

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**Land adj. 93 Winterslow Drive
Havant
PO9 5DZ**

**Local Planning Authority Reference:-APP/19/00883/
Planning Inspectorate Reference:-
APP/X1735/W/19/3243426**

APPEAL BY Mr Comley AGAINST REF Erection of 2 No.2 bed dwelling houses with associated parking. (Revised application). AT Land adj. 93 Winterslow Drive, Havant, PO9 5DZ

Planning Inspectorate Reference: APP/X1735/W/19/3243426

LPA Ref: APP/19/00883/

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 93 Winterslow Drive is located on the north east corner of Winterslow Drive. The property currently benefits from a large plot which measures approximately 20m in width by 30m in depth. The site remains in a poor state and there are no trees on the site. The site is adjacent to Bondfields Plain, a large area of open space.

2.0 PLANNING HISTORY

APP/19/00635 - Erection of 2 No.3bed dwelling houses with associated parking, Refused on 16/08/2019 for the following reasons:

1 The proposed development would by reason of its size, design and prominent siting be harmful to the existing character and appearance of the area conflicting with the established pattern of development, and visual and spatial characteristics and setting of the street scene of Winterslow Drive. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework 2019.

2 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 due to the increase in recreation as a result of the development, and so is contrary to Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017.

3 The proposal, in the absence of an assessment of nutrient discharge and without completion of the appropriate binding arrangements in relation to off setting any increase, is likely to have a significant effect on internationally designated ecological sites (Special Protection Areas, Special Area of Conservation and potential SPA designations). The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017.

4 The proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2019.

09/70495/005

Erection of 1No. 3 bed and 1No. 1 bed semi detached dwelling with associated car parking and landscaping utilising existing access onto Winterslow Drive. Refused 16.11.09. The application was refused for the following reason:

The proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The proposal is therefore contrary to saved policies D1 and T7 of the Havant Borough District Wide Local Plan 1996-2011 which forms part of the part of the Havant Borough Local Development Framework and, PPS1 of Planning Policy Guidance and PPS3 of Planning Policy Guidance.

Appeal dismissed 18/5/10 (PINS reference APP/X1735/A/10/2121335, attached at **appendix B** - The Inspector concluded that the proposal would have a significant adverse impact on the character and appearance of the area and due to the proposed parking arrangement would result in the potential to cause significant inconvenience to existing and future residents to the detriment of their living conditions.

08/70495/004

Erection of 2No. 3 bed detached dwellings with associated car parking and landscaping utilising existing access onto Winterslow Drive. Refused 15/10/08

Dismissed at appeal 15/01/09. (PINS reference APP/X1735/A/08/2088336, attached at **appendix C**). The application was refused for the following reason:

The proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area. The proposal is therefore contrary to saved policies D1 and T7 of the Havant Borough District Wide Local Plan 1996-2011.

3.0 THE APPLICATION

The proposal is for the erection of 2 No.2 bed dwelling houses with associated parking. (Revised application). The dwellings would be 2 storeys in height, the overall ridge height would be 7.5 metres.

The existing driveway serving an informal parking space in the front garden of 93 Winterslow Drive would be converted to serve as an access to the existing property and the proposed pair of dwellings. Four parking spaces would be provided within the site, with a car turning area.

The main differences between the previously refused scheme (APP/19/00635) and the current application is that the proposed development is for two dwellings attached to the existing dwelling, therefore proposing to continue the terrace of dwellings. The layout of this revised proposal sets back the dwellings into the plot, in combination with the size, scale and massing being reduced. Furthermore, the car parking layout has been amended and includes an element of additional landscaping.

4.0 PLANNING POLICIES

National Planning Policy Framework

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

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

CS16 (High Quality Design)

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

CS21 (Developer Requirements)

CS9 (Housing)

DM13 (Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

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

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Pre-submission Havant Borough Local Plan 2036

The Pre-submission Havant Borough Local Plan 2036 was approved by the Council on 30 January 2019 and was subsequently published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 4 February 2019 to 18 March 2019. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption.

Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following

publication unless other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Pre-Submission Local Plan referenced below are currently afforded some weight, dependent on the level of objection received to each individual policy during the consultation process.

The relevant planning policies of the emerging Local Plan are:

IN1 - Effective Provision of Infrastructure
IN3 & 5 - Transport and New development
E12 - Low Carbon Design
E15 - Protected Species
E16 and E17 - SRMS and SPA
E22 - Amenity
H1- High Quality Homes
H3 - Housing Density
H4 - Housing mix

5.0 PLANNING CONSIDERATIONS

The attached officers report (appendix **D**) sets out the position of the Local Planning Authority. Further commentary is provided with regard to the Habitats Regulations and commentary on the appellants grounds of appeal.

As the Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations, the Local Planning Authority, have to aid the Inspector outlined the two key issues below regarding this application and the associated Appropriate Assessment.

