

5th September 2023
Application ref no: **APP/22/01194**

Town and Country Planning Act 1990 – Section 78

Appeal against the decision of Havant Borough Council to
refuse planning permission, on behalf of Mr. Brian Long

**Relating to the land adjacent to 27 Emsworth Road,
Havant, PO9 2SN**

Appellant's Written Representations Statement of Case

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Town and Country Planning Act 1990 – Section 78

Havant Borough Council's ref no: APP/22/01194 (full planning application).

Relating to The Land adjacent to 27 Emsworth Road, Havant, PO9 2SN.

Appellant: Mr. Brian Long

Project: Land adjacent to 27 Emsworth Road, Havant, PO9 2SN

Agent: Jenna Lai – CPC Planning Consultants Limited

Reference Number:

Prepared by: Jenna Lai Signed by: JL
Checked by: Jake Russell MRTPI Signed by: JR

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Appendix I Decision Notice (ref: APP/22/01194)

1.0 Introduction

Background

- 1.1 CPC Planning Consultants Limited (“CPC” or the “Agent”) has been appointed by Mr. Brian Long (the “Appellant”) to produce this Statement of Case (the “Statement” or the “Appeal”). The Statement sets out the Appellant’s case against the decision of Havant Borough Council (the “Council”) to refuse planning permission in respect of planning application ref no: APP/22/01194 (for Full Planning Permission) (the “Application”).
- 1.2 The Application was validated by the Council on 5th January 2023 and refused under delegated powers on 20th June 2023.
- 1.3 The Application proposed the erection of one two-storey building comprising two studio apartments (Use Class C3) with associated hard landscaping.

Reasons for Refusal

- 1.4 The Council cited four reasons for refusal. These are outlined below:
 1. *The proposal is considered to be an overdevelopment of the site due to its cramped and congested layout on a site of insufficient size, which would result in poor living conditions for future occupiers. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.*
 2. *The proposed is considered to appear incongruous and the available glimpses of the building behind the hoarding would be an inappropriate form of development. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.*
 3. *The close proximity of the hoarding to the south of the proposal would have a significantly and demonstrably unacceptable impact on the living conditions of the future occupiers of the units by reason of overshadowing/loss of natural light and poor outlook. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.*
 4. *In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to*

this planning application. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

2.0 Appeal Site and Surroundings

- 2.1 The site is an unattractive and disused piece of brownfield land located in a residential area of Havant, between an existing block of flats (Bernard Powell House) and a public house (Wheelwrights Arms). In front of the site is an advertisement hoarding.
- 2.2 The Site is in a highly sustainable part of Havant, being c. 200 metres outside of the defined Town Centre for Havant.
- 2.3 There is a bus stop immediately outside of the Site and Havant Railway Station is located c. 1km away. There is a One Stop convenience store c. 400 metres from the Site.
- 2.4 There are no trees of biodiversity features located on the Site.
- 2.5 The Site is within Flood Zone 1 and is at a very low risk from surface water flooding, according to the Environment Agency Flood Maps, and is therefore at the lowest risk from flooding.

3.0 Planning History

3.1 The following recent planning applications relate to the application site:

- APP/10/00598 – erection of two one-bedroom flats – refused with the following reasons:
 1. Over development impacting the amenity of adjacent properties and future occupiers and inadequate cycle storage;
 2. Proximity of windows serving main habitable rooms to advertisement hoarding impacting outlook and light available to occupiers of the proposed dwellings;
 3. The absence of a financial contribution towards improvements to transport infrastructure; and
 4. Poor design.
- The above application was preceded by APP/10/00419 – erection of two one-bedroom flats – withdrawn.

4.0 Planning Policy Context

- 4.1 Planning Policy Context Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that, in the determination of planning applications, decisions are made in accordance with the Statutory Development Plan of the District, unless material considerations indicate otherwise.
- 4.2 The Site is within the administrative boundary of Havant Borough Council where the development plan comprises the following:
- The Havant Borough Local Plan (Core Strategy) – adopted 2011
 - The Havant Borough Local Plan (Allocations) – adopted 2014
 - Havant Borough Council Borough Design Guide Supplementary Planning Document – adopted 2011
 - Havant Borough Council Parking Supplementary Planning Document – adopted 2016, partially updated 2019

National Planning Policy Framework

- 4.3 The revised National Planning Policy Framework (“the NPPF”) was published in February 2019 and establishes overarching principles of the planning system which aim to contribute to the achievement of sustainable development.
- 4.4 Paragraph 2 of the NPPF states that: *“Planning applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise.”*
- 4.5 Paragraph 8 of the NPPF stipulates the planning system has three overarching, mutual objectives for achieving sustainable development which are:
- a) *“Economic – helping to build a strong, responsive and competitive economy;*
 - b) *Social – supporting strong, vibrant and healthy communities and providing sustainable homes and by creating a well-designed environment with accessible services that support communities’ social well-being;*
 - c) *Environmental – protecting and enhancing our natural, built and historic environment; including making effective use of land and helping to improve biodiversity.”*

