

**A MEETING OF THE REGULATORY BOARD
WAS HELD ON 6 MARCH 2012**

The Mayor (Councillor Carter CR) (ex-officio), Chairman of the P & O Board (Councillor Hook) (ex-officio) (P), Councillors Allen (P), Mrs Bailey (P), Beavis (P), Geddes (P), Henshaw (P), Hylands (P), Langdon (P), Philpott (Chairman) (P), Ronayne (P), Scard (P), Smith (P) and Wright (P).

74 APOLOGIES

An apology for inability to attend the meeting was received from the Mayor.

75 DECLARATIONS OF INTEREST

- Councillor Henshaw advised that he was aware that a former colleague resided in Priory Road, but had no contact with them outside of his former employment
- Councillor Geddes declared a personal and prejudicial interest in K1713/3 as he is a Hampshire County Councillor
- Councillor Smith declared a personal and prejudicial interest in item K17874/2
- Councillor Mrs Bailey advised that she had a friend residing in Oval Gardens

76 MINUTES

RESOLVED: That the Minutes of the Regulatory Board meeting held on 12 January 2012 be approved and signed by the Chairman as a true and correct record.

77 DEPUTATIONS

Deputations had been received on the following applications

- K1713/3 – Woodcot County Primary School
- K17981 – 14 Russell Road, Lee-on-the-Solent
- K17994/1 - 12 Carisbrooke Road, Gosport
- K17874/2 - Land to the Rear of 84 Priory Road, Gosport
- K464/3 – 91 Oval Gardens

78 PUBLIC QUESTIONS

No public questions had been received.

PART II

79 K1713/3 – COUNTY CONSULTATION – REGULATION 3- ERECTION OF SINGLE STOREY EDUCATION CENTRE

Councillor Geddes declared a personal and prejudicial interest in this item, left the room and took no part in the voting or discussion thereon.

Consideration was given to the report of the Borough Solicitor advising that a planning consultation had been received from Hampshire County Council for the erection of a single storey building for use by the Quayside Education Centre at Woodcot County Primary School.

The Board was advised that Hampshire County Council was the applicant and the Local Planning Authority for determining the planning application. Gosport Borough Council had been consulted as part of the application process as the proposal was located in the Borough.

Members were advised that there had been one additional letter of objection, which identified concerns around the proposed siting of the Multi Use Games Area, the bus services available to the site, the potential for criminal activity, the loss of green space, the impact of the facility on existing pupils and residents of Laphorn Close. The letter also suggested concern at the proposed parking provision and requested that the speed limit on Tukes Avenue be reduced to 20mph.

Miss Headley was invited to address the Board. She advised that she resided in Conifer Grove and that she was representing the views of local residents.

The Board was advised that a 600 signature petition had been obtained and that local residents were unhappy with the level of consultation that had been carried out. Miss Headley advised that there had been one advert in the local paper and one notice on the gate of the school, she advised that a very small number of local residents had received notification by post in January and that residents felt the County Council had not been transparent in their handling of the application.

Miss Headley expressed concern that there would not be enough parking provision on site and that the report had not considered the staff employed by the pre-school. She was also concerned that a crime survey had not been completed.

In conclusion, Miss Headley expressed concern that Hampshire County Council were able to apply to themselves for planning permission and that she felt that Members of Gosport Borough Council should be given the opportunity to visit the site before making their recommendation.

Mrs Taylor-Doole was invited to address the Board; she advised that she was representing the views of the parents of children at Woodcot County Primary School. She advised the Board that she had been able to access minutes of the

school meetings and that at a meeting of the Governors on 17th March 2011 it was identified that the proposal presented a risk to the children of Woodcot Primary School as they would witness the worse type of behaviour. She expressed concern that the staff at the centre would not be able to physically restrain children in the event of an incident and that the children at Woodcot would be placed at risk. Mrs Taylor-Doole stated that the children at the Quayside Centre would be physically stronger than the Primary School children and that the proposal would therefore put them at risk.

Mrs Taylor-Doole expressed concern that the MUGA would be shared use. She advised the Board that 16 students at the existing Quayside Unit had expressed their concern at the proposed relocation of the centre and had admitted that they would put their own needs above those of the Primary School children.

In answer to a Member's question the Board was advised that minutes of the Governor's meetings had only just been released to the public and that although in principle the Head Teacher and the Governors had agreed to the proposal, a number of concerns about the impact of the proposal on the children of Woodcot had been raised.

Additionally, the Board was advised that although the sites would have two different start times, pupils would only attend for a few hours a week and would be able to come and go as they pleased. With shared access, there was concern that the children from the unit would be able to access the Primary School.

Members were advised that parents had not been consulted on the proposals and that the first they were aware of them was in a letter sent home with the children on the last day of term in December.

Miss Headley advised the Board that parents and residents were concerned that the information surrounding the proposal was not readily available and that most information had been provided through word of mouth. The information was that the Unit was definitely going to be built and opened in September 2012.

Miss Headley advised that an initial request for a public meeting with the school had been refused and that the Head Teacher had requested that any concerns be addressed one-to-one, it was only following extensive pressure that it was agreed that a public meeting should be held.

