

**Planning, Transport & Sustainability Division**  
**Planning and Rights of Way Panel 14th January 2014**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Area Housing Office Parkville Road			
<b>Proposed development:</b> Implementation of planning permission 12/00033/FUL for a mixed use development comprising a tall building not in accordance with condition 9 relating to A1 retail/non residential use hours. Variation proposes an extension to the opening hours of the A1 retail unit 1 from 06:30 - 22:30 (Monday to Saturday) and 07:00 - 22:00 (Sundays, bank and/or public holidays) (as approved) to 06:30 - 23:00 daily (as proposed)			
<b>Application number</b>	13/01785/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Stephen Harrison	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	13 week target: 14.02.2014	<b>Ward</b>	Swaythling
<b>Reason for Panel Referral:</b>	Major planning application subject to objection	<b>Ward Councillors</b>	Cllr Turner Cllr Mintoff Cllr Vassiliou

<b>Applicant:</b> Morrisons	<b>Agent:</b> Peacock and Smith
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<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>No</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The applicants seek to extend their permitted trading hours by an extra ½ hour of trading from 10:30pm to 11pm on Mondays through to Saturday, with an additional ½ hour in the morning and an extra hour in the evenings on Sundays. Given the location and type of development this request is considered to be acceptable and would not result in significant harm being caused to existing or proposed residents for the reasons set out in the report to Planning Panel dated 14<sup>th</sup> January 2014. Environmental Health officers raise no objection. With regards to crime and anti-social behaviour there are already measures in place through the City Gateway conditions and the S.106 legal agreement to secure on-site management and CCTV. Hampshire Constabulary and SCC Licensing have raised no objection to this planning application. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning

permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,, SDP14, SDP15, SDP16, SDP17, SDP19, SDP22, NE7, HE1, CLT5, CLT7, H1, H2, H3, H7, H13, REI6 and TI2 and City of Southampton Core Strategy (January 2010) policies CS4, CS5, CS6, CS10, CS11, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS24 and CS25 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

<b>Appendix attached</b>			
1	City Gateway Planning Permission	2	Development Plan Policies

### **Recommendation in Full**

1. Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a S.106 Deed of Variation to secure those Heads of Terms agreed under LPA ref: 12/00033/FUL for the original City Gateway development.
2. In the event that the legal agreement is not completed by 14<sup>th</sup> February 2014 the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.
3. That the Planning and Development Manager be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

#### **1.0 The site and its context**

- 1.1 The City Gateway site is located on the outside edge of the Swaythling Local Centre, accessed from Parkville Road, and is undergoing significant change as part of the implementation of planning permission 12/00033/FUL for the following:

*'Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway. (Amended scheme to planning permission reference 11/00204/FUL excluding any student car ownership restriction clause).'*

#### **2.0 Proposal**

- 2.1 Planning permission is sought to vary the trading hours for unit 1 of the City Gateway development as set out in condition 9 of LPA ref 12/00033/FUL. A copy of this permission is set out at **Appendix 1** to this report.

- 2.2 This unit fronts High Road and is to be occupied by Morrisons foodstore and has a floorarea of some 400sq.m. They seek an extension in trading hours from the approved trading hours of 06:30 - 22:30 (Monday to Saturday) and 07:00 - 22:00 (Sundays, bank and/or public holidays) to 06:30 - 23:00 daily.
- 2.3 In short this represents an extra ½ hour of trading from 10:30pm to 11pm on Mondays through to Saturday, with an additional ½ hour in the morning and an extra hour in the evenings on Sundays. The application does not propose a change to the approved delivery hours as set out at condition 10 of the same permission.
- 2.4 Therefore, the issue is whether it is suitable to change the hours of use and all other matters are as resolved at the detailed planning stage.

### **3.0 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The relevant policies to these proposals are set out at **Appendix 2**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

### **4.0 Relevant Planning History**

- 4.1 The site’s planning history is attached at **Appendix 3**.

### **5.0 Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (13.12.2013) and erecting a site notice (26.11.2013). At the time of writing the report **1** representation has been received from the residents of 1 Parkville Road. The following is a summary of the points raised:
- 5.2
- *The extension of opening hours would increase the amount of traffic and other disturbance, particularly in light of the fact that the student accommodation will be limiting the times at which the site can be accessed from Parkville Road in order to reduce as far as reasonable the disturbance caused by residents of the development.*

### **5.3 Response**

The residential part of the site is to be managed separately from the commercial ground floor uses. The additional trading hours will attract additional trips to and from the site with associated noise and disturbance. This additional impact is not, however, regarded as significant for the purposes of planning given the nature of the City Gateway development, the limited extension to hours proposed, the

location of the development adjacent to High Road and Thomas Lewis Way, and the site's proximity to the existing local centre where other traders operate extended hours already. Environmental Health Officers have not objected to this planning application.

