

**A MEETING OF THE REGULATORY BOARD  
WAS HELD ON 30 AUGUST 2017 AT 6PM**

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

It was reported that in accordance with Standing Order 2.3.6, Councillors Scard and Mrs Cully had been nominated to replace Councillor Allen and Wright respectively for this meeting.

**42. APOLOGIES**

Apologies for inability to attend the meeting were received from The Mayor and Councillors Allen, and Wright.

**43. DECLARATIONS OF INTEREST**

Councillors Mrs Cully and Farr declared a non-pecuniary interest in item no 1, Land at Northcott Close

Councillor Mrs Hook declared that she had a pecuniary interest in item number 2 Land at Fareham Road and Heritage Way

Councillors Mrs Hook and Carter declared that they knew both the applicant and the depute for agenda item no 1.

**44. MINUTES**

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

**45. DEPUTATIONS**

Deputations had been received on the following items:

- Item 1 of the grey pages 17/00156/FULL – Land South of Nethernton Road, Gosport
- Item 2 of the grey pages 16/00598/FULL –Land at Junction of Fareham Road & Heritage Way, Gosport PO13 0AF
- Item 4 of the grey pages 16/00576/FULL – Land at Northcott Close
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**46. PUBLIC QUESTIONS**

There were no public questions

**47. 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.

The Board were advised that the Officer recommendation for application 17/00143/FULL had been withdrawn and that the application was to be withdrawn from the agenda and deferred to the next available meeting of the Regulatory Board.

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

**48. 16/00576/FULL - CONSTRUCTION OF 3 BUNGALOWS (DEPARTURE FROM LOCAL PLAN) (as amended by plans, Arboricultural Method Statement and Bat Survey received 01.06.17**

**and further Ecological Technical Note received 27.07.17 and as amplified by email dated 02.08.17)  
Land At Northcott Close Gosport Hampshire**

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 16/00576/FULL.

Mr Perry was invited to address the Board. He advised the Board that he objected to the proposal on a number of grounds.

Mr Perry advised the Board that he felt that there were inadequate site notices, that only one had been positioned in Bury Hall Lane, opposite his property and none had been situated in Northcott Close. He advised that he believe that further site notices should have been erected further east along Bury Hall Lane, as the proposed bungalows would be visible there also. In addition, he advised the Board that he felt there should have been notices in Northcott Close as it would be the residents of the Close that would be most affected by the proposal and questioned whether the residents of Northcott Close had been consulted.

Mr Perry advised the Board that the site notice advised that the proposal would be a departure from the provision of the development plan and that he could find no justification from the documents he had studied to justify non-compliance with the plan in force.

Mr Perry stated that he did not understand why the Local Plan could then be disregarded and set aside and also raised concerns that the proposal had not been submitted for pre application advice.

Mr Perry expressed concern that the proposed vehicular access to the property was on the approach to Bury Hall Lane and as a result vehicles would be traveling at their fastest at the point they met the access. He advised that he felt the only way to alleviate this was to not build the development, similarly he felt that pedestrians would face increased danger.

Mr Perry stated that he felt that the building materials proposed would create a sterile appearance in the short term and would cause serious maintenance issues in the long term from traffic.

Mr Perry advised that he felt the provision of only three car parking spaces would force any visiting cars to park on the road, again in the line of oncoming vehicles travelling at high speeds. He felt that this was unacceptable as a large proportion of visitors were elderly.

Mr Perry advised the Board that shortly after a consultation letter had been received, a large tree overhanging Northcott Close was felled and a stump removed, but that he had been advised that this was as a result of them being diseased. Mr Perry advised that the application submitted did not include the tree and therefore suspected that the tree was felled in anticipation of the application.

Mr Perry sought guarantees that the bungalows would only be used by the local elderly people with no Right to Buy and advised that the design access statement did not acknowledge that there would be no Right to Buy.

Shaun Cully and Adrian Parker, the applicant and agent, were invited to address the Board. Mr Cully advised the Board that the Gosport Borough Council's Tree Officer had advised that the tree would fall in a storm as it was dangerous and advised the Board that the removal was nothing to do with the application.

