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Agenda

Name of meeting	PLANNING COMMITTEE
Date	TUESDAY 25 JANUARY 2022
Time	4.00 PM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Members of the Committee	Clrs M Lilley (Chairman), G Brodie (Vice-Chairman), D Adams, M Beston, V Churchman, C Critchison, W Drew, C Jarman, K Lucioni, M Oliver, M Price, C Quirk P Fuller (Cabinet Member) S Smart (IWALC) Democratic Services Officer: Marie Bartlett democratic.services@iow.gov.uk

1. **Minutes** (Pages 3 - 8)

To confirm as a true record the Minutes of the meeting held on 14 December 2021.

2. **Declarations of Interest**

To invite Members to declare any interest they might have in the matters on the agenda.



Details of this and other Council committee meetings can be viewed on the Isle of Wight Council's Committee [website](#). This information may be available in alternative formats on request. Please note the meeting will be audio recorded and the recording will be placed on the website (except any part of the meeting from which the press and public are excluded). Young people are welcome to attend Council meetings however parents/carers should be aware that the public gallery is not a supervised area.

3. **Public Question Time - 15 Minutes Maximum**

Questions are restricted to matters not on the agenda. Questions may be asked without notice but to guarantee a full reply at the meeting, a question must be put including the name and address of the questioner by delivery in writing or by electronic mail to Democratic Services at democratic.services@iow.gov.uk no later than two clear working days before the start of the meeting. Normally, Planning Committee is held on a Tuesday, therefore the deadline for written questions will be Thursday 20 January 2022.

4. **Report of the Strategic Manager for Planning and Infrastructure** (Pages 9 - 42)

Planning applications and related matters.

5. **Review of the code of Practice for Members and Officers dealing with Planning matters** (Pages 43 - 48)

6. **Members' Question Time**

To guarantee a reply to a question, a question must be submitted in writing or by electronic mail to democratic.services@iow.gov.uk no later than 4.00pm on Friday, 21 January 2022. A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting.

7. **Motion Submitted by Councillor Claire Critchison**

Planning committee resolve through an abundance of caution that due to the points that have been raised by those instructed by concerned residents relating to the previous planning committee determination of 'West Acre Park' (20/01061/FUL) on 27 July 2021 the planning committee request that a report be brought to planning committee for further determination as soon as is practicable; and until such time as the committee have reached a further determination of the application the planning permission for 'West Acre Park' (20/01061/FUL) may not be issued.

CHRISTOPHER POTTER
Monitoring Officer
Monday, 17 January 2022



Minutes

Name of meeting	PLANNING COMMITTEE
Date and Time	TUESDAY 14 DECEMBER 2021 COMMENCING AT 4.00 PM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs M Lilley (Chairman), G Brodie (Vice-Chairman), D Adams, C Critchison, C Jarman, K Lucioni, M Oliver, Smart, C Quirk and I Ward
Also Present (Non voting)	Cllr Paul Fuller S Smart (IWALC)
Officers Present	Marie Bartlett, Oliver Boulter, Russell Chick, Ben Gard and Alan White (on behalf of Island Roads)
Apologies	Cllrs M Beston, W Drew and M Price

37. **Minutes**

Councillor Jarman proposed amendments to the minutes which had been circulated prior to the start of the meeting, which was duly seconded.

A vote for the proposed amendment was taken.

The motion fell.

A vote was then taken to accept the minutes as published the result was:

RESOLVED:

THAT the minutes of the meeting held on 16 November 2021 be approved.

38. **Declarations of Interest**

Councillor Chris Jarman declared an interest in minute number 40 (Flowers Brook, Steephill Road, Ventnor) due to the Isle of Wight Council's financial interest in the proposed scheme and as Cabinet Member for Resources.

39. **Public Question Time - 15 Minutes Maximum**

A written question was submitted by Ms Kerry Fosbury relating to the advice provide to the Planning Committee on application ref 21/00357/FUL (PQ/45/21)

A written question was submitted by Mr Dom Hicklin relating to the weight given to neighbourhood plans (PQ/46/21)

A written question was submitted by Ms Lindsay Becker relating to the consideration of planning policies (PQ/47/21)

40. **Report of the Strategic Manager for Planning and Infrastructure**

Consideration was given to item 1 of the report of the Strategic Manager for Planning and Infrastructure Delivery.

RESOLVED:

That the application be determined as detailed below:

The reasons for the resolutions made in accordance with Officer recommendation were given in the planning report. Where resolutions are made contrary to Officer recommendations the reasons for doing so are contained in the minutes.

A schedule of additional representations received after the printing of the report were submitted at the beginning of the meeting and were drawn to the attention of Members when considering the application.

Application:

21/01623/FUL

Details:

Full planning permission for the onshore elements of the Perpetuus Tidal Energy Centre (PTEC) to include construction of a substation / control room (including outdoor transformer compound and welfare facilities); alterations to access, parking and turning arrangements; installation of cabling to connect marine electricity export cables to substation (to include trenching and construction of transition pits and/or Horizontal Direction Drilling, and temporary removal and reinstatement of coastal protection); and enabling works, including possible reinforcement or alteration of access roads within the onshore area, creation of temporary laydown/construction areas, construction of temporary site security fencing/provisions, possible tree and scrub clearance, site levelling/landscaping (revised description).

Further information has been received relating to the Environmental Statement, including a Transformer Noise Appraisal, updated Arboricultural (tree) Impact Assessment Report, and drawing PL33 - visualisation of the proposed substation and outdoor transformer compound from within the existing Southern Water pumping station site.

Flowers Brook, Steephill Road, Ventnor.

Site Visits:

The site visit was carried out on Friday, 10 December 2021

Public Participants:

Mr Daniel James (Objector)

Mr Tony Flower (Objector)

Mr Dan Clare (on behalf of the applicant)

Rear Admiral Rob Stevens (on behalf of the applicant)

Additional Representations:

Following feedback from the applicant regarding the proposed conditions, condition four and 14 were amended.

Three additional letters of representation had been received by the Local Planning Authority.

Comment:

Oliver Boulter Strategic Manager for Planning and Infrastructure read out a statement from Councillor Gary Peace as Local Member for the application.

Clarification was sought regarding the access to the site, Officers advised that the statement read out by one of the public speakers for Red Squirrel Limited had confirmed that there was prospect of the access being permitted by way of a transfer of title facilitating the scheme.

Concern was raised regarding the noise levels and the Committee asked if two decibels above existing background levels was too noisy and could it be reduced. Planning Officers advised that Environmental Health had been consulted on the application and they had suggested the noise levels, assurance was provided that noise levels would be monitored by the Local Planning Authority and Environmental Health.

The Committee raised concerns regarding the level of commitment from the company to proceed with the application, they were advised that a previous application had not commenced due to government grants being withdrawn.

There was discussion regarding whether a bond could be secured to ensure that the public open space at Flowers Brook would be restored if the development was not completed. Officers explained that the National Planning Policy Framework (NPPF) advised that bonds could only be used in exceptional circumstances and they didn't believe that it was justified in this case.

A proposal to approve the application was made and duly seconded.

A further proposal to approve subject to applying a bond to restore the site and reduce the time limit of the construction was made and duly seconded.

The Chairman called a short adjournment to allow officers time to consider the proposal.

Following the adjournment officers advised that strengthening conditions relating to the construction management plan could be made to alleviate concerns regarding the restoration and completion of construction works.

All proposers and seconders agreed with the proposal and a vote was taken, the result was:

Decision:

RESOLVED:

THAT the application be approved with amendments to conditions to strengthen the Construction Management Plan.

Amended Conditions:

- 4 No development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall set out measures to minimise and mitigate for potential impacts/impacts of the development on the environment and shall include:
 - A traffic management plan, relating to the routing and delivery timings of all construction traffic.
 - Details of construction methods, schedule and supervision of construction works.
 - Measures to be followed during construction to minimise land stability risks and those to minimise disruption to the public open space.
 - Pollution prevention control and biosecurity measures.
 - Soil management plan.
 - Non-native invasive species management plan.
 - Details on how sediment/concrete/other debris that may be accidentally released during construction will be captured to prevent entering the water.
 - A construction noise management plan, including how noise from construction traffic would be mitigated.
 - Details of the setup and extent of any construction and laydown areas, including areas for the parking and turning of construction vehicles, temporary access arrangements to facilitate construction, as well as details of the storage of plant, materials, equipment and chemicals.
 - A list of defined potential impacts to the designated sites and measures to avoid and minimise impacts to protected species and habitats, including the Undercliff SINC and South Wight Maritime SAC.
 - Details of ecological and biodiversity mitigation and enhancements, including details of habitat reinstatement and creation, as mitigation for the loss of habitat resulting from the development, as well a timetable for the implementation and completion of any mitigation and enhancement works.

- A map or plan showing habitat areas to be specifically protected, and details of measures to protect those areas during construction.
- Details on the storage and disposal of waste on site.
- Information on the persons/bodies responsible for particular activities associated with the method statement that demonstrate they are qualified for the activity they are undertaking.
- a restoration scheme for the public open space (Flowers Brook) to include timings of restoration of this space on completion of cabling and construction works

Development shall be carried out in accordance with the approved Construction Environment Management Plan and any approved mitigation and/or enhancements shall be carried out and completed in accordance with the agreed timings. Restoration of the public open space (Flowers Brook) shall be carried out and completed in accordance with approved scheme by the end of two years following commencement of the construction works.

Reason: To protect the interest features, and avoid adverse impacts on, the South Wight Maritime SAC, Solent and Dorset Coast SPA and Undercliff SINC, to protect wildlife and supporting habitats, and to protect neighbouring residents and the highway network in accordance with the aims of policies SP7 (Travel), DM2 (Design Quality for New Development) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy, the National Planning Policy Framework, and to comply with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

- 14 Construction of the building, including outdoor compound, hereby permitted and installation of any machinery or plant associated with the electrical substation use of this building/compound shall not begin until a detailed acoustic design report and details of any noise attenuation measures to be incorporated into the design of the development have been submitted to and approved in writing by the Local Planning Authority. This report shall detail the final design of the substation, plant emissions (noise), proposed operational schedule, noise predictions at receptors and a noise mitigation plan. The noise mitigation plan shall detail the measures to be implemented for the substation under normal load to meet the noise level at receptors specified below (as a rating level subject to BS4142:2014+A1:2019 definition).

