

**A MEETING OF THE REGULATORY BOARD
WAS HELD ON 18 JANUARY 2011**

The Mayor (Councillor Allen) (ex-officio), Chairman of the P & O Board (Councillor Hook) (ex-officio); Councillor Ms Ballard (P), Carter CR (Chairman) (P), Edwards, Geddes (P) Henshaw (P), Hylands (P), Langdon (P), Ronayne (P), Scard (P), and Wright (P).

131 APOLOGIES

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

132 DECLARATIONS OF INTEREST

Councillor Wright declared a Personal and Prejudicial interest in item K16086/2 – 7 Ellachie Mews

133 MINUTES

RESOLVED: That the Minutes of the Regulatory Board meeting held on 7 December 2010 be approved and signed by the Chairman as a true and correct record, subject to paragraph 11 of minute number 119 being amended to read:

‘ Councillor Forder stated that he was disappointed that Dr North had raised the issue with planning officers on at least 10 occasions and that it had taken such a length of time to resolve. He noted that the delay was not to be attributed to the planning officers attending the meeting and that they had done their best to resolve the situation.’

134 DEPUTATIONS

Deputations were received on items

- K464/2 – 91 Oval Gardens
- K2826/1 – 149 Rowner Lane

135 PUBLIC QUESTIONS

No public questions had been received.

PART II

136 HISTORIC BUILDINGS GRANT OFFER – 3 FERROL ROAD, GOSPORT

Members considered the report of the Borough Solicitor for an application for grant aid under Section 57 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the repair and restoration of a slate roof.

RESOLVED: That an offer be made of £1035.00 (or 15% of the final cost, whichever is the lesser sum) for the restoration of a slate roof at 3 Ferrol Road, Gosport.

137 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:

138 K16086/2 - APPLICATION TO REMOVE CONDITION 9 OF K16086/1 RELATING TO OBSCURE GLAZING OF WINDOW ON THE NORTH WEST ELEVATION (CONSERVATION AREA) 7 Ellachie Mews Gosport Hampshire PO12 2DR

Councillor Wright declared a Personal and Prejudicial interest in the item, left the room and took no part in the discussion or voting thereon.

Members attended a site visit and viewed the application property at ground floor and first floor level and noted the landing floor level in relation to the top of the window, the subject of the application. Members also visited number 3 Ellachie Road and noted the relationship between the properties.

Members were advised that the report set out the background to the matter and explained why there was an unacceptable delay in investigating the complaint.

Members advised that, following their visit to the site, they acknowledged that it was difficult to obtain a vantage point to view out of the window and to do so it was necessary to bend down.

Members acknowledged that it had taken a long time to resolve the issue, but were satisfied that overlooking from the window was minimal and not harmful.

RESOLVED: That application K16086/2 – removal of condition 9 of K16086/1 relating to obscure glazing of window on the north west elevation (Conservation Area) be approved

- 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 proposal is acceptable in this location and as such complies with Policies Plan and Policies R/DP1, R/BH1, R/T11 and R/OS8 of the Gosport Borough Local Plan Review.

139 K464/2 - OUTLINE APPLICATION - DEMOLITION OF EXISTING DWELLING AND ERECTION OF RESIDENTIAL CARE HOME (18NO. RESIDENTS) (as amended by plans received 08.11.10) 91 Oval Gardens Gosport Hampshire PO12 2RD

Members were advised that there was an error in the description in the second paragraph of the report as it stated there were no windows to the north elevation of no. 90 Oval Gardens. There was in fact a single window; however, taking into account current outlook from the window, separation distances, and its position on the north elevation, it was not considered there would be any additional harmful impact on the occupier of this property over and above that already considered in the report.

Two additional letters of representation had been received. One raised no new issues. The other raised a concern about the annotation on the plan which stated there was a 2.5m high fence on the west elevation. The representation suggested it was 1.8m. It was clarified that the difference in height was as a result of the land level change and would result in no additional harm to residents.

Members were advised that the unilateral undertaking had not been completed as the payment of a commuted sum towards transport contributions and a Traffic Regulation Order had not been agreed. It was requested that, to reflect this, an additional reason for refusal be added to the recommendation.

Mr Taylor was invited to address the Board; he distributed plans of the site, a copy of which was given to Mr Tutton, the agent for the applicant.

Mr Taylor advised the Board that he resided at 32 Oval Gardens, directly opposite the application site. He advised that he was directly affected by the proposal although the views he was presenting were not necessarily his, but representative of local residents and objectors.

Mr Taylor advised that the proposed building in itself was five and a half times larger than the existing bungalow on site and its style would be at odds with the surrounding houses. The Conservation and Design team had confirmed that the size, design and mass of the proposed building was totally inappropriate for the site and should not be allowed and that the proposal was contrary to Planning Policy R/DP1.

