
Site Address:	16 Selborne Avenue, Havant, PO9 4PX		
Proposal:	Erection of 1No. 3bedroom detached dwelling.(Revised).		
Application No:	APP/20/00302	Expiry Date:	09/06/2020
Applicant:	Mr Sturgess		
Agent:	Mr Eitel	Case Officer:	Tina Pickup
	Fiftypointeight Architecture + Interiors		
Ward:	Barncroft		

Recommendation: **REFUSE PERMISSION**

1 Site Description

Note - Due to Coronavirus a new site visit was not possible in connection with this revised application - reliance has been made on recent previous officer site visits, previous officer photos and local knowledge to inform this decision.

- 1.1 The application site relates to an end of terrace traditional two storey post-war dwelling, located on the north side of Selborne Avenue. The property is constructed of pale red brick with gabled end, beneath a dark concrete tiled roof. It is set back from the road by between 4.5m and 5m. The application site is triangular in shape, representing a corner plot, with a wide frontage but tapering to a point to the rear. A fence has recently been erected from the south eastern corner of the property to the highway edge, effectively dividing off the proposed eastern corner plot. (But note that the fence alignment on site does not match either the existing or proposed plans).
- 1.2 The host dwelling is set at a slightly higher level than the highway with the frontage recently hard surfaced with tarmac on a slight slope. It is noted that the kerb in front of this frontage has not yet been dropped. There are double yellow lines around the junction with Middle Park Way and Selborne Avenue which end just before the application site. To the east of the new fence, the original frontage hedge remains in part, before a former driveway. The eastern boundary hedge has been removed and this boundary is currently open and marked by a low post and wire fence. There is close boarded fencing along a truncated northern boundary.
- 1.3 The area is characterised with similar style dwellings and there is a strong uniformity of house types, alignment and materials in the area. There is a strong pattern of development comprising rows of terraced properties, set back but fronting the highway, and this alignment is a feature of the area.
- 1.4 The application site is the last dwelling on this north side of the road before an open grassed area that forms part of the adopted highway. To the east, the terrace of No. 22 to No. 32 Overton Crescent, are set at 90 degrees to the application site such that the rear of No.32 and No.30 share a boundary with the application site.
- 1.5 By virtue of the adjacent open grassed area and the fact that No.32 Overton Crescent has a relatively open side garden, bounded by low wire fence, the area has a spacious feel. Originally the dwellings in the area were constructed without any on site parking, but over time several have formed hard surfaced frontages for the parking of cars.
- 1.6 The site lies within Flood Zones 2 and 3; and there is a public foul sewer that runs close to the eastern boundary of the site.

2 Planning History

APP/19/00860 - Erection of 1No. 3 bedroom detached dwelling. Withdrawn
16/10/2019

APP/19/01254 - Erection of 1No. 3bedroom detached dwelling.(Revised). Refused
06/03/2020 for 4 reasons: not meeting sequential or exception tests; siting and design
out of character with street scene; overbearing, shadow and loss of privacy to
neighbour; and lack of SRMS mitigation

3 Proposal

Erection of 1No. 3bedroom detached dwelling.(Revised).

- 3.1 This application follows the refusal of APP/19/00860 and attempts to overcome some of the previous concerns. The key changes relate to a slightly changed house footprint and design, being squarer with rotated roof profile, enabling re-siting enlarging rear garden and pulling slightly away from eastern boundary, omission of any side windows and rear Juliette balcony. As a result, the proposed parking area is reduced slightly. The submission includes a detailed Flood Risk Assessment, including Sequential Test and Exception Test documents and during the course of determining this application an additional Rebuttal Statement re the sequential and exception tests has been submitted for consideration.

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

LP2	(Leigh Park Housing Allocations (Garage Courts/Parking Areas))
AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)

Havant Borough Pre Submission Local Plan 2036

E22	(Amenity and pollution)
DR1	(Delivery of Sustainable Development)
E1*	(High quality design)
H1*	(High quality new homes)
E12	(Low carbon design)
E19	(Managing flood risk in new development)
E16	(Solent Special Protection Areas)
E14	(The Local Ecological Network)
IN3	(Transport and parking in new development)

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control

Public sewer appears to be approx. 2m away from new dwelling Consult Southern Water services

Building Regulation consent will be required for this work

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

Developer Services

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:

A formal application for connection to the public sewerage system is required in order to service this development.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Officer Note - the SW response to previous application APP/19/01254 alerted to the proximity of the public foul sewer and set out necessary easements which would still apply to this application and layout

Engineering/Drainage

None received

Environment Agency

Environment Agency position

We request that the following condition be attached to any planning permission granted, and that the details in relation to the condition be submitted and approved by the Local Planning Authority.

