

April 2017



## Planning Statement

**Proposed removal of condition 15 pursuant to planning permission BE/138/06  
regarding hours of operation for premises @**

**Regis Service Station, Chichester Road, Bersted, PO21 5DS**

**On behalf of Euro Garages**

**Prepared by:**



**ALISTAIR FLATMAN PLANNING**  
*...a Positive Approach*

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### Appendix 1

Appeal Decision dated 19 Dec 2016 – PINs ref 3156743 –  
Appeal allowed for 24-hour use at PFS



ALISTAIR FLATMAN PLANNING  
*...a Positive Approach*

## 1.0 Introduction

- 1.1 This Planning Statement has been prepared on behalf of EuroGarages to support a planning application for the removal of condition 15 of planning permission BE/138/06 relating to hours of operation of the premises at Regis Service Station, Bersted.
- 1.2 The application is submitted on a number of grounds as will be advanced in this planning statement including the need to improve security on site and the recent approvals for extension to shop and PFS (LPA ref BE/162/16) and a 24hours ATM on site (LPA ref BE/87/16) which are considered to be material considerations in the assessment of increased hours of operation.
- 1.3 This Statement describes the application site and Proposed Development before identifying and examining the issues relevant to the application. In seeking to establish whether the proposal is appropriate, particular regard has been had to the statutory Development Plan and the National Planning Policy Framework.

### Background

- 1.4 Euro Garages Ltd operate over 300 petrol filling station sites throughout the country and are at the forefront of developing a highly sustainable, modern business model which is centred around a mixed-use arrangement of complimentary facilities which provide for the needs of passing motorists. Euro Garages currently have a programme of building new sites or redeveloping existing sites which are located at strategic points on the highway network.
- 1.5 Evidence suggests that in the majority of cases, the benefits arising from a 24-hour operation in terms of site security, job creation and improved access to local facilities outweigh perceived harm to residential amenity by virtue of increased activity on site through the night. Many sites sit on main roads in urban areas where there is an existing level of activity and noise through the night. The level of activity arising from a 24-hour use is generally considered to be acceptable with noise levels falling within accepted guidelines.

## 2.0 Site Description and Proposed Development

### The Site

- 2.1 The existing petrol filling station (PFS) is well established in the area and sits at the junction of Chichester Road (B2259) and Brazwick Avenue on the northern edge of Bognor Regis.
- 2.2 Chichester Road (B2259) and Brazwick Avenue form the north-eastern and north-western boundaries to the site respectively. There are dwellings to the south east and south west boundaries. These 2 dwellings have a single opening facing the site. It is noted that the dwelling to the south west sits behind the main shop building. Boundary treatments comprise fencing and brick wall with some planting.

### Planning History

- 2.3 In terms of planning history, planning consent was granted for redevelopment of existing service station in March 2007 (LPA Ref BE/138/06) which, at condition 15 seeks to partially restrict hours of operation of the premises as set out below:

*15. Petrol pumps P5/6/7/8 and the lockable bollards to restrict parking in the first four bays closest to 447 Chichester Road shall be closed between the hours of 22.00 and 0700 hours of the following day.*

It is this consent that forms the basis of the proposal to remove the condition.

- 2.4 More recently in Feb 2017 planning permission was granted for extensions to the shop and PFS (LPA ref BE/162/16) whilst in July 2016 planning permission was granted for an ATM on site (LPA reference BE/87/16). There are no conditions set out with either approval restricting hours of operation. The 24-hour operation of the ATM and similar for the extended service station are considered to be a material consideration in the assessment of this proposal.

### The Proposed Development

- 2.5 The proposal seeks the removal of condition 15 of planning permission BE/138/06 relating to hours of operation which states:

*15. Petrol pumps P5/6/7/8 and the lockable bollards to restrict parking in the first four bays closest to 447 Chichester Road shall be closed between the hours of 22.00 and 0700 hours of the following day*

- 2.6 The 2016 consent for the ATM and 2017 approval for extensions to the shop / PFS do not include any hours restricting use and so set a clear precedent for 24-hour use on the site. As such the proposal seeks to regularise a 24 hour use on site consistent with the 2016 consent for the ATM and 2017 extensions.

