

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**17A-17B Avondale Road,
Waterlooville
PO7 7ST**

**Local Planning Authority Reference:-APP/20/00146
Planning Inspectorate Reference:-
APP/X1735/W/20/3257320**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Ms Linda Gutteridge AGAINST REFUSAL of Construction of 1No. 2 bed bungalow to the rear of 17A/B Avondale Road, with access via Brooklyn Drive and associated bin store and parking

AT 17A-17B Avondale Road, Waterloooville, PO7 7ST

Planning Inspectorate Reference: APP/X1735/W/20/3257320

LPA Ref: APP/20/00146

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The appeal site comprises part of the rear garden of 17 A-17B Avondale Road, which is a detached 2 storey residential property, in use as 2 flats. This host property is located on the corner of Avondale Road with Brooklyn Drive, such that its rear garden fronts Brooklyn Drive. Number 17 has a historic flat roofed two storey extension across its rear elevation. There are 2 front doors within its side gable elevation, serving the 2 self-contained flats, arranged as a first floor flat and ground floor flat; each of which have 2 bedrooms, kitchen, bathroom and lounge. It is the ground floor flat, Nos 17 A, that has use of the existing garden area.
- 1.2 This north side of Avondale Road is characterised by inter-war traditional two storey dwellings, having relatively generous rear garden depths of approximately 30m. In contrast, Brooklyn Drive, which leads to Bramley Close, is a 1970's development of tighter-knit detached dwellings set in more modest plots. Brooklyn Drive has a slight dog-leg within it, outside the appeal site, which results in a tapering of the appeal site at its northern end. The land in the area slopes gradually down from west to east, such that there is a slight slope to the garden of 17A down to the Brooklyn Drive frontage.
- 1.3 The garden of 17A is bounded to Brooklyn Drive by a 1.2m high close boarded fence and currently the half closest to this property is maintained and includes a shed. The rear, northern, half is currently overgrown and unkempt. Immediately to the north is a private drive serving a brick built detached garage, set back within the rear garden of, and serving, number 15 Avondale Road. Beyond, numbers 1 to 3 Brooklyn Drive are two storey gable fronted detached dwellings, set in a line and back from the highway by about 6m. The eastern side of Brooklyn Drive comprises a high close boarded fence where enclosing the long rear garden of 19 Avondale Road; then 4 private garages set back before a fence enclosing 23 Bramley Close. Brooklyn Drive itself is therefore, characterised by an absence of structures and largely features the side flank boundary treatments of long gardens and therefore has a relatively spacious and open feel.
- 1.4 The submitted red lined appeal site measures 27m in length along the western boundary with number 15, and has a depth of between 9m and 5m. This would leave a rear garden depth of 6.5m for 17A.
- 1.5 The Borough Map and 1:1250 Location Plan are provided at **APPENDIX A**.

2.0 PLANNING HISTORY

- 2.1 The following planning applications are considered relevant to the consideration of this appeal:

04/67971/000 – Outline application for one detached two bedroom, two storey dwelling

Refused – 21st December 2004 for two reasons:

1. *The size and shape of the plot would not allow for development of a standard compatible with the existing surrounding development and the proposed development would, therefore, be detrimental to the amenities of the area. Consequently the proposal is contrary to policies UB3 of the Hampshire County Structure Plan 1996-2011 (Review), GDD1 and HO6 of the Havant Borough Local Plan 1994, and D2, D4 and D7 of the emerging Havant Borough District-Wide Local Plan 1996-2011.*
2. *The use of the proposed access would be likely to cause undue interference with the safety and convenience of users of the adjoining highway. Consequently the proposal is contrary to policies T5 and T6 of the Hampshire County Structure Plan 1996-2011 (Review), T5 and T7 of the Havant Borough Local Plan 1994, and T14 and T17 of the emerging Havant Borough District-Wide Local Plan 1996-2011.*

05/67971/001 – Outline application for 1No. detached bungalow with parking

Refused – 28th July 2005 for two reasons:

1. *The size and shape of the plot would not allow for development of a standard compatible with the existing surrounding development and the proposed development would, therefore, be detrimental to the amenities of the area. Consequently the proposal is contrary to policies UB3 of the Hampshire County Structure Plan 1996-2011 (Review), GDD1 and HO6 of the Havant Borough Local Plan 1994 and D2, D4 and D7 of the emerging Havant Borough District-Wide Local Plan 1996-2011.*
2. *The applicant has failed to demonstrate that the use of the proposed access would not cause undue interference with the safety and convenience of users of the adjoining highway. Consequently the proposal is contrary to policies T5 and T6 of the Hampshire County Structure Plan 1996-2011 (Review), T5 and T7 of the Havant Borough Local Plan 1994 and T14 and T17 of the emerging Havant Borough District-Wide Local Plan 1996-2011.*

- 2.2 This 2005 refusal of planning permission by the Local Planning Authority was subject to an appeal to the Planning Inspectorate Ref: APP/X1735/A/05/1189390. The appeal was subsequently Dismissed on the 23rd January 2006. Copies of the relevant plans, Decision Notes and Appeal Decision are attached at **APPENDIX B**.

3.0 THE APPLICATION

- 3.1 The application for the *Construction of 1No. 2 bed bungalow to the rear of 17A/B Avondale Road, with access via Brooklyn Drive and associated bin store and parking* was submitted to the Local Planning Authority on the 12th March 2020 and subsequently refused for the following reasons on the 28th May 2020:

First Reason:

The size and shape of the plot is not considered commensurate with the surrounding pattern and character of development in the area and the subdivision of the plot in the manner proposed would represent an overdevelopment of the site, with inadequate amenity space for both future occupiers and the retained property. The contrived and congested layout would be harmful to the character of the area and the amenity of residents, contrary to the adopted Borough Design Guide SPD 2011, policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policies E1 and H1 of the Pre-Submission Havant Borough Local Plan 2036, and the National Planning Policy Framework.

Second Reason:

On the basis of the information available and in the absence of a detailed drainage report and assessment, it has not been adequately demonstrated that the development would not lead to additional on and off site surface water flooding issues to the site and immediate area. The proposal is therefore contrary to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy E20 of the Pre-Submission Havant Borough Local Plan 2036, and the National Planning Policy Framework.

Third Reason:

In the absence of a suitable agreement to secure appropriate recreational mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to this planning application. The development would be likely to result in increased recreational pressures from future residents 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 of the Pre-Submission Havant Borough Local Plan 2036, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

4.0 PLANNING POLICIES

National Policy:

National Planning Policy Framework

Adopted Local Policies

Havant Borough Local Plan (Core Strategy) March 2011

CS15 (Flood and Coastal Erosion)

CS16 (High Quality Design)

CS17 (Concentration and Distribution of Development within the Urban Areas)

CS21 (Developer Requirements)

CS9 (Housing)

DM13 (Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

DM24 (Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)

Adopted Supplementary Planning Guidance

Havant Borough Council Borough Design Guide SPD

Havant Borough Council Parking SPD July 2016

Pre-submission Havant Borough Local Plan 2036

- 4.1 The Pre-submission Havant Borough Local Plan 2036 was approved by the Council on 30 January 2019 and was subsequently published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Public consultation took place between 4 February 2019 to 18 March 2019 and the consultation responses have now been analysed. A number of changes have arisen from responses and the ongoing nutrient neutrality issue and proposed changes have been considered and approved by Cabinet on 1st July 2020 and by Full Council on the 9th September 2020. Further consultation on the changes is taking place from the 3rd November until the 17th December 2020. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption. The timetable for submission is set out in the Local Development Scheme November 2020 which can be viewed on the Council's Website at the following address:
<https://www.havant.gov.uk/sites/default/files/documents/Local%20Development%20Scheme%20%28November%202020%29%20FINAL%20%281%29.pdf>
This anticipates Submission to the Secretary of State Q1 2021, Examination Q1-3 2021 and Adoption Q4 2021.
- 4.2 Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Pre-Submission Local Plan

referenced below are currently afforded some weight, dependent on the level of objection received to each individual policy during the consultation process

The relevant planning policies of the emerging Local Plan are:

E20 (Drainage infrastructure in new development)
E22 (Amenity and pollution)
IN1 (Effective provision of infrastructure)
IN3 (Transport and parking in new development)
E1 (High Quality Design)
E12 (Low Carbon Design)
E14 (The Local Ecological Network)
E16 (Solent Special Protection Areas)
H1 (High Quality New Homes)
EX1 (Water Quality impact on the Solent European Sites)

- 4.3 Copies of these emerging policies not already included within the appeal Questionnaire are included in **Appendix C** for the Inspectors attention, namely policies IN3, E12, E14, E16 and EX1, which can also be found at the following link:

<https://havant.moderngov.co.uk/documents/s30200/Appendix%20A%20Havant%20Borough%20local%20Plan%20pre%20Submission%20Version%20with%20Changes.pdf>

- 4.4 Also of relevance is the Position Statement and Mitigation Plan for Nutrient Neutral Development August 2020 the Position Statement and Mitigation Plan can be viewed at the following address:

<https://www.havant.gov.uk/sites/default/files/documents/Appendix%201%20-%20Revised%20Position%20Statement%20and%20Mitigation%20Plan%20020920.pdf>

5.0 PLANNING CONSIDERATIONS

- 5.1 The attached officers report (**APPENDIX D**) 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 an update on relevant issues, in particular with regard to the Habitats Regulations and commentary on the appellants grounds of appeal.

HABITAT REGULATIONS

- 5.2 As the Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations, it will be necessary for the Inspectorate to undertake a Habitats Regulations Assessment, taking into account the impacts of development on the internationally designated sites and the likelihood of significant effects. These fall into **two key areas** and an update with regard to each is provided below:

Solent Recreation Mitigation Strategy

- 5.3 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=UK9011011>

- 5.4 The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within **APPENDIX E**. The evidence base to support the mitigation strategy can be found on the link below:

<http://www.birdaware.org/research>

- 5.5 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

- 5.6 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 now calculated based on the number of bedrooms per individual dwelling. In this case, the two bedroom unit development would require a contribution of £514 plus 5% monitoring fee of £25.70 and administration fee of £23 such that the total contribution required would be £562.70.
- 5.7 The applicant has been sent the appropriate agreement and Deed requesting the payment of £562.70. However, this has not been returned or received and therefore it is considered that the recreational element of the impacts of the development have not been mitigated against. As a result, there would be a likely significant effect to the Chichester & Langstone Harbours SPA due to recreation. It cannot therefore be concluded that the development meets the requirements of the Habitats Regulations, Solent Recreation Mitigation Strategy or policy DM24 of the Havant Borough Local Plan (Allocations) 2014.

Water Quality

- 5.8 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.
- 5.9 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'.
- 5.10 Havant Borough Council is committed to achieving sustainable development, including the relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality of any European Designated Nature Conservation Sites.
- 5.11 At the time of the decision, the Council's 'Position Statement on Nutrient Neutral Development (June 2019)' (Please see **Appendix F**) was in place. This was approved by the Council's Cabinet on the 26th June 2019 and recognised the need for new development to achieve nutrient neutrality. It put in place a short-term mechanism to enable development to continue to come forward in the Borough. For development on sites currently used for agricultural purposes, it was recognised that it is possible for nutrient neutrality to be achieved on-site. However, for development on non-agricultural sites, particularly brownfield sites, it was acknowledged that it would not be possible for mitigation to be provided on site.
- 5.12 The Position Statement set out how development proposals should consider the issue at the time, and in turn how the likely significant effect arising from the development the subject of this appeal should be addressed. It also highlighted a range of mitigation and avoidance measures which the Council was considering as a strategic mitigation solution, and that a proportionate scale of financial contribution would be sought from development on the basis of the mitigation measure implemented. On this basis, the Position Statement suggested the use of a Grampian condition to secure an appropriate avoidance and mitigation package prior to the occupation of the residential unit – Paragraphs 57-67 refer.

- 5.13 As part of this approach, the LPA devised a European Site avoidance and mitigation checklist which included an option to proceed with the Council's avoidance and mitigation package. In this case the Appellant agreed to the imposition of a Grampian style condition to secure appropriate mitigation to achieve nutrient neutrality prior to occupation. To date, consultation with Natural England has been on this basis. Natural England have agreed with the findings of the site-specific Habitat Regulations Assessment, and the use of such a condition as a means to overcome the significant effect which otherwise would have been likely.
- 5.14 Since the decision, it should be noted that the Council has published an updated 'Position Statement and Mitigation Plan for Nutrient Neutral Development (August 2020)' (**Appendix G**) which supersedes the previous Position Statement. The current Position Statement and Mitigation Plan includes the Council's strategic mitigation scheme at Warblington Farm which can be used by developers where nutrient neutrality cannot be achieved on site. It requires the applicant to submit an amended European Avoidance and Mitigation Checklist, and to indicate whether they wish to use the Council's mitigation scheme. The scale of financial contribution towards the Council's mitigation scheme is proportionate to the nitrogen load of the development, which is calculated using a 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 5-6 of the Position Statement.
- 5.15 It should be noted that a number of "stalled" planning applications have been granted planning permission with a Grampian condition since the publication of the revised Position Statement and Mitigation. It would similarly be possible for the appeal development to address the significant effect which would otherwise likely arise through the use of the Grampian condition. However, it would be the Council's preference for the avoidance and mitigation package for the development which is the subject of this appeal to be secured 'up front' now there is a strategic mitigation solution in place.
- 5.16 As part of the proposed changes to the Pre-Submission HBLP 2036, a new policy EX1 is being established. This policy clarifies that proposals for all new dwellings need to provide a nutrient budget and will only be permitted if a mitigation package can remove the likely significant effect.
- 5.17 Since the Council now has a strategic mitigation solution in place, then it would be possible for the appeal development to address the significant effect which would otherwise be likely to result from the proposed two bed residential development. However, the Appellant has not provided the LPA with any further documents appertaining to this subject or sought advice on how to proceed with this matter. Therefore, an updated Habitats Assessment and Screening has not taken place, nor has Natural England been re-consulted. As the Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations, I trust this update will be of assistance to the Inspector when making their deliberations on this case.

6.0 COMMENTS ON APPELLANTS STATEMENT OF CASE

- 6.1 It is not intended to comment on aspects of the appellants statement of case where matters have previously been addressed in this Appeal Statement or in the Officers Delegated Report (**APPENDIX D**). The following comments are made by way of amplification or explanation only.
- 6.2 In paragraph 1.1 the Appellant states that the rear garden area is now only partly used. It should be noted that the appeal proposal would further reduce the rear garden area available for ground floor residents of the flat by halving the part of the garden that is currently used. This would fall substantially below the recommended minimum rear garden depth as set out in the adopted Borough Design Guide SPD.
- 6.3 In 5.1.1 reference is made to adopted policies of '*Three Rivers District Council*' which are not relevant to this appeal.
- 6.4 In 5.2 reference is made to policies within '*the Portsmouth Plan which include: PC23*' these are not relevant to this appeal.
- 6.5 In section 6.0 reference is made to the outdated 2012 NPPF – this was updated in 2019.
- 6.6 In section 7.0 in relation to the first reason for refusal reference is made to pre-application advice and the Councils letter of the 13th January 2020. A copy of the pre-application layout plan and the

pre-application response is attached at **(APPENDIX H)**. This shows that a number of concerns were raised at the pre-application stage. In considering the formal planning application a further detailed consideration of the applications planning merits was carried out as set out in the Officers Delegated Report **(APPENDIX D)**.

- 6.7 In 7.0 in relation to the second reason for refusal concern is raised in relation to the drainage/flood risk issue being raised late in the planning application process. Unfortunately, it is sometimes the case that local drainage problems and flood risk issues are raised by third party residents at the application stage where local knowledge of problems is shared with the Local Planning Authority (in this case the issue relates to local drainage routes and is not identified as a flood zone 2 or 3 which can be picked up earlier in the process). As a result of the issues being raised by third parties, consultations were carried out with the Local Lead Flood Authority and Havant Borough Councils Drainage Engineer in a timely fashion. Those subsequent consultation responses confirmed the issues with drainage.
- 6.8 The additional information Appendix 1, supporting statement from Clancy Consulting, a structural engineer, now provided by the Appellant as part of this appeal, had not previously been seen by the LPA. This document has now been assessed by the Council's Civil Engineering Team as part of the appeal process. This document suggests a piled foundation solution rather than location of the water course.
- 6.9 The Council's Engineering team have confirmed that a piled foundation solution would be acceptable in principle, but could not be successfully implemented without first checking for the hidden water course. There appears to be strong hearsay and empirical local evidence (lay of the land, position of man hole covers, local experience of surface water flooding) that make it very likely that the route of the underground pipe crosses the site. Without investigating the site first, the insertion of a piled foundation into the ground, *could* be at the exact spot of the pipe, causing catastrophic damage to the pipe and subsequent flooding.
- 6.10 The advice from the Havant Borough Engineer is that a step trench approach should be carried out prior to commencement of development, starting near the northern boundary and working towards the south until the pipe is located. A 'Building Over' agreement could be required, and therefore the position of the pipe should be established prior to the commencement of any foundation works such as piling.
- 6.11 It is also noted that the Clancy Consulting letter in the Appellants Appendix 1 suggests that the ground floor should be suspended and raised above the external ground level. However, this would presumably result in the cross section and levels plan provided to date being altered, which in turn could impact the overall height of development and its impact in street scene terms. This consequence is drawn to the Inspectors attention for further consideration, which may necessitate a levels condition.
- 6.12 In section 7.0, with respect to the third reason for refusal, it is stated that *'the applicant would agree and specified a payment for the sum of £545.00 (including administration fee) should this application be approved.'* The correct contribution required is £562.70 as set out above. Most critically, the unilateral undertaking and financial contribution must be completed, and the contribution paid in order for the Local Planning Authority to conclude that the impacts on the SPA from recreational pressure are mitigated and for the Habitats Regulations Assessment / Appropriate Assessment requirements to be met. This must take place prior to the issuing of any planning permission. As the determining authority it is considered that the HRA/AA must be completed by the Planning Inspectorate if planning permission is to be granted.
- 6.13 At paragraph 8.1 it is stated that the proposed dwelling had no objections raised from local residents. However, it is noted that the Officers Delegated Report confirms that there were 6 letters of objection raising a number of issues including reference to the unsuitable site, character of the area and overlooking.
- 6.14 In 8.3 reference is made to the amenity space to the existing flats. Notwithstanding the assertion that *'We feel this is not a material consideration for this application as the garden provided for the ground floor flat is more than adequate when the majority of flats do not have any access to private amenity'*, the Local Planning Authority consider that this is a relevant consideration. The ground floor flat currently has a rear garden depth of approximately 13m depth, this would be reduced to just 6.5m. The ground floor flat is a two bedroomed unit as confirmed by the applicants

email of the 29th April 2020 which stated: *Both flats are self contained, with kitchen, bathroom, two bedrooms (or one bedroom and dining room) and lounge.* The concerns over the impact on the residential amenities of the ground floor flat are set out in full in the Officers Delegated Report (**APPENDIX D**).

7. CONCLUSIONS

- 7.1 In conclusion, the size and shape of the plot is not considered commensurate with the surrounding pattern and character of development in the area with the sub-division of the plot representing an overdevelopment of the site. The proposal would result in inadequate private amenity space for both the future occupiers of the new dwelling and the occupiers of the retained property. It is considered that the proposal results in a contrived and congested layout to the harm of the character and appearance of the area and the amenity of residents. It would therefore be contrary to adopted and emerging policies, Supplementary Planning Guidance and the National Planning Policy Framework (as set out in the Decision Notice).
- 7.2 In addition the Local Planning Authority consider that it has not adequately demonstrated that the development would not lead to additional on and off-site surface water flooding issues both to the site and immediate area. This is contrary to adopted and emerging policy and the National Planning Policy Framework (as set out in the Decision Notice).
- 7.3 Furthermore, essential mitigation measures in relation to the development's impact upon the Solent SPA sites in relation to recreation and water quality have not been secured. The outstanding issues regarding water quality could however be addressed through the use of a Grampian style condition. The issue of recreational pressure has not been addressed and in the absence of a suitable agreement to secure recreational mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the draft HRA/AA. The development would be likely to result in increased recreational pressures from future residents and is therefore contrary to adopted and emerging policy as set out in the Decision Notice and to the National Planning Policy Framework.
- 7.4 The Inspector is therefore respectfully requested to dismiss the appeal. In the event that the Appeal is allowed recommended conditions will be forwarded separately.

