

DELEGATED OFFICER REPORT

Site Address:	Land between, 26-32 Padnell Road, Waterloooville		
Proposal:	Erection of 2No.3bed and 2No.1bed dwellings associated parking and bin/cycle storage.		
Application Type:	Full Planning Permission		
Application No:	APP/24/00268	Expiry Date:	27/06/2024
Applicant:	Mr DeSouza D & K Properties Limited		
Agent:	Mr Chahal ACA Design Limited	Case Officer:	Tina Pickup
Ward:	Cowplain		

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The application site relates to an open parcel of land located on the south side of Padnell Road, opposite St Wilfred's church. It has been known locally as "Joeys Field" for many years. It comprises a gap in an otherwise continuously built up frontage within the defined urban area, close to the Cowplain District Centre. The site area extends to some 0.107 ha. There have been no known permanent structures on the site since at least the 1950's and as such the site is not considered to comprise Previously Developed Land as defined by the NPPF, December 2024.
- 1.2 The site is primarily open and grassed land, with some builders materials, rubble etc on the site. Formerly the site was wooded, but the trees were felled in Spring 2020. The site is currently secured to the Padnell Road frontage with high wooden boarding and gates; and the perimeter enclosed with 2m high close boarded fencing. In addition, across the centre of the site is a green railing fence. The site slopes down to the south with mature trees the subject of a Tree Protection Area Order on the land immediately to the south, beyond which are the Padnell infant and junior schools.
- 1.3 Either side of the site are residential dwellings. Number 32 to the east is a detached chalet style bungalow which has a ground floor window and first floor dormer window facing directly into the site. To the west, number 26 is a semi-detached two storey dwelling having a single storey side garage built right up to the shared boundary.
- 1.4 This southern side of Padnell Road is characterised by predominantly detached dwellings of a mix of architectural design and age, but all set in a linear fashion with fairly consistent 'building line' and long rear gardens. The northern side of the road includes two larger developments – the church and Nightingale Lodge, which comprises retirement apartments. These developments are of a similar two storey height and scale but much deeper than surrounding residential properties; their handed layout is such that they do not unduly impact adjacent standard residential properties.
- 1.5 There are no parking restrictions directly outside the application site, although there is a stretch of double yellow lines outside the church. Padnell Road is unclassified. A Southern Water surface water drain runs close to the eastern boundary of the site.

2 Planning History

APP/21/00024 - Erection of block of 6 flats with associated parking and bin/cycle storage - Refused 15/05/2021 for 3 reasons:

1. Out of keeping with pattern and character
2. Overbearing and dominant, harmful to neighbouring amenity
3. Under provision of parking leading to adverse impacts on highway amenity

Appeal Dismissed 05/06/2023 - Inspector found harm to the character of the area from the unsympathetic form of development (though not from the front parking area); found harmful to outlook and privacy of nos 26 and 32 (but not from noise and disturbance or sunlight); did not find any harmful impact on highway safety or operation. Planning balance - significant weight to harmful effects outweighs modest benefits

APP/21/01041 - Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage, Refused 28/02/2022 for 5 reasons:

1. Backland out of keeping with pattern and character
2. Additional comings and goings harmful to adjacent neighbours & loss of privacy & outlook
3. unsatisfactory garden space for plot 1; plots 3 & 4 overshadowed
4. over provision of parking which dominates frontage; inadequate cycle storage; refuse collection inadequate;
5. Lack of contributions for SUMS & nitrates

Appeal Dismissed 6 June 2023 - Inspector found plots 3 & 4 deep in plots & of a scale to be in contrast to linear pattern of development (though not from the front parking area); plots 3 & 4 would be conspicuous and overbearing from neighbours with some overlooking; additional noise and disturbance from vehicles close to rear gardens harmful to living conditions of neighbours; garden space for plot 1 not functional and impacted by adjacent driveway; TPO'd trees impact sunlight to plots 3 & 4 and with no sunlight assessment no evidence to demonstrate that appropriate living conditions would be provided; found no detrimental effect on highway safety. Planning balance - significant weight to harmful effects outweighs modest benefits

APP/23/00685 - 2No. new dwellings with associated car parking and bin/cycle storage, Permitted 19/12/2023

This scheme was for just the front 2 dwellings, omitting the rear 2 units. This has not yet been implemented.

Also of relevance is a recent application at 23 Padnell Road for a backland bungalow that was refused permission and the subsequent appeal dismissed:

APP/20/01026 - Demolition of the existing garage and summer house and construction of 1No. detached 3 bedroom bungalow with associated soft and hard landscaping and parking.

Refused 04/02/21 and subsequent Appeal Dismissed on 14th January 2022

3 Proposal

- 3.1 Erection of 2No.3bed and 2No.1bed dwellings associated parking and bin/cycle storage.
- 3.2 This application proposes the front 2 dwellings, almost identical to that already approved under APP/23/00685, but with the addition of 2 one bed units at the rear. These are proposed as flat roofed contemporary style units, having a maximum footprint of 8.7m x 16m with height of between 3.2m and 3.5m. Plot 4 would be sited, at its closest point, about 1.2m from the western side boundary, and plot 3 would be sited 4m from the eastern boundary due to a surface water drain easement. They would only have pedestrian access past the front dwellings, with parking provided at the front of the site. Six parking spaces are proposed for the 4 dwellings.

