
Site Address:	106 West Lane, Hayling Island, PO11 0JW		
Proposal:	Outline application for single storey three bedroom dwelling to the rear of 106 West Lane.		
Application Type:	Outline Application		
Application No:	APP/23/00904	Expiry Date:	23/01/2024
Applicant:	Mr Legge		
Agent:	Mr Hebden	Case Officer:	Tina Pickup
	Hebden Design Studio		
Ward:	Hayling West		

Recommendation: **REFUSE OUTLINE CONSENT**

1 Site Description

- 1.1 The red lined application site relates to a parcel of land within the blue lined residential curtilage of 106 West lane, Hayling Island. Number 106 West Lane comprises a substantial detached two storey dwelling set in large grounds on the east side of West Lane. The property is white painted with first floor black painted beams, beneath a largely hipped plain tile roof. Windows are predominantly sash. The dwelling is not Listed nor Locally Listed, and neither is the site located within a Conservation Area. The curtilage of the existing property fronts West Lane, having a width of some 70 m and length of 100m, extending to about 0.64 ha.
- 1.2 Vehicular access is taken from close to the northern corner of the site, with a gravel drive curved between mature trees, leading to a gravelled turning area and detached pitched roof garage to the north of the dwelling. This garage is sited about 4.5m from the northern boundary which comprises a close boarded fence with mature trees and shrubs.
- 1.3 The curtilage of 106 West Lane is relatively flat and mainly grass, interspersed with mature trees and shrubs, resulting in a rural and woodland character. The trees are more dense at the southern end of the site, and beyond this wooded area and the southern boundary is another residential property, but due to the screening and separation distances it can hardly be seen. Agricultural fields lie to the east, with a low hedge on the eastern boundary.
- 1.4 The red lined application site includes the existing drive and a parcel of land in the north-eastern corner of the existing curtilage, that measures approximately 43m x 40m.
- 1.5 To the immediate north is another substantial detached dwelling set in similar large grounds and curtilage. Beyond that are two further detached dwellings that are set further to the east and share a driveway. All are set within, and surrounded by, mature trees/woodland such that they can't readily be seen from any long distance views. None of the trees on the application site or to the north or south are covered by Tree Preservation Orders. There is also one other large detached dwelling on the west side of West Lane, opposite the site, that is similarly screened by trees, which are protected by a Woodland TPO. Otherwise, the wider area is characterised by open fields and is rural in character.

- 1.6 West Lane is a C classified road but has no pavements or street lights. There are no footpaths or rights of way close to the site. The site lies outside any current or future flood zone. The site is not served by mains drainage. The site lies outside any defined urban area, the closest being the Newtown/West Lane urban area of Hayling, the boundary of which is some 0.55km (0.34 mile) to the south.
- 1.7 In addition the site lies immediately adjacent Candidate Site H49G for brent geese identified in the Solent Waders & Brent Goose Strategy, 2020.

2 Relevant Planning History

Site previously known as "Broomhill"

20664 - Erection of One Dwelling and garage at part of Broomhill, West Lane (*red line = a parcel of land in the south eastern corner with a new access*)

Refused 17 June 1970 Reasons: 1/ backland development with inadequate access would affect neighbours amenity; 2/ designated "white" land which should remain undisturbed; 3/ sporadic development adversely affecting proper planning of the area

20664/1 - Erection of one dwelling and garage at part of Broomhill, West Lane (*red line = a parcel of land in north-east corner of site, sharing existing access*)

Refused 19 June 1970 Reasons: 1/ backland development with inadequate access would affect neighbours amenity; 2/ designated "white" land which should remain undisturbed; 3/ sporadic development adversely affecting proper planning of the area

20664/2 - addition of accommodation at Broomhill (ancillary detached structure close to main house) - Permitted 21 July 1970

20664/3 - garage at Broomhill - Permitted 16 February 1971

3 Proposal

- 3.1 Outline application for single storey three bedroom dwelling to the rear of 106 West Lane.
- 3.2 During the course of determining this application it has been agreed to include within the description of development the number of bedrooms proposed as 3. Otherwise this is an outline application for a backland dwelling, with all matters reserved except access, which is proposed to share the existing access point from West Lane. The drive serving the proposed dwelling would run between the existing garage and northern boundary of the site, in a gentle curve, leading to a parking and turning area in the north-eastern corner of the site, in front of the suggested siting for the proposed dwelling.
- 3.3 The red lined application site includes the access drive and a parcel of land amounting to 0.19ha to the north-east of the existing dwelling, with the remainder of the site outlined blue. The application forms indicate that a package treatment plant would be provided for foul sewage and soakaways used for surface water disposal.