The rated level as determined through measurement or calculations shall not exceed the levels presented in the table below at 1m from the façade of the closest habitable room (applicable at the commencement of operation).

Receptor	Rating Level, dB LAeq, T
Plot 3 – approved in accordance with planning permission for Flowers Brook ref: P/01450/18.	34
Plot 2 – approved in accordance with planning permission for Flowers Brook ref: P/01450/18.	34
Flowers Brook	25
Boulders	25
3a Undercliff Gardens	25
3 Undercliff Gardens	25
1 Underhill Gardens	25
Glenclyff	32
Steephill House	32
Where T is 1hr daytime (0700-2300), 15-minute night-time (2300-0700).	

Development shall be carried out in accordance with the approved details and the agreed mitigation measures shall be completed before the substation is brought into operation.

Reason: To protect the amenities of neighbouring properties during the operational phase of the development and to comply with the aims of policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy and the National Planning Policy Framework.

41. **Members' Question Time**

There were no members questions.

CHAIRMAN

ISLE OF WIGHT COUNCIL PLANNING COMMITTEE - TUESDAY, 25 JANUARY 2022

REPORT OF THE STRATEGIC MANAGER FOR PLANNING AND INFRASTRUCTURE

WARNING

1. THE RECOMMENDATIONS CONTAINED IN THIS REPORT OTHER THAN PART 1 SCHEDULE AND DECISIONS ARE DISCLOSED FOR INFORMATION PURPOSES ONLY.
2. THE RECOMMENDATIONS WILL BE CONSIDERED ON THE DATE INDICATED ABOVE IN THE FIRST INSTANCE. (In some circumstances, consideration of an item may be deferred to a later meeting).
3. THE RECOMMENDATIONS MAY OR MAY NOT BE ACCEPTED BY THE PLANNING COMMITTEE AND MAY BE SUBJECT TO ALTERATION IN THE LIGHT OF FURTHER INFORMATION RECEIVED BY THE OFFICERS AND PRESENTED TO MEMBERS AT MEETINGS.
4. YOU ARE ADVISED TO CHECK WITH THE PLANNING DEPARTMENT (TEL: 821000) AS TO WHETHER OR NOT A DECISION HAS BEEN TAKEN ON ANY ITEM BEFORE YOU TAKE ANY ACTION ON ANY OF THE RECOMMENDATIONS CONTAINED IN THIS REPORT.
5. THE COUNCIL CANNOT ACCEPT ANY RESPONSIBILITY FOR THE CONSEQUENCES OF ANY ACTION TAKEN BY ANY PERSON ON ANY OF THE RECOMMENDATIONS.

Background Papers

The various documents, letters and other correspondence referred to in the Report in respect of each planning application or other item of business.

Members are advised that every application on this report has been considered against a background of the implications of the Crime and Disorder Act 1998 and, where necessary, consultations have taken place with the Crime and Disorder Facilitator and Architectural Liaison Officer. Any responses received prior to publication are featured in the report under the heading Representations.

Members are advised that every application on this report has been considered against a background of the implications of the Human Rights Act 1998 and, following advice from the Head of Legal Services and Monitoring Officer, in recognition of a duty to give reasons for a decision, each report will include a section explaining and giving a justification for the recommendation.

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1	21/01129/RVC	Parish: Brighstone	Conditional Permission
	Atherfield Bay Holiday Camp, Military Road, Brighstone.	Ward: Brighstone Calbourne and Shalfleet	
	Variation of condition no 2 on P/00141/16 to allow amendments to approved scheme relating to the swimming pool/clubhouse; reconfiguration of approved units		

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Reference Number: 21/01129/RVC

Description of application: Variation of condition no 2 on P/00141/16 to allow amendments to approved scheme relating to the swimming pool/clubhouse; reconfiguration of approved units

Site Address: Atherfield Bay Holiday Camp, Military Road, Brighstone, Newport, Isle of Wight

Applicant: Alan Dugard, Interguide IOW Limited

This application is recommended for: Conditional permission subject to the completion of a Legal Agreement

REASON FOR COMMITTEE CONSIDERATION

The request by the local councillor to have this application considered by the Planning Committee has been agreed by the Chair of the Planning Committee as, in accordance with the Council's Constitution, the application is considered to have genuine Island-wide significance due to the size or impact and is contentious among the wider Island communities or of significant impact to a locality.

MAIN CONSIDERATIONS

Whether the changes to the design and layout would have further impact with regards the previously approved application and in particular:

- Impact on the character of the area and AONB
- Impact on neighbouring properties
- Highway considerations
- Ecology

1. Location and Site Characteristics

- 1.1** The application site is located to the west of the A3055 Military Road, approximately 3 km to the south of Shorwell and 3.5 km to the south-east of Brighstone. The site is bounded by the A3055 to the north-east, Cowleaze Chine to the north-west, the shoreline to the south-west and Shepard's Chine to the south-east.
- 1.2** The application site is situated in an exposed rural location on the coastal plain forming the south-western coastline of the Island within the Area of Outstanding Natural Beauty (AONB), Heritage Coast and Site of Special Scientific Interest (SSSI) designations. The land to the north of the application site is used as a caravan and camping site (Chine Farm Campsite). Chine Farmhouse is a Grade II

Listed Building situated on the eastern side of the A3055 opposite to the site, with a range of single storey residential buildings nearby. To the south-east is a detached bungalow adjacent to the eastern boundary of the main holiday camp site (with its own access on the A3055). This is outside of the current and previous application site, but the previous owner/ applicant subdivided the overall site and the bungalow and land to the south-east is now in separate ownership to the current applicant.

1.3 The application site previously comprised a range of single storey buildings forming the Atherfield Bay Holiday Camp, dating back to 1936 and utilised as an army camp during WW2. Following on from the 2016 permission, the original buildings were demolished with the previous application having been implemented with a number of the units being constructed. At the time of the case officer's initial site visit a number were constructed externally but not finished internally. Works continued and a subsequent visit noted most were constructed externally. At the time of the latest officer site visit, minimal works had taken place on the amenity building.

2 **Details of Application**

2.1 The application seeks revisions to the previous scheme which include:

- Changes to the units with a number increasing in size, including a new style H shaped unit
- Some changes to fenestration
- Some changes to the layout of some of the units, and mainly the units towards the rear/south-west of the site (these are now more regimented facing towards the sea, whereas previously they were arranged in a more haphazard layout)
- The clubhouse would be a different design and would become larger (now U-shaped) and now incorporating a swimming pool again (noting that an outdoor swimming pool was previously approved in this location)

Further details/comparisons are set out below.

2.2 There would be no change to the number of units, nor to the red line of the developed site/area (i.e. it is not extending beyond that previously approved site area). Furthermore, the parking areas shown are as previously approved.

2.3 *Units of holiday accommodation - comparisons*

Previously approved with x4 different types of units (A-D). This now introduces a type E which is a larger 'H' shaped unit.

2.4

	Approved P/00141/16	Approved P/01313/17	Current application
Unit A	x10 3 bed; Rectangular: 18.3m x 6.8m, height 3.8m; set on concrete pads	x9 – I unit becoming sales unit	x10 3 bed; Rectangular: 18.54m x 6.78m, height 3.8m set on screw piles which are maximum of

	adding further 0.4m	No changes to units apart from slight changes of some locations	0.4m
Unit B	x9 3 bed; L-shaped: 16.76m x 6.65m. Height 3.8m set on concrete pads adding further 0.4m	x9	x17 3 bed; L-shaped: 16.08m x 7.78m, height 3.8m set on screw piles which are maximum of 0.4m
Unit C	x23 2 bed; L-shaped: 13.7m x 6.65m. Height 2.6m set on concrete pads adding further 0.4m	x23	x17 2 bed; L-shaped: 13.06m x 7.78m, height 3.8m set on screw piles which are maximum of 0.4m
Unit D	x21 3 bed; Rectangular: 12.2m x 6m. Height 2.73m set on concrete pads adding further 0.4m	x21	x15 3 bed; Rectangular: 16.23m x 7.34m, height 3.8m set on screw piles which are maximum of 0.4m
Unit E	n/a	n/a	x4 4 bed; H-shaped: 21.77m x 12.53m, height 3.8m set on screw piles which are maximum of 0.4m
Clubhouse	Rectangular: 30.2m x 12.6m, height 6m – with outdoor swimming pool; sun terrace	Clubhouse building remains the same as 2016 but is slight change to location and loss of pool and children's play area and inclusion of further parking area	U shaped: overall width 30.26m x 32.6m, height main ridge 6m.

2.5 The 2016 application also approved decking around each unit. This was shown to partly wrap around each unit, projecting a further 6m in front and 2.2m to the side.

2.6 It should also be noted that there would be minor changes to the fenestration of units, although it is not considered there is a significant increase in numbers of windows and doors. Some of the changes would result in increases in size of windows, particularly noting that the new Unit E would comprise more glazing than the units they would replace. The table below provides some comparisons:

2.7

	P/00141/16	Current application
Unit A	10 windows; 2 doors; one set of patio doors	12 windows; 2 doors; 1 larger set of patio doors
Unit B	6 windows + 4 porthole style windows; 1 door; 4 sets of patio doors	6 windows + 2 porthole style windows; 1 door; 4 sets of patio doors
Unit C	4 windows + 4 porthole style windows; 1 door; 3 sets of patio doors	5 windows + 3 porthole style windows; 1 door; 3 sets of patio doors
Unit D	11 windows; 1 door; 2 sets of patio doors	11 windows; 4 sets of patio doors
Unit E	n/a	13 windows (8 are full height glazing); 1 door; 2 sets of patio doors

3 Relevant History

- 3.1** 21/01506/RVC - Variation of conditions 2, 8 and 17 on P/00141/16 to retain current location of footpath – Pending. This relates to a change in the location of the proposed and previously agreed section of footpath to the east of the main holiday site within land outside of the ownership of the applicant (subdivided by the previous applicant/owner from the overall site).
- 3.2** P/00080/18 - Variation of condition 2 on P/00141/16 to allow alterations to foundation details – Approved - 12/03/2018. This only approved a change to the concrete pads the lodges were to be situated on.
- 3.3** P/01313/17 - Variation of condition 2 on P/00141/16 to allow relocation of approved clubhouse and new sales facility – Approved - 21/12/2017. This approved:
- slight re-orientation of the club house
 - loss of swimming pool and soft play area;
 - the re-arrangement of parking area in front of the clubhouse with increase of parking spaces from 20 to 24;
 - Loss of one holiday unit and the inclusion of a sales unit to be sited close to the access to the site and clubhouse – the building is the same size and height as the previously approved type A unit;
 - Inclusion of a new car park in front of the sales unit for 20 spaces;
 - Slight change in position of show units to allow space for the sales unit;
 - It is also noted that one of the other C-type units is turned 90 degrees – this is in the south-east part of the site to the south of the tennis courts.
- 3.4** P/00541/17 - Removal of condition no 20 on P/00141/16 - TCP/16601/K to enable the accommodation to be used all-year round for holiday purposes. Approved -

08/11/2017. It is noted Condition 20 restricted occupation of the holiday units from the 6th March to the 6th January (inclusive).

