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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 16 JULY 2019

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Present: Councillors Savage (Chair), Coombs (Vice-Chair), G Galton, L Harris, Windle, Fitzhenry and Shields

Apologies: Councillors Mitchell and Vaughan

9. **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

It was noted that following receipt of the temporary resignation of Councillors Mitchell and Vaughan from the Panel, the Service Director Legal and Governance acting under delegated powers, had appointed Councillors Fitzhenry and Shields to replace them for the purposes of this meeting.

10. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED:** that the minutes for the Panel meetings on 4<sup>th</sup> and 25<sup>th</sup> June 2019 be approved and signed as a correct record.

11. **PLANNING APPLICATION- 19/00719/FUL - QUAY 2000, HORSESHOE BRIDGE**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development in regard to a request to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998 in respect of an application for a proposed development at the above address.

Proposed development: Closure of waterside walkway for public use:- Request to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998, allowing the Waterfront Access (the Walkway) gates to remain locked thus removing the ability for the general public to access the walkway for recreational purposes at all times.

Jason Bluemel (local residents/ objecting), R Tutton (agent) A Mitchell, C Coles and Z Orton (supporter) and Councillor Savage (Ward Councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that further correspondence from the Police and that the recommendations should refer to gates. Panel Members suggested that that the timings used within the recommendation be updated to timings in line with restrictions that had been granted at Ocean Village. The Panel, following a vote, amended the officer recommendation to set the timings of the opening of the gates to the same as Ocean Village. The Panel also requested that the recommendation be amended to take into consideration, the Panel's request, to ensure that there was a mechanism to monitor and review the effects of the closure of the gates.

The Panel then considered the amended recommendation to vary the section 106 arrangement permission. Upon being put to the vote the amended recommendation was carried unanimously.

**RESOLVED** that the Panel

- (i) rejected the request to vary the planning obligation as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront;
- (ii) delegated authority to the Service Lead – Infrastructure, Planning and Development to enter into a s.106 Deed of Variation (DoV), at the applicant’s expense, in accordance with the following heads of terms:
  - a. Amend the obligation to provide a waterfront walkway/cycleway for recreational purposes at all times subject to the Management Plan, which should include the agreed review timeframe and mechanism;
  - b. Submit a Management Plan detailing the retaining waterfront access for wider public use ensuring compliance with the approved Management Plan for the lifetime of the Development; for approval in writing by the Council within 1 month from the completion of the DoV; ensuring that the gates are unlocked in line with the 16/01971/FUL planning consent at Land adjacent to 2 Andes Close and 1 Calshot Court, with requirements set out below;
    - i. That the gates hereby approved shall not be closed between the following hours:
      - 0700 hours and 2100 hours on any day between 02 April - 29 September;
      - 0700 hours and 1800 hours on any day between 30 September - 01 April
    - ii. That in order to ensure public access to the waterfront during day time hours in accordance with policy CS12 of the City of Southampton Core Strategy and policy AP35 of the City Centre Action Plan;
    - iii. The gates to remain unlocked as per hours set out in (ii) b. above and no further means of enclosure erected on the land without prior written approval;
- (iii) delegated authority to the Service Lead – Infrastructure, Planning and Development to take enforcement action in respect of any breach of the extant planning obligation if the DoV is not completed within 3 months from the date of this Panel meeting (18<sup>th</sup> October 2019) and/or the Management Plan hasn’t been agreed as required; and
- (iv) delegated authority to the Service Lead – Infrastructure, Planning and Development to take enforcement action in respect of any breach of the proposed planning obligation if the gates is not unlocked in line with the agreed amendment within 1 month from the written approval by the Council of the Management Plan (22<sup>nd</sup> November 2019.)

12. **PLANNING APPLICATION - 19/00137/FUL- 224 PORTSWOOD RD**

The Panel considered the report of the Service Lead Infrastructure, Planning, and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Change of use of first floor from D1 use to a 24 hour gym (class D2) with erection of link corridor at roof level and use of the car park by the D2 use between 05:00 - 23:00 Monday-Saturday and 08:00 - 20:00 Sunday.

Susan E Swallow and Jane Jameson (local residents objecting), and Gary Morris (agent), were present and with the consent of the Chair, addressed the meeting.

