



23700/6 – Continued siting of caravan, PERM 08/08/1983

### **3 Proposal**

- 3.1 Removal of existing static mobile home and demolition of outbuildings; erection of 1No. 2 bed single storey dwelling with amenity area and parking.
- 3.2 A Flood Risk Assessment & Drainage Strategy Report by Scott White and Hookins was submitted during the consideration of the application.

### **4 Policy Considerations**

National Planning Policy Framework 2021  
Havant Borough Council Borough Design Guide SPD December 2011  
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011  
<SQLPolDes5>

Havant Borough Local Plan (Allocations) July 2014  
<SQLPolDes2014v>

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

### **5 Statutory and Non Statutory Consultations**

**Building Control, Havant Borough Council**  
No public sewers.

Bin storage location to be provided.  
Confirmation that each room in the dwelling is within 45m of the main road to ensure compliance with Requirement B5.

Unable to comment further as elevation drawings were not accessible.

**Councillor Leah Turner - Hayling East**  
No comments received.

**Councillor M Wilson - Hayling West Ward**  
No comments received.

**Councillor R Raines - Hayling East**  
No comments received.

**Crime Prevention -Minor Apps**  
No comments received.

## **Environment Agency**

### **Original Comments**

#### **Environment Agency Position**

In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend planning permission be refused.

#### **Reason**

The submitted Flood Risk Statement (FRS) found on page 4 of the submitted Design and Access Statement (DESIGN\_AND\_ACCESS\_STATEMENT-1494707) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not adequately assess the flood risks posed for the lifetime of the development. The FRS will need to comply with the requirements for site specific flood risk assessments that adequately assesses the flood risks posed for the lifetime of the development.

In particular, the FRS fails to:

Provide details of finished floor levels (FFL's) compared to 1 in 200 year return period plus climate change tidal flood levels for the lifetime of the development

Consider how people will be kept safe from the identified flood hazards

Consider how a range of flooding events (including extreme events) will affect people and property

Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including a 1 in 200 year return period plus climate change event

Take the impacts of climate change into account

There is no assessment of the impact of climate change using appropriate climate change allowances for a 1 in 200 year return period plus climate change for the lifetime of the development

Flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they will not make the development resilient to the flood levels for a 1 in 200 year return period plus climate change event. Consequently the development proposes inadequate:

- Raised finished floor levels
- Resistance and resilience measures
- Safe access and egress routes

#### **Overcoming our Objection**

To overcome our objection, the applicant should submit a Flood Risk Assessment (FRA) which addresses the points above and demonstrates that the development is not at risk of tidal flooding for the lifetime of the development.

The application fails to incorporate any climate change allowances, therefore failing to show that the development will be safe for its lifetime, both in terms of the property and its habitants. When considering the impacts of climate change there is guidance specific to planning which can be found at 'Flood risk assessments: climate change allowances'. Applying these allowances will result in future flood levels higher than current flood levels.

The most up to date tidal flood levels can be obtained by requesting a free 'Product 4' from the Environment Agency's enquires team on [SSDEnquiries@environmentagency.gov.uk](mailto:SSDEnquiries@environmentagency.gov.uk)  
Please provide a detailed map in your request for data for the proposed site.

Detailed information of the 1 in 200 year return period tidal flood levels plus climate change allowances (found at 'Flood risk assessments: climate change allowances') compared with the sites ground levels should then be calculated and provided in the FRA. An appropriate freeboard should then be applied to the finished floor levels (FFL's) to keep the occupants safe for the lifetime of the development. Under the NPPF vulnerability classification guidelines this development falls under the 'More Vulnerable' classification as it is residential with bedrooms on the ground floor. This replacement development is not a betterment as the bedrooms will still be on the ground floor.

