

Recommendation: **REFUSE PERMISSION**

1 The proposed development would by reason of its height, mass, bulk and design have an unacceptable and intrusive impact on the existing building and on the character and setting of the Conservation Area. The development would therefore conflict with policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM20 of the Havant Borough Publication Local Plan

(Allocations), Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

2 The proposal by reason of its height, mass, bulk, design and siting would result in an overbearing impact in relation to the neighbouring properties of 1D and 1E School Lane. In addition the proposed windows would result in unacceptable over looking and loss of privacy to neighbouring residents. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

3 The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority which seeks to ensure that the provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. It is therefore contrary to Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

APP/16/00093 - External alterations in connection with proposed change of ground floor A4 use to flexible A1/ A2/A3 /A4/A5 use including rear extension. Conversion of first and second floors to form 2 x two bed apartments and rear extension to form 1 x two bed apartment with associated parking and external works., PERM,04/04/2016

APP/16/01181 - Installation of new shopfront., PERM,21/02/2017

3 Proposal

The proposal is for the demolition of existing single storey rear extensions. External alterations in connection with proposed change of ground floor A4 to flexible A1/ A2/ A3/ A4/ A5 use including rear single storey extension. Rear two storey plus room-in-the-roof extension and conversion of existing building to form ground floor 1bed flat with private amenity space, 1 x 2bed flat and 1 x 2bed maisonette at first floor and roof space level with associated car parking and external works.

This site has been subject to extensive pre-application discussions, following the refusal of application APP/17/00067, in order to address the reasons for refusal in that application. This has resulted in the size and scale of the proposal being reduced in order to address the impact on amenities of neighbouring properties. The overall design ethos has changed fundamentally and now proposes a contemporary addition to the building. The agent for this application has outlined that, The extension is three boxes: the single storey ground floor which is pitched roof and protrudes from the elevation; the first floor element with angled windows to mitigate any potential overlooking issues with School Lane; and the stair core element that is recessed. The ground floor element that has vertical timber cladding. The use of horizontal timber cladding to the upper stories. The proposal also include black window frames and aluminium RWPS's to contribute to the modern interpretation of the proposal.

4 Policy Considerations

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

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS21	(Developer Requirements)
CS9	(Housing)

Havant Borough Local Plan (Allocations) July 2014

DM20	(Historic Assets)
AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Emsworth

5 Statutory and Non Statutory Consultations

Building Control, Havant Borough Council

No comments at this time other than a Building Regulation application will be required for this work

Chichester Harbour Conservancy

No Objection - subject to alternative materials being used in development. **Officer note:** Following discussions with the agent they have outlined that they will not change the proposed materials.

Conservation Officer

Objection - Summarised:

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, decision makers are required to have special regard to the to have special regard to the desirability of preserving or enhancing the character and appearance of that area. In exercising this duty in this case and for the reasons set out above I consider the proposal would fail to preserve the character of the conservation area and would cause less than substantial harm.

County Ecologist

Following the submission of further information it is not considered that the development would have a significant adverse impact on protected species, subject to the mitigation outlined in the ecology surveys

Developer Services, Southern Water

No Objection

Highways Engineer, Development Engineer

The Highway Authority has no adverse comment to this application.

Natural England Government Team

No Objection subject to SRMS financial contribution

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: 35

Number of site notices: 1.

Statutory advertisement: 26/10/2018

Number of representations received: 2

Comment	Officer Comment
Overall my wife and I will be pleased to see the site developed in a manner suitable for the location and for the residents in the flats and houses adjacent. We are taking a neutral stance at this time but will be happy to switch to 'support' subject to satisfactory responses to our comments and questions below.	
The applicant is seeking flexible A1, A2, A3, A4, A5 use for the part of the building that is currently listed as A4 (drinking establishment). Presumably this means that the ground floor area shown as the 52.1m2 unit will be developed in such a way that it could be used for any of those purposes either by the applicant or a third party who rents or leases the space from the applicant. My question is will we as members of the public with a boundary to 2-4 West Street have an opportunity to comment on the final usage as and when the time comes? We would be concerned about any form of usage that compromises our own quality of life as neighbours.	The main building has a extant planning permission for a mixed use. As such if this application is permitted it would be a flexible use, and can flow between these uses, without requiring further permission from the LPA
The boundary wall between our property (1E School Lane) and 2-4 West Street is very old and has a significant inwards lean towards our conservatory, particularly at the point on drawing PL101 (Ground floor plan) where it states "new bamboo planting or similar along existing wall boundary to aid screening". At the time of going	Not a material planning consideration

