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8 August 2011

## **S U M M O N S**

**MEETING:** Regulatory Board  
**DATE:** 16 August 2011  
**TIME:** 6.00pm  
**PLACE:** Council Chamber  
**Democratic Services contact:** Lisa Young

**Please Note:** A site visit has been arranged for 9.00am at 7 Solent Way, Gosport on the morning of this meeting.

LINDA EDWARDS  
BOROUGH SOLICITOR

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## **MEMBERS OF THE BOARD**

The Mayor (Councillor Carter CR) (ex officio)  
Chairman of the P and O Board (Councillor Hook) (ex officio)

Councillor Philpott (Chairman)  
Councillor Ronayne (Vice Chairman)

Councillor Allen	Councillor Hylands
Councillor Mrs Bailey	Councillor Langdon
Councillor Beavis	Councillor Scard
Councillor Geddes	Councillor Smith
Councillor Henshaw	Councillor Wright

## **FIRE PRECAUTIONS**

(To be read from the Chair if members of the public are present)

**In the event of the fire alarm being activated, please leave the room immediately. Proceed downstairs by way of the main stairs or as directed by GBC staff, following any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.**

**Legal Democratic and Planning Services:** Linda Edwards – Borough Solicitor  
Switchboard Telephone Number: **(023) 9258 4242**  
Britdoc Number: **DX136567 Gosport 2** Website: **[www.gosport.gov.uk](http://www.gosport.gov.uk)**

**IMPORTANT NOTICE:**

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

**NOTE:**

- i. Councillors are requested to note that, if any Councillor who is not a member of the Board wishes to speak at the Board meeting then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off for the duration of the meeting.

**AGENDA**

Recommended  
Minute Format

**PART A ITEMS**

1. APOLOGIES FOR NON-ATTENDANCE

2. DECLARATIONS OF INTEREST

*All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.*

3. MINUTES OF THE MEETINGS OF THE BOARD HELD ON 21 JULY 2011

4. DEPUTATIONS – STANDING ORDER 3.5

*(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Friday, 12 August 2011. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).*

5. PUBLIC QUESTIONS – STANDING ORDER 3.6

*(NOTE: The Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Friday, 12 August 2011).*

6. REPORTS OF THE BOROUGH SOLICITOR

*Schedule of planning applications with recommendations.  
(grey sheets – pages 1 –21/1 )*

PART II  
Contact Officer:  
Debbie Gore  
Ext 5455

7. ANY OTHER ITEMS

*- which by reason of special circumstances the Chairman determines should be considered as a matter of urgency.*

## **GOSPORT BOROUGH COUNCIL – REGULATORY BOARD**

**16th August 2011**

### **ITEMS WITH RECOMMENDATIONS**

1. Copies of drawings and accompanying planning applications referred to in this schedule will be made available for inspection by Members from 5.00 pm immediately prior to the meeting. Unless otherwise advised, these plans will be displayed in the room in which the Regulatory Board is to be held.
2. The number of objections and representations indicated in the schedule are correct at the time the recommendations were formulated. Should any representations be made after this date, these will be notified to the Regulatory Board during the officer presentation.
3. Copies of all representations received from the public will be made available for inspection by Members in the same way as drawings will be made available, referred to in Note 1 above.
4. An index of planning applications within this schedule can be found overleaf, together with a summary of each recommendation.

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<u>Item</u>	<u>Page No</u>	<u>Appl. No.</u>	<u>Address</u>		<u>Recommendation</u>
01.	03-05	K865/2	7 Solent Way Gosport Hampshire PO12 2NR		Grant Permission
02.	06-11	K10583/5	Redclyffe House 63 The Avenue Gosport Hampshire PO12 2JX		Refuse
03.	12-16	K5221/5	18 - 22 The Avenue Gosport Hampshire PO12 2JR		Grant Permission
04.	17-21	K11605/6	No 2 Battery Stokes Bay Road Gosport Hampshire		Grant Permission

**ITEM NUMBER: 01.**  
**APPLICATION NUMBER: K865/2**  
**APPLICANT: Mr & Mrs Platts**  
**DATE REGISTERED: 03.05.2011**

**ERECTION OF FIRST FLOOR REAR EXTENSION (as amended by plan received 06.06.11 and amplified by letter and plans received 13.06.11 and email received 20.06.11)**  
**7 Solent Way Gosport Hampshire PO12 2NR**

### ***The Site and the proposal***

This application was considered by the Regulatory Board at the meeting on 21 July 2011 when Members resolved to defer it for a site visit.

The application property is a detached two storey dwelling of brick construction under a hipped tiled roof. The house is located within an established residential area on the northern side of Solent Way. The site is approximately 40 metres long and approximately 21 metres wide at the rear, tapering to 11m wide at the front, and is bounded by a combination of 1.6 and 1.8 metre high fencing and mature hedges. The house is set back from the highway by approximately 11 metres and is set off the eastern boundary by approximately 0.7 metres. The property has an existing single storey extension on the eastern side of the rear elevation that projects 3.1 metres. This extension is 4.2 metres wide and has a flat roof 3 metres high, with a single east facing window and pair of double doors facing north. This extension projects beyond the rear elevation of the adjacent property to the east by approximately 2 metres. There is a further extension on the western side of the rear elevation of the application property, adjacent to a centrally positioned conservatory.

The neighbouring property to the east, number 9 Solent Way, is a similarly sized detached two storey dwelling. The property has previously been enlarged to the rear and side and currently has a two storey rear extension that projects approximately 2.9 metres from the rear elevation, with a single storey side extension alongside that, adjacent to the western boundary. Similarly, there are further rear extensions on the eastern side of the rear elevation which cover the full width of the dwelling and an additional rear conservatory on the eastern side of the rear elevation. The property to the west, number 5, is set forward of the application property, and at an oblique angle. The properties to north are located approximately 40 metres away beyond the intervening gardens.

It is proposed to erect a first floor extension above the existing single storey extension on the eastern side of the rear elevation. The extension would be 3.1 metres deep, 4.2 metres wide and have a matching eaves height of 5 metres and an overall height of 6.5 metres to the top of the hipped roof. It would have a matching brown tiled roof and would have vertical tile hanging at first floor level. The rear elevation would have two windows overlooking the garden, of which, the western window would be obscure glazed.