5.1 Definitive Solent Recreation Mitigation Strategy

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>

5.2 The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within **Appendix E**. The evidence base to support the mitigation strategy can be found on the link below:
<http://www.birdaware.org/research>

5.3 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>

5.4 On 1st April 2018, the ('Definitive') Solent Recreation Mitigation Strategy replaced the 'Interim' and the 'Definitive' Strategy now applies to new residential development (this was as approved by Havant Borough Councils Cabinet on the 7th February 2018.) The updated 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 development would require a contribution of £1,000.00 plus 5% monitoring fee of £50.00 and Administration Fee of £20 such that the total contribution required would be £1,070.00.

5.5 A Unilateral Undertaking was received by 9th January 2020, the agent was advised that UU was not complete as it needed to be signed on completion, which included receiving the relevant monies. The LPA have not received the required monies or completed UU and therefore this has not been submitted in accordance with our normal procedures then the application will not be in compliance with the Habitat Regulations and this will form a reason for refusal. Therefore, in the absence of the

completed deed and payment of the contribution, it is the opinion of the Local Planning Authority that the appropriate mitigation measures have not been secured to meet the Definitive Strategy and policy DM24.

- 5.6 It should also be noted that following the Councils determination of this planning application the Court of Justice of the European Union (CJEU) issued a judgement (People over Wind, Peter Sweetman v Coillte Teoranta) which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgement as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage. PINS Note 05/2018 refers to the judgement.

5.7 **Water Quality**

Havant Borough Council's approach to the issue of nutrient neutrality, which has arisen as a new material consideration in determining planning applications since the Council made its decision on the application the subject of this appeal.

- 5.8 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.

- 5.9 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 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'.
- 5.10 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.
- 5.11 On Wednesday 26 June, Havant Borough Council's Cabinet approved a 'Position Statement on Nutrient Neutral Development' (please see **appendix F**). 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 terms of the implications for the development the subject of this appeal in particular, Paragraphs 53-54 set out that a range of development other than C3 dwellings which provides overnight accommodation would be likely to cause a significant effect. 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.
- 5.12 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 their deliberations on this case.

Reason for refusal 1 and comments on the grounds of appeal in this regard

- 5.13 The attached Officers report considers in detail the matters in this regard. The LPA have considered in detail the appellants appeal statement. The LPA notes the commentary provided in this statement. However, this statement does not reflect or consider the two previous appeal decisions on this site. The appeal decisions are material considerations in determination of this appeal and case law

requires that like cases should be considered in a like manner to allow for consistency in decision making. As such it is considered, given the Inspector's findings, that given the current circumstances that prevail at this time there is nothing new to indicate an alternative decision, that it would be unreasonable to refuse this application on this issue. Furthermore, the importance of high quality design is also set out in the National Planning Policy Framework (NPPF) which states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

- 5.14 In weighing the balance to be struck between achieving additional housing on a site within the urban area, and protecting the environmental qualities of that area, it is considered that the harm that would be caused to the character and appearance of the area would outweigh the benefits of providing 2 dwellings.