### 3.0 Planning Policy

- 3.1 This section sets out the relevant national and local planning policies to be considered in assessing the proposal.

#### National Planning Policy - NPPF March 2012

- 3.2 The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. The guidance advises that the policies in paragraphs 18-219 taken constitute the government's view on what sustainable development in England means in practice for the planning system.

#### Achieving Sustainable Development

- 3.3 Paragraph 14 of the NPPF highlights that *'At the heart of the planning system is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.'* In the case of plan-making, this means that local planning authorities should positively seek opportunities to meet the development needs of their area and produce plans which meet objectively assessed needs, with sufficient flexibility to adapt to rapid change. For decision-taking, local planning authorities are directed to approve development proposals that accord with the development plan without delay; or, where the development plan is absent, silent or relevant policies are out of date.
- 3.4 The above terms are to be applied unless the adverse impacts arising from the development in question would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole; or specific policies in the NPPF indicate the development should be restrictive.

#### Building a Strong, Competitive Economy

- 3.5 Paragraph 18 confirms the Government's commitment to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
- 3.6 Paragraph 19 confirms that the planning system should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
- 3.7 Paragraph 21 also states that investment in businesses should not be overburdened by the combined requirements of planning policy expectations and planning policies should recognise and seek to address potential barriers to investment including a poor environment.

#### Conserving and Enhancing the Natural Environment

- 3.8 Regarding issues relating to noise, paragraph 109 of the document notes that *'the planning system should contribute to and enhance the natural and local environment by: preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability'*.
- 3.9 Paragraph 123 notes that 'planning policies and decisions should aim to:
- i. *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - ii. *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; and*
  - iii. *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established'.*

#### *Determining Applications*

- 3.10 Paragraph 196 reaffirms the planning system as being plan led and that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF constitutes a material consideration in its own right.
- 3.11 In accordance with Paragraph 197, when assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

#### *National Planning Practice Guidance*

- 3.12 The NPPG makes reference to specific factors to consider when determining the noise impact. Local Planning Authorities should take account of the acoustic environment and in doing so consider:
- Whether or not a significant adverse effect is occurring or likely to occur;
  - Whether or not an adverse effect is occurring or likely to occur; and
  - Whether or not a good standard of amenity can be achieved.

#### *Noise Policy Statement for England (2010)*

- 3.13 The Noise Policy Statement for England (NPSE) attends to three types of noise;
- "Environmental noise" which includes noise from transportation sources;
  - "Neighbour noise" which includes noise from inside and outside people's homes; and

- "Neighbourhood noise", which includes noise arising from within the community such as industrial and entertainment premises, trade and business premises, construction sites and noise in the street.

3.14 In line with the aims determined in the NPPF, the NPSE determines three aims;

- 1) Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development;
- 2) Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development; and
- 3) Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

#### Statutory Development Plan Policies

3.15 With respect to the proposed development, the 'Development Plan' currently comprises saved policies of the Arun District Local Plan (2003). It is noted there is a Publication Version of the Emerging Local Plan (2014) and this has been referenced in development control reports assessing applications. However, as the Local Plan is not yet adopted it is considered that limited weight can be afforded to its policies. As such the relevant saved Local Plan policies have been considered;

- Local Plan Policy GEN 7 entitled Form of new Development and setting out general development control criteria including consideration of amenity at criterion iv.
- Local Plan Policy GEN 32 entitled Noise Pollution.
- Local Plan Policy GEN 33 entitled Light Pollution.

