

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**Fowley Cottage, 46 Warblington Road, Emsworth,
PO10 7HH**

**Local Planning Authority Reference: -
APP/19/00623**

**Planning Inspectorate Reference:
APP/X1735/W/20/3252953**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Mr Glanville AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR Retain the existing 'Fowley Cottage' dwelling and construction of 7No. detached dwellings, two on the Warblington Road frontage and five to the rear garden area. Access to Plot 5 to be taken off Warblington Road, access to Plots 1-4, 6 and 7 to be taken off Curlew Close. At Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH

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LPA REF: APP/19/00623

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The site forms part of the grounds of Fowley Cottage, 46 Warblington Road, Emsworth which currently has a total land area of approximately 1.02Ha including a tennis court and sea flood zones to the south. The application site itself is approximately 0.82Ha, predominantly of mature garden including large trees, shrubs and hedges.
- 1.2 Surrounding the site to the north, west and east are largely detached dwellings of mixed age and design which are typical of the wider character area in this part of Emsworth, However, in terms of density there is a marked distinction, between the lower density harbourfront properties of Curlew Close and Beacon Square, and the more dense 'inland' properties of Beacon Square and Warblington Road as illustrated on the 1:1250 Location Plan at appendix A.
- 1.3 The site lies within Landscape Character Area (LCA) H1 Havant to Chichester Coastal Plain as described by the Chichester Harbour AONB Landscape Character Assessment. To the south and outside of the site lies Chichester Harbour Area of Outstanding Natural Beauty (AONB) and LCA C2 Emsworth Channel Head and Broad Inlet.
- 1.4 To the south of the site lies the 'Wayfarer's Walk', a public right of way which is part of the coastal path. Beyond this lies the Chichester Harbour AONB.
- 1.5 Adjoining to the west of the site lies Curlew Close, a small residential cul-de-sac of some 5 detached properties. A private covenant exists restricting the number of dwellings that may be served off Curlew Close to six.

Appendix A provides an OS Location Plan.

2.0 RELEVANT PLANNING HISTORY

01/51660/005 - Renewal of outline application 98/51660/3 for 7 detached houses and garages with new access for 2 of the dwellings onto Warblington Road and modification of an existing private drive from Warblington Road to serve 5 of those houses plus Fowley Cottage. Permission 03/12/2001

98/51660/003 - Residential development comprising 7 detached houses/garages and including a new access for 2 of those houses from Warblington Road and modification of an existing private drive from Warblington Road to serve 5 of those houses plus existing Fowley Cottage, Permission,30/07/1998

94/51660/002 - Renewal of Outline consent for 2 chalet bungalows with garages., Permission,31/03/1994

91/51660/001 - Renewal of outline permission 16871/4 for two chalet bungalows with garages, Permission,21/02/1991

APP/20/00017 - Outline application for 19 No. dwellings following demolition of existing dwelling. Received Jan 0202- Invalid as only £4600 fee provided against required fee of £5,082.00. Request for outstanding fee sent to agent, but not received and initial fee refunded at agent's request. (Appendix B, C and D provide copies of the proposed site plan, Design and Access Statement and invalid correspondence. This application which was submitted by the agent in response to case officer comments, is relevant in that it is based on an assessment the site constraints and indicates a denser scheme making more efficient use of the site.

APP/20/00376- full application for 9 Dwelling not yet determined. (Appendix E provides a copy of the site plan.

3.0 THE APPLICATION

- 3.1 The application as originally submitted comprised 6 no. 4 bed roomed large houses (one with a 'garden studio' single storey in height) and the retention of Fowley Cottage itself, which together with the tennis court and a significant diagonal slice of the harbour frontage of the land do not form part of the application site. During the course of the application the plans were amended to increase the number of proposed dwellings by one to 7(2 x 3-bedroom detached houses and 5 x 4-bedroom) detached houses and increasing (based on a site area of 0.82 ha) the density to 8.5 dwellings per hectare (dph) gross. It should be noted in this regard that the applicants have clarified that, when considering the net developable area of the site (allowing for constraining features such as a sewer easement and retained trees etc), the density rises to 14.4dph net.
- 3.2 The proposal provides for a private route through the site down to the harbour for future occupants of the proposed development.
- 3.3 All but one of the properties, plot 5 on the Warblington Road frontage, would be accessed off Curlew Close. Plot 5 together with the existing dwelling Fowley Cottage would be accessed off Warblington Road.
- 3.4 The submitted arboricultural report indicates that 13 individual trees and three groups of trees are to be felled and that the use of Curlew Close was to enable prominent protected trees at the north end of the site to be retained.
- 3.5 Each plot would sit roughly 150mm above existing ground level at the entrance onto Warblington Road. The site has a natural fall away to the sea, so external patios would have steps down to the existing garden levels, and those properties at the southern end of the site would be elevated by 400 to 500mm above existing ground level, with the dwellings on plots 1 and 2 fronting the harbour to be built on brick plinths at their southern end.
- 3.6 The layout and dwellings have been designed to provide each property with harbour views and the dwellings would be constructed of untreated vertical timber boarding on grey brickwork plinths with riven slate for the pitched roofs and planted single storey roofs, permeable bonded gravel is to be used to provide vehicular access.
- 3.7 The proposed eaves height would be in the region of 6.2m above finished floor, and ridge 8.45m above finished floor. For comparison Fowley Cottage from internal FFL is to eaves 4.92m and to ridge 7.77m.

4.0 **PLANNING POLICY**

National Planning Policy Framework (the relevant paragraphs are referenced in the later Planning Considerations).

The [Local Plan \(Core Strategy\)](#) and the [Local Plan \(Allocations\)](#), together with the [Hampshire Minerals and Waste Plan](#), provide the development plan for the borough. [Pre-submission Havant Borough Local Plan 2036](#) (HBLP 2036) was approved by the Council on 30 January 2019 and can be afforded limited weight. Additionally, [Emsworth Neighbourhood Plan \(ENP\)](#) carries significant weight as the examiner's report was received on the 6 January 2020.

The following policies are of particular relevance:

Havant Borough Local Plan (Core Strategy) March 2011

CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough)

CS12 (Chichester Harbour Area of Outstanding Natural Beauty (AONB))

CS15 (Flood and Coastal Erosion)

CS16 (High Quality Design)

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

CS19 (Effective Provision of Infrastructure)

CS8 (Developer Requirements)

CS9 (Housing)

CS21 (Developer Requirements)

DM8 (Conservation, Protection and Enhancement of Existing Natural Features)

DM9 (Development in the Coastal Zone)

DM10 (Pollution)

DM13 (Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

AL7 (Hermitage Stream)

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

Pre-submission Havant Borough Local Plan 2036

The Council published changes to the Pre-Submission Plan which were due to be considered at Cabinet and Council on 25 March 2020. Those changes have subsequently been recommended to the Full Council by the Cabinet when it met on 1 July and can be viewed on the link below:

<https://havant.moderngov.co.uk/ieListDocuments.aspx?CId=128&MId=11073&Ver=4>

Whilst these changes to the Pre-Submission Plan may not have weight in development management, they are intended to address the main issues arising from the Regulation 19 consultation at the beginning of 2019 and indicate the direction of travel of the Local Plan. As such, it is still recommended that they are considered as it is perfectly possible that by the point of determination of this appeal, they could have at least limited weight.

Following these changes, the policies of relevance in the emerging Local Plan 2036 are as follows:

- E1 | High quality design
- E2 | Health and wellbeing
- E3 | Landscape and settlement boundaries
- E11 | Sports and recreation
- H1 | High quality new homes
- H3 | Housing density
- H13 | Fowley Cottage
- E1 | High quality design
- IN1 | Effective provision of infrastructure
- IN3 | Transport and parking in new development
- E22 | Amenity and pollution

Additionally, of relevance is Policy EX1 – Water Quality impact on the Solent European Sites. Whilst this policy is included as a ‘change’ in the local plan and does not yet have material weight, it indicates the direction of travel of the emerging Local Plan on this matter and is attached at Appendix (F).

Emsworth Neighbourhood Plan

Importantly, the [Emsworth Neighbourhood Plan \(ENP\)](#) has also reached an advanced stage of preparation, and the examiner’s report was received on 6 January 2020. A referendum was scheduled to take place alongside the local elections on 7 May 2020 but has been postponed due to Covid-19. The Government subsequently issued updated Planning Practice Guidance which indicates that a neighbourhood plan can be given significant weight in decision-making in advance of a referendum.

The following policies from the Emsworth Neighbourhood Plan are also of relevance:

- D1 – General Design Policy
- D2 – Height, Mass & Materials
- D3 – Layout, Form & Density
- D4 – Design of Public Spaces & External Areas
- D5 – Integration & Strong Connections
- D6 – Resource Efficiency
- D7 – Mitigate Light Pollution
- L1 – General Housing Policy
- L2 – Housing Mix
- WF1 – Public Enjoyment of the Waterfront

Supplementary Planning Documents

The Council has also adopted Supplementary Planning Documents of relevance to this case, as follows:

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Borough Parking SPD updated 2011.

<https://www.havant.gov.uk/supplementary-planning-documents>

5.0 REPRESENTATIONS/CONSULTEES

5.1 Representation and consultee responses are summarised in the officer’s delegated report (Appendix G) and have previously been forwarded to PINS.

6.0 PLANNING CONSIDERATIONS

- 6.1 The attached officer's report (Appendix G) sets out the position of the Local Planning Authority and is considered sufficiently detailed to form the basis of the LPA's Statement of Case. This appeal statement will not duplicate, but will simply provide an update on relevant issues, in particular with regard to the Habitats Regulations, Planning Policy considerations and commentary on the appellants grounds of appeal.

The application was refused for the following reasons:

- 1 In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the Conservation of Habitats and Species Regulations 2017.
- 2 At a density of only 8.5 dwellings to the hectare (gross) / 14.4 dwellings to the hectare (net) the application fails to make efficient use of land and is therefore contrary to the requirements of the National Planning Policy Framework and Policies H3 and H13 of the Pre-Submission Havant Borough Local Plan 2036.
- 3 The submitted Flood Risk Assessment (FRA) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the Planning Practice Guidance. The FRA does not therefore adequately assess the flood risks posed by the development and as such the proposal is contrary to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 4 The submitted information does not accord with the requirements of the NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, in that full, up-to-date ecological information including all necessary survey, assessment and mitigation information has not been provided and therefore it has not been possible to conclude on the basis of full knowledge about the ecological impacts of the proposal that any impacts can and will be appropriately mitigated. As such the proposal is contrary to policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

The Council's case

Refusal Reason 1

- 6.2 Whilst the application was supported by a European Site Avoidance and Mitigation Checklist confirming agreement to a contribution in respect to the Solent Recreation Mitigation Strategy this was not supported by the required unilateral agreement and contribution. Subject to the satisfactory submission of the mitigation package (as agreed in the appellant Statement, although not yet provided), and essential mitigation measures in relation to the development's impact upon the Solent SPA sites in relation to water quality is secured through the use of a Grampian style condition this reason for refusal is addressed.

Solent Recreation Mitigation Strategy

- 6.3 The application site falls within the 5.6km zone of Chichester and Langstone Harbours SPA which are large estuarine basins that contain extensive intertidal mudflats and sandflats that support internationally and nationally important numbers of overwintering

and breeding bird species. Please find additional information about the characteristics of the area, the reasons for its designation, interest features and conservation objectives on the link to Natural England's website below:

<https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK9011011>

- 6.4 The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within Appendix J. The evidence base to support the mitigation strategy can be found on the link below:
<http://www.birdaware.org/research>
- 6.5 Natural England's advice in regard to all new housing development within the 5.6km zone is that it is likely to have a significant effect on the SPA. Policy DM24 of the Allocations Plan covers this issue and allows for a financial contribution to be made towards mitigation measures. Additional information in relation to the Bird Aware Solent Strategy can be viewed via the following web address:
<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>
- 6.6 On 1st April 2018, the Solent Recreation Mitigation Strategy came into force and applies to new residential development (this was as approved by Havant Borough Councils Cabinet on the 7th February 2018.) The Strategy uses a sliding scale to calculate the SRMS contribution for new residential development built within 5.6km of the coastline. As such, the contribution is now calculated based on the number of bedrooms per individual dwelling. In this case the required contribution is £5,574.35, which includes the 5% monitoring fee and administration fee of £23. The appellant has advised that a unilateral in respect to this matter will be submitted to the Planning Inspectorate. Whilst this has not yet been provided the appellant has actively engaged with the Council on this matter, however, in the event that the unilateral is not provided in a form acceptable to the Council's solicitor, the Council seek to reserve the right to make further representations on this matter.

Water Quality

- 6.7 The second likely significant effect on the Solent European Sites arises from a decrease in water quality from the proposed development. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. This is generally referred to as The Dutch Case (Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at:
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>
The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture
- 6.8 Natural England began to issue revised advice regarding planning applications to Local Planning Authorities on 1 April 2019 as a result of the Dutch Case. Considering this advice and the implications of the case law, it can only be concluded that some forms of new development, including the proposed C3 development could increase nitrogen and phosphate deposition into the protected harbours above consented levels. This results in increased nutrients in the harbour which cause a dense growth in certain plants. This in turn leads to harm to the species which use them – a likely significant effect. The only way that a new scheme could prevent this likely significant effect is for there to be no increase in nutrients into the harbour, i.e. for it to be 'nutrient neutral'.

- 6.9 Havant Borough Council is committed to achieving sustainable development, including the relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality of any European Designated Nature Conservation Sites
- 6.10 On 26 June 2019, Havant Borough Council's Cabinet approved a 'Position Statement on Nutrient Neutral Development' (please see Appendix K). This puts in place mechanisms for development to achieve nutrient neutrality. For development on sites currently used for agricultural purposes, there must be an aim to achieve nutrient neutrality on-site. However, for development on non-agricultural sites, particularly brownfield sites, this is not possible. The Position Statement sets out how development proposals should consider the issue, and in turn the implications for the development the subject of this appeal in particular. The Position Statement then goes on to suggest the use of a planning condition to secure an appropriate avoidance and mitigation package – Paragraphs 57-67 refer.
- 6.11 As part of this approach the LPA have devised a European Site avoidance and mitigation checklist and in this case the Appellant agreed to the imposition of a Grampian style condition to secure appropriate mitigation to achieve nutrient neutrality prior to occupation. The consultation with Natural England to date was on this basis and they have agreed with the findings of the assessment and the use of such a condition as a means to overcome the significant effect which otherwise would have been likely.
- 6.12 Havant Borough Council continue to work on a solution to achieving nutrient neutrality and a mitigation package. As part of the proposed changes to the Pre-Submission HBLP 2036, a new policy EX1 being established. This policy clarifies that proposals for all new dwellings need to provide a nutrient budget and will only be permitted if a mitigation package can remove the likely significant effect. Should the Council's mitigation solution package be completed and become available prior to the determination of this appeal, then an update will be sent to the Appellant and Inspectorate
- 6.13 As the Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations, I trust this update will be of assistance to the Inspector when making deliberations on this case.

Refusal Reason 2

- 6.14 The site lies within the identified urban area and is a draft housing allocation in the emerging local plan. This reason for refusal relates to making efficient use of land and that developing land at a density of only 8.5 dph is contrary to both National and Local Plan policy. This matter is considered under the following headings: -

- 1 Principle of Development
- 2 The Allocation and the Quantum of Development
- 3 Density of Development
- 4 Site Specific Constraints
- 5 Design and Development Requirements
- 6 Five-year Housing Supply
- 7 Summary

1 Principle of Development

- 6.15 The site lies within the urban area as defined by Policies CS17 and AL2 of the adopted local plan and E3 of the Pre-Submission Local Plan. Adopted policy CS17 caveats that development will be acceptable within the five urban areas of the Borough where it makes the most effective use of land. The policy also prioritises previously developed land or

underused land or buildings within the urban area. Therefore, development is supported in principle where it can be shown it will make the most effective use of land, subject to other relevant considerations. The acceptability of the principle of development therefore hinges on whether it makes an effective use of land.

2 The Allocation and the Quantum of Development

- 6.16 The site is allocated for about 40 dwellings under Policy H13 in the Pre-Submission version of the Plan. However, the proposed changes to the Pre-Submission Plan include a proposed reduction to the site capacity in the emerging allocation to 'about 20 dwellings.'
- 6.17 The Appellant's Statement of Case (paragraph 4.4) highlights that the site was originally proposed for allocation for 'about 7 dwellings' in the Draft version of the Havant Borough Local Plan (Regulation 18) which was subject to consultation between 8 January and 16 February 2018. This pre-dated the proposed site capacity in the Pre-Submission (Regulation 19) version of the Local Plan which was subject to consultation between 1 February and 18 March 2019. It is also noted that the appellant has suggested that no justification was provided setting out the reasoned approach for the increase from 7 to 40 dwellings.
- 6.18 Significantly however, a revised NPPF was published (on 24 July 2018) between Regulation 18 and Regulation 19 stages of the Plan. This indicated a clear step change from the 2012 NPPF which did not include a specific section on 'Achieving appropriate densities' (paragraphs 122-123). This policy is retained in the current NPPF version which was published on 19 February 2019.
- 6.19 Following the change in national policy, the Council published a [Residential Density Analysis Paper](#) (January 2019) in support of the Pre-Submission (Regulation 19) version of the Plan in January 2019. The report recognises the finite amount of undeveloped land and significant environmental designations in the Borough means that it is important that development is provided in a sustainable way in order to maximise this finite resource (see paragraph 1.1). In addition, the Council's [Strategic Housing Land Availability Assessment \(11th edition\)](#) methodology was reviewed to meet the requirements of the 2018 NPPF (this is discussed in further detail below).

3 Density of Development

National Policy Context

- 6.20 The 2019 NPPF includes a specific section on 'Achieving appropriate densities' which contains guidance on how planning policies and decisions should support development that makes efficient use of land (paragraph 122).
- 6.21 Paragraph 123 of the 2019 NPPF is clear that planning policies and decisions avoid homes being built at low densities and seeks to ensure that developments make optimal use of the potential of each site, especially where there is an existing or anticipated shortage of land for meeting identified housing needs. In such cases, the use of minimum density standards should be considered and as a result are being taken forward through the Havant Borough Local Plan 2036.
- 6.22 In addition, part c) under paragraph 123 indicates that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework.

