

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**Land between 26-32 Padnell Road, Cowplain,
Waterlooville, Hampshire, PO8 8DZ**

**Local Planning Authority Reference:-APP/21/01041
Planning Inspectorate Reference:-
APP/X1735/W/22/3305931**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY D & K Contracting Services Limited AGAINST REFUSAL of PLANNING PERMISSION for the following development:

Erection of 2No. 3bed and 2No. 2 bed dwellings, associated parking and bin/cycle storage

At: Land between 26-32 Padnell Road, Cowplain, Waterlooville, Hampshire, PO8 8DZ

Planning Inspectorate Reference: APP/X1735/W/22/3305931

LPA Ref: APP/21/01041

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The appeal site relates to an open parcel of land located on the south side of Padnell Road, opposite St Wilfred's church. It has been known locally as "Joeys Field" for many years. It comprises a gap in an otherwise continuously built-up frontage within the defined urban area, close to the Cowplain District Centre. The site area extends to some 0.107 ha. There have been no known permanent structures on the site since at least the 1950's and as such the site is not considered to comprise Previously Developed Land as defined by the NPPF.
- 1.2 The site is primarily open and grassed land with the recent addition of some builders' materials, rubble etc as a store. Formerly the site was wooded, but the trees were felled in Spring 2020. The site is currently secured to the Padnell Road frontage with high wooden boarding and gates; and the perimeter enclosed with 2m high close boarded fencing. In addition, across the centre of the site is a green railing fence. The site slopes down to the south with mature trees the subject of a Tree Protection Area Order on the land immediately to the south, beyond which are the Padnell infant and junior schools.
- 1.3 Either side are residential dwellings – to the east, number 32 is a detached chalet style bungalow sited close to the shared boundary. This has a ground floor window and first floor dormer window facing directly into the site. To the west, number 26 is a semi-detached two storey dwelling having a single storey side garage built right up to the shared boundary.
- 1.4 This southern side of Padnell Road is characterised by predominantly detached dwellings of a mix of architectural design and age, but all set in a linear fashion with fairly consistent 'building line' and long rear gardens. The northern side of the road includes two larger developments – the church and Nightingale Lodge, which comprises retirement apartments. These developments are of a similar two storey height and scale but much deeper than surrounding residential properties; their handed layout is such that they do not unduly impact adjacent standard residential properties.
- 1.5 There are no parking restrictions directly outside the application site, although there is a stretch of double yellow lines outside the church. Padnell Road is unclassified. A Southern Water surface water drain runs close to the eastern boundary of the site.
- 1.6 The Borough Map and 1:1250 Location Plan are provided at **Appendix A**.

2.0 PLANNING HISTORY

- 2.1 There has been a previous application for 6 flats on the site, which is subject to another current appeal:

APP/21/00024 - Erection of block of 6 flats with associated parking and bin/cycle storage.

Refused on 12 May 2021

Appeal Lodged – APP/X1735/W/21/3279615

Confirmed Valid on 13/08/21; Start date of 15/12/21 – but not yet determined

- 2.2 Should the Inspector wish to see the plans or documents associated with the appeal for 6 flats, then they can be found using the following link:

https://planningpublicaccess.havant.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_249845

- 2.3 Also of relevance is a nearby recent appeal for a backland bungalow at 23 Padnell Road, which was dismissed by the Inspectorate on 14th January 2022 - see Planning Inspectorate Reference: APP/X1735/W/21/3271208; LPA reference APP/20/01026, relevant documents can be viewed on the following link:

https://planningpublicaccess.havant.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_249396

- 2.4 Reference has also been made in both the LPA's delegated report and the Appellant's statement of case, to a previous backland development proposal at 34-36 Padnell Road, very close to the current appeal site, which was dismissed by the Inspectorate on 22nd January 2008. See Planning Inspectorate Reference: APP/X1735/A/07/2055809; LPA Reference 06/71368/001, key documents can be viewed on the following link:

https://planningpublicaccess.havant.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_49928

- 2.5 This appeal proposed the replacement of number 36 with a pair of two-storey semi-detached houses with an access drive to a rear garage block and 3 detached chalet style dwellings. The Inspector had regard to PPS3 Housing, which at the time, advised that the density of existing development should not dictate that of new housing by stifling change. As such he did not dismiss on the basis of the principle of backland development but found harm from other detailed matters relating to design of frontage dwellings, pressure on protected trees, and noise and disturbance arising from parking and manoeuvring adjacent quiet areas to the rear of neighbouring dwellings. These detailed issues are considered to remain pertinent to the current appeal, which under current National and Local Policy should now be sympathetic to local character, having regard to local context.

3.0 **THE APPLICATION**

- 3.1 The application for the "*Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage*" was validated by the Local Planning Authority on the 10th September 2021 and subsequently refused for the following reasons on the 28th February 2022:

First Reason:

The proposed development would result in an undesirable form of backland development out of keeping with the pattern and layout of the area, which is characterised by linear frontage development having open aspect spacious gardens. The introduction of two rear dwellings with associated access, parking and turning, would give rise to a scale and mass of development out of keeping with the of the area and visually harmful to neighbouring residents and the street scene. The proposal is considered to be at variance with local context and therefore contrary to Havant Borough Council Design Guide SPD 2011, policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Second Reason:

The siting and layout of the proposed backland development, with access drive, parking and turning areas close to shared boundaries, would give rise to additional comings and goings, with associated noise and disturbance, and light pollution, harmful to the quiet amenity of adjacent occupiers at 26 and 32 Padnell Road. In addition the siting, bulk and mass of the rear plots would result in an overbearing dominant effect with loss of outlook and privacy, and some associated overshadowing, to the occupiers of the adjacent dwellings, harmful to their amenity. The proposal is therefore considered harmful to residential amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

Third Reason:

Given the small size of the garden of plot 1 and its siting adjacent vehicle movement areas, it would not provide future occupiers with a satisfactory standard of quiet usable amenity space. In addition the gardens of plots 3 & 4 would be largely overshadowed by protected trees giving rise to dark and unsatisfactory gardens for these plots. Overall the standard of living for future occupiers of plots 1, 3 & 4, would be compromised and unsatisfactory, harmful to their amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

Fourth Reason:

It has not been adequately demonstrated that the site has appropriate visibility or sufficient internal carriage way width for 2 vehicles entering/exiting the site. The on site parking is an over provision resulting in an excessive frontage hard surfaced area dominating the appearance of the site; and no secure cycle storage is provided for plots 3 & 4. The on site refuse storage and collection points do not meet standards and would not function appropriately. Overall the on site parking, cycle storage and refuse collection arrangements would not provide an adequate standard of accommodation for future residents, and the proposal is contrary to policies DM13 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Parking SPD 2016 and the National Planning Policy Framework.

Fifth Reason:

In the absence of a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policy E16 and EX1 of the Submission Havant Borough Local Plan, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

4.0 PLANNING POLICY UPDATE

- 4.1 Since the determination of the application in February 2022 and the information contained within the delegated report, there has been a change in the emerging Local Plan policy status:

The Havant Borough Local Plan (emerging Plan)

- 4.2 The Inspector is respectfully advised that The Havant Borough Local Plan was withdrawn from examination on 16 March 2022 (please see Regulation 27 Statement of Fact Document contained in **Appendix B**) and work has started on a new Local Plan for Havant Borough. Therefore, the policies referred to within the officer's report and decision notice as "emerging" are now withdrawn and no longer relevant.
- 4.3 It is considered that the key adopted policies relevant to this appeal, namely CS16, CS11, CS21 and DM24, contained in the Havant Borough Local Plan (Core Strategy) 2011, and Havant Borough Local Plan (Allocations) 2014, are broadly consistent with the NPPF's approach to character and design, contributions, and the natural environment, and as such should still be afforded great weight in accordance with paragraph 219 of the NPPF.

Housing Five Year Supply Update

- 4.4 The delegated report refers to the Council's Five-Year Housing Land Supply Update at November 2021 which indicates the Borough's housing land supply position is 3.9 years housing supply with 20% buffer applied. This has since been updated and at March 2023 this has now fallen further to 1.81 years with 20% buffer applied.
- 4.5 It is acknowledged that this shortfall engages Paragraph 11d) of the NPPF and its presumption in

favour of development in principle. It is accepted that the proposal, within the main urban area of Waterlooville, would make a modest contribution to housing supply and this benefit of the appeal proposal must be afforded weight in the overall planning balance. However, it is contended that the adverse impacts of the development on local character, neighbouring amenity, quality of living, site parking and refuse arrangements, and likely significant effect on Solent European Sites, as per the decision notice, would significantly and demonstrably outweigh the modest housing supply benefit when assessed against the policies of the NPPF as a whole.

5.0 PLANNING CONSIDERATIONS

- 5.1 The attached officers report (**Appendix C**) sets out the position of the Local Planning Authority and is considered sufficiently detailed to form the basis of the LPA's Statement of Case. This appeal statement will not duplicate but will simply provide a response to the Appellants Statement of Case under the 5 reasons for refusal. It will also provide an update with regard to the Habitats Regulations at reason 5.

Comments on First Reason for Refusal – Principle of Backland Development

- 5.2 Havant Borough Council are not averse to the principle of backland developments per se but acknowledge that backland layouts come with difficulties as detailed in the Borough Design Guide SPD paragraphs 5.25 to 5.32. Within Havant Borough Council there are many examples of backland or tandem development that have been found to have no adverse impacts and have been permitted on their merits.
- 5.3 The Appellant argues that this site is different just because there are currently no frontage dwellings, and the site is a gap site. Whilst this is acknowledged, the resultant development includes a pair of semi-detached two storey dwellings at the site frontage, creating a typical backland layout. As such it is appropriate to consider the impacts of this backland layout on the character of the area, as well as on both existing neighbours and future occupiers.
- 5.4 As noted in the delegated report at paragraphs 7.6 and 7.7, the LPA essentially has no objection to the height, siting and design of the proposed front 2 plots, which would represent a logical infill of linear development in street scene terms. It is the fact that this southern side of Padnell Road is so strongly characterised by linear development, with each property benefitting from long and open aspect gardens, with ancillary outbuildings only, that provides the local pattern of development and context against which this appeal proposal must be assessed.
- 5.5 The NPPF at paragraph 124 indicates that development should make efficient use of land, taking into account "*d) the desirability of maintaining an area's prevailing character and setting (including residential gardens)...*". Furthermore paragraphs 126 to 136 of the NPPF promote the creation of high-quality, well-designed places, with good design being key to sustainable development. Paragraph 130 also endorses that development should be sympathetic to local character.
- 5.6 This is endorsed by adopted policy CS16 which seeks high quality design that "*responds to, draws inspiration from and respects local context....and c) uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing building lines, plot widths and depths, materials and proportions of windows and doors;*". It is the opinion of the LPA that the introduction of backland development in the manner proposed, would be contrary to the linear and frontage pattern and character of development that prevails in the immediate area. The two storey rear properties proposed are not insignificant in height and mass, having a height of 6.3m they would be similar in scale to number 32 at the frontage. As such they are not considered to be subservient or subordinate structures and would be readily visible along the drive adjacent number 32.
- 5.7 In addition, the proposal results in large areas of hard surfacing, including the extensive marked out parking spaces at the front, the side drive, and rear parking spaces, which cumulatively would introduce an overly urban and formal 'car park' arrangement, at odds with the softer, more informal parking of adjacent private dwellinghouses.
- 5.8 It is considered that the visual intrusion of the appeal proposal from both the views of the substantial rear dwellings and the parking layout, from the public domain as well as private outlooks, would fundamentally alter the spatial characteristics and setting of the area, contrary to paragraphs 124 and 130 of the NPPF and adopted policy CS16.

- 5.9 Whilst the Appellant argues that the proposed layout makes efficient use of the site by developing the rear section of the site, the LPA is of the opinion that this at the expense of the character of the area. It is the opinion of the LPA that the harm to the character of the area from the introduction of backland development, would in this instance, be so significant as to outweigh any tilted balance in favour of the development.

Comments on Second Reason for Refusal – Impacts on Neighbouring Amenity

- 5.10 As found by the appeal Inspector in 2008 considering the backland proposal 3 dwellings at the rear of 34 – 36 Padnell Road, the access drive and rear parking and turning area proposed, would result in the introduction of significant activity, both day and night, in an area that is currently adjacent the quiet amenity areas of both 32 and 26. This was also an issue found to be harmful in the more recent appeal decision at number 23 Padnell Road for just 1 backland dwelling, where the Inspector noted *“notwithstanding the increased use of electric vehicles over time...there would be additional noise and disturbance as a result of vehicles associated with the new dwelling accessing areas they currently do not. For example, but not limited to, the starting and revving of engines, use of headlights at night or on darker days of the year, as well as opening and shutting of doors and the turning and parking of vehicles. As a result the quiet tranquillity of the neighbouring garden spaces would be eroded by the close proximity of the proposed dwelling and its parking spaces and turning area and harm the living conditions of the neighbouring occupiers”*.
- 5.11 It is noteworthy that both Inspectors of nearby appeals have found this issue of the introduction of pedestrian and vehicular noise and disturbance deep into the sites, adjacent quiet sitting out areas, to be harmful. The current layout serving two rear dwellings would also introduce vehicular and pedestrian movement, with associated noise and disturbance, including from headlights and security lighting, beyond the rear of numbers 26 and 32, and adjacent their private and quiet rear gardens. It is considered that the Appellants statement of case considers the activity and comings and goings very generally, without noting that it is the siting of these new movements beyond the rear facades of the adjacent dwellings and adjacent what is currently quiet, private, rear gardens, that would be so intrusive and have the greatest impact on neighbouring amenity.
- 5.12 It is also noted that no landscape buffer is offered or shown along the eastern boundary with number 32 which might have helped mitigate some of the amenity issues. But is also noted that Southern Water have planting restrictions within the sewer easement which would prevent effective landscaping mitigation from being provided along this boundary. Hence, for the length of the eastern boundary all vehicular movements and headlights etc would only be screened by limited fencing and would be likely to have considerable impact on the amenity of the occupiers of number 32.
- 5.13 In terms of dominance it is noted that the neighbour's gardens also follow natural ground levels and have the same slope and change in levels as the application site. As such the 6.3m high gable end of plot 4 would rise 6.3m high immediately adjacent the garden level of number 26. This cannot fail but to have an overbearing impact on anyone using the adjacent garden. Just because plot 4 would be set slightly lower than the frontage houses, due to the natural ground levels, does not mitigate its dominant massing effect on the adjacent natural ground level or outlook from the frontage houses.
- 5.14 Paragraph 126 of the NPPF requires development to create better places in which to live and work; and paragraph 130 encourages the creation of places with a high standard of amenity for existing (& future) users. Adopted policy CS16 clause e) also requires development to not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking. It is the opinion of the LPA that the mass and bulk of the proposed development of two 6.3m high dwellings, with associated overshadowing impact and effect on privacy and outlook, would not create a better place for the occupiers of the adjacent dwellings to live and work, and that their existing level of amenity would be compromised. It is considered that this adverse impact on neighbouring amenity would be so significant as to outweigh any tilted balance in favour of the development.

Comments on Third Reason for Refusal – Living Conditions for Future Occupiers

- 5.15 The Appellant acknowledges that the garden area serving plot 1 does not meet the adopted Design Guide SPD but considers it favourable to many residential areas in urban areas. Whilst the

Borough does have some high-density urban areas where amenity spaces are more compact, nevertheless the context of this appeal site is adjacent low-density development where the prevailing character includes long rear gardens offering substantial amenity areas for family housing. Plot 1 would be completely contrary to this character and offer substandard amenity space for its intended future occupiers.