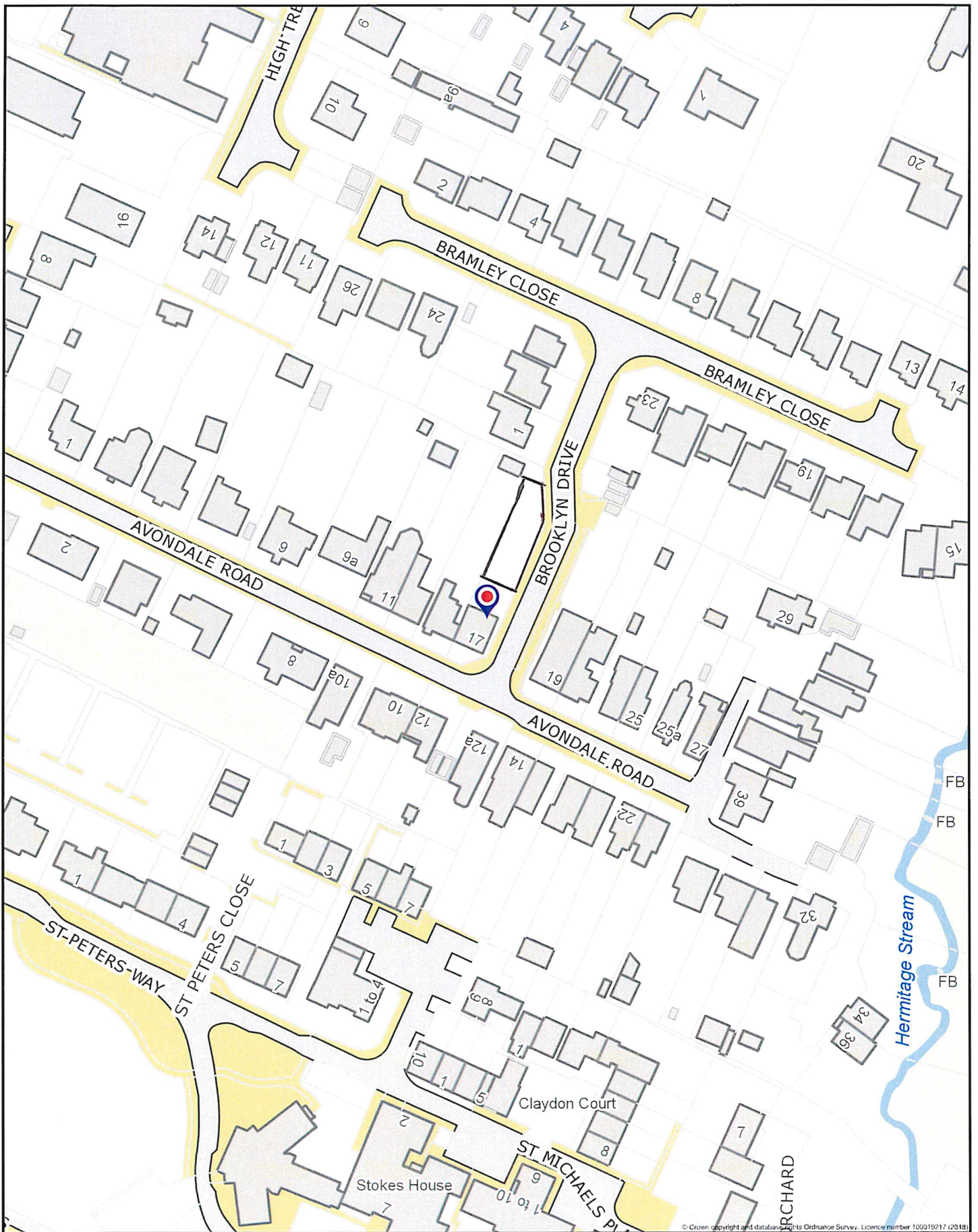
APPENDICES

- (A) Borough Map and 1:1250 Location Plan
- (B) Planning History **04/67971/000** and **05/67971/001** plans and Decision Notices and Appeal Decision
- (C) Pre-submission Havant Borough Local Plan 2036 Policies IN3, E12, E14, E16 and EX1 from Pre-Submission version with changes Havant Borough Local Plan, 2036
- (D) Officers delegated report for this application
- (E) Potential effects on SPA of residential development
- (F) Havant Borough Council's original Position Statement on Nutrient Neutral Development, dated June 2019 – effective at time of decision but now superseded.
- (G) Havant Borough Council's current Position Statement and Mitigation Plan for Nutrient Neutral Development, dated August 2020
- (H) Pre-Application site plan and Councils Letter of 13th January 2020.

APPENDIX A

Borough of Havant





17A-17B Avondale Road

Havant
BOROUGH COUNCIL

 N Scale: 1:1250

Printed on: 2020-11-10 14:28:09

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APPENDIX B

To:
J Mottershead
Jane Mottershead Designs Ltd
2 Brook Cottages
West Ashling
PO188DY

For: Madala Building Property Ltd

THE TOWN AND COUNTRY PLANNING ACT 1990
Refusal of Planning Permission

Application Number: 04/67971/000

Site Address: 17A-17B Avondale Road, Waterlooville, PO7

Proposal: Outline application for one detached two bedroom, two storey dwelling.

Further to your application received on 22 October 2004 (which was valid from 04 November 2004) Havant Borough Council, as Local Planning Authority, **Refuses Planning Permission** for the above proposal.

The reasons for the Council's decision to refuse planning permission are:

- 1 The size and shape of the plot would not allow for development of a standard compatible with the existing surrounding development and the proposed development would, therefore, be detrimental to the amenities of the area. Consequently the proposal is contrary to policies UB3 of the Hampshire County Structure Plan 1996-2011 (Review), GDD1 and HO6 of the Havant Borough Local Plan 1994, and D2, D4 and D7 of the emerging Havant Borough District-Wide Local Plan 1996-2011.
- 2 The use of the proposed access would be likely to cause undue interference with the safety and convenience of users of the adjoining highway. Consequently the proposal is contrary to policies T5 and T6 of the Hampshire County Structure Plan 1996-2011 (Review), T5 and T7 of the Havant Borough Local Plan 1994, and T14 and T17 of the emerging Havant Borough District-Wide Local Plan 1996-2011.

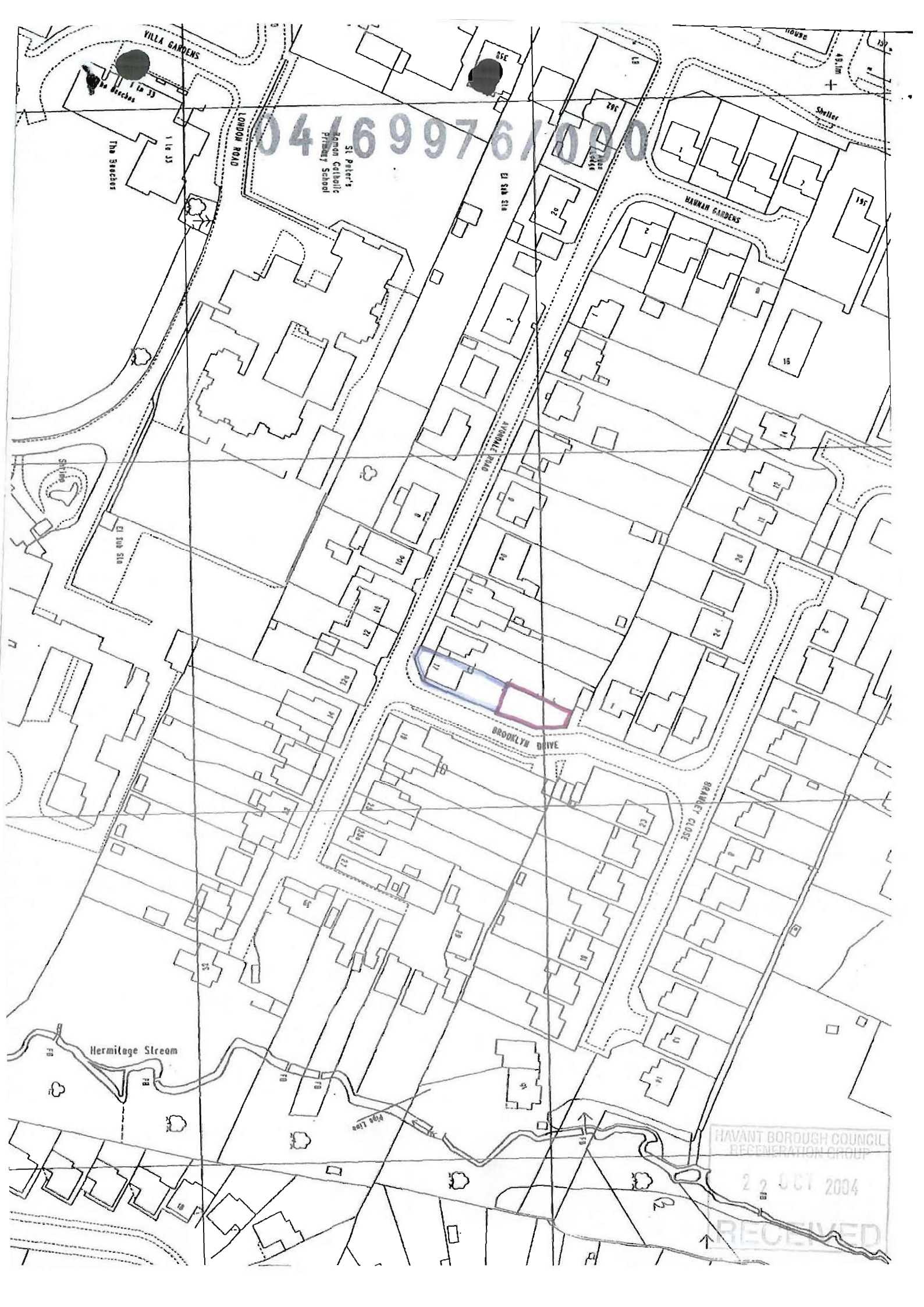
Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6573.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council.

U. A. G.

Mrs J A Batchelor
Head of Planning and Development

21 December 2004



04/69976/000

VILLA GARDENS

The Stables

LONDON ROAD

St Peter's
Roman Catholic
Primary School

EL 518 518

HANNAH GARDENS

AVENUE ROAD

BROOKLYN DRIVE

BRADLEY CLOSE

Hermitage Stream

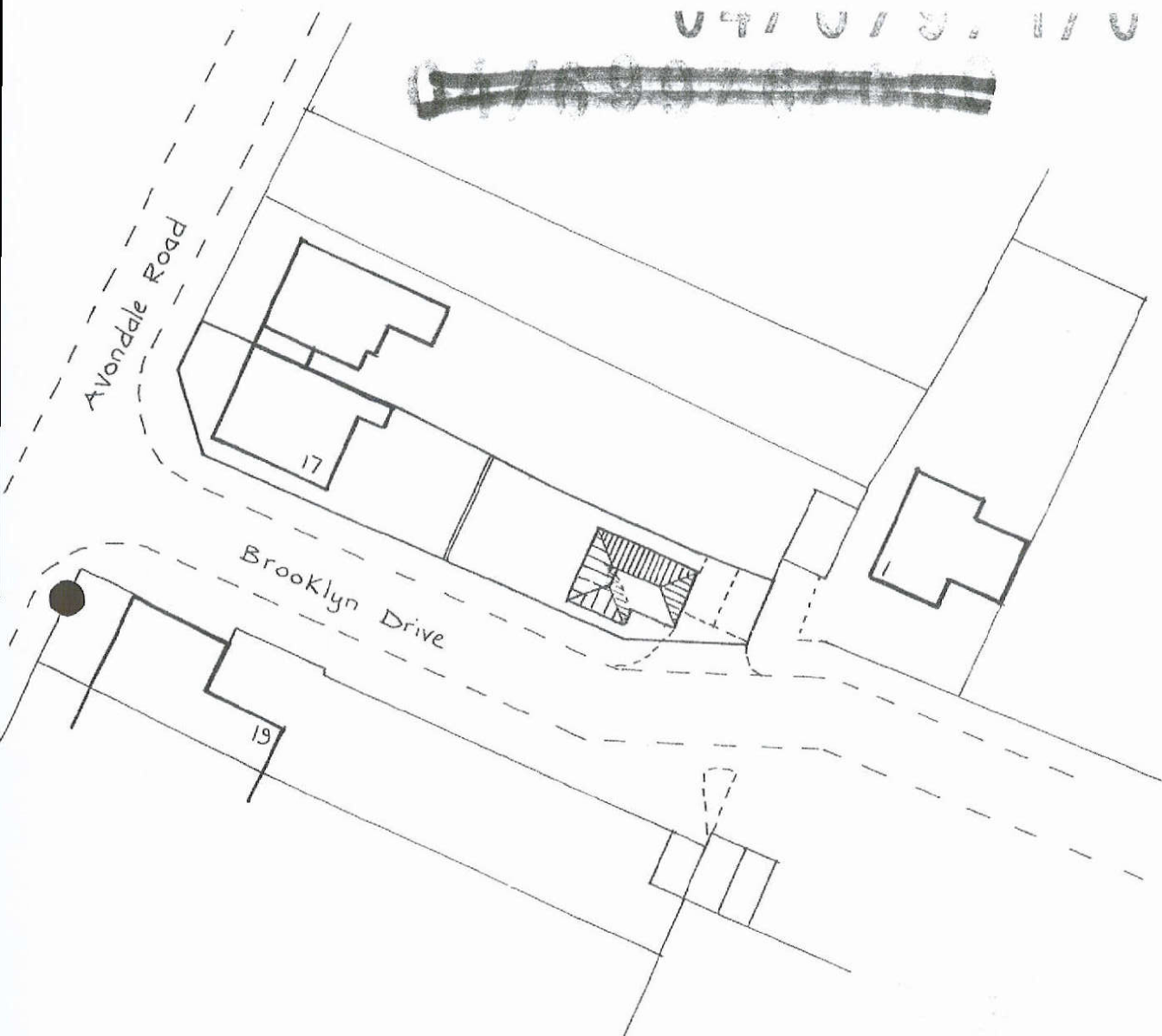
HAVANT BOROUGH COUNCIL
REGENERATION GROUP

22 OCT 2004

RECEIVED

047 079 17000

~~1/16/2007~~



HAVANT BOROUGH
COUNCIL
16 SEP 2005
RECEIVED

SCALE 1:500

JANE MOTTERSHEAD DESIGNS LIMITED
2, BROOK COTTAGES, WEST ASHLING,
CHICHESTER, WEST SUSSEX, PO18 8DY
TEL: 01243 575480 MOBILE: 07790 362882
E-MAIL: jbmottershead@aol.com

To:
Jane Mottershead Designs Ltd
2 Brook Cottages
West Ashling
Chichester
West Sussex
PO18 8DY

For: Magdala Building Property Limited

THE TOWN AND COUNTRY PLANNING ACT 1990
Refusal of Planning Permission

Application Number: 05/67971/001

Site Address: Land to rear of 17A-17B Avondale Road, Waterloooville

Proposal: Outline application for 1No. detached bungalow with parking.

Further to your application received on 03 June 2005, Havant Borough Council, as Local Planning Authority, **Refuses Planning Permission** for the above proposal.

The reasons for the Council's decision to refuse planning permission are:

- 1 The size and shape of the plot would not allow for development of a standard compatible with the existing surrounding development and the proposed development would, therefore, be detrimental to the amenities of the area. Consequently the proposal is contrary to policies UB3 of the Hampshire County Structure Plan 1996-2011 (Review), GDD1 and HO6 of the Havant Borough Local Plan 1994 and D2, D4 and D7 of the emerging Havant Borough District-Wide Local Plan 1996-2011.
- 2 The applicant has failed to demonstrate that the use of the proposed access would not cause undue interference with the safety and convenience of users of the adjoining highway. Consequently the proposal is contrary to policies T5 and T6 of the Hampshire County Structure Plan 1996-2011 (Review), T5 and T7 of the Havant Borough Local Plan 1994 and T14 and T17 of the emerging Havant Borough District-Wide Local Plan 1996-2011.

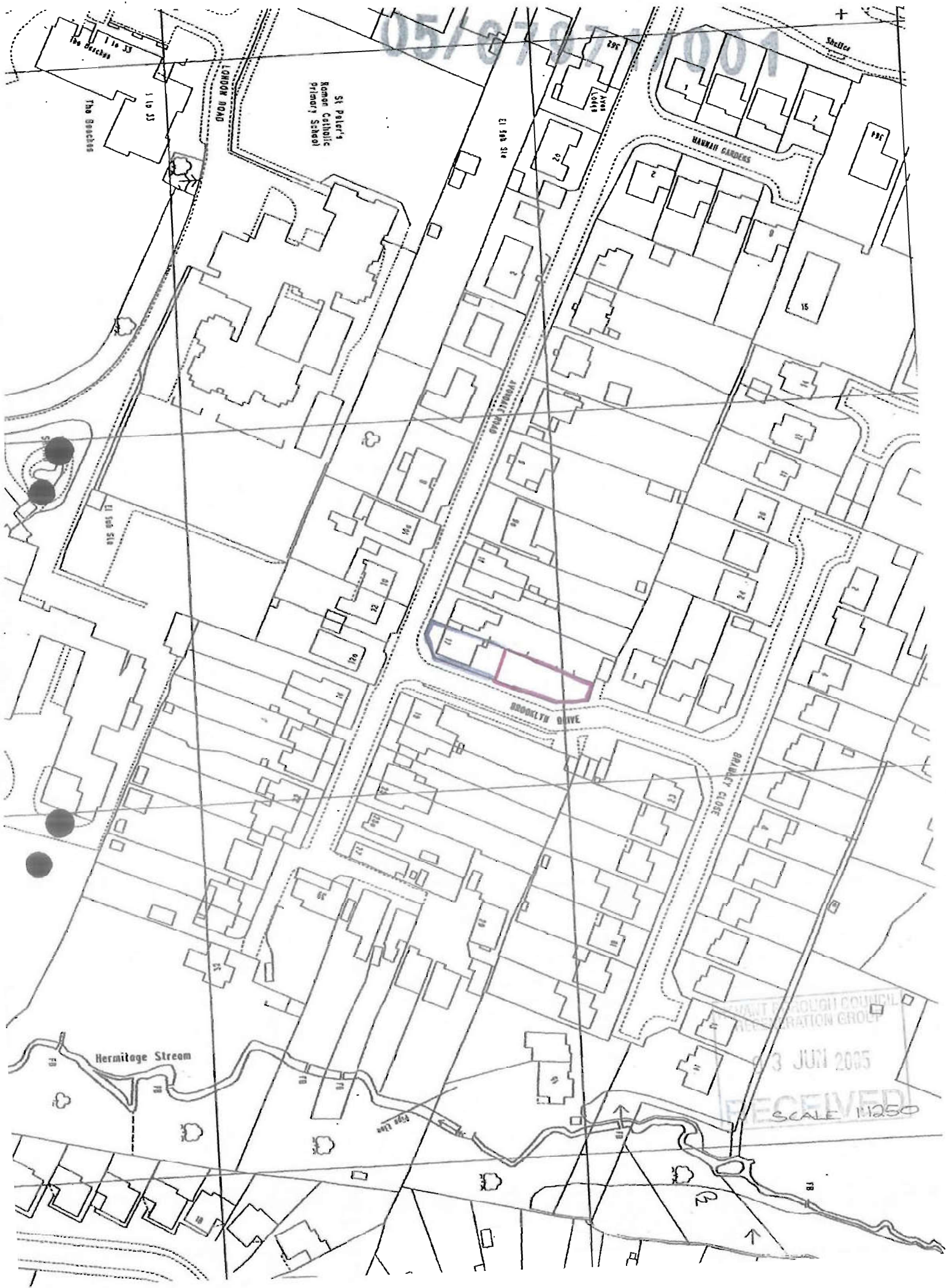
Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6573.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council.



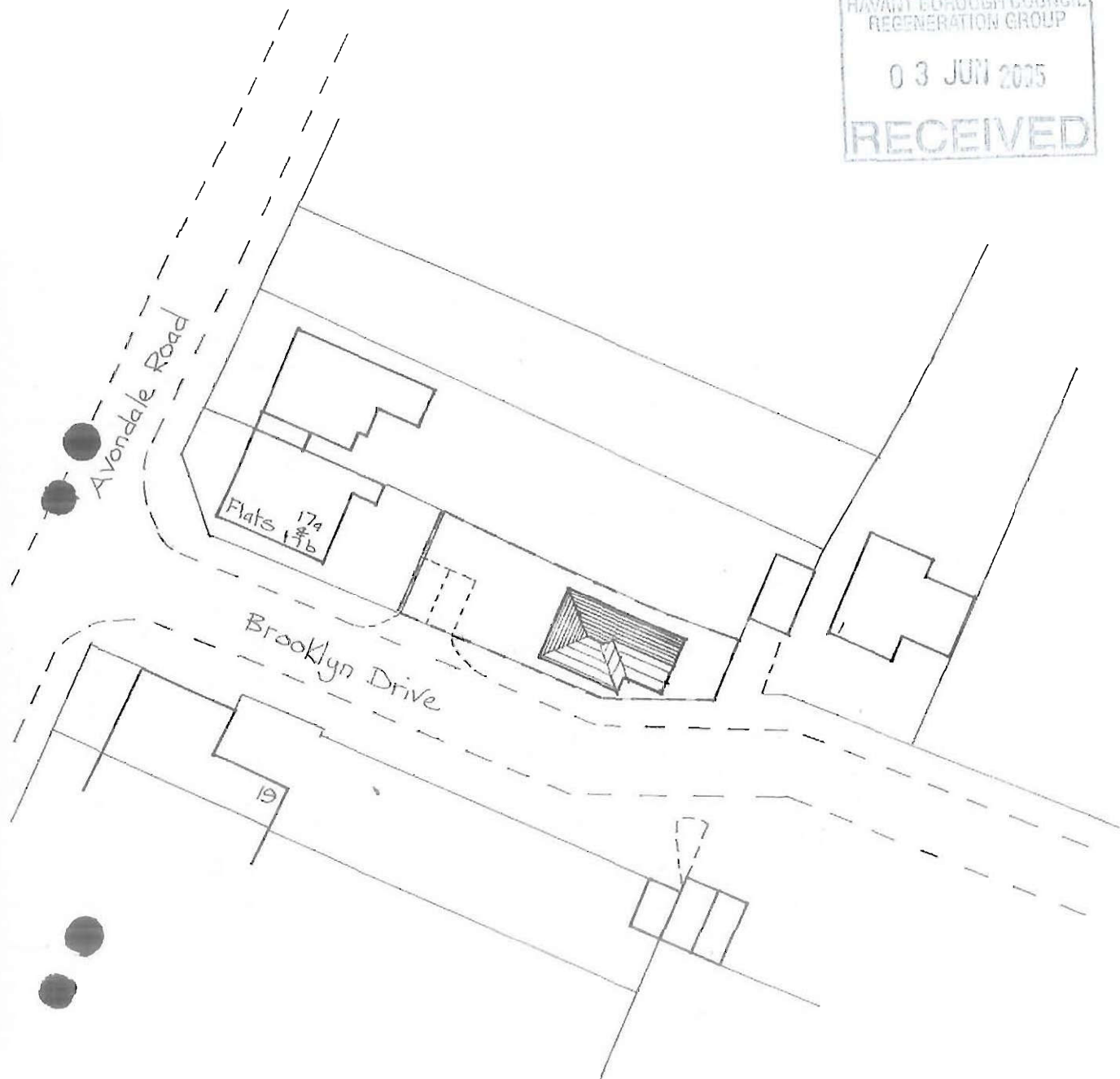
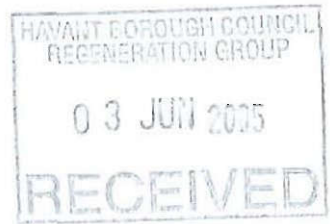
Mrs J A Batchelor
Head of Planning and Development

28 July 2005



WOKINGHAM COUNCIL
REGISTRATION GROUP
3 JUN 2005
RECEIVED
SCALE 1:1250

05/67971/001



SCALE 1:500

JANE MOTTERSHEAD DESIGNS LIMITED
2, Brook Cottages
West Ashling, Chichester, West Sussex, PO18 8DY
01243 575480 Mobile: 07790 362882
Email: jbmottershead@aol.com



Appeal Decision

Site visit made on 23 January 2006

By E C Grace DipTP FRTPI FBEng PPIAAS

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
405 Kings Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PL
Tel 0117 922 6972
e-mail enquiries@planning-
inspectorate.gov.uk

Date

02 FEB 2006

Appeal Ref: APP/X1735/A/05/1189390

rear of 17A-17B Avondale Road, Waterlooville, Havant, Hants

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Magdala Building Property Ltd against the decision of Havant Borough Council.
- The application Ref 05/67971/001, dated 3 June 2005, was refused by notice dated 28 July 2005.
- The development proposed is erection of a detached bungalow with parking.