6.23 The 2012 NPPF previously stated that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land) (added emphasis) (paragraph 111) as opposed to making 'efficient' or 'optimal' use of the land. Though it is noted that it did provide for local planning authorities to 'set their own approach to housing density to reflect local circumstances' (paragraph 47).

6.24 In this particular case, the application site relates to residential garden land which is excluded from the definition of 'previously developed land' in Annex 2 of the 2019 and 2012 NPPF respectively. It is noted the 2019 NPPF does not distinguish between previously developed land and undeveloped land in the context of achieving appropriate densities.

Local Policy Context

6.25 Policy CS9 of the Adopted Local Plan (Core Strategy) states that planning permission will be granted for housing proposals that will:

"achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shop and services in addition to respecting the surrounding landscape, character and built form."

6.26 Paragraph 6.21 of the supporting text indicates that the density of new housing will depend on its design and appropriateness to its location. A range of minimum density thresholds were developed using the Havant Borough Townscape and Seascape Character Assessment and the levels of accessibility to a range of facilities:

High Density	- Minimum of 60 dwellings per hectare
Medium Density	- Minimum of 45 dwellings per hectare
Low Density	- Up to 45 dwellings per hectare

6.27 Paragraph 6.22 indicates that where the quality of design justifies it, much higher densities could be achievable. This is likely to be more appropriate in town centres or highly accessible locations. It also notes that seeking higher density in such locations will reduce the requirement for greenfield land release and ensure that more people have excellent access to jobs, public transport, shops and services.

6.28 Policy H3 in the emerging Local Plan indicates that residential development must maximise its contribution to addressing housing need in the context of the finite undeveloped land in the Borough. The policy also requires development to provide for a minimum of 40 dph outside of town and district centres and defined opportunity areas. This increases to 55dph within defined 'opportunity areas'. The Residential Density Evidence Paper defines opportunities for higher density residential development dependent on accessibility to services that would support future occupants. For Emsworth, this includes shops and services, train station and bus routes. Figure 23 of the plan confirms that the site is partly within the Emsworth opportunity area and partly outside it.

6.29 Policy D3 in the Post Examination Neighbourhood Plan also indicates that development proposals should make the most efficient use of land and be developed at the optimum density. The optimum density should result from a design-led approach to determine the capacity of the site, with particular consideration given to:

- the site context
- connectivity and accessibility to surrounding areas by walking, cycling and public transport

- 6.30 It also confirms that residential development that does not demonstrably optimise the density of the site will not be supported.
- 6.31 For the purposes of Policy H3 (Housing Density) which is considered in further detail below, residential density is taken as dwellings per hectare across the net developable area. Figure 1 of the [Residential Density Evidence Paper](#) indicates the development elements should be included for gross and net area calculations. In the case of the latter “any significant buffer areas required for landscape, ecological or infrastructure such as underground pipes” should be excluded. It is considered that retained trees and the necessary buffers and root protection zones would qualify within that definition.
- 6.32 For allocations in the Pre-Submission Plan, yields were calculated using the net developable area considering any high-level mappable constraints including access, ground conditions, flood risk and contamination. In this case, the Flood Zones 2 and 3 affecting the southern part of the site were taken into account, reducing the net developable area to approximately 1ha. More detailed information was however, submitted by the applicant during the consideration of the application (APP/19/00623) which indicated a developable area of no more than 0.5ha (rounded), having regard to the tree constraints and sewer easement. As such, the proposed changes to the Pre-Submission Plan indicate a reduction in the site capacity of the allocation from ‘about 40 dwellings’ to ‘about 20 dwellings’. This is discussed in further detail below.
- 6.33 The updated site yield was calculated by applying 40 dph across the net developable area (0.5ha x 40 dph = 20 dwellings).
- 6.34 Whilst the changes to the Pre-Submission Plan anticipate the delivery of 20 dwellings, paragraph 1.10 of the supporting text (in the changes to the Pre-Submission Plan) indicates:
- “All allocations in this Plan are set as ‘about’ rather than minimums or maximums. Depending on the form of development proposed through a planning application, it could be that different numbers of homes are achieved.”*
- 6.35 It is therefore recognised that different numbers of homes may be achieved subject to other relevant policies or material considerations in the Plan.
- 6.36 It should also be noted that the application site area differs from the allocation site in the Pre-Submission Local Plan. The existing house and tennis courts are excluded from the application red line, of which the submitted application form indicates the site has an area of 0.82 ha (when compared to the 1.1 ha site area identified by the allocation).
- 6.37 Policy CS9 (as amended by the NPPF) sets out that 30-40% affordable housing should be provided on housing sites of 10 or more dwellings; and that housing proposals will provide a mix of dwelling types, sizes and tenures which help meet identified local housing need and contribute to the development of mixed and sustainable communities. It is considered that the proposed development could potentially create a form of ‘gated community’ and would not support social cohesion with the surrounding area.
- 6.38 Paragraph 6.24 of the Core Strategy states that a mix of dwelling types should be sought from one and two-bedroom flats to terrace and larger detached houses. It is noted that the proposal would provide (2 No 3 bed and 5 No 4 bed) mainly detached dwellings of substantial floor area.
- 6.39 It is considered, with the available evidence, and having regard to the invalid scheme for 19 dwellings, that the site has the potential to accommodate more development than is

proposed. Emerging policies on affordable housing (H2 of the HBLP and L1 of the ENP) and mix (H4 of the HBLP and L2 of the ENP) have a threshold of ten dwellings and so would not apply to the proposal as currently designed.

6.40 The Neighbourhood Plan also recognises that the neighbourhood plan area may wish to encourage the provision of more flats and terraced housing which would complement the large number of existing larger detached houses. In this respect, the provision of a proportion of smaller dwellings (1-2 bedrooms) is encouraged, for which there is evidenced demand.

6.41 In terms of mix, the Council's [Specialist Housing Analysis](#) indicates that Emsworth has a surplus of 4+ bedroom market properties (25%) relative to assessed need (11.6%) and a deficit of 2 bedroom properties for which there is a clear need (20% stock v 34.2% need).

6.42 In addition to the above, the supporting text to Policy H2 (para 6.28) sets out that:

"Housing proposals will be expected to make efficient use of land in line with Policy E1 (High Quality Design). Any proposal that appears to have an artificially lower density in order to avoid the affordable housing requirement may be refused planning permission".

6.43 The latter principle is also set out in Policy DM8 of the Adopted Local Plan.

4 Site Specific Constraints and Local character

6.44 Paragraph 6.33 of the supporting text for emerging Policy H3 indicates that site-specific constraints and local character may justify a different approach having regard to the site context. In such circumstances, a detailed Design and Access Statement must fully explain the rationale to the proposed approach to the design and layout of the scheme. In this respect, Section 5 of the submitted Design and Access Statement provides some detail and explanation of the constraints affecting the site, including the extent of flood plain; the existing TPOs on site; a foul sewer and a restrictive covenant (which would not be a material consideration) on Curlew Close which allows a maximum of 5 dwellings to the south of the existing house.

6.45 The submitted Constraints Plan provides a quantitative assessment of the likely developable area which takes into account the site's constraints including easement needed for the sewer, the TPOs and the root protection areas

6.46 Based on the applicant's analysis, the northern part of the site has a net developable area of 0.119 ha and the southern part of the site has a developable area of 0.367 ha. Based on the submitted scheme of 7 dwellings, this would provide a density of about 14 dph. However, the northern part of the site falls within the 'area of search for 55 dph' as defined by Figure 23 in the Pre-Submission Local Plan, whilst the southern part of the site would be expected to provide 40 dph under the emerging policy.

6.47 Based on the revised net developable area, it is considered that a more realistic site yield is likely to be around 22 dwellings (rounded), or 19 dwellings if 40 dph is applied across the entire site (provided for context, acknowledging that this is not what Policy H3 sets out).

6.48 Nevertheless, either figure is a far greater number of dwellings than envisaged by the current appeal proposals (7 dwellings).

Northern part of the site – 0.119ha x 55 dph = 6.5 dwellings

Southern part of the site – 0.367ha x 40 dph = 14.7 dwellings

40 dph across the entire site – 0.119ha + 0.367ha = 0.486 x 40 dph = 19.4 dwellings

- 6.49 On this basis, the changes to the Pre-Submission version of the Plan include a reduction to the site allocation from 'about 40 dwellings' to '20 dwellings'. (Appendix H provides a copy of the Revised Policy H13 draft Housing Allocation)
- 6.50 It is acknowledged the applicant has subsequently submitted a revised planning application reference APP/20/00376 for 9 dwellings but this is not considered to optimise the use of the site and is not capable of support in policy terms.
- 6.51 Whilst it is noted that the street scene character is predominantly large, detached dwellings, with the information available there is a limited justification for the proposed form of development and why it justifies a deviation from the density standard of 40 dph under emerging Policy H3.
- 6.52 It is noted the submitted Figure Ground plans (existing and as proposed) show that the proposed 'T-shaped' dwellings would have a larger footprint relative to dwellings in the surrounding area. It is also noted all the proposed 2-storey dwellings except 3 have a floorspace area of 279 sq. m. The size of these dwellings which would twice exceed the nationally described space standard for an 8-person 5-bedroom dwelling (128 sq.m.).
- 6.53 Whilst the density of the surrounding area, especially in respect to the coastal properties - see Reformat drawing 15048-RFT-00-ZZ-DR-A-0123-S1- Figure Ground as Proposed (Appendix M) may be similar to the appeal proposal, the footprints of the proposed dwellings is substantially greater than that of the majority of the existing dwellings both in the coastal area and inland. It is considered that with this extent of building site coverage a larger number of smaller units at a greater density could be accommodated without a substantial increase in built form and as such a denser development could in theory sit comfortably in its surroundings, as illustrated on the invalid application for 19 dwellings. This would make better use of the land and provide greater assistance to meeting housing need.

5 Design and Development Requirements

- 6.54 More generally, both the adopted and emerging local plan require high quality design in all development under policies
- CS16 High Quality Design (Core Strategy)
 - E1 High Quality Design (HBLP 2036)
- 6.55 These considerations are reinforced through the Design Policies (D1 to D7 + design checklist) in the Emsworth Neighbourhood Plan.
- 6.56 It is noted the applicant's agent has also drawn attention to the National Design Guide (September 2019) and specifically paragraph 41 which states that "well-designed proposals are shaped by an understanding of the context that identifies opportunities for design as well as constraints upon it. This is proportionate to the nature, size and sensitivity of the site and proposal."
- 6.57 Paragraph 43 also recognises that well-designed places do not need to copy their surroundings in every way. It indicates that it is appropriate to introduce elements that reflect how we live today, to include innovation or change such as increased densities. Paragraph 64 states that well designed new development makes an efficient use of land with an amount and mix of development and open space that optimises density. It also

relates well to and enhances the existing character and context.

- 6.58 The Design Guide indicates that an integrated design process should bring the ten characteristics together in a mutually supporting way, and that good design considers how a development proposal can contribute towards all of them. It is also noted that the relative priority for different characteristics should be agreed at an early stage in the design process.
- 6.59 The full set of developer considerations can be found in the emerging allocation policy; please see Policy H13 in the changes to the Pre-Submission Draft Local Plan.
- 6.60 In addition to the above, the following emerging policies which, are of relevance for housing development but currently carry limited weight and therefore insufficient to support a refusal reason, could be addressed by planning conditions and are summarised below:
- **Low Carbon Design** – Residential development is expected to achieve a 19% reduction in Dwelling Emission Rate in accordance with emerging Policy E12.
 - **EV Charging Infrastructure** – Electric Vehicle charging infrastructure should be provided for each new residential unit with private off-street parking in line with emerging IN3.
 - **Management Plans** – A management plan is likely to be required through a legal agreement to establish the whole life management and maintenance of the common parts within the development.

6 Five-year Housing Supply

- 6.61 The Council's [Five Year Housing Land Supply Update](#) (December 2019) indicates a supply position of 5.4 years with a 5% buffer.
- 6.62 However, more significantly, it should be noted the proposed changes to the Pre-Submission Plan indicate the Borough is able to meet its objectively assessed housing need of 10,433 between 2016 and 2037 but with a very small buffer (51 homes). It should also be noted that it is possible that not all of the sites will be delivered during the plan period. As a result, it is necessary to maximise the contribution of each development site towards housing supply, particularly those in more accessible areas.
- 6.63 The housing supply of 10,597 does however, take into account the reduction for the proposed site allocations from 'about 40 dwellings' to 'about 20 dwellings'.

7 Summary

- 6.64 Emerging policy H3 must be afforded some weight particularly given the clear direction in national policy to optimise the use of land. The NPPF in and of itself is also a material consideration in the determination of planning applications.
- 6.65 The development proposals would provide for a significantly lower density than set out by Adopted LP Policy C9 and emerging policies H3 and H13. A more appropriate density would not only provide an opportunity for affordable housing but a better mix of dwellings to meet local need.
- 6.66 On this basis, the current development form would fail to make an efficient use of land, and optimise the use of the site. Though it is acknowledged there are site specific constraints which reduce the net developable area, the proposed form of development

artificially reduces the capacity of the site. Furthermore, it is noted that the size of the dwellings would in the main be larger than can be found in the local context.

- 6.67 The proposed development of just 7 no (2 No 3 bed and 5 No 4 bed) dwellings on the site would not make an efficient use of the available land under Policy CS17. As such, it cannot be concluded that the proposed form of development would fully maximise the potential of the site to address housing needs and would therefore be contrary to the aims and objectives of emerging Policy H3 and paragraph 123 of the NPPF. Paragraph 123 section c) of the 2019 NPPF is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.

Refusal Reason 3

- 6.68 At the time of determining the application the development was the subject of an objection from the Environment Agency (EA) for the reasons set out in their response 30 July 2019, and whilst the FRA was updated in Version 5 to address these comments, Version 5 related to the scheme for 6 dwellings and not the revised scheme for 7 dwellings which is the subject of the current appeal.
- 6.69 It is noted that as part of the appeal documentation the FRA has now been revised to relate to the proposed 7 dwelling scheme the subject of this appeal (Version 6). The Environment Agency has been consulted on this latest Version and subject to the EA being satisfied with the FRA as now submitted then this reason for refusal would be satisfied. However, to date the Environment Agencies consultation comments on the appeal are outstanding, and therefore the Council seeks to reserve the right to submit further submissions on this matter to enable the position of the Environment Agency to be substantiated should this be necessary following their review of the additional information.

Refusal Reason 4

- 6.70 In response to issues raised by the County Ecologist at the initial consultation stage the applicant submitted an Ecological Impact Appraisal in respect of Bats (August 2019). It is acknowledged that this re-consultation should have been carried out before the application was determined. The County Ecologist has now been consulted and confirmed that no additional ecological survey work is required and as such this refusal reason is addressed subject to a compliance condition. The response from the Ecologist is provided at Appendix I.

7.0 COMMENTS ON APPELLANTS STATEMENT OF CASE

- 7.1 Para. 4.6, 5.35 and 7.16 refers to the emerging Local Plan Policy H13 allocation for about 40 dwellings, however as set out in the Council's case the wording of this policy has been changed to about 20 dwellings. Appendix (H) provides a copy of the revised proposed allocation.
- 7.2 Para. 5.58 identifies that emerging Local Plan 2036 is not at a sufficiently advanced stage and can only be afforded very limited weight, however, it is relevant to note that the emerging plan has been prepared in response to the NPPF and in particular the need to make efficient use of land. As set out in the Council's case an increase in density could be achieved with a similar or relatively small increase in footprint of development and with similar impact to the appeal proposal, in accordance with National guidance in the NPPF, Planning Practice Guidance (PPG) and the National Design Guide.
- 7.3 In respect to Para 7.8 the restrictive covenant is noted, but as identified by the in the

appellant's appeal statement is not a material planning consideration, but a legal document which can be altered by agreement of the relevant parties. Land and property ownership change over time and subsequent owners may be agreeable to a change to the covenant which would enable more efficient use of what is a limited resource.

- 7.4 Para 7.11 makes reference to the pre-application enquiry in 2016. Since then the situation has evolved and there is now a need to achieve more efficient use of land identified in both national and Local Plan Policy. This does not necessarily involve a detrimental impact on character and in the case of the appeal site given the very large size of the dwellings, whilst it is acknowledged that the invalid application for 19 has not been the subject of publicity and consultation it does indicate that a larger number of smaller dwellings could be delivered without a substantial increase in footprint.
- 7.5 Para 7.17 sets out the constraints identified by the emerging plan allocation under Policy H13, however, as set out in the Council's case and the above response to the appellant's case it is considered that there is potential to achieve a density, with a similar footprint to the appeal development which would have due regard to the constraints identified under this Policy and have proper regard to the character of the area in accordance with this Policy, Policy C16 of the adopted plan and the Borough Design Guide..
- 7.6 Para 7.38 seeks to identifies merits and benefits. These matters are important and necessary considerations for all new housing development, however, as stated in the Council's Case the proposal fails to deliver affordable housing, nor due to the proposed size of the dwellings does it deliver a satisfactory mix of housing for the market which given the size of the site and its sustainable location is an important omission.

8.0 CONCLUSION

- 8.1 The application was refused planning permission for 4 reasons. The first relates to the potential of the development to have a significant effect on the Solent Special Protection Areas. The appellants statement states that a completed unilateral agreement in respect to the Solent Recreation Mitigation Strategy contribution will be submitted to address this aspect of the first reason for refusal. Whilst this has not yet been provided the appellant has actively engaged with the Council on this matter, however, in the event that the unilateral is not provide in a form acceptable to the Council's solicitor, the Council seek to reserve the right to make further representations on this matter. In respect to the second part of the refusal reason in relation to water quality essential mitigation measures in relation to the development's impact upon the Solent SPA sites in relation to water quality have not been secured. The outstanding issues regarding water quality could however be addressed through the use of a Grampian style condition the suggested wording which has been drafted in association with Natural England and is provided under condition 3 of Appendix L.

- 8.2 The second reason for refusal relates to the proposed density of development and the need to make efficient use of land.

The site lies within the built-up area and within an area where residential development is acceptable in principle. Local Plan policy as set out under Policy CS17 identifies the need to make the most effective use of land, which is a limited resource. The site is identified as a housing allocation in the emerging local plan and in accordance with the NPPF and having regard to the site constraints and character of the area the allocation calculated by applying 40 dph across the net developable area is for in the region of 20 dwellings. Whilst the emerging plan carries limited weight it has been prepared in response to NPPF (paragraphs 122-123) and the need to achieve appropriate densities. As such the proposed development of only 7 dwellings at a density of 8.5dph is contrary the NPPF,

adopted Policies CS9 and CS17, the draft allocation under H13 and emerging plan Policy H3.

