

**Planning and Rights of Way Panel 15<sup>th</sup> February 2022**  
**Planning Application Report of the Head of Planning & Economic Development**

<b>Application address:</b> Former Field and Trek, Hawkeswood Road, Southampton			
<b>Proposed development:</b> This item refers to 2 linked planning applications:			
<b><u>21/00910/FUL</u></b> Installation of new shop front and external alterations including installation of trolley bays, refuse store and ramp and reconfiguration of car park layout (retrospective)			
<b><u>21/01244/FUL</u></b> External alterations to eastern elevation and installation of external lighting (part retrospective)			
<b>Application number:</b>	21/00910/FUL & 21/01244/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Stuart Brooks	<b>Public speaking time:</b>	5 minutes per application
<b>Last date for determination:</b>	10.08.2021	<b>Ward:</b>	Bitterne Park
<b>Reason for Panel Referral:</b>	Referral request by Ward Member	<b>Ward Councillors:</b>	Cllr Fuller Cllr White Cllr Harwood
<b>Referred to Panel by:</b>	Cllr Fuller	<b>Reason:</b>	Residential Amenity
<b>Applicant:</b> Company Shop Limited		<b>Agent:</b> Lichfields	

<b>Recommendation Summary:</b>  <i>This item refers to 2 linked planning applications and will require 2 Panel votes</i>	<b><u>21/00910/FUL</u></b> <b>Conditionally approve</b>  <b><u>21/01244/FUL</u></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 39-42 and 46 of the National Planning Policy Framework (2021). Policies – CS7, CS13, CS18, CS19, CS21 of the of the Local Development Framework Core Strategy Development Plan

Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP15, SDP16 of the City of Southampton Local Plan Review (Amended 2015).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Relevant Planning History
3	Refused plans 21/00939/ADV	4	HGV Access and Routing
5	Servicing & Delivery Management Plan		

### **Recommendation in Full**

Under consideration are 2 linked planning applications for the same site:

21/00910/FUL:-

Conditionally approve

21/01244/FUL:-

Conditionally approve

### **1. Background**

- 1.1 The applicant 'Company Shop Ltd' are a discount food and household product retailer and began trading from this premises in August 2021. The business takes leftover produce (which otherwise would be wasted) and stock from other retail businesses and resells them at discounted prices. Planning permission was not required for use of this building as a retail supermarket because the premises already benefited from existing lawful class E retail use (granted under lawful development certificate ref no. 17/00660/ELDC in 2017).
- 1.2 The applicant has undertaken a range of building works without planning permission associated with setting up the shop and refurbishing the building/land. These planning applications under consideration have been submitted to regularise the unauthorised building works. Officers have been working with the applicant to resolve the amenity and safety issues associated with the site. The Environmental Health Officer and applicant met on site on 10<sup>th</sup> September 2021 (at 20:00 hours as scheduled with a neighbour) to resolve the nuisance issue relating to the external lighting installed and agreed details of a servicing and noise management plan to safeguard residents living opposite in Hawkeswood Road. Furthermore the applicant has also been working with officers to find a solution to ensure safe access for HGV lorry deliveries to the site in relation to the conflict with the on-street parking bays in Hawkeswood Road and the need to secure on-site turning.
- 1.3 Despite the applicant carrying out unauthorised works and applying for permission retrospectively, officers have held enforcement action in abeyance as the applicant has continued to cooperate. These planning applications provided the opportunity to secure enforceable planning conditions to mitigate the amenity and safety impacts on the local residents of Hawkeswood Road.

### **2. The site and its context**

- 2.1 This commercial site has an area of 0.38sqm and lies on the corner of Bitterne

Road West and Hawkeswood Road. The site comprises a retail shed formerly occupied by the company Field and Trek (camping and caravan goods). The current business occupiers known as Company Shop operate the following hours:

Monday to Saturday 08:00 – 20:00 and  
Sundays 10:00 – 16:00 hours.

- 2.2 The surrounding area is characterised by a mix of commercial (Centurion Park to the south) and residential properties opposite in Hawkeswood Road. The site partly falls within flood risk zone 3 and 2. The existing trees along the Hawkeswood Road frontage are protected by a TPO. The designated Bitterne Road West Air Quality Management Area (AQMA) lies to the south of the site.