Some flood resistance and resilience measures are mentioned on page 3 of the Design and Access Statement (DESIGN\_AND\_ACCESS\_STATEMENT-1494707). However, the detail of these measures need to be designed in according to the 200 year return period tidal flood levels plus climate change allowance levels. Due to the nature of flooding at this site it would be expected that a flood evacuation plan is in place prior to occupancy; details of this should be outlined in the revised FRA. We ask to be reconsulted with the results of the FRA. We will provide you with bespoke comments within 21 days of receiving formal reconsultation. Our objection will be maintained until an adequate FRA has been submitted. Guidance on how to prepare a flood risk assessment can be found at <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>

### **Further Consultation Response following submission of FRA**

We have reviewed the information as submitted and set out our position below.

#### **Environment Agency position**

We have no objection to the proposed development as submitted.

#### **Signing up for flood warnings**

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings>

It's a free service that provides warnings of flooding from rivers, the seas and groundwater, direct by telephone, email or text message. Anyone can sign up.

Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

## **Coastal Partners**

### **Response:**

Thank you for your consultation on the above application, I can confirm that Coastal Partners wish to place a holding objection on the application, on the grounds that the site is shown to be at risk from tidal flooding, however no Flood Risk Assessment has been submitted in support of the application.

The site is shown to lie within the Environment Agency's present day Flood Zone 3 and may therefore be at risk from a 1:200 year (0.5% annual probability) extreme tidal flood event, though is shown to be within an area benefiting from flood defences. For information, the present day 1:200 year extreme tidal flood level for Chichester Harbour is 3.4 mAOD, increasing to a predicted 4.5 mAOD by the year 2115, due to the effects of climate change.

The applicant has submitted some flood risk information for the site from the Gov.uk website, which indicates that the site is located within Flood Zone 3, however does benefit from the presence of coastal flood defences.

As required by the National Planning Policy Framework (NPPF) for all developments located within the present day Flood Zone 3, the applicant should submit a Flood Risk Assessment (FRA).

### **Overcoming our Objection:**

The applicant should submit a Flood Risk Assessment, appropriate to the scale and nature of the proposed development, demonstrating that the development is safe and does not increase flood risk elsewhere, and where possible reduces flood risk overall.

Within the FRA, we expect the following to be addressed:

- The sources of flooding which could affect the site, to include tidal, fluvial, groundwater and surface water flooding, along with the likelihood of each occurring.
- How flood risk at the site is predicted to increase with climate change and how this will be mitigated;
- Demonstration of safe access and egress routes for the site;
- The existing ground levels of the development site, the predicted tidal flood levels for the site area and evidence that the finished floor levels (FFLs) have been set with these in mind (all in metres above ordnance datum – mAOD);
- How the residual flood risk will be mitigated over the lifetime of the development, including the incorporation of flood resistance and resilience measures, where appropriate, and the preparation of a Flood Warning & Evacuation Plan, in accordance with advice from the Environment Agency.

## **Hampshire Highways**

As the application is for 5 or less dwellings and features no change to the vehicular access, 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.

**Nutrient Team**

No comments received.

**Public Spaces**

No comments received.

**Waste Services Manager**

No comments received.

**Community Infrastructure Team**

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>.

The CIL Form 1: Additional Information is incomplete and has been returned for all questions to be answered.

Additionally, pending a response from Natural England on the HRA, instructions should be passed by the Case Officer to the CIL Team to:

(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the additional dwelling and its respective number of bedrooms. See

<http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>.

(b) Issue the Nutrient Neutrality Unilateral Undertaking. See

<https://www.havant.gov.uk/nitrogendevelopers>

## **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: 8

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received:0

Whilst no representations were received as a result of the formal consultation process, the applicant's agent has submitted two letters from nearby properties raising no objections to the development.

## **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) Background
- (iii) Impact upon the character and appearance of the area
- (iv) Impact upon residential amenity
- (v) Highways and parking
- (vi) Flood Risk
- (vii) Compliance with Habitats Regulations
- (viii) CIL

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria.

(ii) Background

7.3 As noted above, this application is for the replacement of an existing static mobile home with a new dwellinghouse. In order to inform the planning approach to be taken in this case, it is important to establish the status and nature of the existing caravan on the site.