6.0 CONCLUSIONS

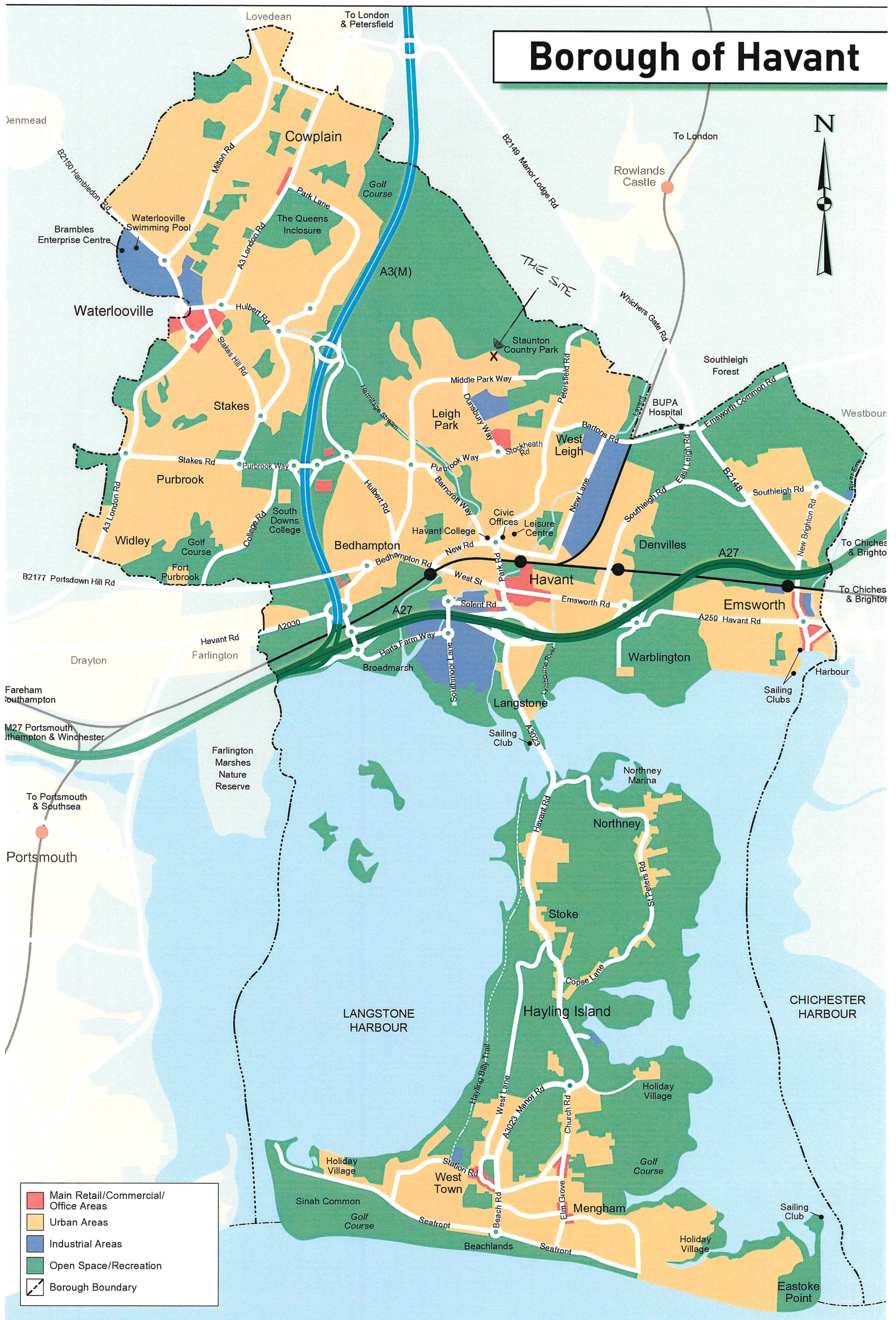
- 6.1 Whilst it is considered that this proposal in terms of the design, scale, massing and design of the dwellings is an improvement from the previous application, it is still considered that the proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would still dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The revised layout is not considered to have satisfactorily addressed previous reasons for refusal in this regard, which have been upheld by Inspectors at appeal.
- 6.2 Furthermore, essential mitigation measures in relation to the development's impact upon the Solent SPA sites have also not been secured and the applicant has not been able to provide information in order to undertake the necessary assessment regarding the impact of the proposed development on water quality.
- 6.3 These matters are considered to outweigh the limited benefits that would arise from the addition of two new dwellings, which would make only a very modest contribution to the Council's housing requirements, and in respect of which a 'tilted balance' cannot be said to apply. The Inspector is therefore respectfully requested to dismiss the appeal.

