

**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**Creek Cottage, 41 Beach Road, Emsworth, PO10
7HR**

**Local Planning Authority Reference:-
APP/23/00779**

**Planning Inspectorate Reference:-
APP/X1735/W/24/3348661**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Mr M Hughes AGAINST REFUSAL of Demolition of existing dwelling and replacement with sustainable modern dwelling (Use Class C3), incorporating a studio, garaging, solar panels, landscaping and associated works.

AT Creek Cottage, 41 Beach Road, Emsworth, PO10 7HR

Planning Inspectorate Reference: APP/X1735/W/24/3348661

LPA Ref: APP/23/00779

1.0 INTRODUCTION

- 1.1 The officer's report already forwarded with the appeal questionnaire sets out the site description, planning history, policy context and relevant issues in sufficient detail to form the background of the Local Planning Authority's (LPA's) Statement of Case. This appeal statement will only highlight the pertinent issues and provide a commentary on the Appellants Statement of Case.
- 1.2 The Borough Map and 1:1250 Location Plan are provided at **APPENDIX A**.

2.0 COMMENTARY ON APPELLANTS STATEMENT OF CASE

- 2.1 The Appellant has provided a statement of case (SoC) and the LPA's response, where relevant, is set out below.

Context and siting

- 2.2 With regards to the character of the area, the appellant in paragraph 2.5 of their SoC states that *'Building form range from single storey to two-storey dwellings, with no defining character, style or design form. There are examples of three-storey dwellings along Warblington Road'*. Likewise similar comments on the character are made in paragraph 5.4 of the appellant's SoC. Whilst the LPA agrees that there is an eclectic mix of architectural detailing and materials in the surrounding area, there is a prevailing character of detached single storey and two storey dwellings with traditional pitched roof designs. The appellant references three storey dwellings along Warblington Road, the LPA disagrees with this statement and the Planning Inspector will note on their site visit that these are 2.5 storey dwellings, with accommodation in the roof space provided through rooflights and dormer windows. Furthermore, the dwelling would be read from Western Parade which is made up of two storey dwellings and bungalows. The majority of the roofs are gable fronted with side slopes which creates a spacious skyline between dwellings. Many of the dwellings have a single storey eaves line, further increasing the sense of space about and between dwellings.
- 2.3 The dwellings along Western Parade are set back within their plots with verdant frontages. Paragraph 5.5 of the appellants SoC states that *'There is no formalised building line'*. The LPA strongly disagrees with this statement. An assessment on the building lines is set out in paragraphs 7.9-7.11 of the Officer report. The appellants fail to differentiate between the original/ main façade building lines and the subservient single storey additions to existing dwellings within the streetscene, as shown in Appendix 2 of the appellant's SoC. Furthermore, it should be noted that this appendix shows the footprint of the proposed dwelling and not that of the existing dwelling on site, the LPA therefore consider this plan to

be misleading. The proposal would break the established two storey building line and would appear unduly prominent within the streetscene.

- 2.4 Paragraph 5.7 of the appellant's SoC challenges the officer assessment of building lines: to reiterate this assessment was based on the established building line of the main two storey facades of existing dwellings within the streetscene, as opposed to the modest single storey, subservient additions to those dwellings. In contrast the front elevation of the proposed two storey dwelling with first floor overhang would be sited significantly further forward than the established two storey building line. Paragraph 5.7 of the appellant's SoC also argues that the scale of proposed dwelling would not be perceived as significant from either side due to its low profile. The LPA disagrees with this, the proposed building owing to its large scale and flat roof, would appear boxy and bulky. It is not considered that soft landscaping could adequately soften the proposal to mitigate this harm.
- 2.5 Paragraph 5.8 of the appellant's SoC argues that the proposal would accord with criterion (c) of policy CS16 Havant Borough Local Plan (Core Strategy) 2011 however for the aforementioned reasons, officers disagree. Furthermore, Policy CS16 should be read as whole which the proposed development conflicts with as it fails to respond to the existing character and results in harm to residential amenity.