### 3. Proposal

- 3.1 Application no. **21/00910/FUL** seeks retrospective permission for the installation of new shop front and external alterations including trolley bays, refuse store and ramp and reconfiguration of car park layout. Since the submission of the application, officers have secured the following amendments and additional control measures:-

- i. Relocation of the refuse store away from Hawkeswood Road to the far north west corner of the car park.
- ii. Relocation of the trolley bays away from Hawkeswood Road edge.
- iii. Widening the eastern car access fronting Hawkeswood Road to accommodate HGV lorry deliveries and HGVs only approaching from the north along Bitterne Road West (**see Appendix 4**).
- iv. Servicing Management Plan restricting deliveries to take place no earlier than 06:00 weekdays and 08:00-10:00 on Sundays (**see Appendix 5**). Only one HGV delivery is required every morning. Deliveries will take place before store opening times to keep the customer car park clear for on-site turning and enable HGV deliveries to access the loading bay in a forward gear without having to reverse onto Hawkeswood Road and Bitterne Road West.

- 3.2 Application no. **21/01244/FUL** seeks retrospective permission for the external alterations to the eastern elevation and installation of external lighting (part retrospective). Since the submission of the application, officers have secured the following changes:-

- i. Replacing mounted advertising graphic vinyls (refused under split decision ref no. 21/00939/ADV – **see Appendix 3**) on the blank glazed frontage facing Bitterne Road West with a plain cream vinyl to match the rendered colour treatment approved on the north elevation facing Hawkeswood Road.
- ii. Lighting – An electrician went to site on 21<sup>st</sup> September 2021 and installed a second timer and split the outside lighting circuit for the lights closer to Hawkeswood Road. All the external lights now automatically switch off at 20:30, apart from the light over the staff exit/entrance.
- iii. Resolved archaeological issues.

### 4. Relevant Planning Policy

4.1 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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

4.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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.

## **5. Relevant Planning History**

5.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report. The premises were granted a lawful development certificate in 2017 (ref no. 17/00660/ELDC refers) to continue retail use without a restriction on trading.

## **6. Consultation Responses and Notification Representations**

6.1 Following the receipt of the planning application nos. **21/00910/FUL (shop front/car park works) & 21/01244/FUL (vinyls/lighting)** a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice on 02.07.2021 and 27.08.2021 accordingly. At the time of writing the report **4 representations** have been received from surrounding residents for both applications, including a Panel referral by Ward Cllr Fuller.

The following is a summary of the points raised under application no. **21/00910/FUL (shop front/car park works)**:

6.2 ***The application is not supported with a design and access statement.***  
**Response**

This is not a validation requirement for this scale of application.

6.3 ***Lack of information about operating hours. A licensing application has been put in for music to be played and an alcohol licence 'until 10pm'. Jobs already being advertised for hours between 06:00-23:00 hours. Late night trading hours would be inappropriate for the quiet residential road, and will cause late night disturbance. This will lead to increased opportunities for anti-social behaviour, noise and disturbance arising from the general comings and goings, and from car parking, which will be harmful to the residential amenities of nearby occupiers. Should open no later than 18:00 in line with previous business Field and Trek operating hours.***

**Response**

The applicant is not applying for permission to change the use of the premises in this instance. The trading hours being operated are currently Monday to Saturday 08:00 – 20:00 and Sundays 10:00 – 16:00 hours.

- 6.4 ***Size and time of deliveries should be controlled. It is unsafe and is likely to cause damage to parked cars as the road is too narrow for lorries to pass.***

**Response**

The applicant has agreed to widen the eastern access point so HGV delivery lorries can avoid passing the on street parking bays on Hawkeswood Road. Deliveries will take place from 06:00 on weekdays and 08:00 Sundays so the lorries can turn on-site without being obstructed customer parking.

- 6.5 ***Adverse noise and disturbance caused to local residents and impact on trees due to proximity of trolley bay. The deliveries before 07:00 cause noise disturbance to local residents.***

**Response**

The Environmental Health Officer is satisfied that deliveries taking place from 06:00 hours in accordance with the Servicing and Delivery Management Plan (*see Appendix 5*) will have an acceptable noise impact to the local residents having regard to existing background noise from road traffic on the A3024/Bitterne Road West. The applicant has moved the trolley bay further into the site to minimise noise and disturbance. This location is not considered to cause adverse amenity impact to neighbouring occupiers.