- 4.6 Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means development plans should positively seek opportunities to meet the development needs of the area and be sufficiently flexible to adapt to rapid change and proposals should accord with an up-to-date development plan; and for decision-taking this means development proposals that accord with the development plan should be approved without delay.
- 4.7 When determining applications, paragraph 38 stipulates it is a requirement that Local Planning Authorities should approach decisions in a positive and creative way. Paragraph 38 also states that Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of an area.
- 4.8 Paragraph 47 states that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. It encourages that decisions on applications should be made as quickly as possible.
- 4.9 Paragraph 54 of the NPPF states that planning authorities should consider whether unacceptable impacts of a development can be made acceptable via planning conditions. Planning conditions should be kept to a minimum and only imposed if they meet the test of being necessary, relevant, enforceable, precise and reasonable to the development proposals.
- 4.10 Section 5 on delivering housing sets out the Government's commitment to boosting the supply of homes to meet local needs, and that land with permission should be developed without unnecessary delay.
- 4.11 Policy 63 states *"[the] provision of affordable housing should not be sought for residential developments that are not major, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)"*. Major developments are those which generate a net increase in housing of 10 or more units.
- 4.12 Paragraph 102 states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that; the potential impacts of development on transport networks can be addressed; opportunities to promote walking, cycling and public transport are pursued; the environmental impacts of traffic and transport can be identified, assessed and if necessary mitigated; and, to ensure patterns of movement, streets and parking are integral to the design of schemes.

- 4.13 Paragraph 108 asserts that in assessing application sites it should be ensured that; sustainable transport is promoted; safe and suitable access can be achieved for all users; and, any significant impacts on the transport network can be cost effectively mitigated.
- 4.14 Paragraph 118 (d) states that the development of under-utilised land should be promoted and supported, especially where it will meet an identified local housing need.
- 4.15 Paragraph 122 asserts planning decisions should support development that makes efficient use of land, with regards to; the need for different types of housing; local market conditions and viability; the desirability of promoting the regeneration of an area; and, the importance of securing well-designed, attractive and healthy spaces.
- 4.16 Paragraph 124 asserts the creation of high-quality buildings and places is fundamental to what the planning development process should achieve. Good design is a key aspect to sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 4.17 Paragraph 127 of the NPPF stipulates that *“planning policies and 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 as a result of good architecture, 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 (such as increased densities);*
 - 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) Optimize 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; and*
 - f) Create places that are safe, inclusive and accessible and which promote health and wellbeing, 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.”*

- 4.18 Paragraph 155 states that *“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at the highest risk (whether existing or future).”*
- 4.19 Paragraph 180 states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life;
 - Identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
 - Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Planning Practice Guidance

- 4.20 Planning Practice Guidance (the “PPG”) was published online in March 2014. It advises that:
- 4.21 *“The National Planning Policy Framework represents up-to-date Government planning policy and must be considered where it is relevant to a planning application or appeal. If decision takers choose not to follow the National Planning Policy Framework, clear and convincing reasons for doing so are needed. A development that is consistent with the National Planning Policy Framework does not remove the requirement to determine the application in accordance with the development plan unless there are other material considerations that indicate otherwise.”*
- 4.22 The Guidance advises that the Statutory Development Plan is *“the plan for the future development of an area”*.
- 4.23 It consists of: Development Plan documents adopted by local planning authorities, including any ‘saved’ policies from plans that are otherwise no longer current, and those development plan documents that deal specifically with minerals and waste. Neighbourhood Plans, where these have been supported by the local community at referendum and subsequently made by the LPA.

- 4.24 Regarding how decisions on planning applications must be made, it advises that: *“The National Planning Policy Framework stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development at paragraph 14 of the National Planning Policy Framework. Where the development plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified”.*
- 4.25 The PPG also states that, to be effective, Local Plans should be kept up-to-date and reviewed regularly, which it suggests is likely to be at least every five years.
- 4.26 Mirroring the NPPF (paragraph 14), the PPG advises that where a development plan is absent, silent or relevant policies are out of date, applications should be determined in accordance with the presumption in favour of sustainable development.
- 4.27 Paragraph 009 Reference ID:21a-009-20140306 sets out the circumstances in which it is appropriate to condition works on land that requires the consent or authorisation of another person or body. It advises that a Grampian condition, requiring that development authorised by the planning permission is prohibited until a specified action has been undertaken, should only be used where there is a prospect of the action in question being performed within the time-limit imposed by the permission.