The Board was advised that when a similar Unit at Bedenham School had been proposed, a full consultation had been undertaken with parents and the whole process had been handled much more sympathetically.

Councillor Wright was invited to address the Board as Ward Councillor for Bridgemary North. He advised the Board that he had first heard of the application shortly after Christmas when he began to receive a large amount of correspondence and phone calls in relation to the proposal.

He expressed concern that although it was believed that Hampshire County Council had been pursuing the proposal since 2010, no consultation had been undertaken with parents, residents or himself as Ward Councillor. He advised the Board that the advertisement of the proposal was minimal and that parents were disappointed that the same level of consultation carried out at Bedenham School had not been forthcoming in this instance.

Councillor Wright advised the Board that some neighbouring residents had not received any formal notification of the proposal and had only found out through word of mouth following a letter being sent to parents by the school.

Councillor Wright advised the Board that the large level of objections that he had received had compelled him to request the application be brought to the Board to be discussed in full.

He advised the Board that the issues surrounding the proposal centred on the fact that the site was unsuitable as it was unable to be segregated correctly. Parents were concerned for the wellbeing of the Woodcot School children and that the proposed Unit was too close in proximity to Laphorn Close.

Councillor Wright acknowledged that the Local Highway Authority had no objection to the proposal, but expressed concern that in addition to the 50 extra students there would be additional staff using the site contributing to greater traffic congestion.

Parents and residents were concerned that some of the children using the Unit would have alcohol and drug issues and that it would not be appropriate for the children at Woodcot to view the issues related to these problems.

The Board was advised that some parents had already removed their children from the school and that since the proposals were announced, a Governor and the Head Teacher had resigned.

Councillor Wright advised that parents felt the facility should either be rebuilt on the St Vincent site, or consideration should be given to locating it in a secondary school in the area as it was not suitable for this facility to be mixed with primary school children.

The Board was advised that the parents and the local residents were strongly against the proposal and had great concern about the lack of consultation on it, particularly as it had been being considered since 2010.

Councillor Wright concluded by requesting that the Board consider how they would feel if it was their children or grandchildren attending a school with such a Unit in close proximity, as it was clear that the Unit and children of Primary and Nursery School age do not mix.

In answer to a Member's question, Councillor Wright advised that although the Unit and the school were scheduled to start at different times it would be difficult to keep the students completely segregated. He advised the Board that he

acknowledged the reasoning behind the proposed location, but felt that the additional traffic would make the surrounding roads more congested than they already were.

A summary of the Ofsted report of the Quayside Unit was read to the Board. It stated that the Unit was overall good, that the pastoral care of the children was excellent; that the Unit had established successful partnerships and that the children worked hard to raise money for charity. The Board was advised that the behaviour of the children was good and that on the rare occasions that incidents occurred they were dealt with swiftly and effectively. The only major issue with the facility was the condition of the buildings in which it was located.

It was clarified that Gosport Borough Council were consultees on the proposal and were not decision makers for the application. The recommendation was that no objection be raised to the proposal, subject to conditions.

Members were disappointed with the limited consultation by Hampshire County Council and it was acknowledged that parents would get the opportunity to make a deputation at the planning meeting of Hampshire County Council. Members also recognised that residents and parents had strong objections to the proposals and that this would be the opportunity for the County Council to acknowledge them.

Members expressed concern that the Ward Councillors for the area had not been advised of, or consulted on, the proposal and requested that separately from the decision of the Board, a letter be sent to the planning department at Hampshire County Council requesting details and clarification of their consultation process.

Members debated the proposals and acknowledged that a replacement facility was needed, it was also recognised that local residents and parents and the Ward Councillor strongly objected to the proposals and were disappointed with the lack of consultation that had taken place.

Members recognised that the final determination was a decision for the County Council and that the options available to Gosport Borough Council were to raise objections to the proposal, raise no objection subject to conditions, or not comment on the proposal.

Members were disappointed that there was no information available regarding investigations into alternative sites for the Unit and acknowledged that the lack of consultation had not helped to address the concerns of local residents and parents. Members sought reasoning from Hampshire County Council as to the decision to place the Unit on the Woodcot School site and recognised that the residents and parents had worked hard to ensure that their views had been heard.

Members recognised that they had a duty to do what was best for all of the young people of the Borough and also acknowledged that 85 of the unit's pupils in the previous 5 years had come from the Bridgemary area.

Members accepted that the proposed conditions to be attached to the recommended response of no objection were reasonable, but that this response did not go far enough in representing the objections of local residents and their concerns at lack of consultation.

Members acknowledged that Hampshire County Council had extended the consultation period to allow the Board to consider the response, but proposed that the response be amended and that the Council object to the proposal as follows;

'In view of the new information that has come to light it is not believed that this is the ideal location for such Unit and that an alternative location should be found'

This was unanimously agreed.

RESOLVED: That an objection be raised in response to the planning consultation received from Hampshire County Council for the erection of a single storey building for use by the Quayside Education Centre at Woodcot County Primary School for the following reason:

In view of the new information that has come to light it is not believed that this is the ideal location for such Unit and that an alternative location should be found.