- 6.6 ***Lack of car parking available so will overspill into street parking available for local residents - the plans mention that they believe the car park will hold 75 cars, however, it is likely to hold less than 40.***

**Response**

The parking capacity is shown as 70 spaces overall. Notwithstanding, the impact of the parking capacity is not being assessed under this application as the business doesn't need planning permission to operate at the site.

- 6.7 ***Development has commenced prior to the granting of planning permission, with the excavation of groundworks, and the installation of a series of large lights on the exterior of the building which are on all night and prevent the neighbours from sleeping. These lights are not shown on the planning application documentation.***

**Response**

The applicant has applied for retrospective planning permission for the works submitted under the planning applications. Officers do not condone the manner in which development and applications have occurred but have a duty to determine these applications in accordance with current legislation and guidance. Permission for the lighting was subsequently applied for under the separate application no. **21/01244/FUL**.

- 6.8 The following is a summary of the points raised under application no. **21/01244/FUL (vinyls/lighting)**:

**Nuisance and intrusive impact to residents of Hawkeswood Road**

**caused by lighting operated until 23:30 every evening. Dispute that this diagram dated 8th July is accurate and reflects what was actually installed on 6th/7th August. The comment from environmental health seems solely based on the diagram submitted rather than a direct observation of what has already been installed and the clearly seen impact on the houses and flats opposite.**

**Response**

The Environmental Health Officer has met the applicant on site to resolve this issue. The applicant has rewired the lighting circuits so the main car park lights are on a timer to switch off when the shop is closed.

**6.9 The application is misleading in regard to parking, trees, protected areas and biodiversity sites. There are trees on the site which are covered by a TPO but the applicant denies this fact and has failed to provide a full tree survey. The sites lies adjacent or close to the**

- Solent and Southampton Water RAMSAR,**
- Solent and Southampton water SPA,**
- The Lee on the Solent to Itchen Estuary SSSI, and**
- The Chessel Bay LNR**

**The high levels of illumination throughout the night will adversely affect the local wildlife in the nearby SSSI and other protected sites. The council should seek the advice of their ecologist in regard to this aspect of the development.**

**Response**

Given the scale and nature of the proposed works it is not necessary to submit a full tree survey. The lighting is switched for the majority of the night once the shop is closed, whilst the location of the site is not on the waters edge within a commercial urban area so there would not be a limited ecological impact.

**6.10 The tall lamp posts that have been installed were done so without any consultation with city archaeology with deep holes dug and electricity installed to accommodate 5m poles. Some of these are angled in a way they shine over the boundary wall at the height of the first floor in the houses in the road.**

**Response**

The Council's Archaeologist is satisfied that the method of installation will not disturb archaeological remains so no post works investigation is required.

**6.11 The contractor carrying out the building works had no regard to the local residents in terms noise and hours of works.**

**Response**

Noted. This application is retrospective. Given the building works were carried out without planning permission the site was not subject to planning conditions to control the hours and method of building works.

## Consultation Responses

6.12

<b>Consultee</b>	<b>Comments</b>
Archaeology	<p>There is potential for important archaeology beneath this site given it lies within a Roman fort/settlement probably known as Clausentum, the main Roman settlement in the Southampton area</p> <p>21/00910/FUL is for the installation of a new shop front and external alterations including installation of trolley bays, refuse store and ramp and reconfiguration of the car park layout. Potential archaeological impact would be from groundworks in the car park, for instance for the refuse store, trolley bays and cycle spaces. The refuse store (3.6m by 6.0m) will be built on a concrete base, although the depth of dig for the foundation is not given. No details are given of the design of the trolley bays and cycle spaces, so I cannot tell what groundworks (if any) will be required for these.</p> <p>21/00939/ADV includes the installation of three free-standing totem signs. Sign A will re-use existing posts at the east corner of the site. However, Signs B and C along Hawkeswood Road will each require groundworks for two new posts, although no details are provided.</p> <p><u>Officer Response</u>  <i>The applicant confirmed that the lighting posts installed are 6m high. As part of installation the holes were dug 400mm wide by 800mm deep and back filled with sand to 400mm and topped with concrete. All power is surface mounted and housed in galvanised trunking. As such, the Archaeologist has confirmed that no archaeological investigation is required.</i></p>
Highways	<p>Comments for 21/00910/FUL - Based on the new tracking and the confirmation (and subsequent measures to secure – i.e. via conditions etc.) for servicing to take place before 7am and HGV routing to be to and from the north/north east direction, this is now considered to be acceptable.</p>

Environmental Health	No objection

## 7.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character;
- Residential amenity; and,
- Parking highways and transport

### 7.2 Principle of Development

7.2.1 The site does not have a site specific policy allocation in the Local Plan. However, the site has established existing lawful retail use (Class E - permission no. 17/00660/ELDC refers). This application seeks permission for external works to facilitate the continued retail use. As such, the principle of the retail use is established and the proposed development is linked to this use.