- 3.4 No Arboricultural information has been submitted with the application but during the course of determining this application an Extended Phase 1 Ecological Assessment was submitted. The agent has also provided extensive commentary on the policy situation of the proposal for consideration.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
DM23	(Sites for Brent Geese and Waders)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

1. The proposal shows the removal of several trees from the proposal site, primarily for access. There is no arboricultural information submitted.

2. We will require the following information please:

Arboricultural information in line with BS5837:2012 Trees in relation to demolition, design and construction to include:

- Tree survey data, including any offsite trees where they may be impacted by the proposal and any associated activities (access, bunding, contractor parking etc)
- Tree constraints plan (TCP) showing how trees have been considered in the design proposal to minimise impact on important trees
- Arboricultural Impact Assessment (AIA) including a clear description of all trees lost or pruned for the proposal and the mitigation that is offered to reinstate the lost tree cover.
- Tree Protection Plan (TPP) showing how retained trees will be safeguarded through the proposal and construction phase.
- An arboricultural Method Statement (AMS) detailing all operations near trees including any special engineering, installation, surfacing, level or other changes that may impact trees.

We recommend that this is produced by a suitably (L4) qualified arboricultural consultant.

In particular, any very old or large trees are to be carefully considered in context of the proposal and retention to be the default position.

At present, it is impossible to assess the impact in arboricultural terms, so I am unable to support the proposal. Therefore please record an objection against this application.

Crime Prevention

None received

Ecologist - initial comment

I note that the Design & Access Statement makes reference to a Phase 1 Ecological Assessment. I cannot see this report within the online documents but would be happy to review it when submitted.

- following receipt of Phase 1 Assessment

The application is accompanied by an Extended Phase 1 Ecological Assessment (Phillips Ecology, February 2024), which provides a sound assessment of the sites ecological value. The site comprises a large, partly wooded garden containing areas of managed and less-managed lawn, scrubby areas of taller vegetation, boundary hedging, scattered tall trees and shrubs, and a small pond. These habitats are described well and I am content that their ecological value has been assessed in suitable detail.

The proposals would entail the loss of areas of semi-improved/modified grass lawn as well as a number of trees a group of Ash trees close to the north-western corner of the site are considered to require removal due to Ash dieback. In addition, the small detached garage building may require removal/moving to facilitate the new access route.

The detached garage building is considered to offer moderate potential for supporting roosting bats. Based on the submitted Proposed Site Plan (Hebden Design Studio drawing 3.100), impacts to this building may be likely: if so, then further bat survey effort is required to assess the status of roosting bats. Similarly, several of the dead/decaying Ash trees scheduled for removal close to the new access route exhibit potential bat roost features. Again, further survey effort will be needed to clarify matters.

In respect to other protected and notable species, the site is considered to offer potential for nesting birds, common reptiles and Hedgehogs. Based on the submitted proposals, potential impacts to these species are considered to be relatively limited and no further survey works are recommended.

The surrounding arable farmland supports overwintering birds associated with the nearby Solent Special Protection Areas (SPAs) and are included within the Solent Waders & Brent Goose Strategy (SWBGS). Potential impacts to these areas of SPA supporting habitat could occur during construction activities, via novel noise and visual disturbance.

In summary, I am content that potential ecological impacts will be relatively limited and can predominantly be avoided or mitigated. However, the status of roosting bats within trees and the garage building requires further information and further surveys works are recommended. Additional survey works should be provided prior to determination.

NPPF, Circular 06/2005 and Natural England Standing Advice, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the Local Planning Authority prior to determination, particularly in the case of protected sites, habitats and species, which are a material planning consideration. This will enable the Local Planning Authority to determine the application on the basis of full knowledge about the potential ecological impacts of the proposal and to ensure that any impacts can and will be mitigated.

Hampshire Highways

Due to the scale of the proposal, being 5 dwellings or less, and that there is no new vehicular access on the public highway, HCC's standing advice should be referred to in the first instance. As a result, the Highway Authority will not provide detailed comments on this planning application. For more information on standing advice please use the following link: www.hants.gov.uk/transport/developers/consultation

HBC Environmental Services

None received

Landscape Team

From a landscape perspective we do not object to the principal of this application. However to mitigate the loss of trees to facilitate the development we require additional boundary tree planting. This could go towards the biodiversity net gain whilst providing further screening of the development to help retain the existing character.

