

**A MEETING OF THE REGULATORY BOARD
WAS HELD ON 12 APRIL 2017 AT 6PM**

Subject to approval

The Mayor (Councillor Mrs Hook)(ex-officio); Councillor Hook (ex-officio), Councillors Allen (P), Mrs Batty, Beavis (P), Bergin, Carter (P), Ms Diffey (P), Earle (P), Farr, Foster-Reed, Hicks (P), Jessop (P), Raffaelli (P), Ronayne (P), Wright (P)

107. APOLOGIES

Apologies for inability to attend the meeting were received from The Mayor and Councillors Bergin and Farr.

108. DECLARATIONS OF INTEREST

- In respect of item 1 of the grey pages of the report of the Head of Planning Services, Councillor Ronayne stated that he was the Ward Councillor but that he did not consider this to be prejudicial to his ability to determine the application.
- In respect of item 2 of the grey pages of the report of the Head of Planning Services, Councillor Carter advised that he knew the deputation speakers and therefore would not take part in the discussion or vote.
- In respect of items 3 and 4 of the grey pages of the report of the Head of Planning Services, Councillor Raffaelli advised that he was the Ward Councillor and lived just around the corner from the proposed development but that he did not consider this to affect his judgement in determining the application.
- In respect of item 5 of the grey pages of the report of the Head of Planning Services, Councillor Mrs Cully stated that she was the Ward Councillor but that she did not consider this to affect her judgement in determining the application.

109. MINUTES

RESOLVED: That the Minutes of the Regulatory Board meeting held on 1 March 2017 be approved and signed by the Chairman as a true and correct record.

110. DEPUTATIONS

Deputations had been received on the following items:

- Item 1 of the grey pages 16/00423/FULL – Unit B1, Granary and Bakery, Weevil Lane
- Item 2 of the grey pages 16/00593/FULL – Finsbury Cars, Privett Road, Gosport
- Item 5 of the grey pages 17/00053/FULL – 100 Park Road, Gosport

111. PUBLIC QUESTION

There were no public questions

PART II

112. REPORTS OF THE HEAD OF PLANNING SERVICES

The Head of Planning Services submitted a report on applications received for planning consent setting out the recommendation.

RESOLVED: That a decision be taken on each application for planning consent as detailed below:

**113. 16/00423/FULL – RETENTION OF AND FURTHER WORKS FOR THE ERECTION OF FREE STANDING TABLES AND CHAIRS (ADJACENT TO LISTED BUILDING IN A CONSERVATION AREA) (as amended by plan received 08.02.17)
Unit B1, Granary and Bakery, Weevil Lane, Gosport, Hampshire, PO12 1FX**

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 16/00423/FULL.

Mrs Philippa Dickinson was invited to address the Board.

Members were advised by the Deputy Head of Planning Services that an email had been received on the 6th April 2017 relating to correspondence between the applicant and the Fire Officer Steve Elkins which detailed the potential fire hazards posed by the tables and chairs to the premises and the residential flats above.

Mrs Dickinson advised that she had lived in the Bakery on the third floor since 2009. She referred Members of the Board to photographs that she had circulated.

Mrs Dickinson stated that when looking at the application at the November Regulatory Board meeting it seemed that, in the desire to support the applicant in his new commercial enterprise, which was something that residents supported, the concerns of the residents living close to or above the restaurant about the permanent nature of the exterior furniture were getting a bit lost. It was these concerns that she wanted to address.

Mrs Dickinson advised that it had been hoped that since November that there would have been a serious attempt to reach a compromise proposal which would address residents' concerns. As there had only been a tiny reduction in the number of tables spread over the same footprint, however, all of the concerns remained.

Mrs Dickinson stated that the main concerns focused on:

- Noise and nuisance
- Smokers and now a barbecue
- Fire Risks
- Blocking the boardwalk
- Quality of materials and construction
- More and more items being added without planning permission.

Mrs Dickinson advised Members that it was great to finally have the waterfront buzzing as people enjoyed the spring sunshine over the last two weekends outside all three establishments on the waterfront, and stated that sunny days were not the problem; it was the rest of the year when no one was going to want to sit outside and the orange furniture just sitting there, unused, an invitation for mischief and anti-social behaviour.

