
Site Address:	Land Adjacent to Saxted House, 5 Tower Street, Emsworth		
Proposal:	Erection of a 5 bedroom house, with garage.		
Application No:	APP/20/01220	Expiry Date:	19/03/2021
Applicant:	Mr Maddock		
Agent:	Mr Wensley	Case Officer:	Lesley Wells
	Daniells Harrison Chartered Surveyors		
Ward:	Emsworth		

Recommendation: **GRANT PERMISSION**

1 Site Description

The site lies to the south of Saxted House which is a Grade II Listed Building and falls within the Emsworth Conservation Area and the Chichester Harbour Area of Outstanding Natural Beauty. Residential development surrounding the site. The site previously was part of Saxted House, which has now been sold off separately. Vehicular access would be to the south east of the site off Tower Street, which would be a joint access with the property to the south, granted planning permission under reference 03/53651/016

There are trees the subject of a Tree Preservation Order along the northern boundary of the site. The remainder of the trees are protected as the site falls within a Conservation Area.

The area of the site is approximately 0.17 hectares and falls within Flood Zone 1.

2 Planning History

27888/4 Two detached houses and garages. Permitted 06/06/85
90/53651/001 Renewal of Planning Permission 27888/4 for erection of 2 detached houses and garden, including amendments to siting and design. Permitted 17/05/90.
94/53651/008 Variation of condition 1 of planning permission 90/53651/1 (such as to effect a renewal of planning permission of 90/53651/1 for the erection of 2 no. detached houses and garages) was permitted dated 2 February 1995. The permission was not implemented and therefore lapsed on 2 February 2000.

03/53651/016 - Erection of 1 No. 5 bed dwelling and 1 No. 4 bed dwelling both with integral double garages and the formation of a new vehicular access to Tower Street – granted 2/9/03 – permission implemented as the 5 bed dwelling has been constructed

03/53651/017 Listed Building Consent application for the partial demolition of the existing flint set and brick wall forming part of the eastern boundary of the curtilage of Saxted House with Tower Street and the erection of 2 No. brick piers in order to form a vehicular access. Works to walls within the curtilage of Saxted House to close 2 no. pedestrian access points – undetermined to date and found elsewhere within this Agenda. ????

APP/10/00331 - Crown reduce by 30% 2No. Poplar trees within Emsworth Conservation Area., RNO,06/08/2010
 APP/10/00570 - Single storey extension incorporating 2No. rooflights., PERM,09/12/2010
 APP/10/00571 - Revise existing outbuilding to create new access to the north of the site. , PERM,30/11/2010
 APP/10/00715 - , UNK,
 APP/10/00741 - Listed Building Consent to revise existing outbuilding to create new access to the north of the site., PERM,30/11/2010
 APP/10/00762 - Listed Building Consent for single storey rear extension and internal alteration., PERM,09/12/2010
 APP/11/00018 - Discharge of Condition No/s 2 & 3 of Planning Permission
 APP/10/00741, PERM,26/04/2011
 APP/16/00826 - Crown reduce 3No. Ornamental Plum trees (T1, T2 and T3) by 1.5m overall and re-pollard 1No. Poplar (T4), within Conservation Area of Emsworth., RNO,07/09/2016
 APP/20/00241 - Construction of 1No. 5 bed detached dwelling with car ports and detached garage (alternative design for one of two dwellings granted planning consent in 2003 (ref: 03/53651/016) and partially implemented.
 , WD,18/01/2021

3 Proposal

The proposal is for the erection of a 5 bedroom house, with an attached garage.

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)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

DM20	(Historic Assets)
AL1	(Presumption in Favour of Sustainable Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Havant Borough Pre Submission Local Plan 2036

E22	(Amenity and pollution)
E20	(Drainage infrastructure in new development)
E2	(Health and wellbeing)

E1*	(High quality design)
H1*	(High quality new homes)
E3	(Landscape and settlement boundaries)
E12	(Low carbon design)
E15	(Protected species)
E16	(Solent Special Protection Areas)
E14	(The Local Ecological Network)
IN3	(Transport and parking in new development)
E18	(Trees, hedgerows and woodland)

Emsworth Neighbourhood Plan Post Examination Version 2020

ENP_M1	(Cycle Storage Provision)
ENP_H1	(Design & Heritage)
ENP_D1	(General Design Policy)
ENP_L1	(General Housing Policy)
ENP_D2	(Height, Mass & Materials)
ENP_L2	(Housing Mix)
ENP_D3	(Layout, Form & Density)
ENP_D7	(Mitigate Light Pollution)

Listed Building Grade: Not applicable.
Conservation Area: Emsworth

5 Statutory and Non Statutory Consultations

Arboriculturalist - 1st comment - No Objection

The Arboricultural information submitted by Bernie Harverson is to a high standard and comprehensive, addressing the constraints posed by the trees on site.