- 5.16 Furthermore, there are mature, protected trees, lying within 8 to 9m of the south elevation of plots 3 and 4 which contain the main living room windows and outlook. In the similar scenario in the 2008 appeal to the rear of number 34 - 36, the Inspector concluded that the trees would have some effect on the available light to the dwelling and could result in long term pressure to cut back the tree. It is certainly considered that the overshadowing from such high and mature trees would cast the gardens of plots 3 and 4 into considerable shade and potentially also effect the light available inside the dwellings.
- 5.17 It is considered that overall, the amenity space available to plots 1, 3 and 4, would be compromised and not create a high standard of amenity as required by paragraph 130 of the NPPF or policy CS16.

Comments on Fourth Reason for Refusal – Highways and Parking Layout

- 5.18 The Inspectors attention is drawn to paragraph 7.23 of the delegated report, which makes it clear that the LPA consider there are technical solutions to the highway and parking matters which were discussed with the architect at application stage, and the LPA were expecting amended plans to overcome the various points – however these were not forthcoming at that stage.
- 5.19 The Appellants statement of case includes the submission at appeal stage of an amended plan at Appendix 3, presumably to address the outstanding issues. However, this amended plan, Drawing Number 2021/04 Rev A, simply annotates a second car at the entrance/stop line and does not provide the other matters required by Hampshire County Council in their consultee response dated 7/10/21, or parking, cycle storage and refuse collection points raised by the LPA.
- 5.20 Therefore, it is not considered that the detailed matters relating to highways, parking, cycle storage and refuse collection have been adequately resolved and remain outstanding. As such the LPA continue to consider that the fourth reason for refusal is valid, as set out in the delegated report, paragraphs 7.23 to 7.28. Alternatively, it may be that some of these issues could be covered by appropriate conditions if the Inspector found all other matters acceptable and is minded to grant permission.

Comments on Fifth Reason for Refusal – Habitats Regulations Assessment

- 5.21 No Habitats Regulations screening or Assessment was undertaken at planning application stage, hence the fifth reason citing a lack of mitigation. The Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations, and the proposal requires a Habitats Regulations Assessment, taking into account the impacts of development on the internationally designated sites and the likelihood of significant effects.
- 5.22 However the Appellant has approached the LPA at appeal stage to undertake the necessary Habitats Regulations Assessment, and the appropriate occupancy calculator and nitrogen budget have now been submitted to enable this technical matter to be progressed.
- 5.23 For the Inspectors information, the likely significant effects on internationally designated sites fall into two key areas, see below.

Solent Recreation Mitigation Strategy

- 5.24 The application site falls within the 5.6km zone of Chichester and Langstone Harbours SPA which are large estuarine basins that contain extensive intertidal mudflats and sandflats that support internationally and nationally important numbers of overwintering and breeding bird species. Please find additional information about the characteristics of the area, the reasons for its designation, interest features and conservation objectives on the link to Natural England's website below:

<https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK901101>

- 5.25 The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within **Appendix D**. The evidence base to support the mitigation strategy can be found on the link below:
<http://www.birdaware.org/research>
- 5.26 Natural England's advice in regard to all new housing development within the 5.6km zone is that it is likely to have a significant effect on the SPA. Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 covers this issue and allows for a financial contribution to be made towards mitigation measures. Additional information in relation to the Bird Aware Solent Strategy can be viewed via the following web address:
<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>
- 5.27 On 1st April 2018, the Solent Recreation Mitigation Strategy came into force and applies to new residential development (this was as approved by Havant Borough Councils Cabinet on the 7th February 2018.) The Strategy uses a sliding scale to calculate the SRMS contribution for new residential development built within 5.6km of the coastline. As such, the contribution is calculated based on the number of bedrooms per individual dwelling. In this case, a development of 2 x 3 bed dwellings and 2 x 2 bed dwellings would require a total contribution of £1,566.50.
- 5.28 At the time of writing (17/03/2023 am) the LPA can confirm receipt of the appropriate contribution of £1,566.50 but not yet receipt of the signed and dated Unilateral Undertaking. It is understood this is to follow and will be forwarded to the Inspectorate before 31 March 2023.
- 5.29 On the basis that the Unilateral Undertaking is forthcoming, and signed and dated correctly, then the mitigation package would be considered sufficient to overcome the likely significant effect to the Chichester & Langstone Harbours SPA due to increased recreational pressures arising from the development. As such the proposal would be considered to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), Solent Recreation Mitigation Strategy, Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, and the National Planning Policy Framework.

Water Quality

- 5.30 The second likely significant effect on the Solent European Sites arises from a decrease in water quality from the proposed development. The European Court of Justice determined a case related to considering water quality in Appropriate Assessments. This is generally referred to as The Dutch Case (Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at:
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>
The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture.
- 5.31 Natural England began to issue revised advice regarding planning applications to Local Planning Authorities on 1 April 2019 as a result of the Dutch Case. Considering this advice and the implications of the case law, it can only be concluded that some forms of new development, including the proposed residential development could increase nitrogen and phosphate deposition into the protected harbours above consented levels. This results in increased nutrients in the harbour which cause a dense growth in certain plants. This in turn leads to harm to the species which use them – a likely significant effect. The only way that a new scheme could prevent this likely significant effect is for there to be no increase in nutrients into the harbour, i.e. for it to be 'nutrient neutral'.
- 5.32 Natural England have subsequently issued updated methodology guidance on dealing with this issue, which is reflected in Havant Borough Council's updated Position Statement and Mitigation Plan for Nutrient Neutral Development, November 2022 (**Appendix E**).
- 5.33 The Position Statement and Mitigation Plan includes the Council's strategic mitigation scheme at Warblington Farm which can be used by developers for applications of 15 dwellings or less, where nutrient neutrality cannot be achieved on site. The scale of financial contribution towards the Council's mitigation scheme is proportionate to the nitrogen load of the development, which is

calculated using an occupancy calculator and nutrient budget. As part of the nutrient budget, development is expected to achieve a maximum water use standard of 110 litres per person per day (l/p/p/d) which is secured via two conditions. The wording of these conditions is outlined on pages 6 -7 of the Position Statement.

- 5.34 Since the Council has a strategic mitigation solution in place, then it is possible for the appeal development of 4 dwellings to address the significant effect on water quality which would otherwise be likely to result. At appeal stage the relevant Occupancy Calculator and Nitrogen Budget documents have been submitted (see copies in **Appendix F**) which demonstrate the proposed development would have a nitrogen load of 4.82 Kg/N. The appropriate mitigation for such a nitrogen budget amounts to £14,483.00.
- 5.35 At the time of writing (17/03/2023 am) the LPA can confirm receipt of the appropriate contribution of £14,483.00 but not yet receipt of the signed and dated Unilateral Undertaking. It is understood this is to follow and will be forwarded to the Inspectorate before 31 March 2023.
- 5.36 On the basis that the Unilateral Undertaking is forthcoming, and signed and dated correctly, then the mitigation package secured at appeal stage is considered sufficient to overcome the likely significant effect to the Chichester & Langstone Harbours SPA due to impacts on water quality arising from the development.
- 5.37 Natural England have been consulted on the Habitats Regulations Assessment undertaken at appeal stage, and the HRA AA and their consultee response dated 28 February 2023 are included **at Appendix G** for the Inspectors information. It is noted that Natural England raise no objection, subject to securing the appropriate mitigation. At the time of writing (17/03/23 am) the appropriate mitigation cannot be confirmed as being received as both the monies and correctly signed and dated Unilateral Undertaken have not been received, but it is clear the intention of the Appellant is to make the appropriate mitigation as the monies have been paid.
- 5.38 Whilst the Inspectorate are now the competent authority on this matter, nevertheless the LPA are of the opinion that the mitigation package being secured at appeal stage would be considered sufficient to overcome the likely significant effect to the Chichester & Langstone Harbours SPA due to both recreational impacts and impacts on water quality arising from the development.
- 5.39 As such, once the signed and dated Unilateral Undertakings have been received, then the appeal proposal would meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), with the mitigation packages sufficient to remove the likely significant effect on the European Sites, which has been agreed by Natural England. The final Habitats Regulations Assessment, Screening and Appropriate Assessment cannot however be completed until receipt of the signed and dated Unilateral Undertakings, and the LPA will complete it and forward to the Inspectorate in due course.
- 5.40 On the assumption that the correctly signed and dated Unilateral Undertaking is received shortly, then the appeal proposal would be considered compliant with the Solent Recreation Mitigation Strategy, Havant Borough Council's Position Statement and Mitigation Plan for Nutrient Neutral Development Nov 2022, and Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, and the National Planning Policy Framework. **Therefore, upon receipt of the Unilateral Undertaking, the LPA would be of the view that reason for refusal number 5 would be complied with and could be withdrawn as a reason for refusal.**

8.0 CONCLUSIONS

- 8.1 Whilst the Borough's current five-year housing supply engages paragraph 11d) of the NPPF, it is strongly contended that the adverse impacts of the proposal are so significant as to demonstrably outweigh the benefit of the four additional dwellings proposed when assessed against the policies of the NPPF taken as a whole. Since the most relevant adopted policies of the Havant Borough Core Strategy, 2011, namely CS16 and DM13, as well as the relevant Supplementary Planning Documents, the Borough Design Guide SPD 2011 and the Parking SPD 2016, are all broadly consistent with the NPPF's approach to character and design, and minimum parking provision, then these policies should still be afforded great weight, in accordance with paragraph 219 of the NPPF.

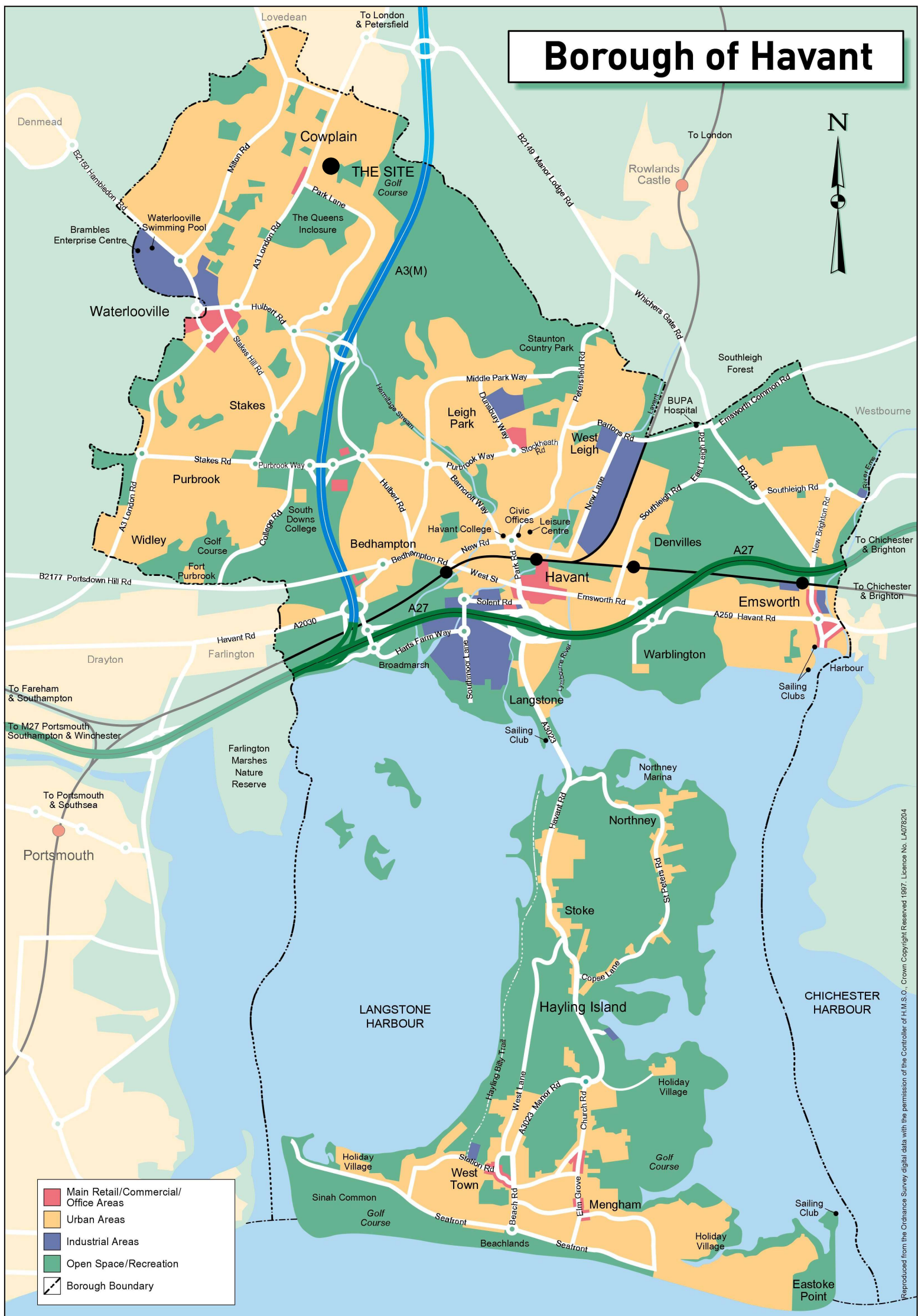
- 8.2 Overall, the appeal proposal would result in the provision of four additional residential units within the built-up area, at an appropriate density, making efficient use of the site. Whilst this modest benefit is acknowledged, it must be balanced against the identified significant harm arising from the development, namely the backland layout at variance with local character, harm to neighbouring amenity, poor living conditions in terms of amenity space for some future occupiers, and unresolved parking, cycle and refuse storage issues. The NPPF requires development to be of a high quality that is sympathetic to local character. The scale of the development proposed, in particular the height and siting of the rear two properties, and associated noise and disturbance from accessing them, would result in a dominant and overbearing development that would be out of keeping with the pattern of linear development in the area, and harmful to neighbouring amenity, contrary to paragraphs 126 and 130 of the NPPF, adopted policy CS16 and the Borough Design Guide SPD.
- 8.3 Collectively it is considered the multiple harmful aspects of the development would result in significant harm and should be attributed significant weight accordingly. It is the opinion of the LPA that the significant harm outweighs the modest benefit when assessed against the relevant policies as a whole.
- 8.4 The Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations. The development would be likely to have a significant effect on the Solent European Sites, but adequate mitigation in relation to the development's impact upon the Solent SPA sites in relation to recreation and water quality is being secured at appeal stage to overcome the 5th reason for refusal. The appropriate financial contributions have been received, and once the correctly signed and dated Unilateral Undertaking has been received, then the mitigation packages would overcome the likely significant effect to the Chichester & Langstone Harbours SPA and meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), Solent Recreation Mitigation Strategy, Havant Borough Council's Position Statement and Mitigation Plan for Nutrient Neutral Development Nov 2022, and Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, and the National Planning Policy Framework.
- 8.5 In conclusion it is considered that there would be significant adverse impacts of granting permission that would outweigh the modest contribution to the Borough's housing needs, and as such the Inspector is respectfully requested to dismiss the appeal in accordance with paragraph 11 d) ii) of the NPPF.
- 8.6 Should the Inspector be minded to allow the appeal, recommended conditions have been forwarded separately.