Natural England

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have a likely significant effect on designated sites in the Solent, including:

- Solent and Dorset Coast SPA
- Portsmouth Harbour SPA and Ramsar Site
- Chichester and Langstone Harbours SPA
- Solent Maritime SAC
- Solent and Southampton Water SPA

Your Authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects cannot be ruled out. The following information is required to inform a HRA:

- Consideration of this project's effects on total nitrogen and/or total phosphorus nutrient loading within the Solent catchment, including a nutrient budget calculation.
- Details of proposed mitigation measures to address any nutrient impacts, including appropriately funded management and monitoring, and details of how the measures will be secured for the lifetime of the development.
- Any other likely significant effects that could arise from the development should also be assessed.

Once the above information is obtained, please consult Natural England on any appropriate assessment your authority may decide to make.

Planning Policy

Initial response

Policy Status

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan provide the development plan for the Borough. In addition, the Council has adopted a Housing Delivery Position Statement. It does not form part of the development plan but it is relevant to this application.

The following Adopted Local Plan policies are of particular relevance:

- CS9 – Housing
- CS11 – Protecting and Enhancing the Special Environment and Heritage of Havant Borough
- CS16 – High Quality Design
- CS17 – Concentration and Distribution of Development within the Urban Areas
- DM8 – Conservation, Protection and Enhancement of Existing Natural Features
- DM13 – Car and Cycle Parking in Residential Development
- AL1 – Presumption in Favour of Sustainable Development
- AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements

Principle of development

The site lies outside of the urban area as defined by policies CS17 and AL2. These policies seek to restrict development in these locations, except if consistent with policies for the countryside set out in national policy. Paragraph 2.10 of the supporting text in the Allocations Plan indicates that proposals for development in the non-urban areas need to be considered on the basis of the local plan policies and also the NPPF policies on rural areas.

Paragraph 84 of the NPPF states that planning decisions should avoid the development of 'isolated homes' unless the circumstances set out within the national policy apply. In this case, it is understood that none of them would apply.

Five year housing land supply

The Council's Five Year Housing Land Supply Update (March 2023) indicates the Council has 1.81 years supply with a 20% buffer applied, which is below the five year supply threshold.

The lack of five year supply has the potential to trigger a presumption in favour of sustainable development in line with paragraph 11d of the NPPF (NB exceptions apply; see further below). The scheme's potential contribution to the 5 year supply must be afforded weight in the overall planning balance, although 1 unit is limited in its potential contribution to the supply.

Brent Geese and Waders

The land in question is noted as adjacent to a Candidate Site for Solent Waders and Brent Geese (see the Solent Wader and Brent Geese Strategy).

The Local Plan includes a strategic policy on environmental protection (CS11) and a specific policy in relation to Brent Geese and Waders (Policy DM23). The Solent Wader and Brent Geese Strategy states that there is the potential for new development on land adjacent to or in close proximity to Solent waders and brent goose sites to impact on the ecological function of the network.

Impact on the natural environment

There are many trees within the application site. The application would need to undergo consultation with the Council's Tree Officer to review the need for any tree survey (which appears to be absent from this application), and associated protection and mitigation strategies for trees that may be necessary, in accordance with Policy DM8 which aims to protect and conserve natural existing features.

Heritage considerations

Whilst the dwelling is not listed, this arts and crafts style dwelling may have a degree of heritage significance as a non-designated heritage asset. Therefore, consultation with the Council's heritage officer would be necessary to ensure development is compliant with Policy CS11 which aims to protect and enhance special heritage assets within the borough.

Design

The adopted Local Plan requires high quality design in all developments under Policy CS16.

Parking

The proposal would need to ensure that appropriate parking provision is provided in accordance with Policy DM13 and the Council's Parking SPD.

Summertime transport implications of development on Hayling Island

Development of the magnitude proposed here does not require a Transport Assessment and the transport implication is likely to be minimal.

Conclusions

Notwithstanding the Council's lack of an up to date five year housing land supply position, the site is outside of the urban area, and inconsistent with NPPF policies on rural areas. In particular, the proposal does not meet any of the specific circumstances set out by paragraph 84 of the NPPF. Added to that, there are constraints which the applicant will need to address in terms of the potential impact on the mature trees within the site. There is also a need to consider whether the existing house is of heritage significance.

Subsequent response, following further information from agent:

Principle of development

The site lies outside of the urban area as defined by policies CS17 and AL2. These policies seek to restrict development in these locations, except if consistent with policies for the countryside set out in national policy. Paragraph 2.10 of the supporting text in the Allocations Plan does however indicate that proposals for development in the non-urban areas also need to be considered on the basis of NPPF policies on rural areas. The proposal is not considered to meet any of the other exceptions provided for rural development either in national or local policy. As such, a policy objection arises in the context of policies CS17 and AL2 of the Adopted Local Plan.

