

**A MEETING OF THE REGULATORY BOARD
WAS HELD ON 16 AUGUST 2011**

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

It was reported that, in accordance with Standing Orders, Councillors Mrs Hook and Ms Ballard had been nominated to replace Councillors Scard and Mrs Bailey respectively for this meeting.

26 APOLOGIES

Apologies for inability to attend the meeting were received from the Mayor and Councillors Mrs Bailey, Geddes and Scard.

27 DECLARATIONS OF INTEREST

There were none.

28 MINUTES

RESOLVED: That the Minutes of the Regulatory Board meeting held on 21 July 2011 be approved and signed by the Chairman as a true and correct record.

29 DEPUTATIONS

Deputations had been received on the following applications

- K865/2 – 7 Solent Way
- K10583/5 – Redclyffe House, 63 The Avenue
- K5221/5 – 18-22 The Avenue
- K11605/6 – No. 2 Battery, Stokes Bay Road

30 PUBLIC QUESTIONS

No public questions had been received.

PART II

31 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:

**32 K865/2 - 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**

Members attended a site visit at 9am on the morning of the meeting. They viewed the application site from 7 and 9 Solent Way.

Mr Hillyer was invited to address the Board. He advised that he resided at 9 Solent Way which had been extended before he purchased it 9 years ago. He advised that the rear gardens of the properties were north facing.

Mr Hillyer distributed a number of photographs and diagrams to Board Members and the applicant.

Mr Hillyer advised that he objected to the physical presence of the proposed extension and the proximity of it to his boundary. He felt that the proposal would be overbearing and oppressive from all aspects and he felt nobody that had visited the site could claim that it would not be oppressive or cause overshadowing.

Mr Hillyer explained to the Board that the loss of sunlight would be for four months of the year; and that he had taken care and trouble to record measurements of sunlight throughout the year and had produced diagrams documenting the effect the proposal would have on his property.

Mr Hillyer advised that his patio had been placed in its current location to enjoy and take best advantage of the existing sunlight and should the proposal be given approval, he would be faced with an oppressive and ugly outlook. He advised that it would be impractical to relocate the furniture as it was heavy and the British climate meant it was impractical to place it on the lawn.

Mr Hillyer advised the Board that he felt the information submitted regarding the potential loss of light to his property was misleading and that the greatest impact would be between the months of April and October, when it was most likely that the patio would be used.

He advised that he felt that the proposed extension would be more acceptable to the western side of 7 Solent Way. He advised that the morning sun to 5 Solent Way would not be affected and that there would be less impact on privacy and the loss of light to 9 Solent Way. Further to this Mr Hillyer advised that if the applicant was to consider these alternative proposals, he would willingly contribute to the additional costs of resubmitting the planning application.

He concluded by advising that a lot of time, effort and money had gone into the construction of the patio at 9 Solent Way and that it been positioned to enjoy the

evening sunlight. He reiterated that the information he had provided was accurate and not misleading and that his neighbours had an alternative option.

In answer to a Member's question he advised that he had recorded shadow measurements over May, June, July and August.

Mr Platts, the applicant, was invited to address the Board. He advised that he had not prepared any documentation for the Board but that the facts were as written in the report. He had nothing to add to the report but felt it was well balanced. Mr Platts also complimented Mr Hillyer on the quality of his hand outs.

Mr Platts sought to advise the Board of the purpose of the proposed extension. He sought to provide an en-suite bathroom to the master bedroom as he was providing facilities to make life easier for himself and his wife as they got older. He explained that there was already a bathroom at the western end of the property and that this was the reason Mr Hillyer's proposed amendments had not been considered.

Mr Platts advised the Board that the properties had been constructed in the 1950's and were all identical, set back and angled; most of the properties had since been extended.

He advised that the proposal was at the rear of the property as it was for an en-suite, a development that would be inappropriate to and alter the character of the property should it be constructed at the front. He advised that the proposal, if approved, would look similar to the existing extension at 9 Solent Way.