4 Policy Considerations

National Planning Policy Framework, December 2024

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control

1) It should be checked to ensure no building work, including the foundations will be within 3m of the public sewer. If work will be within 3m a consultation with Southern Water should be undertaken.

2) The applicant should provide details to demonstrate that adequate fire service access will be provided, especially to plots 3 and 4. Fire service vehicles should not have to reverse more than 20m to achieve compliance with the Building Regulations and need to be within 45m of all points within the new dwellings.

3) The waste bins should be within 30m of the dwellings and not need to be moved more than 25m from the bin storage location to the refuse collection point

Community Infrastructure

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>.

Additionally, pending a response from Natural England on the HRA, instructions should be passed by the Case Officer to the CI Team to:

(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of additional dwellings and their respective number of bedrooms. See Unilateral Undertaking - Solent Recreation Mitigation Strategy | Havant Borough Council

b) Issue the Nutrient Neutrality Unilateral Undertaking. See <https://www.havant.gov.uk/nitrogen-developers>

Biodiversity Net Gain

In England, biodiversity net gain (BNG) is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Developers must deliver a biodiversity net gain of 10%. This means a development will result in more, or better quality, natural habitat than there was before development. More information is available:

<https://www.gov.uk/guidance/meet-biodiversity-net-gain-requirements-steps-for-developers>

There are some exemptions and if an exemption is claimed this must form part of the planning application submission.

Southern Water

Protection of Public Apparatus

The submitted document (Drawing No: 2024/01) indicating 3 metres easements to 225 mm public surface water sewer would be satisfactory to Southern Water.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Foul and Surface Water Drainage

Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

Ecologist

The application is accompanied by an updated Ecological Assessment (4 Woods, April 2024) which is a further update to a previous 2021 site visit and report. It is clear that having previously been cleared of all vegetation, the site has been unmanaged and now supports rather lush grassland with scrub. The submitted Biodiversity Net Gain (BNG) Metric describes the site as supporting modified grassland and two different types of scrub habitat. I am satisfied that the site has been subject to appropriate survey and that the submitted BNG Metric has been completed by a suitably competent person.

In terms of protected and notable species, the site is considered to offer habitat suitable for nesting birds and hedgehogs and appropriate avoidance and mitigation measures are provided. These are acceptable.

The BNG process does not require that post-development habitats are submitted at the application stage. On that basis, it is currently not clear exactly how the required 10% BNG is to be delivered. It is the obligation of the applicant to ensure that a Biodiversity Gain Plan (and any necessary supporting information) is provided prior to commencement of development. The Gain Plan will need to include full details of how 10% BNG will be achieved. The applicant should be aware that they are responsible for securing any off-site BNG units: without the Gain Plan development may not be commenced. The market for off-site BNG units (or parts thereof) is embryonic and the applicant may find difficulties in securing the necessary habitat. In that case, it may be necessary to provide all or some of the BNG requirement within the application red line. Any significant on-site BNG will need to be secured through a planning obligation.

If you are minded to grant permission, can I suggest that all ecological avoidance, mitigation and enhancement measures are secured by condition. Mandatory BNG is automatically subject to condition.

Development shall proceed in accordance with the ecological avoidance, mitigation and enhancement measures detailed in the Ecological Assessment (4 Woods, April 2024) unless otherwise agreed in writing by the Local Planning Authority. Reason: to provide ecological protection and enhancement in accordance with the Environment Act 2021, Conservation Regulations 2017, Wildlife & Countryside Act 1981, NPPF, NERC Act 2006 and Policy CS 11 of the Havant Borough Core Strategy March 2011.

Engineering/Drainage

None received

Environment Agency

None received

Environmental Services

1. Access Requirements:

Access/Service Roads need to be capable of taking a 26 tonne Refuse Collection Vehicle (RCV) and allow vehicle to reverse close to bin store or containment area. Width of RCV 2.8m, maximum length 11.3m.

Drop kerbs also need to be provided to allow easy transfer of bins from store area to vehicle.

No bins to be pulled or waste carried more than 25 metres.

2. Bin Stores:

Almost all bulk bins utilised by the Authority are approximately 1.26 metres wide, therefore doors to stores need to be of 1.8 metres width to enable all types of container to be easily removed and returned.

A standard depth of 1.0 metre also applies to the majority of bulk bins, and bin stores therefore need to accommodate the required of containers measuring 1.26m x 1,0m.

NB: In 2026 food waste collections will be introduced, so consideration should be given to capacity for additional containers.

3. Bin requirements

Note: Factors such as family size and age of occupants can influence the number of bins required and it is therefore advisable that the waste Management team be asked to confirm each calculation if possible.

4. Bin sizes for Information:

- a) 140 litre (plastic) - 1065mm tall x 485mm wide x 550mm deep
- b) 240 litre (plastic) - 1075mm tall x 580mm wide x 725mm deep
- c) 660 litre (metal) - 1310mm tall x 1260mm wide x 730mm deep
- d) 940 litre (metal) - 1500mm tall x 1020mm wide x 975mm deep
- e) 1100 litre (metal) - 1370mm tall x 1260mm wide x 990mm deep

Hampshire Highways

The Highway Authority were consulted with regard to a planning application (APP/23/00685) on this site relating to the development of 2 x 3 bedroom properties served by a new dropped kerb footway crossing to Padnell Road with no objection from the Highway Authority with the application being granted permission in December 2023.