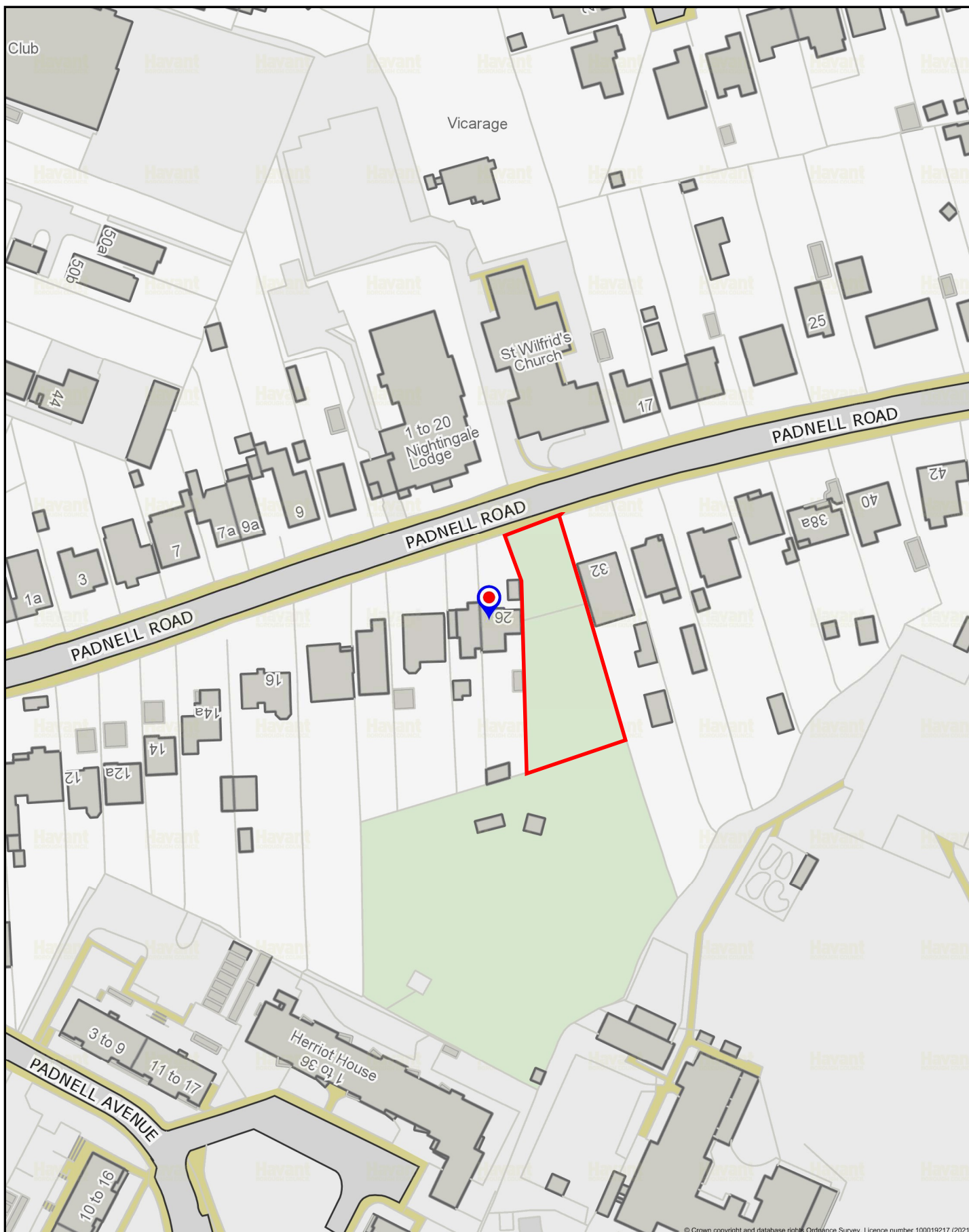
APPENDICES

- (A) Borough Map and 1:1250 Location Plan
- (B) Regulation 27 Statement of Fact Document
- (C) Officers delegated report for appeal scheme - APP/21/01041
- (D) Potential effects on SPA of residential development
- (E) Havant Borough Council's Position Statement and Mitigation Plan for Nutrient Neutral Development, dated November 2022
- (F) Copy of Occupancy Calculator and Nitrogen Budget submitted at Appeal Stage
- (G) Copy of Draft Habitats Regulations Assessment, Screening and Appropriate Assessment dated 08/02/2023; and Natural England's consultee response, dated 28/02/2023

APPENDIX A

Borough of Havant





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Land between, 26-32 Padnell Road, Waterloo, Havant

Havant
BOROUGH COUNCIL



N Scale: 1:1250

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APPENDIX B

Withdrawal of the Havant Borough Local Plan Statement of Fact

Regulation 27 of the Town and Country Planning (Local Planning) (England)
Regulations 2012 (as amended)

This Statement of Fact gives notice that Havant Borough Council has withdrawn the Havant Borough Local Plan, which had been submitted to the Secretary of State for Examination on 12 February 2021.

The withdrawal of the Havant Borough Local Plan was authorised at Full Council on 16 March 2022, and was formally withdrawn on the same date. The decision was made under the provisions of [Section 22 of the Planning and Compulsory Purchase Act 2004](#), which provides for a local planning authority to withdraw local development document at any time up to its adoption.

If you have any queries regarding the withdrawal of the Havant Borough Local Plan, please email us at policy.design@havant.gov.uk or call us on 023 9244 6539.

APPENDIX C

Site Address:	Land between, 26-32 Padnell Road, Waterloooville		
Proposal:	Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage.		
Application No:	APP/21/01041	Expiry Date:	05/11/2021
Applicant:	D & K Contracting Services Limited DeSuoza		
Agent:	Mr Chahal	Case Officer:	Tina Pickup
	ACA Design Limited		
Ward:	Cowplain		

Recommendation: **REFUSE PERMISSION**

1 Site Description

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

- 1.6 The site is currently subject of an ongoing appeal - against the decision to refuse APP/21/00024 for the erection of 6 flats.

2 Planning History

- 2.1 APP/21/00024 - Erection of block of 6 flats with associated parking and bin/cycle storage - Refused 15/05/2021 for 3 reasons:
1. Out of keeping with pattern and character
 2. Overbearing and dominant, harmful to neighbouring amenity
 3. Under provision of parking leading to adverse impacts on highway amenity

This scheme is currently subject of an appeal.

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

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

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

3 Proposal

Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage.

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)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

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

Submission Version Havant Local Plan

E22	(Amenity and pollution)
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E1*	(High quality design)
H1*	(High quality new homes)
H3*	(Housing density)
E12	(Low carbon design)
E16	(Solent Special Protection Areas)
E14	(The Local Ecological Network)
IN3	(Transport and parking in new development)
E18	(Trees, hedgerows and woodland)
EX1	(EX1 Water Quality impact on the Solent European Sites)

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

No objection providing the work is carried out in strict accordance with the arboricultural method statement and tree protection plan supplied.

Building Control

None received

Community Infrastructure

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

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

(I) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the additional dwelling and its respective number of bedrooms. See <http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>.

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

County Ecologist

The application is accompanied by an Ecological Assessment (4 Woods, July 2021). The site is essentially of minimal ecological value, comprising a cleared plot with an area of species-poor grassland. There are no trees or shrubs on the site, these having previously been removed.

In essence, there is no requirement for further ecological surveys and therefore the developed site should include ecological enhancement measures. The ecology report contains some general ecological mitigation and enhancement measures which are all acceptable.

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

Development shall proceed in strict accordance with the ecological mitigation measures detailed within the Ecological Assessment (4 Woods, July 2021) unless otherwise agreed in writing by the Local Planning Authority. Reason: to protect and enhance biodiversity in accordance with the Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy

March 2011

Crime Prevention

None received

Southern Water

The submitted site plan indicates 3 metres easement to public surface water sewer. We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication "A Guide to Tree Planting near water Mains and Sewers"

(southernwater.co.uk/media/3027/ds-tree-planting-guide.pdf) and the Sewerage Sector Guidance (water.org.uk/sewerage-sector-guidance-approved-documents/) with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers, rising mains and water mains.

No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of public or adoptable gravity sewers, rising mains or water mains.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service:

developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

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

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

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

Hampshire Highways

The applicant is proposing the construction of 4 properties (2 x 2 bed and 2 x 3 bed) with associated parking and bin/cycle storage. The properties seem to be in keeping with those in the local area.

Site Access

The applicant is proposing a new vehicular access. The Highway Authority will require a diagram showing the length of the proposed new drop kerb along with visibility splays for this new access. For further information on visibility splays please see the Hampshire County Council Technical Guidance TG3 using the following link: [Microsoft Word - TG3 Technical Guidance Note - Stopping Sight Distances and Visibility Splays \(A1001001A17F05B10508J50123\)1.docx \(hants.gov.uk\)](#)

Additionally, it is recommended to the applicant that they should be made aware that subject to any planning permission being granted by the Local Planning Authority, a subsequent agreement will need to be granted by HCC as Highway Authority to undertake the drop kerb works on the Highway. Details of this procedure can be found

via the following link: [Apply for a vehicular access | Hampshire County Council \(hants.gov.uk\)](https://hants.gov.uk). It is important to note that if there are any minor utility diversions that are required to facilitate the dropped kerb then additional costs may arise in addition to the initial application fee. The applicant should also be aware that if an existing access is to be closed, a full height kerb should be reinstalled.

Swept Path Analysis:

The Highway Authority require the width of the carriageway and swept path analysis for the following scenarios:

- ☐ 2 cars passing each other along the carriageway
- ☐ 2 cars entering/exiting the proposed development (n.b. the car exiting the development is at the stop line)

Parking Provision

The applicant is proposing 10 vehicle parking spaces and 4 cycle spaces, in accordance with Havant Borough Council's parking standards as set out in their Parking Supplementary Planning Document (SPD) dated July 2016. A parking survey has also been completed by the applicant. The survey confirms that on-street parking spaces are available; however, on-street parking should be discouraged wherever possible with parking retained within the site boundary. Whilst the Highway Authority are satisfied that the level of car and cycle parking is adequate, the applicant should be made aware that ultimately the final decision regarding parking is with Havant Borough Council as the Parking Authority. Thus, the applicant should secure confirmation with HBC about whether the proposed parking provision will be accepted or not.

Refuse Collection

The Highway Authority require drawing 2021/04 to be updated with the distance residents are required to wheel their bins to the refuse collection point at the site access. This should be in accordance with Manual for Streets Chapter 6.8.9 which states that "*residents should not be required to carry waste more than 30m to the storage point*".

Trip Generation

The Highway Authority have undertaken their own TRICS assessment and can confirm that the proposed new dwellings will not have a detrimental impact on the wider highway network.

Having regard to the above the Highway Authority require the following information before a formal recommendation can be given:

- ☐ Visibility splays for the proposed new access in compliance with the guidelines set out in Hampshire County Council's Technical Guidance TG3;
- ☐ Width of the internal carriageway;
- ☐ Swept path analysis showing 2 vehicles passing each other along the carriageway and 2 vehicles entering/exiting the site with 1 of these vehicles at the stop line; and
- ☐ Distance required for residents having to wheel their bins to the refuse collection point in accordance with Manual for Streets Chapter 6.8.9

Natural England Government Team - Summary:

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have a likely significant effect on:

- Solent Maritime Special Area of Conservation (SAC)
- Solent and Southampton Water Special Protection Area (SPA) and Ramsar site
- Portsmouth Harbour SPA and Ramsar site
- Chichester and Langstone Harbours SPA and Ramsar site

- • Solent and Dorset Coast SPA
- • Solent and Isle of Wight Lagoon SAC

Your Authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects cannot be ruled out. The following information is required to inform a HRA:

- Consideration of this project's effects on total nitrogen and/or total phosphorus nutrient loading within the Solent catchment, including a nutrient budget calculation.
- • Details of proposed mitigation measures to address any nutrient impacts, including appropriately funded management and monitoring, and details of how the measures will be secured for the lifetime of the development.
- • Any other likely significant effects that could arise from the development should also be assessed.

Portsmouth Water Company

We have no adverse comments on this application from a groundwater quality protection perspective as the development is small in nature and there is no deep excavations works or infiltration drainage proposed.

Waste Services Manager

None received

6 Community Involvement

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

Number of neighbour notification letters sent: 90

Number of site notices: 2 - posted by applicant/agent

Statutory advertisement: Not applicable.

Number of representations received: 16

The third party representations all object to the proposal, raising the following issues:

Highway safety & traffic

several letters include photos of area in vicinity of site parked up

Padnell Road a busy thoroughfare and more development at its busiest point is foolhardy; installation of traffic lights at junction on London Road & Padnell Road as part of the A3 bus priority scheme is already causing long queues and will be exacerbated by the proposed 82 dwellings at Padnell Grange; busy thoroughfare for children to 2 schools, a nursery, health care centre & residential home, accident waiting to happen; driveways often blocked by parked vehicles; visitors likely to park in already busy & hazardous road; bus stops affect traffic flow; revised plans show a decrease in amount of properties but amount of vehicles probably more as they are family homes and could have 3 or 4 vehicles; Padnell Road a busy rat-run; been previous accidents with children knocked over or knocked off bikes near site; parking shocking and would create even bigger problem for emergency vehicles and buses to

get past parked cars/vans; driveway to rear properties does not look wide enough for emergency vehicle access?; question whether enough parking; building of Nightingale Lodge, Davis cottages and new health centre has significantly increased traffic and staff park on road from early morning till early evening; double yellow lines up to number 18 & 13 means from 20 a pinch point as this is closest place to park; ambulances regularly called to Nightingale Lodge and additional street parking could hinder ingress and egress of ambulances; parking at school drop off and collection times especially busy; when combined with events at St Wilfred's church traffic situation becomes unacceptable causing delays & queues making it difficult to access private drives; access drive to rear will not accommodate heavy fire engines/ambulances/delivery vans that are heavy and would damage grasscrete blocks; entrance to church directly opposite; delivery vehicles to rear plots will need larger turning area or will end up reversing out onto busy road which is unsafe; note Highways consultee response requiring swept path analysis for 2 cars to pass - access does not appear sufficient for passing; although 5 parking spaces at front and 4 to rear, typically houses have more than 2 cars which would lead to parking spaces required on road that is already strain;

Quality of life

will be detrimental to quality of life of residents living in area; each plot has very small garden for future occupier; building of rear plots will have negative effect on enjoyment of existing gardens and open space negatively impacting our emotional wellbeing;

Siting/Layout

out of character with linear siting of dwellings in Padnell Road; development extends past the rear of existing properties; de-sectioning of the plot contrasts with character of road and rear plots will impact Padnell Road from street scene; no other rear dwellings towards rear of plots; all other plots contain only one habitable dwelling towards front with large rear gardens; plots 3&4 completely go against this trend; previous application building line extended approx 15m beyond established building line - this proposal starts approx 16m beyond;

Design, Privacy & Outlook

building line beyond neighbours gardens making them overlooked, shaded with less pleasant outlook; gross invasion of privacy, rear plots half way down gardens and gable ends will protrude above fence line visible from every room and garden leading to overlooking, anxiety & stress, preventing enjoyment of own home; overbearing feature visible from adjacent gardens; will dominate outlook from all rear gardens and Padnell Road; detrimental to quiet enjoyment of rear space of adjoining properties; gardens currently dark and peaceful; at 6.3m high rear plots 3 times higher than boundary fence and will dominate field of vision from garden presenting a foreboding, bland, incongruous and ugly solid brick wall where previously nothing but trees; building and large roof area will dominate the southerly outlook from the street and rear of neighbouring properties; excessive building bulk adjacent boundary detrimental to outlook and amenity;