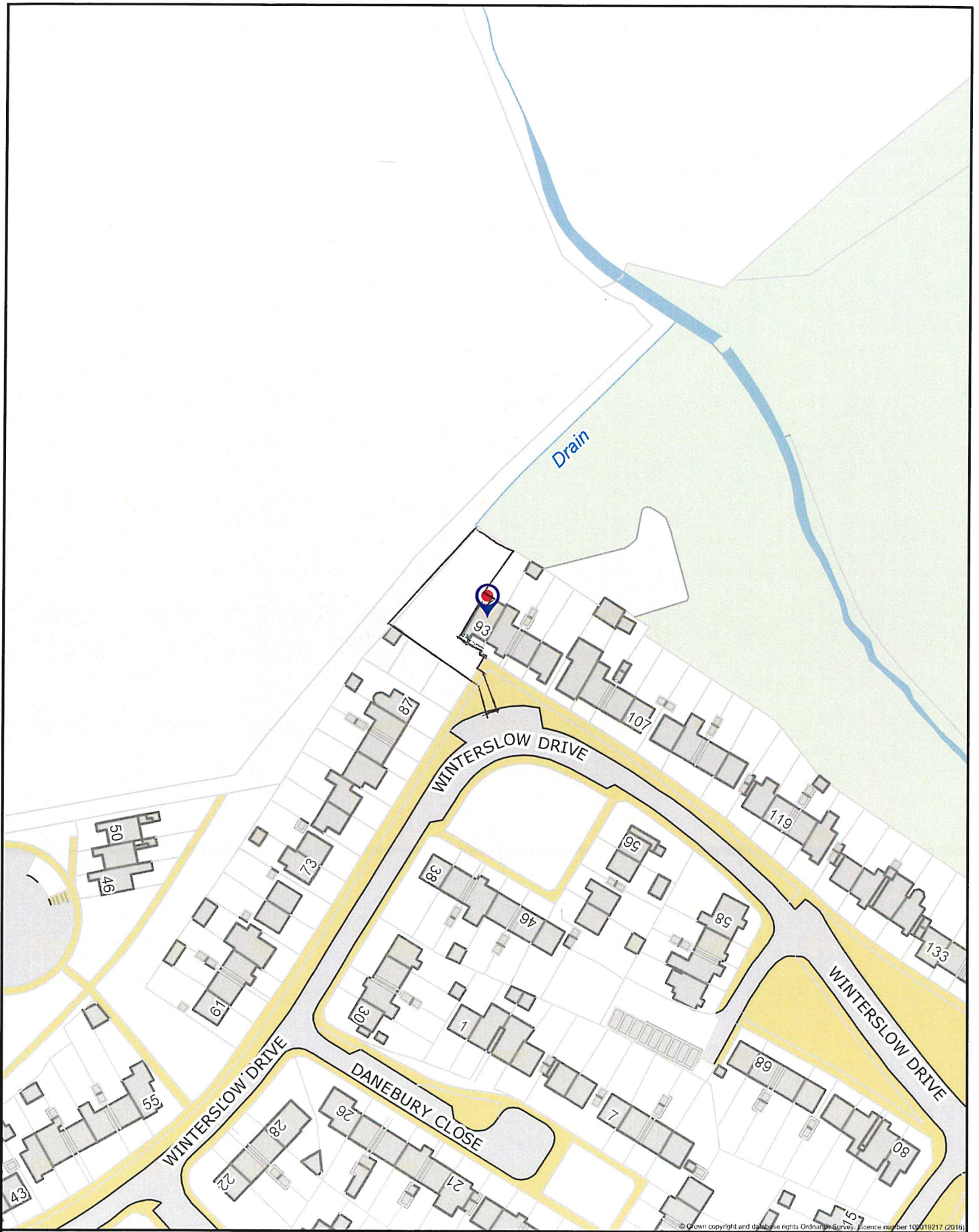
APPENDICES

- (A) Borough Map and 1:1250 Location Plan
- (B) Appeal Decision for application 09/70495/005 (PINS reference APP/X1735/A/10/2121335)
- (C) Appeal Decision for application 08/70495/004 (PINS reference APP/X1735/A/08/2088336)
- (D) Officers delegated report for this application
- (E) Potential effects on SPA of residential development
- (F) Havant Borough Council's Position Statement on Nutrient Neutral Development

APPENDIX A

Borough of Havant





Land adj 93 Winterslow Drive

Havant
BOROUGH COUNCIL

 N Scale: 1:1250

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APPENDIX B



Appeal Decision

Site visit made on 27 April 2010

by Simon Rawle BA (Hons) Dip TP MRTPI
Solicitor

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@plns.gsi.gov.uk

Decision date:
18 May 2010

Appeal Ref: APP/X1735/A/10/2121335

93 Winterslow Drive, Leigh Park, Havant, PO9 5DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G and S Comley against the decision of Havant Borough Council.
- The application Ref 09/70495/005, dated 3 September 2009, was refused by notice dated 16 November 2009.
- The development proposed is the construction of 1 No. 3 bedroom house and 1 No. 1 bedroom house.

Preliminary Matters

1. Originally, the Council were concerned about the fact that the appellant had not made appropriate arrangements to secure an appropriate transport contribution. The appellant has now provided an executed s106 Obligation which secures a transport contribution for the sum requested by the Council. This is undoubtedly a material planning consideration. The Council have correctly set out the tests included in Circular 05/05 – Planning Obligations. However, to my mind, they have failed to indicate how the contribution is directly related to the proposed development as there is insufficient details on what scheme or works the sum requested would pay for. Consequently, based on the evidence before me I cannot make an informed decision on whether the amount agreed meets the relevant tests in Circular 05/2005. Accordingly, this is a case where if in all other respects the proposal had been acceptable it would have been necessary for the parties to provide additional information on this matter. However, for reasons that will become clear it has not been necessary for me to seek additional information in this case.

Decision

2. I dismiss the appeal.

Main issues

3. I consider that the main issues in this case are whether the proposal would have an adverse impact on the character and appearance of the area and whether it would have and adverse impact on the living conditions of existing and future residents.

Reasons

4. The development plan for the area includes the saved policies contained within the Havant Borough District Wide Local Plan 1996-2011. Amongst other things, Local Plan Policy D1 seeks to ensure that development achieves a high quality

design which has a distinctive identity but which respects and enhances local character and which does not adversely affect the amenities of occupiers of neighbouring properties. Local Plan Policy T7 seeks to ensure that a new access does not interfere with the safety, function and standard of service of the road network and does not have adverse environmental implications.

5. The proposal would involve the introduction of two semi-detached houses to the side of No. 93. I have taken account of a previous appeal decision which is an important material planning consideration. I accept that the proposal has been amended in an attempt to address the concerns of the previous Inspector. However, the proposal would still result in a tandem parking arrangement to the side of Plot 2. The previous Inspector highlighted that tandem parking spaces are inconvenient for users and went on to highlight that he had some reservations about the long-term practicality of the layout shown in that case. I consider that the same concerns are apparent in this scheme. The proposal would involve three properties (i.e. No. 93 and the two proposed dwellings) being located in close proximity with a cramped layout. Similar to the previous scheme, this would result in a cramped and contrived layout relying on a tandem parking arrangement to secure adequate parking provision.
6. As a result, contrary to the objectives of Local Plan Policy T7 I am concerned that the proposed access and parking arrangement would interfere with the functioning of the road network. Although, in comparison to the previous scheme the manoeuvring area has been moved away from existing and proposed dwellings, the reliance on a tandem parking arrangement would have the potential to cause significant inconvenience to existing and future residents and indicates that inadequate space would be provided for parking on the appeal site.
7. As a result, notwithstanding the amendments made in comparison to the previous scheme, I consider that the proposal would still appear unduly cramped on the plot. In short, the proposal would involve the introduction of too much development onto the appeal site to the detriment of the character of the area. Consequently, I consider that the proposal would appear as an anomaly that would adversely affect the general layout and setting of the surrounding development.
8. Due to the cramped nature of the proposal, contrary to Local Plan Policies D1, the proposed development would have an unacceptable adverse effect on the character of the locality as it would not adequately respect and enhance local character.
9. I have taken account of the fact that the appeal site is located within an existing residential area and the proposal would undoubtedly make more efficient use of previously developed land. This accords with both local and national planning policies and weighs in favour of the proposal. However, the objective of making more efficient use of land should not be at the expense of other objectives. Contrary to the advice contained within *Planning Policy Statement 3: Housing (PPS 3)* and *Planning Policy Statement 1: Delivering Sustainable Development (PPS 1)*, the proposal would not contribute positively to making this particular place better for people. Moreover, the proposed development would fail to integrate with or complement the local area.

