
Site Address:	11 Vine Coppice, Waterloooville, PO7 5DU		
Proposal:	Erection of 1No. 2bed dwelling attached to No.11 Vine Coppice with associated parking, cycle and bin storage.		
Application No:	APP/19/00207	Expiry Date:	30/05/2019
Applicant:	Mr Whitty		
Agent:		Case Officer:	Tina Pickup
Ward:	Stakes		

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The application site relates to a 1980's end of terrace two storey dwelling located within a small cul-de-sac off Shaftesbury Avenue at 11 Vine Coppice, Waterloooville. Within the cul-de-sac the properties are largely semi-detached and constructed of red brick beneath red concrete tiled roofs with a uniform visual appearance including canopy porch roofs above front doors. The properties are aligned in a rectilinear layout, set back from the adopted highway by varying amounts between 2m and 10m - this variation being due to the layout of the cul-de-sac. The land slopes up to the south and the application site is the southern most dwelling located on the west side.
- 1.2 The levels are significant - the existing dwelling is set with the same ground floor level as the remainder of the terrace (11 - 16) above the road level and their rear gardens continue to slope up to the south-west such that the land levels within the rear and side garden of the application site are steeply banked. The existing dwelling has a paved side path and rear paved sitting out area that has a depth of between 3m and 1.8m, at the same level as the house. This is enclosed by a retaining wall, which where adjacent the southern side path has a height of some 1.6m. The garden land beyond this retaining wall to the south is a grassed bank that rises further. Steps are provided up to the higher level garden adjacent to the northern boundary, which is a close boarded fence.
- 1.3 There is also a TPO'd oak tree within the rear garden, sited close to the north-western corner of the garden. This is also at the higher level and has an RPA of 10.2m which extends at least up to the existing retaining wall. The southern boundary of the site, at the higher level, comprises the side elevation of a flint outbuilding that is located within the grounds of The Grange, at 145 Stakes Road, which is a former country manor house (built 1897) currently in use as an Approved Premises by the Ministry of Justice. Otherwise the site is located within a residential area.
- 1.4 At the front of the site, the existing dwelling has a metal garage/store set back, and there is an area of parking between number 11 and 10 that currently provides 4 parking spaces for these two dwellings. The kerb is dropped along this southern stretch of the cul-de-sac, but the western return in front of number 11 is not dropped kerb. Number 12 has hard surfaced their frontage to provide a parking space with associated dropped kerb. There are no parking restrictions within the cul-de-sac.

2 Planning History

96/60719/001 - Pruning of 1 Sycamore in the rear garden covered by TPO 1182, PERM, 19/06/1996
95/60719/000 - Felling of Sycamore (T39) covered by TPO 1182., REF, 25/08/1995

05/60719/002 - Application to crown reduce by 25% a Sycamore tree (T39) of TPO 1182., PERM,10/11/2005
APP/13/00933 - Tree works - Withdrawn
APP/14/00675 - Crown raise to 9m, removing lowest 11 branches of 1No. Sycamore subject to TPO 1182., PERM,14/08/2014

3 Proposal

- 3.1 Erection of 1No. 2bed dwelling attached to No.11 Vine Coppice with associated parking, cycle and bin storage.
- 3.2 During the course of determining this application amended details were requested, updating the Arboricultural Impact Assessment, and providing a better assessment of the levels. The proposal is for an attached dwelling of similar size and proportion to the host dwelling, replicating the ridge and eaves line.

4 Policy Considerations

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

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

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

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

5 Statutory and Non Statutory Consultations

Arboriculturalist - on original submission

The submitted plans do not accurately reflect the Sycamore tree in relation to the house. The tree is located just over 10m from the existing house rather than 13m as shown on the plan. Whilst the proposed dwelling will not encroach into the RPA, it is unclear as to what is happening with the existing retaining wall and garden. If the retaining wall is to be repositioned then I object to the proposal in its current form as it will encroach into the RPA. A more detailed AIA, Method Statement and Tree Protection Plan will be required to be submitted from an appropriate expert to demonstrate whether this can be achieved.