through the process of purchasing 1E School Lane (May 2018), I tried to ascertain who owned the wall thinking that one day it may have to be made safe. On 16th May I sent a letter to 4 Penny Lane to this effect but received no reply. Before or as and when development of the site begins, I would appreciate a consultation with the owners about the safety of the wall, the potential impact of planting near to its foundations and the possibility of the need for remedial work.	
Whilst the revised planning application represents a significant improvement over previous versions I must still object because of the environmental impact of additional dwellings in an already crowded area. I am also concerned that I have not had written notification by post of this new planning application. An A4 sheet has been placed close to Lloyds Pharmacy but it is not obvious that it relates to 2-4 West St. In my original objections, I raised the issue of the sewerage and drainage services which are already under pressure and the 19th century layout was not designed to deal with the amount of additional family living accommodation proposed. This does not seem to have been taken into account. The drains behind the 8 West Street accept sewage from my property and frequently become blocked. Will the new development lay dedicated draining services or will it rely on existing inadequate infrastructure? Access to the rear of the Town Brewery can only be achieved via the narrow driveway between The Corner House Shop and No 12 West Street. Access is extremely narrow and difficult because of permitted parking outside the Delicatessen and the need to drive across the pavement into the drive at the side of my property. Furthermore	This application has complied with the Local and National publicity requirements Addressed in paragraph 7.1 (vi) Addressed in paragraph 7.1 (iv)

the extra traffic generated into West Street will increase the potential for collisions and flow problems in what is a already very busy area. At least 5-6 vehicles are associated with 6 and 8 West Street and the new development will bring about a significant increase of traffic into West Street which already gets clogged at peak times. I witness the arguments caused on a regular basis.	
Additionally, I would like to say that I am not prepared to allow the siting of waste bins on any part of my land and that therefore the waste services company will need to ensure that bins are returned to 2-4 West Street after emptying.	Not a material planning consideration, this is a civil matter between the parties
Finally, my property was damaged during previous constructions and I am very concerned at the increased risk of physical damage to my property from construction traffic and the increased burden on the driveway and yard of which I am the land owner. I dare say that this is not a planning consideration but if consent is granted my view is that the Council will be acting in a manner which affects my rights under the Human Rights Act to peaceful enjoyment of my property.	Not a material planning consideration

7 **Planning Considerations**

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

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

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development management considerations. The site is also located within the Emsworth Conservation Area and therefore Policies CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant

Borough) and CS16 (High Quality Design) are relevant. Policy CS9 also applies as new housing is proposed.

The proposed change of ground floor A4 to flexible A1/ A2/ A3/ A4/ A5 use including rear single storey extension, is an extant consent granted under APP/16/00093. This permission runs until 4/4/19. It is appropriate to consider whether the planning policy regime has changes since this point of decision. The Local Plan context has not changed, and it is therefore considered that material circumstances have not changed since this point, as such it is considered that permission can be granted for these uses.

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

Town Brewery is a particularly prominent building in West Street with a strong characterful appearance. It is mock Tudor in appearance but has some nice detail including the jettied front, attractive brick plinth, leaded light windows and steeply pitched gables. The importance of the building is picked up in the Emsworth Conservation Area Appraisal in which is deemed to 'particularly contribute positively towards the character of the Conservation Area'.

Whilst the rear of the site has little wider public visibility (and none from the harbour shoreline), as it is obscured from main public vantage points by the surrounding built form. Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, decision makers are required to have special regard to the desirability of preserving or enhancing the character and appearance of the whole conservation area.

