

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**Land to the rear of Cranbrook Villa, copse
Lane, Hayling Island**

**Local Planning Authority Reference:
APP/18/01138**

**Planning Inspectorate Reference:
APP/X1735/W/19/3224281**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR ANTHONY GRIFFITHS AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR SITE REAR OF CRANBROOK VILLA, COPSE LANE, HAYLING ISLAND, PO11 0RL

Planning Inspectorate Reference: APP/X1735/W/19/3224281

LPA REF: APP/18/01138

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The site lies to the south side of Copse Lane on Hayling Island. The current dwelling on the site has been recently been significantly altered and extended and is two storey in height, brick built, and has a slate roof. Two new bungalows are proposed to be developed in the rear amenity space of Cranbrook Villa which formerly included a deep curtilage to the rear of the property but has been more recently divided off by the erection of a fence.
- 1.2 To the east 'Eventyde' is a detached bungalow with rooms in the roof. To the west Northwood is a detached two storey house. There are significant trees to the western side of the site.
- 1.3 The area is characterised by mainly detached properties and farm buildings set in ample grounds interspersed by fields. The Borough Map and Location plan are included at **APPENDIX A**.

2.0 PLANNING HISTORY

APP/15/00378 - Demolition of existing 2 bed detached house and erection of 1No. five bed detached house and double detached garage., PERMITTED,13/04/2016

APP/16/00564 - Proposed two storey side and rear extensions and single storey front extension (approved 24.08.2016). Request to Discharge Condition No. 3 (21.11.2016), PERMITTED,24/08/2016

APP/17/00395 - Application for non-material change to planning permission APP/16/00564 relating to integral garage to living accommodation, windows and doors. PERMITTED 10/05/2017

APP/16/00564 relating to integral garage to living accommodation, windows and doors., PERMITTED,10/05/2017

APP/18/00002 was a previous application to develop 2No. two bed bungalows within the rear garden space of Cranbrook Villa in Hayling Island. The application was REFUSED in March 2018 for four reasons. These are outlined below.

- The undesirable addition of two dwellings in a location outside the built up area.

- The dwellings would be sited to the rear of Cranbrook Villa introducing backland type development contrary to the established pattern of linear development in the immediate area.
- No SRMS contribution payment was made
- Lack of ecological information submitted with the application which resulted in the LPA was not being able to determine the ecological implications of this development.

3.0 **THE APPLICATION**

- 3.1 The application was validated on the 12th November 2018 and consultations were carried out and responses received from the following consultees:

Havant Borough Council:

Waste Services HBC
 Building Control HBC
 Development Engineer (Highways) HBC
 Arboriculturalist HBC
 Planning Policy HBC

Hampshire County Council

County Archaeologist HCC
 County Ecologist HCC

Statutory Bodies

Natural England
 Southern Water

Copies of the relevant consultation responses have previously been forwarded to the Planning Inspectorate.

- 3.2 The application was subsequently refused planning permission on the 7th January 2019 for the following reasons:

Reason 1:

The proposal represents the undesirable addition of two dwellings in a location outside the built up area for which there is no special justification. Furthermore the dwellings would be located in an unsustainable location where the occupiers of the dwellings would be likely to have an over reliance on the private car. The development would therefore conflict with policies CS9, CS16, CS17, DM9, DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2018.

Reason 2:

The proposed development would result in the provision of two new dwellings outside the built up area without special justification. They would be sited to the rear of Cranbrook Villa introducing backland type development contrary to the established pattern of linear development in the immediate area. This is considered to be harmful to the attractive semi-rural character of the area. The application also proposes a significant amount of hard-surfacing which is considered to impact the visual rural character of the site. The development

would therefore conflict with policies CS9, CS16, CS17, DM9, DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2018.

Reason 3:

The layout and siting of the proposed development would result in trees important in the local landscape and subject to a Tree Preservation Order being located in close proximity to the proposed development. As such the development has the potential to result in significant physical damage to the trees, thereby diminishing the health, appearance and longevity of the trees. The submitted information is considered to not be sufficient enough to mitigate this harm and the works are therefore considered to be significantly harmful. It is therefore contrary to policy DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

4.0 PLANNING POLICY

4.1 The Development Plan for Havant comprises The Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Local Plan (Allocations) 2014 and the Hampshire Minerals and Waste Plan 2013 the last of these is not considered relevant to this appeal. In addition, the Councils Havant Borough Local Plan 2036 has been progressed to the Pre-Submission Draft and was subject to public consultation from 4th February to 18th March 2019.

4.2 The NPPF was updated in February 2019 and with respect to this proposed development and appeal, continues to have a presumption in favour of sustainable development (paragraph 11). The following parts are considered particularly relevant:

Part 2 provides guidance on achieving sustainable development,

Part 3 Plan Making confirms that *'The planning system should be genuinely plan-led'*,

Part 4 Highlights the importance of pre-application engagement and front loading and that *Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.*

Part 9 Promoting sustainable transport considers the need for sustainable transport options and the requirement for *significant development to be focussed on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.*

Part 11 Making effective use of Land states that *Planning policies and decisions should: (c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs,....It continues Planning policies and decisions should support development that makes efficient use of land, taking into account: (amongst other matters) (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration.*

Part 12 Achieving well-designed places – paragraph 127 sets out that *Planning policies and decisions should ensure that developments: (amongst other matters) (c)*

are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit,

Part 15 Conserving and Enhancing the natural environment – paragraph 170 states *Planning policies and decisions should contribute to and enhance the natural and local environment by: (amongst other matters) (a) protecting and enhancing valued landscapes,... (b) recognising the intrinsic character and beauty of the countryside,.....*

Paragraph 174 confirms that: The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 4.3 It is considered that the new NPPF continues to place an emphasis on achieving sustainable development including location requirements for development and sustainable transport links. The importance of plan led development patterns, pre-application engagement and good design are emphasised. Importance is placed on maintaining an areas prevailing character and setting and recognising the need to protect landscapes, spaces and the intrinsic character and beauty of the countryside. Therefore, the new NPPF continues to be relevant and the LPA are confident that the decision to refuse planning permission was made in accordance with the guidance contained within the updated NPPF.

The Development Plan

- 4.4 The following policies of the Havant Borough Local Plan (Core Strategy) 2011 (HBLP (CS) 2011) are considered to be particularly relevant to the determination of this appeal:

- **CS9 (Housing)**
- CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
- CS14 (Efficient Use of Resources)
- **CS16 (High Quality Design)**
- **CS17 (Concentration of Development within the Urban Area)**
- CS20 (Transport and Access Strategy)
- CS21 (Developer Requirements)
- **DM8 (Conservation, Protection and Enhancement of Existing Natural Features)**
- **DM9 (Development in the Coastal Zone)**
- **DM11 (Planning for More Sustainable Travel)**
- **DM12 (Mitigating the Impacts of Travel)**
- DM13 (Car and Cycle Parking on Residential Development)

Those policies in bold are included in the reasons for refusal.

Havant Borough Local Plan (Allocations) 2014

- 4.5 The following policy of the Havant Borough Local Plan (Allocations) 2014 (HBLPA 2014) are considered to be particularly relevant to the determination of this appeal:

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

The policy in bold is included in the reasons for refusal.

More details in relation to the relevance of these policies will be provided in part 6 of this appeal statement.

The Planning Inspectorate have previously been forwarded copies of the relevant planning policies.

Emerging Policy

Havant Borough Local Plan 2036 Pre-Submission Draft

- 4.6 With respect to the Local Plan, the Council is preparing a new Local Plan and consulted on a Draft (Regulation 18) version of the Havant Borough Local Plan 2036 (HBLP 2036) between 8 January to 16 February 2018. The responses to the public consultation are currently being assessed. Whilst the Plan has limited weight in decision-making at this stage in the plan preparation, the Draft Local Plan, it is of relevance in setting out the Council's direction of travel.
- 4.7 With respect to this appeal the draft Design Policy E1 reiterates the Council's commitment to achieving high quality design that respects its context and new draft policy H1 seeks High Quality Design specifically for New Homes and sets out spatial criteria.
- 4.8 The Council's Draft Havant Borough Local Plan 2036 includes a draft policy E3 on Landscape and Settlement Boundaries. This shows areas of Northney in Hayling Island that are proposed to be included within the settlement boundary and therefore 'Urban Area'. The plan has limited weight when it comes to assessing new development at this stage and is still yet to be examined and formally adopted. It is noted that the appeal site remains outside the draft amended settlement boundary, in any case the Local Planning Authority maintain that the development of the site would constitute unacceptable development harmful to the character and appearance of the area. These draft policies are copied in full in **Appendix B**.

Other Relevant Strategy

'Definitive' Solent Recreation Mitigation Strategy

- 4.9 The 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 with regard to 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.

- 4.10 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 two three bedroom dwellings would require a contribution of £1274.00 plus 5% monitoring fee of £63.70 and Administration Fee of £20 such that the total contribution required would be £1357.70
- 4.11 The contribution and a unilateral undertaking was paid prior to the determination of the application. Therefore, it is the opinion of the Local Planning Authority that the appropriate mitigation measures have been adequately secured to meet the Definitive Strategy and policy DM24 of the Allocations Plan.

Nutrient Neutrality

- 4.12 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.
- 4.13 In this case, the development is located within a zone of influence of an SPA, the Local Planning Authority undertook HRA screening which included the requirement for avoidance and mitigation measures in terms of the Interim Solent Recreation Mitigation Project (now Definitive Solent Recreation Mitigation Strategy).
- 4.14 As a result of the above judgement and consequent update in case law, an Appropriate Assessment is also now necessary in accordance with Regulation 63 of the Habitats Regulations. Natural England are a statutory consultee on the Appropriate Assessment stage and the LPA have consulted Natural England on this appeal. Their response in relation to the application stage is attached at **Appendix C**. As the Inspectorate are now the competent determining authority in relation to this appeal, it will be necessary for the Inspectorate to determine whether this is satisfactory to address the new case law.
- 4.15 The following comments set out Havant Borough Council's approach to the issue of nutrient neutrality, which has arisen as a material consideration since the Council made its decision on the planning application and is referenced in the Council's Appeal Statement accordingly.
- 4.16 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.

- 4.17 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 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 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’.
- 4.18 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.
- 4.19 On Wednesday 26 June, Havant Borough Council’s Cabinet approved a ‘Position Statement on Nutrient Neutral Development’ The Position Statement is attached at **Appendix D**. 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 particular suggests the use of a planning condition to secure an appropriate avoidance and mitigation package – Paragraphs 57-67 refer.
- 4.20 As the Inspectorate are now the competent determining authority in relation to this appeal, it will be necessary for the Inspectorate to determine a Habitats Regulations Assessment taking into account the impacts of development on the internationally designated sites and the likelihood of significant effects.

5.0 REPRESENTATIONS

- 5.1 During the consideration of the application the subject of this appeal, five third party representations were received including 4 objections and 1 support. One of the objections was from the North East Hayling Residents Association.
- 5.2 Copies of the third party representations have previously been forwarded to the Planning Inspectorate

6.0 PLANNING CONSIDERATIONS

- 6.1 Having regard to the relevant policies of the development plan, and the reasons for refusal given in the Decision Notice dated 13th August 2018, it is considered that the main issues for consideration are as follows:

Reason 1

The proposal represents the undesirable addition of two dwellings in a location outside the built up area for which there is no special justification. Furthermore the dwellings would be located in an unsustainable location where the occupiers of the dwellings would be likely to have an over reliance on the private car. The development would therefore conflict with policies CS9, CS16, CS17, DM9, DM11 and DM12 of the Havant Borough Local Plan (Core

Strategy) 2011, policy AL2 Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2018.

- 6.2 The site lies outside the built-up area and in an area which is semi-rural in character. Policy CS17 of the HBLP(CS) 2011 states that:

Development will be permitted that makes the most effective use of land in the borough by granting planning permission that:

1. *Concentrates new housing, employment, retail, leisure and other development within the five urban areas of Havant, Leigh Park, Waterloooville, Emsworth and Hayling Island, as shown on the Proposals Map.*
2. *Prioritises development on previously developed land, including redundant, derelict or underused land and buildings within the urban area.*
3. *Broadly distributes the new housing and employment development in the five areas of the borough as indicated on the Spatial Distribution Map (Key Diagram). Development in the non-urban areas will only be permitted if it is consistent with the policies for the countryside set out in national policy.*

- 6.3 Policy AL2 of the Havant Borough Local Plan (Allocations) 2014 states in relation to Hayling Island that:

Land outside the defined urban area on Hayling Island is 'non-urban' rather than undeveloped gap.

- 6.4 The NPPF provides the following definition of Previously Developed Land

Previously developed land

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

- 6.5 It is noted that land in built up areas such as residential gardens is excluded from previously developed land, however garden land outside built up areas are not. Policy CS17 HBLP(CS) 2011 specifically states *Development will be permitted that makes the most effective use of land in the borough by granting planning permission that:* 2. *Prioritises development on previously developed land, including redundant, derelict or underused land and buildings **within the urban area**.* (emphasis added). In addition, it is stated that it should not be assumed that the whole of the curtilage should be developed.
- 6.6 The five areas identified in CS17 (3) are the urban areas. Therefore, the requirements of (3) above are not met.

- 6.7 The supporting text to policy CS17 includes the following comments: Paragraph 8.01.... *The priority for locating new development is in the existing urban areas where there are existing facilities to use and new development would have least impact on the range of highly protected biodiversity designations.*
- 6.8 The areas beyond the urban areas (previously countryside) are now defined as non-urban areas. The boundary for the urban and non-urban areas is identified on the Proposals Map. A copy of the Proposals Map for this part of Hayling Island showing the urban areas is attached at **Appendix E**.
- 6.9 Development in the non-urban areas will only be permitted if it is consistent with the policies for the countryside set out in national policy and this is considered below.
- 6.10 The proposal was assessed in relation to the NPPF. Paragraph 2 of the NPPF confirms that: Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.11 The Local Planning Authority seeks through planning policy to ensure the concentration of new development within the existing build up areas, thereby helping to ensure that development is sustainable and protecting the character of the countryside.
- 6.12 Paragraph 78 states that 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.' In this case the development is located within a collection of dwellings on the south side of Copse Lane isolated from other settlements to the west and south. The area is remote from existing amenities lacking employment, education, retail, entertainment and health facilities. The development would not support existing facilities nor help to maintain the vitality of this rural community. Paragraph 79 makes it clear that isolated new homes in the countryside should be avoided except in special circumstances, the current proposal meets none of the criteria listed but instead appears to represent a speculative proposal for new dwellings in a relatively isolated and unsustainable location..
- 6.13 Paragraph 16 confirms that '*Local Plans must be prepared with the objective of contributing to the achievement of sustainable development*'. This is clearly reflected in the Havant Borough Local Plan (Core Strategy) designating built up areas where development should be focused and conversely resisting unjustified development away from facilities, services and jobs in the rural 'non-urban' areas.
- 6.14 It is not considered that there is any overriding justification for residential development in this relatively isolated rural location.
- 6.15 Part 9 of the NPPF relates to promoting sustainable transport and states:
Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: amongst other matters, c) opportunities to promote walking, cycling and public transport use are identified and pursued;

The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable

transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

- 6.16 The policies of the HBLP(CS) 2011 support this approach, policies CS17, DM11 and DM12 are particularly relevant.
- 6.17 Part 14 of the NPPF relates to climate change and paragraph 150 states that: *New development should be planned for in ways that: amongst other matters b) can help to reduce greenhouse gas emissions, such as through its location and orientation and design.* Given the location of the development isolated from facilities and work opportunities this requirement would not be achieved with future occupants reliant on the private car.
- 6.18 Paragraph 7 confirms that *The purpose of the planning system is to contribute to the achievement of sustainable development.* This is clearly reflected in the Havant Borough Local Plan (Core Strategy) designating built up areas where development should be focused and conversely resisting unjustified development away from facilities, services and jobs in the rural 'non-urban' areas. It is also followed through to HBLP(CS) policies CS16, CS17, DM11 and DM12.
- 6.19 CS16 requires all development to demonstrate in its design (amongst other matters) that it is:
- d) Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible;*
- It is noted that the site is poorly located in relation to cycle and public transport routes. The road lacks a pedestrian footpath.
- 6.20 DM11 states that the LPA ...will seek to *ensure that every opportunity is taken to increase integration of sustainable travel modes and availability of non-motorised modes by appropriate measures...Including ...Ensuring that new developments are located and designed at the outset to..... integrate with existing pedestrian, cycle and public transport routes. This will facilitate and encourage short distance trips by cycle and walking, including to public transport interchanges.*
- 6.21 The relatively isolated location of the site limits accessibility by cycle or foot to facilities and employment and education opportunities. DM12 seeks to mitigate the impacts of travel and it is considered that whilst the proposal is limited to two dwellings its relatively isolated location is inappropriate and is likely to result in further trips by the private car.
- 6.22 In the light of there being no special justification for development and of the sites location within the Coastal Zone as defined by the Havant Borough Proposals Map there are concerns that the development would not contribute positively to the landscape as set out further in relation to Reason 2.

In conclusion, the site is isolated from shops employment and other facilities and would result in an over reliance on the private car, resulting in an unsustainable development in a relatively isolated location outside the built up area.

REASON 2

The proposed development would result in the provision of two new dwellings outside the built up area without special justification. They would be sited to the rear of Cranbrook Villa introducing backland type development contrary to the established pattern of linear development in the immediate area. This is considered to be harmful to the attractive semi-rural character of the area. The application also proposes a significant amount of hard-surfacing which is considered to impact the visual rural character of the site. The development would therefore conflict with policies CS9, CS16, CS17, DM9, DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2018.

- 6.23 With regard to the impact of the development on the established character of the area, it is noted that the application site is outside the built up area and has a rural character with fields and boundary hedgerows and trees interspersed by dwellings. The landscape is relatively flat and to the east beyond Copse Lane is open farmland and to the west are open fields and farmland also.
- 6.24 The application site itself is located in a small group of approximately 13 dwellings with similarly sized plots on the south side of Copse Lane. The plot has an semi-open undeveloped aspect when viewed from Copse Lane and whilst it is appreciated that there are existing dwellings either side of the plot these are in an established pattern of linear development and there is no backland development in the immediate locality. As a result, the proposed development of this site would lead to an intensification of the existing residential development detracting from the remaining rural character of the area which is considered to be significantly harmful and unacceptable.
- 6.25 The proposal includes a significant amount of hard-surfacing which would adversely impact the existing rural character of the site creating an relatively harsh and un-attractive appearance which is out of keeping to the other dwellings within the immediate vicinity and the character of the area. The site is considered to be large enough to accommodate soft landscaping details to the front and access drive of the site which would soften this appearance. However, this has not been incorporated and is considered to adversely impact the character and appearance of the area which is harmful to the established semi-rural character.
- 6.26 As a result of these assessments it is considered that the development would conflict with the policies of the Development Plan and in particular CS16 of the Havant Borough Local Plan (Core Strategy) 2011 1. (a) to (d) as it fails to respond positively to existing features and character, does not integrate with landscape features and fails to make use of the characteristics of the locality to help to inform the development and is not well connected in terms of non-car based routes.
- 6.27 In relation to policy DM9 the development of the backland site with extensive areas of hardstanding fails to contribute positively to the landscape as required by part 3.
- 6.28 Finally, in relation to policies DM11 and DM12 the proposed residential development in this relatively isolated location without special justification increases the reliance on the private car.
- 6.29 The proposed development is therefore considered harmful to the attractive semi rural character of the area.

Reason 3:

The layout and siting of the proposed development would result in trees important in the local landscape and subject to a Tree Preservation Order being located in close proximity to the proposed development. As such the development has the potential to result in significant physical damage to the trees, thereby diminishing the health, appearance and longevity of the trees. The submitted information is considered to not be sufficient enough to mitigate this harm and the works are therefore considered to be significantly harmful. It is therefore contrary to policy DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

- 6.30 The site is bounded by trees to the western side of the site including a Common Ash Tree subject to a Tree Preservation Order (T1) a Monterey Cypress and other trees. These form a visually significant feature in the landscape. It is noted that an Arboricultural Report was submitted with the application and that this was considered by the Councils Arboricultural Officer who made the following comments:

Following a site visit and reading the submitted arb report I make the following comments regarding the proposed development:

- The area of the RPA for T1 is breached is noted in the report, however inspection holes should be dug (under Arb supervision) prior to permission being given to establish a rooting pattern and then to submit a proposed foundation type that will not damage the tree.*
- The supplied Tree protection Plan (TPP) is not considered adequate to allow it to be accurately conditioned.*

Objection raised - Rooting pattern for T1 and foundation design must be submitted and a TPP to include RPA showing any incursions etc is required.

- 6.31 In the light of this assessment it is considered that it has not been established that the proposed development could be carried out without harm to the important trees which would potentially lead to the loss or harm to these trees and their contribution to the landscape. This would be harmful to the character and appearance of the area and further diminish the established semi-rural character of the area and contrary to policy DM8 of the Havant Borough Local Plan (Core Strategy) 2011 which requires development to (amongst other matters) ensure that it:

- 1. Protects natural features of nature conservation and/or amenity importance on the site, for example trees, woodlands, hedgerows, soils, streams, stream corridors, springs, ditches or ponds from damage, destruction and a deterioration in quality.*
- 2. Sympathetically incorporates existing features into the overall design of the scheme including measures taken to ensure their continued survival.*

OTHER MATTERS

- 6.32 The proposal is for the development of 2 new dwellings. Although it is noted that this would provide a contribution to the housing supply of the Borough this is by a very modest amount and would have to be weighed against any harm caused to the semi-rural character of the area. A recent review of the Five Year (housing) Supply Update – Published January 2019 confirms that the Council does have and can provide a 5.1 year supply of housing land with a 5 percent buffer (**Appendix F**) and so is therefore able to meet the need for housing without these proposed dwellings. Given this, a tilted balance should not be applied in decision making. Therefore, the harm caused

as a result of the proposal is not considered to be outweigh the modest contribution made to housing supply.

