

Site Address:	78 Havant Road, Emsworth, PO10 7LH		
Proposal:	Demolition of existing 7 bed dwelling and construction of detached building comprising 9No. 'Assisted Living' Apartments (Class C3) and ancillary Carers Management Suite together with associated parking, secure mobility scooter and bicycle storage, refuse /recyclables storage and landscaping		
Application Type:	Full Planning Permission		
Application No:	APP/22/00487	Expiry Date:	26/08/2022
Applicant:	Mr Bennett Baytree Securities Limited		
Agent:	Mr Pickup Pickup Town Planning	Case Officer:	Lesley Wells
Ward:	Emsworth		

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The site is situated on the south side of Havant Road, to the east of Barn Close and to the west of Western Avenue. Vehicular and pedestrian accesses are off Havant Road.
- 1.2 The site is approximately 0.15 hectares which is presently occupied by a large residential property with outbuildings. In this locality there are a varied range of buildings which range from detached and semi-detached houses to buildings with a bigger footprint and scale, such as Springfield Nursing Home, Emsworth House Nursing Home and the 3 storey housing development nearby.
- 1.3 The site is basically flat, with mature planting and trees to the boundary edges. Within the site's north-west corner is a Corsican Pine which is the subject of Tree Preservation Order No. 0624.
- 1.4 The site falls within Flood Zone 1 and would remain so in 2115.

2 Planning History

No relevant planning history.

3 Proposal

- 3.1 Demolition of existing 7 bed dwelling and construction of detached building comprising 9No. 'Assisted Living' Apartments (Class C3) , with Carers' Management Suite together with ancillary parking, secure mobility scooter and bicycle storage, refuse /recyclables storage and landscaping. The development would consist of nine self-contained apartments (5 x 2 bed, and 4 x 1 bed – Use Class C3), with a lift to all floors. The carers' ancillary management suite, which would be on the building's second floor, would be staffed 24/7 each day by carers working in shift patterns. Sleeping accommodation would not be provided in this suite. To the front of the site there would be 8 car parking spaces, 2 of which would be disabled in size, with 2 electric charging points. Mobility scooter and cycle storage would also be provided.
- 3.2 The agent has advised that the applicant is an associate company of Springfield Health Services, an experienced local operator in the provision of care for older people in Emsworth and Prinsted. Their homes provide both personal and nursing

care, across three residential buildings. The application site at 78 Havant Road is very convenient to the applicant's associate care home, Springfield, located at 72/74 Havant Road. The applicant considers the locational proximity of the two sites to be ideal for staff support and deployment. Additionally, the applicant also considers that the relationship between the operation of the two buildings would reduce the need for staff parking on site. That said, parking provision for the proposal has been reviewed, following the submission of an on-street car parking survey, as set out below.

- 3.3 The agent has advised that his client is presently... "... seeing demand for a lighter touch 'living with support' care need. The intention at 78 Havant Road, therefore, is to meet this need and to construct a brand-new high-quality residence, from which local people can live independently, whilst having the reassurance of onsite presence around the clock". The occupation of the apartments would be restricted by age, disability etc.
- 3.4 The intention is that the proposal would 'bridge the gap' for older people who do not yet require 24- hour residential care but are in their own homes. "The philosophy behind this development is to create a non-institutional and homely setting, where people can live independently but also interact with fellow residents and our staff team. They can entertain friends and relatives at home, whilst also making their own daily lifestyle choices."
- 3.5 The occupation of the development would be restricted by age, persons with disabilities, or where a person from a single household remains after say their partner has died or moved to reside in an institutional care home.
- 3.6 The agent has advised his clients would operate, manage and maintain the communal areas, as they do with their two care homes, with staff and/or contractors cleaning and maintain these areas. Gardeners would be employed to look after the external areas.

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)
CS13	(Green Infrastructure)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS18	(Strategic Site Delivery)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS6	(Regeneration of the Borough)
CS9	(Housing)
DM12	(Mitigating the Impacts of Travel)
DM13	(Car and Cycle Parking on Residential Development)
DM7	(Elderly and Specialist Housing Provision)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)
DM9	(Development in the Coastal Zone)

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)

Emsworth Neighbourhood Plan Post Examination Version 2020

ENP_M1	(Cycle Storage Provision)
ENP_D4	(Design of Public Spaces & External Areas)
ENP_D1	(General Design Policy)
ENP_L1	(General Housing Policy)
ENP_D2	(Height, Mass & Materials)
ENP_L3	(Independent Living)
ENP_D3	(Layout, Form & Density)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist - No Objection

There are trees onsite and on adjacent land that require consideration, one of which is statutorily protected. Construction methods and protection measures have been specified to minimise the impact of this development on these trees.

Recommendation:

I raise no objection to the proposal and if you are minded to permit the application, I would recommend that a suitably worded condition is imposed requiring strict adherence to the submitted arboricultural method statement.

Officer Comment: *if permission is granted such a condition is recommended.*

Developer Contributions - Comment

The CIL rate is set out in our Charging Schedule and is indexed according to the year in which permission is issued:

<http://www.havant.gov.uk/sites/default/files/documents/HBC%20CIL%20Charging%20Schedule%20Full%20Document%20Feb%202013.pdf>

The Havant Borough Council Developers Contributions Guide provides commentary at paragraphs 2.06 and 2.07 on Extra Care Housing:

<https://cdn.havant.gov.uk/public/documents/Developers%20Contributions%20Guide%20June%202022.pdf>

If this is considered to be Extra Care Housing CIL would not be sought.

S106

Solent Recreation Mitigation Strategy

The Case Officer would need to consider the ("Definitive") Solent Recreation Mitigation Strategy (SRMS), mitigation required for net new dwellings, accessed from: www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy

The current scale of charges is available on our website using the link above.

Nutrient Neutrality

As this development has overnight accommodation, it will be necessary to mitigate for Nutrients. Seek further advices from Planning Policy.

If a S106 was required it may also include (amongst any other site-specific obligations necessary):

HBC Monitoring Fees*

HCC Monitoring Fees

SUDS/SUDS Bond (Bond not necessary if Southern Water have agreed to adopt SUDS once installed)

Site Specific Transport Improvements (HCC)

Others arising out of consultee responses

SEE THE HBC DEVELOPER CONTRIBUTIONS GUIDE FOR ADDITIONAL INFORMATION:

Latest version accessible from:

<https://www.havant.gov.uk/community-infrastructure-levy>

*HBC Monitoring Fees: As part of the 'Heads of Terms' it is necessary to include monitoring fees. The amended CIL Regulations effective 1/9/19 regularise the collection of S106 monitoring fees. We have an agreed schedule of charges, due to be updated 1/4/23:

From 1 April 2022

£798.00 per non-financial head of term (outside the scope of VAT)

5% of cost per financial head of term (outside the scope of VAT)

Monitoring fee is capped at a maximum of £11,525 per application. This cap only applies to major applications (up to 250 Homes) without long term ecological management which may also be subject to separate negotiation.

Council's Ecologist - No Objection

The application is accompanied by a Potential Roost Feature (Tree Climbing) Inspection report (the Ecology Co-op, April 2022) and a Bat Emergence Survey Report (The Ecology Co-op, August 2022). The Horse Chestnut tree in the garden has been assessed as offering low bat roosting potential and the recommended pre-removal climbed inspection is a sensible approach. The dwelling has been shown to support small numbers of both Common Pipistrelle and Serotine bats.