Arboriculturalist - on amended scheme

Thank you for re-consulting me on the updated tree survey information. While the RPA has now been calculated correctly, I still believe that it extends slightly further than is shown on the plan. It is also unclear how the residents will access the garden and this may have an impact on the RPA. Whilst in arboricultural terms this development will most likely have minimal disruption to the tree, I still believe a more detailed and site specific method statement should be submitted along with clarification of access to the garden.

Building Control - on original plans

The submitted plans do not show a ground floor WC as required by the Building Regulations for a new dwelling.

Building Control - on amended

A ground floor WC has been added to the plans, which will be satisfactory, subject to compliance with the guidance given in Approved Document M.

Community Infrastructure

CIL Liable. It is indicated on the CIL Additional Information Form that this is intended to be self build. For the exemption to be confirmed, CIL form 7 (1) will be required prior to commencement and the applicant would need to comply with CIL form 7 (2) to retain the exemption.

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 dwellings and their respective number of bedrooms. See <http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>

Crime Prevention

None received

Hampshire Highways - on original plans

This site is located at the end of a short cul de sac in the corner. To achieve the suggested on site parking it will be necessary to adjust the position of the transition kerb and provide a replacement in front of number 12 Vine Coppice. These works will be on the highway and therefore need to be covered by a note to applicant.

I confirm the Highway Authority have no objection to this proposal subject to the following condition and note to applicant :-

Prior to first occupation at least the first 6m. of access measured from the nearside edge of the adjacent highway shall be surfaced in a non-migratory material. This surfacing shall be maintained in that condition thereafter.

Before undertaking any work which affects a public highway (including a public right of way) you must obtain specific written approval from the Director of Economy, Transport and Environment at Hampshire County Council and enter into or secure any necessary legal agreements or consents to enable the works on a public highway to proceed. It is an offence to carry out unauthorised works on a public highway. This requirement applies not only to the creation of new vehicle accesses involving excavation within a footway, verge or carriageway but also to the stopping of existing access(es) or other works on or to the public highway. For further information, please contact highways.development.control@hants.gov.uk

Hampshire Highways - on amended plans

I have no objection to the proposed car parking layout and as you know the number of spaces is a matter for the LPA. I therefore confirm the Highway Authority have no objection subject to :-

Condition

Prior to first occupation the area shown on the approved plan for the parking of vehicles shall be surfaced in a non-migratory material and maintained in this condition thereafter.

Natural England

Consultation on HRA

Nutrient Neutrality

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.

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.

Solent Recreation Mitigation Strategy

This application is within 5.6km of Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has adopted a planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

The Appropriate Assessment has taken this into consideration, therefore, providing the appropriate mitigation is secured by any approval, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site, and has no objection to this aspect of the application.

HRA

It is advised further detail is provided within Appropriate Assessments for applications proposing mitigation in line with your Council's Position Statement through a Grampian condition, regarding the nitrogen budget of the proposal (i.e. the budget in Kg/TN/year as can be calculated using the Natural England methodology, June 2019) to provide further clarity and confidence in the mitigation being proposed.

Public Spaces

None received

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: 17

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
None received	

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) Impact on TPO'd tree
- (v) Access, Parking and Refuse
- (vi) Compliance with Habitats Regulations
- (vii) CIL

- (i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable 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. In this instance it is considered that the levels at the site are such that the proposed development would be harmful to both the environmental and social objectives, as detailed below.

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

- 7.3 The proposed dwelling has been designed to replicate the host dwelling and others in the cul-de-sac, in terms of its design, height, scale, rhythm, fenestration detail, proportions etc. It is proposed to have the same finished floor level and resultant eaves and ridge line as others in the terrace ie numbers 11 to 16. As such, the proposed dwelling would provide a visually consistent appearance, that, all other matters being equal, would be compatible with its immediate surroundings.
- 7.4 However, to provide the dwelling in the manner shown, an associated massive engineering operation would be necessary to excavate the raised land to the south, ie side of the dwelling to provide a level base. It should be noted at this stage that this application has been determined based on the information submitted which has been non-technical in nature. Professional levels details and engineers cross sections have been lacking, and hence the estimated precise extent of excavation, and re-grading work has been assessed by judgement on site by comparing the proposal to existing retaining walls and site circumstances.
- 7.5 In street scene terms the estimated excavation works and resultant replacement retaining walls would probably not be overly prominent, largely being to the side of the dwelling and hence screened from public view. The existing frontage metal garage/store would be removed from site to become surface parking. There is an existing side fence forward of the dwelling, at an elevated position above this garage/store, and the section aligned east-west that is visible in street scene terms, would probably not be altered significantly. It may have to be replaced as a stronger retaining wall, but overall it is considered that the level and re-grading works in front of the dwelling required by the proposed development, would not be overly prominent or materially harmful to the visual appearance and character of the street scene.