5.4 **Consultation Responses**

5.5 **SCC Highways** – No objection

5.6 **SCC Environmental Health** - Reservations raised about this application, but provided the deliveries stay as they are, and in the light of the window configuration required in the adjacent properties recently built in Parkville, no objection raised to this application.

5.7 **SCC Licensing** – There are no licensing issues regarding this application. If the retail units wish to supply alcohol then they will of course require a premises license. The current issued licences are listed below. *Licensing have listed the earliest and latest time for licensable activities authorised by the premises licence. They have also listed the opening hours we have been provided with:*

63 High Road – Heathers Café & Wine Bar

1100 – 2330 Sun-Thurs; 1100-0000 Fri-Sat (opening hours 1100-2330 Sun-Thurs; 1100-0030 Fri-Sat)

76 High Road - Betfred

0700-2200 Mon-Sun (no opening hours listed)

77 High Road – McDonalds

0500-2300 Mon-Sun (opening 24 hours)

90 High Road – Saulute

1100-1900 Mon-Sun (opening hours same)

92-94 High Road - Hatchers Card Shop

0800-2300 Mon-Sat; 1000-2230 Sun (opening hours 0800-2320 Mon-Sat; 1000-2250 Sun)

98 High Road – South Ocean

1100-2330 Sun-Thurs; 1100-2330 Fri-Sat (opening hours 1200-2330 Sun-Thurs; 1200-0000 Fri-Sat)

5.8 **Hampshire Constabulary** - Historically this site suffered from crime and disorder but naturally this has reduced considerably since the Gateway development began. There is no evidence to show what effect the introduction of a Morrison's store will have. The Police would expect to see a comprehensive CCTV system installed to combat shop theft and if subsequently the store suffers incidents due to late night opening then this can be reviewed and we would expect the company to implement appropriate additional security measures which might include security staff. On that basis the Police have no objection to this application.

5.9 *Note: The CCTV for the site will be agreed through the sign off of 12/00033/FUL planning condition 5 and the CCTV requirements of the associated S.106 legal agreement.*

5.10 **The University of Southampton** will be the majority occupier at City Gateway with over 350 of its students to be resident in the development. This will include around 30 in the floors immediately above the convenience store. As such the University is keen to ensure that any relaxation of those planning conditions, which were in place when it committed to the development, do not negatively impact on the use and enjoyment of the building by its students. Our main concerns would be around any additional noise created as a result of the extended hours although note that the application does not seek to vary the restrictions on hours of delivery contained within Condition 10. The University accepts that, for a convenience store in this location, slightly longer opening hours are appropriate and those being proposed should not be to the detriment of our students. Therefore the University does not object to the application.

## **6.0 Planning Consideration Key Issues**

6.1 The reason for imposing condition 9 was given as being 'in the interests of existing and proposed residential amenity'. As such, the key issue for consideration in the determination of this planning application is the impact of additional hours on neighbour residential amenity, although crime and disorder is also a material consideration in this case.

### **6.2 Impact of Additional Hours on Neighbour Amenity & Crime**

6.3 This application to vary the agreed trading hours would allow an extra ½ hour of trading from 10:30pm to 11pm on Mondays through to Saturday, with an additional ½ hour in the morning and an extra hour in the evenings on Sundays. It is perhaps, therefore, Sundays that are affected greatest.