Previously developed land

It is noted that the definition of previously developed land (PDL) in Annex 2 of the NPPF excludes 'land in built-up areas such as private residential gardens. However, it is also noted that the Dartford case (Dartford BC v SSLG [2017] EWCA Civ 141) considered the NPPF definition of PDL and clarified that a garden outside a built-up area can be considered PDL, as long as it complies with other elements of the definition of PDL.

Isolation

In this case, it is noted that the applicant does not consider the development would result in an 'isolated home' under paragraph 84 of the NPPF. The Dartford case considers this matter and indicates in the case that any proposed development within the curtilage of an existing permanent structure, it follows that a new dwelling within that curtilage will not be an "isolated home" (paragraph 15). In any event, the development would not meet any the circumstances set out under paragraph 84 of the NPPF.

The applicant's agents response to Planning Policy Consultee comments

The agent's response refers to paragraph 124 of the NPPF that states planning policies and decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively. It is noted however that the NPPF does not define "under-utilised land and buildings" but footnote 27 refers to prioritising brownfield and other under-utilised urban sites to ensure homes are built in the right places.

Paragraph 70 of the NPPF is also referred to in the agents response which sets out that local planning authorities should promote a good mix of sites by working with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes under e). This paragraph is not considered relevant, the proposal being a single dwelling as opposed to a larger site being delivered by more than one developer.

Conclusions

Notwithstanding the Council's lack of an up to date five year housing land supply position, the site is outside of the urban area, and would be inconsistent with local and national policies on rural areas. In particular, the proposal does not meet any of the specific circumstances set out by paragraph 84 of the NPPF. Whilst the site would meet the definition of PDL, the development would not be consistent with any national or local policies for the countryside. As such, there remains a policy objection in the context of policies CS17 and AL2 of the Adopted Local Plan. Added to that, there are constraints which the applicant would need to address in terms of the potential impact on the mature trees within the site. There is also a need to consider whether the existing house is of heritage significance.

Waste Services Manager

None received

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 2

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 2

Comment	Officer Comment
I have found the notice of planning application in my hedge this morning. Nothing was posted through the door. as a neighbour i would have liked to have been notified by this local planning committee. I note that the documents on the planning portal have been taken down. Please therefore send them either hard copy to my address or email to my email provided in this form.	Author contacted with details & documents available on website
happily support the application. The planned site is well screened by trees/hedging and will have a negative impact on our sight lines - and extremely limited from Manor Road. I would contend any impact on the natural environment will be minuscule. Regarding concerns about The Solent Wader and Brent Geese concerns, having been residents for over 50 years I can categorically confirm that these birds have never grazed on the adjacent farmland to the East of the planned site. I understand the proposed dwelling is to be used as a Dower House - a suitable addition to a large property. I'm sure the architect will be able to produce designs to relate to the existing 'Arts and Crafts' style of the main residence.	Noted

7 **Planning Considerations**

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

- (i) Principle of development
- (ii) Character of Area and Effect on Neighbouring Amenity
- (iii) Impacts on Trees
- (iv) Impacts on Ecology
- (v) Habitats Regulations

(i) Principle of development

- 7.2 S38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications *"must be made in accordance with the plan unless material considerations indicate otherwise"*.
- 7.3 The Development Plan for Havant Borough includes the Core Strategy, 2011 and Allocations Plan, 2014. These are broadly consistent with the NPPF and therefore should be afforded weight in the determination of this application. The application site is located beyond any defined built-up area and therefore within the non-urban area. Policies AL2 and CS17 require development in such non-urban areas to be consistent with policies for the countryside as set out in national policy.
- 7.4 The NPPF 2023 sets out a presumption in favour of sustainable development with a need to balance the three overarching objectives of economic, social and environmental roles. However, paragraph 188 of the NPPF makes it clear that this presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- 7.5 Since the application site does lie immediately adjacent farmland that supports overwintering birds associated with the nearby Solent Special Protection Areas (SPAs) then the proposed development could have a significant effect on Candidate Site H49G for brent geese identified in the Solent Waders & Brent Goose Strategy, 2020 from noise and visual disturbance. A new dwelling also has the potential for increased recreational pressures from future residents and impact on the water environment in the Solent European Sites. Therefore paragraph 188 of the NPPF is engaged and the presumption in favour of sustainable development would not apply in this case, unless suitable mitigation measures are secured via Habitats Regulations Assessment. This has not been secured at application stage, although it is acknowledged that mitigation measures are available and could be resolved at appeal stage.
- 7.6 Paragraph 11 of the NPPF also states that there should be a presumption in favour of sustainable development, and for decision-taking this means:
- "c) approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date(8), granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed(7); or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole"*