- 6.33 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 20th 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 £100 per square metre plus indexing on new floorspace (measured as gross internal area). If consent is granted at appeal the Local Planning Authority would progress CIL requirements in consultation with the applicant.

COMMENTS ON APPELLANTS STATEMENT OF CASE

- 6.34 It is considered that most of the matters raised by the appellant have been addressed in the Councils Statement of Case and the following comments are made by way of amplification only.
- 6.35 The appellant has made reference to the Yacht Haven Development which lies to the south of the appeal site. This application Ref APP/13/00317 was for the following development:
- Construction of 6No. 5 bed detached houses, 1No. detached residential boat store and ancillary office building, 1No. detached boat store for sailing charity use with hardstanding, pontoon restricted to 12 berths (6 for house residents and 6 for non residents), improvements to slipway, beach, reposition concrete sea defence to side of slipway, coastal footpath and the creation of one area of coastal meadow and one area of conservation grassland. (Revised application.)*
- 6.36 The site presented a complex range of issues as set out in the case officers report to the Development Control Committee on the 21st November 2013. This sets out in detail the previous uses on the site, the nature of the land, ecological and other issues. The Yacht Haven site clearly exhibited very different characteristics to the current appeal site and the Committee Report carefully considered the merits and concerns associated with that development. The report balances the issues and whilst ultimately recommending a refusal of planning permission clearly indicates that the scheme had several potential merits. Ultimately, the recommendation was to refuse planning permission. As set out in the Committee Minutes there was a resolution to grant planning consent (subject to other requirements). Copies of the Development Management Committee report and meeting minutes are attached at **Appendix G.**
- 6.37 The appellant quotes application Ref: APP/18/00720 as an example of approved backland development. It is noted that that development was within a built up area with a completely different context to the appeal site. There are other examples of backland development close to the site and this differs from the sporadic linear form of development at the appeal site. A copy of the plans and elevations are attached at **Appendix H.**
- 6.38 It is considered that the sites are not directly comparable and in any case planning applications are required to be treated on their own merits.

- 6.39 The appellant comments on the hard standing and the potential for landscaping. It is noted that the application plans show permeable paving across the full width of the access and a large area of parking and manoeuvring area in front of the proposed bungalows. This would not allow for any significant planting to the front of the buildings or along the access route.

7.0 CONCLUSION

- 7.1 In conclusion, it is considered that the provision of two dwellings outside the built-up area without special justification on the appeal site is not justified in principle.
- 7.2 Furthermore, the development would consolidate existing sporadic development and be harmful to the semi-rural character of the area. The location is considered to be un-sustainable and future residents would be over-reliant on the private motor car.
- 7.3 Finally, the backland nature of the development and the large areas of hardstanding would be an alien and intrusive feature in this semi-rural location and contrast with the established pattern of development.
- 7.4 The Inspector is therefore requested to DISMIS this appeal. Notwithstanding this should, however, the Inspector be minded to allow the appeal and grant permission for the proposal, the Council would request that the planning conditions set out in the separate submitted document are attached to any permission.

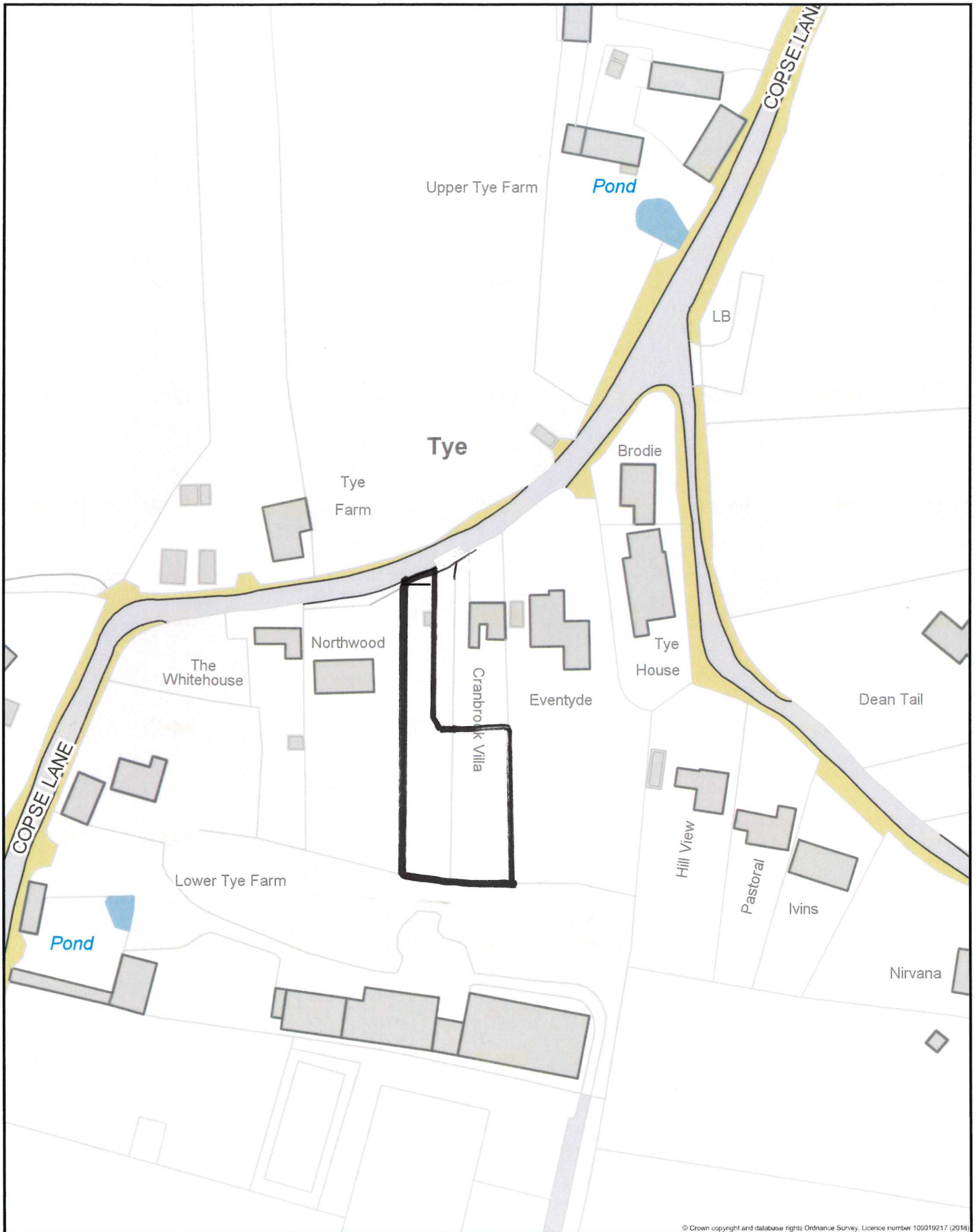
APPENDICES

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|-----|---|
| (A) | Borough Map and Location Plan |
| (B) | Havant Borough Local Plan Pre-Submission Draft Policies E1, E3 and H1 |
| (C) | Natural England Consultation Response |
| (D) | Position Statement on Nutrient Neutrality |
| (E) | Proposals Map showing urban area boundaries |
| (F) | Five Year Supply Update – Published January 2019 |
| (G) | Yacht Haven – Committee Report & Committee Minutes |
| (H) | APP/18/00720 Plan and Elevations |

APPENDIX A

Borough of Havant





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Land to rear of Cranbrook Villa



N Scale: 1:1250

Printed on: 2019-07-15 10:45:45

Havant
BOROUGH COUNCIL

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APPENDIX B

E1 | High quality design

Why this policy is needed

- 5.1 The NPPF makes clear that good design is a key aspect of sustainable development. Planning and development should create “high quality buildings and places”, and “create better places in which to live and work”⁴⁵. This policy sets out the Borough’s expectations in achieving high quality design, enhancing connections between people and places and integrating new development with the Borough’s high quality natural, built and historic environment.
- 5.2 The Borough has a diverse built environment, and in many cases, it will be appropriate to forge new places particularly where areas suffer from neglect and lack of identity. Havant and Waterlooville Town Centres and Hayling Island Seafront are in need of regeneration and have poor connections to the surrounding areas. The Council recognises the importance of good design for place shaping, including responding to and enhancing its natural assets and more attractive built features.
- 5.3 Safe and convenient connections for walking and cycling within and around development can also help people to take responsibility for their own health and wellbeing. Policy E2 (Health and Wellbeing) indicates how appropriate supporting infrastructure can be integrated as part of new development to support physical activity and meet the needs of different users. Policy H1 (High Quality New Homes) also sets out how new dwellings will be expected to contribute towards improved health and wellbeing of occupants by setting internal space and accessibility standards.

E1 | High quality design

Planning permission will be granted for development that:

- a. Is designed to a high standard, which helps to create places where people want to live, work, visit and enjoy;
- b. Demonstrates that neighbourhood plans, local design statements, and the design elements of conservation area appraisals which identify local character and distinctiveness have been taken into account;
- c. Demonstrates that it:
 - i. Responds to, and draws inspiration from its local context and where appropriate, forges a new sense of place through design;
 - ii. Considers characteristics such as height, massing, existing building lines, plot widths and depths and proportions of building features such as windows and doors;
 - iii. Identifies and positively responds to existing natural and built features including listed buildings, conservation areas and other heritage assets within or close to the development;
 - iv. Makes a positive contribution to the overall appearance of the street scene and wider area by use of good quality materials of appropriate scale, profile, finish, colour and durability;
 - v. Produces a positive relationship with and between existing and proposed buildings, streets and spaces;
 - vi. Avoids over-dominance and does not cause unacceptable harm to the amenity of neighbours through overshadowing, massing, the loss of privacy, outlook, overlooking, and through odour, noise or disturbance;

⁴⁵ NPPF paragraph 124.

- vii. Reduces opportunities for crime and anti-social behaviour and contributes to the creation of safe and inclusive communities; and
- viii. Integrates with existing local landscape and biodiversity features and characteristics of the area, by using high quality landscaping.
- d. Demonstrates that any adverts, signage, lighting and other security features are fit for purpose, fully integrated with the design, and do not adversely affect the visual amenity of the street scene or the amenity of neighbours.

In addition, and where appropriate to the scale and nature of the development, all non-householder development which will create new floorspace is expected to:

- e. Provide a variety of design styles and types to create interest and a sense of place;
- f. Ensure the layout is appropriate in density, scale, and appearance, and provides safe and convenient access for all users;
- g. Incorporate new technologies and construction methods as part of building design, taking into account sustainability and resource efficiency;
- h. Be well connected to and fully integrated with the local area by linking existing pedestrian and cycle routes and encourage people to use public transport where possible;
- i. Make optimal use of land and does not undermine the development potential of adjacent sites;
- j. Include public realm and landscaping which is well designed, durable and consistent across the extent of the development site or key project area; and
- k. Incorporate safe, secure and convenient provision for cycle storage and refuse and recycling facilities which is integrated within the overall design.

How this policy works

5.4 The policy criteria under sections a - c. of the Policy E1 will generally apply to all types of development, including:

- Extensions;
- Garages, car ports, outbuildings, sheds and greenhouses;
- Boundary walls, fences or gates;
- Porches;
- Satellite dishes/radio aerials;
- Dormer windows or other alterations to the roof;
- Conversions and changes of use;
- Shopfronts;
- Signage;
- Lighting.

5.5 In addition, the criteria e. – k. are relevant to developments which include the creation of one dwelling or more and any new commercial floorspace. Criteria e. – k. are a guide and development will not be expected to fulfil requirements which are not relevant to the scheme in question.

5.6 The Council recognises that it is important to ensure that new signs do not result in a cluttered appearance on an individual building or on the wider street scene. Signs must also be of an appropriate size and scale for the building and its surroundings. Security shutters and other features can also create significant visual intrusions in the street scene. It is important that proposals are fit-for-purpose and are fully integrated within the design.

- 5.7 Illumination, particularly in or adjacent to conservation areas, heritage assets and in or adjacent to or visible from Chichester Harbour AONB, can detract from the overall appearance of a building or area. Signage in or close to the AONB should also have regard to the Policy E5 and the Chichester Harbour AONB Supplementary Planning Document (SPD) (July 2017).
- 5.8 Constructive pre-application advice is a valuable tool in guiding and progressing development proposals, prior to their submission. The Council's procedure for pre-application advice is set out under the planning pre-application advice guidance note which can be found on the Council's web site. For major proposals, developers will also be expected to engage with councillors, key stakeholders and the public on major proposals through the Council's Development Consultation Forums. Where appropriate, the Council will also consult the Design Review Panel on development proposals.
- 5.9 At pre-application stage, consideration will be given to the site's opportunities and constraints in light of the policies in the Adopted Local Plan; identifying any aspects which may need to be resolved, and relevant material planning considerations and constraints. Advice will be provided on planning obligations and the appropriate documents which would need to be submitted.
- 5.10 The Borough Design Guide SPD⁴⁶ complements this policy and provides detailed guidance to raise the standard of design across the Borough. The SPD sets out what developers are expected to deliver in terms of the design of new development, and how the distinctive character and qualities of the Borough could be enhanced through development. Designated Conservation Areas within the Borough also have Character Appraisals and Management Plans, which provide detailed information on these areas which should be given regard when proposing development in line with Policy E13 (Heritage).
- 5.11 The Council is supportive of new technologies and construction methods integrated as part of new development, including Passivhaus design principles in line with Policy E12 (Low Carbon Design). The sustainability and resource efficiency will be considered in the overall design and layout of schemes, including ensuring that, where appropriate schemes maximise solar gain and minimise the need for energy heating.

⁴⁶ The Borough Design SPD (December 2011) will be revised in line with this new policy.

E3 | Landscape and settlement boundaries

Why this policy is needed

- 5.27 The Borough has a rich and diverse natural environment with an extensive coastline including two harbours, rivers, streams, open spaces and woodlands. The Council recognises the importance of this unique environment and the need to protect and enhance the natural environment for its own sake, for its nature conservation value and for public access and recreation. This is especially important in the face of significant pressure for more housing development.
- 5.28 Landscape is not just about natural areas; it is also about landscape proposals in new development, and the interaction between built-up and undeveloped areas. What is important is that new development respects its surroundings and makes the most of attractive and distinctive landmarks and features to enhance what is special about the character of the Borough as a place.
- 5.29 There are strong links between this policy and those on design (Policy E1), heritage (Policy E13), the Ecological Network (Policy E14) and on the Chichester Harbour AONB (Policy E5), and these should be read in conjunction with this policy.

E3 | Landscape and settlement boundaries

Planning permission will be granted for development which:

- a. Contributes positively to local identity and distinctiveness of landscapes and settlements;
- b. Respects, complements and integrates successfully with the local landscape surrounding the site;
- c. Incorporates any key landmarks and natural features on the site into the design of the scheme and protects them from destruction or deterioration;
- d. Protects key views of important landmarks and landscapes; and
- e. Integrates successfully with the local landscape surrounding the site.

Planning permission for development outside of the defined settlement boundaries (as shown on the Policies Map) will not usually be permitted, unless it:

- f. Relates to small scale householder development; or
- g. Is proposed on previously developed land and does not represent a material intensification of use; or
- h. Specifically, and demonstrably requires a location outside of a built-up area; or
- i. Provides infrastructure that meets an overriding public need.

How this policy works

- 5.30 New development has a key role to play in shaping the way the Borough looks and feels. This goes beyond the design of the buildings themselves (see Policy E1) to encompass the way in which the scheme affects the surrounding landscape and townscape, and any natural or man-made features on the site. New development, whether on previously undeveloped sites or within areas that are already developed, is expected to take design and layout cues from the landscape and townscape around it.

- 5.31 Local distinctiveness, or sense of place, is concerned with the things that make a place special to the people who live there and to visitors. New development should celebrate the unique characteristics of the place and do its best to add richness to the environment. To achieve this, developments are expected to relate positively to, protect or enhance the aesthetic value of individual or groups of natural features, such as trees, hedgerows, streams or topographical features, as well as key man-made structures, whether historic or more recent, that contribute to a sense of place. These features may be within the development site, or in the area surrounding it.
- 5.32 Of course, not all areas have positive features worth integrating or protecting; in areas where landscape and/or townscape quality are poor, development should seek to improve on what is already there.
- 5.33 This policy does not intend to conserve every landscape and existing natural feature as it is today. It is acknowledged that development changes the character of an area. For example, a number of development sites are proposed through this Plan that will see land which has long been in agricultural use developed and gaps between settlements significantly eroded. In identifying these sites, the Council has carefully assessed land across the Borough and has identified the most suitable areas for development in light of the need for housing. On sites which lie beyond the existing developed area, it is especially important that the new development carefully considers its relationship with existing settlements under part a) of the policy.
- 5.34 The extent of the existing built-up areas together with the allocations in this Plan defines the settlement boundary. These are shown in Figure 16 and in detail on the Policies Map. There is a presumption against new development beyond the defined settlement boundaries, in particular against new residential or commercial development. This is in order not only to protect landscape character, but also to foster more sustainable patterns of development, wherein inhabitants and users of development have easy access to services, without the need necessarily to use a car. While some limited types of development may be considered suitable outside the built-up area, this exception to the presumption against development outside the settlement boundaries applies only to the types of development set out in part b of this policy. Notwithstanding the provisions of the NPPF, exceptions will not be made for entry level or rural exception sites.
- 5.35 For the avoidance of doubt, the Council does not consider any part of the Borough to be 'rural' in the sense that would justify applying the rural exceptions for small scale commercial or affordable housing development as allowed by the NPPF. While there are areas on the edges of the Borough, and notably on Hayling Island, that are rural in character, these are not sufficiently far from the nearest built up area to consider them in need of their own local housing or jobs offer. As such, the Council will not generally accept arguments based on the 'rural exception' as set out in the NPPF.
- 5.36 All developers should address the impact of their development on the local landscape and local distinctiveness in their Design and Access Statement. Applicants should refer to the additional detail for their area in the Havant Landscape Character Assessment⁵², and the Borough Council Design Guide⁵³. In designated Conservation Areas, Character Appraisals and Management Plans should additionally be given due consideration. Views from and to the sea and impacts on the seascape as well as the landscape must also be considered.
- 5.37 Where a scheme is likely to have a significant impact on the landscape, townscape or seascape, a Landscape and Visual Impact Assessment may be required. This should be based on an appreciation of the existing landscape and a thorough understanding of the development proposal, the magnitude of change, the sensitivity to change and the potential to mitigate impacts. The

⁵² [Havant Borough Landscape Character Assessment \(February 2007\)](#)

⁵³ [Havant Borough Design Guide Supplementary Planning Document \(December 2011\)](#)

cumulative impacts on character should also be considered in the context of the receiving landscape. Guidance on the methodology for Landscape and Visual Impact Assessments recommends the following methodology:

- Recording and analysing existing landscape features and characteristics and the way the landscape is experienced;
- Assessment of the nature and magnitude of change likely to result from the development and the sensitivity of the existing landscape to the change;
- Identifying the effects of the proposed change on views and visual amenity and assessing their significance, taking account of the nature of the visual receptors (people viewing the landscape) and the nature of the change on visual amenity;
- Evaluation of the significance of the changes identified (both landscape and visual effects) taking account of any mitigation strategies.

- 5.38 Conditions and/or planning obligations may be used to ensure the protection or replacement of natural or man-made features during construction and occupation of the development and their continued survival and/or maintenance. Appropriate landscaping schemes may be required to mitigate any impact on the local landscape, including provisions for their future maintenance. Developers are encouraged to explore the use of local materials and native plant species in such schemes.
- 5.39 With the significant level of development proposed through this Plan it is also increasingly important that residents can access undeveloped areas for leisure and health. Developers are therefore expected to facilitate, and in any case not worsen, connections from their site to open spaces, the countryside and the coast, where this is acceptable in terms of nature conservation (see Policy E14).

H1 | High quality new homes

Why this policy is needed

- 6.1 The NPPF highlights that high quality design and a good standard of amenity should be sought in new development. This policy sets out the quality standards that new housing in the Borough are expected to achieve and how the needs of different groups will be met.
- 6.2 National policy also recognises that local planning authorities should address barriers to improving health and wellbeing through a high standard of housing design. This policy therefore builds on Policy E2 (Health and Wellbeing) to provide opportunities for people to live healthier lives. It requires new homes to have appropriate space for occupants to enable them to have a good quality of life and healthy lifestyle.

H1 | High quality new homes

Planning permission will be granted for new homes that meet the following criteria:

- a. New homes are designed to meet appropriate internal space standards¹²⁰ to provide sufficient private and/or communal space for basic daily activities and needs; and
- b. Developments of 10 houses or more (gross) meet enhanced accessibility and adaptability standards on 30% of the proposed dwellings across all tenures to ensure that new homes are suitable for a wide range of occupants¹²¹; and
- c. Developments of 50 homes or more (gross) meet wheelchair accessibility standards¹²² on 2% of the total proposed dwellings as part of the affordable housing provision; and
- d. Sufficient private and/or communal outdoor amenity space is provided.

Private outdoor amenity space should be:

- e. Of a sufficient and functional size to meet the needs of the likely number of occupants; and
- f. Designed to provide a good level of amenity by maintaining a reasonable degree of separation between the new dwellings and the surrounding properties.

