

4 Policy Considerations

National Planning Policy Framework
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)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturist

No Objection

Reasons for Recommendation

The Council seeks to protect tree coverage in the Borough, sympathetically incorporating existing features into the overall design of the scheme including measures taken to ensure their continued survival.

The proposed development is not within a conservation area and whilst there is a tree subject to a Tree Preservation Order (TPO 1332) to the north west of the site, it would not be adversely impacted by the proposed development.

The application form confirms the intention of remove a silver birch tree (T1 on the existing plans drawing reference 23035-01). The tree contributes to the amenity value of the area, but its removal is not considered worthy of making it subject to a Tree Preservation Order, but the applicant is asked to consider a replacement tree as part of the future landscaping works.

The protected tree is part of a small group to the rear of the property, on the northern west boundary overlooking Sinah Lake. Due to the distance between the trees and the development area, plus the existing area of hard standing at the front of the house, which would allow for the delivery and storage of materials, the development would not have a detrimental impact on the trees on the north western boundary of the property and would be in accordance with policy DM8 of the Core Strategy (2011).

Councillor Brenda Linger - Hayling West

No Comment.

Councillor Julie Richardson

No Comment.

Councillor Paul Gray

No Comment.

Developer Services, Southern Water

Southern Water requires a formal application for any new connection to the public 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

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse for new developments.

- Reuse
- Infiltration
- Watercourse
- Storm sewer
- Combined Sewer

Guidance on Building Regulations is here:

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h

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.

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).

Website: southernwater.co.uk or by email at:

SouthernWaterPlanning@southernwater.co.uk

Environment Agency

No Comment received.

Langstone Harbour Board

The Board's Planning Sub Committee has considered this application and NO OBJECTION to the proposal.

Ecologist

The application is accompanied by a Preliminary Roost Assessment (Arbtech, July 2023) and a Bat Emergence and Re-entry Surveys report (Arbtech, October 2023). Following the identification of potential bat roost features, a series of evening and dawn bat roost surveys were conducted in summer 2023. Over the course of these surveys a peak of two Common Pipistrelle bats were observed roosting within the dwelling. These roosts are likely to be low status day roosts of individual bats: there is no evidence that a larger roost is present.

This development will affect bats, which receive strict legal protection under UK law by the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Where development affects a European protected species (EPS), permission can be granted unless the development is likely to result in a breach of the Habitats Regulations and is unlikely to be granted a licence from Natural England to allow the development to proceed under a derogation from the law.

- Will the development result in a breach of the EU Directive?
- Is the development unlikely to be licensed?

An EPS licence can only be granted if the development proposal is able to meet three tests:

- 1) the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))
- 2) there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and
- 3) the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).

It is for you as the case officer to assess the proposals against the first two tests – you may wish to ask for further information from the applicant. In order to assess the development against the third test, sufficient details must be available to show how killing / injury of bats will be avoided and how the loss or damage to bat roosts will be compensated.

A mitigation strategy has been provided, detailing specific measures to avoid harm to bats during the construction works using supervision by a suitably licensed ecologist, the provision of a bat box on site to accommodate any bats encountered during works, a sensible recommendation in relation to roofing felt materials, and the provision of bat access tiles within the new roof. I would support these measures and, on the basis of the information currently available, and if you are satisfied that the first two tests can be met, I am confident that the development is not unlikely to be licensed.

If you are minded to grant permission, can I suggest that ecological measures are secured by condition.

Development shall proceed in accordance with the ecological mitigation, compensation and enhancement measures as detailed within Table 4 of the Bat Emergence and Re-entry Surveys report (Arbtech, October 2023) 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.

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

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: 4

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

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) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties
- (iv) Flood risk
- (v) Impact on trees
- (vi) Ecology matters
- (vii) Parking matters
- (viii) Drainage matters

(i) Principle of development

7.2 The application site is located within the defined urban area, therefore development is considered acceptable in principle subject to development management criteria.

(ii) Appropriateness of design and impact on the character of the area

- 7.3 The materials of the extensions to the dwellinghouse would be white render cladding matching the existing. This is considered to be of modern contemporary design deemed in keeping with the context of the area, which has a number of different finishes including render. The proposed works to the roof would have clay tiles roof to match existing with the flat roofs having an aluminium-capped single ply membrane flat roof. These are considered to be appropriate to the context of the main dwellinghouse and the character of the area.
- 7.4 Part of the proposed works would be visible from the street scene in the form of the proposed first floor side extensions. Due to their size in relation to the main dwellinghouse it is considered to be a subservient addition. The proposed works to the side/rear would not be visible from the street scene. Due to its size and retained amenity space it is not considered to have an adverse impact on the character of the area.
- 7.5 The design and appearance of the proposal is deemed appropriate in context to the main building and is therefore considered to be acceptable, meeting the requirements of Policy CS16 of the Havant Borough (Core strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality.