Decision: The appeal is dismissed

Reasons

1. The site comprises the rear garden of a detached 2 storey corner property that fronts onto Avondale Road and which also has a return frontage to Brooklyn Drive. Although there are bungalows on the opposite side of Avondale Road, the character of Brooklyn Drive is mainly comprised of 2 storey detached houses that front the highway. The application was submitted in outline with matters of siting and access to be determined at this stage. Whilst there are no detailed plans or elevations of the proposed bungalow, it is evident that the structure would be sited close to the back edge of the footpath and with very little distance between it and the fence of the adjoining garden to the rear. Hence, the windows to the principal rooms and the amenity space for the dwelling would be arranged to either side of the proposed dwelling. Therefore, the principal elevation would not face the road, whereupon both the style and layout of the dwelling would be out of keeping with the predominant character of the road.
2. Furthermore, its incongruous appearance would be accentuated by the fact that the road has a dog-leg at this point, whereby the proposed bungalow would project in front of the established building line of the dwellings to the east. I consider this combination of incongruity and prominence would result in visual harm to the street scene, which, to my mind, would outweigh the appellant's assertion that the proposal would add to the diversity of dwellings in the area and utilise an unused area of garden.
3. In addition, given the comparatively wide street frontage of the plot and its very shallow depth (between 5.1m and 8.2m), the intended occupants would be afforded very little privacy either within the proposed dwelling or its garden due to the standard development control restrictions upon the height of front boundary walls or fences. As such, the proposed development would be contrary to Policies H2 and D1 of the Havant Borough District-wide Local Plan adopted in September 2005 and I conclude the appeal should not be allowed.

APPENDIX C

IN3 | Transport and parking in new development

Why this policy is needed

- 4.28 There are many things designers of new development can do to ensure that new places are safe to get around, connect well to the surrounding area and encourage people to use sustainable modes of transport.
- 4.29 The Council and its partners are committed to investing in transport improvements to support the development proposed in this Plan (see Policy IN2). Developers must play their part by designing their development for safe and easy movement by a variety of modes. They must also mitigate any transport impacts on the highway network beyond their site, which are likely to be caused or severely exacerbated by their development.
- 4.30 The Government is committed to accelerating the shift to low carbon transport, ending the sale of conventional petrol and diesel vehicles by 2040, developing one of the best electric vehicle charging networks in the world, and investing to make cycling and walking the natural choice for shorter journeys³⁹. This shift can only take place at a national level if it takes place locally.

IN3 | Transport and parking in new development

Development proposals will be permitted, provided that the site is designed so that:

- a. Safe and suitable access to the site is provided for all people and modes of transport;
- b. Sustainable modes of travel are encouraged and supported through on and/or off-site measures;
- c. The site layout encourages lower vehicle speeds, and prioritises the safe and convenient movement of pedestrians and cyclists within the site;
- d. Pedestrian and cycle routes are provided which conveniently reach all parts of the site, and link with the wider network beyond the site, providing a high level of permeability;
- e. Any existing public rights of way are safeguarded and where appropriate improved, and new routes provided where appropriate;
- f. The streets and public and private parking areas contribute positively to the design of the development and deliver a high quality public realm, including the use of high quality materials and integration of landscaping;
- g. Sufficient visibility and lighting is provided for the safe and convenient use of the roads, cycle routes, walking routes and parking places;
- h. Adequate provision is made for varying sizes of vehicles, including refuse and emergency vehicles, to access all parts of the site, park, load, unload and turn safely and conveniently;
- i. Provision is made for the parking of cars, motor cycles and cycles in line with Council standards;
- j. Electric Vehicle charging infrastructure is provided for:
 - i. Each new residential unit with private off-street parking;
 - ii. An appropriate number of spaces in shared parking at residential and commercial development where long-term parking for staff or residents is provided.
- k. Where required, a satisfactory Transport Statement or Transport Assessment is submitted in support of the planning application to evaluate transport impacts, and to demonstrate that

³⁹ [Clean Growth Strategy - Department for Business, Energy & Industrial Strategy \(October 2017\)](#)

proposed transport improvements will meet the needs of the development and mitigate adverse impacts;

- l. The traffic generated by the development, taking into account any proposed avoidance and mitigation measures, would not result in severe cumulative impacts on the transport network or the environment;
- m. Where required, a Travel Plan is provided in support of a planning application where appropriate in relation to the scale and type of development.

How this policy works

- 4.31 Developers are expected to consider carefully the traffic and transport implications of their development, both within the site itself as well as on the local network surrounding the site and the wider strategic network. The aim must be to facilitate easy, convenient and safe travel to/from and movement around the site for everyone, with a focus on minimising the need to travel by car.
- 4.32 Applicants should refer to *Manual for Streets*⁴⁰ and other recognised guidance and standards⁴¹, to ensure that their designs are fit for purpose.
- 4.33 It is important that streets, including footways, and public parking areas in new development are not only safe and fit for purpose in highway terms, but also deliver an attractive public realm which uses high quality materials and relates well to the buildings in the scheme.
- 4.34 Street design, layout, materials and street furniture should make the public areas and streets safe, pleasant and sociable places, which encourage use by pedestrians and cyclists (see also Policy E1 – High Quality Design). Opportunities should also be taken to improve cycle and pedestrian connectivity beyond the site. Applicants' Design and Access Statements (and/or Transport Statements) will be expected to specifically address how sustainable modes of travel have been encouraged, with particular reference to criteria a-g of this policy.
- 4.35 Adequate provision must be made for the parking of cars, motorcycles and cycles to discourage informal parking within the site or an increase in parking in the surrounding area. Compliance with this will be assessed against published parking standards for Havant Borough⁴².
- 4.36 Where applicants rely on garages to comply with parking standards, the Borough Council will remove permitted development rights which would allow residents to convert the space into living accommodation without planning permission.
- 4.37 It will not be acceptable for management companies to ban unreasonably the parking of certain types of vehicles, such as vans, on new developments. Where such restrictions are in force, this prevents the free use of the parking spaces provided in compliance with parking standards, and can lead to unacceptable overspill of these vehicles into neighbouring areas. To address this, the Council will only agree management plans which do not place unreasonable restrictions on the parking of certain types of vehicles.
- 4.38 Providing well-located, safe, and secure cycle parking helps to encourage increased numbers of people to cycle. It is expected that all cycle parking should therefore be conveniently located both in relation to buildings and to roads and/or cycle routes; located in an actively used area, well-lit

⁴⁰ *Manual for Streets – Department for Transport (2007)*

⁴¹ Including HCC's *Technical Guidance Notes*

⁴² The Parking Standards are set out in the *Parking Supplementary Planning Document (July 2016)*, or any subsequently published update to that SPD.

and overlooked, and made of vandal resistant materials. Every residential development will therefore be expected to provide long stay, dry and secure (overnight) cycle parking for residents, with larger development providing short term spaces also. Non-residential development will be expected to provide both long and short stay cycle parking, to meet the needs of those who are likely to be at the property for extended periods, such as staff, and those who might only remain for a few minutes or hours, such as visitors and customers. Detailed standards are set out in the Parking Standards SPD.

- 4.39 The Council expects all applicants to consider how the physical design as well as the future operation of the development can encourage and support travel by non-motorised modes and by public transport, and to put forward proposals as part of their application. Proposed measures should be commensurate with the nature and scale of the development scheme. They may be on or off-site physical works, and/or softer measures related to the future operation of the development. On larger schemes, it may be necessary to provide for bus access into the site with suitably located bus stops, and pre-application discussions on this matter are encouraged.
- 4.40 Looking to the future, the demand for electric vehicle charging will grow, as electric vehicles begin to replace those powered by petrol and diesel. New development will last well into the era when electric vehicles are likely to be commonplace. To avoid the need for difficult and expensive retrofitting in the future, new developments should include electric vehicle charging infrastructure. This applies both to new homes and to commercial development as set out below. An EV charging point will be expected for each new home with private off-street parking. In other developments, applicants should consider and justify the level of EV charging point provision proposed. As a minimum, in residential schemes with shared parking (such as flats) and commercial development where users are likely to park for significant periods (such as workplaces and hotels), the Council expects a minimum of 10% of the spaces to provide charging points. In addition, the Council expects developments to be future proofed so that they are able to accommodate a future increase in the demand for on-site electric vehicle charging points. This could include installation of ducting and ensuring sufficient electrical capacity for parking areas.
- 4.41 In terms of the impacts of development on the wider transport network beyond the site, applicants are expected to demonstrate that their proposals would not have severe impacts on the network, either by themselves or cumulatively. This includes both the Local and the Strategic Road Network.
- 4.42 Applicants are required to submit a Transport Assessment or a Transport Statement to explore the potential transport impacts of their proposal. Transport Assessments are thorough assessments of the transport implications of development. Transport Statements are a 'lighter touch' evaluation, to be used where this would be more proportionate to the potential impact of the development (i.e. in the case of developments with anticipated limited transport impacts). Applicants should agree with the Council at the pre-application stage what evaluation is needed in each instance. Advice is also available from Hampshire County Council as Highway Authority⁴³.
- 4.43 Where the transport impacts of development are likely to be insignificant, for example for very minor development proposals, it may be that no Transport Assessment or Statement is required. Equally, a Transport Assessment or Statement may be required where cumulative effects are expected.
- 4.44 Transport Assessments and Transport Statements may propose mitigation measures where these are necessary to avoid unacceptable impacts. The Council will use this evidence to establish

⁴³ See [Highways Development Planning](#) on Hantsweb

whether the residual transport impacts, taking into account the proposed mitigation, are likely to be “severe”, which may be a reason for refusal, in accordance with the National Planning Policy Framework⁴⁴.

- 4.45 For allocated sites across the Borough, the strategic Transport Assessments for the mainland and Hayling Island are a useful starting point for considering likely transport impacts. For Hayling Island and Langstone, a microsimulation model is available to assess highway impacts in this part of the Borough in more detail. To support this plan, it was used to assess the impact of the sites allocated on the island, together with mitigation, which is reflected in the Infrastructure Delivery Plan and Policy IN2. Applicants for developments on unallocated Hayling Island sites or in Langstone will be expected to use the microsimulation model to assess the impact of their proposals on the highway network and to model their proposed mitigation measures.
- 4.46 In assessing the expected impacts and effectiveness of the proposed mitigation package for a development scheme, the Council will not accept undue reliance on assumed uptake of sustainable travel choices. Therefore, transport assessments should assume that all users of a development will choose the worst impact modes of travel, and any mitigation package should be designed to address these effects on the highway network in full. Nevertheless, the Council expects proposals to include measures to encourage sustainable travel, in order to minimise the impacts.
- 4.47 S106 agreements will be used to secure any necessary transport mitigation measures, alongside S278 agreements, which are used to facilitate necessary changes to the public highways, such as creating a new access for a site.
- 4.48 Where a Travel Plan is required, the results of any Transport Statement or Transport Assessment should also be used to inform the content of that plan. The primary purpose of a Travel Plan is to identify opportunities for delivering sustainable transport initiatives and for avoiding unnecessary travel, to reduce the demand for travel by less sustainable modes. Travel Plans can therefore play an effective role in taking forward those mitigation measures which relate to on-going occupation and operation of the development.

⁴⁴ NPPF paragraph 109

E12 | Low carbon design

Why this policy is needed

5.116 The UK Climate Change Risk Assessment 2017⁷¹ outlines how climate change will increase risks to human health and wellbeing, agricultural food productivity, public water supply and natural assets, as well as intensify flooding and coastal change. Havant Borough is particularly vulnerable to the effects of climate change due to its coastal location. However, by reducing greenhouse gas emissions, the impacts of climate change can be lessened in the future.

5.117 To meet international obligations, the UK Climate Change Act 2008 requires a reduction in the nation's greenhouse gas emissions by 57% compared to 1990 levels by 2032, and at least 80% by 2050⁷². In combination with Section 182 of the Planning Act (2008)⁷³ and the Planning and Energy Act (2008)⁷⁴, the need to reduce the nation's emissions was reinforced by the ratification of the United Nations Framework Convention on Climate Change (UNFCCC) Paris Agreement in November 2016. The Paris Agreement committed its signatories (including the UK) to:

*"holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels"*⁷⁵

5.118 Given the significant amount of housing and commercial development over the lifetime of the Plan, it is critical that development is planned and designed considering its full environmental footprint. This includes designing development to encourage active travel and public transport use. Orienting development layouts to take advantage of the high sunshine hours along the south coast and making new buildings as energy efficient as possible will all substantially help to mitigate climate change. In addition, the Council is also exploring how district heat can be used to provide heat and electricity to new development in the Civic Campus area.

5.119 By designing and constructing buildings using low carbon design principles, developments can not only reduce energy consumption, overheating and the Borough's carbon footprint, but also lower the overall costs of running the building for occupants and mitigate the need for costly retrofits later. This will also help meet the aspirations of the Government's Clean Growth Strategy (2017)⁷⁶ for all homes to be of an Energy Performance Certificate (EPC) B and C standard by 2035. At the same time, there is a need to consider the issue of internal overheating. Overheating is an increasing concern with peak summer temperatures continuing to rise, as it can adversely affect comfort, health (especially for older persons) and productivity. Without design intervention, developments could become increasingly dependent on active cooling systems which would lead to increased greenhouse gas emissions.

5.120 The Council's Energy Strategy⁷⁷ sets out the direction of travel to improve energy security, reduce fuel poverty and maximise economic benefits by improving energy efficiency and increasing local energy generation. In doing so, energy efficient buildings will be cheaper to heat, cool and light making them more attractive to homeowners and commercial occupiers.

⁷¹ [UK Climate Change Risk Assessment 2017](#) - HM Government

⁷² [Climate Change Act 2008](#)

⁷³ [Planning Act 2008](#)

⁷⁴ [Planning and Energy Act 2008](#)

⁷⁵ [United Nations Framework Convention on Climate Change \(Paris Agreement\)](#):

⁷⁶ [Clean Growth Strategy 2015](#)

⁷⁷ [Havant Borough Council's Energy Strategy](#)

E12 | Low carbon design

New development is expected to address climate change through low carbon design. Development proposals which are intended to improve the energy efficiency of existing buildings or provide low or zero carbon energy will be supported in principle. Development proposals which involve an increase in non-residential floorspace or the construction of new homes will be expected to:

- a. Reuse existing buildings' construction materials wherever possible;
- b. Appropriately integrate solar gain, natural ventilation or ventilation with heat recovery, fabric performance and Passivhaus principles into the layout and design;
- c. Minimise greenhouse gas emissions and improve energy efficiency of buildings; and
- d. Use district heat or combined heat and power (CHP or CCHP) (existing or proposed or on-site), where appropriate;

Non-residential development

- e. As well as addressing points a) to d) above, proposals for non-residential development are expected to achieve the following standards of the Building Research Establishment's Environmental Assessment Method (BREEAM):

Gross floorspace to be built (sqm)	BREEAM level to be achieved
0-499	Achieving at least Pass under BREEAM is encouraged
500-999	Very Good
1000+	Excellent

Residential development

As well as addressing points a) to d) above, proposals for residential development are expected to achieve the following standards:

- f. A reduction in CO₂ emissions of at least 19% of the Dwelling Emission Rate (DER) compared to the Target Emission Rate of Part L of the Building Regulations is achieved; and
- g. The development has demonstrated its long-term sustainability and cumulative impacts using one or both of the following tools as appropriate:
 - i. Assessment under the Home Quality Mark (HQM) ONE, or equivalent, for any development of one dwelling or more (gross)
 - ii. Assessment under the BREEAM Communities scheme, or equivalent, for any development of 100 dwellings or more (gross)

How this policy works

5.121 Addressing climate change in new development is essential for proposals to be supported in principle. The requirements set out in this policy are designed to be minimum standards, and developers are encouraged to aim higher. Applicants will be expected to use the design and access statement, together with any necessary bespoke assessments or reports, to demonstrate how the requirements of this policy have been incorporated into the proposed development.

District Heat Network

- 5.122 A heat mapping and masterplanning report was prepared in 2016 to identify areas for potential development of heat networks in the Borough⁷⁸. An area of concentrated buildings to the north of Havant Town Centre is a key opportunity area (under Policy KP1). Development proposals in that area should evaluate the feasibility of district heat or combined heat and power, particularly where an existing network or proposed network may exist. The evaluation should consider the heat load of the proposed development and proximity to an established or planned pipeline.

Non-Residential Development

- 5.123 The Building Research Establishment's Environmental Assessment Method (BREEAM)⁷⁹ rewards performance in terms of environmental, comfort and/or health benefits, on a scale of Good to Outstanding, above the regulatory minimum. BRE's briefing paper⁸⁰ offers more detail about how BREEAM supports climate change adaptation.
- 5.124 Applicants must use the most up-to-date BREEAM New Construction Scheme when designing their development proposals to meet criterion e). It will be necessary to submit a pre-assessment estimator, the interim (design stage) and final (post completion stage) certificate for any planning applications proposing the construction of 500 sqm or more of non-residential floorspace. Appropriate conditions will be used to secure the certificate rating issued at the pre-construction and post-occupation stages.
- 5.125 If the required rating is financially unviable or technically unfeasible, then this will need to be demonstrated with appropriate evidence in support of a planning application. In this instance, the applicant will be expected to meet the highest percentage BREEAM score that is viable.

Residential Development – CO₂ Reductions and Overheating

- 5.126 New residential development will need to achieve at least a reduction in CO₂ emissions of 19% of the Dwelling Emission Rate (DER) compared to the Target Emission Rate (TER) of Part L of the Building Regulations. This can be achieved at minimum cost through a range of measures including, although not exhaustive to, building fabric efficiency measures, principles of Passivhaus⁸¹ and/or on-site renewable/low carbon energy generation. The Council will expect building fabric efficiency measures to be prioritised over technological solutions.
- 5.127 If schemes can provide above the 19% improvement, then this will be a material consideration in the determination of that scheme. If the required 19% reduction is financially unviable or technically unfeasible, then this will need to be demonstrated with appropriate evidence in support of a planning application. In this instance, the applicant will be expected to achieve the most significant CO₂ reduction viable in the circumstances.
- 5.128 In terms of overheating, more specifically, the Chartered Institution of Building Services Engineers (CIBSE) design methodology for the assessment of overheating risk in homes (as amended)⁸² provides best practice examples to reduce the impact of overheating.

Residential Development – HQM ONE and BREEAM Communities

⁷⁸ [Havant Borough heat demand mapping and energy masterplanning \(2016\)](#)

⁷⁹ [BREEAM](#)

⁸⁰ [Mitigation, adaptation, resilience: managing climate change risk through BREEAM](#)

⁸¹ Passivhaus or [Passive House Principles](#) include proper insulation, no air leakage, no thermal bridges, triple glazing, as well as orientation for winter sun/summer shade.

⁸² [CIBSE TM59 Design Methodology for the Assessment of Overheating Risk in Homes](#)

- 5.129 In addition to the above, the Council encourages assessment under the Home Quality Mark (HQM) ONE⁸³ and/or BREEAM Communities scheme(s). Those proposals which have, or are demonstrably committed to, achieving HQM ONE or BREEAM Communities certification will be looked upon favourably.
- 5.130 The HQM ONE provides a five-star rating with key indicators which communicate the performance of a new home's design, construction, and in use potential. The framework assesses water and energy use, internal comfort and health (including air quality, daylighting, noise and access to green spaces and amenity), resilience and safety (including flood risk and adaptability), in addition to the home occupier experience. It enables developers to demonstrate the quality of their homes to a range of stakeholders including prospective home buyers and tenants.
- 5.131 BREEAM Communities is a framework used to improve, measure, and demonstrate the social, environmental and economic sustainability of large-scale development plans by embedding sustainability principles into the early planning and design stages of a development. The standard assists both developers and residents by providing a framework that helps to create sustainable communities that are good for the environment, people and are also economically successful. Furthermore, the use of this scheme will aid pre-application discussions which, in turn, will improve efficiency during the planning process and reduce the likelihood of design and layout redesigns.
- 5.132 Not only do both schemes provide a holistic framework which drives better design outcomes, they also provide an added layer of delivery assurance via their certification processes. To demonstrate that such provisions can be met, applicants undertaking these assessments will need to submit a pre-assessment estimator and design-stage certificate at the appropriate stage (for BREEAM Communities this would be the pre-application enquiry, for HQM ONE this is likely to be full or reserved matters stage) and a final certificate post completion. Planning conditions and/or obligations will be used to secure the standard and performance ratings as appropriate.
- 5.133 In the instance that an applicant wishes to use an alternative third-party assessment, this should be discussed with the Council at the pre-application stage.