- 3.5** P/00141/16 – Demolition of clubhouse, chalets, swimming pool, managers dwelling, maintenance and other ancillary buildings; redevelopment comprising 63 units of holiday accommodation, clubhouse, swimming pool and service buildings - Approved - 04/11/2016. Works previously started on site with the demolition and removal of the old buildings on site. It is noted that this approved an L-shaped clubhouse with an outdoor swimming pool.
- 3.6** P/00743/14 – Demolition of clubhouse, chalets, swimming pools, managers dwelling, maintenance and other ancillary buildings; redevelopment comprising 92 units of holiday accommodation, clubhouse, two swimming pools, leisure centre, play area and service buildings; refurbishment of reception building (to include provision of managers accommodation) and tennis courts; parking (revised scheme) – Withdrawn – 02/09/2014 – It is noted that this proposed a larger site area.
- 3.7** P/01199/13 - Demolition of clubhouse, chalets, swimming pools, managers dwelling, maintenance and other ancillary buildings; redevelopment comprising 95 units of holiday accommodation, clubhouse, two swimming pools and service buildings (revision to layout of chalets and parking areas and addendum to Environmental Statement) (readvertised application) – Refused - 18/02/2014 for the following reason:

The proposed development by virtue of its scale, size, massing and density would fail to protect, conserve or enhance the quality of the natural environment in this location, and would have an adverse visual impact within the landscape. In consequence the proposal is contrary to the aims of Policies SP4 (Tourism), SP5 (Environment), DM2 (Design Quality for New Development) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy.

The subsequent appeal was dismissed on 14/04/2015 (APP/P2114/A/14/2223277) with the Inspector stating that the economic benefits and the benefit of bringing a derelict site back into use did not outweigh the totality of the harm - it would be seriously harmful to the landscape and scenic beauty of the AONB and harmful to the Heritage Coast – this was down to the amount of buildings and their spread, noting that this application proposed a lot more units over a larger site area. The Inspector also noted the average spend by the visitors and chalet owners seem realistic and carried some weight in its favour and accords with the NPPF which seeks to encourage economic growth. The Inspector also had regards to other matters raised in the written representations on ecology, highway, noise and light pollution, that Natural England and the Council's Ecology Officer had agreed that subject to conditions there would be no harm to sites of ecological interest and that the authorised use of the site had to be taken into account.

4 Development Plan Policy

National Planning Policy

- 4.1** The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. It refers to three interdependent social, environmental and economic objectives, which need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across all of these different objectives.
- 4.2** At paragraph 130, the NPPF states that planning decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
 - b) are visually attractive with good architecture, efficient site layout and appropriate and effective landscaping.
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 4.3** Reference is also made to the following sections of the NPPF:
- Section 6 - Building a strong, competitive economy
 - Section 12 - Achieving well-designed places.
 - Section 15 - Conserving and enhancing the natural environment

Local Planning Policy

- 4.4** The Island Plan Core Strategy defines the application site as being within the Wider Rural Area. The following policies are relevant to this application:
- SP1 - Spatial Strategy
 - SP3 - Economy
 - SP4 - Tourism
 - SP5 - Environment
 - SP7 - Travel
 - DM2 - Design Quality for New Development
 - DM8 - Economic Development

- DM11 - Historic and Built Environment
- DM12 - Landscape, Seascape, Biodiversity and Geodiversity
- DM14 - Flood Risk
- DM17 - Sustainable Travel

Other relevant documents

4.5 Isle of Wight AONB Management Plan 2019 – 2024

4.6 The Isle of Wight Council Tourism Development Plan

Seeks to ensure that the Isle of Wight maximises the potential of the tourism industry and enables it to grow in a way that is economically, socially and environmentally sustainable. The plan aims to reduce seasonality by encouraging activities which make the Island an all-year round destination and this links through to the type of accommodation which is provided. The plan also emphasises the quality of tourism and under its actions, objectives and 2020 vision for accommodation wants to encourage self-catering development which is in rural areas and can operate throughout the year.

4.7 Guidelines for Parking Provision as Part of New Developments (SPD) (2017)

4.8 Guidelines for Recycling and Refuse Storage in New Developments (SPD) (2017)

Neighbourhood Plans

4.9 *Brighstone Neighbourhood Development Plan*

The Isle of Wight Council on 19 September 2016, 'made' (brought into force) the Brighstone Neighbourhood Development Plan. The following policies are considered to be relevant to this application:

- Policy POE1 (Conserving and enhancing our environment) – consider impact of proposals on landscape, natural and historic environments;
- Policy POE2 (Tranquillity) – to preserve tranquillity – reduce light spill into dark skies and reduce noise;
- Policy JE2 (Zone 2 existing large scale tourist businesses) – supports the retention of the existing businesses in this zone and wants them to remain viable, but recognises the sensitivity of the area re: landscape and nature conservation. Of particular relevance is that improvements should be:
 - of an appropriate scale and design in keeping with the location;
 - are predominantly within the existing footprint
 - fully considered traffic generation, landscape and the tranquillity of the area
 - have incorporated opportunities to conserve and where possible enhance the landscape and natural and historic environment

This policy acknowledges the application site but notes that it is now largely derelict having been closed a number of years ago. It also notes that because of their more remote location these sites are more difficult to access using sustainable transport;

- Policy D1 (Design) – in keeping with local area; not impact on neighbours; appropriate landscaping; not impact on important views; have sufficient amenity areas.
- Policy ICS1 (community facilities/services)
- Policy ICS2 (public access, open/green spaces and views) – maintain/enhance – see green space audit and appraisal;

4.10 *Shorwell Parish Plan 2005 and accompanying document: Shorwell Landscape Character Assessment*

The Landscape Character Assessment includes views from key advantage points including from Gore southwards towards Atherfield and the coast and that Atherfield falls within the Shorwell Arable Plain area.

5 **Consultee and Third Party Comments**

Internal Consultees

- 5.1** The Highway Authority has raised no objections, noting previous conditions which are still applicable address highway matters.
- 5.2** The Council's Rights of Way Manager has raised no objections, however, considers there should be changes to the previously agreed legal agreement (further contributions/change in how/where the RoW contribution should be spent. Reference is also made to the proposed change to the public footpath to the east of the main site (and as per the pending application 21/01506/RVC – see Rights of Way section.
- 5.3** The Council's Environmental Health Officer has raised no objections.
- 5.4** The Council's Tree Officer has raised no objections stating that no trees of high amenity would be impacted upon by this development.
- 5.5** The Council's Ecology Officer has raised no objections following discussions with Natural England and acknowledging their latest comments which raise no objection.
- 5.6** The Council's Archaeology Officer has raised no objections following a site visit and meeting with the applicant's consultant archaeologist and with the original condition varied to require a final report prior to occupation to be submitted so that they have a record in the HER of what has been monitored and what has subsequently happened. The archaeologist notes that the lodges are all above ground supported on screw piles which would have slightly less impacts instead of the slab foundations as previously approved.

External Consultees

- 5.7** AONB Partnership has raised no objections. Whilst they do not advocate such changes taking place to approved plans without first gaining planning permission, especially in such a sensitive location. However, they consider this application

covers the breaches raised and the changes from the approved plans and from their site visit they state that the changes would not/do not result in a demonstrable harmful visual impact on the wider setting of the AONB and is therefore something they considered they could not substantiate an objection to on this occasion. However, with regards the additional fenestration they suggest a condition to mitigate harm on the dark skies. Such a condition is therefore suggested.

5.8 Natural England has raised no objections following further consideration of the site and application.

5.9 Environment Agency has raised no objections.

Parish/Town Council Comments

5.10 Brighstone Parish Council has raised objection on the following summarised grounds:

- Object to the changes being regularised via a minor amendment
- Overall increase in scale of the development, including increasing the scale of the units, increased development density, increased ridge heights, significantly enlarged clubhouse facilities, and increases in glazed area will cause serious harm to the scenic landscape and protected coastline which will outweigh any benefits
- Ecological management/protection schemes set out in planning conditions must be reviewed and updated taking into account the changes
- Considers the application to be contrary to the objectives of the AONB management plan and refers to sections and policies P34 and P54
- The Environmental Impact Assessment which was used to formulate mitigations to the original scheme is now significantly inaccurate

5.11 Shorwell Parish Council has raised objection on the following summarised grounds:

- Does not consider the application meets the criteria as a minor material amendment and that the changes make the development a third larger
- Harm on the landscape from increase in scale and height of units, increased density of the development, the enlarged clubhouse and increase in glazing
- Needs a new EIA given the protected and sensitive nature of the site, coupled to the major development and the amendments along with the time elapsed since the original permission
- Loss of the buffer of the Eastern Field and state the original planning permission required dense planting of trees and shrubs to screen the site here [Officer Note: the site has been subdivided with the eastern field now under separate ownership to the applicant's site. However, the planning permission did not include a landscaping scheme in this field].