### 7.3 Design and effect on character

7.3.1 For both application nos. **21/00910/FUL (shop front/car park works) & 21/01244/FUL (vinyls/lighting)**, the appearance of the proposed alterations to the commercial premises and site, including the lighting, are in keeping with the context and character of the site and the wider locality.

7.3.2 In relation to application no. **21/01244/FUL (vinyls/lighting)**, the applicant has internally configured the floorspace so the storage area sits behind the glazed frontage and, therefore, had to cover up the previously open glazed frontage. While officers found that the garish and over-dominant large format advertising was unacceptable (refused under the split decision ref no. 21/00939/ADV), officers have agreed a compromise solution to allow plain vinyls (match the building light render colour) to mask the unsightly storage area inside. It is preferential that the wrap around shopfront glazing on the east/west elevation is left open and active to the street scene to see the retail activity inside, however, on the balance this does not warrant refusal as there is insufficient harm to character of the area, as the building does not sit in a high street setting where active frontages are more important to maintain vitality and viability of a shopping area. It is acknowledged that design constraint always poses a challenge for supermarket developments in the city, and even more so for converting an existing building. This compromise will benefit keeping the recently vacant unit in use and avoid negative employment impacts for the local area.



#### 7.4 Residential amenity

7.4.1 The impact of the proposed works under both applications should be weighed up against the fallback use position under class E for this land. These uses include retail and other interchangeable light industrial, offices, nursery, leisure and medical uses. It is noted that the residential properties in Hawkeswood Road sit beside the edge of commercial site, albeit the residents benefit from the fact that the nature of the commercial use is a more compatible retail use and not industrial. The residents noise objection regarding noise taking place before 07:00 hours is noted. The applicant has advised that HGV deliveries cannot routinely be made later 07:00 given

- i) the ambient nature of the goods on the day and the need to unload and restock the store before opening times,
- ii) to stop the ambient food goods being spoiled lorries would have to wait at the site or nearby until 07:00 with the engine idling to keep the goods refrigerated, and
- iii) a 2 hours delivery time window is only available before the store car park opens which would obstruct the delivery lorry safely leaving the site.

That said, in terms of the local environment there is an element of background traffic noise in this urban location near Bitterne Road West and, therefore, commercial activities taking place on site earlier in the morning will be heard by residents against this background noise. Following the visit by the Environmental Health Officer and the subsequent servicing plan/hours and lighting controls agreed (**see Appendix 5**), they consider that these controls are adequate to manage the noise and lightspill disturbance associated with the delivery operation and use of the site and, therefore, have no objection to the noise and light spill impact of the works associated with applications nos. **21/00910/FUL (shop front/car park works) & 21/01244/FUL (vinyls/lighting)**.

7.4.2 The measures to make the delivery operation as quiet as possible in the service yard include switching off the lorry engine when the on board refrigerator box is plugged into an electric charging point, refrigerated box with significant insulation, trolleys and cages fitted with quiet wheels, the lorry will require minimum reversing manoeuvres given its turning route, staff are instructed to work quietly, trolley redistribution will not occur before 09:00 hours, etc. The Head of Estates for the applicant's business was also at the site meeting to agree these measures and subsequently briefed the management team of the shop. Furthermore, the trolley and refuse areas have been moved away from the street edge to minimise disturbance to the neighbouring occupiers in Hawkeswood Road. As such, the impact of both applications will not adversely affect residential amenity of the neighbouring residents.

#### 7.5 Parking highways and transport

7.5.1 The works associated with application no. **21/01244/FUL (vinyls/lighting)** does not have any implications for parking or traffic safety. In changing the

parking layout and capacity, the Highways Officer initially raised safety concerns with regards to HGV lorries accessing the site and obstructing traffic on Bitterne Road West. To address the Highways Officer's concerns under application no. **21/00910/FUL (shop front/car park works)** regarding safe HGV lorry access, the applicant has agreed to widen the eastern access point into the car park (closest entrance to Bitterne Road West) and limit HGV deliveries to approach on Bitterne Road West from the north only. This will avoid the conflict between HGVs passing the on-street parking bays in Hawkeswood Road, and allow for a HGV to safely enter and leave the site in a forward gear (prior to the car park is in use as per the Servicing and Delivery Management Plan in **Appendix 5**).