Precedent

Will lead to others wanting to exploit back garden developments; similar garden development at 23 was refused; if approved would be tantamount to overturning infill policy and result in new applications to build in long back gardens; drive would provide convenient access route to back garden of adjacent property; quotes provided from other applications in Padnell Road (APP/20/01026 @23, APP/21/00024 @26-32, APP/10/00293 @23 and 06/71368/001 @34-36); alignment of plots 3&4 undesirable form of backland development that would create precedent;

Daylight/Sunlight

rear half of adjacent garden will be overshadowed by large gable end of plot 4; shadowing plan only shows winter not summer; Drawing No 2021/04 clearly a copy from previous application and not a true reflection of sun's path for remainder of year; sun rises higher in sky and further to east when viewed from adjacent garden, providing bright early morning sunlight until mid-morning - rear plots will block this morning sun and place garden into shade;

Noise, air quality & pollution

small units attract first time buyers who are likely to be more noisy than older residents in road; detrimental affect on residential amenity from comings and goings of vehicles, noise, disturbance, visual impact and loss of privacy; rear plots will generate pedestrian movement, vehicle movement, music, tv, and other daily noises adversely affecting living conditions of adjoining occupiers; also lighting from rear plots would effect sleep patterns; headlights from cars turning at rear would shine into adjacent living rooms; rear plots will introduce social activities, noise & light pollution where previously there was none; engines/car doors slamming at rear; increase in air pollution from increase in exhaust fumes and vehicle fluids and brake dust seeping into the ground into the water table, contaminating the ground, harming the environment;

Out of keeping/character

No better than previous proposal cramming too many units onto available space which is only suitable for one family property or a pair of semi's to be in keeping with the area; appearance from road out of character with pair of smaller properties with numerous parked cars and no front garden; previous garden grabbing applications refused (10/00293 & 71368/001) as not in keeping with road; height should not be higher than a property on either side; ignores building line extending to rear; no other buildings on same side of road have living accommodation to the rear of their properties; parking to front detrimental to look of road; an overdevelopment compared to other dwellings in road; range of residential styles in Padnell road, but no backland developments; proposal contrary to para 127 of the NPPF about adding to quality of an area; NW corner only half metre away from side elevation of 26 which does not retain gap between buildings; no other dwellings in Padnell Road are this close together; lack of separation fails to respect the local context; no other dwellings have dedicated side access road and views of the access, turning area and dormers of will be seen from the road; when we applied to rebuild our property we were only allowed a chalet due to surrounding houses being predominantly chalets - so objectionable that two semi detached two storey houses being sought which can't be in keeping with neighbouring properties;

Scale/Overdevelopment

will add more cars to already congested road infrastructure, more people seeking GP and NHS dentist services and more children seeking school placements; and overload on utilities such as water and sewerage; South & South east already over-developed and if Government wants to "level up" then these developments must cease; overbearing design will dominate adjoining dwellings; still an overdevelopment considering size of plot; constitutes an intensification of development that would be incongruous and out of character with appearance of street;

Loss of open space & natural habitats/ecological impacts

Joey's field used to be home for newts, slow worms, frogs etc and certain wildlife return to previous habitation for generations so although survey says none there now they may return; tawny owl has just returned after developer felled trees a year ago, rear plots would be detrimental to this habitat; site was once full of irreplaceable native

trees & shrubs that attracted wildlife that has been spoiled by developer; loss of important habitat for numerous species including slow worms that not been since; bats still come out at night but their foraging places has been destroyed; contrary to objectives re biodiversity net gain; ecological survey was carried out after clearance of all trees and vegetation meaning all wildlife had already relocated; no sign of any replacement trees or for screening purposes; doing the ecological survey after it has been cleared renders it pointless;

Impact on trees

Plots 3 & 4 extremely close to oak tree subject of TPO and digging of foundations so close to RPA may damage tree; this tree may be a "veteran" tree in which case its RPA should be increased by 15m; age and status of tree must be calculated and promulgated for more realistic RPA which may affect siting of plots 3 & 4; proximity of these trees to rear plots will be shaded by tree canopy affecting light to new dwellings with future pressure to reduce/prune/fell; any future patio area would encroach into the RPA; new fence already damaged RPA when fence posts dug; this tree also likely to be a bat roost and further study needed;

Drainage

increase in hard landscaping will cause adjacent properties to be vulnerable to flooding; access road will cause damage to natural drainage channel running along under the road; site provides natural surface water drainage leading to Hermitage stream and its loss will lead to more local flooding; grasscrete blocks for access road will require topsoil to be excavated, hard core before compacting and levelling which will impact natural drainage and create excess water run off; deep heavy clay subsoil makes rainwater absorption problematic; soakaways ineffective in the street; despite improvements to the road surface there are still pockets of surface water that collect in the road unable to find its way down gullies;

Sewerage

will increase strain on already struggling and outdated sewerage system; drains sometimes overflow with raw sewage in gardens; the Environment Agency maintain an open case as its a regular occurrence, especially during heavy rain; additional 4 dwellings would increase severity & frequency of this problem; flooding of rear garden after heavy rain worsened since trees on field removed; many properties have non-return valves put in;

Proximity/effect on footings

siting of frontage building at NW corner could impact footings of No.26 as separation not as quoted in D&A statement; NW corner only half metre away from side elevation of 26 which does not retain gap between buildings; no other dwellings in Padnell Road are this close together;

Housing Contribution/Local Plan

development of small, odd pieces of land benefits greedy developers but makes no significant contribution to the Governments housing targets.

Child safeguarding issues

Development would allow line of sight into school playground with possible child safeguarding issues at both schools;

Bins

not enough space for 4 large refuse wheelie bins for collection whilst maintaining access;

Other comments

concerning that this developer appealed for extra flat on a Romsey scheme which was allowed; when site went to auction advert stated potential planning for one, possibly 2 dwellings - proposal for 4 demonstrates developers greed; previously advised that protective covenant on Joey's field and no building was allowed;

7 Planning Considerations

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

- (i) Principle of development
- (ii) Housing land supply and density
- (iii) Impact upon the character and appearance of the area
- (iv) Impact upon residential amenity
- (v) Highways, parking, cycle storage and refuse
- (vi) Drainage
- (vii) Trees and Ecology
- (viii) Compliance with Habitats Regulations
- (ix) CIL

(i) Principle of development

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

7.3 Policies CS17 of the Havant Borough Local Plan (Core Strategy) 2011 and AL2 of the Havant Borough Local Plan (Allocations) 2014 direct development to the main urban areas of the Borough and as such the development of this site is considered appropriate in principle, subject to detailed considerations of any adverse impacts. Detailed aspects of the design have been discussed with the agent to highlight areas of concerns and amended plans requested to overcome some of the detailed matters, but these have not been forthcoming. Therefore the application is being determined as submitted, with detailed considerations appertaining to the design, siting and layout as detailed below.

(ii) Housing land supply and density

7.4 The Council's Five Year Housing Land Supply Update (November 2021) shows that the Borough has 3.9 years housing land 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). Significantly, however, it does not follow there is a tilted balance in favour of permission being granted – permission can be refused where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Significantly, the proposal would result in the provision of four dwellings, which is recognised as making a very small contribution to the Council's housing need and should be afforded appropriate weight in the overall planning balance accordingly.

- 7.5 In terms of densities, the provision of 4 dwellings on a site comprising 0.107ha results in a density of 37 dpha. The supporting text to adopted policy CS9 (Housing) indicates this would be considered Low Density. Whilst the NPPF supports development that optimises the use of land, nevertheless the development of the site must also reflect the surrounding character, which is equally low density.
- (iii) Impact upon the character and appearance of the area
- 7.6 The site is located within an urban area predominately characterised by detached chalet style and two storey dwellings set towards the front of their plots, in a linear arrangement. In street scene terms, the height and two storey scale of the proposed front pair of semi detached dwellings, would represent a logical infill between the adjacent chalet bungalow at number 32 and the two storey semi-detached dwelling at number 26. The proposed ridge and eaves line would match number 26 and the use of hipped roof would minimise visual bulk to the street scene.
- 7.7 Separation to number 32 benefits from a Southern Water easement, but to number 26 is only some 0.5m. However in visual terms number 26 only has single storey development to the shared boundary so the two-storey to two-storey separation would be some 4.5m. This upper level and roof line sense of space, skyline and separation between properties is considered comparable to other spacings in the vicinity and appropriate to the spatial characteristics of the area.
- 7.8 However it is noted that no other dwellings in the vicinity have any sort of backland development and all have large landscaped gardens to the rear with modest outbuildings only. Therefore each property has an open aspect and sense of spaciousness to the rear. The introduction of a pair of semi-detached chalet style dwellings into the rear areas, aligned with the open private gardens of adjacent dwellings, would not be in keeping with the pattern of development in the area.
- 7.9 The proposed rear dwellings are not modest - they would have a ridge height of 6.3m, enabling a second floor of accommodation in the roof space. Plot 4 has a front two storey gable and both plots have large rear dormers. Their presence and associated parking and turning area would introduce a substantial scale of development into the rear garden areas, encroaching far deeper into the site with habitable accommodation than elsewhere. No other dwelling on the south side of Padnell Road has a driveway extending into their rear garden with turning behind the dwelling. The introduction of such vehicle movements deep into the site would be at variance with the pattern and character of the area.
- 7.10 It is considered that the bulk and mass of the proposed rear dwellings, plots 3 & 4, together with the side driveway and 4 parking spaces serving them, would add an urbanisation at the rear of the site and across the entire width of the site, which would be highly visible from surrounding dwellings and also the main highway. Oblique views of this large rear development would be possible down the side access and such a scale and mass of development would be at odds with the neighbouring area which is typified by open aspect gardens.
- 7.11 Additionally it is noted that the extensive line of hard surfacing to provide 6 frontage parking spaces (which is excessive and over and above that required for the front dwellings - see Parking section below) would be visually formal and harsh, and also out of character with the more informal frontage parking areas of adjacent dwellings. The layout of this frontage area does not maximise landscaped screening, but rather provides excessive amounts of hard surfacing, detrimental to the visual appearance and character of the area.

7.12 In the recent appeal decision on the site almost opposite, at 23 Padnell Road, the Inspector found that the scale and mass of a single storey bungalow (that scheme had a height of 4.7m, was set almost 2m from each side boundary, with fully hipped roof) would be "at odds with the verdant and open-style gardens with a scattering of simple garden type buildings". The current application is for a larger scaled development in an equally open and verdant area, and therefore the same conclusions must be drawn with respect to character and appearance of the area. It is further noted that third party representations make reference to other historical refusals for backland schemes in Padnell Road. Whilst each application must be considered on its individual merits, its noteworthy that backland proposals very close to the site have all been refused and successfully defended as being out of character e.g. 06/71368/001 at No. 34 - 36 (2 properties to the east) for the demolition of 36 and erection of 5No 2 and 3 bed dwellings.

7.13 Overall, it is considered that the backland nature of the proposed development, introducing a scale, mass and bulk of development adjacent otherwise open aspect rear gardens, would not be in keeping with the pattern and character of the south side of Padnell Road. Paragraph 130 of the NPPF requires development to be sympathetic to local character and adopted policy CS16 requires developments to respect local context. It is considered that the proposed development of the rear plots 3 & 4, fails to respect that pattern of local development and would be unsympathetic to local character, contrary to adopted policy CS16 and the NPPF.

(iv) Impact upon residential amenity

7.14 Policy CS16 requires development not to cause unacceptable harm to neighbouring amenity and the adopted Borough Design Guide SPD specifically considers backland developments at paragraph 5.26 - 5.27. This notes that 'tandem' backland developments are difficult to deliver successfully "due to problems of overlooking, noise and traffic disturbance, loss of amenity, cramping and the adverse effect on local character" and states that tandem backland developments will only be permitted provided the amenities of the surrounding dwelling and 'host' dwelling can be safeguarded. It is contended that this classic backland development proposed would result in conditions harmful to neighbouring amenity and would be contrary to both policy CS16 and the Design Guide SPD.

7.15 The proposed layout includes a side access road running immediately adjacent the shared boundary with number 32 and their private sitting out area. The side elevation of 32 includes a side dormer facing the site. No landscape mitigation strip is proposed to help mitigate noise and disturbance, light pollution etc. It is considered that the use of this side access road by two new households and their associated visitors, deliveries etc, would introduce a level of activity, additional noise and disturbance adjacent currently quiet and private rear garden areas. This would directly impact the occupiers of number 32 where the access, turning and parking areas would be close to the shared boundary, but also number 26 as the parking area would result in noise from car engines, revving, opening and shutting of car doors, lights from headlights, all within 5m of their private garden.

7.16 In terms of activity it is therefore considered that the additional comings and goings associated with the introduction of 2 dwellings to the rear would have an adverse impact on the quiet enjoyment of adjacent residents, harmful to their amenity. It is further noted that these rear dwellings, are tantamount to 3 bedrooms each (each study could be a bedroom) and could readily accommodate active families. The

associated noise and disturbance from the new curtilages that would be aligned adjacent the rear open quiet garden areas of numbers 26 and 32, would be invasive and detrimental to neighbouring amenity.

- 7.17 In terms of overbearing and overlooking effects, plot 4 would be within 0.5m of the shared boundary with number 26, with a side gable facing number 26 having a height of 6.3m. Two side windows are proposed for this west elevation, including a kitchen window ie a main habitable window. The proximity and height of this development so close to the shared boundary with number 26 would have a dominant and overbearing impact on number 26 and lead to sense of being overlooked from side windows that adversely effect their privacy, outlook and enjoyment of both their garden and dwelling. The front (north) elevation of plot 4 includes a high gable feature with first floor windows, within 13m of the rear of 26. Whilst these first floor windows may be obscure glazed, nevertheless their very presence in the bulk and mass of a substantial pair of semi detached dwellings would have a significant presence and be highly visible from the rear of number 26, harmful to their outlook and sense of privacy.
- 7.18 Generally the height and dominant design of the proposed rear plots are not considered subordinate or low profile, and would be clearly visible from several gardens along in both directions. The introduction of the significant bulk and mass of the plots 3 & 4 would result in an incongruous development where otherwise the outlook is of open gardens with ancillary scaled outbuildings only. This would be harmful to the outlook of several neighbours.
- 7.19 In terms of overshadowing, due to the orientation of the site, plots 3 & 4 would result in some early morning shading to the rear garden of number 26, and late afternoon shading to the garden of number 32, where previously there was none. Whilst not directly resulting in any loss of sunlight to habitable rooms, nevertheless the additional overshadowing to private garden areas would further erode the current levels of amenity enjoyed by neighbouring residents.
- 7.20 In terms of living conditions for future occupiers of the development, the layout only provides a rear garden depth of 7.8m for plots 1 & 2 and 9m for plots 3 & 4. The adopted Design Guide SPD sets out a recommended minimum rear garden lengths of 10m. In terms of usable amenity space commensurate to the size of the dwelling and likely future residents, it is noted that all 4 dwellings would be capable of being family homes. Whilst plots 2 to 4 all have wider plots, providing reasonable useable garden areas, it is noted that plot 1 only has a narrow garden and sited immediately adjacent the access road and rear parking spaces. The size and location of this garden adjacent vehicle movement areas, is such that the rear garden of plot 1 would not provide a satisfactory private and quiet area suitable for family needs.
- 7.21 Third party representations have noted the presence of the trees beyond the application site to the south, which are covered by an Area TPO, and the fact that they would cause overshadowing to the gardens of plots 3 & 4. Since these gardens would have a southerly aspect then in the summer the foliage of the trees would result in considerable overshadowing of the gardens of plots 3 & 4, although in the winter, without leaves, this would be less so. It is therefore considered that the rear gardens to serve the proposed dwellings would not provide adequate levels of amenity for future residents of plot 1 (by virtue of size adjacent vehicle areas) and plots 3 & 4 (by virtue of overshadowing), and therefore the layout would not create an adequate standard of living where people would want to live and relax, contrary to policy CS16.