The proposed development of just 7 no (2 No 3 bed and 5 No 4 bed) dwellings on the site would not make an efficient use of the available land under Policy CS17. As such, it cannot be concluded that the proposed form of development would fully maximise the potential of the site to address housing needs and would therefore be contrary to the aims and objectives of emerging Policy H3 and paragraph 123 of the NPPF. Paragraph 123 section c) of the 2019 NPPF is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.

Having regard to the site constraints and the fact that the floorspace of the proposed dwellings is over twice that required by the National Space Standards, there is potential to increase the number of dwellings, without compromising space standards and the impact on the site and surrounding development. In this respect the invalid scheme for 19 dwellings is useful in providing an approach as to the potential for a larger number of smaller dwellings, which would not only assist in meeting housing need, but provide an opportunity for Affordable Housing which is required under adopted LP Policy CS9 for schemes of 10 dwellings or more. .

In respect to the third reason for refusal, as part of the appeal documentation the FRA has now been revised to relate to the proposed 7 dwelling scheme the subject of this appeal (Version 6). The Environment Agency has been consulted on this latest Version and subject to the EA being satisfied with the FRA as now submitted then this reason for refusal would be satisfied. However, to date the Environment Agencies consultation comments on the appeal are outstanding, and therefore the Council seeks to reserve the right to submit further submissions on this matter to enable the position of the Environment Agency to be substantiated should this be necessary following their review of the additional information.

In response to issues raised by the County Ecologist at the initial consultation stage the applicant submitted an Ecological Impact Appraisal in respect of Bats (August 2019). It is acknowledged that this re-consultation should have been carried out before the application was determined. The County Ecologist has now been consulted and confirmed that no additional ecological survey work is required and as such this refusal reason is addressed subject to a compliance condition (condition 11 of the Council's suggested conditions at appendix L.

Having regard to the above considerations the Inspector is therefore respectfully requested to dismiss the appeal.

APPENDICES

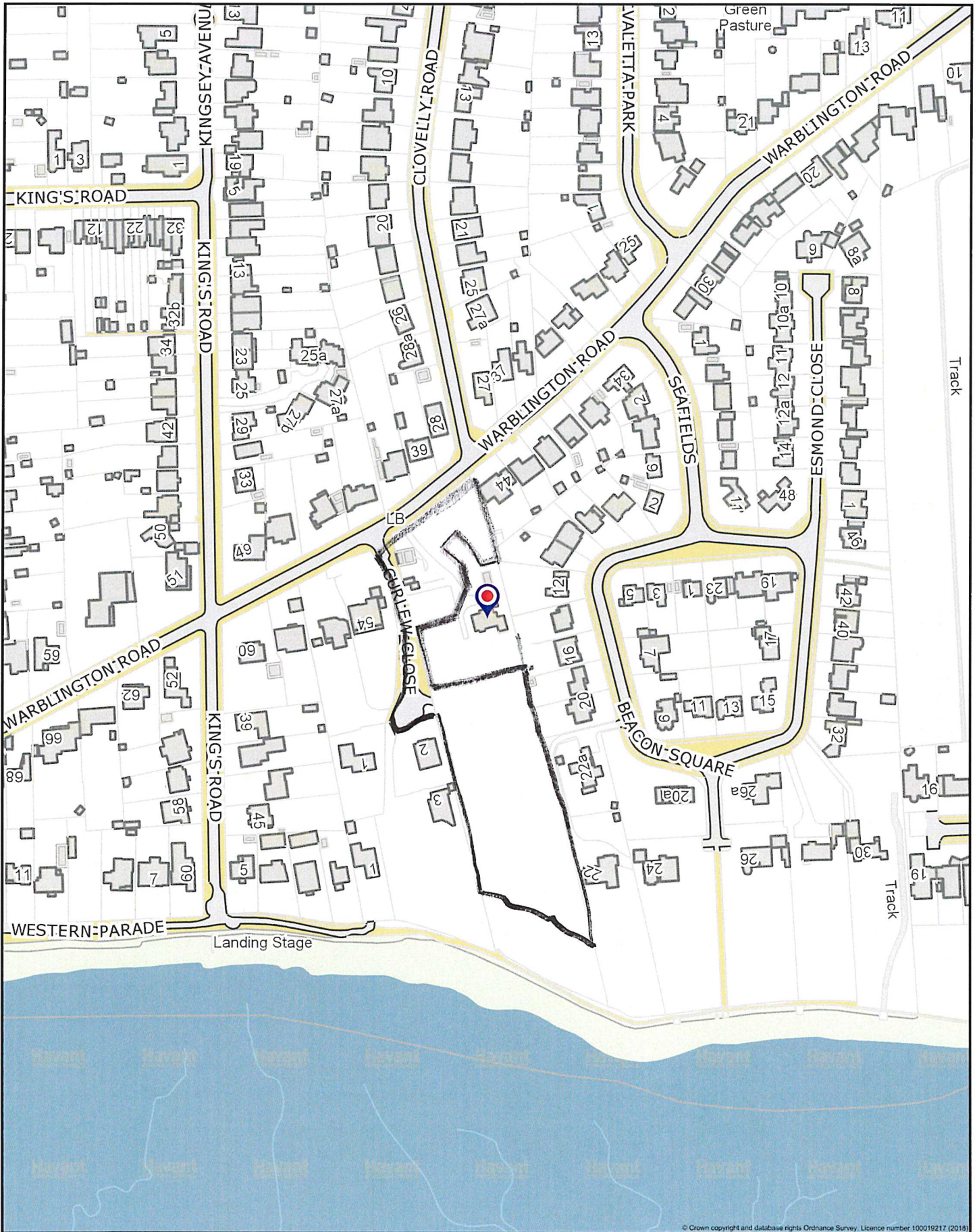
- (A) Borough Map and 1:1250 Location Plan
- (B) APP/20/00017 Invalidate correspondence Jan 2020.
- (C) APP/20/00017 Proposed Site Plan
- (D) APP/20/00017 Design and Access Statement
- (E) APP/20/00376- Full application for 9 Dwelling not yet determined. - site plan
- (F) Emerging Local Plan Policy EX1
- (G) Officers delegated report for this application
- (H) Emerging Local Plan Policy H13
- (I) County Ecologist Response dated 23 July 2020.
- (J) Potential effects on SPA of residential development
- (K) Havant Borough Council's Position Statement on Nutrient Neutral Development

- (L) Suggested conditions
- (M) Reformat drawing 15048-RFT-00-ZZ-DR-A-0123-S1- Figure Ground as Proposed

APPENDIX A

Borough of Havant





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Fowley Cottage

N
Scale: 1:2500

Havant
BOROUGH COUNCIL

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APPENDIX B

Mr Swanton
Re-Format LLP
Buckmore Studios
Beckham Lane
Petersfield
GU32 3BU

Our Ref: APP/20/00017
Direct Line: 02392 446239
Ask For: Mrs C Monks
Email: planning.development@havant.gov.uk

09 January 2020

Dear Mr Swanton

**The Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order 2015**

Site Address: Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH

Proposed Development: Outline application for 17 No. dwellings following demolition of existing dwelling. Access via Warblington Avenue. All other matters reserved.

I acknowledge receipt of your application received 07 January 2020. The application has been examined against the mandatory National Requirements and Havant Borough Council's Local Requirements and is, in our opinion, invalid for the following reason(s):

- . There is a discrepancy within your Design and Access Statement in that, on page 7, it describes the breakdown of the number of properties. You total adds up to 18 No. new dwellings and does not include the 5 bed property as detailed on your Proposed Site Plan (P02). Please can you clarify and amend accordingly.
- . Your Design and Access Statement and Application Form state the site is 0.82 Hectares. I have measured this using our digital measuring tool and have reached a total of 1.03 Hectares. Therefore please could you provide payment of an additional £462.

Our [Local Information Requirements](#) document provides further information and guidance.

Please supply the information requested within 21 days of the date of this letter. If you are unable to respond within this time, please contact the officer named above. The statutory period within which the Council should make its decision will not begin whilst the application remains invalid.

If you submitted your original application through the Planning Portal, please send your revised documents direct to us by email, rather than a revised version in the Portal, as we can process your amendments more efficiently this way.

However, if you feel that the information requested above is not appropriate or adds nothing to the application, please provide written justification for excluding the information and this will be taken into consideration.

Yours faithfully

Mrs C Monks
Technical Officer
Our Ref: APP/20/00017

APPENDIX C



Key:

 objects to be removed

- 1 Unit Type 1 - 5 bed detached
- 2 Unit Type 2 - 4 bed detached
- 3 Unit Type 3 - 3 bed semi-detached
- 4 Unit Type 4 - 2 bed semi-detached
- 5 Garden Studio (52sqm)

Accommodation Schedule					
Unit Type no	no	area	total m2	total ft 2	
1	5 bed house	1	270	2906	
2	4 bed houses	4	170	680	12809
3	3 bed houses	4	120	480	5166
4	2 bed houses	6	97	582	5166
sub-total		15	2012	21657	
3	3 bed houses	4	120	480	5166 (Fowley Cottage Area)
TOTAL		19	2492	26824	

revisions		
P01	12/16/2019	
P02	12/23/2019	Additional unit added
P03	1/3/2020	2 units added
P04	1/10/2020	Red line revised to include bell-mouths

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drawn by
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checked by
MS

date
Dec 2019

scale at A1
1:500

project title
46 Warblington Road

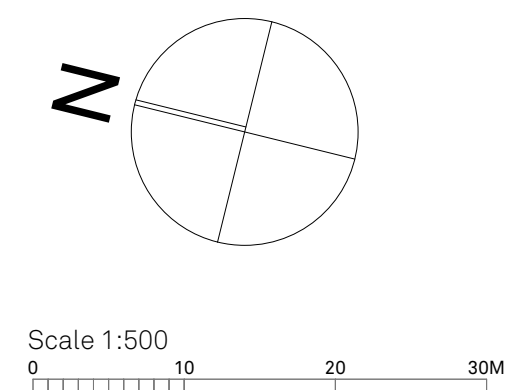
document title
Proposed Site Plan - 19 Unit Scheme

status
Suitable for Co-ordination

drawing number
15048-RFT-00-ZZ-DR-A-0121-S1

drawing status
S1

revision
P04



APPENDIX D

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RE- FORM AT

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46 Warblington Road, Emsworth

Design and Access Statement



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1 / Introduction

This Design, Access and Planning Statement has been prepared to support an outline application to demolish the existing 'Fowley Cottage' dwelling and construct 19 dwellings.

Fowley Cottage, 46 Warblington Rd, Emsworth PO10 7HH, is situated on the southern side of Emsworth adjacent to the coast.

Our client, Charles Glanville, is the current owner, having lived in the cottage with his parents for many years.

Since inheriting the home, he has wanted to realise a vision to transform the site into a small but aspirational community of dwellings of a high standard of contemporary design with shared communal amenities and sustainable design.

A previous scheme for seven new dwellings and the retention of the existing house was consented in 1998.

This new proposal follows a previous application for a lower number of 6 units. The local plan emerging policy seeks a site allocation of a considerably increased density of 40 dwellings. Following pre-application advice, a scheme of 19 units seeks to moderate the requirement for additional density while dealing with the on site constraints in order to provide a realistic quantum of development.

The site constraints, primarily for trees and flooding have been assessed and accounted for in the proposals, and additional advice from Havant Borough Council is reflected in the design



above
Aerial view of site location

2 / Site Assessment

2.1 / Context

The site lies within the built up area of Emsworth and comprises a large detached dwelling set in substantial grounds, backing onto the harbour. The area is primarily residential in character, comprising mainly detached two storey dwellings set in landscaped gardens.

The existing house is accessed via a gate point from Warblington Road. It is set back from the public realm and is not clearly visible due to extensive trees and hedges to the boundaries.

The site area is 1.02 ha (2 acres) excluding the flood zone at the southern end of the site.

Curlew Close is situated on the western boundary and provides vehicular access to three adjacent houses. The client has established consent to provide access to five of the proposed houses via this road.



1. View from the water



2. View of the original house



3. Junction to Curlew Close



4. View from garden to water



5. View from coastal path



6. View of existing tennis court

2 / Site Assessment

2.2 / Constraints

The site has a number of key constraints which have influenced the arrangement and design of the proposed houses in relation to boundaries, trees, views and topography.

Trees

The site contains a number of important trees, many of which are under individual and group tree protection orders.

A full arboricultural survey was carried out to enable the proposals to work effectively around established root protection zones. The houses are arranged such that the existing retained trees provide useful screening and create a mature and established setting.

An Arboricultural Impact Assessment with site-specific method statements for any proposed encroachment of tree 'Root Protection Areas' will be developed in line with HBC's Arboricultural Officer requirements.

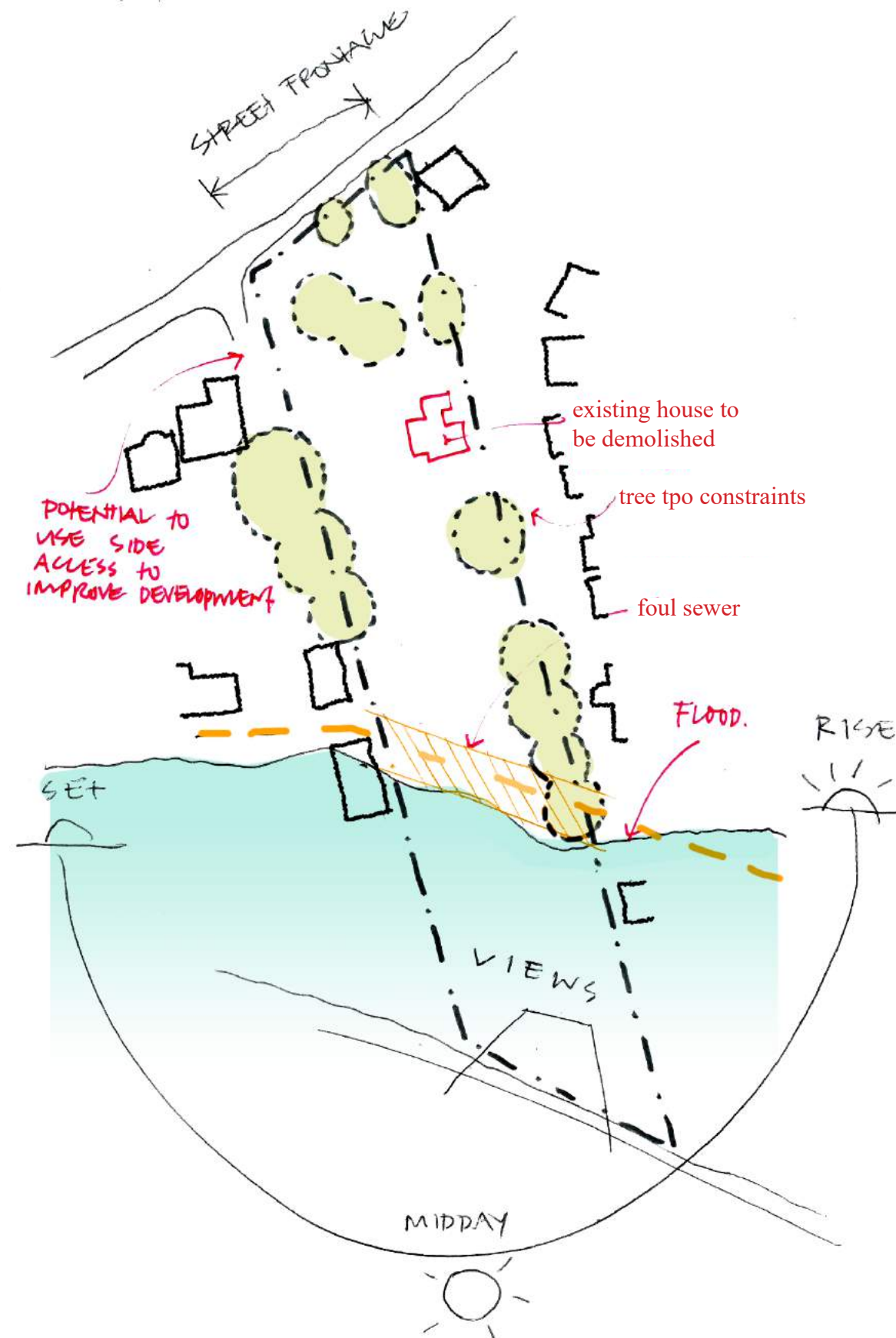
Hedging and additional tree planting is utilised for the division of plots.

Drainage & Flood Risk

A flood risk assessment was carried out to establish the risk of tidal flooding in 100 years. The findings place a desired safety factor on the site for internal floor levels not to be lower than 4.5m AOD. The proposals are therefore carefully designed to minimise overall height and mass on the site and minimise the effect on distant views and neighbours.

Underground services

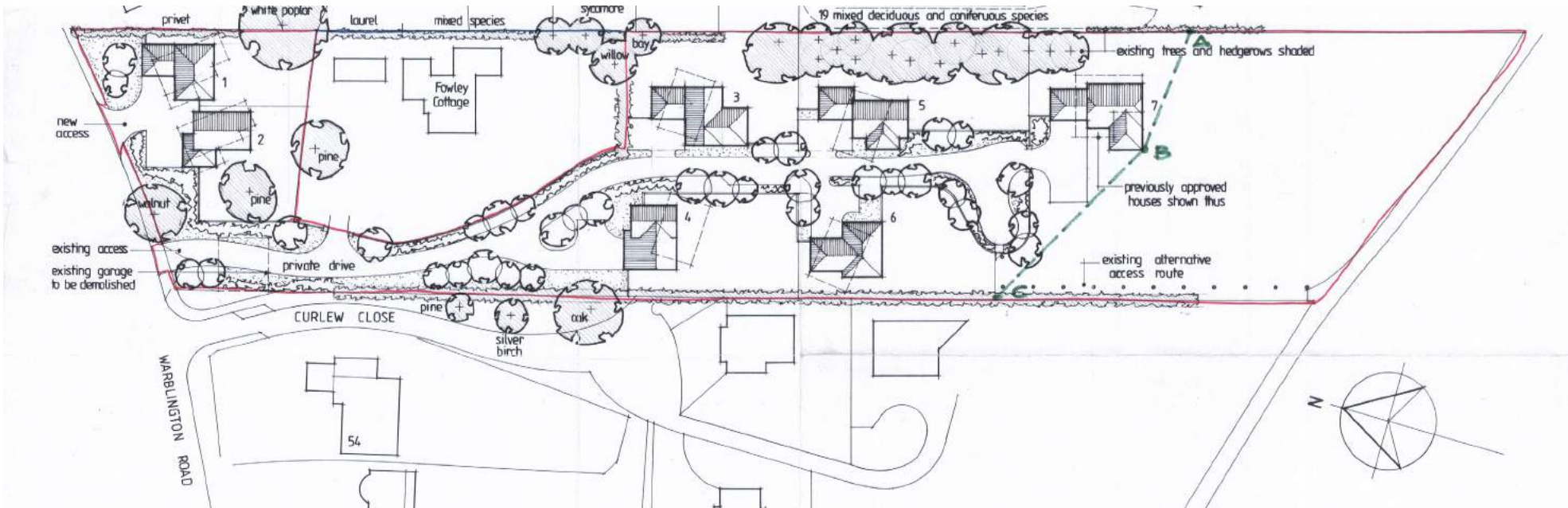
There is an underground foul sewer running diagonally across the site, and a surface drain running on the western boundary with an outfall into the sea.



