

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

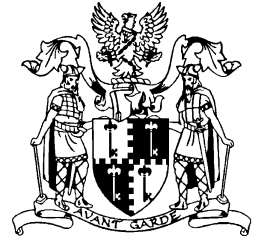
**STATEMENT OF
HAVANT BOROUGH COUNCIL**

13-15 Park Parade, Havant, PO9 5AA

**Local Planning Authority Reference:
APP/16/00630**

**Planning Inspectorate Reference:
APP/X/1735/W/17/3167867**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY HEATHROW HOMES AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR REDEVELOPMENT, EXTENSION AND CHANGE OF USE TO FORM 4NO. 2 BED FLATS AND RE-SITING OF EXTERNAL STAIRCASE AT 13-15 Park Parade, Havant, PO9 5AA

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1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The site is located in Park Parade which is a mixed use development of ground floor commercial units and first floor residential units, purpose built in the 1950s. Rear access to the existing upper floor flats and the commercial units for deliveries is provided from the service road (Tidworth Road).

2.0 PLANNING HISTORY

None relevant

3.0 THE APPLICATION

- 3.1 The application was received on the 25th July 2006 and sought Redevelopment, extension and change of use to form 4No. 2bed flats and re-siting of external staircase at 13-15 Park Parade, Havant.

The application was refused under delegated powers on the 14th September 2006 on the following grounds:

1
The proposed development owing to its proximity to the service road and poor outlook and environment for future residents would not provide an acceptable level of amenity for residential development, and as such is unsuitable for residential development. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

2
The proposed development would constitute an undesirable over-intensive use of the site which would not provide satisfactory living conditions for the occupants. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework 2012.

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

4.0 PLANNING POLICY

- 4.1 The Development Plan comprises the Havant Borough Local Plan (Core Strategy) 2011 the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

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

CS9 (Housing)
 CS16 (High Quality Design)
 CS17 (Concentration and Distribution of Development within the Urban Areas)
 CS21 (Developer Requirements)
 DM13 (Car and Cycle Parking on Residential Development)

The following policy of the Havant Borough Local Plan (Allocations) 2014 (HBLPA 2014) is also of relevance.

DM24 (Recreational Disturbance to Special Protected Areas (SPAs) from

Also of relevance is the Borough Design Guide (2011)

5.0 CONSULTEE RESPONSES AND REPRESENTATIONS

- 5.1 The application, which is the subject of this appeal, was published in accordance with the Council's adopted publicity procedures and no letters of representation were received.

Copies of all consultee responses have been forwarded with the questionnaire. In respect to the consultees responses there were no adverse comments.

6.0 PLANNING CONSIDERATIONS

- 6.1 The Council's decision in this case is best explained by expanding upon the reasons for refusal having regard to the local and national policy framework outlined in Section 4 above.
- 6.2 Relevant development plan policies allow in principle for new residential dwellings in existing urban areas subject to various issues being satisfied. In the case of the appeal development these issues are primarily identified in Policies CS9, CS16,

CS17, CS21 and DM4.

- 6.3 Policy CS9 (Housing) identifies the need to deliver housing and achieve sustainable development, and this is supported by Policy CS 17 (Concentration and Distribution of Development within the Urban Areas) which promotes the most effective use of land and the concentrating of development within the urban areas of Havant, Leigh Park, Waterlooville, Emsworth and Hayling Island.
- 6.4 Policy C16 (High Quality Design) sets out criteria for new development and of particular relevance is:-
- 1e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.
- 6.5 Policy CS21 (Developer Requirements) Where new or improved infrastructure is essential for planning permission to be granted the council will require the on-site or off site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for off-site provision. While Policy DM 24 seeks to mitigate the impacts of disturbance from recreational activities on the Solent SPAs
- 6.6 In determining the application the main planning issues identified in respect to the proposal were:-
- The adequacy of the amenities for future occupants of the development.
Over intense development
Solent Recreation Mitigation Project
- The adequacy of the amenities for future occupants of the development.
- 6.7 The proposed residential units would be located to the rear of the existing retail units fronting Park Parade. The layout of the parade generally comprises ground floor retail units extending to the rear and with rear service areas served off the existing rear service road (Tidworth Road). Residential development is located above that part of the retail units fronting Park Parade but does not generally extend back to the service road, and hence the residential units are separated from the service road by existing lower floor commercial and/or service yards. As the existing flats are elevated above the retail floor space and service yards the impact of the activities associated with these areas is mitigated by this separation, and the impact of the service road is mitigated by the horizontal and vertical separation.
- 6.8 The proposed development would front onto the service/delivery area for the commercial units and abuts the service road. Commercial activity including deliveries operating within these areas, particular late at night/early evening, would result in noise and activities in close proximity of the habitable rooms and an adverse impact on amenity from disturbance. As such the development is contrary to the requirements of Policy CS16 as it does not respect the requirement for privacy and safeguarding residents from noise nuisance.
- 6.9 All the proposed windows to habitable rooms would look on the yard area and boundary wall on the adjoining site. The outlook would therefore be of the waste and cycle/parking areas which would be in close proximity at 4m or less with the high boundary wall immediately beyond. This outlook would be oppressive and harsh and affords little in the way of amenities for the future occupants. As such the development is contrary to the requirements of Policy CS16 as it does not respect

