

INQUIRY Ref: NATTRAN/SE/S247/3254

Princes Parade, Hythe

Verbal Statement by Dr Geoff Burrell

I make this statement as a resident of Hythe and as a retired Management Consultant with much expertise of complex development projects. To declare a personal interest, as a disabled person I am dismayed by the loss of easy access to the beach over the length of the coastal road.

I have submitted a detailed Statement of Case that examines the Planning Permission in the context of what the development actually comprises. My aim was to assess whether any scope exists to support a widely held view that there is no Necessity to stop-up and divert the highway. I was however aware of the rigid requirements set by Conditions 4 and 6 of the Planning Permission. Buckles Solicitors have made that rigidity a major tenet of the applicant's case. I hasten to confirm that I am not challenging the validity of that Planning Permission.

There is little doubt that the objectives of the development and the planning permission could readily be met in full with many other possible layouts for the development. My Statement of Case goes into some detail as to how this would be possible by making a relatively trivial modification to the proposed layout while not only remaining well within the confines of the Detailed Permission Boundary but also without the need to re-align the road. It would require the leisure centre to be moved merely 3.8m and would bring with it a massive advantage in terms of staying well within the requirement stated by the Environment Agency for a 25 metre ecological buffer zone between any structure and the canal. That is particularly important when one takes into account the fact that the proposed new road will require a substantial retaining structure that will sit several metres higher than the towpath and canal, while also being south of it, thereby creating a poor quality, shadowed buffer zone.

I confirm in my analysis that Condition 4 places the Detailed Permission Boundary precisely to the north of the re-aligned road and, within the

tolerance limits of the plans, that matches the line of the Environment Agency's concession that permits their ecological buffer zone to be relaxed to 20 metres in some locations. I will come back to this important point since it has been omitted as a Condition of the Planning Permission.

I have shown that to the south of the site, Condition 4 specifically insists that only 2 metres of the existing highway width will be occupied by the leisure centre building. That applies only for the length of the building. The knock on effect is that the full width of the highway would need to be removed from public use over the entire length of the development site – approaching 1 km. In addition the 1.8 metre pavement will also be forfeited, plus an additional 1 metre to allow for a space for a secondary sea wall. That leaves a spare 4.5 metres that the applicant graciously uses to provide a promenade that has been widened to 11 metres. However that is a benefit of very poor value when compared to the impact of the disproportionate loss of the amenity value of the existing road.

My report gives reasons why the uncertainties in the development intentions are of major relevance to the stopping-up decision – this is what I refer to as “Fluidity”.

A fluidity item of particular interest is a change from the planning application proposals and is shown in my reference X3, which is the *Land use parameter plan CA001a* dated 17 May 2018. This shows that the *proposed width of the development free buffer zone* is many metres less than the 20 metres condition required by the Environment Agency. Not only does this fail to meet the essential requirement of the EA with their statutory role in ‘environmental protection and enhancement’, it is extremely damaging to the ecology and causes the planned development to fall outside of the confines of the red-lined Detailed Permission boundary. The development therefore fails to conform to the Planning Permission.

The real issue we face is the rigidity of the Planning Permission. Any scheme that seeks to remove the leisure centre building from its exact position encroaching onto the road, illogically falls foul of Condition 4 and

so is not permitted under the Detailed Planning Permission. That lack of flexibility leaves absolutely no scope for moving the building even a little further from the beach, no matter how advantageous that might be.

While it would have been possible and more logical for the applicant to submit a similar scheme to the one I proposed, he chose instead to apply for a controversial and rigid development scheme. He therefore now needs to abide by the Planning Permission as issued with the lack of design flexibility that the council themselves have created.

Under s247, the Planning Permission is required to be both **valid** and **relevant**. The Planning Permission (18 Jul 2019) post-dates the *Land use parameter plan CA001a (X3)* dated 17 May 2018. It was issued by the applicant's own local planning authority in respect of an application for a development that is not in accordance with the Planning Permission.

In principle the applicant could perhaps attempt to amend his current intentions with a view to complying with Condition 4. However it is extremely unlikely that he will be able to achieve this because the deficiency is large and the fluidity in the overall design is extensive. This is a complex, difficult project and, after 3 years of the council being aware of this problem, there is no evidence to show that a solution can be found that will enable the development to be delivered within the confines of Detailed Permission Boundary.