Mrs Dickinson advised the Board that at a Licensing Board hearing on the 26 October 2016 the applicant made a number of firm verbal undertakings that smokers would not be permitted to smoke at the benches immediately outside the Bakery. Mrs Dickinson stated that unfortunately, it seemed that the applicant had been either unwilling or unable to prevent customers popping out of the restaurant and smoking underneath residential windows.

Mrs Dickinson further advised that there was no signage on the tables to indicate that this was a no smoking area. In fact, cigarette receptacles were attached here and now there was a barbecue.

Mrs Dickinson advised that following a point raised at the November Regulatory Board meeting with respect to exterior furniture located outside restaurants at Gunwharf Quays, she had taken the time to visit and stated that every restaurant below residential apartments had a solid, fixed metal glass veranda or some other solid, physical barrier which served both to protect the outside tables from rain and crucially protected the apartments above from noise and cigarette smoke.

Mrs Dickinson further advised that the apartments at Gunwharf Quays were all modern with double-glazed windows and that the only restaurants which did not have these physical barriers were sited below offices or other non-residential units.

Mrs Dickinson further added that the only listed building at Gunwharf Quays was the Old Customs House and that the exterior furniture outside was in a sunken area, allowing a mostly unimpeded view of the frontage. Furthermore, Mrs Dickinson advised that Gunwharf Quays had site-wide CCTV, proper lighting and overnight security which Royal Clarence Yard did not have.

Mrs Dickinson advised the Board that the Bakery apartments were not permitted double glazing due to listed building constraints and that for the apartments overlooking The Victualler restaurant, their living and bedroom windows were their only source of ventilation and that they needed to be able to have their windows open on warm days. Mrs Dickinson felt that it was not fair to them to have barbecue and cigarette smoke entering their apartments through the windows.

Mrs Dickinson advised the Board that Fire Officers' concerns that were raised at the last Regulatory Board meeting continued and were shared by the residents.

Mrs Dickinson felt that with the best will in the world, the applicant could not control what happened on the furniture outside of business hours.

Mrs Dickinson further advised the Board that other very real concerns were the continuing and continuous construction and additions all without planning permission and since then, added cycle racks, strip lighting, planters, signage and now an outside bar and barbecue area which extended beyond the plan submitted with the application and was placed directly under residential windows.

In conclusion Mrs Dickinson stated that the resident's preference was for temporary furniture on both patios stacked and brought into the restaurant overnight. She further added that whatever was decided regarding the existing furniture, a firm condition should be imposed that stated no smoking was permitted in the patio area underneath residential buildings and signs be placed on tables in this area.

Mr Bartrip was invited to address the Board. He referred Members to photographs which had been circulated and demonstrated the volume of people visiting his premises, the nature of this clientele and the usage of the outdoor furniture.

Mr Bartrip advised Members that he had taken on board previous concerns which had been raised in previous meetings relating to the outdoor furniture and had revised the seating arrangements accordingly. He further advised that the furniture which had been blocking the disabled access to the boardwalk had now been removed and that he felt a 24% reduction of tables decreased the fire risk and created more space between tables and on the patio area.

Mr Bartrip advised the Board that 'No smoking' & 'No climbing' health and safety signage had been placed on the outdoor furniture as requested by Environmental Health Officers.

Mr Bartrip advised the Board that, in response to concerns raised, he had installed a top of the range CCTV system that operated 24 hours a day, seven days a week which monitored the bar and outside areas and was observed at all times. He further added that he employed 10 front of house staff members who were all trained in fire safety.

Mr Bartrip advised that since opening the premises and the furniture being in place no crime and disorder complaints had been reported and no complaints had been raised regarding noise levels.

Mr Bartrip further stated that the outside furniture was crucial to the success of his business venture and brought much needed employment to Gosport.

Following a question from a Member regarding fire concerns, Mr Bartrip advised that unfortunately Mr Elkins was unable to attend the Board meeting however, had met with him on numerous occasions to address concerns and had felt was less concerned due to the changes that had been implemented and had advised that the fire coating of the benches was not necessary. Mr Bartrip stated that it was acknowledged that the furniture was a fire risk but felt that this was manageable as there was no ignition source on site and control measures were in place. Mr Bartrip stated that the Fire Officer had appeared to show less concern when liaising directly with him than was represented in the consultation response in the report of the Head of Planning Services.

