

**Planning, Transport & Sustainability Division  
 Planning and Rights of Way Panel (WEST) - 9 February 2016  
 Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 149-153 West End Road, SO18 6PJ			
<b>Proposed development:</b> Application for variation of condition 6 (relating to hours of work) of planning permission 00/01104/FUL to extend the trading hours of the petrol filling station from 06:30 - 23:30 hours to 06:00 - 00:00 hours			
<b>Application number</b>	15/02378/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Stuart Brooks	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	01.02.2016	<b>Ward</b>	Harefield
<b>Reason for Panel Referral:</b>	More than five letters of objection have been received	<b>Ward Councillors</b>	Cllr Fitzhenry Cllr Daunt Cllr Smith

<b>Applicant:</b> Tesco Stores Ltd	<b>Agent:</b> Redline Planning Ltd
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<b>Recommendation Summary</b>	<b>Conditionally approve</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 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). Policies - SDP1, SDP16 and SDP17 of the City of Southampton Local Plan Review (Amended 2015).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Decision notice 00/01104/FUL
3	Decision notice 02/00195/VC		

**Recommendation in Full**

**Conditionally approve**

**1.0 The site and its context**

1.1 The application site lies within the ward of Harefield, located on the north side of West End Road. This is a busy route in and out of the city for traffic coming from the east. The surrounding area is predominantly characterised by suburban residential properties and the site is bounded to the north by the rear gardens of

the properties in Moorland Crescent. There is a hairdressers adjacent to the west boundary of the site and opposite there is a small group of commercial premises on the corner with Hatley Road.

- 1.2 The site consists of an established late night commercial use that currently operates between 06:30 and 23:30 hours every day of the week. The business consists of a Tesco shop (147sqm floor area) and Esso petrol filling station on the forecourt with associated parking. The north and east boundaries of the site has been planted with vegetation to screen the gardens of the adjoining properties.

## **2.0 Proposal**

- 2.1 It is proposed to extend the opening hours of the petrol filling station and retail shop from 06:30 – 23:30 to 06:00 - Midnight.

## **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 (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 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.
- 3.3 Saved policy SDP1 (Quality of Development) seeks to protect the amenity of local residents, whilst policy SDP16 (Noise) will not permit noise generating development if it would cause an unacceptable level of noise impact to nearby sensitive noise uses. Policy SDP17 (Lighting) requires the light spill to be minimised from external lighting within residential areas.

## **4.0 Relevant Planning History**

- 4.1 The site benefits from planning permission granted in 2001 (ref no. 00/01104/FUL - copy attached to **Appendix 2**) which permits the filling station and shop to operate between 06:30 and 23:30 hours (as specified by condition 6). The deliveries and servicing (other than newspapers) of the site is limited to take place between 07:30 and 20:00 hours and this arrangement will remain unchanged.
- 4.2 Permission was refused in 2002 (ref no. 02/00195/VC) to permit opening and deliveries between the hours of 06:00 and 00:00 on a daily basis. A copy of decision notice is attached to **Appendix 3**. The reasons for refusal related to the impact of increased noise and disturbance on nearby residents.
- 4.3 Permission was granted in 2008 (ref no. 08/01098/FUL) to extend the retail unit to relocate the ATM. The ATM operates in accordance with the trading hours currently permitted.
- 4.4 In 2014, the Planning Enforcement team resolved a breach of condition 13 and 14

with regards to the boundary screen planting on the north and east boundaries.

## **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, and erecting a site notice (22.12.2015). At the time of writing the report **9** representations (including a local Ward Cllr - 6 objections including a 21 person petition and 3 support) have been received from surrounding residents. The following is a summary of the points raised:

5.1.1 **Increased noise disturbance and light pollution to local residents, including movements and activities of staff who currently arrive at 5:30am and therefore will arrive 30 minutes earlier. The occupier has breached planning conditions including opening hours and boundary screen planting, and been served notices by Environmental Health with respect to noise from refrigeration units.**

### Response

A detailed noise report has been submitted with the application and the Environmental Health team are satisfied that the noise survey carried out demonstrates that there would be an insignificant increase in noise decibel levels during the extended hours. Furthermore, it is considered that there would not be significant growth in customers during the extended hours using the petrol filling station and shop with respect to the intensification of use.

The enforcement matters are a separate consideration to this application and there are no outstanding breaches of planning conditions currently known. The external and internal lighting has been agreed under condition 16 of the original planning permission. There are no ongoing enforcement investigations or recent complaints received by Environmental Health with regards to noise and light nuisance.