The Board were advised that the size and location of the proposed building would totally dominate the surrounding properties. In particular, 90 Oval Gardens would be completely dwarfed by the proposal.

Mr Taylor expressed concern with regard to the limited parking facilities and road safety issues surrounding the site. The proposal included provision for 7 tightly packed car parking spaces and concern was expressed that elderly visitors to the site would not use the spaces provided, but would park on the road, regardless of any Traffic Regulation Orders in place. Mr Taylor advised that this information had been ascertained from the managers of other care homes.

Concern was expressed that deliveries would primarily be made to the applicant's property in Privett Road, but Mr Taylor anticipated that the sheer

number of them would lead to large delivery lorries being unable to use the car park and blocking Oval Gardens as a result.

The Board were advised that the application site was on a double blind 'S' bend, existing site lines were poor and this would be further compromised by lorries parking on them.

Mr Taylor concluded by advising the Board that a petition of objection had been submitted and that it contained 140 signatures. In addition to this, 93 letters of objection had been submitted.

He requested that the views of the local population be heard and that, in line with the officer's recommendation, the application be refused.

Mr Tutton was invited to address the Board. He advised that he was the agent for the applicant and was speaking in favour of its approval.

The Board were advised that the proposal site was located close to Privett Road which supported two local bus routes. The surrounding area comprised bungalows and 2 storey properties with large, often 2 storey, extensions.

He advised that the application was for two and a half storey building which would provide specialist care for the elderly. It would be no closer to 109 Privett Road than the existing building, 3m distance from 90 Oval Gardens, and between 42 and 45 away from the rear of numbers 3 and 5 Charlesbury Avenue. This exceeded the 28m required between habitable rooms.

The Board were advised that first and second floor windows on the north of the proposal would be fixed shut and obscure glazed.

Members were advised that the unilateral undertaking had not yet been completed as there were ongoing concerns with regard to the figures required for the Traffic Regulation Order and transport contributions. Mr Tutton concluded by requesting that the Board approve the application and allow an additional six weeks for negotiations to be undertaken in relation to the outstanding issues.

Councillor Mrs Forder, ward Councillor for Privett, was invited to address the Board.

She advised the Board that the proposal had caused considerable anxiety for her constituents, who took pride in the area they lived in. She advised that she supported Mr Taylor in his deputation and that the concerns of officers were valid.

Councillor Mrs Forder advised that she accepted that there was a need for provision of care for the elderly and that a care home would create jobs. However, this proposal was for an entirely inappropriate location.

The report of the planning officers concluded that the proposal would be

overbearing in terms of mass and scale and was inappropriate for the area. It would dominate the surrounding buildings and would inevitably block out the sunlight to other properties.

Councillor Mrs Forder also expressed concern that the proposal provided very little outdoor space and felt that good grounds to a care home were a key element of good care for the elderly.

Councillor Jacobs, ward Councillor for Privett, was invited to address the Board. He advised that he agreed with Mr Taylor and Councillor Mrs Forder, but added that he felt the proposal was garden grabbing and unacceptable.

Members were concerned that the proposal would dominate the site, that the proposal was too large and sited on a dangerous bend in the road. Concern was also expressed that the provision of 7 car parking spaces was insufficient for the site.

Members felt that good grounds were essential for care homes for the elderly and that the proposal would be an overdevelopment of the site.

RESOLVED:

a) That application K464/2 – 91 Oval Gardens, Gosport be refused for the following reasons

- i The proposed development, by reason of its siting, massing, depth and contrived plot layout is too large and bulky for this prominent location and would result in an undesirable form of development that is out of keeping with the established pattern of development in the locality, detrimental to the character of the area and resulting in the significant erosion of garden land, contrary to Planning Policy Statement 3 (PPS 3) Housing and Policy R/DP1 of the Gosport Borough Local Plan Review.
- ii By reason of its setting and excessive scale, mass, height, width, unbroken ridgeline, design features of the facade, proximity of the building to the site boundaries, and limited opportunity to adequately landscape the building, the proposed building is a contrived design of a poor quality which will form a incongruous feature in the streetscene and be significantly harmful to the appearance of the area contrary to Policy R/DP1 of the Gosport Borough Local Plan Review.
- iii By reason of the combination of the cramped site arrangements together with the limited usable onsite amenity space and poor outlook from a number of the bedrooms, it is considered that the development is inappropriate in this location and would provide a poor quality of residential amenity for intended occupiers. The proposal is therefore contrary to Policies R/DP1 and R/H8 of the Gosport Borough Local Plan Review.