If permission is given for this application, then the supplied AMS and TPP must be strictly adhered to and should form part of any conditions applied to this site. Without strict adherence to the AMS and TPP there is a significant risk that the trees on site will be damaged.

There are three trees identified for removal - two are very poor quality and could be removed regardless of any development on site and the third is identified as poor form and the proposed mitigation planting on site will ensure that there is ongoing sustainable canopy cover for the area.

In terms of the tree planting and the [western] wall - this is something I am unsure of and would require further details in terms of species, distance from the wall and any special planting measures such as root deflectors etc to be used if there is a close relationship between the existing wall and the planned position of the trees. A simpler approach would be for the agent to seek planting advice from their Arb Consultant in relation to this and then to submit a short statement.

Officer comment - the proposed tree planting along the western boundary has been removed from the proposal.

Building Control - Comments

Building Regulation consent needed for this work

No comment other than to say unable to measure exact location of domestic waste bin store which might be located too far to carrying bags to so will fail to comply with Approved Document H requirements.

Chichester Harbour Conservancy Recommendation - No Objection

The landscape of Chichester Harbour was recognised as nationally important when it was designated as an Area of Outstanding Natural Beauty (AONB) in 1964, through the National Parks and Access to the Countryside Act of 1949. The Conservancy was established by the Chichester Harbour Conservancy Act of 1971. The purposes of the Conservancy are the responsibility for navigation and the conservation of nature. The Countryside and Rights of Way Act of 2000 formally established the Conservancy as the Joint Advisory Committee for the AONB, with the purpose to conserve and enhance the natural beauty of the landscape.

In the role of managing the Chichester Harbour Area of Outstanding Natural Beauty (AONB), The Conservancy has considered the submitted proposal against the Conservancy's planning guidance and principles - including The Chichester Harbour Management Plan (2019-2024), The Chichester Harbour Planning Principles (Management Plan version April 2019), The Chichester Harbour AONB Landscape Character Assessment (CBA update 2019), and The Chichester Harbour AONB Joint SPD (May 2017)), adopted by both Chichester District Council and Havant Borough Council.

As the time period for comment is unlikely to allow the Conservancy to consider the matter at the next available Planning Committee, the Conservancy makes the following comment under the Chichester Harbour Conservancy Consulted Delegation Procedure route.

The Local Planning Authority (LPA) is hereby advised that,
Chichester Harbour Conservancy Recommendation : NO OBJECTION
Suggested considerations –

1. schedule/samples of materials to be agreed prior to construction / as indicated on application forms,
2. removal of permitted development rights relating to additions, extensions, enlargements, or alterations affecting the external appearance of the proposed building given the overall size and scale of the dwellings compared to the size of the plots indicated,
3. for glazed surfaces, the use of coated surface glass that is non-reflective to mitigate external reflective glare which might also assist with keeping heat in and radiation out for the respective seasonal changes,
4. the use of the integral domestic garage is to be used for car parking and remain ancillary to the host dwelling on the site.
5. external lighting to the created dwelling should take into account the Dark Skies protocol operating within the AONB protected national landscape designated area
6. prior to the commencement of any site works a development contribution is made with regards to development and disturbance of birds in Chichester and Langstone harbours Special Protection Areas

A cautious, 'on balance' assessment based upon the submitted information has been made not to object to the proposal. This is made on the basis of the overall size and scale of the proposal being sought. This is significantly larger than the previous planning permission for the plot - 03/53651/016 dated 2 September 2003. However, the setting and character of the location and the mix of building types, designs, and appearances lend the proposal to be considered an acceptable solution for the sites development.