2 / Site Assessment



The Coastal Path



Earlier consented scheme

2.2 / Constraints

Sewers

There is an existing public sewer which crosses the site and requires a 3m easement zone. In response to Havant's Drainage Engineer's comments the position of houses 1 & 2 has been adjusted to respect the easement.

Neighbours

Given that the flood impact assessment stipulates an FFL no lower than 4.5 AOD, the mass and overall height of the proposed houses, and the general arrangement on site has been carefully considered to have the minimum impact on neighbouring houses in terms of daylight, views and the overall enjoyment of the natural setting.

The impact on the character and appearance of the area

The site is located within Landscape Character Area 25 (LCA 25 – Emsworth Western Suburbs) within the Havant Borough Townscape, Landscape and Seascape Character Assessment (HBTLSA).

Whilst the site exists within a developed area, the guidance does make reference to

- Proposals require appropriateness to the Chichester Harbour AONB context
- Preservation of the special character of the Warblington Road streetscape

The southern site boundary directly abuts the Chichester Harbour AONB (& extent of the SSSI) and :

- A restrained approach to external lighting is encouraged. Discrete and functional low level fittings would benefit subtle wayfinding with minimal light spill / pollution. Up-lighting or Light 'washing' of architectural facades would be deemed wholly inappropriate.
- A similarly restrained approach for glazing arrangement is also encouraged.
- Retention of the existing boundary treatment along the southern boundary (including the split-rail timber fencing) for consistency with the adjacent properties is desirable.
- Preservation of the open landscape character to the southern part of the site to mitigate long distance views from the harbour and reduce the impact on the adjacent coastal path.
- Careful orientation of built-form to promote views through the site would be deemed beneficial.
- Enhancement of vegetation along the eastern and western site boundary to mitigate oblique views from the south-east and south-west.

All of the above guidance has been carefully incorporated into the proposals.

2.3 / Planning History

The site was the subject of an earlier successful application. Outline planning permission renewal has now lapsed to construct seven dwellings on the site. It was granted in December 2001 (ref 01/516000/005).

An existing covenant on the site restricts the number of new dwellings accessed off Curlew Close to six.

3 / Design Proposals

3.1 / Pre-Application Advice

The previous application received positive planning support at pre-app stages in November 2016. Since then, the emerging local plan and site allocation suggests a considerable increase in density is sought.

Pre-application opinion was received during November 2019 which adjusted the scheme in several iterations to settle on a 19 unit scheme with a mix of 2, 3, 4 and 5 bed houses.

3.2 Use & amount

The proposals are for 19 houses as follows:

6 x 2 bed houses of circa 97m² GIA
 8 x 3 bed houses of circa 120m² GIA
 4 x 4 bed houses of circa 170m² GIA
 1 x 5 bed house of circa 270m² GIA

The mix forms a broad range of sizes of dwellings.



Aerial View from North

3 / Design Proposals

3.3 / Layout and Scale

The arrangement of proposed built-form to the Warblington Road site frontage has been carefully considered in terms of scale, placement and appearance in relation to the street-scene character of dwellings with pitched roofs. Houses are positioned to address Warblington Road with the main entrance set back behind existing trees.

The existing access is utilised to create a simple informal central shared surface street. The dwellings are orientated to preserve views through the site and ensure many of the plots benefit from a sea view with a path providing access to the sea from all plots.



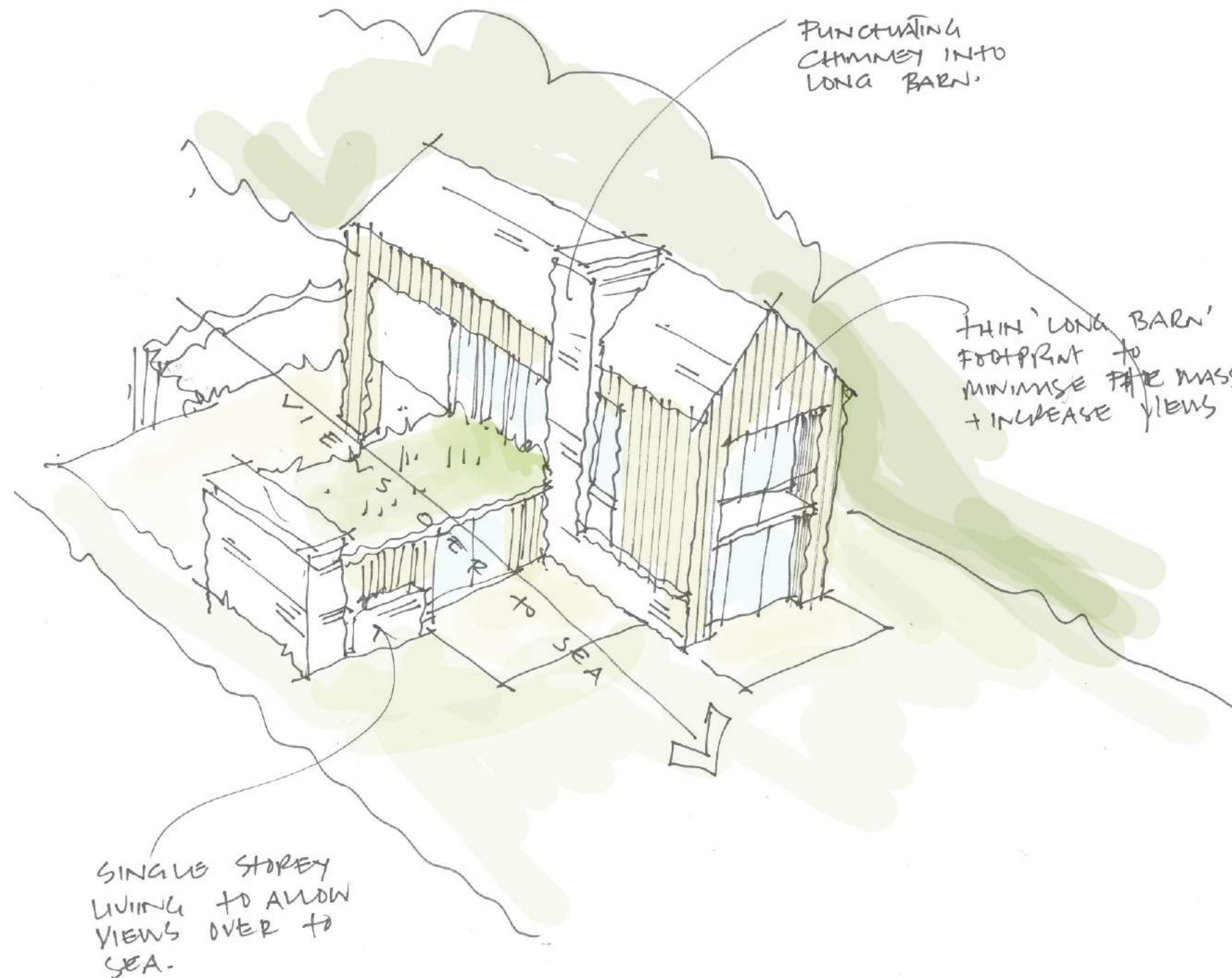
Street Elevation

3 / Design Proposals

3.4 / Massing & Appearance

While appearance is a reserved matter. In terms of the architectural context, the immediate locality comprises a broad and ranging mix of architectural styles (most notably in glazing arrangements), but in the main this comprises a predominance of two storey dwellings with pitched roofscapes. In this context the proposed pitched roof option is felt to be more appropriate.

The design proposals are contemporary in appearance, but offer a discrete solution to this key waterfront location. The dwellings typically consist of a narrow two-storey element and a single storey section which, in conjunction, deliver the required footprint whilst minimising overall mass and maintaining vistas through the site.



Concept Sketch Showing Key Building Components

3 / Design Proposals

3.5 / Materials

The balance between glazing, cladding, eaves and roof pitch has been carefully considered to deliver a comfortable composition of texture, light and mass.

Brickwork

A soft earthy grey brickwork plinth connects the buildings to the ground and provides warmth and solidity in planters, chimneys and retaining structures.

Timber Boarding

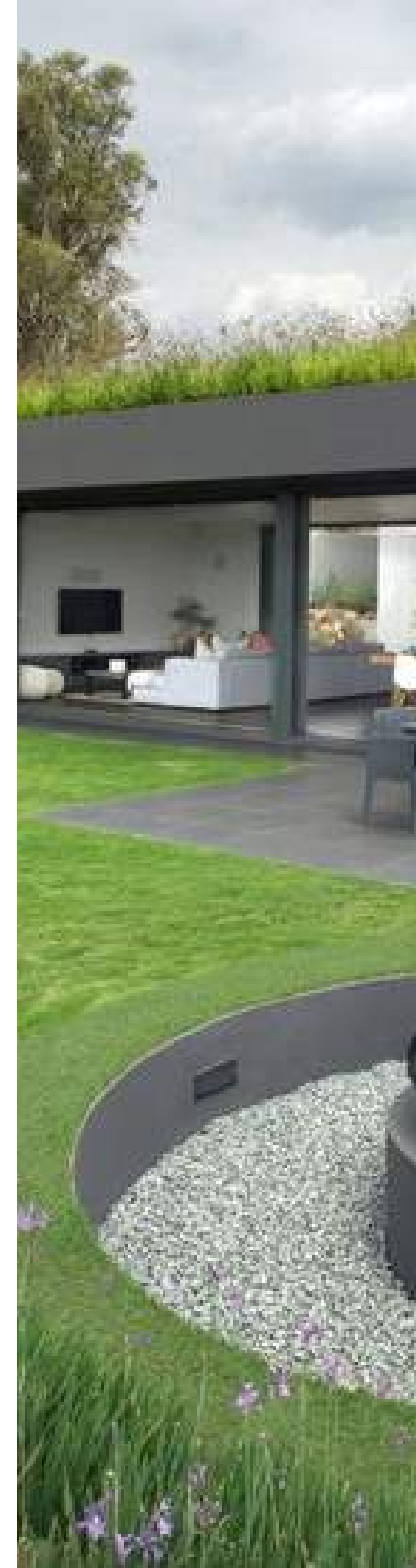
Vertical timber boarding softens to a silver grey when untreated and provides a perfect backdrop to the waterfront setting. The material is well suited to marine environments and provides a low maintenance solution which will mature sympathetically and consistently over time.

Slate

The design requires a simple and honest roof material. A natural riven slate roof is chosen for this.

Green Roofs

The single storey accommodation has a planted roof, which provides a softened roof datum line and is attractive to look down upon from the two storey elements.





Old Burseldon (Re-Format LLP)



Doone, Selbourne (Re-Format LLP)



Doone, Selbourne (Re-Format LLP)



Wayside, Petersfield (Re-Format LLP)



Boundary House (Re-Format LLP)

3 / Design Proposals

3.7 / Energy Statement

The design will look to meet and exceed current building regulations through the use of highly insulated walls, floors and roofs.

The client's intention is to provide low-energy homes that are highly air-tight and utilise sustainable energy sources such as air source heat pumps and PV panels.

The green roof will offer biodiversity by supporting insect life; the lower end of the food chain supporting larger animals and plant life. The green roof also defers rainfall effects by slowing the rate at which water re-enters the water cycle reducing the risk of flash flooding.



4 / Access

4.1 / Vehicular Access

The new dwellings are accessed via the existing driveway to Fowley Cottage which will be reconstructed in constrained gravel.

A turning head is provided to allow refuse / delivery vehicles to turn around.

4.2 / Inclusive Access

The new dwellings will be designed to comply with building regulations part M for access with level access being provided to dwellings.

APPENDIX E

APPENDIX F

EX1 | Water Quality impact on the Solent European Sites

Why this policy is needed

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

EX1 | Water Quality

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

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

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

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

How this policy works

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

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

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

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

APPENDIX G

access for 2 of those houses from Warblington Road and modification of an existing private drive from Warblington Road to serve 5 of those houses plus existing Fowley Cottage, PERM,30/07/1998

94/51660/002 - Renewal of Outline consent for 2 chalet bungalows with garages., PERM,31/03/1994

91/51660/001 - Renewal of outline permission 16871/4 for two chalet bungalows with garages, PERM,21/02/1991

03/51660/008 - Reduce eastern sector by 2m and crown thin by 20% a Norway Maple and reduce eastern sector by 1.5m and crown thin by 30% a Whitebeam, both trees within Group G2 of TPO 1703., PERM,21/10/2003

07/51660/009 - Application to reduce overhang to 22a Beacon Square by 3m a Beech and Ash; to crown reduce by 20% a Holly Rowan and Hawthorn all within Area 1; subject to TPO 1703., PERM,29/05/2007

07/51660/010 - Crown reduce by 10% a Silver Birch tree (within Group 1) subject to TPO 1703. , PERM,28/09/2007

APP/13/00076 - Fell 1No. Pine and reduce eastern sector of 2No. Beech by 2.5m. Both trees are rear of 20 and 22A Beacon Square and within Group Order 1 of TPO 1703., PERM,01/03/2013

APP/13/00077 - Reduce 1No. Willow by 4m in height back to previous pruning points; fell 2No. Ash; reduce 1No. Beech by 3.5m in height and 1.5m in width. All trees to rear of 22A Beacon Square and within Group Order 1 of TPO 1703., PERM,01/03/2013

APP/13/00295 - Reduce 1No. Rowan by 3m in height and remove dead section on north sector; reduce height and east sector of 1No. Maple by 2.5m to previous pruning points. Both trees within G2 of TPO 1703., PERM,30/04/2013

APP/14/00156 - Reduce two branches of 1No. Monterey Pine (T6) by 3m at 6m height on west side of tree; subject to TPO 0891. , PERM,20/03/2014

APP/14/00133 - Reduce branches of 1No. Monterey Pine (T4) on western sector by 1-2m, subject to TPO 1352. , PERM,20/03/2014

APP/16/01141 - Crown lift 1No. Oak (T7) by 2m and remove deadwood; Crown lift 1No. Pine (T6) by 2m and remove split limb. Both trees subject to TPO 0891., PERM,06/01/2017

APP/16/01263 - Crown raise by 3m and crown reduce by 1.5m, 3No. Western Red Cedar Trees. All trees within G2 subject to TPO 0891. , PERM,31/01/2017

APP/19/00445 - Crown reduce 1No. Maple tree by 2.5M in height and 1.5M on laterals back to previous pruning points., PERM,31/05/2019

APP/19/00618 - Fell 1No Swedish Whitebeam (T1 on application form), within G2 group of trees subject to TPO 1703., DEL,

3 Proposal

The application as originally submitted comprised 6 no. 4 bed roomed large houses (one with a 'garden studio' single storey in height) and the retention of Fowley Cottage itself, which together with the tennis court and a significant diagonal slice of the harbour frontage of the land do not form part of the application site. During the course of the application the plans have been amended to increase the number of proposed dwellings by one to 7 and increasing (based on a site area of 0.82 ha) the density to 8.5 dwelling per hectare (dph) gross. It should be noted in this regard that the applicants have clarified that, when considering the net developable area of the site (allowing for constraining features such as a sewer easement and retained trees etc), the density rises to 14.4dph net.

The proposal provides for a private route through the site down to the harbour for future occupants of the proposed development.

All but one of the properties, plot 5 on the Warblington Road frontage, would be accessed off Curlew Close. Plot 5 together with the existing dwelling Fowley Cottage would be accessed off Warblington Road.

The submitted arboricultural report indicates that 13 individual trees and three groups of trees are to be felled and that the use of Curlew Close was to enable prominent protected trees at the north end of the site to be retained.

To reflect variation in ground levels, dwellings on plots 1 and 2 will be built on brick plinths at their southern end.

The layout and dwellings have been designed to provide each property with harbour views and the dwellings would be constructed of untreated vertical timber boarding on grey brickwork plinths with riven slate for the pitched roofs and planted single storey roofs, permeable bonded gravel is to be used to provide vehicular access

The proposed eaves height would be in the region of 6.2m above finished floor, and ridge 8.45m above finished floor. For comparison Fowley Cottage from internal FFL is to eaves 4.92m and to ridge 7.77m.

Each plot would sit roughly 150mm above existing ground level at the entrance onto Warblington Road. The site has a natural fall away to the sea, so external patios would have steps down to the existing garden levels, and those properties at the southern end of the site would be elevated by 400 to 500mm above existing ground level.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

The Chichester Harbour AONB Management Plan 2014-2019 and draft 2019-24 version

Emsworth Design Statement July 2008 as (adopted by Havant Borough Council)

The Havant Borough Townscape, Landscape and Seascape Character Assessment, February 2007 (HBLCA)

Landscape Character Assessment (NCA, 2014)

Emsworth Neighbour Plan

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS12	(Chichester Harbour Area of Outstanding Natural Beauty (AONB))
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS21	(Developer Requirements)
CS8	(Community Safety)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

DM8 (Conservation, Protection and Enhancement of Existing Natural Features)
DM9 (Development in the Coastal Zone)

Havant Borough Local Plan (Allocations) July 2014

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

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

The Pre-submission Havant Borough Local Plan 2036 policies are of particular relevance:

- E1 High quality design
- E2 Health and wellbeing
- E3 Landscape and settlement boundaries
- H13 Fowley Cottage
- E11 Sports and recreation
- H1 High quality new homes
- H3 Housing density
- E1 High quality design
- IN1 Effective provision of infrastructure
- IN3 Transport and parking in new development
- E22 Amenity and pollution

The following policies from the Emsworth Neighbourhood Plan are also of relevance:

- D1 – General Design Policy
- D2 – Height, Mass & Materials
- D3 – Layout, Form & Density
- D4 – Design of Public Spaces & External Areas
- D5 – Integration & Strong Connections
- D6 – Resource Efficiency
- D7 – Mitigate Light Pollution
- L1 – General Housing Policy
- L2 – Housing Mix
- WF1 – Public Enjoyment of the Waterfront

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

I have no objection to the trees shown for removal. I agree with the Arboricultural Consultant's findings that they are 'C' class trees and shouldn't therefore be a constraint to the proposed development.