How this policy works

Housing Space Standards

- 6.3 Building to appropriate space standards will ensure new homes provide sufficient space for basic daily activities and needs. The Council will therefore require all residential development to meet the nationally described space standard (or any subsequent Government standard). The Council's starting point will be for all new homes, including subdivisions of larger properties and conversions, to meet the appropriate space standards, unless it can be shown that the standards are not practicable in the face of other material considerations and policy requirements. For example, an exception may be made where works needed to achieve the standards would adversely affect the significance of a heritage asset or would require unachievable changes to a building earmarked for conversion.

¹²⁰ Appropriate space standards are achieved by meeting the nationally described space standard, or any subsequent Government standard.

¹²¹ Enhanced accessibility and adaptability standards are achieved by meeting M4(2) of the Building Regulations 2015, or any subsequent Government standard.

¹²² M4(3) of the Building Regulations 2015, or any subsequent Government standard.

- 6.4 The Council recognises that innovative housing solutions such as the emerging 'build for rent' sector have a role in addressing specific housing needs in the Borough. These types of housing models can involve the development of high density housing in town centre locations though there are other types of housing that can be developed through a 'build for rent' approach as well. To ensure a good standard of living accommodation and to support the health and wellbeing of occupants, the same space standards will be required as mainstream housing. Where developers wish to deliver an alternative approach, this will need to be fully justified. Referring to, for example, good design practice and case studies, applicants must demonstrate how the proposed operating models can be successful in providing residents with a high quality of life.

Accessible and adaptable homes

- 6.5 Housing should offer functional and adaptable spaces for different groups including families, children, older people and disabled people. On major housing developments of 10 dwellings or more, 30% of new houses will be required to meet as a minimum Part M4(2) of the Building Regulation to ensure that new homes are suitable for a wide range of occupants. For the M4(2) standard, part b of this policy makes particular reference to houses as it is understood this housing type is more suitable for the delivery of this requirement.
- 6.6 To address a locally identified need, the Council expects 2% of the overall housing provision on larger housing developments (50 dwellings or more) to be designed to meet the wheelchair accessible homes standard. Nonetheless, wheelchair accessible homes must only be provided as part of the affordable housing provision where the local authority is able to allocate or nominate a person to live in that dwelling. This should be discussed with the Council as part of the pre-application process. However, it is acknowledged that there may be site-specific practical reasons why it may not be feasible to meet this requirement.
- 6.7 Favourable consideration will be given to development proposals where at least 50% of homes meet the enhanced accessibility and adaptability standards. This could include wheelchair accessible dwellings (over and above the 2% policy requirement) as part of the affordable housing provision where there are locally identified needs. Applicants are encouraged to explore how best to meet locally identified needs in consultation with the Council accordingly.
- 6.8 New houses designed to the enhanced accessibility and adaptability standards should be proportionally distributed across all tenure types, evenly spread across the site, and integrated with the rest of the development in line with Policy E1 (High Quality Design). For major housing schemes, developers should submit a schedule of accommodation which identifies the specific standard under M4 of the Building Regulations that each home in the proposed development will meet.
- 6.9 To ensure compliance with the specific standards, the Council expects to be provided with plans certified for compliance and/or written confirmation from an appointed building control body that the specifications for each dwelling meet the relevant standard. Where necessary, this will be secured through a performance-based condition prior to occupation.

Outdoor amenity space

- 6.10 All new homes should benefit from private outdoor amenity space solely for the use of the occupants of a sufficient size and quality to support physical and mental health and wellbeing. It should be designed to ensure there is no undue loss of privacy or overlooking of adjoining and neighbouring properties in line with Policy E1 (High Quality Design) and Policy E22 (Amenity and Pollution).

- 6.11 In terms of the functionality of garden spaces, external amenity space should be of a sufficient size to accommodate a storage shed (including a cycle store where no garage provision is possible), space to facilitate the drying of clothes (rotary or washing line), table and chairs suitable for the size of the dwelling, an area for children to play in and circulation space. External private amenity or communal space does not include car parking or turning areas.
- 6.12 In addition to the above, the Council expects that occupiers will be able to enjoy a reasonable degree of amenity and privacy in their gardens by maintaining reasonable relationship with neighbouring properties. A guideline depth of at least 10m is considered appropriate to preserve the amenity and privacy of residents.
- 6.13 For flatted developments, the Council's Healthy Borough Assessment¹²³ sets out that this should be a minimum of 1.5 sqm of private amenity space per bedroom or 1 sqm of communal space per bedroom.

¹²³ Havant Healthy Borough Assessment – Havant Borough Council (November 2018)

APPENDIX C

Date: 05 December 2018
Our ref: 266511
Your ref: APP/18/01138



Emma Chisnell
Planning Case Officer
Havant Borough Council

Customer Services
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Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Emma

Planning consultation: HRA & Appropriate Assessment - Erection of 2x3 bed bungalows with associated parking and access from Copse Lane.

Location: Rear of Cranbrook Villa, Copse Lane, Hayling Island PO11 0RJ

Thank you for your consultation on the above dated 27 November 2018 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Protected sites – no objection

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

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. Provided the applicant is fully compliant with the Solent Recreation Mitigation Partnership Definitive Strategy and an appropriate planning condition or obligation is attached to any planning permission to secure the contributions towards this mitigation measure, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of recreational disturbance on the integrity of the European site(s).

Traditional orchard – no objection subject to mitigation

This application is supported by a Phase 1 Habitat Survey (CC Ecology June 2018) which states an area of Traditional orchard habitat in the south of the site, recorded in previous surveys on the site (CC Ecology 2015), has been removed. Traditional orchard is a priority habitat listed as required under section 41 of the Natural Environment and Rural Communities Act 2006. The report includes recommendations for reinstatement of the orchard, however this has not been included on any of the proposed plans supporting the application.

It is Natural England's opinion that the orchard should be reinstated, details of this should be set out in a Biodiversity Mitigation and Enhancement Plan (BMEP) which has been agreed by a Hampshire County Council (HCC) Ecologist. Where this is not possible or there is residual loss, a compensation package will need to be agreed if the requirements for biodiversity enhancement as

set out in National Planning Policy Framework paragraphs 8, 118, 170, 174 and 175d are to be met. Further, you should be aware that Section 40 of the Natural Environment and Rural Communities Act (2006) provides a duty to conserve and enhance biodiversity stating that, 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'. Biodiversity 2020: A strategy for England's wildlife and ecosystem services and Making Space for Nature (2010) also provide strong drivers for the inclusion of biodiversity enhancements through the planning process.

Natural England therefore recommends that your authority seeks additional habitat compensation measures from the proposals. We would recommend that this is achieved through direct habitat creation, or alternatively a financial contribution secured by a S106 that is in line with the requirements of the Dorset Biodiversity Compensation Framework, or similar mechanism such as that used by the Environment Bank. The agreed level of funding should be used to support projects that facilitate the management, or creation of new or existing areas of Traditional Orchard within the Borough. This could be discussed with the council's Biodiversity team as to how this might be achieved. Natural England would also be happy to discuss with the applicant through our [Discretionary Advice Service](#).

In addition, Natural England would advise on the following issues.

Protected Landscapes

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

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

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

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

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

Protected species

Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. We advise that the standing advice is interpreted for you by your district ecologist, or an equivalent independent party with the necessary expertise. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our [Discretionary Advice Service](#).

If you have any queries relating to the advice in this letter please contact me on 02080 261472.

Should the proposal change, please consult us again.

Yours sincerely

Rachael Clemson, Planning Adviser
Dorset, Hampshire and Isle of Wight Area Team

APPENDIX D

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.	
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.																	
Please select one of the following options:																	
I hereby confirm that the proposed development will include an avoidance and mitigation package in line with the Solent Recreation Mitigation Strategy.																	
An alternative approach to avoiding and mitigating the recreational impact arising out of the development is proposed (please set out in more detail in a supporting document appended to this checklist).																	
The site is located more than 5.6km from the Solent Special Protection Areas (this applies to only a small section of the Borough in Cowplain).																	

Water quality

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

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

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

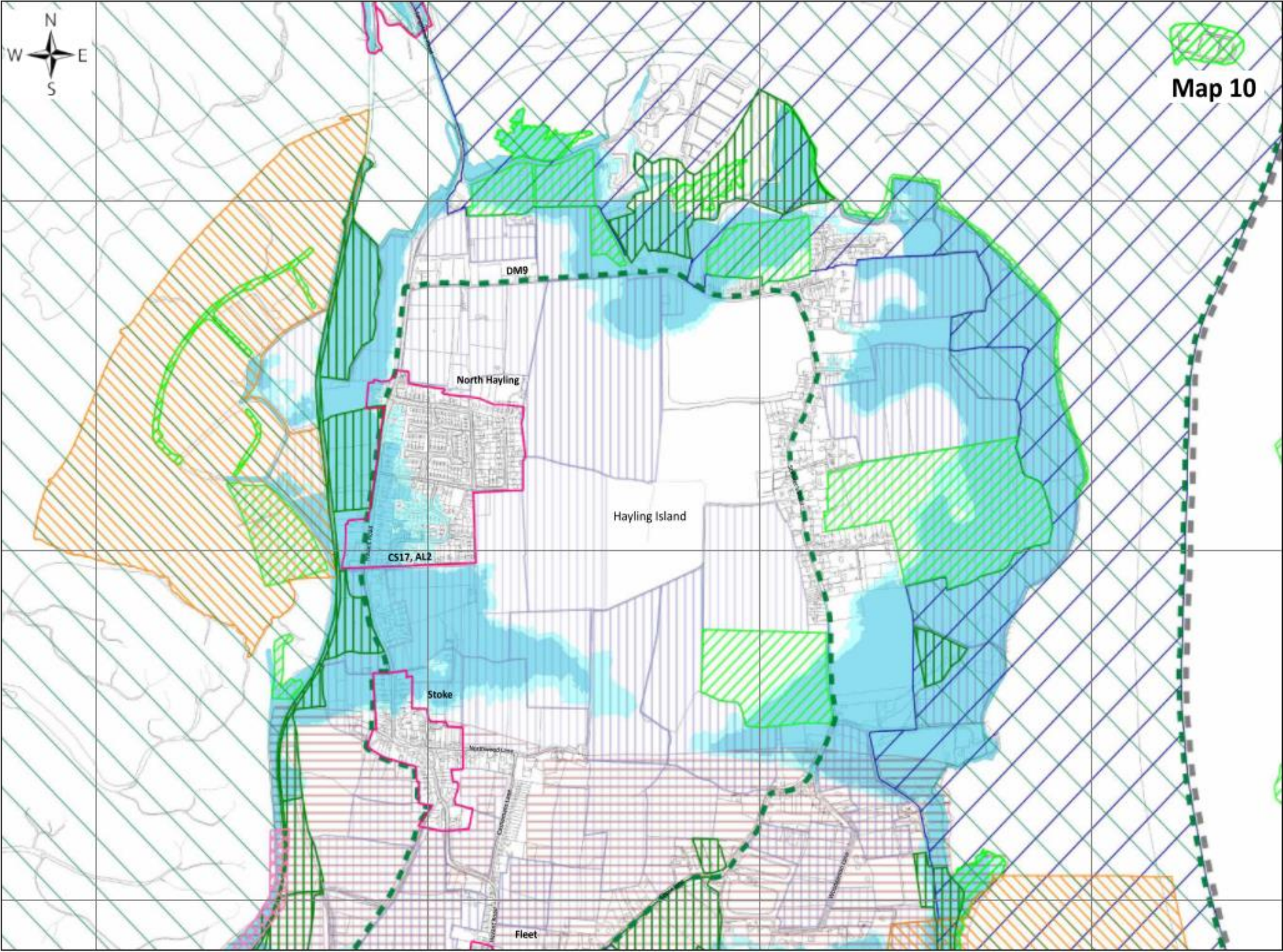
It would be the applicants risk as to whether to proceed with any development that is granted planning permission without the knowledge of the precise scale of the avoidance and mitigation package.

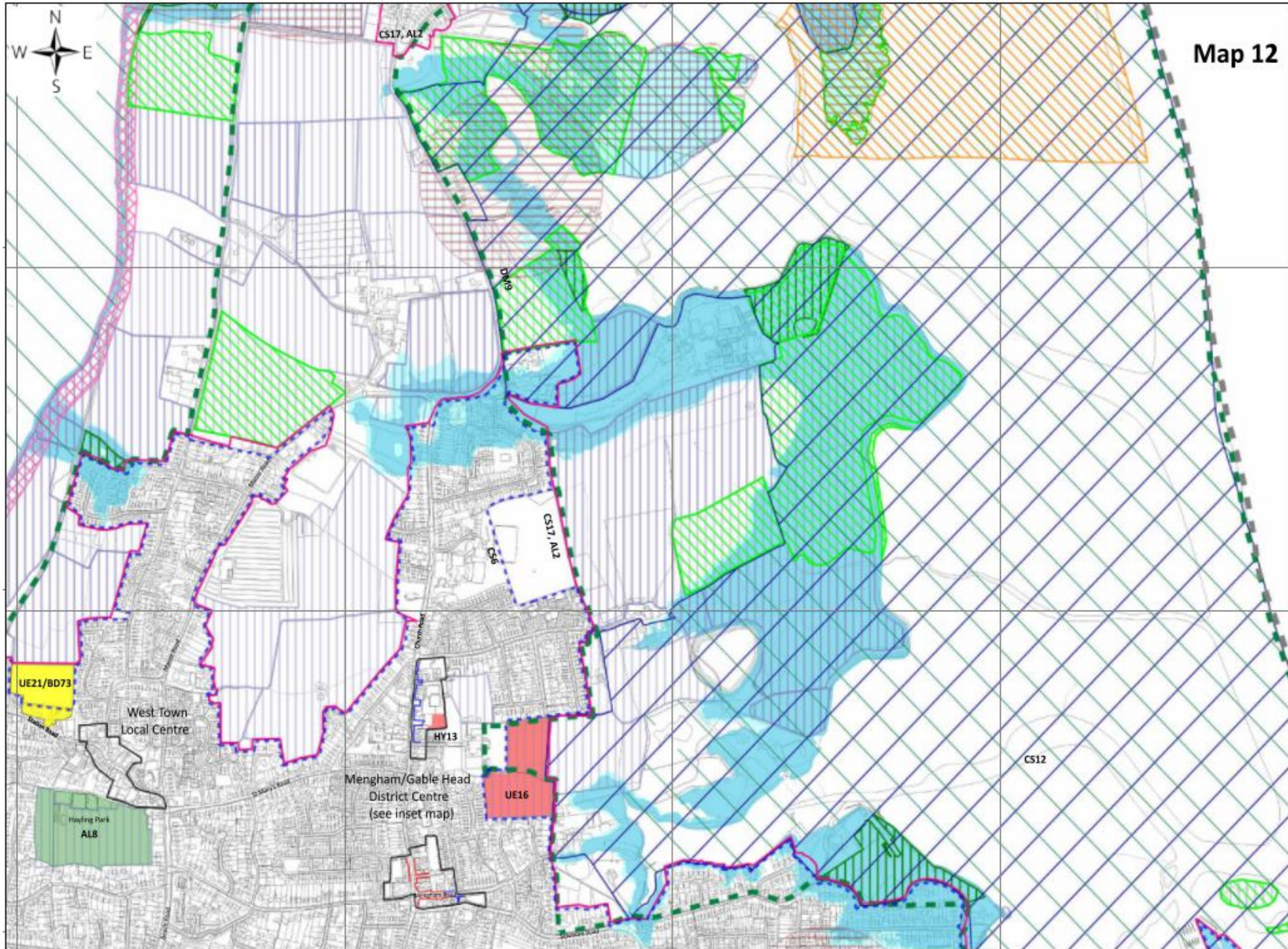
Please select **one** of the following options:

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

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

APPENDIX E





Promoting Havant Borough's Economy (CS5)



(CS4) (AL3.1) Town, District and Local Centres



(AL3.3) Primary Frontages



(AL3.4) Secondary Frontages

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



(AL8) Local Green Spaces



(CS11.3) Sites of Special Scientific Interest (SSSI), Special Protection Areas (SPA), Ramsar, Special Areas of Conservation (SAC)



(CS11.3) Site of Importance for Nature Conservation (SINC)



(CS11.3) Local Nature Reserve (LNR)



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



(CS15) Flood Zone 2



(CS15) Flood Zone 3



(DM9) Development in the Coastal Zone



(CS11) (DM23) Important Sites Brent Geese and/or Waders



(CS11) (DM23) Uncertain Sites Brent Geese and/or Waders



(AL4) Coastal Change Management Areas



(CS6) Regeneration of the Borough

Spatial Distribution and Strategic Sites



(CS17) (AL2) Concentration and Distribution of Development within the Urban Areas/Urban Area Boundaries



(CS18) Strategic Site Delivery



(AL6) Havant Thicket Reservoir Pipeline (Route)



(AL6) Havant Thicket Reservoir Pipeline (Underground Water Storage)



(AL7) Hermitage Stream

Housing



Allocation EM1, HB1, HY1, LP1, LP2, WA1

Mixed Use



Allocations HB3, HY2, LP3, WA2

Employment



Allocations EM2, HB2

APPENDIX F

Five Year Supply Update – Published January 2019

- 1.1 When assessing sites for potential inclusion within the boroughs five-year supply of housing regard was given to PPG guidance which states that:

“clear evidence is required to demonstrate that housing completions will begin on site within 5 years”
- 1.2 For sites with detailed planning permission that have already commenced - numbers are included within the 5-year supply for remaining dwellings to be completed as of 31st March 2018. Annual site visits are conducted to confirm the progress of sites under construction and trajectories updated accordingly. Trajectory and five-year supply figures are also updated based on communication with land owners and developers throughout the year.
- 1.3 Where there is clear pre-application work and intention to bring the site forward within five years these figures are included.
- 1.4 For any larger sites, delivery is split across several years to reflect how sites are incrementally brought forward. This often means that delivery is expected to commence within the five-year supply period and continue beyond it.
- 1.5 Windfall permissions of less than 5 dwellings are included within the five-year supply based on expected delivery. Windfall permissions have been calculated as delivering slightly more dwellings than expected within this monitoring period. Although it is not intended to adjust the windfall figure applied to the whole plan period windfall figures included within five-year supply calculations have been removed from the whole plan period supply of windfall to avoid double counting.
- 1.6 The 5-year land supply calculation clearly indicating buffers and shortfalls and the number of years of supply can be found at table 1.
- 1.7 Of note with regard to the Council’s 5-year housing supply position is the particularly high completion figures in the 2016/17 monitoring year within the Borough. This is due to sites from the Havant Borough Council Allocation Plan (2014) coming forward and completing and creating a peak in supply. Within the interim period the Council has released its Local Plan Housing Statement (2016) to maintain market confidence in the ability of new sites to come forward outside of the currently adopted plan. As well as providing enough allocated sites within the Havant Borough Local Plan 2036 to confirm continuing supply. Whole plan trajectory information is provided in the Council’s 2019 update to the Strategic Land Availability Assessment¹

¹ <http://www.havant.gov.uk/localplan/evidence-base>

Table 1: Five Year Supply – Data on completions and outstanding permissions taken from a particular point in time (April 2018)

**Five Year Supply Calculation for period 2018-2023 (Liverpool Method)			
	Calculating the required supply		Dwellings
a	OAN requirement 2016-2036		9,260
b	Completions 2016/17 - 2017/18		939
c	Remaining requirement	a-b	8,321
d	Remaining years of period		18
e	Annual requirement	c / d	462
f	Five year requirement	e x 5	2,311
f(i)	Five year requirement with 5% buffer		2,427
f(ii)	Five year requirement with 20% buffer		2,774
	Identified Supply		
g	Supply over 5 year period 2018-2023		2,479
	Five year land supply (expressed in years):		
	Excluding buffer	g / (f/5)	5.4
	With 5% buffer	g / (f(i)/5)	5.1
	With 20% buffer	g / (f(ii)/5)	4.5

- 1.8 The Council's Housing Implementation Strategy within the Havant Borough Council Strategic Land Availability Assessment (2019) provides details of risk associated with housing delivery projections. As well as the measures the Council has and could take to mitigate any shortfalls that would result from identified risks to supply.

APPENDIX G

Public Document Pack

Supplementary Planning Information

HAVANT BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE
21 November 2013

Dear Councillor

I am now able to enclose, for consideration by the Development Management Committee on 21 November 2013 the following supplementary planning information that was unavailable when the agenda was printed.

Agenda No	Item
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10(6)	<u>APP/13/00317 - Yacht Haven Development Site, Copse Lane, Hayling Island</u> (Pages 1 - 26)
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Proposal:	Construction of 6No. 5 bed detached houses, 1No. detached residential boat store and ancillary office building , 1No. detached boat store for sailing charity use with hardstanding, pontoon restricted to 12 berths (6 for house residents and 6 for non residents), improvements to slipway, beach, reposition concrete sea defence to side of slipway, coastal footpath and the creation of one area of coastal meadow and one area of conservation grassland. (Revised application.)
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Site Address: Yacht Haven Development Site, Copse Lane, Hayling Island

Proposal: Construction of 6No. 5 bed detached houses, 1No. detached residential boat store and ancillary office building, 1No. detached boat store for sailing charity use with hardstanding, pontoon restricted to 12 berths (6 for house residents and 6 for non residents), improvements to slipway, beach, reposition concrete sea defence to side of slipway, coastal footpath and the creation of one area of coastal meadow and one area of conservation grassland. (Revised application.)

Application No: APP/13/00317 Expiry Date: 13/06/2013

Applicant: Mr Laundon Team: Team 1

Agent: Yachthaven (Hayling) Limited Case Officer: Stephen Cantwell

Mr Thompson

PWP Architects

Ward: Hayling East DMC Lead Member

Reason for Committee Consideration: Application includes an Environmental Impact Assessment. Also request of Cllr M Wilson and a neighbour of the site.