Condition

The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref: 72330R1, dated 2019-11-07, by GeoSmart Information Ltd), and the following mitigation measures detailed therein:

. Finished floor levels shall be set no lower than 12.80 metres above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

To reduce the risk of flooding to the proposed development and future occupants.

The condition is in line with the Planning Practice Guidance (PPG) to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change.

Hampshire Highways

The proposal would result in a new dwelling being served by an existing vehicular access to a parking area associated with the existing property adjoining as well as a newly created access for the existing property immediately to the front. Both accesses are proposed to serve two parking spaces.

In regard to the newly proposed access serving the existing property this would be considered acceptable and would mirror the parking arrangements for the neighbouring properties.

In relation to the proposed parking area being served by the existing access, the proposed internal layout is considered inadequate.

Whilst two average sized cars may well be able to park in the area, the vehicle parked closest to the boundary of the site would be rendered unusable as the boundary fence would not allow a driver to access, egress a vehicle safely and efficiently. With both cars in situ it is questioned whether occupants of either vehicle would be able to access and egress a vehicle safely and efficiently.

In order for vehicles to access and egress the parking area, multiple manoeuvres would be required for both vehicles and it is questioned whether the vehicle closest to the site boundary could even manoeuvre into the space provided and no vehicle tracking has been provided in this regard.

Notwithstanding the above, whilst the access is existing, significant concerns are also raised in regard to vehicular/pedestrian intervisibility regarding pedestrians, particularly children, utilising the adjacent path across the neighbouring green space and vehicles emerging from the access.

With the above in mind, Highways Development Planning raises a significant objection to this proposal in its currently proposed form but raises no objections to the principle of the proposal subject to a suitable design.

HBC would need to determine in their capacity as local parking authority that the level of parking provision proposed falls in line with adopted standards.

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. For completeness, Natural England advise your authority to detail the nitrogen budget requiring mitigation within the HRA.

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.

Please note there is updated guidance from Natural England on Achieving Nutrient Neutrality (March 2020: Version 4). The nutrient budget requiring mitigation can be calculated to reflect the new guidance.

Natural England Government Team

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

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application could have potential

significant effects on Portsmouth Harbour SPA/Ramsar; Solent Maritime SAC; Solent & Isle of Wight Lagoons SAC; Solent and Dorset Coast SPA; Solent and Southampton Water SPA/Ramsar; Chichester and Langstone Harbours SPA/Ramsar and all underpinning SSSIs.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

☐ Mitigation measures need to be secured as set out in the Appropriate Assessment. We advise that appropriate planning conditions or obligations are attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out.

Planning Policy

I have been asked to provide comments on the application of the Flood Risk Sequential & Exception tests for this application. I note that the scheme is a resubmission of APP/19/01254. The flood risk evidence remains the same as for that scheme. On that basis, the comments below raise the same issues as for the previous scheme.

The applicant has provided a detailed Sequential & Exception Test document prepared by consultants. It clearly sets out the flood risk issues of the sites, as well as the parameters applied to the sequential and exception tests.

Sequential Test

I agree with the consultants that national guidance is not prescriptive about the area of search to be applied to the sequential test. Instead, a pragmatic approach should be taken, appropriate to local circumstances. While I cannot find a reasoned justification for the area of search chosen, I am content with the search being confined to the Leigh Park area of the borough, due to the small size (one dwelling) of the proposed development.

To inform the review of alternative sites in this area, various Local Plan background documents and sites identified in them have been taken into account, in particular the Strategic Housing Land Availability Assessment and the Council's Local Plan Sites Strategic Flood Risk Assessment. I accept that none of these show suitable alternative sites.

The applicant has also assessed sites allocated for development in the adopted Local Plan, in particular the small garage sites in Leigh Park allocated for residential development under policy L2. The applicant has identified one site that meets the search parameters and could be a suitable alternative: the Forestside Avenue parking area (site L146). The applicant rejects the site based on the availability of parking and potential for overlooking. However, since the site is subject to an allocation for residential development, I am unable to accept the argument that the site is not suitable for one dwelling.

