

FAO, Chair/Vice Chair
Bursledon, Hamble-le-Rice and Hound
Local Area Committee
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Our ref: MIL2/2
Your ref: F/24/97376

4 September 2024

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Copies at bottom of email

Dear Chair/Vice Chair

Cherry Court, Salterns Lane, Bursledon, Southampton, SO3 8DH under reference F/24/97376

We write ahead of the Local Area Committee meeting in light of recent developments and invite the chair to consider postponing this application. This is copied to the applicant's representative so that they have an opportunity to respond.

Our client has made representations by letters dated 17 June and 22 August in respect of the above scheme, some of which the officer has referred to and the applicant has responded to. However there appears to be incomplete information, a change to the application scheme with incomplete consultation and outstanding representations that may need careful consideration, together with legal advice. Further the case is undoubtedly highly contentious and warrants a member site visit.

1. Visual Impact Assessment: There is no proper visual impact assessment, and the applicant has been dismissive of this saying it is not a requirement of plan policies although it was requested by the landscape officer. More generally, the total lack of any formal landscape proposals and the applicant is in effect requiring the committee to assess impact by piecing together different parts of the application.

2. Change to the Scheme: The applicant changed the scheme to include shuttering over the rear elevation windows. Can this be conditioned so to prevent it being removed after construction?

3. Consultation: The landscape team had not (as of yesterday 3.9.24 responded), and we understand that time pressures may prevent this from happening before the committee meeting. The Council will want to ensure adequate time for important consultees, particularly where they are under pressure.

It is also unclear if Fareham Borough Council has been consulted, which is crucial for maintaining a cohesive approach with neighbouring authorities, particularly regarding protective measures for views from the Hamble.

Furthermore, in terms of the scheme revision referred to above, it is unclear if there has been an adequate consultation. The Council will be familiar with the requirements to consult under the Town and Country Planning (Development Management Procedure) (England) Order 2015 and ensure adequate consultation has taken place. Clearly, the addition of shuttering constitutes a material change, and the council deemed it necessary to reconsult on this. However, it appears that not all consultees received notice of these revisions, and it is unclear what effect this lack of notification might have, i.e. it may be that people who would have genuine basis to object did not have the opportunity to do so

4. Legal Interpretation of Policy BU7(1)(a): There is an important issue regarding the correct interpretation of Policy BU7(1)(a). We agree with the officer report in terms of interpreting 'dwelling' consistently and appreciate the officer's effort in addressing this. The incidental use of, for example, a garage, might be in the "dwelling", however it is always the particular policy context that matters. That is, "dwelling" may have different meanings in different contexts. The intention of the drafter(s) at the time is potentially relevant to the correct interpretation. We have seen correspondence from the officer that advises that there was a change to the wording of what has become BU7(1)(a), which was based on the inspector's comments during the Local Plan examination, but there is no evidence of any change to this policy in the modification documents. Did this issue arise during the examination hearings? It is plainly important to seek further advice on this important issue as it creates an exception to development in the Old Bursledon Special policy area and designated conservation area. Of course, Policy BU7 has five further subpoints that must be considered.

5. Photo from Hamble: A criticism was made of a photograph. If that is the photograph attached to our client's 17 June 2024 letter the photo was not taken with a "high-powered lens". It was taken with a smart phone camera with no zoom from a private viewpoint on a marina jetty. The main point that our client wants to make is that the picture provides the view from the river – this is a publicly available view to all classes of public, where the river is treated as a transport corridor where there is right to pass and repass for all members of the public. This is all the more important given what is said above about the total lack of any formal landscape proposals, and the previous concerns of landscape officers. There is, we say, par excellence a case for a member site visit.

Yours faithfully



RICHARD BUXTON SOLICITORS

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