80 REPORT OF THE BOROUGH SOLICITOR

The Borough Solicitor submitted a report on applications received for planning consent setting out the recommendation in each case (a copy of which is attached in the Minute Book as Appendix 'A').

RESOLVED: That the decisions be taken on each application for planning consent as detailed below:

81 K17981 - ERECTION OF TWO STOREY SIDE/REAR EXTENTION AND RETENTION OF DETACHED GARAGE (as amended by plans received 29.09.2011 and amplified by badger survey received 21.09.2011 and method statement received 28.11.2011) 14 Russell Road Lee-On-The-Solent Hampshire PO13 9HP

Members were advised that an additional 6 letters of objection had been received, they raised concerns similar to those already raised, that the application had been rushed through, that more consideration should be given to the badgers, that the Ecologist used by the Local Planning Authority was not a badger expert and that the badger report was hidden from the public and land not within the application site should not be used for mitigation.

In addition, the Board was advised that an additional 11 letters of support had been received stating that the Planning Officer's report was correct, that the applicant had adhered to the correct policies when dealing with badgers and that in some cases the welfare of the badgers came second to the objector's

own interest. The letters also stated that information produced showing that some households in the locality were anti-badger was inaccurate.

Members were advised that the application was being considered in light of the material planning considerations, under the formal procedures of the Local Planning Authority and that there was sufficient information available to determine the application.

Gosport Borough Council had a service level agreement with Hampshire County Council's Ecology department to provide ecological advice on planning applications. The named officer is Gosport Borough Council's designated contact and that there was no reason to question either his or Hampshire County Council's experience.

The Board was advised that an additional report had not been submitted by an objector to the Local Planning Authority for consideration; however a submission had been made during their deputation at the previous meeting of the Regulatory Board. The information had been viewed by the Local Planning Authority and the issues raised were addressed within the report of the Planning Officer.

The Board was advised that the imposition of conditions would control the undertaking of work and mitigate any impact on the badgers and their habitat. The Board was advised that neither the applicant nor the Local Planning Authority were relying on land outside the application site to mitigate any adverse impacts.

Members were updated that a further letter from the applicants had been received at lunchtime that day and as there had not been time to go through the issues before the meeting the Chairman agreed that it should be read out in full.

The Head of Development Control read the letter, in full, to the Board.

We would like to enter this letter into our case file to try and alleviate some of the issues that keep re-occurring due to the constant misrepresentation of the information that is being circulated throughout the neighbourhood.

Accusations of breaking the law: The Country Watch Police Department have taken our case to the Crown Prosecution Service to establish that we have not actually committed any offence under the Protection of Badgers Act, 1992 and that there will be no prosecution. This has been verified in an email to us on 08/12/11 and all the relevant parties were apparently informed by a WPC, which makes any further reference to this activity libellous.

Clearance of brambles near to a sett: Three bodies amalgamated in October 2006 to form Natural England. (www.naturalengland.org.uk) and as such had to establish a more neutral definition of badger controls as they had very different ideas of how badgers should be treated. In June 2009 a new definition of disturbance was defined, this concluded that due to urban badgers having a very different tolerance of noise from their rural counterparts it was deemed

acceptable to clear vegetation from, on, or around the sett including felling trees.

It is now also acceptable to develop near a sett without the need of a licence as urban badgers are perceived to tolerate these as normal noise levels. Distances stated by some objectors are only National England guidance and not law.

Blocking access to and from the sett: In no way shape or form have we, or will we, block access to the sett. Others, however, have found it acceptable to install badger thoroughfares and then to put a gate across them to open and close at their choosing. This in itself contravenes the Badger Act and it is maybe this that others are referring to, it is however nothing to do with us.

Increased foraging and tunnelling: A healthy sett is constantly being dug and new and existing tunnels used or abandoned, dependant totally on the badgers, for example a water logged entrance would be abandoned temporarily then maybe reused when the dry season begins. Badgers like to keep their environments clean so will dig repeatedly to maintaining the sett. Foraging depends on food resources available, like anything else, different foods are seasonably available and so will depend on where the badgers will go to find such resources.

The 18 square metres of bramble that we cleared for the garage offers at the most one months food resource but only if the brambles are actually maintained, this site has been clearly left unattended for a great many years and hence the harvest yield is poor.

Supplementary feeding: One peanut has approximately the same calorific value if 8 blackberries (bramble). We are feeding the badgers well and beyond the foraging resources that may have been removed just by the handful of nuts fed every evening (not including the fruit and vegetable also supplied). The supplementary planting and constant upkeep that will follow can only improve the situation.

Mitigation: The new fruit trees and plants, we have been informed, will be mature and producing their fruit within the first year and would be planted at staged intervals to ensure an overlap of new and old hence leaving a constant improving foraging resource as time passes.

Local badger expert: Calls to have a local badger expert onsite to assess the situation have been totally dismissed as 'the local badger expert' has been associating himself with an objecting neighbour since well before we arrived and as such is bias in his opinion, thus the option for his use is negated. We were asked to employ an impartial recognised ecological expert, which we have done.

