

Recommendation: **REFUSE PERMISSION**

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| CS11 | (Protecting and Enhancing the Special Environment and Heritage of Havant Borough) |
| CS15 | (Flood and Coastal Erosion) |
| CS16 | (High Quality Design) |
| CS21 | (Developer Requirements) |
| CS9 | (Housing) |
| DM10 | (Pollution) |
| DM13 | (Car and Cycle Parking on Residential Development) |
| DM8 | (Conservation, Protection and Enhancement of Existing Natural Features) |
| DM9 | (Development in the Coastal Zone) |

Havant Borough Local Plan (Allocations) July 2014

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

Plot 1 will be within 3m of a public surface water drain. Southern Water should be consulted.

The bin storage locations should be confirmed.

Community Infrastructure

Natural England

Solent Recreation Mitigation Strategy - no objection subject to mitigation

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.

Nutrient Neutrality – no objection subject to mitigation

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.

Crime Prevention -Minor Apps

No Comment.

Developer Services, Southern Water - No Objection

Southern Water requires a formal application for connections to the public foul and surface water sewers to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:

A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link
<https://beta.southernwater.co.uk/infrastructure-charges>.

It is the responsibility of the developer to make suitable provision for the disposal of surface water.

Part H3 of the Building Regulations prioritises the means of surface water disposal in the order:

- a Adequate soakaway or infiltration system
- b Water course
- c Where neither of the above is practicable sewer

The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Landscape Team 1st Comment

- The proposed garden depth of plot 2 (approx. 6.8m) is contrary to the HBC design guide, which states 'Garden length should normally allow 10 meters between dwelling and the boundary. This could have implications on over looking and daylight availability to no. 5 West Haye Road. Whilst the existing dwelling on 14 Eastoke Avenue does not afford the required 10m garden length the proposed building is 1.5 storeys and considerably taller than the existing property.

Details required for submission:

- A soft landscape scheme requiring submission of fully annotated plans at sufficient scale to identify species of individually planted trees, shrubs, hedges, marginal, bulbs and any areas of turfing / seeding. Planting areas should show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include plant specification schedules, comprising plant size, number and density.

- Hard landscape details requiring submission of fully annotated plans at sufficient scale that comprise the proposed range of coloured and textured surfacing treatments, which identify:

- hard surfacing material type / product reference and colour
- laying bond
- edging or kerb detail / type
- Boundary details requiring submission of fully annotated plans at sufficient scale showing the locations of existing, retained and proposed new boundary treatments, with scaled elevation drawings to show height, design, materials, type and colour of proposed new walling / fencing or other type of enclosure and associated gates.

Landscape Team - 2nd Comment

- The proposed garden depth of plot 2 (approx. 6.8m) is contrary to the HBC design guide, which states 'Garden length should normally allow 10 meters between dwelling and the boundary'. This could have implications on over looking and daylight availability to no. 5 West Haye Road. Whilst the existing dwelling on 14 Eastoke Avenue does not afford the required 10m garden length the proposed building is 1.5 storeys and considerably taller than the existing property.

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Environment Agency

No comment.

Hampshire Highways

ACCESS:

There already appears to be an existing access associated with the site, which is likely to be used for one plot. However, a further dropped kerb would be required for the other dwelling. This will require a s184 to be entered into with HCC as Highway Authority, details of which may be found via the following link- <https://www.hants.gov.uk/transport/parking/droppedkerbs>

Due to the nature of the road, visibility splays are deemed acceptable.

PARKING:

Parking has not been fully assessed as this is a function of Havant Borough Council (HBC) as Local Parking Authority, however it is noted that 2 car parking spaces will be provided for each dwelling. It appears this would meet the required standard in terms of quantum, however it is requested that HBC ensures their parking standards are adhered to.

SERVICING:

A kerbside collection is required and this is likely to be an existing situation. Bin storage and collection points should be non-obstructive and meet standards in terms of drag distance.

TRIP GENERATION:

The highway authority is satisfied that the potential traffic generation from the development proposal would not have a severe detrimental impact on the operation and safety of the local highway network.

Having regard to the above, the Highway Authority would recommend:

No objection subject to condition-

PARKING PROVISION

Before use of the development is commenced provision for parking should have been made within the site in accordance of the approved plans and shall be retained thereafter.

Reason - To ensure adequate on site car parking provision for the approved development.

ACCESS CONSTRUCTION PROVISION

No development shall start on site until the access, including the footway and/or verge crossing shall be constructed in accordance with the approved plans.

Reason - To provide satisfactory access and in the interests of highway safety.

Public Spaces

No Comments.