As well as council documentation, the applicant states that they consulted commercial property agents. This is a recommended course of action to satisfy the sequential test, particularly for small sites of less than 5 dwellings, which are less likely to be considered in strategic planning documents. The sequential test document includes no evidence that these searches took place, but having undertaken a search myself for potentially available land, I have no reason to disbelieve the conclusion that these searches yielded no results for suitable alternative sites.

Overall, I am unable to conclude that the sequential test has been passed, since a small site allocated for residential development in the defined search area has been identified as potentially suitable, but subsequently rejected.

Exception Test

Nevertheless, I have also considered the information on the exception test. For the exception test to be passed, according to paragraph 160 of the NPPF, it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

I have noted the reasons given on page 24 of the applicant's Sequential & Exception Test report that state that the development would satisfy part a) of the exception test. I accept that the development is an area well served by facilities and services. While this is a sustainability benefit over other sites that may not have such access, it is not a benefit that the development is providing to the community, which would outweigh the flood risk; Further the report places strong reliance on the scheme boosting the supply of homes, sustaining local schools and creating a significant number of jobs. I do not consider that any of these sustainability benefits can be reasonably attributed to a one dwelling scheme. I am therefore unable to conclude that the exception test has been passed.

Conclusion

Both the sequential and the exception test must be passed for development to be considered acceptable.

The sequential test is not considered passed, as an allocated site within the search area exists, which would be suitable for this development.

The exception test is not considered passed, as it is not accepted that this one dwelling would provide wider sustainability benefits to the community that outweigh the flood risk.

Overall, in the light of flood risk, I am therefore unable to support the scheme in principle.

Public Spaces

None received

Traffic Management

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: 11

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

Statutory advertisement: Not applicable.

Number of representations received: 2

Comment	Officer Comment
2 letters of Objection have been received:	
still concerned at impact to neighbours - the overhanging, overshadowing, blocking of sunlight and daylight; windows overlook garden and loss of privacy; feeling hemmed in; flood zone risk; plot size and design of dwelling does not fit in with other surrounding properties; inadequate back garden for family;	Noted - see section 7
back windows would overlook garden and conservatory resulting in loss of privacy; would be overshadowed and loss of light; fences now erected on site but leaves no space for adequate garden; new house would be further forward and not in keeping with existing properties;	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) Flood risk
- (iii) Impact upon the character and appearance of the area
- (iv) Impact upon residential amenity
- (v) Highways and parking
- (vi) Drainage
- (vii) Compliance with Habitats Regulations
- (viii) 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. The NPPF supports sustainable development with three aims: the economic; social;

and environmental objectives. 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. It is noted that the Council's Five Year Housing Land Supply Update as of December 2019 indicates that the Council can demonstrate a 5.4 years' worth of housing supply, including the recovery of a shortfall (173 units) with a 5% buffer which has accumulated since 2016. Since a single dwelling would not make a meaningful contribution to the housing supply, any reference to justification based on housing need within the submitted Design and Access Statement is not considered relevant to the determination of this application.

(ii) Flood risk

- 7.4 The application site lies within Flood Zone 3 and as a more vulnerable form of development requires a Flood Risk Assessment as well as a sequential and exception test. The NPPF aims to direct development away from areas at high flood risk and the aim of the sequential test is to steer development to areas with the lowest risk of flooding. If development cannot be re-directed to suitable and available lower risk sites, then the exception test must also be applied and this requires that a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development would be safe for its lifetime without increasing flood elsewhere. Paragraph 161 of the NPPF makes it clear that both elements of the exception test need to be satisfied for development to be permitted.
- 7.5 The submitted sequential and exception tests are for the LPA to assess and the documents submitted repeat those previously submitted under APP/19/01254. It is considered that the sequential test methodology is generally reasonable, and includes an assessment of the sites allocated under adopted Policy LP2, Leigh Park Garage Courts/Parking Areas. However the submitted document rejects site L146 (Forestside Avenue) as having other planning issues such as parking, and overlooking and therefore concludes that there are no other suitable comparable sites within the Leigh Park search area. The LPA contests this conclusion and considers that site L146 would be in principle deliverable and developable, and its inclusion within the allocations would have given initial consideration to these issues. The planning merits of any future scheme would, in the same way as any other application, be considered on its merits. It is the view of the LPA that site L146 represents a suitable alternative site.
- 7.6 It is further noted that the area of Leigh Park that is constrained by Flood Zone 3 is a relatively small area focused around Middle Park Way. The wider urban area of Leigh Park is Flood Zone 1 and would be at lower risk of flooding. Within this wider area no assessment of extant planning permissions has been undertaken and it is considered that several end of terrace dwellings have been approved in this area within the past 3 years. A few examples of recent permissions within this area include APP/17/01153 at 14 Otterborne Crescent, PO9 4RN; APP/19/00612 at 70 High Lawn Way, PO9 5BT; APP/18/00096 at 76 Barncroft Way, PO9 3AQ; and APP/18/01270 at 71 Hooks Farm Way, PO9 3DY. The fact that windfall sites regularly become available and are permitted, close to the current application site but within Flood Zone 1, further