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 developments affect a European protected species, permission can be granted unless the development is likely to result in a breach of the Directive underpinning 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?

Yes, unmitigated, the development has potential to result in harm to individual bats and result in impacts to the favourable conservation status of bat species locally.

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 and you may wish to ask for further information from the applicant. In order to assess the development against the third test, there must be sufficient confidence that the investigations to date have enabled a robust assessment of bat presence upon which to base informed mitigation proposals. I am content that sufficient survey effort has been expended and that the status of bats at the site is well understood. Mitigation/compensation/enhancement measures entail the timing of works to minimise impacts at sensitive periods, the supervised removal of potential roosting locations and new access/egress/roosting locations on the new building.

A European Protected Species mitigation licence will be required and it is the responsibility of the applicant and their appointed agents to ensure that this is obtained and that all licence conditions are adhered to.

If you are minded to grant permission, can I suggest that all ecological mitigation, compensation and enhancement features are secured by condition.

Development activities shall be in accordance with the ecological mitigation, compensation and enhancement measures detailed within the Potential Roost Feature (Tree Climbing) Inspection report (the Ecology Co-op, April 2022) and Bat Emergence Survey Report (The Ecology Co-op, August 2022) unless otherwise agreed in writing by the Local Planning Authority. All mitigation, compensation and enhancement measures shall be implemented as per ecologist's instructions. Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and with Policy CS 11 of the Havant Borough Core Strategy March 2011.

Officer Comment: *The required test is set out below, with the above condition recommended if permission is granted.*

Crime Prevention -Major Apps - No Comment

Environmental Health Manager - No Objection

I have read the documentation provided by the applicant, and can comment as follows:

I have no objection in principle to the proposed demolition of the specified building & the construction of a replacement building comprising nine (9) apartments, and other ancillary rooms & structures.

It is noted that no indication has been provided with this application, that can clarify expected levels of noise and / or vibration on nearby residential receptors, during the proposed demolition process, including mobile crusher units and so forth, groundworks including any potential piling operations, followed by the construction of the new residential units, and any proposed mitigation methods to manage noise and / or vibration levels. I would expect this then to be provided with the Construction Environmental Management Plan, along with a noise assessment in relation to the above.

Should the Local Planning authority grant permission for the proposed works, that the following conditions be added to any such decision notice:

Condition 1:

Prior to commencement of demolition, groundworks and construction at this development site, an assessment of potential noise and vibration arising during construction shall be prepared in accordance with BS 5528: Parts 1 and Part 2, 2009 and A1:2014 - Noise and Vibration Control on Construction and Open Sites. The assessment shall be submitted to and approved in writing by the Local Planning Authority, and all the above works carried out in accordance with the agreed recommendations.

Reason: To minimise disturbance to all nearby sensitive receptors, and to ensure the amenities of nearby residential properties are not impacted upon by any external noise levels and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Condition 2: Construction Environmental Management Plan

No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- a. Procedures for maintaining good public relations including complaint management, public consultation and liaison and site management contact details
- b. Arrangements for liaison with the Council's Pollution Control Team
- c. All works and ancillary operations which are audible at the site boundary, or at such

other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays.

d. Deliveries to and removal of materials, plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

e. Mitigation measures as defined in BS 5528: Parts 1 and Part 2, 2009 and A1:2014 - Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from works on this site.

f. Procedures for emergency deviation of the agreed working hours

g. Measures for controlling the use of site lighting during all phases, whether required for safe working or for security purposes, to ensure no impact on any nearby residential receptors.

h. Control measures for dust and other air-borne pollutants. It should advise as to what measures are to be put in place for the control of any dust that might emanate from the development site. Furthermore the methods of dust control should be in accordance with the guidance as laid out in the BRE Report 456 - Control of Dust from Construction and Demolition activities, and also the IAQM Guidance on the assessment of dust from demolition and construction 2014.

It should also be noted that during dry weather conditions, any areas where tracked excavators, dozers and the like are working, are to be kept damp at all times.

i. No bonfires to take place on the site at any time.

j. A scheme for recycling/disposing of waste resulting from demolition and construction works is to be implemented

Reason: To minimise disturbance to all nearby sensitive receptors and to ensure the amenities of the surrounding occupiers are not unduly impacted upon, during all phases of the development.

Condition 3: Piling

If piling is to be used on this site, then the least intrusive noise and vibration method of piling shall be employed. This should be accompanied by a justification as to the reasons why a particular piling method has been chosen, and additionally the proposed mitigation methods to be employed, to ensure minimal impact on nearest residential receptors.

Reason: To ensure the amenities of nearby residential properties are not impacted upon by any external noise or vibration levels during any piling operations, and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

Condition 4: Noise from plant and equipment

If any external air moving plant or equipment, such as air conditioning units, air source heat pumps and the like are to be installed or mounted, as part of this proposal, then a scheme shall be submitted in writing to, and approved by the Local Planning Authority, which specifies the provisions to be made for the control of noise and / or vibration that may emanate from such plant / equipment, prior to any development taking place.

Reason: To protect the occupants of nearby residential properties from any noise and / or vibration nuisance.

Condition 5:

No floodlighting or other form of external lighting scheme shall be installed unless it has been approved by the Local Planning Authority. Such details shall include, Location, height, type and direction of light sources and intensity of illumination. Any lighting scheme agreed in writing by the Local Planning Authority shall not thereafter be altered without prior consent other than for routine maintenance, which does not change its details.

Reason: To protect the occupants of nearby residential properties, from light disturbance / nuisance, and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

Condition 6:

The applicant to confirm that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To protect the amenities of the future occupants of the proposed dwellings, and to ensure the residential amenity of the properties is not impacted upon by any external noise levels, including road traffic noise

Officer comments: if permission is granted such conditions are recommended.

Hampshire Highways - No Objection

The Highway Authority have undertaken a TRICS assessment and whilst the proposed trip generation for the change of use is marginally higher than the existing use, the Highway Authority are satisfied that this will not have a detrimental impact on the wider highway network.

It is noted that the site is to maintain its existing vehicular and pedestrian access. Additionally, refuse collection is to take place via existing arrangements and the refuse store is within the maximum carry distance as laid out within Manual for Streets paragraph.

There is sufficient parking on site with adequate space for vehicles to manoeuvre and egress the site in forward gear.

Having regard to the above, the Highway Authority provide no objection to the above planning application subject to the following condition:

CONSTRUCTION METHOD STATEMENT REQUIRED

No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:

- (a) A programme of and phasing of demolition (if any) and construction work;
- (b) The provision of long term facilities for contractor parking;
- (c) The arrangements for deliveries associated with all construction works;
- (d) Methods and phasing of construction works;

- (e) Access and egress for plant and machinery;
- (f) Protection of pedestrian routes during construction;
- (g) Location of temporary site buildings, compounds, construction material and plant storage areas;

Demolition and construction work shall only take place in accordance with the approved method statement.

Reason - In order that the Planning Authority can properly consider the effect of the works on the amenity of the locality.

Officer Comment: *If permission is granted the above condition is recommended.*

Landscape Team, Havant Borough Council - No Objection

From a landscape perspective we have no major adverse comments in relation to this planning application, however we would like to ensure that the leafy character of Havant Road is retained and any loss of tree will need to be replaced. Recommend to condition hard landscaping, soft landscaping and boundary treatments.