the requirement for an acceptable well designed outlook.

- 6.10 The adopted Borough Design Guide para 5.1 sets out General Principles for New Residential Developments. The design of new development needs to balance the need for the new home to have a reasonable levels of privacy, whilst ensuring that the development and its residents engage with the street and public realm. This section addresses back to back to distances and para 5.05 states amongst other things that in order to maintain a reasonable relationship between new dwellings and neighbouring properties, the following minimum distances should apply and where a dwelling faces a blank gable, 10 metres separation distance is required. The separation at approx. 5m is well below this and as set out above this relationship would be oppressive and additionally the enclosed nature of the site and single orientation of the units would allow little opportunity for sunlight to enter the dwellings. As such the development would not provide a good environment for future residents.

Over intense development

- 6.11 Paragraph 56 of the NPPF makes it 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.” Paragraph 58, bullet 4 seeks to ensure that development responds to local character, with bullet 6 requiring good architecture.
- 6.12 Paragraph 59 seeks to ensure the sustainable construction of the dwellings, whilst paragraphs 60 and 61 seek to ensure the development is designed well accounting for local context. Paragraph 64 however, requires development of poor design to be refused
- 6.13 The proposed development is poorly designed in that it provides no private amenity space for future occupants which combined with the very restricted outlook from the units creates a poor environment. Additionally the impacts of the siting on amenity have not been properly considered as occupiers of the retail unit and the upper floor flats would of necessity have to pass directly in front of the main living room windows to the proposed dwellings. The absence of amenity space, lack of privacy and close relationship with commercial activity from such an intensity of development would not provide satisfactory living conditions for the occupants. As such the development is contrary to the requirements of Policy CS16 as it does not provide an acceptable environment for future residents.

Solent Recreation Mitigation Project

- 6.14 The applicant's statement states that refusal reason 3 has been dealt with in that a completed and signed agreement for a financial contribution in respect of the Solent Recreation Mitigation Partnership was provided at a late stage. This is correct in that the deed for the up front payment of £759.20p was been received on the 21 September 2016 after the issue of the decision issued on the 14 December 2016, however, this was not accompanied by the up front payment and remains outstanding. The appellant has advised that payment will be made and this is currently awaited.
- 6.15 In the event that payment is not received the Council's case in respect to this reason for refusal is as follows:-
- 6.16 The Solent coastline provides feeding grounds for internationally protected

populations of overwintering waders and wildfowl. It is also extensively used for recreation. In response to concerns over the impact of recreational pressure on birds, the Solent Forum initiated the Solent Disturbance and Mitigation Project to determine visitor access patterns around the coast and how their activities may influence the birds. The research concluded that there was mortality arising from disturbance in the populations of some SPA species, which would be exacerbated through new (residential) development.