The National Planning Policy Framework (NPPF) sets out the policies that the Council must take into account when determining planning applications. The 'Historic Environment Good Practice Advice in Planning Note 2', states at paragraph 4: 'The significance of a heritage asset is the sum of its archaeological, architectural, historic, and artistic interest' and provides at paragraphs 8, 9 and 10 that in order for the Local Planning Authority to make decisions in line with legal requirements, the objectives of the development plan; and, the policy requirements of the NPPF, great importance is placed on understanding the nature, extent and level of the significance of the heritage asset.

The revised NPPF sets out in Chapter 16, the core principles relating to development affecting Heritage Assets that local planning authorities should consider in making planning decisions in the following paragraphs:

'184. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local

planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Furthermore the NPPF, at paragraph 193 outlines that when considering potential impacts, that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

With regards to the proposed rear extension the proposal will ultimately remove the resemblance and character of the rear elevation of the building which is not just important within the townscape but also locally. The design would harm the architectural qualities of this building and is therefore and is not acceptable, which is considered in detail below.

The incongruous appearance is compounded by the contemporary design approach adopted. There is also little acknowledgement within the design of the subservient nature of the rear architectural vernacular of the existing building. It is acknowledged that the design is seeking to provide a modern contrast, but the resulting juxtaposition would not be successful in this instance. The box shape form, windows and materials all conflict with the form and design of the building and the surrounding area. Ultimately, the development would appear as a modern intervention that fails to preserve the character or appearance of the conservation area. The Local Planning Authority have outlined these concerns to the applicant who responded outlining that they considered that the proposal does preserve the character and setting of the Conservation Area and AONB.

It is essential especially on a building of this quality that the detail of the design is well considered and applied. In this case the extension and demolition required to undertake the scheme does not in my opinion respect the character of the original building. Good design should take opportunities to improve the character and quality of a Conservation Area. There are certain fundamental principles of balance and harmony expressed in the existing design of the building which make a strong positive contribution to its local distinctiveness and which the proposed development would disrupt. Some of the existing extensions and alterations to the rear of the application building are not in keeping with the character of the original building. The same can also be stated for the large flat roofed extensions which are adjacent to the site. However, the fact that inappropriate extensions and alterations have been erected / granted permission in the past does not justify a further degradation of the original property, which is the subject of this application.

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, decision makers are required to have special regard to the to have special regard to the desirability of preserving or enhancing the character and appearance of that area. In exercising this duty in this case and for the reasons set out above it is considered that the proposal would fail to preserve the character of the conservation area and would cause less than substantial harm, and as such is recommended for refusal.

(iii) Impact upon residential amenity

The previous application was refused regarding the overbearing and overlooking impact of the development on the amenities of 93 North Street. As has been highlighted this

application has been amended in order to address this issue in relation to the neighbouring properties of 1D and 1E School Lane. The main impacts are considered to be to 1D

and 1E School Lane, which is to the south of the application site. These properties are two storey properties with accommodation in the roof. 1E School Lane is set at a slight angle, to the application site set off by a distance of approx. 5m from the development to the boundary with this property, and approx 8m to the property itself (excluding rear conservatory). This proposal has reduced the size and scale of the proposal in terms of the impact on these neighbouring properties. The proposed two storey rear extension would now be set back approximately 15.7m from the rear elevation of 1E School Lane. It is considered that given this degree of separation of the two storey element to the neighbouring properties, that the development would not have a significant adverse overbearing impact on this neighbouring properties and has overcome the previous reason for refusal with regard to this element.

