
Site Address:	226 Havant Road, Hayling Island, PO11 0LN		
Proposal:	First floor rear extension and outside stairwell with solid timber screening.		
Application No:	APP/20/00528	Expiry Date:	04/09/2020
Applicant:	Mr Pugh Hebden Design Studio		
Agent:		Case Officer:	Joseph Toole
Ward:	Hayling West		

Recommendation: **GRANT PERMISSION**

1 Site Description

226 Havant Road, Hayling Island, is located to the east side of Havant Road. The application site is a detached property comprising cream render on the ground floor with concrete roof tiles and brown cladding on the front dormer. Vehicular access is from Havant Road with parking to the front of the property.

The property is located within a residential area with properties of different style and design.

Note - Due to Coronavirus a site visit was not possible but the applicant/agent supplied photos of the application site which have been used to inform this decision.

2 Planning History

APP/11/01517 - Single storey rear extension and retention of fence to front. ,
PERM,09/01/2012

3 Proposal

First floor rear extension and outside stairwell with solid timber screening.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
DM10	(Pollution)

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Clare Satchwell - Hayling East

No Comment.

Councillor I Scott Hayling West

No Comment.

Councillor Joanne Thomas

No Comment.

County Ecologist

This development will affect bats, although I am confident that the survey work and proposed mitigation is acceptable and I would raise no additional concerns. Detailed comments are set out below:

Bats receive protection under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (commonly referred to as the Habitats Regulations). Where developments affect European protected species (EPS), permission can be granted unless:

- the development is likely to result in a breach of the EU Directive underpinning the Habitats Regulations, and
- is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

Licences will not normally be granted in the absence of planning permission.

- Is the development likely to result in a breach of the EU Directive?

The application is supported by a report of the thorough and professional bat survey work that has been carried out at the site to appropriate methodologies and standards (Phillips Ecology, September 2020). This report includes results and conclusions of the full survey work, an assessment of the impacts to bats and the measures to ensure that any impacts to bats are avoided or compensated for.

The survey work identified that the existing building provides roosting points that can be used by bats for roosting and access to roosts, however, no droppings were seen and access to roosts were heavily cobwebbed. Subsequent emergence survey work identified a small day roost (peak count of 5 bats, although actual numbers are likely to fluctuate over different years) was present behind hanging tiles at the top of the front dormer.

The roost will be removed within the plans for the development. The development will result in the loss of roosts used by individual non-breeding bats. If avoidance measures

are not taken then the work has the potential to kill / injure individual bats. The development will therefore result in a breach of the EU Directive.

- Is the development unlikely to be licensed?

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

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

It is for you as the case officer to assess the proposals against the first two tests. In order to assess the development against the third test, sufficient details must be available to show how killing / injury of bats will be avoided and how the loss of the roost will be compensated. In this case, a detailed mitigation strategy is provided that includes methods to be followed during the development to ensure bats are not disturbed, killed or injured, together with new roosting opportunities to be provided onto nearby trees. I would however suggest that the applicant's ecologist considers an integrated in-wall bat roost unit / bat tube on a southerly or easterly-facing elevation of the dwelling, which can be inserted and either rendered over or have brick slips fixed to match surrounding brick work so they blend in unobtrusively. Such units are available at reasonable cost from a number of suppliers.

In addition, a re-entry survey is required to support the licence application, potential impacts without this survey information has been justified within the ecology report and it is considered unnecessary to have this survey information prior to planning consent. Providing that the additional survey doesn't present significant differences to the first, I would support all of their measures and, on the basis of the information currently available, and if you are satisfied that the first two tests can be met, I am confident that the development is not unlikely to be licensed.

I would recommend that LPA's engagement with the Habitats Regulations is detailed in your report.

Provided that the agreed mitigation proposals are implemented, I would have no concerns over these proposals. If you were minded to grant permission, I would simply suggest that the following condition be added to the decision notice:

"Development shall proceed in accordance with the measures set out in Sections 5.2 and 5.3 of the Philips Ecology Bat Roost Assessment (September 2020) unless varied by a European Protected Species (EPS) license issued by Natural England. Thereafter, the replacement bat roosts shall be permanently maintained and retained in accordance with the approved details. Reason: to ensure the favourable conservation status of bats in accordance with the Havant Borough Local Plan.

Langstone Harbour Board

No Objection.

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: 3

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

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

- (i) Principle of development
- (ii) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties
- (iv) Ecology
- (v) Flooding
- (vi) CIL
- (vii) Langstone Harbour Board

(i) Principle of development

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

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

7.3 The proposed development would involve a first floor rear extension. It would be used as two bedroom spaces with a balcony in the middle. The proposed extension would go directly above the existing living room and kitchen. It would not result in any additional bedrooms and would not exceed the height of the existing ridge of the existing property.

7.4 The proposed first floor extension would have brick, render and timber cladding with fibre slate and zinc roof tiles. This is considered to be inkeeping with the context of the main dwellinghouse.

7.5 Due to the proposed development being located to the rear of the property it is considered to have a limited impact upon the street scene. Furthermore, the proposed extension would appear subservient to the host dwelling being of appropriate size to the plot and the retained amenity space. Therefore, it is considered to be inkeeping with the character of the area.

7.6 The design and appearance of the proposal is deemed appropriate in context to the

main building and is therefore considered to be acceptable, meeting the requirements of Policy CS16 of the HBLP (Core strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality.