- 6.17 Natural England has advised “competent authorities” including Havant Borough Council, Portsmouth City Council and Chichester District Council that a significant effect on the Solent SPAs is likely, as a result of the extra disturbance caused by new residential development. By law authorities must ensure these impacts are mitigated when they allocate or permit developments. Natural England ‘police’ this responsibility under the Habitats Directive and Regulations. They have advised the coastal authorities that a process for mitigation needs to be in place by 1 May 2014, otherwise the authorities who permit residential development without mitigation will be in breach of EU law. The Council addressed this responsibility through Policy DM24 Recreational Disturbance to Special Protected Area (SPAs) from Residential Development, which is in the Council approved Local Plan (Allocations):Submission Version. This allows mitigation through a) a financial contribution. The coastal authorities have been working with Natural England since 2013 to understand how much a financial contribution may be.
- 6.18 On the 5th November 2013, the Solent SPA Interim Planning Framework was published. This was produced in response to the SDMP Phase 3 work, which advised that “quick win” measures should be introduced in order to address the requirements of the Habitat Regulations. These measures consist of the provision of dog wardens and rangers to educate visitors about the impacts of their actions on protected species.
- 6.19 The Interim Framework concludes that a contribution of £171.94 per dwelling was required subsequently increased on an annual basis. In applying this contribution to all new residential development, the Council will ensure compliance under the Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations).
- 6.20 It is worth noting that Policy DM24 also states that an applicant can avoid making a financial contribution where, subject to the tests of the Habitats Regulations, they can show that there would be no adverse effect on the integrity of the Special Protected Area (SPA). No evidence has been submitted in this respect and therefore the financial contribution is required to address this matter.

7.0 COMMENT ON THE GROUNDS OF APPEAL

The points raised in the appellants’ grounds for appeal have largely been dealt with under the ‘Planning Considerations’ section of this statement.

8.0 CONCLUSION

- 8.1 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. Policies CS9, and CS17 of the Core Strategy support residential development within the built up area and the need to provide small units to meet housing demand, which is also

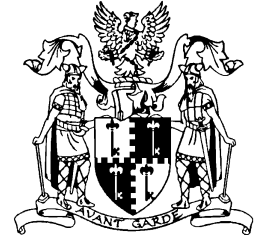
identified in the Annual Monitoring report.

- 8.2 The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development however this should not be to the detriment of the local area.
- 8.3 Paragraph 6 makes it clear that regard must be had to the document as a whole in determining what the Governments view of sustainable development means in practice. It promotes the effective use of land through the re-use of previously developed land. With paragraph 49 stating that “housing applications should be considered in the context of the presumption in favour of sustainable development.”
- 8.4 However, paragraph 56 makes it 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.” Paragraph 58, bullet 4 seeks to ensure that development responds to local character, with bullet 6 requiring good architecture.
- 8.5 Paragraph 59 seeks to ensure the sustainable construction of the dwellings, whilst paragraphs 60 and 61 seek to ensure the development is designed well accounting for local context. Paragraph 64 however, requires development of poor design to be refused.
- 8.6 Policy CS16 of the Havant Borough Core Strategy Local Development Framework 2011 seeks to reflect the requirements of the NPPF at a local level. It and the local plan policies encourages the principle of development within the settlement area, provided that any new development pays proper regard to the character and appearance of the area, design and neighbour amenity.
- 8.7 While in economic and social terms, the provision of additional dwellings 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, satisfying a growing need to provide small dwellings, it is considered that the very poor environment that would be provided for future residents would be contrary to the provisions of Paragraph 64 of the NPPF and Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the Havant Borough Design Guide which, require development of poor design to be refused.
- 8.8 The upfront payment in respect to the SRMP has not been provided and as such the requirements of Policy DM24 have not been satisfied.
- 8.9 The Council would therefore respectfully request that the Inspector dismiss the Appeal. If however, the Inspector is of mind to grant consent the Council would suggest that the conditions forwarded separately be attached to any consent.

APPENDICES

- (A) Site Location Plan

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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 approved plans:

Reason: - To ensure provision of a satisfactory development.

3 No development shall take place until plans and particulars specifying the following matters have been submitted to and approved in writing by the Local Planning Authority:

(i) The provision to be made within the site for contractors' vehicle parking during site clearance and construction of the development;

(ii) The provision to be made within the site for a material storage compound during site clearance and construction of the development.

Thereafter, throughout such site clearance and implementation of the development, the approved parking provision and storage compound shall be kept available and used only as such.

