

Recommendation: **GRANT PERMISSION**

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

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

## **5 Statutory and Non Statutory Consultations**

### **Building Control**

No response received.

### **Community Infrastructure, Planning Policy & Urban Design**

CIL Liable.

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

### **Crime Prevention -Minor Apps**

No response received.

### **Natural England Government Team**

#### **Recreational disturbance**

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution (Solent Recreation Mitigation Strategy / Bird Aware Solent) which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). The development proposal will need to be in accordance with the Definitive Strategy rates. Please note these rates were updated as of 1 April 2019.

It is Natural England's view that the Solent Mitigation Recreation Strategy contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

#### **Deterioration of the water environment**

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

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 relevant designated sites include Chichester and Langstone Harbours Special Protection Area and Ramsar site, Solent and Southampton Water Special Protection Area and Ramsar site, Portsmouth Harbour Special Protection Area and Ramsar site, the Solent Maritime Special Area of Conservation and the Solent and Dorset Coast potential Special Protection Area.

As you are aware, the Partnership for Urban South Hampshire (PUSH), 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.

The proposal comprises new housing development and it is Natural England's view that the existing uncertainty about the deterioration of the water environment must be appropriately addressed in order for the assessment to be legally compliant in light of recent case law. The key pieces of case law are *Sweetman II (People Over Wind, Peter Sweetman v Coillte Teoranta)* judgement which was issued in April 2018 by the Court of Justice of the European Union (CJEU) and the CJEU case known as the Dutch case (*Joined Cases C-293/17 and C-294/17 Coöperatie obilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others*).

It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC, pSPA) due to the increase in waste water from the new housing. As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess the implications of the proposal in view of the conservation objectives for the European site(s) in question within the appropriate assessment. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites. Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Natural England advises that the waste water issue is examined within the appropriate assessment. To address the existing uncertainty, Natural England recommends that the proposals achieve nutrient neutrality. It is appreciated that this may be difficult for smaller developments. Therefore, we advise that an interim approach is set up for the Borough that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications. Natural England will continue to work closely with Havant Borough Council and other PUSH planning authorities to help address this issue. We can also provide further advice to the applicant on mitigation options under our [Discretionary Advice Service](#).

Please note we advise that the competent authorities to whom Natural England gives its statutory advice on the environment will need to seek and rely upon their own legal advice on the interpretation of the Habitats Regulations and case law.

*Further comments were received on 06/09/19 following the submission of an updated HRA and appropriate assessment to address nutrient neutrality.*

### **Nutrient Neutrality**

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the

Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Natural England is aware that your authority has adopted an interim strategy using Grampian conditions to address nutrient impacts from developments currently in the planning system and we have been working with the Council to develop this approach. It is noted that the mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. With regard to deterioration of the water environment, it is noted that the approach to address the positive nitrogen budget for this development is to offset against the interim strategy, with measures to ensure this approach can be adequately secured and accounted for.

It is Natural England's view that in this case, provided the Council as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Please consult Natural England on the discharge of the Grampian condition.

#### **Solent Recreation Mitigation Strategy**

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

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

#### **Public Spaces**

No response received.

#### **Waste Services Manager**

No response received.

### **6 Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 8

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

## **7 Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Parking
- (v) Developer contributions
- (vi) Ecology

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The provision of a new dwelling would assist the the Council's requirement for providing new homes across the Borough under Core Strategy Policy CS9.

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

7.3 The works proposed are for the conversion of the loft to a self-contained 1 bedroom flat with 3 roof lights to the front elevation and 4 pitched roof dormers to the rear and would be visible from the public realm.

7.4 The proposed roof lights to the front roof slope are high level and would be flush with the roof. It is therefore considered the roof lights would not result in an incongruous feature in this pedestrianised area of Park Parade.

7.5 The proposed dormers are on the rear (north) roof slope. Whilst there are no other dormers to properties in the immediate vicinity, the proposed dormers are of a modest size, set below the ridge height and will be finished in matching materials.