## 4.0 The Case in support of the Proposed Development

### Principle of Development -- residential amenity

- 4.1 The Proposed Development comprises the removal of condition 15 pursuant to planning permission BE/138/06 relating to hours of operation. The condition restricts use of some pumps and parking spaces after 10pm. As such it is considered there is already an opportunity for partial 24hr use of the site. The application is submitted following the recent approval of extensions to the PFS and shop without any conditions restricting hours and granting of a 24-hour ATM on site together with the need to improve on site security.
- 4.2 The recent approvals for extensions to the shop / PFS (LPA ref BE/162/16) without any conditions restricting hours and the 2016 consent granting a 24hours ATM development are considered to be an important material consideration in the assessment of this proposal. In both cases the Council have not raised any concerns over noise / lighting harming residential amenity and the consents set out a clear principle of a 24hour use on the site. The activity associated with an ATM and the likely concerns over noise apply equally to an ATM use as a customer filling up with petrol or using the shop for milk or bread through the night.
- 4.3 The potential negative impact on neighbouring residents is controlled by paragraph 109 and 123 of the NPPF (2012), Local Plan policies GEN7 and GEN32 and the Noise Policy Statement for England (2010).
- 4.4 The NPPF is mindful of resisting development that will have an unacceptable impact by virtue of noise and disturbance. Paragraph 123 of the NPPF notes that decisions should aim to avoid noise from giving rise to significant adverse impacts on quality of life as a result of new development.
- 4.5 The site sits at the junction of Chichester Road and Brazwick Avenue. There are dwellings to the SE and SW boundaries of the site. These dwellings have predominantly blank elevations facing the site. In addition it is noted the dwelling to the SE sits behind a c2m brick wall and fence whilst the dwelling to the SW sits behind the shop and as such, the petrol station kiosk building sits between the main forecourt and the dwelling thus acting as a noise barrier to any noise arising from the forecourt itself. A review of the 2016 applications for extensions to the shop / PFS and ATM do not raise any specific concerns about the proximity of the service station to adjacent dwellings in terms of harm to living conditions.
- 4.6 In addition, the applicant's experiences in operating 24 hours PFS indicates that customers will instinctively go for the nearest pump to the shop entrance. In this case the shop entrance sits centrally in the building whilst the ATM sits at the southern end of the building in a separate structure.
- 4.7 Generally, at night, the forecourt is likely to be busy only in proportion to the general traffic in the area. It is unlikely, for instance, that a road which is quiet at night would have a busy forecourt. Generally, any increase in noise levels arising from a 24-hour use is minimal at worst and concerns over 'isolated' incidents of increased noise (shouting / door slamming) can, by the fact that they are 'isolated', be afforded little weight. This matter was considered by the Inspector in the appeal decision highlighted below and attached at Appendix 1 (para 9 of Inspector's letter)

- 4.8 The site is not specifically restricted in terms of noise outputs and there are no specific policies in this location that indicate the existing residential uses have a greater planning policy protection over and above the existing uses in the area.
- 4.9 Concerns are often raised over lighting on sites for 24 hours. The site is however located at the junction of Chichester Road and Brazwick Avenue which benefits from street lighting. As such the existing lighting levels are such that lighting associated with the PFS would not give rise to unacceptable levels of light spill or glare. Furthermore, lighting levels and direction can be controlled on site by staff to reduce levels when forecourt is not in operation with levels only increasing when vehicles are using a certain pump.
- 4.10 Given the existing 24 hours use of site with the ATM together with lack of hours conditions on the consents for extension to shop / PFS and the applicant's experiences on lack of noise / disturbance that occurs on their other 24hour site, it is considered that the proposed hours can be implemented without significantly adversely impacting neighbouring residents. The proposals therefore accord with the policies set out within the NPPF (paragraph 123), and saved Local Plan Policies GEN7, GEN32 and GEN33.