Mrs Bailey was invited to present her deputation to the Board. She advised the Board that the measurements and descriptions referred to were derived from the documents available. She began by asking to hand out a copy of the Natural England Guidance on Badgers (Natural England Standing Advice Sheet for Badgers). Copies of the document were handed to Members and the applicant

by the Borough Solicitor.

Mrs Bailey advised the Board that the clearance of foraging habitat and erection of the new garage had increased the disturbance to badgers tenfold. She advised that many letters of objection had confirmed this.

She advised the Board that the Planning Office had ignored the human rights of local residents under Article 1 of the First Protocol as the disturbance to the badgers as a result of the clearance of foraging habitat and erection of the new garage had not been recognised. In addition the adverse harmful impact on neighbouring properties and the wider environment, including the park had also been ignored.

The Board were advised that exact measurements were vital when dealing with a large main badger sett and that approximate measurements could lead to harm to the badgers and the area not being correctly assessed.

Concern was expressed that by much of the development and any mitigation areas being inside the 20 metre construction guideline from sett entrance holes, set by Natural England there was a great risk of harm to the badgers and also that there was concern that no information around the erection dates of the garage existed, only when it was finished or whether badger proofing had been installed.

Mrs Bailey advised that she felt it was a totally irrational decision that planning permission be granted when there had been 5 other couples that had been advised that planning permission would not be granted for development.

Natural England had stated to residents in depth making absolutely clear interpretation of guidance given to all, including authorities, is to protect badgers and their setts from harm, not following all guidance in full would pose risks of being in, breach of legislation protecting badgers.

Mrs Bailey advised that as two thirds of a badger sett was underground it was impossible to undertake the work without putting the badgers and their sett at risk and that this would be the case even with mitigation measures in place.

She advised that the development posed an unacceptable risk of harm to the badgers and their sett as it fell within 20 metres of the sett entrance holes. She felt that the footprint of the development was too large given the size of the badger sett and, that it would lead to an over development of the site creating a disturbance to a protected species and that as a result there would not be sufficient access to create a badger corridor for front access.

Mrs Bailey advised the Board that the applicants badger survey was contradictory, confusing and inaccurate as it did not have all the required documented information.

She questioned the validity of the historical data provided and was concerned that that no historical data information from the local badger trust record had

been provided by the Hampshire County Council Ecology Department or the owner's ecologist Mr. Neeve. She questioned how the HCC Ecology department had made their assessment about the layout of the sett as there were no illustrations or survey produced.

The Board was advised that eyewitness accounts had placed badger tunnels in the centre of the lawn just 4-4.5 metres away from the rear of the older garage making the tunnels too close to the development area.

No information of where the fruit trees were to be sited had been indicated in the methodology statement and no feeding statement produced.

In conclusion, Mrs Bailey advised the Board that the logic of the HCC Ecology report, that the removal of the new garage would cause further harm, should apply to the removal of the older garage. There was great concern that tunnels existed underneath the old garage, and that there was no logical way of removing the older garage and its base without harming the badgers. Sledgehammers or kangos are confirmed by building control as the way to do it. The use of sledgehammers, would cause impact and agitating vibration possibly on top of part of the sett by now and nearby to known tunnels. Both would cause badger disturbance of the badgers whilst they are occupied their sett.

Mrs Bailey requested that the application be refused for the safety of the badgers and their sett.

Members then asked questions.

A Member asked a question concerning Mrs Bailey's reference to Article 1 of the First Protocol, could you explain that please. Mrs. Bailey replied that it was the right to respect not have to one's property damaged by another, in this case badger disturbance caused by the development.

Mrs Bailey was asked a question in relation to her mentioning the footprint of the development is too large creating over development of the site?

Mrs. Bailey replied, yes in relation to the badger sett.

A Councillor then asked if she was talking in planning terms now because there is development all along Russell Road? Mrs. Bailey replied no, just to the badger sett.

A Member asked a question regarding the Natural England advice and the reference to 20 metres, Mrs. Bailey replied that they had been given this information by a Natural England Planning Consultation Team Officer, in reply to information given about this sett, and that their guidance should be followed including the 20 metres.

The Board was advised by Officers that Natural England had no objection to the proposal provided that conditions were attached relating to the approval of mitigation measures for the protection of the badgers. Conditions stated that all excavations should be undertaken by hand.

Mr Bowman was invited to address the Board. He advised that he was speaking on behalf of the applicant and that he was hopeful that this meeting of the Board would conclude a long period of waiting for the applicants. He thanked the planning officer's for their report and commended that they had focused on the material planning considerations.

He advised the Board that the Town and Country Planning Act did not preclude development in the presence of badgers but required that adequate mitigation took place to protect them.

Mr Bowman advised the Board that the proposal was not an over development and that there were many other extensions in the area. He also advised that the proposal would create a balance with the adjoining property and that larger alterations could have been undertaken under permitted developments.

Mr Bowman advised the Board that the applicant had demonstrated through the method statement and in the badger survey that the protection of the badgers would be secured by mitigation measures. In addition, the applicant accepted the conditions of the Planning Officer's report and had agreed that excavation would be undertaken by hand and in the appropriate season.