Additional controls can be secured by planning conditions to safeguard the amenities of the neighbouring occupiers to control the impact from noise disturbance associated with the later and earlier hours. These are expanded in the report below in the main considerations.

5.1.2 Support  
**Benefits from increased convenience to customers**

### **Consultation Responses**

5.2 **SCC Highways – No objection**

### Comments

The proposed extension of opening hours by 30 minutes will create minimal impact on highway safety and is more of an amenity issue. It is also stated within the supporting statement that the delivery times are not going to be changed - only opening hours.

5.3 **SCC Environmental Health (Pollution & Safety) – No objection**

## Comments

We concur with the conclusions in the noise report and as such we have no objections to make concerning the extension of hours.

### **6.0 Planning Consideration Key Issues**

6.1 The key issues for consideration in the determination of this planning application are:

- Principle of Development
- Impact on Character and Amenity
- Impact on Highway Safety

#### 6.2 Principle of Development

6.2.1 This is an established business outside a defined commercial centre that currently operates early morning and late night hours. This arrangement is not uncommon on major routes leading into the city (see list below of the opening hours of other petrol stations in the city). Intensifying the hours of an established commercial use is considered to be acceptable in principle, subject to the assessment of the key planning issues as set out below in the report.

123 Bitterne Road West – 24 hours

234 Winchester Road – 06.00 - 22.00

Redbridge Road – 24 hours

110 Northam Road – 24 hours

#### 6.3 Impact on Character and Amenity

6.3.1 The material difference between the previously refused application (ref no. 02/00195/VC) is that the applicant has now provided evidence in the form of a noise survey to demonstrate that there would be an acceptable impact on the amenities of local residents. The Environmental Health team are satisfied that the noise survey carried out demonstrates that there would be an insignificant increase in noise decibel levels during the extended hours. Furthermore, it is considered that there would not be significant intensification of use with respect to the increase in customer and traffic during the extended hours using the petrol filling station and shop.

6.3.2 The findings of the survey are based on a comparison between a noise reading during early and late trading hours and the extended period, where it was found to be 1.6 decibel increase in the evening and 1.9 decibel increase in the morning. As such, the noise report concludes that this would give rise to an imperceptible change in noise levels and avoid a significant adverse impact on local residents within the requirements of national policy guidelines for noise impact.

6.3.3 Additional controls can be secured by planning conditions to safeguard the amenities of the neighbouring occupiers. In particular, to specify that staff carry out no activities prior to the business opening to minimise the disturbance to local residents (condition 2).

#### 6.4 Impact on Highway Safety

6.4.1 It is considered that there would not be significant growth in customers during the extended hours using the petrol filling station and shop with respect to the

intensification of use.

- 6.4.2 The Highway Officer has acknowledged that the delivery times will remain unchanged. The officer considers that the proposed extension of opening hours by 30 minutes will create minimal impact on highway safety.

## **7.0 Summary**

- 7.1 In summary, it is considered that the additional noise and disturbance arising from the proposed extension of hours of this established commercial use would not lead to a harmful impact on the amenities of the neighbouring occupiers.

## **8.0 Conclusion**

- 8.1 In conclusion, the proposal is considered to accord with the Council's policies and guidance and, therefore, can be recommended for approval.

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

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 6(a), 6(b), 9(a), 9(b)

### **SB for 09/02/16 PROW Panel**

## **PLANNING CONDITIONS**

### **01. Full Permission Timing Condition**

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

### **02. Hours of Use**

The petrol filling station and shop including all ancillary operations and uses (not including the ATM cash machine) shall not operate outside the following hours:  
Monday to Sunday and recognised public holidays – 06:00 hours to midnight

In particular, there shall be no staff operating and illumination of the site outside the authorised opening hours.

No deliveries or servicing of the site shall take place other than between 07.30 and 20.00 hours. With the exception of the delivery of newspapers that shall only take place between 06.30 and 20.00 hours. No delivery vehicles shall wait on the site outside of the authorised delivery hours specified.

Reason: To protect the amenities of the occupiers of nearby residential occupiers.

### **03. Original Planning Permission**

The use hereby approved shall operate in accordance with the conditions as set out in the original planning permission 00/01104/FUL.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

**POLICY CONTEXT**

City of Southampton Local Plan Review – (as amended 2015)

SDP1            Quality of Development

SDP16        Noise

SDP17        Lighting

Other Relevant Guidance

The National Planning Policy Framework (2012)

00/01104/FUL/1929



**DETERMINATION OF APPLICATION**  
**TOWN AND COUNTRY PLANNING ACT 1990**

**Town and Country Planning (General Development Procedure) Order 1995**

Eso Petroleum Co Ltd  
c/o Alan B Matthews  
37 Fore Street  
BOVEY TRACEY  
TQ13 9AD

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the District Planning Authority, hereby gives notice that the application described below has been granted:

**CONDITIONALLY APPROVED**

**Proposal:**                    **Erection of replacement sales building and forecourt modifications with demolition of existing car wash**

**Site Address:**            **149-153 West End Road Bitterne Southampton**

**Application No:**        **00/01104/FUL**

In accordance with the plans and application submitted with the above FULL Application, subject to the following condition(s):

01.  
The development hereby permitted shall begin not later than five years from the date on which this planning permission was granted.