7.4 In this regard, the applicant's agent was advised that in this case it would be beneficial to establish the lawful use of the caravan by means of submitting an application for a Lawful Development Certificate in which submitted evidence, as well as the Council's own records, could be fully considered. However, such a recommendation has not been followed.

7.5 Notwithstanding this, having carried out a planning history search, it is clear from the Council's own records, that planning permission was granted for a permanent caravan on this site in 1983 (23700/6) albeit restricted by a planning condition to 'seasonal use' only.

7.6 There has also been a caravan on this site since 1956 and this is substantiated by the applicant's agent in the submission of a caravan licence. The Council's own records, cited above in the planning history, show that temporary planning permission was continually granted until, in 1983, a permanent planning permission was issued, which was subject to conditions.

7.7 Condition 2 of planning permission 23700/6 stated:

*'The caravan shall not be occupied except for the purpose of human habitation and between 1<sup>st</sup> March and 31<sup>st</sup> October in any year.'*

**Reason:** *To safeguard the local stock of holiday accommodation'*

7.8 Whilst it is implicit in the planning reason for the seasonal condition that it related to holiday accommodation, the permission is unfettered in terms of occupation and there is no planning condition that restricts occupancy to holiday makers only.

- 7.9 In terms of the planning permission (23700/6) as there is no 'holiday occupation' condition there appears to be no planning or site licence restriction on continuous permanent residential occupation between 1st March and 31st October inclusive in any year. As such, no valid distinction can be drawn between human habitation of a caravan site for residential purposes instead of for holidays. It follows that, if it was necessary for planning purposes to restrict the occupation of the caravan to holiday makers, this could only be achieved by the imposition of an appropriate planning condition, which, as noted, in this case there is no such restrictive planning condition.
- 7.10 In legislation, 'mobile home' and 'caravan' are synonymous and defined as any structure designed or adapted for human habitation which is capable of being moved from one place to another whether by being towed, or by being transported on a motor vehicle or trailer, and any motor vehicle so designed or adapted (Ref: S.29 Caravan and Control of Development Act 1960 & S.5(1) Mobile Homes Act 1983).
- 7.11 It has also been held by the Courts that the connection to main services is not material in whether a caravan is a building.
- 7.12 As noted above, the use of the site for a caravan is restricted by the planning condition in regard to human habitation between 1st March and 31st October whilst a non-occupied caravan can be sited between 1st November and 28/29th February, i.e. a seasonal condition. The siting of a caravan for all year-round occupation for the purposes of human habitation does not fall within the scope of the planning permission which was restricted to seasonal use by the planning condition.
- 7.13 The Design & Access Statement accompanying the application states, inter alia, *'...The planning status of the site remains unchanged, having 2 dwelling (sic) on it, the same number of persons occupying the site together with the same number of car (sic) using the site.'*
- 7.14 Notwithstanding, a permanent use of the caravan for a 12-month period would require planning permission because of the restrictive planning condition. In the absence of any information to the contrary, as a corollary, it cannot, as a matter of fact and degree, be considered to represent a 'replacement' dwellinghouse as advanced by the applicant. However, it is accepted that there is a lawful use of the caravan for human habitation and, as such, this carries significant weight in terms of the planning status of the site and the planning considerations detailed below.
- 7.15 The application form (Part 14. Existing Use) states that the current use of the site is 'Residential C3(a) Static Mobile Dwelling with Permanent Licence (3-0092 [27.11.1956])'. However, the application form also states that the use ended on 01/03/2018 and that the last use of the site was 'Applicant's family use'. Whilst the use of the caravan may have ceased, it is still sited on the land which has the benefit of planning permission, albeit seasonal use only.
- 7.16 It is considered that, as a matter of fact and degree, the resumption of such a use would still be lawful and fall within the lawful planning permission as the caravan is still in situ and there has been no intervening use.