Applicants Approach to the AONB protected landscape designation

It is noted that the submitted proposal makes little to no acknowledgement of the sites location within the Area of Outstanding Natural Beauty (AONB). The AONB landscape includes open countryside, rural hamlets and villages, urban built-up market towns as well as the harbour waters, all of which are subject to a higher level of planning scrutiny and where development is subject to more stringent planning guidance to ensure that development respects and enhances the inherent qualities of such a sensitive location. The proposal has apparently been made with a minimal level of understanding in this regard, notwithstanding that this has been made known as part of the consideration of the earlier submitted application proposals. This is unfortunate given the protected status of the AONB landscape.

Recommendation Reasoning

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. The adopted guidance requires a clear demonstration that no harm is caused to the AONB. The sites location within an urban built-up area in the AONB is a key consideration.

The positioning of the proposal would have a localised impact on the character and appearance of the site and the immediate surrounds. The proposal lies within the historic central area of the settlement and has reflected its setting in the design and appearance of the building.

The scale of the works would be an increase on the earlier permission for a four-bedroom house, but in comparison the proposed five-bedroom dwelling would reflect and represent much of the character and design of the earlier approved scheme.

The proposal would have a visual impact on the AONB, but this limited due to its largely enclosed location within this urban built-up area of the AONB. Given its setting, the proposal is considered not to be unduly prominent to be detrimental to the character or the appearance of the Area of Outstanding Natural Beauty (AONB).

The control of lighting associated with the new dwelling would need to be restrained and proportional to the desire to maintain the character and ambiance of the AONB. The proposal is unlikely to have any significant impact or effect on the AONB in relation to wildlife conservation and protection. The requirement to make suitable mitigation towards the Solent Bird Aware programme would however be a necessity.

Officer comment: *as to 1,2, 4 above these are recommended conditions. As to 6. above mitigation packages have been secured. As to 3 above these are not considered to be reasonable and necessary for the development, due to the location of the site.*

Community Infrastructure

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

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

(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of additional dwellings and their respective number of bedrooms. See <http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>. The applicant has paid an SRMS fee for the withdrawn application APP/20/00240, and £973.35 can be transferred to the SRMS fee due for this application

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

Conservation Officer - No Objection

Background

Saxted House is a Grade II* listed building in residential use. It is located on Tower Street in the Emsworth Conservation Area. The original plot included a very large rear garden which extended towards the harbour. However, planning permission was granted in 2003 to subdivide the plot for the construction of 2no. detached dwellings. Only one of these was implemented and the remainder plot has been left undeveloped for 17 years. The planning permission gave approval for 2no. large detached dwellings of a traditional design, using brick and tile materials. The permission included two new separate accesses from Tower Street to serve the new properties.

Legislative and Policy Context

When assessing the proposal, the following legislation and policy context is taken in consideration.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities, when considering whether to grant planning permission for development which affects a Conservation Area, to have special regard to the desirability of preserving or enhancing the character and appearance of that area.

The revised National Planning Policy Framework (NPPF) was published in February 2019 and sets down the policies that the Council must take into account when determining planning applications. The 'Historic Environment Good Practice Advice in Planning Note 2', states at paragraph 4:

'The significance of a heritage asset is the sum of its archaeological, architectural, historic, and artistic interest' and provides at paragraphs 8, 9 and 10 that in order for the Local Planning Authority to make decisions in line with legal requirements, the objectives of the development plan; and, the policy requirements of the NPPF, great importance is placed on understanding the nature, extent and level of the significance of the heritage asset.

The revised NPPF (February 2019) sets out in Chapter 16, the core principles relating to development affecting Heritage Assets that local planning authorities should consider in making planning decisions in the following paragraphs:

'184. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

191. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

192. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Considering potential impacts

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

With regards to local planning policy, the following are relevant:

Policy CS11 of the Core Strategy states that planning permission will be granted for development that:

Protects and where appropriate enhances the borough's statutory and non-statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest.

Policy CP16 (1a) of the Core Strategy states 'Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site'.

Policy DM20 of the Allocations Plan states that planning permission will be granted for development proposals that conserves and enhances the historic assets of Havant. It also states that application which affect, or have the potential to affect, heritage assets are expected to provide a Heritage Statement that:

1. Describe the significance of the asset and its setting, using appropriate expertise and where necessary original survey, at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal.
2. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets.