10. I therefore conclude that the proposal would have a significant adverse impact on the character and appearance of the area and due to the proposed parking arrangement would result in the potential to cause significant inconvenience to existing and future residents to the detriment of their living conditions. Accordingly, the proposal would conflict with the objectives of the relevant development plan policies.

11. For the reasons given above I conclude that the appeal should be dismissed.

S.M Rawle

INSPECTOR

APPENDIX C



The Planning Inspectorate

Room: 3/04
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line: 0117-372-6332
Switchboard: 0117-372-8000
Fax No: 0117-372-8443
GTN: 1371-6332

<http://www.planning-inspectorate.gov.uk>

Miss Karen Gardner
Havant Borough Council
Business Development & Support
Team
Civic Centre
Havant
Hampshire
PO9 2AX

Your Ref:

08/70495/004

Our Ref:

APP/X1735/A/08/2088336/WF

Date:

15 January 2009

**HAVANT BOROUGH
COUNCIL**
19 JAN 2009

RECEIVED

Dear Miss Gardner

**Town and Country Planning Act 1990
Appeal by Mr G Comley
Site at 93 Winterslow Drive, Havant, PO9 5DZ**

I enclose a copy of our Inspector's decision on the above appeal.

Leaflets explaining the right of appeal to the High Court against the decision, our complaints procedures and how the documents can be inspected are on our website – www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm - and are also enclosed if you have chosen to communicate by post. If you would prefer hard copies of these leaflets, please contact our Customer Services team on 0117 3726372.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252

Fax No. 0117 372 8139

E-mail: complaints@pins.gsi.gov.uk

Yours sincerely

Christopher Nash





Appeal Decision

Site visit made on 30 December 2008

by **Colin Tyrrell** MA(Oxon) CEng MICE FIHT

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
15 January 2009

Appeal Ref: APP/X1735/A/08/2088336

93 Winterslow Drive, Havant PO9 5DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G Comley against the decision of Havant Borough Council.
- The application Ref 08/70495/004, dated 10 July 2008, was refused by notice dated 15 October 2008.
- The development proposed is the erection of two 3-bed detached dwellings with associated car parking and landscaping utilising the existing access onto Winterslow Drive.

Decision

1. The appeal is dismissed.

Main Issue

2. In my opinion, the main issue is the impact the proposals would have on the living conditions of residents.

Reasons

3. The existing driveway serving an informal parking space in the front garden of 93 Winterslow Drive would be converted to serve as access to the host property and to a further two properties in what had been, apparently, its side garden. The vehicular manoeuvring space would include a turning area extending up to the dining room window and alongside the front door at Plot 2. The proposed tandem parking spaces would be within about 2m of the front of the house on Plot 1. The allocated parking space for the host property would be almost as close to the front of that building, where the front door would open almost directly onto the vehicular manoeuvring area.
4. Tandem parking spaces are inconvenient for users, and I have some reservation about the long-term practicality of the layout shown. However, even if future residents did park strictly in the areas suggested, it seems to me that such an arrangement would appear cramped and contrived and would have a detrimental impact on the living conditions of residents of the host and the new properties.

5. In my opinion, the proposals accord with neither the exhortations to good design in PPS1 and PPS3, nor the specific requirements in saved Local Plan Policy D1 for development which creates an attractive environment and does not adversely affect the amenities of occupiers. I conclude that I should dismiss the appeal.

Colin Tyrrell

INSPECTOR

APPENDIX D

Site Address:	Land adj. 93 Winterslow Drive, Havant, PO9 5DZ		
Proposal:	Erection of 2 No.2 bed dwelling houses with associated parking. (Revised application).		
Application No:	APP/19/00883	Expiry Date:	01/11/2019
Applicant:	Mr Comley		
Agent:	Miss Roberts	Case Officer:	Lewis Oliver
	Critchley Architecture and Design Ltd		
Ward:	Battins		

Recommendation: **REFUSE PERMISSION**

1 Site Description

93 Winterslow Drive is located on the north east corner of Winterslow Drive. The property currently benefits from a large plot which measures approximately 20m in width by 30m in depth. The site remains in a poor state and there are no trees on the site. The site is adjacent to Bondfields Plain, a large area of open space.