The current proposal is based on the same access arrangement with sufficient space for two cars to pass within the entrance and providing for 8 car parking spaces with an adequate aisle width to enable cars to turn on site to ensure that vehicles can enter and leave the site in a forward gear to the benefit of highway safety. The Planning Authority, as Local Parking Authority, will consider the level of parking provision having regard to Adopted Parking SPD, the levels of parking appear to meet the required standard.

The Highway Authority are satisfied that the addition of 2 one-bedroom properties would not result in a significant increase in traffic levels on the local highway network over and above the previously approved development.

Whilst HCC Highways Development Planning has no objection in principle to the proposed dropped kerb, the developer should be made aware that subject to any planning permission that may be granted by the Local Planning Authority, a subsequent permission will need to be granted by HCC as Highways Authority to undertake the dropped kerb works on the highway. Details of this procedure can be found via the following link: <https://www.hants.gov.uk/transport/parking/droppedkerbs>

Having regards to the above the Highway Authority would recommend -
No objection subject to following conditions:

PARKING PROVISION

Before use of the development is commenced provision for parking shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason - To ensure adequate on-site car parking provision for the approved development.

ACCESS CONSTRUCTION PROVISION

No development shall start on site until the access, including the footway crossing shall be constructed in accordance with the approved plans.

Reason - To provide satisfactory access and in the interests of highway safety

HCC Arboricultural Consultancy

Area TPO ref: 2107 protects all trees to the rear of the site and beyond to the south which were present at the time the TPO was made.

The main arboricultural concern is the mature oak (T1) located just beyond the southern boundary of the site. The accompanying RMT Tree Consultancy BS5837 report demonstrates that this can be protected from direct harm through development in accordance with industry best practice.

Previous appeals have noted the potential impact of T1 on living conditions for future residents. The tree is a large, mature, potentially long-lived deciduous specimen measuring some 20m tall and with a radial crown spread to the north, east and west of 8m. The crown height has been measured at 8m above ground level. The Tree Survey also shows an off-site tree, (oak T2) and a group (G3) of ash and sycamore, young in age but with significant potential for future growth. These will therefore contribute to shading of the rear garden and south-facing rooms of Plot 3 and Plot 4. Further, the extent of shading is likely to increase as younger trees establish and mature. As such, the juxtaposition will not improve and there would foreseeably be pressure for these trees to be felled or pruned, to reduce shading and improve living conditions.

There is no inherent right to light which is applicable in the circumstances and it should be expected that future residents would choose a property based on their needs e.g. preferring a shady garden vs a garden benefiting from full sunlight. Any treework would be subject to the normal TPO application procedure and any permissions would be limited by the property owner's common law rights and any private negotiations between the tree and property owners.

Despite the above, the previous appeal (APP/21/01041) was dismissed in part due to the proximity of these trees to the rear of Plots 3 and 4.

Paragraph 29 of the Appeal Decision states "In the absence of a sunlight assessment, there is no substantive evidence before me to demonstrate that this arrangement would provide appropriate living conditions for future occupiers of plots 3 and 4 with particular regard to sunlight". The difference with the current application is that the rear elevation of Plots 3 and 4 is now proposed nearer the rear boundary...

This would reduce the amount of direct sunlight available to south-facing rooms and of the gardens. It could also impact on the viability of the proposed green roof. In light of the Appeal Inspector's previous comments, it would be reasonable to expect a sunlight assessment to demonstrate the viability of this proposal. This is fundamental to this scheme so should be expected prior to determination.

The Proposed Site Plan shows space for planting to the front of the site. If permission were to be granted, it would be reasonable for a soft landscaping condition to be imposed requiring tree planting to benefit the streetscene.

Landscape Team

From a landscape perspective we do not object to the principal of development on this land however we have the following comments:

- The number of proposed units is deemed excessive to the detriment of the character of the Padnell Road. My main concern is with the car parking arrangement to the front of the site, at present houses on Padnell Road are private front garden with drives the applicant is proposing a communal overly hard landscaped area, which is not in keeping with the existing character.
- To mitigate this issue the site should accommodate a maximum of 3 units and therefore require less pressure on parking requirements.
- The proposed layout does not adhere to HBC design guides, which require a back to back distancing of 20m, at present the applicant is proposing 11m between plots 1/2 and 3/4. Additionally the layout and design of units 1 and 2 do not mitigate this issue.

Portsmouth Water Company

Portsmouth Water has no adverse comments to make on the development and it is deemed there is a low risk to groundwater quality. The site, although located in Source Protection Zone 1c for an essential public water supply source, the underlying impermeable geology (London Clay) offers a depth of protection to the chalk aquifer.

The small nature of this development means there will be no depth excavation works and therefore, there is minimal risk to groundwater quality from the construction of this development.

For assurance that no deep drainage solutions are proposed, we wish to be further consulted on the foul and surface water drainage strategies for this development, once they become available.