**REASON**  
To comply with S.91 of the Town and Country Planning Act 1990.

02.  
The development hereby approved shall be implemented solely in accordance with the following plans or documents received by the Local Planning Authority. Amended drawing nos. SRB/02 (rev.G) received 29<sup>th</sup> May 2001 and SRB/04 (rev.A) received 2<sup>nd</sup> October 2000

**REASON**  
To define the consent and for the avoidance of doubt.

03.

No retail sales shall take place or goods displayed for sale other than within the sales building hereby permitted.

**REASON**

In the interests of traffic safety, the proper servicing of the site and the amenities of the area and of nearby residents.

04.

A detailed landscaping scheme and implementation timetable, which clearly indicates the numbers, planting densities, types, planting size and species of trees and shrubs to be planted, and treatment of hard surfaced areas, shall be submitted to and approved by the Local Planning Authority before the commencement of any site works. Any trees, shrubs, seeded or turfed areas which, within a period of 5 years from the date of planting die, fail to establish, are removed or become damaged or diseased, shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting. The approved scheme shall be carried out before the building is first brought into use or within such other time as might first be agreed in writing with the Local Planning Authority.

**REASON**

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990.

05.

Full details of the manufacturers, types and colours of the external materials to be used, including samples if required, shall be submitted to and approved by the Local Planning Authority before development commences.

**REASON**

In order to control the appearance of the development in the interests of visual amenity.

06.

The petrol filling station and shop including all ancillary operations and uses (including the ATM automated cash machine) shall not operate other than between 06.30 hrs and 23.30 hrs without the prior written consent of the Local Planning Authority. No deliveries or servicing of the site shall take place other than between 07.30 hrs and 20.00 hrs other than for deliveries of newspapers which shall not take place other than between 06.30 hrs and 20.00 hrs. No delivery vehicles shall wait on the site outside of the authorised delivery hours specified above.

**REASON**

To protect the amenities of nearby residents.

07.

All works relating to the construction of the development hereby permitted, including demolition or other preparation works (other than for internal finishing works not giving rise to noise audible outside of the building) shall only take place between 08.00 hrs and 18.00 hrs Monday to Friday and 09.00 hrs and 13.00 hrs on Saturdays and at no times on Sundays or Bank Holidays.

**REASON**

To protect the amenities of nearby residents.



08.

Details of satisfactory facilities to be provided for the storage and removal of refuse from the premises shall be submitted to the Local Planning Authority before the building is first occupied.

REASON

In the interests of visual amenity, the amenities of future occupiers of the development and the amenities of occupiers of nearby properties.

09.

During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels have been cleaned sufficiently to prevent mud being carried onto the highway.

REASON

In the interests of highway safety.

10.

The use of the shop shall not be commenced until the provisions shown on the approved plan for car parking, servicing, bicycle and motor bike parking has been provided and made available. These areas and provisions shall thereafter be retained and made available for those purposes for so long as the use of the site continues.

REASON

In the interests of highway safety and to achieve a satisfactory form of development.

11.

A scheme of noise attenuation measures to be undertaken to all plant and machinery operated at the application site and provisions for the monitoring of the effectiveness of those measures shall be submitted to and approved by the Local Planning Authority before development commences. The approved scheme shall be implemented in full before the use of the building is commenced and thereafter monitored in accordance with the agreed scheme. Such further measures that are thereafter necessary to achieve the approved level of noise attenuation shall thereafter be implemented to the satisfaction of the Local Planning Authority.

REASON

To protect the character of the area and the amenities of nearby residents.

12.

Notwithstanding the drawings hereby approved, 1.8m high facing brick walls shall be erected between the points marked A/B/C/D and X/Y and marked in yellow on the attached plan.

REASON

To provide acoustic and visual screening to protect the amenities of nearby residents.

13.

