
Site Address: 34 Havant Road, Emsworth, PO10 7JG
Proposal: Change of Use from 1.No Dwellinghouse to 7.No Apartments along with a roof and dormer extension with dormer and juliette balcony. Internal and external alterations. Conversion of outbuilding to 1.No Bungalow
Application Type: Full Planning Permission
Application No: APP/22/00548 Expiry Date: 05/10/2022
Applicant: Mr Mandiwall
Agent: Ms S Roberts Case Officer: Lesley Wells
Critchley Architecture And Design (CAAD) Ltd
Ward: Emsworth

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 34 Havant Road is a large detached property that lies on the south side of the road. 34 Havant Road is on the list of Local Buildings of Historic Interest and is therefore classed as a non-designated heritage asset. The current use is that of residential with an ancillary rear annex, with the former use a Dialysis Treatment Centre and Holiday Home.
- 1.2 The area immediately surrounding the subject site is entirely residential. Nearby properties are mainly two storeys with a mixture of materials (brick, render, cladding and tile hanging).
- 1.3 The site lies within Flood Zone 1 and would remain so in 2115. The size of the plot is approximately 0.16 ha.

2 Planning History

90/50553/001 - Reduce/remove lower limbs overhanging adjacent property reduce height by approximately 10ft and reshape crown on Oak covered by TPO 1395, ZHIS,03/04/1990
99/50553/006 - Replacement of existing Dialysis Treatment Unit to rear of property, PERM,23/03/2000
98/50553/005 - Removal of the eastern stem, crown raise up to 5 metres, reshape the crown's radius by 1.5/2 metres and reduce the height by 2 metres of an Oak tree (T2) in the rear garden subject to TPO 1524, PERM,07/12/1998
97/50553/004 - Raise crown to 5 metres, remove lowest limb to west and remove all epicormic growth: Oak tree overhanging 11 Kingsey Avenue (T1 of TPO 1395), PERM,23/04/1997
94/50553/003 - Raise to 8m & reduce by 20% then by 30% and balance crown of Oak T2 - Raise to 5m, reduce by 30% and thin by 20% crown of Oak T3 - both covered by TPO 1524., PERM,
92/50553/002 - Erection of car port to east elevation., PERM,

04/50553/007 - Application to crown reduce Oak T1 by 25% subject of TPO 1524., PERM,24/03/2004

06/50553/008 - Application for crown reduction of 15% to western section of the canopy of a Common Oak tree (T2) subject to TPO 1524. , PERM,03/10/2006

APP/13/00224 - Crown reduce 1No. Oak (T1) by 2m from top, north, south and west sectors and 2.5m from east sector to original points remove dead, crossing and epicormic branches; subject to TPO 1395., PERM,26/04/2013

APP/14/00537 - Crown reduce 2No. Oaks (T2, T3) by 1.5m back to previous pruning points, subject to TPO 1524, PERM,01/07/2014

APP/14/00865 - 4.5m Crown reduction to south west aspect and 2m crown reduction to height of 1No. Copper Beech tree , WD,22/08/2014

APP/21/00498 - Change of use from a holiday home for the Charing Cross Holiday Dialysis Trust to C3 dwellinghouse with ancillary annex (no internal alterations), PERM,25/11/2021

APP/21/00774 - Erection of 4 No. 3bed. bungalows and Fell 3 No. 'U' Category TPO Trees, PERM,24/11/2021

APP/22/00353 - Variation of Condition 2 of Planning Permission APP/21/00774 to amend proposed site plan to increase the parking area. Move the access to make more central within the plot. Additional window to Plot 4 utility room. Amended re-planting scheme. PERM 21/11/22

3 Proposal

- 3.1 Change of Use from 1.No Dwellinghouse to 7.No Apartments along with a roof and dormer extension with dormer and Juliet balcony. Internal and external alterations. Conversion of outbuilding to 1.No Bungalow. The proposal comprises the conversions of the main house to 6 x 1 bedroom apartments and 1 x 2 bedroom apartment and the rear annex to 1 x 2 bedroom bungalow. South facing courtyards would be provided for apartments 1, and 3, with direct access to the shared garden to the rear. Flat 2 would also benefit from a west facing court yard. Access for the other apartments to the shared garden would be internally or via a gate on the eastern boundary, which would also provide entrance to the bin storage area. Apartment 4 is over two levels, with access from the first floor.
- 3.2 10 allocated car parking spaces are proposed to the front of the site on existing block pavements, with two parking spaces to the front of the bungalow facing south. 8 bicycle sheds would be provided within the shared garden area, with one shed in the bungalow's garden.
- 3.3 Various internal and external alterations would take place to the existing dwelling and outbuilding which the agent has advised most of which would be undertaken under permitted development rights. This would include:
 - Removal of existing chimneys
 - Proposed dormer on south elevation, with Juliet balcony
 - Replace existing windows
 - Porch for bungalow
- 3.4 However, it is considered that the works are only required to facilitate the conversion of both buildings and therefore the alterations are considered to require planning permission and have been assessed accordingly.
- 3.5 As to the rear of the site, at the time of the site visit, the 4 bungalows granted under

planning permission reference APP/21/00774 were in the process of being built out, in part of the former rear garden of the main dwelling, the subject of this application.