An amended plan has been submitted which shows a reduction in the pitch of the hipped roof to reduce the impact of the extension on the amenities of the occupiers of neighbouring properties.

Computer generated depictions of the shadows that the proposed extension would cast have been submitted in response to the publicity for the application. The applicant has also produced computer generated models showing the probable locations of the shadows cast under various scenarios for comparison. These depictions, are useful illustrative material, and have been considered in reaching a recommendation.

### ***Relevant Planning History***

Nil

## ***Relevant Policies***

Gosport Borough Local Plan Review, 2006:

R/DP1

General Standards of Development within the Urban Area

## ***Consultations***

Nil

## ***Response to Public Advertisement***

1 letter of objection (to original plans)

Issues raised:-

- overshadowing
- loss of light
- loss of outlook
- accuracy of site plan

1 letter of objection (to amended plans)

Issues raised:-

- overshadowing
- loss of light
- loss of outlook

## ***Principal Issues***

1. Given that the Site Plan is drawn at a scale of 1:500, minor tolerances are to be expected. The plan, however, is of adequate detail to show the relationships between the properties, and in conjunction with the site visit and other, more detailed, submitted drawings, is sufficient to enable the application to be determined. The main issues in this case therefore are the acceptability of the design of the extension and the impact on the visual amenity of the locality and the amenities of the occupiers of the adjoining dwellings.

2. The proposed rear extension has been designed with a hipped roof which is compatible with the design of the main roof. The extension would be subservient to the main dwelling, built using matching materials and is of a compatible and acceptable design. A number of properties in the area have two storey and first floor rear extensions and the proposed extension would not be visible from public view. Under the circumstances, the proposal will not have a detrimental impact on the appearance of the dwelling, or the character and visual amenity of the locality. The proposed development is therefore acceptable and complies with Policy R/DP1 of the Gosport Borough Local Plan Review.

3. Given the orientation of and separation distances between the properties, the extension would have no impact on the occupiers of the adjacent dwellings to the north and west. With regard to the neighbouring property to the east, number 9 Solent Way, having regard to the relationship between the properties and given the use of obscure glazing in the westernmost rear facing first floor window, the development would not significantly increase the propensity to overlook the neighbouring dwelling over and above that which currently exists. In addition, the hipped roof of the proposed extension helps to reduce its overall mass, and taking into consideration the staggered layout of the properties, and given that the extension would only extend approximately 2 metres beyond the rear elevation of the adjacent property, it is further considered that the proposal would not appear unduly oppressive or overbearing to the neighbouring residents. The gardens are north facing and, as such, light is already limited to the private areas immediately adjacent to the dwellings, particularly given the size and height of the existing properties and intervening boundary treatments. For these reasons, the resultant loss of light from the proposed extension, whilst not being insignificant, would not create an unacceptable living environment for the occupier of the neighbouring property and is not sufficient enough to warrant a refusal of the application in this

instance. Under the circumstances, the proposed development is acceptable and would not have a harmful impact on the living conditions of the adjacent occupiers in terms of loss of light, outlook or privacy and, as such, complies with Policy R/DP1 of the Gosport Borough Local Plan Review.

### **RECOMMENDATION: Grant Permission**

#### **Reasons for granting permission:**

1. Having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and all other material considerations, the development as proposed is acceptable in this location. It is acceptable in design terms and will not have a harmful impact on the amenities of the occupiers of the neighbouring properties and, as such, complies with Policy R/DP1 of the Gosport Borough Local Plan Review.

#### **Subject to the following conditions:-**

1. The development hereby permitted must be begun within a period of three years beginning with the date on which this permission is granted.

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

2. The development hereby permitted shall be carried out in accordance with the following approved plan:

Plan A

Reason - To ensure that the development is completed satisfactorily in all respects and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.

3. The materials to be used shall match in type, colour and texture, those on the existing dwelling unless otherwise agreed in writing with the Local Planning Authority.

Reason - To ensure satisfactory visual relationship of the new development to the existing, and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.



**ITEM NUMBER: 02.**  
**APPLICATION NUMBER: K10583/5**  
**APPLICANT: White Horse Child Care Ltd**  
**DATE REGISTERED: 18.02.2011**

**CHANGE OF USE TO DAY CARE NURSERY (USE CLASS D1) (as amended by plans received 24.03.11, updated information received 14.06.11 and revised Travel Plan received 06.07.2011)**

**Redclyffe House 63 The Avenue Gosport Hampshire PO12 2JX**

### ***The Site and the proposal***

Members will recall this application was originally presented to the Regulatory Board on 14 June 2011 where Members agreed to defer consideration of the application following the applicants submission via deputation that they would like consideration of the application to be based on a total of 86 children attending the premises at any one time as opposed to 60, the premises being used for the intended purpose on Saturday's and the number of children using the garden at any one time being increased from 20 to 24. A detailed Travel Plan has now also been provided. These revised proposals have now been considered and a further period of consultation has now been undertaken the outcome of which is set out in this updated report.

Redclyffe House is on the Borough Council's List of Buildings of Local Interest. It is an imposing three storey Victorian building with an octagonal tower and a steeply pitched roof which retains the original decorative finials and ridge tiles. There is a parking area laid to tarmac at the front that is capable of accommodating 9 cars. The parking area is bounded by a 1 metre high wall on the front boundary with access at the northern end. The side garden to the south is separated from the parking area by a 1.8 metre high fence with planting either side. There is a high tree/hedge screen on the northern boundary with a 2 metre wall on the neighbour's side.

The site is located on the eastern side of The Avenue near the southern end. This part of the road is characterised by large detached houses on generous plots set back from the road frontage which is lined with mature trees. There are no restrictions to on-street parking in the vicinity of the site. To the south east is a more densely developed residential area of terraced housing. Immediately to the south of the site is a development of 4 and 5 bed units originally built for adults with learning difficulties. It was built under planning permission K10583/1 within the original grounds of Redclyffe House but is now managed separately and with its own parking area for 10 vehicles. Consent has recently been granted under planning permission K17892 to convert these units to residential units (Use Class C3), however, it is intended they will be retained in ownership by the PCT and be occupied by more independent individuals.