Waste Services Manager

None received

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 94

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: **14** from 11 different addresses

Comment	Officer Comment
<u>Character of Area</u> All other plots contain only one home in linear alignment towards the front of plots with large gardens to rear; Plots 3 & 4 contrary to this; would be only plot in whole of Padnell Rd with habitable dwelling sited at the rear; rear plots sited beyond accepted building line and in middle of back gardens; rear plots will have detrimental impact on the outlook from the street scene; undesirable backland development out of keeping; just garden grabbing	Noted - see section 7 below
<u>Planning History relevant</u> Other applications and appeals for similar development refused; rear development no different; the principles for refusals the same; Dating from 06/71368/001; APP/10/00293; APP/20/01026; APP/21/01041; Quotes provided from above appeals Creeping nature of applications to cram as many dwellings as possible on the site	All applications must be considered on their merits

<u>Outlook & Privacy</u> Plots 3 & 4 dominant feature from neighbouring gardens and rear rooms & windows; detrimental to outlook; social activities detrimental to peace & privacy of neighbours; green roof will protrude above fence line being an eyesore;	Noted - see section 7 below
<u>Design</u> Aesthetically 2 bungalows pretty hideous; flat green roof would enable vertical development into 2 storey homes;	Any future additions would need planning permission to be considered on its merits
<u>No Benefits</u> will not contribute to the local community and its economy; nor local environment;	Future residents would contribute to the community; and build process would contribute to the local economy
<u>Comparison to adjacent sheds</u> but no one lives in tool sheds and they are not a source of light & noise during quiet hours of the day & night;	Noted - see section 7 below
<u>Amenity Space for future occupiers</u> Plots 3 & 4 have very small gardens in comparison to character of area;	Noted - see section 7 below
<u>Noise, Air & Light Pollution</u> Plots 3 & 4 will introduce noise, disturbance & light pollution where there was none; security lighting in dark peaceful area; increased noise to rear gardens and houses, affecting tranquillity and enjoyment of gardens; increase in poor air quality; possibility of vehicular access to rear introduce light and engine noise; noise from pedestrian movements, music, TV, etc generated by daily living	Noted - see section 7 below
<u>Overdevelopment</u> due to monetary gain for developers - should build just plots 1 & 2 with green space that is in keeping with rest of the road; overdevelopment for size of plot;	Noted
<u>Ecology/Environmental issues</u> original environmental assessment done after site cleared, so not surprising that a zero effect was reported; contrary to report a large pond within 100m at school;	Noted - BNG matrix submitted

<u>Harm to Wildlife</u> lighting to plots 3 & 4 will affect wildlife in TPO trees and bats; loss of flora/fauna/green space; birds in area, including a tawny owl - proposal harmful to their habitat; newts, slow worms & frogs used to be present at site & return to previous habitats for generations.	Noted - see section 7 below
<u>Light for future residents</u> lack of natural light for future residents of plots 3 & 4; TPO trees would restrict natural light to plots 3 & 4 and with right to daylight/sunlight will result in pressure to fell; longer shadows in winter and full leaf in summer;	Noted - see section 7 below
<u>Impact on TPO trees</u> Plots 3 & 4 close to mature oak tree - building works will damage; green roofs will not compensate for what has been lost; lack of natural light for the new properties; may lead to future reduction/felling of protected trees to increase light;	Noted - see section 7 below
<u>Access Road</u> side access road will be used for parking, deliveries & emergencies if wide enough. Removal vans with furniture not practicable from front parking area and carrying furniture; If a fire, side access will not accommodate emergency vehicles; would endanger neighbouring properties and trees at the rear if a fire; should not be a new entrance onto Padnell Road as close to 2 busy car park entrances; near misses every day; recommend double yellow lines extended past the church by 25 yards; Padnell Road a rat run & busy area with local schools, church, halls etc; Is proposed access road wide enough for emergency vehicles and for 2 cars to pass each other as required by previous Highway Authority comments?	Amended plans include side gate preventing vehicles using side access; Noted Previous appeal and decisions note access arrangements acceptable - see section 7 below

<u>Surface Water/Drainage</u> negative effect on surface water drainage channel that access road built on top and Hermitage Stream that runs through the Queens Enclosure; area already floods in wet weather; SW incapable of handling waste and storm water from existing properties, more hard surface will make worse; homes in Padnell Road have non-return valves fitted to sewage pipes; shedding surface water onto school to rear will make flooding even worse; subsoil heavy clay which mitigates effectiveness of soakaways; sewers already overloaded;	Noted - private drainage is principally a Building Regulations matter; Southern Water have confirmed they are satisfied with the easement provided to the sewer running through the site.
<u>Parking</u> No provision for extra off-street parking for the 2 additional homes; Padnell Road a bus route with parking difficult at peak times; original traffic census taken early on a Sunday morning so unsurprising road empty; inadequate parking for 4 dwellings resulting in overflow on Padnell Road which is already congested with poor traffic flow; cars should not reverse out but leave in a forward gear otherwise potential for major incident;	On site parking meets standards - see section 7 below
<u>Lack of Infrastructure</u> further burden on infrastructure - no NHS dental provisions, GPs overloaded, pavements need re-surfacing	Noted - CIL contributions would be required in the event that permission is granted.
<u>Bin Storage</u> Bin storage close to garden boundary of 26 & will cause smell;, especially in summer distance from bin storage area for plots 3 & 4 to collection area exceeds 26m; not enough room for 4 large refuse bins and maintain access without putting them out on pavement;	Layout is as previously approved under APP/23/00685
<u>Future Extension potential</u> for plots 3 & 4	Permitted development rights could be withdrawn and any future applications would be considered on their merits
<u>Precedence</u> Would create an undesirable precedence making it difficult to refuse similar applications;	Each application considered on its merits

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Highways, parking, and accessibility issues
- (v) Flood Risk/Drainage
- (vi) Impact on Trees
- (vii) Ecology and Biodiversity Net Gain
- (viii) Compliance with Habitats Regulations
- (ix) CIL

(i) Principle of development _

7.2 Although the site has not been occupied by any permanent structure and had until recently been wooded for many years, it nevertheless falls within the defined urban area. Therefore, although not Previously Developed Land (PDL) as defined by the current NPPF, i.e. a brown field site, it does represent a site within a settlement policy area with an associated presumption in favour of development, subject to other material considerations.

