

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

Rear of 70 Havant Road, Hayling Island

**Local Planning Authority Reference:
APP/18/00300**

**Planning Inspectorate Reference:
APP/X1735/W/18/3205074**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)



APPEAL BY Mr K Mould and J Muddle AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION Erection of 3No. 4 bed detached houses with associated garages. (Revised application.)

Planning Inspectorate Reference: APP/X1735/W/18/3205074

LPA REF: APP/18/00300

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 70 Havant Road is Grade II listed and dates from the 18th century. It formed part of a farmstead that was planned as a regular 'U-shaped' courtyard. This includes a Grade II Listed Granary and converted barns. The farm house fronts Havant Road which is the main road onto Hayling Island that runs north south. The application site comprises part of the side and rear garden to the farmhouse and is located on the south side of the road in the Stoke area of Hayling island which is mainly residential in character. There are a number of trees on the site, however, these are relatively small and of limited public amenity.

2.0 PLANNING HISTORY

90/52097/007 - Erection of new dwelling as reconstruction of storm damaged barn., PERM,26/04/1990
05/52097/023 - Listed Building application to demolish and rebuild rear lobby., PERM,27/05/2005
05/52097/024 - Listed Building Application for the installation of conservation roof light in south facing roof., PERM,29/04/2005
APP/16/01271 Erection of 1No. three bed and 3No. four bed two storey detached houses with associated garages. REFUSED
APP/17/00320 - Erection of 3No. 4 bed detached houses with associated garages. (Revised application.), REF,22/05/2017 Dismissed on appeal

3.0 THE APPLICATION

- 3.1 The application the subject of this appeal was validated on 19 March 2018 and sought permission for Erection of 1No. four bedroom two storey detached house with attached garage. The application was submitted following the refusal of planning permission for 3No. 4 bed detached houses with associated garages, which was dismissed on appeal.

- 3.2 The application was refused on the 16 May 2018 for the following reason: -

The proposed development by reason of its scale, height, siting and overall appearance would be visually intrusive and adversely affect the character of the area and in particular would be detrimental to the setting of the adjacent buildings which are listed as being of special architectural or historic interest. It is therefore contrary to policies C11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM20 of the Havant Borough Publication Local Plan (Allocations) and the National Planning Policy Framework 2012.

4.0 PLANNING POLICY

- 4.1 The relevant Planning Policy is set out in: -
National Planning Policy Framework
Havant Borough Local Plan (Core Strategy) March 2011
Havant Borough Local Plan (Allocations) July 2014
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Townscape, Landscape, and Seascape Character Assessment
Planning (Listed Buildings and Conservation Area) Act 1990:
- 4.2 Of particular relevance to this appeal are Havant Borough Local Plan) Policies: -
- CS17 (Concentration and Distribution of Development within the Urban Areas),
- AL1 (Presumption in Favour of Sustainable Development)
- AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements), which support the principles of development in the built up area.
- CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
- CS16 (High Quality Design)
- DM8 (Conservation, Protection and Enhancement of Existing Natural Features)
- Policy DM20 (Historic Assets) which seek to protect and enhance the heritage and special character of the borough.
- Copies of the relevant local plan policies were forwarded with the questionnaire.

5.0 PLANNING POLICY UPDATE

- 5.1 Since the decision date of 23 March 2018, there have been updates to the NPPF; the Council's Draft Local Plan; and the ('Definitive') Solent Recreation Mitigation Strategy was adopted on 1st April 2018. The consequence of these updates is as follows:
- NPPF- 2018
- 5.2 The NPPF was updated on 24 July 2018 and with respect to this proposed development and appeal, continues to have a presumption in favour of sustainable development with the 3 overarching objectives: - economic, social and environmental. The importance of design and conserving and enhancing the historic and natural environment remain relevant considerations as set out in Chapter 12 on Achieving well designed places, Chapter 15 on Conserving and Enhancing the Natural Environment and Chapter 16 the need to Conserve and Enhance the Historic Environment.
- 5.3 Paragraphs 125 and 126 endorse the requirement for high quality design and state:
- Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so, they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.*

To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified.

5.4 Para 127 notes that decision should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- 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);*

5.5 The importance of historic assets is identified in para 184 which states that:

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. And para 192 advises: -

In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*

5.6 It is considered that the NPPF 2018 continues to place an emphasis on achieving sustainable development, provided any adverse impacts do not outweigh the benefits. It is the ability of the proposal to function in terms of its layout, design and access, without adversely impacting the setting of the Listed Building and the character of the area, that are the key consideration in the determination of this appeal. 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.

Draft Local Plan

5.7 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. 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.

5.8 The Council's Draft Havant Borough Local Plan 2036 Consultation Summary indicates that consultation on a Pre-Submission Local Plan will take place in early 2019. With respect to this appeal, the draft High Quality Design Policy E6, reiterates the Council's commitment to achieving high quality design that respects its context and does not cause unacceptable harm to the amenity of neighbours. Additionally, new draft policy E9 seeks to protect, enhance and conserve the historic environment

and the contribution it makes to local distinctiveness and sense of place. These draft policies are copied in full in **Appendix B**.

5.9 'Definitive' Solent Recreation Mitigation Strategy

The application site falls within the 5.6km zone of Chichester and Langstone Harbours SPA which are large estuarine basins that contain extensive intertidal mudflats and sandflats that support internationally and nationally important numbers of overwintering and breeding bird species. Please find additional information about the characteristics of the area, the reasons for its designation, interest features and conservation objectives on the link to Natural England's website below:

5.10 <https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK9011011>

The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within **Appendix C**. The evidence base to support the mitigation strategy can be found on the link below:

5.11 <http://www.birdaware.org/research>

Natural England's advice in regard to all new housing development within the 5.6km zone is that it is likely to have a significant effect on the SPA. Policy DM24 of the Allocations Plan covers this issue and allows for a financial contribution to be made towards mitigation measures. Additional information in relation to the Bird Aware Solent Strategy can be viewed via the following web address:

5.12 <http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

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 four-bedroom dwelling would require a contribution of £749 plus 5% monitoring fee of £37.45 and Administration Fee of £20 such that the total contribution required would be £806.45.

5.13 A Unilateral Undertaking was sent to the agents on the 7 November 2018, requesting the amount of £806.45 and completion of the deed by the 5 December 2018, to ensure the appeal is determined in accordance with the current Definitive Strategy to enable full compliance with policy DM24. However, at the time of writing the required deed and contribution are outstanding. Therefore, in the absence of the completed deed and payment of the contribution, it is the opinion of the Local Planning Authority that the appropriate mitigation measures have not been secured to meet the Definitive Strategy and policy DM24. A copy of this correspondence is in **Appendix D**.

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

5.15 In this case, the development is located within a zone of influence of an SPA, the Local Planning Authority has undertaken a HRA screening which includes the requirement for avoidance and mitigation measures in terms of the Interim Solent Recreation Mitigation Project (now Definitive Solent Recreation Mitigation Strategy).

- 5.16 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. 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.
- 5.17 However, it is the opinion of the LPA that without receipt of the uplift financial contribution in line with the requirements of the current Definitive Solent Recreation Mitigation Strategy, then all mitigation measures have not been adequately secured. Unless the contribution of £806.45 is confirmed as being received by the LPA before the Inspector determines this appeal, then the proposal would be contrary to both the Definitive Solent Recreation Mitigation Strategy and policy DM24. This could constitute a new reason for refusal if the Inspector is minded to dismiss this appeal. If the monies are confirmed as being received before the decision is made, then the LPA will advise the Inspector accordingly.

6.0 CONSULTEE RESPONSES AND REPRESENTATIONS

- 6.1 The consultee responses to the planning application are set out in section 5 and the representations in section 6 of the delegated report previously forwarded with the appeal questionnaire. Of particular relevance to this appeal are: -

6.2 Conservation Officer, Development Control

Cotterell Farmhouse is Grade II listed and dates from the 18th century. It formed part of a farmstead that was planned as a regular 'U-shaped' courtyard. This includes a Grade II Listed Granary and converted barns.

The plan (including the barns and granary) adds to the historic significance of the Listed Building and its setting. Historically therefore Cotterell Farmhouse was a remote cluster of buildings. It is important that the sense of isolation from the surrounding urban expansion is retained. It should not be consumed by the expanding back land development and needs to retain its agricultural setting and changes and respect the key aspects of the unaltered plan form. The significance of Cotterell Farmhouse not only lies in its architectural value but also *in* its evidential value as a physical document of past agricultural practices and rural settlement. This allows the observer to properly appreciate the functional origins of the complex and its relationship with the surrounding agricultural land.

A traditional farmstead or farm building will have significance if it makes a positive contribution to local character and distinctiveness, whether it is designated as a heritage asset or not. It is clear in this case the Farmhouse, granary and barn make a positive contribution in their current form to the character of the area.

Policy Context

Before proceeding to consider the policy context of the NPPF, it is of primary importance that the correct weight should be attributed to the desirability of preserving the setting of the listed building from the outset, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"

The need for the decision taker to attach considerable or special weight to the desirability of preserving the setting of listed buildings has been reinforced through two recent high court decisions of: Barnwell Manor Wind Energy Limited vs. East Northamptonshire District Council et al (2014); and North Norfolk District Council vs. DCLG and Mack (2014).

The above statute and its subsequent and consistent interpretation in recent high court decision emphasises the need for the policies of the NPPF to be implemented whilst always having regard to the need to give special or greater weight to the preservation of the setting of a listed building.

Where the impact on the setting of a listed building has been assessed in accordance with paragraphs 128 to 132 of the Framework and has been found to fall within the category of 'less than substantial harm' (i.e. paragraph 134), then it is still important that when considering the balance exercise, and therefore the public benefits of any such proposal, that from the outset this is consciously weighed in favour of the need to preserve the setting of the listed building.

The National Planning Policy Framework (NPPF) was published in March 2012 and sets down the policies that the Council must take into account when determining planning applications. This supersedes PPS 5, however, English Heritage (web-site 23 April 2012) advises that the Practice Guide (HEPPG) remains a valid and Government endorsed document pending Government's review of guidance supporting national planning policy as set out in its response to the select Committee".

The NPPF sets out, in paragraph 17, the 12 core planning principles that local planning authorities should consider in making planning decisions. One of these core principles relates directly to conserving heritage assets, as follows

"Planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;"

Paragraph 132 of the National Planning Policy Framework states 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. It also goes on to state that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Paragraph 133 provides guidance in relation to development proposals that cause 'substantial harm'. While, paragraph 134 of the National Planning Policy states that where a development will lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 64 (Section 7 – Requiring Good Design) is also particularly relevant to this case in that development should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

At local level Policy CS11 of the adopted local plan applies. These policies are supplemented at national and local level by supplementary guidance. Most pertinent to the current application are: -

- The Setting of Heritage Assets (Historic England) 2017.

Assessment

The setting of a heritage asset is defined in the glossary to the Framework as the surroundings in which a heritage asset is experienced. In simple terms, setting embraces all of the surroundings from which the heritage asset can be experienced, or that can be experienced from, or with, the asset. The development proposed would be clearly visible from the listed buildings and there would be areas within, and outside, the site where the listed buildings and the proposed development would be seen in juxtaposition. On that basis, it is clear that the proposal would have an impact on the setting of the listed building concerned.

Looking at the appeal decision from 2017 it was clear that the inspector considered the site to have a positive contribution to the significance of the heritage asset. He stated that:

“the site forms part of an attractive garden setting to No 70, which buffers it from nearby properties by providing an appreciable gap in built form on that side. This helps give No 70 some ‘breathing space’ and something of a stand-alone appearance from built development that is not historically related to the position of the farmstead. Consequently, it makes an important contribution to the setting of the listed building and the way it is perceived from the public realm.”