Mr Bowman advised that it was not uncommon for experts to have a differing opinion and that Natural England were happy with the proposal, subject to the conditions of the Planning Officer as set out in the report.

The Board was advised that correct mitigation should negate the need for a licence to carry out the work and that the applicants had been proactive in their approach to the badgers.

Mr Bowman concluded by requesting that the application be approved, as protection of the badgers would be adequately secured by mitigation conditions.

Members sought clarification on the 20 metre guidance provided by Natural England and, the use of licences on development.

The Council's ecology adviser, from Hampshire County Council, advised the Board that the 20 metre guidance given by Natural England was a starting point for consideration of development; work could be undertaken within 20 metres providing specific consideration had taken place.

He advised that the need for a licence was to prevent any illegal activity. As it was felt by the consultant that there was no reasonable likelihood that the sett would be damaged, a licence was not necessary and conditions to ensure mitigation were appropriate in this instance. The application would be under close supervision and should any contact with the sett be made, a licence for work would then be necessary.

Members were advised that conditions were being proposed to ensure that a well vegetated route was planted to the front and the back of house.

In answer to a Member's question the Board was advised that a letter had been received by the Council suggesting that the granting of permission for the development was illegal. Members were advised that the letter referred to a badger study in 2009 which as set out in the report was not relied on in making the recommendation.

In addition, the Board was advised that, as stated in the Planning Officer's report, there had been no previous applications for planning permission on the site and only one record of pre application advice. Which did not preclude development and was merely considered on the relevant planning considerations.

It was reiterated to Members that it was believed the proposal would have no adverse impact on the badgers and that precautionary measures were in place to support this.

The advice from Natural England did not preclude development. The Board was advised that Planning Officers had correctly considered the material planning considerations and the key issues raised by the proposal.

It was reiterated to Members that it was believed the proposal would have no adverse impact on the badgers and that precautionary measures were in place to support this.

Members asked the Council's ecology adviser about the 20 metres referred to in Natural England's Standing advice. He acknowledged that the 20 metres guidance had been a starting point in this instance and were advised that the Consultants report set out that they believed the sett ran away from the property, so that it was unlikely that there were tunnels under the house.

Members were advised that precautions were in place to protect the sett, and that the applicant had taken a sensible approach to the application through mitigation measures.

In answer to a Member's question, the Board was advised that should an application for a licence be made, it was unlikely that it would be refused. The development was considered reasonable and some distance away from the sett.

In answer to a Member's question on badger protection the Council's ecology adviser explained that licences were more specifically used to protect against cruelty to badgers.

Member's sought further clarification as to whether there was a significant effect on the foraging of the badgers as a result of the construction of a concrete base and the level of experience of the Hampshire County Council Ecologist.

He advised that he had qualified and previously worked as a wildlife specialist for English Nature and utilities companies across the United Kingdom and Europe and now worked for Hampshire County Council. He advised that about

10% of his work involved badgers and that it was outside Hampshire County Council's remit to employ specialist for every species. He had extensive experience in completing surveys and undertaking work with licences. He advised that he had experience in working with a large variety of wildlife including badgers, bats and slow worms and had experience in working with a wide range of habitats and ecological receptors.

The Board was advised that it was accepted that Mr Masterton undertook a large amount of work with badgers, but that the Hampshire County Council Ecologist was qualified and knowledgeable enough to provide an assessment on planning grounds.

The Board was advised that the foraging area removed had not been optimal for the badgers and that there was ample habitat in the garden and adjacent recreation area.

The Board was advised that an independent survey had been carried out and that it was not possible to determine the cause for the increase in the foraging area of the badgers. There was a number of potential reasons for this, including, dry summers that led to an increase in watered gardens, in turn leading to an increase in available food. Additionally, existing paths may get blocked leading to re-routing and subsequently creating a wider area of foraging.

Members were advised that conditions were being proposed to ensure that a well vegetated route was planted to the front and the back of house.

Members debated the proposal, it was agreed that the site visit had been beneficial to Members as it had allowed them to gain a clearer picture of the proposal site and proposed application. Members recognised the importance of protecting the badgers and also acknowledged that conditions had been placed on the application to ensure this took place.

Members accepted that the proposed extension had a relatively small footprint and that it would be located away from the sett and in an area that was not used for foraging. Members recognised that the owners had put the interests of the badgers first and felt the proposal would have little impact on the sett.

Members acknowledged the concern of local residents and were grateful for Mr Masterton's contributions. It was recognised that a large amount of documentation had been distributed to Members in respect of this application and that a great deal of consideration had been given to the application.

Members reiterated the importance of the site visit in that it had reassured them that the conditions on the application would help to mitigate any disturbance to the badgers.

Members thanked the Planning Officers for their report and agreed to approve the application.

RESOLVED: That application K17981 - 14 Russell Road, Lee-on-the-Solent, be

approved subject to the conditions in the report of the Borough Solicitor for the following reasons:

- i That having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and all other material considerations, the development is acceptable in this location. It is acceptable in design terms, will not have a harmful impact on the amenities of the occupiers of the neighbouring properties or highway and pedestrian safety or protected species and, as such, complies with PPS9 and Policies R/DP1, R/T11 and R/OS13 of the Gosport Borough Local Plan Review.