7.3 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The Council's Five-Year Housing Land Supply, Updated at March 2023, indicates the Borough's housing land supply position as 1.81 years with a 20% buffer applied. This shortfall engages Paragraph 11d) of the NPPF with its presumption in favour of granting permission unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against policies in the framework taken as whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places etc. It is accepted that the proposal would result in a net gain of 4 residential units within the main urban area of Waterlooville, which is a sustainable location, and would make more effective use of the land, and the proposal would make a modest contribution to housing supply. These benefits of the proposal must be afforded weight in the overall planning balance.

7.4 Current policies AL2 and CS17 direct development towards the built up urban areas, and encourage making the most effective use of land; and policy CS9 supports housing that achieves a suitable density that respects the surrounding landscape, character and built form. Policy CS16 seeks High Quality Design that respects its local context, and policy CS11 protects the Borough's landscapes and policy DM8 protects local habitats and trees. These policies align with the NPPF, December 2024, and should therefore be afforded weight in the determination of the application, as detailed below:

(ii) Impact upon the character and appearance of the area

- 7.5 The site is located within an urban area predominately characterised by detached chalet style and two storey dwellings set towards the front of their plots, in a linear arrangement. Plots 1 and 2 at the front of the site are almost identical to those approved under APP/23/00685, with the difference of being reduced in depth slightly. They would match number 26 in ridge and eaves height with use of a hipped roof to minimise visual bulk to the street scene. They would be constructed in red brick with tiled roof, the precise details of which could be conditioned.
- 7.6 Separation to number 32 benefits from a Southern Water easement, but to number 26 is only some 0.5m. However in visual terms number 26 only has single storey development to the shared boundary so the two-storey to two-storey separation would be some 4.5m. This upper level and roof line sense of space, skyline and separation between properties is considered comparable to other spacings in the vicinity and appropriate to the spatial characteristics of the area.
- 7.7 The planning history to the site, including past appeal decisions, has accepted that Plots 1 and 2 would represent a logical infill between the adjacent chalet bungalow at number 32 and the two storey semi-detached dwelling at number 26 in relation to its impact on the street scene. This remains the case and the LPA has no objection to plots 1 and 2 as currently submitted.
- 7.8 However it is noted that no other dwellings in the vicinity have any sort of backland development and all have large landscaped gardens to the rear, with modest rear outbuildings only. Therefore each property has an open aspect and sense of spaciousness to the rear. The introduction of the proposed semi detached, contemporary style flat roofed 1 bed dwellings, into the rear areas, set back and adjacent the open private gardens of adjacent dwellings, would not be in keeping with the pattern of development in the area.
- 7.9 The previous proposal for backland development, APP/21/01041, proposed 2 chalet style dwellings at the rear, together with parking and turning, and was refused for 5 reasons, which included the proposal comprising an undesirable form of backland development out of keeping with the character of the area. The subsequent appeal Inspector noted that *"backland and tandem developments are not, having walked along Padnell Road, particularly evident or common features of the area. There are occasional examples in the wider area, as highlighted by the appellant, but these strike me as the exception and are not in the same row of properties as the appeal site"*. The Inspector also noted that *"Dwellings typically have long rear gardens and are arranged with a relatively even depth of development and rear building line. The arrangement of dwellings fronting the road, and scale and depth of development contributes strongly to the character and appearance of the area. I also noticed at my site visit that some neighbouring properties have outbuildings within the rear gardens. However, these structures are relatively modest and single storey, which results in a spacious character to the rear of properties along this side of the road."*