The setting of Cotterell Farmhouse contributes to its significance by placing it in a rural context similar to that in which it was constructed and operated. Changing the hinterland of the listed buildings from undeveloped garden land with trees and hedgerows, to one large new dwelling with garaging, would reduce the ability of the observer to appreciate the origins of the complex, and its relationship with the land. This would have a harmful impact on the setting of the listed buildings.

The dwelling itself is too large and is largely of an inappropriate design with only the front elevation bearing any resemblance to a barn. The rear outshot and garaging to the side complicates the structure making it appear more like a regular dwelling. This in turn makes the building feel particularly large in this sensitive setting.

Whilst the development proposed is reduced from the 3 dwellings originally proposed it will still be very apparent from the new access. The positioning of the structure also bears no resemblance to a farmstead and such appears out of character. It should also be noted that the building is located in a setback position. This is out of keeping with the established linear and road-facing pattern of development nearby. Again, this was borne out in December 2017 appeal decision.

Based on the information submitted, any development along these lines would impact negatively on the strong visual and spatial relationship between Cotterell Farmhouse and the surrounding land. Introducing a development, is fundamentally at odds with its rural environment. For these reasons, the proposal in its current form will be harmful to the significance of these designated and locally prominent Grade II listed building through the impact on their setting

In accordance with the NPPF I believe the degree of harm to this listed building would be significant, but on balance, less than substantial. In this context, the NPPF requires such harm to be weighed against the public benefits of the proposal.

6.3 Landscape Team, Technical Services

From a landscape perspective we do not object to the principal of this development, however we have the following comments:

The current vernacular of plot 70 on Havant road consists of an enclosed envelope by a boundary of mature vegetation, consisting of hedgerow and trees. Whilst the entrance and access road will only

punch through a proportion of this vegetation we have concerns with the compaction of existing root protection areas (RPA). The proposed location of the dwelling and access road is situated on the northern boundary which abuts to existing trees/hedgerow. We would want to see this boundary vegetation retained to conserve the enclosed nature of the plots 70/72. As such we would require an arboricultural impact assessment to ascertain what is currently existing, and this information will inform a mitigation strategy to ensure the no damage is done during construction.

- There is a lack of information with regards to proposed hard and soft landscaping details.

As such we would recommend the submission of an arboricultural impact assessment with, hard landscaping details and soft landscaping details conditions.

The application proposes a substantial increase of built-form and hard surfacing to an area known to have a high water table that comprises clay soil. The implications for surface water drainage will require appropriate investigation and provision for mitigation.

6.4 **Natural England**

The application site is within 5.6km of the Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. This application will need to comply with Local Plan Policy with regard to Solent Recreation Mitigation Partnership (SRMP) contribution, which applies to all new development of one or more dwellings. Provided that the applicant is compliant with this condition and this is secured with any planning permission, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s).

Please note we have not assessed the application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. Standing Advice is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. If you have any specific questions not covered by our Standing Advice, or have difficulty in applying it to this application please contact us at consultations@naturalengland.org.uk.

Natural England would encourage all new developments to incorporate biodiversity enhancements such as the provision of new bat roosting opportunities within new builds, the provision of bird boxes and the use of appropriate native species in the garden.

7.0 **PLANNING CONSIDERATIONS**

- 7.1 The site lies within the defined urban area where further development is considered acceptable in principle, however, as set out in The National Planning Policy Framework (NPPF) this should not be to the detriment of the local area and its heritage assets.

Impact upon visual amenities and character of the area.

- 7.2 Stoke is a distinctly linear settlement, with dwellings of traditional construction and perpendicular orientation to the Havant Road. Houses are mixed in size, type and age, but are principally traditional in character and appearance and face onto the road. The application site proposes residential development infill of part of the curtilage associated with the Grade II Listed Farmhouse for a single dwelling. The proposed dwelling, which would be sited to the rear of the existing farmhouse would be of 2 stories with an internal floor area, including attached double garage, of some 232sq m, and served by a new access off Havant Road.
- 7.3 Since determination of the planning application the NPPF has been updated, as set out in the NPPF 2018. The requirement for high quality design and conservation and enhancement of the historic environment as set out in chapters 12 and 15 respectively however, remain key principles.

- 7.4 At the local level Policy CS11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough states that: -

Planning permission will be granted for development that ensures the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected and where possible enhanced by partnership working with developers, groups and the wider community.

- 7.5 The site lies within Landscape Character Type I: Enclosed Lower Harbour Plain and Landscape Character Area 30: Stoke and north-west Hayling (HBC Townscape, Landscape, and Seascape Assessment). <http://www.havant.gov.uk/sites/default/files/documents/LCASection5Hayling29to34.pdf>

It forms an important predominantly rural area enclosed by hedgerows and small woodlands. The type is characterised by small fields, woodlands and settlements with rough grassland and manmade structures to the harbour edge. The guidelines for these areas advise that regard should be had to the character of the existing development and the setting of historic building should be protected. In particular: -

Built form and development

- o Redevelopment of vernacular buildings should be sensitive to their size, scale and location and avoid loss of character*
- o understanding of their historic function, should be sensitive in terms of materials and should employ simple architectural detailing*
- o Any alterations to vernacular buildings should be sensitive to their scale and massing; their traditional materials and architectural detail, to avoid loss of character*
- o The setting of historic buildings, whether listed or not, should be protected when considering applications for new development.*

- 7.6 Policy DM20 relates to Historic assets and supports proposals that conserve and enhance the historic assets of the Borough. Additionally, Policy CS16 High Quality Design seeks to encourage good design and amongst other things development should: -

1. Responds to, draws inspiration from and respects local context and:

- a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site;
- b) Integrates with existing local landscape features, promotes wildlife and biodiversity and/or applies characteristics of the local area into the design of a scheme wherever possible to create variety and interest;
- c) Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors

- 7.7 The removal of vegetation to create the new access would open up views of the site and the proposed dwelling would be very apparent in the local area due to its layout in a back-land position served by the proposed new access off Havant Road. This does not respect the linear form of the area and would be a visually intrusive form of development to the detriment of the character and visual amenities of the area. Overall, the proposed development would be harmful to the character and appearance of the area, contrary to Policies CS11 and CS16 of the HBLP (Core Strategy) and the supplementary guidance

- 7.8 The proposed development is for a substantial 2 storey dwelling, served by a lengthy access drive and large area of hard surfacing, such that the building and hard surfacing would cover a significant proportion of the site. The suburban nature of the development would not respect the existing semi-rural character, nor would it bear any resemblance to the farmyard setting of the existing buildings on the site. The substantial increase of built-form and hard surfacing in a form that does not respond to

the local context, nor, in the main, use the characteristics of the area or respect the landscape setting of Stoke, would be visually intrusive to the detriment of the character and visual amenities of the area. Overall, the proposed development would be harmful to the character and appearance of the area, and contrary to Policies CS11 and CS16 of the HBLP (Core Strategy) and the supplementary guidance.

- 7.9 The proposal would also be generally inconsistent with the adopted Havant Borough Design Guide Supplementary Planning Document (SPD) 2011, which among other things advises that backland and infill sites should maintain and enhance the existing character and quality of the area. Additionally, the access road is situated on the northern boundary abutting existing trees/hedgerow. In the absence of an arboricultural impact assessment to ascertain what is currently existing to inform a mitigation strategy, it is not possible to establish that there would be no damage done during construction.
- 7.10 The mainly linear form of this part of Havant Road can be seen on the aerial photograph below. The appeal site is situated on the right-hand side (east) towards the bottom of the photograph.



Impact on the setting of the Listed Building

- 7.11 The setting of a heritage asset is defined in the glossary to the Framework as the surroundings in which a heritage asset is experienced. In simple terms, setting embraces all of the surroundings from which the heritage asset can be experienced, or that can be experienced from, or with, the asset. The development proposed would be clearly visible from the listed buildings and there would be areas within, and outside, the site where the listed buildings and the proposed development would be seen in juxtaposition. On that basis, it is clear that the proposal would have an impact on the settings of the listed buildings concerned.
- 7.12 The setting of Cotterell Farmhouse contributes to its significance by placing it in a rural context similar to that in which it was constructed and operated. Changing the hinterland of the listed buildings from undeveloped garden land with trees and hedgerows, to a new dwelling, would reduce the ability of

the observer to appreciate the origins of the complex, and its relationship with the land. This would have a harmful impact on the setting of the listed buildings.

- 7.13 The proposed development would impact negatively on the strong visual and spatial relationship between Cotterell Farmhouse and the surrounding land. The positioning of the structure also bears no resemblance to a farmstead and such appears out of character. Introducing a development, in such proximity to the Grade II listed buildings is fundamentally at odds with its rural environment. For these reasons it is considered that proposal would be harmful to the significance of these designated and locally prominent Grade II listed buildings through the impact on their setting, contrary to the provisions of Policies CS11 and DM20 of the HBLP and the NPPF 2018.
- 7.14 The Planning Inspector in respect to the appeal for 3 dwellings on the site stated that the gap to No. 78 *“helps to give No 70 some ‘breathing space and something of a standalone appearance from built development that is not historically related to the position of the former farmstead. Consequently, it makes an important contribution to the setting of the listed building and the way it is perceived from the public realm. Currently therefore, the appeal site makes a positive contribution to the significance of the heritage asset would erode the existing relatively open character of the site by the introduction of significant new built form. In my view, this would harm the setting of the nearby listed buildings, particularly No 70, and detract from their significance and the character and appearance of the local area generally.”*
- 7.15 Whilst this statement relates to the development of the site for 3 dwellings, the current appeal would also impact on this separation and the dwelling itself is a large 2 storey four bed building and is largely of an inappropriate design with only the front elevation bearing any resemblance to a barn. The rear outshot and garaging to the side complicates the structure making it appear more like a regular dwelling. This in turn makes the building feel particularly large in this sensitive setting. As such it would be harmful to the setting of the listed building for the reasons set out above and identified in the Conservation Officers consultation response.
- 7.16 Based on the information submitted, any development along these lines would impact negatively on the strong visual and spatial relationship between Cotterell Farmhouse and the surrounding land. Introducing a development, is fundamentally at odds with its rural environment. For these reasons, the proposal would be harmful to the significance of this designated and locally prominent Grade II listed building through the impact on its setting. In accordance with the NPPF it is considered that the degree of harm to this listed building would be significant, but on balance, less than substantial. In this context, the NPPF requires such harm to be weighed against the public benefits of the proposal.
- 7.17 The existing farmyard grouping can be seen on the aerial photograph below. The proposed dwelling would be sited to the northwest and unrelated to this setting, but in proximity to the farmhouse.



8.0 CONCLUSION

In terms of the impact on the setting of the listed building the degree of harm to this listed building would be significant, but on balance, less than substantial. In this context, the NPPF requires such harm to be weighed against the public benefits of the proposal. In economic and social terms, the provision of an additional dwelling within the urban area would accord with the objectives of the NPPF and make a contribution to the Council's housing requirements as set out in the development plan and therefore should be given weight. However, the weight to be given to the contribution of a single dwelling is considered modest and not to outweigh the significant harm to an irreplaceable heritage asset, and the character and appearance of the area.

9.0 COMMENT OIN GROUNDS OF APPEAL

9.1 In respect to the acceptability of one dwelling on the site and the advice provided by the planning officer on this matter. This advice was pre-application advice provided prior to the appeal decision APP/X1735/W/17/3182723 dated 1 December 2017 (Appendix E) and prior to the submission of the current appeal proposal validated on 19 March 2018. When the appeal decision was issued the Council assessed the decision, and based on this, concluded that even one dwelling would be harmful to the setting of the listed building and character of the area. The appellants agent was advised of this on the 12 February 2018 prior to the submission of the appeal application. A copy of the email is in **Appendix F**

9.2 In providing this advice the following findings of the Inspector were considered significant in reaching this conclusion.

Para 5

No 70 is defined as dating from the late 18th Century. From the listing description and other evidence before me, I consider that the significance of this heritage asset relates primarily to the age, form and historic fabric of the building, and the specified features of special interest.

