

Planning and Rights of Way Panel 3rd November 2020
Planning Application Report of the Head of Planning & Economic Development.

Application address: Costco, Regents Park Road, Southampton			
Proposed development: Implementation of planning permission 17/02525/FUL not in accordance with condition 8 (hours of use). Variation of condition 8 to allow for earlier opening hours for customers (06:00) and to allow unrestricted deliveries every day between 07:00 - 21:00			
Application number	20/01160/FUL	Application type	Full
Case officer	Andrew Gregory	Public speaking time	5 minutes
Last date for determination:	23.10.2020 (ETA)	Ward	Millbrook
Reason for Panel Referral:	Referred by Cllr S Galton - Petrol station hours should remain as approved in the interests of neighbouring residential amenities.	Ward Councillors (at the time of Panel considerations)	Cllr G Galton Cllr S Galton Cllr S Taggart

Applicant: Costco Wholesale Uk Ltd	Agent: RPS Planning & Development
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Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	No
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Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The amended trading and servicing hours will not adversely harm the residential amenities of neighbouring occupiers and would not have an unacceptable impact on highway safety network capacity. Other material considerations 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 39 - 42 and 46 of the National Planning Policy Framework (2019).

Policies - SDP1 and SDP16 of the City of Southampton Local Plan Review (Amended 2015) and CS18 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Minutes relating to panel resolution for application ref 17/02525/FUL

Recommendation in Full

Conditionally Approve

Background

This application relates to the hours of use for the existing Petrol filling station at Costco, Regents Park Road. The application for the Petrol Filling Station (ref 17/02525/FUL) was considered by the Planning and Rights of Way Panel on 31st July 2018 and Panel resolved to grant planning permission, but varied the hours of operation recommended by officers with the opening time reduced from 7am to 9am in the interests of the residential amenities of nearby residents.

The current authorised hours of use as restricted under condition 08 of planning permission ref 17/02525/FUL are as follows:

08. Hours of Use (Performance)

The Petrol Filling Station hereby approved shall not be open to customers and no deliveries taken outside of the following hours:

Monday to Friday - 09:00 to 21:30

Saturday - 09:00 to 20:00

Sunday and recognised public holidays - 09:00 to 18:00

No deliveries shall take place during the following peak times on the highway network:

Monday - Friday 0800hrs to 0900hrs and 1600hrs to 1700hrs

Saturday 1330hrs to 1430hrs

Reason: To protect the amenities of the occupiers of existing nearby residential properties and in the interests of highway safety.

1 The site and its context

1.1 The Petrol Filling Station (PFS) is located in the southern part of the Costco car parking area and comprises 9 self service pumps available to Costco members only, with members swiping their Costco membership and debit/credit payment cards at the pump. There is no kiosk / shop or ATM machine service at this petrol filling station. A 1.8m height acoustic screen has been installed along the southern edge of the Petrol Filling Station and was a requirement of the planning approval.

1.2 The Costco warehouse has the following authorised hours of use:

Monday to Friday 10.00am - 8.30pm (10.00am - midday trade customers only)

Saturday 09.00am - 6.30pm

Sunday 11.00am - 5.00pm

Public holidays 10.00am – 6.00pm

The normal servicing hours for deliveries are restricted to 07.00am - 9.00pm, however the servicing hours have been temporarily relaxed as part of the Covid-19 response with planning restrictions lifted on deliveries to retailers and distribution centres in a written ministerial statement on 17 March 2020.

1.3 Site access is taken from Regents Park Road. The Costco Warehouse building is located to the east and retained BAT office and research & development buildings are located to the north. The surrounding area comprises a mix of commercial and residential uses. Adjacent to the southern boundary is the Military, Territorial Army base and the Solent Business Centre. Two-storey dwelling houses frame the western boundary and part of the southern boundary. The eastern boundary abuts Waterhouse Lane with dwelling houses located on the adjacent side of the road. There are group and individual tree preservation orders located at the site entrance, along the southern boundary and also within the north-eastern corner of the site.

2 **Proposal**

2.1 Variation of condition 8 to allow for earlier opening time for customers of 06:00 am Monday to Saturday and Public Holidays and 07.00am Sundays and to also allow unrestricted deliveries every day between 07:00 - 21:00. In addition, the opening hours are extended from 8pm to 9:30pm to reflect the approved hours for Monday-Friday. The submission has confirmed that the Petrol Filling Station is serviced by a maximum of 1 tanker delivery per day.

2.2 The submission indicates that the opening hours proposed are consistent with the operation of other Costco petrol filling stations. The applicants have indicated that examples of other similar Costco stores with comparable separation distances from residential properties include:

- Costkea Way, Edinburgh, EH20 9BY (Midlothian Council - 16/00627/DPP)
- Torrington Avenue, Coventry, CV4 9AQ (Coventry City Council - FUL/2019/1771)

2.3 Summary – Condition 8

	Approved	Proposed
Opening Hours	Mon to Fri – 9am to 9:30pm Sat – 9am to 8pm Sun – 9am to 6pm Public Hols – 9am-6pm	Mon to Sat – 6am-9:30pm Sun – 7am-6pm* Public Hols – 6am-6pm*
Servicing	Mon to Sun – 7am-9pm Excludes: Mon to Fri - 8am-9am & 4pm-5pm Sat – 1:30pm-2:30pm	Mon to Sun – 7am-9pm

*The Sunday & Public Holidays request is not supported by officers and no change is recommended. See amended condition 8 below.