- 7.10 This has not changed and the character of the area remains frontage dwellings with long rear gardens with ancillary outbuildings only. Therefore the proposed two rear dwellings would fundamentally alter that character through the introduction of two dwellings at the rear of the site, at variance with the established pattern and character of the area. Whilst the proposed units have been designed to appear tantamount to ancillary outbuildings in scale and height, nevertheless they would not be used for purposes incidental to the enjoyment of the front houses, but would be independent dwellings in their own right with plot divisions accordingly. It is also noteworthy that the height and siting relative to the boundary of plot 4 exceeds the permitted development criteria for Class E outbuildings and would in fact need permission even if incidental structures. Notwithstanding the precise height and siting of the rear building, it is considered that the activity levels and lighting etc around the proposed plots 3 & 4 would result in a subdivision of the site and intensification of the residential use of the site in the same way as the already dismissed scheme for backland development at the site.
- 7.11 The subdivision of the site would also truncate the plot depths of the frontage properties, which in itself would be out of character with the other long plot depths which is a feature of the area. Notably policy CS16 requires new development to respect local context and be informed by local character, including, amongst other things, 'plot depths'. Both the front dwellings and rear dwellings would have uncharacteristically short gardens and plot depths as a result of this proposal.
- 7.12 It is acknowledged that the reduced height and scale of the now proposed plots 3 & 4 would mean that they would be less likely to be seen in oblique views as incongruous structures from Padnell Road, but they would still be seen from the surrounding dwellings. Rather than appearing as ancillary sheds and outbuildings, they would have front doors with lights, paths leading to, and people living in them, with associated activity, trips and movements. This layout and introduction of rear dwellinghouses would be alien to the established pattern of linear development found in the immediate area.
- 7.13 Whilst all applications must be determined on their own merits, it is noted that in respect of another recent appeal decision on the site almost opposite, at 23 Padnell Road, the Inspector found that the scale and mass of a single storey bungalow (that scheme had a height of 4.7m, was set almost 2m from each side boundary, with fully hipped roof) would be "at odds with the verdant and open-style gardens with a scattering of simple garden type buildings". Other historical refusals for backland schemes in Padnell Road have all been refused and successfully defended as being out of character e.g. 06/71368/001 at No. 34 - 36 (2 properties to the east) for the demolition of 36 and erection of 5No 2 and 3 bed dwellings.
- 7.14 Overall, despite the reduced scale of the rear units, it is considered that the backland nature of the proposed development, with truncated plot depths, introducing residential dwellings with associated access paths, lighting and activity, adjacent otherwise open aspect rear gardens, would not be in keeping with the pattern and character of the south side of Padnell Road. Paragraph 135 of the NPPF requires development to be sympathetic to local character and adopted policy CS16 requires developments to respect local context and use the characteristics of the locality to help inform design, including building lines, plot widths and depths. It is considered that the proposed development of the rear plots 3 & 4 fails to respect that pattern of local development and would be unsympathetic to local character, contrary to adopted policy CS16 and the NPPF, December 2024.

(iii) Impact upon residential amenity

- 7.15 Policy CS16 requires development not to cause unacceptable harm to neighbouring amenity and the adopted Borough Design Guide SPD specifically considers backland developments at paragraph 5.26 - 5.27. This notes that 'tandem' backland developments are difficult to deliver successfully "due to problems of overlooking, noise and traffic disturbance, loss of amenity, cramping and the adverse effect on local character" and states that tandem backland developments will only be permitted provided the amenities of the surrounding dwelling and 'host' dwelling can be safeguarded.
- 7.16 The design and layout of plots 3 & 4 have in this instance tried to overcome the adverse effects of having vehicular access and parking and turning areas deep into the site and adjacent neighbours quiet amenity spaces, by proposing the car parking at the front of the site, with pedestrian only access to the rear dwellings. Following negotiations a side pedestrian only gate has been included, with dedicated delivery drop off point, aligned with the front of plot 1, to prevent visitors, delivery drivers etc, from taking vehicles down the side path and having to reverse out. This amended layout would certainly remove the daily noise and disturbance associated with car movements, car doors slamming, headlights etc at the rear of the site. However the pedestrian only access and layout would result in an inconvenience for future occupiers with the need to carry all shopping, furniture etc from the frontage. This could impact the appeal of plots 3 & 4 as places to live for future occupiers, potentially contrary to policy CS16 which seeks to create a high standard of development where people want to live, work and relax.
- 7.17 However there would also be a need to light the pedestrian side path for security reasons, and there would still be comings and goings of residents and their visitors along the side path in close proximity to the side boundary with 32 Padnell Road. The introduction of this light and comings and goings, where previously there was none, would introduce a degree of noise and disturbance, harmful to the quiet amenity of both neighbouring residents, but particularly number 32. It is therefore considered that the pedestrian only rear access layout proposed would still result in conditions harmful to residential amenity which would be contrary to both policy CS16 and the Design Guide SPD.
- 7.18 It is noted that the proposed dwellings at plots 3 & 4 are modest 1 bedroom units, unlikely to accommodate families with more intensive occupation. Nevertheless future occupiers would still be using their gardens and have a presence with associated activity within the new curtilages. Since these are sited deep within the site and adjacent the private rear gardens of 26 and 32, there would be some new noise and disturbance, and harm to the quiet enjoyment of neighbouring residents, contrary to policy CS16.

