

PLANNING COMMITTEE

7 JULY 2015

9.30 AM, COUNCIL CHAMBERS
2ND FLOOR, GUILDHALL

REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

All applications have been included in the Weekly List of Applications, which is sent to City Councillors, Local Libraries, Citizen Advice Bureaux, Residents Associations, etc., and is available on request. All applications are subject to the City Councils neighbour notification and Deputation Schemes.

Applications, which need to be advertised under various statutory provisions, have also been advertised in the Public Notices Section of The News and site notices have been displayed. Each application has been considered against the provision of the Development Plan and due regard has been paid to their implications of crime and disorder. The individual report/schedule item highlights those matters that are considered relevant to the determination of the application

REPORTING OF CONSULTATIONS

The observations of Consultees (including Amenity Bodies) will be included in the City Development Manager's report if they have been received when the report is prepared. However, unless there are special circumstances their comments will only be reported VERBALLY if objections are raised to the proposals under consideration

APPLICATION DATES

The two dates shown at the top of each report schedule item are the applications registration date- 'RD' and the last date for determination (8 week date - 'LDD')

HUMAN RIGHTS ACT

The Human Rights Act 1998 requires that the Local Planning Authority to act consistently within the European Convention on Human Rights. Of particular relevant to the planning decisions are *Article 1 of the First Protocol- The right of the Enjoyment of Property*, and *Article 8- The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

Web: <http://www.portsmouth.gov.uk>

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THE SPINNAKER TOWER GUNWHARF QUAYS PORTSMOUTH**DISPLAY OF ILLUMINATED AND NON-ILLUMINATED SIGNAGE BY INDIVIDUAL LETTERING, LOGOS AND BRANDING TO TOWER LEGS AND GROUND FLOOR FACILITIES.****Application Submitted By:**

Portsmouth City Council
FAO Mrs Debra Benham

On behalf of:

Portsmouth City Council
FAO Ms Louise Wilders

RDD: 5th June 2015

LDD: 3rd August 2015

SITE, PROPOSAL & RELEVANT PLANNING HISTORY

This Portsmouth City Council application relates to the 'Spinnaker Tower' which is located to the north-west corner of Gunwharf Quays at the entrance to Portsmouth Harbour. The Tower is primarily a viewing platform with three viewing decks at 100, 105 and 110 metres above sea level, but also incorporates a café and supporting facilities at ground floor level. The structure is constructed primarily in concrete, steel and GRP, all of which is finished in white. However, architectural lighting to the Tower legs and 'sail' allows the Tower to be illuminated in various colours at night.

The site is situated within the Gunwharf Quays shopping centre and adjacent to Portsmouth Harbour Railway station that incorporates ferry links to Gosport and the Isle of Wight. The immediate area surrounding the Tower comprises a mix of leisure and retail uses with residential accommodation located further to the south. The site is located within the 'Gunwharf Quays' Conservation Area (No.25), but as a result of its overall height (170m) also forms a prominent feature within the adjoining conservation areas to the north and south ('H.M. Naval Base & St. George's Square' (No.22) and 'Old Portsmouth' (No.4) respectively).

Advertisement consent is sought for the display of various illuminated and non-illuminated signage by individual lettering, logos and branding to the Tower legs, and ground floor facilities. The application has been amended by the applicant reducing both the quantity and scale of the proposed advertisements. Given this reduction, it has not been considered necessary to re-consult on the proposals.

Advertisement consent was granted in 2005 (ref. A*36334/GW) for the display of an internally illuminated fascia sign and a neon sign to south elevation and internally illuminated fascia sign to the east elevation at ground floor level.

Conditional Permission was granted in 2009 (ref. 09/00570/FUL) for the construction of high level platform and associated works to northeast elevation to form 'Powerfan' drop ride system.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:
PCS23 (Design and Conservation),

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation).

CONSULTATIONS

Gosport Borough Council

Comments yet to be received at the time of writing.

Queen's Harbour Master

Comments yet to be received at the time of writing.