#### Economic Development

- 4.11 The NPPF is wholly supportive of proposals that seek to enhance the economic viability and vitality of existing uses, in line with the Government's wider growth agenda. Whilst the application is not a new local shop, a 24-hour use would enhance the local offer for existing residents in the local area and negate the need to travel into Bognor Regis.
- 4.12 Whilst the site is clearly not in a rural area, there are some parallels with Paragraph 28 of the NPPF which notes that local plans should promote the retention and development of local services and community facilities such as local shops in villages and should support the sustainable growth and expansion of all types of business.
- 4.13 Provision of a 24hr facility on this site would assist in supporting local services and provide a more sustainable option for the local community.
- 4.14 The proposed development would provide an enhanced retail offer to the local community to facilitate the day-to-day needs of local residents and its surrounds which in turn accords with a presumption in favour of sustainable development.
- 4.15 The extension of trading hours will also create additional working hours for the current staff and is expected to create two/three additional jobs.
- 4.16 As such the proposed 24 hours will give rise to economic benefits in terms of employment and increased local spend whilst also enhancing the local day to day top up / convenience shopping offer.

#### Relevant Appeal Decision

- 4.17 A recent appeal decision in Chobham, Surrey Heath (Inspector letter dated 19 December 2016 – PINs ref 3156743) is considered of relevance in this case. The Inspector allowed the appeal for a 24-hour use of PFS on a site similar to this in terms of location to roads / proximity to housing, marginal noise increase, improved local offer and economic benefits. In allowing the appeal the

Inspector agreed that the level of activity likely to arise on site during the night was acceptable and given the nature of the site and its surrounds would not harm living conditions of nearby residents.

- 4.18 Of particular relevance is para 13 of the decision which reiterates the governments clear objective of boosting economic growth and the considerable weight this should be given in the decision making process. Para 13 is copied below:

**13. Paragraph 18 of the Framework says that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. An increase in the opening hours of the PFS would improve the local retail offer in an area where there is currently no 24 hour convenience store and provide for increased hours of the current PFS staff whilst also creating 2 new jobs. Given the government's clear objective to boost economic activity, these aspects of the proposal attract very**

Appeal Decision APP/D3640/W/16/3156743

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**considerable weight. Furthermore, the rural nature of the area around Chobham means that, in order to access a 24 hour store outside of the current PFS opening hours, this would inevitably involve considerable travel distances by private motorised transport. The proposal would therefore help support the long term viability of the PFS. Overall, the proposal would contribute to supporting a prosperous rural economy.**

- 4.19 The Inspector then concludes at para 16 that:

**I realise that the interested parties who contributed to the appeal process will be disappointed by my decision. However, having considered all of the available evidence, I am satisfied that the proposal will not result in unacceptable effects with regard to noise and disturbance. Thus it would accord with the objectives of Core Strategy Policy DM9 and the Framework. Moreover, the proposal would secure economic benefits, which when balanced against the identified marginal noise and disturbance effects, weigh in favour of the proposed extended opening hours.**

This conclusion can equally be applied to the proposals at Regis Service Station

- 4.20 A copy of the appeal and site location plan is attached as Appendix 1.

### Summary

- 4.21 In light of the case presented above it is considered the effects of residential amenity will be marginal at worst and this impact is outweighed by the economic benefits arising from providing a 24hr facility on this site. The existing 24-hour use of the ATM and also weighs in favour of the current proposal.
- 4.22 The Proposed Development therefore complies with the relevant national and local planning policies and as such there are no grounds to refuse this planning application.

## 5.0 Conclusions

- 5.1 This Planning Statement has been prepared on behalf of EuroGarages to support a planning application for the removal of condition 15 of planning permission BE/138/06 relating to hours of operation of the premises at Regis Service Station, Chichester Road, Bersted.

### The Site

- 5.2 The existing petrol filling station (PFS) is well established in the area and sits at the junction of Chichester Road (B2259) and Brazwick Avenue on the northern edge of Bognor Regis. Chichester Road (B2259) and Brazwick Avenue form the north-eastern and north-western boundaries to the site respectively. There are dwellings to the south east and south west boundaries. These 2 dwellings have a single opening facing the site. It is noted that the dwelling to the south west sits behind the main shop building. Boundary treatments comprise fencing and brick wall with some planting.

### Planning History

- 5.3 In terms of planning history, planning consent was granted for redevelopment of existing service station in March 2007 (LPA Ref BE/138/06) which, at condition 15 seeks to partially restrict hours of operation of the premises as set out below:

*15. Petrol pumps P5/6/7/8 and the lockable bollards to restrict parking in the first four bays closest to 447 Chichester Road shall be closed between the hours of 22.00 and 0700 hours of the following day.*

It is this consent that forms the basis of the proposal to remove the condition.

