging point connection. The passive provision for electric vehicle charging points shall be installed and maintained in accordance with the approved details.

Reason: To contribute to the reduction of climate change and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policy NBE9.

- 8 The approved parking facilities for vehicles and cycles as identified on drawing no. Proposed Site Layout 190508-03J shall not be used for any purpose other than the parking of vehicles and cycles and access shall be maintained at all times to allow them to be used as such.

Reason: To ensure that the development is provided with adequate parking to prevent the likelihood of on-street car parking and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policies NBE9 and INF3 and Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

- 9 The development shall take place in accordance with the Demolition and Construction Method Statement (January 2021) and Addendum (22.04.21).

Reason: To protect the amenity of nearby residential occupiers and to satisfy Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

- 10 Notwithstanding Condition 10, no demolition, construction or delivery of materials shall take place at the site except between 07:30 hours to 18:00 hours weekdays or 08:00 to 13:00 hours Saturdays. No demolition, construction or delivery of materials shall take place on Sundays, Bank Holidays or Public Holidays.

Reason: To protect the amenity of nearby residential occupiers and to satisfy Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

- 11 The development hereby approved shall only be open for customers between 06:00 hours and 22:00 hours.

Reason: To protect the amenities of the area and to satisfy Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

- 12 Deliveries to and waste collection from the convenience store shall only take place between 07:00 and 20:00hrs Monday to Saturday, and 08:00 and 17:00 on Sundays.

Reason: To protect the amenity of nearby residential occupiers and to satisfy Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

- 13 The development shall take place in accordance with the Noise Management Plan (NMP) dated 24th November 2021. The NMP shall be fully implemented and operated at all times in accordance with the approved details.

Reason: To protect the amenity of nearby residential occupiers and to satisfy Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

## **INFORMATIVES**

- 1 The Council works positively and proactively on development proposals to deliver sustainable development in accordance with the NPPF. In this instance: The applicant was advised of the necessary information needed to process the application and once received, the application was acceptable and no further engagement with the applicant was required.
- 2 You may require Building Regulations Consent and we advise that you should contact Building Control on 01252 398715.
- 3 The applicant is advised to make sure that the works hereby approved are carried out with due care and consideration to the amenities of adjacent properties and users of any nearby public highway or other rights of way. It is good practice to ensure that works audible at the boundary of the site are limited to be carried out between 8am and 6pm Monday to Friday, 8am and 12 noon on Saturdays with no working on Sunday and Bank Holidays. The storage of materials and parking of operative's vehicles should be normally arranged on site.

- 4 Hart District Council has declared a Climate Emergency. This recognises the need to take urgent action to reduce both the emissions of the Council's own activities as a service provider but also those of the wider district. The applicant is encouraged to explore all opportunities for implementing the development approved by this permission in a way that minimises impact on climate change.
- 5 The applicant is encouraged to explore opportunities for, and provide as appropriate, additional soft landscape screening within the site to further reduce the impact of the approved development on neighbouring residential properties to the west of the site.