(iii) Effect on neighbouring properties

- 7.6 The proposed works are not considered to have an adverse impact on the properties opposite, creating similar views to that already established on site.
- 7.7 On the west side facing No.27 North Shore Road the proposed side/rear extension would go along the shared boundary. The proposed single storey extension would be set in slightly having a separation distance of approximately 1.7 metres from the side wall of No.27 and would only extend out approximately 1 metre further than the neighbour's rear conservatory. Therefore, taking into consideration the previous points raised and its single storey height it is not considered to have an adverse impact on the neighbouring occupiers at No.27 in terms of appearing overbearing, loss of outlook and loss of natural light. There would be two doors and two high level windows on along the west side. The garage door nearest to the front of the side would be screened by the existing brick wall along the boundary therefore not considered to cause harmful overlooking. As the other fenestration would be glazed or above 1.7 metres from floor level it is not considered to cause harmful overlooking into No.27. It is worth noting there is currently screening along this boundary in the form of a hedge. The proposed first floor extension serving the en-suite would not extend beyond the side windows at No.27 therefore not considered to appear overbearing or result in the harmful loss of light to the neighbouring occupiers. Within the proposed en-suite there would be a side window which would be obscurely glazed and have a maximum opening of 100mm controlled by condition if permission is forthcoming. As such not considered to cause harmful overlooking into the private amenity space of No.27.

- 7.8 On the east side facing No.31 North Shore Road the proposed first floor extension would come closer to the shared boundary. As the side of No.31 is a flank wall it is not considered to have an adverse impact on the occupiers in terms of appearing overbearing or result in a harmful loss of light. No.31 does have a front first floor window which would be close to the proposed first floor extension. Due to the design of the proposed first floor extension being set in from the boundary, having a separation distance of approximately 3.4 metres from the side walls it is not deemed to have an adverse impact to the neighbouring property. Within the proposed en-suite there would be a side window of which would be obscurely glazed and have a maximum opening of 100mm controlled by condition if permission is forthcoming. As such not considered to cause harmful overlooking into the private amenity space of No.31.
- 7.9 All the proposed rear windows are considered to create similar views to that already established on site therefore not considered to cause harmful overlooking to the adjacent properties. It is worth noting the first floor windows would serve a bathroom and en-suite therefore likely to be obscurely glazed. To the rear it would face out onto Langstone Harbour therefore not considered to cause any harmful overlooking to the back.
- 7.10 Consequently, it is considered that the proposal will not appear overbearing or lead to a loss of light, outlook or privacy and would have limited and acceptable impact on the properties immediately adjacent to the application site and the properties opposite or to the rear, meeting the requirements of Policy CS16 of the HBLP (Core Strategy). It is noted no letters of objection were received with respect to the scheme.

(iv) Flood risk

- 7.11 The application would be classed as a 'minor development' and according to the National Planning Practice Guidance (NPPG) unlikely to cause flood risk unless they would have an adverse effect on a watercourse, floodplain or its flood defences; they would impede access to flood defence and management facilities, or; where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows. The proposal should not affect these areas.
- 7.12 Part of the application site is located within Flood Zone 3. The applicant's submission confirms that floor levels within the proposed development will be set no lower than existing levels and flood proofing of the development will be incorporated where appropriate. The proposed development is classed as minor development and unlikely to increase the risks associated with flooding to the site and elsewhere and therefore accords with policy CS15 of the Core Strategy

(v) Impact on trees

- 7.13 The Council's Arboriculturist commented on the application raising no objection to the removal of 1 silver birch tree, due to the tree being removed not worthily of a TPO and the proposed works considered appropriate distance away from the trees to the rear.

(vi) Ecology matters

- 7.14 A Bat Roost Assessment was submitted with the application. The assessment has identified that the proposal will impact bats a European Protected Species. Therefore, consideration of the three Habitat Regulations derogation tests is necessary.

7.15 An EPS licence can only be granted if the development proposal is able to meet three tests:

1. the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))
2. there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and
3. the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).

To grant planning permission the Local Planning Authority must be satisfied that the development meets tests 1 to 2 above and then test 3.

7.16 The proposal is for ground floor and first floor extensions, with the proposal benefiting the occupiers of the property. There is no satisfactory alternative, as the proposal may only be erected on the building. The applicant has provided a Bat Roost Assessment (BRA), which has identified, from the surveys undertaken, two common pipistrelle were observed roosting and emerging from an area of hip tiles located above the bay window. As such, a European Protected Species Mitigation (EPSM) licence will be required to enable the development to proceed lawfully under a derogation from the Habitat Regulations 2017.”