3.6 The application includes the following:

Application Form
Design & Access Statement
Heritage Report
External Lighting for Biodiversity
Schedule of Materials, including external lighting for bungalow
Arboricultural Impact Appraisal & Preliminary Arboricultural Method Statement
Fallen & Found Arboriculture Report
Bat Roost Assessment

3.7 The agent has advised that the applicant would retain ownership of the apartments, renting them out. The owner would be responsible for the management and maintenance of the unadopted and communal areas of the site, with a management company to be set up (ie St Anne's Apartments Emsworth Management Company). In view of this and having regard to the small scale of the development, the requirement to enter into a legal agreement to secure a management company would not be proportionate.

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

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)

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)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Emsworth Neighbourhood Plan Post Examination Version 2020

ENP_H2	(Buildings of Local Historic Interest)
ENP_M1	(Cycle Storage Provision)
ENP_H1	(Design & Heritage)
ENP_D1	(General Design Policy)
ENP_L1	(General Housing Policy)
ENP_D2	(Height, Mass & Materials)
ENP_L2	(Housing Mix)
ENP_D3	(Layout, Form & Density)
ENP_D7	(Mitigate Light Pollution)

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

5 Statutory and Non Statutory Consultations

Arboriculturalist - No Objection

There are a number of trees onsite, but none likely to be adversely affected by the proposal.

Recommendation: I raise no objection to the proposal.

Conservation Officer - Objection

Site:

The application site is a flint brick, Edwardian style, large detached property dating from the 1890's. It has had several alterations since its construction and is not eligible for statutory listing but is locally listed and therefore classed as a non-designated heritage asset. It was previously used as a Rectory and then converted into a convent in the 1970's and then lastly a dialysis treatment centre. It is not located within a conservation area. It has recently been granted planning permission to convert back into a residential home, with the garden being subdivided to provide new housing plots with access from Havant Road.

Legislative and Policy Context:

Para 203 of the NPPF states 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.

With regards to local planning policy, the following are relevant:

Policy CS11 of the Core Strategy states that planning permission will be granted for development that:

Protects and where appropriate enhances the borough's statutory and non-statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest.

Policy CP16 (1a) of the Core Strategy states 'Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site'.

Policy DM20 of the Allocations Plan states that planning permission will be granted for development proposals that conserves and enhances the historic assets of Havant. It

also states that application which affect, or have the potential to affect, heritage assets are expected to provide a Heritage Statement that:

1. Describe the significance of the asset and its setting, using appropriate expertise and where necessary original survey, at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal.
2. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets.

Assessment:

The proposal would comprise the change from a single dwelling to 7no apartments. Minimal structural alterations are proposed, which would retain the character of the building. However, I am concerned over the loss of the traditional chimney stacks which add character and architectural interest to the building as this would result in a degree of harm (less than substantial) to the non-designated heritage asset.

As set out in Para 203 of the NNPF, this harm will need to be weighed up against any benefits the scheme may bring.

Conclusion – Objection

Councillor Julie Thain-Smith - No Comment

Councillor Lulu Bowerman - No Comment

Councillor R Kennett - No Comment

County Ecology - Final Comment - No Objection

The application is now accompanied by a Preliminary Bat Roost Assessment (Phillips Ecology, May 2022) and a Bat Roost Assessment (Phillips Ecology, June 2022). Following an initial inspection in March 2022, the dwelling was considered to offer moderate bat roosting potential based on the presence of a number of potential bat access, egress and roosting features. Emergence and re-entry surveys were carried out in May and June 2022.

The dwelling has been shown to support a peak of three Common Pipistrelle bats, recorded emerging from different locations on the northern elevation of the building. It is considered that the building supports small numbers of day roosting Common Pipistrelles. The proposed works will directly impact one of the recorded roost locations and has the potential to impact others.

This development will affect bats, which receive strict legal protection under UK law by the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Where developments affect European protected species, permission can be granted unless the development is likely to result in a breach of the Habitats Regulations and is unlikely to be granted a licence from Natural England to allow the

development to proceed under a derogation from the law.

Will the development result in a breach of the EU Directive?