The presenting officer updated the Panel in regard to a minor error in the summary of the recommendation and noted that it should state that the recommendation was for approval and not to refuse.

The Panel explored the difference between the community room currently provided by the retailer and the space allocated community use. The Panel were informed that the allocated community space had previously been dedicated for use by the local Primary Care Trust and then for potentially for a Library but that both uses had subsequently been withdrawn leaving with no allocated use for the space.

It was noted that the space had been marketing on the space but, that no community use had come forward. Panel Members were concerned that it had been reported to them that there were currently problems with the booking the community room and requested that the matter be delegated to the Service Lead to resolve the matter prior to permission being granted.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED** that the Panel:

- (i) Delegated authority to the Service Lead – Infrastructure, Planning and Development to grant conditional planning permission subject to:
  - a. no fresh issues regarding the extended car parking hours being received by 16.07.19 when the notification period expires; and
  - b. further negotiation with the applicant regarding the opening hours to the retained community room (as currently set out under planning condition 11).
- (ii) Delegated authority to the Service Lead – Infrastructure, Planning and Development to add, vary and /or delete conditions as necessary.

13. **PLANNING APPLICATION - 19/00735/FUL - 267-271 PORTSWOOD RD**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Erection of an additional floor to create 4x 1-bed flats with associated cycle/refuse storage following partial demolition of existing building to create new entrance and extension of existing restaurant flue.

Elizabeth McDonald, Margret Sissons, Richard Buckle (local residents/ objecting), and Councillor Cooper (ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer updated the Panel in regard to a minor error in the summary of the recommendation and noted that it should state that the recommendation was for approval and not to refuse.

In addition since the publication of the report it was noted that the amended floorplans showing the removal of the partition walls had been received to satisfy the proposed delegation. It was also noted that the condition on obscured glass need to be adjusted.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was lost.

A further motion to refuse to delegate approval to the Service Lead: Infrastructure, Planning and Development for the reasons set out below was then proposed by Councillor Coombs and seconded by Councillor Windle.

RECORDED VOTE to refuse planning permission  
FOR: Councillors Savage, Coombs, Galton, L Harris and  
Windle:  
AGAINST: Councillors Fitzhenry and Shields

**RESOLVED** to refuse planning permission for the reasons set out below:

#### Reasons for Refusal

##### **1. Reason for Refusal: Design & Subsequent Living Environment**

The chosen contemporary roof extension design, and associated changes, to this locally listed building fail to respect the proportions of the existing building and is considered to represent an incongruous addition that fails to respect either the existing building or the wider streetscene to which it relates. Furthermore, the chosen fenestration arrangement, with narrow openings, will contribute to a poor living environment for prospective residents. As such, the proposed development has been assessed as being harmful to the existing building and out of character with its wider context and is contrary to saved policies SDP1(i) and HE4 of the adopted Local Plan Review (2015), and saved policy CS13 of the adopted LDF Core Strategy (2015) as supported by the relevant sections of the Council's approved Residential Design Guide Supplementary Planning Document (2006) that seek to encourage context-driven design solutions.

##### **2. Cycle Storage**

The proposed cycle storage is poorly located to the residential entrances and will discourage the use of cycling by residents, given its rear yard location and tortuous access arrangements. As such it is not considered to be safe, secure or convenient and is, therefore, contrary to saved policy SDP10(ii) of the adopted Local Plan Review (2015), as supported by the Council's approved Parking Standards Supplementary Planning Document (2011), as the wider scheme fails to properly promote alternative modes of travel in the interests of wider sustainable development.

**3. Reason for Refusal - Lack of Section 106 to secure planning obligations.**

In the absence of either a scheme of works or a completed Section 106 legal agreement or unilateral undertaking to support the development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of new residential development (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations

14. **PLANNING APPLICATION - 19/00026/FUL - NORTHBROOK ESTATE, VINCENT AVE**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Change of use from industrial (class B2) to education and training facility (retrospective) (Departure from Local Plan - policy RE111) – TEMPORARY

Anne Towner and Paul Butler (local residents/ objecting), and Councillor B Harris (ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that the recommendation required to be amended to delegate approval to the Service Lead, Infrastructure, Planning and Development subject to the receipt of an amended site plan showing the parking associated with this unit with confirmation of a legal right to park. The Panel requested also that officers liaise with and inform colleagues in the social services department to detail the concerns in respect of the existing noise and disturbance problems experienced by residents.