Following a question from a Member regarding a barbecue at the premises, Mr Bartrip advised that a barbecue would not be a permanent fixture and only be used on occasions.

A Member queried whether Mr Bartrip had engaged with the Royal Clarence Yard Residents' Association on the question of the furniture. Mr Bartrip stated that was a member of the Association and had engaged with residents on a daily basis. He suggested that those in opposition to the outside furniture were in the minority, with 95% of residents being in favour of the design and raising no issues with the volume of table and chairs.

A Member asked what engagement Mr Bartrip had had with the planning officer since the November meeting of the Regulatory Board. Mr Bartrip responded that he had spoken to the planning officer but been told that the only acceptable solution on planning grounds was for all of the tables and chairs to be removed. He did not consider, therefore, that negotiation over numbers was an option.

A Member asked what investigations had been carried out before the outdoor furniture had been put in place and if he had sought advice on what was permitted on the site. Mr Bartrip advised that planning advice had not been sought because he had been aware that the previous occupier had not made a planning application for his outdoor furniture, and therefore he assumed that planning permission was not required. He had discussed the issue with Berkeley Homes before leasing the boardwalk area from them, and they had advised that planning permission would not be required for tables and chairs. A Member advised Mr Bartrip that the outdoor furniture used by the previous occupier had been stackable and stored in the premises when the business was closed.

A Member advised that she felt that the furniture was substandard and did not enhance in any way a historically listed building. She further added that she felt the applicant had not given due consideration when deciding to erect the wooden seats and that the materials were already splintering and warping.

Mr Bartrip advised that consideration had been given to the materials used for the outdoor furniture and that the theme continued from the inside of the premises through to the outside. Mr Bartrip stated that the design was very subjective and recognised that it would not be pleasing to everyone, however, he thought the design was appropriate. He further added that feedback had been overwhelmingly positive and had been enjoyed by the customers visiting the premises.

In response to a Member's question, Mr Bartrip advised the Board that there would be no requirement to provide public rights of access to the boardwalk area, even if the tables and chairs were removed, as this area was leased to him. In response to this, a Member asked for clarification and the Deputy Head of Planning Services confirmed that, although Planning does not deal with land ownership issues, this area was not part of the public thoroughfare and there was no planning reason why Berkeley Homes could not lease it to a private operator.

In response to a Member's question the Deputy Head of Planning Services advised that fire safety issues were not material planning considerations and that the Hampshire Fire & Rescue Service (HFRS) was always consulted when an application was received. He further added that any fire risk

issues would be dealt with by the HFRS under their statutory powers and not under the planning regime.

Following Members' discussion, concerns were raised regarding the material of the outdoor seating and it was felt that the wooden furniture did not preserve, conserve or enhance the setting of the listed building.

RESOLVED: That planning application 16/00423/FULL be refused for the following reasons:-

1. The development, by virtue of the amount of seating, its location, height, form, finish, degree of permanence and visual impact would cause substantial harm to the setting of the adjacent Grade II* Listed designated heritage asset and fail to preserve the character and appearance of the Royal Clarence Yard Conservation Area, contrary to Policies LP10, LP11 and LP12 of the Gosport Borough Local Plan, 2011-2029.

2. The development, by virtue of the amount of seating, its location and degree of permanence would have a harmful impact upon the amenities of the occupiers of the area and nearby residential properties in terms of noise and disturbance, contrary to Policy LP46 of the Gosport Borough Local Plan, 2011-2029.

114. 16/00593/FULL – CHANGE OF USE FROM CAR SALES TO COMMERCIAL CAR WASHING
Finsbury Cars, Privett Road, Gosport, Hampshire, PO12 2SU

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 16/00593/FULL.

Mrs Bowers was invited to address the Board. She advised Members that she and her husband had lived south of Finsbury Car garage for the past 14 years.

Mrs Bowers advised the Board that she was not objecting to the business use of the site and this had been a long running application for the change of use.

Mrs Bowers stated that her principal concerns related to noise and disturbances which would, if the application were to be approved, affect her family home and those of her neighbours.