Yes, unmitigated, the development has potential to result in harm to individual bats and result in impacts to the favourable conservation status of bat species locally.

Is the development unlikely to be licensed?

An EPS licence can only be granted if the development proposal is able to meet three tests:

1. the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))
2. there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and
3. the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).

It is for you as the case officer to assess the proposals against the first two tests – you may wish to ask for further information from the applicant. In order to assess the development against the third test, sufficient details must be available to show how killing/injury/disturbance of bats will be avoided and how any loss or damage to habitat will be compensated. In this case, I am content that sufficient survey information has been collected and that the status of bats at this site is understood to a high degree of confidence.

Mitigation, compensation and enhancement measures are acceptable and include the timing of works to avoid the most harmful periods, the supervised removal of roof materials, the use of a tree-mounted bat roosting box, and the creation of alternative roosting locations within the redeveloped building. It is the responsibility of the applicant and their appointed agents to ensure that all necessary licences are obtained and their conditions adhered to in accordance with the law.

If you are minded to grant permission, can I suggest that all ecological mitigation, compensation and enhancement features are secured by condition.

Development shall proceed in accordance with the recommendations for bat mitigation, compensation and enhancement within the Bat Roost Assessment (Phillips Ecology, June 2022). All mitigation, compensation and enhancement measures shall be implemented as per ecologist's instructions and thereafter retained in the agreed locations. Reason: to provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, NPPF, NERC Act 2006 and Policy CS 11 of the Havant Borough Core Strategy March 2011.

Officer Comment: *If permission is granted the above condition is recommended.*

County Ecology - 1st Comment - More Information Required

The application is not accompanied by any ecological information. I have therefore carried out my own non-exhaustive desk-based assessment using the application documents, online sources and GIS mapping. Whilst I would not expect the site to be of significant ecological value, the existing building may offer potential for protected or notable species, especially roosting bats and nesting birds. The proposals will entail the removal of chimneys and roof materials, and may affect internal roof void areas. In my view there is a reasonable likelihood of these features supporting protected species: bat species in particular will inhabit small gaps and crevices within/beneath

roof materials such as tiles, brickwork and lead flashing. Bats may also be found within redundant chimneys.

I would recommend that the applicant commissions Preliminary Ecological Appraisal of the site: this should include an assessment of the potential for the site to support protected species, to be provided by a qualified ecologist. The Chartered Institute of Ecology and Environmental Management (CIEEM) (www.cieem.net) holds a database of suitably qualified ecologists.

A Preliminary Ecological Appraisal will determine whether there is any evidence of protected species or whether the site offers habitat suitable for supporting protected species, and whether the proposed works are likely to result in impacts to those habitats or species. Unless the qualified ecologist is able to conclude that there is no reasonable likelihood of protected species being present (due to negligible potential) or that if present they are not to be impacted by the works, it is likely that further ecological survey work (Phase 2 survey) will be required prior to determination of the application. The results of any further surveys should be used to provide an assessment of the likely ecological impacts of the proposed works and to inform any mitigation, compensation and enhancement measures.

NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, 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 LPA prior to determination, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable.

County Waste Management - No Comment

Highway Authority - No Objection

The Highway Authority wish to make the following comments.

The applicant has confirmed refuse collection is to continue as per the existing arrangements along Havant Road. This is acceptable.

The proposed tree in question has now been relocated further east to the back of the boundary providing improved visibility for those accessing the site of any manoeuvring vehicles within the parking space closest to the access.

Having regard to the above, the Highway Authority provide no objections to this planning application.

Natural England - No Comment

Nutrients Team - No Objection

At the time of writing, I can confirm that there is sufficient capacity in the Council's strategic mitigation scheme to mitigate the development proposals. The applicant is however advised that there is limited capacity remaining in the Council's mitigation scheme at Warblington Farm.

There is alternative mitigation available from third party providers in order to avoid and

mitigate the water quality impact arising out of the proposed development. The details of other schemes have been published on the Partnership for South Hampshire's website at: <https://www.push.gov.uk/work/mitigation-schemes-available-to-developers>

Officer Comment: *the applicant's agent has been advised of the alternative mitigation available.*

Property Management (formerly County Estates Department) Hampshire County Council - No Comment

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: 30

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
Plans inconsistent	Revised plans submitted
Windows, doors & Juliet balcony openings - overlooking property to west	See Section 7 below
Minimal vegetation proposed - amplify the noise from road and residents	See Section 7 Below
Net biodiversity gain should be secured	The legislation relating to net biodiversity gain has not yet been implemented.

7 Planning Considerations

Habitat Regulations Assessment & Appropriate Assessment

The Council, as competent authority under Regulation 63(1)(a) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations), has conducted a Habitats Regulations Assessment (HA) of the proposed development.