Mr Cully advised the Board that the site was a living memorial for the armed forces and was paid for through donations and that Gods Port Housing Society were a registered charity under 1893 Charities Act. He advised the Board that the charity was registered with the Care Quality Commission

The Board were advised that the bungalows and flats on site were only for occupancy by the elderly with no Right to Buy; the properties could not be sold as they were a living memorial. Mr Cully advised that priority was given to former armed forces personnel, and that this met the Council's commitment to the Armed Forces Covenant. The Board were also advised that there was a clear need for the properties as there were currently 14 couples on the waiting list for properties and the average wait for a property was six years.

Mr Parker advised that there was an aging population in the Borough that required housing and that the scheme provided sheltered and extra care for elderly people and that the 25 bungalows and 8 flats were well established and allowed elderly people to enjoy company of other like-minded people.

Mr Parker advised that the design of the properties allowed for adaptations to meet residents' needs and reiterated the need for such properties. The Board were advised that the applicant had agreed to pay the mitigation fees for recreational disturbance as part of the Portsmouth Harbour Supplementary Planning Document. The Board were also advised that the Society had been advised in 2013 that the open space was only medium value..

In answer to a Members question, the Board was advised by the agent that the proposal would enhance the area, that a new fence would be installed, and the walkway would allow people to sit, rest and enjoy the peace and quiet.

In answer to a Members question, Mr Cully advised that to mitigate the loss of 25 trees on site with the building of the three properties, the Society were providing additional landscape planting and were happy to pay the mitigation fee in respect of recreational disturbance. This had been discussed and agreed verbally on the telephone and Mr Cully was more than happy to provide this in writing.

In answer to a further question, the Board was advised that the Society's charter was that the properties were for those who were retired and that therefore serving armed forces personnel did not live in them. Mr Cully advised that former Armed Forces personnel were given extra points on any application to live in the properties and that currently 9 ex-service personnel and 4 widows of ex-service personnel lived in the properties. The Society took referrals from services charities, people also applied through word of mouth, churches and the Council.

In answer to a Members question, the Planning Officer advised the Board that in line with the Supplementary Planning Document, the proposal for one parking space per property was acceptable as there was additional parking available in the wider close that could accommodate visitors.

The Board were advised that the publicity was undertaken in accordance with the Council's Statement of Community Involvement and that the closest residents in Northcott Close received notification letters.

Members sought clarity with regard to the open space and were advised by the Planning Officer that the applicant could remove any trees that they wished to, without planning permission, but the plan was to leave a row of trees and open and enhance the currently dense and dark area.

The Planning Officer recognised that there could be benefits from the proposal, however, advised that the application was recommended for refusal as a result of the inadequate justification provided that the replacement open space was of comparable value or an improvement on that which would be lost.

Members felt that the existing space was dark and could not be utilised and that the Local Plan was guidance. Members felt that there was overwhelming justification to approve the application as they felt that the open space that would be lost was not significant as people could currently not use it, or walk along it as it was dark and overgrown and that the application would enhance the area.

Planning Officers advised that the Local Plan contained clear policies that sought to protect open space and that the evidence submitted with the application was not sufficient to justify making an exception to the Local Plan and recommend approval.

Members felt that the properties were in high demand and that there was a clear need for them. It was proposed and agreed that the application be approved, subject to conditions, and that authority be delegated to the Head of Planning Services to attach appropriate conditions to the approval.

**RESOLVED:** That planning application be approved and that authority be delegated to the Head of Planning Services to attach appropriate conditions.

**49. 17/00156/FULL - ERECTION OF A DOUBLE GARAGE (as amended by plan received 23.05.17 and amplified by email received 23.05.17 and letter received 02.08.17)  
Land South Of Netherton Road Gosport Hampshire**

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 17/00156/FULL.

The Board was advised that a site visit had taken place the previous day and that Members had viewed the application site.

The Board was also advised that an addendum to an existing letter of representation had been received reiterating concerns about street parking on Netherton Road and the impact on access for emergency vehicles.

The Board was advised that there was no change to the recommendation.