EHPBE Recommendation: **REFUSE PERMISSION**

Introduction

- i) This application was withdrawn from the agenda of 22nd August at the request of the applicant's team, in order to allow an opportunity for their further consideration of issues raised in the officer's report. Following this, they have submitted further material. The following report has been updated in light of this.
- ii) Among the additional submitted information is material relating to the previous use of the site and moorings, landscaping, trees, drainage and ecology, also the viability of the proposal. Further consultations and neighbour notifications have been undertaken in light of these, and some responses are awaited, which will be reported as an update.
- iii) The following report is substantially a repeat of that which appeared on the agenda for 22nd August, but includes updated material and some which was added to the August report as a separate addendum. This additional material is preceded by the word: '***Update***', in bold italicised font. Policies have also been updated to incorporate those of the Council's recent Publication Local Plan (Allocations) document, published for public consultation on 11th October 2013.

1 Site Description

- 1.1 The site comprises approximately 6.4ha half of which is dry land, the other half is part of a tidal water inlet or 'creek' which is covered by water at high tide and is mud flats at low tide. The main part of the site is on the northern shore of the creek, immediately to the west of scatter of detached houses in large gardens. To the west is open land and on the opposite shore of the creek to the south is Verner Common, also used for grazing. Access is via a long, tree-lined, unmade and slightly raised track which extends north to Copse Lane, where it emerges at a pronounced bend in the road. The entrance is flanked by a caravan park to the north east and a house used as a bed and breakfast business to the south west.
- 1.2 The site was formerly a boatyard and contains the remains of boat sheds which probably

predate 1945, these are scattered around the site among areas of hardstanding. The southern edge of the site appears to be made ground and sits at a slightly higher level than the main part of the site. Sporadic vegetation has colonised the surface of the made ground and areas of hardstanding. Buried rubble can be seen where the made ground meets the waterline, along with occasional items such as old piping, which indicate that some of this material is of quite recent origin. A concrete slipway and remnants of a pontoon are located at the wateredge. Close to this is an independently owned rectangle of land containing a shed and boat hard, which is not within the application site.

- 1.3 The western quarter of the site is a low-lying meadow set behind an earth bank and made ground along the shoreline. The northern boundary is marked by mixed mature trees, including oak. At the eastern boundary is another cluster of mature and semi mature trees and shrubs.
- 1.4 A public footpath runs along the shoreline edge. Part of the access drive which runs close to the boundary also appears to be used as a footpath linking the neighbouring caravan site to the shore.

2 Planning History

93/50888/2: Outline permission for 6 houses arranged in two rows of three in the north-eastern part of the site, where the former boatyard buildings are located. - Approved 7/3/1996

94/50888/3: Outline permission for a replacement pontoon with 19 moorings, replacement slipway, mast/sail store and boat compound/parking area.
- Approved 7/3/1996

04/50888/012 Outline application for 9 detached dwellings. - Refused 14/2/2005

APP/11/00955: Six detached houses, detached marine office, 6 boatsheds, boatyard and pontoon for 19 berth, improvement to sea defences, restoration of sluice pond and creation of nature reserve - Withdrawn 6/12/2013.

3 Proposal

- 3.1 The application is for full planning permission. The proposal is to clear the existing boat buildings from the site and construct six detached houses, a residential boat store and ancillary office building, a boat store for a sailing charity, a 12-berth pontoon, with improvements to the slipway and coastal footpath.
- 3.2 The western quarter of the site would become a coastal meadow and the area of made ground along the south east shoreline would become an area of conservation grassland.
- 3.3 This application is brought to Committee for determination as it falls within the Environmental Impact Assessment Regulations and is accompanied by an Environmental Statement. Councillor M. Wilson has also requested determination by the Committee as he considers that it may raise several important and possibly contentious issues, a neighbour has also requested Committee determination.

4 Policy Considerations

National Policies

National Planning Policy Framework 2012

Havant Borough Local Plan (Core Strategy) 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS12	(Chichester Harbour Area of Outstanding Natural Beauty (AONB))
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS7	(Community Support and Inclusion)
CS19	(Effective Provision of Infrastructure)
CS21	(Developer Requirements)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM3	(Protection of Existing Employment and Tourism Sites)
DM9	(Development in the Coastal Zone)

Update: Havant Borough Publication Local Plan (Allocations) October 2013

AL1	Presumption in Favour of Sustainable Development
AL2	Urban Area Boundaries and Undeveloped Gaps Between Settlements
DM17	Contaminated Land
DM18	Protecting New Development From Pollution
DM24	Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development

Note: The Allocations document is an emerging part of the Local Plan but can be afforded some weight in the determination of planning applications..

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations (in summary)

HBC Access & Building Control Officer: Observations /Recommends conditions

The following items will require attention from a Building Regulations perspective:

- i) The access road for plots 2 and 3 does not comply with requirement B5 (for Fire Brigade access). Alternative means, for example a sprinkler system, will be required for these plots (condition).
- ii) Bin Storage to be provided for each plot. Collection points to be agreed for plots 2 and 3 as vehicles may have difficulty with the proposed access.
- iii) A public sewer is located in the existing access road for plots 4, 5 and 6. This should be identified on site as the garages for plots 5 and 6 may be positioned within 3m of a public foul sewer. (**Officer comment:** The Southern Water response refers to this)

HBC Arboriculturist: No objection

The arboricultural evidence is comprehensive and recommendations for tree works in the applicant's tree assessment / report reports (AMS & TPP) appear to be sound arboricultural management; some updating is needed in light of recent changes to British Standards. Prescribed methods should be strictly adhered to and monitored.

Some of the trees shown for removal (as Grade C class) are prominent e.g. Group 6, which provide green vista of Oak, Ash, Hawthorn. Field Maple and shrubs when viewed from the water, with some habitat and ecological importance. Important groups of oaks to the western aspect/boundary must also be afforded full protection during any development, including any upgrading of the existing access road, as the Arboricultural Impact Assessment document suggests.

There is scope for new tree planting, however due to the condition of the soil - made up ground and I believe contamination planting measures must be addressed to ensure that any proposed tree planting is successful. Would wish to be involved in the planting scheme if development goes ahead.

Update: Following receipt of additional tree information and planting proposals the landscaping masterplan and methods described for tree planting and establishment is acceptable. A preservation order would be justified for both the proposed specimen trees and the existing mixed woodland group at the east side of the site. Works to the access road would not compromise the existing on and off-site trees, however a tree protection plan must be submitted and agreed.

HBC Economic Development Officer: No objection, if no impact on the wildlife.

HBC Engineering/Coast & Drainage: No objection

The flood risk assessment (FRA) is acceptable and demonstrates how the development has been designed that the occupants remain safe from flooding. The area shows that the site is likely to be affected by rising sea levels after 2055. Conditions recommended:

- i) compliance with FRA and minimum floor levels
- ii) details of management of flood defences

In respect of the sea defences, the North Solent Shoreline Management Plan Policy is to 'Hold The Line' for the next 100 Years but no public funds are likely to be available to deliver these. The location is considered to be a low energy coastal environment within Chichester Harbour, the scale and nature of the sea defence proposals are therefore deemed to have a limited impact on coastal processes within the locality.

HBC Environmental Health Officer: No objection.

Development is unlikely to significantly impact on air quality or to generate a significant degree of noise. However, unauthorised waste transfer and burning has taken place in the past and previous industrial processes are likely to have left contamination; a pond has also been filled-in. Removal of the filled land and reinstatement of the pond is considered to be a betterment, subject to appropriate control over the mobilisation of contaminants.

Recommends conditions:

- i) the control of times for development work and deliveries,
- ii) dust suppression,
- iii) wheel washing,

- iv) the control lighting and disposal of waste.

Would object unless the following conditions are incorporated :

- v) the submission of a land contamination assessment for agreement with appropriate remediation,
- vi) submission and agreement of measures to deal with any other contamination if present.

HBC Development (Highways) Engineer: No objection.

Financial contribution £32,742 required. (officer comment: this response predated the introduction of CIL charging on 1st August)

HBC Landscape Officer & Urban Design: Objection

Landscape & Visual Impact Assessment (LVIA): Concerned at the mass of the proposed buildings, their urban appearance and their visual impact on the site itself as viewed from the harbour and the coastal footpath. The Chichester Harbour Conservancy's Design Guidelines for New Dwellings and Extensions in the AONB advice for the North Hayling Island Coastal Strip character area is for '*use of materials in predominantly muted or darker tones*' which 'can help to ensure buildings blend into background and reduce visual impact.' They also advise '*avoid breaking the existing skyline where possible.*' The proposed flat roofed houses are in muted colours but they will dominate the site with unsympathetic built form and even if the new planting grows up to soften them, the buildings will still be dominant due to their size in relation to the green gaps between them. There is also a potential problem with the screening because the new householders will not want their views of the water obscured by the new planting, therefore some of the screen planting may be removed after 5 years.

Landscape Strategy Plan: The retention of existing native boundary planting and augmentation with additional native tree, hedge and wildflower planting is welcomed.

However, areas of concern are:

- the mown grass path through linear wildflower grassland area between plots 1 and 2 and plots 4 and 5. The benefits of providing public access between private back gardens are not clear.
- the proposed timber bench next to the junction of roads and path is very close to back gardens and could cause a noise nuisance if used by walkers.
- the sinuous hedge along the development edge, the flowering and fruiting trees and the feature trees should all be native species.
- the raised timber decks with steel square mesh front panels that it is proposed to plant with ivy to enclose and screen the areas under the timber decks are of varying heights. The lowest for house type C are 700-900mm height but the highest for house type B are up to 2.5 metres high and the exposed steel mesh will look very ugly until the ivy grows up to cover it. I recommend using a timber detail for these panels instead.

Update: The proposed additional specimen trees would help to break up the building line and filter views of the new development from the south, but some of the species are ornamental and different species are 'spotted' along the shoreline where a single

or at most two native species would be preferable. Therefore I recommend using native species which will withstand the contaminated soil and coastal location like Populus Tremula and Alnus Glutinosa.

HBC Planning Policy Officers: Observations

Principles:

Housing development could contribute to the total needed up to 2026 but the principle of new residential development in this location is not supported by the Local Plan as it lies outside the urban area. However, other material considerations e.g. positive aspects in relation to other objectives and/or the vision of the Development Plan and previous permissions should be considered. Do these outweigh the principle?

The application does not meet the four criteria in para 55 of the NPPF, which deals with housing in rural areas, nor the four criteria of paragraph 28 which supports a prosperous rural economy.

Policy CS2.5 & DM3 safeguard existing employment sites that are fit for purpose Policy CS2.7 also protects marine businesses located on waterfront locations. The site appears to be derelict and not in active commercial use for a considerable period. It is acceptable to make an exception in this case where the site is clearly not fit for economic development. The extent to the use of buildings which this use could be resumed without the need for planning permission is a key consideration. The impact of a marine business in this location could be significant and this should be weighed against the impact of the proposed development.

Planning permission for new dwellings on the site was granted in 1996. Although the permission has now expired, this could carry some weight. The key consideration here is the extent to which policies have changed, particularly in terms of environmental protection, since permission was granted. [and difference in scale, condition of site] Impact.

The proposed 12-berth pontoon is contrary to policy CS1.12 of the Local Plan and would extend into the harbour and close to an area of sea grass, used by brent geese. A reduction in size would improve the visual and environmental impact. Modification of an existing mooring / berth could be permitted under Policy CS1.

Questions the level of development necessary to enable the beneficial works to be carried out. If not, a reduction in the scale of development should be considered. Would the environmental benefits (clearing of waste, concrete structure and overgrown grassland and foreshore); are these significant enough to justify the level of development proposed? It is not an "eye sore" from the harbour and the proposed use is likely to be more visible from the harbour than the existing, albeit this could change if it were re-instated and this would need to be weighed.

Community provision: (Even Keel Project) would be in line with policy CS1.10 on the provision of new community facilities it may be appropriate for a condition tying the use of the building to the named charity.

CIL: On the 20 February 2013, the Council approved that the Havant Borough Community Infrastructure Levy Charging (CIL) Schedule which takes effect on 1st August. Therefore, from 1st May applicants will need to take the charging schedule into account when discussing developer contributions. More information is available on the Council's website.

Policies of the Draft Havant Borough Local Plan (Allocations) are material

considerations to be taken into account where relevant.

HCC Archaeologist: No objection

This is archaeologically sensitive area, a focus of prehistoric activity from the Mesolithic onwards with possible iron age and Roman importance

It is likely that salt production was an important industry and remains associated with this may be present within the site. While archaeology is unlikely to present an overriding concern there is a potential for previously unidentified archaeological remains of local or regional significance to be present that would be impacted by the proposed development works. Trenching or trial pits needed before ground works. The results of this will inform the nature and extent of any further mitigation. Planning conditions are needed:

- 1) A programme of archaeological investigation and evaluation to be agreed
- 2) A programme of archaeological mitigation to be agreed
- 3) Post-excavation assessment, specialist analysis and reports, publication and public engagement.

HCC Ecologist: Recommends further advice from Natural England (NE)

On-site Ecology

Yacht Haven Nature Reserve: The applicant has demonstrated a detailed understanding of the existing vegetation communities and their conservation. One of the areas of coastal grassland within the site form part of the non-statutory SINCS. A long term management Plan for both areas is recommended and a condition is recommended:

Legally-protected species:

Site surveys have identified the presence/potential presence of slow-worm and common lizard and there is good habitat for breeding birds, although no breeding bird surveys produced. Scrubby coastal grassland may provide suitable habitat for rare, protected, breeding species such as Dartford warbler.

Bats - An assessment was made in 2010. The only suitable building has been destroyed through vandalism but soprano pipistrelle bats are within close proximity. I would expect an updating assessment in 2014 if development works were delayed. The local landscape is likely to be of importance to foraging and commuting bats and that potential impacts may occur through inappropriate lighting of vegetation.

Water voles - I note neighbour correspondence referring to possible water voles inhabiting ditch habitat close to the application site. There are no records of this species for Hayling Island, and I think it unlikely that this species is present on the Island, although I have seen them at Langstone. I strongly recommend that the applicant seeks the advice of their ecological consultant on this.

In summary, there are protected species issues are perfectly manageable provided that appropriate mitigation measures are in place.

A single, site-wide ecological management plan is recommended by planning condition:

Prior to commencement, a detailed site-wide Ecological Management Plan shall be submitted for written approval to the Local Planning Authority. The Ecological Management Plan should include details of mitigation and enhancement measures designed to protect and enhance populations of legally-protected species throughout the development process and should include (but not necessarily be restricted to): species capture and translocation measures, timing and methods of habitat clearance, habitat creation and planting, details of the site lighting scheme and proposed enhancements such as bat and bird boxes.. Development shall subsequently proceed in accordance with any such approved details.

Reason: *to protect and enhance biodiversity in accordance with NPPF, the Wildlife & Countryside Act 1981, the Natural Environment and Rural Communities Act 2006 and Policy CS11 of the Havant Borough Local Plan (Core Strategy).*

Off-site Ecology

The assessment of impacts and the efficacy of mitigation is based to a large extent on incomplete data and an over-reliance on third-party action.

Whilst acknowledging the response from Natural England (NE) and their primacy in respect to designated sites, I consider that there are several issues which require further clarification before it can be conclusively determined that there will be no 'likely significant effect' on the integrity of the European designated sites:

- i) The realistic likelihood (based on a *de facto* three-fold increase in active moorings) of increased boat movements and the impact on birds and intertidal habitats
- ii) Clarification of the need for bottom levelling (of water inlet)
- iii) Justification of how limitations in bird survey methodology, and thus assessment of impacts, have been addressed - is the assessment based on good science?
- iv) Clarification of how proposed 'voluntary' mitigation measures will be monitored and enforced where necessary (e.g. voluntary code of conduct by boat users, limitation on number of mooring licences by Chichester Harbour Conservancy).

Given NE's stance, you may wish to determine this application based upon their recommendation to 'permit subject to conditions'. , which appear to provide NE with a suitable level of confidence that the proposals will not result in 'likely significant effect'. I should add that on the whole I consider these conditions to be acceptable and pragmatic (if followed they will in effect 'capture' all of my points raised above, although normally such issues should be dealt with prior to determination) and they should provide a robust framework for ensuring that the proposed works are undertaken in such a way that does not, either alone or in combination, result in damage to the designated sites. I can provide additional comments, and assist in condition wording, once you have received further advice from NE.

Update: Further comment awaited

HCC County Planning Officer: No response

HCC Rights of Way & Countryside officer: No objection

A public footpath (No 86) runs through the site. The many planned improvements to the site are welcomed. No work may be carried out on the footpath without the prior approval of HCC Highway Authority.

[Informative]

Hants Police - Crime Prevention: No objection

The site is fairly isolated and can be approached from both the land and the sea. The boundary treatments have not been specified but are unlikely to be substantial enough to prevent access. I recommend the a condition relating to the security accreditation of the external doors and windows i.e. PAS24, or British Standard 7950 as referred to at page 50 of 'Safer Places the Planning System and Crime Prevention'. Boat stores should conform to Loss Prevention Standard (LPS) 1175 SR 2.

Hants & IoW Wildlife Trust (HWT): No objection

Current application includes welcomed management of the coastal wetland and creation of conservation grassland. The Trust has asked for more details about funding, delivery and long-term maintenance of this ecological mitigation. How would the applicant ensure that the number of movements of vessels at the moorings is restricted in winter and that signage is provided and maintained to ensure that vessels do not land at the Gutner Peninsular and Verner Common opposite.

The reduction and control of swing moorings should be secured by agreement in order to control impacts of marine vegetation (Eelgrass)

Officer comment: The applicant has provided further information, which is referred to in this report.

The HWT has also provided standing advice on the protection of designated sites, Notable/Protected Species and Priority Habitats, to check for any adverse impact.

Chichester Harbour Conservancy: Recommends refusal

In the absence of any attempts to market the site for marine related businesses or other suitable employment uses, and a viability appraisal, the proposed loss of a commercial site with marine potential is a principle to which the Conservancy raises a strong objection. This would be clearly at odds with Core Strategy policies CS2 & DM3 and CHC planning guideline policy D1b. It is not the case that Natural England would object to a purely commercial use of the site and there are no other compelling justifiable reasons to accept a predominantly residential development.

Furthermore, the proposed boatshed identified for charitable use does not satisfy the requirement for commercial use of the site and even were a charitable use taken up, its long term viability given its scale and close association with the residential development is questionable.

The scale, design and density of the development is at odds with the rural setting and would be in stark contrast to the character of adjoining residential development. It would have a harmful impact on the character and appearance of this sensitive area and there is consequently a strong objection with regards to the design of the houses, their number and the impact they have on the local landscape. The proposal is contrary to the criteria set out in Core Strategy policies CS12, CS16 and DM8 and planning guidelines A1, B1 and B3 of the CHC Management Plan and paragraph 55 of the NPPF.

Finally, the proposals would likely have significant direct impacts on the intertidal area and in the absence of a detailed plan setting out the ecological mitigation measures, the Conservancy again strongly objects to the application.

Update: Further comment awaited.

Environment Agency: No objection

No objection to the principle of development subject to further information, conditions and Informatives.

The site is in flood zone 2 and a sequential test is needed to demonstrate that no alternative sites are available in a lower flood risk zone. Current sea defenses would need to be improved, although the site is relatively sheltered in respect of wave action and water velocities. An aquifer lies adjacent to the site and further information is needed regarding the nature of landfill, recent unauthorised waste operations and burning and groundwater and leachate sampling and analysis. The EA supports the control of the number of mooring (not to exceed 12) and the view that bottom levelling of the inlet should not take place.

Conditions recommended by Natural England should be used to minimise the risk of sediments arising from works to the foreshore and intertidal zone. Other conditions should cover:

- i) Control of floor levels and provision of safe routes in time of flood,
- ii) Surface water drainage design
- iii) Limitation of surface water infiltration
- iv) Limitation of piling
- v) Contamination – risk assessment and remediation
- vi) Working methods statement to be agreed

Update: No further comments

Natural England: No Objection subject to Conditions

The site is partly adjacent and partly within the Chichester Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Solent Maritime Special Area of Conservation (SAC), and Chichester and Langstone Harbours Special Protection Area (SPA) Natura and Ramsar site.

If undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the sites are designated, either alone or in combination with other plans or projects, subject to the Mitigation and Enhancement Measures set out in the Revised Ecological Assessment Report being secured as part of any permission granted, subject to conditions:

- i) A Mitigation Strategy be submitted and agreed including the amount of designated habitat restored through removal of structures from within the intertidal area.
- ii) A method statement detailing how the works will be undertaken in order to avoid any impacts upon the designated sites.
- iii) A Legal Agreement or Formal undertaking is entered into by the applicant to purchase all 26 available mooring licenses for Yachthaven, but only to make use of the 12 detailed in the application.

- iv) Prior to works commencing on site a Habitat Creation strategy and Management Plan for the “wildlife enhancement” area.
- v) A dog proof fence to be erected and maintained along the landward side of the coastal path adjacent to Fields and Saltmarsh South of Copse Lane SIN.
- vi) No dredging or bottom levelling should be permitted within the designated site.
- vii) Timing of works to minimise disturbance to over wintering birds.
- viii) Best practice is in place for operating machinery to reduce unnecessary noise.
- ix) No percussive piling or works with heavy October to March inclusive, unless the existing noise level exceeds 69dbA max.

Advice regarding protected species should be obtained from HCC Ecologist. Impacts on local sites, local landscape character and local or national biodiversity priority habitats and species are relevant. The LPA must notify NE if it proposes to approve development without these conditions.