Officer comment: *if permission is granted such conditions are recommended.*

Natural England Government Team - No Objection

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, hereby contributing to sustainable development.

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Your appropriate assessment dated 02 August 2022, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions.

Your authority has measures in place to manage potential impacts through contributions to an agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in reverting harmful effects on the Habitats Site(s) for the duration of the proposed development.

This advice is provided on the basis that all mitigation measures will be secured as planning conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development. Your authority should be assured that proposed financial contribution rates are proportionate to the identified effects of the proposed development, suitably precautionary, and in line with the Retail Price Index, where relevant.

Norse South East, Operations Director - No Comment

Nutrient Team

At the time of writing, I can confirm that there is sufficient capacity in the Council's strategic mitigation scheme to mitigate the development proposals.

The applicant is however advised that there is limited capacity remaining in the Council's mitigation scheme at Warblington Farm. There is alternative mitigation available from third party providers in order to avoid and mitigate the water quality impact arising out of the proposed development. The details of other schemes have been published on the Partnership for South Hampshire's website at:

<https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/>

Officer comment: *The Unilateral Undertaking was completed on the basis of Warblington being used.*

Waste Services Manager - No Comment

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: 19

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 9

6.1 The following is a precis of the representations received.

Character and appearance of the area

- Dwelling not listed, but house is of architectural interest - demolition loss to Emsworth
- One of the few remaining Victorian houses in Emsworth to be demolished (built 1899) - could be extended and sensitively updated instead
- Replacement dwelling not in keeping - not a family house
- Loss of another house in the immediate locality
- Small air raid shelter dated from 1940 in rear garden - should be recorded so wartime period of the town is preserved
- Size, height and dimension would dominate the skyline
- Suggest instead 2 or 3 house as per either side of the site
- Does not fit in with existing usage of the property

Impact on Amenity

- Two storey plus development
- Footprint larger than existing - encroaching closer to neighbouring properties
- Loss of privacy in neighbouring properties and gardens
- Loss of amenity by overlooking
- Remove dormer on west elevation
- Patio area will encourage socialising by families/care staff - give rise to

- noise/disturbance to neighbours
- Construction period would cause disruption and potential anxiety and health hazard - what measures to be put in place to reduce this?
- Entertainment associated with Springfield Care Home caused disturbance - events should be restricted at this site
- Potential for alleged anti social behaviour from staff
- Burning of demolition to be prohibited
- Replanting of trees/bushes should be a permanent feature - invite applicant & planning officer to view from my property
- Undesirable intensification of the use of the plot - from residential to commercial business
- Would operate 24/7
- Cause light pollution
- Noise pollution with delivery lorries, multiple bins being emptied early, staff arriving at all hours, ambulance arriving.
- Extra strain on the NHS and Dr surgeries
- Refuse bins for 9 apartments along western boundary - source of noise and smell to neighbours - should be relocated to front - are they within the required distance for collection?

Access & Parking

- Insufficient on-site parking - where will staff park?
- Inadequate on street parking
- Increase in traffic - roads around not designed for it
- Increase traffic flow and associated noise from site
- Increase traffic issues entering/existing Park Crescent opposite
- Add to bottleneck of entering the A259
- 9 retirement apartments unlikely to increase traffic, when compared to this large family home

Trees

- Tree constraints plan not available on line, to assess tree loss
- Numerous mature trees and vegetation removed
- Chestnut tree was not a good specimen
- Healthy ash tree in the SE corner should remain
- Only remaining TPO an Austrian pine - should not be removed
- Site suffered from the loss of other trees over the years - due to inclement weather and their poor condition
- Replacement of large hardwood trees required
- Loss of vegetation

Ecology

- More habitat loss, when more is required
- Shrubs and trees provide home for wildlife, including bats
- Mitigation will not replace the colony of bats that is currently living in the grounds

Flooding/Drainage

- Extra strain on sewage control - Brook Gardens to rear regularly pumps out to stop flooding - proposal likely to exacerbate this

Other Matters

- Fencing on western boundary not maintained by applicant - nothing should be place/grown on the fence

Officer Comment: *the points are covered under Section 7 below, or in the following bullet points.*

- *Matter of documents not viewed on line resolved*
- *The Case Officer viewed the property from a neighbour's property*
- *The LPA has a duty to determine the application as submitted, as opposed to a possible alternative scheme which is not before it to consider*
- *Registering of the air raid shelter is not material to the determination of the application*
- *Any issues with a third party's fence, would be a private matter between those involved*
- *The LPA has no evidence that the proposal would place an unacceptable burden on the NHS and Dr's surgeries*
- *If permission is granted, conditions would be imposed to limit noise and disturbance to neighbours, during the construction period.*

7 Planning Considerations

Habitat Regulations Assessment & Appropriate Assessment

The Council, as competent authority under Regulation 63(1)(a) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations), has conducted a Habitats Regulations Assessment (HA) of the proposed development.

Recreational Pressure

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations) and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. As such, in order to lawfully be permitted, the development

will need to include a package of avoidance and mitigation measures.

The applicant has proposed a mitigation package based on the methodology in the Developer Contributions Guide. The scale of the proposed mitigation package would remove the likelihood of a significant effect. The applicant has entered into a legal agreement to secure the mitigation package in line with the requirements of the Habitats Regulations and Policy DM24.

Water quality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Therefore, a significant effect on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA cannot be ruled out.

Natural England have produced 'Advice on achieving nutrient neutrality for new development in the Solent region'. This sets out a methodology to calculate the nutrient emissions from a development site. The applicant has used this methodology to calculate the nutrient emissions from the site. This calculation has confirmed that the site will emit a net nutrient load into European Sites. The Position Statement and Mitigation Plan for Nutrient Neutral Development sets out a mitigation package which will mitigate the impact that this development would have on the designated European Site. The applicant has entered into a legal agreement to secure the mitigation package.

Appropriate Assessment conclusion

The Habitats Regulations Assessment concluded that the avoidance and mitigation packages proposed in the Appropriate Assessment are sufficient to remove the significant effects on the Solent's European Sites which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has entered into a legal agreement to secure the mitigation packages.

7.1 In other respects, having regard to the relevant policies of the development plan and all other material considerations 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 (for existing and future residents)
- (iv) Highways and Parking
- (v) Ecology Impacts
- (vi) Flood Risk/Drainage
- (vii) Impact on Trees
- (viii) CIL

- (i) Principle of development

7.2 The application site is situated within an urban area as defined by policies CS17 and

AL2 of the adopted plan where further development is considered acceptable subject to the usual development control criteria. Policy AL1 of the adopted Allocations Plan advises that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the revised NPPF (to improve the economic, social and environmental conditions in the area). Planning applications that accord with the policies in the adopted local plan will be approved unless material considerations indicate otherwise. The location of the proposed development is in a sustainable urban area with access to amenities in the form of public transport, health provision and retail opportunities and so in principle is considered to be a suitable location for more intensive residential development.