7.6 There is no associated amenity space for the new flat, although it is noted other flats in the area have limited or no outside amenity areas. Therefore this is an accepted characteristic of the area and it would be difficult to refuse the application on lack of amenity space.

7.7 The design and appearance of the proposal is appropriate in context to the main building and is therefore considered to be acceptable, meeting the requirements of Policy CS16 of the HBLP (Core strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality.

(iii) Impact upon residential amenity

7.8 The dormers in the northern roof slope of the property are in excess of 45 metres from the rear elevations of residential properties opposite in Greywell and it is considered the proposal would not have an adverse impact on any of the occupiers of these properties.

- 7.9 The roof lights in the southern roof slope are high level and there are no residential properties directly opposite. It is considered any resulting impact would be negligible.

(iv) Parking

- 7.10 There is currently one 1 bedroom flat and one 2 bedroom flat within the building and the proposal for a 1 bedroom flat would result in the requirement of four on site parking spaces as recommended in the HBC Parking SPD (July 2016). A parking plan has been submitted as part of the application which shows three parking spaces and an area for cycle storage and a condition is recommended to retain these areas for parking and cycle storage at all times.

- 7.11 Whilst the on site parking would result in a shortfall of one parking space, the application site is in a sustainable location. The area is well served by local facilities and located in proximity to several public car parks. As such it is considered that in this particular case the shortfall of one on site parking space is acceptable .

(v) Developer contributions

- 7.12 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.

- 7.13 The proposal would result in new residential development which is Community Infrastructure Levy (CIL) liable and the appropriate forms have been submitted. The gross new internal floor space for the dwelling has been calculated by the agent as 58 sqm which generates a total CIL liability of approximately £6,483.57. The applicant is not claiming self build exemption.

(vi) Ecology

- 7.14 This development would increase the number of dwellings within the 5.6km zone identified as significant in potentially increasing recreational pressure on the Solent SPA. Natural England's advice in regard all new housing development within this 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. This is currently set at £383.30 for a 1 no. bedroom dwelling and the relevant paperwork has been returned and the contribution paid. The proposal therefore accords with Policies CS11, CS21 (Developer Contributions) and DM24.

- 7.15 The application has also been assessed under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) (The Habitats Regulations). The proposal would lead to a net increase in population, which would be likely to lead to a significant effect (as described in Regulation 61(1) (a) of the Habitats Regulations) on the Chichester and Langstone Harbours Special Protection Areas (SPA) and Solent Maritime Special Area of Conservation (SAC) which are European sites. Furthermore the development is not necessary for the management of the European sites .

- 7.16 The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to both the increase in recreation and the decrease in water quality that would be results of the proposed development.
- 7.17 The planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages, and the contribution and deed in respect to the Solent Mitigation Project together with confirmation through a European Site Avoidance and Mitigation Checklist the applicant's commitment to providing a mitigation package have been received.
- 7.18 The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment.

## **8 Conclusion**

- 8.1 The scale, siting and design of the proposal would have limited and acceptable impact on the neighbours and character of the area and is therefore considered to be appropriate and recommended for approval.

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## **9 RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00341 subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.  
**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The external materials used shall be as indicated on the submitted forms and hereby approved plans, or shall match, in type, colour and texture, those of the existing building so far as practicable.  
**Reason:** In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 3 The development shall not be brought into use until a minimum of 3 parking spaces and cycle storage area have been provided within the curtilage of the site as shown on Drg no. 3228/JK/02 and thereafter all of those spaces kept

available for such purposes.

**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.

- 4 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; all measures necessary to meet the agreed waste efficiency calculation must be installed before first occupation and retained thereafter;
  - 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.

- 5 The development hereby permitted shall be carried out in accordance with the following approved plans:
- Drg no. 3223/DJ/11 Site and block plan
  - Drg no. 3328/JK/01 Existing floor and elevations plan
  - Drg no. 3328/JK/02 Proposed floor and elevations plan

**Reason:** - To ensure provision of a satisfactory development.