Royal Society for the Protection of Birds (RSPB): Objection

- i) Under-assessment of the importance of the creek and surroundings to SPA/Ramsar/SSSI birds.
- ii) Lack of mitigation for the loss of intertidal mudflats from within the SPA/Ramsar/SSSI as a result of the pontoon and coastal defence works (including anomalies in the calculation of these losses).
- iii) Inadequate mitigation for damage to intertidal habitat, including *Zostera* (eelgrass) beds, from boat movements in and out of the creek.
- iv) Lack of assessment/mitigation of further potential impacts on the designated sites as a result of “bottom levelling” (NB there is a contradiction between the revised Environmental Statement and the Design and Access Statement on this)
- v) Unmitigated disturbance to roost sites at Gutner Point and Verner Common from boat movements and walkers/dog-walkers.

A *likely significant effect* on the SPA/Ramsar cannot be ruled out, and an *appropriate assessment* is therefore required under the Habitats Regulations (Regulation 61(1)). Based on the current information provided, we do not believe it will be possible to reach a conclusion of *no adverse effect on the integrity* of the SPA/Ramsar site. The application should therefore be refused under the provisions of the Habitats Regulations.

Update: Further comment awaited

Southern Water: No objection

Applicant should determine the precise location of an existing public sewer crossing the site. No development or tree planting permissible within 3m of this and no soakaways within 5m. It should be protected during development. Any other existing sewer should be investigated to ascertain its condition, the number of properties

served, and potential means of access before any further works commence on site.

Initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. The Council's Building Control officers/technical staff or Environment Agency should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

Informative requested:

"A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk".

Waste Services Manager: No comment

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: 36

Number of site notices: Three

Statutory advertisement: 26/04/2013

Responses have been received from a total of 16 addresses. The responses are as follows:

Support (9 no.)

There are eight resident letter in support and one from NEHRA (North East Hayling Residents Association).

The resident letters comment that the application is well presented following consultation with various bodies. It brings benefits to the site, the coast path, habitats, sea defences and economic benefit. It should be embraced. The site is currently an eyesore. The proposed house designs are found on other parts of the island. There should be no dredging of the creek. One letter refers to the proposal as excellent.

Letter from NEHRA: The proposal has answered a lot of objections to the previous scheme. NEHRA is willing to support proposal subject to:

- No dredging of the creek
- No further commercial activity beyond the Even Keel project who should only store and maintain their craft here.
- Remove existing hard standing to prevent creeping commercial use
- Code of conduct for boat uses to be managed by boat office
- Boat lockers only for residents and berth users

- Boat stores should be finished in timber
- Drainage provision should be adequate
- Disabled access to be provided – information needed

Objections (5no.)

Housing: In general there is support for a mixed development but the number of houses is too great and does not adhere to the building line and character of the area along the creek. The raised floor levels will (around 1.9m above existing ground) will make the buildings prominent to the detriment of the landscape / AONB. The design of houses is unsympathetic, it includes some three storey elements and is Design is out of keeping with the Northney and Tye Design Statement. It will create a precedent for future development of the adjoining Yachthaven House site, which is also said to be owned by the applicant. A smaller scheme with only three house should be considered.

Sewer: The sewage pumping station has failed three times in past six months and is understood to be at capacity. This must be explored urgently.

Boating: Concern at possible future creeping of commercial development, only the boat charity should be able to use the boathouse and this should not be expanded in future. The need for the residential boat store with office and individual lock up boat stores is questioned; this is not normally required even for full scale marinas. The future commercial use is questionable. Six berths would be for non-residents and there is no need for a boat building. Another neighbour will apply for moorings if this is allowed. The hard standings should be removed to prevent future commercial use.

Ecology: The sensitive biodiversity in the wider area (SINC, and the Chichester Harbour SPA/SAC & Ramsar designation) is at risk from increased vessels, size of the 12 berth pontoon, discharge of effluent from vessels and dredging harmful to protected vegetation. A water vole survey should be undertaken. The creek is privately owned by residents. Development will also increase noise and activity, disturbing tranquillity, wildlife, roosting areas and nearby residents. Who will police the voluntary code of conduct for boat users in order to safeguard ecology?

Highways: The site access to Copse Lane is inadequate and on a blind bend. Accidents and road blockages, especially by HGVs have occurred. HGVs have also damaged overhanging trees and there is concern of future risk of damage to protected trees at the site access. The access track is noisy and would need to be improved but this may harm trees and intensify existing flooding to the neighbour, it is noted that ditches long the track have not been maintained.

Traffic predictions do not include weekend traffic or delivery vehicles but have over-estimated historic levels of vehicular use. There is inadequate parking for the proposal.

Accuracy: Plans are inaccurate at the site access, including land owned by the neighbour, it also omits important trees (**Officer comment:** An amended plan has now corrected this)

The application should be determined by Committee.

Letters with no overall view (2no.)

- Also in favour of building of 'suitable homes' and restoration of meadow but be suitable for fixed keel boats
- The planned seawall is 3.0m the boat stores and the boathouse will flood in extreme events.
- The semi metalled surface might be better removed to allow recolonisation by
- How will disabled access be provided given the high floor levels?
- High quality design should not be reduced by statutory consultees.

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) Previous Use of the Site & Moorings
- (iii) Character and Visual Impact
- (iv) Boathouses and Employment
- (v) Ecology
- (vi) Flood Risk & Drainage
- (vii) Highways and Access
- (viii) Land Remediation and Environmental Protection
- (ix) Delivery and Viability

(i) Principle of development

7.2 The National Planning Policy Framework (NPPF) is explicit in stating that housing applications should be considered in the context of the presumption in favour of sustainable development; and that there are three dimensions to this: economic; social and environmental. Sustainable development is also defined by the range of other policies in the NPPF ([update: and now policy AL1 in the Allocations Plan](#)). In terms of rural housing the NPPF states that isolated homes in the countryside should be avoided unless there are special circumstances such as the re-use of redundant or disused buildings or where development is 'truly outstanding or innovative' with the highest standards of architecture, significantly enhancing its immediate setting and sensitive to the characteristics of the surrounding area. That the site is within the countryside is confirmed by the Local Plan proposals map ([update: this remains the case in the proposal map published in the Allocations Plan, October 2013, and policy AL3](#)). The NPPF also encourages the re-use of previously developed land (PDL) provided that it is not of high environmental value. In the local context the Local Plan policy CS17 concentrates new development, including redevelopment of PDL, into the defined urban area.

7.3 The extent to which the site can currently be regarded as Previously Developed Land (PDL) is debatable. It contains two boathouses towards the southern end which, although in poor condition, are substantial and capable of re-use with limited repair work. At the northern end are two other large boathouse / sheds but in such a poor state of repair, (one is currently shored-up by scaffolding), along with smaller brick-built buildings that the view could be taken that these have blended with the surrounding landscape. This blending is a distinguishing characteristic in the NPPF definition of PDL. Part of the curtilage around the buildings is also hard surfaced but this quickly dwindles away from the buildings. Whilst there is no structural survey with this application ([update: or the additional information](#)), it is considered reasonable that part of the site can be regarded as PDL but this is limited to the two southern boathouses and perhaps the nucleus of the largest buildings to the north and their immediate curtilages. Otherwise the site is generally open in character immediately adjoining and partly covered by the Chichester Harbour AONB, where this character contributes to the coastal environment.

- 7.3a **Update:** In a recent appeal relating to land at Goldring Close further to the south on Hayling Island, a proposal for 131 dwellings was allowed outside the defined built up area on the basis that it was sustainable development in an accessible location, close to services, with social benefits in the form of mixed and affordable housing and with an acceptable landscape impact in terms of the adjoining AONB, where it adjoined, in part, other built-up areas. By comparison, the Yachthaven site is relatively remote from services and would deliver a fairly uniform type of housing (5 bedroom units), it does not adjoin a built-up area and accordingly its landscape impact differs from that case. The sustainability test is not considered to weigh in favour of the proposal.
- 7.4 Development in rural areas which supports business and sustainable tourism and leisure is supported in the NPPF where it meets identified needs that cannot be met elsewhere and where it respects the character of the countryside. The Local Plan policy CS7 supports development shaped by community and stakeholder involvement but subject to the urban concentration policy CS17 mentioned above. In coastal areas policy CS2 safeguards existing marine businesses from non-marine related development along with Policy DM3, which safeguards employment uses across the Borough.
- 7.5 The coastal environment is subject of Local Plan Policy DM9, which only allows for development subject to a series of criteria including; no harm to designated sites for ecology such as Chichester Harbour; maintains the distinctiveness of coastal landmarks and contributes positively to the coastal landscape. Coastal footpaths should be upgraded and there should be no adverse effect on coastal recreation or infrastructure. Development is allowed where it improves or redistributes moorings. These considerations are largely re-inforced in the AONB and its setting by policy CS12 and the NPPF, the latter attaches 'great weight' and 'the highest status of protection' to conserving its scenic beauty.
- 7.6 In summary, policies only allow for new housing outside urban areas in special circumstances and where there is significant enhancement of the immediate setting and sensitivity to the surrounding area. Other leisure and tourism development is permissible where it meets identified needs. Existing coastal uses are safeguarded as is the coastal landscape and ecology. The coastal landscape of the AONB and its setting is afforded the highest status of protection.
- 7.7 Whether the proposed development can be accepted in principle therefore depends **in part** on the extent to which housing is considered to be truly outstanding and innovative. The re-use of PDL does not in itself allow for new rural housing but it is a material consideration to be weighed, together with consideration of the site's existing environmental value along with the broader consideration of the impact of development on the coastal character and landscape. It is also important to consider the extent to which the development would represent the loss of marine business and coastal uses and whether other material considerations override such a loss, for instance the benefit of introducing the new community leisure use proposed here (the boathouse). The extent to which development would affect marine ecology depends on the extent to which the 12 berth mooring is either a new use or the replacement of an existing one. It is a material consideration to consider the other ecological benefits of the proposed land remediation and habitat creation schemes here. One further material consideration is any previous planning history; planning permission for moorings and dwellings were granted in the 1990s. These matters will be considered in detail below, starting with an exploration of the existing use and planning history.

(ii) Previous Use of the Site and Moorings

Previous Use of the Land & Buildings

7.8 The applicant comments that the boatyard has not operated at full capacity since the 1970s, it has not been used as a proper commercial boatyard for 40 years and is now largely abandoned and physically degraded. They suggest that there is no appetite in the market for a commercial re-use.

7.8a Update: The applicant has provided a summary of uses since 1967, starting with a Certificate of Established Use for General Industry for which an appeal was allowed in August of that year. The main boat building is said to have been destroyed by fire during the 1970s followed by the issuing of planning permission by this Authority in 1978 for 62,000 sq ft (5860sqm) industrial floorspace, which was not implemented. Thereafter it is said that marine workshop uses took place in the residual buildings although it is unclear whether these ended at the point when enforcement action was taken against the unlawful scrap and car breaking use in 1991.

7.8b Update: From 1999, and for an unspecified period, the site is said to have been tenanted by a group of apparently linked companies involved in various hydrographic (water science) and related engineering work. However, aside from the use of one boathouse for general storage for at least the past ten years, the precise use of the site by these companies is unclear and the company offices were elsewhere in Havant. Boat storage in two small areas, one including a building, is said to have taken place between 2007 and 2012, including the Even Keel Charity project, with builder's storage in one building over the same period and storage of skips across much of the eastern outdoor part of the site for two years 2010-2012. These storage uses, if lawful, would fall within Class B8: Storage and Distribution.

7.8c Outline consent was granted in March 1996 for a residential development with all matters of detail, access, layout, design and landscaping, reserved for subsequent approval, albeit an illustrative plan show these arranged in two rows of three. The notice of permission contained the words '6 dwellinghouses' in brackets. At the same time permission was granted for a replacement pontoon with the words '19 moorings' in brackets. A legal agreement was completed to eliminate industrial use rights and to limit the number of moorings to 19no. Both permissions lapsed in 2001.

7.9 Update: In summary, it appears that the last lawful use of the site was for general industry, with the last planning permission for any development associated with this use being in thirty five years ago in 1978. Other uses such as storage would require planning permission, unless either; it relates to a building of not more than 235 square metres (not open land) or if it is proven that these other uses have continued for at least ten years. Whilst the applicant has described these uses, there is little by way of supporting evidence on which to rely, other than the buildings themselves, and these are in a deteriorated condition, along with much of the site of the site. The site does not appear to have been used for general industry for many years and the question remains as to the nature of any lawful use and the extent to which the land and buildings could be used. In addition, the planning permission for houses expired in 2001.

Previous Use of the Moorings

7.10 In terms of moorings, there is little trace remaining on site of the pontoon which is shown on a land registry extract dating from the 1960s, provided by the applicant. It is understood that this might have provided for up to 26 berths; the lapsed permission of 1996 approved a lesser number. However, only a few poles and rusted section of floating steel flooring can be seen at low tide. Aerial photographs from 1998, 2002 & 2005 show no sign of boat mooring use and licences have not been issued by the Conservancy since at least 1997 who confirm that they have not been used at least since then, possibly longer, although it is understood that these remain available to be uptaken.

7.10a Update: The applicant states that historically six of the berths were mud berths, using

the shoreline of the site and not relying on the pontoon. Although the corroborative evidence of this is the Conservancy licences mentioned above (and these are not specific as to location), it is a degree more probable that a case for lawfulness could be made, given the extent of the shoreline and that the question of the pontoon is of lesser relevance. The original lawful use of the site, for general industry, evidently related to boats is such that mud berths could well have been used, albeit aerial photography from 1995/8 appears to show only one boat berthed in this way and none appear in later photographs. Given the limited information, it is not possible to be definitive as to the lawfulness of six mud berths, it is only a degree more probable than the greater number of berths/moorings which would have relied on the presence of the pontoon.

Summary of Previous Uses and Moorings

- 7.11 The significance of this history is that the current proposal can be regarded as seeking approval for new moorings rather than replacements. This in turn will influence judgements about the degree of potential impact, particularly on ecology. **Update:** In terms of the wider use of the land the position is a little clearer than in August, insofar as the most substantial of the remaining buildings could probably be used for either general industry and up to 235square metres of storage and distribution, although there is no evidence to suggest that a storage use of open areas would be lawful, such as a resumption of the skip storage use. Nevertheless, where general industry and limited storage may be capable of lawful resumption, it is noted that these would not be subject of planning conditions to control matters such as hours of use. Therefore such uses would bring a risk of noise and disturbance and this is a material consideration.
- 7.12 The two lapsed permissions of 1996 are also material considerations. However, as these have been expired for twelve years, their relevance is limited. **Update:** The applicant disagrees with this stance and argues that the circumstances and policies which prevailed when that permission was granted are current now, with the exception of international ecological designations made since 1996. On the matter of ecology, the applicant argues that the package of onshore ecological improvements in the current application, are an important consideration; these are considered in the Ecology section of this report.
- 7.12a **Update:** With regard to wider planning designations and policies, the appellant argues that the degree of protection afforded to the AONB was as great in 1996 as it is now and the wording in national policy, the NPPF of 2012, and the preceding national PPS7 of 2004, which refer to '*the highest status of protection*' is not new. In consideration of this point, it is noted that PPG7: 'Countryside' said in 1997, shortly after the 1996 permission: "*The primary objective of designation is conservation of the natural beauty of the landscape.*" Despite the appellant's argument, it is considered that the language of the more recent national policy indicates a greater emphasis on the protection of AONBs and that planning decisions should reflect this.
- 7.12b In summary, the view remains that there have been changes in matters ecology and the protection of AONBs since the 1996 permission, and that whilst that permission is a consideration, a new permission should only be granted for the current application if this Authority is satisfied that the impact on both of these factors is acceptable, and with other policies in the current development plan, which are considered in the next sections of this report.
- (iii) Character and Impact
- 7.13 The proposal is for 6 houses located in the northern part of the site and arranged in two rows with an access drive in between. The houses would be of contemporary modernist design with flat roofs, some with tower features providing an enclosed and roof third-storey deck area. The main materials would comprise brick, render and sections of

stone panelling. Ground floors appear to be raised between 0.9m - 1.5m above ground level for resilience against floodwater so that the overall heights range between 7.8m - 9.5m. The layout places gardens on the south side of each house and a notable separation or 'green corridor' between the western-most two houses and the other four; this is designed to avoid the suggestion of a continuous block of development.

- 7.14 The replacement boathouse / office building would occupy a position similar to that of the existing boathouse at the southern edge of the site, close to the shore. It would have a pitched roof of 4m height, with the gable ends facing south and north, similar to the existing building. The materials would be timber cladding and slate roof tiles. A small boatyard containing one vessel and a mud dock 12m to the south west of this building, is independently owned and not included in this application; this would remain.
- 7.15 A boat store building of 4m height with six lockable bays would be built in the western part of the site, close to the position of another building which would be demolished. The new building would be clad with green profiled-steel. All existing buildings within the application site would be demolished, these include pitched roof buildings at the northern end of the site which are estimated to be around 5 - 6m tall.
- 7.16 The pontoon would extend southward approximately 35m from the shoreline with space for 12 vessels. Concrete sleepers along much of the eastern part of the shoreline would be removed, with removal of rubble and debris along all of the shore. A length of 23m of new concrete shoreline defence would be created along the eastern side of the existing concrete slipway, which would also be restored.
- 7.17 Areas of semi-metalled surface would be variously removed and grassed over to form conservation grassland or allowed to naturalise (a process which is already well advanced in the western part of the site). The western-most meadow, which is a SINC, would undergo selective removal of shrubs and small trees to allow for improved bird roosting (improved lines of sight to the water are important for birds)
- 7.18 In terms of visibility, the site is flat and open to the south, with good tree screening to the north, north west and much of the east. Its visibility is greatest from the public footpath at the shoreline, running along the southern edge of the land within the site, also from Verner Common on the opposite bank (although this is not publicly accessible) and part of the caravan park to the south west. These are within or at the edge of the AONB. The site is visible from the water; the creek and Chichester Harbour to the west and south west.
- 7.19 The applicant has undertaken a landscape assessment, focusing on 5 vantages and concludes that if existing trees are retained, the impact is slight and limited to two vantages: the shoreline edge close to the eastern boundary of the site and the entrance to the creek some 750m the east. He concludes that this is not significant or harmful to the AONB.
- 7.20 The landscape officer disagrees with this assessment and is concerned at the mass and design of the proposed houses, which are formal and urban in appearance and an unsympathetic built form. Although they are proposed in muted colours, there is concern that they would dominate the site. In consideration of this point, it is noted that the houses would occupy much smaller plots than the proposed scatter of buildings along the northern shore of the creek and would be closer together. Existing development is generally spaced in generous plots, separated by intervening lush vegetation, including mature trees, with buildings glimpsed in between. Most of the houses have pitched roofs, tapering toward the skyline, receding in to a backdrop of trees and making little impact on the skyline. It is noted that two houses of less traditionally form and greater prominence exist to the east of the existing scatter, which create a more built-up appearance but this is not typical of the northern shoreline, where built development is generally of low visual

impact when seen from the water and land to the south west. From the footpath, the spaciousness around buildings and vegetation gives a rural and informal impression.

7.21 Although the applicant has incorporated a green corridor to separate some of the buildings, there is concern that the degree to which the site would appear built-up, would still be much greater than its neighbours. The new two/three storey rooflines are likely to form a largely unbroken mass when seen from some angles. There is a potential problem that screening and tree planting will be of limited benefit, as the several new householders are likely to wish to have views of the water, which would be compromised as trees and bushes grow. For the same reason the tree officer is also concerned that pressure would arise for reduction or removal of trees and bushes at the east boundary. This would increase the visibility of the proposed development and reduce the informal character of existing vegetation, revealing the formal design and layout of the proposed development. By contrast, the existing buildings at site, are well spaced and several of them are clustered to the northern end of the site where they have more limited visual impact than the proposal.

7.22. These criticisms do not imply that the buildings are not of high architectural standard, but that they are considered to be out of keeping here. the Council's Design Guide and the Chichester Harbour Conservancy's Design Guidelines for New Dwellings and Extensions in the AONB can be generally summarised as seeking an less formal pattern of development in this context. Whether they are of truly outstanding or innovative design is a matter of judgement, but in any case this test would not necessarily have to be met if other merits of the scheme are sufficiently strong.

7.22a **Update:** In response to these concerns the applicant has provided details of tree planting, including the provision of a series of specimen trees along the southern edge of the proposed plots. Details of how the land would be prepared have also been provided and are supported by the tree officer, who adds that preservation order could be justified for these (if planted) and existing trees. The Landscape officer has suggested some modification of the tree varieties, in order to create greater informality.

7.22b **Update:** In consideration of the visual impact, this additional aspect of the proposal would help to soften the overall impact and limit views of the site to the south and probably eliminate more distant views to the south west. This is an important consideration.

7.23 Whilst it appears that in planning terms the proposed moorings are likely to be *largely* new rather than a replacements, consideration of their visual impact is also relevant. In this case the length of the pontoon (35m) is such that it would make a significant projection into the narrow head of the creek. Vessels moored here would be visible from both the land and water, and whilst this is consistent with coastal recreation, it will add to the overall sense of formality in the proposal.

7.24 **Update:** In summary, the character of the proposed development is markedly different from that of existing housing along the north side of the creek. It would be more urban and formal, whereas the AONB and its setting is generally more informal. The addition of proposed trees along the site frontage has assisted to the point where arguments on this point are now more finely balanced.