6.4 This proposal equates to an additional 5 hours of trading from unit 1 per week. The additional trips from both pedestrians and car users, and the hours proposed, need to be assessed before planning permission for this variation can be given. Any extension in trading hours will have an impact upon existing residential amenity, but it is the significance of this impact that needs detailed assessment. With this in mind there are a number of mitigating factors that exist:

- The proposed evening hours mirror those already consented for the approved City Gateway pharmacy (in the opposite wing of the development).
- The associated car parking is open for public use 24 hours a day and a 2 hour wait is only enforced between the hours of 8am and 6pm, meaning that there could already be vehicle movements to and from this parking throughout the night.
- The previous use of the site was as a community use and housing office with public car parking. These previous uses attracted trips and activity throughout the day, and the Police report antisocial behaviour associated with the site prior to its redevelopment. With greater on-site management proposed it is anticipated that this can now be controlled.
- The site is located on the outside edge of the defined Swaythling Local Centre at the junction of High Road with Thomas Lewis Way. The mainline railway line runs to the east of Thomas Lewis Way. The existing local centre attracts trips throughout the day, including to the McDonalds restaurant (operating 24

hours a day) and drive-thru on the opposite side of High Road. The site was found to have a high background noise when the City Gateway planning application was first considered.

- This is a mixed use development with some 348 student bedrooms with a certain amount of associated activity already expected.
- The development has been designed and built to a high acoustic specification that will mitigate against any external noise caused to the student residents.
- There are no change to the proposed delivery hours.

6.5 That said, the neighbour at 1 Parkville Road is concerned about the additional noise and disturbance created by the extra trading hours. Whilst all residents of Parkville Road have been notified only this nearest neighbour has objected. This property is some 55 metres from the entrance to retail unit 1, although the associated parking is closer and extends onto the public highway adjacent this property. As such, with the excellent acoustics associated with the student rooms, it is this resident that will perhaps be most affected by the additional trading hours.

6.6 The proposed pharmacy is closer to 1 Parkville Road than retail unit 1 and already has permission to trade until 11pm at night (including Sundays). As such, it is not considered significant to extend the trading hours of the Morrisons store to 11pm. Some activity within the public car park will already take place as approved. The noise and disturbance associated with the extra ½ an hour on Sunday morning is also considered to be negligible as it is unlikely that this will generate significant levels of extra trips. The Environmental Health Officer has commented that the greater impact to residential amenity in the early mornings are likely to be from deliveries which are proposed to be controlled as approved under LPA ref 12/00033/FUL Condition 10. There is no change to the proposed delivery hours.

6.7 With the above mitigation already in place and no objections received to the proposals by SCC Environmental Health, Licensing or Hampshire Police it is considered appropriate to agree the request for additional trading hours. There is no sustainable reason for resisting despite the objection from the residents at 1 Parkville Road.

## **7.0 Summary**

7.1 The main retail unit at City Gateway is likely to be taken by Morrisons. They seek to extend their permitted trading hours by an extra ½ hour of trading from 10:30pm to 11pm on Mondays through to Saturday, with an additional ½ hour in the morning and an extra hour in the evenings on Sundays. Given the location and type of development this request is considered to be acceptable and would not result in significant harm being caused to existing or proposed residents. Environmental Health officers share this conclusion. With regards to crime and anti-social behaviour there are already measures in place through the City Gateway conditions and the S.106 legal agreement to secure on-site management and CCTV. Hampshire Constabulary and SCC Licensing have raised no objection to this planning application. The proposed change is, therefore, acceptable.

## **8.0 Conclusion**

8.1 The requested change to the approved trading hours is acceptable. It is recommended that the planning application to vary condition 9 of permission 12/00033/FUL is delegated to the Planning and Development Manager to grant, following the completion of a S.106 Deed of Variation to secure those off-site mitigation and management measures previously agreed.

### **Local Government (Access to Information) Act 1985**

#### **Documents used in the preparation of this report Background Papers**

1a, b, c, d, 2b, c, d, 4b, f, 6a, c, d, h, 7a, b, f, g, i, n, p, t, u, v, w, 9a, 10a & b

**SH2 for 14/01/2014 PROW Panel**

#### **PLANNING CONDITIONS to include all those from LPA ref: 12/00033/FUL and:**

### **9. APPROVAL CONDITION - Hours of Use - Non Residential Uses - AMENDED**

The non residential uses hereby approved shall not operate outside of the hours hereby set out:

- 6:30am and 10:30pm (Monday to Saturday) and 7am and 10pm Sundays, Bank and/or Public Holidays as supported by a Security Management Plan (As required by the condition above)
- The pharmacy shall not operate outside of the hours of 7am and 11pm 7 days a week including Sundays, Bank and/or Public Holidays.
- **Retail unit 1 (as identified on plan ref: SCG-FLU-000100 Rev R shall not operate outside of the hours of 6:30am and 11pm 7 days a week including Sundays and Public Holidays.**

REASON:

In the interests of existing and proposed residential amenity