Mr Platts advised the Board that the proposal would affect no more than 5% of the light to the rear garden of 9 Solent Way.

He concluded by advising that most of the properties in Solent Way and neighbouring Western Way had been altered and extended in some way, and the most pertinent of these was the extension to 9 Solent Way which was almost identical to that proposed for 7 Solent Way. He reiterated that the report was fair and balanced and that he was happy to answer any questions.

In answer to a Member's question, Mr Platts confirmed that Mr Hillyer's handout included the alternative proposal to relocate the extension to the western end of the property.

Members had appreciated the opportunity to undertake a site visit and accepted that although there would be loss of light to the rear of 9 Solent Way, it would not be a significant enough loss to refuse the application.

Members agreed to approve the application.

RESOLVED: That application K865/2 – 7 Solent Way Gosport, be approved subject to the conditions 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 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.

**33 K10583/5 - 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 Board was advised that two additional letters of representation had been received but that no additional issues had been raised.

It was also requested that, should Members agree with recommendation of the planning officers, that reason for refusal ii be amended to read:

“It has not been demonstrated that the traffic movements associated with the proposed Nursery can be satisfactorily managed. The proposal would therefore result in unacceptable levels of vehicular activity and parking on the surrounding residential roads to the detriment of the amenities of nearby residential properties and be contrary to Policies R/DP1 and R/T11 of the Gosport Borough Local Plan Review.”

Mr Collins was invited to address the Board. He advised that he resided at 92 The Avenue. He advised the Board that he was representing the views of many residents in The Avenue and the surrounding areas.

Mr Collins advised the Board that there were already issues with regard to road safety and parking. The road was often congested, particularly at the drop off and collection times for the Junior School. He advised that the nursery would be open from 7am - 6pm and therefore traffic would be using the site from before and after these times. This would also be exacerbated in the winter and in bad weather.

Particular concern was expressed at the proposal to open on Saturdays as the area was quite often congested with church functions.

Mr Collins advised the Board that he felt that it was unrealistic to expect parents to walk, cycle or car share when dropping their children at nursery as they would be dropping their children off on their way to work.

Mr Collins expressed concern that inconsiderate parking would lead to accessibility issues for the emergency services, he felt that in an area with a large elderly population, this would be a major issue.

Mr Collins advised the Board that there had been a large degree of inconvenience caused by the use of Redclyffe House as a doctor's surgery and that residents had accepted this as the permission granted had been for

temporary consent. Issues that had arisen were concentrated on careless parking, blocking residents' drives and sometimes parking on private drives. Mr Collins advised that residents also had concerns that up to 24 children at a time would be playing outside. It was acknowledged that there was a nearby Junior school, however it was recognised that the times of outdoor play for it were significantly less than those proposed by the nursery.

In addition, it was felt that the noise of children playing would not be therapeutic to local residents and would differ to the noise generated by the Junior School.

It was therefore felt that this would harm the amenity of local residents.

Mr Collins concluded by advising the Board that the potential harm to local residents, should the proposal be approved would far exceed the gain from the development. He supported the decision of the planning officers to recommend that the proposal be refused as it was contrary to planning policy and would have a detrimental impact on the amenity of local residents.

The Board were advised that the applicant, Mr Lay had submitted a written representation and this was read out to the Board (attached in the minute book as Appendix C).

Mr Lay's representation advised that Hampshire County Council, as the Local Highway Authority, had been consulted on the application and had accepted the proposed travel plan. Mr Lay also stated that nurseries operated in residential areas throughout the country without adverse effect and that child care would generate employment and enabled the parents of young children to remain commercially active and that the application was consistent with Government planning guidance in the draft National Planning Policy Framework in terms of Economic Development and sustainability.

Councillor Hook, Ward Councillor for Alverstoke, was invited to address the Board and congratulated Mr Collins on his presentation.