- 7.3 The proposal is for 9 Assisted Living apartments, for which there is a recognised need. Policy DM7 (Elderly and Specialist Housing Provision) sets out the requirements for Elderly and Specialist Housing, these are replicated below:

- 1) It is demonstrated that appropriate levels of on-site amenity space are accessible for residents use which provides a satisfactory outlook for all residents.
- 2) A setting for the building is provided which is in keeping with the surrounding area.
- 3) Sufficient space for servicing is provided.
- 4) Services that may generate noise and disturbance (such as laundry rooms, kitchens and refuse storage) are located and designed to avoid undue disturbance to the amenities of neighbouring properties.
- 5) The development would not result in a concentration of such uses in one of the five areas of the borough or an over-concentration within each of these areas.

- 7.4 The supporting text of Policy CS7 specifies in paragraph 10.25 of the Local Plan (Core Strategy) that *"in the case of flats, areas of well landscaped gardens will be important to ensure that residents have the opportunity to access amenity space on site"*.

- 7.5 With this, paragraph 10.26 of the supporting text of the policy highlights that:

"It is recognised that the occupiers of some specialist housing often require access to local services including shops and health facilities and public transport routes. Development for sheltered housing, facilities for the active elderly and for the disabled will be encouraged towards locations where these services can be accessed by non-motorised modes of transport so that a degree of independence can be maintained".

- 7.6 Policy CS9 (6) provides for accommodation for the ageing population in sustainable locations and that such accommodation is flexible so that it can adapt to the changing and particular needs of individual occupants. The site is in a sustainable urban area, under 1 mile from Emsworth District Centre where there is access to dental, doctor and optician facilities, as well as a range of shops, cafes and restaurants. There is also close access to public transport, via a bus service along Havant Road, from Portsmouth, via Havant and Emsworth Town Centres to Chichester and Bognor Regis. The proposal has been designed to accommodate the proposed users, with access to a rear garden and patio area, mobile scooter and cycle storage and on-site parking, which would include two disability spaces.

- 7.7 Following the demolition of the existing dwelling, the proposal would be for 9 assisted living apartments. The net addition of 8 further units of accommodation in such a location would make a contribution, albeit a modest one, to the Council's overall housing requirements. The revised NPPF 2021, as stated above, has a presumption

in favour of sustainable development, whilst noting that good design is a key aspect of sustainable development. The creation of high quality buildings and places is a fundamental aim and paragraph 134 notes that:

" 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 such as design guides and codes".

- 7.8 Adopted Policy C16 of the Havant Borough Local Plan (Core Strategy) 2011 requires designs to be of a high standard, which is reflected in Havant's Design Guide SPD. Therefore, significant weight should be given to this policy and guidance when determining the application, as advised by the NPPF.
- 7.9 As regard the Council's Five Year Land Supply Update (November 2021) this indicates the Council has a 3.9 year supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is a presumption in favour of sustainable development (para 11d of the NPPF) and approving development proposals that accord with an up-to-date development plan without delay. In circumstances where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date permission should be granted unless *"...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*
- 7.10 The Council has identified that it has a finite amount of undeveloped land and environmental designations in the borough which limit opportunities for new development. Within this context, the Council's strategy for the delivery of new growth is to concentrate development within the urban areas where there are existing facilities and where new development would have the least impact on the range of highly protected designations within the Borough. To support this approach, Policy CS17 of the Havant Borough Core Strategy (2011) sets out that development will be permitted that makes the most effective use of land in the borough.
- 7.11 Policy CS9 of the Core Strategy supports housing proposals which achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shops and services in addition to respecting the surrounding landscape, character and built form. The supporting text of the policy sets out density thresholds, and in this regard the proposal would represent a high density development at 9 dwellings on a site of approximately 0.15 hectares (a density of approximately 60 dwellings per hectare).
- 7.12 The adopted Local Plan policies are considered to echo the more recent advice in the National Planning Policy Framework (NPPF).
- 7.13 Paragraph 119 of the NPPF sets out that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment.
- 7.14 Paragraph 124 of the Framework supports development that makes efficient use of land where it takes into account the desirability of maintaining an area's prevailing character. Policies CS9 and CS17 together are broadly consistent with this approach.
- 7.15 The Framework goes further and sets out at Paragraph 125 that where there is an

existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities to ensure that development makes optimal use of the potential of each site.

- 7.16 The principle of making more efficient use of an existing urban site, in a sustainable location, is therefore supported having regard to the surrounding character and built form, albeit that the acceptability of the scheme put forward will turn on consideration of a number of detailed planning considerations as set out below.

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

- 7.17 The character of the existing development along this part of Havant Road is a mix of large detached dwellings/residential properties, set within mature landscaped plots, with the exception of the Springfield Care Home at No. 72/74 Havant Road. The proposal seeks permission for the demolition of the existing 7 bedroom detached dwelling and the construction of a new detached building comprising 9 Assisted Living apartments and a staff management suite, which it is acknowledged has the potential to impact on the character of the area in terms of the intensified use of the site, including the potential for increased traffic movements (this is discussed in more detail below). However, this needs to be weighed up against the benefit of the provision of more specialist housing for the Borough on a previously developed site in the urban area.
- 7.18 The existing dwelling is built with traditional red brick elevations beneath a steeply sloping gabled roof. The dwelling is two storeys in height, however, it comprises of three floors of accommodation with the second floor being accommodated within the roof space. Single storey extensions have been added to the dwellings west and south elevations. The dwelling has a height to its ridge of approximately 10.0m (6.6m to its eaves) and a maximum width and depth of approximately 15.4m and 14m respectively. A garage, with lean-to mono pitch roof, is attached to the dwelling's west elevation.
- 7.19 The existing house is set within a mature garden with several notable trees and established ornamental planting within the front and rear gardens. One of the trees, a Corsican Pine, is located within the sites north-west corner and is the subject of a Tree Preservation Order (TPO Ref: 0624). Vehicular access to the site is from a crossover at the western end of the site's northern boundary; pedestrian access is via a gate from Havant Road at the eastern end of the northern boundary. Much of the land between the front of the house and the road is laid out as a gravelled vehicle parking area. The rear garden is mainly set to lawn with mature planted borders. Whilst the mature trees and vegetation along the boundary with Havant Road, partly screens views of the existing property, the dwelling may be observed from the public realm.
- 7.20 The proposal would be traditional in design, two-storey with additional accommodation in the roof space, which would comprise of one apartment (No9 - 2 bedroom apartment) and a Care Management Suite. The height of the proposal would be slightly lower (ie 9.9m), than the existing dwelling (i.e. by approximately 0.1m) but with a greater two storey footprint, (ie width 22m, depth 16.5m) which would not be forward of the front building line of the existing dwelling and would remain set back by some 19.5 to 20.0m from the site's northern boundary. The existing property is higher than the adjacent properties to the west and east of the site, which would remain the case with the proposal. With the proposal there would be a two storey stepped element to the east, with a full width two storey element to the west that would replace a single storey garage (approximately 2m and 4m in width respectively). There would be two

gables to the front (jetted) and back with dormers and roof lights. The east elevation would have 4 side windows. The west elevation would have 8 windows over two floors, with velux type windows in the roof, following the removal of a dormer from the original submission.