⁸³ [Home Quality Mark ONE Technical Standard](#)

E14 | The Local Ecological Network

Why this policy is needed

- 5.154 An extensive, high quality natural environment is a key part of the environmental pillar of sustainable development and can improve quality of life, support biodiversity and stimulate the economy. Nature conservation is not just desirable but is essential to the Borough's future. It can provide a wealth of benefits which include:
- The protection and enhancement of habitat and movement corridors for a variety of animal and plant species;
 - The protection and enhancement of the Borough's landscape and cultural heritage which helps to create a sense of place and identity;
 - The protection and enhancement of the Borough's water resources, such as groundwater reserves, springs and rivers to provide water to the Borough's homes and businesses;
 - Vital amenity and recreational space for residents; and
 - Opportunities for people to take part in sport and engage in physical activity thus improving health and wellbeing.
- 5.155 The Borough has a rich and diverse ecological network as documented by the protected international, national and local designations, as well as its range of natural features. The Local Ecological Network comprises an extensive coastline, which includes Chichester and Langstone Harbours, as well as trees, woodlands, hedgerows, streams, rivers, wildlife and river corridors, springs, ditches and ponds. The Borough's ancient woodlands and mature trees are the remnants of the ancient Forest of Bere, which once stretched across southern Hampshire from Eastleigh to Emsworth. The Local Ecological Network project has identified a number of opportunity areas. Within these it is possible to reconnect and enhance nodes in the Local Ecological Network in order to achieve biodiversity net gain.
- 5.156 Development that takes place in Havant Borough is expected to make a positive contribution to the existing natural environment. It is considered that development which does not do this is contributing to the continuing decline of biodiversity and would not constitute sustainable development.
- 5.157 A breakdown of the different types of international, national and local nature conservation designations found in Havant Borough is presented below in Table 7. A full breakdown of the Borough's nature conservation designations can be found in the Havant Borough Biodiversity Strategy⁸⁸. These sites form key nodes in the Local Ecological Network. However, it is important to stress that the network of designated sites is not the entirety of the Local Ecological Network and it is vital to consider the corridors and linkages between the sites as well as the sites themselves. Such considerations must not be limited to the Borough boundary as Havant's Local Ecological Network feeds into a wider network beyond our boundaries.
- 5.158 Species which are protected outside of the designations listed below are covered in Policy E15.

⁸⁸ [Havant Borough Biodiversity Strategy](#)

International	National	Local
Ramsar Site Special Protection Area (SPA) Special Area of Conservation (SAC)	Site of Special Scientific Interest (SSSI)	Site of Importance for Nature Conservation (SINC) ⁸⁹ Local Nature Reserve (LNR)
Table 7: A breakdown of the different types of international, national and local nature conservation designations.		

E14 | The Local Ecological Network

All development in Havant Borough is expected to protect, conserve and enhance the Borough's Local Ecological Network. Planning permission will only be granted where:

- The development of one dwelling or more or a new commercial building results in biodiversity net gain;
- The development avoids the fragmentation of the Local Ecological Network;
- The applicant has identified and assessed the level of ecological value of the site through adequate and proportionate information and any matters arising have been addressed through an avoidance or mitigation plan; and
- Any necessary mitigation plan includes provision for ongoing management and maintenance.

In addition to the above, priority habitats in the Borough are afforded protection by specific nature conservation designations. Development proposals which could affect a designated site will need to consider the impact and respond appropriately.

International Nature Conservation Designations

Development which has the potential to have an impact on an international nature conservation designation will be subject to a Habitats Regulations Assessment and, if necessary, an Appropriate Assessment, to determine the potential for likely significant effects. Development that is likely to have an adverse effect, either alone or in combination with another project/plan, on the integrity of an international site will not be permitted unless it can be demonstrated that:

- Necessary avoidance or mitigation is secured such that in combination with other development there will be no adverse effects on the integrity of the designated sites; or
- There are no alternative sites for the proposal, there are reasons of overriding public benefit/interest and compensatory provision is secured.

National Nature Conservation Designations

In addition to criteria a) to d), planning permission will only be granted on or adjacent to a national nature conservation designation where:

- Development is unlikely to have an adverse effect either individually or in combination with other developments.

An exception to j) will only be made where:

- The benefit of development clearly outweighs the likely impact on the feature(s) of the designation; and
- Mitigation and/or compensation measures are secured to offset any likely impacts.

⁸⁹ A SINC is a non-statutory designation

Local Nature Conservation Designations

In addition to criteria a) to d), planning permission will only be permitted on or adjacent to a local nature conservation designation where:

- j. The value of the designation is retained and, where possible, enhanced in line with its original criteria for designation through avoidance and/or mitigation measures; or
- k. The benefit of the development can be shown to clearly outweigh the substantive nature conservation value of the site, and where the impact cannot be avoided nor mitigated, compensation is provided.

Joint working

The Council will continue to work collaboratively with its PUSH partners to develop a strategic approach towards water quality and air quality.

Under duty-to-cooperate, the Council is committed to developing a shared Nitrogen Action Plan for the Farlington area (Portsmouth) in partnership with Portsmouth City Council and other appropriate partners.

How this policy works

5.159 There is a great deal of pressure on the Borough's natural environment as a result of climate change and an increasing population. Therefore, the Council's priority will be to focus on protecting, enhancing and linking together the existing natural environment.

Biodiversity net gain

5.160 In line with national policy, the Council expects substantial development proposals to achieve a net gain in biodiversity on the site and the surrounding area. The Council encourages pre-application discussions to determine potential methods for enhancements.

5.161 Almost any development can achieve biodiversity net gain. Even smaller developments can include the use of design features to integrate biodiversity attributes into the building itself. At least every new dwelling, or commercial developments that involve the construction of a new building can include boxes or bricks for bats and birds, and other features can additionally be incorporated within larger developments. Further guidance on how to do this and the kinds of products that are available is in the Biodiversity Strategy.

Application requirements

5.162 The Council will require ecological assessments (including the relevant sections of Environmental Statements and information to support HRAs) to be submitted with an application and be of an appropriate level of detail. The scope and detail of any assessment must be appropriate to the nature conservation value of the site. For any application proposing the development of one or more residential units (apart from conversions), it is expected that a site-specific ecological assessment will be needed. The need for the assessment and its scope would be discussed at the pre-application stage.

5.163 For householder development, any development affecting roof materials or roof voids may impact roosting bats and certain nesting birds, and those affecting trees or areas of dense woody vegetation may impact nesting birds.

5.164 A development may also impact features outside the site but within the development's zone of impact. The Biodiversity Checklists for Householder and Full applications provide useful information

for determining the risk of impacts and applicants are expected to use the Checklists to inform their applications. Applicants may need to request data searches from the Hampshire Biodiversity Information Centre (HBIC) to inform their assessments. Submitted ecological assessments must highlight the impact of the development upon the natural environment and demonstrate what mitigation measures will be put in place to the satisfaction of the Council's Ecologist and Natural England.

- 5.165 Notwithstanding the above, a site's ecological value can be unpredictable. Sites that may appear through a desktop analysis to have little or no ecological value may in fact have some. As such, the information about the site's ecological status could change through the lifetime of a planning application and further information may be needed in order to determine the application.

Avoiding and mitigating harm

- 5.166 As set out in the NPPF, if significant harm cannot be avoided (by locating development in a way which does not create the impact), then such harm should be adequately mitigated. Where it cannot be adequately mitigated then such harm must be compensated for. Where it cannot be compensated for, planning permission will be refused.
- 5.167 Applicants on larger sites or those which are likely to have a greater impact on the natural environment are expected to engage with the Council at an early stage in the process to ensure that the potential implications are taken into account in the preparation of proposals and suitable surveys are commissioned.
- 5.168 There will be a presumption against any development involving the net loss of biodiversity or the loss of any natural features, unless there are wider public benefits that outweigh the harm of this loss. The Council expects applicants to approach considering an impact on biodiversity in the following order:
- Avoid
 - Mitigate
 - Compensate

The Local Ecological Network

- 5.169 The mapping of the Local Ecological Network (LEN)⁹⁰ has been undertaken by the Hampshire Biodiversity Information Centre. As such, data searches should be used to inform ecological assessments accompanying development proposals. The mapping is available through a request to the Hampshire Biodiversity Information Centre.
- 5.170 The effect of the proposed development on components of the LEN must be assessed both in terms of its proximity, the proposed end use and the impact of that use on it. The impact of any construction activity must also be considered.
- 5.171 There are several ways in which the impact of development on the LEN can be mitigated and improvements to it achieved. This can be done through careful design of layouts to facilitate the movement of wildlife, the use of new landscape planting which is informed by priorities in the Biodiversity Strategy and the inclusion of specific building design features.

⁹⁰ Hampshire County Council – Information we hold. Hampshire Biodiversity Information Centre – Ecological network mapping on behalf of the Local Nature Partnership

- 5.172 Where new open space is proposed, its design should consider multifunctionality and how biodiversity can be incorporated without compromising its recreational function.
- 5.173 The Council will use planning conditions and/or obligations to secure appropriate enhancement and site management measures. Where the impacts are unavoidable, mitigation or compensatory measures will be required.
- 5.174 The Council has a strong track record of working in partnership with Natural England and neighbouring authorities to investigate and prevent harm to nature conservation designations. This approach will continue in the future to improve public understanding of biodiversity, manage public access to designated sites and prevent harm to nature conservation designations. As such, the Council recommends that applicants use Natural England's pre-application development advice service (DAS) before submitting any application.

International and National Nature Conservation Designations

- 5.175 Internationally designated sites are highlighted in Table 7 and are afforded a high level of legal protection.
- 5.176 Any development which is likely to have a significant effect on these designations will require a project level Habitat Regulations Assessment (HRA) and in all likelihood an Environmental Impact Assessment (EIA) by law. A project level Habitats Regulations Assessment (HRA) will be prepared by the Council as the competent authority as part of the determination of the planning application and the applicant will need to provide the necessary information to inform that assessment. The HRA will assess the effects of the proposal both alone and in combination with other plans and projects. If the development proposal is shown to have an adverse effect on an internationally designated conservation site, then planning permission cannot be lawfully granted.
- 5.177 As well as the designated harbours, the wader and wildfowl species for which the SPAs are designated also use sites on land to feed and roost. The impact of development on the Solent SPAs, both in terms of buildings and recreational disturbance from human activity is considered through Policies E16 and E17.
- 5.178 Sites of Special Scientific Interest (SSSIs) are nationally designated nature conservation site. A SSSI is an area of land notified under the Wildlife and Countryside Act 1981 as being the country's best wildlife and geological sites. SSSI's in England are designated by Natural England.
- 5.179 Where necessary, an ecology strategy must include monitoring to ensure its effectiveness. This will be determined on a case by case basis.
- 5.180 Further information regarding development around Chichester Harbour can be found in Policy E5 and the Joint Chichester Harbour AONB SPD adopted by both Havant and Chichester Councils.

Local Designations

- 5.181 There are many other important sites, outside of the network of internationally and nationally designated sites, which also contribute to the ecological network of an area. These sites are designated as Sites of Importance for Nature Conservation (SINCs) (referred to as Local Wildlife Sites in the NPPF) or Local Nature Reserves.
- 5.182 Designating an area as a SINC or Local Nature Reserve raises awareness of its importance for wildlife and ecology and its value to the Borough's communities. SINCs and Local Nature Reserves are essential in maintaining a network of habitats as they allow for the movement of flora and fauna through the landscape. With this, they may support legally protected species or habitats recognised

as being of principle importance under the Natural Environment and Rural Communities (NERC) Act. The presence of these habitats or species is addressed through Policy E15.

- 5.183 There are six Local Nature Reserves wholly within the Borough: Brook Meadow, Gutner Point, Hayling Billy, Sandy Point, The Kench and West Hayling; part of two others (Farlington Marshes and Hazleton Common) in the Borough. The SINCs in the Borough are listed⁹¹ in the Havant Borough Biodiversity Strategy.
- 5.184 The Hampshire Biodiversity Information Centre (HBIC) periodically surveys sites to assess whether they meet the criteria for SINC designation. Prior to being recommended to the Council for designation, each site, boundary change or criteria change is assessed by a panel comprising Hampshire County Council, Natural England and the Hampshire and Isle of Wight Wildlife Trust. If the site is found to meet the criteria for selection, the landowner is notified by HBIC and the site is recommended to the Council for designation.
- 5.185 Sites may be recommended to the Council for designation but are not yet formally designated through the Local Plan. The Council will consider these as if they were designated and assess development proposals which could affect them in line with the policy proposals for designated SINCs.
- 5.186 Sites are identified at a management unit scale (such as a field). However, that does not mean that the ecological interest of the site is present throughout, indeed it is likely to be concentrated in only a few sections of the site. Early pre-application engagement with the Council and making sure that appropriate data searches take place through HBIC, will ensure that applicants and their ecological advisers have the information necessary to avoid and mitigate an impact on the local designation.
- 5.187 Local nature conservation designations are a material consideration when determining planning applications, but they are not afforded legal protection, unlike international and national designations. Nevertheless, any development proposal which incorporates a SINC or Local Nature Reserve area will have to demonstrate how the value of the area will be retained, and where possible, enhanced through appropriate mitigation.

Joint working

- 5.188 The Council will work jointly with PUSH to develop mitigation measures for air quality and water quality issues relevant to Havant borough and the wider sub-region. There is a potential requirement to develop a nutrient neutral approach (such as in the form of a Supplementary Planning Document) to address the impacts of resulting from development in this Plan on the Solent Maritime SAC and the Chichester and Langstone Harbours SPA and Ramsar. As part of this, the Council will continue to monitor NO_x background concentrations through Defra forecasts in partnership with PUSH.
- 5.189 The Council is committed to developing a shared nitrogen action plan for the Farlington area (Portsmouth) in partnership with Portsmouth City Council and other appropriate partners under a duty to cooperate. This is to ensure no adverse effect on the integrity of the Solent Maritime SAC as a result of development proposed in Havant borough and other neighbouring authorities.

⁹¹ 110 sites covering a total area of 549 hectares as at 31/03/17.

E16 | Solent Special Protection Areas

Why this policy is needed

- 5.202 The Solent is internationally important for its wildlife. Each winter, the Solent hosts over 90,000 waders and wildfowl including 10 to 30 per cent of the global population of Brent Geese. These birds come from as far as Siberia to feed and roost before returning to their summer habitats to breed. The three Solent Special Protection Areas (SPAs) were designated by the Government predominantly to protect these over-wintering geese and breeding terns⁹⁵. The SPA of relevance for Havant Borough is the Chichester & Langstone Harbours SPA.
- 5.203 The Habitats Regulations⁹⁶ set out the sequence of steps to be taken by the competent authority when considering authorisation for a plan/project that may have an impact on a European site and its species before deciding to authorise that project. Avoidance and mitigation measures can be considered by the Council as the competent authority under the regulations. The competent authority shall agree to the project only after having ascertained that it will not adversely affect the integrity of the SPA and its species.
- 5.204 An acknowledged issue for any new residential development within 5.6 km of the Solent coast is the impact which disturbance, much of which is caused by recreation, can have on the protected species which use the Solent SPAs. This zone of influence includes the vast majority of Havant Borough and is shown in Figure 21 and the Policies Map. Development can increase the human population near the coast and thus increase the level of recreation and disturbance. This means that birds are not able to feed as effectively and spend more energy avoiding the disturbance.
- 5.205 Human disturbance can ultimately increase bird mortality or reduce the amount of energy which the individual bird has available at the end of the winter period to fly back to its breeding grounds. If, as a consequence, the birds are unable to complete their migratory journey or are not in sufficiently good condition to breed when they arrive, this will lead to a reduction in the bird population.
- 5.206 Extensive research was undertaken during 2009-2013 under the Solent Disturbance and Mitigation Project (SDMP) to assess the impact of recreational activity on wintering birds on the Solent coast. Based on this research, Natural England issued formal advice to the Council in March 2013. This stated, "Natural England's advice is that the SDMP work represents the best available evidence, and therefore avoidance measures are required in order to ensure a significant effect, in combination, arising from new housing development around the Solent, is avoided."
- 5.207 Since then, the Council has been working with the local authorities along the Solent coast, Natural England and other organisations, as part of the Bird Aware Solent Partnership⁹⁷, to prepare the Solent Recreation Mitigation Strategy (SRMS)⁹⁸. The SRMS was approved by Havant Borough Council and has been implemented since 1st April 2018 through Bird Aware Solent. It is considered that the SRMS is based on the best available scientific evidence for delivering recreational mitigation and, therefore, is the most appropriate mechanism for mitigating recreational disturbance to the SPAs created by new residential development.

⁹⁵ Little, Common and Sandwich Tern

⁹⁶ The Conservation of Habitats and Species Regulations (2017 as amended).

⁹⁷ Formerly known as the Solent Recreation Mitigation Partnership (SRMP).

⁹⁸ Solent Recreation Mitigation Strategy – Bird Aware Solent (December 2017)

E16 | Solent Special Protection Areas

Planning permission will be granted for new dwellings that mitigate the likely significant effect on the Solent SPAs. This mitigation can be provided through either:

- a. A financial contribution consistent with the Solent Recreation Mitigation Strategy (SRMS); or
- b. A developer provided package of measures associated with the proposed development supported by evidence that it will avoid or mitigate any likely significant effect on the SPAs; or
- c. A combination of measures in (a) and (b) above.

Where these measures cannot be provided development proposals will be refused, unless the applicant can show, subject to meeting the tests of the Habitats Regulations, that there would not be a likely significant effect on the Solent SPAs either alone or in combination with other plans or projects.

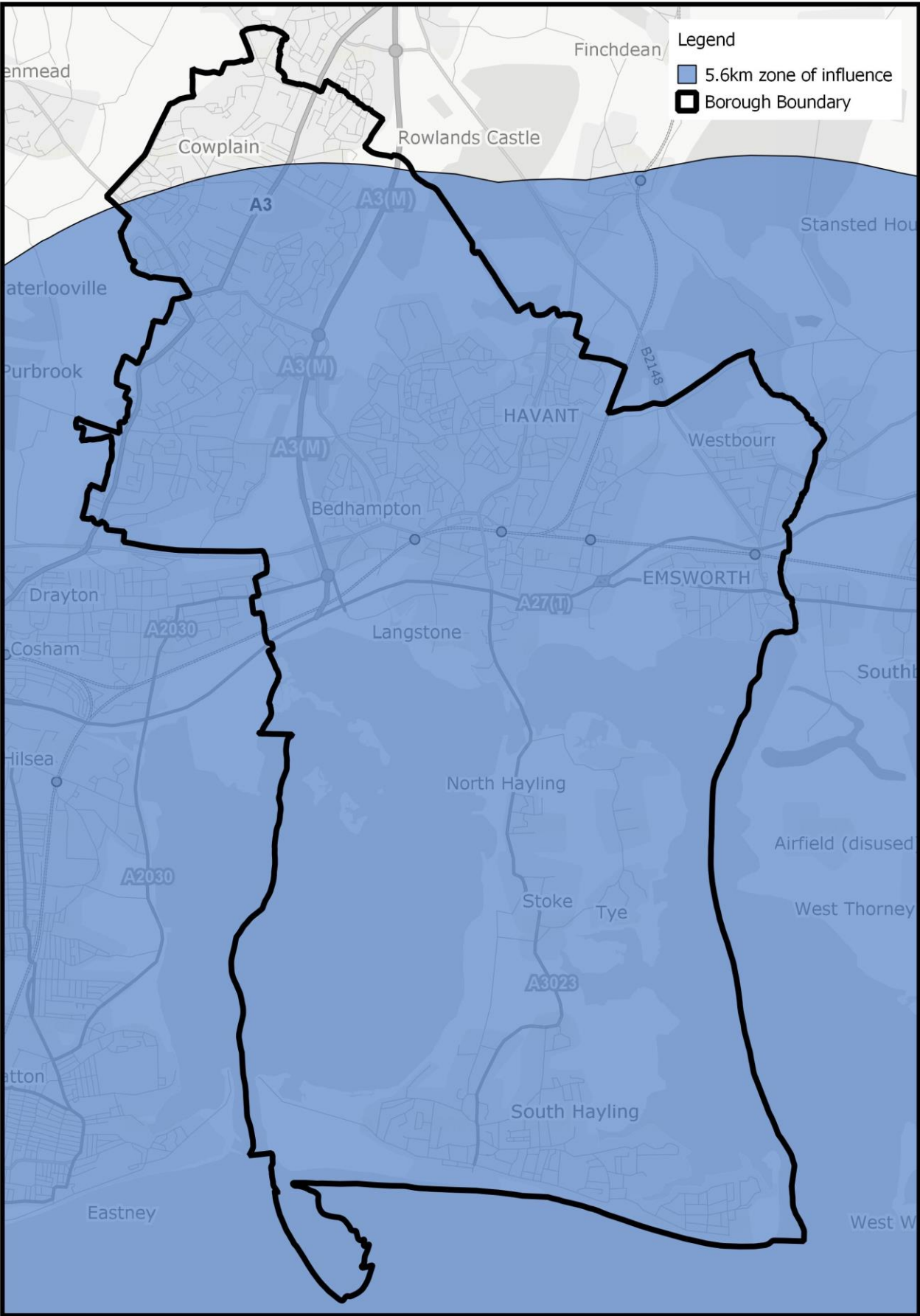
How this policy works

- 5.208 The Council will continue to be part of the Bird Aware Solent Partnership to provide a strategic framework to address this issue. This provides a straightforward and practical solution to make sure that housebuilding can continue to take place whilst also protecting the Solent SPAs as required by law.
- 5.209 The mitigation framework for individual new developments can be provided through a financial contribution consistent with the SRMS. It is expected that the majority of schemes will provide mitigation packages in this way. The scale of the financial contribution is based on the number of net additional dwellings, varied by the number of bedrooms per dwelling. These figures will be increased on 1st April each year in line with the Retail Price Index. Further information is contained in the Council's Developer Contribution Guide⁹⁹ and the SRMS itself.
- 5.210 In this context, 'dwelling' is defined through the SRMS and includes conversions and changes of use (including through permitted development). The need for mitigation for the recreational impact of other types of residential accommodation, such as holiday accommodation (including hotels) and accommodation specifically for the elderly, will be assessed on a case-by-case basis by the Council.
- 5.211 Any developer not providing a financial contribution consistent with the SRMS will need to support their proposed package of bespoke mitigation measures with evidence to support how this would be effective and consistent with the requirements of the Habitat Regulations.
- 5.212 Some housing schemes, particularly very large ones or those located close to the boundary of a SPA, may need to provide mitigation measures in addition to making the SRMS financial contribution to ensure effective avoidance/mitigation of impacts on the SPA. A very large scheme could have a much greater impact on sections of coast compared to the dispersed impact of smaller schemes providing the same overall number of new homes. Similarly, mitigation in addition to the developer contribution may be needed for new dwellings which are close to the SPA because the occupants are much more likely to visit the coast with the potential for a greater impact. The Council, with advice from Natural England, will consider the mitigation requirements for such housing proposals on a case-by-case basis. Developers are encouraged to hold early discussions with the Council on the mitigation needed for such schemes.