Havant Borough Local Plan (Core Strategy)

- 4.28 The Havant Borough Local Plan (Core Strategy) was adopted in March 2011 and forms part of the development plan to guide the future development of the borough up to 2026.
- 4.29 Policy CS1: Health and Wellbeing
- 4.30 Policy CS8: Community Safety
- 4.31 Policy CS9: Housing
- 4.32 Policy CS11: Protecting and Enhancing the Special Environment and Heritage of Havant Borough
- 4.33 Policy CS16: High Quality Design
- 4.34 Policy CS17: Concentration and Distribution of Development within the Urban Areas
- 4.35 Policy CS21: Developer Requirements

4.36 Policy DM13: Car and Cycle Parking on Residential Development

Havant Borough Local Plan (Allocations)

4.37 The Havant Borough Local Plan (Allocations) was adopted in July 2014 which follows on from the adopted Havant Borough Local Plan (Core Strategy)

4.38 Policy AL1: Presumption in Favour of Sustainable Development

4.39 Policy DM24: Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development

4.40 Policy AL2: Urban Area Boundaries and undeveloped Gaps between Settlements

Borough Design Guide Supplementary Planning Document

4.41 It is adopted in December 2011.

4.42 The width of the plot and width of the proposed building should be similar to that prevailing in the local area, looking to immediate neighbours first.

4.43 New development should follow the established of pattern of properties on the street.

4.44 New developments should follow the common building line i.e. that defined by immediate neighbours and ensure there is an appropriate degree of enclosure that makes streets feel welcoming.

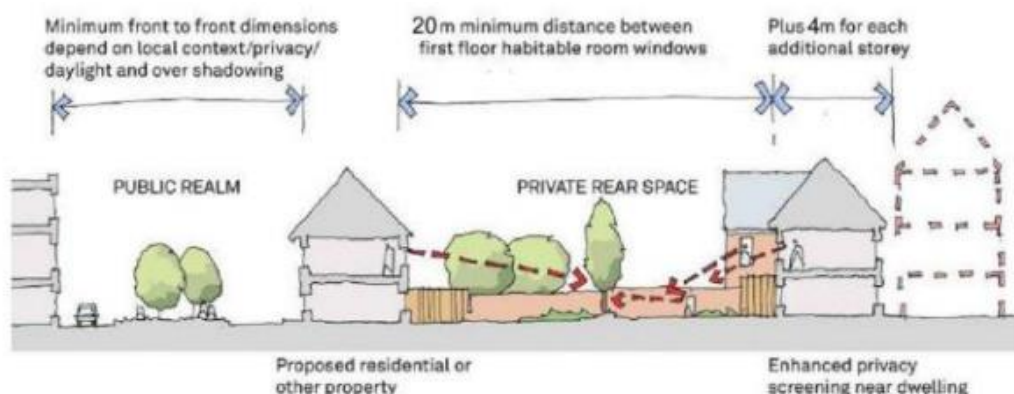
4.45 New developments should respect the established pattern of set back on a street.

4.46 New developments should follow the typical pattern of existing properties, looking to immediate neighbours first. The mass of a new building or extensions should not be allowed to dominate the street. There are exceptions to this, for example where the Council supports intensification of the site or where it is appropriate from a legibility perspective to have larger landmark buildings.

4.47 New developments should follow the typical pattern of existing properties, looking to immediate neighbours first. The height of a new building or extensions should not be allowed to dominate the street. New development should generally not be more than one storey higher where it directly adjoins or is close to existing residential development. There are exceptions to this, for example where the Council supports intensification of the site or where it is appropriate from a legibility perspective to have taller landmark buildings.

4.48 In order to maintain a reasonable relationship between new dwellings and neighbouring properties, the following minimum distances should apply:

- Where windows of the new development and an existing dwelling occur back-to-back there should be a minimum of 20 metres separation;
- Where a new dwelling or the development is more than two storeys in height an additional four metres per storey should be added to the separation distance e.g. a separation distance of 24 metres is required between the new three storey building and existing two storey dwelling;
- Where a dwelling faces a blank gable, 10 metres separation distance is required;
- Garden length should normally allow 10 metres between the dwelling and the boundary.

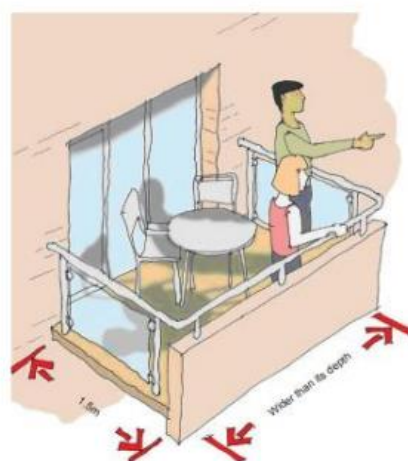
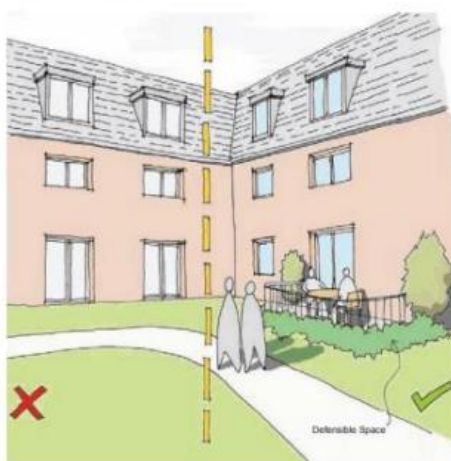