Para 7

The proposed new houses would sit adjacent to, albeit somewhat set back from, No 70, within the setting of the host listed building. Currently, the site forms part of an attractive garden setting to No 70, which buffers it from nearby properties by providing an appreciable gap in built form on that side. This helps to give No 70 some 'breathing space' and something of a standalone appearance from built development that is not historically related to the position of the former farmstead. Consequently, it makes an important contribution to the setting of the listed building and the way it is perceived from the public realm. Currently therefore, the appeal site makes a positive contribution to the significance of the heritage asset.

Para 8

No 70 faces onto Havant Road, from where it is open to clear public view. The side and rear garden area is partially screened from the road by the existing fence and vegetation. The proposed houses and garages would have an inappropriately close relationship with No 70, occupying a large part of the garden that has an important function as part of the immediate setting of the listed building. The removal of trees and vegetation to create the access would open new views of the site, where the proposed development would be apparent. The substantial new built form, particularly of the two-storey houses, would also be visible in part above the boundary treatment and therefore visible in the setting to the side of No 70. While a private side garden area would be retained at the host property, the new buildings, by virtue of their number, overall scale, and siting in relation to No 70 would appear cramped and visually intrusive in relation to that listed building. Furthermore, their set-back position would be out of keeping with the established linear and road-facing pattern of development nearby.

9.3 Para 13

The proposal would also be generally inconsistent with the adopted Havant Borough Design Guide Supplementary Planning Document (SPD) 2011, which among other things advises that backland and infill sites should maintain and enhance the existing character and quality of the area, and that such development should be subservient to the frontage property.

Para 19 concludes

While I have not identified harm in relation to living conditions, I have identified significant harm in relation to the character and appearance of the area, including the setting of designated heritage assets. The modest public benefits of the scheme would not be sufficient to outweigh this harm to the conservation of the setting of nearby listed buildings, particularly No 70, to which great weight should be given. Therefore, for the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

- 9.4 The proposed dwelling would be bulky, with an elevated eaves height and does not follow the relatively simple footprint of a barn conversion but introduces a rear wing. It has a poor relationship to the listed farmhouse and pattern of development, impacting the open setting of the listed building. As such its siting, scale and design are not considered subservient nor sensitive to the setting of the listed building nor the character of the area. No 72 is located on the site of a former barn and reads as part of that farm complex. The proposed dwelling, as portrayed would be unrelated to the historical farm yard, and at variance with the historical farm yard setting. Rather than contributing to the setting of the listed building, its unrelated siting and domestic non-ancillary form are in conflict of the adopted policies of the Local Plan, the NPPF 2018, and Planning (Listed Buildings and Conservation Area) Act 1990:
- 9.5 It would appear as new modern development which does not respect the original farmyard setting, changing the character of the area from a traditional rural farm courtyard to a more density developed site. The proposed access would of necessity require the loss of hedging, with associated views into the site negatively impacting the setting of the listed building as set out in the Council's statement of case.
- 9.6 The LPA remains of the view that the development would result in significant detriment to the setting of the Listed Building and the character of the area and without appropriate public benefit justification,

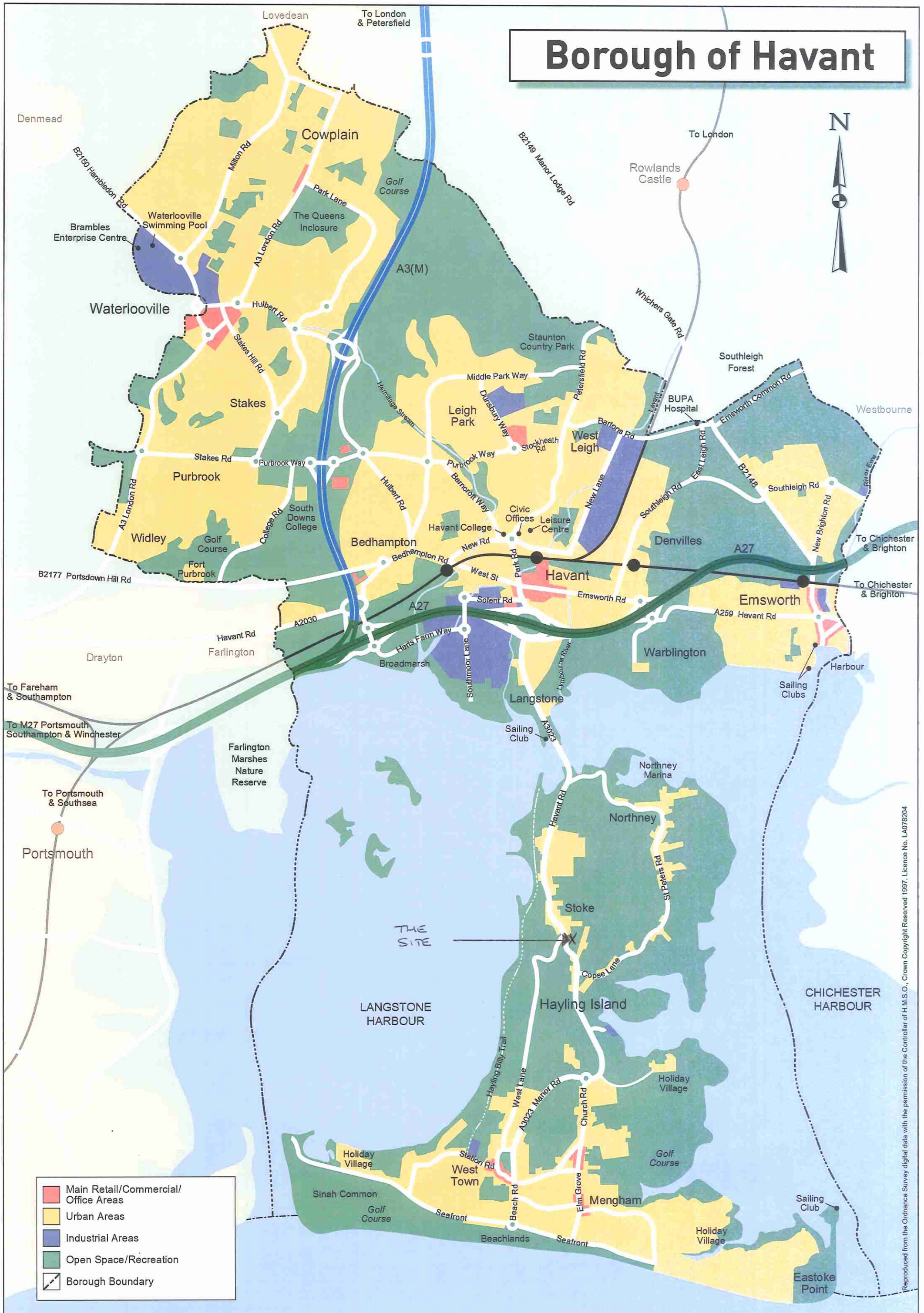
the proposal is considered contrary to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM20 of the Havant Allocations Plan 2014 the National Planning Policy Framework 2018 and Planning (Listed Buildings and Conservation Area) Act 1990. The Inspector is therefore respectfully requested to dismiss this appeal.

APPENDICES

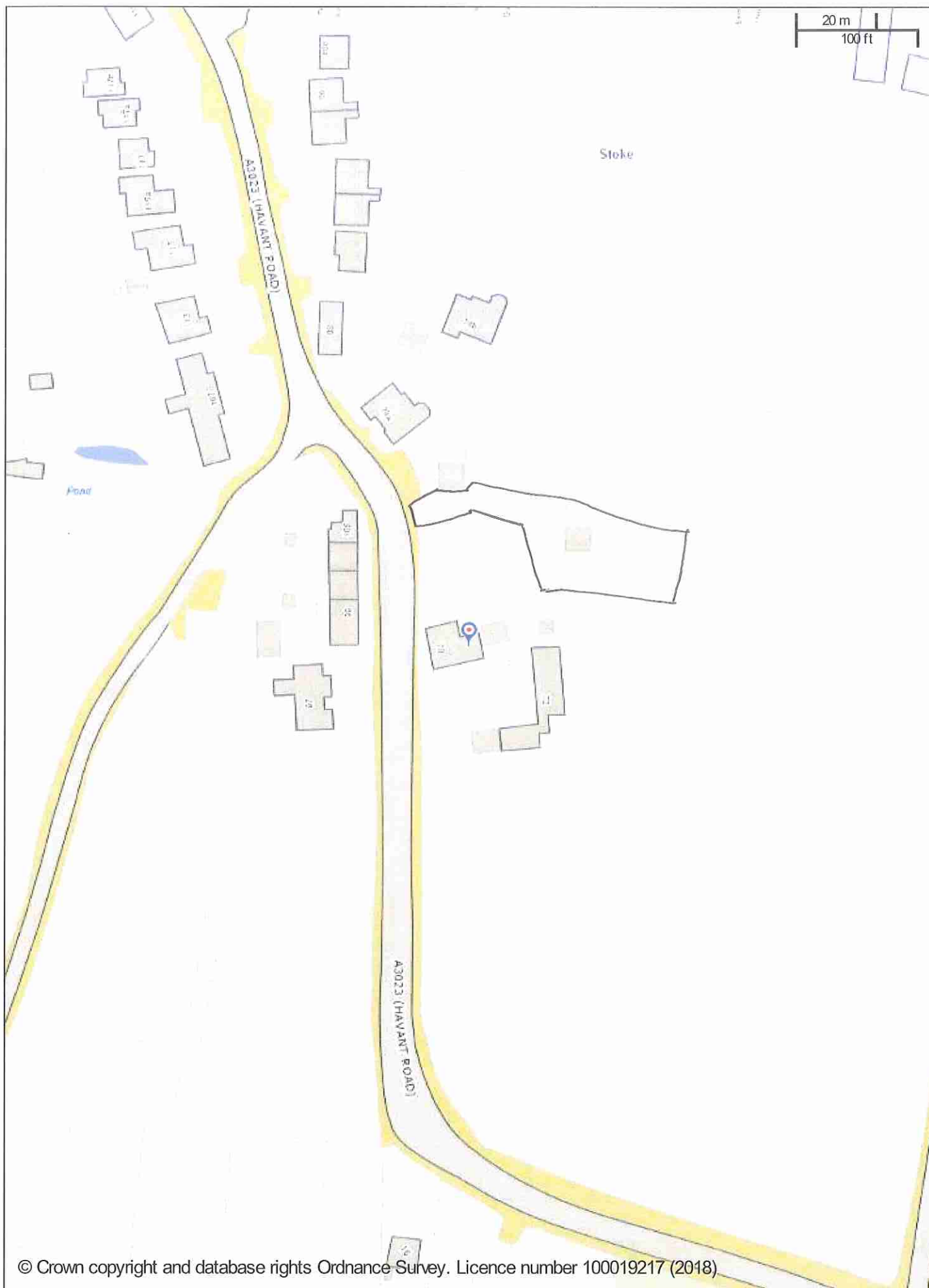
- (A) Borough Map and 1:1250 Location Plan
- (B) Emerging Policies E6 and E9 from Draft Havant Borough Council Local Plan 2036
- (C) Potential effects on SPA of residential development
- (D) Email to agent re Deed for Solent Mitigation Strategy and contribution.
- (E) Appeal decision APP/X/1735/W/17/3182723
- (F) Email to agent re post decision proposal

APPENDIX A

Borough of Havant



- Main Retail/Commercial/Office Areas
- Urban Areas
- Industrial Areas
- Open Space/Recreation
- Borough Boundary



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Land at 70 Havant Road Hayling Island

Scale: 1:1250

Printed on: 14/11/2018 at 14:17 PM

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APPENDIX B

E6 | High Quality Design

- 5.57 This policy would update and replace Policy CS16 (High Quality Design) in the Core Strategy and Policy DM21 (Shopfronts, Signs, Security Shutters and Advertisements) of the Allocations Plan. It also covers aspects of Policy CS8 (Community Safety) of the Core Strategy.