**82 K17994/1 - RETENTION OF AND FURTHER WORKS FOR THE
ERECTION OF FRONT AND REAR EXTENSIONS, THE INSERTION OF
FIVE ROOF LIGHTS IN NORTHERN ROOFSLOPE AND ERECTION OF
BOUNDARY WALL
12 Carisbrooke Road Gosport Hampshire PO13 0HH**

Members were advised that a site visit had taken place at 10am on the morning of the meeting. Members had viewed the property from the application site and from number 10 Carisbrooke Road.

Mr Brown was invited to address the Board. He thanked Board Members for undertaking a site visit and hoped it had enabled Members to see the impact of the proposed extension and the overwhelming loss of light and outlook that would result if the proposal was approved. He hoped that Members had had the opportunity to view neighboring single storey extensions with flat roofs and that as a result they would reject the application.

In answer to a Member's question, Mr Brown advised that in addition to the boundary fence, the outlook from his kitchen window included blue sky and that this had been particularly evident at the site visit. He also advised that bushes and trees were visible from the windows. Mr Brown also clarified that the boundary fence had been erected in an agreement with his neighbours as they were undertaking replacement of the rest of their fencing. He advised that he had covered the costs of the materials and that his neighbours had erected it for him.

Mr Brown advised that the Perspex had been erected to provide a better degree of privacy, but still allow the light through.

Ms Hope was invited to address the Board. She advised that she had bought the property well aware that it would need significant financial input and that the diagonal positioning of the drainage in the rear garden was the contributing factor to the design of the proposed extension.

She advised that she had invested in new windows, heating and insulation and that the improvements to the property would give it kerb appeal and that it would not overshadow the neighbouring garden of number 10 Carisbrooke Road.

In answer to a Member's question, the Board was advised that if approved,

there would be an additional 47.82sqm in footprint.

Members agreed that the site visit had been useful. They recognised that the proposed extension was to the north of Mr Brown's property and had viewed the potential loss of light to his property.

Member's debated the proposal, Mr Brown's concerns were acknowledged and some Member's were of the opinion that there would be no significant effect on the outlook from Mr Brown's property.

Member's were concerned at the large increase of the footprint of the proposal, but recognised that the property had been in a state of disrepair and that the applicants were making a great effort to improve it. Members concluded that there was no harmful impact on the neighbouring properties.

RESOLVED: That application K17994/1 – 12 Carisbrooke Road, Gosport, be approved subject to the conditions set out in the report of the Borough Solicitor, for the following reasons:

- i) That 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 area or the occupiers of the neighbouring properties and, as such, complies with Policy R/DP1 of the Gosport Borough Local Plan Review.

83 K17874/2 - ERECTION OF TWO-STOREY BUILDING TO FORM 4NO.TWO BEDROOM FLATS WITH ASSOCIATED GARAGING, CAR PARKING, REFUSE AND CYCLE STORAGE FOLLOWING DEMOLITION OF EXISTING SQUASH COURT AND GARAGES (CONSERVATION AREA) (as amended by plans received 20.02.12) Land To Rear Of 84 Priory Road Gosport Hampshire PO12 4LG

Members were advised that the applicant had provided samples of the proposed timber cladding.

Mr Tutton was invited to address the Board. He advised that he was speaking in support of the application and that since the previous meeting of the Board he had identified three possible alternative external finishes to the proposal, a brick finish, a brick and render finish and a brick and timber cladding finish.

Mr Tutton advised the Board that the application had been submitted seven months ago and that that the existing building was a two storey squash court, surrounded by 2 storey buildings. He advised that the proposal would improve the outlook of the area and had addressed all of the potential ecological issues.

The Board was advised that the application was sensitive to the Hardway Conservation Area and that it would greatly improve the outlook for residents in St Thomas's Road. Mr Tutton advised that there would be no loss of privacy or

light to the properties in Priory Road and that proposal was in accordance with the established pattern. Mr Tutton stated that there were a number of letters of support for the proposal and that it would secure a positive enhancement to the area.

The Board was advised that there was currently a shortage of two bedroom properties in Gosport and that the annual monitoring report in 2007 had stated that 60% of new properties needed to be two bedrooms, the percentage in 2011 was only 41%. Mr Tutton advised that the proposed development would go a short way to address the need for 2 bedroom properties.

Mr Tutton advised the Board that contrary to the report the unilateral undertaking had been completed.

In answer to a Member's question it was confirmed that the footpath to St Thomas's Road would not be blocked and that it did not form part of the application.

Councillor Smith was invited to address the Board. He advised that he had declared a personal and prejudicial interest in the application as he was the owner of 52b St Thomas's Road and that it backed directly onto the proposal. He advised the Board however that he was making a deputation as a member of the public, as members of the public have a right to make deputations.

He advised that the proposal would look directly into the bedroom, kitchen and garden of his property and that the proposal was a clear case of garden grabbing. He felt that the proposal was not sensitive to the Conservation Area and was an inappropriate use of garden space.

Note: Following his deputation Councillor Smith left the room and took no part in the discussion or voting thereon.