Design Review Panel

- 2.6 Paragraph 3.2 of the SoC states that prior to submitting the planning application a consultation was carried out with *'The Design Review Panel (DRP) – and independent group of professionals providing impartial advice on design matters'*. Paragraph 3.3 of the appellant's SoC goes on to set out the DRP's summary of recommendations and paragraphs 5.9- 5.18 of the appellant's SoC goes into further detail and assessment of the DRP's findings.
- 2.7 It is the LPA's view that very limited weight should be afforded to the DRP report as this was financed and sourced by the applicant and not truly independent. The submitted DRP report doesn't acknowledge that the site is within the setting of the Chichester Harbour AONB. As set out in the Officer report in paragraph 7.14 it is the LPA's view that *'a silhouette comparison as required by adopted policy should be given far greater weight as a tool to assess the design'*. This reflects paragraph 139 of the NPPF which states *'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes.'* The LPA consider the proposal fails to take into account the local design policies and is contrary to the Chichester Harbour AONB SPD and PP03 of the Chichester Harbour AONB Planning Principles, contained within the Chichester Harbour Management Plan 2024-2025. Further commentary on this can be found in paragraphs 7.7 – 7.18 of the officer report.
- 2.8 Paragraph 139 of the NPPF also goes on to state *'Conversely, significant weight should be given to:... (b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings'*. If the Planning Inspector is minded to afford greater weight to the DRP report submitted by the appellant, the LPA would like to draw their attention to the conclusion of the report which states *'The principle of the proposals is acceptable, & the proposals are supported as the design is of high quality, contextually appropriate & overall represents good architecture with admirable sustainability aspirations'* (emphasis added). The DRP report by its own omission does not describe the proposal as outstanding nor innovative. The DRP also sets out concerns that it may not be possible to achieve the aspired Passive House Premium Certification. The LPA does not consider the

development to be of an outstanding nor innovative design. Furthermore, as set out in the officer report the overall siting and form of the proposed contemporary flat roofed design is not considered to fit in with the surroundings, which is characterised by pitched roof dwellings set on a strong building line. The appeal scheme is therefore contrary to paragraph 139 of the NPPF.

- 2.9 The appellant in paragraph 5.14 of their SoC argues that the issues raised at pre-application stage were fully addressed. The LPA disagrees with this, whilst the massing of the proposal was reduced, it was still considered harmful for the reasons set out on the decision notice.

Impact on the Setting of the AONB

- 2.10 In paragraph 4.1 of the appellants SoC it states *'The Council has made reference to other policy and guidance documents including the Chichester Harbour Management Plan (2019-2024) Third Review; Chichester Harbour Planning Principles 2019-2024; and Chichester Harbour Area of Outstanding Natural Beauty Joint Supplementary Planning Document (July 2017). These policy and guidance documents relate to development located within the Chichester Harbour AONB and their relevance to the appeal scheme is therefore limited to the extent of impact of the development proposed on the setting of the AONB.'* This point is also made in paragraphs 5.20 and 5.21 of the appellant's SOC. The LPA contend that this is an incorrect interpretation as the policies contained within these documents relate to both development within and adjacent the AONB insofar as any development has the potential to affect the setting of the AONB – which in this case it does.
- 2.11 The LPA would like to draw the Inspectors attention to paragraph 182 of the NPPF which states that development within the setting of the AONB should be *'sensitively located and designed to avoid or minimise adverse impacts on the designated areas'*. Although not part of the development plan, the Chichester Harbour AONB Management Plan and Chichester Harbour AONB SPD are material planning considerations. The Chichester Harbour AONB Management Plan is specifically referenced in Policy CS12 of Havant Borough Local Plan (Core Strategy) 2011 (which does form the development plan) and requires careful assessment of the impact of individual proposals, and their cumulative effect, on the Chichester Harbour AONB, and its setting. As set out in paragraph 7.13 of the officer report, the appellant has not provided the information as required by the Chichester Harbour Management Plan. Furthermore, the Chichester Harbour AONB SPD was adopted by HBC in 2017 and forms a material consideration the determination of this appeal. Its guidance on size increase as set out at paragraphs 12.1 to 12.4 are therefore highly relevant to the determination of this appeal. The Inspectors attention is also drawn to the separate statement on this appeal provided by Chichester Harbour Conservancy directly and requested to note their objections.
- 2.12 With regards to the submitted LVA the Appellant in paragraph 5.27 of their SoC challenges the Officer report with regards to an assessment of views. For clarity, Viewpoint 1 is from the side, from Beach Road. There is therefore no assessment from the footpath immediately south of the appeal site nor mid-distance views from the shallow water. Paragraph 12.2 of the Chichester Harbour AONB SPD with regards to the uplift in silhouette for replacement dwellings states *'The increase will be assessed on its impact as viewed from the wider landscape. This might be from the water, footpaths and roads or across open countryside.'*
- 2.13 The Council's Landscape Officer has provided further comments on this appeal as follows: *'With regards to the LVIA the location of the viewpoint 1 appears to be specifically selected to include the 72 Warblington Road, which is a 2.5/3 storey dwelling and therefore would provide precedent for a larger dwelling. However, this viewpoint in my opinion does not reflect the character of the immediately adjacent neighbouring properties (both 1.5 storey in height) which can be viewed from the AONB and PROW south of the site. The transient*

views of 72 Warblington Road can only be viewed for approx. 20m along Western Parade and due to being set back from coast does not impact the views from the AONB.

Given the site sits adjacent to and can be viewed from an AONB the number of viewpoints assessed (4) as part of the LVIA is low. There should have been more of a focus on views at a micro level from publicly accessible locations (such as the Beach Road, PROW south of the site, the beach and from the sea looking inland). This would in my opinion highlight the true impact on the proposed development.