- 7.19 In terms of the impact on the outlook from neighbours, the rear elevations and gardens of both numbers 26 and 32 are currently relatively private and quiet, with a sense of spaciousness. The design solution using a low flat roofed design with a green roof is noted, and has been adopted to give the impression of ancillary outbuildings, although their siting and height does exceed the criteria of Class E outbuildings. It is however acknowledged that the reduced height and scale has largely minimised the impacts in terms of overbearing effects and sense of enclosure, but not in terms of activity. As noted above, the building would not be used for purposes incidental to the enjoyment of the front houses, but would comprise two independent dwellings in their own right, having front doors with lights, paths leading to, and people living in them, with associated activity, trips and movements. As such the combination of the building itself, and its independent residential use, is considered to have a detrimental impact on the outlook from neighbouring properties. The neighbours outlook would be changed from over spacious open rear gardens with unoccupied ancillary buildings, to over occupied residential dwellings. This is considered harmful to their amenity and outlook, contrary to policy CS16.
- 7.20 With respect to the living conditions of future occupiers it is noted that the garden length serving plots 1 and 2 has been increased to 11m deep. This meets the Borough Design Guide SPD recommended minimum of 10m. Whilst the rear gardens of plots 3 & 4 do not meet the minimum 10m standard it is acknowledged that they have particularly wide gardens and in area terms would provide adequate amenity space for 1 bed units.
- 7.21 However, with regard to sunlight available to plots 3 and 4, it is noted that the mature trees that lie due south of the site are protected by a Tree Preservation Order. When determining the appeal for APP/21/01041 the previous appeal Inspector noted the then lack of a sunlight assessment and dismissed the scheme in part for no substantive evidence to demonstrate that there would be adequate sunlight to provide appropriate living conditions for future occupiers. During the course of determining this application 2 sunlight assessments have therefore been provided.
- 7.22 The first document only focused on the garden areas and whilst it demonstrated that the gardens would provide at least 2 hours of sunlight on 21 March, in accordance with the BRE Guidelines, it did not consider the sunlight available to habitable rooms. A second report was requested and submitted which considered the internal layout, and after making an amendment to include a roof lantern to each of plots 3 and 4, it concluded that the habitable rooms in each dwelling would receive at least 1.5 hours of sunlight on 21 March. However the second report makes no mention of the trees and it is unclear whether their true height and overshadowing impact has been taken into account in this assessment. The first report claims to have modelled the adjacent trees, but does not provide any information about the modelled height, canopy spread etc and it is unknown how realistic the modelling was. The submitted Tree Report estimates one tree to be 20m high, and others between 12m and 16m high, which would result in significant overshadowing.

- 7.23 Notwithstanding the findings of the sunlight reports, it is considered that the presence of the dense high trees in the wooded area directly at the bottom of the gardens of plots 3 and 4, would have a detrimental overbearing and enclosing effect. They are deciduous trees and would result in considerable leaf litter and debris falling in the gardens of plots 3 & 4 to the inconvenience of future occupiers. Since these gardens are very short, being only 8m, then the presence of trees between 12m and 20m high on the boundary would be overbearing and overwhelming, leading to pressure to prune from future occupiers. Overall, it is considered that the proximity of plots 3 and 4 to mature protected trees would result in undesirable living conditions for future occupiers and a pressure to prune or fell healthy trees, contrary to policies CS16 and DM8.

(iv) Highways, parking and accessibility issues

- 7.24 Hampshire Highways have raised no objection to the proposal on highway capacity or safety grounds, noting the ability for 2 cars to pass at the entrance. It is further noted that the access arrangements are the same as already approved under APP/23/00685, albeit that was for only 2 dwellings, but also the same as was considered for 4 dwellings at appeal under APP/21/01041. The Inspector noted good visibility, adequate internal carriageway width that would not interfere with the free flow of traffic, and adequate parking, and bin and cycle storage could be provided. He therefore concluded there would be no detrimental impact on highway safety for that scheme for 4 dwellings.
- 7.25 In terms of on site parking provision for this application, plots 1 and 2 would be 3 bed properties requiring 2 on site parking spaces each to comply with the adopted Parking SPD. As 1 bed units, plots 3 and 4 would only require 1 space each. Therefore the 6 proposed parking spaces at the front of the site would be sufficient to comply with the Parking SPD and policy DM13. Additionally each dwelling has secure bin and cycle storage shown.
- 7.26 It is noted that third party comments continue to object on the basis of previously raised issues about the expanse of frontage parking being out of character with the area, and a risk of overflow parking affecting the flow of traffic on Padnell Road. However the previous Inspector was clear that with appropriate landscaping conditions, the frontage area would not be inconsistent with other parking frontages in the area, and would appear sympathetic to the appearance of the street. As noted at paragraph 7.24 above he also considered the access arrangements would not interfere with the free flow of traffic. In light of these comments for a substantially similar scheme, that meets in full the Parking SPD, then it is not considered reasonable to refuse the current application on highway grounds.

(v) Flood Risk/Drainage

- 7.27 The site is located within Flood Zone 1 and outside any future flood zone, and is therefore suitable for residential development.
- 7.28 Third party comments refer to an inadequate sewerage system that overflows, and surface water drainage flooding in the area. However the detailed connection to the foul drainage and adequacy of the surface water capacity and management would be a matter for Building Regulations and Southern Water.

- 7.29 It is noted that Southern Water do not object to the proposal in principle. Since their comments the amended layout has introduced some landscaping adjacent number 32 and plot 1, within the easement, to reinforce the fact that it is a pedestrian only path and for screening purposes. Southern Water have a guidance leaflet on tree planting near a water mains and sewers, and it appears that the plants specified on the amended plans complies with Southern Water's suggested acceptable tree planting. To date Southern Water have not been asked to comment on this aspect of the proposal, so in the event of a permission a detailed landscaping condition for the whole site could be imposed, to be agreed at a later stage, in conjunction with Southern Water.

(vi) Impact on Trees

- 7.30 The woodland to the rear of the site is protected by an Area TPO and the application supported with an Arboricultural Impact Assessment and Method Statement. Due to the separation of plots 3 and 4 beyond the root protection zones, with suitable tree protection measures, it has been demonstrated that the trees would be adequately protected.
- 7.31 However, as discussed at paragraph 7.23 above, it is considered the proximity of mature deciduous trees of between 12m and 20m high would lead to considerable leaf litter and overshadowing, resulting in adverse amenity for future occupiers and pressure to prune.