indicates that alternative suitable sites at lower risk of flooding are likely to be available.

- 7.7 In terms of the exception test, it is not agreed that the construction of one single dwelling would make a notable contribution to sustaining jobs, schools, housing supply etc and there is no wider community benefit that outweighs the flood risk. It is accepted that the mitigation measures proposed would make the development safe for its lifetime, passing clause b) but part a) of the exception test is not deemed to have been passed. Any short term gains of jobs during the construction stage would not benefit the wider community in the long term sufficiently to outweigh the flood risk. Since both parts of the exception test have to be passed, then failure of part a) means the proposal is considered to fail the exception test.
- 7.8 The applicant subsequently submitted a rebuttal statement on the LPA's comments and this updated document changes the reasons for rejecting the allocated site L146 (Forestside Avenue) to those relating to site area. It also expands on the potential sustainability benefits of a small one dwelling scheme. This further document and information has been considered but does not change the view of the LPA that there are better sequentially preferable sites available in the Flood Zone 1 areas of Leigh Park; and whilst it is acknowledged that some small sustainability benefits may occur, these are just not sufficient enough to outweigh the flood risk.
- 7.9 Independent of the sequential and exception tests, the submitted FRA, which is a separate technical site level document assessing whether the development will be safe for its lifetime and can be delivered without increasing flood risk elsewhere, has been considered by the Environment Agency. The submitted FRA notes that the proposed dwelling would be set with a finished floor level of 12.80m above ordnance datum (AOD) which is 0.3m above the estimated 1 in 100 year plus 105% allowance for climate change level. Other mitigation measures are also proposed within the FRA, such as interceptor drains, non-return flap valves, SuDS etc, and signing up to the EA's flood warning system. On this basis the EA have confirmed that they have no objection to the proposed dwelling.
- 7.10 However, this acceptance of the mitigation measures for the dwelling itself to protect future occupiers by the Environment Agency is not sufficient in isolation, as both the sequential and exception tests need to be passed as well. It remains the view of the LPA that the unsustainable location in flood risk terms without sufficient benefit to the community to outweigh the risk, fails the sequential and exception tests as set out in the NPPF and would be an inappropriate form of development in this location, contrary to adopted policy CS15 and emerging policy E19 .

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

- 7.11 Within the vicinity of the application site there is a strong uniformity of two storey terraced dwellings set in linear rows, fronting the highway. All have consistent ridge and eaves height. There are no other detached dwellings within the immediate area. Therefore it is considered that the proposal for a detached dwelling that projects forward of the established building line by some 3.5m, having a ridge height about 0.8m higher and eaves line some 0.3m higher than adjacent properties, fails to respect the character of the area. The combination of forward siting and extra height would result in an unduly prominent form of development in the street scene, at variance with the established pattern of development in the area.
- 7.12 The slight slope of the site, together with need to raise finished floor levels for flood

risk reasons, would result in the proposed development being artificially raised above natural ground level, adding to its apparent height and dominance. It would sit significantly higher than neighbouring properties, resulting in a mis-alignment of fenestration details and roof profile, detrimental to the visual cohesion of the area.