And for the additional reason

- iv The proposed development does not make adequate provision for transport infrastructure, services and facilities, nor provide a contribution for the making of a Traffic Regulation Order on the bend adjoining the site, in order to prevent parking outside of the premises and to protect visibility in the interests of highway safety, contrary to Policies R/DP3, R/T4 and R/T10 of the Gosport Borough Local Plan Review.

**140 K16416/38 - PROVISION OF 6NO. PLANTERS (CONSERVATION AREA)
Royal Clarence Yard Weevil Lane Gosport Hampshire**

This item was withdrawn from the agenda.

**141 K12826/1 - CHANGE OF USE FROM PHOTOGRAPHIC STUDIO TO HOT FOOD TAKEAWAY (CLASS A5) AND ERECTION OF EXTERNAL EXTRACTION FLUE
149 Rowner Lane Gosport Hampshire**

Members were advised that condition three of the report be amended so that Bank Holiday opening hours were to be the same as the opening hours on a Sunday.

Mr Tutton was invited to address the Board. He advised that he was the agent for the applicant for the proposal. Mr Tutton advised that he had distributed an email to the Members of the Regulatory Board outlining further details of the proposal, but would like to emphasise three key points.

The proposal was for the change of use of retail unit in a neighbourhood shopping centre of 8 units. The proposed extraction flue to be installed would be stainless steel but coloured red/brown to match the existing brickwork.

The Board were advised that Policy R/S4 of the Gosport Borough Local Plan Review indicates that proposals for a change of use from A1 retail to A2, A3, A4 or A5 will be permitted provided, *inter alia*, that '*...not more than 40 per cent of the commercial units within the retail area..*' would comprise non-A1 uses. At present, 62.5% of the units within the parade are A1 uses, 25% are A5 and 12.5% are B1 ie the proportion of *non-A1* uses is 37.5%. Conversion of No.149 to an A5 hot-food takeaway would not change the proportion of non-A1 uses in this parade, as it would *remain* within the 40% guideline set by GBLPR Policy R/S4.

Councillor Murphy, ward Councillor for Rowner and Holbrook was invited to address the Board. He advised that he accepted that the proposal fell within the Gosport Borough Local Plan Review, but felt that the area was being saturated with hot food takeaways.

Councillor Murphy accepted that the proposal included the provision of additional litter bins, but advised that they were seldom used and that it was often local residents that cleared up litter.

The Board were advised that, in addition to the two takeaways already in existence, the bakery and newsagent, although A1 uses, also sold food.

In response to a Members request seeking clarity as to whether the sale of food within the A1 units contributed towards the non retail percentage. Officers advised that as the larger proportion of the floorspace and business activity remained as A1 and the sale of food was only ancillary in these instances, these units remained as A1 and did not contribute towards the non-A1 frontage.

It was acknowledged that the unit was currently vacant.

Members acknowledged that there were a large number of takeaways in the Rowner and Holbrook area, but recognised that this was not a planning consideration.

Members were advised that a review of the relevant polices could be undertaken into the mix of uses in shopping areas.

Members acknowledged that it was a difficult decision and recognised Councillor Murphy's concerns, but accepted that there was no planning reason to refuse the application.

RESOLVED: That application K12826/1 – 149 Rowner Lane, Gosport, be approved subject to the conditions set out in the report of the Borough Solicitor for the reasons below:

- 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 and will not prejudice the retail function of the Neighbourhood Shopping Centre. The proposal will not harm the amenities of neighbouring occupiers through noise or smell generation, the visual amenity of the area, parking or traffic conditions in the locality, or highway and pedestrian safety. As such, it complies with Policies R/DP1, R/S4, R/ENV10 and R/T11 of the Gosport Borough Local Plan Review.
- ii That condition three of the report be amended to read

The takeaway use hereby permitted shall not be open to customers other than between the hours of 11.30am and 22.30pm Monday to Thursdays, 11.30am and 23.00pm on Fridays and Saturdays and 11.30am and 9.00pm on Sundays and Bank Holidays.

Reason - To protect the amenities of the occupiers of the neighbouring properties and to comply with Policies R/DP1 and R/ENV10 of the Gosport Borough Local Plan Review.

142 K17160/2 - ERECTION OF TWO STOREY BLOCK OF 2NO FLATS WITH ASSOCIATED BIN AND CYCLE STORES (CONSERVATION

**AREA) (AMENDED APPLICATION TO K17160/1)
Land Rear Of 121 - 127 Stoke Road Gosport Hampshire**

Members were advised, for clarification, that the representee had requested that an Archaeological Watching Brief condition be included. However, taking into consideration the Inspector's previous decision and former use of the site, it was not considered appropriate to include one.