- 7.22 Overall the proposed development of the rear plots 3 & 4, is considered to have a detrimental and harmful impact on neighbours amenity from noise and disturbance from additional comings and goings to the rear of the site; overbearing dominant effect (to number 26 particularly); loss of outlook and privacy, and some overshadowing, contrary to adopted policy CS16, in particular clause e). Furthermore the layout does not provide adequate usable private amenity space for future occupiers of plots 1, 3 & 4.

(v) Highways, parking, cycle storage and refuse

- 7.23 Hampshire Highways requested further information to clarify the visibility splays, extent of dropped kerb, swept path analysis to ensure 2 vehicles can pass within the site, and refuse collection point being within 30m of the storage point. Although requested and discussed, with potential solutions, nevertheless amended plans have not been forthcoming demonstrating these points. In the absence of adequate information to demonstrate on site technical compliance with highway matters, there is an objection from Hampshire County Council as Highway Authority, although they do note that a TRICS assessment confirms the scale of the development would not have a detrimental impact on the wider highway network.
- 7.24 In terms of on site parking provision, as 2 and 3 bedroom dwellings, each should unit should have 2 on site spaces and secure cycle storage to meet the Parking SPD ie a total of 8 spaces. Ten spaces are actually proposed, an over provision of 2 spaces at the front of the site. Visitor parking is not strictly required to meet the SPD (only required on major developments), but given the sites location on a busy thoroughfare, a shared pull over space for deliveries would be useful. But the layout as proposed, with 6 spaces to the front, would probably function as 3 private spaces per front dwelling, and not a shared service space.
- 7.25 In terms of cycle storage, the plans only indicate cycle lockers for plots 1 & 2, not 3 & 4, although it is accepted that the gardens could readily provide secure sheds for cycle storage that could be conditioned if the application had been recommended for permission.
- 7.26 It is noted that the 16 letters of objection all refer to the lack of on street parking due to the sites context near schools, nurseries, the health centre, opposite the church etc and the fact that Padnell Road is a busy through road and bus route. Local residents evidence parked cars in Padnell Road at busy times of the day, especially school drop off and collection times and church services/events. These parked vehicles and buses at the nearby bus stops allegedly then affect the flow of traffic. However, the proposed plans do provide adequate on site parking and as such there would be limited demand for on-street parking which would not exacerbate the existing situation further.
- 7.27 With respect to refuse collection point, this would appear to block the access into the site and would be both unsightly and prominent in the street scene as well as exceeding the distance for residents to travel of 30m. As currently shown the refuse collection arrangements are unacceptable and again amended plans to address these points have not been forthcoming.
- 7.28 Overall, the detailed on site parking, cycle storage and refuse collection arrangements proposed would not function appropriately and would not provide an adequate standard of accommodation for future residents. It has also not been adequately demonstrated that the site has adequate visibility or internal carriageway width for passing at the entrance. Therefore the on site access and parking arrangements are

considered contrary to policies DM13 and CS16, and the Parking SPD.

(vi) Drainage

- 7.29 Whilst Southern Water previously indicated that the development of 6 flats under APP/21/00024 could result in additional foul sewerage flows that may lead to increased risk of flooding from the sewer network, they have not similarly objected to this reduced scheme for 4 dwellings. Although third party comments also refer to inadequate sewerage system that overflows, the detailed connection to the foul drainage would be a Building Regulations matter. The subsequent capacity of the SW network to serve the development would also be a matter for SW directly.

(vii) Trees and Ecology

- 7.30 As noted by third parties the site has been cleared of previous trees and vegetation, destroying any wildlife it once supported. Whilst this is regrettable, the trees were not protected by any Tree Preservation Order and no breach of planning legislation has occurred. The rear plots 3 & 4 are sited beyond the RPA provided by the accompanying Arboricultural Impact Assessment and Method Statement by RMT Tree Consulting and there is no indication within this report that the off-site trees are "veteran" requiring additional protection (as alleged by third parties). The Councils Arborist raises no objection to the information supplied and considers the RPA adequate and the proposed development is sufficiently distanced from the TPO'd trees to the rear of the site to have no adverse impact on their health.
- 7.31 Third party comments also note the future pressure to prune from occupiers of plots 3 & 4 due to the proximity of these large trees due south of proposed modest gardens. Leaf litter can also be an issue. These concerns are valid, but the extent of the issue probably only marginal, and since the application is recommended for refusal for other more fundamental reasons, then it is not considered necessary to include a separate tree reason for refusal.
- 7.32 The application is supported by an Ecological Assessment which notes the current lack of nature conservation features but recommends mitigation measures of avoiding illuminating the trees to the rear and care in removal of debris re potential hedgehogs on the site. Third party representations note foraging bats in the area, focusing around the trees to the rear, but these are beyond the application site. There are no bat roosts within the application site affected by the proposed development. The County Ecologist recommends that if permission had been granted then ecological enhancements be secured through condition.

(viii) Compliance with Habitats Regulations

- 7.33 In order to comply with Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the application requires a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal is likely to have a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed development of four new residential units.
- 7.34 The LPA operates two packages of avoidance and mitigation measures. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development. The applicant has indicated a

willingness to enter into a legal agreement to secure the appropriate mitigation packages.

- 7.35 However, given the recommendation for refusal on other matters, these issues have not been addressed and no HRA AA has yet been undertaken. It is therefore necessary to include the non-provision of the avoidance and mitigation packages for both recreational disturbance and impact on water quality as a reason for refusal as contrary to policies CS11, CS21 and DM24, and emerging policies E16 and EX1 as well as non compliance with the Habitats Regulations. Should an appeal be lodged against the decision to refuse, then this matter can be resolved at appeal stage.

(ix) CIL

- 7.36 The development is CIL liable for the net additional internal floor space, which is indicated on the CIL forms to be 331sqm. The Havant Borough Community Infrastructure Levy Charging Schedule, was adopted by the council on the 20th February 2013 and followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiners Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The CIL Regulations require the use of the national All-in Tender Price Index published by the Build Cost Information Service and this index has now increased to 2021 - 48.66%.
- 7.37 In light of the recommendation for refusal on other matters, the Draft Liability Notice has not been prepared and could be addressed at appeal stage if necessary.

8 Planning Balance and Conclusion

- 8.1 It is acknowledged that the Council's Five Year Housing Supply (updated November 2021) is below the threshold and that the proposal would provide 4 dwellings making a small contribution to the Council's housing need. Paragraph 11 d of the NPPF is therefore engaged, giving a presumption in favour of development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. However it is contended that in this instance the benefit of providing 4 dwellings does not outweigh the harm arising from the proposed development.
- 8.2 It is considered that the siting and layout of this backland development would be harmful to the pattern and character of the area; would give rise to adverse impacts on neighbour amenity from noise and disturbance, overbearing and loss of outlook and privacy; and the on site access, parking and refuse arrangements would not function appropriately, contrary to the adopted Borough Design Guide SPD and adopted policies CS16 and DM13 and the NPPF paragraph 130. In addition the lack of appropriate mitigation measures for likely significant recreational harm and impact on water quality to the Solent European Sites as specified by the Habitats Regulations is also contrary to policy DM24 and emerging policy E16. The proposal is therefore recommended for refusal.
-

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/21/01041

(A) for the following reasons

- 1 The proposed development would result in an undesirable form of backland development out of keeping with the pattern and layout of the area, which is characterised by linear frontage development having open aspect spacious gardens. The introduction of two rear dwellings with associated access, parking and turning, would give rise to a scale and mass of development out of keeping with the of the area and visually harmful to neighbouring residents and the street scene. The proposal is considered to be at variance with local context and therefore contrary to Havant Borough Council Design Guide SPD 2011, policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 2 The siting and layout of the proposed backland development, with access drive, parking and turning areas close to shared boundaries, would give rise to additional comings and goings, with associated noise and disturbance, and light pollution, harmful to the quiet amenity of adjacent occupiers at 26 and 32 Padnell Road. In addition the siting, bulk and mass of the rear plots would result in an overbearing dominant effect with loss of outlook and privacy, and some associated overshadowing, to the occupiers of the adjacent dwellings, harmful to their amenity. The proposal is therefore considered harmful to residential amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.
- 3 Given the small size of the garden of plot 1 and its siting adjacent vehicle movement areas, it would not provide future occupiers with a satisfactory standard of quiet usable amenity space. In addition the gardens of plots 3 & 4 would be largely overshadowed by protected trees giving rise to dark and unsatisfactory gardens for these plots. Overall the standard of living for future occupiers of plots 1, 3 & 4, would be compromised and unsatisfactory, harmful to their amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.
- 4 It has not been adequately demonstrated that the site has appropriate visibility or sufficient internal carriage way width for 2 vehicles entering/exiting the site. The on site parking is an over provision resulting in an excessive frontage hard surfaced area dominating the appearance of the site; and no secure cycle storage is provided for plots 3 & 4. The on site refuse storage and collection points do not meet standards and would not function appropriately. Overall the on site parking, cycle storage and refuse collection arrangements would not provide an adequate standard of accommodation for future residents, and the proposal is contrary to policies DM13 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Parking SPD 2016 and the National Planning Policy Framework.

- 5 In the absence of a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policy E16 and EX1 of the Submission Havant Borough Local Plan, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

APPENDIX D

The potential effects of new residential development on the Chichester and Langstone Harbour SPA can be summarised as follows:

Potential Effect	Site Conservation Objective(s)	Qualifying features	Potential for Impact?	Relevant Mitigation Measures
Decrease in survival rates and populations of over-wintering birds due to increase in disturbance, caused by increasing human population (in combination with other plans and projects)	Maintain or restore the population of each of the qualifying features. Maintain or restore the distribution of the qualifying feature within the site.	All for Chichester and Langstone Harbours SPA.	Yes. Indirect impact. Without mitigation, bird populations would be reduced and/or re-distributed by increased numbers of visitors leading to increased disturbance	Bird Aware Solent Strategy The Strategy proposes:- • a team of 5-7 coastal rangers to advise people on how to avoid bird disturbance, liaise with landowners, host school visits, etc.; • communications, marketing and education initiatives; • initiatives to encourage responsible dog walking; • preparation of codes of conduct for a variety of coastal activities; • site-specific projects to better manage visitors and provide secure habitats for the birds; • providing new/enhanced greenspaces as an alternative to visiting the coast;

Further details in relation to the Bird Aware Solent Strategy can be viewed via the following web address:

<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

APPENDIX E

Position Statement and Mitigation Plan for Nutrient Neutral Development

November 2022

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1. Introduction

- 1.1 Havant Borough benefits from its position on the Solent coast which is internationally designated for its wildfowl and wading species. This creates a high-quality natural environment highly worthy of protection for both its intrinsic value as well as its value in making Havant Borough an attractive place to live, work and study. The Council also takes seriously the requirement under the National Planning Policy Framework “to support the Government’s objective of significantly boosting the supply of homes”.
- 1.2 Nonetheless, the Council is committed to development only taking place if it is sustainable development that includes relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality on any European Designated Nature Conservation Sites.
- 1.3 New development necessitates the provision of connections to the foul water drainage network and can increase surface water run-off. This could increase the amount of nutrients entering Solent European Sites, even if it is a proportionately small contribution.
- 1.4 New housing schemes and other proposals which include a net gain in overnight accommodation or development which has a high volume of water use will need to prevent any increase in nutrients into the harbour in order for them to be ‘nutrient neutral’ if they would otherwise lead to a likely significant impact on a European site.

The Habitats Regulations

- 1.5 Under the Conservation of Habitats and Species Regulations (2017 as amended) (hereafter referred to as the Habitats Regulations), there are significant responsibilities conferred on the Council as a ‘competent authority’. Chiefly, it requires the Council to only approve plans or projects (such as planning applications or a local plan) if there is no likelihood of a significant effect on any European designated nature conservation site.
- 1.6 A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water quality, increase in recreation, light pollution, tall buildings or construction activity.
- 1.7 In order to assess whether planning applications would lead to a ‘likely significant effect’ a Habitats Regulations Assessment (HRA) is carried out. This generally includes an Appropriate Assessment (AA), which is the second more detailed stage¹ of an HRA. Natural England must be consulted on the findings of an HRA and there is a duty to consider their response.
- 1.8 A potential effect would be considered ‘likely’ if it cannot be ruled out based on the information available as opposed to it merely being probable or possible. When then moving to the appropriate assessment stage, an established principle under law is that AAs must use the ‘precautionary principle’. An appropriate assessment must enable the local planning authority to apply the

¹ This is set out in Regulation 63 of The Habitats Regulations.

regulation 63(5) “integrity test” on a “precautionary basis”. Authorisation may only be given if the competent authority has made certain there will be no adverse effect on the integrity of the site and where no reasonable scientific doubt remains. It must therefore be shown that there would be no likelihood of a significant effect in order for the Council to lawfully grant planning permission.

- 1.9 The need for Habitats Regulations Assessments has existed since 2004 when the original regulations came into force. It has been known for many years that new development does lead to an increase in recreation at the coast and that this has an impact on the birds which use the coastal mud flats to feed and roost (this is a ‘likely significant effect’). As a result, mitigation is required from all new development which is then used to fund the Bird Aware Partnership, of which the Council is a member. The partnership implements the mitigation scheme, largely consisting of a ranger patrols along the coast. This is an established part of the development process at the Solent.

The Dutch Case

- 1.10 The European Court of Justice determined a case related to considering water quality in Appropriate Assessments in late 2018. This generally referred to as The Dutch Case².
- 1.11 The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture.
- 1.12 As a result, the only way that a new housing scheme could prevent this likely significant effect is for there to be no increase in nutrients into the harbour, i.e., for it to be ‘nutrient neutral’.

The purpose of this Position Statement

- 1.13 This Position Statement sets out the Council’s approach to new development which is likely to have an adverse effect on the integrity of the Solent European sites. It provides guidance on how the nutrient load of new development should be calculated, and how an increase in nutrients into the harbour should be mitigated in order for development to be ‘nutrient neutral’.
- 1.14 The statement also includes an ‘Mitigation Plan’ which sets out specific measures which will be implemented to mitigate development in Havant borough. It indicates how the scale of mitigation should be calculated. If mitigation is shown to be necessary this Position Statement will also allow applicants to calculate the level of mitigation, which will be required from the proposed development.

Water Quality and the European Designated Nature Conservation Sites

- 1.15 Eutrophication is increased plant growth which reduces the oxygen content in water and occurs when an excessive amount of nutrients within a water body are present. This process makes it difficult for aquatic insects or fish to survive, in turn removing a food source from the food cycle.
- 1.16 Addressing the sources of eutrophication reduces the input of nutrients into the internationally designated marine environment. However, if the issue of eutrophication is not addressed, it could

² Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>

have a negative impact on the marine environment and the conservation objectives of the European designated nature conservation sites.