Why this policy is needed

- 5.58 The NPPF makes clear that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. This policy sets out the Borough's place-making objectives in terms of delivering high quality design, enhancing connections between people and places and integrating new development with the Borough's high quality natural, built and historic environment.
- 5.59 The Borough has a diverse built environment, but in many cases it will be appropriate to forge new places particularly where areas suffer from neglect and lack of identity. The policy also sets out how the Council aims to create safe and accessible environments so that crime and disorder, and the fear of crime²⁵, do not undermine the quality of life for the Borough's residents.
- 5.60 Havant and Waterlooville Town Centres and Hayling Island Seafront in particular lack identity and/or suffer from neglect and have poor connections to the surrounding areas. The Council therefore recognises the importance of good design as part of new development in order to forge new places, as well as responding to and enhancing its natural assets and more attractive built features.
- 5.61 Using Active Design principles²⁶ new development can encourage greater levels of daily physical activity in and around buildings and spaces, and promote healthy communities. 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. This policy 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 E7 (Health and Wellbeing) also sets out how new dwellings will be expected to contribute towards improved health and wellbeing of occupants.

E6 | 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 account has been taken of local design statements, neighbourhood plans and the design elements of conservation area appraisals which identify local character and distinctiveness;
- c. Demonstrates that it:
 - i. Responds to, and draws inspiration from its local context and where appropriate, forge a new sense of place through design;
 - ii. Considers characteristics such as heights, massing, existing building lines, plot widths and depths and proportions of building features such as windows and doors;

²⁵ Department for Communities and Local Government (2017) Chief Planning Officer letter – security and planning

²⁶ Sport England (2015) Active Design. Planning for health and wellbeing through sport and physical activity

<https://www.sportengland.org/media/3426/spe003-active-design-published-october-2015-email-2.pdf>

- 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 proven weathering ability;
 - v. Produces a positive relationship with and between existing and proposed buildings, streets and spaces;
 - vi. Avoids over-dominance and not cause unacceptable harm to the amenity of neighbours through overshadowing, massing, the loss of privacy, outlook, overlooking, and through odour, noise or disturbance; and
 - vii. Plans for adverts, signage, lighting and other security features to be 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.
- d. In addition, all non-householder development which will create new floorspace is expected to:
- i. Ensure the layout is appropriate in density, scale, and appearance and sufficiently flexible to respond to changing uses, lifestyles and demography;
 - ii. A setting for any new buildings is provided which is in keeping with the surrounding area
 - iii. Reduce opportunities for crime and anti-social behaviour and contribute to the creation of safe and inclusive communities;
 - iv. Consider new technologies and construction methods as part of building design, taking into account sustainability and resource efficiency;
 - v. Integrate with existing local landscape features and characteristics of the area protecting and enhancing local wildlife, biodiversity and ecology;
 - vi. Be well connected to and integrate with the local area by linking to existing pedestrian and cycle routes and encourages people to use public transport where possible;
 - vii. Ensure that it does not undermine the development potential of adjacent sites;
 - viii. Maximise opportunities for mixed uses and the co-location of facilities, particularly in town and district centres in accordance with the design principles set out by Policies KS4 and KS5;
 - ix. Promote and encourage healthy lifestyles and neighbourhoods in line with Policy E1.
 - x. Incorporate safe, secure and convenient provision for cycle storage and refuse and recycling facilities which is integrated within the overall design in line with Policy IN3;
 - xi. Ensure safe and convenient access for all in the public realm, including the elderly, the disabled and less able; and
 - xii. Integrate and design affordable housing in a way that is indistinguishable from market housing.

How the policy works

5.62 The criteria set out under section c of the Policy E6 apply to all types of development including (but not limited to) the following householder and other minor developments and external alterations to existing buildings:

- 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

- 5.63 The Council recognises 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.
- 5.64 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 E11 and the Chichester Harbour AONB SPD (July 2017).
- 5.65 In addition to section c, the criteria set out under section d are relevant to developments which include the creation of one dwelling or more and any new commercial floorspace. It is recognised that the criteria in section d are a guide and development will not be expected to fulfil requirements which are not relevant to the scheme in question.
- 5.66 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 local planning authority will also consult the Design Review Panel on development proposals.
- 5.67 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.
- 5.68 The Borough Design Guide Supplementary Planning Document (SPD)²⁷ complements Policy E6 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 E9 (Heritage).
- 5.69 The Council is supportive of new technologies and construction methods integrated as part of new development, including Passivhaus design principles in line with Policy E8 (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.

²⁷ The Council intends to consult on a revised Design SPD alongside the Pre-Submission HBLP2036.

E9 | Historic Environment and Heritage Assets

- 5.103 This policy would update and replace part of Policy CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough) of the Core Strategy and Policy DM20 (Historic Assets) of the Allocations Plan.

Why this policy is needed

- 5.104 The Borough's heritage assets include scheduled ancient monuments, registered parks and gardens and archaeological sites, 14 designated conservation areas as well as buildings listed on the Statutory List of Buildings of Special Architectural or Historic Interest and the Local List of Buildings of Special Architectural or Historic Interest.
- 5.105 The Council recognises that heritage assets are an irreplaceable resource that should be conserved and, where possible, enhanced in a manner appropriate to their significance. The Borough's historic environment contributes to its distinctive character. New development should enhance the Borough's sense of place, not reduce it.

E9 | Historic Environment and Heritage Assets

Development proposals will be permitted which:

- a. Protect, conserve and enhance the historic environment and the contribution it makes to local distinctiveness and sense of place; and
- b. Make sensitive use of historic assets through regeneration and re-use, particularly where redundant or underused buildings are brought into an appropriate use.

Heritage Statements

- c. A proposal that affects or has the potential to affect a heritage asset is required to provide a Heritage Statement that:
 - i. Describes the significance of the asset and its setting, using appropriate expertise and where necessary a site specific survey, at a level of detail proportionate to the significance of the heritage asset and sufficient to understand the potential impact of the proposal; and
 - ii. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy the heritage asset. Any identified necessary mitigation measures should be fully incorporated into the development proposals.

Proposals likely to cause 'substantial harm' to a heritage asset

- d. Development proposals that are likely to cause 'substantial harm' to the significance of heritage assets or their setting will not be permitted unless either:
 - i. They are necessary to achieve substantial public benefit that would outweigh the harm or loss; or
 - ii. All of the following apply:
 - a) The nature of the heritage asset prevents all reasonable uses of the site
 - b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation
 - c) Conservation by grant-funding or some form of charitable or public ownership is

- demonstrably not possible
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.

Proposals likely to cause 'less than substantial harm' to a heritage asset

- e. Where a development proposal will lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Proposals for the removal of part or all of a heritage asset

- f. The removal of part or all of a heritage asset cannot proceed until it can be demonstrated that the approved replacement development will take place.

How the policy works

- 5.106 The term 'heritage assets' embraces all features that contribute to creating the unique sense of place including Listed Buildings, Conservation Areas, Registered Parks & Gardens, Scheduled Ancient Monuments, Locally Listed Buildings, Parks & Gardens of Local Historic Interest and areas of archaeological interest. It will be a key priority for the design of new development to conserve the Borough's heritage assets and where possible enhance them.
- 5.107 The Council has a positive strategy for the conservation and enjoyment of the historic environment in line with the NPPF. The Council will appropriately manage development and determine planning applications that affect the Borough's historic environment through Local Plan policies, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF, in particular paragraphs 126 to 141 and any other material considerations.
- 5.108 The NPPF considers that the more important the heritage asset the greater the weight that should be attached to its conservation, for example the loss or harm to a nationally important site is considered to be wholly exceptional.
- 5.109 Applications that affect or have the potential to affect heritage assets and their setting, including sites with archaeological potential, are expected to be supported by a Heritage Statement. The content of the Heritage Statement will vary depending on the significance of the heritage asset and the impact of development. It should include a consideration of the positive contribution of the development and the loss and harm caused by the development. In such cases it must include an appropriate mitigation of that loss and harm, including: design considerations; recording, where adverse impacts are unavoidable; and the promotion of knowledge such as interpretation and exhibitions. It should contain an appropriate level of information and detail to satisfy the requirements set out in paragraphs 128-141 of the NPPF. This includes consulting the Hampshire Historic Environment Record (HER), as a minimum. There are a number of site allocations that will need to be supported by a Heritage Statement at the planning application stage. This is set out in the development requirements for each site. The Council encourage opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset will be treated favourably.

APPENDIX C

Appendix C

The potential effects of new residential development on the Chichester and Langstone Harbour SPA can be summarised as follows:

Potential Effect	Site Conservation Objective(s)	Qualifying features	Potential for Impact?	Relevant Mitigation Measures
Decrease in survival rates and populations of over-wintering birds due to increase in disturbance, caused by increasing human population (in combination with other plans and projects)	Maintain or restore the population of each of the qualifying features. Maintain or restore the distribution of the qualifying feature within the site.	All for Chichester and Langstone Harbours SPA.	Yes. Indirect impact. Without mitigation, bird populations would be reduced and/or re-distributed by increased numbers of visitors leading to increased disturbance	Bird Aware Solent Strategy The Strategy proposes:- • a team of 5-7 coastal rangers to advise people on how to avoid bird disturbance, liaise with landowners, host school visits, etc.; • communications, marketing and education initiatives; • initiatives to encourage responsible dog walking; • preparation of codes of conduct for a variety of coastal activities; • site-specific projects to better manage visitors and provide secure habitats for the birds; • providing new/enhanced greenspaces as an alternative to visiting the coast;

Further details in relation to the Bird Aware Solent Strategy can be viewed via the following web address:

<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

APPENDIX D

Wed 07/11/2018 10:43

APP/18/00300 - Rear of 70 Havant Road, Hayling Island

To 'ian@ijma.co.uk'

Cc Haywood, Daphney <Daphney.Haywood@havant.gov.uk>

Good Morning

Please find attached correspondence for your/your client's attention.

With regard to the attached Unilateral Undertaking, this needs completing where the text is in green (and red, where relevant), signing and returning to this office along with the relevant payment prior to 5 December 2018.

If you have any queries please get back to us.

Kind regards

Jemma Howard
CIL/S106 Assistant
Planning Services
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant, PO9 2AX
Tel: 023 9244 6273
Team Phone: 023 9244 6539
CIL Email: CIL@havant.gov.uk
Email: jemma.howard@havant.gov.uk
www.havant.gov.uk

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Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

T 023 9247 4174
F 023 9248 0263

www.havant.gov.uk

I J Murray Associates
173 Havant Road
Hayling Island
PO11 0LF

Our Ref: APP/18/00300
Direct Line: (023) 9244 6513
Ask For: M r s D H a ywood
Email: planning.development@havant.gov.uk
Date: 7 November 2018

Dear Sir/Madam

The Town and Country Planning Act 1990

Site Address: Rear of 70 Havant Road, Hayling Island, PO11 0LH

Proposed Development: Erection of 1No. four bedroom two storey detached house with attached garage

PLEASE ACTION THIS CORRESPONDENCE AS A MATTER OF URGENCY - THIS SHOULD BE RETURNED BY 05/12/2018 (i.e. within 7 weeks of The Planning Inspectorate's start date letter of 17/10/2018)

The Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations") sets out how Local Planning Authorities must deal with planning applications that have potential to impact on Special Protection Areas and other European protected sites. The Habitats Regulations restricts local planning authorities from granting planning permission for any development that would, either alone or in combination with other developments, have a likely significant effect on a European protected site, unless full mitigation is provided.

The Chichester and Langstone Harbours together with Portsmouth Harbour, Solent and Southampton Water have been designated by the government as Special Protection Areas (SPAs) to protect over-wintering birds.