Third Party Representations

5.12 17 letters of objection have been received the content of which can be summarised as follows:

- Feels the description is misleading and should state "enlargement of a significant number of existing units, reorientation of the majority of the units and the construction of four new larger units in lieu of the same number of smaller approved units."
- Objects to the increase and reorientation of the units rather than the increase in the clubhouse and results in harm to the landscape and protected designation of the site and surrounding area, stating this equates to an increase of around 1500sqm of the chalets and higher ridges;
- No justification for such an increase and the only reason is accessibility which they feel is not a material planning consideration and is already governed by building regulations
- Selling off of Eastern field has meant the mitigation measures set out in the EIA can no longer be applied
- Refers to the previous refused application dismissed at appeal where the scale and intensification was too great
- A sensitive site and area and the increased number of and larger size of buildings, more parking spaces and increase in clubhouse is inappropriate development
- Impact on protected AONB, Heritage Coastline, South Wight Maritime (Special Areas of Conservation) and Compton Chine to Steephill Cove SSSI)
- Not high-quality design or building materials and not sympathetic or blend in with the environment
- Provides dimensions and compares with approved units that with larger balconies the built form would increase in the footprint by 30 per cent and increase in roofs by 1m would interrupt the coastal views
- Another comment provides comparisons with the approved schemes and they set out breaches they have identified including: the increase in units sizes and heights; the new H shape units, the position; design and scale of the clubhouse; the difference in layout of units; the addition of porches to units; changes and increase in glazing; change to number of bedrooms; the inclusion of a swimming pool; removal of hedges/trees to east of the site; units built closer to boundaries; earthworks and drainage/pipes carried out in erosion zone
- With larger units the Eastern boundary would now be dense and overdeveloped with a huge visual impact
- Lives next door and states the wildlife has already been impacted on including the removal of some vegetation along the eastern boundary to accommodate the larger units and allow views
- Additional glazing will impact on dark skies
- Considers the changes have led to a residential housing development
- No transport links which will hugely increase traffic through the lanes to Brighstone and Shorwell
- Number of bedrooms has changed meaning 2 families can stay in a unit

and thus increase in parking and traffic

- Four large units built without permission and site appears to be extremely congested and over-developed and is visible for miles
- Concerns this could lead to stripping of the Island's UNESCO Biosphere status because of overdevelopment in a sensitive area
- No evidence of renewable energy thus not sustainable build
- CPRE believe this should be a material amendment given the units are in completely different locations and significantly bigger than approved. Welcome opportunity for disabled access but raise concerns of access to the Unit E's (need for steep ramps etc.). Refers also to increased number of units close to the road and their increase in size and impacts on AONB.

6 Evaluation

Principle

- 6.1** Planning application P/00141/16 has already approved the principle of the development and this application seeks relatively minor changes in comparison to the original application for the overall site. These are mainly changes to the club house and units in terms of their size and location. It should also be noted that a 2018 application approved use of the units all year round but still restricted to a holiday use with the appropriate conditions imposed.
- 6.2** Officers note that a number of comments question whether this should be considered a minor material amendment or should be a full planning application. Given the level of works and the size of the overall site of the original application compared to the proposed revisions under this application, officers consider that the proposed would not materially affect the nature of the scheme. Whilst officers acknowledge that the clubhouse would become larger, incorporating a swimming pool, it is noted that an outdoor swimming pool and terrace area along with a children's play area was previously approved in this location. Officers consider that the proposed changes to the clubhouse would not significantly alter the original scheme and thus can be considered as a minor material amendment. This change would not alter the operative element of the description of the development, which refers to a swimming pool.
- 6.3** Furthermore, whilst there are changes to the units with a number increasing in size and also change to the layout of some, there are no changes to the number of units nor to overall size of the 'developable' site (within the red line), or to the main parking areas. Again, officers do not consider these changes would materially affect the nature of the scheme and that they can be assessed through such a minor material application which still goes through a planning application process including full public consultation. Officers therefore consider that the changes proposed under this application are not so substantial that it could not be assessed as a minor material amendment.
- 6.4** Officers also note that the original 2016 application and subsequent revisions were assessed under the current local and national policies, and also that works previously began, and thus is an extant permission and significant weight must be given to the previous scheme.

6.5 The Parish has referred to the need for a new Environmental Impact Assessment (EIA) given the time since the original approval and changes to the site and surrounding areas, the revisions proposed and changes and having regards to the sensitive location and designations. Again, regard must be had to the extant permission, and that the changes proposed are only within the previously approved red line, with no increase in the developed area. As set out above, officers consider these changes can be assessed under a Minor Material Amendment, via section 73 of the Planning Act and Officers do not consider these changes would result in the need for a new EIA, with significant weight also given to the relevant consultee comments, noting that Natural England, the Environment Agency and the AONB Partnership have not raised an objection in respect of designated sites.

6.6 Officers note that P/01313/17 approved a variation to P/00141/16 which:

- revised the clubhouse – location and also the loss of the swimming pool and soft play area
- the re-arrangement of parking area in front of the clubhouse with increase of parking spaces
- Loss of one holiday unit and the inclusion of a sales unit to be sited close to the access to the site and clubhouse with an additional car park
- Slight changes in position of some units.

This is noted as some of the changes are incorporated into this revised scheme, including the additional parking to the front of the site.

6.7 Comments have been made in relation to the previously refused scheme (P/01199/13) which was dismissed at appeal. However, as set out in the ‘Planning History’ section above, it must be reiterated that this was for a much larger number of units over a larger developable area (larger red lined site) with the Inspector specifically highlighting that the amount of buildings and the increase in spread of the development that was harmful. This current application does not increase the number of units, nor does it spread out further than the previously approved red line, and therefore still differs significantly from the previously refused scheme.

6.8 Officers consider the revised scheme would result in a better tourism provision, with higher quality holiday units than the pre-fabricated lodges previously approved. With regards to the amenity building, this would now be a larger U-shaped building instead of a rectangular one, although noting the original 2016 approval included the built form of the outdoor pool, terrace and play area. There have been two different designs with the original scheme having an outdoor pool and terrace area, but then the pool area was removed in the subsequent minor material amendment (noting at that time this raised significant concerns from third parties and the parish that the site’s facilities being reduced would lead to a poorer tourism provision, and potential resulting in the units becoming full residential). The amenity building would now include a swimming pool within a ‘wing’ of the proposed enlarged building and along with the increase in the café area, the gym and now a steam room, and officers consider this would significantly improve the tourist provision, and that this pool would now be

indoors, providing an all-year-round facility, and thus accords with Policy SP4 which seeks all-year-round tourism.

- 6.9** The applicant has also stated that the intention is that the café would be available to the general public and that there may be some use of the swimming pool by local community groups (it is understood some have approached the applicant on this). Whilst this would certainly be a positive tourism and community provision, this community use could not be guaranteed, and it would be unreasonable to suggest conditions that the community use takes place and thus no weight is attached to this other use(s) in determining this application.
- 6.10** A comment has been received that the amenity building/clubhouse would be in a different position than approved, however, whilst it is in a different position to the 2016 approved scheme, it would be in a similar position to the 2017 scheme.
- 6.11** Comments have been received that there is no justification for the changes and that the reason put forward for better accessibility are not material. Officers do not consider that such justification in this instance is a determining factor itself or that significant weight can be attached to this. This assessment is based on whether the changes would result in significant adverse harm in comparison with the approved schemes. Although it is acknowledged that there are changes overall and that officers consider these would provide an improved and higher quality tourism provision, these are then balanced against any negative impacts, as discussed below. Taking into account the consultee comments, officers do not consider that there is any such increase in harm would occur when compared to the approved schemes and therefore the principle of the changes are considered acceptable.

Impact on the character of the area

- 6.12** As set out above, the applicant is seeking changes to the plans that were approved through recent permissions. In assessing this application, it must be reiterated that the assessment is between what was approved and what is now proposed/being built and whether these changes themselves would result in adverse harm beyond the approved schemes.
- 6.13** The site is situated in an exposed rural location on the on the south-western coastal plain forming the south-western coastline of the Island and is within the Isle of Wight AONB and Tennyson Heritage Coast, thus forms part of a nationally protected landscape. Thus, the key assessment of this application is the changes which have been made to the approved plans and any landscape and visual impacts on these designations.
- 6.14** The National Planning Policy Framework July 2021 (NPPF) gives AONBs the highest level of protection when it comes to landscape and scenic beauty and aims to protect these areas as set out in paragraphs 174 and 176. In paragraphs 130 and 134 the NPPF mentions good design and local character and how this should be reflected and reinforced in development proposals. The Island Plan also protects the environment and landscape using SP5 and DM12 which states development will only be supported where it reflects the objectives of Wight

AONB.

- 6.15** A number of comments have been submitted which have raised concerns regarding the changes from the previous applications and consider there would be harm, with some comments setting out detailed comparisons of the built form. As already set out, but reiterated here, there are no changes to the numbers of units on the site, nor on the size of the developable boundary as previously approved. However, acknowledging those third party and Parish comments about the changes to the scheme which have been carried out, there have been changes to the design and size of a number of the units and some of the layout of some of these and then to the size and design of the clubhouse.
- 6.16** With regards the holiday units, the original scheme approved smaller prefabricated units and whilst it was considered that these would still have provided a high-quality tourist provision, the revised scheme would provide more substantial buildings and could be considered to provide better all-year-round tourist provision, particularly taking into account the changes to the amenity building. However, in terms of the size of the amended holiday units, they would not be any higher than those approved, and in fact often lower than the previous height approved due to the differing construction. Glazing would differ in size, but other than the four H shaped buildings (units E), officers do not consider there is a significantly higher amount of glazing and there are no rooflights proposed, noting that the AONB Partnership have not objected to the proposals.
- 6.17** With regard to the amenity building/clubhouse, this would be a larger building with new wings proposed, however, consideration must be given that these additional wings would be over the previously approved built form of the outdoor pool, sun terrace and play area and officers consider that the additional increase in the building would not result in any significant visual impacts, noting that the building is sited within the approved built form of the application and would remain a single storey building. Furthermore, it is considered that the style and design of the building would represent an improvement to the approved version.
- 6.18** The site is within a bowl in the landscape and whilst officers cannot condone unauthorised changes to approved plans, in this instance an assessment of visual impacts can be undertaken given that many of the units have been constructed/partly constructed. Officers have undertaken a number of site visits to the site itself, the surrounding areas and public rights of way as well as from further vantage points including the Military Road in both directions and the further higher ground of the Downs to the north and east. The location of the site within a depression in the landscape and this significantly reduces landscape and visual impacts, with this assessment also having to consider the differences between the approved schemes and the current changes.
- 6.19** From the distant points, such differences cannot be identified and from the closer viewpoints some differences would be seen, such as the change to the amenity building, but it is not considered this would cause further or adverse visual harm to the site or the surrounding landscape. The point where the differences would be most readily seen are from the cliff path immediately to the rear (south-west) of the site. This is where the changes in orientation of some of the units and the

change to E units (the H-shaped ones) can be seen. However, these changes are seen with the backdrop of the rest of the development and as a result the units would appear overly prominent when compared to the approved scheme. Furthermore, the site has not yet been landscaped, and this would provide increased softening of the built form.