Community Infrastructure Levy

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

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: 9

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 6

Comment	Officer Comment
Provide improved housing - orientation and design would be appropriate and in keeping for the area. Much needed small properties Never witnessed the site to flood in 20 years.	See Section 7 below.
Windfall developments need to be put on hold until HBC has properly considers the cumulative effect of such development on Hayling Islands infrastructure - required by NPPF - Council is not currently compliant. New developments should enjoy a "lifetime" free from persistent flood risk of 100 Years.	See Section 7 below.

Location not 2m above mean astronomical high tide - Environment Agency's 2019 100-year prediction of sea-level rise of 1.4m is going to threaten this development.	
Overdevelopment of the site.	
Problems with construction workers parking on the highway - led to parking problems – how is this policed?	Police matter.
Hours of work restricted to Mondays to Fridays between 8 am and 5pm.	See Section 7 below.
Overlooking. Loss of daylight Invasion of privacy. Noise, smells & fumes from extra traffic - health hazard.	See Section 7 below

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) Access and parking
- (v) Drainage
- (vi) Flooding
- (vi) Developers Contributions.

(i) Principle of development

The development plan for the Borough currently comprises the Local Plan (Core Strategy), 2011 and the Local Plan (Allocations) 2014. The Pre-Submission Havant Borough Local Plan 2036 was approved by the Council in January 2019 and currently has limited weight in decision making, but does indicate the direction of travel. The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria.

It is recognised that the development would make a modest contribution towards housing need in the Borough which weighs in favour of the proposal. However, this must be assessed against the site specific impacts of the proposed development.

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

Policy CS16 of the Local Plan requires that development is designed to a high standard and should demonstrate that its design:

"Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors;"

The existing dwelling is orientated across and to the west of the site with the eastern boundary longer than the western boundary ie western boundary 14.5m, eastern boundary 32m. The irregular size and shape of the plot is a constraint on the redevelopment of the site for two dwellings. Whilst there is some variance in the plot size of properties nearby, the character of the area is that of bungalows/chalet bungalows, set in large plots.

The proposed two dwellings would directly face onto Eastoke Avenue with Plot 1 positioned in a prominent position in the street scene, 2m back from the edge of the highway at its closest point, forward of No. 3 West Haye Road, to the north west. Plot 2 would be set back 4.3m from the edge of the highway. Vehicular parking would be to the front of the site.

Following the submission of amended plan the width of the two dwellings have been reduced from 7.1m to 6m. The height has been reduced from 8.1m to 7.4m. Gable ends are provided on the south west and north east elevations, with gables incorporated in the roof design in the north west and south east elevations. The internal floor space for the two dwellings would be approximately 83 sqm. When assessed against the Government's national space standards for a two storey dwelling, with 2 bedroom, this would slightly exceed that required for 4 persons (ie 79 sqm).

There would be a 2m separation between the 2 dwellings, with a 1m separation from the southeast boundary and 2m to the southwest boundary. As to the rear garden for plot 1, this would be approximately 6.2m in length; plot 2, approximately 7m to the rear boundary, which falls below that required by the Havant Borough Design Guide Supplement Planning Document which states:

"5.13 As stated, the garden of a two storey home should be a minimum of 10 metres in length to provide appropriate daylight and to minimise overlooking, with an additional 4 metres for every storey added."

Other spaces around the dwelling fails to make up for this shortfall giving rise to a cramped form of development resulting in an overdevelopment of the site out of character with the existing general pattern of development within the locality, with dwelling 1 being a dominant feature in the street scene .

In support of the plot size and the proposed garden areas the applicant's agent has refer to a planning permission granted on appeal at 1A Haven Road on 22 January 2013, under reference APP/12/00273 and a subsequent permission granted by the Local Planning Authority (LPA) for the same development (ie a two bedroom bungalow) on this site.

When determining the appeal the Inspector found that the development would be a visual improvement in the street scene from the existing holiday caravan on the site with permission for occupation 10 months a year, albeit noting the concern that the site would be cramped with limited amenity area and that the dwelling would be perceived as close to the boundaries and in that respect would be out of keeping with the surroundings. In view of the permission granted at appeal and no change in policy the LPA subsequently 'renewed' this permission on 22/3/19 under reference 19/00067.

This permission was granted due to the specific circumstances of the application and is not seen in any way as a precedent for the current development, as the proposal is not like for like, and has to be determined on its individual merits, having due regard to the development plan and all material planning considerations.