- 7.21 The proposed materials for the building would mainly comprise of brick work, alongside brick detailing and a feature plinth to add interest to the façade, with the use of Oak and render to the feature jetted gables creating a contrast against the brickwork, adding a different texture to the building. The first floor would be finished with tile hanging similar to that of the existing dwelling, with plain tiles for the roof. Windows would be of complementary oak coloured UPVC frames.
- 7.22 The proposal would sit comfortably within the plot having regard to its size and space around the building, with a separation distance of approximately 4m to the east with No. 114 Brook Gardens and approximately 11.6 m to 80 Havant Road. As to the rear the separation distance with the properties in Brook Gardens would be between 26m and 27.5m, with a minimum rear garden for 78 Havant Road of 15m. Similar to the existing property, the proposal would be viewed, albeit partially screened by mature vegetation along the northern boundary, from the public realm. However, the design of the proposal, coupled with the proposed materials, would not be out of keeping with the character and appearance of the area, in accordance with Policy CS16 of the HBLPCS.

(iii) Impact upon residential amenity (for existing and future residents)

- 7.23 The proposed building would encompass the existing footprint with a larger area, whilst maintaining the existing frontage building line to the north. As with the existing property, there would be accommodation in the roof space, with 2 dormers replacing a windowed gable and rooflights to the rear. The properties most likely to be impacted by the proposal would be 114 Brook Gardens and 80 Havant Road (to the east and west) and 116 to 120 Brook Gardens to the rear.

Amenity of Existing Occupiers

- 7.24 Concerning 114 Brook Gardens the proposed eastern elevation would be approximately 2m closer to the boundary than the current dwelling, with approximately 4m separation between the two properties. There is an existing 1.8m wooden fence between the two properties. Currently there are a number of windows on the eastern elevation of the existing property, with a first floor window at No 114, which is obscurely glazed. Four small windows are proposed on the eastern elevation of the proposal, which at first floor, 2 would service a bathroom and a bedroom, the former of which would be obscurely glazed. There would also be a window serving an en-suite looking south, in the south east corner. This would also be obscurely glazed. Any overlooking from other windows to the rear into the garden of 114 Brook Gardens would not be dissimilar to that already experienced from the existing dwelling.
- 7.25 With regard to 80 Havant Road planning permission was granted under reference APP/21/01220 on 11 January 2022 for 'Erection of rear part single storey, part two storey extension'. At the time of the site visit there was no evidence that works had commenced on this planning permission. The proposed extensions to No 80 Havant Road, would not bring this property closer to the application site. As to the extensions to 80 Havant Road, there would be a window at first floor on the eastern elevation, set back off the original elevation, with folding doors and 3 windows at ground floor. Along this boundary is mature vegetation and wooden fencing, which rises to 1.8m in height

just beyond where the refuse/recycling bins were originally proposed on the western boundary. There would be 8 windows on the western elevation of the proposal, 4 of which would be at first floor, with 2 obscurely glazed servicing en-suites. There would also be roof lights in the roof. The existing west elevation has no windows, with a single storey garage to the side. The proposal would be approximately 4m closer to the western boundary than the garage. However, due to the separation distance of approximately 11.6m between the proposal and No. 80, the alignment between the two properties, the mature vegetation (which would be consolidated and enhanced with additional landscaping), and the 1.8m fence, it is considered that the development would not cause a significant loss of amenity by reasons of overlooking or loss of privacy to the occupiers of this neighbouring property. As to the windows to the rear any overlooking would be similar to that already experienced.

- 7.26 As to the refuse/recycling bins, during the course of considering the application these have been relocated to the south of the site, alongside the mobility scooter bicycle storage building, 2.2m away from the boundary. The boundary comprises a 1.8m wooden fence. This location and its use should not give rise to an unacceptable level of noise, smell or disturbance, and no objection has been raised by the Environmental Health team to the proposals.
- 7.27 With reference to 116 - 120 Brook Gardens to the rear, the proposal would be positioned between approximately 15.0m and 16.5m to the north of the site's southern boundary leaving a separation distance of between 26.0m and 27.5m from the principal rear elevations of these properties. The site's southern boundary is defined by a close boarded fence (1.8m high) together with several mature shrubs, bushes and trees, which would be retained as part of the proposed development. Landscaping along this boundary would also be secured, if permission is granted.
- 7.28 In order to maintain a reasonable relationship between new dwellings and neighbouring properties, Havant's Design Guide requires, *"Where windows of the new development and an existing dwelling occur back-to-back there should be a minimum 20 metres separation"*. This should rise by 4 metres, with each additional storey. The *"Garden length should normally allow 10 metres between the dwelling and the boundary."* As stated above the separation distance between the proposal and properties in Brook Gardens would exceed 24m, which would be between 26m and 27.5m, with the rear garden of the development exceeding the 10m requirement with a minimum depth of 15m. Therefore, the separation distances between the properties would be acceptable in planning terms.
- 7.29 As to the representations received regarding noise and disturbance associated with this intensification of the use of the property, it is acknowledged that there is the potential to impact on the character and local amenity of the area by the increase in associated activity. However, the proposal is for assisted living, with the occupation of the flats restricted by condition in respect of age, disability etc, (see recommended condition 3) with issues of noise and disturbance likely to be of a lower level than similar developments with unfettered occupation. As to the potential for alleged anti-social behaviour by staff, this would be a management issue, or a Police matter, if this arose. Therefore, when balancing the need for more specialist housing in the Borough in a sustainable location, this is considered to outweigh the potential impacts associated with the increased activity that may arise from the proposal.
- 7.30 With reference to the potential for noise and disturbance during the construction stage and from the subsequent development, if permission is granted, a Construction Management Plan, a Construction Environmental Management Plan and a number of

other conditions recommended by Environmental Health would be imposed on the decision notice to reduce such impacts on residential amenity. The recommended conditions, including pre-commencement conditions have been agreed with the applicants.

Amenity of Future Occupiers

- 7.31 All of the apartments would comply with the Government's Technical housing standards - nationally described space standards, with access to a communal landscaped rear garden. A lift to all the floors would be provided. The proposal would also provide storage facilities for mobility scooters and cycles, two disabled parking bays to the front, together with two electrical charging points, with provision for more, if required in the future. The existing pedestrian access on the eastern boundary would be retained, to provide another access onto Havant Road separated from moving vehicles. A patio to the rear would be provided, together with a landscaped garden for residents, which would be maintained by gardeners, together with other external areas. The site also benefits from being in a sustainable location, with easy access to bus services, the railway station, shops and other services.
- 7.32 There would be a carers' management suite on the second floor which would be staffed 24/7, to provide help and support for residents when required. The proposal would provide a satisfactory living and caring arrangement for future residents in accordance with adopted policy.

(iv) Highways and Parking

Access

- 7.33 The site currently benefits from an existing vehicular and a separate pedestrian access to the front of the site, in the north east and north west corners. These would be retained and incorporated into the development.
- 7.34 The Highway Authority (HA) has been consulted over the development and concluded that *"... the proposed trip generation for the change of use is marginally higher than the existing use, the Highway Authority are satisfied that this will not have a detrimental impact on the wider highway network."* The HA was also satisfied that there would be sufficient space for vehicles to manoeuvre and egress the site in a forward gear.
- 7.35 In addition, the HA commented on the refuse collection proposals which would continue to take place as per the existing arrangement and *"... the refuse store is within the maximum carry distance as laid out within Manual for Streets paragraph...."* However, following receipt of the HA comments amended plans were submitted, which locate the refuse store further back into the site by approximately 12m, so that it would not be visually obtrusive on the western boundary. It is now 37m from the back of the highway. Manual for Streets (MfS) states *"residents should not be required to carry waste more than 30m (excluding any vertical distance to the storage point); waste collection vehicles should be able to get within 25m of the storage point..."*

In response the agent has advised, *"Given that the 9 flats would be occupied by elderly people, many of whom would be receiving care assistance, it is intended the disposal of refuse and recyclables to be carefully managed by the in-house care team and then by the contractors who would dispose of the refuse. So, the residents*

themselves would not be wheeling bins around, or carrying bins to and from the refuse storage area." The agent goes on to advise that the bins would be placed in the collection point on the evening before collection, which would be in the original site proposed for refuse storage, which is within 25m of the back edge of the highway. This would accord with the requirements of the MfS, with the arrangements considered acceptable.