REPRESENTATIONS

At the time of writing 29 letters of representation (27 in objection, 1 in support, 1 general comment) had been received in respect of the application. These comments can be summarised as follows:

In objection - (a) The advertisements would detract from the amenity value of the tower; (b) The advertisements would detract from the amenity value of the wider landscape/cityscape; (c) The advertisements would have a negative impact on the heritage assets in and around Portsmouth Harbour; (d) The advertisements would detract from the integrity of the original design and character of the tower that represents an iconic and distinctive local and national landmark; (e) The proposal would turn the structure into a giant advertisement hoarding; (f) The coloured sections would affect tower's architectural lighting; (g) The advertisements would have a negative impact on the city's image; (h) the proposal incorporates an inappropriate colour scheme (red and white) (i) Insufficient information has been provided to support the application; (j) The proposal would set a precedent for advertisements on other larger buildings; (k) There has been insufficient public consultation; (l) Financial benefits of the sponsorship deal is not transparent; (m) The proposal would have an economic impact on businesses having to rebrand/update images etc. and (n) The proposed sponsor has "links to a state with a poor human rights record".

In support - (a) The blue and gold colour scheme would be striking when illuminated.

General Comment - (a) Have the Council considered the use of projected images rather than painted images.

A number of additional comments in respect of the proposal have been posted on various websites and online petitions. However, many were posted prior to the submission of the formal application for advertisement consent and cannot be taken into consideration unless formally presented to the Local Planning Authority as a representation to the current application.

COMMENT

The determining issues to be considered within an application for Advertisement Consent relate solely to visual amenity and public safety.

What is an advertisement?

For planning purposes, an 'advertisement' is defined within the Town and Country Planning Act 1990 (as amended) as: 'any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used or designed, or adapted for use and anything else principally used, or designed or adapted principally for use, for the display of advertisements'.

What is considered as part of Amenity?

"Amenity" is not defined exhaustively within the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. However, it includes aural and visual amenity. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

In an application for advertisement consent "Amenity" is usually understood to mean the effect on visual and aural amenity in the immediate vicinity of an advertisement where residents or passers-by will be aware of the advertisement.

What is considered as part of public safety?

Factors relevant to public safety include (i) the safety of persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); (ii) whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; and (iii) whether the display of the advertisement in question is likely to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

The proposal

Advertisement consent is sought for the display of various illuminated and non-illuminated advertisements in the form of individual lettering and logos to the Tower legs (the main structural element housing the lift and stairs, and those supporting the 'sail'), and the entrance/café building at ground floor level. The advertisements can effectively be divided into four separate groups with group 1 representing the advertisements displayed at the highest point on the Tower and group 4 at the lowest.

Group 1 - This group would include advertisements K & L, comprising individual lettering painted directly onto the tower's surface. Both would measure 25 metres in length by 1.7 metres in width and would be positioned on the outer edges of the tower's legs between a height of approximately 57 and 85 metres above sea level.

Group 2 - This group would include advertisements A, C, D & F comprising individual lettering painted directly onto the tower's surface on the lower section of the main tower legs between a height of approximately 16 and 38 metres above sea level. Advertisement A would measure 17.25 metres in length by 1.7 metres in width, whilst advertisements C, D & F would all measure 9 metres in length by 1.1 metres in width.

Advertisements B and E have been removed from the proposal as indicated on the amended drawings.

Group 3 - This group would include advertisements G, H, I & J comprising individual lettering and logos painted directly on to the legs that support the main 'sail' structure. Advertisements G & H would be applied to the outside faces of the legs and would measure approximately 3.3 metres wide by 2.6 metres in height. Advertisements I & J would be applied to the inside faces of the legs and would measure 9 metres in length by 1.1 metres in width.

Group 4 - This would include internally illuminated advertisements M & N positioned at ground floor level. Advertisement M would replace the existing signage above the main entrance to the tower on the northern elevation. This would consist of internally illuminated individually built up lettering, with a smaller box sign above. Advertisement N would replace existing signage on the eastern elevation and would comprise individually built up lettering and logos.

In addition to the advertisements highlighted above, the submitted drawings indicate the application of a painted finish to large sections of the main Tower legs (blue & gold sections). In

this respect careful regard is made to the provisions of Part 2 Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 that would allow the painting of the exterior of any building or structure without the express permission of the Local Planning Authority (LPA). This would be subject to the condition that the painting would not be for the purpose of advertisement, announcement or direction.

In this situation consideration must be given to whether the application of a painted finish to the areas shown on the submitted drawings would constitute an intrinsic element of the individual advertisements described in groups 1 to 4, and whether the painted finish would amount to an advertisement in its own right.