Overall the development would fail to meeting the requirements of the policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

(iii) Impact upon residential amenity

The bungalow to the north east is set back into the site, with its rear garden backing onto Eastoke Avenue. Dwelling 1 would be sited forward of this property and would cause a degree of overshadowing of the garden in the mornings. The property to the south east is a replacement chalet bungalow, which would be stepped forward of dwelling 2. A degree of overshadowing would be caused by this dwelling to the rear garden of this property and to 7 West Haye Road at certain times of the day. This overshadowing, would on balance, be acceptable. The window at first floor of dwelling 1 services a landing, which, if granted, would be conditioned to be top opening and obscurely glazed, so there would be no overlooking. The window at first floor level for plot 2 would service a bathroom which has the potential to overlook the rear garden area of the adjacent property to the south east. If permission was forthcoming this would be conditioned to be top opening and obscurely glazed. The proposed dwellings have two windows and two dormer that would face onto each other. Two of the windows would service bathrooms, which would be obscurely glazed and would be conditioned to this effect. As to the dormers, due to the staggered nature of the proposal they would not look directly into each other's bedroom, albeit there is likely to be an oblique level of overlooking, which on balance is not considered to be materially harmful to the amenity of further occupiers.

As to the property to the rear, this is a bungalow with a single storey flat roofed rear element that is approximately 1m from the boundary, with a 1.8m fence in between. A window looks out to the rear at ground floor, close to the boundary fence with the remaining windows looking out to the west. Amended plans have reduced the height and width of the two dwellings and have changed their layouts so that the two windows at first floor to the rear service bathrooms which would be obscurely glazed. On balance the amended plans have addressed, the overlooking of the amenity space of the property to the rear.

The applicant has advised that the back to back relationship with the property to the rear is acceptable given the relationship of the existing dwelling to the development to the rear (ie 5 West Haye Road) and the local context, with garden in the immediate vicinity having small rear gardens, below the minimum standard. The proposal has to be assessed against adopted standards and the development applied for. The proposed back to back separation to the dwelling to 5 West Haye Road, would be under 8m at the closest point and would result in an undesirable relationship with 5 West Haye Road, to the detriment of the occupiers' amenity of this property.

Turning now to the residential amenities of future residents, there is a concern that the proposed dwellings would have severely restricted private amenity space. Dwelling 1 would have a rear garden depth averaging 6.2m with a width of about 8.5 m, with Dwelling 2 having an average depth of 6.5m with a width of approximately 8 m. The area to the front would not be useable as a private amenity space given that most of this area is given over to parking and the public views into this area. These external amenity spaces are considered to be severely restricted and would provide inadequate external amenity space to serve the dwellings and be contrary to the Havant Borough Design Guide SPD and Policy CS16 of the Havant Borough Local Plan (Core Strategy). 2011

With regard to concerns raised regarding noise, disturbance and fumes associated with the construction of the development and hours of operation, this would fall under Environmental Health legislation, if found to be a statutory nuisance. That said, informative's would be included on the decision notice, if permission was forthcoming, relating to such matters, including hours of operations and steps that should be taken, to minimise the disturbance of neighbours, during the construction period. As to parking on the highway, if this was the cause of an obstruction, this would be a matter for the Police.

The overall assessment of the proposal is that it would have a significant impact on the residential amenity of the occupiers of the property to the rear and to future occupiers contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 .

(iv) Access and parking

Vehicular access, as now, would be directly off Eastoke Avenue and two parking spaces per property are proposed, side-by side, to the front of the dwellings. Havant's Car Parking Supplementary Planning Document (HCPSPD) requires two parking spaces for a 2 bed dwelling. The level of parking proposed accords with the requirements of the HCPSPD.

(v) Drainage

Southern Water has advised that a public sewer may cross the site and the need for their consent, if building works are within 3 metres of a sewer. If permission is forthcoming, an informative would be added to the decision advising the applicant of the need to contact Southern Water, if a sewer is located within the site.

(vi) Flooding

Part of the front of the site falls within Flood Zones 2. Policy CS15 requires, amongst other matters, of development proposals, that:

"1. It meets the sequential and exception test (where required) in relation to PPS25

2. The site is located in a low hazard area as defined in the Strategic Flood Risk Assessment.

3. A site-specific flood risk assessment demonstrates that the development will be safe, including the access, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

4. The scheme incorporates flood protection, flood resilience and resistance measures appropriate to the character and biodiversity of the area and the specific requirements of the site.

5. Appropriate flood warning and evacuation plans are in place."

The front of the site is located within Flood Zone 2 as is Eastoke Road to the front of the property, as identified on the Environment Agency (EA) flood zone map with a probability of having between a 1 in 200 and 1 in 1,000 annual probability of sea flooding. The additional dwelling on the site is classified as a 'More Vulnerable Use' by the EA. Paragraph 163 of the NPPF requires that Local Planning Authorities steer new development to areas with the lowest probability of flooding (ie Flood Zone 1) and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be undertaken by the LPA in this regard to decision making. The advice contained within the EA's Demonstrating the flood risk Sequential Test for Planning applications, has been followed to this regard to test the planning application the subject of this report.