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

- 7.17 The proposed new dwellinghouse would be located to the rear of the existing dwellinghouse fronting Haslemere Gardens. The development would therefore not affect the relationship of the existing property to Haslemere Gardens, nor would it reduce the gap between it and the neighbouring properties fronting Haslemere Gardens.
- 7.18 In terms of design, there is an eclectic mix of styles and designs of dwelling houses in the area, and it is considered that the design and appearance of the proposed development is acceptable. The use of appropriate materials could be controlled by a suitable planning condition.
- 7.19 The new dwelling would not only replace the existing caravan but also outbuildings in an attempt to create a satisfactory sized plot. The applicant's agent has submitted a number of examples of similar 'back land' development carried out in the locality, albeit many are historic and not all have been constructed. But, as such, the concept of 'back land' development with new housing in the area has been accepted in principle and the proposed development would not, necessarily, be out of character in this regard. However, unlike other examples, whilst acknowledging that there is an existing lawful caravan on the site that can be occupied, it is considered that the current proposal would amount to over development of the site in that it would give rise to unsatisfactory plot sizes and to an unduly cramped and congested layout. This is further demonstrated by the limited distance between the existing and proposed dwellings. Whilst it would be physically possible to construct the proposed new dwelling, as demonstrated by the submitted plans, nonetheless the plot size and distance between the host dwelling and the proposed new dwelling would be uncharacteristic of the area.
- 7.20 As a result, the proposal is considered to be harmful to the established pattern of development and character of the area and consequently would be contrary to policy CS16 which, among other things, requires development to respect the characteristics of the locality including plot widths and depths. Notwithstanding the status of the existing caravan on the site, it is considered that the subdivision of the plot in the manner proposed represents an overdevelopment of the site with the reduced plot sizes for both the proposed dwelling house and retained property being significantly smaller than those within the immediate vicinity and out of character with the area. The size and shape of the plot is not considered characteristic of the more spacious and traditional pattern of development in the area, and results in a contrived and cramped development, contrary to the Borough Design Guide SPD 2011 and adopted policy CS16.

(iv) Impact upon residential amenity

- 7.21 The existing dwelling would be left with an uncharacteristic small rear private amenity space of a maximum 7.5m in depth and the private amenity area for the new dwelling, whilst only serving a two-bedroom house, is also considered substandard and out of character with that prevailing in the locality.

- 7.22 The proposed new dwelling would also only be 7.5m from the rear of the host dwelling, which has a rear gable within the roof with a first-floor window which would overlook the new dwelling and its amenity space. Whilst within a suburban setting some mutual overlooking is commonplace, it is considered that by reason of the short interface distances that there would be unacceptable overlooking to the proposed dwellinghouse which would result in loss of amenity for future occupiers.
- 7.23 Other neighbouring properties to the site are not expected to be significantly affected as the proposed new dwelling house would be single storey in nature and not give rise to any significant overlooking of adjacent properties. Other than small rooflights, no windows are proposed in the rear northern elevation adjacent to the boundary, and this could be controlled by the imposition of a suitable planning condition.
- 7.24 It is also considered that the comings and goings using the existing access would not be dissimilar to that serving the caravan use and therefore would not be materially different so as to cause nuisance to adjacent properties, including the host dwelling, by reason of noise and general disturbance.

(v) Highways and parking

- 7.25 The proposed layout demonstrates that there would be sufficient parking available for both the existing and proposed dwelling house in accordance with the Council's parking SPD although it is noted that parking would further restrict the external private amenity space for the proposed bungalow.
- 7.26 It is noted that Highway Authority raise no objections to the proposal.