- 5.4 More recently in Feb 2017 planning permission was granted for extensions to the shop and PFS (LPA ref BE/162/16) whilst in July 2016 planning permission was granted for an ATM on site (LPA reference BE/87/16). There are no conditions set out with either approval restricting hours of operation. The 24-hour operation of the ATM and similar for the extended service station are considered to be a material consideration in the assessment of this proposal.

### The Proposed Development

- 5.5 The proposal seeks the removal of condition 15 of planning permission BE/138/06 relating to hours of operation which states:

*15. Petrol pumps P5/6/7/8 and the lockable bollards to restrict parking in the first four bays closest to 447 Chichester Road shall be closed between the hours of 22.00 and 0700 hours of the following day*

The 2016 consent for the ATM and 2017 approval for extensions to the shop / PFS do not include any hours restricting use and so set a clear precedent for 24-hour use on the site. As such the proposal seeks to regularise a 24-hour use on site consistent with the 2016 consent for the ATM and 2017 extensions

### Summary

- 5.6 Considering the case presented it is considered the effects of residential amenity will be marginal at worst and this impact is outweighed by the

economic benefits (enhance retail offer, job creation and improved local facilities) arising from providing a 24hr facility on this site. In addition, there are environmental benefits for the local community in terms of providing a 24 hours shopping option for local residents thus negating the need to travel to access similar facilities. The existing 24-hour use of the ATM and recent approval to extend the PFS without any hours restrictions also weighs in favour of the current proposal. The appeal decision (December 2016) attached at Appendix 1 is clear that economic benefits arising from a 24 hour uses outweigh any marginal effects that may be experienced by local residents by virtue of increased activity on site.

- 5.7 The Proposed Development complies with the relevant national and local planning policies and as such there are no grounds to refuse this planning application.
- 5.8 In view of the above, it is considered the scheme satisfies national and local policy and represents a suitable development proposal for the site that addresses all the relevant and material considerations. In this context, the proposal satisfies Section 38(6) of the Planning and Compulsory Purchase Act 2004 and it is considered that planning permission should be granted.

## Appendix 1

Appeal Decision – 19 December 2016 PINs ref 3156743

Chobham Service Station – 24-hour use – appeal ALLOWED

# I The Planning Inspectorate

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## Appeal Decision

Site visit made on 5 December 2016 by H Baugh-  
Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by Secretary of State for Communities and Local Government  
Decision date:

**19<sup>th</sup> December 2016**

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**Appeal Ref: APP/D3640/W/16/3156743 Chobham Service Station,  
Station Road, Chobham, Woking GU24 8AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Rontec Watford Ltd against the decision of Surrey Heath Borough Council.
  - The application Ref 15/1133, dated 21 December 2015, was refused by notice dated 9 March 2016.
  - The application sought planning permission to allow the petrol filling station to remain open 24 hours a day, 7 days a week without complying with a condition attached to planning permission Ref 13/0367, dated 21 August 2013.
  - The condition in dispute is No 1 which states that: The petrol filling station and kiosk shall only be open to the public between the hours of 06:00 and 24:00 hours from Mondays to Sundays unless the prior written approval has been obtained from the Local Planning Authority.
  - The reason given for the condition is: In the interests of residential amenity and to comply with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.
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## Decision

1. The appeal is allowed and planning permission is granted for the petrol filling station to remain open 24 hours a day, 7 days a week at Chobham Service Station, Station Road, Chobham, Woking GU24 8AJ in accordance with the application Ref 15/1133 dated 21 December 2015, without compliance with condition number 1 previously imposed on planning permission Ref 13/0367 dated 21 August 2013 and subject to the following conditions:
    - 1) Deliveries shall be taken at or despatched from the site only between 0700 and 2300 on Mondays to Saturdays and 0800 and 2300 time on Sundays.
    - 2) The air and vacuum facilities shall only be available for use between 0600 and 0000 on Mondays to Sundays.
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- 3) The development hereby permitted shall not be brought into use until details of all internal and external lighting to be used between 0000 and 0600 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