The Willow (T18) which is also shown for removal, is currently protected by a Tree Preservation Order. I would expect to see a suitable replacement be planted for this tree and details of which should be submitted for approval.

The Pines within (G3) on the Tree Protection Plan are shown for retention, however on the proposed site plan they are shown for removal. This should be clarified. If they are to be removed, suitable replacement trees should be planted and details submitted for approval.

It is noted that the new driveway at the front of the property is to be of 'No dig' construction. This work will need to be overseen by the appointed Arboricultural

Consultant.

The Arboricultural Method Statement makes no mention of the access to be created by the mature Oak tree (T25) off Curlew Close. A site specific method statement is required to be submitted for this and it should be a no dig construction.

Details of underground services and a demolition method statement should be submitted as part of the application process.

The Method Statement also makes reference to pre start meetings and on site Arboricultural supervision, This will be essential.

Re consultation comments: The revised layout does not appear to further impact trees however a revised Arb method statement and tree protection plan should be submitted to reflect the changes.

Further comments

The revised layout is acceptable however I would still like to see a replacement for the Willow (T18) which is protected by a Tree Preservation Order. Services will also need to be supplied (conditioned). The work should be carried out in strict accordance with the Arboricultural Method Statement and Tree Protection Plan.

Building Control

No adverse comments

Chichester Harbour Conservancy

No objection, provided -

- (a) The council secures the necessary SDMP payment to fund ecological mitigation from increased recreational disturbance through a formal legal agreement before the development commences;
- (b) the council is satisfied that no part of any existing structure needing to be demolished is currently being used as a bat roost;
- (c) Consideration should be given to handing the dwelling footprint of plot 4, to allow the private path down to the foreshore to be a continuous run (in the interests of crime prevention and ease of manoeuvring a small boat to the water); and,
- (d) subject to the following planning conditions being imposed: -
 - Tree protection to be in place before the commencement of development and retained throughout in accordance with the arborist report recommendations;
 - Any tree felling to take place outside the bird nesting season (i.e. not between March to October);
 - Agreement of a Construction Environment Management Plan, to ensure that the public right of way in front of the site is not obstructed during the build process;
 - Samples of external facing and roofing materials – including solar panels if they are to be installed on roof surfaces - to be agreed (with the Conservancy's preference of colour finishes of a dark hue);
 - A management plan should be prepared to maintain the land between the site and the coastal footpath and no structures should be erected within it (i.e. if these areas are to be formally conveyed to any of the residential plots proposed, permitted development rights relating to outbuildings, including swimming pools should be withdrawn);
 - Details of a hard and soft landscape design to follow the principles set out in the Terra Firma Landscape Strategy drawing 2067-TF-00-00-SK-L-0001 02 to be submitted for approval/implemented/maintained: the scheme should at least include the replanting of 20 new trees to heavy nursery standard; and,
 - Implementation to the incorporation of bat or bird boxes into the fabric of the new dwelling, and wildflower meadow planting, recommended by the applicant's ecologist, to achieve a net gain to biodiversity.

Coastal Engineering

No comments received

Community Infrastructure

The CIL rate is set out in our Charging Schedule:

<http://www.havant.gov.uk/sites/default/files/documents/HBC%20CIL%20Charging%20Schedule%20Full%20Document%20Feb%202013.pdf>

The amounts in the Charging Schedule are indexed according to the year in which permission is issued. If the permission is issued in 2019 the amount of indexation will be 39.73%.

We note that the applicant has submitted CIL Form 7 (1) to obtain Self Build Relief in respect of Plot 1. The Case Officer will need to advise the CI Team of the GIA in square metres to enable the CI Team to confirm the exemption.

S106

Subject to statutory consultee responses we would expect the S106 to include (amongst any other site specific obligations necessary):

1. Affordable Housing
2. Monitoring Fees*
3. Solent Recreation Mitigation Strategy (see further information)**
4. Highway Works (HCC)
5. Others? Nutrient neutrality - See www.havant.gov.uk/nitrogen

SEE THE HBC DEVELOPER CONTRIBUTIONS GUIDE FOR ADDITIONAL INFORMATION:

<http://www.havant.gov.uk/planning-and-environment/planning-policy/community-infrastructure-levy/developer-contributions-guide>

Countryside Access Team

No comments received

County Ecologist

The submitted Phase 1 Ecological Survey (EcoSupport, May 2019) is in draft format: we would expect a finalised document for planning purposes. In addition, additional ecological surveys have been recommended for wintering birds and roosting bats. The results of these surveys should be used to develop avoidance and mitigation measures. Again, these should be provided prior to determination. Given the close proximity of the application site to highly sensitive designated nature conservation sites, fully-detailed mitigation measures will be required, as will a Habitats Regulations Assessment.

NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the LPA prior to determination, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable.

County Minerals

No comments received

Crime Prevention -Minor Apps

No comments received

Developer Services, Southern Water

Southern Water requests that this application is not determined until such time as the applicant produces a suitable development and drainage layout maintaining the below standoff distance requirement of public surface water sewer.

Conditions and informatives required.

Officer note- *Whilst the layout shows the proposed housing set off the sewer, there are no details in respect to the below standoff distances.*

Engineering/Drainage

No comments received

Environment Agency

In the absence of an acceptable flood risk assessment (FRA) we object to this application and recommend that planning permission is refused.

Reason

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance.

The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- take the impacts of climate change into account adequately. Flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they will not make the development resilient to the flood levels for 2115 of 4.5mAOD as stated in paragraph 1.14 of FLOOD_RISK_ASSESSMENT-1180237 (FRA) submitted with the application. Consequently the development proposes inadequate:
- Raised finished floor levels. Paragraph 1.16 of the FRA states “In this regard, floor levels of the southernmost properties could be designed to be above the 2115 estimated flood level of 4.5m AOD” , but it does not specify what they will actually be. The drawing in Appendix 6 titled “Foul and Surface Water Drainage Strategy” shows the 2 southern most properties as having finished flood levels (FFL) of 4.2mAOD and 4.1mAOD which are both below the expected 2115 flood level of 4.5mAOD.
- consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event
- Safe access and egress routes
- consider how a range of flooding events (including extreme events) will affect people and property
- Resistance and resilience measures

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which

addresses the points highlighted above.

Advice to Applicant

Finished floor levels (FFL)

The FRA needs to ensure that built development proposals incorporate adequate flood risk mitigation up to the design flood level for 2115 of 4.5mAOD (as stated in the FRA). The following government website will assist the applicant in determining the adequate freeboard for the development (this includes coastal, estuarine and tidal) :
<https://www.gov.uk/government/publications/accounting-for-residual-uncertainty-an-update-to-the-fluvial-freeboard-guide>

Safe access and egress

The application needs to demonstrate that occupants can remain safe for the lifetime of the development when allowances for climate change are taken into consideration. There needs to be sufficient flood risk mitigation up to the design flood level and/or specified arrangements for safe access and egress.

Flood resistance and resilience

We strongly recommend the use of flood resistance and resilience measures if appropriate. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

Revised FRA

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Environmental permit

Planning permission does not remove the requirement for an Environmental Permit. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Hampshire Highways

I confirm the Highway Authority have no objection subject to the following Conditions:

1. Prior to the occupation of Plot 5 any gates or other obstruction to the passage of vehicles provided on the proposed access to Warblington Road shall be located a minimum of 6m. from the nearside edge of the carriageway of Warblington Road and the same length shall be surfaced in a non migratory material.
2. Prior to each occupation the areas shown on the approved plan for the parking and

manoeuvring of vehicles for that plot shall be provided and reserved for those purposes at all times.

3. Prior to the first occupation visibility splays of 2.4m. x 43m. shall be provided at the junction of Curlew Close and the new access on to Warblington Road. The affected land shall be clear of obstruction between 0.6m. and 3m. above the adjacent carriageway level and maintained in this condition thereafter.

Hampshire Wildlife Trust, Beechcroft House

No comments received

Landscape Team

The application site includes numerous trees of substantial size and some with Preservation Orders. The submitted site plan proposes built-form within or in close tree 'Root Protection Areas'. An Arboricultural Impact Assessment with site-specific method statements for any proposed encroachment of tree 'Root Protection Areas' to the satisfaction of the HBC Arboricultural Officer is required.

- There is a lack of clarity in relation to the design intent of the existing trees, the proposed site plan drawing no 15048-RFT-00-ZZ-DR-A-0121-S1 illustrates the retention of the TPO trees on the western boundary whereas the landscape strategy drawing no. 2067-TF-00-00-SK-L-0001 02 illustrates the removal of these TPO trees, this ambiguity need to be clarified.
- Retention of the existing boundary treatment along the southern boundary (including the split-rail timber fencing) for consistency with the adjacent properties is desirable.
- Preservation of the open landscape character to the southern part of the site will help to mitigate long distance views from the harbour and reduce the impact on the adjacent coastal path.

We require the following drawing to be submitted

- A detailed soft landscape scheme requiring submission of fully annotated plans at sufficient scale to identify species of individually planted trees, shrubs, hedges, marginal, bulbs and any areas of turfing / seeding. Planting areas should show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include plant tree pit details, specification schedules, comprising plant size, number and density, as well as, the proposed planting implementation programme.
- Hard landscape details requiring submission of fully annotated plans at sufficient scale that comprise a range of coloured and textured surfacing treatments, which identify:
 - finished levels
 - hard surfacing material type / product reference and colour
 - laying bond
 - edging or kerb detail / type
 - retaining structures or steps
- Boundary details requiring submission of fully annotated plans at sufficient scale showing the locations of existing, retained and proposed new boundary treatments, with scaled elevation drawings to show height, design, materials, type and colour of

proposed new walling / fencing or other type of enclosure and associated gates.

Natural England Government Team

Nutrient Neutrality – No objection subject to mitigation

Solent Recreation Management Strategy – No objection subject to mitigation

Area of Outstanding Natural Beauty

The development lies within the setting of the Chichester Harbour AONB. You should therefore consider seeking advice of the AONB Team. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB management plan.

Biodiversity Mitigation and Enhancement

In order for your authority to be assured that the proposal meets the requirements of Natural England's standing advice and the additional requirements for biodiversity enhancement and net gain as set out in National Planning Policy Framework paragraphs 8, 118, 170, 174 and 175d, Natural England recommends that the application is supported by a Biodiversity Mitigation and Enhancement Plan (BMEP), or equivalent, that has been agreed by a Hampshire County Council (HCC) Ecologist.

HRA and AA

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. We provide the following comments on the Appropriate Assessment. Providing these measures are appropriately secured with any planning permission, Natural England concurs with the assessment conclusions.

Open Space Society

No comments received

Planning Policy

Updated comments

Policy Status:

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan, provide the development plan for the borough. The Pre-submission Havant Borough Local Plan 2036 (HBLP 2036) was approved by the Council on 30 January 2019 and can be afforded limited weight.

In addition, the Emsworth Neighbourhood Plan (ENP) has reached an advanced stage of preparation, and was submitted to the Local Planning Authority in April 2019. It therefore also carries limited weight in decision making.

The following policies are of particular relevance:

- CS8 – Community Safety
- CS9 – Housing
- CS16 – High Quality Design
- CS17 – Concentration and Distribution of Development within the Urban Areas
- CS19 – Effective Provision of Infrastructure
- CS21 – Developer Requirements
- DM8 – Coordination of Development
- DM10 – Pollution
- DM13 – Car and Cycle Parking in Residential Development
- AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements

In the Pre-submission Plan the following policies are of particular relevance:

- E1 | High quality design
- E2 | Health and wellbeing
- E3 | Landscape and settlement boundaries
- E11 | Sports and recreation
- H1 | High quality new homes
- H3 | Housing density
- E1 | High quality design
- IN1 | Effective provision of infrastructure
- IN3 | Transport and parking in new development
- E22 | Amenity and pollution
- H13 | Fowley Cottage

The following policies from the Emsworth Neighbourhood Plan are also of relevance:

- D1 – General Design Policy
- D2 – Height, Mass & Materials
- D3 – Layout, Form & Density
- D4 – Design of Public Spaces & External Areas
- D5 – Integration & Strong Connections
- D6 – Resource Efficiency
- D7 – Mitigate Light Pollution
- L1 – General Housing Policy
- L2 – Housing Mix
- WF1 – Public Enjoyment of the Waterfront

Principle of Development:

The site lies within the urban area as defined by Policies CS17 and AL2 of the adopted local plan and emerging E3 of the Pre-Submission Local Plan. Policy CS17 caveats that development will be acceptable within the five urban areas of the Borough where it makes the most effective use of land. The policy also prioritises previously developed land or underused land or buildings within the urban area. Therefore, development is supported in principle where it can be shown it will make the most effective use of land, subject to other relevant considerations. The acceptability of the principle of development therefore hinges on whether it makes an effective use of land.

The site is allocated for about 40 dwellings under Policy H13 in the emerging Local Plan which can be afforded limited weight at this stage. However, the application proposals seek to provide a significantly reduced quantum of development.

For the purposes of Policy H3 (Housing Density) which is considered in further detail below, residential density is taken as dwellings per hectare across the net developable area. Figure 1 of the Residential Density Evidence Paper indicates the development elements should be included for gross and net area calculations. In the case of the latter “any significant buffer areas required for landscape, ecological or infrastructure such as underground pipes” should be excluded. It is considered that retained trees and the necessary buffers and root protection zones would qualify within that definition.

For allocations in the Pre-Submission Plan, yields were calculated using the net developable area considering any high-level mappable constraints including access, ground conditions, flood risk and contamination. In this case, the Flood Zones 2 and 3 affecting the southern part of the site were taken into account, reducing the net developable area to approximately 1ha. The site yield would have calculated by applying 40dph across the entire site area accordingly (1ha x 40 dph = 40 dwellings).

Whilst the Pre-Submission Plan anticipates the delivery of 40 dwellings, it is acknowledged the site capacities of allocations are set at ‘about’ rather than minimums or maximums. This is because depending on the form of development proposed through a planning application, it could be that different numbers of homes are achieved subject to other relevant policies or material considerations in the Plan.

It should also be noted that the application site area differs from the allocation site in the Pre-Submission Local Plan. The existing house and tennis courts are excluded from the application red line, of which the submitted application form indicates the site has an area of 0.82 ha (when compared to the 1.1 ha site area identified by the allocation).

Housing Density: National Policy Context

The 2019 NPPF includes a specific section on ‘Achieving appropriate densities’ which contains guidance on how planning policies and decisions should support development that makes efficient use of land (paragraph 122).

Paragraph 123 of the 2019 NPPF is clear that planning policies and decisions avoid homes being built at low densities and seeks to ensure that developments make optimal use of the potential of each site, especially where there is an existing or anticipated shortage of land for meeting identified housing needs. In such cases, the use of minimum density standards should be considered and as a result are being taken forward through the Havant Borough Local Plan 2036.

In addition, part c) under paragraph 123 indicates that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. It is noted this represents a step change from the 2012 NPPF which did not include a specific section on ‘Achieving appropriate densities’ (paragraphs 122-123).

The 2012 NPPF previously stated that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land) (added emphasis) (paragraph 111) as opposed to making ‘efficient’ or ‘optimal’ use of the land. Though it is noted that it did provide for local planning authorities to ‘set their own approach to housing density to reflect local circumstances’ (paragraph 47).

In this particular case, the application site relates to residential garden land which is excluded from the definition of 'previously developed land' in Annex 2 of the 2019 and 2012 NPPF respectively. It is noted the 2019 NPPF does not distinguish between previously developed land and undeveloped land in the context of achieving appropriate densities.

Local Policy Context

Policy CS9 of the Adopted Local Plan (Core Strategy) states that planning permission will be granted for housing proposals that will:

“achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shop and services in addition to respecting the surrounding landscape, character and built form.”

Paragraph 6.21 of the supporting text indicates that the density of new housing will depend on its design and appropriateness to its location. A range of minimum density thresholds were developed using the Havant Borough Townscape and Seascape Character Assessment and the levels of accessibility to a range of facilities:

High Density	- Minimum of 60 dwellings per hectare
Medium Density	- Minimum of 45 dwellings per hectare
Low Density	- Up to 45 dwellings per hectare

Paragraph 6.22 indicates that where the quality of design justifies it, much higher densities could be achievable. This is likely to be more appropriate in town centres or highly accessible locations. It also notes that seeking higher density in such locations will reduce the requirement for greenfield land release and ensure that more people have excellent access to jobs, public transport, shops and services.

Policy H3 in the emerging Local Plan indicates that residential development must maximise its contribution to addressing housing need in the context of the finite undeveloped land in the Borough. The policy also requires development to provide for a minimum of 40 dph outside of town and district centres and defined opportunity areas. This increases to 55dph within defined 'opportunity areas'. The Residential Density Evidence Paper defines opportunities for higher density residential development dependent on accessibility to services that would support future occupants. For Emsworth, this includes shops and services, train station and bus routes. Figure 23 of the plan confirms that the site is partly within the Emsworth opportunity area and partly outside it.

Policy D3 in the emerging Neighbourhood Plan also indicates that development proposals should make the most efficient use of land and be developed at the optimum density. The optimum density should result from a design-led approach to determine the capacity of the site, with particular consideration given to:

- the site context
- its connectivity and accessibility to surrounding areas by walking, cycling and public transport.

It also confirms that residential development that does not demonstrably optimise the density of the site should be refused.