Recreational Pressure

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations) and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the

new development, is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

The applicant has proposed a mitigation package based on the methodology in the Developer Contributions Guide. The scale of the proposed mitigation package would remove the likelihood of a significant effect. The applicant has entered into a legal agreement to secure the mitigation package in line with the requirements of the Habitats Regulations and Policy DM24.

Water quality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Therefore, a significant effect on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA cannot be ruled out.

Natural England have produced 'Advice on achieving nutrient neutrality for new development in the Solent region'. This sets out a methodology to calculate the nutrient emissions from a development site. The applicant has used this methodology to calculate the nutrient emissions from the site. This calculation has confirmed that the site will emit a net nutrient load into European Sites. The Position Statement and Mitigation Plan for Nutrient Neutral Development sets out a mitigation package which will mitigate the impact that this development would have on the designated European Site. The applicant has entered into a legal agreement to secure the mitigation package.

Appropriate Assessment conclusion

The Habitats Regulations Assessment concluded that the avoidance and mitigation packages proposed in the Appropriate Assessment are sufficient to remove the significant effects on the Solent's European Sites which would otherwise have been likely to occur. The applicant has entered into a legal agreement and paid the contributions to secure the mitigation packages in question. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have not responded to the consultation within the required period and this has been outstanding for 3 weeks at the time of drafting the report. However, the consultation was a standard one, with a reasonable expectation that Natural England would have confirmed their agreement with the findings of the assessment. In view of this, it is considered reasonable to conclude the HRA/AA and move to the determination of the application.

7.1 In other respects, and having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Access and Parking
- (v) Impact on Trees
- (vi) Drainage, Water Efficiency & Flooding
- (vii) Impact on Ecology

- (viii) Impact on Heritage Asset
- (ix) CIL

(i) Principle of development

- 7.2 The application site is situated within an urban area as defined by policies CS17 and AL2 of the adopted plan where further development is considered acceptable subject to the usual development control criteria. Policy AL1 of the adopted Allocations Plan advises that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the revised NPPF (to improve the economic, social and environmental conditions in the area). Planning applications that accord with the policies in the adopted local plan will be approved unless material considerations indicate otherwise. The location of the proposed development is in a sustainable urban area with access to amenities in the form of public transport, health provision and retail opportunities and so in principle is considered to be a suitable location for more intensive residential development.
- 7.3 The addition of 7 units of accommodation in such a location would make a contribution, albeit a modest one, to the Council's overall housing requirement. The Council, at the time of writing the report, cannot demonstrate a 5 year land supply of housing, which is currently only 3.9 years.
- 7.4 The Council has identified that it has a finite amount of undeveloped land and environmental designations in the borough which limit opportunities for new development. Within this context, the Council's strategy for the delivery of new growth is to concentrate development within the urban areas where there are existing facilities and where new development would have the least impact on the range of highly protected designations within the Borough. To support this approach, Policy CS17 of the Havant Borough Core Strategy (2011) (Core Strategy) sets out that development will be permitted that makes the most effective use of land in the borough.
- 7.5 Policy CS9 of the Core Strategy supports housing proposals which achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shops and services in addition to respecting the surrounding landscape, character and built form. The supporting text of the policy sets out density thresholds, and in this regard the proposal would represent a medium density development at about 50 dwellings per hectare on a site of approximately 0.16 hectares.
- 7.6 The adopted Local Plan policies echoes the advice in the National Planning Policy Framework (NPPF).
- 7.7 Paragraph 119 of the NPPF sets out that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment.
- 7.8 Paragraph 124 of the Framework supports development that makes efficient use of land where it takes into account the desirability of maintaining an area's prevailing character. Policies CS17 and CS9 together are broadly consistent with this approach.
- 7.9 The Framework goes further and sets out at Paragraph 123 that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that development makes optimal use of the potential of each site.

7.10 The principle of making more efficient use of an existing urban site is therefore supported having regard to the surrounding character and built form, albeit that the acceptability of the scheme put forward will turn on the deliberation of a number of detailed planning considerations as set out below.

7.11 The adopted Emsworth Neighbourhood Plan 2019 - 2026 (ENP) forms part of the development plan, which compliments the respective policies in the Local Plan. The relevant policies in the ENP are: D1, D2, D3, D7, L1, L2, H1, H2 and M1.

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

7.12 The immediate area surrounding the site is residential, with two storey houses, chalet bungalows and the Emsworth Social Club opposite. The existing 2 storey dwelling is visible from the public realm, from the access/boundary with Havant Road. This position would not materially change if planning permission is granted, albeit trees proposed to the front boundary would be conditioned, which should help soften the front of the site from the public realm. The outbuilding to the rear, immediately behind the main dwelling, is not visible from the public realm.