(iii) Effect on neighbouring properties

- 7.7 To the south side of the property due to internal alterations there would be two windows serving the en-suite. They would be obscure glazed and are not considered to overlooking any private amenity space.
- 7.8 To the north side there would be a new window in the landing which would be obscure glazed and fixed shut. Furthermore, there would be an external staircase serving bedroom 3. This would have a solid 1.7 metre screening in order to prevent overlooking into No.230 Havant Road's private amenity space. A condition for the use of the proposal to be ancillary to the main dwellinghouse has been recommended as has a condition for the screening of the staircase to be installed before occupation of the development. It is considered due to the orientation and positioning of the proposed first floor extension it would not appear overbearing or result in the adverse loss of light to any of the surrounding neighbouring properties.
- 7.9 On the east elevation (rear) there would be 4 windows on the first floor with a glass timber balustrade to serve a seating area. These would face the side and back of No.26 Island Close. It would be located approximately 33 metres from the rear wall of the application site to the side wall of No.26 Island Close which is considered an acceptable distance according to the Havant Borough Design Guide SPD and thus deemed not to materially overlook the private amenity space.
- 7.10 Consequently, it is considered that the proposal will not appear overbearing or lead to overlooking and would have limited and acceptable impact on the properties immediately adjacent to the application site and the properties opposite or to the rear, meeting the requirements of Policy CS16 of the HBLP (Core Strategy).

(iv) Ecology

- 7.11 A Bat Roost Assessment was submitted with the application after the request from the County's Ecologist. The Assessment has identified that the proposal will impact a European Protected Specie. Therefore consideration of the three Habitat Regulations derogation tests is necessary.
- 7.12 An EPS licence can only be granted if the development proposal is able to meet three tests:
1. *the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))*
 2. *there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and*
 3. *the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).*

To grant planning permission the Local Planning Authority must be satisfied that the

development meets tests 1 and 2 above.

7.11 The proposal is for a first-floor extension, with staircase to the side, with the proposal benefiting the occupiers of the property. There is no satisfactory alternative, as the proposal may only be erected on the building. The applicant has provided a Bat Roost Assessment (BRA), which has identified, from the surveys undertaken, that the hanging tiles on the front dormer support a soprano pipistrelle bat day roost. The BRA has also identified that the "proposed dormer alterations will result in the destruction of the identified soprano pipistrelle bat day roost". As such, a European Protected Species Mitigation (EPSM) licence will be required to enable the development to proceed lawfully under a derogation from the Habitat Regulations 2017."

7.13 The BRA has also set out a mitigation strategy that has been designed to ensure the maintenance of the favourable conservation status of bats, that includes methods to be followed during the development to ensure bats are not disturbed, killed or injured, together with new roosting opportunities to be provided onto nearby trees. " In summary, this comprises the provision of replacement roost opportunities which are proportionate to the scale of impact and the removal of roost features by hand, under the supervision of a licensed bat worker to ensure that individual bats are not killed or injured."

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

"Development shall proceed in accordance with the measures set out in Sections 5.2 and 5.3 of the Philips Ecology Bat Roost Assessment (September 2020) unless varied by a European Protected Species (EPS) license issued by Natural England. Thereafter, the replacement bat roosts shall be permanently maintained and retained in accordance with the approved details.

Reason: to ensure the favourable conservation status of bats in accordance with the Havant Borough Local Plan."

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

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

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

7.16 The BRA includes a mitigation strategy, to relocate the bat roost, which would compensate for the loss of the existing bat roost in the building, which the County Ecologist

has found to be acceptable, which the LPA agreed with. Therefore, the proposal will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

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

7.18 The proposal is considered to comply with Policy CS 11 of the HBLPCS.

(v) Flooding

7.19 The application would be classed as a 'minor development and according to the National Planning Practice Guidance (NPPG) unlikely to cause flood risk unless they would have an adverse effect on a watercourse, floodplain or its flood defences; they would impede access to flood defence and management facilities, or; where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows. The proposal should not effect these areas.

7.20 The application site is located within flood zone 2/3. The proposed development is for a first floor extension therefore there would be no additional hardsurfacing that would increase water run-off. Furthermore, due to the minor nature of the proposal it would be unlikely to cause flooding to the site and elsewhere and therefore accords with policy CS15 of the Core Strategy. The Environment Agency has not commented on the application.

(vi) CIL

7.21 The proposed extensions does not exceed 100 square metres gross internal area, therefore it is not liable to CIL.

(vii) Langstone Harbour Board

7.22 The Langstone harbour Board were consulted on the application and raised no objection.

8 Conclusion

8.1 The scale, siting and design of the proposal would have limited and acceptable impact on the neighbours and is therefore considered to be appropriate and recommended for approval.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/20/00528

- 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 and Block Plan - 2003 3.00 REV 00

Proposed Floor Plans - 2003 3.100 REV 01

Proposed Elevations - 2003 3 2020

Phillips Ecology Bat Roost Assessment Final Report September 2020

Reason: - To ensure provision of a satisfactory development.

- 3 The development hereby permitted shall be used only for purposes incidental to the enjoyment of the dwellinghouse as such and shall not be used for any business, commercial or industrial purposes whatsoever.

Reason: In the interests of the amenity of the area and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 Development shall proceed in accordance with the measures set out in Sections 5.2 and 5.3 of the Philips Ecology Bat Roost Assessment (September 2020) unless varied by a European Protected Species (EPS) license issued by Natural England. Thereafter, the replacement bat roosts shall be permanently maintained and retained in accordance with the approved details.

Reason: *to ensure the favourable conservation status of bats in accordance with the Havant Borough Local Plan.*

- 5 Prior to occupation the wooden screening showing on drawing 2003 3 2020 shall be installed and thereafter retained and maintained in that position unless otherwise agreed by the Local Planning Authority.

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