As such due to limited number of viewpoints assessed (particularly at a micro level) coupled with the failure to include views from the beach, and views which include neighbouring properties which front the AONB. The true impact of the development has not been fairly assessed.

Furthermore, the proposed mitigation set out in the LVIA does not propose any significant intervention which will appropriately mitigate the visual impact of a larger dwelling set closer to the shoreline. i.e. significant landscape buffer between the proposed development and the AONB.'

- 2.14 Paragraph 5.24 of the Appellant's SoC refers to Hampshire Integrated Character Assessment. This is not adopted by Havant Borough Council and therefore should only be afforded limited weight in the assessment of this appeal.
- 2.15 In paragraph 5.28 of the Appellant's SoC it claims the Council has offered no evidence in support of the statement that *"....the AONB would be materially harmed by the massive change in profile of the dwelling"*. In response, this comment was made having regards to paragraph 12.1 of the Chichester Harbour AONB SPD, which requires *'When considering substantial increases, there should be no more than a 50% increase above the original footprint, or a 25% increase above the existing 'silhouette' (on any elevation visible from the wider landscape)'*.

Design Considerations

- 2.16 In paragraph 5.30 of the Appellant's SoC they attempt to justify the proposed flat roof design of the replacement dwelling. Notwithstanding the example of amendments and additions to pitched roofs that the appellant puts forward, the roofscape of the surrounding area comprises pitched roofs. Pitched roofs maintain space, separation and skyline. In contrast the proposed flat roof, would have a bulky silhouette, reducing skyline. It would appear unduly prominent and detract from the prevailing character of traditional pitched roof dwellings and would fail to conserve the landscape and scenic beauty of the AONB.

Neighbourhood Plan

- 2.17 Paragraphs 4.47 and 5.38 of the appellants SoC argues that, given the Council's inability to demonstrate a 5-year supply, the presumption at paragraph 11(d) applies to all applications involving the provision of housing. The LPA does not consider that this is the correct approach in relation to this application, given that the proposal is for a replacement dwelling. The scheme would not add to the borough's housing supply, and therefore the Council's 5-year supply position is not considered relevant in this case. Policies D1, D2 and D7 of the Emsworth Neighbourhood Plan (ENP) should therefore be afforded full weight as well as policies CS11, CS12 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.
- 2.18 For clarification the proposal is contrary to policy D1 of the ENP which proposals to be of a high quality in accordance with other policies and provisions within the ENP and have regard to the Design Checklist within the plan. The proposal does not integrate well with the

surrounding buildings and the existing skyline and therefore conflicts with point 41 of the Design Checklist, it also incorporates a flat roof which point 42 states would be out of character in Emsworth. Furthermore, point 44 of the Design Checklist states that '*new buildings should be in scale within the context of the surrounding buildings and located where they will not overwhelm their surroundings*'. The proposal would have a bulky box like design and significant increase in silhouette that would not be in keeping with the character of the area.

- 2.19 Policy D2 of the ENP states '*All new buildings should enhance the character of the area and be appropriate in height, mass and materials.*' The proposal would be contrary to the established character of the area and introduce a boxy and bulky development.
- 2.20 In terms of Policy D7 of the ENP, the appellant asserts that policy specifically is concerned with outside lighting rather than indoor lighting. The LPA disagree with this statement and the policy refers to mitigation of light pollution in general sense. Notwithstanding this, PP09 of the Chichester Harbour AONB Planning Principles, contained within the Chichester Harbour Management Plan 2024-2025 and the Chichester Harbour AONB SPD apply and are material planning considerations. Both of which resist large expanses of glass due to light pollution.
- 2.21 Paragraph 5.43 of the Appellant's SoC refers to Policy D6 of the ENP which relates to resource efficiency. As set out in paragraphs 7.33 – 7.35 of the Officer report, the LPA agree that the proposal would accord with this policy, however, the proposal should be assessed against the development plan as whole. The appeal proposal would be contrary to policies CS11, CS12 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and Policies D1, D2 and D7 of the Emsworth Neighbourhood Plan 2019 – 2036.

Residential amenity

- 2.22 The LPA's position is considered to be sufficiently set out in the officer report, paragraphs 7.19-7.24.

TPO

- 3.1 Since the determination of APP/23/00779 a Tree Preservation Order has been made for the blue cedar tree on the southern boundary of the site which is visible from the public footpath and foreshore. The details associated with this TPO (2142) are included in **APPENDIX B**. This tree is discussed in paragraphs 7.27 and 7.28 of the officer report. If the Planning Inspector is minded to grant planning permission for the appeal scheme the LPA requests that there are appropriate conditions to safeguard this tree.