The Sequential Test does not need to be applied for individual developments on sites which have been allocated in development plans through the Sequential Test, or for applications for minor development, (for example extension to existing dwellings), or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site). The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

The site subject of this report is categorised as a windfall site and the EA advise that, in the absence of a flood risk windfall policy it may be possible (where the data is sufficiently robust) for the LPA to apply the Sequential Test taking into account reasonably available sites, historic windfall rates and their distribution across the district relative to Flood Zones. Where historic and future trends evidence indicate that housing need in the district through windfall can be met largely/entirely by development outside high flood risk areas, this may provide grounds for factoring this into the consideration of 'reasonably available alternative sites at the planning application stage'.

To this regard the LPA can demonstrate a 5 year housing supply within the current Strategic Housing Land Availability Assessment (SHLAA), Adopted Allocations plan and the emerging Local Plan 2036. The emerging Local Plan, identifies appropriate sites that are in the areas of lowest flood risk for residential development, or met the exception test. It is therefore considered that the provision of a further dwelling within flood zone 2 cannot be justified in this case as there are sequentially better sites available, which are deliverable and provide the Borough's 5 year housing supply requirement.

The proposed development for a dwellinghouse, is classified as a More Vulnerable use by the EA. The aim of the Sequential Test is to steer new development to the areas with the lowest probability of flooding. The Planning Practice Guidance advises that, in applying the Sequential Test, the aim is to steer new development to Flood Zone 1, these being areas with a low probability of flooding. Only where there are no reasonably available sites in Flood Zone 1, should reasonably available sites in Flood Zones 2 and 3 be considered.

The Planning Practice Guidance states that in the first place it is the Local Planning Authorities responsibility to consider if the sequential test has been satisfied, informed by evidence provided by the developer. No evidence has been submitted that an appropriate search, with regard to the availability of other suitable sites across the Borough, has been undertaken. As such it is considered that a robust search for reasonably available sites in Flood Zones 1 has not been undertaken, the proposed development therefore immediately fails to accord with the Sequential Test required by the Framework and the Planning Practice Guidance.

A Flood Risk Assessment (FRA) has been submitted with this application, together with additional information, which has all been considered. The Environment Agency has not commented on the FRA, which identifies in times of flooding "...that it is anticipated that flooding of the carriageway up to 400mm depth could occur. Such flooding, although occurring for only a short time, would restrict access to the site." . As such the FRA has not demonstrated that the proposed development would have a safe means of access and/or egress in the event of flooding. The FRA also does not include an appropriate flood warning and evacuation plans.

Given the above, it is concluded that the proposal fails to accord with the Sequential Test in relation to development in areas at risk of flooding. As such the development fails to accord with Policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011.

(vi) Developers Contributions and Nutrient Neutrality.

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 Hayling Island.

The proposal would result in new residential development which is Community Infrastructure Levy (CIL) liable and the appropriate forms have been submitted. The gross existing internal floor space has been calculated by the agent as 102 sqm, with a new floor area of 162 sqm, which together with existing is a total gross floor area of 264sqm. This leaves a gross new floor space of 162 sqm which would generates a total CIL liability of £19,324.29. The applicant is claiming self build exemption.

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 results from the proposed development.

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 (SRMS). 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 SRMS mitigation package, and a condition to secure a Nutrient Neutral development.

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.

As to the mitigation fee for the Solent Recreation Mitigation Strategy this is £2,159, which has been paid and the Unilateral Undertaking signed and returned, with the fee of £545 paid.

8 Conclusion

In conclusion, whilst it is acknowledged that the development would make a modest addition to the Council's housing stock, this does not override the significant harm that the proposal would have on the established pattern of development in the locality, the adverse impact on neighbouring residential amenity, the lack of adequate residential amenity space for future residents and the overriding issue of flooding, contrary to policies CS15 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/19/00679 for the following reasons:

- 1 The site is situated within an area defined by the Environment Agency which is at serious risk of flooding and the proposal to add an additional dwelling would therefore be inappropriate due to the potential risk of loss of life. It is therefore contrary to policies CS15 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 2 Development of the site in the manner proposed would amount to over-development, in that it would give rise to unsatisfactory plot sizes and to a cramped and congested layout. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document and the National Planning Policy Framework.
- 3 Having regard to the size and shape of the plot and its relation to adjoining development, the proposed development would be detrimental to the quiet enjoyment on the amenities of 5 West Haye Road. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.