Site Specific Constraints

Paragraph 6.33 of the supporting text for emerging Policy H3 indicates that

site-specific constraints and local character may justify a different approach having regard to the site context. In such circumstances, a detailed Design and Access Statement must fully explain the rationale to the proposed approach to the design and layout of the scheme. In this respect, Section 5 of the submitted Design and Access Statement provides some detail and explanation of the constraints affecting the site, including the extent of flood plain; the existing TPOs on site; a foul sewer and a restrictive covenant (which would not be a material consideration) on Curlew Close which allows a maximum of 5 dwellings to the south of the existing house.

The applicant has subsequently submitted a Constraints Plan which provides a quantitative assessment of the likely developable area which takes into account the site's constraints including easement needed for the sewer, the TPOs and the root protection areas. In addition to the above, the applicant has also submitted an alternative scheme which would involve the subdivision of unit 4 which would only increase the number of dwellings on the site to 5 (the maximum which could be served by the covenant). It is noted that the applicant's architect has highlighted it is not possible to split unit 4 as it is constrained by TPOs. It is also understood that the applicant has not further explored the capacity of the southern part of the site at this time due to the covenant affecting Curlew Close or looked at any alternative design solutions for the site.

Initial comments

Policy Status:

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan, provide the development plan for the borough. The Pre-submission Havant Borough Local Plan 2036 (HBLP 2036) was approved by the Council on 30 January 2019 and can be afforded limited weight.

In addition, the Emsworth Neighbourhood (ENP) has reached an advanced stage of preparation, and was submitted to the Local Planning Authority in April 2019. It therefore also carries limited weight in decision making.

The following policies are of particular relevance:

- CS9 – Housing
- CS16 – High Quality Design
- CS17 – Concentration and Distribution of Development within the Urban Areas
- CS19 – Effective Provision of Infrastructure
- CS21 – Developer Requirements
- DM10 – Pollution
- DM13 – Car and Cycle Parking in Residential Development
- AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements

In the Pre-submission Plan the following policies are of particular relevance:

- E1 | High quality design
- E2 | Health and wellbeing
- E3 | Landscape and settlement boundaries
- E11 | Sports and recreation
- H1 | High quality new homes
- H3 | Housing density
- E1 | High quality design
- IN1 | Effective provision of infrastructure
- IN3 | Transport and parking in new development

- E22 | Amenity and pollution
- H13 | Fowley Cottage

The following policies from the Emsworth Neighbourhood Plan are also of relevance:

- D1 – General Design Policy
- D2 – Height, Mass & Materials
- D3 – Layout, Form & Density
- D4 – Design of Public Spaces & External Areas
- D5 – Integration & Strong Connections
- D6 – Resource Efficiency
- D7 – Mitigate Light Pollution
- L1 – General Housing Policy
- L2 – Housing Mix
- WF1 – Public Enjoyment of the Waterfront

Principle of Development:

The site lies within the urban area as defined by Policies CS17 and AL2 of the adopted local plan and emerging E3 of the Pre-Submission Local Plan. Therefore, development is supported in principle, subject to other relevant considerations.

The site is allocated for about 40 dwellings under Policy H13 in the emerging Local Plan which can be afforded limited weight at this stage. However, the application proposals seek to provide a significantly reduced quantum of development and this is considered in further detail below.

Housing Density:

National Policy Context

Paragraph 123 of the NPPF is clear that planning policies and decisions avoid homes being built at low densities and seeks to ensure that developments make optimal use of the potential of each site, especially where there is an existing or anticipated shortage of land for meeting identified housing needs. In such cases, the use of minimum density standards should be considered.

In addition, local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework.

Local Policy Context

Policy H3 in the emerging Local Plan requires development to provide for a minimum of 40 dph outside of town and district centres and defined opportunity areas. This increases to 55dph within defined 'opportunity areas'. Figure 23 of the plan confirms that the site is partly within the Emsworth opportunity area and partly outside it.

Policy D3 in the emerging Neighbourhood Plan also indicates that development proposals should make the most efficient use of land and be developed at the optimum density. The optimum density should result from a design-led approach to determine the capacity of the site, with particular consideration given to:

- the site context
- its connectivity and accessibility to surrounding areas by walking, cycling and public transport.

It also confirms that residential development that does not demonstrably optimise the density of the site should be refused.

The development proposals would retain the existing dwelling and tennis courts to

provide a gross site area of 0.82ha (when compared in 1.1ha identified in the Pre-Submission Draft Local Plan), which would provide a significantly lower density than envisaged by the emerging Local Plan (a mix of 40-55dph).

Paragraph 6.33 of the supporting text indicates that site-specific constraints and local character may justify a different approach having regard to the site context. In such circumstances, a detailed Design and Access Statement must fully explain the rationale to the proposed approach to the design and layout of the scheme. In this respect, Section 5 of the submitted Design and Access Statement provides some detail and explanation of the constraints affecting the site, including the extent of flood plan; the existing TPOs on site; a foul sewer and a restrictive covenant (which would not be a material consideration) on Curlew Close which allows a maximum of 6 dwellings to the south of the existing house. Further details of the latter are required to understand whether this would restrict the development potential of the southern extent of the site.

There has however, been a limited quantitative assessment has been made of the developable area available across the overall site. For the purposes of the policy, residential density is taken as dwellings per hectare across the developable area. The applicant may therefore wish to refer to Figure 1 of the Residential Density Evidence Paper which indicates the development elements which should be included for gross and net area calculations. No such calculation has been made of the net developable area available for development.

Whilst it is noted that the street scene character is predominantly large, detached dwellings, with the information available, the proposed development (five x 5 no. bedroom detached dwellings) would not make an efficient use of the available land. As such, it cannot be concluded that the proposed form of development would fully maximise the potential of the site to address housing needs and would be contrary to the aims and objectives of emerging Policy H3 and paragraph 123 of the NPPF.

Housing mix and affordable housing

It is considered, with the available evidence, that the site has the potential to accommodate more development than is proposed. Emerging policies on affordable housing (H2 of the HBLP and L1 of the ENP) and mix (H4 of the HBLP and L2 of the ENP) have a threshold of ten dwellings and so would not apply to the proposal as currently designed. However, the supporting text to Policy H2 (para 6.28) sets out that "Housing proposal will be expected to make efficient use of land in line with Policy E1 (High Quality Design). Any proposals that appears to have an artificially lower density in order to avoid the affordable housing requirement may be refused planning permission".

The Neighbourhood Plan also recognises that the neighbourhood plan area may wish to encourage the provision of more flats and terraced housing which would complement the large number of existing larger detached houses. In this respect, the provision of a proportion of smaller dwellings (1-2 bedrooms) is encouraged, for which there is evidenced demand.

Design

More generally, both the adopted and emerging local plan require high quality design in all development under policies

- CS16 High Quality Design (Core Strategy)

- E1 High Quality Design (HBLP 2036)

These considerations are reinforced through the Design Policies (D1 to D7 + design checklist) in the Emsworth Neighbourhood Plan.

Health and wellbeing

The Pre-Submission Local Plan (E2 and E11)) and the NPPF (paras 96-101) promote achieving health gains through planning decisions. Both (E11 and para 97) set out a presumption against the loss of sports provision. Whilst a private and not public facility, ensuring that it would not be lost through development is considered appropriate in that it would serve to boost healthy living for the proposed occupants. However, there is an opportunity to allow public use of the facility. The removal of the tennis courts from the available site area for housing development is supported, subject to the public availability of this facility.

The site also includes common parts, including vehicular and pedestrian access to the southern properties from Curlew Close. At the south of the site there is an access to Chichester Harbour and Footpath 56 (Wayfarers Way), which runs along the coast from Emsworth to Langstone. However, this is private access for use by residents only. Policy E2 of the Pre-Submission Local Plan highlights the need to enhance existing and facilitate new opportunities for active travel (walking and cycling) ...by...creating and improving pedestrian and cycle routes linkages within the Borough and to surrounding areas, particularly...along the coast. The need for a safe and convenient access to Footpath 56 is also highlighted in the allocation for the site (H13).

The emerging Neighbourhood Plan refers to access to the waterfront and recognises the health and leisure benefits that residents can gain from the coastal path. Emerging Policy WF1 is clear that any new development on any waterfront site shall provide public right of access to the waterfront. It is also indicates that applications should include an appraisal of options for the provision of public spaces and leisure facilities, and must clearly explain how the proposals have taken account of this appraisal.

Development Requirements:

The full set of developer considerations can be found in the emerging allocation policy;

please see Policy H13 in the Pre-Submission Draft Local Plan. The applicant should ensure these are satisfactorily addressed through assessments of these site issues as part of any planning application.

In addition to the above, emerging policies which are of particular relevance to the proposed development are summarised below:

- Internal Space Standards - Emerging Policy H1 includes a requirement for dwellings to meet the nationally described internal space standards.
- Private Amenity Space – Policy H1 also requires sufficient private and/or communal outdoor amenity space to be provided.
- Low Carbon Design – Residential development is expected to achieve a 19% reduction in Dwelling Emission Rate in accordance with emerging Policy E12.
- EV Charging Infrastructure – Electric Vehicle charging infrastructure should be provided for each new residential unit with private off-street parking in line with emerging IN3.
- Management Plans – A management plan is likely to be required through a legal agreement to establish the whole life management and maintenance of the common parts within the development.

Parking:

The proposals would need to ensure that appropriate parking provision is provided in accordance with Policy DM13, emerging policy IN3 and the Council's Parking SPD.

Summary:

Emerging policy H3 must be afforded some weight particularly given the clear direction in national policy to optimise the use of land.

The development proposals would provide for a significantly lower density than set out by emerging policies H3 and H13. As such the development proposals would not be capable of support in their current form. Further information is needed to understand the net site area calculation. Nevertheless, the proposed form of development would artificially lower the density of the site, and thereby circumvent the requirements for housing mix and affordable housing.

On this basis, the current development form would fail to make an efficient use of land, though site-specific constraints and local character may justify a different approach.

Public Spaces

No comments received

Ramblers Association

There is no objection to the proposed development from the Ramblers Association. This is provided that the development as shown remains set back from the coastal footpath and that the planting of shrubs shown on the Landscape Strategy drawing is implemented and the existing hedgerows to the western and eastern boundaries are maintained.

Royal Society for the Protection of Birds

No comments received

Southern Gas Networks - stage 1

On the mains record you may see the low/medium/intermediate pressure gas main near your site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. You should, where required confirm the position using hand dug trial holes.

A colour copy of these plans and the gas safety advice booklet enclosed should be passed to the senior person on site in order to prevent damage to our plant and potential direct or consequential costs to your organisation.

Safe digging practices in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of the mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas pipes.

It must be stressed that both direct and consequential damage to gas plant can be dangerous for your employees and the general public and repairs to any such damage will incur a charge to you or the organisation carrying out work on your behalf. Your works should be carried out in such a manner that we are able to gain access to our

apparatus throughout the duration of your operations.

Officer comment - Access appears to cross a low pressure main - agent advised

Traffic Management Team

The Traffic Team would raise the concern that there appears insufficient car park space available. We would like to see a minimum of 3 spaces per property + additional space for visitors as per HBC Parking Supplementary Planning Document July 2016. This also appears to be no mention of the requirement for secure cycle storage.

Waste Services Manager

No comments 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: 20

Number of site notices: 2

Statutory advertisement: Not applicable.

Number of representations received: 17

Comments and officer response (latter in bold)
We are very happy with the positioning of the houses, from a purely personal view.
Noted
Intrusive impact due to forward siting in both the Warblinton Road frontage and shore frontage, excessive bulk, footprint and height, elevated floor levels and out of character design, would be out of character and overpowering, detrimental to the character to the area and the coastal setting, and contrary to the Borough Design Guide. Plots should be individually designed to reflect local character. See section 7
There is a history of flooding in Emsworth, and flooding and drainage matters have not been fully assessed. The land currently provides drainage to prevent flooding elsewhere and should not be developed. At present Fowley Cottage gives the area an ability to cope with more of this type of water which this development will affect to the potential detriment of the adjoining properties. The plans do not show how all this excess water will be successfully dealt with. See section 7
We agree with the Traffic Team with regard to insufficient car park spaces and secure cycle storage. It would also certainly be advantageous for there to be secure storage facilities for garden equipment/motorised buggies etc.concerned that residents as well as visitors will park along Warblington road. With the location of junctions at Warblington road/Clovelly Road and Warblington Road/Curlew Close and the proposed new exit driveway for plot 5/Fowley Cottage, along with 4 other driveways between the stated junctions, this would be potentially dangerous. There is already a parking problem west of Curlew Close with people parking to walk the foreshore. The proposal can only result in further congestion and obstruction. See section 7
We are concerned about possible damage to TPO tree roots and note that the Street

Elevations diagram does not appear to show the two Monterey pines. See section 7
Loss of green space adjacent AONB coastal path would be detrimental to amenities. The open space should be kept for future generations to enjoy and prevent intensive urbanisation which would spoil the character of Emsworth which is at present a small seaside town. The development retains an open area adjacent the coastal path.
No boats could be stored on this site to respect the visual amenities of the harbour. This would be inappropriate
Use of car ports instead of garages introduces security issue and they are likely to be filled with unsightly clutter. See section 7
Loss of habitat for butterflies See section 7
The existing boundary hedge should be retained to enhance the development. See section 7
I feel I must object to this proposal as it is a huge contradiction to the public consultation meeting and the plans shown originally for a less bulky development. Noted
Trees and Loss of Light - Our home in Beacon Square is already grossly overshadowed by dense trees in the Fowley plot to the west. If the proposed house at plot no 1 is built, the loss of light would be intolerable. The new house would effectively block the sky to the south of the trees and we would sit in shadow for much of the day. Additionally, we would suffer significant loss of amenity and house value. This unacceptable loss of light is the most significant consequence of the proposal and must be addressed. See section 7
The Transport Document within the application is inaccurate and does not recognise the deficiencies in the local highway network. There is concern about the extent of traffic on the A259 in terms of highway safety for cars and pedestrians. See section 7 I accept that Government has decreed that we need to provide more houses, and Havant Planning have duly allocated this Emsworth site as a suitable contribution. However, does Emsworth need yet more, large, very expensive, probable second home houses built on this last remaining waterfront site? Would we not better appreciate the provision of smaller individual apartments for, say, fit, elderly local citizens to enjoy the beautiful harbour views and activities? The present proposed layout is acceptably spacious, but would be of much more use to local people if each house was subdivided resulting in a useful older citizen community. That would indeed be a legacy. See section 7
Application should be considered by Committee and not delegated. The application falls under delegated powers.
Overlooking from plot 6 from full length glazing See section 7
loss of trees and vegetation See section 7

7 Planning Considerations

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 (hereafter referred to as the Habitats Regulations).

The Council's assessment as Competent Authority under the Habitats 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 recreational pressure, water quality, loss/degradation of supporting habitats and construction impacts. The planning application was then subject to Appropriate Assessment under Regulation 63. This included a package of avoidance and mitigation measures. The first element of this is a financial contribution based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Council's agreed Position Statement on Nutrient Neutral Development. The third is measures to control the impact on the environment during construction of the development.

Recreational Pressure

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations), Policy E16 of the Draft Havant Borough Local Plan 2036 and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures. The applicant has proposed a mitigation package based on the methodology in the Developer Contributions Guide. The scale of the proposed mitigation package would remove the likelihood of a significant effect. The applicant has confirmed that they would be willing to enter into a legal agreement to secure the mitigation package in line with the requirements of the Habitats Regulations and Policy DM24. However, in the absence of such an agreement the development is likely to have a significant effect and therefore falls to be refused on this ground.

Water Quality

The Partnership for Urban South Hampshire (PUSH) Integrated Water Management Study has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. NE have highlighted that there are high levels of nitrogen input into the water environment at these sites, with evidence that these nutrients are causing eutrophication and that there is uncertainty about the efficacy of catchment measures to deliver the required reductions in nitrogen levels, and/or whether upgrades to existing waste water treatment works will be sufficient to accommodate the quantity of new housing proposed. To secure nutrient neutrality the applicant has indicated a willingness to enter into a condition to secure appropriate mitigation.

Construction Impacts

There is potential for construction noise and activity to cause disturbance of SPA qualifying bird species. Control measures could be covered by a Construction Environment Management Plan (CEMP), to include measures controlling matters such as minimising idling by machinery, locating construction compounds in less noise sensitive areas of the site and maintaining machinery to further reduce these noise levels. Subject to the imposition of a condition securing these controls, it is considered that the significant effect due to noise, disturbance and construction related pollutants which would have been likely, could be suitably avoided and mitigated, and subject to a condition it may be possible to conclude that as such, no likelihood of a significant effect remains on this issue.

Appropriate Assessment conclusion

The Habitats Regulations Assessment concluded that the avoidance and mitigation packages proposed in the Appropriate Assessment are sufficient to remove the significant effects on the Solent's European Sites which would otherwise have been likely to occur. The HRA format has been agreed with Natural England as the appropriate nature conservation body under Regulation 63(3). Provided all mitigation measures are adequately secured with any permission the proposal accords with the advice from Natural England. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package, however on basis of a refusal, these factors must be included.

In other respects, and having regard to the relevant policies of the development plan and all other material considerations it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Nature of Development
- (iii) Impact on the Character and Appearance of the area
- (iv) Residential and Neighbouring Amenity
- (v) Access and Highway Implications
- (vi) Flooding and Drainage
- (vii) The Effect of Development on Ecology
- (viii) Impact on Trees
- (ix) Community Infrastructure Levy (CIL), Contribution Requirements and legal agreement

(i) Principle of development

As required by section 38(6) of the Planning and Compulsory Purchase Act (2004), applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Development Plan

The Development Plan consists of:

Havant Borough Local Plan (Core Strategy) (2011), the Havant Borough Local Plan (Allocations Plan) (2014), both of which cover the period until 2026. The development plan also includes the Hampshire Minerals and Waste Plan (2013). These plans continue to form the basis for determining planning applications in the Borough. The application site is located within the urban area. Policies in the adopted plans support appropriate residential development within the urban areas.

Pre-submission Havant Borough Local Plan 2036

The Council published the Pre-Submission Havant Borough Local Plan 2036 for public consultation between 1 February 2019 and 18 March 2019. The publication of this document followed a long period of public engagement between 2016-2018, including the now revoked Local Plan Housing Statement. The application site is identified for residential development under Policy H13, capable of accommodating up to 40 residential dwellings. As such the application site is identified as one of those necessary to deliver the identified housing need for the Borough.

