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## Town and Country Planning Act 1990

# REFUSAL OF PLANNING PERMISSION

**To:** Mr D Long  
The Red Barn  
Cheeks Farm  
Merstone Lane  
Merstone  
Isle of Wight  
PO30 3DE  
United Kingdom

**On behalf of** Miles Blamire

**Site:** Land At And Adjoining Fort Victoria Pier, Westhill Lane, Yarmouth, Isle of Wight

**Development:** Proposed Pier Restoration and Shellfish and Fish Landing and Processing Facility, Oyster Nursery, Flexible/ Mixed Use Open Space; Proposed Five Detached Dwellings and Associated Infrastructure and Amenities (readvertised application)

**LPA Ref No:** 22/00634/FUL

In pursuance of its powers under the above mentioned Act, the Isle of Wight Council as Local Planning Authority give notice of the decision made on 22.12.2023 to **REFUSE Planning Permission** in accordance with your application, plans and particulars which were received on 5th April 2022 for the following reasons:

1. The proposed development would result in additional dwellings situated away from services and facilities with limited access to alternative transport methods, which would result in an unsustainable form of development that would be reliant upon access by the private car. No exceptional circumstances have been put forward that would outweigh the concerns regarding the principle of the development. The scheme would result in a form of development that would fail to comply with the principles of sustainable development as required by the established planning policy framework. The development is contrary to Policy SP1 (Spatial Strategy) of the Island Plan Core Strategy and the National Planning Policy Framework (NPPF).
2. The proposed development would fail to preserve the existing character and visual amenity of the locality and would constitute an undesirable form of development, creating urban sprawl resulting in an intrusion of built form into an area of open space as designated in the Council's Open Space audit. The scheme would have demonstrable and harmful impacts both in terms of intrusion into the countryside and impacts on the setting of the nearby listed building. As such, the development fails to meet the aims of Policies SP5 (Environment), DM2 (Design Quality for New Development) DM11 (Historic and Built Environment), DM12 (Landscape, Seascapes, Biodiversity and Geodiversity) and DM13 (Green Infrastructure) of the Island Plan Core Strategy, Policy FNP13 (Local Green Space) of the Freshwater Neighbourhood Plan and the National Planning Policy Framework.
3. The site lies in Flood Zone 3 where development should be avoided unless there are no more suitable alternative sites. A sequential test identifies suitable alternative sites that are available for housing development and in the absence of overriding justification, the proposed development would be unacceptable on the grounds of flood risk and safety, contrary to Policies SP5 (Environment) and DM14 (Flood Risk) of the Island Plan Core Strategy.
4. Insufficient information has been provided to demonstrate that the development would have no significant adverse effects on ecological features of interest in the locality, contrary to Policies SP5 (Environment) and DM12 (Landscape, Seascapes, Biodiversity and Geodiversity) of the Island Plan Core Strategy.

5. Insufficient information has been provided as to the nature of the proposed commercial uses for the pier to enable an assessment of likely noise disturbance. The development would be likely to have an adverse impact on the living conditions and amenities enjoyed by residents of neighbouring properties by reason of generated noise and increased activity contrary to Policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.
6. The scale, impact and level of glazing of the development, together with the likely artificial lighting that would be required for the pier, would have an adverse impact on the appearance of the coastline and the setting of the nearby listed Fort Victoria, particularly in views from the sea. The development would be contrary to Policies SP5 (Environment), DM2 (Design Quality for New Development), DM11 (Historic and Built Environment) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy and Policy FNP8 (Night Sky) of the Freshwater Neighbourhood Plan.
7. The application site is located within the Solent Special Protection Area (SPA) buffer zone and the proposal has the potential to result in increased recreational disturbance to the interest features of the Solent SPA alone and in combination with other development projects. To mitigate for these potential impacts to the Solent SPA, the applicant is required to enter into a planning obligation to secure a contribution from the development towards the Solent Recreation Mitigation Strategy. In the absence of such an obligation or any other proposed measures to mitigate for these potential impacts, it is considered that the proposal would be contrary to the aims of Policies SP5 (Environment) and DM12 (Landscape, Seascape, Biodiversity and Geodiversity) of the Island Plan Core Strategy, the National Planning Policy Framework and the Habitats Regulations.
8. A contribution towards affordable housing provision is required from this development proposal in accordance with the requirements of policy DM4 (Affordable Housing) of the Island Plan Core Strategy and the Council's adopted Affordable Housing Contributions Supplementary Planning Document. In the absence of such an agreement securing that contribution, the proposal is considered contrary to the aims of Policy DM4 and the Council's SPD.
9. Insufficient information has been submitted to demonstrate that this development would not lead to harmful effects on the Southampton and Solent Waters Special Protection Area (SPA) as a result of nitrate enrichment, and in the absence of suitable information to demonstrate nitrate neutrality, it is likely that the proposal would result in a significant effect on the SPA and would not comply with Policies SP5 (Environment), DM2 (Design Quality for New Development), DM12 (Landscape, Seascape, Biodiversity and Geodiversity) and DM14 (Flood Risk) of the Island Plan Core Strategy.

## Notes to Applicant

### 1. ARTICLE 31 - WORKING WITH THE APPLICANT

In accordance with paragraphs 38 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

The application was not considered to be a sustainable form of development and therefore, no further discussions were undertaken.

**Date:** 22.12.2023



**Oliver Boulter**  
**Strategic Manager Planning & Infrastructure**  
Seaclose Offices  
Fairlee Road  
Newport  
Isle Of Wight  
PO30 2QS

*The following notes/guidance may be applicable to you/the applicant:*

## TOWN AND COUNTRY PLANNING ACT 1990

### **NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS**

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Householder Appeals can be made online at: <https://www.gov.uk/appeal-householder-planning-decision>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- Full Planning Application Appeals can be made online at: <https://www.gov.uk/appeal-planning-decision>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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**The Isle of Wight Council's Formal Complaint Procedure can be found online at:**

<https://www.iow.gov.uk/council/OtherServices/Council-Complaints/Making-a-complaint1>