Mr Chambers was invited to address the Board. He advised that he was representing Mr Grubb, the owner and resident of 19 Avery Lane. He advised the Board that Mr Grubb had, as previous residents of the property before him, enjoyed rear vehicular access to the property for more than the forty years required by section 2 of the Prescription Act 1832 in order to establish a legal easement, in perpetuity and that the proposed access would prevent any such access.

Mr Chambers advised the Board that whilst the Board had no knowledge of any right of way over the land, he proposed that Mr Grubb had a statutory right of way on the form of easements created by both necessity and by prescription.

Mr Chambers advised the Board that the matter was not of Civil Law, but of statute pursuant to the Doctrine of Lost Grant, established by the prescription Act 1832 and further pursuant to Section 62.1 of the Law of Property Act 1925 and that he enjoyed Grandfather rights of vehicular access to the rear of his property and to prevent such access would be in breach of these statutes and that Mr Grubb would seek an injunction from the County Court to prevent such loss of access if necessary.

The Board was advised by Mr Chambers that the approval of the application would also force Mr Grubb to park his large transit van on an already congested Avery Lane which would be to the detriment of pedestrians, particularly school children and to traffic.

Mr Critchley was invited to address the Board. He advised that he was the agent for the application.

Mr Critchley reiterated to the Board that matters of rights of access were civil matters and therefore not considerations for planning applications. He advised that the bulk of the representations against the application referenced the civil matter of access and the condition of the garages close to the application, neither of which were relevant to the consideration of the planning application.

Mr Critchley advised the Board that the land on which the application was proposed was not public land, and that local residents did not therefore have rights across the land.

Mr Critchley advised the Board that the application was the start of a programme of works for all of the garages on site and that rubbish had begun to be cleared from the others. He advised that there

was no power or water to the site of the proposed garage so it could not be used for commercial purposes and that there would be a gate installed at the entrance to the site as added security for the garage leaseholders.

In answer to a Members question, Mr Critchley advised that the residents that had used the rear access for deliveries or vehicular access to the rear of their properties had done so over private land and that the land owners were under no obligation to continue to allow them to do so.

Mr Critchley advised that one metre wide access for pedestrians would be maintained to the rear of the adjacent properties, but that the gates were being installed to provide added security to the garages and to prevent fly tipping. Mr Critchley advised the Board that residents had no right of way and that any challenge to this was a civil matter.

In answer to a Members question, Mr Critchley also advised the Board that the site in question had only recently been purchased by the applicant, the site had remained untouched and undeveloped for a number of years, but the new owner of the site had seen potential in it. He reiterated that the existing garages were to undergo refurbishment with new roofs and doors, and also that residents had no right of access across the land.

Mr Critchley advised the Board that the building of the proposed new garage would be the beginning of a rolling programme of improvements to the garages and that it would generate income to facilitate the renovation of the existing garages.

In answer to a Members question to Planning Officers, the Board was advised that the issue of rights of access in this case was not a planning consideration. The Board was also advised that planning permission could be granted as this was separate from any consideration about access which was dealt with under different laws.

Members expressed concern that amenity would be lost by residents, particularly the elderly, if the rear vehicular access to the site was denied. Members expressed concern that the safety of local residents would also be compromised.

Planning Officers advised the Board that whilst the concern of the residents was appreciated, the application needed to be considered on the basis of material planning considerations and based on what was being presented to the Board in the report. In answer to a Members question, the Board was advised that it would not be appropriate to defer the application to allow members of the public to investigate any private rights of access as these were not a planning consideration and any legal issues were completely separate to the application presented. In addition, any delay would allow the applicants to appeal on the grounds of the non-determination of the application within the prescribed timescale. The Board were also advised that if a private right of access was established prior to the meeting this should still have no bearing consideration of the application.

In answer to a Members question, the Board was advised that any commercial use would require an additional planning application to be submitted for a change of use.

The Board considered the application and accepted that there was no reason in planning law to refuse the application on the basis that the residents would no longer have vehicular access to the rear of their properties.