7.13 The main building is a flint and brick Edwardian style, large, detached property dating from the 1890's, with a large, pitched roof. As advised by Heritage, it has had several alterations since its construction and is not eligible for statutory listing but is locally listed and therefore classed as a non-designated heritage asset. The current use of the building is residential, (the agent has advised that the recent planning permission has been implemented), which benefits from 7 bedrooms. It is acknowledged that the proposal has the potential to impact on the character of the area in terms of the intensified use of the site, from a single family house to 7 apartments, (plus a separate 2 bedroom bungalow to the rear). However, the car parking for the apartments, as now, would be to the front of the site, which it is considered would not significantly impact on neighbouring properties. The same is considered to be the case with the 2 bedroom bungalow to the rear, with vehicular movement over and above those vehicular movements associated with the 4 bungalows to the rear. Having regard to the size of the building and the plot, associated residential activities with the proposed intensification of the use are not considered to materially impact on the character of the area.

7.14 To the front of the site, is the access off Havant Road, which feeds around to the west to the 4 bungalows to the rear. This hard surfaced area also provides a car parking area to the front of the existing dwelling. This is to be retained, with 10 car parking spaces shown on the Proposed Site Plan for the development of 7 apartments.

7.15 In physical terms, the alterations to the buildings that would be visible from the public realm would be on the north elevation, which would be the proposed removal of the 3 chimneys from the roof, which are attractive features which would detract from the overall character and appearance of this locally listed building. This is further discussed under the heading 'Heritage Asset' below and balanced against the recognised need for housing within the Borough.

7.16 To the south a dormer and Juliet balcony is proposed within the roof space. There is an existing balcony with doors in the roofspace on this elevation. There would also be changes to the ground floor, which includes replacing an existing window and door, removing an existing canopy between the main house and the outbuildings and rendering part of the ground floor elevation. These alterations would not materially

impact on the appearance of the main dwelling or be visible from the public realm. As to the outbuilding a porch is proposed on the south elevation, with changes to the fenestration. As with the main dwelling, these alterations would not be visible from the public realm and would not impact on the overall character of the building.

(iii) Impact upon residential amenity (including existing and future)

Impact on Existing Residents

- 7.17 The main part of the proposal is to convert the existing 7 bed two storey dwelling, with room in the roof space, to 7 apartments. Therefore, there would already be an element of overlooking of neighbouring properties to the east and west from the existing building; the proposal would not materially change this by a dormer in the south elevation. It is also proposed to install a 1.8m obscure glazed screen on the eastern elevation of the terrace area for flat 7, which would restrict view in this direction. As this is not a green field site, there would also be an element of activity and noise associated with the current residential use and its former use as a Dialysis Treatment Centre and Holiday Home, which benefited from a large swimming pool in the rear garden, since developed.
- 7.18 As to the development to the rear, the position as to the existing balcony within the roof scape to the rear of the main dwelling would not change as to overlooking. As to the proposed rear dormer, with a Juliet balcony, there would be a separation distance of approximately 23m, from plot 1 (the closest bungalow to the application site), with a 1.8m wooden fence along the southern boundary. Due to the separation distance between plot 1 and the proposed dormer (approximately 23m), coupled with the established level of overlooking from the existing balcony and first and second floor windows, it is considered that there would not be a significant impact from overlooking from the new dormer.
- 7.19 Due to the single storey nature of the proposed converted bungalow, a 1.8m wooden fence along the southern boundary and a separation distance of approximately 14m, its conversion should not give rise to overlooking or a significant loss of amenity to the occupiers of plot 1, or to other neighbouring properties.
- 7.20 As to the intensification of activities associated with the proposed residential use, it is considered that this would not give rise to an unacceptable level of noise and disturbance, within this urban area.

Impact on Future Residents

- 7.21 All of the apartments would comply with the Government's Technical housing standards - nationally described space standards - and would benefit from access to a communal rear garden. Apartments 1, 2 and 3 would benefit from their own courtyard, with apartments 1 and 3 having direct access to the shared communal rear garden. Access to the rear communal garden by other occupiers would be along the side alleyway on the eastern boundary, or internally. Occupiers of flat 7 in the roof space would have access to a Juliet balcony and existing dormers with balconies both to the rear and front. They would also have access to a terrace to the east.
- 7.22 10 allocated parking spaces would be provided for future occupiers, together with 8 bicycle sheds adjacent to the shared garden.
- 7.23 The proposal involves the conversion of existing buildings. The relationship with

apartment 3 and the converted bungalow is close, with an approximate 1.8m separation at its closest point, opening out wider in the courtyard to the east. Apartment 3 would have 2 windows and a set of folding doors on part of the southern elevation closest to the bungalow, with a 1.8m fence along the boundary. However, due to the single storey nature of the converted bungalow, with no windows in the north elevation that would overlook the courtyard, and with a roof that hips away from apartment 3, on balance, the relationship between these 2 converted buildings is considered to be acceptable and would not be over dominant or be of such a bulk as to warrant a refusal of planning permission.