(iv) Boathouses and Employment

7.25 The proposed boatstore building with ancillary office is intended for occupation by a local volunteer-run charity 'Even Keel Project (EKP)' based on Hayling Island. The charity provides sailing opportunities for people who would otherwise be unable to do so, including people with disabilities. They participate in sailing events in the Harbour and all around the British isles. The charity has need for accommodation in the area, including the secure storage of boats. The site would allow for storage of the boats which could

then be launched from the site via the pontoon and transferred to the Hayling island Sailing Club by water (they are currently towed by road), from which they would be sailed. In land use terms, this is consistent with policies for leisure uses around the coast.

- 7.26 As mentioned earlier, the lawful use of the site is unclear. If it is accepted that the site could revert to a commercial use (Class B2 use was mentioned as the previous use in the 1991 enforcement notice), then by virtue of policy DM3 the loss of an employment use would require evidence in the form of 12 months of marketing information. Such evidence has not been provided. Furthermore, policy CS2 (7) safeguards marine business sites from non-marine related business.
- 7.27 Whilst the lawful use is unclear, the existence of at least two boatsheds in outwardly reasonable condition and the slipway, suggests that some extent of commercial marine use could be regarded as lawful and a starting point for any assessment about the degree of loss of employment and marine business opportunity. The Chichester Harbour Conservancy is concerned that the loss would be contrary to its own policies and those of the Borough Council. In response the applicant has provided information about twenty other sites which are currently on the market along the Hampshire/West Sussex coast. As a material consideration this information is important. One further factor to be considered, is the impact which a rekindled commercial use might have in terms of surrounding amenities by reason of noise, commercial traffic and disturbance, with at least one residential garden immediately alongside the access drive and others close to the east.
- 7.28 Taking into account the lack of clarity regarding the lawfulness of a commercial use at the site and the availability of numerous other similar premises, together with the possibility of noise and disturbance, it is not considered that a strong argument could be made against the potential loss of employment in this case. The future presence of the marine-related charity would maintain some relationship between the site and the coast and is supported by policies. Subject to conditions to avoid its loss to other uses such as residential or other business, the boatstore / office could coexist successfully with the residential properties nearby.
- 7.28a **Update:** It is noted that the proposed boatstore is described as 'residential'. A residential use is not suggested by the floor plans and it would be possible to restrict this by means of a planning condition.

(v) Ecology

- 7.26 Ecology has great importance in the determination of this application. The creek / harbour was designated in 1996 for its nature conservation value, which is of international importance (SAC/SPA) and national importance (SSSI). This designation came after the resolution to approve the six houses was made in 1995. By law this Authority must be satisfied that development would not affect the integrity of the SAC/SPA. This involves assessment of the individual animal and plant species and their habitat and the extent to which development might impact, including the works to remediate contamination of the land and the provision of moorings. The benefits of habitat creation which is proposed onshore within the site, is also relevant.
- 7.27 The application is accompanied by a detailed ecological assessment, which considers the effect of the development, ground remediation and proposed moorings on the SAC/SPA. Natural England (NE) has replied that there is no objection to the proposal, having considered matters such as vegetation in the tidal muds and water channel and bird species on the water and adjoining banks and land. NE has recommended planning conditions, including the proposed removal of rubble and waste from the shore and bank re-grading to increase inter-tidal habitat and the provision of the onshore habitat improvements. It also recommends a legal agreement requiring that mooring licences (which are issued by the Harbour Conservancy) for any more than 12 berths, must be

purchased and frozen by the applicant. It also recommends against dredging, which the applicant agrees to and a voluntary code of practice for users of the pontoon. In planning terms, it is unlikely that these specific controls could be subject of an enforceable condition or agreement, planning controls can only extend to limiting the number of moorings. In consideration of this it is noted that the NE response is based on an understanding that 26 moorings could lawfully be used without planning control. This is considered further in the next paragraph.

7.28 As discussed earlier in this report, the original pontoon is gone and mooring activity does not appear on any aerial photographs since 1998 (*one vessel is shown in 1995/98*), nor have any licences been uptaken since at least 1997. **Update:** Therefore the extent of lawful mooring use remains questionable, although there are limited arguments in favour of six mud berths.

7.28a **Update:** Natural England (NE) had previously indicated that it wished to consider the relative impact of any lawful number of vessels against the 12 no. proposed (NE had initially assumed that 26 vessels were lawful in planning terms). Its comments on the additional information are awaited, in particular regarding the historic mud berths. The applicant contends that if these berths are lawful then their continued use is more harmful to important eelgrass beds, which grow in the muddy conditions close to the shoreline. The applicant proposes that the extinguishment of mud berths in favour of new pontoon berths in the deeper channel away from these eelgrass beds, would have less impact in ecological terms. This argument may be correct, subject to the comments of Natural England. However, it fundamentally relies on there being an existing lawful use for mud berths, which is far from clear. Impact may also vary according to the size of class of vessel, and there is scant information on this point. RSPB had also questioned some of the information provided and its further view is awaited on the additional information.

7.29 In terms of onshore ecology, the western part of the site is identified in the Local Plan as a SINC and therefore policy CS11 seeks protection and enhancement. The proposal here is to undertake selective removal of some trees and bushes to create favourable habitat for roosting and feeding birds, and to allow the ingress of sea water in order to restore habitat for wading birds. The County Ecologist is satisfied that this could be controlled by planning conditions and long-term maintenance by legal agreement. He has recommended that the applicant's ecologist provides further comment regarding the alleged siting of water voles by a local resident, albeit he comments that he considers their presence to be unlikely here. **Update:** the appellant's ecologist has undertaken further investigation concludes that there is no evidence of vole presence and that the nature of the site is unsuitable, but that rare and transient visits could not be ruled out. The County Ecologist's comment is awaited.

vi) Flood Risk & Drainage

7.30 The site and half of the access road is within flood zone 2, which means that there is a risk of flooding to a depth of approximately 1.4 metres within a frequency of 100 - 200 years. The NPPF requires the undertaking of a *sequential test*, to consider whether the proposal could be located in an area with less probability of flooding. The mixture of uses proposed on this site vary in terms of their vulnerability to flooding (residential = 'more vulnerable' office = less vulnerable, boat store and mooring = water compatible).

Considering the Hayling Coast where this mixed development would serve the needs of the 'Even Keel Project' the sequential test shows that there is no lesser risk with some minor exceptions in areas of undeveloped on the eastern Hayling coast. Within the site itself, the highest ground levels are at the southern end but relocation of the proposed buildings here would increase the distance between the site and dry land during times of flood, and would increase the visual impact. The benefit of redevelopment of the part of the site which may be regarded as previously developed land is also relevant. Finally,

national policy also refers to an exceptions test which must be applied in certain cases. The proposed uses do not trigger the need for this.

- 7.31 The Environment Agency has recommended that subject to the sequential test in section 7.30 above, the development is acceptable subject to conditions. These would cover flood levels, the provision of a safe route, which involves raising the access road by approximately 20-30cm to allow a safe route in times of flood. Other conditions would control of working methods and piling in order to prevent contamination of groundwater or seawater.
- 7.32 The Agency notes that sea defences would need to be improved, but does not advise as to what degree of protection this should provide. In landscape terms, tall or conspicuous defences would be undesirable and further advice has been sought on this point.
- 7.32a **Update:** The additional information confirms that the access road level has already been raised in 2009, to the level required now by the Agency, with the exception of one low spot. This low spot is in the southern part of the drive away from trees and neighbouring garden and can be raised without harm. The applicant states that drainage of the access would remain as existing, draining to either side.

Surface Water and Foul Drainage

- 7.33 There is no existing formal surface water drainage on the site. Water currently runs-off into the creek/ harbour and the proposal is to continue this. The Environment Agency raises no in-principle objection but has recommended the provision of sustainable drainage scheme but noted that soakaways would be unacceptable in areas where contaminated ground would cause run-off to become contaminated. The contamination study within the Environmental Statement makes no specific proposal on this point, but a planning condition can control the detailed design of surface water drainage.
- 7.34 Foul drainage is the subject of neighbour concerns, who have noted that the existing pumping station has failed three times in a six month period. They question whether there is capacity for the proposed development. In its response, Southern Water (SW) has recommended an informative that the applicant should undertake a capacity check as part of its separate application to SW for making a connection. Mindful of the concerns expressed and the remoteness and environmental sensitivity of the site, a standard planning condition could be used to ensure that development would not proceed until details of foul drainage have been submitted, with confirmation of its acceptability by SW.

(vii) Highways and Access

- 7.35 The application proposes to use the existing vehicular access to Copse Lane which would be reconstructed, including protection of tree roots (the road is flanked by important mature trees). Details of the reconstruction, which would increase the width by approximately 30cm (giving 4.8m overall), would be needed in order to assess both the impact on tree roots and any visual change, together with drainage, which would be important as the road would also be raised by approximately 20/30cm to provide a flood safe route.
- 7.36 In terms of capacity the traffic assessment with this application concludes that the peak hours flow of 29 two-way movements, can be accommodated without added danger. It is noted that the adjoining neighbour has questioned these figures and whether they include weekend traffic and delivery vehicles. Following consultation the Council's Highway Engineer has raised no objection to the proposal but recommended conditions are awaited.

- 7.37 Each dwelling would be provided with space for four vehicles, which exceeds the Council's minimum requirements. Four spaces would be provided for the boat office/store but a larger area of existing concrete would be retained and available for use if needed.
- 7.38 The proposal includes the resurfacing of the public footpath along the shoreline, which is currently uneven. A formal surface should be avoided, given the rural character of the area. The Rights of Way officer raises no objection.

(viii) Land Remediation and Environmental Protection

- 7.39 In terms of ground conditions, a contamination study, including soil and groundwater testing confirms that the site contains contaminants due to its former commercial boatyard use, (and it is noted by environmental health officers that unauthorised waste operations/tipping have taken place more recently). The testing suggests that contamination is likely to be limited to 'hot spots' within the site and that this is unlikely to find its way into groundwater or water run-off. However, these hot spots are noted in the eastern part of the site and exceed guideline values for residential development. A scheme of further investigation and remediation is needed. The environmental health officer recommends standard conditions for detailed agreement of this. In light of the sensitivity of the environment, this must contain methods to safeguard ecology, (for instance, to prevent contaminants passing into the creek during and after development). Remediation is likely to involve some amount of soil importation.
- 7.40 In addition to the assessment of ground conditions ecology, landscape, trees, highways, flooding and drainage, the Environmental Statement (ES) has also considered the potential impacts from noise and has concluded that whilst construction activities would impact on neighbours, this can be controlled by limitation of hours, hoardings and selection of quieter types of machinery.
- 7.41 The ES concludes that the scheme does not lead to environmental impact subject to conditions. The Environmental Health officer and Environment Agency have recommended conditions to control potential impacts and pollution risks and these could be used in the event of planning permission.

(ix) Delivery and Viability

- 7.42 It is important to note that development of the site would incur particular costs associated with the remediation of contamination and ecological management and enhancement. The applicant states that these are in the region of £700,000. In addition the CIL charge would be greater than the Highway contribution which would have been liable before 1st August, it would also fall within the requirements for affordable housing, (which could be provided as a financial contribution rather than on-site), unless an exception were made on the grounds of viability.
- 7.43 Therefore if development were to take place, it must be viable. Whilst the overall development costs and profit have not been provided for consideration, the applicant also states that neighbours do not wish to see a commercial use and underlines the environmental benefits of development. These include overall improvement of the site and provision for the locally-based Even Keel Project. These are considerations to be weighed in determination of the application.
- 7.44 Finally, on the matter of CIL, the applicant has asked that as the application was submitted in April and that officers started to advise upon liability for this from early May, the scheme should not be considered liable for this, but be considered under the former transport contributions policy. In response, the introduction and the setting of the rate of charge has followed the undertaking of commercial research into the impact on viability with agreement by the Council's Cabinet. The only discounting which can be applied to

the amount payable, within the Council's CIL policy has already been taken into account. The staging of payments it is hoped could be of some benefit. Officers advised the applicant of the introduction of CIL in May early in the life of the current application, and given the complexity of the case, it was not possible to bring it to committee on 11th July, which would have been the last possible date prior to the introduction of CIL. **Update:** The applicant has re-affirmed disappointment at the introduction of CIL in relation to the this scheme, but confirms that it is viable.

- 7.45 It is understood that Central Government is reviewing the national rules for CIL but that at this point in time the requirement is mandatory for this development. It is noted that an annual review of CIL is proposed by this Council, which it is anticipated will take into account the experience of applying it during this first year, mindful of the importance attached to the delivery of both housing development and infrastructure.

8 Conclusions

- 8.1 This application contains many important considerations to be weighed in the context of national and local policies; landscape & design, environmental, ecological, land remediation, the lack of clarity about its lawful use and moorings and development costs and viability.
- 8.2 **Update:** In terms of lawful use of the land and buildings, information remains incomplete, but there are arguments to suggest that general industrial uses and possibly some storage use within buildings, could take place without planning permission, and therefore not subject to conditions which might otherwise safeguard neighbouring amenities. In this context the principle of residential development brings the benefit of removing this risk, in accordance with policies CS16 and DM10.
- 8.3 **Update:** It is also important that outline planning permission has been granted previously for six houses, and therefore the impact on the landscape and AONB was broadly acceptable then. However, the language of national policy since 2004 is considered to reflect a greater level of protection now. The proposal would remove derelict and some substantial buildings and would tidy up the despoiled ground but even with the spacing proposed between buildings, it would still result in a significantly more built-up character, with considerably smaller plots and space for vegetation than is characteristic of the area. The calibre of design is considered to be good in itself but unsympathetic to this location. The recent addition of tree planting has made this impact more finely balanced and perhaps only a modest reduction in the amount of development would be needed to strike a reasonable balance in terms of visual impact.
- 8.4 In terms of ecology, the introduction of the international designations in 1996 and 1998 mean that this Authority must be satisfied that the development does not affect the integrity of these. Natural England (NE) has based its views on the assumption that 26 moorings are lawful and that the degree of impact of the proposal for 12 berths is less. **Update:** Whether six mud berths could lawfully exist without the need for planning permission is unclear from the information available, but there is a greater degree of probability of lawfulness than in the case of the greater number of boats which appear to have relied on the presence of a pontoon. If this probability is accepted, then there may be ecological merit in the relocation of six vessels to a new pontoon, subject to the views of Natural England (NE), which may also need information about size and class of vessel. There are important merits in the package of ecological improvements on the landward part of the site; however, currently in the absence of the views of NE and due to the limited information about lawfulness, the concern regarding impact on the integrity of marine ecology and habitat of international importance remains and under law a precautionary principle operates. Accordingly this aspect of the scheme cannot be supported at present.

- 8.5 **Update:** The proposal is not considered to meet the tests for sustainable development as defined in the NPPF, it is not close to services and the concerns about landscape and ecology impacts are such that the proposal is not considered to meet the environmental dimension as set out in the NPPF and therefore does not benefit from the presumption in favour of development.
- 8.6 Given the uncertainty about the existing use of the site, there is a lack of certainty about the loss of employment, to which policy DM3 and CS2 refers. However, the market availability of other local commercial marine premises and the provision for a locally-based, marine related charity, which is supported by CS7, suggests that this aspect of the proposal could be accepted.
- 8.7 **Update:** Regarding trees, the raising of a low spot on the access drive is not considered to lead to risk of harm to trees and protection could be provided by a planning condition and elsewhere, the making of new TPOs and provision of a management company via a s106 agreement.
- 8.8 On the matter of development costs, the need for land remediation, CIL payment, ecological management and affordable housing provision would impact on overall profits. Currently the full costs are not known **Update:** and the additional information does not assist and therefore it is not possible to examine the question as to how far environmental impacts could be accepted in order to enable a viable development here. Given that the principle of a mixed development comprising the boat-related use and high quality, sympathetic residential development is considered acceptable, the consideration of viability would figure in the negotiation of any future proposals.
- 8.9 **Update:** Therefore, whilst the scheme has several potential merits which have received local support, the impact on the character and appearance of the area, including the setting of the AONB is such that the scheme is not supported. Furthermore there is concern that the impact on ecology, in particular the designated SPA/SAC has not been resolved. A more modest residential proposal and resolution of the question of the relative impact of the proposed number of moorings and any lawful ones would be necessary in order to reach a point where the balance of issue would allow the scheme to be supported..

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE PERMISSION** for application APP/13/00317

for the following reasons:

- 1 The proposal, by reason of the size and number of proposed houses and the restricted plot sizes by comparison with existing development in the vicinity, would be out of keeping with and harmful to the character of the coastal zone and the setting of the Chichester Harbour, Area of Outstanding Natural Beauty. This is contrary to the National Planning Policy Framework 2012 and policies CS12, CS16 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011
- 2 On the basis of the information available, the Local Planning Authority is not satisfied that the proposal will not adversely affect the integrity of areas designated as Special Areas for Conservation and Special Protection Area of international importance for nature conservation and SSSI, and therefore the precautionary principle under associated Regulations applies. The development is therefore contrary to the National Planning Policy Framework

2012 and policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and policy DM24 of the [Havant Borough Publication Local Plan \(Allocations\) October 2013](#).

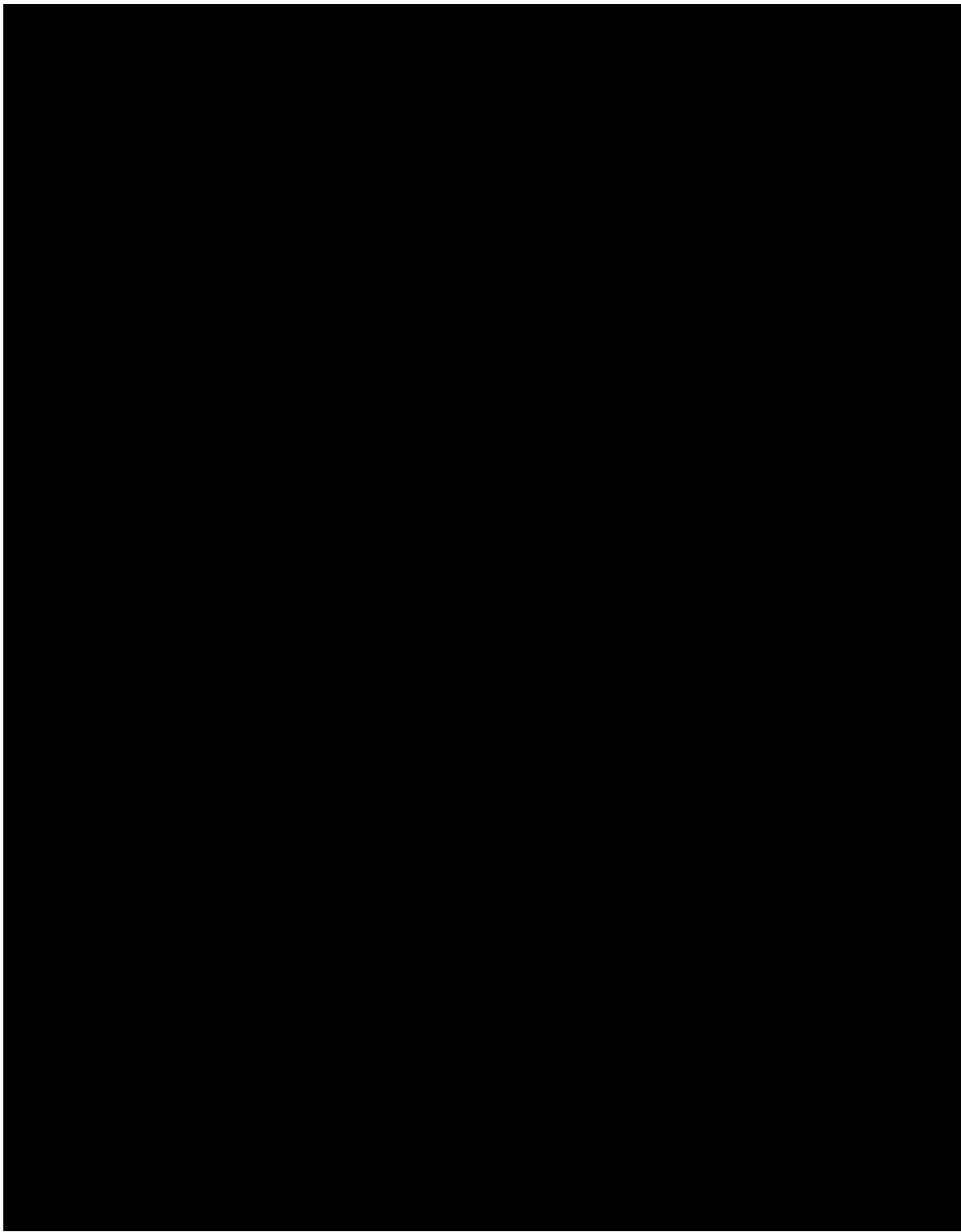
Appendices:

- A) Site Location Plan
- B) Site Layout Proposed
- C) Elevations - House Type A
- D) Typical Floor Plans - House type A
- E) Elevations - House Type B
- F) Elevations - House Type C
- G) Office Layout & Elevations
- H) Boat Store Layout & Elevations
- I) Elevations and Long Sections Layout - View From the Harbour to the South
- J) Elevations and Long Sections Layout - View From the Site Entrance to the North
- K) Elevations and Long Sections Layout - Section Through the Site North to South
- L) Site Survey as Existing

Other documents relating to this application:

<http://tinyurl.com/natelle>

(B)



109 APP/13/00317 - Yacht Haven Development Site, Copse Lane, Hayling Island

(This site was viewed by the Site Viewing Working Party on 15 August 2013)

Proposal: Construction of 6No. 5 bed detached houses, 1No. detached residential boat store and ancillary office building , 1No. detached boat store for sailing charity use with hardstanding,

pontoon restricted to 12 berths (6 for house residents and 6 for non residents), improvements to slipway, beach, reposition concrete sea defence to side of slipway, coastal footpath and the creation of one area of coastal meadow and one area of conservation grassland. (Revised application.)