Redclyffe House was formerly in use as a mental health residential unit for elderly residents (Use Class C2) providing accommodation for a maximum of 23 residents. In 2006 the Primary Care Trust sought planning permission to temporarily change the use to accommodate the doctors' surgeries (Use Class D1) that were operating, at that time, in the Gosport Health Centre next to the War Memorial Hospital, whilst new surgery premises were being constructed. It was originally estimated that those works would have been completed by May 2009, however, they were not and consent was sought for a further, temporary period which expires in May 2011. Works to the new premises at the War Memorial Hospital have now been completed and the surgeries have now relocated there. The PCT have determined that Redclyffe House is now surplus to their requirements.

This application seeks to retain the building in a D1 use as a Children's Day Care Nursery after the extant temporary consent for doctors' surgeries expired in May 2011. The existing car parking layout is to be retained and a Travel Plan relating to staff and visitor travel to and from the site has been submitted with the application. No external changes to the building are proposed. It is proposed that the space to the south side of the building be used for children's outdoor play with a new fence to be erected around this. A schedule of proposed usage has been provided with the

application. The amended schedule of operation proposes that the facility would be open between the hours of 0700 and 1800, Monday to Saturday, the maximum number of children attending the facility would be 86, that there would be a maximum of 18 full time equivalent staff at the property, and that there would be a maximum of 24 children playing in the garden at any one time.

Following the case officer's site visit it was noted that the site layout plan incorrectly showed the position of the main building on the site. Amended plans have been submitted to address the error.

### ***Relevant Planning History***

K10583/3 - temporary change of use to a doctor's surgery - permitted 15.12.06 - expired 31.05.09

K10583/4 - variation of condition 1 attached to planning permission K10583/3 to extend the temporary change of use as a GP surgery for a further 2 years - permitted 06.07.09 - expires 31.05.11

### ***Relevant Policies***

Gosport Borough Local Plan Review, 2006:

R/DP1

General Standards of Development within the Urban Area

R/BH5

The Local List

R/CF5

Development of Childcare and Day Care Facilities

R/T10

Traffic Management

R/T11

Access and Parking

R/ENV10

Noise Pollution

### ***Consultations***

Environmental Health

No objection.

Local Highway Authority

The existing access is acceptable. The maximum parking requirement for 18 full time equivalent staff is 14 spaces. 9 are provided on site and an effective Travel Plan could ensure the site is sustainably managed.

No accidents were reported during the time the doctors surgeries' formerly operated. Cars parking on either side of the highway are likely to have acted as traffic calming.

In respect of the proposed use, car parking is likely to occur mainly during the morning and evening pick up/set down times and will not be prevalent throughout the day as with the doctors' surgeries

The Travel Plan will seek to reduce car usage and will be required to set targets and monitor implementation in this regard. It should also include measures that

encourage parent drivers to act responsibly when parking on street. In addition, a monitoring period should be defined to establish whether on-street parking arising from the development has had an adverse impact on the safety and amenity of road users with particular regard to local residents accessing their properties via private drives. An area to be monitored, a time period, and the cost of a contribution towards promoting and implementing a TRO should be defined. The cost is identified as £3500. The Travel Plan and possible TRO contribution should be secured by S106 agreement.

Cycle parking for five spaces (3 no. long stay and 2 no. short stay) should be provided. No Infrastructure, Services and Facilities Contribution applies in this instance as the proposed usage would not result in an increase in trips over the current usage.

Following the submission of a more detailed Travel Plan:

The Travel Plan is a voluntary measure to encourage sustainable transport. A bond would be used to secure mitigation in the event that the impact of parking is monitored and found to be adverse. A combination of mitigation measures would be considered.

OFSTED

No comments.

### ***Response to Public Advertisement***

7 letters of objection

Issues raised:

- traffic movements dangerous for children
- traffic movements to and from the site will also include servicing such as laundry delivery
- car parking is inadequate
- high levels of on-street car parking resulting from this development will make vehicle manoeuvrability at neighbouring sites difficult
- consideration should be given to imposing parking restrictions on the highway to discourage car parking over access points to neighbouring sites
- the site is not on a bus route and is therefore unsustainable
- noise resulting from children playing outdoors will be detrimental to amenity
- the number of staff could mean a high number of children

1 letter of representation

Issues raised:

- reassuring that parents will be advised against parking on the kerbside
- trees and shrubs should be maintained on site as they were by the Health Authority

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Following the receipt of revised information a further period of consultation was undertaken the outcome of which was as follows:

36 letters of objection

Issues raised:

- car parking inadequate
- unsafe impact on highway similar to when the site operated as a doctors surgery
- large delivery vehicles will create congestion
- the Travel Plan will not satisfactorily deal with the number of cars
- sustainable transport to serve the site is insufficient
- 86 children is excessive
- noise from children playing outside
- hours of operation excessive
- the proposals don't comply with Gosport Borough Local Plan Review Policies
- the building is more suited to a C2 use
- there were few complaints about the former Doctor's surgeries' as this was a temporary use
- the determination of the previous application concluded the Doctors Surgery - a D1 use was not sustainable in this location
- the consultation exercise has been inadequate
- light pollution resulting from security lighting
- further changes to the site could be made after the proposed use was implemented
- unsafe in the event of a fire
- the Doctors surgery attracted rats; this use may do the same
- the number of staff will inadequately serve the number of children
- children will be unsafe
- the garden is too small for use by 24 children
- the building is inappropriate for this use
- it is not clear who on site will monitor compliance with planning conditions

3 letters of support

Issues raised:

- will provide jobs
- local employment should be supported
- will provide childcare
- the proposed hours of operation means the development will not disturb nearby residents in the evenings
- traffic calming could be introduced to deal with highway issues

1 letter of representation

Issues raised:

- no objection to a nursery in principle
- concerns, however, regarding parking, highway safety, traffic generation, noise and disturbance, loss of amenity
- concern about advertisement of application

1 petition signed by 46 individuals

Issues raised:

- there are existing highway safety issues
- noise resulting from the use
- the character of the area would be impacted by the introduction of a commercial activity
- properties in the area may lose value
- the scale of activities will increase once the use is in operation

## ***Principal Issues***

1. On site maintenance of trees and hedges is the responsibility of the owner. The application has been advertised in accordance with the Statement of Community Involvement and the sustainability of this use in this location is considered through the determination of this planning application. No lighting is proposed as part of this planning application and any alterations to operations made without consent could be dealt with by the relevant action as they arose and conditions could be monitored accordingly. OFSTED and Fire Regulations will control the safety of children using the site and it's appropriateness for this use in this respect. Environmental Health legislation could deal with the presence of rats on the site. Impact on property values is not a material planning consideration. The main issues in this case are therefore, the principle of this use operating from these premises and the impacts on the occupiers of neighbouring properties resulting from the use, the Locally Listed building and car parking and highway safety.

2. This facility would be located in the centre of a residential community in a well known building. The building is significant in size and there is satisfactory outdoor playing space that is set in a safe and secure location in accordance with OFSTED standards. There is likely to be a change in the nature of activities on and around the site compared to the doctors' surgeries as a result of this proposal. There will be additional noise at the site resulting from up to 24 children playing outdoors at any one time. On weekdays during normal working hours when the majority of nearby residents are away from their properties, this would be consistent with the activities of the nearby school therefore being characteristic of the area. There is, however, concern relating to the use of the premises to this extent outside of normal working hours and on a Saturday as proposed. These are times when the surrounding residential community are more likely to be present within their properties and could reasonably expect to enjoy a peaceful residential environment. The use of the site for a maximum of 86 children and up to 24 playing outdoors would be detrimental to this quiet environment. This would compromise the character of this area and would be harmful to residential amenity. In this respect, the proposal would therefore be contrary to Policy R/DP1 of the Gosport Borough Local Plan Review.

3. The Locally Listed Building is not currently occupied and the likelihood is, therefore, that it is only being maintained to the minimum standard. It is beneficial for this type of building to be occupied to prevent it falling into a state of disrepair. The proposals are therefore considered positively in the context of the building's status and Policy R/BH5 of the Gosport Borough Local Plan Review.

4. A Class D1 use (Doctors' Surgery) has operated at this site, until recently, since 2006. During this time the Highway Authority received a number of complaints relating to on-street car parking, however, no accidents were recorded during this period. The nature of the use of the site as a nursery means that any concentrations of traffic at the site will be around certain times of the day and the opening hours proposed mean that there is opportunity for parents to drop their children off in a staggered manner during those times. There are no parking restrictions along The Avenue and on road parking is available. The highway here is straight, wide and long meaning intervisibility between vehicles and pedestrians is good. A proportion of parents will also walk their children to the site and the applicant indicates there will be a prevalence of car sharing which is a common arrangement between parents with children using this type of facility. Nevertheless the proposed upper limit of 86 children together with staff will attract a significant number of vehicles movements during peak times. This will lead to increased parking on the highway immediately adjacent to the site but also in nearby, quieter residential roads making manoeuvrability difficult for residents. Furthermore, noise from increases in the movement of vehicles, engines being started and car doors being slammed would result in disturbance in these residential roads thereby compromising residential amenity.

5. A more detailed Travel Plan has been submitted since the application was previously considered by the Regulatory Board, however, in the opinion of the Local Planning Authority, it does not contain detailed enough measures to successfully mitigate against the impact of the resulting traffic movements. It is accepted that the applicant has proposed 'pool' bikes for staff, keeping the existing car park available for clientele, a monitoring regime and a Travel Plan bond, however, consideration should be had to the wider residential area and measures to prevent car parking within adjacent,

quieter residential roads, including staff parking. The measures set out in the Travel Plan are not considered to be robust or specific enough to manage the number of children proposed together with staff. The outcome of this would be that a high number of vehicles would be likely to park in nearby residential roads, which would detrimentally impact the residential character and amenity of the area and would therefore be contrary to Policy R/DP1 of the Gosport Borough Local Plan Review.

**RECOMMENDATION: Refuse**

**For the following reasons:-**

1. The cumulative effect of the use of the premises as a nursery for up to 86 children and up to 24 children playing outdoors at any one time would result in levels of activity, noise and disturbance that would be inappropriate in, and out of character with the residential environment within which the site is located. This would compromise the residential amenity of the occupiers of nearby residential properties and would therefore be contrary to Policy R/DP1 of the Gosport Borough Local Plan Review.
2. It has not been demonstrated that the traffic movements associated with the proposed Nursery can be satisfactorily managed and that they will not result in unacceptable levels of vehicular activity and parking on the surrounding residential roads to the detriment of the amenities of nearby residential properties. The proposal is therefore contrary to Policies R/DP1 and R/T11 of the Gosport Borough Local Plan Review.

**ITEM NUMBER: 03.**  
**APPLICATION NUMBER: K5221/5**  
**APPLICANT: Mr A Gallop**  
**DATE REGISTERED: 24.05.2011**

**CHANGE OF USE FROM FINANCIAL AND PROFESSIONAL SERVICES (CLASS A2) TO RESTAURANT/TAKEAWAY (MIXED USE CLASS A3/A5), ERECTION OF EXTRACTION FLUE, EXTERNAL ALTERATIONS AND INSTALLATION OF NEW SHOPFRONT (ADJOINING CONSERVATION AREA)**  
**18 - 22 The Avenue Gosport Hampshire PO12 2JR**

### ***The Site and the proposal***

Numbers 18 - 22 The Avenue are currently vacant units in the Bury Cross Neighbourhood Shopping Centre. The centre itself extends north along The Avenue and east along Privett Road. The Gosport War Memorial Hospital is located to the north east; there is a petrol filling station to the west and a mechanic to the south west. The site is located just outside of the Bury Road Conservation Area.