- 7.7 Footnote 8 indicates that where the LPA cannot demonstrate a five year housing supply then the most important policies for determining the application should be considered out-of-date. The Council's Five-Year Housing Land Supply, Updated at March 2023, indicates the Borough's housing land supply position as 1.81 years with a 20% buffer applied. This lack of a five year housing supply means that policies AL2 and CS17 are out of date. Therefore, Paragraph 11d) of the NPPF is engaged which means granting permission unless either sub-clause i or ii above apply.
- 7.8 With respect to sub-clause i and the protection of areas of assets, this includes, as per Footnote 7, Habitats Sites and does apply. As already noted at paragraph 7.5 above the application site has the potential to have a significant effect on the Solent European Sites and as such in the absence of a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites. But again, it is acknowledged that mitigation measures are available and could be resolved at appeal stage.
- 7.9 Sub-clause ii requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This therefore requires a careful assessment of the NPPF and the benefits of the proposal to be weighed against any adverse impacts, which will be highlighted as follows:
- (a) Benefits of the Development
- 7.10 It is acknowledged that this outline application for one 3 bed dwelling would contribute one dwelling to the Council's Housing Supply, but as a single dwelling in an unsustainable location, this contribution to the housing supply would be inherently limited.
- 7.11 There would also be some economic and social benefits from the construction period and future spend of occupants and their support of local services, facilities and the community. However, the construction benefits would be short term and given the scale of development for just 1 dwelling then the overall economic and social benefits are considered to be minimal.
- 7.12 It is noted that the agent argues that the proposal would also have the benefit of making effective use of land and comprises Previously Developed Land. The LPA agree that the definition of Previously Developed Land excludes land in built-up areas such as residential gardens and can therefore include private residential gardens not in built-up areas, such as this site, if the sites comply with the other elements of PDL (e.g. within the curtilage of a permanent structure). This is clarified by the Dartford Case (Dartford BC v SSLG [2017] EWCA Civ 141).

- 7.13 The agent purports that the development complies with paragraph 123 of the NPPF in so far as it makes as much use as possible of previously-developed or 'brownfield' land. However paragraph 123 also states that this should only occur *"while safeguarding and improving the environment and ensuring safe and healthy living conditions"*. Notably Footnote 49 to paragraph 123 states *"Except where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity."* As noted above no mitigation has been provided or Habitats Regulations Assessment undertaken for the likely significant harm arising from a new dwelling on the designated European SPA sites. It is also considered that the proposal would conflict with other policies seeking to protect the environment as demonstrated by the submitted Phase 1 Ecological Assessment which confirms there could be harm to bats, and additionally it has not been adequately demonstrated that there would be no harm to the trees on the site. As such it is clear that these impacts to the environment and biodiversity are such that paragraph 123 cannot be considered complied with. Therefore, it follows that the proposal would not make effective use of land and this cannot be attributed as a benefit of the development.

(b) Adverse Impacts of the Development

- 7.14 The LPA are of the opinion that the development does not represent 'sustainable' development in that it would be 'isolated'. The site is not within a settlement and is only accessible via a country lane with no footpaths or street lights. Future occupiers are unlikely to access the shops and services, community facilities, schools, pubs etc found within the built-up area of Hayling Island other than by private car. During wet dark winter months even cycling would not be an attractive or reliable mode of regular transport.
- 7.15 The Braintree case (Braintree District Council v Secretary of State for Communities and Local Government [2018] EWCA Civ 610, [2018]) noted that the advice within the NPPF at now paragraph 84 was to "avoid the development of isolated homes in the countryside". This was noted to differentiate between housing within a settlement or new dwellings that would be 'isolated' from a settlement. It was held that 'isolated' in the context of the NPPF means 'physically separate or remote from a settlement' and that it is a matter of fact and degree for the decision-taker to make having regard to the particular circumstances of the case.
- 7.16 Further to this the Bramshill case (Bramshill v SSHCLG [2021] EWCA Civ 320) then considered remoteness from 'other dwellings' instead of remoteness from 'a settlement'. Of particular note is paragraph 33 of this judgement which states: *"To adopt remoteness from other dwellings, instead of remoteness from a settlement, as the test for "isolated homes in the countryside" would seem inconsistent with the Government's evident intention in producing the policy in paragraph 79 (now 84). It would mean, presumably, that the policy would not apply to a development of housing in the countryside – large or small – on land next to an individual dwelling remote from the nearest settlement, because although the new homes might be "isolated" from the settlement, they would not be "isolated" from existing development. It would prevent the policy from applying to the development of additional dwellings, one or two at a time, on sites next to other sporadic rural housing, again on the basis that they would not then be "isolated". It might even prevent the policy from applying to a proposal for two or more dwellings on a single, undeveloped site in the countryside, because none of them would itself be "isolated" from another dwelling, and the development as a whole would therefore not be "isolated". If this were so, only the development of a single dwelling, on its own, separate from any other dwelling already built or proposed nearby, would engage the policy.*