- 6.20** In undertaking this assessment, consideration has been given again to the Landscape and Visual Impact Assessment (LVIA) submitted with the 2016 application which shows the context of the site from various viewpoints in the locality, and which was previously accepted as being based on accepted methodology and considered 'fit-for-purpose'. Whilst this was undertaken several years ago, it is considered that there have not been any significant changes locally which would alter the previous assessment or its conclusion that the landscape is capable of absorbing the proposed redevelopment with a minimal loss of visual amenity at close proximity, and that there would be no loss of visual amenity from any long-distance viewpoints, or from the sea.
- 6.21** Significant consideration must be given to the AONB Partnership comments. They have undertaken similar site visits and assessments to seek to establish any additional impacts of the amendments from within and outside the site. They state that the units remain of single storey construction with dark coloured roofs and finished in muted colours as agreed by previous applications and that existing screening in views from the south east results in only the tops of the roofs visible from nearby footpaths and the Military Road. Furthermore, the views from the north west coastal paths are equally shielded by existing vegetation, landform and the intervening camp site which they understand now benefits from year-round use for static caravans. In addition, views on the approach from the west on the Military Road see the development at the base of the hill, interspersed with vegetation, at low level and with the adjacent camp site in the foreground. The most direct and close up views attainable of the units are from the coastal path between the boundary and the cliff with the units clearly visible and in the foreground of views towards the site.
- 6.22** The ANOB Partnership refer to the site having been a holiday site for many years, although at times derelict, but that whilst some units have been increased in size, an additional unit has been proposed and the layout has been changed, the fundamental view from here has always been of a holiday site. The aim of the redevelopment of the site was to provide a high-quality tourism offer and the AONB Partnership consider it is what is being proposed/provided.
- 6.23** Officers acknowledge that the AONB Partnership have raised some concerns that the re-orientation of the units is not so positive, preferring the approved scheme of units at irregular angles, noting that the rigid formation of caravans has caused visual harm at other caravan parks on the Island. However, from their site visits, given the choice of materials and the limited views of the units due to landform and surrounding vegetation, it is not considered this has occurred at this site, noting also that the car parking has remained the same, with parking clusters well within the site and shielded from outside views (a previous concern prior to the 2016 application). The AONB Partnership note changes in size of the units and the addition of another type of unit (Unit E) but they do not consider this to have a

demonstrable harmful visual impact on the wider setting of the AONB and therefore an objection by them could not be substantiated in this instance.

- 6.24** However, they refer to units A, B, D and E which now would have larger amounts of glazing than previously granted permission for and some concerns that this could have impacts upon the Dark Skies and tranquillity that this area of the Island benefits from. The AONB Partnership does not consider sufficient overhangs exist on the current units which could mitigate any upward light spillage and therefore recommend a condition that light pollution attenuation measures are put in place on these units with large amounts of glazing, such as wooden louvres or additional overhangs are added to these units. Officers agree that this could be covered by condition.
- 6.25** The AONB Partnership has raised no objection to the increase in size of the amenity building to now incorporate an indoor swimming pool, stating that its previous removal was felt to be a retrograde step in offering a high-quality tourism offer and also that the previous main building was a large, almost two storey rectangular bland building. The AONB Partnership has no objection to the revised design or size and scale of the building, however, it is considered that light attenuation measures should also be employed to the swimming pool windows in a similar way to those required for the units.
- 6.26** With such a condition in place, the AONB Partnership conclude that whilst a number of changes have been made on site compared to what had been given permission, the overall landscape impacts cannot be demonstrated to cause further harm to the AONB or Heritage Coast over and above what already has permission on a historic holiday site. Officers agree with the AONB Partnership's assessment and the condition requiring light pollution attenuation measures is therefore recommended.
- 6.27** It is acknowledged that a landscaping condition was previously imposed and that the condition was successfully discharged. Given the change to the scheme including the position and size, it is considered appropriate to re-impose a condition to require a landscaping scheme to be submitted and agreed. Similarly, it is recommended that the condition for details of external lighting is also re-imposed (this also had been discharged).
- 6.28** Therefore, whilst officers acknowledge there is an increase in the built form from that originally approved, it is considered that these changes do/would still have an acceptable visual impact with the landscape, in accordance with Policies SP5, DM2 and DM12 of the Core Strategy.

Impact on neighbouring properties

- 6.29** Previously no concerns were raised in respect of impacts to neighbours, noting the Chine Farm Camping Site is located adjacent to the northern boundary of the application site. Officers do not consider that the changes to the units or the amenity building/clubhouse would result in further impacts on this established camping and caravan site. Similarly, to the north of the site on the opposite side of Military Road is a small cluster of residential properties (Chine Farm, Hazlen,

White Cottage and 1-9 Chine Farm Cottages). The 2017 application already approved further units and parking on the north-eastern part of the site close to the main road and Officers do not consider the change to the units here would result in any further impacts on these properties.

- 6.30** However, Officers note that since previous applications, the overall site has been subdivided with the land to the south-east now outside the ownership of the application site (the previous owners/applicant of the site subdivided it and sold these off). Whilst the bungalow to the east immediately adjacent the red-lined site was outside the red and blue lines before, this, along with the land is now under new ownership. Reviewing the previously approved 2016 and 2017 plans, it is noted that there are still only two C units close to the boundary of this neighbour towards the front of the site but that these have now been moved further away from the dwelling and now at 90 degrees, where previously they were angled facing slightly towards this dwelling. Officers do not consider that the changes to these units would result in any further or adverse impacts on this neighbour.
- 6.31** To the south of this bungalow, a row of three D units were previously approved and now there would be a row of four D units, with the closest one still set at a similar distance from the boundary as previously approved. On the elevation facing towards this neighbouring site there would be one further small window than that approved but with the separation distance to the dwelling and the boundary treatment (hedge), Officers do not consider this would result in any further or adverse impacts on this neighbour.
- 6.32** Whilst the subdivision by the previous applicant/owner has resulted in some complications, noting that the neighbouring property has applied for planning permission to revise the footpath going across the eastern part of the site, now in their ownership (also resulting in need for updated legal agreements covering the whole site), Officers consider that the changes to the approved scheme that are proposed, and as set out above, would not result in any further or adverse impact on neighbouring properties than previously approved and therefore these changes are considered acceptable in terms of impact on neighbours in accordance with Policy DM2 of the Core Strategy.

Highway Consideration

- 6.33** As stated above, the principle of the development for 63 units has been previously approved and the highway elements previously agreed, including relevant conditions. The proposal includes the reconfiguration of the approved units and allowing for an updated onsite layout. It should be noted a subsequent approved application (P/01313/17 – see planning history section) did approve additional parking and slight changes to the layout, particularly close to the entrance with the proposed sales unit. Some of these changes are incorporated into this scheme with the sales unit and further parking to the front.
- 6.34** The Highway Engineer acknowledges that the revised site layout would bring about an uplift in onsite parking provision. However, when considering the planning history associated with the site including the previous approved increase in spaces, and the lack of availability of safety on-street parking on the local

highway network, the increase in parking numbers is not seen to pose a highway safety issue.

- 6.35** The Highway Engineer states that the traffic generation associated with this proposal would not have a negative impact on the capacity of the highway/project network and that on review of accident data, there have been no recorded accidents in the last 3 years within the vicinity of this site that are relevant to the proposal (two were recorded but the Highway Engineer does not consider these relevant to this proposal).
- 6.36** Therefore, with reference to previous conditions being still relevant/applicable, the proposal would comply with Policies DM2 (Design Quality for New Development), DM17 (Sustainable Travel) and SP7 (Travel) of the Isle of Wight Core Strategy.

Rights of Way

- 6.37** Officers note that the Council's Rights of Way Manager has not raised any objections on the scheme but does consider that a further payment towards rights of way should be provided by the applicant with regards the change in design of the units, the change to all-year round use and that the swimming pool would impact on the public's enjoyment of the rights of way through noise/views etc. The RoW Manager also considers the wording of how the money should be spent should change, to within 5 miles of the development site.
- 6.38** Currently the legal agreement stipulates that a contribution should be made to improve the public rights of way access to the beach in the vicinity of the development. It is noted that the site is located on a cliff with a steep slope down to steps leading to the beach and that during a period of the assessment of the original application, these steps had become damaged and unusable. Officers consider it key that such a link is maintained for a benefit to the users of the development as well as a general public benefit, and therefore consider that the original stipulation remains. With regards an increase in contributions, as discussed above, this application does not increase the number of units and whilst there are design changes, these would not result in a significant intensification of the site and use of the surrounding area and paths. Officers therefore do not consider it appropriate to now raise the rights of way contribution (other than any interest owed as per the original scheme).
- 6.39** Reference is also made by the Rights of Way section to a proposed change to the section of public rights of way previously approved in the field to east of the main holiday site. This is subject of a current application (21/01506/RVC) and which will become part of the proposed England Coast Path (ECP). This would be close to the site boundary of the holiday site and RoW have raised some queries over possible changes. This application has not included any details and given the changes proposed under this application do not include a change to the site boundary (which could impact on such a path), an informative is therefore suggested.

Ecology

- 6.40** As set out above, the changes would not enlarge the developable site, nor encroach into the land around the site to the east or west. Some concerns have been raised by third parties and the Parish Councils regarding impacts on the environment and designated sites. However, again, as stated above, the changes only relate to the design and size of the units and amenity/clubhouse building, and Officers therefore do not consider these would result in any further harm or impacts on ecology/wildlife. Significant weight must also be given to the comments received from both Natural England (NE) and the Environment Agency, as neither consultee have raised an objection to the current proposals. NE state that the subject of the variation of condition application itself does not pose any likely significant effect to the South Wight Maritime Special Area of Conservation (SAC) and would not be likely to cause adverse impacts to the interest features of the Compton Chine to Steephill Cove Site of Special Scientific Interest (SSSI). The Council's Ecology Officer also does not raise an objection.
- 6.41** As referred to above, a landscaping scheme was previously agreed via condition and this was agreed by the Council's Tree and Ecology Officers, the AONB Partnership and Natural England. This demonstrated that a successful landscaping scheme could be achieved at the site to incorporate ecology/wildlife measures as well as visual enhancements and the softening of the built form. However, given the changes to the units and the layout, Officers consider these details would need revising and therefore it is recommended to re-impose the landscape condition.