(vi) Flood Risk

- 7.27 As noted above, the site and its access lies within flood zones 2 & 3. The applicant had submitted some flood risk information for the site from the Gov.uk website, which indicates that the site is located within Flood Zone 3, however does benefit from the presence of coastal flood defences. Notwithstanding, the initial flood risk assessment submitted with the application as part of the design and access statement was not considered sufficient by the Environment Agency or Coastal Partners.
- 7.28 During the course of the consideration of the application, a more detailed Flood Risk Assessment & Drainage Strategy Report by Scott White and Hookins was submitted and the Environment Agency reconsulted.
- 7.29 The Environment Agency has reviewed the additional information and no raises no objection to the proposed development.
- 7.30 The flood risk report comments that the proposed development will incorporate flood resilient measures and that a flood evacuation plan has been developed. The report concludes that the future occupiers will be safe from flooding and that there will be no detrimental impact on third parties. As such, the measures detailed could be subject to a planning condition to ensure that all mitigation measures, including a flood evacuation plan, are adhered to. Notwithstanding this there remains a need to consider whether development of a residential dwelling occupied over 12 months is appropriate through a sequential test.

- 7.31 The applicant has not carried out a sequential test to demonstrate that there are no alternative sites available for a dwelling house that are at a lower risk of flooding. The sequential test is required for all major and non-major developments in areas at risk of flooding, with some exceptions as set out in the NPPF and NPPG which are not considered to apply here. Whilst it is acknowledged that the land may be lawfully used as a caravan site (for one caravan) for human habitation, that use is restricted by condition. The proposal would therefore increase the flood risk by virtue of the unrestricted occupancy period including occupancy in the winter months.

(vii) Compliance with Habitats Regulations

- 7.32 The proposal would increase overnight accommodation of the site from 8 months of the year to 12 months. Whilst the applicant has provided a European site avoidance checklist a nutrient budget calculator has not been provided.
- 7.33 In order to comply with Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the application requires a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal increases overnight accommodation, albeit by a proportionate amount. This is because the uplift in overnight accommodation 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 permanent new residential unit.
- 7.34 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 Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development.
- 7.35 However, given the recommendation for refusal on other matters, these issues have not been addressed and no HRA/AA has yet been undertaken. It is therefore necessary to include the non-provision of the 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 this matter can potentially be resolved at appeal stage.

(viii) CIL

- 7.36 The development is CIL liable, and an Assumption of Liability Notice has been acknowledged.
- 7.37 In light of the recommendation for refusal on other matters, the Draft Liability Notice has not been prepared and could be addressed at appeal stage if necessary.

## 8 **Conclusion**

- 8.1 The size and shape of the plot is not considered characteristic of the more spacious and traditional pattern of development in the area, and results in a contrived and cramped development with uncharacteristic small private amenity spaces for both the existing and proposed dwelling house. As such, this is contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Borough Design Guide SPD 2011 and the National Planning Policy Framework 2021.
- 8.2 The short interface distances between the existing and proposed dwelling house would give rise to unacceptable overlooking to the proposed dwellinghouse which would result in loss of amenity for future occupiers. As such, this is contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Borough Design Guide SPD 2011 and the National Planning Policy Framework 2021.
- 8.3 In relation to flood risk the development is located within Flood Zone 3. Year round residential occupation would increase flood risk and a sequential test has not been carried out to demonstrate that there are no alternative sites available for a dwelling house that are at a lower risk of flooding.
- 8.4 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 effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment. As such, this is contrary to Policy 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 2021.

## 9 **RECOMMENDATION:**

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/21/00644 for the following reasons:

- 1 The size and shape of the plot is not considered characteristic of the more spacious and traditional pattern of development in the area, and results in a contrived and cramped development with uncharacteristic small private amenity spaces for both the existing and proposed dwelling house. As such, this is 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 short interface distances between the existing and proposed dwelling house would give rise to unacceptable relationship and overlooking to the proposed dwellinghouse which would result in loss of amenity for future occupiers. As such, this is 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.

- 3 The site lies within Flood Zone 3 and the proposal increases flood risk for future occupants with all year round residential occupation including the winter months. Furthermore a sequential test has not been carried out to demonstrate that there are no alternative sites available for a dwelling house at a lower risk of flooding. The proposal is therefore contrary to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 the National Planning Policy Framework and Planning Policy Guidance Flood Risk and Coastal Change.
- 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 effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment. As such, this is contrary to Policy 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.