- 7.36 No objection has been raised by the HA on highway safety grounds, subject to a condition requiring a Construction Method Statement. If permission is granted, such a condition is recommended.

Parking

- 7.37 The proposed development would be facilitated by the provision of 8 vehicle parking spaces to the front of the site, including 2 disabled spaces, with a mobility scooter/bicycle storage (with electrical charging points for all scooters) together with refuse and recyclables storage facilities, to be provided along the western boundary. Two of the parking spaces would be provided with electrical vehicle charging points; with infrastructure for the future provision of electrical charging points for the other vehicle parking spaces to be installed. As to cycling provision, 4 cycle racks would be provided, 2 alongside the parking to the front, with 2 racks alongside the mobile scooter bicycle storage building, providing space for 8 cycles and 6 scooters with charging points for each.
- 7.38 Havant Borough Parking SPD (July 2016, amended September 2019) sets out the parking standards for new development in the Borough. The vehicular parking requirements for older people's housing are set out in Table 4C on page 12 of the SPD. In respects of 'Sheltered Housing' these states *"Given the broad range of accommodation available and the resulting variability of parking requirements, parking will be considered on a site by site basis. A full assessment of parking need should be provided."* The table goes on to state *"Age restriction conditions or legal undertakings may be appropriate to define the age of occupants. [which would be the case if permission was granted for the proposal]. Mobility vehicle storage provision may also be required in addition to cycle long and short stay provision..."*
- 7.39 In the Planning Statement it states that *"The current application at 78 Havant Road seeks a grant of planning permission for the construction of a block of 9 apartments would be for persons who need additional support or 'Assisted Living'. As has been stated it is intended that the proposed accommodation would 'bridge the gap' for older persons who do not yet require 24-hour residential care but are at the point of being unable to manage sufficiently well in their own homes. It is intended that the apartments' future residents would be restricted by age, disability etc., and that the proposed apartments would complement the Class C2 home care managed by the applicant's associate company at Springfield Nursing Home."* (Springfield Nursing Home is located at 72/74 Havant Road to the east).
- 7.40 The provision and construction of the parking spaces would be in compliance with the guidance within the submitted Arboricultural Impact Assessment and Method Statement. A 2.7m to 3.8m deep landscaped bed would separate a staggered row of 5 vehicle parking spaces from the site's front boundary fence, with 3 spaces along the eastern boundary. With 9 apartments, the provision of 8 vehicle parking spaces would work out at a ratio of 0.89 vehicle parking space per unit of accommodation. For shared/communal parking for residents (i.e. unallocated) the Council's adopted Parking SPD sets out that 11 spaces are normally required. The proposal does not

include on site visitor or staff parking (with regard to the latter up to 4 on-site staff may be present - ie 4 spaces) making a total of 15 spaces required. As adequate parking cannot be provided on site, the proposal would be reliant on on-street car parking capacity. To ascertain if such capacity is available, an on-street car parking survey has been undertaken by the applicant, which in accordance with Havant's Parking SPD has included weekdays and weekends, including late into the evening as this allows a true reflection of the parking arrangements.

- 7.41 The commissioned survey submitted covers 7 days, which was undertaken between Saturday 19 November 2022 and Friday 25 November 2022, at a variety of times throughout the day, including late in the evening and early in the morning. The survey area included all feasible on-street parking areas within a 200m walking distance of the application site (ie a 2.5 minute walk) which is considered a reasonable walking distance from the proposal. Within the 200m radius this covered parts of Nore Farm Avenue, Barn Close, Far Meadow Way, Park Crescent and Springfield Care Home. The maximum parking capacity was established assuming car parking space dimensions of 5m length and 2m wide, avoiding infeasible parking areas, such as in front of dropped kerbs that serve private driveways.
- 7.42 The following table is taken from the survey, identifying the existing parking 'stress' and remaining capacity for on-street parking in the study area. The survey measured parking 'stress' as a percentage of the overall spaces theoretically available which were, when surveyed, occupied by parked vehicles.

Time of Survey - Weekday	06.00	12.00	18.00	00.00
Overall parking stress across the study area	14%	55%	26%	13%
Available spaces	61	32	52	62
Time of Survey – Weekend	06.00	12.00	18.00	00.00
Overall parking stress across the study area	15%	33%	22%	13%
Available spaces	60	48	56	62

- 7.43 The survey, which is considered to be detailed for the week in question, shows that within the catchment area the parking demand for a further 7 vehicles which may be required for the development could be accommodated on the local road network or at Springfield Care Home, without adversely impacting on existing residents' parking or the character of the area.
- 7.44 As to mobility scooters and bicycle storage, provision is provided for up to 8 scooters, with electric charging points and 4 cycle racks for 8 bicycles. Having regard to the nature of the assisted living accommodation with occupation restricted, this would attract people with a wide demographic and health profile with variable car ownership. In view of this, and given that there is an adequate level of on-street parking available within the locality, the proposed level of on site car parking provision would be appropriate. Furthermore, the application site is in a sustainable location, with

Emsworth Town Centre approximately a 13 minutes' walk to the east, with a direct bus route along Havant Road. Emsworth also benefits from a railway station, which includes trains travelling to Havant, Portsmouth, Brighton and London Victoria. Having regard to the sustainable location, with alternative means of transport, the proposed level of onsite car parking, scooter and cycle provision is considered to be appropriate. That said, in order to maximise the flexibility of the onsite car parking, a condition is recommended that they remain unallocated.

- 7.45 Taking these factors together, coupled with the benefits that the scheme provides such as new housing, it is considered that the short fall of on-site parking compared to the Borough's normal Parking SPD requirements can be justified and would not lead to a loss of amenity or highway safety issues, and a refusal of permission based on such a reason would not be warranted.

(v) Ecology Impacts

- 7.46 All development within the Borough is expected to protect, conserve and enhance the Borough's Local Ecological Network.
- 7.47 The application is accompanied by a Preliminary Ecological Appraisal (EA) and a Bat Emergence Survey Report (BESR). The Council's Ecologist has been consulted over these two documents and advised:

"The Horse Chestnut tree in the garden has been assessed as offering low bat roosting potential and the recommended pre-removal climbed inspection is a sensible approach. The dwelling has been shown to support small numbers of both Common Pipistrelle and Serotine bats."

The development would therefore affect bats, which is a European Protected Species (EPS) and an EPS licence is required from Natural England.

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

- *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 and 2 above.

