

Recommendation: **GRANT PERMISSION**

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)
DM3	(Protection of Existing Employment and Tourism Sites)
DM9	(Development in the Coastal Zone)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Chichester Harbour Conservancy

In its role in managing the Chichester Harbour Area of Outstanding Natural Beauty (AONB), The Conservancy has considered the submitted proposal against the Conservancy's planning guidance and principles - including The Chichester Harbour Management Plan (2014-2019), The Chichester Harbour Planning Principles (version 1.1 July 2017), and The Chichester Harbour AONB Joint SPD (May 2017).

Under the Chichester Harbour Conservancy fully delegated officer decision process, the Local Planning Authority (LPA) is hereby advised that the Conservancy makes the following comment in relation to the above application.

Chichester Harbour Conservancy Recommendation - No Objection

Should the LPA be mindful to grant planning permission, the Conservancy suggests that the following stipulations are applied:

- schedule of materials to be as indicated on submitted application forms to match existing
- the solar panels should have a dark colour and trim to reduce their visual presence on the building roof slope

The proposal is not considered to be unduly prominent, given its setting, to be detrimental to the character or the appearance of the Area of Outstanding Natural Beauty (AONB).

Details of the proposed solar panels were submitted and the following further comments were made:

The Conservancy's consultation comment on 5 February 2019 raised no objection but asked for external construction materials and the solar panel details to be specifically conditioned for the LPA's control. On the basis of the information provided in your email of 6 February 2019 regarding the solar panels, the Conservancy considers that these are acceptable within the AONB and therefore has no further comment to make on this matter at this time.

County Ecologist

The application is not accompanied by any ecological information and I have therefore carried out my own, non-exhaustive desk-based assessment using the application documents, online sources and recent GIS mapping. Whilst the work areas are relatively limited in scale, they are immediately adjacent to highly-sensitive marine habitats supporting internationally-important breeding and wintering bird species as well as habitats. Given the site's proximity to parts of Chichester & Langstone Harbours SPA/Ramsar, Solent Maritime SAC and Solent & Dorset Coasts SPA, and Langstone Harbour SSSI and Chichester Harbour SSSI there is potential for construction activities to result in impacts to these sensitive sites.

These potential impacts can be largely avoided if works are conducted outside the overwintering bird season (October to March inclusive), or where restrictions are placed on the noise and visual disturbance during construction. Natural England have suggested that a Construction Environment Management Plan (CEMP) should be secured to ensure that impacts are avoided. I concur with this advice. Of particular importance is the avoidance of certain construction noise (such as loud or percussive noise exceeding 69dB) at the point of the closest receptor: in this location, the nearest receptor is within 10m.

If you are minded to grant permission, can I suggest that a CEMP is secured by condition:

Prior to the commencement of development activities, a Construction Environment Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority. The CEMP shall include details of measures to avoid or mitigate impacts, direct or indirect, to the adjacent internationally- and nationally-designated sites. Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.

Officer comment: Following the submission of a CEMP on 5 September which satisfied the requirements of Natural England, a condition is recommended for the development to be implemented in accordance with this document.

Engineering Services, Havant Council

No drainage observations

Environment Agency

The Environment Agency has no objection to the proposal.

Advice to Applicant

Flood Risk Activity Permit

Please note that this development and the associated works on the site may require a Flood Risk Activity Permit under the Environmental Permitting (England and Wales) Regulations 2016 from us.

The Applicant should contact the Partnership and Strategic Overview team (please email psohiow@environment-agency.gov.uk) for more information and general advice about a Flood Risk Activity Permit. There is also further information available online on the gov.uk website-

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

The Applicant should note that a permit is separate to and in addition to any planning permission granted. The granting of planning permission does not necessarily lead to the granting of a permit.

Pollution Prevention

All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention measures, the Applicant should refer to our guidance 'PPG 1 - general guide to the prevention of pollution' which can be found on the GOV.UK website using the following link:

<https://www.gov.uk/government/publications/basic-good-environmental-practices-ppg1-prevent-pollution>.

In the event of a pollution incident, all works should cease immediately and the Environment Agency should be contacted via the incident hotline 0800 80 70 60 (24-hour service).

Officer Comment: Informatives recommended.

Hampshire Wildlife Trust, Beechcroft House

No response received.

Langstone Harbour Board

No response received.

Natural England Government Team

Thank you for consulting us on the above application.

Internationally and nationally designated sites

The application is in close proximity the following protected sites:

- Chichester and Langstone Harbours SPA & Ramsar
- Solent Maritime SAC
- Chichester Harbour SSSI
- Langstone Harbour SSSI

Due to the close proximity to the above protected sites the proposals may have adverse effects during the construction phase of the development.

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by your authority's retained ecologist that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should address the following impacts:

- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/lighting/vibrational impacts
- Visual screening (for SPA birds)

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

In addition Natural England advises the following condition should be attached to any permission:

Wherever possible, percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive). If such a condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service.

Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Please note that, recent case law ('Sweetman II') outlines that mitigation measures should not be assessed through a Habitats Regulations Assessment (HRA) to 'screen out' impacts at the stage of considering Likely Significant Effects (LSE), rather avoidance / mitigation measures should be considered through an Appropriate Assessment. Therefore in this case, as mitigation measures are proposed to avoid a likely significant effect your authority's HRA will need to include an Appropriate Assessment under Regulation 63(1) of The Conservation of Habitats and Species Regulations 2017. Please note Natural England are a statutory consultee for Appropriate Assessments and should be re-consulted once your authority has completed its HRA.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Protected species

Protected landscapes

The proposed development is for a site within or close to a nationally designated landscape namely Chichester Harbour AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph

172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Following the submission of an HRA and Appropriate Assessment, comments were received from Natural England on 3 September:

While a CEMP has been provided, it does not include the full range of measures required to ensure no likely significant effect will occur as a result of the construction of the proposal.