- 7.24 It is therefore considered that the proposal would provide a satisfactory level of amenity for future residents of the apartments.
- 7.25 With regard to the bungalow, its proposed gross internal floor area would comply with the Government's Technical housing standards, providing a lounge/dining/kitchen area, 2 bedrooms, a bathroom and storage area. The bungalow would benefit from its own garden which at its longest point to the east would be approximately 15m, dropping down to 8m to the south of the bungalow. Whilst Havant's Design Guide seeks a 10m garden in length, in combination, the area of garden to be provided is considered to be of a sufficient size for this 2 bedroom bungalow. 2 parking spaces would be provided, to the south of the bungalow, together with a garden shed for cycles which would accord with Havant's Car Parking SPD. It is considered that the bungalow would provide a satisfactory level of amenity for future residents. However, for this part of the development it is recommended that permitted development rights be removed, in the interest of residential amenity.

(iv) Access and Parking

- 7.26 The intention is to use the access onto Havant Road, which has recently been granted planning permission under reference, to be repositioned further to the east. The Highway Authority has been consulted over the proposal and following the relocation of a proposed tree further east to the back of the boundary and that the existing refuse collection arrangement would continue, has raised no objection to the proposal.

Parking

- 7.27 As stated above, 10 allocated car parking spaces are proposed to the front of the site for the apartments. Havant's Car Parking SPD requires, for allocated parking, 1 space per 1 bed unit, with 2 spaces per 2 bed unit. With 7 apartments the required provision would be 8 parking spaces. The additional 2 spaces are for visitors. This level of parking is welcomed.

(v) Trees

- 7.28 There are 2 Oak Trees the subject of a Tree Preservation Order within the application site, along the western boundary. There are also other trees along both the western and eastern boundary. A letter from Fallen & Found Arboriculture Ltd, has been submitted in support of the proposal. This found:

"... [I] cannot find any potential negative implications associated with the proposal. The proposal requires predominantly internal alterations to the property. There is sufficient space around the property to facilitate parking, storage of material and being sufficient as to allow for construction without imposing on any of the retained trees growing at the site. As a result, it is my professional opinion that there are no significant

arboricultural constraints associated with the proposal and full planning consent should be granted."

- 7.29 The car parking would be to the north of the site and along the eastern boundary. This area is currently a hard surfaced paved area, used for the parking of vehicles for the existing dwellinghouse, which would not change with the proposal. The eastern boundary benefits from trees which are not protected. The parking of vehicles on the existing hard surfaced area would not change the existing parking arrangements, and thus is not anticipated to adversely impact on the trees along the eastern boundary. As to the car parking for the bungalow, this is set back from the western boundary, which benefits from trees, one of which is protected. Due to the separation and from the Officer's observations, the hard surfaced area for the car parking would not adversely impact on the trees along the western boundary.
- 7.30 As to the relationship with the trees along the eastern boundary and apartments 4 and 7, and the bungalow and the western boundary, these would not give rise to an unacceptable level of overshadowing and loss of light to the future occupiers of these units.
- 7.31 The Council's Arboricultural Officer has been consulted over the development and has raised no objection. The proposal is considered to accord with Policies CS11 and CS16 of the HBLPCS.

(vi) Drainage & Flooding

- 7.32 The proposal is for the foul sewage to link into the existing mains sewer, with the disposal of surface into soakaways. The applicant's agent has confirmed that the position as to drainage would not change.
- 7.33 The site lies within Flood Zone 1, as does the surrounding residential development, which has a less than 0.1% chance of flooding in any year and according to the Climate Change map would remain so in 2115.
- 7.34 On this basis it is considered that the development accords with Policy CS15 of the HBLPCS.

(vii) Ecology

- 7.33 All development within the Borough is expected to protect, conserve and enhance the Borough's Local Ecological Network.
- 7.34 Following initial comments from the Council's Ecologist, a Preliminary Bat Roost Assessment (PBRA) was submitted, which following two presence/absence surveys, found that the house supports common pipistrelle bat day roost.
- 7.35 The Council's Ecologist has commented on this document who advised:

"This development will affect bats, which receive strict legal protection under UK law by the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Where developments affect European protected species, permission can be granted unless the development is likely to result in a breach of the Habitats Regulations and is unlikely to be granted a licence from Natural England to allow the development to proceed under a derogation from the law."