⁹⁹ [Havant Borough Council Developer Contributions Guide](#)

- 5.213 Separate mitigation may be required for other impacts which may arise from new housing such as direct habitat loss or light pollution onto the SPA. Those will be assessed by the Council, in liaison with Natural England, to identify whether, and if so what, mitigation is required.
- 5.214 The Council will produce an HRA as part of the committee or delegated report at the full or outline planning stage on all development proposals that include residential development. For most development, if a planning obligation to secure the financial contribution is agreed prior to the granting of planning permission which provides the necessary level of mitigation, then it should be possible for the HRA to conclude that a significant effect as a result of the development is unlikely.
- 5.215 New housing proposed under the General Permitted Development Order will require a separate HRA to be completed by the Council, alongside the prior approval process. As part of this process, mitigation, likely in the form of a financial contribution, will need to be secured from the new development, proportionate to the scale of development being proposed.
- 5.216 The measures set out in the SRMS, except for Suitable Alternative Natural Greenspaces (SANGs) are not considered to be infrastructure under Regulation 123 of the Community Infrastructure Levy (CIL) Regulations. As a result, they can be secured from new development using a legal agreement.

Figure 21: 5.6km zone of influence



EX1 | Water Quality impact on the Solent European Sites

Why this policy is needed

- [5.220](#) [New development necessitates the provision of connections to the foul water drainage network. This could increase nutrient load at the Solent European Sites. Nutrient enrichment can arise from wastewater treatment required in support of new development, even if it is a proportionately small contribution.](#)
- [5.221](#) [New housing schemes and other proposals which includes a net gain in overnight accommodation 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 the European site.](#)
- [5.222](#) [Waste water from Havant discharges through two wastewater treatment works. Most of the built-up areas of the Borough drain to Budds Farm Waste Water Treatment Works however, Emsworth drains to Thornham Waste Water Treatment Works.](#)
- [5.223](#) [If there is a significant effect from new development and other proposals which includes a net gain in overnight accommodation on the Solent European Sites, then mitigation would need to be provided.](#)
- [5.224](#) [The Council has a strategic mitigation package for developments unable to achieve nutrient neutrality on site. Land at Warblington Farm is allocated in Policy EX for mitigation related to this issue.](#)

EX1 | Water Quality

[New dwellings and/or net gain in overnight accommodation which would cause a likely significant effect on the designated sites will need to provide a nutrient budget.](#)

[Planning permission will only then be granted if a mitigation package is provided which will remove the likely significant effect. This mitigation can be provided through either:](#)

- [a. A financial contribution towards the Council's strategic mitigation package; or](#)
- [b. A developer provided package of measures associated with the proposed development supported by evidence that it will avoid or mitigate any likely significant effect on the Solent European Sites; or](#)
- [c. A combination of measures in \(a\) and \(b\) above.](#)

[Where these measures cannot be provided development proposals will be refused, unless the applicant can show, subject to meeting the tests of the Habitats Regulations, that there would not be a likely significant effect on the Solent European Sites either alone or in combination with other plans or projects.](#)

How this policy works

- [5.225](#) [Development which proposes overnight accommodation or has a high volume of water use would need to provide mitigation if it is likely to have a significant impact on the Solent European Sites. Most commercial development will not need to address nutrient neutrality as it is considered that the](#)

[population that work in businesses live locally. However, where they result in an increase in additional nutrients, they will need to be assessed on a case by case basis.](#)

[5.226 New developments would need to provide mitigation and use the Council's methodology for calculating a nutrient budget. A nutrient budget will need to be submitted with an application to determine whether the development is nutrient neutral and if it not to calculate the amount of nutrient mitigation needed to ensure the correct amount is secured through on-site or off-site measures.](#)

[5.227 Any development that cannot achieve nutrient neutrality on-site will be expected to contribute to the delivery of the Council's strategic mitigation scheme and/or provide their own off-site mitigation scheme. Details of the Council's mitigation plan and how a proportionate scale of mitigation to be provided, in the form of a financial contribution, from proposed development will be set out in guidance.](#)

APPENDIX D

Site Address:	17A-17B Avondale Road, Waterloooville, PO7 7ST		
Proposal:	Construction of 1No. 2 bed bungalow to the rear of 17A/B Avondale Road, with access via Brooklyn Drive and associated bin store and parking.		
Application No:	APP/20/00146	Expiry Date:	07/05/2020
Applicant:	J Wood		
Agent:	Mr Holman	Case Officer:	Tina Pickup
	HRP Architects LTD		
Ward:	Waterloo		

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The application site comprises part of the rear garden of 17A-17B Avondale Road, which is a detached 2 storey residential property, in use as 2 flats. This host property is located on the corner of Avondale Road with Brooklyn Drive, such that its rear garden fronts Brooklyn Drive. Number 17 has a historic flat roofed two storey extension across its rear elevation. There are 2 front doors within its side gable elevation, serving the 2 self contained flats, arranged as a first floor flat and ground floor flat; each of which have 2 bedrooms, kitchen, bathroom and lounge. It is the ground floor flat, Nos 17A, that has use of the existing garden area.
- 1.2 This north side of Avondale Road is characterised by inter-war traditional two storey dwellings, having relatively generous rear garden depths of approximately 30m. In contrast, Brooklyn Drive, which leads to Bramley Close, is a 1970's development of tighter-knit detached dwellings set in more modest plots. Brooklyn Drive has a slight dog-leg within it, outside the application site, which results in a tapering of the application site at its northern end. The land in the area slopes gradually down from west to east, such that there is a slight slope to the garden of 17A down to the Brooklyn Drive frontage.
- 1.3 The garden of 17A is bounded to Brooklyn Drive by a 1.2m high close boarded fence and currently the half closest to this property is maintained and includes a shed. The rear, northern, half is currently overgrown and unkempt. Immediately to the north is a private drive serving a brick built detached garage, set back within the rear garden of, and serving, number 15 Avondale Road. Beyond, numbers 1 to 3 Brooklyn Drive are two storey gable fronted detached dwellings, set in a line and back from the highway by about 6m. The eastern side of Brooklyn Drive comprises a high close boarded fence where enclosing the long rear garden of 19 Avondale Road; then 4 private garages set back before a fence enclosing 23 Bramley Close. Brooklyn Drive itself is therefore characterised by an absence of structures and largely features the side flank boundary treatments of long gardens and therefore has a relatively spacious and open feel.
- 1.4 The submitted red lined application site measures 27m in length along the western boundary with number 15, and has a depth of between 9m and 5m. This would leave a rear garden depth of 6.5m for 17A.

2 Planning History

The relevant planning history includes:

04/67971/000 - Outline application for one detached two bedroom, two storey dwelling
Refused 21 December 2004 for 2 reasons:
size and shape of plot not compatible with surrounding area; and use of access likely to cause interference with safety of users of highway.

05/67971/001 - Outline application for 1No. detached bungalow with parking
Refused 28 July 2005 for 2 reasons:
size and shape of plot not compatible with surrounding area; and failed to demonstrate that use of access would not cause interference with safety of users of highway

Appeal Dismissed 2 February 2006

The Inspector found that the style and layout of the dwelling would be out of keeping with predominant character of the road; and combined with the siting projecting in front of the established building line of dwellings to the east, the development would be visually harmful to the street scene; furthermore the shallow depth of the plot afforded little privacy for intended occupiers.

3 Proposal

- 3.1 Construction of 1No. 2 bed bungalow to the rear of 17A/B Avondale Road, with access via Brooklyn Drive and associated bin store and parking.
- 3.2 The proposed bungalow would have a long, 13.5m, blank rear elevation with stepped and curved frontage to Brooklyn Drive, beneath a hipped roof with flat central element. The dwelling would have a maximum depth of 7m, eaves height of 2.1m and ridge height of 4.2m. The curved frontage of the property would be set back about 1.3m from the back edge of the highway and windows have been spaced out evenly in this facade. The dwelling would be sited approximately centrally within the plot with the garden to the north, having a length of 8m; and 2 car parking spaces and bin store to the south.
- 3.3 It is proposed to use traditional buff bricks beneath a plain tiled roof, with grey windows and doors. A feature brick plinth is also proposed. A cross section drawing has been provided indicating that the front of the bungalow would be set at natural ground level, resulting in the rear being set down.

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

CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)

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)

Havant Borough Pre Submission Local Plan 2036

E22	(Amenity and pollution)
E20	(Drainage infrastructure in new development)
IN1	(Effective provision of infrastructure)
E1*	(High quality design)
H1*	(High quality new homes)
E12	(Low carbon design)
E16	(Solent Special Protection Areas)
E14	(The Local Ecological Network)
IN3	(Transport and parking in new development)

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control

No adverse comments

Community Infrastructure

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

Additionally, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of net additional dwellings and their respective number of bedrooms. See <http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>.

See also information on Nutrient Neutrality: www.havant.gov.uk/nitrogen

Crime Prevention

None received

Southern Water

Southern Water requires a formal application for a connection to the public foul sewer. Should this application receive planning approval, Informative requested re connection. The Council's Building Control officers or technical staff should comment on the adequacy of soakaways to dispose of surface water.

It is possible that a sewer now deemed to be public could be crossing the development site. 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.

Engineering/Drainage

Advice sought on comments of LLFA:

The culvert referred to is classified as an 'ordinary watercourse' which is a 'non-main river' water body. Ordinary watercourses are the responsibility of the landowner in whose land the watercourse is located, to maintain. If the culvert has been piped and especially if the landowner has no means of access to it (i.e. there isn't an access manhole on their land) then often they don't even know it exists.

This culvert/pipe probably extends along the original field boundary right down to the Hermitage. But there is a blockage somewhere causing the reported flooding. Suggest the applicant establishes whether the culvert/pipe crosses the site by digging trial holes to locate the pipe - if found, build a manhole on it, and then do the maintenance required to get it flowing again.

Infiltration – this can be determined by a BRE test. This is a standard 'dig a hole in the ground, fill it with water and measure how long it takes to drain'. The applicant would have to do this anyway if proposing soakaways. The BRE test is usually done before commencement to prove the viability of the proposal. It is used to size the soakaway or at worst to rule it out and come up with another (piped) solution.

Hampshire Highways

Whilst Highways Development Planning raises no in-principle objections to this proposal, there are currently items of concern and issues.

The proposed access is potentially restrained in terms of pedestrian/vehicular intervisibility and submitted drawings must demonstrate suitable pedestrian visibility splays of 1.5m x 1.5m.

The local highway network in this location is heavily parked at various times and the proposed access would result in the loss of circa 2 on-street parking spaces.

The applicant would be required to demonstrate via a residential peak night time parking survey in line with the "Lambeth Methodology" the level of parking stress and in turn the level of spare capacity in order to demonstrate that the loss of available parking would not be detrimental.

Due to the current COVID-19 situation the applicant must discuss and agree any potential surveys with this office in advance.

In line with the above, a standing objection is currently raised to this proposal.

Following discussions with HH, follow up response received:

Further review of the proposal has been undertaken given clarification that has been provided by HBC. In line with this review the following comments should be taken as an updated consultation response.

Whilst Highways Development Planning raises no in-principle objections to this proposal, there are currently items of concern and issues.

The proposed access is potentially restrained in terms of pedestrian/vehicular intervisibility and submitted drawings must demonstrate suitable pedestrian visibility splays of 1.5m x 1.5m.

Following review, Highways Development Planning is satisfied that the minor loss of on-street parking (1 space) would not be at a detrimental impact to highway safety or efficiency.

No objections are raised subject to the above requirements.

Local Lead Flood Authority HCC

Hampshire County Council as Lead Local Flood Authority has provided comments in relation to the above application in relation to surface water management.

This site is a minor application which we would not usually comment on, however due to known flooding issues in the vicinity, we have specifically been asked for advice.

While we have reviewed the information provided and made comments below, please be aware that we require far more detail to enable us to undertake a full assessment in

the same way as for major applications. If this level of assessment is required, please refer the applicant to our website where guidance and a checklist in relation to planning submissions is available.

The County Council has reviewed the following documents relating to the above application:

- ☐ Application Form
- ☐ Planning Statement
- ☐ Proposed Floor Plan and Elevations ref: 8880 02

The application is for the construction of a new bungalow to the rear of an existing bungalow with drainage proposed to be via soakaway and permeable block paving. No further details are provided in relation to drainage.

We are aware that there has been flooding in the area and it has been suggested that there is culverted watercourse to the rear of the gardens in Avondale Road. This is known to exist to the north-west (upstream) but is blocked and the full route has not been confirmed. This could be leading to some of the issues raised by other residents but would require action from the individual land owners to locate and repair. However, if this culvert does run as expected, the works within 17A and 17B could effectively sever this outfall.

If this culvert is already blocked and the flow path is above ground at present, then the bungalow is likely to provide an impediment to the flow path and no information has been provided to show how water could flow around the site.

The drainage proposals are to use infiltration but no evidence has been provided to show that it would work. The soils in the area are mixed and may not be suitable, particularly given the flooding reports but if this method is to be used then testing should be undertaken as soon as possible and must be in accordance with BRE365.

As previously stated, if this was a major application then considerably more information would be required but we feel that the above points are critical in ensuring that development does not increase flood risk in the area.

In order to assist applicants in providing the correct information to their Local Planning Authority for planning permission, Hampshire County Council has set out the information it requires to provide a substantive response at

<https://www.hants.gov.uk/landplanningandenvironment/environment/flooding/planning>

For guidance on providing the correct information, we recommend you use our Surface Water Management Pre-application service which provides clear guidance on what is required for us to recommend that planning permission is granted and consider the works as best practise. For full details, please visit:

<https://www.hants.gov.uk/landplanningandenvironment/environment/flooding/planning> and click on [pre-application advice request form](#).

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, and a competent authority should have regard to Natural England's advice.

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 any adverse effects, it is the advice of Natural England that we concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.

Solent Recreation Mitigation Strategy – no objection subject to mitigation

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.

Nutrient Neutrality – no objection subject to mitigation

Natural England is aware that your authority has adopted an interim strategy using Grampian conditions to address nutrient impacts from developments currently in the planning system and we have been working with the Council to develop this approach. It is noted that the mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development.

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. With regard to deterioration of the water environment, it is noted that the approach to address the positive nitrogen budget for this development is to offset against the interim strategy, with measures to ensure this approach can be adequately secured and accounted for.

It is Natural England's view that in this case, provided the Council as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Please consult Natural England on the discharge of the Grampian condition. _

Public Spaces

None received

Traffic Management

The Traffic Team have no adverse comment to make

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: 9

Number of site notices: 1 posted by applicant/agent due to Covid 19 restrictions

Statutory advertisement: Not applicable.

Number of representations received: 6

Comment	Officer Comment
6 letters of objection have been received, raising the following issues:	
<u>Drainage</u> - due to slope of land, surface water backs up and can take days to dissipate; bungalow footings would act as a dam wall and make our flooding much worse; Note HCC LLFA recently wrote to residents reminding of responsibility to maintain Ordinary Watercourse and noting blocked surface water drainage culvert (copy of letter included). There is an underground stream which runs through the site and, during heavy rain, surfaces and flows across Brooklyn Drive. The proposed development would affect this.	Noted - see section 7
<u>Previous appeal</u> - serious parking problem was one of reasons 2005 appeal turned down; previous unsuccessful applications to develop this unsuitable site which has now become an annoying derelict eyesore	Noted - see section 7 Current state of land not so untidy to warrant a Section 215 Notice
<u>Parking</u> - problems increased since 2005; proposed 2 parking spaces negated by loss of 2 on road spaces; Brooklyn Drive and Avondale Road are already severely congested with parked cars and vans causing a danger each time a vehicle needs to exit Brooklyn Drive; congestion blocks access for refuse vehicles, and delivery vans; dangerous for pedestrians and cyclists; profit motivated application impacting road safety and parking disputes in the immediate area; HMO/converted house to flats at the end of Brooklyn which equates for a lot of traffic and parking issues which will only be exacerbated by more dwellings; not a safe road to cross due to the junction with Avondale and the illegally parked vehicles, it can be dangerous too with emergency service vehicles unable to pass; Brooklyn Drive has deteriorated into a car park for the vans and cars for the many households	proposed 2 spaces result in loss of just 1 on street space - see section 7 Parking issues noted - see section 7

in Avondale Road without garages, affecting access to Bramley Close; will displace cars/vans etc to park in the quite cul-de-sac of Bramley Close; frequent vehicles parked illegally and although HCC support with issuing penalty fines it is never consistent.	
<u>Suggestion</u> - land should be laid to lawn and used for amenity for tenants of 17B; or used for parking for 17A & 17B	Proposal has to be determined on its merits; alternative uses are a matter for the landowner
<u>Character of area</u> - area of land proposed is very small and the area around the proposed build is already built up; 17/17a hmo/flats on the corner of Avondale are in particularly poor repair which is not standard of housing in proximity; would not be in keeping of the buildings in Avondale, Brooklyn or Bramley and would be unsightly. The plans show a dwelling that would not be in keeping with the architecture of the properties surrounding it.	Noted - see section 7
<u>Disruption during construction</u> - The building of the proposed property would also cause unnecessary disruption for the residents in proximity.	Not a planning matter - Environmental Health would consider any nuisance during construction
<u>Overlooking</u> - The land is small and will overlook the neighbouring property	Noted - see section 7

7 Planning Considerations

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

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Highways and parking
- (v) Drainage
- (vi) Compliance with Habitats Regulations
- (v) CIL

- (i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable in principle, subject to the usual development control criteria. It is accepted that the provision of an additional dwelling would make a modest contribution to the Borough's housing needs, but to achieve sustainable development the NPPF requires the three overarching objectives of the economic role, social role

and environmental role, to be balanced. Havant Borough Council has an up-to-date development plan, comprising the Hampshire Minerals and Waste Plan; the Local Plan (Core Strategy) 2011 and the Local Plan (Allocations) 2014 and in accordance with paragraph 11 of the NPPF decisions should be made in accordance with the development plan.

- 7.3 The Council also approved its Pre-Submission Havant Borough Local Plan 2036 in January 2019, but at this stage the policies within this draft plan can only be afforded limited weight. The emerging policies do however indicate the direction of travel and 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 with adequate separation between surrounding properties. Additionally other relevant emerging policies include E1 High Quality Design, E20 Drainage Infrastructure in New Development and E22 Amenity and Pollution.
- 7.4 The planning history is relevant to the consideration of this application and it is noted that the 2 previous applications were in outline only. The first was for a two storey dwelling having its access and parking at the northern end of the site, adjacent the drives of both the garage serving 15 Avondale and 1 Brooklyn Drive. The second application was for a bungalow with the access re-sited to the southern end with small amenity areas either side of the proposed bungalow, which was closer to the northern end. The second application was appealed and the Inspector dismissed the appeal, finding that the lack of a principal elevation facing the road would be out of keeping with the predominant character of the road. It was also found that the bungalow would be sited forward of the properties to the east, and the resultant prominence was accentuated by the dog-leg in the road. Additionally future occupiers would have little privacy either inside or outside. The current detailed submission has attempted to overcome these points, to be considered below.

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

- 7.5 The properties on the north side of Avondale Road all have long gardens, some 30m, including the application site in its original form. The proposed development would result in the curtilage of the host dwelling being truncated at just 6.5m to the rear of the building. This reduced garden area for the retained dwelling would be wholly out of keeping with others in Avondale Road. The proposed plot size and in particular its depth, is also considered out of keeping with others in the area. The pattern of development in the area is characterised by typical linear frontage dwellings, set back from the highway, with generous rear gardens, but the proposed dwelling would have a long frontage on a very shallow plot, with small side garden and no traditional rear garden. This layout would be at variance with the pattern of development in the area and is considered contrived and cramped. Development in the manner proposed is indicative of the inadequate plot size which is incompatible with the surrounding area and as such represents an overdevelopment of the site. The plot is not considered of sufficient size to adequately accommodate a two bedroomed dwelling whilst respecting the more spacious traditional pattern of development in the immediate vicinity.
- 7.6 The proposed dwelling would front Brooklyn Drive and therefore its compatibility with this street scene is important. Due to Brooklyn Drive being a relatively short access road serving Bramley Close, it currently does not include many frontage properties - just the three 1970's style two storey properties on the east side north of the site and

some recessive garages opposite and a garage to the north of the application plot. Otherwise Brooklyn Drive is characterised by a lack of structures and an open and spacious setting by virtue of the side gardens of the Avondale Road properties. The introduction of a bungalow in this location would not be directly akin to the surrounding two storey character. It is considered that in street scene terms the proposed dwelling, with its curved hipped roof, would be read in isolation, somewhat as a subservient rear outbuilding might.