The building within which the application property is sited is three stories high with a flat roof and interlocking tile hanging detail to the east elevation at first and second floor level. The building is staggered, with the application units and the floors above standing approximately 7.5m further east than the main building line of the parade.

Within the parade which the application property stands, numbers 2 - 8 are occupied by Dominoes Pizza (Use Class A5), numbers 10 - 12 are occupied by a laundrette (Sui Generis Use), and numbers 14 - 16 are occupied by a hairdressers (Use Class A1). Pedestrian access to numbers 18 - 22 is currently taken from the north side of the units, however, there is a footpath that extends around and along the east side of the units. A vehicular access runs along the south side of the building which provides egress into Privett Road from the petrol filling station and mechanics. The boundary treatment along the southern side of this road is a 2m high brick wall. The upper floors of the building are occupied by residential units and a dentist. There is a car park with 13 spaces to the east side of the parade and the eastern boundary of this area is lined with bushes and trees.

This application proposes to change the use of nos. 18 - 22 from a financial and professional service premises (Use Class A2) to a mixed use restaurant and takeaway (Use Class A3/A5) operating from 11.00 to 22.30 7 days per week. To facilitate this change of use it is also proposed to install an extraction flue to the south side of the building. External changes to the shop front are also proposed to provide more glazing and reposition the main access from the north side to the east. It is also proposed to alter the west elevation to provide a fire exit, bin store and separate access to a retained store. Internally, a seating area is proposed along with a collection counter.

### ***Relevant Planning History***

K5221 - erection of 2no. shops for use as bank premises - permitted 28.09.65

K5221/2 - installation of new shopfront - permitted 26.10.87

K5221/4 - change of use from financial and professional services (Class A2) to restaurant/takeaway (Class A3/A5), erection of extraction flue, external alterations, and installation of new shopfront (adjoining Conservation Area) - withdrawn 26.05.11

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## **Relevant Policies**

Gosport Borough Local Plan Review, 2006:

R/DP1

General Standards of Development within the Urban Area

R/BH1

Development in Conservation Areas

R/S4

Local and Neighbourhood Centres

R/S9

Shopping and Commercial Facades

R/T11

Access and Parking

R/ENV10

Noise Pollution

## **Consultations**

Environmental Health

The extraction flue details submitted with the application will be sufficient for this use subject to a condition requiring an odour neutraliser being approved and fitted together with anti vibration mounts and noise attenuation measures.

The bin store is acceptable in this location and complies with the relevant Environmental Health regulations.

Local Highway Authority

No objection. Existing access and car parking are not affected. No additional trip generation and therefore no transport contribution applies.

## **Response to Public Advertisement**

11 letters of objection

Issues raised:

- litter, inadequate waste storage and collection of rubbish is a concern
- noise
- inappropriate opening hours
- use will attract anti-social behaviour
- smell
- visual impact on Conservation Area and nearby Listed Buildings
- visual impact of flue and external alterations
- reference to their not being any trees on or adjacent to the site are incorrect
- an additional entrance is not needed
- inadequate parking for customers and staff
- additional traffic from use and deliveries
- traffic movement through the parade and surrounding land is already unsafe
- construction traffic will need to be managed
- fire exit opening at the rear onto road at rear is unsafe
- there will be unpleasant smells resulting from the fire door being left open in the summer
- the bin store will smell
- the southern end of The Avenue should be closed to vehicles to create a cul-de-sac
- the vacancy of the unit should not be a reason to approve this application
- absence of need



- an alternative use would be more appropriate
- fire risks
- health implications of an additional takeaway
- consultation on the application was not wide enough
- withdrawal of previous application was tactical
- reference to the unit above the application site being offices are incorrect, it is a dentist
- the applicant or landlord do not live in the Borough and therefore do not have its best interests in mind

### ***Principal Issues***

1. The need for this type of use is not a material planning consideration and the Local Planning Authority is duty bound to consider the current proposal. Compliance with fire regulations will be dealt with at Building Regulations stage, consultation has been undertaken in accordance with the Statement of Community Involvement and there is not currently a Local Plan policy limiting A5 uses to particular areas to combat health concerns. The actions of the applicant in respect of withdrawing the previous application or that they do not reside in the Borough are not a material planning considerations. The case officer's site visit establishes whether there are any trees on or near the site and the type of uses surrounding the unit. Existing highway concerns at the southern end of The Avenue should be addressed with the Highway Authority. The main considerations are therefore, the effect on the viability and vitality of the Neighbourhood Shopping Centre, design and the effect on the adjoining Conservation Area, the impact on the amenity of nearby residential properties and highway safety.

2. The site is located in the Bury Cross Neighbourhood Shopping Centre as identified under Policy R/S4 of the Gosport Borough Local Plan Review. This Policy seeks to provide and retain a dominant shopping function in these types of centres to support the local community and ensure that the viability and vitality of those centres is not compromised by requiring that not less than 40% of the units are in non-A1 use. The application premises have been vacant for 9 years and have not therefore been contributing to the viability or vitality of the centre, however, the proposed use would create activity that would support the centre's function. The implementation of the proposal if approved would mean that non-A1 uses in the centre would remain as at present which is in excess of 40%. The proposed use considered in this context, is therefore considered to be acceptable in that it would support the viability and vitality of the centre by introducing commercial activity of the area. The proposal is therefore acceptable in the context of Policy R/S4 of the Gosport Borough Local Plan Review.

3. Appendix I of the Gosport Borough Local Plan provides guidance on commercial shopfronts. The proposal complies with this guidance and the introduction of a larger area of glazing will further improve the visual interaction of the unit with the public domain and in this respect will contribute to the vitality of the centre. An additional entrance door is proposed to the west elevation which will support the free flow of takeaway and restaurant customers in and out of the unit. The site is largely screened by trees from the adjoining Bury Road Conservation Area and Listed Building opposite and, as such, there will not be a significant wider visual impact. Nevertheless the changes are acceptable in the context of the centre, will support its vitality and will not visually detract from its appearance or the surroundings. The changes to the rear elevation will facilitate the provision of a bin store and fire exit and are considered visually acceptable in the context of existing openings on the rear elevation of the building. To ensure the fire exit does not impede pedestrians using the footpath at the rear of the unit or vehicles parked there, it is appropriate to control it so it is inwards opening only, by condition. This arrangement would comply with Building Regulations. The flue is to be discreetly positioned so views of it from the public domain will be limited and will not therefore impact detrimentally on the appearance of the building or surrounding area. The proposal therefore complies with Policies R/S9, R/DP1 and R/BH1 of the Gosport Borough Local Plan Review.