7 Conclusion

- 7.1** The principle of the redevelopment of the historic holiday park was previously approved through planning application P/00141/16 and having given due weight and consideration to all comments received in relation to this application, officers consider that the proposal sets out relatively minor changes which can be assessed as a minor material amendment (as discussed above).
- 7.2** Officers consider that the proposed changes would not harm the character and appearance of the surrounding area, the wider landscape or the AONB, the ecology/wildlife, highway safety or the amenities of neighbouring property occupiers and consider the revised scheme would still comply with the requirements of Policies SP1, SP3, SP4, SP5, SP7, DM2, DM8, DM11, DM12 and DM17 of the Island Plan Core Strategy and as such is recommended for approval with conditions varied to take into account previously agreed information, but with some conditions reimposed and a further condition imposed relating to mitigation for the increase in glazing.

8 Recommendation

- 8.1** Conditional Permission subject to a revised Section 106 Agreement to include:
- Public Rights Contribution of £20,000
 - Restriction of any development within a specified exclusion zone (around

the cliffs and chine).

9 Statement of Proactive Working

9.1 In accordance with paragraphs 186 and 187 of the NPPF, the Isle of Wight Council takes a positive approach to development proposals focused on solutions to secure sustainable developments that improve the economic, social and environmental conditions of the area. Where development proposals are considered to be sustainable, the Council aims to work proactively with applicants in the following way:

- The IWC offers a pre-application advice service
- Updates applicants/agents of any issues that may arise in the processing of their application and, where there is not a principle objection to the proposed development, suggest solutions where possible

In this instance the application was considered to be acceptable following revised information relating to highways.

10 Informative

10.1 The applicant is advised to contact the Council's Rights of Way team with regards the public right of way and the alignment of the proposed England Coast Path (ECP) and potential need for changes (in conjunction with the pending application 21/01506/RVC).

Conditions

2. The development hereby permitted shall be carried out and maintained in complete accordance with the details shown on the submitted plans, numbered/labelled:
 - 13-09-02R – Atherfield Site Plan (dated 25/03/2021) (revised, received 13/07/2021)
 - 12-02-21-A Rev A – Atherfield Unit A (dated 12/02/2021)
 - 13-02-21-B – Atherfield Unit B (dated 12/02/2021)
 - 14-02-21-D Rev A – Atherfield Unit C (dated 12/02/2021)
 - 15-02-21-D Rev A – Unit D 3 Bed (dated 12/02/2021)
 - 16-02-21-E – Unit E 4 Bed (dated 03/03/2021)
 - 13-09-03 – Proposed hospitality suite (dated 06/04/2021 - floorplan)
 - 13-09-04 Rev D – Proposed hospitality suite (dated 06/05/2021 - elevations)
 - 17-02-21 – Atherfield unit overlays (dated 12/05/2021)
 - 06 Rev C - Proposed external stores (received 23/02/2016)
 - Visibility Splays (received 02/02/2016)

Reason: For the avoidance of doubt and to ensure the satisfactory implementation of the development in accordance with the aims of Policies SP1 (Spatial Strategy), SP3 (Economy), SP4 (Tourism), SP5 (Environment), SP7

(Travel), DM2 (Design Quality for New Development), DM8 (Economic Development), DM11 (Historic and Built Environment), DM12 (Landscape, Seascape, Biodiversity and Geodiversity), DM17 (Sustainable Travel) of the Island Plan Core Strategy.

3. The development shall take place in accordance with the previously agreed Construction Environmental Management Plan (CEMP) (dated November 2016) and with Drawing number 15 Rev A (dated Sept 2016) 'Proposed site set up under CEMP' previously agreed under condition 3 of P/00141/16 and by the LPA's letter dated 16/02/20217.

Reason: In order to ensure that the works are undertaken in an appropriate manner to minimise impact to the designated sites, ecological features, wildlife and supporting habitats and the surrounding environment and the amenities of neighbouring uses, and to comply with policies SP5, DM2 and DM12 of the Island Plan and the principles of the NPPF.

4. The development shall be carried out and maintained in accordance with the strategy for maintaining barn owl nesting opportunities within the site (Guidance on installing pole-mounted barn owl boxes Arc, December 2016) previously agreed under condition 4 of P/00141/16 and the LPA's letter dated 16/02/2017. This shall include that the boxes are cleaned out annually (depending on use) to enable successful barn owl breeding.

Reason: To ensure the protection of the ecological, wildlife and supporting habitats in this location and to accord with Policies SP5 (Environment), DM2 (Design Quality for New Development) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy as well as Government advice contained within the National Planning Policy Framework

7. The visibility splays of 2.4m x 200m as shown on drawing titled 'Visibility Splays' shall be maintained and nothing that may cause an obstruction to visibility when taken at a height of 0.5m above the adjacent carriageway shall at any time be placed or be permitted to remain within these visibility splays.

Reason: In the interests of highway safety and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy

8. Notwithstanding previously approved details, no holiday unit hereby approved shall be occupied until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, has been submitted to, and agreed in writing by, the Local Planning Authority. The management plan shall incorporate the recommendations of the Ecology Report (Applied Ecology; September 2013) and Ecology Report Update July 2015, and the Landscape Design Concept Report (Natural Enterprise; September 2013, Revised January 2016) and shall include the following elements:

1. Details of new planting which shall include a schedule of plants, noting species, plant sizes and proposed numbers/densities and an

- implementation programme.
2. Details of maintenance regimes.
 3. Details of any new habitat created on the site.
 4. Details for the treatment of site boundaries and buffers around any water bodies.
 5. Details of on-going management responsibilities.

The agreed landscaping shall be undertaken in accordance with the agreed details, including the specified time for implementation and thereafter, the landscaping at the site shall be managed in accordance with the agreed management plan.

Reason; In the interests of the visual amenity of the area and to ensure the protection of the ecological, wildlife and supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site and to accord with Policies SP5 (Environment), DM2 (Design Quality for New Development) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy as well as Government advice contained within the National Planning Policy Framework.

9. No part of the clubhouse/recreation building hereby approved shall be constructed above foundation level until details/samples of materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

The palette of colours of the external cladding of the holiday units shall be as previously agreed under condition 9 of P/00141/16 and the LPA's letter dated 04/10/2017 which included the following:

- Pewter C54
- Slate Grey C18
- Dark Grey C15
- Pearl C52
- Taupe C55
- Black C50
- Sage Green C57
- Illustration of RAL 7045 window colour
- Rain goods would be black

Development shall be carried out in accordance with the approved details and maintained in accordance with the agreed details thereafter.

Reason: In the interests of the amenities of the area and the AONB and to comply with Policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

10. The roof materials of the buildings and holiday units shall be as previously agreed under condition 10 of P/00141/16 and the LPA's letter dated 04/10/2017 which

included the following:

- Tapcoslate brochure
- That the colour would be Pewter Grey ref 804
- A sample of the roof tiles and ridge tiles.

Development shall be carried out in accordance with the approved details and maintained in accordance with the agreed details thereafter.

Reason: In the interests of the amenities of the area and AONB and to comply with Policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

11. No building hereby approved shall be first occupied until the drainage scheme has been implemented as agreed under condition 11 of P/00141/16 and the LPA's letter dated 07/06/2017 which included the following:

- Drawing number: 21049/50;
- Drawing number: 21049/51;
- Drawing number: 21049/52;
- Document – Drainage Strategy by Meyer Brown (with calculations);
- Product information – WPL HiPAF (treatment plant)

Development shall be carried out in accordance with the approved details and maintained in accordance with the agreed details thereafter.

Reason: To prevent an increased risk of flooding, both on and off the site, and to comply with Policy DM14 (Flood Risk) of the Island Plan Core Strategy and Government advice contained within the National Planning Policy Framework.

12. No part of the development shall be occupied until a report on the archaeological watching brief, (condition 12 of P/00141/16), has been submitted to and approved by the Local Planning Authority.

Reason: To mitigate the effect of the works associated with the development upon any heritage assets and to ensure that information regarding these heritage assets is preserved by record in accordance with Policy DM11 of the Isle of Wight Council Island Plan Core Strategy.

13. The development hereby approved shall not be occupied until full details of hard landscape works has been submitted to, and approved in writing by, the Local Planning Authority and these works shall be carried out as approved. These details shall include; hard surfacing materials and means of enclosure.

Reason: To ensure the appearance of the development is satisfactory and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

14. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the

occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance of the development is satisfactory and to comply with Policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

15. No building hereby approved shall be first occupied until the junction between the site and the public highway (A3055 Military Road) and the means of disposal of surface water has been constructed in accordance with details agreed under condition 15 of P/00141/16 and the LPA's letter dated 07/06/2017 which included the following:
- Drawing number: C21049/1;
 - Drawing number: C01;
 - Document – Tensar calculations (Mayer Brown)

Development shall be carried out in accordance with the approved details and maintained in accordance with the agreed details thereafter.

Reason: In the interests of highway safety and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

16. The development hereby approved shall not be occupied until space has been laid out in accordance with drawing 13-09-02R – Atherfield Site Plan (dated 25/03/2021) (revised, received 13/07/2021) for vehicles to park and for vehicles to turn so that they may enter and leave the site in forward gear. The space shall not thereafter be used for any purpose other than that approved in accordance with this condition.

Reason: In the interests of highway safety and to comply with policies DM2 (Design Quality for New Development) and DM17 (Sustainable Transport) of the Island Plan Core Strategy.

17. The previously agreed details within the 'Enabling Outdoor Recreation and Access at Atherfield Bay Holiday Camp' (dated December 2017) previously agreed under condition 17 of P/00141/16 and the LPA's letter dated 02/05/2017, shall be operated from the first occupation/use of any of the buildings hereby permitted and the site shall be managed in accordance with this agreed document thereafter, taking into account the changes to the public right of way as set out under planning application 21/01506/RVC.