7.36 A European Protected Species (EPS) licence can only be granted if the development proposal is able to meet three tests:

1. *the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))*
2. *there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and*
3. *the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b))...*

7.37 To grant planning permission the Local Planning Authority must be satisfied that the development meets tests 1 and 2 above.

7.38 The proposal is for the conversion of 2 buildings, to 7 apartments and 1 bungalow which in economic terms would provide employment during the build and the potential increase in spend in the area from future occupiers. In social terms the conversion of the buildings would provide much needed housing, for which there is a recognised need in the Borough. There is no satisfactory alternative, as the proposal may only take place within the existing buildings. The applicant has provided a PBRA, which has identified the presence of bats and a bat mitigation strategy, which in summary would include:

- replacement bat roosts;
- sensitive timing of works;
- supervised by a licensed bat worker (the applicant has confirmed that the site is registered under the Bat Mitigation Class Licence WML-CL21).

7.39 The Council's Ecologist has raised no objection to the proposal and suggests that all ecological mitigation, compensation and enhancement features are secured by the following condition:

"Development shall proceed in accordance with the recommendations for bat mitigation, compensation and enhancement within the Bat Roost Assessment (Phillips Ecology, June 2022). All mitigation, compensation and enhancement measures shall be implemented as per ecologist's instructions and thereafter retained in the agreed locations.

Reason: to provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, NPPF, NERC Act 2006 and Policy CS 11 of the Havant Borough Core Strategy March 2011."

7.40 If permission is granted the above condition is recommended.

7.41 The Supreme Court in *R. (Morge) v Hampshire CC* [2011] UKSC 2; [2011] Env. L.R. 19 held that the duty of the local planning authority is limited to that set out in reg. 9(5) of the Regulations (ie Conservation (Natural Habitats etc.) Regulations 1994), namely: *"to have regard to the requirements of the Directives so far as they may be affected by the exercise of those functions."*

7.42 In paragraph 28 of his judgment Lord Brown of Eaton-under-Heywood referred to

what Ward L.J. had said in the Court of Appeal (in para.61 of his judgment) (part set out below):

“The planning committee must grant or refuse planning permission in such a way that will ‘establish a system of strict protection for the animal species listed in Annex IV(a) in their natural range ...’ If in this case the committee is satisfied that the development will not offend art.12(1)(b) or (d) it may grant permission. “ “ If the planning committee conclude that Natural England will not grant a licence it must refuse planning permission. If on the other hand it is likely that it will grant the licence then the planning committee may grant conditional planning permission. If it is uncertain whether or not a licence will be granted, then it must refuse planning”.

- 7.43 The PBRA includes a mitigation strategy to relocate the bat roost, which would compensate for the loss of the existing bat roost in the building, which the Council's Ecologist has found to be acceptable, and which the LPA agree with. Therefore, the proposal will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The applicant has advised that the site is registered under the Bat Mitigation Class Licence WML-CL21, as confirmed by Natural England on the 9th July 2022.
- 7.44 To conclude, having assessed the proposal, the Local Planning Authority is satisfied that there is a need in economic and social terms for the development and there is no satisfactory alternative and that tests 1 and 2 above are satisfied. As to the third test, (the favourable conservation status of the species) this is met because the applicant's ecologist has characterised the status of the bat roost and set out measures that ensure favourable conservation status of the species can be maintained. Further, it has been confirmed that Natural England has granted a licence and therefore conditional planning permission may be granted for the proposal.
- 7.45 On this basis the proposal is considered to comply with Policy CS 11 of the HBLPCS.
- (viii) Impact on heritage asset
- 7.46 As stated above, 34 Havant Road is on the list of Local Buildings of Historic Interest and is therefore classed as a non-designated heritage asset.
- 7.47 The proposal is accompanied by a Heritage Report on which the Council's Conservation Officer (CO) has been consulted. The CO has advised that
- " Minimal structural alterations are proposed, which would retain the character of the building. However, I am concerned over the loss of the traditional chimney stacks which add character and architectural interest to the building as this would result in a degree of harm (less than substantial) to the non-designated heritage asset. As set out in Para 203 of the NPPF, this harm will need to be weighed up against any benefits the scheme may bring."*
- 7.48 In response to this the agent has advised that the removal of the chimneys falls under permitted development, which the LPA does not consider is the case for the reason set out at Paragraph 3.4 above.
- 7.49 The Court of Appeal in *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314, clarified when a 'fallback' development may be a material planning consideration for an alternative development scheme. Lindblom LJ confirmed the legal

considerations in determining the materiality of a fallback position as a planning judgement were:

"the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice; and there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary, in others, not. This will always be a matter for the decision-makers planning judgment in the particular circumstances of the case in hand."