## Background and Main Issue

2. The appeal relates to a petrol filling station (PFS) located next to the roundabout junction of Station Road (A3046), Castle Grove Road and High Street. The appellant wishes to extend the opening hours from those previously imposed to provide a 24 hour, 7 day per week operation for fuel sales and other retail offers within the kiosk. Permission is not sought for a change to the operating hours of the car wash, jet wash, air or vacuum facilities that are also present on the site.
3. The main issue in this appeal is therefore the effect of increasing the opening hours of the PFS would have on the living conditions of neighbouring residents with regard to noise and disturbance.

## Reasons

4. The proposal is for 24 hour opening of the PFS. I understand that the car wash, jet wash and the automatic telling machine are subject to control by means of separate permissions.
5. Policy DM9 of the Surrey Heath Core Strategy Development Management Policies (2012) (the Core Strategy) states, amongst other things, that development should respect the amenities of neighbouring occupiers. This broadly reflects paragraph 123 of the National Planning Policy Framework, which sets out that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
6. The PFS is located close to a number of residential properties and the proposal could result in an increase of the amount of noise generating activity emanating from the forecourt and from vehicles arriving and departing. The potential therefore exists for an increase in noise and disturbance to adversely affect those living nearby. Given the number of objections to the proposal, this is clearly a concern for local residents.
7. The appellant has submitted a Noise Impact Assessment <sup>†</sup> (NIA), the findings of which state that the increase in noise generated from increasing the PFS opening hours would be at worst, of marginal significance. The NIA used a period between 0000 and 0600 to establish the baseline conditions by which to measure the potential increase in noise at the site. It is reasonable to conclude that this represents the quietest period of the night. I note that the NIA has been considered by the Council's Environmental Health section which raised no objections to the proposal and having also considered the specific concerns raised by local residents, the effects were considered to be acceptable. Moreover, the NIA, adheres to the guidance set out in British Standards and I am therefore satisfied that the methodology employed to establish the baseline for assessment is appropriate and that the NIA is fit for purpose.
8. Having said that, British Standards were not drafted with the same objectives as planning policy, nor can they have the same formal role and effect as development plan policies. The Council argues that the numbers of visitors to the PFS could be more than anticipated. It would be perverse, in my view, for a business not to seek to maximise its revenue by attracting the highest number of potential customers. Nevertheless, the PFS faces competition from

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Enzygo Environmental Consultants Ref. SHF.418.001.R.002.A2 (December 2015).

other 24 hour service stations located nearby but on or close to more strategic transport routes. Whilst some of the additional custom generated would be drawn from elsewhere, I

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therefore recognise that the extended opening hours would mostly serve the local community within Chobham.