Mrs Bowers advised Members that, although a hedge has been proposed along the boundary, the proposed equipment would be against her boundary fence and even with an acoustic screen the noise and vibration would have a detrimental impact on her property 7 days a week. Mrs Bowers further advised that no acoustic noise impact assessment had been carried out.

Mrs Bowers also expressed concerns regarding the overspray coming into her garden, and the drainage of water from the site. Mrs Bowers added that the lowest lying point on the site was a surface water drain and had not been checked.

Mrs Bowers advised Members that there would be significant road safety issues as there were no turning restrictions on the site and there would be an increased risk of collisions. Mr Bowers further advised that traffic would be crossing a footpath and cycle path in order to enter/exit the site.

In conclusion Mrs Bowers advised that there were plenty of car wash facilities in the vicinity and urged Members to accept the Officer's recommendation for refusal.

Mr Cain was invited to address the Board. He advised Members that he was a Planning Consultant speaking on behalf of the applicant and had dealt with many car wash applications and appeals.

Mr Cain advised the Board that he had submitted an email to the Planning Officer on the 4th April 2017 detailing a revised highways plan but it had not been received or considered. He advised that the same thing happened prior to the December Regulatory Board meeting and he had subsequently had to withdraw the application for consideration.

Mr Cain advised that the amended plan addressed concerns relating to the internal stacking capacity within the site. Mr Cain also advised that the aisle width was proposed to be increased to 8 metres on the site.

Mr Cain advised that should Members refuse the application then the applicant would appeal the decision.

Mr Cain advised Members that the Environmental Health Officer had considered that the noise levels were acceptable and could be dealt with by a planning condition. Mr Cain read out an example condition which would allow for noise levels to be monitored after one month of the new use commencing, and which had recently been placed on a planning permission granted on appeal for a car wash

Mr Cain felt that the economic benefits of the proposal had not been afforded sufficient weight in the planning officer's judgement. He further stated that Members could either (1) refuse the application based on the officer's report, (2) defer the application to consider the amended highways plan, (3) refuse the application on noise grounds but delay issuing the decision notice until the highways issue has been resolved or (4) approve the application.

A Member asked Mr Cain for clarification on the email submitted and if he had spoken to the case officer to confirm receipt of the amended plan. Mr Cain advised that he had not contacted the case officer because he sends a huge volume of e-mails every day and cannot be expected to contact every recipient or send read receipts for everyone.

Following discussions, it was proposed and seconded that the application be deferred in order for Officers to consider the proposed highways amendment.

Mr Cain was asked to resubmit the amended plan and provide a copy to the Chairman of the Board

RESOLVED: That planning application 16/00593/FULL be deferred to consider the highways amendment.

**115. 17/00053/FULL – RETENTION OF AND FURTHER WORKS TO A DETACHED GARAGE
 100 Park Road, Gosport, Hampshire, PO12 2HH**

Consideration was given to the report of Head of Planning Services requesting that consideration be given to planning application 17/00053/FULL.

Mrs Jones was invited to address the Board.

Members were advised by the Deputy Head of Planning Services that he had circulated photographs of the site taken that morning which provided a clear picture of the properties and detailed the boundary of 96 and 100 Park Road.

Mrs Jones advised the Board that she lived at 96 Park Road, next door to 100 Park Road.

Mrs Jones advised Members that the original planning application approved the garage with a plain northern elevation, however it had now been built with a glass side door in the Northern elevation, 1.3m from her boundary fence and 4.2m from the rear of her property opening towards the most private area of her garden which was accessed by patio doors from the ground floor lounge.

Mrs Jones advised the Board that her boundary fence was horizontal which allowed light, sound and vision through. Mrs Jones further stated that her plot was 7.5 wide, half the width on no.100 as can be seen in the drawings and photographs circulated to Members.

Mrs Jones advised that she felt that it was reasonable to expect some activity along the boundary. However, given the disproportionate width of the gardens, the location of the side door so close to

her boundary would increase and concentrate activity that would otherwise be spread over the wider area of the garden of no. 100 thus having an additional and negative impact on her privacy.

Mrs Jones advised that when assessing the northern elevation in the original approved planning application the Planning Officer had concluded that 'the proposed garage would not include any windows in the northern elevation. Therefore it is considered that it would have no impact on the outlook, privacy or access to light for the occupants on no.96, thus complying with policy LP10'.