- 7.49 The proposal is for 9 assisted living apartments, following the demolition of the existing building, with the proposal benefiting the future occupiers in public health and social terms, with suitable accommodation and care and support. The LPA is not aware of any satisfactory alternative for the proposal. The applicant has provided a Bat Emergence Survey Report (BESR) which has identified the presence of bats and a bat mitigation strategy, which includes the following measures:

1. installation of bat boxes on trees;
- sensitive timing of works;
- supervision of careful works by an ecologist;
- incorporation of replacement roosting opportunities within the replacement building;
- and
- sensitive lighting within the developed site.

7.50 The Council's Ecologist has advised that provided the agreed mitigation proposals are implemented, there are no concerns over the proposal, subject to the following condition being added to the decision notice:

"Development activities shall be in accordance with the ecological mitigation, compensation and enhancement measures detailed within the Potential Roost Feature (Tree Climbing) Inspection report (the Ecology Co-op, April 2022) and Bat Emergence Survey Report (The Ecology Co-op, August 2022) unless otherwise agreed in writing by the Local Planning Authority. All mitigation, compensation and enhancement measures shall be implemented as per ecologists instructions. Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and with Policy CS 11 of the Havant Borough Local Plan (Core Strategy)"

7.51 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."*

7.52 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"

7.53 The BESR includes a mitigation strategy to relocate the bat roost, which would compensate for the loss of the existing bat roost in the building, which the Council's Ecologist has found to be acceptable, and which the LPA agrees 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.

7.54 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 it likely that Natural England will grant a licence and

therefore conditional planning permission may be granted for the proposal.

7.55 The proposal is therefore considered to comply with Policy CS11 of the HBLPCS.

(vi) Flood Risk/Drainage

Flood Risk

7.56 The site falls wholly within Flood Zone 1. Overall, the development is considered to be a low flood risk. (<0.1% AEP), and so is suitable for the redevelopment of the site as proposed.

Foul & Surface Water Drainage

7.57 As to foul water drainage this would be linked into the existing main sewer. As regard surface water drainage this would be via soakaways. Both foul and surface water drainage would fall within the remit of Building Control Regulations, with the exception of the maintenance of the SUDs system, which is the subject of a recommended condition.

(vii) Impact on Trees

7.58 Within the site's north-west corner is a Corsican Pine which is the subject of Tree Preservation Order No. 0624.

7.59 An Arboricultural Impact Assessment & Method Statement forms part of the application. This identifies there would be three direct tree losses caused by the re-development of the site; T3 Sycamore (B), T14 Holly (B) and T15 Holly (C). It should be noted that none of these trees are subject to Tree Preservation Orders. Further trees would be removed for sound arboricultural reasons.

7.60 The Sycamore is a prominent road frontage tree, but it is young with a lot of growth potential. The issue with this tree is that it would dominate the longer lived and much better specimen Yew which is the reason it is shown for removal and a replacement tree is to be planted at an alternative location along the road frontage, where it can develop to full advantage without adversely impacting on the Yew tree.

7.61 As regard the two Holly trees, they have been assessed as fairly good species but cannot readily be seen from a public vantage point. The proposed landscape condition includes a requirement for replacement trees to compensate for the loss of trees on the site.

7.62 Two further trees, T7 Horse Chestnut & T13 Apple would be removed as they are of U (fell) grading. Therefore, removal is recommended for sound arboricultural management reasons regardless of any redevelopment proposals. In the case of T7 this was a prominent tree in the landscape, but the new layout would not permit a tree of similar 'forest sized' proportions to be planted in the same place. So, an alternative location has been selected at the rear of the site where a proposed new Oak tree can develop to full advantage without adversely impacting on the multiple occupancy use and light requirements of the residents. As regards the Apple tree T13 this was neither a good tree nor one that had prominence on the site so it will not be replaced. A total of ten (10) trees would be retained and afforded full protection in accordance with BS5837:2012 recommendations.

- 7.63 The Council's Arboriculturalist has been consulted over the proposal and whilst noting that trees onsite and on adjacent land require consideration, including one that is statutorily protected, no objection is raised to the loss of trees and the proposal, with a recommendation that a suitably worded condition is imposed requiring strict adherence to the submitted arboricultural method statement. If permission is granted, such a condition is recommended.

(viii) CIL

- 7.64 The proposal whilst resulting in a new residential development is not Community Infrastructure Levy (CIL) liable, as it is classed as extra care housing, as care and support by on-site staff would be available for residents 24/7.

8 Conclusion

- 8.1 Whilst it is acknowledged that the development of 9 no. units may lead to a more intensive use of the land, which includes a larger building, some tree loss, an increase in vehicular trips, and a possible rise in activity on the site, it is considered that the proposed development would make a much needed contribution to the Borough's housing requirements by providing assisted elderly living accommodation, in a sustainable location. The proposal would not be notably larger than the surrounding residential development and the building size in relation to the plot size, is relative and acceptable. The building has been designed so as to avoid any adverse overlooking and replacement planting and landscaping would be secured. The level of car parking is considered acceptable, having regard to the intended use and the availability of on-street parking within the locality and the ecology mitigation measures are considered appropriate. Therefore, the development is considered to accord with the development plan when considered as a whole and the National Planning Policy Framework and conditional planning permission is recommended.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/22/00487 subject to: the following conditions.

1 **General Conditions**

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:

Plans

Proposed Location & Block Plan - Drawing No 8993 -01 Rev C
Proposed Floor Plan - Drawing No 8993 Rev B
Proposed North & East Elevations - Drawing No 8993-03 Rev B
Proposed South & West Elevations - Drawing 8993-04 Rev B

Proposed Street Elevation & Perspective - Drawing No. 8993 - 06
Proposed Perspective - Drawing No 8993 06
Plan of paths
Tree Constraints Plan - Drawing No BJH 01/02
Tree Protection Plan - Drawing No BJH 03/04
Photographs of fence to the west

Documents

Applicant's Statement
Arboricultural Impact Assessment & Method Statement by Bernie Harverson,
dated April 2022
Bat report by The Ecology Co-op
Bat Emergence Survey Report, by The Ecology Co-op, dated 2 August 2022
Preliminary Ecological Appraisal by Ecosupport, dated 8 February 2022
Planning Statement
Design & Access Statement
Solent Nutrient Budget Calculator
Occupancy Calculator
European Site avoidance and Mitigation
Parking Survey Technical Note, by Bright Plan dated December 2022

Reason: - To ensure provision of a satisfactory development.

- 3 Occupation of the development hereby approved shall be restricted to:
- a. Persons over the age of 60, unless in the case of a couple where one person is over the age of 60, the second person shall not be under the age of 55; or
 - b. Persons with mobility issues such that they require use of a wheelchair; or
 - c. Persons living as part of a single household with persons with mobility issues as set out in b) above; or
 - d. Persons who are living in the approved development as part of a single household with such a person as defined in a) above who have either:
 1. Died while living in the approved development; or
 2. Moved to reside in an institutional care home.

Reason: To secure the development for retirement accommodation and for those with mobility issues, for which there is a recognised need within Havant Borough, having regard to Policies CS9 and DM7 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the building hereby permitted the windows in the 1st floor on the west and east elevations and the south/east and south/west corners servicing the en-suites shall be fitted with, to a height of no less than 1.7m above finished floor level, non-opening lights and textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) 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.