It is noted that the majority of the advertisements (groups 1 & 2) proposed within the painted areas are shown as white in colour. Given the current finish of the tower (also white), it is apparent that these advertisements would not be visible unless some form of contrast was provided by a coloured background. However, such a contrast could equally be provided by an alternative coloured lettering, as proposed within group 3, or by line edge detailing. It is also noted that the painted areas far exceed the scale of the advertisements and would be applied to parts of the Tower where no letters or logos are proposed.

Therefore, whilst it would appear that the application of the painted finish (blue & gold) is only necessary to provide a contrast to the individual lettering and logos, it is considered that the colour finish does not form an intrinsic part of the individual advertisements. This simply coincides with changes to the Tower sought by the City Council to mark a new era as the City prepares to hosts a number of high profile maritime events within the harbour and The Solent. On that basis it is considered that the application of the painted finish (blue & gold) would not require express advertisement consent or planning permission.

Impact on Amenity

The National Planning Policy Framework States: 'Poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment'.

In addition when determining applications the LPA must consider what impact a proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The 'Spinnaker Tower' stands as a significant landmark at the entrance to Portsmouth Harbour, the gateway to the city of Portsmouth from the sea. The Tower was constructed to mark the Millennium celebrations and to form a focal point to the 'Renaissance of Portsmouth Harbour' including the redevelopment of what is now known as Gunwharf Quays. Within a relatively short period of time the Tower has become an iconic feature of the skyline, intrinsically linked with the city of Portsmouth, and instantly recognisable on a national and international level. The success of its design is derived not only from its obvious height (170m), but from its simple elegant form that represents a wind filled Spinnaker Sail.

The original planning permission for the Tower (A*36334/BC) sought to preserve its form and setting by removing certain permitted development rights relating to the addition of further buildings and structures. However, no restrictions were placed on the external colour finish which could be changed from its original, and existing, white colour without the express permission of the LPA. Any change in colour would have the potential to significantly alter the

appearance of the Tower although the integrity of the original design, including its distinctive shape that makes it instantly recognisable, would be preserved.

As a result of the Tower's height, each group of advertisements identified above would be visible from different locations, and their impact on both the appearance of the Tower, the wider skyline and nearby heritage assets would vary. Group 1 advertisements would be positioned higher on the Tower's legs and would be most widely observed above the Gunwharf Quays skyline from various positions across the city, Portsmouth Harbour, Gosport and beyond. Group 2 advertisements positioned on the lower legs would be less obvious from longer distances due to their height above sea level and the number of intervening buildings and structures particularly to the north, east and south. These would however, remain visible from within Portsmouth Harbour, Old Portsmouth and Gosport. Group 3 advertisements would be most apparent within the Gunwharf Quays development itself, although elements would also be visible from within the harbour and Gosport. Group 4 advertisements are smaller in scale and would replace existing advertisements at ground floor level. Their presence would only be apparent within Gunwharf Quays itself. It would not be possible to observe all of the advertisements at the same time from any position around the Tower.

Having considered the visibility of each advertisement in detail, it is apparent that the greatest impact on the overall appearance of the Tower is likely to come from the alternative colour treatment (blue & gold) to the legs, rather than the advertisements themselves.

Whilst of a considerable scale, the group 1 advertisements would comprise white lettering against a gold background. This would not provide the greatest of contrasts and as a result, the lettering would not appear overly prominent particularly when considering the relative scale of the Tower. A greater contrast would be provided by white lettering/logos against a blue background within group 2 and the red lettering/logos against the white background with group 3. However, these advertisements have been confined to the lower sections of the Tower, set against the backdrop of a large commercial development. A range of bars and restaurants within this area incorporate a wide assortment of brightly coloured flags, banners, screening and umbrellas at ground, first and roof levels. A number of commercial and private vessels that frequent Gunwharf Quays and the adjoining ferry terminals also incorporate a range of brightly coloured advertisements at sea level. As such, it is considered that the brighter more prominent advertisements at lower levels would not be completely out of character with the surrounding area and would not significantly detract from the character of the original integrity of the Tower or Gunwharf Quays. Brightly coloured advertisements are often found within marine environments and are even a common feature of the spinnakers that influenced the Tower's original design concept.

It is accepted that the tower is visible beyond Portsmouth and Gosport. Long distance views can be observed from Portchester, Hayling Island, the Isle of Wight, across The Solent and as far afield as Calshot to the west and Goodwood to the east. However, whilst the Tower's unique silhouette may be visible at these distances, it is considered that individual or even combined letters/logos that make up the advertisements would not be perceptible.