It was proposed and seconded that the application be refused based on the severe impact on the quality of life that the scale and mass of the development and the loss of the rear access would impact on local residents.

**RESOLVED:** That planning application 17/00156/FULL be refused as the design scale and mass of the proposal would have a detrimental effect on the amenity of neighbouring residents.

**50. 16/00598/FULL EIA - MIXED USE DEVELOPMENT COMPRISING ERECTION OF CLASS A1 RETAIL UNITS; CLASS A3/A5 DRIVE-THRU**

**RESTAURANT UNIT AND A COFFEE SHOP WITH DRIVE-THRU FACILITY TOTALLING 7,215 SQ.M GIA; PROVISION OF 392 CAR PARKING SPACES AND 238 CYCLE SPACES., PROVISION OF OPEN SPACE AND FOOTPATHS; PROVISION OF SPORTS PITCHES WITH CHANGING FACILITIES; PROVISION OF HIGHWAY WORKS AND ACCESS & EGRESS; SERVICE YARD; PARKING; LANDSCAPING; INFRASTRUCTURE; AND ASSOCIATED WORKS AND IMPROVEMENTS (as amended by plans received 25.05.17, 06.07.17 and 08.08.17 and amplified by supplementary retail assessment received 07.07.17, addendum transport assessment received 16.01.17, travel plan framework addendum received 09.03.17, supplementary parking requirements assessment received 24.04.17 and supplementary sports pitch/open space assessment received 15.06.17)**

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 16/00598/FULL.

The Board was advised that there were three updates regarding transport issues, additional letters of representation and an amended recommendation as follows.

The Board was advised that on 17 August 2017 an objection letter to the transport assessment had been received. It was a technical 6 page objection that required a response from Hampshire County Council and was submitted by DPS on behalf of Asda.

The Board was advised that on 22 August 2017 a response was received from the applicant justifying the Transport Assessment conclusions.

The Board was advised that on 29 August 2017 a response from Hampshire County Council Highways confirmed that they had reviewed the objection and confirmed their position that the applicant's transport assessment was robust and the servicing, parking, trip analysis and capacity assessments were all satisfactory.

The Board was advised that on the 30 August a technical objection was received from a local resident on behalf of Gosport Cycling Groups regarding cycle provision and concerns over the safety of junction crossings and suggested improvements to the plan. The letter included concerns about the new junction in Heritage Way which interrupts an existing and busy off road cycling route.

The Board was advised that an additional 67 letters of representation had been received between 22 August 2017 and 5pm on 30<sup>th</sup> August 2017, following a letter drop by the applicant on 18 August 2017.

The Board was advised that 49 were in support of the proposal, highlighting the benefit of the scheme in terms of improved choice of shopping, convenience for residents, jobs, economic benefits to the area, convenience in relation to the sports centre and hotel, visual enhancement of an untidy piece of land and additional sports pitches and dog walking facilities.

Twelve of the letters were objections raising issues including additional traffic, lack of stable infrastructure, highway safety, provision of fast food outlets near schools, impact on a scheduled monument, loss of open space, impact on the town centre and lack of proper jobs.

Six of the letters were general comments identifying some benefits and concerns similar to those listed.

The Board were advised that the recommendation had been amended to remove reason for refusal 2 as the applicant had confirmed that the building would be constructed to DIO

safeguarding requirements.

Mr Mark Harris was invited to address the Board. He advised that he was representing Barton Willmore the agent for the application. He advised that he was accompanied by Mr Sweeney the Managing Director of Millngate and Mr Mitchell the Head of Property at Lidl.

Mr Harris advised the Board that the proposal was for a development on unsightly land; the development would be positive and had attracted national retailers to the site, which would in turn bring £11million clawback spending to the Borough. Mr Harris advised that the applicant was committed to respecting the heritage of Fort Brockhurst and that the site would include new football pitches and open space with new users of the pitches already identified.

Mr Harris advised the Board that in addition to the 300 jobs from the retail units and the additional business rates generated, the construction of the proposal would also generate £400,000 of Community Infrastructure Levy.