The Panel then considered the amended officer recommendation to delegate authority to the Service Lead-Planning Infrastructure and Development planning permission to grant planning permission subject to amended conditions set out below. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to grant planning permission

FOR: Councillors Savage, Coombs and Windle

AGAINST: Councillors Galton L Harris ad Fitzhenry

The recommendation was passed using the Chairs second and casting vote

**RESOLVED** that the Panel

- (i) delegated to the Service Lead-Planning, Infrastructure and Development to grant Planning Permission subject to:
  - (a) the receipt of an amended site plan showing the parking associated with this unit (blue land) with the confirmation of a legal right to park.
  - (b) the receipt of information requested to support the planning conditions, particularly condition 6 (Parking). Authority was then delegated to the

- Service Lead – Infrastructure, Planning and Development to amend the conditions following the receipt of the information set out in (a);
- (ii) that the Panel delegated authority to the Service Lead to refuse planning permission in the event that this information is not provided within 1 month from the date of Planning Panel; and
  - (iii) the conditions set out within the report and any additional or amended conditions set out below:

Amended Condition

**8. Management**

Within 1 month from the date of this planning permission the applicants shall submit in writing to the Local Planning Authority a 'Site Management Plan' detailing how the approved use will operate on a day to day basis. The Management Plan shall detail a range of measures for limiting the impact of the use on its neighbours including, for instance: a commitment to 1 staff per student ratio with an on-site management presence during operational hours, arrangements for receiving students at the start of the day and ensuring their safe departure at the end of the day, details of supervision when students leave the building, a procedure for existing neighbours to report any concerns with a commitment by the applicant for responding to such enquiries within an agreed timescale, a scheme of measures for limiting noise emanating from the building, and a review process to ensure that the Site Management Plan is working effectively. The Management Plan shall be implemented for the lifetime of the temporary use following its written approval by the LPA.

REASON: Given the retrospective nature of the use, and the existing problems experienced by neighbours, additional management is needed in the interests of existing residential amenity as required by Local Plan Review Policy SDP1(i)

**NOTE:** Councillor Shields declared an interest and withdrew from the meeting.

**15. PLANNING APPLICATION - 19/00711/FUL - 25 OXFORD STREET**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development recommending that conditional planning permission be refused in respect of an application for a proposed development at the above address.

Proposed change of use from restaurant/cafe (Class A3) to mixed use restaurant/cafe/bar (Class A3/A4).

Serkan Ceylan (applicant), was present and with the consent of the Chair, addressed the meeting.

The Panel considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to refuse planning permission

FOR: Councillors Savage, Coombs, L Harris and Windle

AGAINST: Councillors Fitzhenry and Shields

**RESOLVED** that planning permission be refused for the reasons set out below:

**1. Reason for Refusal - Noise and disturbance**

Whilst the principle of the change of use is supported, the proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre and would set a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).

**2. Reason for Refusal - Lack of Section 106 or unilateral undertaking to secure planning obligations.**

In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas:

- (i) Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013).
- (ii) CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013).

**16. PLANNING APPLICATION - 19/00392/FUL - 21 LOWER BANISTER STREET**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel refuse planning permission in respect of an application for a proposed development at the above address.

Application for variation of condition 2 of planning permission ref: 09/00336/FUL and condition 1 of planning permission ref: 13/01840/FUL to allow opening hours from 08:30am - 12 midnight to 08:30am - 01:00am 7 days a week.

Mark Sennitt (agent), Piers Kannangara (applicant), Lorraine Barter and (supporter) were present and with the consent of the Chair, addressed the meeting.

The Panel then considered the recommendation to refuse planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to refuse planning permission

FOR: Councillors Savage, Coombs, Galton, L Harris Shields and Windle

AGAINST: Councillor Fitzhenry

**RESOLVED** to refuse planning permission for the reasons set out below:

Reason for Refusal

**1. Noise and disturbance**

The proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre. Whilst the trade with existing hours on another premises is noted this approach is likely to create further harm to nearby residents of the application site and sets a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby, having regard to similar appeal decisions in the locality for extended hours of use and the objection from the Police, prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).