In terms of heritage assets, the Tower is located within the 'Gunwharf Quays' Conservation Area (No.25) that contains a number of Grade II Listed Buildings including the Old Customs House, The Royal Marines Infirmary, The Vulcan Building, The Perimeter Wall and the Main Gate and Lodges. Beyond the railway line to the north lies the 'H.M. Naval Base & St. George's Square' Conservation Area (No.22) that incorporates the Common Hard and the historic frontage of The Hard. To the south the 'Old Portsmouth' Conservation Area (No.4) includes Spice Island/'Point' (northern end of Broad Street) located directly opposite the Spinnaker Tower, a popular gathering place for residents and tourist wishing to observe activity in and around the harbour. The Spice Island Inn and the Still and West Public Houses, both Grade II Listed, are prominent features of this peninsular.

Across the Harbour a number of heritage assets are located with the shadow of the Tower within Gosport. This would include the 'Haslar Peninsula', 'Royal Clarence Yard' and 'High Street' Conservation Areas that are home to a number of Scheduled Ancient Monuments, Listed Buildings and Buildings of Local Interest (The Local List).

It is accepted that the Spinnaker Tower represents a significant feature of the skyline when viewed from certain positions within the adjoining conservation areas. However, due to the degree of separation provided by Portsmouth Harbour and the presence of intervening structures, it is considered that the application of the advertisements, not all of which would be visible at any given time, would not affect the character and appearance of the conservation areas themselves or the or the integrity or immediate setting of any of the heritage assets located within them. From these distances the colour of the Tower would be more prominent than the proposed advertisements and as highlighted above, the application of a painted finish does not form part of the advertisement application.

Whilst Gunwharf Quays is designated as a conservation area, many of the buildings surrounding the Tower are of a modern design having been constructed within the last 20-years. The area's significance is derived from the quality of these new build elements, particularly those on the waterfront and accessible to the general public, and their relationship with other heritage assets and features of historic interest retained to reflect the former naval use of the area. The conservation area also forms part of a busy leisure facility where advertisements are an established feature of the street scene, although the LPA has worked closely with the operators of Gunwharf Quays and individual businesses to ensure that advertisements are of a high quality and sympathetic to their setting. On the basis that the painted finish does not form part of this application and could be carried out as permitted development, it is considered that display of the advertisements on a large modern structure within a busy commercial development would preserve the overall character and appearance of the 'Gunwharf Quays' Conservation Area. The degree of separation and number of intervening structures would also prevent harm to integrity or immediate setting of the Grade II listed buildings and structures within the Gunwharf Quays.

As the proposal is seen to preserve the character and appearance of the 'Gunwharf Quays', the adjoining conservation areas, and the integrity or immediate setting of other heritage assets the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

Impact on Public Safety

The Spinnaker Tower is a prominent feature of Portsmouth Harbour which sees significant leisure, commercial and naval shipping movements throughout the day and night. Whilst some of the advertisements are of a considerable scale, they are proportionate to the size of the Tower and the most prominent would not be illuminated other than by the existing architectural lighting to the tower that is static in nature. As the proposed advertisements would not obstruct, appear similar to navigation aids or physically oversail the harbour, it is considered that they are unlikely to interfere with navigation within the harbour to the detriment of public safety.

Any comments received from the Queen's Harbour Master will be updated prior to the meeting of the Planning Committee.

The higher advertisements included within group 1 would also be visible from the highway in a number of locations in and around the city. Given the relative scale of these advertisements in comparison to the Tower and their non-illuminated nature, it is considered that they would not cause a distraction to users of the highway beyond that caused by the mere presence and striking form of the Tower itself.

Other matters

In respect of other issues raised within representations, unless the nature of an advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the LPA considers an advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary, or offensive to public morals.

Each application for advertisement consent will be considered on its individual merits against the issues of visual amenity and public safety. Therefore, it is considered that the proposal would not set a precedent for advertisements on other buildings and structures across the city.

RECOMMENDATION Conditional Consent

Conditions

1) The level of luminance of the fascia signs (signs M (part 1 & 2) & sign N) hereby approved shall not exceed 600 candelas per square metre.

The reasons for the conditions are:

1) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.

Pro-activity Statement

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.