Highways Matters

- 4.1 The LPA would like to draw the Planning Inspector's attention to the representation received from Hampshire County Council Highway Authority during the course of the application (**APPENDIX C**). The appellant has not in their appeal submission clarified the vehicular visibility splays nor details of the full length of the dropped kerb. If the Planning Inspector is minded to allow the appeal, the LPA request that details are secured by pre-commencement condition.

European Designated Sites

- 5.1 As Competent Authority it will be for the Inspectorate to ensure the likely significant effects on the Solent European Sites arising from the appeal scheme are adequately mitigated to comply with the Conservation of Habitats and Species Regulations 2017 (as amended). The

LPA would like to draw the Planning Inspector's attention to the representations received by Natural England and The Council's Ecologist during the course of the application (**APPENDICES D & E**). These require a Demolition and Construction Environmental Management Plan.

4.0 CONCLUSIONS

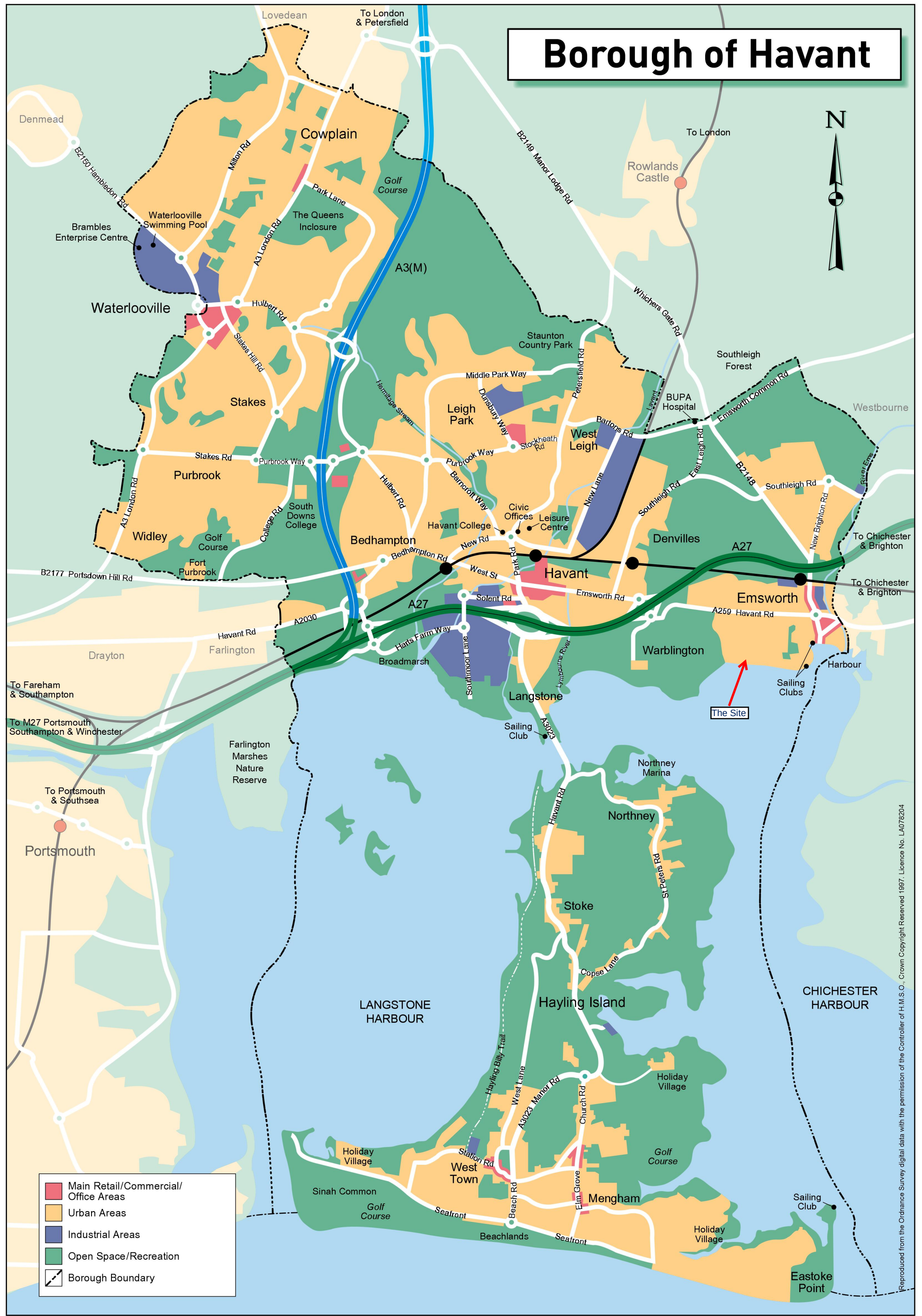
- 3.1 The LPA considers that the original delegated report covers all the necessary issues for the determination of this appeal. Together with this statement the two documents are considered sufficient to represent the LPA's statement of case.
- 3.2 The reasons for refusal in the decision notice dated 29/01/2024 are considered to be appropriate and relevant to the identified harm that would arise from the appeal proposal. It is considered the appeal proposal would be contrary to policies CS11, CS12 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011; Policies D1, D2 and D7 of the Emsworth Neighbourhood Plan 2019 - 2036; Policies 1 and 2 of Chichester Harbour Management Plan Third Review 2019 - 2024; and PP03 and PP09 of the Chichester Harbour Planning Principles 2019 - 2024, and Chichester Harbour Area of Outstanding Natural Beauty Joint Supplementary Planning Document, 2017 and the National Planning Policy Framework.
- 4.3 The Inspector is therefore respectfully requested to dismiss the appeal. In the event that the Appeal is allowed, a list of recommended conditions is forwarded separately.