(iii) Impact upon residential amenity

- 7.6 However, it is considered that the estimated engineering operations involved in the excavation and resultant retaining walls, and steeply graded remaining garden land, would have an adverse impact on the quality of amenity space available for future occupiers. Currently the retaining wall to the side of the existing house is 1.6m high and the land continues to rise above it. The existing dwelling has minimal flat useable amenity area with a staggered hard surfaced area between 1.8m and 3m deep with access to the upper grassed garden provided by steps adjacent the northern boundary.
- 7.7 Due to the root protection area of the TPO'd tree, it is proposed to follow the alignment of the rear retaining wall such that the proposed dwelling would only have a rear flat siting out area of a depth of 1.8m. Steps up to the higher garden are also proposed within this area which would further limit the amount of available usable area serving the dwelling. The side path (0.75m wide) and this rear area would by necessity be bounded by a retaining wall of at least 2m high. It is considered that the presence of this retaining wall in such close proximity to the rear of the house would be overbearing and lead to an adverse sense of enclosure, detrimental to the outlook from within the dwelling and harmful to the enjoyment of the limited flat amenity area for future occupiers. The remaining garden area would be so high and steep that it is considered that it would not provide useful quality amenity space suitable for future occupiers.
- 7.8 Policy CS16 of the adopted Core Strategy requires development of a high design

standard that creates places where "people want to live, work and relax" that produces a "positive relationship between buildings, street and spaces". It is considered that whilst on paper the proposed attached dwelling appears to have adequate amenity space to serve its future occupiers, the circumstances on site with the levels are quite different. As a two bedroom dwelling, future occupiers could be a small family and the limited usable amenity space with overbearing retaining wall and steeply graded area above is not considered to provide a satisfactory quality of amenity space.

- 7.9 Emerging policy H1 in the Havant Borough Local Plan 2036 puts a greater emphasis on the provision of high quality homes with a good standard of amenity. This emerging policy introduces the use of the nationally described space standards for internal space and with respect to outdoor amenity space at clause e.) requires the outdoor space to be "Of a sufficient and functional size to meet the needs of the likely number of occupants". The supporting text to this emerging policy states:

"In terms of the functionality of garden spaces, external amenity space should be of a sufficient size to accommodate a storage shed (including a cycle store where no garage provision is possible), space to facilitate the drying of clothes (rotary or washing line), table and chairs suitable for the size of the dwelling, an area for children to play in and circulation space. External private amenity or communal space does not include car parking or turning areas. " Whilst this policy has limited weight in current decision making, it does indicate the direction of travel should this decision be appealed.

- 7.10 Nevertheless it is considered that the levels on site are such that it would not be possible to provide a shed or table and chairs, contrary to this emerging policy and the aim of the existing policy CS16. It would be difficult to accommodate the standard domestic paraphernalia associated with family dwellings eg paddling pool, swing/slide. It is considered that this lack of useable amenity space would be harmful to the amenity and enjoyment of the proposed dwelling for future occupiers. It is accepted that the proposed development would not cause any adverse harm to amenity of existing residents in the host dwelling, or to neighbours.

(iv) Impact on TPO'd tree

- 7.11 The oak tree located in the north-western corner of the site is a large and significant tree representing a constraint to development. It is at the higher level and has an RPA of 10.2m such that the majority of its roots would be within the raised rear garden area. As such it is not possible to excavate and re-grade within this area and hence out of necessity the proposed layout includes extending the existing retaining wall by following the existing north-south alignment. This has the consequence of providing just a 1.8m level rear amenity area.

- 7.12 Based on the current layout the Arboricultural Officer accepts that there would be minimal disruption to the tree. However, should permission have been recommended, then due to the significant amount of excavation and ground works involved in very close proximity to the edge of the RPA, then a more detailed site specific Method Statement would be conditioned to ensure appropriate care in digging and provision of protective fencing etc. This should also include more detail of the steps up to the garden which may impact the RPA.

