



# Minutes

Name of meeting	<b>PLANNING COMMITTEE</b>
Date and Time	<b>TUESDAY 14 DECEMBER 2021 COMMENCING AT 4.00 PM</b>
Venue	<b>COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT</b>
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

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## 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).

<b>Receptor</b>	<b>Rating Level, dB LAeq, T</b>
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



## Public Question time

To view any public questions that were put to this committee, they will be listed as an additional PDF document below the public question time section within the online minutes, an example is displayed below:

### 32. [Public Question Time](#) PDF 87 KB

Questions must be delivered in writing  
later than 5pm on Friday, 15 January 20

#### **Additional documents:**

- [PQ 11-21](#)  PDF 85 KB
- [PQ 12-21](#)  PDF 90 KB

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## Planning Committee – 14 December 2021

### Written question from Kerry Fosbury to the Chairman

Reference: 21/00357/FUL

#### **Question:**

The motion to reject the application of Birch Close by Councillor Critchison included Freshwater Neighbourhood Plan policies 6E, 6G, 11, 12 and 13. Yet the planning staff replied that only a motion based on FNP 13 would be appropriate. On what basis did planning staff find the other key FNP policy areas deficient for inclusion in the motion?

#### ***Response***

During the debate, a proposal to refuse the planning application on the grounds of the loss of a greenfield site, the ecological impact and that the site was outside of the settlement boundary was put forward and seconded.

Officers gave detailed advice regarding the points of objection that were raised, as to whether in their professional view they would amount to sustainable reasons for refusal in the event of an appeal. Following further debate, Councillor Critchison spoke directly to Officers so that her concerns could be set out in a potential reason for refusal. Officers drafted the reason and provided the policies considered relevant to the concerns that had been raised, including those within the Freshwater Neighbourhood Plan. Given the concerns raised, which focussed on the loss of a green field, the impact to ecology and the lack of information for Biodiversity Net Gain, Officers advised that policy FNP12 would be most relevant (not FNP 13 as referenced in the question) and that Freshwater Neighbourhood Plan policies 6E, 6G, 11 and 13 were not relevant to the reasons put forward in the proposal to refuse the application. The reason for refusal was then read out to all Councillors and the Chairman then asked Councillor Critchison whether the reason read out was acceptable. Councillor Critchison confirmed that the reason gave the rights reason for the issues she had raised.

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**Planning Committee – 14 December 2021**

**Written question from Dom Hicklin to the Chairman**

The NPPF section 30 plus the circulated recent government reply to the Council Leader and your noted comments by the planning advisory service and the local government Association, all reinforce the significant weight to be given to neighbourhood plans such as Bembridge's, Gurnard and Freshwater's. Why is this weight ignored by Council planning staff?

***Response***

The weight to be given to Neighbourhood Plans is not 'ignored' by Planning Officers. A Neighbourhood Plan, once brought into force, forms part of the overall development plan (including the NPPF and Island Plan Core Strategy) against which decisions must be made. Paragraph 30 of the NPPF states that the policies of a Neighbourhood Plan will take precedence over existing non-strategic policies in a local plan (in this case the Island Plan Core Strategy) where they are in conflict. It is not a situation where 'significant' weight is given to one plan or another. Although the NPPF recognises that there may be conflicts between a Neighbourhood Plan and the Local Plan, in reality any conflict should be minor given the requirement for a Neighbourhood Plan to be in general conformity with the Local Plan (as set out in the NPPF).

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**Planning Committee – 14 December 2021**

**Written question from Lindsay Becker to the Chairman**

The briefings at Freshwater Library by the Cabinet Member for Planning and to Freshwater Parish Council by planning officers, report that the Freshwater Neighbourhood Plan represents the most significant document to defend against excessive development. That consistent advice formed the foundation of objections to Birch Close, including the Freshwater Parish Council.

Following objections, FPC and the Ward Councillor's contribution, the planning staff interjected, stating that the more recent release of the NPPF superseded the FNP. What changed between the local briefings and the planning committee meeting to diminish the weight of the FNP? The briefings from Councillor Fuller directly pointed to the protection afforded by the FNP, why was this crucial document withheld from the advance briefing papers circulated to the committee and also from the website, resulting in the committee members being unaware of the important policy contents and unable to consider their relevance and debate them?

## ***Response***

The weight given to the Freshwater Neighbourhood Plan has not changed. The NPPF does not supersede the FNP – these two documents, along with the Island Plan Core Strategy, form the Development Plan against which applications are considered. If there is a conflict between policies in the Development plan, the conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan. Officers highlighted that the revised NPPF was published after the Freshwater Neighbourhood Plan.

The FNP was clearly referenced in the Officer's Report that was considered by the Planning Committee. The report was made available to members of the Planning Committee and published in the public domain on Monday 8 November (a full week before the Planning Committee meeting on Tuesday 16 November). The FNP has been available on the Council's website since it was made and came into force on 12 March 2018.

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