APPENDICES

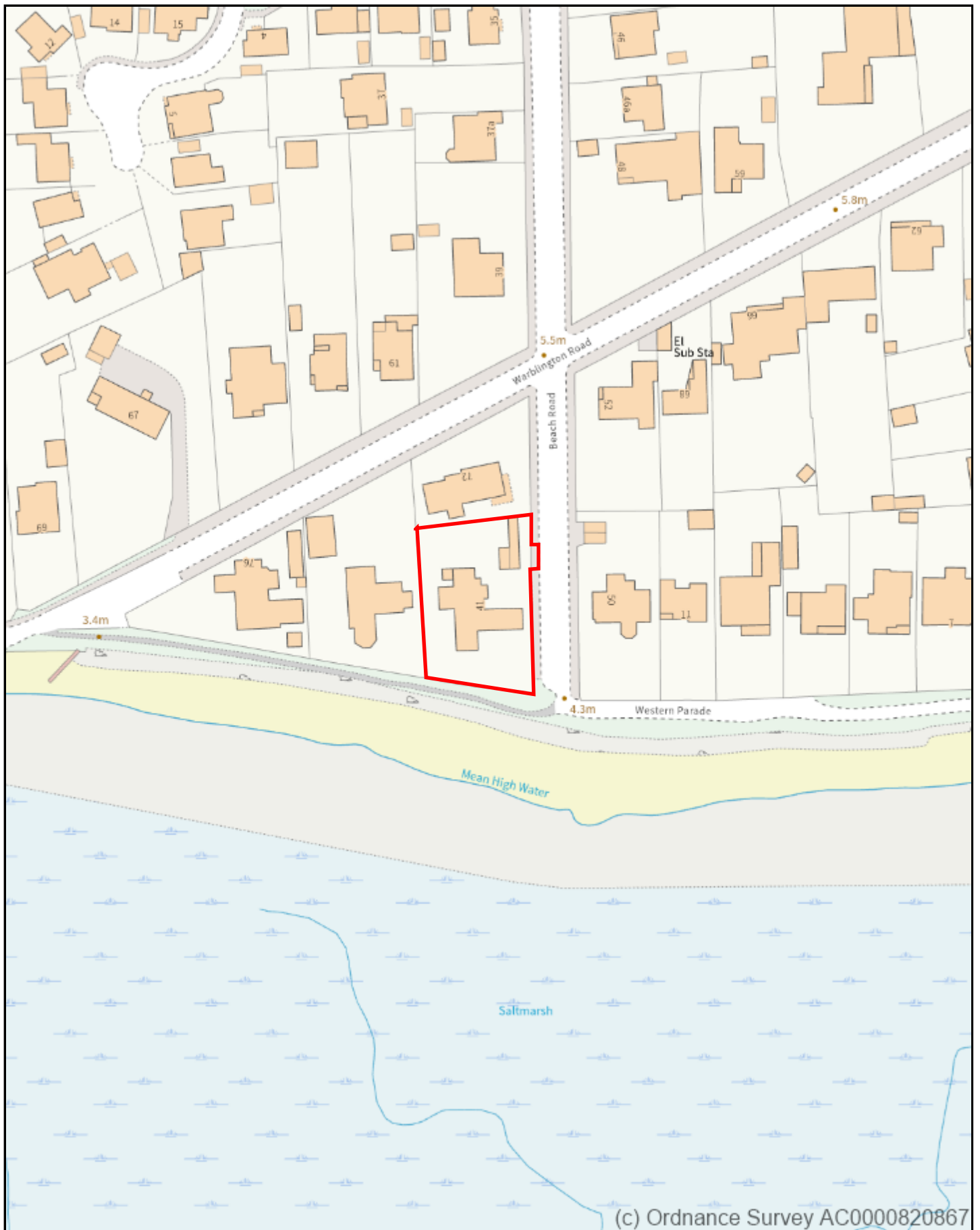
- (A) Borough Map and 1:1250 Location Plan
- (B) TPO 2142
- (C) HCC Highways Consultation response
- (D) Natural England Consultation response
- (E) HBC Ecologist Consultation response