- 4.49 New developments should not result in the loss of light to existing buildings. Acceptable daylight to interiors can be provided once there is a 25 degree vertical angle from a point 2 metres above the ground on the facing external facade. (This results in a 10 metre minimum separation distance between dwellings).
- 4.50 All residents should have access to private amenity space whether that is the back garden of a house, a private shared space, or balcony of an apartment.
- 4.51 As stated, the garden of a two storey home should be a minimum of 10 metres in length to provide appropriate daylight and to minimise overlooking, with an additional 4 metres for every storey added. Clearly there may be exceptions to this rule, depending on the local context, for example in urban areas there may be a historic pattern of development that dictates otherwise, such as three storey townhouse served by small courtyards of 10 metres rather than large gardens of 14 metres plus.
- 4.52 Private rear boundaries must be masonry walls and not fences to limit the impact of noise and disturbance on residents. An appropriate standard of lighting must also be provided and the courtyard should be well maintained and overlooked.

- 4.53 Where ground floor apartments are being proposed the applicant should endeavour to provide private gardens for individuals where possible. When not possible communal gardens should be provided, with safe and convenient access for residents. In addition, the design of apartments should incorporate balconies where possible, particularly in the absence of communal gardens.

Figure 5.4 (left): Defensible space is required for ground floor flats adjacent to communal areas

Figure 5.5 (right): Recommended balcony dimensions



- 4.54 All developments should provide adequate communal facilities for the storage of domestic waste prior to collection. These can be arranged and designed in a variety of ways including, designated communal storage areas on the ground floor of buildings and detached storage buildings. The maximum distance that residents should have to carry refuse to a bin store should be no more than 30 metres. The collection point should be reasonably accessible for collection and within a distance of 30 metres of the adopted highway.

Havant Borough Council Parking Supplementary Planning Document

- 4.55 It is adopted in July 2016, and partially updated in September 2019.

- 4.56 The vehicle parking or C3 dwelling house:

Size of dwelling	Minimum car parking requirement	Havant town centre	Long stay cycle parking
1 bed unit	1 space	Max. 1 space	1 space per unit
2 bed unit	2 spaces	Max. 1 space	2 spaces per unit

5.0 Case for the Appellant

Introduction

- 5.1 The Application proposed the erection of a two-storey building comprising two studio apartments (Use Class C3) with associated hard landscaping, and was refused on 20th June 2023.
- 5.2 The Application site is an entirely brownfield site located ~100 metres from Havant's designated town centre, with Havant Railway Station (which connects to Portsmouth, Southampton, Brighton and London) located ~900 metres from the site and Warbington Railway Station ~800 metres away. Havant town centre, and more specifically the West Street Primary Retail Frontage (located ~380 metres from the site) includes a range of facilities including: banks, cafes, pharmacies, the Meridian Shopping Centre, a public house and various other community / commercial facilities. There is a bus stop immediately outside the site which serves the 27 and 700 (Coastliner) bus routes.
- 5.3 It is commonly accepted, including in the CIHT 'Planning for Walking' document', that most people will only walk to a destination if it is within one mile (~1,600 metres) of their home.
- 5.4 Based on the above, we consider the site to be a highly sustainable location benefiting from all of the benefits of being in a Town Centre location despite not being located within the designated Town Centre boundary.
- 5.5 Before directly addressing the reasons for refusing the Application, it is worthwhile noting that the Council acknowledges that it can currently demonstrate just a 1.81 Year Housing Land Supply – considerably lower than the five year requirement. The Appellant contests that this makes the delivery of housing across the Borough a matter of urgency.
- 5.6 Paragraph 11(d) of the NPPF is clear in that: *"where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date [planning permission should be granted unless] the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole"*.
- 5.7 Footnote 8 of the NPPF confirms that local planning policies are considered out of date when Local Planning Authorities cannot demonstrate a five-year supply of deliverable housing sites with the appropriate buffer. Clearly the Council's housing land supply falls well below five years.

- 5.8 The Council contests that the titled balance does not apply. The Appellant, throughout this Statement, will demonstrate that it is incorrect to suggest that the tilted balance does not apply, and that the proposed development should clearly have been granted planning permission by the Council.

Reason for Refusal One: Overdevelopment

- 5.9 The first reason for refusal states that *“The proposal is considered to be an overdevelopment of the site due to its cramped and congested layout on a site of insufficient size, which would result in poor living conditions for future occupiers. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.”*