As such any new housing development that is within 5.6 kilometres of the SPAs must contribute to mitigation measures to reduce any potential harm and disturbance that may be caused to the SPA because of development. Natural England has advised that a contribution based on the number of bedrooms **per individual dwelling** will be required to mitigate against the effects of recreational disturbance on the SPAs.

The Council as part of the Solent Recreation Mitigation Partnership (comprising 15 local authorities and other interested parties) have set out the Solent Recreation Mitigation Strategy ("Strategy") which coordinates efforts to implement and monitor mitigation measures to protect the SPAs from disturbance and harm.

The contribution

In accordance with the Strategy the Council is seeking a financial contribution towards the Solent Recreation Mitigation Partnership in the sum of **£806.45**.

How we have calculated the financial contribution?

The Strategy details the rates that are charged for a housing development in accordance with the number

of bedrooms per dwelling proposed to be built. A copy of the Strategy can be located on Bird Aware Solent's website (www.birdaware.org/strategy). For your ease of reference, the rates table from the Strategy is outlined below:

No of Bedrooms	Amount	5% Monitoring Fee	Administration Fee	Total
1	£337	£16.85	£20	£373.85
2	£487	£24.35	£20	£531.35
3	£637	£31.85	£20	£688.85
4	£749	£37.45	£20	£806.45
5+	£880	£44.00	£20	£944.00

How to pay?

The financial contribution must be secured by a legal agreement signed by the owner of the property confirming that the above financial contribution is being paid. A draft agreement referred to as a unilateral undertaking is attached separately.

Please ensure that this unilateral undertaking is completed fully and submitted together with a cheque made payable to Havant Borough Council prior to 05/12/2018.

Where the appeal is refused, and the financial contributions have been paid in advance of the grant of permission, the Council will endeavour to refund the contribution (less the £20 admin fee).

If you have any queries about this letter or the financial contribution, please contact the

Case officer. Further information on financial contributions can be found in the document

'Developer Contributions

Guide' which can be found on our website www.havant.gov.uk. Further information is also available on

www.birdaware.org/home.

Yours faithfully

Planning Services

THIS **UNILATERAL UNDERTAKING** is made by **DEED** on the [DAY] of [MONTH] 20[18]

AND GIVEN BY

[FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] **Owner**
[FULL NAME] of [FULL ADDRESS] **Owner**

TO

The Council of ~~The~~ Borough of Havant of Public Service Plaza Civic Centre Road
Havant PO9 2AX

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The Owner owns the Land and has made the Planning Application and is proposing to carry out the Development.
- (C) The Owner gives this undertaking to perform the obligations set out in this deed.
- (D) The Owner has submitted an appeal number APP/X1735/W/18/3205074 against the Council's refusal to grant planning permission for the Application and the Owner enters into this deed conditionally upon the Planning Permission being granted on appeal.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Act: the Town and Country Planning Act 1990

Administration Fee: the sum of £20

Commencement of Development: the date on which any material operation (as defined in section 56(4) of the Act) forming part of the Development is begun save that (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, site survey works, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" and similar expressions shall be construed accordingly

Contribution: £749.00 or the sum calculated in accordance with the formula set out at Appendix 1 to this deed (whichever is greater) as a contribution towards measures to mitigate the impacts of the Development on the Solent Special Protection Areas in accordance with the Solent Recreation Mitigation Strategy dated 1 April 2018 (index linked in accordance with the figures supplied to the council by the Solent Recreation Mitigation Partnership).

Development: the development of the Land described in the Planning Application. Land: Rear of 70 Havant Road, Hayling Island, PO11 0LH and shown edged red on the plan annexed to this deed.

Monitoring Fee: the sum of £37.45 calculated as 5% of the Contribution.

Planning Application: an application for planning permission registered by the Council on 19 March 2018 under reference number APP/18/00300.

Planning Permission: means the planning permission which may be granted for the Development pursuant to an appeal made under section 78 of the Act under reference APP/18/00300.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.5 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 References to clauses are to the clauses of this deed.
- 1.8 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972 and any other enabling powers.

2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by those persons in the Land and their respective successors and assigns.

2.3 This deed shall have effect from the date hereof.

2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the Act.

3. COVENANTS WITH THE COUNCIL

The Owner covenants with the Council to pay the Contribution, Administration Fee and Monitoring Fee to the Council prior to commencement.

4. DETERMINATION OF DEED

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[FOR INDIVIDUALS]

Executed and delivered as a

deed by **[INSERT NAME]**

.....

in the presence of:

Witness signature

.....

Witness name

.....

Witness address

.....

.....

Witness occupation

.....

[FOR COMPANIES OPTION 1]

Executed and delivered as a deed by
[COMPANY NAME]

acting by two directors

[INSERT DIRECTORS NAME]

.....

Director

[INSERT DIRECTORS NAME]

.....

Director

[FOR COMPANIES OPTION 2]

Executed and delivered as a deed by
[INSERT COMPANY NAME] acting by
[INSERT DIRECTORS NAME], by a director

.....

Director

in the presence of:

Witness signature

.....

Witness name

.....

Witness address

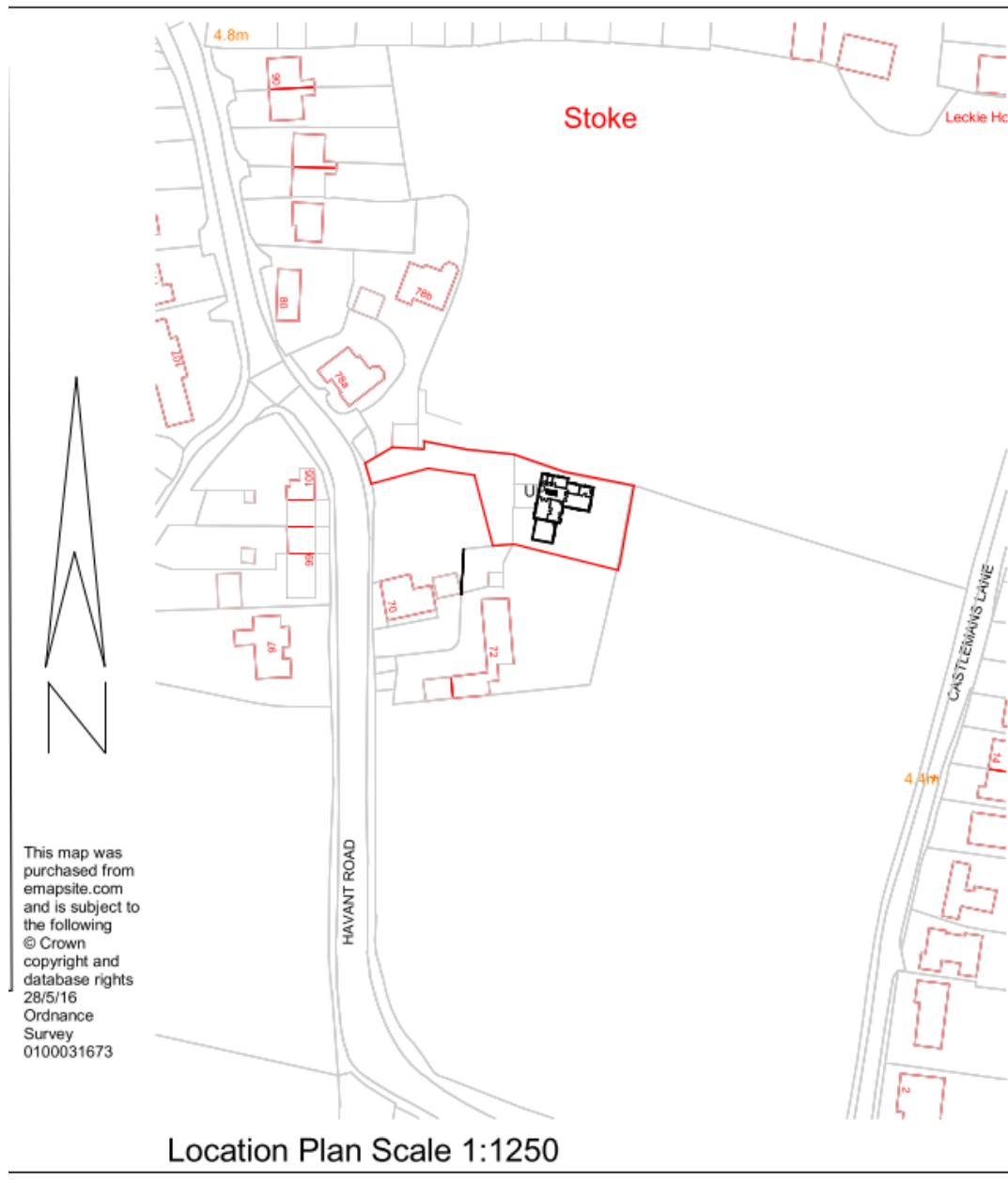
.....

.....

Witness occupation

.....

LOCATION PLAN



APPENDIX 1

Contribution formula and rates

In this deed the Contribution is calculated in accordance with the following formula:

$$\text{Contribution} = (A \times B) \times C$$

Where:

- A = the number of dwellings at the applicable bedroom rate given in the table below
B = the applicable bedroom rate given in the table below determined in accordance with the number of bedrooms per dwelling
C = the monitoring fee calculated at 5% of the total of A X B

Solent Mitigation Contribution Rates (index linked)	
No of Bedrooms	Amount
1	£337
2	£487
3	£637
4	£749
5+	£880

APPENDIX E



Appeal Decision

Site visit made on 27 November 2017

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 1st December 2017.

Appeal Ref: APP/X1735/W/17/3182723

70 Havant Road, Hayling Island PO11 0LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Jeff and Ken Mould and Muddle against the decision of Havant Borough Council.
 - The application Ref APP/17/00320, dated 7 December 2017, was refused by notice dated 22 May 2017.
 - The development proposed is described as the 'Erection of Three four bedroom two storey detached houses with associated garages. Revised application following Refusal of first Application APP/16/01271'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on i) the character and appearance of the area, including the setting of nearby listed buildings and ii) the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

3. The site currently forms part of the side and rear garden at 70 Havant Road (No 70), which is also known as Cottrell Farmhouse. The host property is Grade II listed and I am advised that it was formerly part of a farmstead consisting of several buildings, including a nearby granary that is also Grade II listed. Listed buildings are designated heritage assets and I am mindful of the relevant statutory duties. The locality, known as Stoke, is a modest, mainly residential linear settlement set along both sides of Havant Road. Houses are mixed in size, type and age, but are principally traditional in character and appearance and face onto the road. Stoke generally has a semi-rural character, and is largely surrounded by fields.
4. It is proposed to create a new access from Havant Road into the site and construct three detached houses of traditional design, each with gardens, parking and detached garage facilities.

Character and appearance

5. No 70 is defined as dating from the late 18th Century. From the listing description and other evidence before me, I consider that the significance of

this heritage asset relates primarily to the age, form and historic fabric of the building, and the specified features of special interest.