The Committee considered the written report of the Executive Head of Planning and Built Environment.

The Committee also received supplementary information, circulated prior to the Committee which summarised:

- (a) the responses of the Environment Agency, RSPB and Natural England;
- (b) additional information provided by the applicant.

The Committee was advised during the meeting that the applicant had submitted Counsel's opinion that the permissions granted in 1996 were very relevant to this application.

The Committee was addressed by the following deputies:

- (1) Mr Bartlett, on behalf of the North East Hayling Residents Association, who raised the following issues:
 - (a) there was a general acceptance that the site was currently an eyesore and that development was necessary;
 - (b) the proposed development did not comply with the Northney and Tye Village Design Statement;
 - (c) the proposed density was too high and out of keeping with the local area;
 - (d) the sewerage system was operating at full capacity and a pumping station was required to accommodate this development;
 - (e) there should be an assurance that dredging would not be undertaken;
 - (f) although the reduction in the size of the boatyard was welcomed, there was concern that a condition be imposed prohibiting further commercial expansion of this use;

(Mr Bartlett failed to complete his deputation within the time allowed)

- (2) Mr Heppell, the applicant's agent supported this application for the following reasons:

- (g) the application was the result of extensive consultation;
 - (h) the designs were bold and imaginative which would be in keeping the character of the area;
 - (i) the design of the development were appropriate for the harbour foreshore and would not have a detrimental impact on the Area of Outstanding Natural Beauty;
 - (j) the applicant had received Counsel's advice that the permissions granted in 1996 was very relevant to this application;
 - (k) The proposals would provide significant benefits in terms of the remediation of the site, by removing unsightly derelict structures and dealing with contamination, as well as providing significant ecological enhancements. The proposed enhancements were fully supported by Natural England. The enhancements and future management programme were costly and could only be funded by residential development; and
 - (l) it was generally accepted that there was a need to find a use for this underused unsightly site;
- (3) Councillor Wilson supported the application on the following grounds:
- (m) a majority of the consultees had not objected to the proposal;
 - (n) although Chichester Harbour Conservancy would prefer a commercial use of the site, the site had been derelict for the last 15 years with the last commercial use in the 1970s: it was unlikely that a commercial use could be re-established on this site;
 - (o) the re-introduction of a commercial use of the site would urbanise a rural location;
 - (p) the proposal was a high quality contemporary design, which would not detract from the visual amenities of the area;
 - (q) a majority of the North East Hayling Island Residents' Association supported development of the site; and
 - (r) the quality of the design of the proposal compensated for the loss of employment opportunity.

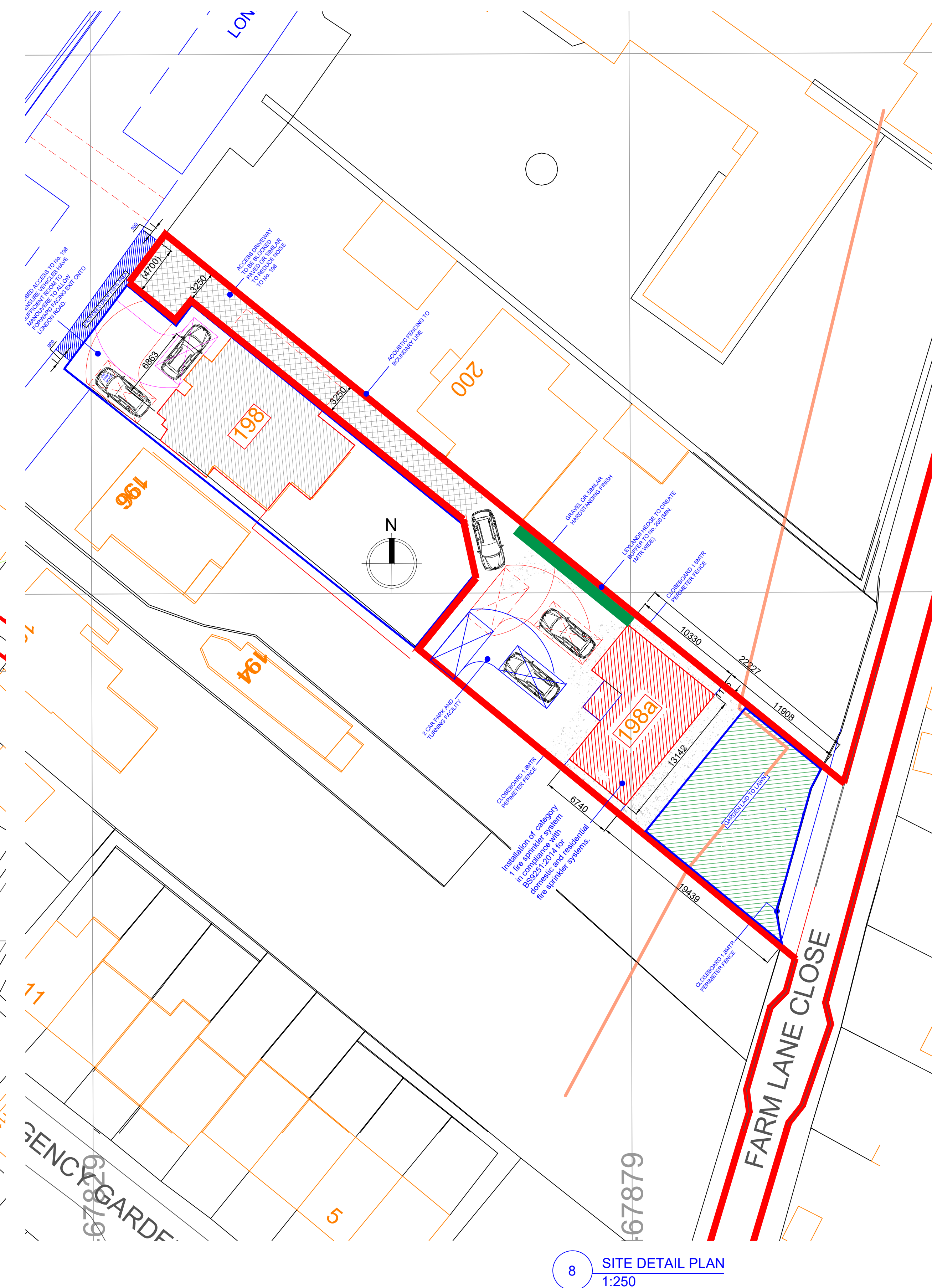
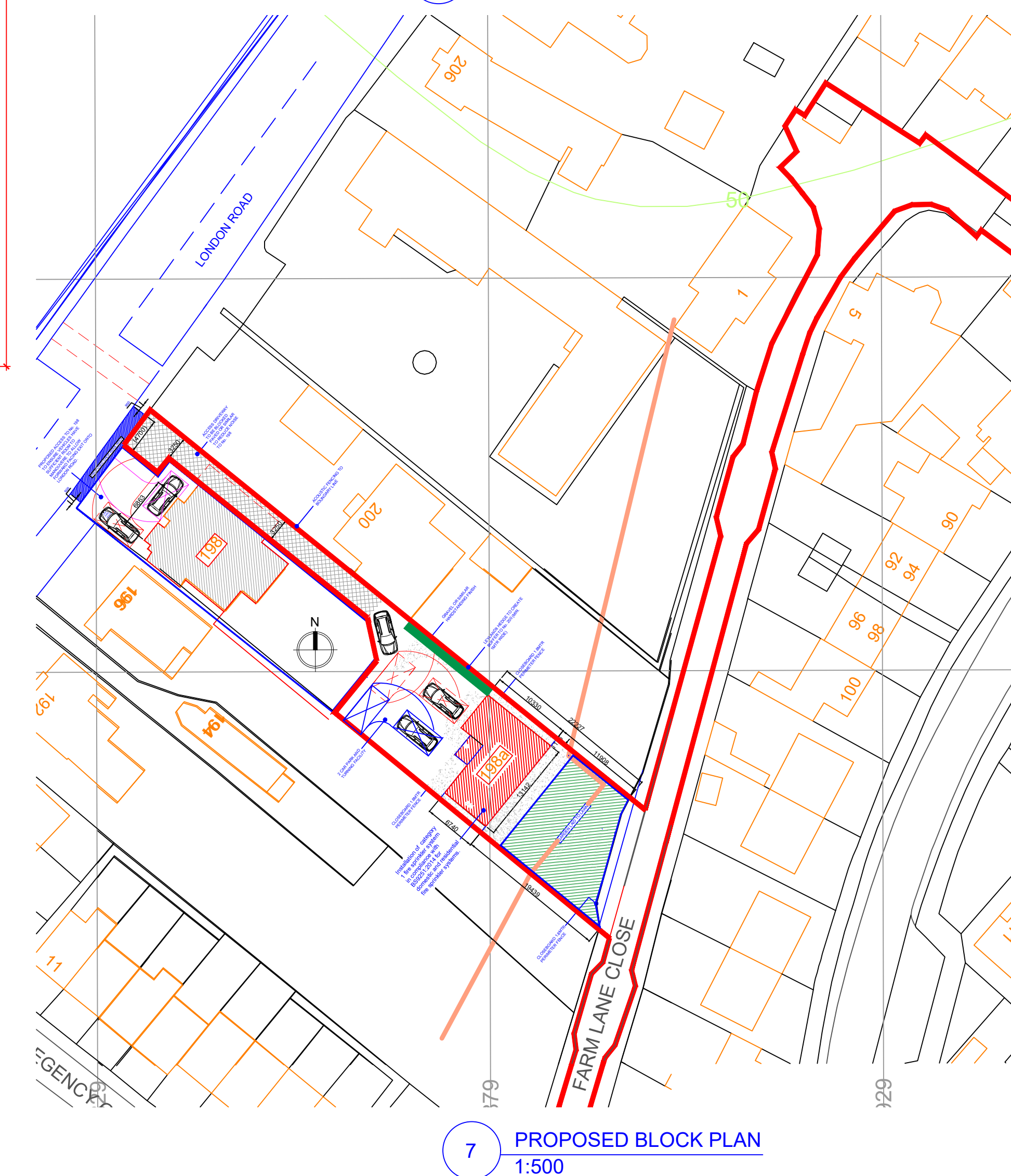
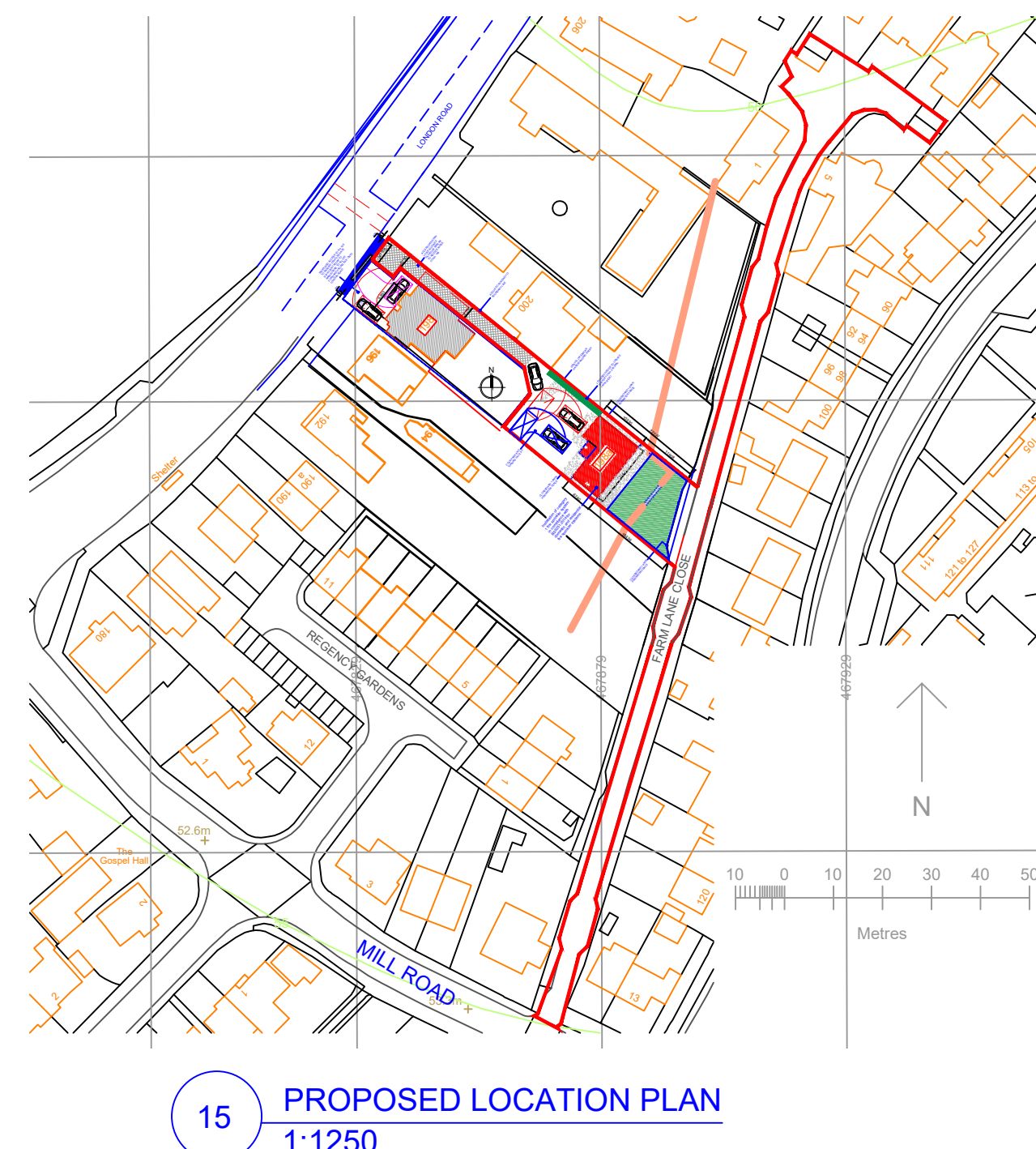
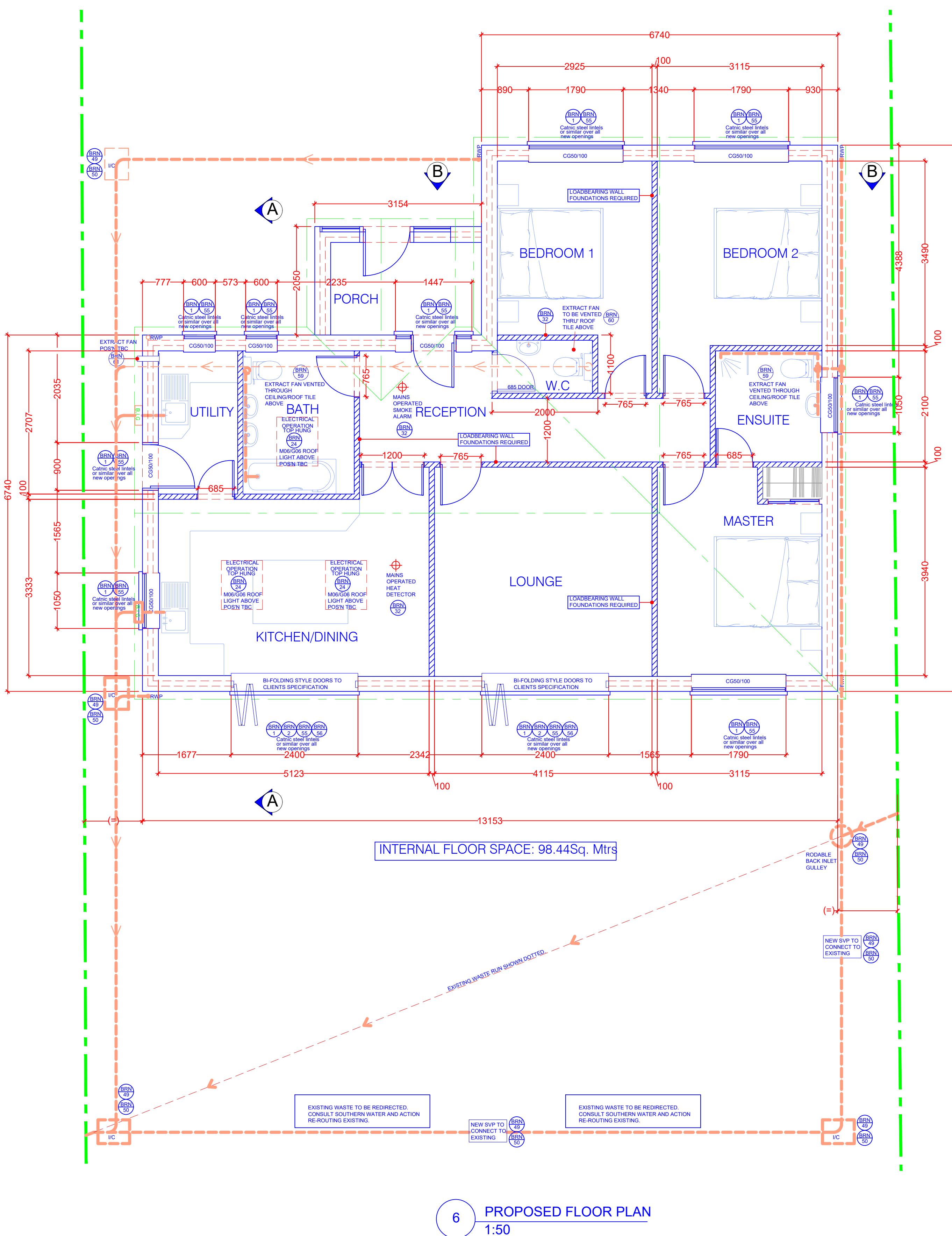
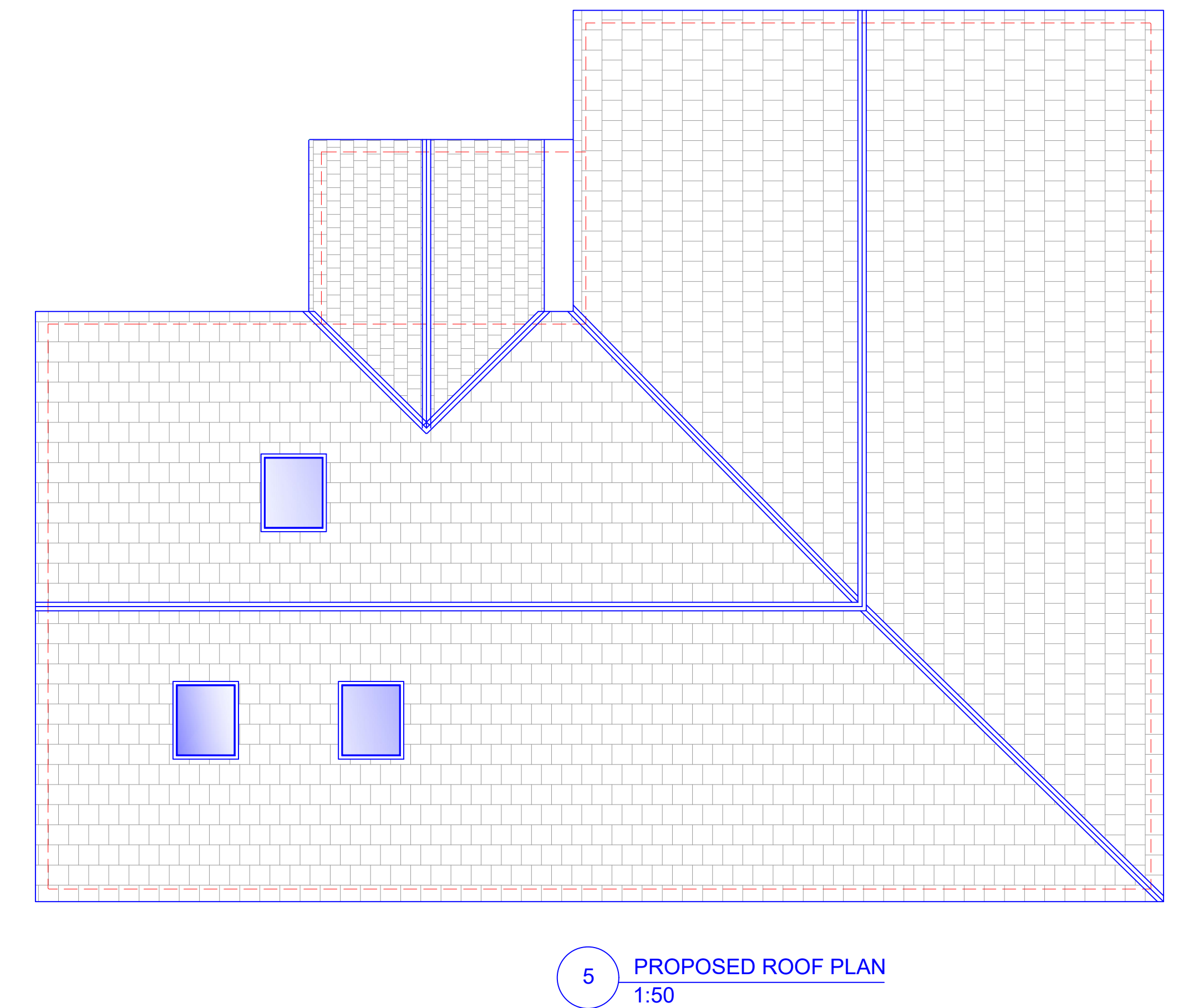
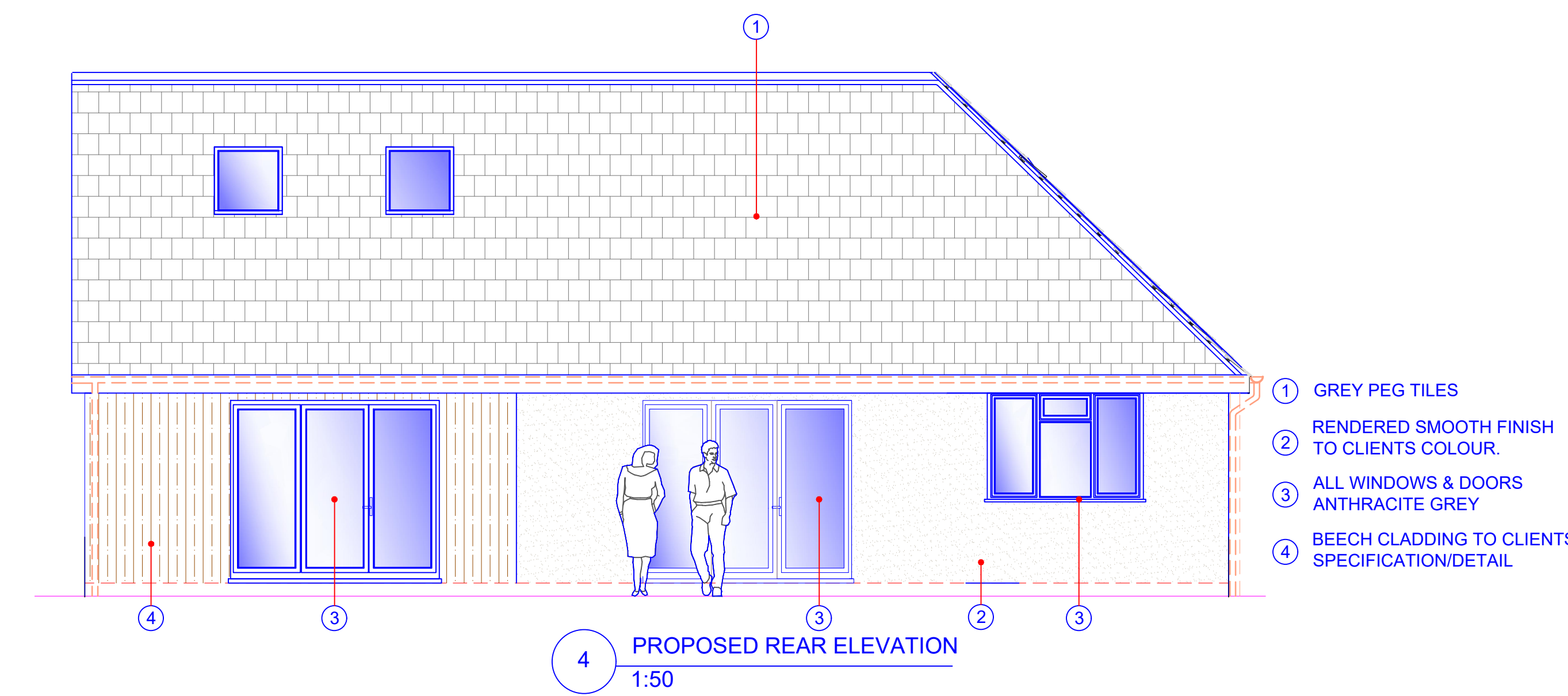
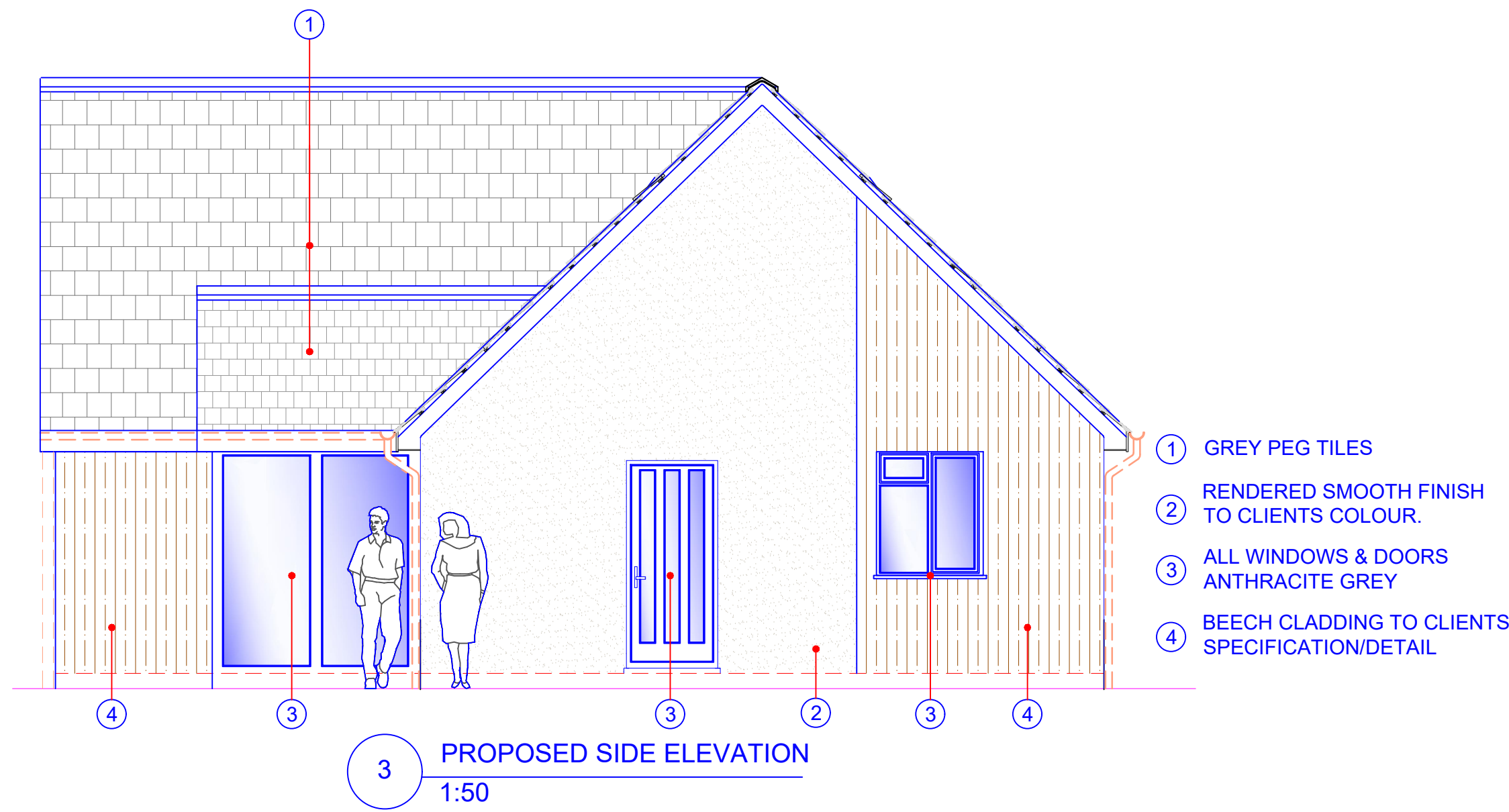
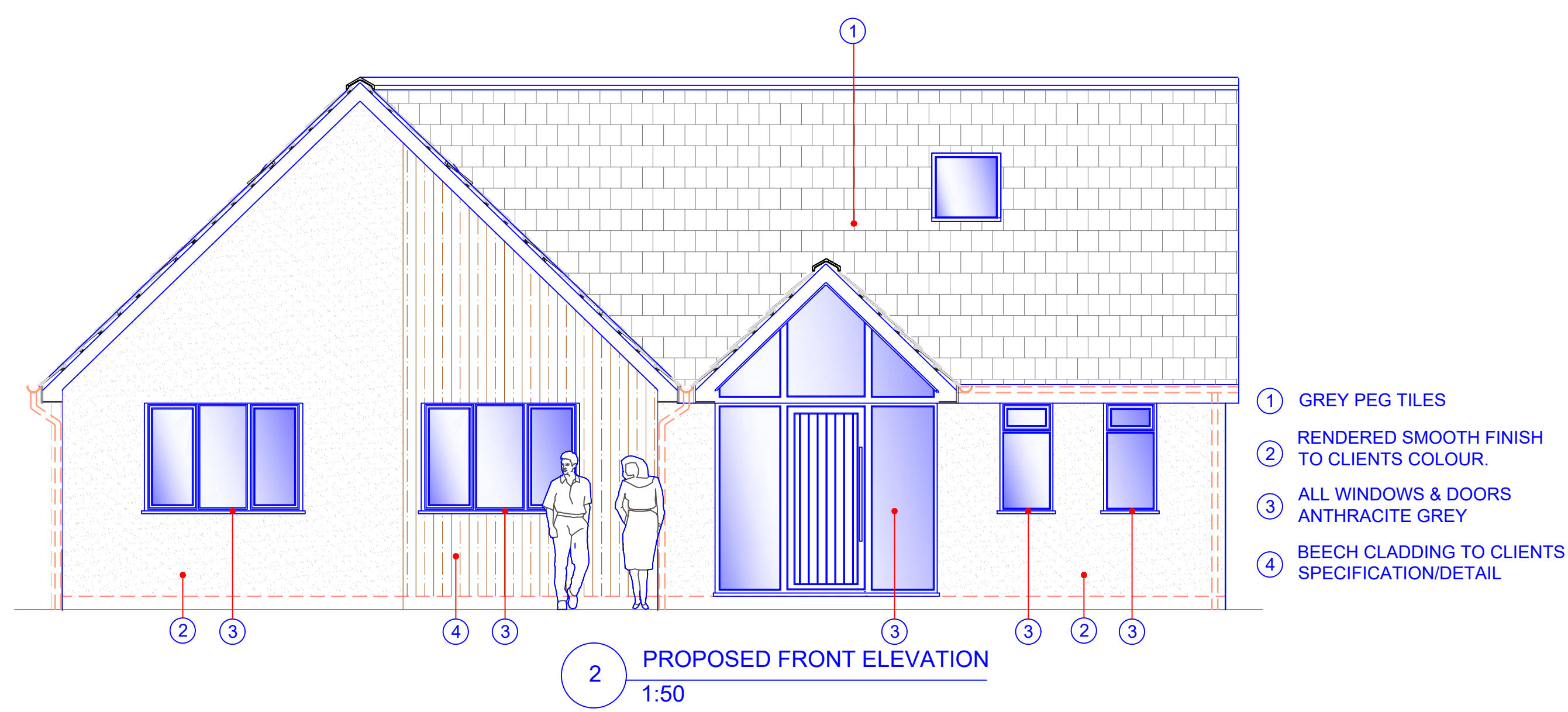
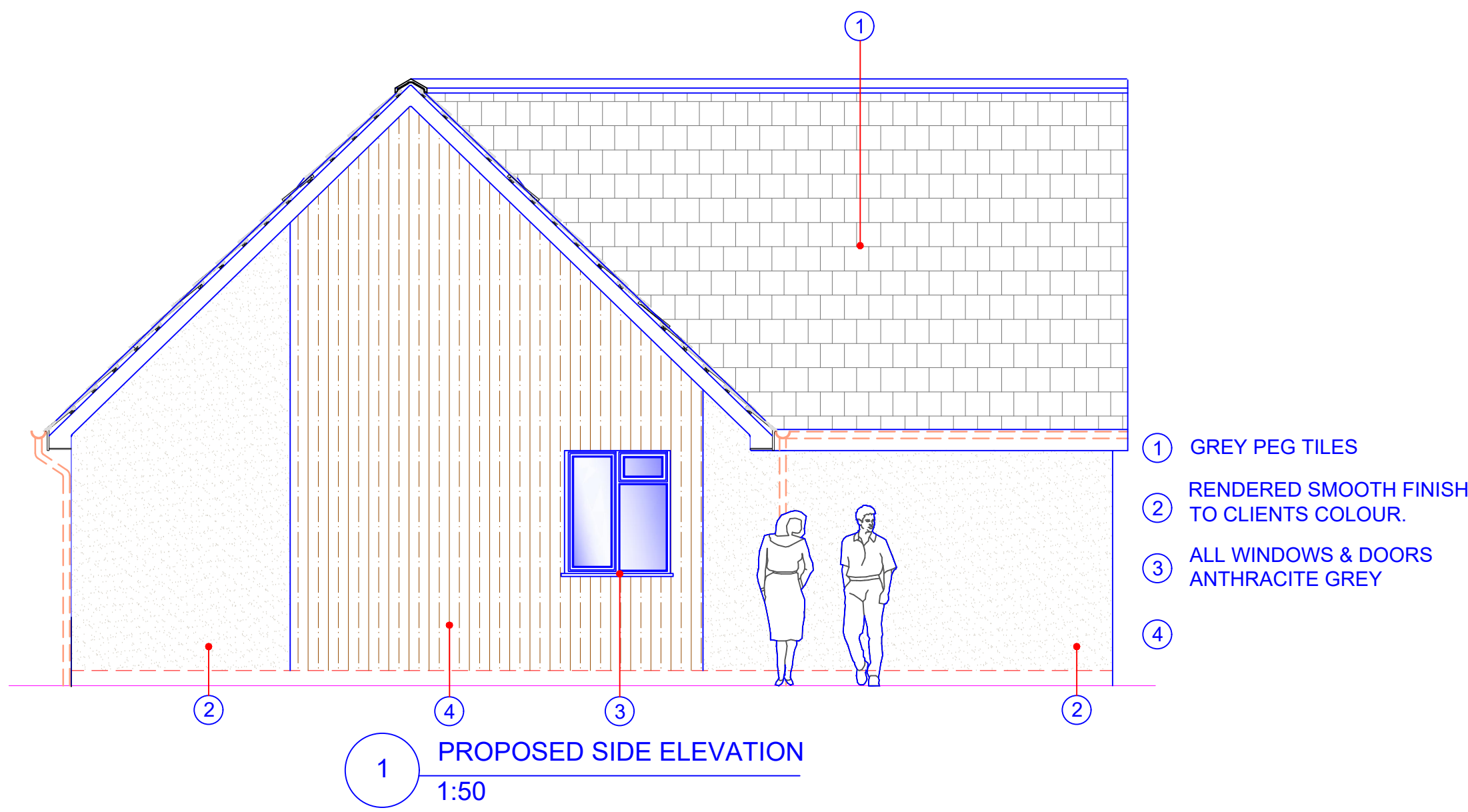
The Committee discussed this application in detail together with the views raised by the deputees. The Committee considered that subject to a legal agreement and appropriate conditions, the benefits which would arise from this development outweighed the policy requirements. It was therefore,