Proposal: .

The proposal is for the construction of 1no. 5 bed dwelling with a detached garage which has an amended design from the one granted approval in 2003.

The revised dwelling would be in roughly the same position as the previously approved dwelling, with an Arts and Crafts design using traditional style windows, red/brown multi facing brick rising off a plinth with orange/red plain clay tiles.

Officer Response: .**Impact on setting of Grade II* listed building .**

The setting of a heritage asset is defined in the glossary to the Framework as the surroundings in which a heritage asset is experienced. In simple terms, setting embraces all of the surroundings from which the heritage asset can be experienced, or that can be experienced from, or with, the asset. The development proposed would be clearly visible from the listed building and there would be areas within, and outside, the site where the listed building and the proposed development would be seen in juxtaposition. On that basis, it is clear that the proposal would have an impact on the settings of the listed buildings concerned.

It is clear that land in question was part of a large garden owned by Saxted House which extended south. However, this appearance has substantially changed since the approval of application ref:03/53651/016 which subdivided the plot for the construction of 2 dwellings. The plot in question has been fenced off and is now in separate ownership. Intervisibility from the listed building towards the proposed dwelling will also be limited from some of the heritage assets.

The size, form, location and design of the dwelling and the proposed materials will minimise visual impact. It is considered these design parameters pay special attention to the desirability of preserving the setting of the nearby listed building as the development has responded to the significant elements of the designated heritage asset.

In this particular instance it is considered that the proposed development would not be detrimental to the architectural significance of the Grade II* listed heritage asset or its setting. Although it is acknowledged that the setting of the building contributes to its significance, the new scheme allows for this setting to be substantially maintained.

Conservation Area

In terms of the setting of the conservation area It is my opinion that the erection of a dwelling on this site would still allow for good appreciation of the site. It is not of a density that would be out of keeping with the prevailing residential pattern and spatial quality of the area.

Based on the elevations provided, I am satisfied that the buildings are of an appropriate scale and mass. The design of the house is in an 'Arts and Crafts' style and appears to be well conceived. It does not dominate the plot and allows for the sensitivities of the site to be maintained. Materials will be crucial and should be of a good quality.

The car parking arrangement also appears appropriate for this location and does not dominate the site. The bound gravel driveway is also a big improvement on the existing tarmac.

Having regard to the above I do not believe there would be any harmful impact on the setting of the Emsworth Conservation Area.

Conditions

1. Remove P.D rights
2. DE.8 Materials - Details/Samples required
3. Full details of all new windows and doors shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work. The windows and doors shall be installed in accordance with the approved details.
4. Guttering details to be submitted.

Officer comments: the above conditions are recommended.

Councillor Julie Thain-Smith

No comment.

Councillor Lulu Bowerman

No comment.

Councillor R Kennett

No comment.

Crime Prevention -Minor Apps

No comment.

Natural England Government Team

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment 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, providing that all mitigation measures are appropriately secured in any planning permission given. Please find comments on the mitigation below.

Solent Recreation Mitigation Strategy

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Deterioration of the water environment

The nutrient budget has been calculated in line with Natural England's Advice on Achieving Nutrient Neutrality in the Solent (version 5 June 2020). Provided the competent authority is assured and satisfied that the site areas used in the calculation are correct and that the existing land uses are appropriately precautionary, then Natural England raises no concerns with regard to the nutrient budget.

Please note the calculation is based on all wastewater from the development being treated at Thornham WwTWs. If this situation changes, a reassessment of the nutrient calculation will be required and a revised Habitats Regulations Assessment will be necessary.

In line with Natural England's advice, it is noted that a planning condition will be imposed on any permission to secure that the dwellings shall not be occupied until the Building Regulations Optional requirement of a maximum water use of 110 litres per person per day has been complied with.

It is noted that the approach to address the positive nitrogen budget for this development is via Havant Borough Council's mitigation scheme. We welcome and support this initiative which has scope for nutrient offsetting and biodiversity gain.

Natural England has reviewed the Position Statement and Mitigation Plan for Nutrient Neutrality Development (August 2020) and Warblington Farm Study Evidence Base (Ricardo, June 2020). Natural England concurs with the conclusion of this work that this scheme will deliver effective mitigation for developments draining to Budd's Farm WwTW and Thornham WwTW.