3 **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 Saved policy SDP16 of the Local Plan Review indicates that proposals for noise-generating development will not be permitted if it would cause an unacceptable level of noise impact. This application is supported by a noise impact report which seeks to demonstrate that the earlier opening times and deliveries between 07:00-21:00 will not lead to adverse noise disturbance to nearby residents having regard to existing background noise levels and the acoustic screen which has been installed. Paragraph 109 of the National Planning Policy Framework (NPPF) indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4. Relevant Planning History

- 4.1 On 31.01.2019 planning permission was granted for the Petrol Filling Station at Costco (LPA Ref 17/02525/FUL).
- 4.2 On 21.09.2011 planning permission was granted for redevelopment of the site to provide a warehouse club (13,006 square metres gross external floorspace) including tyre installation, sales and associated facilities with vehicular access from Regents Park Road (LPA Ref 10/01449/FUL).

The reason for granting planning permission was as follows:

“The site is safeguarded for light industry and research and development uses under Saved Policy REI9 (i) of the Local Plan Review. Whilst a warehouse club does not strictly accord with the site specific designation, it is unlikely the site will come forward for single occupancy industrial use on the same scale as BAT, and leading Retail Estate Advisors ‘Vail Williams’ have indicated that demand from smaller industrial units on this back land site would be limited. Overall the principal scheme is acceptable, particularly as it will regenerate the site and will bring it back into employment use, whilst ensuring that existing residential amenities are protected. The Local Planning Authority is satisfied that the proposal will not undermine the vitality and viability of existing retail centres within the City. Furthermore the travel demands of the development can be met without compromising the city transport network, subject to the securing of site specific highway improvements through the S106 legal agreement. Other material considerations do not have sufficient weight to justify a refusal of the application.”

5 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 (posted 11.09.2020). At the time of writing the report **5 representations** have been received from surrounding residents (4 against and 1 in support) and, in addition, there’s a Panel referral request from Ward Cllr S Galton.

The following is a summary of the points raised:

5.2 Against

Increased noise

Officer Response - No objection has been raised by the Council's Environmental Health Team. The application is supported by a specialist consultant noise report which demonstrates that earlier opening hours of 6am (Mon-Sat) and 1 tanker delivery per day between 7am-9pm will not have an adverse noise and accords with recognised WHO and British standards in terms of acceptable day time and night time noise tolerances. It is considered reasonable to maintain the existing opening time of 9am on Sundays and Bank Holiday given there is existing lower background noise levels from road traffic prior to 9am on these days and so officers are recommending a slight change to the requested hours.

5.3 **Traffic and pollution at the extended times of day**

Officer Response - The following table extrapolated from the submitted noise report sets out the anticipated worst-case scenario in terms of vehicle numbers of the forecourt per hour. You will see that a low number of vehicles are anticipated during the hours of 6am and 7am and remain relatively low at 8am. As such the proposed earlier hours of use are not considered to have an adversely harmful traffic and pollution impact.

Hour Commencing	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Friday	7	24	40	54	67	96	109	129	134	119	128	134	114	63	47	6
Saturday	3	7	15	41	107	132	164	158	145	154	150	129	66	1	0	0
Sunday	2	5	8	20	59	83	117	118	103	127	94	41	1	0	0	0

Table 1

5.4 **Longer delivery times will mean more HGV's negotiating residential streets during early morning and late evening/ nights causing noise.**

The PFS is served by 1 tanker delivery per day and this limited number of deliveries during the proposed servicing hours of 7am-9pm will not lead to adversely harmful noise nuisance nor would it harm capacity on the highway network.

5.5 In Favour

As a local resident who regularly uses Costco I cannot see any impact on traffic to open for fuel only at 06.00 and it would be a great asset to have access earlier than 09.00.

Consultation Responses

5.6 **SCC Highways – No objection**

The proposed forecast levels which is less than 1 vehicle per minute on average will not have an adverse impact on safety or capacity on the network. In addition, the fact that the use of the petrol station is for members only and it is not directly accessed off Regents Park Road does make this site slightly less attractive for any trips relating to commuters (i.e. trips associated with network peak hours). The weekend levels are further reduced and is outside the standard network peaks.

5.7 **Environmental Health – No objection**

5.8 **Cllr S Galton – Objection**

the petrol station opening hours should remain as they currently are. The planning panel recently considered the original application, and nothing has changed in terms of protecting residential amenity.

There is great logic to deliveries being outside of peak hours; especially as the Council's plans for Millbrook Road bus lanes - if enacted - will lead to increased journey time on Millbrook Road and increased delay/congestion in Regents Park Road.