- 1.17 Water quality can be measured by chemically testing water samples. Chemical testing can test for parameters such as nitrogen and phosphates which are indicators of poor water quality.
- 1.18 Nutrients from wastewater treatment works represent one source of excess nutrients in the marine environment. However, it is not the only source, nor is it generally the highest. Agriculture in particular typically represents a higher level of input of nutrients into the marine environment than wastewater treatment works.
- 1.19 There are two wastewater treatment works that serve Havant Borough: Emsworth drains to Thornham, the rest of the Borough drains to Budds Farm. Development on the boundary of the catchment areas will need to seek confirmation from Southern Water as to which wastewater treatment works it would be served by as this will depend on the network in that area.
- 1.20 Whether an effect would be significant depends on whether it would threaten the specific features and conditions of the protected sites concerned by the plan or project. In the case of water quality and the Solent's European Sites, the condition varies site by site. However none are fully favourable and many are not recovering³. As such, any further deterioration of water quality at those sites, no matter how small, can be considered likely to cause a significant effect on those sites in terms of the application of the Habitats Regulations.
- 1.21 As such, it has been confirmed that development draining to Budds Farm Wastewater Treatment Works and Thornham Wastewater Treatment Works would be likely to lead to a significant effect on the following European Sites:
- Chichester & Langstone Harbours Special Protection Area (SPA)
 - Chichester & Langstone Harbours Ramsar site
 - Solent Maritime Special Area of Conservation (SAC)
 - Solent and Dorset Coast Special Protection Area (SPA)
 - Solent and Southampton Water SPA
 - Solent and Southampton Water Ramsar
 - Portsmouth Harbour SPA
 - Portsmouth Harbour Ramsar
 - Solent and Isle of Wight Lagoons SAC
- 1.22 Natural England has produced guidance for developers and mitigation providers. This can be found on the Council's nutrient neutrality webpage⁴.

³ More information regarding this is contained in *Review of the Need for Nutrient Neutral Development in the Budds Farm Wastewater Treatment Works* catchment available at www.havant.gov.uk/localplan/evidence-base

⁴ <https://www.havant.gov.uk/nutrient-neutrality-what-developers-need-know>

2. Development Management Process

Development schemes that could be affected

- 2.1 A large number of schemes are likely to result in a significant effect on the European Sites. The key test is whether there would be an increase in nitrogen emissions into one or more European Sites once the development is occupied compared to if it was not built.
- 2.2 The advice below is general in nature and does not remove the necessity to discuss this matter through a pre-application enquiry at an early point in the development process.
- 2.3 It is also possible that there is another likely significant effect from the proposed development. It has already been noted that a large amount of development in the Borough, if not mitigated, would be likely to cause a significant effect due to recreational disturbance. This is generally addressed through Bird Aware Solent Mitigation Scheme. However, as set out above, there are many less common reasons why a significant effect may be caused and it is incumbent upon applicants to familiarise themselves with the issues involved.
- 2.4 All of Havant Borough is within the catchment of a Wastewater Treatment Works that drains into a Solent European site. As such, all of the Borough is affected.

Types of applications that will be affected

- 2.5 This matter needs to be addressed by all applications for overnight accommodation including new homes, student accommodation, care homes, tourism attractions and tourist accommodation. This includes any development permitted through the General Permitted Development Order and that gives rise to new overnight accommodation.
- 2.6 Many outline applications do not include detail regarding the scale and mix of the proposed development – this is addressed during the reserved matters stage. In such cases, a legal agreement which secures an avoidance and mitigation package based on the nutrient budget will need to be submitted at outline stage. In addition, the developer will be required to submit a revised nutrient budget based on the final form of development at reserved matters stage. This will ensure that a full avoidance and mitigation package for the final form of development is in place prior to the commencement of the development.
- 2.7 For reserved matters planning applications, and applications for grants of prior approval and/or certificates of lawfulness for a proposed use or operation the matter must also be addressed.
- 2.8 Section 73 applications need to address nutrient neutrality as they effectively result in the grant of a new planning permission. This would need to be done using the most up to date methodology. Section 96 applications are non-material amendments, and do not result in a new planning permission and therefore they do not need to address nutrient neutrality.

- 2.9 It is the Council's advice to the Planning Inspectorate⁵ that any planning appeals for applicable uses should include an avoidance and mitigation package to remove any likelihood of a significant effect.
- 2.10 Any increase in residential dwellings that takes place as permitted development must undertake a separate HRA through Regulations 75 and 77 of the Habitats Regulations. Such assessments will need to consider water quality. Mitigation packages for such development will be needed on the same basis as those for dwellings that require planning permission.
- 2.11 The Council has produced process notes for the types of applications affected by nutrients. These can be found on the Council's website⁶.

Residential (C3) dwellings

- 2.12 Any residential development proposing a net increase in overnight accommodation would lead to an increase in nitrogen and thus would be likely to cause a significant effect.
- 2.13 In this context, 'dwelling' also includes net new dwellings created through the sub-division of existing dwellings, second homes, dwellings to be used as holiday accommodation, houses in multiple occupation, self-contained student accommodation, and new dwellings created as a result of approval granted under the General Permitted Development Order e.g., change of use from office to residential (including houses and flats). It includes permanent accommodation for gypsies and travellers. Temporary/transit pitches will be assessed on a case-by-case basis by the local planning authority in consultation with Natural England.

Other forms of development providing overnight accommodation

- 2.14 There is a range of development other than C3 dwellings which provides overnight accommodation. Most commonly, this includes care homes and other forms of housing for older people and hotels.
- 2.15 Such development would be considered to increase nitrogen and thus would be likely to cause a significant effect. This is due to such development housing people who otherwise would not have been in the catchment of a wastewater treatment works which drains to a Solent European Site.

Commercial and other non-residential development

- 2.16 Non-residential development is unlikely to lead to a significant effect as it would not involve a net increase in population in the catchment. For the purposes of business and commercial development it is considered that anyone living in the catchment also works and uses facilities in the catchment, and therefore wastewater generated can be calculated using the population increase from new homes and other accommodation. This removes the potential for double counting of human wastewater arising from different planning uses.
- 2.17 However, in some cases commercial or non-residential development could have a significant effect due to the type of operation or facilities proposed. In particular, high water use developments would be likely to cause a significant effect. Such schemes would be considered on a case by case basis. It is recommended that any high-water use developments engage with Natural England's

⁵ In a scenario where an applicant has appealed to the Secretary of State (in practice the Planning Inspectorate) against a refusal of planning permission, the Planning Inspectorate become the Competent Authority under Regulation 63 of the Habitats Regulations. As part of this, they will need to undertake an assessment under that regulation.

⁶ <https://www.havant.gov.uk/nutrient-neutrality-what-developers-need-know>

Discretionary Advice Service prior to preparing a nutrient budget for submission as part of a pre-application enquiry to the Council.

How applications will be considered and what information is needed to assess the 'likely significant affect'

- 2.18 It is necessary for the Council, as the competent authority under The Regulations, to undertake a Habitats Regulations Assessment, including Appropriate Assessment (AA), on any development that it is considered could lead to a likely significant effect on a European Site.
- 2.19 The Council has undertaken HRAs on applications for many years as there has been an acknowledged significant effect from recreation since 2014, with new development providing mitigation packages. For the avoidance of doubt, a mitigation package will be needed for water quality and recreation for the vast majority of residential developments.
- 2.20 It is incumbent on the applicant to provide all of the information necessary to undertake that assessment. When submitting planning applications, applicants will need to submit the following information to set out how any likely significant effects on Solent European Sites will be mitigated through the application:
- A site-specific nutrient budget, using Natural England's methodology and calculator, and the Council's occupancy calculator (where appropriate);
 - If the application site's pre-development use is classified as an agricultural use within the calculator, evidence of the farm type for the past 10 years will need to be submitted to support the nutrient budget. This evidence could for example take the form of historic/aerial photographs or deeds of agreement; and
 - A European Sites Avoidance and Mitigation Checklist
- 2.21 The following sections of the Position Statement and Mitigation Plan outline the on-site avoidance measures for C3 Residential development and specialist residential development including elderly care. If planning application does not fall under the development categories below, the applicant should speak to their case officer in the first instance to ascertain what is required to be submitted.

Residential on-site avoidance measures

- 2.22 As part of the overall nutrient budget, all new C3 residential development will be expected to achieve a maximum water use standard of 110 litres per person per day (l/p/p/d) which will be secured via two conditions.
- 2.23 The planning conditions used are as follows:
1. 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, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

2. 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, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

2.24 In order to discharge condition 1, a copy of a water efficiency calculator will need to be submitted confirming the fixtures and fittings to be used to the standard of 110 l/p/d. The second condition then requires that standard to be maintained for the lifetime of the development.

2.25 The applicant may submit a water efficiency calculator as part of their application, the following condition may be used:

1. The development hereby permitted shall not be occupied until:

All measures necessary to meet the hereby approved water efficiency calculation demonstrate that no more than 110 litres of water per person per day shall be consumed within the development have been installed. Any variation to these calculators or fixtures and fittings shall first be agreed in writing with the Local Planning Authority.

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, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

On-site avoidance measures for specialist residential development, including elderly care

- 2.26 A different approach is needed for residential development which does not involve the development of C3 dwellings. This includes care homes and other specialist residential accommodation. For these kinds of development, fixtures and fittings in non-communal areas need to comply or be lower than the water efficiency set out in the table below. This will ensure that the development will use no more than 110 l/p/d.

Measure	Rate of flow
WC single flush	4 litres/minute (L/M)
WC dual flush	5/3 L/M
Bathroom taps	4 L/M
Shower	8 L/M
Bath	180 litres

Table 1. Water Efficiency Standard for specialist residential development including elderly care

- 2.27 The applicant will need to confirm in writing through the planning application documentation that fixtures and fittings will comply with the requirements in table 1.
- 2.28 The following condition will be applied to any grant of planning permission for applications which are not C3 residential:

1. At all times following occupation of the development hereby approved, all sanitary fixtures and fittings which are installed as part of the development hereby permitted shall comply with the water efficiency standards set out in table 1 of the Position Statement and Mitigation Plan for Nutrient Neutral Development (November 2022). All measures necessary to meet the approved water efficiency calculation shall be maintained so as to ensure that no more than 110 litres per person per day shall be consumed 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, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

Occupancy Rate

- 2.29 The Council has considered the appropriate occupancy rate to use, considering the advice in Natural England's generic methodology. This sets out that the occupancy figure can be derived from national data as long as it reflects local conditions. The national occupancy data which is derived from the Office of National Statistic provides a national average value for the number of residents per dwelling to be 2.4.

- 2.30 Havant Borough Council has compared the national occupancy figure against the local occupancy figure. As such the national occupancy figure of 2.4 is more precautionary and therefore should be used within nutrient budget calculations.
- 2.31 The use of 2.4 occupancy rate is also the baseline occupancy figure used in other habitat regulation considerations, notably the Solent Recreation Mitigation Strategy and therefore provides a consistent application of occupancy rates using an approach which is considered robust by Natural England as the statutory consultee for nature conservation and has been used in decision making since 2018. As such the same sliding scale is being used to consider the occupancy of dwellings for calculation of nutrients budgets.
- 2.32 The Council has produced a calculator to ascertain the average occupancy of the site by the number of bedroom per dwelling type. This document needs to be submitted alongside the nutrient budget calculator.
- 2.33 The nutrient budget calculator should include the average occupancy figure derived from the Council's occupancy calculator. Where the development mix is not known at outline stage, an average occupancy of 2.4 persons should be used.
- 2.34 For applications which wish to not use the Council's occupancy calculator the applicant would need to justify their bespoke approach to their occupancy figure which they intend to use within Natural England's nutrient budget.

Calculating a nutrient budget

- 2.35 All development which results in a net-increase of overnight accommodation or a development which has a high water use will be required to submit a nutrient budget as part of their application.
- 2.36 To calculate the nutrient load of any development which proposed a net increase in overnight accommodation, Natural England has created a methodology and calculator⁷ containing the following four stages which can be summarised as follows:

Stage 1

Calculates the increase in nutrient loading that comes from the development's wastewater. This includes inputting the number of residential units, the daily water usage of the development, occupancy rate per dwelling (see above) and the WwTW that the development will drain to.

The occupancy rate should be calculated using the Council's occupancy calculator. Where the development mix is not known at outline stage, an average occupancy of 2.4 persons should be used.

The figure of 120 l/p/d should be inputted as the water usage of development.

For the input labelled 'Include deductible acceptable nutrient load' developments in Havant Borough should select the answer 'yes' as long as the water source for the development is within the Solent Catchment.

Stage 2

⁷ <https://www.havant.gov.uk/nutrient-neutrality-what-developers-need-know>

Calculates the pre-existing nutrient load from the current land use on the development site. This includes inputting the pre-development land use type and area size alongside new scientific information.

Stage 3

Calculates the future nutrient load from land use on the application site post-development. This includes inputting the post-development land use type and the post-development land cover area.

If the land use of the site pre-development is classified as an agricultural use it is important that farm type classification is appropriately precautionary. Therefore, evidence will need to be provided to support the agricultural use for the last 10 years. This evidence would need to be submitted by the applicant.

Stage 4

The final stage of the nutrient budget calculates the net change in nutrient loading from the development site to the Solent Marine sites with the addition of a buffer (it takes the output from stages 1-3). This is the net change in nutrient loading and the buffer as set in the nutrient budget.

Natural England's nutrient budget contains pre-entered values, these pre-entered values should not be edited or changed unless there is sufficient scientific evidence to justify a change of approach.

On the basis of the above calculations if the final figure in stage 4 is positive then mitigation is required for the development, if the final figure is negative no mitigation is required.

3. Options for mitigation

- 3.1 For the HRA accompanying the planning application to conclude that there is no likelihood of a significant effect on the Solent's European Sites, the proposed development would need to be nutrient neutral.
- 3.2 Avoidance and mitigation measures to achieve nutrient neutrality should be provided on site, in line with the Habitats Regulations, wherever possible. However, for the vast majority of developments in Havant Borough, particularly brownfield development and regeneration schemes, it is acknowledged that this is not possible.

On-site Mitigation Options

- 3.3 Some development will be able to use on-site measures in order to achieve nutrient neutrality or reduce the scale of off-site mitigation required to achieve nutrient neutrality. Wherever possible, on site measures should be used to avoid an impact before relying on off-site mitigation. Examples of the type of on-site measures that may be used can be found in Natural England's methodology⁸.
- 3.4 In some cases, on site mitigation could include taking land out of agricultural use and using the land for an alternative use, notably development and open space. It should be noted that a greenfield site is not automatically in use as agriculture. The land use classes used within Natural England's methodology can be seen in the below table.