The nitrogen capacity of the land and proposed management of the offsetting land has been discussed and agreed. It is understood that this has been secured through legal agreements to ensure that effective mitigation is delivered for the lifetime of the development. It is also understood that a system has been set up to monitor the developments using the mitigation scheme to ensure there is capacity available for each scheme. Provided this is the case and the long term management of the mitigation scheme is monitored by the local planning authority, as competent authority, to ensure effective mitigation for the lifetime of the development, Natural England raises no further concerns.

It is for the competent authority to determine the importance of timing issues for each development, depending on location and form of mitigation applied. Given the close proximity of the mitigation land to designated sites, Natural England is not expecting any significant timing issues in this case, provided the land is brought into appropriate management at the earliest opportunity. In considering the significance of timing issues within an appropriate assessment competent authorities should take account of the average time taken from the removal of agricultural activities to first occupation and rate of completions for each development. Provided the local planning authority is satisfied that timely mitigation can be delivered in this case, Natural England raises no further comments for consideration.

Nutrient Team - No Objection

I can confirm there is sufficient capacity within the Council's mitigation scheme for planning application APP/20/01220.

Planning Policy

No comment received.

Public Spaces

No comment.

Waste Services Manager

No comment 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: 22

Number of site notices: 1

Statutory advertisement: 05/02/2021

Number of representations received: 3

The following is a precis of the representations received:

- Unacceptable damage to local character and environmental quality and residential quality.
- Adverse impact on neighbouring properties due to noise, disturbance, loss of peace and tranquillity, privacy, massing, density and scale.
- Overdevelopment of the site - loss of space around the development - footprint will negatively impact the privacy, amenity and aspect of adjacent properties

- Small raised back garden would be overlooked - suffer loss of aspect and light - negative effect on quality of life - narrow town house style offers little flexibility in how internal and external space can be used. - intrusive development.
- Western boundary wall stand at approx 9ft on neighbour's side.
- Northern and eastern gardens were an integral feature of the previous proposal - not the case with this development.
- The interaction between house and gardens is a major feature of houses and landscapes designed in an Arts & Crafts architectural style - proposal does not compare well with the previous approval.
- Paucity of information in the Heritage Statement on the effect on Saxted House and Emsworth Conservation Area and privacy issues
- Proposal contrary to national guidance - would not conserve and enhance the environment of a historic conservation area -adverse impact on setting of Saxted House and Emsworth Conservation Area
- Proposed planting along western boundary may cause structure damage to wall and the loss of significant natural light and amenity to neighbouring property - all the plans do not show the removal of this planting - should not be permitted.
- Semi mature planting against the walled garden of Saxted has facilitated the increase in mass of the proposal.
- Who would be responsible for structural damage to my house?
- The 2003 approval granted a pair of attractive, architect-designed 4-bedroom houses that sat well within the plot and maintains sensitive distances between neighbouring homes.
- Access to the most attractive feature of the site limited by the north wing which protrudes beyond the original foundation line close to Saxted House boundary
- Clear space to Saxted House boundary curtailed by the recent planting.
- Net additional increase of 104 sqm
- Clarification on the covenant of 2003 - only one of the two development sites should be for a 5 bed house - granted for Tower House.

Officer comment: *The proposal falls to be considered on its individual merits, albeit that the planning history of the site provides a context for that assessment. The impact of the proposed development on the character of the area, the Conservation Area and the Listed Building; and the impact on residential amenity are discussed at Section 7 below. The originally proposed planting along the western wall has been removed from the scheme. Issues of structural damage and covenants are private property matters falling outside the purview of the Local Planning Authority; they are not, therefore, material considerations.*

7 Planning Considerations

7.1 Appropriate Assessment (AAA)

The Council has conducted a Habitats Regulations Assessment (HA), including Appropriate Assessment (AAA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to both the increase in recreation and the decrease in water quality that would be the result of the proposed development.

The planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. 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 entered into legal agreements to secure the mitigation packages.

The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has entered into legal agreements to secure the mitigation packages. Unilateral Undertakings have been completed and returned for the Solent Mitigation Recreation Strategy and for nitrogen neutral development..