2 Planning History

APP/19/00635 - Erection of 2 No.3bed dwelling houses with associated parking.,
Refused on 16/08/2019 for the following reasons:

1 The proposed development would by reason of its size, design and prominent siting be harmful to the existing character and appearance of the area conflicting with the established pattern of development, and visual and spatial characteristics and setting of the street scene of Winterslow Drive. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework 2019.

2 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 due to the increase in recreation as a result of the development, and so is contrary to Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017.

3 The proposal, in the absence of an assessment of nutrient discharge and without completion of the appropriate binding arrangements in relation to off setting any increase, is likely to have a significant effect on internationally designated ecological sites (Special Protection Areas, Special Area of Conservation and potential SPA designations). The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017.

4 The proposal would constitute an undesirable over-intensive use of the site. The

proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2019.

09/70495/005

Erection of 1No. 3 bed and 1No. 1 bed semi detached dwelling with associated car parking and landscaping utilising existing access onto Winterslow Drive. Refused 16.11.09. The application was refused for the following reason:

The proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The proposal is therefore contrary to saved policies D1 and T7 of the Havant Borough District Wide Local Plan 1996-2011 which forms part of the part of the Havant Borough Local Development Framework and, PPS1 of Planning Policy Guidance and PPS3 of Planning Policy Guidance.

Appeal dismissed 18/5/10 - The Inspector concluded that the proposal would have a significant adverse impact on the character and appearance of the area and due to the proposed parking arrangement would result in the potential to cause significant inconvenience to existing and future residents to the detriment of their living conditions

08/70495/004

Erection of 2No. 3 bed detached dwellings with associated car parking and landscaping utilising existing access onto Winterslow Drive. Refused 15/10/08 Dismissed at appeal 15/01/09. The application was refused for the following reason:

The proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area. The proposal is therefore contrary to saved policies D1 and T7 of the Havant Borough District Wide Local Plan 1996-2011.

06/70495/002

Outline application for 1No. detached dwelling. Resolved to grant consent under delegated powers. However, the Section 106 Agreement was never signed. Therefore letter was sent to Mr Lewry (previous application) at 24 Hazelton Way stating that if we have not received a response within 14 days the application would be recorded as not proceeded with. No response therefore the application was not proceeded with.

3 Proposal

The proposal is for the erection of 2 No.2 bed dwelling houses with associated parking. (Revised application).The dwellings would be 2 storeys in height, the overall ridge height would be 7.5 metres.

The existing driveway serving an informal parking space in the front garden of 93 Winterslow Drive would be converted to serve as an access to the existing property and the proposed pair of dwellings. Four parking spaces would be provided within the site, with a car turning area.

The main differences between the previously refused scheme (APP/19/00635) and the current application is that the proposed development is for two dwellings attached to the existing dwelling, therefore proposing to continue the terrace of dwellings. The layout of this revised proposal sets back the dwellings into the plot, in combination with the size, scale and massing being reduced. Furthermore the car parking layout has been amended and includes an element of additional landscaping.

4 Policy Considerations

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

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

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

Pre-submission Havant Borough Local Plan 2036

The Pre-submission Havant Borough Local Plan 2036 was approved by the Council on 30 January 2019 and was subsequently published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 4 February 2019 to 18 March 2019. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption.

Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Pre-Submission Local Plan referenced below are currently afforded some weight, dependent on the level of objection received to each individual policy during the consultation process.

The relevant planning policies of the emerging Local Plan are:

- IN1 - Effective Provision of Infrastructure
- IN3 & 5 - Transport and New development
- E12 - Low Carbon Design
- E15 - Protected Species
- E16 and E17 - SRMS and SPA

E22 - Amenity
H1- High Quality Homes
H3 - Housing Density
H4 - Housing mix

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

5 Statutory and Non Statutory Consultations

Building Control, Havant Borough Council

Building Regulation consent will be required for this work

Compliance with Approved Document B section 5 Fire Authority access to be complied with show compliance with 45m rule

Front entrance door opens within 400mm of stair and therefore fails to comply with Approved Document K requirements

Solid waste storage to be brought to front of house on days of collection

If loft area is to be habitable protected staircase will be needed including fire doors to habitable rooms off staircase

Compliance with Approved Document E will be needed for bedroom 1 Party wall on 93B

Community Infrastructure, Planning Policy & Urban Design

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>.

Additionally, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of net additional dwellings and their respective number of bedrooms. See <http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>.

See also information on Nutrient Neutrality: www.havant.gov.uk/nitrogen

Conservation Officer, Development Control

No Objection

Crime Prevention -Minor Apps

No response

Hampshire Highways

You will be aware of my response to another application for the same development on this site sent earlier this year. From the highway point of view this scheme is better than the last in that it has enough space to conveniently turn vehicle within the curtilage of the site. I note the previous application was refused permission without a highway related reason.

I therefore confirm the Highway Authority have no objection to this proposal.

Natural England Government Team

Natural England agrees with the conclusion of your Appropriate Assessment in that the proposal has not fully mitigated its impacts on the European Designated Sites. In the

absence of mitigation being secured in line with the Solent Recreation Mitigation Strategy and the Position Statement on Nutrient Neutral Development, we advise your authority that there remains an adverse effect on the integrity of the European Sites and any permission would therefore be contrary to the Habitats Regulations (2017 as amended).