Mr Harris advised that he was disappointed that following 8 months of negotiations with planning officers, the proposal had been recommended for refusal and that they had never seen a recommendation for refusal based on what they perceived to be a small figure of 6.8% potential impact on Gosport High Street.

Mr Harris advised that the proposal completely differed to the High Street as it was not a Town Centre, it did not have the ancillary services such as banks and chemists that were located on the High Street and offered a different retail experience.

Mr Harris advised the Board that the proposal had large level support from members of the public and that 80% of those questioned supported the proposal and that he did not feel there would be an adverse impact on the high street from the proposal.

Mr Sweeney was invited to address the Board. He advised that Millngate specialised in the regeneration of derelict sites.

Mr Sweeney acknowledged that there had been some fantastic progress made in the Borough in the proceeding 10 years, with the new leisure centre, regeneration of Rowner and the Bus Rapid Transport system all a positive improvement to the Borough and hoped that this proposal would contribute to the progress being made.

Mr Sweeney reiterated that national retailers were signed up to the proposal and that the company had worked with planning officers on the proposal. The Board were advised that previous proposal to include a residential aspect to the site had been reconsidered and subsequently removed to address concerns and that he felt the recommendation for refusal had materialised as a result of the conclusions of the GVA Grimley (GVA) report.

Mr Sweeney reiterated that the proposal offered 300 jobs in the retail units, 200 jobs in construction during the build and also that the proposal was worth £600,000 in business rates and £400,000 in Community Infrastructure Levy.

He advised that the football pitches already had interest from Lee Rangers, and that the he felt the proposal was for a gateway to the Borough to be proud of and that it would clawback £11 million spending and should not be refused on the basis of a weak report from GVA.

Mr Mitchell, Head of Property for Lidl was invited to address the Board. He advised that the company had been looking for a site to the north of the Borough and that the site at Brockhurst was ideal and that there were no other suitable sites within the Borough. Mr Mitchell advised that the store would appeal to a new catchment of shoppers and advised that 10% of the people surveyed had expressed interest in working at the store and that the store would provide 40 of the 300 jobs on the site.

In answer to a Members question, Mr Harris advised the Board that any impact of the proposals

on Stoke Road and other shopping locations was considered to be acceptable. Mr Harris advised the Board that trips in Gosport High Street were often linked particularly when they involved shopping for food and that trips to the proposed development would differ greatly from trips to the High Street.

In answer to a further question, the Board were advised that the surveys of the A32 were undertaken at on weekdays at 7.30am – 9.30am and from 4.00pm – 7.00pm and on weekends between 11am and 3pm. These were the peak times for the road, it was anticipated that most people visiting the development would already be using the roads or alternative routes to undertake their shopping elsewhere.

Mr Mitchell advised the Board that Lidl would not consider developing an additional unit if it did not believe that it was worthwhile. He advised the Board that the proposal was half way between the existing Gosport store and the store in Newgate Lane, Fareham. It was anticipated that this would claw back trade into Gosport and open the store to a new catchment.

Mr Mitchell advised that the existing Lidl store suffered from a lack of ancillary space, and car parking, the new store would alleviate some of these issues.

A Member sought clarification that trips undertaken to Gosport High Street were focused on ancillary services, such as banks and post offices and that the food retailers benefited as a result of this as they were not always the intended destination of the visits. The Board were advised that analysis had been undertaken with regard to how people undertake food and non-food shopping trips and that people would visit the High Street when requiring ancillary services and food.

In answer to a Members question, the Board were advised by Mr Mitchell that Lidl had purchased the former petrol station next to their Forton Road site as there was a lack of car parking space available at the site and that it provided the potential to create additional car parking spaces as this would provide an improvement to the site. The additional store would potentially also relieve pressure on car parking spaces.

The Board were advised that Lidl planned to retain the store in Forton Road and that although there may be a dip in patrons to the store there was no plan to remove it.

In answer to a Members question the Board was advised that McDonalds were planning on erecting a flagship branch at the proposal site. The Board was advised that McDonalds was a popular retailer that offered a number of food options and that the public had options as to what they ate there.