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

- (i) Principle of development
- (ii) Impact upon the character and appearance of the Conservation Area and the setting of a Listed Building and Chichester Harbour Area of Outstanding Natural Beauty (AONB)
- (iii) Impact upon residential amenity
- (iv) Trees
- (v) Parking
- (vi) Developer Contributions & CIL

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. From previous permissions granted for residential development on the site (03/53651/016), the principle of an additional dwelling on this site has been long standing and been considered acceptable by the Local Planning Authority (LPA). Sufficient information has been provided to determine the application.

The addition of a new dwelling in such a location would make a contribution, albeit a very modest one, to the Council's overall housing requirements. The updated NPPF 2019 continues to have a presumption in favour of sustainable development, whilst noting that good design is a key aspect of sustainable development. The creation of high quality buildings and places is a fundamental aim and paragraph 130 notes that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area...".

It should also be noted that the Council has a Submission Havant Borough Local Plan. Whilst this plan currently has limited weight in decision making, it must be noted that the emerging policies place a greater emphasis on achieving high quality design with particular reference to the standard of living for future occupiers. Emerging policy H1 introduces the nationally described space standards and re-iterates the need for sufficient and functional outdoor amenity space to support physical and mental health and wellbeing. Additionally, other relevant emerging policies include E1 High Quality Design, E2 Health and wellbeing and E22 Amenity and pollution.

(ii) Impact upon the character and appearance of the Conservation Area, the setting of a Listed Building and Chichester Harbour Area of Outstanding Natural Beauty (AONB)

There is an extant planning permission on the site for the erection of a 4 bed dwelling (hereinafter referred to as 'the approved dwelling') under reference 03/53651/016, granted on 2/9/03. This is the fall back position, as the approved dwelling could be erected, without the need for a further grant of planning permission from the LPA . That said, the current proposal must be assessed against prevailing policies with regard had to the statutory duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding its impact on the Conservation Area and the adjacent Listed Building; and the Countryside and Rights of Way Act 2000, as regards the AONB.

The 'cruciform' shape and design of the proposal would be in the Arts and Crafts style. The materials would be predominantly red/brown multi facing brick rising off a plinth. For the roof, there are elements of 1 1/2 and 2 storey, which incorporates cat slide sections. Orange red plain clay tiles are proposed.

The Council's Conservation Officer (CO) has been consulted over the proposal, having fully reviewed the Heritage Statement, and is of the opinion that "In this particular instance it is considered that the proposed development would not be detrimental to the architectural significance of the Grade II* listed heritage asset [ie Saxted House] or its setting. Although it is acknowledged that the setting of the building contributes to its significance, the new scheme allows for this setting to be substantially maintained." As to the affect on the Conservation Area the CO is of the opinion the proposal "...is not of a density, that be out of keeping with the revailing residential pattern and spatial quality of the area". and "and I do not believe there would be any harmful impact on the setting of the Emsworth Conservation Area". Conditions suggested by the CO as to the removal of permitted development rights, details/samples of materials, including full details of new windows, door and guttering are recommended.

Consequently, it is considered that the proposal would not be detrimental to the architectural significance of Saxted House or have a harmful impact on the Conservation Area, meeting the requirements of Policies CS11 and CS16 of the HBLP (Core Strategy) and DM20 of the HBLP (Allocations) and the statutory duty set out in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

As to impact on the AONB, under the Countryside and Rights of Way Act 2000, a LPA must have regard to the purpose of conserving and enhancing the natural beauty of an AONB, when determining planning applications. Due to the location of the proposal within an existing residential area and its density, design, scale and mass, it is considered that the proposal would conserve the natural beauty of the AONB in accordance with Policies CS11, CS16 of the HBLP (Core Strategy) and DM20 of the HBLP (Allocations).

(iii) Impact upon residential amenity

As set out above, a four bedroom dwelling has already been granted on the plot. Therefore in assessing the proposal against that which has been granted in terms of its impact on residential amenity, the key questions before the LPA are: would the increase in scale be such as to be overbearing or dominant; and/or would the proposal give rise to an unacceptable significant impact on residential amenity?

The revised proposal would be in roughly in the same position as the approved dwelling, but with a larger footprint (ie 279 sqm to 374 sqm). Due to the design of the proposal, sections of the development are closer to the western, southern and northern boundaries, with other sections of the building located further away.