Reason: To safeguard the amenities of the locality and/or in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

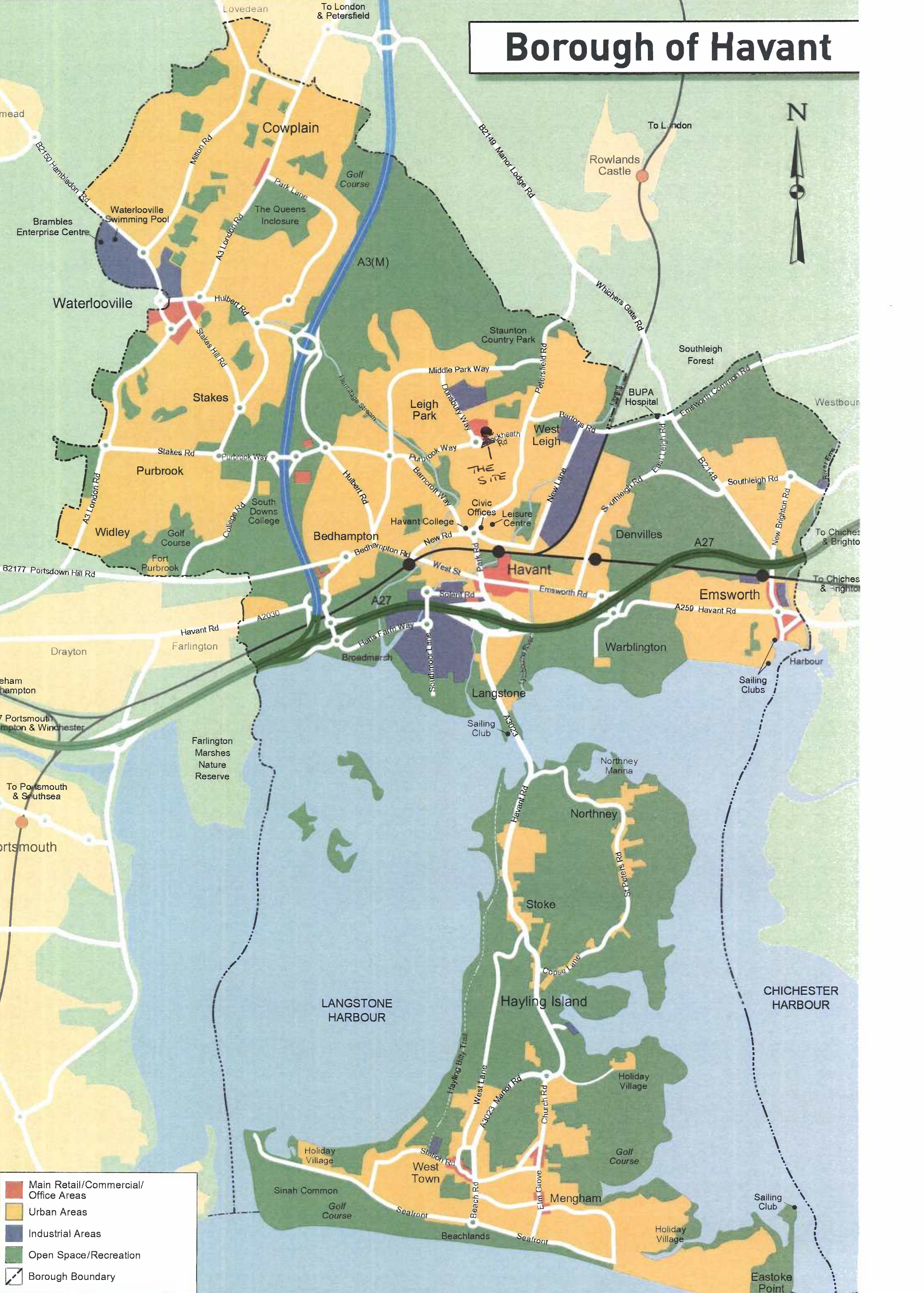
4 Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: 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.

5 The applicant to confirm that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To protect the amenities of the future occupants of the proposed dwellings, and to ensure the residential amenity of the properties is not impacted upon by any internal or external noise levels, especially road traffic noise and deliveries to businesses from Tidworth Road, and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework..

Borough of Havant



Main Retail/Commercial/
Office Areas

Urban Areas

Industrial Areas

Open Space/Recreation

Borough Boundary



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13-15 Park Parade
Havant
 Scale: 1:1250

Havant
 BOROUGH COUNCIL

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