- 5 Development activities shall be in accordance with the ecological mitigation, compensation and enhancement measures detailed within the Potential Roost Feature (Tree Climbing) Inspection report (the Ecology Co-op, April 2022) and Bat Emergence Survey Report (The Ecology Co-op, August 2022)unless otherwise agreed in writing by the Local Planning Authority. All mitigation, compensation and enhancement measures shall be implemented as per ecologist's instructions.

Reason: To protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and with Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

- 6 No floodlighting or other form of external lighting scheme shall be installed unless it has first been approved in writing by the Local Planning Authority. Such details shall include, location, height, type and direction of light sources and intensity of illumination. Any lighting scheme agreed in writing by the Local Planning Authority shall not thereafter be altered without prior consent from the Local Planning Authority other than for routine maintenance, which does not change its details.

Reason: To protect the occupants of nearby residential properties, from light disturbance / nuisance, and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

7 **Pre-commencement conditions**

Prior to any demolition, construction or groundwork commencing on the site the approved tree protective measures, including fencing and ground protection as shown in the Tree Constraints Plan BJH 01/02 and the Tree Protection Plan BJH 03/04 and the approved Arboricultural Impact Assessment & Method Statement by Bernie Harverson dated April 2022 shall be fully implemented and within the fenced area(s), there shall be no excavations, storage of materials or machinery, parking of vehicles or fires. The development shall be carried out strictly in accordance with the submitted details.

Reason: To safeguard the continued health and presence of such existing vegetation and trees and to protect the amenities of the locality and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 8 Prior to commencement of demolition, groundworks and construction at this development site, an assessment of potential noise and vibration arising

during construction shall be prepared in accordance with BS 5528: Parts 1 and Part 2, 2009 and A1:2014 - Noise and Vibration Control on Construction and Open Sites. The assessment shall be submitted to and approved in writing by the Local Planning Authority, and all the above works carried out in accordance with the agreed recommendations.

Reason: To minimise disturbance to all nearby sensitive receptors, and to ensure the amenities of nearby residential properties are not impacted upon by any external noise levels and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

- 9 No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- a. Procedures for maintaining good public relations including complaint management, public consultation and liaison and site management contact details;
- b. Arrangements for liaison with the Council's Pollution Control Team;
- c. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays;
- d. Deliveries to and removal of materials, plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above;
- e. Mitigation measures as defined in BS 5528: Parts 1 and Part 2, 2009 and A1:2014 - Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from works on this site;
- f. Procedures for emergency deviation of the agreed working hours;
- g. Measures for controlling the use of site lighting during all phases, whether required for safe working or for security purposes, to ensure no impact on any nearby residential receptors;
- h. Control measures for dust and other air-borne pollutants; It should advise as to what measures are to be put in place for the control of any dust that might emanate from the development site. Furthermore the methods of dust control should be in accordance with the guidance as laid out in the BRE Report 456 - Control of Dust from Construction and Demolition activities, and also the IAQM Guidance on the assessment of dust from demolition and construction 2014. It should also be noted that during dry weather conditions, any areas where tracked excavators, dozers and the like are working, are to be kept damp at all times;
- i. No bonfires to take place on the site at any time; and
- j. A scheme for recycling/disposing of waste resulting from demolition and construction works is to be implemented

Reason: To minimise disturbance to all nearby sensitive receptors and to ensure the amenities of the surrounding occupiers are not unduly impacted upon, during all phases of the development, having regard to policies CS16

and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 10 No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:
- (a) A programme of and phasing of demolition (if any) and construction work;
 - (b) The provision of long term facilities for contractor parking;
 - (c) The arrangements for deliveries associated with all construction works;
 - (d) Methods and phasing of construction works;
 - (e) Access and egress for plant and machinery;
 - (f) Protection of pedestrian routes during construction;
 - (g) Location of temporary site buildings, compounds, construction material, and plant storage areas;
- Demolition and construction work shall only take place in accordance with the approved method statement.
- Reason:** In order that the Planning Authority can properly consider the effect of the works on the amenity of the locality having regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 11 No piling shall take place on the site unless and until full details have been submitted to and approved in writing by the Local Planning Authority. Such details shall demonstrate the least intrusive noise and vibration method of piling shall be employed, and shall be accompanied by a justification as to the reasons why a particular piling method has been chosen, and additionally the proposed mitigation methods to be employed, to ensure minimal impact on nearest residential receptors. The piling method shall be implemented as approved.
- Reason:** To ensure the amenities of nearby residential properties are not impacted upon by any external noise or vibration levels during any piling operations, and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 12 No development hereby permitted shall commence until a surface water drainage strategy, which shall incorporate SUDS provision for the site and its subsequent management and maintenance, have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority, with the SUDs managed and maintained thereafter as approved.
- Reason:** To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and thereafter maintained, having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

13 **Above ground conditions**

No external air moving plant or equipment, such as air conditioning units, air source heat pumps and the like shall be installed or mounted, as part of this development, unless and until a scheme for such provision has been submitted to and approved in writing by the Local Planning Authority, which specifies the provisions to be made for the control of noise and / or vibration that may emanate from such plant / equipment, prior to any development taking place. The approved scheme shall be fully implemented prior to occupation of the development and thereafter maintained and retained.

Reason: To protect the occupants of nearby residential properties from any noise and / or vibration nuisance having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 14 Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 15 No above ground construction works shall take place until details have been submitted to the Local Planning Authority, that confirm that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To protect the amenities of the future occupants of the proposed dwellings and to ensure the residential amenity of the properties is not impacted upon by any external noise levels, including road traffic noise having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

16 **Pre-occupancy Conditions**

The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose and shall remain at all times as unallocated parking spaces.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the

National Planning Policy Framework.

- 17 Prior to the occupation of the development full details of the Electrical Vehicle Charging points and future infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The Charging Points and future infrastructure shall be installed in accordance with the approved details prior to the occupation of the development and retained and maintained at all times thereafter.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

- 18 Prior to the occupation of the development hereby permitted a detailed soft landscaping scheme for all open parts of the site not proposed to be hardsurfaced, which shall include replacement trees to compensate for those removed by the development, shall be submitted to and approved in writing by the Local Planning Authority. Such scheme shall specify the proposed finished ground levels in relation to the existing levels, the distribution and species of ground cover to be planted, the positions, species and planting sizes of the trees and shrubs to be planted and/or retained, and timing provisions for completion of the implementation of all such landscaping works. The implementation of all such approved landscaping shall be completed in full accordance with such approved timing provisions. Any tree or shrub planted or retained as part of such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11.1, CS11.2, CS11.4, CS12, CS16, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 19 Prior to occupation of the development hereby permitted a specification of the materials to be used for the surfacing of all open parts of the site proposed to be hardsurfaced shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be brought into use until the implementation of all such hardsurfacing has been completed in full accordance with that specification.

Reason: In the interests of the amenities of the locality and having due regard to policies CS11.1, CS11.4, CS16, and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 20 No part of the development shall be first occupied until details of the type, siting, design and materials to be used in the construction of all means of enclosure including boundaries, screens or retaining walls, have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained and maintained.

Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy

Framework.

21

The development hereby permitted shall not be occupied until:

- (a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; and
- (b) All measures necessary to meet the approved water efficiency calculation have been installed.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, and Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

22

Post occupancy

At all times following occupation of the development hereby approved, all measures for water usage within the submitted nutrient budget shall be maintained in the development in perpetuity.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, and Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