Councillor Hook advised the Board that residents of The Avenue had incurred 5 years of inconvenience as a result of the doctor's surgery being located at Redclyffe House and reiterated that residents had been reluctant to complain as the consent granted had been temporary. The prior use of the site had been as a residential home for 23 residents which had generated significantly less disturbance.

Councillor Hook advised the Board that the application would generate traffic to and from the site 6 days a week from at least 7am to 6pm and would accommodate 86 children, with up to 24 of them outdoors at any one time. He also advised that the application stated that the proposal would create 18 Full Time Equivalent jobs and that this could in fact be 36 members of staff. He expressed concern at where the staff would park their cars as there were only 9 parking spaces, one of which was reserved for the manager.

Councillor Hook advised the Board that it was commonplace when parents dropped their children off at school or nurseries to park irresponsibly; this was frequently seen at schools with cars parked on yellow hatchings.

The Board were advised that the travel plan was a voluntary measure and would be hard to implement, it was reiterated that parents would be unlikely to walk, cycle or car share as they would be on their way to work – their reason for using the nursery in the first place.

Councillor Hook advised the Board that the noise of 24 children playing outdoors would be detrimental to the amenity of the local residents as it would disrupt the peaceful environment, he felt that this and the parking issues the proposals would create were contrary to policy R/DP1 of the Gosport Borough Local Plan Review and were enough reason to refuse the application.

Councillor Hook concluded by advising the Board that the Council were keen to bring employment to the area but that there were planning guidelines that needed to be followed.

In answer to a Member's question, Councillor Hook advised the Board that the nearest bus stop was a significant distance from the proposed site and that a two year old would not be able to walk the distance from it to the proposed nursery.

Members acknowledged the importance of the maintenance of the building, but felt that the proposed use would have a detrimental impact on local residents. Members also recognised the disruption to local residents when the site was previously used as a doctor's surgery.

Members agreed that the application should be refused

RESOLVED: That application K10583/5, Redclyffe House, 63 The Avenue Gosport be refused subject to the amendment of reason for refusal ii as detailed below, for the following reasons.

- i. 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.
- ii. It has not been demonstrated that the traffic movements associated with the proposed Nursery can be satisfactorily managed. The proposal would therefore result in unacceptable levels of vehicular activity and parking on the surrounding residential roads to the detriment of the

amenities of nearby residential properties and be contrary to Policies R/DP1 and R/T11 of the Gosport Borough Local Plan Review

**34 K5221/5 - 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 Board were advised of the following updates to the report, that;

- the boundary treatment to the southern side of the southern access road is a 2m close boarded fence as opposed to a 2m high brick wall
- paragraph 2 of Principal Issues section, stated that not less than 40% of the units are in non-A1 use. This should read that, 'not more than 40% of the units are in non-A1 use'; and
- paragraph 5 of the Principal Issues section referred to the District Centre – this should read Neighbourhood Centre.

And for clarification, that;

- access to the bin store may be via the fire exit on the rear elevation. The fire exit would be conditioned to open inwards which would ensure that no passing pedestrians would be at risk from being knocked over
- the bin store would only be accessible from the outside and therefore people using it could control the opening of the doors to avoid collision with passing pedestrians; and
- Environmental Health regulations control the type of bin stores provided at food premises. They have confirmed that the bin store proposed would comply with these regulations. The applicant would arrange for a waste contractor to collect the waste.

Mr Donnithorne was invited to address the Board. He advised that he resided at 3 The Avenue.

He advised the Board that he felt that the presence of shops was important for the local area, but that the proposals for a fast food restaurant were a different matter.

Mr Donnithorne advised the Board the objectors had not suggested that The Avenue be made a cul de sac but that there no longer be access to The Avenue from the Neighbourhood Shopping Centre. Mr Donnithorne also advised that it was untrue to say that the unit had been vacant for nine years as rent had been paid and financial services provided from the unit until a year ago. He felt that it was misleading to suggest that this was a last chance for the unit to be brought into use and that he was sure there would be interest in continued use as an A1 premises if the rent demanded was at the going rate.