Policy H3 – Housing density now requires that development within the Borough provides minimum housing densities, depending on their location. This is to ensure that development maximises the finite amount of land in a full and sustainable

manner. The proposal delivers only 14.4 dwellings per hectare based on the developable area. This is very low, even given the context in respect to the character of the area and the amount of development it is considered excessively low and it does not accords with the figure in the draft allocation.

Policy H4 - Housing mix outlines that development will be expected to provide a range of dwelling types to meet identified local housing need; and incorporate approximately 35% as two-bedroom homes as part of the overall housing mix. This proposal provides 4/5 bedroom dwellings, contrary to this policy. As such this proposal does not complies with this emerging policy.

Consistency with the National Planning Policy Framework.

The Secretary of State's National Planning Policy Framework (February 2019) is a material consideration which should be placed in the s.38(6) planning balance. The NPPF's primary objective is to promote sustainable growth and development through a "plan-led" planning system.

In response to the NPPF a robust assessment has taken place of land in the Borough to inform the Pre-Submission Havant Borough Local Plan 2036 through the Strategic Housing Land Availability Assessment and the Sustainability Appraisal. This has shown that based on the proposed housing allocations there are sufficient deliverable and developable sites upon which to meet the Borough's housing need.

Five year housing land supply and delivery of housing need

The Government has an objective of significantly boosting the supply of housing. Under paragraph 73 of the NPPF, Havant Borough is required to have a rolling five year supply of deliverable housing sites. The site is required to feed into the on-going requirement of the Borough for deliverable housing land to address the Borough's housing need.

In conclusion on this issue,

- (1) The site is within the urban area and its development accords with the adopted local plan
- (2) The pre-submission Local Plan identifies the site as a housing allocation for up to 40 dwellings to meet the 5 year housing land supply
- (3) National policy is a material consideration

(ii) Nature of Development

The current application is for full planning permission for 7 dwellings with vehicular access off Warblington Road and Curlew Close. In respect of the proposal the following factors have been considered:

The density of residential development
The mix of dwelling sizes and tenures
The design and layout of the residential development

The density of residential development

The application seeks 7 No. dwellings which based on the site area provides a density of 8.5 dwellings per hectare (dph) gross. It should be noted in this regard that the applicants have clarified that, when considering the net developable area of the site (allowing for constraining features such as a sewer easement and retained trees etc), the density rises to 14.4dph net.

Core Strategy policy CS9 states that planning permission will be granted for housing proposals which (amongst other matters) '*Achieve a suitable density of development for the location, taking account accessibility to public transport and proximity to employment, shops and services in addition to respecting the surrounding landscape, character and built form*'.

Supporting text of the Core Strategy paragraph 6.21 provides further guidance stating that:

The density of new housing will depend on its design and appropriateness to its location. As guide the following minimum density thresholds have been developed using the Havant Borough Townscape, Landscape and Seascape Character Assessment and the levels of accessibility to a range of facilities:

*High Density – Minimum of 60 dwellings per hectare
Medium Density – Minimum of 45 dwellings per hectare
Low Density – Up to 45 dwellings per hectare*

Under this assessment, the density of development can be considered to be within the Low Density category.

Paragraph 6.23 makes it clear that '*It is not intended that density requirements should be too prescriptive as it is often a difficult balance between maximising the use of land and reflecting surrounding built character and the amenity of neighbouring residents. This is therefore best assessed through individual planning proposals through the development management process*'.

The NPPF states that '*To boost significantly the supply of housing, local planning authorities should, (amongst other matters) set out their own approach to housing density*'. Whilst there are a number of site constraints, the Council maintain the low density, and overly large size of the proposed dwellings, in terms of delivering housing does not make the best use of the site.

On that basis, officers consider that in the particular circumstances that prevail at this time, if the applicant's scheme is granted planning permission, it would not constitute sustainable development as it would not make efficient use of land. The justification for this conclusion is set out in more detail in the paragraphs that follow.

The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Chapter 11 Making Effective Use of Land, para. 117 is relevant and identifies the need for decisions to promote an effective use of land. This is supported by para. 122 on Achieving appropriate densities, which requires planning policies and decisions to support development that makes efficient use of land. Additionally para 123 states that;

Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.

In these circumstances:

a) plans should contain policies to optimise the use of land in their area and meet

as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;

b) the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and

c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

The adopted Local Plan is now out of date and under the Pre-Submission Havant Borough Local Plan 2036 the application site is identified for residential development under Policy H13, capable of accommodating up to 40 residential dwellings. As such the application site is identified as one of those necessary to deliver the identified housing need for the Borough. The site is required to feed into the on-going requirement of the Borough for deliverable housing land to address the Borough's housing need. Whilst at the current time the emerging plan has limited weight, it has nevertheless been drafted in response to the NPPF requirement in respect to making efficient use of land with a focus on making use of land more effectively. Additionally meeting the Borough's housing needs is dependent on the proposed housing allocations being delivered. The Council recognises the need to respond to the character of the area and that it will not always be possible to achieve the numbers set out in the proposed housing allocations; plus in this case the allocation is for up to 40 dwellings on the whole site including the existing dwelling and tennis court which do not form part of the application site. However, going forward it is important that what is a scarce resource is effectively used. At a density of only 8.5 dph (gross)/ 14.4 dph (net) the proposal falls a long way short of achieving an efficient use of land.

The Mix of Dwelling Sizes and Tenures

With regard to the type and size of proposed accommodation and its potential to create a mixed and integrated community, regard is to be had to Core Strategy policy CS9 which states that development should 'Provide a mix of dwelling types, sizes and tenures which help meet identified local housing need and contribute to the development of mixed and sustainable communities.' Paragraph 6.24 states that a mix of dwelling types is sought from terraces, semi-detached and larger detached houses. In this case, the proposal comprises a small number of very large dwellings contrary to this requirement. Additionally by limiting the number of dwellings to 7, it falls outside the scope of affordable housing, whereas a more appropriate density might afford an opportunity to help deliver affordable housing.

The Design and Layout of the Development

The urban design qualities of the scheme, whilst contemporary in form, pay regard to the character of the site retaining the majority of trees and providing a spacious layout, which respects the storey heights and form of the neighbouring properties. The proposed dwellings due to their size and elevated nature would be bulkier than the

existing dwellings, but the site is of adequate size, and the proposed properties set back from the boundaries is considered adequate to maintain visual amenities. The direct impact on residential amenity is considered in (iv) below.

In conclusion on this matter, the Pre-Submission Havant Borough Local Plan 2036 has not yet been submitted for examination to the Secretary of State. As such in accordance with paragraph 48 of the NPPF, and having regard to the level of objection received during the pre-submission consultation, it is accepted that only limited weight can be attributed to the policies within it. Notwithstanding this, a number of relevant emerging policies have not been met in respect of density and mix. Crucially, those policies reflect the need to secure an effective use of available land for housing, which directly reflects the NPPF's exhortations. The failure of the application proposals to take that opportunity is considered a fundamental issue which renders the scheme incapable of support.

(iii) Impact on the Character and Appearance of the area

The proposed site itself is outside of the Chichester Harbour AONB and separated from the Harbour's ecological designations by a public footpath along the shoreline.

The site lies within Landscape Character Area 25 (LCA 25) Emsworth- western suburbs. The area contains one landscape character type: Urban Lower Harbour Plain and displays the following land form characteristics:-

a The landform forms a flat coastal plain, sloping from the north from around 10m AOD to below 5mAOD at the harbour edge, developing into a more gentle undulating landform to the north

b River terrace deposits cover an underlying geology of London Clay to the north followed by the Lambeth Group, then the chalk formation including Lewes Nodular Chalk Formation, Seaford Chalk Formation, Newhaven Chalk Formation, Culver Formation and Portsdown Chalk Formation; this has produced a soil described as loamy with a naturally high water content

c No evidence of surface drainage

d Mature street trees along main arteries

e Mixed hedgerow boundary treatment around older properties

f The periphery of the residential area to the north is dominated by pony paddocks, playing fields, allotments and rear garden boundary treatment

g The largest internal open space is covered by allotments, which provides a spread of contrasting colour and texture

h Long stretches of adjacent gardens provide swathes of greenery throughout this built environment, although not particularly visible from the roadside

i Open areas of grassland forming verges and larger areas of grassland around 60's/70's residential development.

Being part of a flat coastal plain the site is clearly visible from the water and the

coastal footpath itself and forms part of the setting of the AONB and LCA 25 . This flatness makes the AONB and its landscape setting particularly vulnerable to visual intrusion from inappropriate development, which can often be seen from significant distances across inlets, the main harbour channels, or open countryside. However, in this case the development would be set back from the harbour, retains most of the TPO trees, utilises a design which at first floor presents a relatively narrow aspect to the harbour with recessed glazing and subdued materials (slate, timber and brickwork), and would be viewed in the context of the existing two storey development, which lies on rising ground levels to the north. In terms of the raised floor levels of the proposed dwellings, these relate to plots on the southern part of the site where the ground slopes down to the harbour, and the proposed floor levels for these plots would be consistent with the floor levels of the plots proposed to the rear, against which they would be viewed. As such the impact on the wider character area would be limited and it is concluded that there are no significant implications for the setting of the AONB. It is noted that Chichester Harbour Conservancy have not raised objection to the application.

With respect to the impact on the character of the immediate adjacent residential area, the layout is for dwellings of a large floor space and substantial built form. The proposed design is contemporary in contrast to the more traditional character of the nearby properties, although a number of these established properties have been updated to provide a more contemporary appearance. In this context and having regard to the proposed materials which would comprise slate, timber, mellow finished brickwork and the spacious form of the layout the impact of the development on the character and appearance of the area is not adverse.

(iv) Residential and Neighbouring Amenity

The site adjoins dwellings in Warblington Road, Beacon Square and Curlew Close. The development has been designed with main windows facing into the site or also onto Warblington Road in the case of plot 7, and obscure glazing for first floor windows where first floor windows face the site boundaries with neighbouring properties. This retains privacy and complies with the separation distances set out in the Borough Design Guide. Whilst there will be an impact on views, especially in respect to properties in Beacon Square which have rear elevations facing onto the site, the separation distance at a minimum of 21m exceeds the requirements of the Borough Design Guide. In respect to 22a Beacon Sq. which currently enjoys sea views across the site, the proposed development on plot 1, especially given the elevated floor level, will obstruct these views but regard cannot be had to loss of a view. The planning consideration is whether the development would be overly dominant. Given that the closest proposed 2 storey dwelling would be over 30m from the windows serving 22a Beacon Square, the proposed development is not considered over dominant. The submitted plans have had regard to the existing properties and the layout designed to respect privacy and outlook.

The proposed development would introduce additional traffic to the surrounding roads, but the site is within an urban area where the impacts of traffic, noise and pollution from new development are inevitable and refusal based on the impacts of the additional traffic could only be supported if it resulted in highway safety issues. In this case the Highway Authority have no objection subject to the recommended conditions.

(v) Access and Highway Implications

Fowley Cottage would continue to be accessed from Warblington Road, together with plot 7 and access for the other 6 dwellings would be off Curlew Close. The access has been assessed by the Highways Officer and no objection has been raised. In respect to parking, all dwellings would be provided with on site parking in accordance with the adopted parking standards. There is no separate provision for visitor parking, however 4 of the dwellings have 2 covered parking spaces plus drives with 2 spaces, and therefore provide an additional space above the parking standard which could be used for visitors to the property. Given the small number (3) of the proposed properties without the opportunity for on plot visitor parking, and the localised impact this would have, the lack of dedicated visitor parking spaces is considered acceptable.

(vi) Flooding and Drainage

Environment Agency has objected as the submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the Planning Practice Guidance.

The EA advise that the FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- take the impacts of climate change into account adequately. Flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they will not make the development resilient to the flood levels for 2115 of 4.5mAOD as stated in paragraph 1.14 of FLOOD_RISK_ASSESSMENT-1180237 (FRA) submitted with the application. Consequently the development proposes inadequate raised finished floor levels. Paragraph 1.16 of the FRA states “In this regard, floor levels of the southernmost properties could be designed to be above the 2115 estimated flood level of 4.5m AOD” , but it does not specify what they will actually be. The drawing in Appendix 6 titled “Foul and Surface Water Drainage Strategy” shows the 2 southern most properties as having finished floor levels (FFL) of 4.2mAOD and 4.1mAOD which are both below the expected 2115 flood level of 4.5mAOD.
- consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event
- provide safe access and egress routes
- consider how a range of flooding events (including extreme events) will affect people and property
- provide resistance and resilience measures

Additionally Southern Water requests that this application is not determined until such time as the applicant produces a suitable development and drainage layout maintaining the below standoff distance requirement of public surface water sewer. In this regard it is noted that the site layout plan makes reference to the foul sewer crossing the site, and Southern Water have requested the use of pre-commencement conditions.

Notwithstanding Southern Water's position, it is clear that on the basis of the information submitted the impacts in respect to flooding and drainage have not been addressed, and refusal on this ground is recommended.

(vii) The Effect of Development on Ecology

The Council's Ecologist has advised that the submitted Phase 1 Ecological Survey (EcoSupport, May 2019) is in draft format: we would expect a finalised document for planning purposes. In addition, additional ecological surveys have been recommended for wintering birds and roosting bats. The results of these surveys should be used to develop avoidance and mitigation measures. Again, these should be provided prior to determination. Given the close proximity of the application site to highly sensitive designated nature conservation sites, fully-detailed mitigation measures will be required, as will a Habitats Regulations Assessment.

The NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and all necessary survey, assessment and mitigation information is required to assess these matters prior to determination, particularly in the case of protected species, which are a material planning consideration. In the absence of the additional survey work required it is not possible to assess whether appropriate mitigation has been provided and the application falls to be refused on these grounds.

(viii) Impact on Trees

The site supports a number of mature trees, including those covered by a Tree Preservation Order. The proposal has been designed to retain the important trees and only those of a low grade are to be removed. HBC Arboriculturalist has assessed the proposal and confirmed that whilst the Willow (T18) which is shown for removal is currently protected by a Tree Preservation Order, subject to suitable replacement there is no objection to the trees shown for removal. The work should be carried out in strict accordance with the Arboricultural Method Statement and Tree Protection Plan, and a condition in respect to underground services is required.

(ix) Conclusion _

The site lies within the built up area and in a location where residential development is acceptable in principle; however, the proposed development at a density of 8.5dph (gross) and 14.4dph (net) would not make effective use of land and as such would be contrary to the NPPF and the emerging local plan. Additionally, matters such as flood risk and ecology have not been acceptably addressed, and refusal is recommended.

8 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/19/00623 for the following reasons:

- 1 In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the Conservation of Habitats and Species Regulations 2017.
- 2 At a density of only 8.5 dwellings to the hectare (gross) / 14.4 dwellings to the hectare (net) the application fails to make efficient use of land and is therefore contrary to the requirements of the National Planning Policy Framework and Policies H3 and H13 of the Pre-Submission Havant Borough Local Plan 2036.

- 3 The submitted Flood Risk Assessment (FRA) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the Planning Practice Guidance. The FRA does not therefore adequately assess the flood risks posed by the development and as such the proposal is contrary to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 4 The submitted information does not accord with the requirements of the NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, in that full, up-to-date ecological information including all necessary survey, assessment and mitigation information has not been provided and therefore it has not been possible to conclude on the basis of full knowledge about the ecological impacts of the proposal that any impacts can and will be appropriately mitigated. As such the proposal is contrary to policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

APPENDIX H

H13 | Fowley Cottage

The Site

8.11 Fowley Cottage is located in southern Emsworth, to the south of Warblington Road. The site extends from Warblington Road southwards to the shore of Chichester Harbour. It comprises a single large house and grounds. The site has an area of 1.1 ha.

Site Opportunities & Constraints

- The site comprises a mix of greenfield and brownfield land.
- There is moderate potential for previously unidentified archaeological deposits.
- There are protected trees on site.
- Potential for roosting Bechstein's bats, nesting birds and reptiles.
- The southern end of the site is in tidal Flood Zones 2 and 3.
- The southern boundary of the site abuts the Chichester Harbour AONB.
- The site offers a waterfront location.
- A sewer crosses the site.
- Area has known drainage capacity issues.
- The site is in the Minerals Safeguarding Area as defined by the Hampshire Minerals and Waste Plan, because it is likely to be underlain by sand and gravel.
- The site overlays a Principal and Secondary Aquifer.

H13 | Fowley Cottage

Residential development of about 40 dwellings will be permitted where:

- a. Sufficient information is submitted to address the site-specific planning considerations. This is to be agreed at the pre-application stage and is expected to include the following:
 - i. Archaeological Assessment;
 - ii. Flood Risk Assessment;
 - iii. Design and Access Statement;
 - iv. Landscape and Visual Impact Assessment;
 - v. Ecological Assessment;
 - vi. Arboricultural Assessment;
 - vii. Noise Impact Assessment;
- b. The developer provides a drainage solution on site which reduces surface water run-off and contributes towards identified flood alleviation schemes in the area, in line with Policies E19 and E20;
- c. Opportunities have been explored for the prior extraction of minerals to the satisfaction of Hampshire County Council; and
- d. The design and layout:
 - i. Maximises the waterfront location of the site;
 - ii. Conserves and enhances the AONB to the southern boundary of the site in line with Policy E5;
 - iii. Locates residential development in areas not at risk of flooding in line with Policy E19;
 - iv. Avoids unacceptable harm to the amenity of neighbouring residents through loss of privacy, noise, outlook and overlooking; and

- v. Provides suitable easement for the sewer that crosses the site;
- vi. Provides a safe and convenient access to Havant Footpath 56 (Wayfarer's Way) to the southern boundary of the site.

APPENDIX I

Houghton, Michelle

From: Norton, Tristan <Tristan.Norton@hants.gov.uk>
Sent: 22 July 2020 18:50
To: Haywood, Daphney
Cc: Havant Planning and Development Mailbox New
Subject: APP/19/00623 Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH 19.1277

Dear Daphney,

APP/19/00623 | Retain the existing 'Fowley Cottage' dwelling and construction of 6No. 5 bed detached dwellings, two on the Warblington Road frontage and four to the rear garden area. Access to Plot 5 to be taken off Warblington Road, access to Plots 1-4 and 6 to be taken off Curlew Close. | Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH 19.1277

Thank you for consulting me on this application.