6. Section 66(1) of the planning (Listed Buildings and Conservation Areas) Act 1990 states that, 'in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting...'. Paragraph 132 of the Framework is clear that great weight should be given to a heritage asset's conservation and that its significance can be harmed by development within its setting.
7. The proposed new houses would sit adjacent to, albeit somewhat set back from, No 70, within the setting of the host listed building. Currently, the site forms part of an attractive garden setting to No 70, which buffers it from nearby properties by providing an appreciable gap in built form on that side. This helps to give No 70 some 'breathing space' and something of a standalone appearance from built development that is not historically related to the position of the former farmstead. Consequently, it makes an important contribution to the setting of the listed building and the way it is perceived from the public realm. Currently therefore, the appeal site makes a positive contribution to the significance of the heritage asset.
8. No 70 faces onto Havant Road, from where it is open to clear public view. The side and rear garden area is partially screened from the road by the existing fence and vegetation. The proposed houses and garages would have an inappropriately close relationship with No 70, occupying a large part of the garden that has an important function as part of the immediate setting of the listed building. The removal of trees and vegetation to create the access would open new views of the site, where the proposed development would be apparent. The substantial new built form, particularly of the two-storey houses, would also be visible in part above the boundary treatment and therefore visible in the setting to the side of No 70. While a private side garden area would be retained at the host property, the new buildings, by virtue of their number, overall scale, and siting in relation to No 70 would appear cramped and visually intrusive in relation to that listed building. Furthermore, their set-back position would be out of keeping with the established linear and road-facing pattern of development nearby.
9. While the effect on the setting of the granary would be significantly limited by existing screening, these factors would erode the existing relatively open character of the site by the introduction of significant new built form. In my view, this would harm the setting of the nearby listed buildings, particularly No 70, and detract from their significance and the character and appearance of the local area generally. The development would therefore conflict with Policy CS16 of the adopted Havant Borough Core Strategy 2011 (the CS), which sets out general design criteria including that development should respond positively to existing features of historic or local character within or close to the site. It would also conflict with Policy CS11 of the CS, which seeks to ensure that development would protect and enhance the special environment and heritage of the borough, including statutory heritage designations such as listed buildings.

10. These policies pre-date the National Planning Policy Framework (the Framework). However, I consider their relevant requirements to be generally consistent with the aims of the Framework in relation to good design and conserving and enhancing the historic environment. I have therefore given them substantial weight in this appeal.
11. In light of the above, I conclude that the proposed development would have a harmful effect on the character and appearance of the area, including the setting of nearby listed buildings by failing to preserve their setting, which is a matter of considerable importance and weight. I quantify the harm to the significance of the heritage assets as less than substantial, having regard to Paragraphs 133 and 134 of the Framework.
12. Where a development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. I return to consider the various benefits of the scheme below.
13. The proposal would also be generally inconsistent with the adopted Havant Borough Design Guide Supplementary Planning Document (SPD) 2011, which among other things advises that backland and infill sites should maintain and enhance the existing character and quality of the area, and that such development should be subservient to the frontage property.

Living conditions

14. 72 Havant Road is a residential barn, which I am advised was reconstructed, at least in part, following a storm. Its gable end is positioned fairly close to the boundary with the appeal site. The rear elevation of one of the new houses would face towards the gable end, where there are several windows. The windows at ground and first floor levels are narrow, and the two at first floor level are obscure glazed. These windows are largely screened from the site by existing evergreen hedging and some trees.
15. There would be potential for some mutual overlooking between the larger window at second floor level at No 72 and the rear windows at the new house, which would include habitable accommodation. The SPD provides guidance that back-to-back separation distances of at least 20m will normally be required in the interests of providing reasonably private rear space. Where one elevation is a blank gable this distance may be reduced to 10m. In this case the gable is not blank, but the relevant elevation at No 72 is also not a back elevation. On this basis, and having regard to the boundary screening between the site and No 72, I consider that while there would be some potential for mutual overlooking, the proposed separation distance of 17m is reasonable in the circumstances. Therefore, there would be no significant effect on the living conditions experienced at No 72 in this regard.
16. For these reasons, I conclude that the proposed development would not harm the living conditions of neighbouring occupiers, with particular regard to privacy. It would therefore accord with Policy CS16 of the CS, which among other things seeks to ensure that development would not cause unacceptable harm to the amenity of neighbours through loss of privacy and overlooking. This policy pre-dates the Framework but I consider it to be generally consistent with it, including in relation to seeking a good standard of amenity for all existing and future occupants of land and buildings, and so I have given it

substantial weight. The proposal would also be generally consistent with the requirements of the SPD.

Other Matters

17. I acknowledge there would be a number of public benefits of the proposed development. In particular there would be social and economic benefits arising from three additional dwellings in a residential area, which would also contribute towards the Council's housing requirements. These benefits would be modest in connection with a development of the scale and nature proposed, but I have afforded them some weight in favour of the appeal.
18. The site lies within the 5.6km zone of influence for the Solent Special Protection Area (SPA), where new housing development, without mitigation, is likely to have a significant effect on the SPA. The Council advises that it has received the relevant payment towards the Solent Recreation Mitigation Project, in accordance with Policy DM24 of the adopted Havant Borough Local Plan (Allocations) 2014. Accordingly, I am satisfied that the development would not be likely to affect the overall integrity of the SPA.

Conclusion

19. While I have not identified harm in relation to living conditions, I have identified significant harm in relation to the character and appearance of the area, including the setting of designated heritage assets. The modest public benefits of the scheme would not be sufficient to outweigh this harm to the conservation of the setting of nearby listed buildings, particularly No 70, to which great weight should be given. Therefore, for the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Catherine Jack

INSPECTOR

APPENDIX F

Mon 12/02/2018 09:14

Haywood, Daphney

APP/17/00320 Land to the rear of 70 Havant Road

To bst shared

Hi

Post decision proposal for idox and web

Best Regards

Daphney Haywood

Ian

Thank you for your email. Following discussion with the Conservation Officer I did leave a message on your voicemail in respect to a scheme for one dwelling. Given the Inspectors comments even a modest single dwelling on the site in the form of what appears to be a converted single storey outbuilding would when viewed in association with the access have a detrimental impact on the setting of the listed building.

I have looked at the proposed plans attached to your email, and leaving aside the impact of the drive, which in its self would have a detrimental impact, the proposed dwelling is excessively bulky and completed unacceptable.

Best Regards

Daphney Haywood

Principal Planner

Planning Services

Havant Borough Council, Public Service Plaza, Civic Centre Road, Havant PO9 2AX

Direct Phone: 023 9244 6513

Please note my usual work days are Monday, Wednesday and Thursday

www.havant.gov.uk

www.facebook.com/havantboroughcouncil

www.twitter.com/havantborough

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Information in this message is confidential and may be privileged. It is intended solely for the person to whom it is addressed. If you are not the intended recipient, please notify the sender and delete the message from your system immediately.

From: Ian Murray
Sent: 09 February 2018 12:46
To: Haywood, Daphney
Subject: Land to the rear of 70 Havant Road

Daphney,

I still need to progress this for my client , you were going to look at the the idea of a single dwelling on the site as per your previous email saying this might be acceptable if it was in a barn style design.

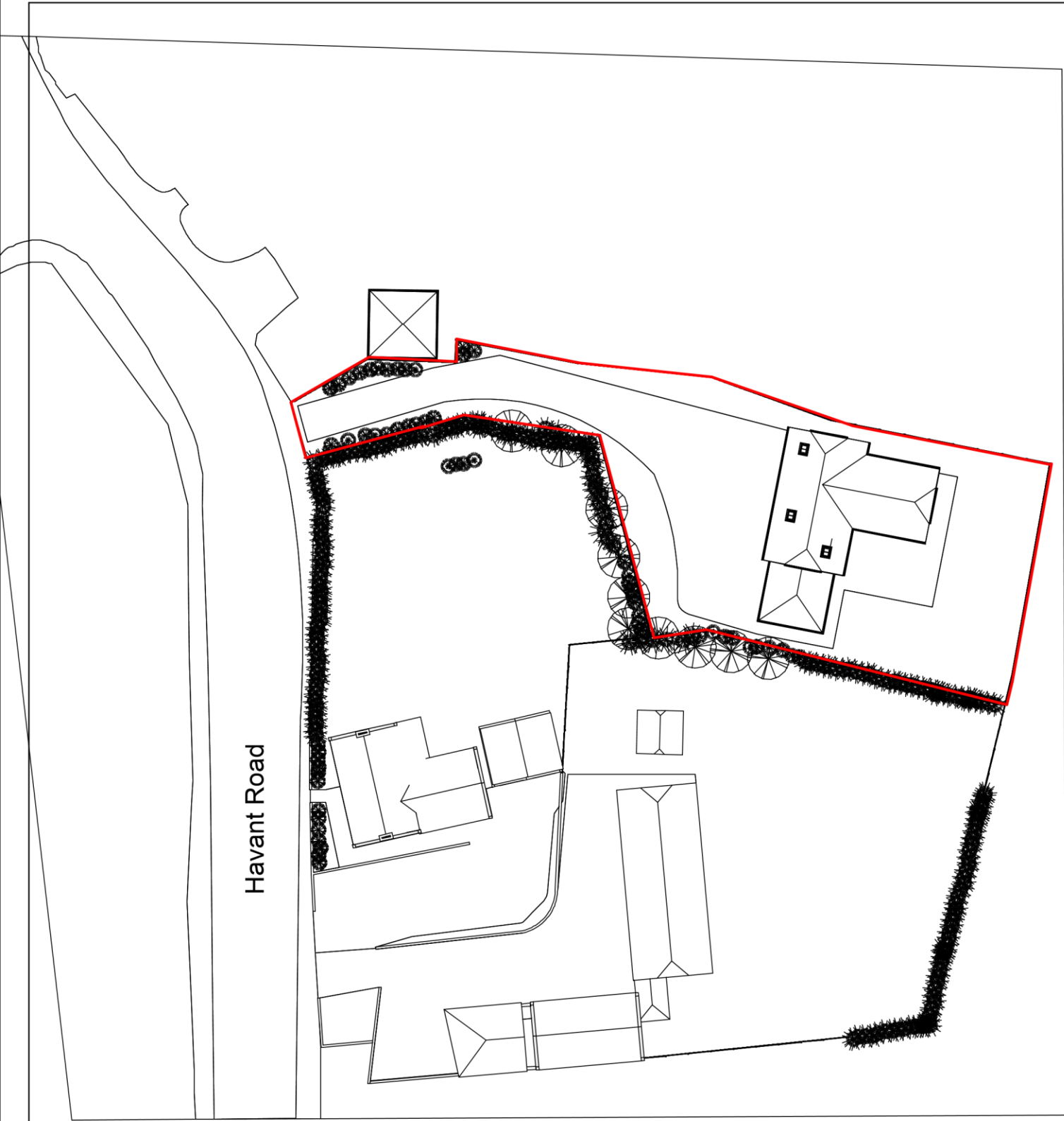
I appreciate its difficult to progress this without an idea of the design, so I have put together a proposal (as attached) to give you an idea

The design aims to echo the design of the existing barn but on a smaller scale and presents a small façade to the listed building at a significantly larger distance. I believe this retains the listed buildings isolated position