Response

- 5.10 Policy CS16 *High Quality Design* contains a number of criteria, of which the most relevant is a requirement for proposals to be of a high quality, which helps to create places where people want to live, work and relax all the meanwhile respecting the local context and making a positive contribution to the local character.
- 5.11 Furthermore, the Havant Borough Design Guide SPD states that: *“different densities are appropriate in different places, for example the density of a site in the centre of Havant should be higher than a site on the edge of the countryside. The density of new development should be driven by the density in the neighbouring area”*.
- 5.12 The Council considers that the footprint of the development in relation to the size of the application site, would result in a ‘cramped and congested’ layout on a site of insufficient size – or in other words, that the proposed development would be an ‘overdevelopment’ of the site.
- 5.13 Overdevelopment is a subjective consideration and one that is easy to level at brownfield redevelopments. Just because the proposed development uses all of the space available to it, it does not necessarily follow that it results in an overdevelopment of the site.
- 5.14 The key to understanding whether overdevelopment occurs, the Appellant would argue, is to assess whether the proposed development would result in any adverse impacts on residential amenity and / or the character of the area.
- 5.15 Moreover, paragraph 124 of the NPPF requires local planning authorities to make decisions which *“support development that makes efficient use of land”* and as a result, there is an established

imperative to maximise the yield from sites in order to meet local housing needs, especially when considering the significant shortfall in 5 Year Housing Land Supply. In this context the Appellant would argue that quite contrary to being 'cramped or congested' the proposed development makes a highly efficient use of the site.

- 5.16 The type of dwelling proposed is an important consideration when assessing whether overdevelopment occurs because, for example, a three-bedroom semi-detached dwelling requires far more internal and external space than a single occupancy studio apartment.
- 5.17 The Appellant selected two small studio apartments because it is a type of development which could be tailored to suit the site: both apartments meet the minimum requirements set out within the Nationally Described Space Standards; the building is two-storey, respecting the overriding height of the locality; and whereas a two-storey house would require parking and a large private garden, apartments require less parking and much smaller private amenity spaces.
- 5.18 That said, the private amenity spaces provided to each of the studio apartments (a ground floor courtyard and first floor balcony) are ~eight sqm. The Council has not adopted minimum space standards for external amenity spaces serving flats, and so in this respect the proposed development is policy compliant. It is useful however to note that a one-bedroom flat in London, per the London Plan, need only be provided with a five sqm balcony.
- 5.19 The Council's suggestion in its delegated report that the proposed development 'only offers a small area for amenity space' is not only incorrect (for the reasons outlined above) but also inconsistent with other decisions taken by the Council. A three-storey mixed use development comprising several commercial units at ground floor and residential apartments above, located at 44 – 54 West Street, Havant, PO9 1PG, was granted planning permission (ref no: APP/10/00992) by the Council in February 2011. The scheme has since been built out (see images taken from Google below) and is notable for the lack of dedicated amenity space for several of the flats. It is noted that a number of these proposed balconies were replaced by Juliette balconies by way of a 'Non-Material Amendment' ("**NMA**", ref no: APP/17/01358) and the Council raised no objection to this.



- 5.20 The Appellant is curious as to why therefore the Council is holding the Appeal proposals to a much higher, albeit undefined, standard for the provision of private amenity space than it has done for other prominent flatted developments in the Borough.
- 5.21 Notwithstanding that the Appellant considers ~eight sqm of private amenity space per one-bedroom studio apartment to be proportionate both to the size of the dwelling and consistent with good design practices, it is also notable that the site has good accessibility to several public amenity / leisure facilities, namely:
- Havant Park and Skatepark - ~900 metres
 - The Avenue Lawn Tennis Club - ~500 metres
 - Langstone / Emsworth Harbour and Beach - ~1,100 metres

- 5.22 It is apparent therefore that the occupiers of the proposed apartments will have access to a good range of public amenities within walking distance, which will complement the private amenity spaces that are proposed as part of the Appeal.
- 5.23 The Appellant would argue that one hallmarks of overdevelopment is overlooking – however, as the Council confirms at paragraph 7.17 of its officer report: *“it is considered that the proposal will not appear overbearing or lead to a loss of light, outlook, privacy and would have limited and acceptable impact on the properties immediately adjacent to the application site and the properties opposite or the rear, meeting the requirements of Policy CS16”*.
- 5.24 It is notable that the Council also confirms that, due to the accessibility of the site in terms of public transport / parking and services, that no vehicular parking is required and that the provision of cycle parking complies with Policy DM13 of the Core Strategy (paragraphs 7.24 and 7.25 of the officer report).
- 5.25 In summary, the above evidence demonstrates that future occupants’ experience and living conditions have been taken into consideration when designing the site layout, in order to make them practical, user-friendly and high quality apartments, all the while being located in a highly sustainable town centre-adjacent location, in turn making a positive contribution towards the Borough’s shortfall in housing land supply, in accordance with Policy CS16 of the Core Strategy and NPPF.

Reason for Refusal Two: Impact on Character

- 5.26 The second reason for refusal states that *“The proposed is considered to appear incongruous and the available glimpses of the building behind the hoarding would be an inappropriate form of development. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.”*

Response

- 5.27 As noted above, Policy CS16 provides general guidance on the design of new development, including responding positively to the existing features and producing a positive relationship between buildings, street and spaces both existing and proposed.
- 5.28 The Council’s central allegation with regards to impact on the character and appearance of the area is that the proposed apartment building would appear incongruous and inappropriate because it is located behind the existing advertisement hoarding. The Appellant disagrees with the notion that

simply because the proposed building is partially obscured by the advertisement hoarding, that this necessarily means it will appear incongruous or inappropriate.