7.50 Whilst the removal of the chimneys could take place under permitted development, as set out above, this is not considered to be the case with the proposal, as their removal is required to facilitate the development, (as are the other works proposed under permitted development rights.) Therefore, on current information before the LPA, there is not considered to be a possibility that the removal of the chimneys would take place otherwise, and their removal and the impact on this non-designated heritage asset, is a material consideration.

7.51 As found by the CO the removal of the chimneys would result in a degree of harm to this non-designated heritage asset, with the other alterations having a minimum impact. The loss of the chimneys, which are attractive features on the main building, visible within the immediate locality, would be undesirable. The loss of the chimneys to facilitate the development, has, however, to be balanced against the recognised need for housing within the Borough and the lack of a five year land supply. Due to this lack of housing supply, the 'tilted balance' at paragraph 11d) in the National Planning Policy Framework (NPPF), comes into play, which advises that planning permission should be granted unless:

"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."

7.52 Whilst 7 additional units of accommodation would be modest in numbers, the proposal would still be a valued addition to the Council's housing stock, being less than significantly harmful to the overall character and architectural interest of this non-designated heritage asset. As advice in paragraph 203 of the NPPF *"a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* The LPA is of the view that the harm to this non-designated heritage asset by the loss of the chimneys is not considered to be so significantly and demonstrably harmful, when balanced against the additional housing that the proposal would provide for the Borough, as to warrant a refusal of planning permission.

(ix) Community Infrastructure Levy (CIL)

7.53 The proposal is not CIL liable, as whilst it would intensify the residential use of the buildings, it would not extend their use by 100sqm or more.

8 Conclusion

8.1 The proposal would be a modest addition to the Council's housing stock, in a

sustainable location, with the necessary mitigation packages provided for the SRMS and for nutrient neutral development. The development would not adversely impact on the appearance of the area or residential amenity, and would be acceptable in highways, parking, arboricultural and ecology terms and in the overall planning balance, the delivery of much-needed housing would outweigh the less than substantial impact on a non-designated heritage asset. The proposal accords with the National Planning Policy Framework and the development plan when considered as a whole and the recommendation is conditional planning permission.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/22/00548 subject to the following conditions:

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

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

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

Proposed Site Plan - Drawing No. 21020_131E
Proposed Floor Plans - Drawing No. 21020_430G
Proposed Elevations - Drawing No. 21020_531C
Proposed Outbuilding & Bungalow - Drawing No. 21020_532D

Design & Access Statement, dated May 2022
Heritage Report, dated 2022
External Lighting for Biodiversity
Schedule of Materials, dated May 2022
Fallen & Found Arboriculture letter, dated 8/8/22
Preliminary Bat Roost Assessment, dated May 2022, Phillips Ecology
Bat Roost Assessment, Final Report, dated June 2022, Phillips Ecology

Reason: - To ensure provision of a satisfactory development.

- 3 Development shall proceed in accordance with the recommendations for bat mitigation, compensation and enhancement within the Bat Roost Assessment (Phillips Ecology, June 2022). All mitigation, compensation and enhancement measures shall be implemented as per ecologist's instructions and thereafter retained in the agreed locations.

Reason: To provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, National Planning Policy Framework, NERC Act 2006 and Policy CS 11 of the Havant Borough Local Plan (Core Strategy) 2011.

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

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

- 5 The landscaping works shown on the approved plan [ref: drawing No. 21020 - 131E] shall be carried out in accordance with the approved details and in accordance with any timing / phasing arrangements approved or within the first planting season following final occupation of the development hereby permitted, whichever is the sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extensions, dormers, roof lights, windows and doors shall be constructed within the curtilage of the bungalow hereby approved, without the prior approval of the Local Planning Authority.

Reason: In the interests of the amenities of neighbouring properties and to ensure adequate parking provision having due regard to policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 Prior to the occupation of the bungalow hereby approved, the window shown on drawing No. 21020-430G to be blocked off on the north elevation servicing bedroom 1 shall be permanently blocked off.

Reason: In the interests of residential amenity having regard to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 8 Prior to the occupation of the development hereby approved a 1.8m high obscure glazed screen, with an obscuration level no less obscure than that which is provided by Pilkington's Texture Glass Obscuration Level 4 (or equivalent), shall be erected on the terrace on the east elevation as shown on Drawing No. 21020-531C hereby approved. Such screen shall be thereafter retained and maintained, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 9 The external materials used shall be as indicated on the submitted forms and hereby approved plans, or shall match, in type, colour and texture, those of the existing building so far as practicable.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 11 At all times following occupation of the development hereby approved, all measures for water usage within the submitted nutrient budget shall be maintained in the development in perpetuity.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, and Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.