I would be grateful for your thoughts before I submit

Many thanks

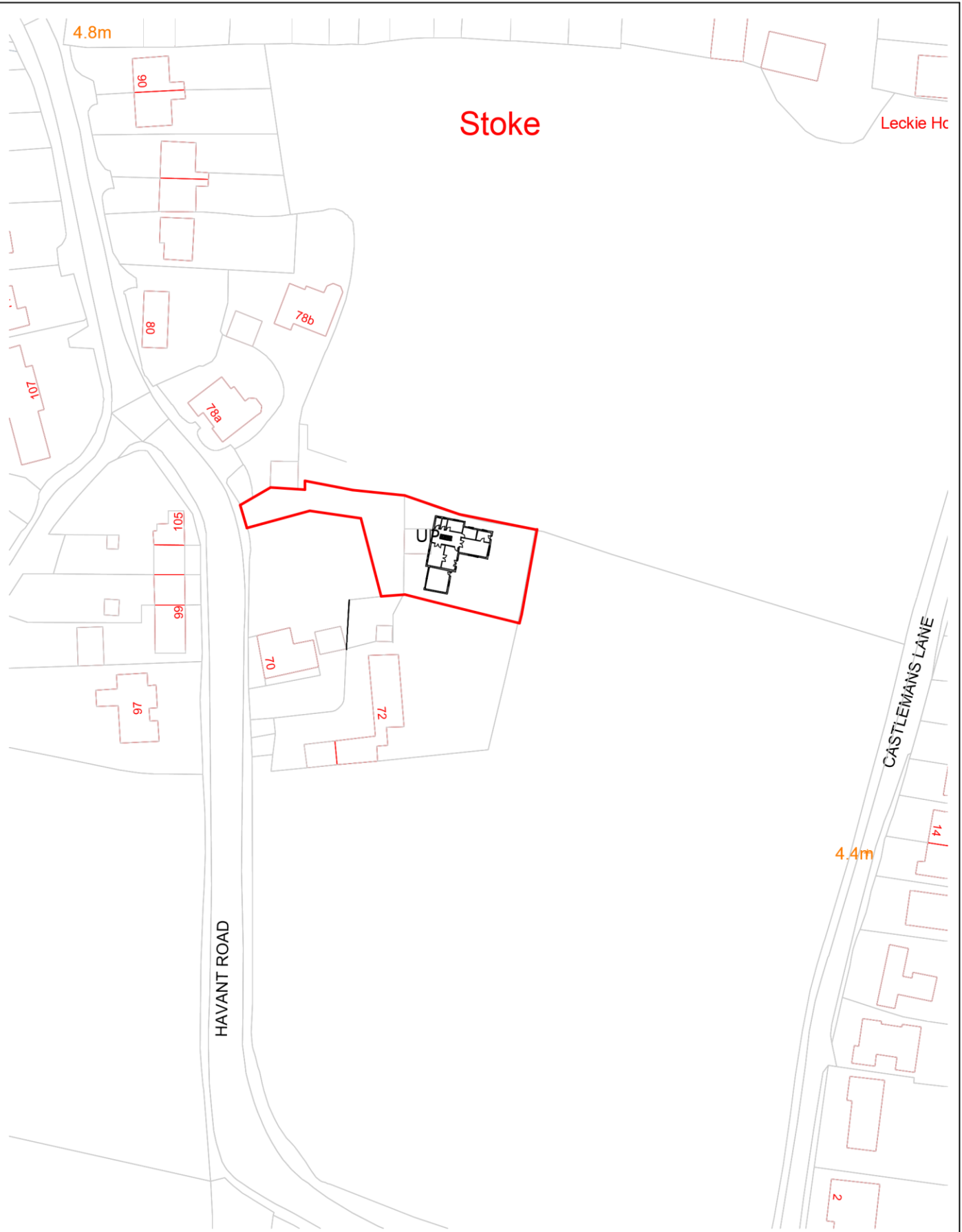
Ian Murray



Havant Road

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Ordnance Survey 0100031673

Site Plan Scale 1:500



Stoke

Leckie Hc

HAVANT ROAD

CASTLEMAN'S LANE

Location Plan Scale 1:1250

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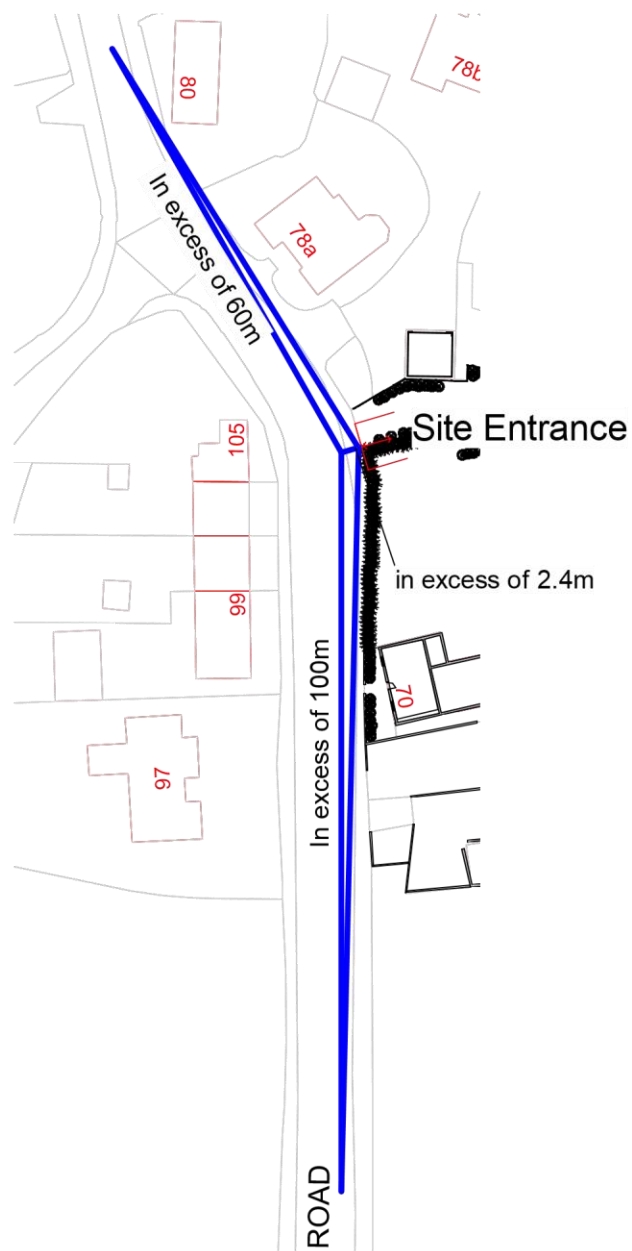
No.	Description	Date

Ken Muddle /Jeff Mould

Land to rear of 70
Havant Rd Hayling

Site and Location Plans

Project number	Project Number	A101 V7	
Date	Issue Date		
Drawn by	Author		
Checked by	Checker	Scale	As indicated



Clear View to South in excess of 100m
(note hedging which is on site to be cut
back and reduced to allow visibility splay
view)



Clear View to the North in excess of 60m
to rear car in view provided (note hedging
which is on site to be cut back and
reduced to allow visibility splay view)

1 Visibility splays

1 : 1000

It should be noted that access to this proposed development offers better visibility to the Havant Road than the previously approved backland development neighbouring and to the north of this site



2 Level 0 - Map Plan

1 : 500

IJ Murray Associates

www.ijma.co.uk

No.	Description	Date

Ken Muddle /Jeff Mould

Land to rear of 70
Havant Rd Hayling

Visibility Splays

Project number	Project Number	A102 V7
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale
		As indicated



— Foul Drainage

□ Two bin bin store

Levels
Construction areas are flat hence no level survey has been provided however site sections show level changes

Flood Risk Assessment
The site does not fall in a flood risk area hence no Flood risk assessment has been provided

Tree Survey
This proposal has no impact on trees

Parking Provision
The Properties have Parking for up to 4 cars on all but the road facing property which has two spaces

Boundary Treatment
The boundaries are made up of 1.8m timber panel fences

IJ Murray Associates

www.ijma.co.uk

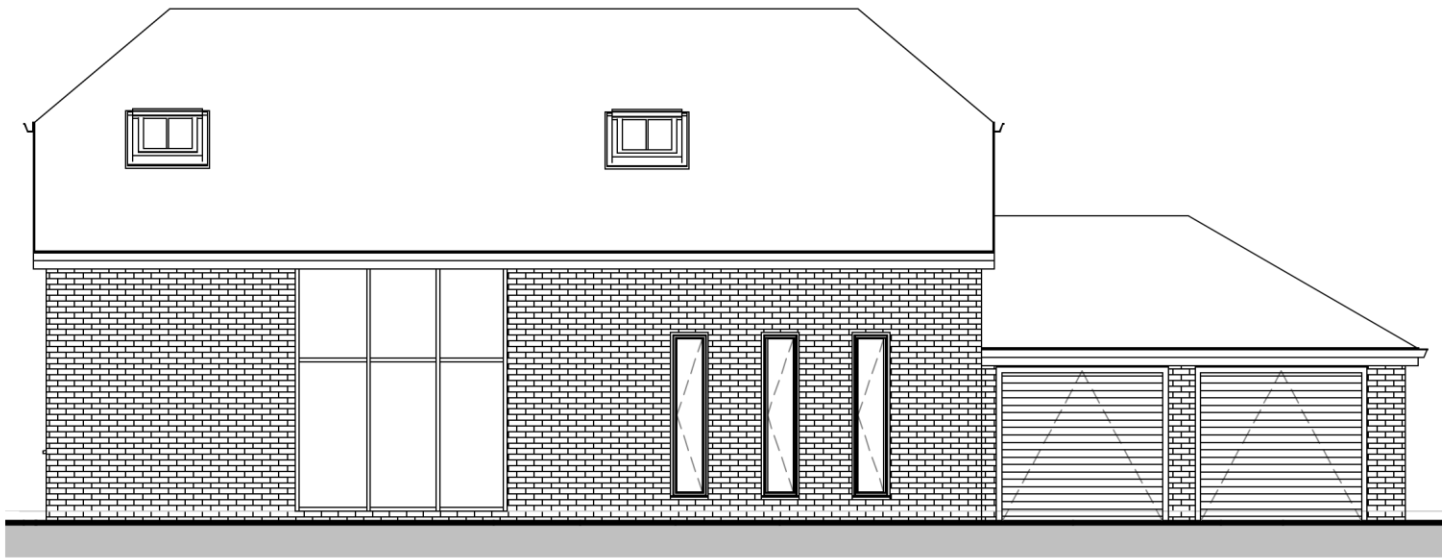
No.	Description	Date

Ken Muddle / Jeff Mould

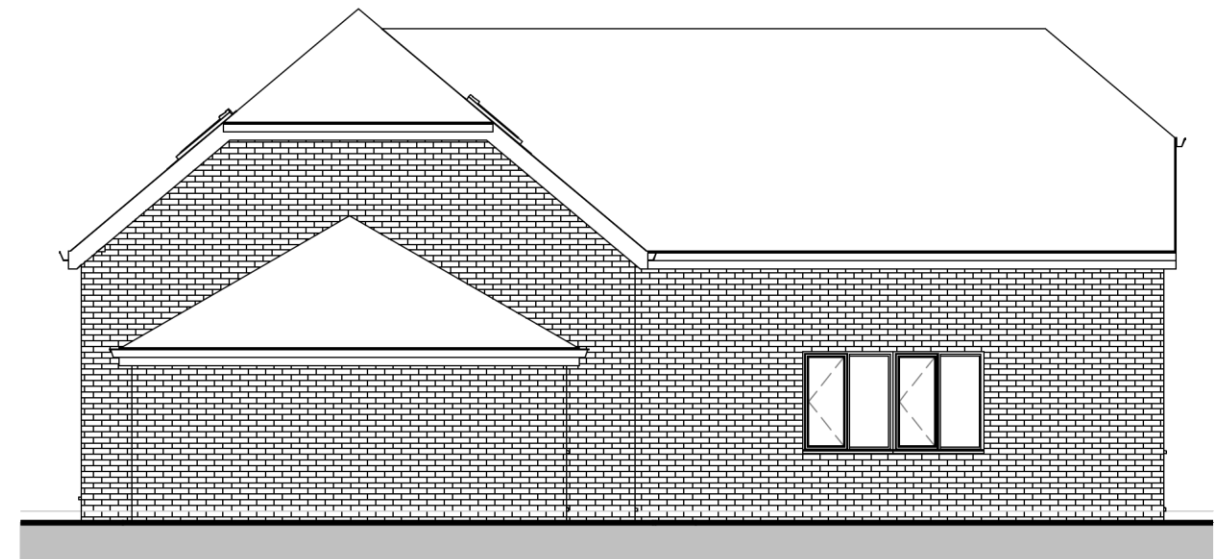
Land to rear of 70
Havant Rd Hayling

Site Roof / Boundary Plan

Project number	Project Number	A103 V7
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 200