6. Planning Consideration Key Issues

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

- Noise impact on the amenities of nearby residents; and
- Transport impacts.

6.2 The proposed increased operating hours is policy compliant from an economic development perspective, however the earlier opening times for customers delivery time from 7am-9pm needs to be carefully considered in relation to noise impact to neighbours and impact on congestion on the highway network.

6.3 The original planning application for the PFS (ref 17/02525/FUL) was submitted on the basis of a 6am opening time and was supported by technical evidence to demonstrate no adverse highways, odour, air quality impact and lighting impacts. The original application was also supported by a noise assessment by Sharps Redmore Dated 17th April 2018 which indicated no adverse noise effect on nearby residents based on opening time of 6am and the Council's Environmental Health Team had no objection to these hours based on the evidence submitted. However officers took a precautionous approach based on the lower background noise levels from road traffic during the early morning and potential for noise events associated with the PFS (customer fuelling and tanker delivery activity ranging from 64-78db) and took the view that a later opening of time of 7am would reduce the risk of adverse disturbance to neighbours. The officer recommendation of a 7am start time was further varied by the Planning and Rights of Way Panel to 9am in the interests of the residential amenities of neighbouring occupiers. A copy of the minutes from the Planning and Rights of Way Panel meeting on 31.7.2018 are attached as ***Appendix 2.***

6.4 This current application seeks to vary the consented opening time of 9am (as restricted under condition) and seeks an earlier 6am opening time Monday to Saturday and Public Holidays as originally proposed. Based on the evidence within the noise assessment by Sharps Redmore Dated 17th April 2018 there would be no adverse noise impact on neighbouring residents, based on recognised noise standards as set out by British Standard (BS) 8233:2014 and World Health Organisation (WHO) "Guidelines for Community Noise". The extended hours of trading for Saturday (from 8pm to 9:30pm) reflects the trading hours for Monday to Friday and are acceptable.

6.5 The noise evidence indicates that bedrooms within the nearest residential properties would not be subject to noise levels that would disrupt sleep during the early morning (6am-7am) on weekdays and Saturday having regard to existing background noise levels from road traffic during these times, separation distance of houses from the access road and petrol filling station and also noise barriers such as boundary treatments, building facades (allowances made for open bedroom windows) and the existing acoustic fence on the southern side of the PFS. Please

note the PFS is located circa 50m from the nearest house and the access road is circa 20m from the rear elevation of properties within Langley Road.

- 6.6 However the noise report is not supported by evidence relating to existing background noise levels on a Sunday and it is therefore considered reasonable to maintain the existing opening time of 9am on Sundays and Public holiday, given the level of background noise from road traffic is likely to be quieter at these times and because the submission has not demonstrated that the 35db LAeqT indoor noise limit to neighbouring properties would not be breached from noise associated with the PFS before 9am on a Sunday and Public Holidays.
- 6.7 Condition 08 of planning permission ref 17/02525/FUL also includes an existing restriction to prevent servicing of the PFS at peak times on the highway network with no deliveries between Monday - Friday 08:00am to 0900am and 4.00pm to 5.00pm Saturday 1.30pm-2.30pm.
- 6.8 The level of servicing for this self-service PFS (with no kiosk/shop) is limited to one tanker delivery per day and It is considered that one tanker delivery per day delivery anytime between 7am-9pm will not have a demonstrably harmful impact on highway safety or capacity on the highway network and access from Regents Park Road. The proposed delivery hours will also align with the authorised servicing hours for the Costco warehouse which are not restricted during peak times on the network.

7 Summary

- 7.1 The development, as proposed to be amended for Sundays and Public Holidays, is acceptable taking into account the policies and proposals of the Development Plan as set out below. The amended trading and servicing hours will not adversely harm the residential amenities of neighbouring occupiers and would not have an unacceptable impact on highway safety network capacity. Other material considerations are not judged to have sufficient weight to justify a refusal of the application.

8 Conclusion

- 8.1 The positive aspects of the scheme are not judged to be outweighed by the negative, despite the local objections and as such the scheme is recommended for conditional approval.
- 8.2 The applicants proposed varied hours opening hours Mon-Sat and servicing hours are supported as part of this recommendation however the applicants proposed opening time of 7am on Sunday is not supported and the existing 9am opening time on Sundays and Public Holidays should be retained.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1 (a) (b) (c) (d), 2 (b) (c) (d), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

AG for 03/11/2020 PROW Panel

PLANNING CONDITIONS – reinstate those previously applied with the following change:

08. Hours of Use (Performance)

The Petrol Filling Station hereby approved shall not be open to customers and no deliveries taken outside of the following hours:

Monday to Friday - 06:00 to 21:30

Saturday - 06:00 to 21:30

Sunday and recognised public holidays - 09:00 to 18:00

Deliveries shall only take place between the hours of 07:00 to 21:00 and shall be limited to a maximum of 1 tanker delivery per day.

Reason: To protect the amenities of the occupiers of existing nearby residential properties and in the interests of highway safety.