- 7.5.2 In relation to application no. **21/00910/FUL (shop front/car park works)**, condition 1 requires the applicant to secure the small scale dropped kerb/footpath works under the appropriate highways license from the Council's Highways team and have the works delivered within 4 months of the decision notice date. This will not be an immediate solution as the access works will require further time to be implemented, however, given the retrospective nature of the development this is considered to be the best and pragmatic option going forward. Looking at alternative approaches, if the Council decided to take the enforcement action route in refusing this application no. **21/00910/FUL (shop front/car park works)**, the safety problem will still persist if the applicant appealed a refusal/enforcement notice, and an enforcement notice would be unable to directly impose conditions to remedy the access issue. As such, the highways safety impact of the proposed car park works will be otherwise made acceptable through the control of planning conditions and, therefore, highways safety would not be adversely affected.

## **8. Summary**

- 8.1 In summary, the building works carried out associated with the refurbishment of the existing retail premises and upgrading the car park provide facilities for the current business, however, the impacts of the retail use of the premises itself is not under consideration for both of these applications. Even though the applicant has opened the store before being granted planning permission for the proposed works, they have the option to apply retrospectively and the use of the premises for retail does not require planning permission. With the changes agreed by the applicant, the impact of the works under both applications will not adversely affect residential amenity, visual amenity and highways safety.

## **9. Conclusion**

- 9.1 It is recommended that planning permission be granted for  
i) **21/00910/FUL (shop front/car park works)** and  
ii) **21/01244/FUL (vinyls/lighting)** subject to the conditions set out below.

### **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. (vv) 6. (a) (b)

**21/00910/FUL (shop front/car park works) - PLANNING CONDITIONS to include:**

**01. Access widening (Time limited)**

Within 1 month of this decision notice the applicant shall have made a formal request for a license to the Council for the access works shown on the approved plans. Within 4 months of this decision notice date, the access widening works shall be completed in accordance with the approved plans or any subsequent design modifications as consented by the Council under the highways license. Once the widening works are completed, all HGV delivery vehicles entering and leaving the site shall thereafter only use the widened access (eastern entrance). The parking and access layout shall be retained in accordance with the approved plans for the duration of the operational use of the premises.

Reason: In the interests of highway's safety and the applicant's agreement on 2<sup>nd</sup> February 2022 with the LPA to carry out the access works to re-route access for HGV deliveries on site.

**02. Servicing & Delivery Management (Performance)**

Unless otherwise agreed in writing, the servicing and delivery of the premises shall only be carried out in accordance with the approved servicing and delivery management plan 63312/03/DL/ZW (22nd September 2021). HGV deliveries shall not take place outside the hours 06:00-20:30 Monday to Saturdays and 08:00-16:00 on Sundays and Bank Holidays.

Reason: In the interests of residential amenity and highways safety.

**03. Trolley Bay and Refuse (Performance)**

The trolley bays and refuse storage shall be retained in accordance with the approved plans for the duration of the operational use of the premises.

Reason: In the interests of residential amenity.

**04. Approved Plans (Performance)**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

Reason: For the avoidance of doubt and in the interests of proper planning.

**21/01244/FUL (vinyls/lighting) - PLANNING CONDITIONS to include:**

**01. Vinyls Replacement (Time limited)**

Within 3 months of the decision notice date, the window vinyls on the north-east and south-east glazed frontages shall be fully replaced in accordance with the vinyls shown on the approved plans and shall thereafter be retained as approved for the duration of the operational use of the premises.

Reason: In the interests of visual amenity and to regularise the planning control breach.

**02. External Lighting (Performance)**

The external lighting installed shall be retained in accordance with approved lighting

study and specification submitted with the application. With exception to the light above the staff entrance/exit, all external lights shall remain switched off outside the hours of Monday to Saturday 08:00 – 20:00 and Sundays 10:00 – 16:00. The approved lighting shall be retained as approved for the duration of the operational use of the premises.

Reason: In the interests of residential amenity.

### **03. Approved Plans (Performance)**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

Reason: For the avoidance of doubt and in the interests of proper planning.