This would be hard to reconcile with the Government's aim, as policy-maker, to "promote sustainable development in rural areas"

- 7.17 The LPA are of the opinion that the Bramshill case is key to the determination of this application - the site is within the curtilage of an existing dwelling and therefore not remote from that adjacent dwelling, but it is considered remote from, and inaccessible to, the nearest settlement and its services and associated community. Therefore, it follows that the proposed dwelling would be 'isolated' using the Bramshill interpretation. It is also considered that by virtue of being a backland dwelling in spacious grounds, then future occupiers would also have no social interaction with any of the adjacent dwellings and would also be socially isolated from any neighbour or community. The aim of the NPPF, at now paragraph 84, remains to avoid the development of isolated homes in the countryside unless a set of criteria apply - and none of them do in this case: the proposal is not for a rural worker; does not relate to a heritage asset or redundant building; would not subdivide an existing residential building; and as an outline application the design is not yet known.
- 7.18 Therefore the LPA are of the opinion that the proposed development does constitute an 'isolated' dwelling in the non-urban area that directly conflicts with paragraph 84 of the NPPF. As such the proposed dwelling would undermine the aim of the rural housing policies in the NPPF and not represent sustainable development. This would amount to a material and significant adverse impact arising from the development.
- 7.19 The LPA also points to other adverse impacts from the development, in particular the harm to protected species, bats, and on site trees. Due to the lack of any supporting arboricultural information or a Phase 2 Ecological Assessment, it has not been adequately demonstrated that the proposal would not cause harm to habitats and species. This represents additional harm to be weighed against any benefit for the proposal.

(c) Comment on Agents Policy Stance

- 7.20 The agent asserts that the site does not comprise an 'isolated' dwelling in the countryside and is within an established cluster or group of dwellings, and moreover that the existing house, 106 West Lane, is centrally sited within this cluster. However, the agent has relied on the Dartford case for this conclusion and the LPA are of the view that the Bramshill case is more pertinent to this case.
- 7.21 The agent also points towards paragraphs 124 d) and 70 e) of the NPPF as being relevant, which support the effective development of under-utilised land and buildings, and encourage the sub-division of large sites to speed up the delivery of homes.
- 7.22 The LPA would contend that paragraph 70 e) is not relevant as it is about subdividing large housing sites where a single developer can't build the houses quickly enough, and by encouraging several developers to be involved can speed up the physical build process and delivery of homes. This is not relevant as the site is not large and relates to the subdivision of a single curtilage to form one new dwelling.

- 7.23 With respect to Paragraph 124 d) this relates to 'under-utilised' land and buildings. The LPA is of the view that the application site is not 'under-utilised' and rather it comprises the extended curtilage of this large dwelling. As such the landscaped grounds of the existing dwelling is considered integral to the character and setting of the dwelling. Notably all the dwellings in the immediate area are all set in equally large rural plots. The land has a function as providing the setting and garden area of 106 West Lane and it is not considered 'under-utilised'. Therefore paragraph 124 is not considered relevant to this proposal.

(d) Planning Balance

- 7.24 Because Paragraph 11 d of the NPPF is engaged it is necessary to consider the tilted planning balance towards granting permission for sustainable development unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits.
- 7.25 In this case it is considered that the identified benefits of 1 dwelling towards the housing supply, temporary economic benefits during construction and limited social benefits to the community, should only be afforded modest weight.
- 7.26 Conversely the identified harm and inconsistency with the policies of the Framework taken as a whole, i.e. the fact that the development is not considered sustainable and would represent an isolated dwelling in an inaccessible location, contrary to Governments rural housing policy, as well as harm to protected species and trees, amounts to significant harm that should be afforded great weight.
- 7.27 Overall it is considered that the harm arising from the proposed development would significantly and demonstrably outweigh the benefits and the proposal is contrary to the policies of the Framework taken as a whole.