The submitted Ecological Impact Assessment in Respect of Bats (Ecosa, August 2019) is in draft format: we would expect a finalised document for planning purposes. In any case, bat surveys carried out during July and August 2019 recorded no evidence of roosting bats within the dwelling. No additional ecological survey works are necessary.

Some standard bat enhancement measures, entailing the installation of bat roosting features in each of the new dwellings, are recommended. I would suggest that these are secured by condition.

If you are minded to grant permission can I suggest that all ecological mitigation and enhancement measures are secured.

Development shall proceed in accordance with the ecological mitigation and enhancement measures detailed within the Ecological Impact Assessment in Respect of Bats (Ecosa, August 2019). Ecological enhancement features shall be installed as per ecologists instructions and retained in perpetuity in a location suited to their intended function. Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.

If you have any queries please don't hesitate to contact me.

Kind regards,

Tristan

Tristan Norton

**Senior Ecologist
Ecology Team**

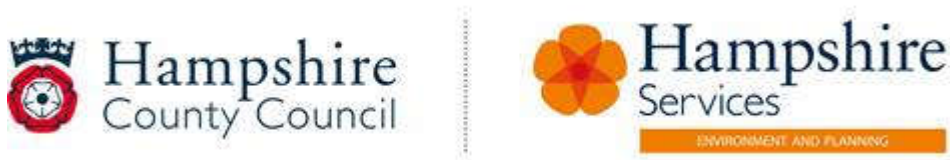
Specialist Environment Services
Economy, Transport and Environment Department
Hampshire County Council
Elizabeth II Court West
The Castle, Winchester

Hampshire SO23 8UD
Direct Line: 01962 832335
Mobile: 07784 261774
E-mail: tristan.norton@hants.gov.uk; www.hants.gov.uk/biodiversity

Coronavirus (Covid-19)

Hampshire County Council's response to the Covid-19 is available here (<https://www.hants.gov.uk/socialcareandhealth/coronavirus>).

In line with Government advice to reduce non-essential travel and work from home where possible, Ecology officers are now working remotely. Whilst we will endeavour to conduct our services in a timely manner and to meet statutory timescales where we can, there may be some impact to the services we deliver. We will ensure that we keep all applicants / interested parties informed of any further impacts to our services should they arise. The Council's response also means that no non-essential site visits or face to face meetings will be undertaken until further notice. Essential and contractual surveys may continue take place where there is no risk to the surveyor or the public, and in line with Government advice. This will be reviewed on an on-going basis.



Hampshire Services offers a range of professional consultancy services to partner organisations. Specialist Environment Services provides data, advice and assessments for ecology, heritage and landscape.

www.hants.gov.uk/sharedexpertise



Please consider the environment before printing this email.

Please note that this advice is given in accordance with the Service Level Agreement that has been signed between Hampshire County Council and your Council. These comments are expressed as a professional view provided to Havant Borough Council and should not, therefore, be interpreted as those of Hampshire County Council.

APPENDIX J

The potential effects of new residential development on the Chichester and Langstone Harbour SPA can be summarised as follows:

Potential Effect	Site Conservation Objective(s)	Qualifying features	Potential for Impact?	Relevant Mitigation Measures
Decrease in survival rates and populations of over-wintering birds due to increase in disturbance, caused by increasing human population (in combination with other plans and projects)	Maintain or restore the population of each of the qualifying features. Maintain or restore the distribution of the qualifying feature within the site.	All for Chichester and Langstone Harbours SPA.	Yes. Indirect impact. Without mitigation, bird populations would be reduced and/or re-distributed by increased numbers of visitors leading to increased disturbance	Bird Aware Solent Strategy The Strategy proposes:- • a team of 5-7 coastal rangers to advise people on how to avoid bird disturbance, liaise with landowners, host school visits, etc.; • communications, marketing and education initiatives; • initiatives to encourage responsible dog walking; • preparation of codes of conduct for a variety of coastal activities; • site-specific projects to better manage visitors and provide secure habitats for the birds; • providing new/enhanced greenspaces as an alternative to visiting the coast;

Further details in relation to the Bird Aware Solent Strategy can be viewed via the following web address:

<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

APPENDIX K

Position statement on nutrient neutral development

Introduction

1. Havant Borough benefits from its position on the Solent coast which is internationally designated for its wildfowl and wading species. This creates a high quality natural environment highly worthy of protection for both its intrinsic value as well as its value in making Havant Borough an attractive place to live, work and study. The Council also takes seriously the requirement under the National Planning Policy Framework *“to support the Government’s objective of significantly boosting the supply of homes”*. The Council is in the process of updating its Local Plan with a view to not only meeting but exceeding the Government’s identified housing need for the authority, in large part through an ambitious regeneration agenda.
2. In looking to marry together these two agendas, an issue has arisen out of recent case law. This relates specifically to the impact from development on the natural environment due to a decrease in water quality.
3. The Council is already committed to development only taking place if it is sustainable development that includes relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality on any European Designated Nature Conservation Sites. However, it should be noted the contribution from urban areas to this is relatively small and from new development extremely small. The majority of nitrogen deposition into the harbour is from agricultural practices or background deposition, the source of which is not known.

Context

The Habitats Regulations

4. The Conservation of Habitats and Species Regulations (2017 as amended), hereafter referred to as the Habitats Regulations are the UK’s transposition of European Union Directive 92/43/EEC on the ‘Conservation of natural habitats and of wild fauna and flora’ (the Habitats Directive). There are significant responsibilities conferred on the Council as a ‘competent authority’ under The Habitats Regulations. Chiefly, it requires the Council to only approve plans or projects (such as planning applications or a local plan) if there is no likelihood of a significant effect on any European designated nature conservation site.

5. A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water pollution, increase in recreation, light pollution, tall buildings or construction activity.
6. In order to assess whether there is a 'likely significant effect' a Habitats Regulations Assessment (HRA) is carried out. This generally includes an Appropriate Assessment (AA), which is the second more detailed stage¹ of an HRA. Natural England must be consulted on the findings of an HRA and there is a duty to consider their response.
7. An HRA is necessary for any local plan produced for the Borough as well as a proportion of planning applications. An HRA aims to assess the potential effects of a land use plan or policy against the conservation objectives of any European sites designated for their nature conservation importance under the Habitats Directive and Birds Directive (Directive 2009/147/EC on the 'conservation of wild birds'). Such sites are known collectively as the Natura 2000 network of European sites.
8. An established principle under law is that appropriate assessments must use the 'precautionary principle'. An appropriate assessment must enable the local planning authority to apply the regulation 63(5) "integrity test" on a "precautionary basis". Authorisation may only be given if the competent authority have made certain there will be no adverse effect on the integrity of the site and where no reasonable scientific doubt remains. Conversely, that means where doubt remains as to the absence of an adverse effect on the integrity of the site linked to the plan or project being considered, the competent authority would have to refuse authorisation. It is also necessary to consider not only the impact of a single plan or project in isolation but where there is any likelihood of a significant effect in combination with other plans and projects as well.
9. The need for Habitats Regulations Assessments has existed since 2004 when the original regulations came into force. It has been known for many years that new development does lead to an increase in recreation at the coast and that this has an impact on the birds which use the coastal mud flats to feed and roost (this is a 'likely significant effect'). As a result, mitigation is required from all new development which is then used to fund the Bird Aware Partnership, of which the Council is a member. The partnership implements the mitigation scheme, largely consisting of a ranger patrols along the coast. This is an established part of the development process at the Solent.

Pressures

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

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

Eutrophication

12. Eutrophication occurs when an excessive amount of nutrients within a water body are present. It causes increased plant growth which reduces the oxygen content in water. This process makes it difficult for aquatic insects or fish to survive, in turn removing a food source from the food cycle.
13. Addressing the sources of eutrophication reduces the input of nutrients into the internationally designated marine environment. However if the issue of eutrophication is not addressed, it could have a negative impact on the marine environment and the conservation objectives of the European designated nature conservation sites (see below).
14. Water quality can be measured by chemically testing water samples. Chemical testing can test for parameters such as nitrogen and phosphates which are indicators of poor water quality.

Recent case law

15. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. This generally referred to as The Dutch Case².
16. The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture.
17. As a result, using this changed approach, it can only be concluded that new development could increase nitrogen and phosphate deposition into the protected harbours above consented levels. This results in increased nutrients in the harbour which cause a dense growth in certain plants. This harbours which in turn leads to harm to the species which use them. This is the likely significant effect.
18. As a result, the only way that a new housing scheme could prevent this likely significant effect is for there to be no increase in nutrients into the harbour, i.e. for it to be 'nutrient neutral'.

European designated nature conservation sites which are affected

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

² Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>.

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

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

The impact of development on the Solent's water quality

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

22. Natural England advises that there is a likely significant effect on the Solent's European Sites due to the increase in waste water from the new housing as a result of the Havant Borough Local Plan 2036. Natural England also advises that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the Solent's European Sites.
23. Natural England advise that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The Partnership for Urban South Hampshire (PUSH)³, Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.
24. Natural England recommend that any new proposals which include overnight accommodation have inevitable waste water implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Habitats Regulations.
25. Natural England recommends that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens. Natural England has prepared a methodology setting out how this can be achieved, which is available on request from Natural England. It is appreciated that nutrient neutrality may be difficult to achieve for smaller developments or on brownfield land.
26. Natural England advises Havant Borough Council to set up an interim approach that developments can contribute to, thereby ensuring that this uncertainty is fully addressed by all applications and will continue to work closely with Havant Borough Council in addressing this issue.

³ Which includes Havant Borough Council.

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

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

28. The Council is already committed to development only taking place if it is sustainable development that includes relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the Solent's water quality, given the presence of the Solent's European Sites, the conservation objectives of which are sensitive to eutrophication.

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

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

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

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

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

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

Havant Borough Local Plan 2036 – Initial Nutrient Budget

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

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

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

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

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

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

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

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

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

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

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

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

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

Development schemes that are could be affected

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

45. The key test is whether there would be an increase in nitrogen emissions into one or more European Sites once the development is occupied compared to if it was not built. The advice below is general in nature and does not remove the necessity to discuss this matter through a pre-application enquiry at an early point in the development process. It should also not be considered advice as to whether there would be a likely significant effect from other causes. It has already been noted that a large amount of development in the Borough, if not mitigated, would be likely to cause a significant effect due to recreational disturbance. However, as set out above, there are many less common reasons why a significant effect may be caused and it is incumbent upon applicants to familiarise themselves with the issues involved.

Area which is affected

46. All of Havant Borough is within the catchment of a Wastewater Treatment Works that drains into a Solent European site. As such, all of the Borough is affected.

Types of applications that will be affected

47. Full and outline planning applications for applicable uses are affected and so an avoidance and mitigation package will be needed. This applies to any applications determined after the adoption of this Position Statement.
48. It is the Council's advice to the Planning Inspectorate⁸ that any planning appeals for applicable uses should include an avoidance and mitigation package to remove any likelihood of a significant effect.
49. Any increase in residential dwellings that takes place as permitted development must undertake a separate HRA through Regulations 75 and 77 of the Habitats Regulations. Such assessments will need to consider water quality. Mitigation packages for such development will be needed on the same basis as those for dwellings that require planning permission.
50. Other types of application, including reserved matters, those made under Section 73 of the Town and Country Planning Act and re-submitted applications will be considered by the Council as competent authority on a case by case basis.

Residential (C3) dwellings

51. Any residential development would lead to an increase in nitrogen and thus would be likely to cause a significant effect.
52. In this context, 'dwelling' includes net new dwellings created through the sub-division of existing dwellings, second homes, dwellings to be used as holiday accommodation, self-contained student accommodation, and new dwellings created as a result of approval granted under the General Permitted Development Order e.g. change of use from office to residential (including houses and flats). It includes permanent accommodation for gypsies and travellers; temporary/transit pitches will be assessed on a case-by-case basis by the local planning authority in consultation with Natural England.

Other forms of development providing overnight accommodation

53. There is a range of development other than C3 dwellings which provides overnight accommodation. Most commonly, this includes care homes and other forms of housing for older people and hotels.
54. Such development would be considered to increase nitrogen and thus would be likely to cause a significant effect. This is due to such development housing people who otherwise would not have been in the catchment of a wastewater treatment works which drains to a Solent European Site.

⁸ In a scenario where an applicant has appealed to the Secretary of State (in practice the Planning Inspectorate) against a refusal of planning permission, the Planning Inspectorate become the Competent Authority under Regulation 63 of the Habitats Regulations. As part of this, they will need to undertake an assessment under that regulation.

Commercial and other non-residential development

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

How this position Statement will be implemented through development management decisions

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

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

The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority;*
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and*
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.*

Reason: *There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the*

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

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

Ongoing monitoring and next steps

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

Appendix 1: European Site avoidance and mitigation checklist

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

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

Application details	
Site name:	
Site address:	

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

Water quality

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

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

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

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

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

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

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

APPENDIX L

APPEAL BY Mr Glanville AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR Retain the existing 'Fowley Cottage' dwelling and construction of 7No. detached dwellings, two on the Warblington Road frontage and five to the rear garden area. Access to Plot 5 to be taken off Warblington Road, access to Plots 1-4, 6 and 7 to be taken off Curlew Close. At Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH

List of Suggested Conditions

1. The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the approved plans:

Reason: To ensure provision of a satisfactory development.
3. The development hereby permitted shall not be occupied until:
 - A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste efficiency calculation must be installed before first occupation and retained thereafter;
 - A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and

All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy E14 of the Pre-Submission Havant Borough Local Plan 2036.

- 4 No development hereby permitted shall commence until plans and particulars specifying the alignment, width, gradient and type of construction proposed for all footways, roads and individual accesses thereto (including all relevant horizontal cross and longitudinal sections) and the related provision to be made for street lighting and for surface water disposal and a programme for the implementation and making up of the same have been submitted to and approved in writing by the Local Planning Authority. The implementation and making up of the same shall be completed in full accordance with such plans, particulars and programme as are thus approved by the Authority.

Reason: To ensure that they are constructed to satisfactory standard and, where appropriate a standard which will enable them to be taken over as publicly maintained highways and having due regard to policies CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 5 No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewers proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.

Reason: To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and the National Planning Policy Framework.
- 6 No above ground construction shall be carried out until a specification of the types and colours of all external roofing and external facing materials, including solar panels if they are to be installed on roof surfaces, including the provision of sample panels of the external facing materials and colour of mortar to be used for the construction of the same, has been submitted to and approved in writing by the Local Planning Authority. Thereafter only such approved materials and finishes shall be used in carrying out the development.

Reason: In the interests of the amenities of the locality and having due regard to policy CS16 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and the National Planning Policy Framework.
- 7 No development hereby permitted, nor any related site clearance shall commence until plans and particulars specifying the finished levels (above ordnance datum) of both the ground floors of the proposed buildings and the surrounding ground levels in relation to existing ground levels have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of the amenities of the locality and having due regard to policy CS16 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and the National Planning Policy Framework.
- 8 The work shall be carried out in strict accordance with the Arboricultural Method Statement and Tree Protection Plan.

Reason: To safeguard against undue damage to existing trees and/or other vegetation at and in the vicinity of the site and having due regard to policies CS11 and CS16 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and the National Planning Policy Framework.

- 9 No above ground construction shall be carried out until a more a detailed soft landscape scheme requiring submission of fully annotated plans at sufficient scale to identify species of individually planted trees, shrubs, hedges, marginal, bulbs and any areas of turfing / seeding. Planting areas should show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include plant tree pit details, specification schedules, comprising plant size, number and density, as well as, the proposed planting implementation programme.

- Hard landscape details requiring submission of fully annotated plans at sufficient scale that comprise a range of coloured and textured surfacing treatments, which identify:
- finished levels
- hard surfacing material type / product reference and colour
- laying bond
- edging or kerb detail / type
- retaining structures or steps
- Boundary details requiring submission of fully annotated plans at sufficient scale showing the locations of existing, retained and proposed new boundary treatments, with scaled elevation drawings to show height, design, materials, type and colour of proposed new walling / fencing or other type of enclosure and associated gates.
- Arrangements for the Maintenance of soft landscaping.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policy CS16 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and the National Planning Policy Framework.

- 10 Development shall proceed in accordance with the ecological mitigation and enhancement measures detailed within the Ecological Impact Assessment in Respect of Bats (Ecosa, August 2019). Ecological enhancement features shall be installed as per ecologists instructions and retained in perpetuity in a location suited to their intended function.

Reason: To protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011 and the National Planning Policy Framework..

- 11 Prior to the occupation of Plot 5 any gates or other obstruction to the passage of vehicles provided on the proposed access to Warblington Road shall be located a minimum of 6m. from the nearside edge of the carriageway of Warblington Road and the same length shall be surfaced in a non-migratory material.

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

12. Prior to each occupation the areas shown on the approved plan for the parking and manoeuvring of vehicles for that plot shall be provided and reserved for those purposes at all times.

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

- 13 No development shall commence until a Construction Method Statement in respect of the following matters has been submitted to and approved by the Local Planning Authority:

- (i) The provision to be made within the site for contractors' vehicle parking during site clearance and construction of the development;

(ii) The provision to be made within the site for a material storage compound during site clearance and construction of the development.

(ii) The provision to be made within the site for the control of noise from construction works

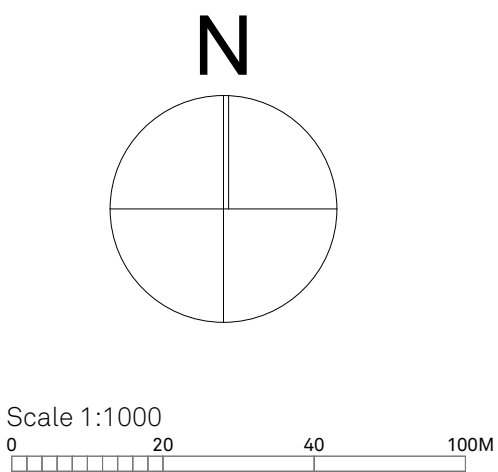
(iv) The provision to be made within the site for lighting construction.

The implementation of the development, shall be in accordance with the approved details.

Reason: To safeguard the amenities of the locality and/or in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

14 Any conditions required by the Environment Agency in respect to flood risk.

APPENDIX M



revisions		
01	9/11/2019	
02	11/18/2019	Additional dwelling
03	3/3/2020	9 unit scheme

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Figure Ground as Proposed

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