Waste Services Manager

No response

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: 4

Number of site notices: 1.

Statutory advertisement: Not applicable.

Number of representations received: 6
Including a Petition signed by 18 residents

Comment	Officer Comment
Adverse impact on the character and appearance of the area - whilst noting the changes to the scheme, including the reductions in size and scale, this development would still have an adverse impact on the character and appearance of the area	Addressed in section (ii) Impact upon the character and appearance of the area
Adverse impact on the amenities of neighbouring properties	Addressed in section (iii) Impact upon residential amenity
This development has not addressed the previous concerns, which will make the existing parking issues in the area significantly worse, and cause a safety hazard	Addressed in section (iv) Impact on highways and parking
Concerns about flooding	The site is in Flood Zone 1, which has the lowest probability of flooding, matters such as drainage for a development of this scale would be secured through the Building regulation process
Loss of property value	This is not a material planning consideration
Loss of private view	This is not a material planning consideration

7 **Planning Considerations**

- 7.1 The Council, as competent authority under Regulation 63(1)(a) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations), has conducted a Habitats Regulations Assessment (HRA) of the proposed development.

Recreational Pressure

- 7.2 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.
- 7.3 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, this has not been secured by binding arrangements.

Water Quality

- 7.4 There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. 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. Therefore a significant effect on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA cannot be ruled out.
- 7.5 The applicant has not been able to provide enough information in order to undertake any assessment regarding the impact of the proposed development on water quality. As such, it is not possible to reasonably assess whether the application would achieve nutrient neutrality.
- 7.6 There remains a likely significant effect from the proposed development on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA. As such, it would not be lawful for the Local Planning Authority to grant planning permission for the proposed development.
- 7.7 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) Impact on highways and parking
 - (v) Developer Contributions
- 7.8 (i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The addition of two new dwellings in such a location would make a contribution, albeit a very modest one, to the Council's overall housing requirements. That said, the Council can

currently demonstrate a 5-year housing land supply and therefore there is no 'tilted balance' relating to residential proposals, as set out in the NPPF. The updated NPPF 2019 continues to have a presumption in favour of sustainable development, whilst noting that good design is a key aspect of sustainable development. The creation of high quality buildings and places is a fundamental aim and paragraph 130 notes that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area...".

- 7.9 It should also be noted that the Council has its emerging Pre-Submission Havant Borough Local Plan 2036. Whilst this plan currently has limited weight in decision making, it must be noted that the emerging policies place a greater emphasis on achieving high quality design with particular reference to the standard of living for future occupiers. Emerging policy H1 introduces the nationally described space standards and re-iterates the need for sufficient and functional outdoor amenity space to support physical and mental health and wellbeing. Additionally other relevant emerging policies include E1 High Quality Design, E2 Health and wellbeing and E22 Amenity and pollution.

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

Both the immediate vicinity and wider locality are residential in character. The residential layout generally comprises terraces of four properties or pairs of semi-detached properties set back from the highway, which use similar materials in the form of brick and tiles. This gives the area a distinctive character. There are generally gardens to the front and rear with generous side garden areas provided where terraces adjoin street corners. There are also several grassed areas in the vicinity in the form of verges which together with the set back of houses and parking bays, contribute to a sense of openness. The amenity space provided to the west of the existing dwelling at 93 Winterslow Drive forms a part of the spacious residential character of the vicinity. Previous applications were refused and dismissed at appeal by virtue of having a significant adverse impact on the character and appearance of the area.

As has been outlined the main differences between this application and the last previous refusal (APP/19/00635), are in terms of the amended layout, and the reduction in terms of the size, scale, massing and design of the proposal. With regard to this element the proposal would now largely be read within the context of the existing terraced properties, albeit that the units would be set back into the plot, in order to accommodate the revised parking layout. As such it is considered on this element that the proposal would in terms of the visual impact of the dwellings themselves be an improvement from the previous scheme, and it is considered that the dwellings, when considered in isolation, would not have a significant adverse impact on the character and appearance of the area, and has overcome reason for refusal 1 of APP/19/00635.

Notwithstanding the above, previous applications have been refused regarding the development of the site for two dwellings constituting an undesirable over-intensive use of the site. The Inspectors in dismissing the previous appeals (08/70495/004 and 09/70495/005) and the LPA in application APP/19/00635 raised concerns that the proposal would constitute an undesirable over-intensive use of the site. The amendments to this application are noted, including the revised parking layout proposal and some further limited elements of landscaping, this time providing further landscaping on the eastern boundary, which is the furthest away from public vantage points, and a small area of grass, and limited landscaping directly in front of the

existing property of no.93. However, this proposal would still dominate the frontage of the properties, and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings.

Notwithstanding the amended layout, the proposed parking arrangement would result in manoeuvring right up the front doors of the proposed dwellings, and given the limited space result in awkward manoeuvring to access the parking area, and to leave the site.