ii) Character of Area and Effect on Neighbouring Amenity

- 7.28 The red lined application site currently comprises a mix of open grass, bushes and trees with some garden features such as pond and benches. It is sited adjacent open farmland and the boundary trees are important in providing the backdrop to the open farmland from long distance views. It is considered that the landscape of the site provides a valuable visual contribution to the visual amenity and setting of the area.
- 7.29 It is considered that the siting of the proposed dwelling at the rear of the site would necessitate site clearance and removal of screening trees, both initially and also from future occupiers pressure to prune and enjoy open views, which would cumulatively harm the visual amenity of the site and its contribution to the landscape setting of the area.
- 7.30 It is also noted that the other dwellings within the vicinity of the site all comprise large detached dwellings set in significant plots. All but number 112 have their own private drive and front the highway, albeit set back a long way. The proposed backland layout would not be typical of the pattern of development in the immediate vicinity. The shared access with drive passing a frontage dwelling is not an overriding characteristic of the area. Whilst it is acknowledged that Number 112 to the north does share a drive with number 110, that drive follows the perimeter of that site and is distanced from the dwelling at 110.

7.31 Paragraph 128 d) of the NPPF notes that planning decisions should maintain "*an area's prevailing character and setting (including residential gardens)*" and the NPPF also promotes well-designed and beautiful places, and encourages developments that are sympathetic to local character. Paragraph 135 of the NPPF in particular highlights this desire for developments to be ..."*visually attractive as a result of good architecture, layout and appropriate and effective landscaping*" and ..."*sympathetic to local character and history, including the surrounding built environment and landscape setting...*". It is considered that the proposed backland layout and impacts on landscape setting would not respect the prevailing character of the area and would be contrary to the aims of the NPPF to achieve well designed places to live.

7.32 In terms of impacts on neighbouring amenity it is acknowledged that the separation distances and remoteness of the site would be such that there would be unlikely to be any adverse impacts on neighbouring amenity.

iii) Impacts on Trees

7.33 The submitted Block Plan and proposed Site Plan appear to mark the Root Protection Areas of trees indicating which are to be removed to enable the development. However no supporting arboricultural information or tree survey has been submitted to indicate that these RPA's have been prepared by a suitably qualified person. It is not currently known what classification of tree each are, and their constraint to development, or not. All are generally mature trees with a landscape value, but their individual health has not been assessed.

7.34 It is known from the Ecology reports that some of the trees have the potential to support bat roosts and as such their contribution to the biodiversity of the site is also important.

7.35 The Council's Arboricultural advisor has requested a full tree survey, constraints plan, AIA, tree protection plan and AMS produced by a qualified arboricultural consultant before the impact of the proposal on the trees on the site can be adequately assessed. Without such information there is an arboricultural objection to the proposal.

7.36 Therefore, in the absence of full arboricultural information it has not been adequately demonstrated that there would not be any harm to the trees on the site, contrary to paragraphs 136, 180 and 186 c) of the NPPF and adopted policies CS11 and DM8 of the Core Strategy.

iv) Impacts on Ecology

7.37 During the course of determining this application an Extended Phase 1 Ecological Assessment was submitted which concludes that numerous trees with bat roost suitability are present on the site which is also considered to provide foraging suitability. It also notes that the site is considered suitable to support hedgehogs, common reptiles and nesting birds. Therefore, it recommends that further survey work is undertaken in relation to the potential for bats on the site.

- 7.38 As per the NPPF guidance and Circular 06/2005, the Council's Ecologist notes that it is essential that all survey work and assessments are carried out prior to determination to enable decisions to be based on full up-to-date ecological information. Having considered the Phase 1 information submitted it is noted that most potential ecological impacts will be relatively limited and can be avoided or mitigated. However, the lack of further survey work ascertaining the status of any bat roosts within the trees on the site and the garage leads to an objection to the proposal on the grounds of potential harm to bats.
- 7.39 It is also noted that the site is immediately adjacent farmland that supports overwintering birds associated with the nearby Solent Special Protection Areas (SPAs). As such, at construction stage the proposed development could have a significant effect on Candidate Site H49G for brent geese identified in the Solent Waders & Brent Goose Strategy, 2020 from noise and visual disturbance, which has not been mitigated against. With no mitigation submitted in the form of a Construction Environmental Management Plan, then no Habitats Regulations Assessment has been undertaken to address this potential effect from construction disturbance and Natural England have not been consulted on this issue.
- 7.40 As such it has not been adequately demonstrated that there would be no harm to bats or over-wintering birds on the adjacent SPA support site, and as such the proposal is contrary to NPPF guidance and policies CS11 and DM23.