To clarify, Members were advised that if they decided to approve the application with an amended external finish to that formally submitted a further consultation period would be required and that the current proposal was for a half brick half timber clad finish.

Members debated whether the proposal was garden grabbing. Members recognised that there was an existing building on the site and that although currently separated from the main house, it had originally formed part of the garden.

Members voted to refuse the application in line with the recommendation of the Planning Officer's report.

RESOLVED: That application K17874/2 be refused for the following reasons:

- i) The proposal would, having regard to its scale, massing and siting, result in an incongruous form of development which would be out of keeping with the established pattern of development and detrimental to

the visual amenities of the area, contrary to Policy R/DP1 of the Gosport Borough Local Plan Review and Planning Policy Statement 3.

- ii) The resultant building, by reason of its scale, massing and proximity to the neighbouring boundaries, would be overbearing and dominate the outlook from the adjacent residential properties and gardens to the detriment of their use, contrary to Policy R/DP1 of the Gosport Borough Local Plan.

**84 K464/3 - OUTLINE APPLICATION - DEMOLITION OF EXISTING DWELLING AND ERECTION OF RESIDENTIAL CARE HOME (12NO. RESIDENTS) (as amended by plans received 13.09.11 and 31.10.11 and amplified by supporting information received 23.08.11 and Transport Statement received 31.10.11)
91 Oval Gardens Gosport Hampshire PO12 2RD**

Members were advised that an additional letter of objection had been received but that no additional issues had been raised.

Mr Taylor was invited to address the Board. He advised that he resided at 32 Oval Gardens, opposite the proposal site. He advised that in addition to personally opposing the application he was representing the views of a number of the objectors.

Mr Taylor advised the Board that as the application was numbered 464/3, he understood and had been advised that it was a separate application to the predecessor, 464/2. He advised that he felt the report was flawed as it spent a great deal of time comparing the two applications, highlighting that the proposed application was smaller. Mr Taylor acknowledged that the proposed application was smaller but still felt it was inappropriate for the site.

Mr Taylor advised the Board that there was currently a large, 4 bedroomed bungalow situated on the site and that the proposal was for, in effect a 12 bedroom house. He advised that the proposed footprint was 66% larger than the existing building and that its size, mass, bulk and presence would sit uncomfortably within the existing street scene.

The Board was advised that as a result the proposal was contrary to policy R/DP1 of the Gosport Borough Local Plan as Oval Gardens is made up mainly of modest semi-detached houses and bungalows.

Mr Taylor advised that he did not have the time to cover all of the issues raised in objection to the proposal, but that the majority of objections were by local people. He advised that there were at least 48 specific issues, some of which he felt should have been examined further in the report of the Planning Officers. In addition, Mr Taylor felt that as a number of the letters of support were not from local residents they therefore had little relevance to the proposal.

Mr Taylor advised the Board that a major concern regarding the application was

road safety, as number 91 is situated on a sharp s-bend with blind entry and exit in both directions. He was concerned that lorries would disregard any double yellow lines and parking restrictions and that the road would not be policed.

The Board was advised that the scale and proximity of the proposal would have the greatest effect on the amenity and outlook of 90 Oval Gardens, 107, 109, 111, 113 and 115 Privett Road and 3, 5, 7 and 9 Charlesbury Avenue.

Mr Taylor believed that a 12 bedroom care home would not be economically viable, particularly as it included the cost of a new build and site purchase; he felt that the design of the proposal was such that a subsequent application could be submitted to add additional bedrooms to the roof.

He also expressed concern that should the proposal remain as a 12 bedroom house and prove economically unviable, a 12 bedroomed property would remain in a residential street.

Mr Taylor concluded by advising the Board that he strongly hoped that the application would be refused, but that if this was not the case, that a site visit be undertaken, prior to any final decision.

Mr Tutton was invited to address the Board. He advised that he was speaking in support of the report, in line with the recommendation of the Planning Officer. The Board was advised that the population of over 65's in Gosport was scheduled to increase by 44% and the over 85's by 94% and that there was not adequate provision to cater for local needs. He advised, in particular, there would be a greater demand for the provision of care for those with dementia.

The Board was advised that the proposal would respect the privacy and amenity of neighbours and that windows would be glazed where necessary to achieve an acceptable outlook. In addition, Mr Tutton advised that the separation distance from Charlesbury Avenue exceeded guidelines and that the Local Highway Authority had no objection to the provision of 6 car parking spaces.

Mr Tutton advised that the implementation of a Traffic Regulation Order would be beneficial to all parties and that the unilateral undertaking had been completed in October.

In answer to a Member's question, the Board was advised that the previous application was currently being considered by the Planning Inspectorate.

A Member suggested that it might be appropriate that a site visit be undertaken before a decision was made.

Councillor Jacobs, Ward Councillor for the Privett Ward was invited to address the Board. He advised that he supported Mr Taylor and that he had two major concerns regarding the proposal. The first was that it was garden grabbing, and the second was the detrimental impact it would have on the area, by increasing traffic levels, particularly as the road was a direct artery to Bay House and Gomer Schools. As a result he felt the proposal should be refused in line with

policy RD/P1.