The previous application was also refused due to direct overlooking from first floor windows looking directly into the private amenity areas of 1D and 1E School Lane. As has been highlighted the two storey element of the proposal has been reduced in terms of sofa projection from the rear elevation, as such this has increased the degree of separation from the windows to the neighbouring properties to a min of 15.7 m from window to the closest neighbouring property. The Havant Borough Design guide provides guidance in relation to separation distances between properties requiring 20m back to back distances. This is not achieved for all the properties, however following discussions with the agent, the first floor windows now includes angled recessed windows, which as demonstrated in the submission would work by obscuring direct views towards 1D and 1E School Lane, as such it would not result in direct overlooking, subject to a condition to secure this if permission were to be granted. The recessed windows would allow views towards the rear garden area of 8-10 High Street. However this area is currently a car parking area and does not comprise any private amenity area. Furthermore a degree of mutual overlooking exists from the surrounding neighbouring properties, which given its urban context and close fabric of the buildings, is a relationship that is to be expected.

A flat roofed area does exist at second floor, which could be accessed via the proposed dormer window in the existing roof. It is considered that if permission were to be granted then a condition would need to be applied to restrict the use of this area as an amenity space, as the use of this area would result in direct overlooking into the neighbouring properties in School Lane, the agent for this application has agreed to this approach.

Taking all these factors together subject to suitable conditions, to include removing permitted development rights and windows it is considered that the proposed development would not have a significant adverse impact on the amenities of neighbouring properties with regard to loss of sunlight/daylight, overlooking or overbearing impact. As such this revised scheme has overcome the previous reasons for refusal.

Amenities of the development

It is considered that the proposals would be acceptable in terms of floorspace and communal external facilities subject to suitable planning conditions.

(iv) Highway/parking considerations

The site is in a sustainable location in the town centre and as such can be easily reached by public transport. It is also close by to several public car parks and there is

some on street parking nearby. The development includes three parking spaces for the residential units which is one space per unit and cycle storage. This falls short of the requirements in the adopted residential parking standards however, given its sustainable location, the Council's Development Engineer has raised no objection to this application.

Concerns have been raised that the access route is on third party land and no agreement has been reached. If permission were to be granted a suitable Grampian style condition could be applied that the development would not be brought into use until access arrangements had been confirmed, as such it is not considered reasonable to refuse this application on this issue.

(vi) Ecology

The application is accompanied by a Bat Survey - Preliminary Roost Assessment (Arbtech, August 2018) and Bat Survey - Emergence & re-entry (Arbtech, September 2018). Bat surveys carried out during August and September 2018 recorded no evidence of roosting bats and it is concluded that roosting bats are not currently a constraint to the proposed development. If permission were to be granted, a condition to ensure that all ecological mitigation/enhancement measures would be required.

The Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this includes an Appropriate Assessment under Regulation 63. This is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on Chichester and Langstone Harbours Special Protection Area due to the increase in recreation as a result of the development. The planning application was then subject to an Appropriate Assessment under Regulation 63. This assessment included a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy and the applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package. The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package, however on basis of a refusal, these factors must be included.

(v) Developer contributions

The CIL rates to be applied to development are set out in the Havant Borough Community Infrastructure Levy Charging Schedule, which was adopted by the council on the 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 (plus indexation) per square metre on new floorspace (measured as gross internal area) in Emsworth. It is considered that there is a CIL liability for this site. A credit can be given for the existing floorspace of the dwelling within the site and therefore only the additional floorspace is CIL liable.

(vi) Drainage

It is considered that the site can be suitably drained and Southern Water have raised

no objection to this application.

8 **Conclusion**

In conclusion, the proposed development is considered to be unacceptable as it is out of keeping with existing building due to its size, scale, bulk, massing and design which would have an adverse impact on the character and setting of the conservation area. Whilst it is noted that the proposal has been amended from the previous application it is considered that the proposal would fail to preserve the character of the conservation area and would cause less than substantial harm, and as such is recommended for refusal, including a reason regarding lack of a financial contribution towards the SRMS.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/18/00938 for the following reasons

- 1 The proposed development would by reason of its height, mass and design have an unacceptable and intrusive impact on the existing building and on the character and setting of the Conservation Area. The development would therefore conflict with policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM20 of the Havant Borough Publication Local Plan (Allocations), Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework 2018.
- 2 In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so is contrary to Policy DM24 Havant Borough Local Plan (Allocations Plan) and the Conservation of Habitats and Species Regulations 2017.