7.17 The BRA has also set out a mitigation strategy detailing specific measures to avoid harm to bats during the construction works using supervision by a licensed Ecologist, the provision of bat box's on site to accommodate any bats encountered during works, a sensible recommendation in relation to roofing felt materials, and the provision of bat access tiles within the new roof.

7.18 The Ecologist has advised that provided that the agreed mitigation proposals are implemented, there are no concerns over these proposals, subject to the following condition be added to the decision notice:

Development shall proceed in accordance with the ecological mitigation, compensation and enhancement measures as detailed within Table 4 of the Bat Emergence and Re-entry Surveys report (Arbtech, October 2023) 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.

7.19 The Supreme Court in *R. (Morge) v Hampshire CC* [2011] UKSC 2; [2011] Env. L.R. 19 held that the duty of the local planning authority is limited to that set out in reg. 9(5) of the Regulations (ie Conservation (Natural Habitats etc.) Regulations 1994), namely: “to have regard to the requirements of the Directives so far as they may be affected by the exercise of those functions.

In paragraph 28 of his judgment Lord Brown of Eaton-under-Heywood referred to what Ward L.J. had said in the Court of Appeal (in para.61 of his judgment) (part set out below):

“The planning committee must grant or refuse planning permission in such a way that will ‘establish a system of strict protection for the animal species listed in Annex IV(a) in their natural range ...’ If in this case the committee is satisfied that the development will not offend art.12(1)(b) or (d) it may grant permission. “ “ If the planning committee conclude that Natural England will not grant a licence it must refuse planning permission. If on the other hand it is likely that it will grant the licence then the planning committee may grant conditional planning permission. If it is uncertain whether or not a licence will be granted, then it must refuse planning”.

7.20 The BRA includes a mitigation strategy, which the County Ecologist has found to be acceptable, which the LPA agreed with. Therefore, the proposal will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

7.21 To conclude, having assessed the proposal, the Local Planning Authority is satisfied that there is a need for the development and there is no satisfactory alternative and that tests 1 and 2 above are satisfied. As to the third test, (the favourable conservation status of the species) this is met because the applicant’s ecologist has characterised the status of the bat roost and set out measures that ensure favourable conservation status of the species can be maintained. In light of this, the Local Planning Authority considers that it would appear likely that Natural England will grant a licence and therefore conditional planning permission may be granted for the proposal.

7.22 The proposal is considered to comply with Policy CS11 of the Havant Borough Core Strategy (2011).

(vii) Parking matters

7.23 The proposed works would result in the removal of the existing garage and an increase in bedrooms to 5. Therefore, according to the Havant Borough Parking Standards SPD 3 car parking spaces are required to be provided on site. There is sufficient car parking on the front driveway to accommodate this. This would comply with the SPD and Policy DM13 of the Havant Borough Core Strategy (2011).

(viii) Drainage matters

7.24 Southern Water commented on the application raising no objection. If permission is forthcoming an informative would be added to the decision.

8 Conclusion

8.1 The proposed development is acceptable in principle, is appropriate in terms of design and its impact on the character of the area, trees, ecology, parking and would have a limited and acceptable impact on the neighbouring properties. On this basis it is recommended for approval.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PERMISSION** for application APP/23/00887 subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, Block Plan, Site Plan, Proposed Ground Floor Plan, Proposed First Floor Plan, Proposed Roof Plan - 23035 - 03 REV B
Proposed Elevations and Sections - 23035 - 04 REV B
Design and Access Statement HD Architects
Flood Risk Assessment HD Architects
Bat Emergence and Re-Entry Surveys Issue 2
Preliminary Roost Assessment Issue 2
Agent email dated 03/01/2024 regarding window openings

Reason: To ensure provision of a satisfactory development.

- 3 The external materials used shall be as indicated on the submitted forms and hereby approved plans, or shall match, in type, colour and texture, those of the existing building so far as practicable.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 Development shall proceed in accordance with the ecological mitigation, compensation and enhancement measures as detailed within Table 4 of the Bat Emergence and Re-entry Surveys report (Arbtech, October 2023) 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 CS11 of the Havant Borough Core Strategy March 2011.

- 5 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the works hereby permitted the windows on the west and east elevations serving first floor en-suites shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and have a maximum opening of 100mm for natural ventilation purposes only as detailed in the email dated 03/01/2024 from the applicant's agent and retained as such thereafter.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.