The development therefore fails to conform to the Planning Permission and differs dramatically from what was intended and defined by that Permission. To all intents and purposes it is a different development.

I therefore contend that the Planning Permission is **not relevant** to the development under consideration by this inquiry.

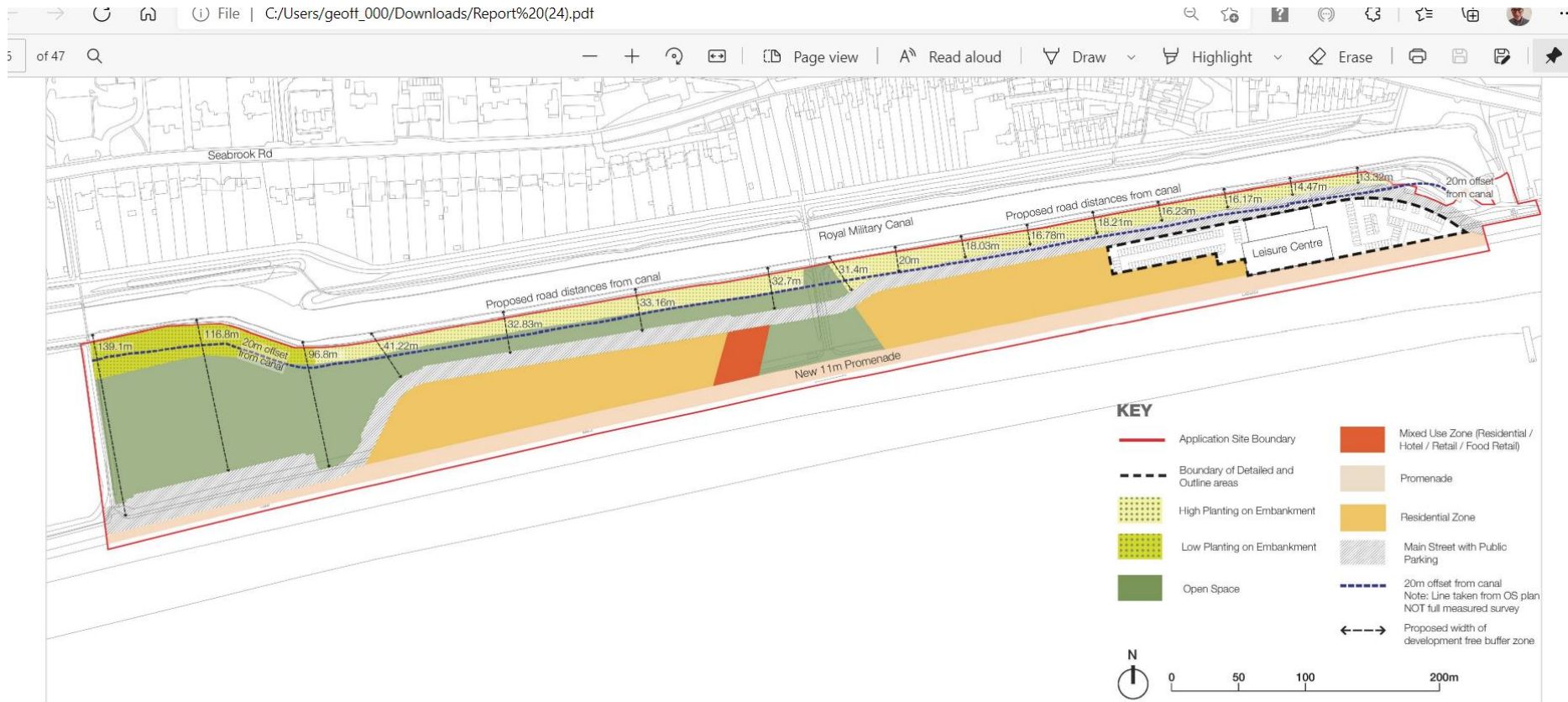
I ask therefore that the Inspector makes a recommendation that the stopping-up and diversion order should NOT be approved.

Geoff Burrell

5 Oct 2019

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Appendix X3 Land Use Parameter Plan (CA 001a Tibbalds) (17.05.2018)



Princes Parade

Land Use parameter plan showing proposed width of development free buffer zone

drawing no. CA 001 a

scale 1: 2,000 @ A2

date 17-05-2018