Reason: To ensure the long-term protection of wildlife and supporting habitat is secured in accordance with the principles established by the application, and to support access and recreation within the site to minimise impact to the designated sites, and in line with policies SP5, DM2, and DM12 of the Island Plan and the principles of the NPPF.

18. Notwithstanding previously approved details, no external lighting shall be installed at the site until a lighting scheme has been submitted to, and agreed in writing by, the Local Planning Authority to ensure that lighting fulfils the criteria for Environmental Zone E1 for Areas of Outstanding Natural Beauty by the Institute of Lighting Professionals. These details shall include; the type, height, luminance and location of external light fittings and a statement setting out curfew periods when all external lighting will be switched off. External lighting shall be installed, retained and maintained in accordance with the approved details

Reason; To ensure that the Dark Skies commodity of this part of the Isle of Wight Area of Outstanding Natural Beauty is maintained and to comply with Policy DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no barriers shall be erected other than those that have been approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

21. Notwithstanding the provisions of the Caravan Sites and Control of Development Act 1960 (as amended) and the Public Health Act 1936 (as amended), no caravans, camper vans or tents shall be brought onto the site at any time.

Reason: In the interests of the visual amenity of the site and surrounding area and to comply with the aims of policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

22. None of the units hereby approved shall be used other than as holiday accommodation and none shall be used as a main or permanent residence.

Reason: To ensure that the development remains available for holiday purposes and to accord with the Good Practice Guide for Tourism and Policies SP1 (Spatial Strategy) and SP4 (Tourism) of the Island Plan Core Strategy.

23. The owner(s) and/or manager(s) of the holiday accommodation hereby permitted shall maintain a comprehensive and up-to-date register listing the names of all occupants of the accommodation, their main home address, and recording the dates of occupation and vacation of the accommodation. This register shall be kept by the owner(s)/manager(s) for a rolling continuous period of 10 years.

Reason: To ensure that the development remains available for holiday purposes and to accord with the Good Practice Guide for Tourism and Policies SP1 (Spatial Strategy) and SP4 (Tourism) of the Island Plan Core Strategy.

24. Immediately following the implementation of this permission, notwithstanding the provisions of The Town and Country Planning (General Permitted Development)

(England) Order 2015 (as amended) (or any other order revoking and re-enacting that order with or without modification) the following Classes of Schedule 2 of the Order as amended are withdrawn.

Part 1

Class A – enlargement, improvement or other alteration to the holiday units

Class B – enlargement consisting of an addition to the roof

Class C – alteration to the roof

Class E - building, enclosure or swimming pool for purposes incidental to the enjoyment of the holiday units or a container for domestic heating purposes

Class F - hard surface for any purpose incidental to the enjoyment of the holiday units

Part 2 Class A - gate, fence or wall or other mean of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the location of the site within designated sites including the AONB and in the interests of the visual amenities of the site and the area in general, in accordance with Policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy and Government advice contained in the NPPF.

25. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modification), no windows/dormer windows or similar openings [other than those expressly authorised by this permission] shall be constructed in the elevations or roof slopes of the development hereby approved.

Reason: To protect the visual amenities of the area and AONB and in the interests of dark skies, nature conservation and to protect the residential amenities of neighbouring dwellings in accordance with Policies SP5 (Environment), DM2 (Design Criteria for New Development), DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy.

26. The cliff retreat and chine erosion report shall be renewed annually and submitted to the Local Planning Authority on the anniversary of the date of this permission.

This report shall identify:-

- the location of a line 60 metres from the cliff edge and 20m from the Chine edge on the property, at the date of submission of the report; and,
- the location of any buildings in, and any buildings that within this buffer zone as referred to above.

Reason: To ensure the development remains a sufficient distance from the cliff top and to avoid the potential for built structures to fall over the cliff edge, in the interests of the visual amenity of the area and to ensure the protection of the ecological, wildlife and supporting habitats in this location and to accord with

Policies SP5 (Environment), DM2 (Design Quality for New Development) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy as well as Government advice contained within the National Planning Policy Framework.

27. No fencing shall be erected between the cliff edge and the 200 year erosion line and that any existing fencing within the application site inside this buffer shall be removed, prior to first occupation of any of the buildings hereby approved.

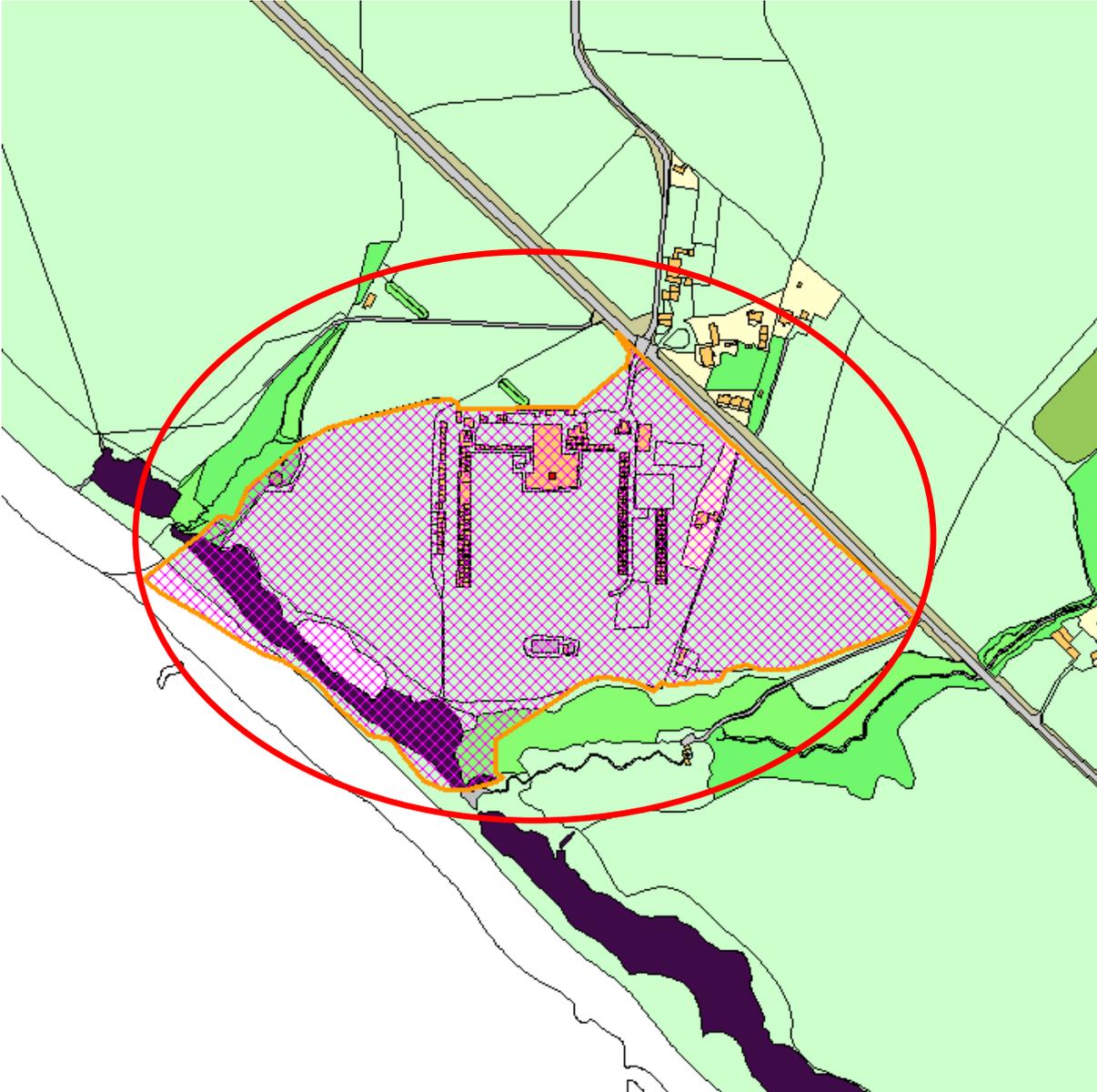
Reason; To avoid the potential for built structures to fall over the cliff edge, in the interests of the visual amenity of the area and to ensure the protection of the ecological, wildlife and supporting habitats in this location and to accord with Policies SP5 (Environment), DM2 (Design Quality for New Development) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy as well as Government advice contained within the National Planning Policy Framework.

28. The holiday units hereby approved, shall not be occupied until details of light pollution attenuation measures such as timber louvres and/or additional overhangs for the holiday units A, B, D and E and the windows serving the swimming pool of the clubhouse/amenity building have been submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out and maintained in accordance with the approved details.

Reason: To protect the visual amenities of the area and AONB and in the interests of dark skies, nature conservation in accordance with Policies SP5 (Environment), DM2 (Design Criteria for New Development), DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy.

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Purpose: For Decision

Committee report

Committee	PLANNING COMMITTEE
Date	TUESDAY 25 JANUARY 2022
Title	REVIEW OF THE CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS
Report of	CHAIRMAN AND VICE CHAIRMAN OF THE PLANNING COMMITTEE

EXECUTIVE SUMMARY

1. Some Members of the Planning Committee have expressed discontent that the current Code of Practice for Members and Officers Dealing with Planning Matters does not provide the depth of information needed to help guide their approach to the consideration of planning applications.
2. The code of practice is the council's interpretation of the many laws that impact on how it must consider planning applications. It requires collective agreement to abide by the code of practice as set out or else a separate ruling on the law each time there is a departure from its provisions, which in turn sets a precedent for future action.
3. Therefore, it is proposed the Code of Practice for Members and Officers Dealing with Planning Matters is reviewed in general but especially in those areas of identified concern to councillors. This is intended to provide a revised code of practice which all councillors can collectively agree to follow.
4. A review of the code of practice is different to a review of the planning service as a whole. As set out in the corporate plan this is intended to be achieved by a peer review led by the Local Government Association to help the council identify its future needs of the service and that it has sufficient resources in place to meet these needs.