The existing hedgerow on the boundary specified below shall be retained at a minimum height to be agreed in writing with the Local Planning Authority. No part of the hedge shall be damaged, cut back, cut down, uprooted or removed without the prior written agreement of the Local Planning Authority. In the event of any unauthorised damage to or removal of any part of the hedge occurring replacement screen planting and/or boundary screening to a specification to be provided by the Local Planning Authority shall be carried out by the owner of the site within six months of the date at which the damage or removal was first brought to the attention of the landowner by the Local Planning Authority. The north and east boundaries of the site.

## REASON

To secure the enhancement of the visual amenities of the development and character of the area by the retention, or if necessary replacement, of hedges which are worthy of retention on visual grounds or to protect the amenities and privacy of neighbours.

14.

No trees on or overhanging the site shall be cut, felled or uprooted otherwise than shall be agreed in writing by the Local Planning Authority. Any tree removed or significantly damaged, other than shall be agreed, shall be replaced by the owners of the site by trees of a size, species, and type and at a place and before a date to be determined by the Local Planning Authority.

## REASON

To secure a satisfactory setting for the proposed development and to ensure the retention, or if necessary replacement, of trees which make an important contribution to the character of the area.

15.

All trees and shrubs to be retained pursuant to any other condition of this decision notice shall be fully safeguarded during the course of all site works including excavation, construction and building operations. Before any work is commenced on site, trees or other features which are to be retained shall be fenced off from the working area with 1.2 metre high chestnut fencing to B.S. 1722, Part 4 as follows:

(a) for trees and shrubs the fencing shall follow a line 1 metre outside the furthest extent of the canopy, unless otherwise agreed in writing by the Local Planning Authority;

(b) for other natural features along a line to be agreed with the Local Planning Authority.

Details of the position of all protective fencing pursuant to this condition shall be indicated on a site plan and agreed with the Local Planning Authority before any site works commence. The fencing shall be maintained in position until the building works are completed, or until such other time that may be agreed in writing by the Local Planning Authority following which it shall be removed from the site. No goods, materials, soil, etc., shall be stacked or stored inside the fenced off area.

## REASON

To ensure that trees and other natural features to be retained are adequately protected from damage throughout the construction period.

16.

The site shall be illuminated strictly in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority before development commences. That scheme should include the design, location and intensity of all external lights. Only those lights both internal and external approved as necessary for security purposes shall be permitted to remain on between 23.30 hrs and 06.30 hrs.

**REASON**

To protect the character of the area and the amenities of nearby residents and to discourage vehicles visiting the site during the hours when it is not open.

17.

The proposed design and siting of two litter bins to be provided at locations adjacent to the entrances to the site shall be submitted to and approved by the Local Planning Authority before development commences. All the approved bins shall be provided and made available prior to the Use of the shop commencing and shall thereafter be retained at all times to the satisfaction of the Local Planning Authority and emptied daily.

**REASON**

To protect the character of the area and the amenities of nearby residents.

18.

All obsolete signs, structures and equipment associated with the existing car wash and shop shall be renovated and the site made good before the use of the shop commencing.

**REASON**

To protect the character of the area and the amenities of nearby residents.


19.

All works relating to the construction of the development hereby granted, including the works to regrade the levels of the site, demolition and ground preparation prior to building operations shall only take place between the hours of 8 am and 6 pm Monday to Friday and 9 am to 1 pm Saturdays and at no time on Sundays or Bank Holidays. Any works outside the permitted hours shall be confined to the internal preparation of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

**REASON**

To protect the amenities of adjoining properties during the construction period.

**Alan Sayle**  
**Development Control Manager**

  
19<sup>th</sup> September 2001  
DLE

02/00195/VC/1929



**DETERMINATION OF APPLICATION**  
**TOWN AND COUNTRY PLANNING ACT 1990**

**Town and Country Planning (General Development Procedure) Order 1995**

Esso Petroleum Company Ltd  
c/o Gregory Pead Town Planning Consultant  
P O Box 5796,  
Basildon  
ESSEX  
SS16 6TA

In pursuance of its powers under the above Act and Order, Southampton City Council as the District Planning Authority, hereby gives notice that the application described below has been:

**REFUSED**

**Proposal:** Variation of condition 6 of 00/01104  
**Site Address:** 149-153 West End Road Bitterne Southampton  
**Application No:** 02/00195/VC

For the following reason(s):

01.  
The proposed extended operating hours would give rise to increased noise and disturbance, most particularly associated with customer vehicles and delivery vehicles at the site late at night and early in the morning. This would be to the detriment of the amenities currently enjoyed by the occupiers of nearby homes and would therefore be contrary to the provisions of policies GP1 and H7 of the City of Southampton Local Plan and policies SDP1 and SDP16 of the City Plan Review - Initial Deposit Version.

**Alan Sayle**  
Development Control Manager

16 April 2002  
DLE