Mrs Jones therefore stated that clearly with regards to impact on privacy, no opening and a plain northern elevation was considered in line with Policy LP10 of the Local Plan. Mrs Jones further went on to advise that when assessing the northern elevation in the retrospective planning application 17/00053, the Officer stated 'it is not considered that the use of the door would have any additional impact on the privacy of the occupants on no. 96 over and above the continued use of the space as part of a residential garden and therefore complied with LP10'.

Mrs Jones stated that this clearly contradicted the assessment of the original planning application to which the garage should have been built and advised that she appreciated that each application was taken on its own merit but that this was the same garage, the only difference was that now the garage had been built the Planning Department was dismissing the impact upon the privacy of an opening in the northern elevation.

Mrs Jones further stated that running a stationary vehicle or using noisy machinery in the garage with the side door open would funnel concentrated levels of noise and fumes directly towards her garden and ground-floor lounge, over and above that which one might reasonably expect from the same activity taking place in an open environment or if there were no door in the north elevation. This would be contrary to Policy LP10.

Mrs Jones stated that the Planning Department disregards LP10 stating that these issues would be dealt with under Environmental Health legislation. She, however, disagreed as the location of the side door and its impact upon neighbouring properties was a planning decision and should the door remain it would have a negative impact that could lead to environmental health disputes in the future.

Mrs Jones advised the Board that other garages in the area did not have side doors opening onto the boundary with the neighbouring property therefore it was out of character with the area. She further stated that a side door of the south elevation as per the original approved application would be at least 10m from boundaries to the south and would not cause harm to any neighbours.

In conclusion, Mrs Jones stated that all of the issues raised would be negated if the north elevation of the garage were to be plain as per the original approved planning application and therefore respectfully requested that should Members approve the retrospective application, that it is with the enforceable condition that the north elevation of the garage is plain without windows or doors.

A Member asked for clarification on what reason was given for the garage door to be moved from the southern elevation to the northern elevation. The Planning Officer advised that there had been no specific request as this was a new application, however the gap at the side of the garage led down to a sideway which, the applicants had chosen to put the door on the north elevation for their own convenience.

A Member therefore proposed that the application be approved but only with the door on the southern elevation.

Following the proposal, the Council's legal officer reminded members that they could only approve the application in front of them and could not amend the proposal.

The Head of Planning Services advised that if Members had concerns regarding the application then a planning condition could be imposed to control the location of the side door.

Following this, Members felt that the applicant should be in attendance in order to address concerns from their neighbours and to have an opportunity to explain why the location of the door had been moved.

It was therefore agreed that the application be deferred to enable the applicant the opportunity to attend.

RESOLVED: That planning application 17/00053/FULL be deferred for negotiations with the applicant

116. 17/00002/FULL – ERECTION OF TWO-STOREY DWELLING FRONTING ANGLESEY ARMS ROAD (LISTED BUILDING IN CONSERVATION AREA) (as amended by Ecology Report dated 03.02.2017 and plans dated 16/03/17) Land Rear of 22 Crescent Road, Gosport, Hampshire, PO12 2DH

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 17/00002/FULL.

Members were advised that a further letter of representation had been received which reiterated points raised in relation to the impact on the existing flats. Members were advised that there was no change to the recommendation.

RESOLVED: That planning application 17/00002/FULL be approved subject to the conditions of the report of the Head of Planning Services.

117. 17/00003/LBA – LISTED BUILDING APPLICATION – ERECTION OF TWO-STOREY DWELLING FRONTING ANGLESEY ARMS ROAD (Conservation Area) (as amended by plans dated 16/3/17) Land Rear of 22 Crescent Road, Gosport, Hampshire, PO12 2DH

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 17/00003/LBA.

Members were advised that a further letter of representation had been received which reiterated points raised in relation to the impact on the existing flats. Members were advised that there was no change to the recommendation.

RESOLVED: That planning application 17/00003/LBA be approved subject to the conditions of the report of the Head of Planning Services.

118. ANY OTHER BUSINESS

The Chairman thanked Members and Officers for their help and support over the past Municipal Year.

The meeting concluded at 19:24

CHAIRMAN