(vii) Ecology & Biodiversity Net Gain

- 7.32 The site is supported by an Ecological Assessment which notes the site is of low nature conservation value. The report recommends limiting lighting at the southern end of the site to avoid illumination of the trees/wooded area which could otherwise affect wildlife such as foraging bats. Ecological enhancements are proposed, including native hedge planting, hedgehog fencing, 1 bat boxes, 1 swift nest box and the green roof over plots 3 & 4.
- 7.33 The Council's Ecologist does not object to the proposal subject to the recommended ecological avoidance, mitigation and enhancement measures detailed in the Ecological Assessment being secured by condition.
- 7.34 With respect to the separate matter of Biodiversity Net Gain, the appropriate BNG matrix has been submitted and the Council's Ecologist considers it to be accurate. Had permission been recommended then mandatory 10% BNG would automatically be subject to condition.

(viii) Compliance with Habitats Regulations

- 7.35 In order to comply with Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the application requires a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal is likely to have a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed development of four new residential units.

7.36 The LPA operates two packages of avoidance and mitigation measures. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development. The applicant has submitted a European Site Avoidance and Mitigation Checklist, Havant Occupancy Calculator and Solent Nitrogen Budget, but the nitrogen budget is submitted on an out of date spreadsheet. On this basis the HRA has not been able to be undertaken with the best available objective and scientific information.

7.37 However, given the recommendation for refusal on other matters, these issues have not been addressed and no HRA AA has yet been undertaken and Natural England not consulted as required by the Habitats Regulations. Taking a precautionary approach to decision-making as required by Government guidance, at this stage the risk of the proposal having an adverse effect on a European site's integrity cannot be ruled out and it is therefore necessary to include the non-provision of any avoidance and mitigation packages for both recreational disturbance and impact on water quality as a reason for refusal as contrary to policies CS11, CS21 and DM24, as well as non compliance with the Habitats Regulations. Should an appeal be lodged against the decision to refuse, then these matters can be revisited at appeal stage.

(ix) CIL

7.38 The development is CIL liable for the net additional internal floor space, which is indicated on the CIL forms to be 286sqm. The Havant Borough Community Infrastructure Levy Charging Schedule, was adopted by the council on the 20th February 2013 and followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiners Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The CIL Regulations require the use of the national All-in Tender Price Index published by the Build Cost Information Service and this index has now increased.

7.39 In light of the recommendation for refusal on other matters, the Draft Liability Notice has not been prepared and could be addressed at appeal stage if necessary.

8 Planning Balance and Conclusion

- 8.1 It is acknowledged that the Council's Five Year Housing Supply (updated March 2023) is below the threshold, engaging paragraph 11 d of the NPPF, December 2024 with its presumption in favour of development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the framework taken as whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places etc. It is also acknowledged that the proposal would provide four new dwellings in a sustainable location making more effective use of the land, which would make a small contribution to the Council's housing need.
- 8.2 However it is contended that in this instance the benefit of providing 4 dwellings does not outweigh the harm arising from the proposed development, such that the planning balance is not tilted in favour of the proposal. It is considered that despite this revised scheme proposing single storey units akin to outbuildings, with pedestrian only access, nevertheless the subdivision of the site with truncated plot depths, and introduction of two backland residential dwellings would be at variance with the established pattern and character of the area. Furthermore the layout would give rise to adverse impacts on neighbour amenity from light, activity and noise and disturbance, and loss of outlook, contrary to policy CS16 and the NPPF. It is also considered that the proximity of mature deciduous trees of between 12m and 20m high would lead to considerable leaf litter and overshadowing, resulting in adverse amenity for future occupiers and pressure to prune, contrary to policies CS16 and DM8. In addition the lack of appropriate mitigation measures for likely significant recreational harm and impact on water quality to the Solent European Sites as specified by the Habitats Regulations is also contrary to policies CS11, CS21 and DM24. The proposal is therefore recommended for refusal.
-

9 RECOMMENDATION:

That the Head of Place be authorised to **REFUSE PERMISSION** for application APP/24/00268 for the following reasons

- 1 The proposed development would result in an undesirable form of backland development out of keeping with the pattern and layout of the area, which is characterised by linear frontage development having open aspect spacious gardens. The subdivision of the site with truncated plots, and introduction of two rear dwellings with associated lighting, activity and comings and goings, would give rise to an intensification of the use of the site that would cause significant harm to the character and appearance of the area. The proposal is considered to be at variance with local context and therefore contrary to Havant Borough Council Design Guide SPD 2011, policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, December 2024.
- 2 The siting and layout of the proposed backland development would result in unsatisfactory living conditions for neighbours at 32 and 26 Padnell Road and future occupiers of plots 3 and 4. The introduction of dwellings at the rear of the site would result in comings and goings, with associated noise and disturbance and light pollution, deep in the site adjacent neighbours private garden spaces, harmful to the outlook and quiet amenity of the occupiers of 32 and 26 Padnell Road. Furthermore the pedestrian only access to plots 3 and 4 would result in inconvenience for future occupiers detrimental to their amenity, and the mature protected trees on the boundary would be overbearing and enclosing, causing overshadowing and leaf litter, harmful to the future enjoyment of occupiers of plots 3 and 4. The proposal is therefore considered harmful to residential amenity, contrary to policies CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework, December 2024.
- 3 In the absence of a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant adverse effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents and have an 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, December 2024.