RECOMMENDATION

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| <ol style="list-style-type: none">5. On the basis of the information in this report it is recommended that the Planning Committee agrees to options ii, iii and iv:<ol style="list-style-type: none">ii. Ask officers to produce an amended Code of Practice for Members and Officers Dealing with Planning Matters for review by the Planning Committee, taking into account the need to achieve greater clarity about attendance at site visits, when |
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ward members can speak and achieving equality of voting rights for all councillors on ward matters.

- iii. Once agreed an amended Code of Practice for Members and Officers Dealing with Planning Matters will be recommended for adoption by Full Council at the earliest opportunity.
- iv. Recognise the corporate intention to undertake a peer review of the planning service and agree the committee should have a role, alongside the Cabinet Member for Planning and Community Engagement in agreeing the scope of and contributing to the review itself.

BACKGROUND

6. The systems and processes for the management and efficient operation of the Planning Committee are governed by the Code of Practice for Members and Officers Dealing with Planning Matters, which forms part of the council's overall constitution. The code of practice has been in place for a number of years and was last reviewed in 2017.
7. The introduction to the code of practice provides that it, "sets out guidance for all elected councillors in various roles, including as councillor and as a member of the planning committee". However, its standing has been tested in recent months as greater clarification has been sought to whether this 'guidance' needs to be followed to the letter or whether there is room to 'stretch' the boundaries in certain circumstances.
8. Ultimately in such cases where there are doubts about the application or interpretation of the constitution then the first place to refer is the law. The constitution must follow the law and, provided that it does, then councillors can agree an interpretation which they are all content to follow, such as in a code of practice. However, if councillors become discontent and depart from supporting the code of practice then the absolute determinant of any action taken or proposed will be the law.
9. The code of practice should not be read in isolation from the rest of the constitution and includes a number of cross references to other issues such as the Member of Code of Conduct and the Protocol for Member/Officer Relations and so cannot be taken as the only document to govern the operation and work of the Planning Committee, although in reality this is most likely to be the case.
10. Recent clarifications of the code of practice have been requested in a number of areas and external legal advice has been taken in order to clarify the position:
Mandatory attendance at site visits in order participate and vote on an application
11. The current code of practice sets out that, "Members of Planning Committee must attend official site visits in order to participate in the debate and vote". Whilst this has always been accepted by and the custom and practice of Planning Committee members for many years, it is not the definitive position.
12. Non- attendance at a site visit should itself not automatically mean that a Councillor should not take part in a debate and vote on a particular application. However, the councillor must be able to demonstrate that they have sufficient appropriate information to come to a reasonable and balanced view on a particular issue.

13. It would be very hard for someone to argue against the decision of the Planning Committee on the grounds that the members of the committee had insufficient information to make its decision in circumstances where all of the decision makers had attended a site visit. This is clearly the intent of the code of practice, strengthening the council's position to defend its decisions without the need for councillors to have to demonstrate independently, perhaps in judicial review proceedings, how they were sufficiently knowledgeable about an application to come to the judgement made.

The scope for a ward member to speak and vote on an application within their ward.

14. The issue of whether a councillor has a closed or open mind to a particular decision and their degree of 'influence' over current and potential decisions of the committee is of particular relevance in this regard. The council's custom and practice has been to allow ward members to speak on a particular issue. However, their ability to do so relies on their having not closed their mind to the application (pre-determined). There is a high bar to a councillor being judged to have predetermined a matter as the law does not require a councillor to have an empty mind to an application and having a predisposition is not objectionable in law. It is therefore suggested that the tests are made clearer in the code of practice, for the benefit of councillors and members of the public seeking representation from their ward councillor. All planning decisions must still be made on the basis of material planning considerations.

15. There also appears to be an assumption that it is for council staff to make the final decision as to whether a councillor can take part in the decision making of a planning application. This is not the case, as the code of practice and the law set out that ultimately it is for individual councillors to make their own decisions about what they do – in the full knowledge of the risks that they bring to the council and or themselves, having had the benefit of advice from council officers, most particularly the Monitoring Officer.

16. Council staff will be concerned with protecting the council's position against a challenge to a decision as the body corporate in advising any councillor about their own personal circumstances but can also advise on the likely personal risk to a councillor in taking a particular course of action. However, it is clear that it is for the individual councillor to take that advice and make their own decision in the full understanding of the consequences; this should be better set out in the code of practice to help in this process.

17. The code of practice also includes a convention that members of the Planning Committee can speak but will not vote on planning applications from their own wards. This has again been the custom and practice of the Planning Committee for many years and was included on the basis that not all members of the council can be a member of the Planning committee and therefore have the equality of opportunity to vote on issues relevant to the communities which elect them.

18. However, there is no legal requirement for this convention and if members of the Planning Committee are minded to not follow the convention the council may wish to investigate options for all ward members to be involved in deciding any application from in their ward. For example (if possible), extending the membership of the committee to include the ward member where they are not already a member of the committee, provided that they have received the appropriate level of training in planning matters to be able to participate in the committee meeting.

19. Aside from concerns with the application of the code of practice for dealing with planning applications some members of the Planning committee have also expressed concerns about the council's wider policy framework under which applications are made and considered. This framework is currently being reviewed as part of the production of a new local plan (the Island Planning Strategy) which was widely consulted on before Christmas and is due for submission to the Planning Inspectorate in July 2022 and adoption by September 2023.
20. The council will want to be in the best possible position to make full use of the new Island Planning Strategy to deliver developments the Island needs and wants and so is arranging a peer review of the planning service, as set out in the recently approved corporate plan. This will aim to identify what the service needs to deliver this aspiration taking into account the views of councillors, especially those of the Planning Committee, and wider stakeholders. The peer review will be undertaken by the Local Government Association as part of its programme of support for improving the work of local authorities and should be completed in April depending on the availability of the peer review team.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

21. Work to improve the Code of Practice for Members and Officers Dealing with Planning Matters and the planned peer review of the planning service will contribute to the corporate activity to, "review, enhance and improve our planning department to improve outcomes and adherence to statutory obligations".

CONSULTATION

22. This report has been prepared following consultation between the Chairman and Vice Chairman of the Planning Committee and their conversations with individual members of the committee. It is also informed by the outcome of the informal meeting of the Planning Committee in November 2021.

FINANCIAL / BUDGET IMPLICATIONS

23. There are no major financial implications from the decisions in this report, the provision of any further external legal advice can be met from current budget provision.

LEGAL IMPLICATIONS

24. The council has taken independent legal advice about the relationship of the Code of Practice for Members and Officers Dealing with Planning Matters to the law as part of the council's constitution. This advice was set in the context of some of the recent decisions taken by the Planning Committee that have contributed to its view the code or practice requires review.
25. Any specific revisions to the code of practice would need to be the subject of separate advice and must be agreed by Full Council before they are able to be implemented.

EQUALITY AND DIVERSITY

26. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between

people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Any potential changes to the code of practice would need to be subject to a separate Equality Impact Assessment to confirm they are consistent with the council's statutory obligations.

OPTIONS

27. The main options available to the committee are to:

- i. Confirm the existing Code of Practice for Members and Officers Dealing with Planning Matters is sufficient for the effective management and operation of the Planning Committee and that all members of the committee agree to observe its guidance as set out.
- ii. Ask officers to produce an amended Code of Practice for Members and Officers Dealing with Planning Matters for review by the Planning Committee taking into account the need to achieve greater clarity about attendance at site visits, when ward members can speak and achieving equality of voting rights for all councillors on ward matters.
- iii. Recognise the corporate intention to undertake a peer review of the planning service and agree the committee should have a role, alongside the Cabinet Member for Planning and Community Engagement in agreeing the scope of and contributing to the review itself.
- iv. Once agreed an amended Code of Practice for Members and Officers Dealing with Planning Matters will be recommended for adoption by Full Council at the earliest opportunity

RISK MANAGEMENT

28. The continued uncertainty about the place and reach of the Code of Practice for Members and Officers Dealing with Planning Matters may have a detrimental impact on the good and efficient governance of the Planning Committee. This is unlikely to impact on the actual decision making of the committee but there is a risk that more time will be spent on being clear about the process to make the decision than in making the decision itself.

29. It is important when the council is defending any decisions it has made that it can demonstrate a consistency of process and in the application of that process. Where there needs to be more flexibility in a process then there is a need to express that in the process itself (such as in a code of practice) and record how that flexibility might be applied. This would mitigate the risk of challenge on the basis that the council has not followed its agreed process or custom and practice in the absence of a written procedure.

EVALUATION

30. The Code of Practice for Members and Officers Dealing with Planning Matters is an important document within the council's constitution but has not been subject to review for some time. Recent discussions of the Planning Committee have identified that it may

no longer meet the needs of some of the individual members of the committee in being able to best represent the needs of their constituents and the Island's community. That being the case a review of the code of practice with a focus on those areas of greatest concern is appropriate. However, care needs to be taken so that the outcomes of any review are consistent with the council's legal obligations in general and for the determination of planning applications in particular.

- 31. To give the committee greater confidence in the outcome of the review it is intended to continue with the external advisor whose advice informed the production of this report. That advisor will also be used to present the outcome of the review to the Planning Committee for its agreement before recommendation to Full Council for approval, as it has the overall responsibility for amendments to the constitution.
- 32. It still remains an option for the committee to reaffirm its commitment to the current Code of Practice for Members and Officers Dealing with Planning Matters in light of the greater clarity the debates in recent months have brought to the purpose of the code of practice and relevance to the law. However, this would require the whole committee to agree to abide by the terms of the current code or practice as set out in the constitution.
- 33. Reviewing the terms under which the Planning Committee operates (code of practice) is an entirely different activity to reviewing the work of the planning department and its overall effectiveness in delivering for the needs of the Island's community as a whole. Much of this work is shaped by national planning policy with which the council must comply and this will be tested when the Planning Inspectorate (on behalf of the government) examines the proposed Island Planning Strategy later this year.
- 34. However, a Local Government Association led peer review of the planning services gives the council an opportunity to benchmark its services against those that are best in class and consider any actions it may need to take to build on the strengths and overcome the weaknesses that will come out of any review. It offers a tried, tested and structured approach to reviewing a service and informing decisions that will help it better meet the aspirations of the council within the context of the national planning system and legislation.

BACKGROUND PAPERS

- 35. "Isle of Wight Council, Governance Advice", Veale, Wasbrough, Vizards, December 2021

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