(v) Access, Parking and Refuse

- 7.13 The development requires 2 on site spaces per dwelling to meet the adopted Parking SPD. These are shown on the submitted plans although it is noted that access to the

spaces is tight. If permitted and implemented then it is only the northern most space serving number 11 and the eastern most space serving the proposed dwelling that could be directly accessed from the adopted highway. The central two spaces would need to manoeuvre across a shared ownership area that would need to be kept clear to avoid blocking other vehicles in. Furthermore the angled central space to serve the new dwelling could not be accessed independently. Whilst this may cause some management issues for future occupiers, it would be tantamount to the dwelling having a tandem space ie one vehicle would have to move to allow the second access, which is not in itself an inadequate parking layout that is refusable. Accordingly, the proposed parking and access arrangements are considered compliant with the Parking SPD and policy DM13.

- 7.14 In terms of cycle and refuse provision, the plans do not address these issues. Both the existing and proposed dwelling would need to have a secure cycle store and bin storage area. Due to the levels it would be impractical to have cycle sheds in the rear garden area, but it is acknowledged that there is potentially room within the front fore court area to provide both. As such this matter could be conditioned if permission had been recommended.

(vi) Compliance with Habitats Regulations

- 7.15 The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to both the increase in recreation pressure and the decrease in water quality that would result from the proposed development.
- 7.16 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/condition to secure the mitigation packages.
- 7.17 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. The applicant has indicated a willingness to enter into a legal agreement/condition to secure the mitigation packages. However on the basis of a refusal of planning permission for other matters, it is not possible to secure the mitigation packages through a legal agreement. As such, it is necessary to include the non-provision of the avoidance and mitigation packages as a reason for refusal.

(vi) CIL

- 7.18 The development is CIL liable for the net additional internal floor space, which is indicated on the CIL forms to be 45sqm. 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 2019 - 39.73% and 2020 - 49.107%.

- 7.19 The levy to be charged for this development would be £80 per square metre on new floor space plus indexation. Given that the application is recommended for refusal the Draft Liability Notice has not been issued and can be prepared at appeal stage if necessary. It is noted that whilst the forms indicate that the development would be self-build, the exemption forms have not been received to claim this exemption. This could also be resolved at appeal stage as necessary.

8 Conclusion

Based on the information submitted and detailed site visits, it is considered that the provision of this additional dwelling in the manner proposed would necessitate associated engineering works and re-grading of levels, that are constrained by the RPA of a TPO tree, and as a consequence cannot provide sufficient useable amenity space for future occupiers. The resultant 2m high retaining walls, being within 1.8m from the rear of the proposed dwelling, would be overbearing and result in an unacceptable sense of enclosure, detrimental to the outlook and amenity of future occupiers. As such the proposed development would not provide satisfactory levels of quality amenity space, contrary to adopted policy CS16 and emerging policy H1, and is recommended for refusal. The economic gain from provision of an additional dwelling is not considered to outweigh the environmental and social harm resulting from the steep levels at the site.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/19/00207 for the following reasons

- 1 Due to the steep gradients at the site, development in the manner proposed would result in an unacceptably small, flat, useable amenity area, with the remaining garden area so high and steep that it would not provide useful quality amenity space for future occupiers. The retaining walls necessary would be in such close proximity to the rear and side of the house that they would themselves be overbearing and lead to a sense of enclosure, detrimental to the outlook and enjoyment of the occupiers of the dwelling and its amenity area. As a result the proposed development would not provide satisfactory living conditions for the occupants, harmful to their amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy H1 of the Pre-Submission Havant Borough Local Plan 2036 and the National Planning Policy Framework 2019.

- 2 In the absence of a suitable agreement to secure appropriate mitigation measures towards both recreational pressures and impacts on water quality, the development would be likely to have a significant effect on Chichester and Langstone Harbours Special Protection Area, Chichester and Langstone Harbours Ramsar Site, Solent Maritime Special Area of Conservation and the Solent and Dorset Coast Potential Special Protection Area as specified in the Habitats Regulations Assessment that has been undertaken on this planning application. As such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan), Policy E16 of the Pre-Submission Havant Borough Local Plan 2036 and the Conservation of Habitats and Species Regulations 2017.