- 5.29 There are many examples in the locality, and more generally, of property facades being obscured from view by physical obstructions – for example, Grove House, 4 Emsworth Road, located immediately to the southwest of the Appeal site features a ~two metre tall hedgerow which obscures most of the house from view. The proposed apartment building is significantly taller than the advertisement hoarding and will be perceived as a more dominant feature in the street scene, which in turn draws attention away from the advertisement and directs it towards what the Council admits is a well-designed apartment building.
- 5.30 It is also the case that the proposed apartment building will be at its most obscure when viewed front-on. When approaching from the east / west, the gap between the advertisement hoarding and the public house / Bernard Powell House will be perceived as being greater, due to the angle, and in turn will reveal more of the proposed building. The Appellant would argue that far from being perceived as an inappropriate addition to the street scene, the proposed building would actually provide a greater degree of visual interest and improve the aesthetic qualities of the street scene.
- 5.31 Which leads to the current state of the Appeal site; the Site currently consists of an unkempt piece of scrubland which makes a neutral (or at worst negative) impact on the street scene. The insertion of a well-designed, contemporary building alongside the fine historic public house to the east and the average 1960s flatted development to the west will close an incongruous and unattractive gap in the street scene.
- 5.32 The proposed street scene / elevation is shown in the image below for illustrative purposes, but demonstrates that the proposed apartment building would be experienced as a cohesive part of the street scene and that even despite the location of the advertisement hoarding, much of the proposed building would be visible to varying degrees dependent on the viewer's position.



- 5.33 It is also notable that the features of proposed dwellings have been designed carefully with regard to the local context and without detriment to the street scene, complying with Policy CS16.
- 5.34 The Appellant has proposed development in depth on the site, ensuring that optimum use is made of previously developed land.
- 5.35 The height of the proposed apartment building closely matches that of the adjoining flats, with appropriate gaps available on either side of the building so that it does not fill the entire width of the plot.
- 5.36 The selected external materials for the proposal are also in keeping with the adjacent pub and the character of the area – and it has been confirmed in the delegated report that the materials adopted for the proposed development are considered appropriate within the context of the area, and thus no concerns were raised with the architectural details and materials of the scheme.
- 5.37 We disagree therefore that the proposed development would be perceived as an inappropriate or incongruous addition to the character and appearance of the area. On the contrary, the Appellant contests that the positioning of the proposed building would contribute to the visual interest of the area, closing an incongruous gap in the street scene, and taking prominence away from the advertisement hoarding.
- 5.38 Therefore, the allegation made by the Council that the proposed development would appear incongruous and the available glimpses behind the hoarding would fail to provide an appropriate form of development is therefore not substantiated. In turn, we conclude that the proposed development complies with Policy CS16 insofar as design is concerned.

Reason for Refusal Three: Impact on Amenity

- 5.39 The third reason for refusal states that *“The close proximity of the hoarding to the south of the proposal would have a significantly and demonstrably unacceptable impact on the living conditions of the future occupiers of the units by reason of overshadowing/loss of natural light and poor outlook. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.”*

Response

- 5.40 As noted above, Policy CS16 provides general guidance on the design of new development, including in the first criterion a requirement to respect local context in regard to layout and form as well as residential amenity issues, amongst other things.
- 5.41 The starting point when considering whether the occupiers of the proposed apartments would have an acceptable outlook and receive sufficient natural light is to note that both apartments are open plan with dual aspects, indeed if the bathroom window is included both apartments are triple aspect. Dual aspect, open-plan apartments are well-suited to maximising the receipt of natural light and providing choice in terms of outlook.
- 5.42 Both apartments enjoy access to floor – ceiling height patio doors on the northern elevation which, as the floorplans indicate, would be located closest to the indicative kitchen / dining room area.
- 5.43 In addition, both apartments also enjoy access to a floor – ceiling height bay window on the southern elevation, which is angled eastward to exploit a gap between the advertisement hoarding and the adjacent public house. This angled bay window will direct residents' eyeline towards the gap rather than the hoarding, maximising actual and perceived outlook and daylight.
- 5.44 The south-facing bay window would, as the floorplans indicate, be located closest to the indicative living area for the proposed apartments. However, it should be noted that the internal layout of the studio apartments is not mandated. Should the future occupiers prefer the living area to be located toward the northern window then it is within their gift to rearrange their apartment accordingly, selecting which of the two outlooks is most suited to their day-to-day life.
- 5.45 It is also notable that the northern aspect would enjoy an outlook over residential gardens and the bowling green to the west, ensuring that residents will have access to a pleasant and verdant outlook in one direction. To the south residents eyeline will be directed toward the highway, which is a common outlook shared by many residential properties, including the site's neighbours on Emsworth Road.
- 5.46 The Council accepts that the proposed dwellings adhere with Nationally Described Space Standards, adding further weight to the Appellant's argument that the proposed development makes efficient use of the site, rather than overdevelops it.
- 5.47 The Council asserts that: *"Whilst [the submitted shadowing studies] show that for some of the day the advertisement hoarding would not directly overshadow the proposed studios, it would cause overshadowing at certain times of day."* This is a misrepresentation of what the submitted shadow studies actually demonstrate, which is that for the majority of the year, save for midday in Autumn,

the south facing bay window is completely unshaded by the advertisement hoarding. The shadow studies were taken in Spring and Autumn in accordance with standard practice and so we would argue robustly demonstrate that the proposed dwellings would not suffer any overshadowing as a result of the proposed development.