4. Environmental Health has confirmed that the extraction flue is satisfactory subject to conditions detailing the type of odour neutraliser that will be fitted, details of anti-vibration mounts and noise attenuation measures. The proposed bin stores are sufficient to deal with waste. The proposal will generate more activity in the evening than the A2 use, however the centre is designated to serve

the community and it can therefore be expected that there will be a higher degree of activity and associated noise, linked to customers using the centre, staff arriving to and leaving from work and deliveries, as compared to an area characterised by residential development only. The site is also located in close proximity to a petrol filling station and Privett Road which is a central route through this part of the Borough. The additional noise and activity is considered acceptable in this context. The proposed hours of operation are considered acceptable in this context and will not excessively contribute to activities in this area to the detriment of surrounding residents. The scale of development and hours of operation which are similar to surrounding uses mean that the no significant, additional anti-social behavior would be attracted to this site. The proposal therefore complies with Policies R/DP1 and R/ENV10 of the Gosport Borough Local Plan Review.

5. There are 13 existing car parking spaces to serve the Neighbourhood Centre. The function of a Neighbourhood Centre means that parking is short term and there is a high turnover of visitors. The Highway Authority does not consider that the proposed use would attract additional numbers of vehicles significantly beyond that of the existing lawful use. The level of car parking is therefore acceptable. The peaks of vehicles would differ in that this type of use would attract more users in the evening as compared to the existing lawful use. Nevertheless this is a District Centre where it can be expected that a higher degree of activity will take place at all times of day. The hours of operation are not considered to be anti-social and therefore the associated car movements are considered acceptable in this context and would not create unsociable patterns of activity in the area. The collection of refuse would be by a private waste contractor in this case. This activity would have a short term turnaround and would not therefore detrimentally impede traffic movements around the site, as is the case with the servicing of existing uses in the Centre. Whilst there would be a degree of activity and disturbance during construction works, the scale and amount of building works are limited and the associated area is adequate to serve construction vehicles without harm to the highway or amenity. The proposal therefore complies with Policies R/DP1 and R/T11 of the Gosport Borough Local Plan Review.

## **RECOMMENDATION: Grant Permission**

### **Reasons for granting permission:**

1. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 and all other material considerations the proposed change of use will contribute to the viability and vitality of the Neighbourhood Shopping Centre and the external alterations are acceptable visually and in the context of the adjoining Bury Road Conservation Area. The proposal will not impact detrimentally on surrounding residents in terms of noise, smell or disturbance and the level of car parking is considered sufficient. The proposal therefore complies with Policies R/DP1, R/BH1, R/S4, R/S9, R/ENV10 and R/T11 of the Gosport Borough Local Plan Review.

### **Subject to the following conditions:-**

1. The development hereby permitted must be begun within a period of three years beginning with the date on which this permission is granted.

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

2. The development shall not commence until details of the extraction flue system including the odour neutraliser to be used, anti-vibration mounts and a scheme for noise attenuation have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the nearby residential properties and to comply with Policies R/DP1 and R/ENV10 of the Gosport Borough Local Plan Review.

3. The development shall not be brought into use until the extraction flue system approved under condition 2 has been installed in accordance with the approved details and retained at all times thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason - In the interests of the nearby residential properties and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.

4. The use hereby approved shall not be open to customers between 22.30 and 11.00 on any day.

Reason - In the interests of amenities of the occupiers of the nearby residential properties and to comply with Policies R/DP1 and R/ENV10 of the Gosport Borough Local Plan Review.

5. The fire door on the west elevation shall not open outwards at any time.

Reason - To preserve the safety of pedestrians using the pavement to the rear and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.

6. The materials to be used in the implementation of the external alterations and installation of the new shopfront shall match in type, colour and texture, those on the existing building unless otherwise agreed, in writing, by the Local Planning Authority.

Reason - To ensure a satisfactory visual relationship of the new development to the existing, and to comply with Policies R/DP1 and R/BH1 of the Gosport Borough Local Plan Review.

7. Before the use is first commenced the bin store shown on the approved plan no. AG1/11-10-01 Rev B shall be made available and retained for this purpose at all times unless otherwise agreed, in writing, by the Local Planning Authority.

Reason - To ensure there is satisfactory bin storage for the use and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.

8. The development hereby permitted shall be carried out in accordance with the following approved plans:

AG1/11-10-01 Rev B

AG1/11-10-03 Rev A

AG1/11-10-04 Rev A

Reason - To ensure that the development is completed satisfactorily in all respects and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.

**ITEM NUMBER: 04.**  
**APPLICATION NUMBER: K11605/6**  
**APPLICANT: Historical Diving Society**  
**DATE REGISTERED: 18.03.2011**

**DISPLAY OF 9NO. OUTSIDE EXHIBITS, 1NO. FLAGPOLE AND FLAG AND REINSTATEMENT OF INTERNAL DOOR AND WINDOW TO SWITCH ROOM (LISTED BUILDING) (as amended by plans received 22.06.11)**  
**No 2 Battery Stokes Bay Road Gosport Hampshire**

### ***The Site and the proposal***

No.2 Battery is a Grade 2 Listed Building located on the western side of Stokes Bay Road, to the north of the Bayside Cabin restaurant and the No.2 Battery Public Car Park. The Battery was built in the 1860's as part of the Gosport Defences. It mounted 15-64 pound guns on traversing carriages which were trained both eastwards across Stokes Bay and westwards across Browndown.