9. The Council also asserts that a technical assessment cannot predict the effects of isolated noisy incidents. Whilst I accept this, 'isolated' means exactly that and does not readily translate into regular occurrence. I recognise that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. Car doors slamming, people shouting, the PA system and traffic accelerating away would not be easy to ignore and would be less tolerable at say 0300 than it would at 1500. Furthermore, the character of the area plays a part in the tolerance of its residents. I have no reason to doubt the evidence that suggests Chobham is a quiet village, particularly after the local businesses have closed. It follows that its residents are less likely to be tolerant of noise and disturbance than if they lived in a busy urban environment.
10. However, there is nothing substantive within the evidence to suggest that the level of additional noise generated would be so significant that it would result in harmful effects on nearby residents. Indeed, I have already accepted that the findings of the NIA are sound and provide considerable clarity in predicting the change above the baseline noise levels.
11. The available records show a low level of anti-social behaviour locally and whilst this does not minimise the effects of any particular incidents, it nonetheless points to the absence of crime being a significant issue. There are a range of retail and commercial units located in High Street a short distance to the north of the site. The available evidence indicates that none of these, including the two public houses, have late opening hours, thus it is unlikely that the comings and goings of their customers would take place much after midnight. I do not therefore consider that there would be an increase in either anti-social behaviour or noise and disturbance simply because of the extended PFS opening hours.
12. I turn now to matters of lighting, which has the potential to negatively affect those living in close proximity to the PFS. It is clear that there have been historical issues with light-spill into neighbouring properties and I have no reason to doubt that this has caused inconvenience to the affected occupiers. However, in allowing the appeal, I am able to consider what, if any, conditions should be attached to the grant of planning permission. The information provided by the appellant supports the imposition of a lighting condition which, in my view, would provide a suitable control mechanism to ensure that the effects of lighting between the hours of midnight and 0600 would not be unacceptable.
13. Paragraph 18 of the Framework says that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. An increase in the opening hours of the PFS would improve the local retail offer in an area where there is currently no 24 hour convenience store and provide for increased hours of the current PFS staff whilst also creating 2 new jobs. Given the government's clear objective to boost economic activity, these aspects of the proposal attract very considerable weight. Furthermore, the rural nature of the area around Chobham means that, in order to access a 24 hour store outside of the current PFS opening hours, this would inevitably involve considerable travel distances by private motorised transport. The proposal would therefore help support the long term viability of the PFS. Overall, the proposal would contribute to supporting a prosperous rural economy.
14. I have taken into account all of the matters raised by interested parties. I take these representations seriously. However, I must make my decision based on the empirical evidence before me, which is clear that any effects from additional noise and disturbance would be marginal. Furthermore, I am not convinced that the available evidence backs up the proposition that extended opening hours will necessarily result in an increase in anti-social behaviour. In particular, I note the concerns regarding alcohol sales from the PFS. However, the hours for selling alcohol are already restricted and are not proposed to change. Therefore, the PFS would not attract late night revellers seeking to purchase alcohol after other local establishments had closed. Any subsequent proposal to alter this would be subject to a local licensing decision. The

matter of need has also been raised. However, planning legislation does not require an applicant to demonstrate a need for the proposal.

15. I have had regard to the two appeal decisions<sup>2</sup> to which my attention has been drawn by an interested party. Whilst I note the findings of the Inspectors in those decisions, I do not consider they provide useful comparisons with the proposal before me for the following reasons: In relation to Warwick Road, Kenilworth, there is no clear indication that the Inspector had the benefit of a NIA as I do in this appeal. In the other decision, which relates to a site in Letchworth, the Inspector considered there to be flaws in the NIA, but this is not the case with the one before me.
16. I realise that the interested parties who contributed to the appeal process will be disappointed by my decision. However, having considered all of the available evidence, I am satisfied that the proposal will not result in unacceptable effects with regard to noise and disturbance. Thus it would accord with the objectives of Core Strategy Policy DM9 and the Framework. Moreover, the proposal would secure economic benefits, which when balanced against the identified marginal noise and disturbance effects, weigh in favour of the proposed extended opening hours.

## Other matters

17. The PFS sits within the Conservation Area (CA). However, there will be no physical changes to the overall character of the PFS and thus, there would be no harm to the character or appearance of the CA.
18. In order to test the effects of the proposal on local residents, the appellant has invited me to grant a temporary permission. However, as I have not found that the proposal would result in unacceptable effects, I consider such a course of action to be unnecessary and have therefore made my decision on the terms of the application as made to the Council.

<sup>2</sup>  
Refs. APP/T372S/A/11/2159299 and APP/X1925/A/14/2227807

## Conditions

19. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have imposed all those that I consider remain relevant but in amended form in the interests of precision and enforceability. New conditions relating to lighting and the use of the air and vacuum facilities are necessary in the interests of residential amenity. I have also been invited to consider the imposition of a pre-commencement condition requiring the submission of a management plan to control operations on the site. However, I do not consider such a condition could be made suitably precise or, in reality, enforceable and have not imposed it.

## Conclusion

20. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden (Baugh-Jones)

Inspector