- 5.48 Notwithstanding this, the proposed apartments are dual aspect, and so even if the southern aspect were overshadowed for a brief spell in the Autumn, natural light would still be able to penetrate the floor – ceiling patio doors on the northern elevation.
- 5.49 Thus, the residential amenity issues of overshadowing, loss of natural light and poor outlook raised in the officer report are not established, implying that the living conditions of the future occupiers will not be adversely affected as a result.

Reason for Refusal Four: Impact on European Sites

- 5.50 The fourth reason for refusal states that *“In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to this planning application. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.”*

Response

- 5.51 Financial contributions are sought from new residential development built within 5.6 km of Chichester Harbour Special Protection Area via the Solent Recreation Mitigation Strategy (“SRMS”) secured by a legal agreement. The proposed development of two one-bed dwellings is therefore liable to pay a total of £953.30, which includes the 5% monitoring fee and £23 administration fee.
- 5.52 Noting that payment must be made before permission is granted in the case of a Unilateral Undertaking, payment will be confirmed when the Appellant submits its rebuttal to the Council’s appeal statement, in accordance with the timescale for Unilateral Undertakings.

Planning Balance

- 5.53 As noted above, the Council can currently only demonstrate 1.81 Years' Housing Land Supply. In accordance with paragraph 11(d) of the NPPF, the tilted balance in favour of development applies unless the proposed development would contradict policies within the NPPF that are designed to protect areas or assets of particular significance.
- 5.54 Footnote 7 confirms that those areas or assets of particular importance are: habitats sites, SSSIs, land within the Green Belt, Local Green Spaces, AONBs, National Parks, land within a Heritage Coast, irreplaceable habitats, designated heritage assets, and areas at risk of flooding or coastal change. The site is not within a SSSI, the Green Belt, a Local Green Space, an AONB, a National Park, a Heritage Coast, an irreplaceable habitat, is not a designated heritage asset nor is it within the setting of one, nor an area at risk of flooding or coastal change. Whilst the site is within the 5.6 km Zone of Influence of the Chichester Harbour Special Protection Area ("SPA"), and the scheme would potentially lead to increased recreational pressure on the SPA, the Appellant has confirmed that a Unilateral Undertaking will be submitted to the Inspector alongside the Appellant's final comments for this Appeal.
- 5.55 It can therefore be concluded that the proposed development will not result in harm to any areas or assets of particular significance, and so in turn does not contradict any policies within the NPPF designed to protect such assets / areas. The Appellant therefore strongly contests that the tilted balance applies, contrary to what the Council may consider to be the case.
- 5.56 In paragraph 8.2 of its delegated report, the Council argues that the perceived overdevelopment of the site, its incongruous siting behind the advertisement hoarding and resulting impact on the locality, and loss of outlook / daylight to the future occupiers of the apartments, attract 'significant' negative weight in their application of the planning balance.
- 5.57 For the reasons set out in this Appeal, the proposed development would not result in an overdevelopment of the site, it would be read as a coherent and positive addition to the street scene, and would provide adequate amenity to the occupiers. It cannot follow therefore that these aspects attract such negative weight in the overall planning balance.
- 5.58 The Council, curiously, cites the absence of vehicular parking as attracting moderate negative weight despite earlier in the delegated report stating that: *"the site is considered to be located within a sustainable location and on balance the lack of car parking would not justify a planning refusal"* (paragraph 7.24). We do not therefore agree that the lack of parking can attract negative weight.

- 5.59 The Council ascribes modest positive weight to the provision of new housing, however given the significant housing land supply shortfall (1.81 years), the Appellant would argue that the weight attributed to the provision of new housing should be significant.
- 5.60 Finally, the Council argues that the absence of a nitrate mitigation strategy, along with the absence of a mitigation strategy for recreational pressure on the SPA, is something which attracts significant negative weight. Considering the Appellant has confirmed that a mitigation strategy to deal with impacts on the SPA will be secured by way of Unilateral Undertaking, this matter cannot attract anything but neutral weight in the planning balance. Nitrate mitigation can be dealt with by way of condition, which is Havant Borough Council's usual approach, and hence is neutral in the planning balance (and moreover did not attract a reason for refusal).
- 5.61 We would therefore argue that, when considering the tilted balance applies, planning permission should have clearly been granted by the Council.