Mr Donnithorne advised that in his experience, from the arrival of Dominoes Pizza at the site, the proposal would generate litter, vandalism, noise, smells and disturbance and that he found it difficult to believe that there would be no additional traffic or unpleasant smells.

The Board were advised that the surrounding residential area comprised residents with families and that they would be disturbed by the presence of another takeaway opening until 22:30. Mr Donnithorne advised that he felt as the application for Redclyffe House, located 400 yards away had been refused as it would be detrimental to the amenity of local residents and would create parking problems, that this application should also be refused.

Mr Donnithorne requested that the Board undertake a site visit to consider the local residents' concerns and issues.

In answer to a Member's question, Mr Donnithorne advised that he felt the officer's report was contradictory in places.

Mr Donnithorne also advised that an ATM cash point facility had been available on the site and rent paid to the landlord for the last eight years.

Mr Viney was invited to address the Board. He advised that there were currently cars arriving and departing late at night, they would create 'wheel spin' noise and play stereos loudly creating disturbance. He felt that this would increase with the presence of another take away open until 22:30.

In answer to a Member's question, Mr Viney advised that the residents would be more comfortable should the proposal be for a restaurant or tea room.

Mr Donnithorne advised that there had been a reduction in the amount of visitors to the parade since the removal of the ATM but not by a large amount. He advised that he could not comment on the activity at night as he had been forced to sleep in a room at the rear of his property due to the noise created by Dominoes.

Mr Gallop, the applicant, was invited to address the Board. He advised that throughout the process he had been in contact with the planning officers and that the plans had been re-submitted to address the concerns of the local residents. He advised that there had been no objection from the local Highway Authority and the unit had not been in use to the public for a number of years.

The Board were advised that the bin store would be covered and concealed and that there would be no odour or noise from the extractor fan as it was fitted with a DEFRA standard neutraliser and silencer. Mr Gallop advised that his premises had used these in the past and that they had produced excellent results.

He advised that the frontage of the shop would be entirely glazed in line with the other premises in the Parade and that the potential for noise and anti-social behaviour was much less than Dominoes created. The Board were advised that the target market for the proposed premises was not youths.

Mr Gallop advised that it was normal practice for his staff to undertake hourly monitoring of the outside frontage of premises to check for and clear up any litter. He confirmed that this would be the case at this site, should the application be approved.

In answer to a Member's question, Mr Gallop advised that there would be 20 seats and 10 tables in the restaurant section of the unit and confirmed that the premises would not be licensed.

Mr Gallop also confirmed that the extractor fan would extend above the top of the roof of the dental surgery.

The Board were advised that parking for the site had been considered, particularly as there were proposals for the restaurant element. It was felt that given the nature of the proposed application, a large number of customers would walk to use it, particularly as it was located on a central borough route.

Members were advised that conditions placed on any application must be enforceable. It would therefore be difficult to place a condition on the application to enforce litter management.

Members agreed to approve the application.

RESOLVED: That application K5221/5 – 18 – 22 The Avenue, Gosport be approved subject to the conditions in the report of the Borough Solicitor for the following reasons.

- i. That 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.

**35 K11605/6 - 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**

Councillor Edgar, Ward Councillor for Alverstoke, was invited to address the Board. He advised that he supported the views of the majority of residents in Alverstoke and felt the proposed works would enhance the facility and would not harm the character of the local area.

Members recognised the work that had been undertaken by the Historical Diving Society and how it had enhanced the facility.

RESOLVED: That application K11605/6 – No 2 Battery, Stokes Bay Road, Gosport be approved subject to the conditions 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 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.

The meeting commenced at 6.00pm and concluded at 7.27pm.

CHAIRMAN