v) Habitats Regulations

- 7.41 In order to comply with Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended), the application requires a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal is likely to have a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed development of one new residential unit.
- 7.42 The LPA operates two packages of avoidance and mitigation measures. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development. The applicant has submitted a European Site Avoidance and Mitigation Checklist, Havant Occupancy Calculator and Solent Nitrogen Budget.
- 7.43 However, given the recommendation for refusal on other matters, an up to date nitrogen budget has not been requested, and no HRA/AA has been undertaken and Natural England not consulted as required by the Habitats Regulations. Taking a precautionary approach to decision-making as required by Government guidance, at this stage the risk of the proposal having an adverse effect on a European site's integrity cannot be ruled out and it is therefore necessary to include the non-provision of any avoidance and mitigation packages for both recreational disturbance and impact on water quality as a reason for refusal as contrary to policies CS11, CS21 and DM24, as well as non compliance with the Habitats Regulations. Should an appeal be lodged against the decision to refuse, then these matters can be revisited at appeal stage.

8 Conclusion and Planning Balance

- 8.1 Notwithstanding the policy assessment in the principle of development section above, and the potential to overcome through mitigation, the application at the time of determination does not include a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures to address the likely significant effect the proposed development would have on the Solent European Sites by way of increased recreational pressures from future residents, impact on the water environment, and construction disturbance. Although the Council cannot demonstrate a five year housing land supply, paragraph 188 of the NPPF states that this presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects). In the absence of any Habitats Regulations Assessment, the proposal at determination would be contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM24 of the Havant Borough Local Plan (Allocations) 2014, The Conservation of Habitats and Species Regulations 2017 (as amended) and the NPPF.
- 8.2 It is acknowledged that this matter could be resolved at the appeal stage and in such circumstances, Paragraph 11(d) of the NPPF would be engaged which requires a presumption in favour of granting permission unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
- 8.3 The LPA are of the view that using the Bramshill Case interpretation of "isolation", the proposed dwelling would be remote from the nearest settlement and constitute an isolated dwelling in the non-urban area. As discussed above, the identified benefits of the proposal are inherently limited - just 1 dwelling towards the housing supply, temporary economic benefits during construction and limited social benefits to the community. It is considered that these should only be afforded modest weight in the overall planning balance.
- 8.4 Conversely the identified harm and inconsistency with the policies of the Framework taken as a whole, i.e. the fact that the development is not considered sustainable and would represent an isolated dwelling in an inaccessible location, contrary to Governments rural housing policy, as well as harm to protected species and trees, and character of area, amounts to significant harm that should be afforded great weight in the overall planning balance.
- 8.5 The lack of any identified harm to other considerations, such as neighbouring amenity or highway safety, in relation to the planning balance, is neutral, neither weighing for or against the proposal.
- 8.6 Overall it is considered that the harm arising from the proposed development would significantly and demonstrably outweigh the benefits and the proposal is therefore recommended for refusal.
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9 RECOMMENDATION:

That the Head of Place be authorised to **REFUSE OUTLINE CONSENT** for application APP/23/00904 for the following reasons

- 1 By virtue of the site's location which is only accessible via a country lane with no footpaths or street lights, the proposal represents an unsustainable isolated new dwelling in a non-urban area, remote from the nearest settlement, its services and community, for which there is no overriding justification. The subdivision of the site with a backland development would be contrary to the pattern and character of development in the area and be harmful to the landscape setting of the area. It is therefore contrary to policies CS11, CS17 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Publication Local Plan (Allocations) and the National Planning Policy Framework, particularly paragraphs 84, 123, 128 and 135.
- 2 The indicative layout and siting of the proposed development would be likely to result in loss of mature trees on the site which are important for landscape amenity and biodiversity value, for which no supporting Arboricultural information has been submitted. In the absence of full Arboricultural information it has not been adequately demonstrated that there would be no harm to the trees on the site, contrary to paragraphs 136, 180 and 186 c) of the NPPF and adopted policies CS11 and DM8 of the Core Strategy.
- 3 The Extended Phase 1 Ecological Assessment by Phillips Ecology dated February 2024 identifies the potential for the trees and the garage at the site to offer suitability for bat roosts. In the absence of further survey work it has not been adequately demonstrated that there would be no harm to bats, which are a protected species, arising from the development. The proposal is therefore considered contrary to policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.
- 4 In the absence of a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant adverse effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents; have an impact on the water environment; and result in construction disturbance, and as such, it is contrary to Policies DM23 and DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.