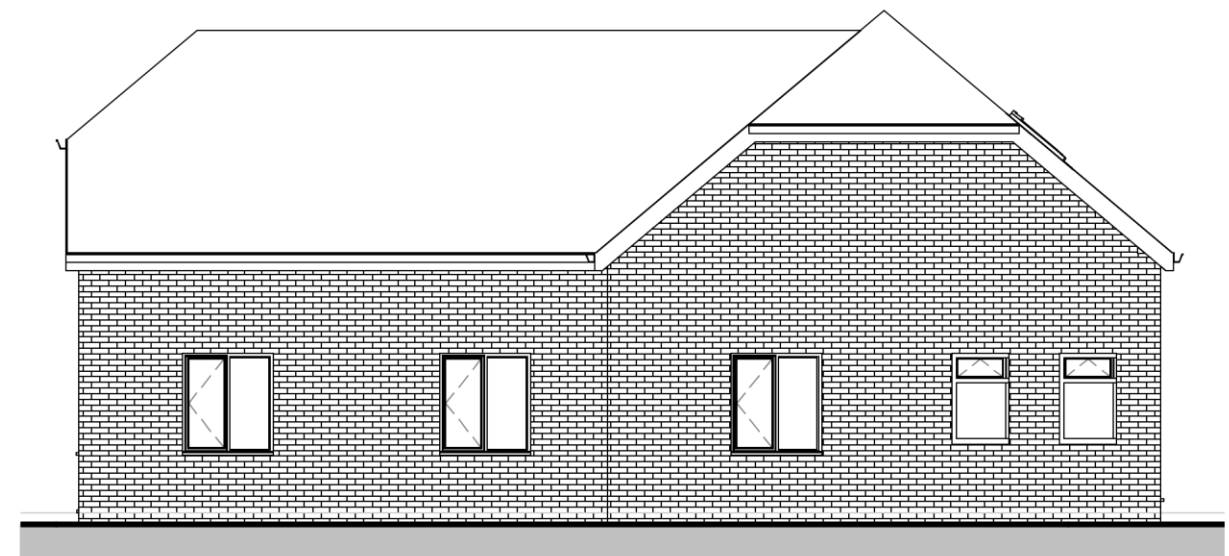
1 West Elevation
1 : 100



3 South Elevation
1 : 100



2 East Elevation
1 : 100



4 North Elevation
1 : 100

IJ Murray Associates

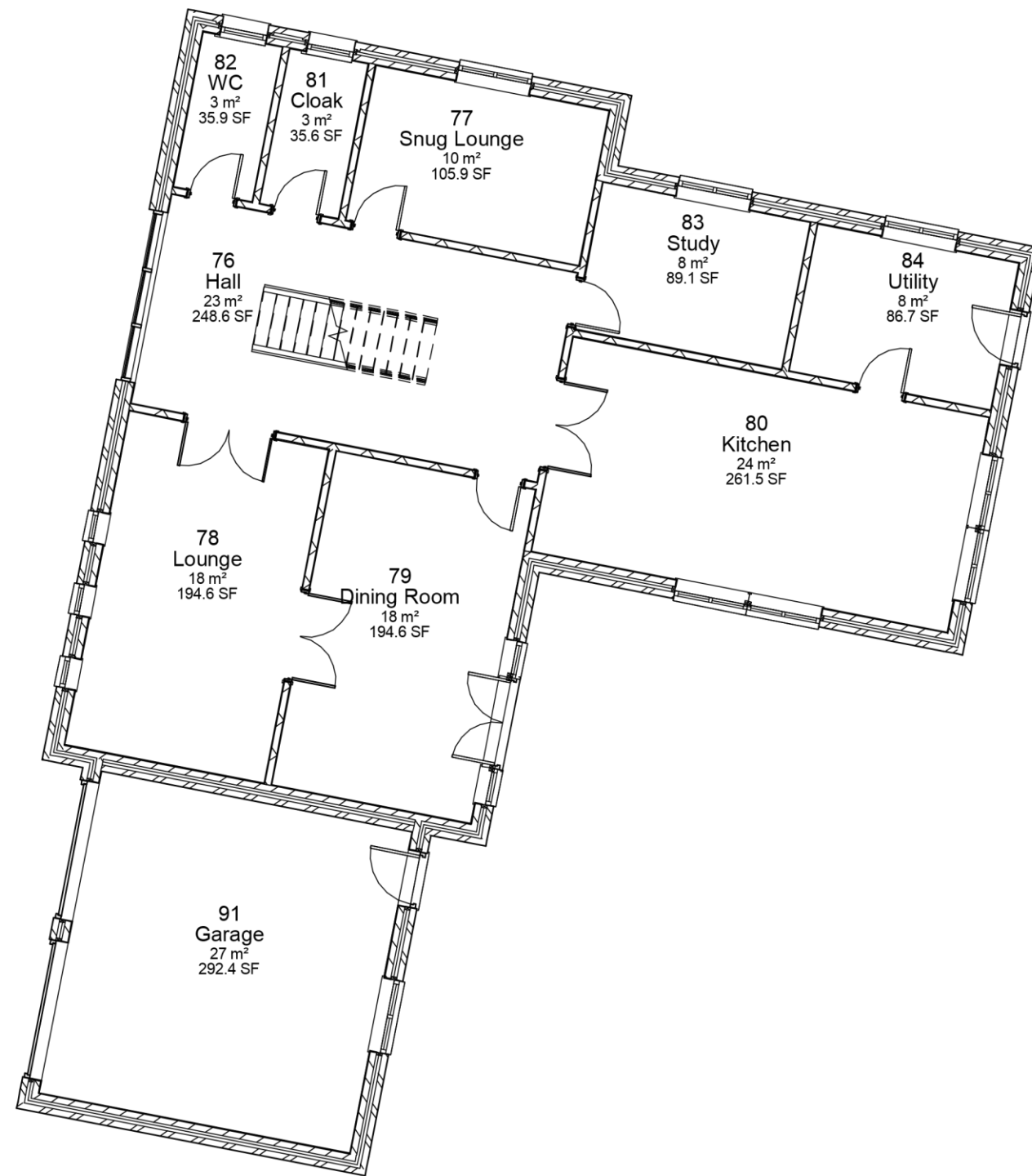
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No.	Description	Date

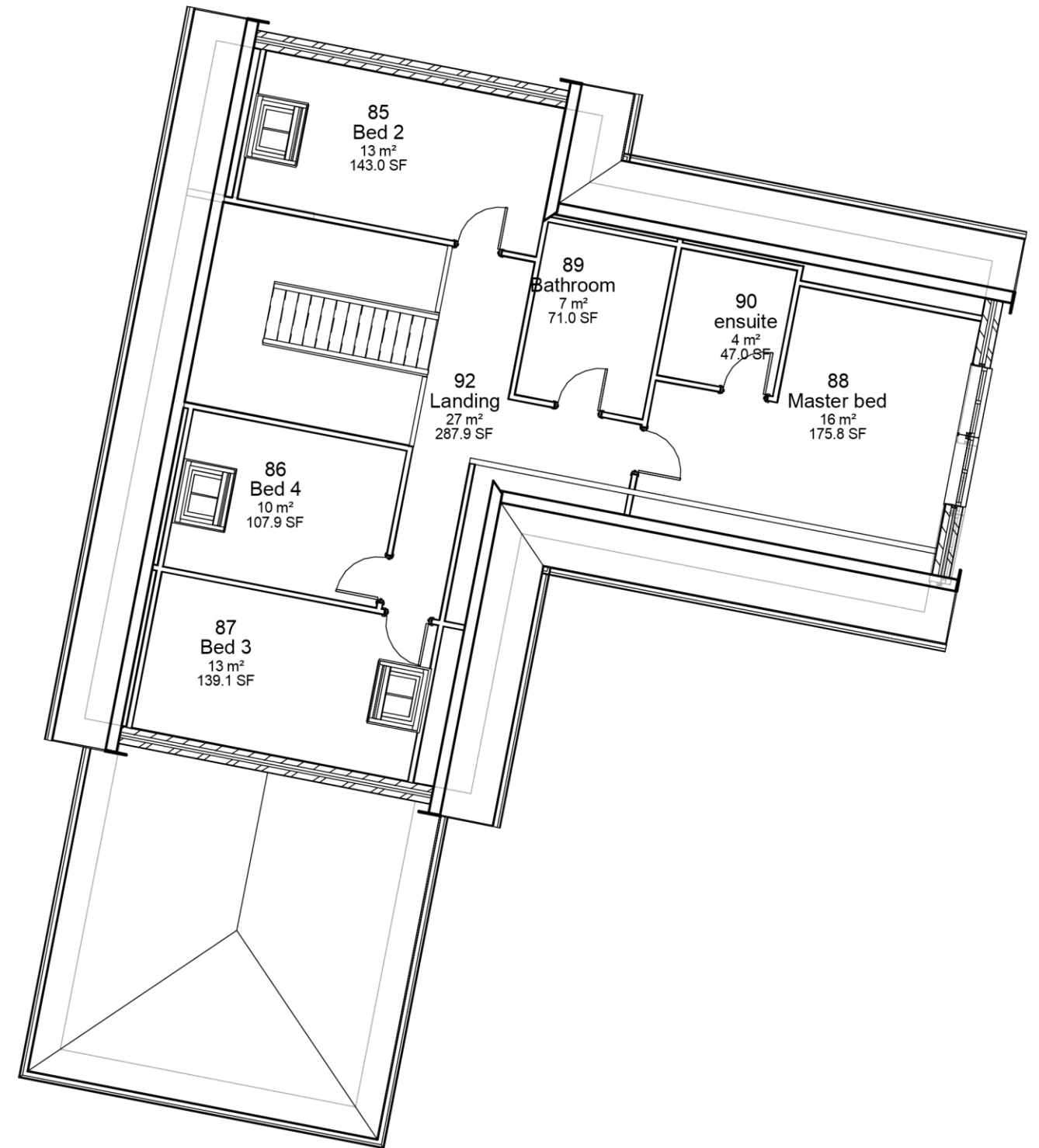
Ken Muddle /Jeff Mould
Land to rear of 70
Havant Rd Hayling

Elevations

Project number	Project Number	A104 V7
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 100



2 Ground Floor
1 : 100



1 First Floor
1 : 100

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No.	Description	Date

Ken Muddle /Jeff Mould
Land to rear of 70
Havant Rd Hayling

Floor Plans

Project number	Project Number	A105 V7
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 100



1 3D View 1_2
1 : 1



2 3D View 3_7
1 : 1



4 3D View 14_5
1 : 1



3 3D View 9_4
1 : 1

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No.	Description	Date

Ken Muddle /Jeff Mould
Land to rear of 70
Havant Rd Hayling

Views

Project number	Project Number	A106 V7
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 1



1 **-3D-_10**
1 : 1

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No.	Description	Date

Ken Muddle /Jeff Mould
Land to rear of 70
Havant Rd Hayling

3D Axon View

Project number	Project Number	A107 V7
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 1

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Mr K Mould and J Muddle AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION Erection of 3No. 4 bed detached houses with associated garages. (Revised application.)

Planning Inspectorate Reference: APP/X1735/W/18/3205074

LPA REF: APP/18/00300

List of Suggested Conditions

1

The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2

The development hereby permitted shall be carried out in accordance with the following approved plans:

Site and location plan A101V7
Visibility splays A102V7
Site roof/boundary plan A103V7
Elevations A10V7
Floorplans A105V7
Views A106V7
3d views A107V7
Site sections A108V7
Road survey plans A112V7

Reason: - To ensure provision of a satisfactory development.

3

Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the buildings and the hardsurfaced areas, including the frontage parking spaces and access drive, have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

4

No development shall commence on the site until a more detailed soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the boundary screening areas and frontage area and shall include plant species,

planting sizes and spacings, and detailed planting position in relation to the sewer on site and boundaries. Such approved planting shall be completed prior to the first occupation of the development.

All such planting shall be maintained to encourage its establishment for a minimum of five years following contractual practical completion of the development. Any trees or significant areas of planting which are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within this period shall be replaced before the end of the next planting season.

Reason: To ensure an appropriate standard of screening for neighbouring amenity and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

5

The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

6

No 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.