The Board was advised that the transport survey had indicated that there would not be a great impact on the traffic on the A32 as most visitors would already be travelling when deciding to use the site. Members acknowledged that original proposals for the site included proposals for residential dwellings and that plans for these had been removed as a result of the potential impact on the A32.

Members also welcomed that the proposal would provide a much needed facility for the Holbrook area and was easily accessible by bicycle.

In answer to a Member's question, the Board was advised that the tank traps would be located in accordance with the Gosport Society's wishes.

Members sought clarification as to the proposed impact on the High Street and were advised by planning officers that an independent assessment had been undertaken by GVA. Members were advised on the basis of the findings, planning officers could not rule out that there would be a significant impact on the High Street and in the light of the adopted Local Plan Policies therefore could not recommend the application for approval.

Members felt that the assessment from GVA was not definitive enough to refuse the application. .

Members felt that the jobs proposed by the application could not be ignored and recognised that the public supported the application and also welcomed bringing big named branded stores to the Borough.

Members expressed concern at the impact on the A32, but accepted that traffic surveys had been undertaken at peak times.

Members also felt that the proposed impact of the application on the High Street was as the High Street was now and did not take into account the current Supplementary Planning Document consultation underway and any changes to the High Street that may come out of it.

Members thanked planning officers for their work on the proposed application.

Members felt that the possible 6.8% impact on the High Street was not significant enough to refuse the application, particularly as the research undertaken by the applicant suggested the impact would only be up to 3%.

Members welcomed that the proposal would improve the area and that the site would deteriorate further if not developed.

Members recognised that they did not want to see trade drawn away from any retailers in the High Street and welcomed the opportunities the proposal would bring to the Borough and the provision for retail in this area of the Borough

#### **RESOLVED:**

That planning application 16/00598/FULL be approved:

1. Subject to a Section 106 Agreement relating to such matters as the Head of Planning Services considers necessary to make the proposal acceptable in planning terms; and
2. Authority be delegated to the Head of Planning Services to attach appropriate conditions to the permission.

**51. 17/00100/FULL – ERECTION OF SINGLE STOREY BUILDING (USE CLASS B1/B2/B8) WITH 55 CAR PARKING SPACES (as amended by plans received 04.05.17 and 28.06.17)**

**Daedalus Park - Site B (South) Lee On The Solent PO13 9FU**

An update was provided that confirmation had been received that technical drainage details could be achieved for the site.

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 17/00100/FULL.

RESOLVED: That planning application 17/00100/FULL be approved subject to the conditions in the report of the Head of Planning Services.

**52. 17/00101/FULL – ERECTION OF 3 NO. TWO-STOREY BUILDINGS (USE CLASS B1/B2/B8) WITH 54 NO. CAR PARKING SPACES (as amended by plans received 28.06.2017)**  
**Daedalus Park - Site B (North) Lee On The Solent PO13 9FU**

An update was provided that confirmation had been received that technical drainage details could be achieved for the site

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 17/00101/FULL.

**RESOLVED:** That planning application 17/00101/FULL be approved subject to:

1. A Section 106 Agreement relating to an employment and skills plan; and
2. The conditions in the report of the Head of Planning Services.

**53. 17/00233/FULL - ERECTION OF A SINGLE STOREY REAR EXTENSION, CONVERSION OF THE HIPPED ROOF INTO A GABLE AND A FRONT AND REAR DORMER (as amplified by statement received 15.06.17)**

**92 Fisgard Road Gosport Hampshire PO12 4HJ**

Consideration was given to the report of the Head of Planning Services requesting that consideration be given to planning application 17/00233/FULL.

**RESOLVED:** That application 17/00233/FULL be refused for the following reason:-

1. The proposed front dormer and alteration from a hipped to gable roof by reason of its design and form would represent an unacceptable addition to the application property and would form an incongruous feature and be out of keeping with the character and appearance of the application property or the surrounding area and is therefore contrary to Policy LP10 of the Gosport Borough Local Plan 2011-2029 and the Gosport Borough Council Design Guidance Supplementary Planning Document.

**54. ANY OTHER BUSINESS**

There was none.

The meeting concluded at 20.19

CHAIRMAN