6.0 Conclusion

- 6.1 CPC Planning Consultants Limited has prepared this Statement of Case on behalf of the Appellant, Mr. Brian Long, to address the matters raised by the Council in its notice of refusal for an application to erect one two-storey building comprising two studio apartments with associated hard landscaping.
- 6.2 The Applicant worked pro-actively throughout the course of the application to accommodate amendments recommended by the Planning Officer and endeavoured to address the concerns raised by the Council.
- 6.3 The scheme has been designed to respect the local character and to provide a high standard of accommodation to ensure good living conditions for the future occupiers.
- 6.4 The Appeal demonstrates that:
- i. The proposed layout and scale would be in keeping with the local context, while the massing is appropriate in this highly sustainable location in Havant, and the proposed design has carefully taken into consideration its useability and practicality and to ensure good living conditions for future occupiers.
 - ii. The proposed development has paid full regard to local character and appearance, contributing to it being an appropriate form of development.
 - iii. There will not be any unacceptable impact on the living conditions of future occupiers in terms of overshadowing, loss of natural light or poor outlook arising from this proposed development.
 - iv. A financial contribution will be paid via a Unilateral Undertaking for the Solent Recreation Mitigation Strategy.
- 6.5 On this basis, the Inspector is respectfully invited to allow this Appeal and to grant permission for the proposed dwellings.

Appendix I

Decision Notice (ref: APP/22/01194)

Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

T 023 9247 4174
F 023 9249 8031
www.havant.gov.uk

To:
Mr Russell
Unit 3 Broadbridge Business Centre
Delling Lane
Bosham
Chichester
PO18 8NF

For: Mr Long

**The Town and Country Planning (Development Management Procedure) (England) Order
2015**
Refusal of Planning Permission

Application Number: APP/22/01194

Site Address: Land adjacent to 27 Emsworth Road, Havant, PO9 2SN

Proposal: Erection of 1No two-storey building comprising 2No studio apartments (Use Class C3) with associated hard landscaping.

Further to your application received on 09 December 2022, which was valid from 05 January 2023, Havant Borough Council, as Local Planning Authority, **Refuses Planning Permission** for the above proposal.

The reasons for the Council's decision to refuse planning permission are:

- 1 The proposal is considered to be an overdevelopment of the site due to its cramped and congested layout on a site of insufficient size, which would result in poor living conditions for future occupiers. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.
- 2 The proposed is considered to appear incongruous and the available glimpses of the building behind the hoarding would be an inappropriate form of development. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.
- 3 The close proximity of the hoarding to the south of the proposal would have significantly and demonstrably unacceptable impact on the living conditions of the future occupiers of the units by reason of overshadowing/loss of natural light and poor outlook. This would be contrary to Policy CS16 of the Havant Borough Council Core Strategy (2011) and the National Planning Policy Framework.

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- 4 In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to this planning application. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

In coming to its decision the Council considered plans and other documents submitted with regard to your application and the relevant policies of the Havant Borough Local Plan and other planning policy documents including the National Planning Policy Framework.

Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Planning Inspectorate, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council. See www.planningportal.gov.uk/pcs
- (1) In accordance with paragraphs 38-50 of the NPPF Havant Borough Council (HBC) takes a positive and proactive approach and works with applicants/agents on development proposals in a manner focused on solutions by:
- Offering a pre-application advice service, and
 - Updating you of any issues that may arise in the processing of your application and where possible suggesting solutions, and,

In this instance:

Your application is considered unacceptable for the reasons set out in this Decision Notice.

Alex Robinson

Alex Robinson
Executive Head of Place

20 June 2023

Our Ref: APP/22/01194

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**

- These notes are for information only and do not purport to set out the law on the subject.
- Only the applicant possesses the right of appeal.

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 and 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 and 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 and 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 and 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 this is a decision to refuse consent to work on a tree which is subject to a Tree Preservation Order and you want to appeal against your local planning authority's decision then you must do so within 28 days of the date of this notice.
- If this is a decision to refuse any other type of application and 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.
- **Appeals can be made online at:** <https://www.gov.uk/appeal-householder-planning-decision> for householder applications; <https://www.gov.uk/appeal-planning-decision> for full applications; <https://www.gov.uk/planning-inspectorate> for anything else.
- 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.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

Our Ref: APP/22/01194

IMPORTANT NOTICE FOR APPLICANTS WITH REGARD TO BUILDING REGULATIONS

This notice only relates to the decision of Havant Borough Council under the Town and Country Planning Acts. It does not relate to any other application that may be required any other Act, Regulation, Byelaw or Order where the Council's approval may be needed.

For further guidance as the need for consent under the Building Regulations, please telephone Havant Borough Council's Building Control team on:

023 9244 6571

Our Ref: APP/22/01194

Southern Gas advisory note

In June 2021 SGN issued a comprehensive advisory note

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading - pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings - pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety - lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at <https://www.linesearchbeforeudig.co.uk/> to assess any risk associated with your development and
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone: 0800 912 1722 / Email: plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work
<https://www.sgn.co.uk/damage-prevention>
- Further information can also be found here
<https://www.sgn.co.uk/help-and-advice/digging-safely>

SGN personnel will contact you accordingly.

Our Ref: APP/22/01194