- 7.7 It is acknowledged that the siting and design has attempted to overcome previous Inspectors concerns, by providing window details to the road frontage elevation to replicate a principal elevation. The proposed bungalow has also been sited further to the south, away from the tapered part of the site, and set back from the highway by about 1.3m. This better respects the building line set by the side facade of the host property to the south. This would still be forward of the building line to the north, but the greater separation to no 1 Brooklyn Drive, reduces this jarring effect. The submitted plans indicate a low boundary wall with open rail fencing above, together with landscaping behind, to minimise any overbearing effect on users of the adjacent pavement. It is only the enclosing of the private side garden where the boundary fence would be higher adjacent the pavement - but this scenario now exists elsewhere in Brooklyn Drive. Overall, on balance, the combination of the careful curved hipped roof design, siting, and indicative boundary detailing, is such that the proposed development would not be considered overly prominent in street scene terms.
- 7.8 Therefore it is considered that whilst the specific design and siting would not be overly prominent in street scene terms, the principle of the subdivision of the plot in the manner proposed represents an overdevelopment of the site. The reduced plot sizes for both the proposed dwelling and retained property would be significantly smaller than those within the immediate vicinity, out of character with the area. The size and shape of the plot is not considered characteristic of the more spacious and traditional pattern of development in the area, and results in a contrived and cramped development, contrary to the Borough Design Guide SPD, 2011, adopted policy CS16 and emerging policy E1.

(iii) Impact upon residential amenity

- 7.9 The proposed dwelling would result in the amenity space for the host dwelling, being reduced to just 6.5m in depth. It is noteworthy that the proposed application site includes both the overgrown rear section of the original curtilage and also part of the existing maintained garden serving 17A. This existing garden would be reduced in depth by about 6.5m ie halved in size, necessitating the re-siting of the existing shed. This reduced garden area falls short of the recommended 10m minimum rear garden depth as set out in the adopted Borough Design Guide SPD and the emerging Local Plan 2036 policy H1. The supporting text to the emerging policy (paras 6.10 to 6.13) notes outdoor space needs to be of a sufficient size to meet the functional size of likely occupants, and in this case the host dwelling is subdivided into 2 No 2 bed flats. Being 2 bedrooms then the occupants of the ground floor flat could include a small family and 6.5m length garden is not considered sufficient to provide a shed, cycle storage and sufficient outdoor amenity space.
- 7.10 Similarly the proposed 2 bed dwelling would also have a garden depth of only 8m, and due to the tapered shape of the site, this would only have a depth of about 5m at one end. As a 2 bed unit it is possible that future occupiers could include a small family and again the proposed amenity space does not meet adopted SPD guidance or emerging policy. Therefore the substandard private amenity areas for both the

retained and proposed dwelling, is considered contrary to the Borough Design Guide SPD, 2011, adopted policy CS16 and emerging policy H1.

- 7.11 In terms of privacy and overlooking, as a single storey development, the proposal would not result in any direct loss of privacy to existing neighbouring residents. Privacy for future occupiers was a concern of the previous Inspector but this more detailed proposal sites the private garden area entirely to the north, enclosed by higher fencing. This would provide a relatively private area, not overlooked from neighbouring dwellings, just from passing pedestrians, which is not uncommon for corner plots.
- 7.12 In terms of bulk and overshadowing effect on the amenity of neighbours, the eaves height has been kept low, and combined with the digging into the ground, the eaves line would be similar to boundary fencing. The roof above has a steep pitch to a maximum height of 4.2m. Whilst the occupiers of the adjacent property will be aware of the structure, due to the orientation it would not result in any significant overshadowing or harm to outlook.
- 7.13 Overall it is considered the harm to amenity derives from the substandard plot and garden sizes, with inadequate amenity area for future occupiers and occupiers of 17A. This is considered contrary to the Borough Design Guide SPD, 2011, adopted policy CS16 and emerging policy H1.

(iv) Highways and parking

- 7.14 It is noted that the majority of third party representations refer to existing congestion and parking problems in the area. There are however no yellow line parking restrictions in either Avondale Road, Brooklyn Drive or Bramley Close, the only restriction is a white line on the Avondale/Brooklyn junction. These roads are also not classified and hence planning permission would not be required to provide a new vehicular access and dropped kerb. The proposal includes the provision of 2 on site parking spaces, and a shed for secure cycle storage, to serve the proposed 2 bed dwelling, which meets the adopted Parking SPD and policy DM13. These spaces would be provided at the southern end of the site, away from the adjacent drives of 15 Avondale Road and 1 Brooklyn Drive. Therefore there would no longer be the potential conflict of vehicular movements affecting safety that was a previous reason for refusal in 2005.
- 7.15 It is acknowledged that competition for parking spaces is an emotive issue that affects residents amenity and has triggered the third party responses. However in this case, there is no technical reason to resist the proposal on parking grounds. The proposed development provides sufficient on site parking to fully meet policy. The new vehicular access width to serve the new drive would measure 4.8m and with the dropped kerb would result in the loss of about 5m length of kerb line. This equates to the loss just one on street parking space. Considering this could occur as permitted development, then the marginal loss is not considered sufficient to warrant a reason for refusal. It is also noted that the Council's Parking Team made no objection to the proposal.
- 7.16 This has been discussed with Hampshire County Council who agreed with this approach and withdrew their request for a parking survey. They do however continue to note the need to improve pedestrian/vehicular intervisibility with the provision of pedestrian visibility splays of 1.5m x 1.5m being requested. Given the recommendation for refusal on other grounds, this amendment has not been forthcoming, and should any appeal be successful then this matter could be conditioned by an Inspector.

(v) Drainage

- 7.17 Whilst the site lies beyond current day flood zones 2 and 3, nevertheless, third party representations have also raised the fact that the area and site suffers from surface water flooding. It is thought that there is an underground piped Ordinary Watercourse crossing somewhere near the site that is blocked, causing the flooding. As a result both the Local Lead Flood Authority and Council's Drainage Engineer have been consulted on the application and advise that if the route of the culvert is as expected then the proposed development would sever the outfall or be an impediment to the flow. Since the exact location of the watercourse is not known and is likely to be below ground, then it has been recommended that the applicant prepares a drainage report after digging some trial holes to establish its precise location and if found to be within the site, build a manhole to it, to enable maintenance to get it flowing again. Such work would need LLFA consent.
- 7.18 It has also been noted that the drainage solution proposed is via a soakaway but because the soils in the area are mixed and may not be suitable, then a BRE test would need to be done prior to commencement. Had the proposal been recommended for permission this could have been a pre-commencement condition. Alternatively such tests could be included with the recommended drainage report above.
- 7.19 In the absence of any engineering drainage report exploring the surface water issues at the site and providing solutions, then the proposed development would be likely to exacerbate the known surface water flooding issues in the immediate area. This would be contrary to policy CS15 and emerging policy E20.

(vi) Compliance with Habitats Regulations

- 7.20 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 (Amendment) (EU Exit) Regulations 2019. 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 due to both the increase in recreation and the decrease in water quality that would result from the proposed development of one new residential unit.
- 7.21 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 indicated a willingness to enter into a legal agreement/accept a Grampian style condition to secure the appropriate mitigation packages.
- 7.22 With respect to the Solent Recreation Mitigation Strategy the applicant has been sent the appropriate agreement and Deed requesting the payment of £562.70. However this has not been returned or received and therefore it is considered that this recreational element of the impacts of development have not been adequately mitigated against. This lack of mitigation is contrary to policy DM24. With respect to the water quality issue, the applicant has indicated a willingness to accept a Grampian

style condition to mitigate the harm, pending the Council's solution to the nitrates issue.

- 7.23 The Appropriate Assessment concluded that, subject to the securing of these packages through a legal agreement/condition, this is sufficient to remove the significant effect on the SPAs 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. Therefore, on the basis of a refusal of planning permission for other matters, then it is necessary to include the non-provision of the avoidance and mitigation package for recreational disturbance as a reason for refusal.

(viii) CIL

- 7.24 The development is CIL liable for the net additional internal floor space, which is indicated on the CIL forms to be 64.4sqm. 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 2020 - 49.107%.
- 7.25 The Draft Liability Notice has been prepared, with a liability of £7,682.00 for the proposed development, and the Draft Notice has been sent to the agent.

8 Conclusion

- 8.1 The proposed shape and size of the site is not considered commensurate with the surrounding pattern and character of development in the area and development with a 2 bedroom bungalow results in an overdevelopment of the site, with substandard amenity space for both future occupiers and the retained property. Such a contrived and congested layout would be harmful to the character of the area and the amenity of residents, contrary to the adopted Borough Design Guide SPD and policy CS16. Additionally the surface water flooding in the area has not been adequately addressed and mitigated. It is considered that these harmful social and environmental effects outweigh any positive economic objectives of the proposal and as such the proposal is not considered to deliver sustainable development in accordance with the NPPF. Consequently the proposal is recommended for refusal.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/20/00146

(A) for the following reasons

- 1 The size and shape of the plot is not considered commensurate with the

surrounding pattern and character of development in the area and the subdivision of the plot in the manner proposed would represent an overdevelopment of the site, with inadequate amenity space for both future occupiers and the retained property. The contrived and congested layout would be harmful to the character of the area and the amenity of residents, contrary to the adopted Borough Design Guide SPD 2011, policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policies E1 and H1 of the Pre-Submission Havant Borough Local Plan 2036, and the National Planning Policy Framework.

- 2 On the basis of the information available and in the absence of a detailed drainage report and assessment, it has not been adequately demonstrated that the development would not lead to additional on and off site surface water flooding issues to the site and immediate area. The proposal is therefore contrary to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy E20 of the Pre-Submission Havant Borough Local Plan 2036, and the National Planning Policy Framework.
- 3 In the absence of a suitable agreement to secure appropriate recreational mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to this planning application. The development would be likely to result in increased recreational pressures from future residents 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 of the Pre-Submission Havant Borough Local Plan 2036, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

APPENDIX E

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 F

Original Position Statement, dated Jun 2019
– effective at time of decision but now
superseded

Position statement on nutrient neutral development

Introduction

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”*. The Council is in the process of updating its Local Plan with a view to not only meeting but exceeding the Government’s identified housing need for the authority, in large part through an ambitious regeneration agenda.
2. In looking to marry together these two agendas, an issue has arisen out of recent case law. This relates specifically to the impact from development on the natural environment due to a decrease in water quality.
3. The Council is already 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. However, it should be noted the contribution from urban areas to this is relatively small and from new development extremely small. The majority of nitrogen deposition into the harbour is from agricultural practices or background deposition, the source of which is not known.

Context

The Habitats Regulations

4. The Conservation of Habitats and Species Regulations (2017 as amended), hereafter referred to as the Habitats Regulations are the UK’s transposition of European Union Directive 92/43/EEC on the ‘Conservation of natural habitats and of wild fauna and flora’ (the Habitats Directive). There are significant responsibilities conferred on the Council as a ‘competent authority’ under The Habitats Regulations. 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.

5. A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water pollution, increase in recreation, light pollution, tall buildings or construction activity.
6. In order to assess whether there is 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.
7. An HRA is necessary for any local plan produced for the Borough as well as a proportion of planning applications. An HRA aims to assess the potential effects of a land use plan or policy against the conservation objectives of any European sites designated for their nature conservation importance under the Habitats Directive and Birds Directive (Directive 2009/147/EC on the 'conservation of wild birds'). Such sites are known collectively as the Natura 2000 network of European sites.
8. An established principle under law is that appropriate assessments must use the 'precautionary principle'. An appropriate assessment must enable the local planning authority to apply the regulation 63(5) "integrity test" on a "precautionary basis". Authorisation may only be given if the competent authority have made certain there will be no adverse effect on the integrity of the site and where no reasonable scientific doubt remains. Conversely, that means where doubt remains as to the absence of an adverse effect on the integrity of the site linked to the plan or project being considered, the competent authority would have to refuse authorisation. It is also necessary to consider not only the impact of a single plan or project in isolation but where there is any likelihood of a significant effect in combination with other plans and projects as well.
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.

Pressures

10. New development necessitates the provision of connections to the foul water drainage network. This could increase nutrient load at the Solent European Sites. Nutrient enrichment, can arise from wastewater treatment required in support of new development, even if it is a proportionately small contribution.
11. An increase in nutrients in the marine environment can cause a process called eutrophication. Increases in nutrients cause this process which are found in effluent, fertilisers used in arable agriculture and faeces from animals.

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

Eutrophication

12. Eutrophication occurs when an excessive amount of nutrients within a water body are present. It causes increased plant growth which reduces the oxygen content in water. This process makes it difficult for aquatic insects or fish to survive, in turn removing a food source from the food cycle.
13. 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 have a negative impact on the marine environment and the conservation objectives of the European designated nature conservation sites (see below).
14. 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.

Recent case law

15. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. This generally referred to as The Dutch Case².
16. 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.
17. As a result, using this changed approach, it can only be concluded that new 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 harbours which in turn leads to harm to the species which use them. This is the likely significant effect.
18. 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'.

European designated nature conservation sites which are affected

19. The Natura 2000 network of European designated nature conservation sites provides ecological infrastructure for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance within the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the Habitats Directive) and Special Protection Areas (SPAs, classified under the Birds Directive). Additionally, UK Government policy (section 118 of The National Planning Policy Framework and Circular 06/05) recommends that Ramsar sites listed under the Convention on Wetlands of International Importance (UNESCO, 1971), are treated as if they are fully-designated European sites for the purposes of considering development proposals that may affect them.
20. The European Designated nature conservation sites that are relevant to this Position Statement are those where wastewater from Havant Borough would drain (via a wastewater treatment works):

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>.

- Chichester and Langstone Harbour Special Protection Area (SPA)
- Chichester and Langstone Harbour Ramsar Site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Potential Special Protection Area (pSPA)

21. These are hereafter referred to the Solent's European Sites.

The impact of development on the Solent's water quality

Natural England's position regarding the impact of development on water quality at the Solent

22. Natural England advises that there is a likely significant effect on the Solent's European Sites due to the increase in waste water from the new housing as a result of the Havant Borough Local Plan 2036. 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 to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the Solent's European Sites.
23. 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. The Partnership for Urban South Hampshire (PUSH)³, 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 PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.
24. Natural England recommend that any new proposals which include overnight accommodation have inevitable waste water 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.
25. Natural England recommends that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens. Natural England has prepared a methodology setting out how this can be achieved, which is available on request from Natural England. It is appreciated that nutrient neutrality may be difficult to achieve for smaller developments or on brownfield land.
26. Natural England advises Havant Borough Council to set up an interim approach that developments can contribute to, thereby ensuring that this uncertainty is fully addressed by all applications and will continue to work closely with Havant Borough Council in addressing this issue.

³ Which includes Havant Borough Council.

27. Natural England can also provide further advice to applicants through their Discretionary Advice Service⁴.

Havant Borough Council's position regarding the impact of development on water quality at the Solent

28. The Council is already 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 Solent's water quality, given the presence of the Solent's European Sites, the conservation objectives of which are sensitive to eutrophication.

29. There has been no change to the level of nitrogen that is proposed to be emitted from new development. Nitrogen emitted from urban areas is relatively small and from new development extremely small.

30. However there has been a change in terms of how this is assessed under the Habitats Regulations and whether this level of nitrogen is considered a significant effect. The Council considers that under this new approach, the development of new overnight accommodation would be likely to cause a significant effect on several European Sites.

31. The Council considers that, due to the cause of the issue being recent case law, that the issue itself should be addressed through any one or a combination of the following:

- A national review of the nitrogen discharge consents of wastewater treatment works to include increases in nitrogen as a result of new development.
- Government provided 'mitigation banking', potentially through a delivery arm such as Homes England.

32. Failing a central solution, there should be a PUSH-wide solution to enable development to come forward comprehensively across the Solent area. However, neither of these potential solutions can be enacted in the short term to enable planning permissions to be granted for much needed new housing.

33. As such, the Council accepts that it will be necessary to provide short term mitigation to enable development to continue to come forward in the Borough. The Council also accepts that it will be necessary to ensure that a nitrogen neutral Local Plan is prepared for submission and longer term mitigation options are explored.

Havant Borough Local Plan 2036 – Initial Nutrient Budget

34. A nitrogen budget, prepared in line with the methodology and supplementary advice from Natural England and Southern Water, using the best scientific evidence available, has been produced by Havant Borough Council (The Nitrogen Budget). The Nitrogen Budget considers all development currently proposed as part of the Havant Borough Local Plan 2036. The number of dwellings used includes all residential applications proposed in the Pre-submission

⁴ Further detail is available at <https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>.

Draft Havant Borough Council Local Plan⁵, including the published allowance for windfall development⁶. Nitrogen is a chemical parameter for water quality. In this situation, it is used as the measure for the impact that proposed development could have on the Solent's European Sites through eutrophication.

35. This Nitrogen Budget result is derived from calculating the total increase in nitrogen that would arise from foul drainage and be processed through the Budds Farm Wastewater Treatment Works (6751 Kilograms (Kg) / Total Nitrogen (TN) / year (yr)⁷). The Nitrogen Budget also includes development within the Borough that will be processed through Thornham Waste Water Treatments Works (575 Kg/TN/yr). This leads to a total deposition of 7,326 Kg/TN/yr. By separating out planned development in this way, it ensures that a precautionary approach to the budgeting has been used.
36. Additionally, a calculation is made to assess the nitrogen load of existing agricultural land that is planned to be developed (7284 Kg/TN/yr), and the nitrogen load associated with the new uses on the developed site (2900 Kg/TN/yr).
37. By comparing the nitrogen load of the current agricultural uses against the future planned use a figure of 4,384 Kg/TN/yr establishes the nutrient reduction that will occur through planned changes in land use for development. This is due to the fact that using land for agriculture is often more nitrogen intensive than using it for residential development, depending on the density of the proposed residential development scheme.
38. The Nitrogen Budget result subtracts the reduction in nitrogen load arising from changes in land use from the nitrogen load arising from increased foul drainage. **This confirms that the impact arising from all development planned within the Borough to 2036 can be quantified as 2,942 kg/TN/yr. This is the figure that will need to be mitigated to allow occupation of all proposed development within the Borough until 2036.**
39. 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. Decisions regarding the effect of recreation on European Sites and measures to avoid and mitigate that impact were based on extensive research and it is logical that the same is true of water quality. Long term decisions on the effect of development on water quality should be taken with the most robust and up-to-date scientific information possible.

The Council's position regarding avoidance and mitigation measures to ensure nitrogen neutrality

40. Based on the results of the Havant Borough Local Plan 2036 Nitrogen Budget the Council confirms that appropriate strategic mitigation options are available within the Borough that would mitigate all development planned within the Borough until 2036. The availability of mitigations options within the Borough include, but are not limited to, the following:

⁵ <https://www.havant.gov.uk/sites/default/files/documents/Pre-Submission%20HBLP2036%20for%20Full%20Council%20-%20FINAL%20POST%20COUNCIL%20%28clean%20for%20use%29%20-%20Copy.pdf>

⁶ <https://www.havant.gov.uk/sites/default/files/documents/RE-ISSUE%20-%20Windfall%20Unidentified%20Housing%20Development%20%28Final%20-%20Word%20Document%29.pdf>

⁷ Figures used are rounded to the nearest kilogram. Rounding has always been up in line with the precautionary principle.

- Apply the optional water efficiency standard of 110 litres per person per day (l/pp/d) to all new development – this mitigation option has already been included within The Nitrogen Budget. As such all residential development will be expected to meet this standard
- Taking land out of agricultural use and converting it to a use that does not artificially increase the nitrogen load of the land
- Create wetland environments that act as a nitrogen sink and remove nitrogen from rivers and streams (catchment management solutions)
- Increase the requirement for open space/SANGS for development on agricultural land
- Agreement with Southern Water that they will increase the nitrogen removal rate at the receiving Waste Water Treatment Works beyond consented levels
- Contribute to taking land out of agricultural use and catchment management solutions within the river catchment area for the impacted protected site
- Development of the Havant Thicket Reservoir
- Implementation of Brent Goose and Wader refuges

41. Havant Borough Council has ownership of land that would be suitable for various mitigation options and therefor has some certainty that strategic mitigation options can be delivered. The Council also intends to provide a mitigation package from the available options that provides a net nitrogen deficit against planned development. This will allow the Council to accommodate unforeseen windfall development and the implications of commercial development within defined limits.

42. The precise nature of the mitigation scheme will be set out through an 'Implementation Plan' associated with this Position Statement. This will set out which mitigation measures will be specifically implemented to mitigate the planned development in Havant Borough. It will then calculate the proportionate scale of mitigation to be provided, in the form of a financial contribution, from proposed development.

43. It is considered that any significant effect as a result of development generally takes place at the point that it is occupied rather than when it commences.

Development schemes that are could be affected

44. A large number of schemes are likely to result in a significant effect on the European Sites as a result of an increase in nitrogen load. Whilst there will inevitably be significant overlap with the Bird Aware Solent mitigation package, different schemes in different places in different ways will need to contribute to addressing water quality.

45. 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. 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. It should also not be considered advice as to whether there would be a likely significant effect from other causes. 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. 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.

Area which is affected

46. 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

47. Full and outline planning applications for applicable uses are affected and so an avoidance and mitigation package will be needed. This applies to any applications determined after the adoption of this Position Statement.
48. It is the Council's advice to the Planning Inspectorate⁸ that any planning appeals for applicable uses should include an avoidance and mitigation package to remove any likelihood of a significant effect.
49. 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.
50. Other types of application, including reserved matters, those made under Section 73 of the Town and Country Planning Act and re-submitted applications will be considered by the Council as competent authority on a case by case basis.

Residential (C3) dwellings

51. Any residential development would lead to an increase in nitrogen and thus would be likely to cause a significant effect.
52. In this context, 'dwelling' includes net new dwellings created through the sub-division of existing dwellings, second homes, dwellings to be used as holiday accommodation, 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

53. 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.
54. 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.