⁸ <https://www.push.gov.uk/wp-content/uploads/2020/03/Advice-on-Achieving-Nutrient-Neutrality-for-New-Development-in-the-Solent-Region-March-2020.pdf>

Land use types used in the calculator tool	Description
Cereals	Agricultural areas on which cereals, combinable crops and set aside are farmed.
General	Agricultural areas on which arable crops (including field scale vegetables) are farmed.
Horticulture	Agricultural areas on which fruit (including vineyards), hardy nursery stock, glasshouse flowers and vegetables, market garden scale vegetables, outdoor bulbs and flowers, and mushrooms are farmed.
Pig	Agricultural areas on which pigs farmed.
Poultry	Agricultural areas on which poultry are farmed.
Dairy	Agricultural areas on which dairy cows are farmed.
LFA	Agricultural areas on which cattle, sheep and other grazing livestock are farmed in locations where agricultural production is difficult. An area is classified as a Less Favoured Area (LFA) holding if 50 per cent or more of its total area is classed as LFA.
Lowland	Agricultural areas on which cattle, sheep and other grazing livestock are farmed. A holding is classified as lowland if less than 50 per cent of its total area is classed as a lowland grazing area.
Mixed	Agricultural areas in which none of the above categories are farmed or where it is too difficult to select a single category to describe the farm type.
Greenspace	Natural and semi-natural outdoor spaces provided for recreational use where fertilisers will not be applied and dog waste is managed, e.g. semi-natural parks. This does not include green infrastructure within the built urban environment, such as sports fields, gardens, or grass verges, as these are included in the residential urban land category.
Woodland	Natural and semi-natural outdoor wooded areas.
Shrub	Natural and semi-natural outdoor shrubland area.
Water	Areas of surface water, including rivers, ponds and lakes.
Residential urban land	Areas of houses and associated infrastructure. This is inclusive of roads, driveways, grass verges and gardens.
Commercial/industrial urban land	Areas that are used for industry. These are businesses that typically manufacture, process or otherwise generate products. Included in the definition of industrial land are factories and storage facilities as well as mining and shipping operations.
Open urban land	Area of land in urban areas used for various purposes, e.g. leisure and recreation - may include open land, e.g. sports fields, playgrounds, public squares or built facilities such as sports centres.
Community food growing	Areas that are used for local food production, such as allotments.

- 3.5 In the event a nutrient budget and a proposed onsite avoidance and mitigation package shows the proposed development will be nutrient neutral, there will need to be the necessary certainty that any mitigation measures will reduce the nutrient load of the land. In such circumstances the Council will secure the requisite mitigation via a legal agreement to ensure that it is maintained in perpetuity
- 3.6 For some developments, a bespoke on-site mitigation solution will be a viable option, particularly where watercourses can be found on site. The applicant will be expected to fund the project level Habitats Regulations Assessment that will be required on such an application.

Off-Site Mitigation Options

- 3.7 The market for private sector mitigation has now flourished to the point where there is sufficient supply for the East Hampshire catchment for at least five years. Larger new developments in Havant Borough will therefore be expected to use third party mitigation schemes to ensure their

development is nutrient neutral. Details of these schemes are published on the Partnership for South Hampshire (PfSH)'s website⁹.

- 3.8 Applicants may also wish to propose their own mitigation scheme. In such cases, applicants are encouraged to enter into early discussions with Natural England through the Discretionary Advice Service¹⁰. It will also be necessary to discuss the proposals with the Council as the competent authority.
- 3.9 In all cases it will need to be established that there is a clear scientific link between the proposed development and the mitigation scheme to ensure the development in question is nutrient neutral. Any third-party mitigation scheme would also be required to provide supporting evidence to the Council as the competent authority for the proposed development to conclude that the mitigation principles set out in Natural England's guidance¹¹ have been met. This will need to constitute robust information bespoke to the scheme in question which can be assessed as part of the HRA for the planning application in question.
- 3.10 Third-party mitigation may be bespoke to that development and the mitigation scheme in question. The mitigation provider would normally be expected to provide Natural England and the Council with the necessary information to prove the scientific link between the mitigation site and the catchment in which the development is located. In some cases, it may be necessary for the project level HRA associated with that planning application to be undertaken by a contractor. The cost of this will need to be met by the applicant.
- 3.11 Given the geographical nature of Havant Borough, most third party mitigation schemes are located outside of the Borough. In such cases, the developer will be required to enter into a Deed of Allocation with the mitigation provider and the site tenant to reserve the capacity required to mitigate the proposed development. This will be secured via legal agreement, together with an obligation to submit a revised nutrient budget based on the final form of development for approval at reserved matters stage. Once approved, the applicant will be required to pay the financial contribution required due under the Deed of Allocation to secure the required actual capacity. This will secure the full avoidance and mitigation package prior to the commencement of the development. In such cases, the planning authority for the mitigation land would either need to be willing to undertake any necessary enforcement action or be willing to delegate that authority to Havant Borough Council. Applicants should be aware that this may well extend the period of time needed to complete legal agreements.
- 3.12 The Strategic Environmental Planning Officer for the Partnership for South Hampshire (PfSH) assesses the supply and demand for nutrient mitigation in the East Hampshire Catchment and concluded that the East Hampshire catchment provides sufficient mitigation to meet the needs of sustainable development in both the short and medium term. It is also likely that the East Hampshire catchment will provide sufficient mitigation to satisfy development into the long term. For development which drains the Chichester catchment, there is currently enough nitrogen credits within the mitigation market to meet immediate need. It is also likely that there will be enough nitrogen credits available in the open market to meet the short term need for mitigation. There is

⁹ <https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/>

¹⁰ <https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>

¹¹ Available at <https://cdn.havant.gov.uk/public/documents/Nutrient%20Neutrality%20Mitigation%20Principles.pdf>

some possibility that sufficient mitigation may come forward to satisfy the medium to long term need.

Off-Site Mitigation Options– Warblington Farm Mitigation Scheme

- 3.13 Only planning applications for 15 dwellings or less (net) (C3) or are regeneration projects within the regeneration areas (as defined at Appendix 1) granted on or after 18 November 2022 will be able to use Warblington Farm.
- 3.14 If the application propose a non-C3 use but provides overnight accommodation, the Council will assess whether the scheme can use Warblington Farm on a case by case basis. The most common uses this would apply to would be care homes and other forms of housing for older people, hotels, holiday accommodation and certain employment uses.
- 3.15 Where development does not meet the above criteria, it will not be possible for applicants to use the Council's mitigation scheme. This is because Warblington Farm has a finite capacity and is needed to mitigate the development planned for through the Council's Regeneration and Economy Strategy 2022-2036¹².
- 3.16 The Council has undertaken a review of the Warblington Farm scheme against the new guidance submitted by Natural England, this confirms that the mitigation scheme is an acceptable mitigation option under the latest guidance. Both the Warblington Farm Mitigation Option for Nutrient Neutral Development in Havant Borough Report¹³ and the Addendum¹⁴ can be found on the Council's website.
- 3.17 The Warblington Farm scheme is fully funded by the development industry, with no financial support from the Council. The scheme involves changing the use of the site in a phased manner from a dairy farm to a nature reserve. In the longer term, the Council aims to make Warblington Farm a key site in Havant's ecological network, increasing biodiversity and helping residents to enjoy and understand the intrinsic value of the natural environment.
- 3.18 In addition to providing cost effective mitigation for nutrient neutrality, land at Warblington Farm also has the potential to deliver the following benefits:
- A permanent refuge for Solent Waders and Brent Geese - a number of sites will need to provide mitigation by means of a financial contribution towards the enhancement of habitats, particularly those on secondary support areas or low use sites;
 - The Environment Act means there will be a requirement for all new development to achieve a net gain in biodiversity. For development unable to make the necessary improvements on site, development contributions could be made to create and enhance habitats at Warblington Farm; and
 - The potential to provide additional nutrient mitigation subject to further feasibility and analysis.
- 3.19 In terms of development achieving nutrient neutrality, the Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough report¹⁵ confirms that there is a scientific link between the likely significant effect from the development and the mitigation at Warblington, as required by the Habitats Regulations. The mitigation is suitable for development

¹² [Havant Borough Regeneration and Economy Strategy 2022-2036](https://www.havant.gov.uk/nitrogen)

¹³ [Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough](https://www.havant.gov.uk/nitrogen)

¹⁴ Available at <https://www.havant.gov.uk/nitrogen>

¹⁵ Available at <https://www.havant.gov.uk/nitrogen>

draining to Budds Farm and Thornham Wastewater Treatment Works and is therefore suitable for mitigating the impact of any development in Havant borough.

- 3.20 The Council also commissioned Ricardo to undertake a review of Warblington Farm Mitigation Scheme against Natural England's new guidance published in early 2022. The addendum¹⁶ confirms that Warblington Farm Mitigation Scheme is still suitable and that there is a scientific link between the likely significant effect from the development and the mitigation at Warblington, as required by the Habitats Regulations.
- 3.21 A financial contribution will be sought based on the calculation of the load provided by the nutrient budget associated with the planning application in question. The following table summarises the rates which are payable on a cost per kilogram basis according to the catchment which the new dwellings connect to which will be updated on annual basis.

Per kilo contribution/ Catchment	Total nitrogen discharged (kg N per year)	Cost per kilo contribution
Per kilo contribution	1	£3,000

- 3.22 In addition to the above an administrative fee of £23 per legal agreement is payable. The financial cost of per kilogram of nitrogen will be increased annually in accordance with the Cost Price Index at the start of each financial year. Further information for applicants, together with live costs, can be found in the Council's Developer Contributions Guide¹⁷.
- 3.23 The revised mitigation charge is calculated on the basis of restricting the scheme to 15 dwellings or less and to development within the regeneration areas (as defined at Appendix 1), the costs and fees associated with the management of the site, the value of the asset as well as the details of costs, fees and taxes. The revised mitigation charge will come into effect for planning applications granted on or after 18 November 2022.
- 3.24 As the land at Warblington will be phased out of agricultural use, mitigation will be made available on a phased basis. The Council will carefully monitor the capacity of the land at Warblington to ensure that there continues to be sufficient mitigation available for development coming forward. Further phases of the scheme may become available in due course to enable development to continue to come forward in compliance with the Habitats Regulations.
- 3.25 Warblington Farm will be managed in such a way that restricts the future use to operations that prohibit the use and application of any nutrient load on the land, and only carry out management activities which would lead to a net decrease of nitrogen compared to current use.
- 3.26 The first phase of Warblington Farm provides approximately 25ha of mitigation land which will be available for development coming forward. The first phase would be turned into grassland (green space land classification) which will then be cut as necessary by the tenant farmer. If the activity on the land were to change this would have to be agreed by Natural England and Havant Borough Council.

¹⁶ Available at <https://www.havant.gov.uk/nitrogen>

¹⁷ Available at www.havant.gov.uk/community-infrastructure-levy

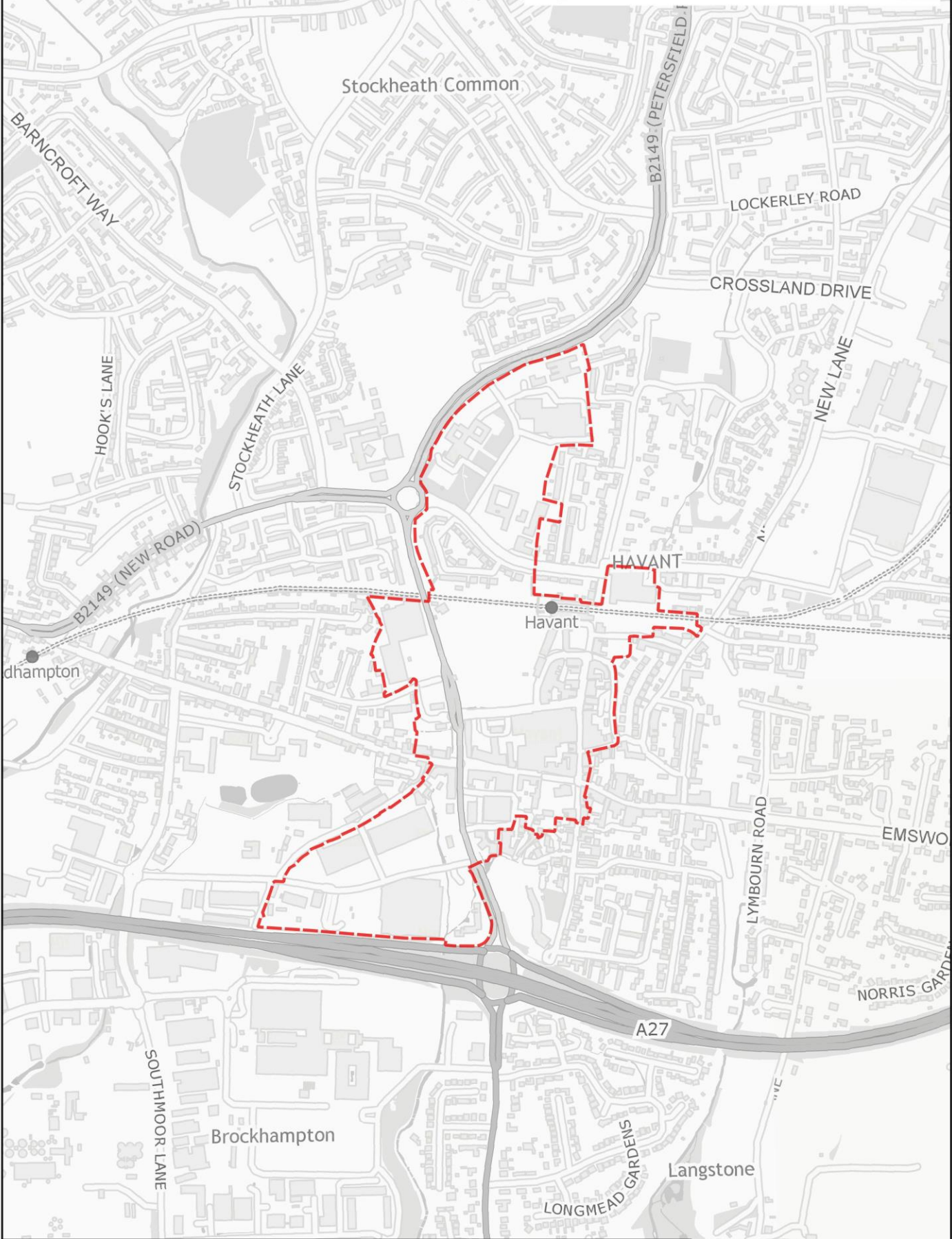
- 3.27 Due to the additional environmental benefits which are available on Warblington Farm a management plan will be produced when all phases of Warblington are available.
- 3.28 The Council has established the costs of the management of the site over an 80-year time period, the value of the asset and returning the control of the leasehold. These outgoings have been factored into a cash flow analysis to provide a per kilogram cost of nitrogen.
- 3.29 In addition to the above, the water efficiency standard of 110 l/p/p/d will be secured and enforced by planning condition for all new residential developments.