- 7.13 It is acknowledged that the proposed dwelling has been re-designed since APP/19/01254 with roof profile now fronting the highway (rather than previous gable-end) and an attempt has been made to lower the eaves. However the presentation to the highway is still considered to be at odds with the character of the area - the higher eaves line with un-characteristic half dormers and ridge that is even higher than under APP/19/01254), all accumulates into a form of development that would jar with the otherwise uniform and strong visual appearance of the area. The dwelling is also now wider than those of the area where there is a consistent 6m width and rhythm to the terraced properties (only increased on some to allow for the ginnel access ways). The combined effect of design, height and forward siting would result in an incongruity and prominence in the street scene, harmful to the otherwise cohesive visual appearance.
- 7.14 Overall the proposed detached dwelling is not considered appropriate to the character of the area and would be harmful to the visual appearance and harmony of the street scene, contrary to adopted policy CS16 and emerging policy E1.

(iv) Impact upon residential amenity

- 7.15 The site is a triangular shape, tapering to the rear. The proposed siting of the dwelling would result in the rear corner of the dwelling being tight to the shared boundary with number 32 Overton Crescent. This would result in a poor relationship with number 32, being a high and dominant building mass so close to number 32's private rear garden and detrimental to their outlook. Due to the elevated floor levels the proposed east and north elevation would be particularly dominant and overbearing. Back-corner to back-corner separation would only be 6.5m between number 32 Overton Crescent and with the proposed development would result in the private amenity space of number 32 feeling very hemmed-in and enclosed.
- 7.16 It is also noted that due to the need to raise the dwelling for flood risk reasons the glazed opening doors on the rear elevation, with associated full width decked steps and terraced area, would sit approximately 1m higher than natural ground level i.e. half way up the dividing fence with number 32 Overton Crescent. This would enable any future occupiers regularly using this space and steps, to be at such an elevated level relative to number 32, that they would have clear views down into the garden and rear of 32. This raised overlooking would not only occur in the direction of number 32, but also across to number 30 Overton Crescent which has a clear conservatory, and to the garden of 16 Selborne Avenue. It is considered that the potential for overlooking and loss of privacy would be significant and harmful to all adjacent neighbours.
- 7.17 It is also noted that the orientation of the site and proposed dwelling in relation to number 32 Overton Crescent, is such that overshadowing of the private rear garden of number 32 is likely to result. The proposed dwelling would be sited south-east of the private garden of number 32 such that the garden would be overshadowed all afternoon through to the early evening. On page 13 of the submitted Design and Access Statement the sun's path is marked for energy efficiency reasons, but this clearly demonstrates that there would be a high level of additional overshadowing over the neighbour's private garden, detrimental to the enjoyment of their private space.

- 7.18 Due to the shape of the site and proposed siting of the dwelling, it is considered that insufficient separation between building bulk and private rear gardens can be achieved to avoid adverse overlooking, overshadowing and loss of outlook and amenity. The proposal would therefore be harmful to neighbouring amenity and contrary to adopted policy CS16 and emerging policy H1.
- 7.19 In terms of amenity for future occupiers, the proposed layout would result in a rear garden depth of between 9.5m and 0m. The steep taper of the site is such that the resultant triangular garden area is tight and contrived and roughly half the size of that normally expected of a regular 10m deep garden, as set out in the adopted Design Guide SPD. It is further noted that much of the usable rear area would be taken up by steps down from the house and a cycle shed, further limiting the useable available space. As a 3 bedroomed family dwelling, this substandard rear amenity area is considered insufficient for future occupiers, contrary to the Design Guide SPD, adopted policy CS16 and emerging policy H1.

(v) Highways and parking

- 7.20 To meet the adopted Parking SPD, 2 on site spaces are required to serve the proposed 3 bedroom dwelling. These are shown provided on the north side of the dwelling using the existing dropped kerb. However due to the tight shape of the land available the proposed parking area is not considered of adequate size to accommodate 2 standard sized spaces, which should each measure 2.4m x 4.8m. The impractical layout would render the use of the spaces difficult for drivers and result in multiple manoeuvres to access the second vehicle. Hampshire Highways has also noted that the current layout does not provide adequate vehicular/pedestrian intervisibility to ensure the safety of passing pedestrians and has raised a strong objection to the proposed layout.
- 7.21 It is further noted that 2 spaces are shown to serve the existing dwelling and this frontage area has already been hard surfaced, but the kerb not yet dropped. Overall, whilst the proposed access points from the highway are acceptable in principle, the precise layout in terms of size of on-site parking spaces and pedestrian visibility splays is not considered adequate and would result in harm to highway safety and amenity, contrary to the adopted Parking SPD, adopted policy DM13 and emerging policy IN3.