APPENDIX A Borough Map and 1:1250 Location Plan

Borough of Havant



- Main Retail/Commercial/Office Areas
- Urban Areas
- Industrial Areas
- Open Space/Recreation
- Borough Boundary



Creek Cottage, 41 Beach Road, Embley, Havant, PO10 7HR

Havant
BOROUGH COUNCIL

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APPENDIX B TPO 2142

TOWN AND COUNTRY PLANNING ACT 1990

HAVANT (41 Beach Road, Emsworth, PO10 7HR)

TREE PRESERVATION ORDER 2142

Havant Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 hereby make the following Order -

Citation

1. This Order may be cited as Havant (41 Beach Road, Emsworth, PO10 7HR) Tree Preservation Order 2142.

Interpretation

2. (1) In this Order "the authority" means Havant Borough Council

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 4th October 2024

The COMMON SEAL of)
HAVANT BOROUGH COUNCIL)
was affixed to this Order in the)
presence of:-)



103664

Authorised Signatory

A handwritten signature in black ink, appearing to be 'S. S. S.', written over a horizontal line.

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in green on the map)

Reference on Map	Description	Situation
T1	Blue Atlas Cedar (<i>Cedrus atlantica</i> 'Glauca')	within the garden at the southern boundary as shown on the map plan

Scale: 1:300

Date: 26/09/2024

Drawing: 2142

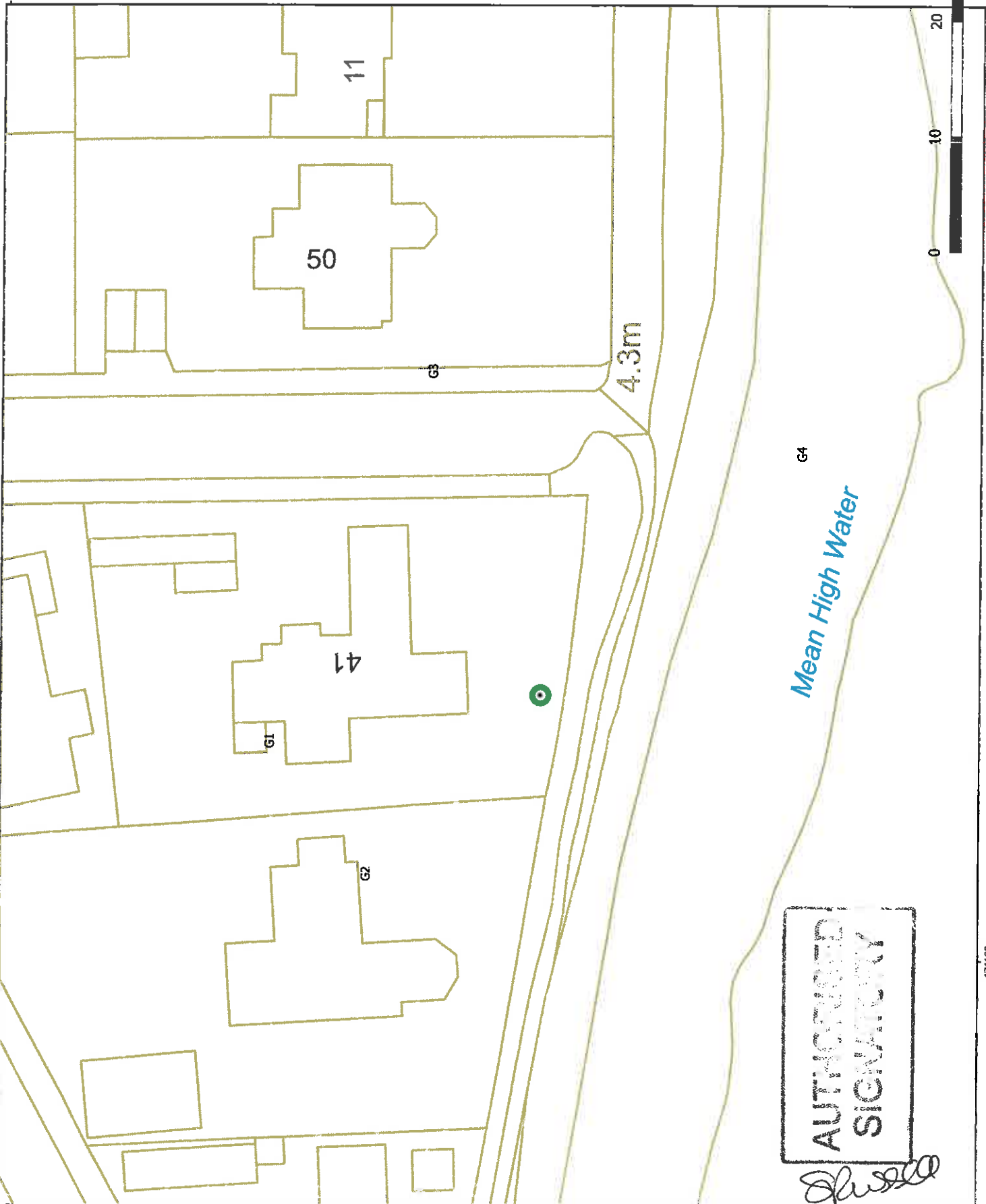
Officer: AW, JG

Tree Key:

T1 - Blue Atlas Cedar (Cedrus
atlantica 'Glaucia')



Based upon Ordnance Survey
mapping with the permission
of the Controller of Her
Majestys Office Crown
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material may lead to
Havant Borough Council
LC 100019217 2024



**AUTHORISED
SIGNATURE**

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APPENDIX C HCC Highways Consultation response

Havant Borough Council
Civic Offices
Civic Centre Road
Havant
PO9 2AX

Hampshire 2050
The Castle
Winchester, Hampshire SO23 8UD

Telephone: 0300 555 1375

Fax: 01962 847055

www.hants.gov.uk

Enquiries To Sophie Osborne

Direct Line 0370 779 5232

Date 20 October 2023

My reference 051298

Your reference APP/23/00779

Email havantdc@hants.gov.uk

Dear Ms Pickup,

Creek Cottage, 41 Beach Road, Emsworth, PO10 7HR

Demolition of existing dwelling and replacement with sustainable modern dwelling (Use Class C3), incorporating a studio, garaging, solar panels, landscaping and associated works.

Thank you for your consultation on the above planning application. The Highway Authority wish to make the following comments.

The applicant is proposing to demolish and replace the existing dwelling. The proposals include relocation of the existing access further north. Drawing 387-OBA-00-ZZ-DR-A-0101-P11 shows the proposed relocated access supported by pedestrian intervisibility splays. The splays shown are drawn in accordance with HCC TG3 and are therefore agreed. Vehicular visibility splays should also be provided for consideration in accordance with HCC TG3. Further information can be found at the following link: [TG3 - Stopping Sight Distances and Visibility Splays \(hants.gov.uk\)](http://hants.gov.uk/TG3-StoppingSightDistancesandVisibilitySplays)

The full length of the proposed dropped kerb should be confirmed. The full length should be no greater than 10.0m to be undertaken via a S171/184 license, otherwise it is likely a minor S278 agreement will be required to undertake these works on the highway.

The applicant that they should be made aware that subject to any planning permission being granted by the Local Planning Authority, a subsequent agreement will need to be granted by HCC as Highway Authority to undertake the drop kerb works on the Highway. Details of this procedure can be found via the following link: [Apply for a vehicular access | Hampshire County Council \(hants.gov.uk\)](http://hants.gov.uk/Applyforavehicularaccess). It is important to note that

Director of Hampshire 2050
Gary Westbrook

if there are any minor utility diversions that are required to facilitate the dropped kerb then additional costs may arise in addition to the initial application fee. The applicant should also be aware that if an existing access is to be closed, a full height kerb should be reinstalled.

Having regard to the above, the Highway Authority require the further information requested before a formal recommendation can be made.

Yours sincerely,

Sophie Osborne
Transport Planner - Highways Development Planning
Hampshire 2050

Director of Hampshire 2050
Gary Westbrook

APPENDIX D Natural England Consultation response

Date: 15 November 2023
Our ref: 454881
Your ref: APP/23/00779



Tina Pickup
Havant Borough Council

BY EMAIL ONLY

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Dear Tina

Planning consultation: Demolition of existing dwelling and replacement with sustainable modern dwelling (Use Class C3), incorporating a studio, garaging, solar panels, landscaping and associated works.

Location: Creek Cottage, 41 Beach Road, Emsworth, PO10 7HR

Thank you for your consultation on the above dated 16 October 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Chichester Harbour Special Protection Area and Solent Maritime Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Demolition and Construction Environmental Management Plan

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

It is advised that, if necessary, any measures proposed to mitigate construction impacts on European designated sites are outlined for incorporation into your authority's Appropriate Assessment.

Natural England's further advice on designated sites and advice on other issues is set out below.

Demolition and Construction Environmental Management Plan

The site is located adjacent to the Chichester and Langstone Harbours Special Protection Area and Ramsar site and the Solent Maritime Special Area of Conservation. The sites are also designated nationally as the Chichester Harbour Site of Special Scientific Interest.

- Site of Special Scientific Interest has been notified.

Without best practice working methods and mitigation there is risk during the demolition and construction phases of the development that pollution from machinery, equipment or materials may enter into the water. Natural England recommends that a Construction Environment Management Plan (CEMP) is produced prior to start of the works and submitted and approved in writing by your authority.

The CEMP should include the following:

- A list of defined potential impacts to the designated sites
- Details of methods for pollution control to ensure that no pollution (such as debris from dust or surface run off) is able to enter the water
- Details on the storage and disposal of waste on site
- Details on how sediment/concrete/other debris that may be accidentally released during construction will be captured to prevent entering the water
- Details of biosecurity to ensure that all equipment brought onto site does not bring any contaminants such as invasive species onto the site and into the waters.