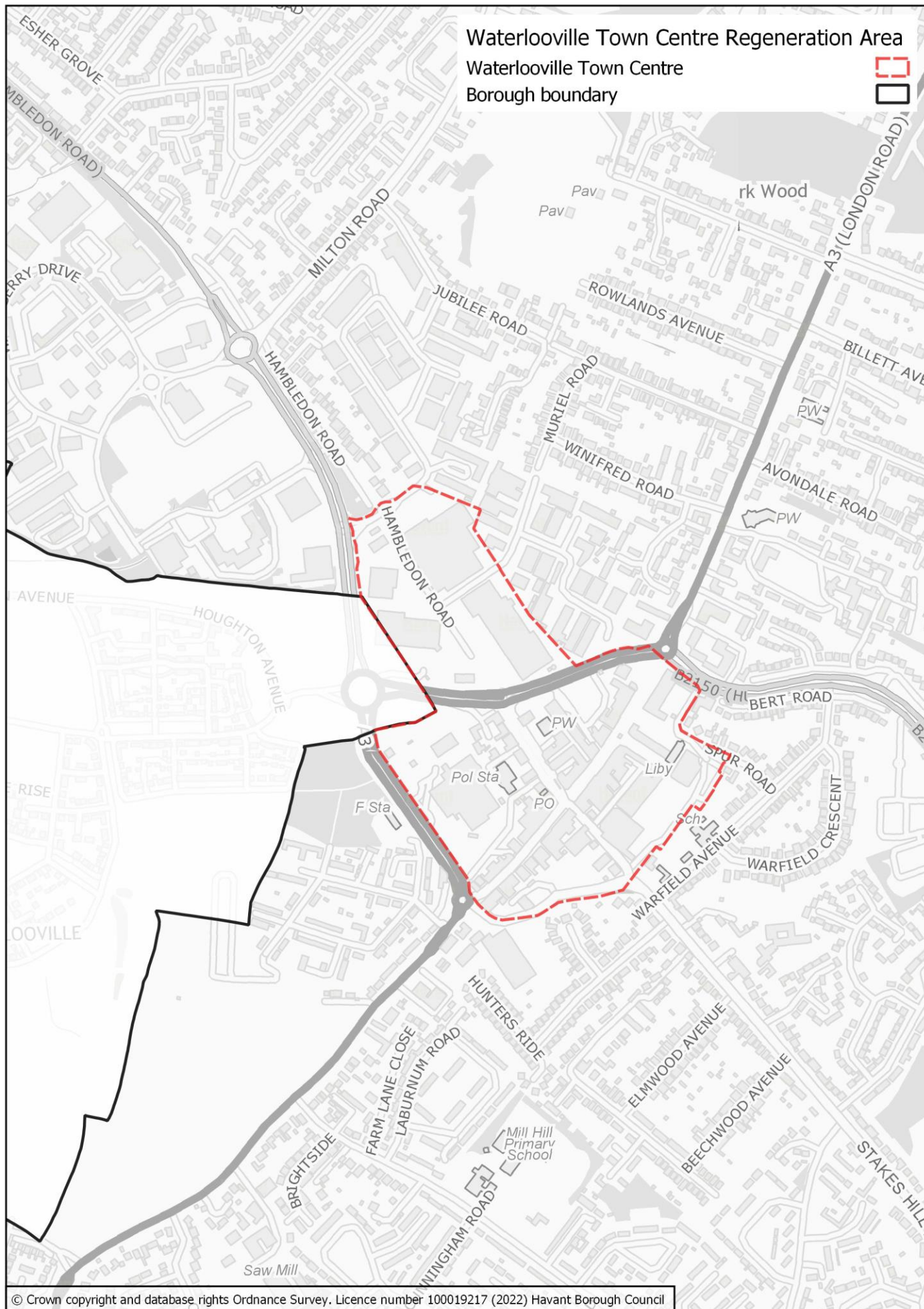
4. Review of this Position Statement

- 4.1 The Council is committed to both complying with the Habitats Regulations and also enabling sustainable new housing development. This Position Statement includes a mitigation plan which will enable development management decisions to be taken on planning applications in compliance with the Habitats Regulations. This position statement has been prepared using the best and most up-to-date scientific knowledge available and has applied the precautionary principle where appropriate.
- 4.2 Moving forwards, it will be necessary for further research to be undertaken regarding the role of nitrogen and phosphorous in the water environment, the sources of nitrogen and phosphorous in the Solent's European Sites and the effectiveness of potential measures to mitigate this. This research is already underway in collaboration with partner authorities in the Partnership for South Hampshire (PfSH).
- 4.3 The Council will continue to call for Government to take action to address this issue through a review of the consents of wastewater treatment works at the Solent. However, it is acknowledged that many operate at the currently best available technology and such a review would take time in any case.
- 4.4 The Council wishes to work towards a more definitive mitigation strategy. This should ideally be on a PfSH or wider basis. The Council will continue to positively and proactively work with its partner authorities, through PfSH, together with Government, Natural England, the Environment Agency, Southern Water and any other stakeholder in order to address this issue appropriately.

Appendix 1: Regeneration Areas

Havant Town Centre Regeneration Area
Regeneration Area





APPENDIX F

Occupancy calculator

Date	06/02/2023		
Site name	26 - 32 Padnell Road, Cowplain		
Site address	Land at 26 - 32 Padnell Road, Cowplain, Hampshire, PO8 8DZ		
	Gross new homes proposed	Gross losses proposed	Net new homes proposed
1 bed			0
2 bed	2		2
3 bed	2		2
4 bed			0
5+ bed			0
Total	4	0	4

Average occupancy to include in Solent Nutrient Calculator:

2.30

Development site details

Date (dd/mm/yyyy):	05/02/2023
Site Name:	Land at Padnell Road
Planning Application number:	APP/21/01041
Site Address:	Land between 26- 32 Padnell Road, Cowplain, Waterlooville, Hampshire, PO8 8DZ

Stage 1

User Inputs

Date of first occupancy:	01/01/2025
Average occupancy rate:	2.30
Water usage (litres/person/day):	120
Development Proposal (dwellings/units):	4
Include deductible acceptable loading?	Yes
Wastewater treatment works:	Budds Farm WwTW
Wastewater treatment works N permit (mg TN/litre):	7.7

Stage 1 Calculated Loading

Stage 1 Nutrient Loading

Additional population	9.2	people
Wastewater by development	1104	litres/day
Annual wastewater TN load	2.79	kg TN/yr

Stage 2

User Inputs

Catchment:	East Hampshire Rivers
Soil drainage type:	Impeded drainage
Annual average rainfall (mm):	750.1 - 800
Within Nitrate Vulnerable Zone (NVZ):	Yes

Existing land use type(s)	Area (ha)	Annual nitrogen nutrient export (kg TN)
Greenspace	0.11	0.32
Total:	0.107	0.32

Stage 3

User Inputs

New land use type(s)	Area (ha)	Annual nitrogen nutrient export (kg TN)
Residential urban land	0.11	1.55
Total:		0.107
		1.55

Stage 4

Calculated Outputs

Annual Nutrient Budget

The total annual nitrogen load
to mitigate is:

4.82 kg TN/year

APPENDIX G

Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment (AA)

PLEASE NOTE: Undertaking the HRA process is the responsibility of Havant Borough Council as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

HRA drafting date:	08/02/2023
HRA completion date:	
Application reference:	APP/21/01041 NB – This case was Refused on 28/02/2022 and is now subject to Appeal – the agent now wishes to address the lack of HRA and mitigation reason for refusal. Inspectorate Ref:APP/X1735/W/22/3305931
Application address:	Land between 26 – 32 Padnell Road, Waterlooille
Application description:	Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage.
Lead Planning Officer:	Tina Pickup
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017 (as amended).	

Stage 1 - details of the plan or project

European site potentially impacted by planning application, plan or project:	▪ Chichester & Langstone Harbours Special Protection Area (SPA) ▪ Chichester & Langstone Harbours Ramsar site ▪ Solent Maritime Special Area of Conservation (SAC) ▪ Solent and Dorset Coast Special Protection Area (SPA) ▪ Solent and Southampton Water SPA ▪ Solent and Southampton Water Ramsar ▪ Portsmouth Harbour SPA ▪ Portsmouth Harbour Ramsar ▪ Solent and Isle of Wight Lagoons SAC (Hereafter known as the Solent European Sites)
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other projects or plans that together with the planning application being assessed could affect the site?	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity in combination with other development in the Solent area due to increase in recreational pressure.

All new housing development that would drain to the Budds Farm or Thornham Wastewater Treatment Works due to increase in nitrogen deposition leading to a reduction in water quality.

The PUSH Spatial Position Statement (<https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/>) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire.

Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

Recreational Pressure

The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. In accordance with advice from Natural England and as detailed in Policy DM24 of the adopted Havant Borough Local Plan (Allocations) and the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites.

The proposed development represents a net increase in residential dwellings. Paragraph 6.4 of the Solent Recreation Mitigation Strategy sets out that the “developer contribution will be required for every net additional dwelling within 5.6 kilometres of the boundaries of the Solent Special Protection Areas” (see para 6.3).

As a result, there would be a likely significant effect to the Chichester & Langstone Harbours SPA due to recreation.

Water Quality

The proposed development is within the catchment of a wastewater treatment works that would drain into the Chichester and Langstone Harbours SPA.

Natural England advises that there is a likely significant effect on the Solent European Sites due to the increase in wastewater from the new housing as a result of the Havant Borough Local Plan. Natural England also advises that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as new housing in the Solent catchment could have an adverse effect on the Solent's European Sites.

Natural England advise that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. This causes eutrophication, which affects vegetation growth and food resources for qualifying species such that it affects the status and distribution of those species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites. The Partnership for South Hampshire (PfSH), Natural England (NE), and Environment Agency (EA) have been jointly working to

develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PfSH region to accommodate future housing growth without having a detrimental effect upon the water environment. There is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

Natural England recommends that any new proposals which include overnight accommodation have inevitable wastewater implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Habitats Regulations. Nonetheless, the existing use of the site can be taken into account and it is the 'net' nutrient emissions into European Sites that is critical.

This would need to be examined within an appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account.

As a result, there would be a likely significant effect to the following Solent European Sites due to water quality:

- Chichester & Langstone Harbours Special Protection Area (SPA)
- Chichester & Langstone Harbours Ramsar site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Special Protection Area (SPA)
- Solent and Southampton Water SPA
- Solent and Southampton Water Ramsar
- Portsmouth Harbour SPA
- Portsmouth Harbour Ramsar
- Solent and Isle of Wight Lagoons SAC

Would the proposal lead to a likely significant effect on European site integrity? Yes, due to recreational pressure and water quality loss/degradation of supporting habitats and construction impacts.

(If yes, continue to Stage 3).

Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

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.

Havant Borough Council formally adopted the Solent Recreation Mitigation Strategy in February 2018. The SRMS provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Size of units	Scale of mitigation per unit	Amount proposed in this scheme	Cost
1 bedroom	£390.00	0	£0.00
2 bedroom	£563.00	2	
3 bedroom	£735.00	2	£1,470.00
4 bedroom	£864.00	0	£0.00
5 bedroom	£1,014.00	0	£0.00
Flat Rate (Caravan/ Tent Pitches)	£652.00	0	£0.00

Monitoring fee¹ for this scheme: £73.50

Administration fee² for this scheme: £23.00

TOTAL AVOIDANCE AND MITIGATION PACKAGE: £1,566.50

¹Monitoring fee is 5% of total mitigation cost

²Administration fee is £23 per application

Policy DM24 of the adopted Local Plan sets out the Council's approach to securing the appropriate mitigation measures to address the in-combination impact of increased recreational disturbance arising from increased housing development. It states:

"Planning permission will be granted for residential developments that avoid or mitigate a likely significant effect on the SPAs, caused by recreational disturbance through the in-combination effect of net additional dwellings"

A legal agreement will be necessary to secure the mitigation package. The applicant has confirmed through a European Site Avoidance and Mitigation Checklist that they commit to providing a mitigation package. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore the development will not act against the stated conservation objectives of the European sites.

Water Quality

The project being assessed would result in an increase in population in the catchment of several Solent European Sites as set out in stage 2. As advised by Natural England, a permanent significant effect on the Solent European Sites due to the decrease in water quality as a result of new development, is likely. As such, in order to lawfully be permitted, further assessment is needed as to the net nutrient emissions from the site, including any avoidance or mitigation measures proposed.

Havant Borough Council has published a Position Statement and Mitigation Plan for Nutrient Neutral Development. This sets out how mitigation can be provided to enable development to take place within Havant Borough whilst avoiding any likelihood of a significant effect on the Solent European Sites identified in stage 2.

Natural England have produced guidance for developers and mitigation providers. This can be found on the Council's nutrient neutrality webpage. This sets out a methodology to calculate the nutrient emissions from a development site. The Council has also produced advice on the occupancy figure which should be used within Natural England's calculator this can be found in the Council's published Position Statement and Mitigation Plan. The applicant has used and submitted the Council's occupancy calculator and Natural England's calculator as part of an overall nutrient budget. **Please note that this has been based on the existing use of the site comprising green space land for HRA AA purposes. This is consistent with NE's previous request for this land classification under APP/21/00024 on the same site. Since nothing has changed since that application, and the site still essentially open and undeveloped, it was thought appropriate to use the same greenspace category.**

This calculation has confirmed that the site will emit a nutrient load into European Sites. The calculations for this development site are part of the applications case file.

Achieving a position where there are no net nutrient emissions into the Solent European Sites from this development involves the use of a specific on-site avoidance measure as well as the use of Warblington Farm as a specific off-site mitigation measure. The scientific report 'Review of the Warblington Farm

Mitigation Option for Nutrient Neutral Development in the Havant Borough' is available at www.havant.gov.uk/nitrogen which confirms suitability of the use of Warblington for nutrient mitigation to mitigate for development in Havant Borough.

As set out in the Position Statement and Mitigation Plan for Nutrient Neutral Development, an appropriate scale of mitigation for this scheme would be:

Amount of mitigation required kg/N ¹	Cost of mitigation
4.82	£14,460.00
Administration Fee ²	£23.00
Total avoidance and mitigation package for nutrient neutrality:	£14,483.00
¹ Please refer to the nutrient budget for the final figure of mitigation required	
² Administration fee is £23 per application	

A legal agreement will be necessary to secure this avoidance and mitigation package in perpetuity. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the water quality of the Solent European Sites and therefore the development will not act against the stated conservation objectives of the Solent European Sites.

Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

This assessment represents Havant Borough council's Appropriate Assessment as a Competent Authority in accordance with requirements under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended), Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework.

This assessment concludes that the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above Solent European sites.

The authority has concluded that the adverse effects arising from the proposal are wholly consistent with the effects detailed in the Solent Recreation Mitigation Strategy with regards recreational disturbance. The adverse effects are also consistent with the effects detailed in the Position Statement and Mitigation Plan for Nutrient Neutral Development with regards water quality.

The authority's assessment is that the application complies with these strategies and the potential to provide mitigation to remove the significant effects that otherwise would have been likely. It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

Natural England Officer:

Summary of Natural England's comments:

Date: 28 February 2023
Our ref: 423146
Your ref: APP/21/01041



Tina Pickup
Havant Borough Council

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

T 0300 060 3900

BY EMAIL ONLY

Dear Tina,

Planning consultation: APPEAL. Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage.

Location: Land between, 26-32 Padnell Road, Waterloooville

Thank you for your consultation on the above dated 09 February 2023 which was received by Natural England on the same date.

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

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 8th February 2023, 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 preventing 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.

Nutrient budget

The proposals are to erect 4 houses on an infill plot in a residential area. We note that the existing land use is based on Greenspace. We point you towards the calculator guidance which defines greenspace as “Natural and semi-natural outdoor spaces provided for recreational use where fertilisers will not be applied and dog waste is managed, e.g. semi-natural parks. This does not include green infrastructure within the built urban environment, such as sports fields, gardens, or grass verges, as these are included in the residential urban land category.”

Havant Borough, as competent authority, should take a view on whether greenspace or the urban land use category is more appropriate in this instance taking a precautionary approach. Provided that your authority is assured and satisfied that the budget calculations are suitably precautionary and accurately reflect the proposal, then Natural England raise no concerns with regard to the nutrient budget

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

Yours sincerely,

Rachael Clemson
Sustainable Development Lead Adviser
Thames Solent Area Team