Councillor Mrs Forder, Ward Councillor for the Privett Ward, was invited to address the Board. She advised the Board that she acknowledged that the new proposals had been designed to address the concerns of the previous application, but that an increase in the footprint of the existing building by two thirds was unacceptable.

She advised the Board that there was nothing comparable in the area as it comprised mainly semi detached houses and bungalows. The Board was advised that the building would be incongruous and result in severe disruption and intrusion to neighbouring properties.

In answer to a Member's question, it was clarified that should the proposed application be refused, the applicant would be able to appeal to the planning inspector. In this instance, should the planning inspector approve both appeals, the applicant would be able to choose which application to construct.

Members debated the proposal; they were aware of the site and acknowledged that the proposals would increase the footprint by 66%. It was felt that this was an overdevelopment of the land.

Members were aware that the financial viability of the proposal was not a material planning consideration and that this application would need to be taken on its own merit.

Members acknowledged that there was large scale objection to the proposal from neighbouring residents and that they had worked hard with Ward Councillors to ensure that their objections were heard. Members recognised that the proposals would lead to an increase in traffic movements and would be detrimental to the amenity of neighbours. Members felt that the proposal should be refused as it was contrary to policy R/DP1 of the Gosport Borough Local Plan

Members concluded by reiterating that the proposal was unsuitable as a result of the proposed size of the development and that the location of the development was unsuitable.

Members proposed that the application be refused and gave the following reasons:

- 1) The scale, mass, and setting of the development will form an incongruous feature in the street scene and be detrimental to the appearance of the area contrary to Policy R/DP1 of the Gosport Borough Local Plan: and
- 2) The proposed use will have a detrimental effect on the residential amenity of the area by reason of the increased activity at and around the site and the additional vehicle movements generated by the development, combined with the limited onsite parking provision would cause undue interference with and inconvenience for occupiers of neighbouring properties, particularly during the

early evening period when local residents will be returning home from work either travelling via Oval Gardens to reach their destination or looking to park on, or outside their properties contrary to Policy R/DP1 of the Gosport Borough Local Plan.

RESOLVED: That application K464/3 – 91 Oval Gardens, Gosport be refused for the following reasons.

- i) The scale, mass, and setting of the development will form an incongruous feature in the street scene and be detrimental to the appearance of the area contrary to Policy R/DP1 of the Gosport Borough Local Plan: and
- ii) The proposed use will have a detrimental effect on the residential amenity of the area by reason of the increased activity at and around the site and the additional vehicle movements generated by the development, combined with the limited onsite parking provision that would cause undue interference with and inconvenience for occupiers of neighbouring properties, particularly during the early evening period when local residents will be returning home from work either travelling via Oval Gardens to reach their destination or looking to park on, or outside their properties contrary to Policy R/DP1 of the Gosport Borough Local Plan.

**85 K7886/15 - FELLING OF 1NO. LIME TREE (TPO.G120) AND PLANTING OF 1NO. REPLACEMENT CHERRY TREE
Raglan Court Gordon Road Gosport Hampshire PO12 3PT**

A Member requested clarification on the application as the confirmation of the Tree Preservation Order had been made at a previous meeting of the Board.

Members had previously acknowledged both the significance of the tree in the street scene and the maintenance problems that it created for the residents of Raglan Court.

To clarify the previous discussions, minute number 55 of the Regulatory Board meeting on 22 November 2011 was read to the Board.

Members recognised that a Cherry Tree was not a suitable replacement for the existing tree and that should permission be granted to fell the tree a more native species would be a suitable replacement.

A Member expressed concern that the Tree Preservation Order had been placed on the tree to allow the tree to be felled and the replacement controlled.

Members acknowledged, however, that the tree was a healthy specimen and that the recommendation of the Planning Officer was that the application be refused for this reason and because of its contribution to the amenity of the area and because the proposed replacement was not suitable.

Members debated whether a deferral of the application pending further negotiations surrounding the species of a replacement tree was acceptable.

It was proposed that the application be deferred pending further negotiation surrounding a replacement tree. The proposal was subsequently lost.

Members voted on the original motion that the application be refused, this was approved.

RESOLVED: That application K7886/15 –Felling of 1No. Lime Tree (TPO.G120) and planting of 1No. replacement Cherry Tree be refused for the following reason:

- i The Lime tree is a large, healthy and mature native specimen with good form and vigour and is clearly visible from both Gordon Road and Bury Road. The tree is a prominent feature in the streetscene and it makes a significant positive contribution to the visual amenity of the locality. Its removal would, therefore, have a significant harmful impact on the character and appearance of the Bury Road Conservation Area and the wider amenities of the area. The problems identified by the applicant can be overcome through appropriate and sympathetic tree management and the felling of the tree is, therefore, considered excessive, unnecessary and unacceptable. The provision of a replacement, non-native, flowering Cherry tree, would not adequately compensate for the loss of this large, healthy and significant native specimen and the proposal is, therefore, contrary to Policy R/DP1 of the Gosport Borough Local Plan Review.

The meeting commenced at 6.00pm and concluded at 9.51pm.

CHAIRMAN