⁸ 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.

Commercial and other non-residential development

55. Non-residential development is considered to potentially increase the nitrogen load through the foul drainage network and result in a potential significant effect on a protected site. Due to the large number of different uses within non-residential development these cases will have to be considered on a case specific basis. This should be explored with the Council through a pre-application enquiry.
56. Generally, applications to convert or change the use of one commercial use to another commercial use would not be considered likely to cause a significant effect.

How this position Statement will be implemented through development management decisions

57. It is necessary for the Council, as the competent authority under The Regulations, to undertake a Habitats Regulations Assessment, including Appropriate Assessment, on any development that it is considered could lead to a likely significant effect on a European Site. It is incumbent on the applicant to provide all of the information necessary to undertake that assessment.
58. The Council already undertakes Appropriate Assessment on a large number of planning applications as there is an acknowledged likely significant effect from residential development in almost all of the Borough in terms of recreational disturbance. Avoidance and mitigation packages are collected from such developments in the form of a contribution towards the Bird Aware Solent Partnership and its Solent Recreation Mitigation Strategy.
59. When submitting planning applications, applicants will need to include a 'European Sites Mitigation Checklist' (please see appendix A of this Position Statement) to set out how any likely significant effects on European Sites will be mitigated through the application.
60. For any schemes which would lead to a decrease in water quality, that AA will inevitably conclude that there would be a likely significant effect. If applicants consider there to be site specific circumstances which mean that there is no likelihood of a significant effect, it is recommended that they engage in a pre-application enquiry with the Council. As part of that enquiry, a supporting statement should be provided setting out precisely why the applicant concludes that there would not be a decrease in water quality at a European Site as a result of the proposal. It should be noted that an argument of a de minimus impact would not be considered valid.
61. As such, an avoidance and mitigation package will be necessary for almost all proposals.
62. Proposals which include development on agricultural land will need to prepare a site-specific nitrogen budget, using Natural England's methodology. This will inform a site-specific Appropriate Assessment. It is envisaged that on-site measures will be used in order to achieve nitrogen neutrality. This would generally include:
- Application of the optional water efficiency standard of at least 110 l/pp/d
 - Management of on-site open space in a low nitrogen manner
 - Create wetland environments in SUDS systems that act as a nitrogen sink and remove nitrogen from surface water

63. However, it is envisaged that development on non-agricultural land will not be able to provide mitigation on-site. As such, in order to maintain confidence in the development market and enable the continued growth of Havant Borough, whilst meeting its environmental obligations, the Council will use Grampian Conditions. This will ensure the provision of an avoidance and mitigation scheme prior to the occupation of the residential unit.
64. A Grampian Condition prohibits development authorised by the planning permission or other aspects linked to the planning permission (in this case occupation of the development) until a specified action has been taken (in this case the provision of an avoidance and mitigation package). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission⁹, which is not envisaged in this case. However, it will require applicants to take on an unknown cost and risk when implementing planning permissions relying on an avoidance and mitigation package provided under this Position Statement.
65. The specific condition wording that will be used by the Council will be:

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;*
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and*
- c) All measures forming part of that mitigation package have been provided to 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 for 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*

⁹ <https://www.gov.uk/guidance/use-of-planning-conditions> Paragraph: 009 Reference ID: 21a-009-20140306

66. For sites on agricultural land that are nitrogen neutral on-site or in other unusual circumstances, variations or different conditions may be necessary in order to conclude that there would not be any likelihood of a significant effect.
67. It is anticipated that there will be a requirement for developers to make a financial contribution to facilitate the delivery of a strategic mitigation package. It is possible that at the point of decision the extent of financial contribution will not be known. However, the Council is fully aware of the need for development to be viable and, if necessary, will part fund delivery of the Havant Borough Local Plan 2036 Nitrogen Mitigation Strategy to facilitate occupation of approved dwellings. If this is necessary, the Council will engage with external funding providers, including Homes England, in order to spread the cost of such provision.

Ongoing monitoring and next steps

68. It is considered that this position statement sets out a mechanism through which some certainty can be provided to developers, whilst fully protecting the Solent's European Sites from the significant effect that would otherwise arise through development. 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.
69. The Council will monitor permissions that are granted under this position statement and the nitrogen load that they would create. This will make sure that as mitigation comes forward this 'banked' nitrogen can be addressed as the first priority. The Council will ensure that an appropriate scale of mitigation is in place prior to occupation of any permitted schemes. The use of Grampian Conditions gives the Council a tool which can be used definitively in this effect, albeit the Council will use all tools available to ensure that effectively completed homes are not stood empty whilst mitigation is finalised.
70. Monitoring will also take place of schemes which are able to achieve nitrogen neutrality or a deficit on-site. This will feed into continued nitrogen budgeting to inform the definitive mitigation strategy and the Havant Borough Local Plan 2036.
71. Moving forwards, the Council will continue to work towards a more definitive mitigation strategy. This should ideally be on a PUSH wider (or larger) basis. The Council will continue to positively and proactively work with its partner authorities, through PUSH, together with Natural England, the Environment Agency, Southern Water, Homes England and any other stakeholder in order to address this issue appropriately.

Appendix 1: European Site avoidance and mitigation checklist

This checklist must be completed and provided in order for the Local Planning Authority to validate any planning application for one or more dwellings. It sets out how an avoidance and mitigation package will be provided to remove any likely significant effect on a European Site.

All relevant boxes should be completed and the form must be signed. If signed by an agent, it is their responsibility to ensure that the applicant is aware of the commitment to providing a mitigation package, in the form of a financial contribution, the scale of which is currently not known.

Application details	
Site name:	
Site address:	

Recreational disturbance																	
The proposed development would be within 5.6 km of Chichester and Langstone Harbour, which is a Special Protection Area and Ramsar site. As such, mitigation will need to be provided. The Council considers that mitigation provided in line with the Solent Recreation Mitigation Strategy (available at www.birdaware.org/strategy) is appropriate to the applicable planning applications. This would result in a mitigation package based on the table below. It will be necessary for a suitable avoidance and mitigation package to be provided in order for the Council to lawfully grant permission for applicable schemes. <table border="1"> <thead> <tr> <th>Size of units</th> <th>Scale of mitigation per unit</th> </tr> </thead> <tbody> <tr> <td>1 bedroom</td> <td>£346.00</td> </tr> <tr> <td>2 bedroom</td> <td>£500.00</td> </tr> <tr> <td>3 bedroom</td> <td>£653.00</td> </tr> <tr> <td>4 bedroom</td> <td>£768.00</td> </tr> <tr> <td>5 bedroom</td> <td>£902.00</td> </tr> <tr> <td colspan="2">Please note that a monitoring fee is attached, at 5% of mitigation cost.</td> </tr> <tr> <td colspan="2">Please note that an administration fee of £20 per application is applied.</td> </tr> </tbody> </table>		Size of units	Scale of mitigation per unit	1 bedroom	£346.00	2 bedroom	£500.00	3 bedroom	£653.00	4 bedroom	£768.00	5 bedroom	£902.00	Please note that a monitoring fee is attached, at 5% of mitigation cost.		Please note that an administration fee of £20 per application is applied.	
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1 bedroom	£346.00																
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5 bedroom	£902.00																
Please note that a monitoring fee is attached, at 5% of mitigation cost.																	
Please note that an administration fee of £20 per application is applied.																	
Please select one of the following options:																	
I hereby confirm that the proposed development will include an avoidance and mitigation package in line with the Solent Recreation Mitigation Strategy.																	
An alternative approach to avoiding and mitigating the recreational impact arising out of the development is proposed (please set out in more detail in a supporting document appended to this checklist).																	
The site is located more than 5.6km from the Solent Special Protection Areas (this applies to only a small section of the Borough in Cowplain).																	

Water quality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. As such, there is considered to be a likely significant effect from residential (and similar) developments located anywhere in Havant Borough. As a result, an avoidance and mitigation package will be needed in order for the Council to lawfully grant any planning permission. The Council has published a Nutrient Neutrality Position Statement which sets out that it is possible to mitigate development in the short term.

The position statement highlights those developments which are expected to provide avoidance and mitigation on-site, thus resulting in a nutrient neutral development. It also sets out that, for any other applicable developments, the exact scale of avoidance and mitigation package (which would take the form of a financial contribution) is not yet known.

As a result, in order for the development to comply with the requirements of the Conservation of Habitats and Species Regulations and for the Council to lawfully be able to grant planning permission, it will be necessary to impose a grampian condition requiring the provision of an avoidance and mitigation package prior to the occupation of the development.

It would be the applicants risk as to whether to proceed with any development that is granted planning permission without the knowledge of the precise scale of the avoidance and mitigation package.

Please select **one** of the following options:

I hereby confirm that the proposed development will include an avoidance and mitigation package, in line with the Nutrient Neutrality Position Statement and confirm that I am content that a grampian condition is used to secure this prior to occupation.	
The proposed development would be 'nitrogen neutral'. A nitrogen budget is attached to this checklist (this option is particularly applicable to developments proposed on agricultural land)	
The proposed development is not nitrogen neutral and no avoidance or mitigation package is proposed (please note that planning permission could not lawfully be granted in these circumstances).	

Please select one of the following options to the right, then complete all boxes below	Signed by applicant		Signed by agent	
By submitting this form to Havant Borough Council, the applicant is committing to providing mitigation packages, usually in the form of a financial contribution. If the top option for 'water quality' has been selected, the applicant specifically understands that the scale of the contribution is unknown at this time.				
If an agent is signing on behalf of an applicant, it is the agent's responsibility to seek the agreement of the applicant to the commitments selected above as it will be the applicants who assumes the risk and responsibility upon the granting of any planning permission.				
Signed:				
Print name:				
Date:				

APPENDIX G

Position Statement and Mitigation Plan for Nutrient Neutral Development

August 2020



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2. DEVELOPMENT MANAGEMENT PROCESS	4
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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”. The Council has an ambitious regeneration agenda and development strategy set out in the Havant Borough Local Plan and Regeneration Strategy.
- 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 not 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, in the form of a financial contribution, 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 have a negative impact on the marine environment and the conservation objectives of the European designated nature conservation sites (see below).

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>

- 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 Waste Water 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

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

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 the Bird Aware Solent Mitigation Scheme and a separate mitigation package. 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 Full and outline planning applications for applicable uses are affected and so an avoidance and mitigation package will be needed.
- 2.6 It is the Council's advice to the Planning Inspectorate⁴ that any planning appeals for applicable uses should include an avoidance and mitigation package to remove any likelihood of a significant effect.
- 2.7 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.

Residential (C3) dwellings

- 2.8 Any residential development would lead to an increase in nitrogen and thus would be likely to cause a significant effect.
- 2.9 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

⁴ 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.

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

- 2.10 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.
- 2.11 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

- 2.12 Non-residential development is unlikely to lead to a significant effect as it would not involve a net increase in population in the catchment.
- 2.13 However in some cases there would be a significant effect due to the type of operation. 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 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 effect'

- 2.14 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.
- 2.15 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.
- 2.16 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
 - A European Sites Mitigation Checklist (see Appendix A of this Position Statement)
- 2.17 As part of the overall nutrient budget, 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. 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, and Policy E14, EX1 and E12 of the Pre-Submission Havant Borough Local Plan.

2. 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”

Calculating a nutrient budget

- 2.18 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.
- 2.19 To calculate the nutrient load of any development Natural England has created a methodology⁵ containing the following stages which can be summarised as follows and contains examples for each stage:

Stage 1

Calculates the total nitrogen in kilograms per annum which is derived from development that would exist the Wastewater Treatment Works after treatment. For any housing developments on brownfield sites, stage one and stage 4 are the only stages that will need completing in order to establish the scale of mitigation that will need to be provided.

⁵ Available at <https://www.push.gov.uk/2020/03/18/natural-englands-latest-guidance-on-achieving-nutrient-neutrality-for-new-housing-development/>

STAGE 1 - WORKED EXAMPLE TO CALCULATE TOTAL NITROGEN (TN) LOAD FROM DEVELOPMENT WASTEWATER				
Step	Measurement	Value	Unit	Explanation
Development proposal	Development types that would increase the population served by a wastewater system	1000	Residential dwellings	
Step 1	Additional population	2400	Persons	Uses an average household size of 2.4 x 1000 dwgs (greenfield site).
Step 2	Wastewater volume generated by development	264,000	litres/day	2400 persons (step 1) x 110 litres. Where relevant, deduct wastewater volume of population displaced by the proposed development.
Step 3	Receiving WwTW environmental TN permit limit. Assume discharge to be at 90% of consent limit.	8.1	mg/l TN	90% of the consent limit = 8.1 mg/l TN.
Step 4	Deduct acceptable TN loading (@ 2 mg/l TN) (as defined in paragraph 4.40)	6.1	mg/l TN	8.1 (step 3) – 2 mg/l TN
Step 5	TN discharged after WwTW treatment	1,610,400	mg/TN/day	264000 (step 2) x 6.1 (step 4) = 1,610,400
Step 6	Convert mg/TN to kg/TN per day	1.6104	Kg/TN/day	Divide by 1,000,000
Step 7	Convert kg/TN per day to kg/TN per year	587.8	Kg/TN/yr	1.6104 x 365 days
Wastewater total nitrogen load	587.8 kg/TN/yr			

Stage 2

Calculates the existing nitrogen load from the current land use of the development site.

STAGE 2 - WORKED EXAMPLE TO CALCULATE NITROGEN LOAD FROM CURRENT LAND USE				
Step	Measurement	Value	Unit	Explanation
1	Total area of existing agricultural land	40	Hectares	This is the area of agricultural land that will be lost due to development
2	Identify farm type and confirm nitrate loss.	26.9	Kg/ha/yr	The developable area covers several farm types therefore an average has been used. Reference Appendix 1 and Table 2
3	Multiply area by nitrate loss	1,076	Kg/N/yr	40 ha x 26.9 kg/N/yr
Nitrogen load from current land use		1,076 Kg/N/yr		

Stage 3

This calculates the nitrogen load from the proposed land uses for the development site.

STAGE 3 - WORKED EXAMPLE TO CALCULATE NITROGEN LOAD FROM FUTURE LAND USES				
Step	Measurement	Value	Unit	Explanation
1	New urban area	38	Hectares	Area of development that will change from agricultural land to urban land use
2	Nitrogen load from future urban area	543.4	Kg/N/yr	38 ha x 14.3 Kg/N/yr
3	New SANG / open space	2	Hectares	Area of development that will change from agricultural land to SANG / open space
4	Nitrogen load from SANG / open space	10	Kg/N/yr	2 ha x 5.0 Kg/N/yr
5	Combine nitrogen load from future land uses	553.4	Kg/N/yr	543.4 Kg/N/yr + 10 Kg/N/yr
Nitrogen load - future land uses		553.4 Kg/N/yr		

Stage 4

This takes all the above stages and calculates the net nitrogen load that would result from development.

STAGE 4 - WORKED EXAMPLE TO CALCULATE THE NET CHANGE IN NITROGEN LOAD FROM THE DEVELOPMENT				
Step	Measurement	Value	Unit	Explanation
1	Identify nitrogen load from wastewater (stage 1)	587.8	Kg/TN/yr	See Table 1
2	Calculate the net change in nitrogen from land use change - subtract existing land uses nitrogen load (stage 2) from future land uses nitrogen load (stage 3)	-522.6	Kg/TN/yr	553.4 (stage 3) - 1076 (stage 2) = -522.6 Kg/TN/yr
3	Determine nitrogen budget – the Total Nitrogen wastewater load for the proposed development plus the change in nitrogen load from land use change (the latter figure may be positive i.e. the change in land use will generate more nitrogen, or negative i.e. the change in land use will generate less Nitrogen)	65.2	Kg/TN/yr	587.8 (step 1) + -522.6 (step 2) = 65.2 Kg/TN/yr
4	Where TN budget is positive add 20% precautionary buffer	78.24	Kg/TN /yr	64.8 + 20% = 78.24
Total Nitrogen that needs to be neutralised		78.24 Kg/TN /yr		

2.20 On the basis of the following calculation stages 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 methodology⁶.
- 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 space⁷. It should be noted that a greenfield site is not automatically in use as agriculture. The following uses are classed as agricultural within Natural England's methodology:

AVERAGE NITRATE-NITROGEN LOSS PER FARM TYPE IN THE SOLENT CATCHMENT AREA (kg/ha)	
Cereals	31.2
Dairy	36.2
General Cropping	25.4
Horticulture	29.2
Pig	70.4
Lowland Grazing	13.0
Mixed	28.3
Poultry	70.7
Average for catchment area	26.9

- 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.

⁶ <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>

⁷ To be taken into account the open space must be 0.5 ha or above.

Off-Site Mitigation Options– Warblington Farm Mitigation Scheme

- 3.7 Development on non-agricultural land will not be able to provide mitigation on site. In such cases, developments will need to contribute towards an off-site scheme. The Council has set up a cost effective and simple scheme which can be used by applicants at Warblington Farm.
- 3.8 The Council actively encourages applicants to use Warblington Farm as mitigation where the principle of the development is accepted by the Council as Local Planning Authority. In any instances where the Council does not accept the principle of development, it will not be possible for applicants to use the Council's mitigation scheme. This is because Warblington Farm is needed to mitigate the development planned for through the Havant Borough Local Plan and Regeneration Strategy. The Local Plan HRA confirms that Warblington Farm is an acceptable mitigation option. This has been confirmed by the Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough report.
- 3.9 The Warblington Farm scheme will be fully funded by the development industry, with no financial support from the Council. The scheme will involve 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.
- 3.10 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 emerging allocations in Havant Borough Local Plan 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;
 - A replacement habitat for Curlew which currently use land at Campdown, this is one of the largest allocations in the Council's emerging Local Plan;
 - The Environment Bill means there is likely to 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.
- 3.11 In terms of development achieving nutrient neutrality, the Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough report⁸ 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 draining to Budds Farm and Thornham Wastewater Treatment Works and is therefore suitable for mitigating the impact of any development in Havant borough.
- 3.12 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.

⁸ Available at <https://www.havant.gov.uk/nitrogen>

Per kilo contribution/ Catchment	Total nitrogen discharged (kg N per year)	Cost per kilo contribution
Per kilo contribution	1	£1,235.00

- 3.13 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 Guide⁹. The following examples set out how costs would be calculated in the Thornham and Budds Farm catchments respectively:

Thornham catchment (Emsworth)

- 3.14 For development which drains to Thornham Wastewater Treatment Works it will be calculated as follows:

Development of 4 dwellings on a brownfield site draining to Thornham Wastewater Treatment Works	
Amount of mitigation required kg/N	3.2 kg/N
Cost of mitigation	£3952.00
Administration Fee	£23.00
Total avoidance and mitigation package for nutrient neutrality	£3975.00

Budds Farm catchment (Rest of Havant Borough)

- 3.15 For development which drains to Budds Farm Wastewater Treatment Works it will be calculated as follows:

Development of 4 dwellings on a brownfield site draining to Budds Farm Wastewater Treatment Works	
Amount of mitigation required kg/N	3.1 kg/N
Cost of mitigation	£3828.50
Administration Fee	£23
Total avoidance and mitigation package for nutrient neutrality	£3851.50

- 3.16 The mitigation charge has been calculated on the basis of 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.

⁹ Available at www.havant.gov.uk/community-infrastructure-levy

Further phases of the scheme will become available in due course to enable development to continue in compliance with the Habitats Regulations.

- 3.17 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.
- 3.18 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.
- 3.19 The first phase of Warblington Farm provides 20ha of mitigation land which will be available for development coming forward. The first phase would be turned into grassland which will then be cut as necessary by the tenant farmer ensuring less than 5kg per hectare per year of nutrients will be produced. If the activity on the land were to change this would have to be agreed by Natural England and Havant Borough Council.
- 3.20 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.
- 3.21 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.
- 3.22 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.

Off-Site Mitigation Options - Alternative mitigation schemes

- 3.23 Third parties are also progressing potential mitigation plans which could provide effective mitigation for development in Havant Borough or applicants may have their own suitable 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.
- 3.24 In such cases, it will need to be established that there is a clear scientific link between the proposed development and the mitigation and that the mitigation package ensures that the development in question is nutrient neutral. The legal agreement put in place will likely need to be bespoke to that development and the mitigation scheme in question. It will need to be signed by the landowner of the mitigation site.
- 3.25 Given the geographical nature of Havant Borough, it is likely that some third party mitigation schemes could be progressed outside of the Borough. In such cases, the planning authority of the mitigation land together with the landowner of the mitigation site would both need to be signatories to the legal agreement. In such scenarios, 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. If applicants wish to use a third party scheme,

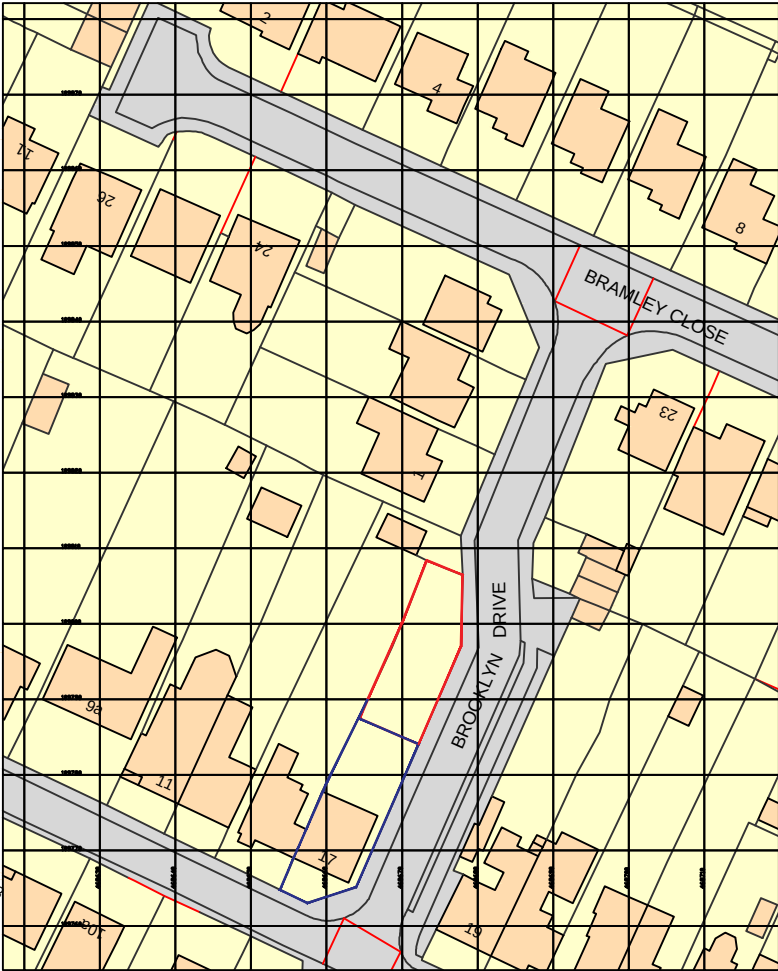
¹⁰ <https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>

it will 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.