(vi) Drainage

- 7.22 There is a Southern Water public foul sewer running close to the eastern boundary of the site. As previously advised by Southern Water under APP/19/01254, to protect this sewer no development or tree planting should be within 3m from its external edge; and no soakaways etc within 5m. The proposed site and ground floor plan marks the location of this sewer and shows the dwelling to be within 2m, contrary to Southern Waters advice. This issue is not addressed further in the submitted Design and Access Statement. On the information available the proposed layout would therefore be likely to result in damage to, and fail to protect this public sewer. However, should the application be acceptable in other respects, then this technical issue would not be considered a reason for refusal in its own right; it is likely that there are technical Build-Over Agreement or diversion options that could be explored with Southern Water and Building Regulations.

(vii) Compliance with Habitats Regulations

- 7.23 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.
- 7.24 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.
- 7.25 With respect to the Solent Recreation Mitigation Strategy the applicant has been sent the appropriate agreement and Deed requesting the payment of £727.55. 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.
- 7.26 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 and raise no objection on this basis. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages, although the recreational mitigation package has not been secured to date. 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

- 7.27 The development is CIL liable for the net additional internal floor space, which is indicated on the CIL forms to be 84sqm. 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%.
- 7.28 In light of the recommendation for refusal on other matters, the Draft Liability Notice has not been prepared, but could be done at appeal stage if necessary.

8 Conclusion

- 8.1 It is considered that the proposed dwelling in this flood risk area would not represent a sustainable form of development when there are better sites within lower flood risk areas nearby. The proposal is considered to fail the sequential and exception tests contrary to the NPPF and adopted policy CS15 and emerging policy E19. Furthermore the siting, layout, design, height and massing of the proposed detached form of development would be out of keeping with the otherwise uniform character of the area, and would have a detrimental impact on the amenity of neighbours from overlooking and overshadowing. Additionally the available amenity space for future occupiers is considered inadequate, and the parking layout would lead to highway safety and amenity concerns. The lack of appropriate mitigation measures for likely significant recreational harm to the Solent European Sites as specified by the Habitats Regulations is also contrary to policy DM24 and emerging policy E16. The proposal is therefore recommended for refusal.
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9 **RECOMMENDATION:**

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/20/00302 for the following reasons

- 1 The site falls within flood zone 3 and as more vulnerable development the proposal does not meet the sequential or exception tests as set out in the NPPF. As such it would represent unsustainable, inappropriate development in an area of high risk of flooding, contrary to adopted policy CS15 of the Havant Borough Core Strategy, 2011, emerging policy E19 of the Pre-Submission Havant Borough Local Plan 2036; and the National Planning Policy Framework.
- 2 The size and shape of the plot would not allow for development of a standard compatible with the existing surrounding development, and the proposed detached dwelling, by reason of its forward siting, raised floor levels, height and design, would be a prominent and incongruous feature to the detriment of the visual cohesion and harmony of the streetscene and uniform character of the area. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Borough Design Guide SPD, 2011, the National Planning Policy Framework and emerging policy E1 of the Pre-Submission Havant Borough Local Plan 2036.
- 3 The proposed dwelling, by reason of its raised levels, siting and orientation, would result in an excessive and overbearing building bulk adjacent to existing residential properties, causing overshadowing, overlooking and loss of privacy, detrimental to the visual outlook and amenities of the occupiers of adjacent properties. Additionally, the contrived triangular garden size would not provide adequate amenity space for future occupiers. The proposal is therefore contrary to the Borough Design Guide SPD, 2011, adopted policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework and emerging policy H1 of the Pre-Submission Havant Borough Local Plan 2036.
- 4 The proposed site layout would not allow for 2 useable parking spaces of standard size in accordance with the Local Planning Authority's adopted standards. The contrived parking layout would be likely to result in multiple

manoeuvres and the vehicular pedestrian inter-visibility is not adequately demonstrated as sufficient not to cause harm to highway safety and amenity to users of the adjoining public footway. The proposal is therefore contrary to the adopted Parking SPD 2016, policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy IN3 of the Pre-Submission Havant Borough Local Plan 2036, and the National Planning Policy Framework.

- 5 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, 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.