As such it is considered that the revised parking layout has not addressed the concerns raised by the previous Inspectors in dismissing those appeals or reason for refusal 4 of the previous application APP/19/00635. The arrangements still appear cramped and contrived and would have a detrimental impact on the living conditions of residents of the existing and proposed properties. The agent was advised by the Local Planning Authority that having regard to the extensive history, including appeal decisions, for this site that given the constraints of this site that only a single dwelling could potentially be accommodated on this site.

On the above basis, it is considered that the proposed development would have a harmful effect on the character and appearance of the surrounding area as it would introduce a more intensive form of development into an area that is defined by its spacious character. The harm that would be caused to the character and appearance of the area would outweigh the benefits of providing 2 dwellings, which comprises two bedroom units. As such it is considered that this proposal would conflict with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework 2019, and has not addressed the previous appeal decisions, or the previous application on this site.

(iii) Impact upon residential amenity

It is considered that the proposed dwellings have been reasonably designed in terms of potential overlooking to the residential property 87 Winterslow Gardens. The windows are approximately 22.1m away from the boundary with No.87 Winterslow Drive and therefore given this degree of separation it is not considered that the development would have a significant adverse impact with regard to overlooking. Furthermore it is considered that the development by virtue of its layout, size and scale would not result in a significant adverse impact on the amenities of neighbouring properties with regard to loss of sunlight/daylight or overbearing impact.

(iv) Impact on highways and parking

The proposed development requires two car parking spaces per unit and as such there would be a requirement for four off road parking spaces to meet the requirements of the Borough Parking SPD. This application does provide the required number of spaces, however as outlined above concerns exist over the feasibility and use of these spaces in terms of their impact on the living conditions of residents. It is noted that significant concerns have been raised by a number of local residents that the proposal would result in the loss of existing parking provision, in an area where parking spaces are in short supply as many of the dwellings in the area do not have off-street parking. This proposal would utilise the existing crossover and access to the site from the highway, and therefore the proposed development will not decrease the amount of on street parking.

Overall it is not considered that this proposal would have a significant adverse impact

on the safety or free flow of the highway network to justify a reason for refusal of this matter.

(v) Developer Contributions

The CIL rates to be applied to development are set out in the Havant Borough Community Infrastructure Levy Charging Schedule, which was adopted by the council on the 20 February 2013. This followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiners Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The levy is charged at £80 per square metre (plus indexing) on new floorspace (measured as gross internal area) in Havant.

8 Conclusion

Whilst it is considered that this proposal in terms of the design, scale, massing and design of the dwellings is an improvement from the previous application, it is still considered that the proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would still dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The revised layout is not considered to have satisfactorily addressed previous reasons for refusal in this regard, which have been upheld by Inspectors at appeal.

Furthermore, essential mitigation measures in relation to the development's impact upon the Solent SPA sites have also not been secured and the applicant has not been able to provide information in order to undertake the necessary assessment regarding the impact of the proposed development on water quality.

These matters are considered to outweigh the limited benefits that would arise from the addition of two new dwellings, which would make only a very modest contribution to the Council's housing requirements, and in respect of which a 'tilted balance' cannot be said to apply. The recommendation is therefore to refuse this application.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/19/00883 for the following reasons:

- 1 The proposal would constitute an undesirable over-intensive use of the site. The proposed car parking would dominate the frontage of the properties and as such the development would result in a cramped and contrived layout which would have an adverse effect on the amenities of the area and the living conditions of the occupants/owners of the existing and proposed dwellings. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework.
- 2 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 due to the increase in recreation as a result of

the development, and so is contrary to Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017.

- 3 The proposal, in the absence of an assessment of nutrient discharge and without completion of the appropriate binding arrangements in relation to off setting any increase, is likely to have a significant effect on internationally designated ecological sites (Special Protection Areas, Special Area of Conservation and potential SPA designations). The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017.

APPENDIX E

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 F

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.																	
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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:				

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 following approved plans.
Reason: To ensure provision of a satisfactory development.
3. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the buildings and the hardsurfaced areas, including the frontage parking spaces and access drive, have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
4. No development shall take place until plans and particulars specifying the following matters have been submitted to and approved in writing 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.Thereafter, throughout such site clearance and implementation of the development, the approved parking provision and storage compound shall be kept available and used only as such.
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.
5. The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.
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.
6. No development shall take place until a further detailed Scheme of Soft and Hard Landscape Works has been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i) Written specifications (including cultivation and other operations associated with plant and grass establishment,
 - ii) schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate,
 - iii) Means of enclosure, in particular boundary walls and planting around properties and including their frontages, including any retaining structures,
 - iv) A timetable for implementation of the soft and hard landscaping works.

The scheme of Soft and Hard Landscaping Works shall be implemented in accordance with the approved timetable. Any plant which dies, becomes diseased or is removed within the first five years of planting, shall be replaced with another of similar type and size, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To achieve an appropriate landscaping scheme to integrate the development into the landscape in accordance with policy CS16 of the Havant Borough Local Plan (Core Strategy 2011) and the National Planning Policy Framework.

7. 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 Havant Borough Local Plan (Core Strategy) 2011 and Policy E14 of the Pre-Submission Havant Borough Local Plan 2036.