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 The Council's emerging Havant Borough Local Plan must also comply with the Habitats Regulations and an HRA has been undertaken at each point in the plan's preparation.
- 4.3 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).
- 4.4 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.
- 4.5 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.

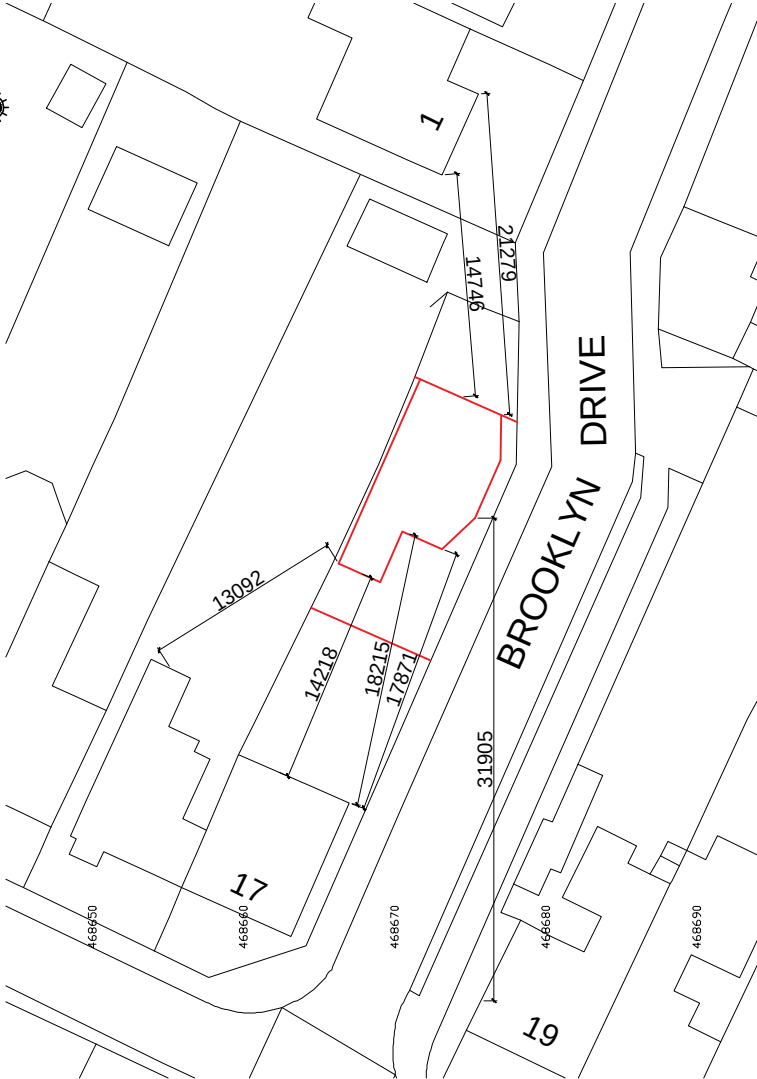
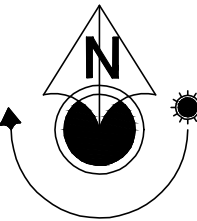
APPENDIX H



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existing location plan
scale 1:1000 @ A3 1:500 @ A1

0 1:1000 100m

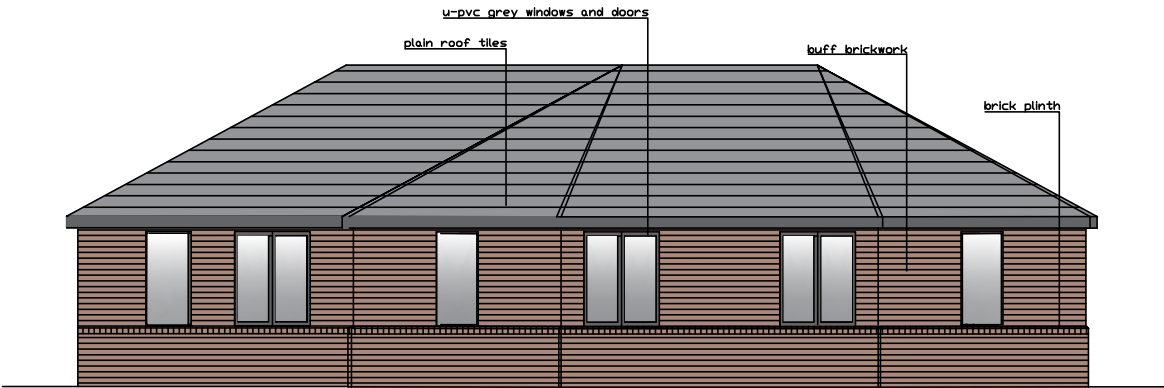


proposed site/block plan
scale 1:500 @ A3 1:250 @ A1

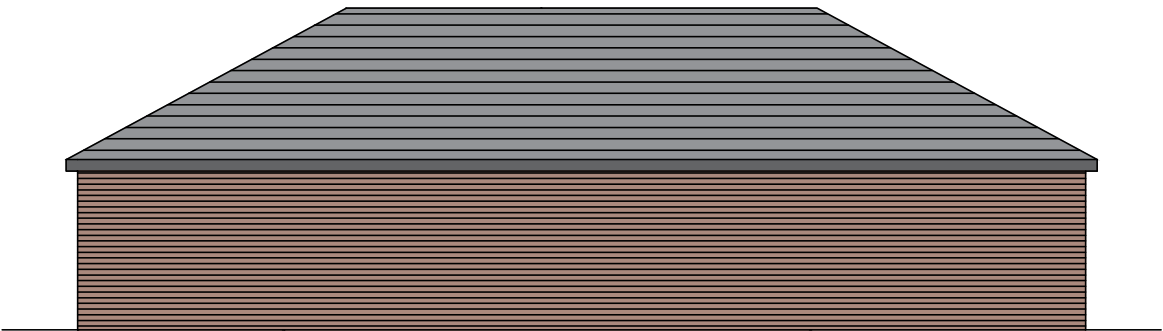
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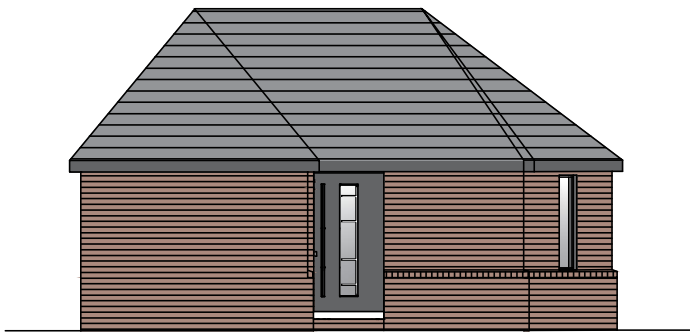
existing site photos



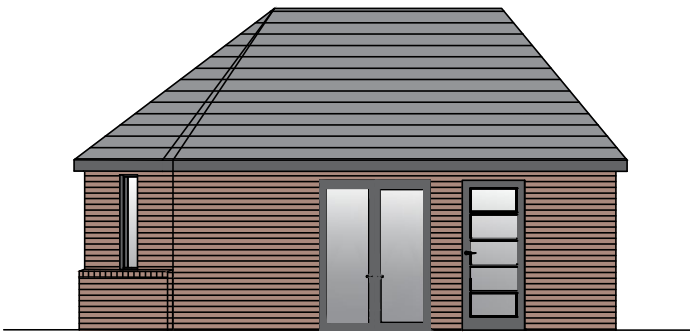
proposed front elevation (East)



proposed rear elevation (West)



proposed side elevation (South)
scale 1:100 @ A3 1:50 @ A1



proposed side elevation (North)
1:100 10m

notes

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all dimensions to be checked on site prior to commencement of construction works and the architect notified of any discrepancy.

figured dimensions are to be used in preference to scaled dimensions.

no deviation from this drawing will be permitted without prior consent of the architect.

all drawings are prepared subject to a full measured and structural survey of the buildings and site.

all structural work is subject to the appointment of a structural engineer to confirm and agree the structural proposals.

os promap licence no. 100020449.

scale width 100mm @ a1 - 50mm @ a3

client

revision	notes	date	drawn	check

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project	Avondale Road Waterlooville
detail	Existing location plan, site photos and proposed elevations
drawn	JJH
date	October 2019
a1 scale	as shown
a3 scale	8880 01
status	pre-app
rev	

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Email: planning.development@havant.gov.uk

13 January 2020

Site Location: 17A-17B Avondale Road, Waterlooville

Re: Proposed construction of 1No. 2 bed bungalow to rear of 17A-17B Avondale Road.

Dear Ms Hole

I am writing to you further to your enquiry received on the 30 October 2019 regarding the above address and our subsequent telephone conversation on 11th December 2019. I apologise for the delay in responding formally.

17 Avondale Road is subdivided into two separate dwelling units and the original rear garden area is now only partly used, with the northern end being left as an overgrown parcel of land. This land fronts Brooklyn Drive and slopes slightly up to the west. It is enclosed by low close boarded fencing fronting Brooklyn Drive and the northern boundary with the drive serving 1 Brooklyn Drive; with higher fencing along its western boundary. There are no parking restrictions in Brooklyn Drive.

The proposal is for a two bedroomed bungalow sited relatively centrally within the plot, with garden space to the north and two parking spaces to the south.

The main issues identified at this pre-application stage are as follows:

1. Principle of development and Planning History
2. Relevant Policy
3. Impact on character and appearance of the area
4. Living environment for future residents
5. Parking
6. Drainage
7. Developer contributions/Habitat Regulations

Principle of development and Planning History

The site lies within the built up area as defined in the Havant Borough Local Plan where sustainable residential development is considered acceptable in principle subject to other development management criteria.

In terms of planning history the following previous applications on the site are relevant:

04/67971/000 - Outline application for one detached two bedroom, two storey dwelling
Refused 21/12/2004

Reasons relate to size and shape of plot not allowing for a development compatible with the surrounding development and highway safety.

05/67971/001 - Outline application or one detached bungalow with parking.
Refused 28 July 2005
Appeal Dismissed 2 February 2006

The Inspector noted that the then indicative layout would not have its principal elevation fronting the road and as such would be out of keeping with the predominant character of the road. This was found to be accentuated by the dog-leg within the road which meant the building would project in front of the established building line of the dwellings to the east. The combination of incongruity and prominence was found to result in visual harm to the street scene. Additionally the wide frontage (with associated restricted front boundary heights) and shallow depth of the plot afforded the intended occupants little privacy.

It is noted that the site circumstances and context have not significantly altered since this appeal decision and hence the comments made would remain pertinent to any current application. It is acknowledged that planning policy has however been updated since 2006 and the submitted design attempts to address some of the issues raised, as discussed below.

Relevant Policy

Any proposal would be considered in accordance with the relevant national and local planning policies. Currently this refers to policies in the adopted Core Strategy and Allocations Plan, along with supplementary planning documents (SPDs) which form part of the Local Plan. In my opinion the most relevant policies to this proposal would be:

Core Strategy:

CS9 - Housing
CS16 - High Quality Development
CS17 - Concentration and Distribution of Development within the Urban Areas
CS21 - Financial Contributions
DM13 - Car and Cycle Parking on Residential Development

Allocations Plan:

AL1 - Presumption in Favour of Sustainable Development
DM24 - Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development

Havant Borough Local Plan 2036:

I must also point out that the Pre-submission Havant Borough Local Plan 2036 (HBLP 2036) was approved by the Council on 30 January 2019, consultation carried out and responses have been analysed. Its emerging policies will attract increasing weight as time progresses, see link below:

<https://www.havant.gov.uk/localplan>

In particular (though not exclusively) in terms of the detailed design I would draw your attention to the emerging policies covering internal space standard criteria, high quality design, landscape setting, amenity and pollution, low carbon design, drainage, and biodiversity net gain contained in policies E1, E3, E12, E14, E20, E22, H1, H3, IN1 and IN3. Whilst these are subject to change through the forthcoming Examination of the Local Plan, they would be relevant to your proposals for the site and you should check conformity with these policies with any future submission.

Impact on character and appearance of the area

The proposed layout indicates a separation to the back edge of Brooklyn Drive as only 1m although it is noted the design includes a curved footprint to follow the dog-leg in the road with low eaves (about 2.2m) and hipped roof.

This design has thoughtfully reduced the overbearing effect and prominence to the highway as much as possible, but nevertheless would still represent a structure forward of the properties to the north. The narrow depth of the plot is a constraint and I wonder whether incorporating any land from number 15 Avondale has been considered or pursued? It is the forward siting and visual impact of the proposed dwelling in street scene terms that would be a key consideration in any future planning application.

Related to this I note that the land slopes slightly up to the west but no level details are provided. Should any planning application be submitted in the future, I would wish to see a cross section of the site to understand the proposed finished levels of the bungalow in relation to the road, to ensure the bungalow is not unnecessarily raised which would increase its height and prominence.

Care would also be needed in the detailed height and materials of any frontage boundary treatments to minimise its dominance. I note that your submission varies the boundary details which is encouraged.

Living environment for future residents

In terms of its location, I would concur that siting the amenity space on the north side maximises privacy for future users. This is notably different to the appeal layout which appeared to locate the amenity area to the south where it would be overlooked by properties in Avondale Road.

It is noted that a garden space of just 38sqm is proposed, having a maximum length of 6m. This falls significantly below the recommended minimum of 10m contained within the adopted Borough Design Guide SPD. However it is acknowledged that the available amenity space needs to be appropriate for its intended users and emerging policy H1 requires outdoor amenity space to be "*of a sufficient and functional size to meet the needs of the likely number of occupants*". You are advised to refer to the supporting text of this policy on page 178/179.

As a two bedroom unit there is potential for a small family or child to occupy the property and whether the proposed garden area is sufficient is considered particularly marginal. Is there any scope to slightly re-site the dwelling further to the south to maximise the useable garden area? Alternatively should the scheme be reduced to one bedroom then the need for useable amenity space would be reduced, as well as the number of parking spaces.

Parking

Any future application would be assessed against the adopted Parking SPD which sets out the parking requirements for dwellings based on number of bedrooms, see link below:

<https://www.havant.gov.uk/sites/default/files/documents/Final%20Parking%20SPD%20-%20for%20web.pdf>

You will note that a 2 bedroom unit requires 2 on site spaces but a 1 bed unit only requires 1 space. Secure cycle parking provision should also be provided to meet the standards in the form of a shed on site. It is also noted that currently no dropped kerb exists to the site and as such you should contact Hampshire County Council with this regard.

You should also be aware that the visual impact of extensive areas of hard surfacing is a consideration and you are encouraged to carefully consider varying the surface materials and providing some landscaping where possible to soften the visual appearance of the frontage.

Adequate refuse collection should be provided and it is noted that you show a bin store on the plans.

Drainage

According to my records a Southern Water Foul drain runs alongside number 17 Avondale and then returns in a westerly direction across the rear garden, close to the dwelling, truncating at number 15 Avondale. A Surface Water drain appears to run along the centre of Bramley Close and returns part of the way down Brooklyn Drive, ending approximately at the site.

You are advised to contact Southern Water direct to resolve any connection and easement restrictions they may have. The development would also need to incorporate sustainable urban drainage to ensure that surface water is adequately addressed.

Developer Contributions/Habitats Regulations

In relation to developer contributions the proposed development would be subject to the Community Infrastructure Levy, details of which are available on the Council's website:

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

CIL is currently charged at £111.79 per square metre and it will be necessary to submit both a CIL Additional Information Requirement Form and CIL Form 1 Assumption of Liability with any future planning application. Self-build exemptions are possible depending on the applicant's intentions.

In terms of compliance with the Habitats Regulations, new residential development leads to additional pressures on the Chichester and Langstone Harbours SPA and Policy DM24 requires mitigation for these likely significant effects. There are two separate pressures:

Recreational pressure on internationally designated sites

In terms of additional recreational pressures there is an agreed Solent Recreation Mitigation Strategy (SRMS) which was introduced with the advice of Natural England and they have advised that a financial contribution based on number of bedrooms proposed will be required to mitigate against the effects of recreational disturbance on the SPA. This will be sought via a Deed and upfront payment at planning application stage.

For your information the current amounts are as follows:

- £346 for 1 bedroom dwelling, plus monitoring & admin fee totalling £383.30
- £500 for 2 bedroom dwelling plus monitoring & admin fee totalling £545.00

Deterioration of the water environment at internationally designated sites

Recent Dutch case law has highlighted evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. 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 new 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 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'.

Havant Borough Council has prepared a Position Statement on Nutrient Neutrality (<https://www.havant.gov.uk/nitrogen>) which sets out how development proposals should consider the issue, and in particular suggests the use of a planning condition to secure an appropriate avoidance and mitigation package – Paragraphs 57-67 refer. For new applications you should consider the Mitigation checklist and be aware of the suggested grampion style condition that would require a mitigation package to be secured *prior to occupation*.

Currently the mitigation package is still unknown and hence if your client agrees to the use of this condition it is important he understands that he would be agreeing to an unknown mitigation solution. Work is ongoing within HBC on a suitable mitigation implementation strategy and with further time details will emerge which will affect any future application for a new dwelling on this site. You should be aware that this issue may result in a delay in the determination of any future application.

Conclusion

It is considered that the site's size, shape and relationship in street scene terms with adjacent properties is such that the determination of any future planning application for residential development in the manner proposed would be very marginal. The forward siting and associated impact in street scene terms, together with levels, would need particular scrutiny at application stage. The amount of usable private amenity space is also a concern. I cannot guarantee the outcome of any future application which would be subject to formal consultation and neighbour notification. Responses received will be critical in such a marginal case.

I appreciate that you have clearly considered the views of the previous Inspector and attempted to overcome some of his concerns. However the fundamental limited size and shape of plot has not changed and represents the biggest constraint to development.

Please note that the above comments are the opinion of an individual Planning Officer and are in no way binding upon the Council when determining an application for planning permission and nor will they prejudice the outcome of any application submitted.

This advice also only relates to planning matters, and does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.

Yours sincerely

Mrs T Pickup
Senior Planner
Our Ref: GEN/19/00867

APPEAL BY Ms Linda Gutteridge AGAINST REFUSAL of Construction of 1No. 2 bed bungalow to the rear of 17A/B Avondale Road, with access via Brooklyn Drive and associated bin store and parking

AT 17A-17B Avondale Road, Waterlooville, PO7 7ST

List of Suggested Conditions

1. The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
Location, Site and Roof Plan Drawing Number 8880 01
Proposed Floor Plan and Elevations Drawing Number 8880 02
Proposed Site Levels and Indicative Perspectives Drawing Number 8880 03 Rev A
Reason: To ensure provision of a satisfactory development.
3. 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; all measures necessary to meet the agreed waste efficiency calculation must be installed before first occupation and retained thereafter;
 - b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
 - c) All measures forming part of that mitigation package have been provided to 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 for 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 of the Pre-Submission Havant Borough Local Plan 2036.

4. 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.
5. No development shall take place until plans and particulars specifying the following matters have been submitted to and approved in writing by the Local Planning Authority:
(i) The provision to be made within the site for contractors' vehicle parking during site clearance and construction of the development;
(ii) The provision to be made within the site for a material storage compound during site clearance and construction of the development.
Thereafter, throughout such site clearance and implementation of the development, the approved parking provision and storage compound shall be kept available and used only as such.
Reason: To safeguard the amenities of the locality and/or in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
6. No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewers or SUDs features proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. If soakaways are proposed details of BRE testing would need to be included to demonstrate the suitability or otherwise of this drainage proposal, Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.
Reason: To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
7. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
8. No development shall commence on the site until details of the design, depth and type of building foundations and the layout, with positions, dimensions and levels, of service trenches, ditches, drains and other excavations on site, insofar as they affect culvert pipes on or adjoining the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
Reason: To safeguard the amenities of the locality and ensure against undue damage to existing underground water pipes and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 9 The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.
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.
10. The dwelling hereby approved shall not be occupied until a detailed hard and soft landscaping scheme for all open parts of the site has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall specify the surface materials; distribution and species of shrubs/hedge plants and ground cover to be planted, the positions, species and planting sizes of the trees and shrubs to be planted and/or retained, and timing provisions for completion of the implementation of all such landscaping works.

The implementation of all such approved landscaping shall be completed in full accordance with such approved timing provisions. Any tree or shrub planted or retained as part of such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.

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

11. No part of the development shall be first occupied until details of the type, siting, design and materials to be used in the construction of all means of enclosure including boundaries, screens or retaining walls, have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained.
Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
12. The access hereby approved shall not be provided and the dwelling occupied unless and until details to demonstrate suitable pedestrian visibility splays of 1.5m x 1.5m to either side of the proposed access have been submitted to and approved in writing by the Local Planning Authority. The approved visibility splays shall thereafter be provided and retained in accordance with the approved details.
Reason: In the interests of highway safety and having due regard to policies CS20 and DM11 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.