The CEMP should ensure there is no percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) to be undertaken during the bird overwintering period (i.e. October to March inclusive). The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

This detail should be included in the Appropriate Assessment to ensure there is no adverse impact from the construction work on the adjacent designated sites.

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Other advice

We note the application is supported by a Water Neutrality and Nutrient Neutrality Assessment. Water neutrality is not applicable within the Havant Borough Council area, therefore this is not a requirement for this application. Similarly nutrient neutrality is only applicable to net increase in dwellings, as this application is for demolition of an existing 6 bedroom dwelling and replacement with a 5 bedroom dwelling there is no increase in dwellings therefore nutrient neutrality is not applicable.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Rachael Clemson
Sustainable Development Lead Adviser
Thames Solent Area Team

Annex A – Additional advice

Natural England offers the following additional advice:

Landscape

Paragraph 174 of the [National Planning Policy Framework](#) (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on [Gov.uk](#). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

information including links to the open mosaic habitats inventory can be found [here](#).

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. It is anticipated that major development (defined in the [NPPF glossary](#)) will be required by law to deliver a biodiversity gain of at least 10% from January 2024 and that this requirement will be extended to smaller scale development in April 2024. For nationally significant infrastructure projects (NSIPs) it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on the timetable for mandatory biodiversity net gain can be found [here](#). Further general information on biodiversity net gain can be found [here](#).

The Government's [Biodiversity Metric](#) should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of the [Biodiversity Metric](#) and is designed for use where certain criteria are met.

We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife. Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the [Biodiversity Metric](#) and is available as a beta test version.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government [Planning Practice Guidance](#).

[Green Infrastructure](#)

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 100 and 174 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

APPENDIX E HBC Ecologist Consultation response

Consultee Comments for Planning Application APP/23/00779

Application Summary

Application Number: APP/23/00779

Address: Creek Cottage, 41 Beach Road, Emsworth, PO10 7HR

Proposal: Demolition of existing dwelling and replacement with sustainable modern dwelling (Use Class C3), incorporating a studio, garaging, solar panels, landscaping and associated works.

Case Officer: Tina Pickup

Consultee Details

Name: Consultee Principal Ecologist

Address: Public Service Plaza, Civic Centre Road, Havant PO9 2AX

Email: Not Available

On Behalf Of: Ecologist

Comments

Dear Tina,

APP/23/00779 | Demolition of existing dwelling and replacement with sustainable modern dwelling (Use Class C3), incorporating a studio, garaging, solar panels, landscaping and associated works.
| Creek Cottage, 41 Beach Road, Emsworth, PO10 7HR

Thank you for consulting me on this application.

This application is accompanied by an Ecological Impact Assessment (ECOSA, May 2023).

The application site is almost immediately adjacent to the Chichester & Langstone Harbours Special Protection Area (SPA) and Ramsar site, the Solent Maritime Special Area of Conservation (SAC) and Chichester Harbour Site of Special Scientific Interest (SSSI). There is clearly potential for construction activities to result in impacts arising from noise, visual disturbance and airborne and waterborne pollution. I do not agree with the ecology reports conclusion that no adverse impacts should be considered the close proximity of these designated sites means they are well within the likely zone of impact from construction phase impacts. I consider that the appropriate method for addressing potential impacts is a Construction Environment Management Plan (CEMP). I strongly recommend that a CEMP is secured by condition.

The dwelling was assessed as offering bat roosting potential and subject to two bat roost surveys. No bats were observed emerging from the dwelling and it is concluded that roosting bats are absent from the site. The site overall contains areas of managed lawn, planted ornamental vegetation, and planted trees and shrubs. The majority of the vegetation is to be removed, except for larger trees along the southern boundary. The habitats on site are not considered to be of

particular ecological value. The proposed landscaping plan includes new native hedging, a range of ornamental trees and shrubs, and areas of wildflower grassland. It is unclear what form these areas of grassland will take (what is the seed source for instance) and how they will be managed to promote biodiversity.

The ecology report includes recommendations for ecological compensation and enhancement, including bat and bird boxes and a reptile hibernaculum. I would recommend that a next box for Common Swift is more appropriate than one for Barn Swallow. The location of these features should be illustrated on a site plan and I would recommend that this is provided prior to determination in order to ensure that ecological enhancements are agreeable and understood. In addition, recommendations are made for ecological supervision for certain aspects of vegetation clearance. These measures are acceptable.

If you have any queries, please don't hesitate to contact me.

Kind regards,

Tristan

Tristan Norton

Principal Ecologist | E: tristan.norton@havant.gov.uk

Planning Services, Havant Borough Council, Public Service Plaza, Havant, PO9 2AX