The boundary treatment around the site is brickwalls, of an average height of 1.8m. There are existing trees along parts of the boundaries as set out in the Tree Constraints Plan. Initially additional tree planting was proposed along the western boundary, adjacent to No. 3 Orange Row. This has subsequently been removed from the scheme.

The blank flank wall of No. 3 Orange Row largely shields the proposal from the development to the west, which is set at a lower level, in terms of overlooking and outlook issues, as does the 1.8m boundary wall, established trees along the boundary and the proposed obscure glazing in one of the windows in the first floor of bedroom 2. The proposal would, at its closest point, be approximately 8m distant from the flank wall of 3 Orange Row, which has a single storey element to the rear. By comparison the dwelling approved under 03/53651/016 would be approximately 7m distant at its closest point. Due to the staggered rear elevation the proposal would step back into the site to the north and at this point there would be a separation distance of approximately 14m to No.3 Orange Row. As to the height of the main part of the house this would be approximately 8.7m, and appears comparable in scale with the dwelling approved under 03/53651/016, with both proposals exhibiting elements of 1 1/2 and 2 storey form. Having regard to the approved dwelling, the blank flank wall of 3 Orange Row, the separation distance between the proposal and development to the west together with the existing boundary wall and trees along this boundary, the proposal is not considered to be overbearing or dominant or result in a significant loss of amenity to the occupiers of the development to the west.

As to noise and disturbance arising from the proposed patio area, this could arise from the approved dwelling, as there is direct access to this area from the approved dwelling. It is considered that the use of a patio associated with a single dwelling in an established residential area should not give rise to an unacceptable level of noise and disturbance to the locality such as would warrant a refusal of planning permission. If such issues arose then action may be taken under Environmental Health legislation. As to the size of the garden, this is considered to be sufficient for the proposal.

The proposal has moved approximately 2m further to the north, over the approved dwelling, with Saxted House approximately 39m further to the north. A line of evergreen trees has been planted along the north and part of the eastern boundary, with a minimum 3m separation to the north boundary. At first floor on the north elevation a window would serve bedroom 2. There are existing trees and vegetation in the northern part of the site. There would be oblique views over the garden of Saxted House and residential development to the north. Due to the separation distance and existing planting this would not give rise to a significant loss of privacy or overlooking to residential development to the north.

The proposal would be set back further into the site from the existing development to the south (ie the original double garage), with a separation distance of approximately 5m. There is one ground floor window in the flank elevation of the property to the south, partially screened by a 1.8m wall. As to the proposal at this point, it would be a double garage, with accommodation in the roof, lower than the main house (ie 6.6m), with no windows in this side elevation. As to the staggered element to the front of the proposal, there would be one window at first floor, that would service bedroom 1, which would overlook the front garden of the property to the south, as would the approved dwelling with more oblique views. There would be a separation distance of approximately 14m to the boundary, with tree planting proposed along the boundary. This level of overlooking in the front garden would not give rise to a significant loss of amenity to the occupiers of this property.

There are a number of windows at both ground and first floor on the east elevation. The separation distance to the property to the east at its closest point is 20m, with existing trees and vegetation along this boundary. Due to the separation distance and screening, the proposal would not adversely impact on the residential amenity of the occupiers of the property to the east.

As to any possible damage caused to neighbouring properties by the development, this would be a private matter between the parties involved. As to the 'covenant' on the development this appears to relate to the description of the approved development for 1, 5 bed dwelling and 1, 4 bed dwelling, the former of which has been built. The proposal before the LPA seeks permission for a 5 bed dwelling, which must be determined on its merits. If there is a covenant on the deeds that restrict the number of bedrooms for this site, this would be a private matter, over which the LPA cannot get involved.

In conclusion, the proposal would not be detrimental to residential amenity, be overbearing or dominant to surrounding development, or result in an unacceptable level of noise and disturbance and would accord with Policy CS16 of the HBLPCS.

(iv) Trees

The Arboricultural Officer has been consulted over the proposal and subject to a condition that the submitted Arboricultural Method Statement and Tree Protection Plan is strictly complied with, there are no objections to the development. Such a condition is recommended.

As to the planting of trees along the western boundary, as mentioned above, these have been removed from the proposal.