RESOLVED that

- (A) application APP/12/00317 be granted permission subject to:
- (1) Natural England raising no objections in relation to the moorings to be provided by the development;
 - (2) the applicant/relevant title holders entering into planning obligations under S106 of the Town and Country Planning Act 1990 (as amended) in a form satisfactory to the the Executive Head of Planning and Built Environment and the Service manage – Legal and Democratic Services; and
 - (3) such conditions as the Executive Head of Planning and built Environment considers necessary
- (B) In the event of Natural England objecting to the moorings to be provided under this application, the matter be referred back to the Committee.

The meeting commenced at 5.00 pm and concluded at 9.28 pm

APPENDIX H



DETAILS AND DIMENSIONS OF ALL LEVELS OF PROPOSED PLANS TO BE CHECKED ON SITE BY APPOINTED CONTRACTOR PRIOR TO ANY COMMENCEMENT/ORDERING OF MATERIALS OF WORK, ANY QUERIES, VARIATIONS OR DISCREPANCIES DIRECTED TO CLIENT - DM DESIGNS ACCEPTS NO RESPONSIBILITY IN ANY PART ON DRAWINGS UNLESS OTHERWISE AGREED PRIOR.

NOTE:
DRAWING: DUFF_01A TO BE USED IN CONJUNCTION WITH ASSOCIATED BUILDING REGULATIONS NOTES DUFF/BRN.
DIRECTIONAL NORTH ARROW SHOWN ON BLOCK & LOCATION PLANS DUFF/BLP.

BRN 1 DENOTES ATTACHED BUILDING REGULATION NOTES
1 DENOTES ITEM No.

MODIFICATIONS		ISSUE:
DELETED EMERGENCY ACCESS TEXT		11.10.18 - F
ADDED LANDSCAPING BUFFER		08.10.18 - E
CHANGED PARKING PROVISION		04.09.18 - D
CHANGED RED LINE DETAILS		01.08.18 - C
CHANGED RED LINE DETAILS		18.07.18 - B
TITLE		
PROPOSED NEW BUILD CHALET BUNGALOW		
CUSTOMER		
A DUFF, 198a LONDON ROAD, WATERLOOVILLE, PO7 7AN		
DRAWN BY:		
DM designs		
DRAWING NO: DUFF 01A		1 OF 2
SCALE:		VARIES:
DATE:		15.06.2018
REVISION:		F A0

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR ANTHONY GRIFFITHS AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR SITE REAR OF CRANBROOK VILLA, COPSE LANE, HAYLING ISLAND, PO11 0RL

Planning Inspectorate Reference: APP/X1735/W/19/3224281

LPA REF: APP/18/01138

LIST OF SUGGESTED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date on which this planning permission was granted.
Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. No development shall take place until details of existing and finished floor and site levels relative to previously agreed off-site datum point(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
Reason: In the interests of the character and appearance of the area and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
3. No development shall take place unless and until inspection holes are dug under supervision of an Arboricultural Consultant within the Root Protection Area of T1 identified in the submitted Arboricultural Report to establish the rooting pattern of this tree. The results of the inspection shall then inform the details of foundations types proposed for the dwellings. Details of the inspection results and proposed foundation types proposed that should seek to demonstrate that appropriate foundations will be used to avoid damage to the tree shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall thereafter be carried out in accordance with the approved details.
Reason: To safeguard the continued health and presence of this important tree and protect the amenities of the locality and having due regard to policies CS11, CS16 and DM8 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. No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewers proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.
Reason: To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
6. No development shall commence on the site until details of the design, depth and type of building foundations and the layout, with positions, dimensions and levels, of service trenches, ditches, drains and other excavations on site, insofar as they may affect trees and hedgerows on or adjoining the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
Reason: To safeguard against undue damage to existing trees and/or other vegetation at the site and having due regard to policies CS11, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
7. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and a full specification of the materials to be used externally on the building(s) 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: In the interests of the amenities of the locality and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
8. No part of the development shall be first occupied until details of the type, siting, design and materials to be used in the construction of all means of enclosure including boundaries, screens or retaining walls, have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained.
Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

9. No development shall take place until all trees and hedgerows that are to be retained within or adjacent to the site have been enclosed with temporary protective fencing in accordance with BS:5837:2012 'Trees in relation to design, demolition and construction. Recommendations'. The fencing shall be retained throughout the period of construction and no activity prohibited by BS:5837:2012 shall take place within such protective fencing during the construction period. Reason: To safeguard the continued health and presence of such existing vegetation and protect the amenities of the locality and having due regard to policies CS11, CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
10. 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.
11. No development hereby permitted shall be commenced until a detailed soft landscaping scheme for all open parts of the site not proposed to be hardsurfaced has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall specify the proposed finished ground levels in relation to the existing levels, the distribution and species of ground cover to be planted, the positions, species and planting sizes of the trees and shrubs to be planted and/or retained, and timing provisions for completion of the implementation of all such landscaping works. The planting shall include new orchard tree planting.

The implementation of all such approved landscaping shall be completed in full accordance with such approved timing provisions. Any tree or shrub planted or retained as part of such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.
12. Prior to the occupation of the dwellings hereby permitted each dwelling shall incorporate at least one bat roosting or bird nesting feature.
Reason: In the interests of securing ecological mitigation and enhancement of bio-diversity in accordance with policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
13. No development shall commence unless and until measures which will be undertaken to protect public sewers on the site have been submitted to and agreed in writing by the Local Planning Authority in consultation with Southern Water. The development shall thereafter be carried out in accordance with the approved scheme.
Reason: To safeguard drainage infrastructure and having due regard to policies CS15 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

14. The development hereby permitted shall not commence unless and until a Written Scheme of Investigation (WSI) that sets out the methodology for an archaeological watching brief of the ground works associated with the construction of the two bungalows and the associated access road, so that any archaeological remains encountered are recognised, characterised and recorded has been submitted to and approved in writing by the Local Planning Authority. Provision shall be made within the submitted scheme for the public dissemination of any results and the WSI should satisfy the Local Planning Authority that the scheme is sustainable under the terms of NPPF.
Reason: The site is of potential archaeological significance and it is important that the opportunity should be afforded to assess the site before development commences and having due regard to policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
15. No development shall commence unless and until details of available sight lines/visibility splays at the access drives junction with Copse Lane have been submitted to and approved in writing by the Local Planning Authority. The sight lines and visibility splays approved shall be kept free of obstruction.
Reason: In the interests of highway safety and having due regard to policies CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
16. The dwellings hereby permitted shall not be occupied unless and until details of cycle and bin storage and collection points are submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be provided and maintained in accordance with the approved scheme.
Reason: To provide non-car based travel choices and appropriate amenities for the development having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Parking SPD 2016 and the National Planning Policy Framework.
17. The development hereby permitted shall be carried out in accordance with the following approved plans:
Location, Site, Elevations and Floor Plans drawing number GRIFFITH 01A Rev B
Planning Statement LTROCB/01
Extended Phase 1 Habitat Survey CC Ecology dated 15th June 2018
Arboricultural Report Johnston Tree Consultancy December 2017
Reason: - To ensure provision of a satisfactory development.