RESOLVED: That application K17160/2 – Land to the rear of 121-127 Stoke Road, Gosport be approved subject to the payment of a commuted sum towards transport infrastructure, services and facilities and the payment of a commuted sum towards the provision and/or improvement of outdoor playing space and subject to the conditions set out in the report of the Borough Solicitor for the reasons below:

- 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 proposal would enhance the character and appearance of the Stoke Road Conservation Area and would not be harmful to the visual amenities of the surrounding area, the amenities of existing or prospective occupiers, or traffic/parking conditions in the locality, or the operation of the existing shop units facing Stoke Road. The proposal also makes adequate provision for transport infrastructure services and facilities and outdoor playing space and for dealing with possible contamination. As such, the proposal complies with Policies R/DP1, R/BH1, R/S3, R/S6, R/OS8, R/T4, R/T11, RENV5, R/ENV10 and R/ENV12 of the Gosport Borough Local Plan Review.

**143 K6907/1 – CONVERSION OF LINK-DETACHED HOUSE INTO 2NO.
TWO BEDROOM DWELLINGS (CONSERVATION AREA)
53 Anglesey Arms Road Gosport Hampshire PO12 2DG**

RESOLVED: That application K6907/1 – 53 Anglesey Arms Road, Gosport be approved subject to the payment of a commuted sum towards the provision and/or improvement of outdoor playing space and subject to the payment of a commuted sum towards transport infrastructure, services and facilities and subject to the conditions set out in the report of the Borough Solicitor for the following reason:

- 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 of an acceptable density and appropriate design, and will enhance the character and appearance of the Conservation Area. It will not have a detrimental impact on the amenities of adjoining and prospective residents or highway safety. Adequate provision is made for transport infrastructure, car and cycle parking, refuse storage and open space. As such the proposal complies with Policies R/DP1, R/DP3, R/BH1, R/H4, R/T4, R/T11 and R/OS8 of the Gosport Borough Local Plan Review.

144 K17892 - CHANGE OF USE AND CONVERSION OF 2NO. CARE HOMES (USE CLASS C2) TO PROVIDE 3 NO. DWELLINGS (USE CLASS C3) AND ASSOCIATED CAR PARKING AND LANDSCAPING 63A & B The Avenue Gosport Hampshire PO12 2JX

RESOLVED: That application K17892, - 63A and B The Avenue Gosport be approved subject to the conditions set out in the report of the Borough Solicitor for the following reason:

- i That having due regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 and all other material considerations, the proposed development is acceptable in design terms and will not impact harmfully on the adjacent Locally Listed building. Levels of car parking provision are satisfactory and there will be no harmful impact on the amenities of neighbouring residential properties. It has been demonstrated that the payment of an Open Space contribution is not appropriate and therefore the proposal complies with Policies R/DP1, R/BH5, R/H4, R/T11 and R/OS8 of the Gosport Borough Local Plan Review.

**145 K14302/7 - ERECTION OF 3NO. DETACHED DWELLINGS WITH INTEGRAL GARAGES
Land North Of 47 Monckton Road Gosport Hampshire PO12 2BG**

Members welcomed the development.

RESOLVED: That application K14302/7 – Land North of 47 Monckton Road, Gosport be approved subject the payment of a commuted sum towards transport infrastructure services and facilities and subject to the payment of a commuted sum towards the provision and or/improvements of outdoor playing space and subject to the conditions set out in the report of the Borough Solicitor for the following reason:

- 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 and will not have any detrimental impact on the character or visual amenities of the area, adjoining and prospective residents, nature conservation or highway safety. Any archaeological evidence will be monitored and recorded. Adequate provision is made for open space, transport infrastructure, car and cycle parking and refuse storage. As such the proposal complies with Policies R/DP1, R/DP3, R/H4, R/T4, R/T11, R/BH8, R/OS8 and R/OS13 of the Gosport Borough Local Plan Review.

**146 K5941/4 - CHANGE OF USE FROM SHOP (CLASS A1) TO CHIROPODY PRACTICE (CLASS D1) WITH ANCILLARY RETAIL SALES
9 Stokesway Stoke Road Gosport Hampshire**

Members welcomed the proposal and supported the alternative use of retail units.

RESOLVED: That change of use application K5941/4 – 9 Stokesway, Stoke Road, Gosport be approved subject the payment of a commuted sum towards transport infrastructure services and facilities and subject to the conditions set out in the report of the Borough Solicitor for the following reason:

- i That having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and all other material considerations, it is considered that the proposed use would not be harmful to the retail function of the Stoke Road District Shopping Centre, or the amenities of any nearby occupiers, or traffic and parking conditions in the locality. As such, the development complies with Policies R/DP1, R/DP3, R/S3, R/S5, R/CF1, R/T4 and R/T11 of the Gosport Borough Local Plan Review.

147 ANY OTHER ITEMS

There were none.

The meeting commenced at 6.00pm and concluded at 6.55pm.

CHAIRMAN