The Battery is located outside of the Urban Area Boundary, within the Coastal Zone, the Fareham-Gosport Strategic Gap, the Safeguarded Area for the Lee-on-the-Solent aerodrome and Flood Zones 2 and 3 as defined on the Proposals Map of the Gosport Borough Local Plan Review. There is an area of lawn on the eastern side of the Battery which is designated as Open Space on the Proposals Map for its amenity value. Immediately to the north of the site is Stokes Bay Mobile Home Park.

In 2010, planning consent was granted under reference K11605/5 to use the Battery as a diving heritage museum. There are no restrictions on the planning consent restricting opening hours. The heritage museum has recently acquired a number of historical diving memorabilia. It is proposed to display 8no. exhibits on the southern side of the Battery, behind the existing railings. The exhibits would be mounted onto railway sleepers and would comprise 2no. diving chambers, 1no. diving bell, 1no. wet diving bell, 1no. reclaim diving bell, 1no. Halley's diving bell and 2no. one man chambers. The tallest of the exhibits would be 3 metres high.

The Diving Society are also soon to acquire a cannon, salvaged from HMS Boyne in the Solent, which it is proposed to display on the lawn at the front of the Battery. The exact size of the cannon will not be known until it has been successfully salvaged, however, it is thought to be of similar dimensions to the existing display cannon at the front of the Battery. The cannon would be mounted onto a secured gun carriageway and would be sited on the southern side of the path leading to the Battery entrance and over 25 metres from the nearest residential property. The restoration of the cannon will be undertaken at Fort Nelson and it is not envisaged that the exhibit will be ready for display for at least two years.

It is also proposed to erect a flagpole on the top of the Battery. The flagpole would extend 3 metres above the concrete base of the ranging post and would be used to display a flag measuring 2 x 1.32 metres. The flag would have a white background and would display the logo of the Historical Diving Society (a black diving bell).

Internally, it is proposed to reinstate a four panel door and window to the switch room at the southern end of the Battery's first chamber. This will protect the room from damp allowing it to be used for the storage of paper archives.

Under the original submission, and in addition to the works described above, it was proposed to display 2no. diving bells at the front of the Battery, either side of the main entrance doors. After concerns were raised that the diving bells would restrict views of the original arched casements in the eastern elevation, which is the principal façade, these were removed from the proposal. The position of 2no. exhibits proposed for the southern side of the Battery have also been amended in order to minimise the impact of the memorabilia on the setting of the Listed Building.

### **Relevant Planning History**

K11605/5 - use of premises as diving heritage museum (Use Class D1) - permitted 14.06.10

K11605/7 - Listed Building Application - display of 9no. outside exhibits, 1no. flagpole and flag and reinstatement of internal door and window to switch room - pending

### **Relevant Policies**

PPS25 (Development and Flood Risk)

Gosport Borough Local Plan Review, 2006:

R/DP1

General Standards of Development within the Urban Area

R/BH3

Development Affecting Listed Buildings

R/OS1

Development Outside of the Urban Area

R/OS2

Strategic Gaps

R/OS4

Protection of Existing Open Space

R/OS11

Protection of Areas of National Nature Conservation Importance

R/CH1

Development within the Coastal Zone

R/ENV9

Safeguarded Areas

### **Consultations**

Property Services

Support the application. The Diving Society will be responsible under the terms of their lease with the Council to;

- undertake a risk assessment of each of the external exhibits;
- indicate the type of fixing arrangements ensuring these do not present an additional hazard;
- remove and potential hazards (ie, hand hold, exposed screws/nuts);
- have appropriate insurance for any objects in the public domain and;
- to annually provide the Council with all relevant documentation

The exhibits which are to be displayed behind the railings should be placed so as to avoid any underground services.

Streetscene (Parks & Horticulture)

No objection.

Natural England

No objection.

English Heritage

No objection.

## ***Response to Public Advertisement***

1 letter of objection

Issues raised:-

- the plans indicate the provision of a new access door
- the applicant did not consult with neighbouring occupiers prior to the submission of the application
- youths access the top of the Battery and throw stones into the Mobile Home Park
- the proposed exhibits are a health and safety hazard
- the persons responsible for cutting the grass on the Battery do not wear the correct safety apparel/equipment. The relevant health and safety certificates should be obtained and adhered to
- cutting the grass on the top of the Battery causes noise disturbance to adjacent occupiers
- the use of the museum causes disturbance to adjacent occupiers and should be monitored/policed

### ***Principal Issues***

1. It is not proposed to create any new accesses into the application building and as such, the plans have been corrected accordingly. Although the government encourages applicant's to undertake consultation with local residents prior to the submission of an application for planning permission, it is not a legislative requirement. This application has, however, been advertised for public comment by way of site and press notices, as well as letters to all properties with an adjoining boundary to the application site. Instances of stone throwing cannot be controlled by the Local Planning Authority and the matter should be referred to the local police. Although not a material planning consideration, issues of site security and health and safety, including a requirement to undertake risk assessments of all the external exhibits, will be addressed by the Diving Society through the terms of their lease. Similarly, the upkeep of the site, including associated health and safety matters, is the responsibility of the tenant and cannot be controlled through this planning application. It is inevitable that there will be a certain level of disturbance when the grass is being cut and when the museum is in use. If it becomes excessive, however, it can be dealt with through the Environmental Health legislation. The principle of the use of the site as a diving heritage museum was established by planning consent K11605/5. The main issues in this case, therefore, are the acceptability of the proposals in land use terms and their impact on the visual amenity of the locality, with particular reference to the Fareham/Gosport Strategic Gap, the amenity value of the Open Space, the character of the coastline, the historic and architectural character of the Listed Building, and its setting, the amenities of the occupiers of neighbouring properties, nature conservation and flood risk.