The CEMP lacks details on how disturbance through noise impacts will be adequately addressed. Our previous advice is below for reference;

- Wherever possible, percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive). If such a condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service.

As the work is scheduled to coincide with the bird over-wintering period, the CEMP should provide assurances that either no works in excess of this decibel point will be carried out through exclusion of the use of plant which exceeds this level (which should be explicitly written into the CEMP) or that there will be additional measures to reduce this impact to the required decibel level (such as erection of noise dampening fencing between the works location and the sensitive sites).

A revised CEMP was submitted on 5 September and the following comments were received from Natural England on 23 September:

Consultation on HRA

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Officer Comment: Condition recommended.

Royal Society for the Protection of Birds

No response 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: 0

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

- 7.1 The Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this includes an Appropriate Assessment under Regulation 63. This is included in the case file.

Recreational Pressure

- 7.2 The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. However, the application in question does not represent a net increase in population as the development consists of a first floor extension to the existing sailing club, which is neither connected to nor necessary to the management of any European site. As a result, there would be no likely significant effect to the Chichester & Langstone Harbours SPA due to recreation.

Water Quality

- 7.3 The proposed development is within the catchment of a wastewater treatment works that would drain into the Chichester and Langstone Harbours SPA/Ramsar and Solent Maritime SAC. However, as the proposal would not result in an increase in residential housing or overnight accommodation there will be no likely significant effect as a result of an increase in nutrients entering the Solent's European sites.
- 7.4 Regarding construction impacts, a revised CEMP was submitted on 5 September and having considered this and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England have advised that they concur with the assessment conclusions, providing

that all mitigation measures are appropriately secured in any permission given.

Overall conclusion

- 7.5 Natural England advises that the appropriate assessment concludes that the LPA is able to ascertain that the proposal will not result in adverse effects on the integrity of the site in question.
- 7.6 In other respects, having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:
- (i) Principle of development
 - (ii) Impact upon the character and appearance of the area
 - (iii) Impact upon residential amenity
 - (iv) Flood risk
 - (v) Effect on sensitive areas/ecology
- (i) Principle of development
- 7.7 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria.
- (ii) Impact upon the character and appearance of the area
- 7.8 The extension would be on the western side of the building towards the northern end and would be partially visible from the public realm. It is to infill an area over the existing ground floor entrance hall to provide additional first floor office accommodation and would be a continuation of the existing northern elevation and western-most elevation of the building squaring off the clubhouse at the northern end. There would be a modest increase in the overall volume of the building, albeit no increase in the existing footprint and would be constructed of materials to match the existing building with windows in the northern and western elevations.
- 7.9 The proposed solar panels are of a modest size and would be fitted to the existing and proposed mono-pitched western roof slope covering an area of approximately 1.5 metres x 3.9 metres. Comments received from Chichester Harour Conservancy deems that these are acceptable within the AONB and as such the proposal is considered to conserve the character and setting of the AONB..
- (iii) Impact upon residential amenity
- 7.10 The nearest residential dwelling is in excess of 150 metres to the north of the clubhouse and it is therefore deemed any impact as a result of the proposal would be negligible.
- (iv) Flood risk
- 7.11 The site is within Flood Zones 2 and 3, however the proposed development is to extend the property at first floor level with the introduction of solar panels to the existing clubhouse. The proposal would not increase the number of people using the club and therefore not put the club members or employees of the emergency services at any increased risk in the event of a flood. The agent has submitted a flood risk assessment to confirm that appropriate flood risk measures have been considered. The development therefore meets the requirements of policy CS15 of the Havant Borough, Local Plan (Core Strategy).

(v) Effect on sensitive areas/ecology

- 7.12 The proposed works are relatively small-scale, however they are immediately adjacent to highly-sensitive marine habitats supporting internationally-important breeding and wintering bird species as well as habitats. Given the site's proximity to parts of Chichester & Langstone Harbours SPA/Ramsar, Solent Maritime SAC and Solent & Dorset Coasts SPA, and Langstone Harbour SSSI and Chichester Harbour SSSI there is potential for construction activities to result in impacts to these sensitive sites.
- 7.13 The submitted CEMP received on 5 September includes measures to avoid potential impacts, regarding construction noise in particular and a condition is recommended for the development to be implemented in accordance with this document.

8 Conclusion

- 8.1 In conclusion the proposal is considered acceptable in principle and in terms of its impact on the character and appearance of the SPA, SSSI, AONB and nature conservation and is therefore considered to be appropriate subject to conditions and recommended for approval.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00032 subject to the following 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 external materials used shall match, in type, colour and texture, those of the existing building so far as practicable.
Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 3 Development activities shall proceed in strict accordance with the submitted Construction Environmental Management Plan (CEMP) received 5 September 2019.
Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and with Policy CS 11 of the Havant Borough Core Strategy March 2011.

- 4 No percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor) shall be undertaken on site within the bird overwintering period, 1st October to 31st March inclusive.

Reason: To protect the habitats of the adjacent SPA, Ramsar and SAC in accordance with the Habitats Regulations, National Planning Policy Framework, and Policy CS 11 of the Havant Borough Local Plan (Core Strategy) March 2011.

- 5 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drg no. Planning 001	Location plan, block plan, existing north and west elevations, ground and first floor plan
Drg no. Planning 002 Rev A	Proposed north and west elevations, ground and first floor plan
Construction environmental management plan revised September 2019	
Flood risk assessment	

Reason: - To ensure provision of a satisfactory development.