(v) Access and Parking

The access is via an existing shared access off Tower Street with the property to the south, with no alterations proposed.

For a five bedroom house, three car parking spaces are required by Havant's Car Parking SPD. An attached double garage is proposed to the south of the main dwelling providing two spaces, with sufficient space within the site for a third car parking space and a turning area. The garage would provide cycle storage. The proposal accords with the requirements of Havant's Car Parking SPD and Policy DM13 of the HBLPCS.

(vi) Developer Contributions & CIL

The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several Solent European Sites (as defined in the applications HRA) due to both the increase in recreation and the decrease in water quality that would be a result of the proposed development.

The planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. 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 and Mitigation Plan for Nutrient Neutral Development. The applicant entered into a legal agreements to secure the mitigation packages, with the mitigation payments received.

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

The CIL rates to be applied to development are set out in the Havant Borough Community Infrastructure Levy Charging Schedule, which was adopted by the Council on the 20 February 2013. This followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiner's 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 levy is charged at £100 per square metre (plus indexing) on new floorspace (measured as gross internal area) in Emsworth.

The proposal would result in new residential development which is Community Infrastructure Levy (CIL) liable and the appropriate forms have been submitted. The gross increase in new internal floor space for the dwelling has been calculated by the agent as 374 sqm, which would be £55,599.11. Exemption is being claimed.

8 **Conclusion**

The proposal would not adversely impact on Saxted House, Emsworth Conservation Area, Chichester Harbour Area of Outstanding Natural Beauty or residential amenity. There are no objections on trees and parking grounds and the mitigation packages for the SRMS and neutral nitrogen development have been secured. Therefore, the proposal accords with the development plan when considered as a whole and conditional planning permission is recommended.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/20/01220 subject to the following conditions

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

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

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

Arboricultural Method Statement
Design & Heritage Statement
Block Plan - Drawing No 01B
Site Layout Plan - Drawing No.02C
Ground Floor Plan - Drawing No.0 3 - Nov 2020
First Floor Plan - Drawing No. 04 - Nov 2020
Roof Plan - Drawing No. 05 - Nov 2020
North & West Elevations - Drawing No. 06A
South & East Elevations - Drawing No 7A
Tree Constraints Plan - Drawing No. BJH 01/02
Tree Protection Plan - Drawing No. BJH 03/04

Reason: - To ensure provision of a satisfactory development.

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

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

- 4 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the building hereby permitted the windows in the first floor on the west elevation serving bedroom 2 shall be fitted with, to a height of no less than 1.7m above finished floor level, non-opening lights and textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and retained as such thereafter.

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

- 5 The car parking in the garage and other vehicular access arrangements to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.

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

- 6 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension and outbuildings shall be constructed within the curtilage of the site without the prior approval of the Local Planning Authority.

Reason: Reason: In the interests of the amenities of the neighbouring properties, heritage assets and the Chichester Area of Outstanding Natural Beauty having due regard to policies CS11, CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and Policies DM24 of the Havant Borough Local Plan (Allocations) and the National Planning Policy Framework.

- 7 Development shall proceed in strict accordance with the Arboricultural Method Statement by Bernie Harverson dated Dec 20 and the Tree Protection Plans numbered BJH 01/02 and BJH 03/04 unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the National Planning Policy Framework and Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 8 Prior to the occupation of the dwelling hereby permitted details of the proposed tree planting along the southern boundary in terms of sizes and species shall be submitted to, and approved in writing by the Local Planning Authority. The approved tree planting works shall be carried out in accordance with the approved details and in accordance with any timing approved or within the first planting season following final occupation of the development hereby permitted, whichever is the sooner. Any trees planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

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

- 9 No above ground construction works shall take place until a full specification of the external lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed in accordance with any terms of such approval and in full accordance with the Proposed Residential Development Lighting Assessment produced by WYG, dated June 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the residential amenity of the locality and the character of the AONB is not impacted upon by external lighting levels and having due regard to policies CS11 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 10 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, and Policy E14, EX1 and E12 of the Pre-Submission Havant Borough Local Plan.

- 11 At all times following occupation of the development hereby approved, 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, and Policy E14, EX1 and E12 of the Pre-Submission Havant Borough Local Plan.