2. Although the application site is located outside of the Urban Area Boundary, the proposal to display a flag and diving memorabilia is directly related to the approved use of the site as a diving heritage museum and is appropriate to, and in keeping with, the building's maritime heritage, the coastal location and the general recreational use of Stokes Bay. The proposed external exhibits are sited on the southern side of the Battery, adjacent to the urban context of the public car park and the Bayside Cabin restaurant. The exhibits will occupy a very small footprint relative to the larger, more open expanses of the Alver Valley to the north and Browndown to the west, and are sited on land that is not publicly accessible. The exhibits will not therefore harm the recreational value of the urban fringe, or physically or visually diminish the attractive open character of the Fareham/Gosport Strategic Gap. The provision of a small cannon at the front of the Battery will preserve the amenity value of the Open Space and will enhance the value of the museum as a visitor destination. Due to their limited height and positioning relative to adjacent buildings, the proposal will not prejudice landward or seaward views. Under the circumstances, the proposal is acceptable and will enhance the use of this coastal location, in accordance with Policies R/DP1, R/OS1, R/OS2, R/OS4 and R/CH1 of the Gosport Borough Local Plan Review.

3. The positioning of the 8no. external exhibits has been amended so that key views of the Listed Building are retained. As it is no longer proposed to display diving bells either side of the main entrance doors, the proposal will not prejudice views of the historic arched casements in the eastern façade. The external exhibits will be mounted on railway sleepers and this will ensure there is no irreversible damage to the fabric of the Listed Building. The provision of a flagpole is appropriate within this maritime location and, due to its slender appearance, its display will not detract from the architectural character or appearance of the Listed Building. The reintroduction of a traditional four panel door and single window to the switch room will preserve the historic character of the building. In light of the above, and subject to conditions requiring the removal of the external exhibits on cessation of the use of the site as a diving heritage museum to prevent them falling into disrepair, the submission of full details of the proposed internal window and door, details of materials to be used in the construction of the flag and flagpole, the method of fixing the flagpole to the ranging post, and the submission of further details of the external display cannon, the proposed development will not harm the historic and architectural character of the Grade II Listed Building, or its setting, in accordance with Policy R/BH3 of the Gosport Borough Local Plan Review.

4. The 8no. external exhibits are located on the southern side of the building, away from the residential occupiers of the Stokes Bay Mobile Home Park. The proposed cannon at the front of the Battery will be positioned over 25 metres from the nearest residential property. Notwithstanding this, it is unlikely that the display of external exhibits will significantly increase the propensity for noise disturbance over and above that which would be expected from the comings and goings of visitors to the museum and those viewing the existing cannon at the front of the site. The proposal therefore complies with Policy R/DP1 of the Gosport Borough Local Plan Review.

5. As the height of the flagpole falls outside of the specifications outlined on the Safeguarded Area Map for the aerodrome at Lee-on-the-Solent the development complies with Policy R/ENV9 of the Gosport Borough Local Plan Review.

6. The proposed development, by reason of its small scale, and limited requirement for ground disturbance, will not harm the nature conservation interests of the nearby Browdown Range Site of Special Scientific Interest (SSSI), in accordance with Policy R/OS11 of the Gosport Borough Local Plan Review.

7. The proposed development will not increase the risk of flooding to people or property. It therefore accords with Planning Policy Statement 25 (PPS25).

### **RECOMMENDATION: Grant Permission**

#### **Reasons for granting permission:**

1. Having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and all other material planning considerations, the proposed development is acceptable. It will not harm the open character, function or amenity value of the Fareham/Gosport Strategic Gap, the value of designated Open Space, the architectural and historic character of the Grade II Listed Building, or its setting, the amenities of neighbouring occupiers, the Safeguarded Area at Lee-on-the-Solent, or the interests of nature conservation. The proposal will not increase the risk of flooding. As such, the development complies with Planning Policy Statement 25 (PPS25) and Policies R/DP1, R/BH3 R/OS1, R/OS2, R/OS4, R/OS11, R/CH1 and R/ENV9 of the Gosport Borough Local Plan Review.

#### **Subject to the following conditions:-**

1. The development hereby permitted must be begun within a period of three years beginning with the date on which this permission is granted.

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan 1, Plan 2, Plan 3, Plan 4, Plan 5, Plan 6, Plan 7, Plan 8, Plan 9, Plan 10, Plan 11, Plan 12 and Plan 13

Reason - To ensure that the development is completed satisfactorily in all respects and to comply with Policy R/DP1 of the Gosport Borough Local Plan Review.

3. Details, including samples, of the materials for the flag and flagpole, shall be submitted to and approved, in writing, by the Local Planning Authority before works relating to that part of the development are commenced. The development shall thereafter be carried out in accordance with the approved details.

Reason - Such details have yet to be submitted and to ensure these details are appropriate in this context and to maintain the integrity and character of the Listed Building and to comply with Policy R/BH3 of the Gosport Borough Local Plan Review.

4. Details of the method of attaching the flagpole to the concrete of the ranging post on the top of the Battery shall be submitted to and approved, in writing, by the Local Planning Authority before works related to that part of the development are commenced. The development shall thereafter be carried out in accordance with the approved details.

Reason - Such details have yet to be submitted and to ensure these details are appropriate in this context and to maintain the integrity and character of the Listed Building and to comply with Policy R/BH3 of the Gosport Borough Local Plan Review.

5. Details of the internal window and door to the switch room, including horizontal and vertical sections at a scale of 1:10, shall be submitted to and approved, in writing, by the Local Planning Authority before works related to that part of the development are commenced. The development shall thereafter be carried out in accordance with the approved details.

Reason - Such details have yet to be submitted and to ensure these details are appropriate in this context and to maintain the integrity and character of the Listed Building and to comply with Policy R/BH3 of the Gosport Borough Local Plan Review.

6. Details of the external display cannon, shall be submitted to and approved, in writing, by the Local Planning Authority before works related to that part of the development are commenced. The development shall thereafter be carried out in accordance with the approved details.

Reason - Such details have yet to be submitted and to ensure these details are appropriate in this context and to maintain the integrity and character of the Listed Building and to comply with Policy R/BH3 of the Gosport Borough Local Plan Review.

7. The external exhibits, flag and flagpole hereby approved shall be removed and the land restored to its former condition within 56 days from the date that No.2 Battery ceases use as a diving heritage museum, in accordance with a scheme of work submitted to and approved, in writing, by the Local Planning Authority.

Reason - To maintain the integrity and character of the Listed Building and to comply with Policy R/BH3 of the Gosport Borough Local Plan Review.