
Site Address:	Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH		
Proposal:	Nine new dwellings on the site surrounding the retained Fowley Cottage, 2 on the Warblington Road frontage and 7 in the rear garden area.		
Application No:	APP/20/00376	Expiry Date:	22/07/2020
Applicant:	Mr Glanville		
Agent:	Mr Swanton	Case Officer:	Daphney Haywood
	Re-Format LLP		
Ward:	Emsworth		

Reason for Committee Consideration: At the request of Councillor Kennett

Density: 18.9 dph (dwellings per hectare) based on the developable area.

HPS Recommendation: **REFUSE PERMISSION**

Executive summary

The current application, which has been submitted following the refusal and dismissal at appeal of a proposal for 7 dwellings on grounds of not making efficient use of land, is for 9 dwellings on part of the curtilage of Fowley Cottage which is a substantial dwelling located within the built-up area of Emsworth. The site is a draft housing allocation in the emerging Local Plan. The site is highly constrained, and the draft allocation has been amended from 40 dwellings to 20 dwellings in response to the constraints.

The current application provides for 9 dwellings ranging in size but all with a large footprint relative to number of bedrooms proposed. There is a finite supply of land and NPPF and local plan policy require proposed developments should make efficient use of land. At a density of less than 20 dph the scheme for 9 dwellings fails to satisfy this requirement and as such is contrary to both adopted and emerging Planning Policy.

As in the case of the appeal proposal most other matters including the impacts on the character of the area, neighbouring properties, flooding and drainage, ecology and trees have been assessed and are considered acceptable.

With regard to the Habitats Regulations Assessment undertaken in respect of the proposals, whilst the applicant has indicated a willingness to enter into legal agreements to secure the required mitigation packages, at the time of drafting this report they have yet to be completed in full. In the absence of completed agreements there would be an unmitigated significant effect on the Solent's European sites and refusal must be recommended at this stage.

In respect to representations received, these include comments both in support and against the proposal, with a number of those in support indicating that the current scheme for 9 dwellings would have a more acceptable impact than the 20 dwellings of the draft housing allocation. The representations are summarised in section 6 of the report.

It is considered that, as in the case of the appeal development there is a conflict with both national and local plan policy and the proposal cannot be supported.

1 Site Description

- 1.1 The site forms part of the grounds of Fowley Cottage, 46 Warblington Road, Emsworth which currently has a total land area of approximately 1.02Ha including a tennis court and sea flood zones to the south. The application site itself which excludes the existing house, tennis court and harbour frontage is approximately 0.71 hectares in area, and comprises predominantly mature garden including large trees, shrubs and hedges. The site which is wholly within Flood Zone 1 is the subject of both individual and group Tree Preservation Orders.
- 1.2 Surrounding the site to the north, west and east are largely detached dwellings of mixed age and design which are typical of the wider character area in this part of Emsworth. The site also lies within Landscape Character Area (LCA) H1 Havant to Chichester Coastal Plain as described by Chichester Harbour AONB Landscape Character Assessment. To the south and outside of the site lies Chichester Harbour Area of Outstanding Natural Beauty (AONB) and LCA C2 Emsworth Channel Head and Broad Inlet.
- 1.3 To the south of the site lies the 'Wayfarer's Walk', a public right of way which is part of the coastal path. Beyond this lies the Chichester Harbour AONB.
- 1.4 Adjoining to the west of the site lies Curlew Close, a small residential cul-de-sac of some 5 detached properties. A private covenant exists restricting the number of dwellings that may be served off Curlew Close to six.
- 1.5 There is an existing public sewer which crosses the site and requires a 3m easement zone. A surface water sewer runs along the western boundary and requires a 3.5m easement.
- 1.6 A restrictive covenant covers the site. This is a legal matter and not a planning matter.

2 Planning History

APP/19/00623 - Retain the existing 'Fowley Cottage' dwelling and construction of 7No. detached dwellings, two on the Warblington Road frontage and five to the rear garden area. Access to Plot 5 to be taken off Warblington Road, access to Plots 1-4, 6 and 7 to be taken off Curlew Close. Refused 29/04/2020

Refusal reasons:

1

In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the Conservation of Habitats and Species Regulations 2017.

2

At a density of only 8.5 dwellings to the hectare (gross) / 14.4 dwellings to the hectare (net) the application fails to make efficient use of land and is therefore contrary to the requirements of the National Planning Policy Framework and Policies H3 and H13 of the Pre-Submission Havant Borough Local Plan 2036.

3

The submitted Flood Risk Assessment (FRA) 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 therefore adequately assess the flood risks posed by the development and as such

the proposal is contrary to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

4

The submitted information does not accord with the requirements of the NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, in that full, up-to-date ecological information including all necessary survey, assessment and mitigation information has not been provided and therefore it has not been possible to conclude on the basis of full knowledge about the ecological impacts of the proposal that any impacts can and will be appropriately mitigated. As such the proposal is contrary to policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

An appeal was lodged and subsequently **dismissed**. Based on additional information provided the matters in respect to reasons 1, 3 and 4 were subsequently confirmed as satisfactory and the appeal was dismissed solely in relation to reason 2 (density/efficient use of land) .

The Inspectors report is at Appendix O and concludes:

I conclude that the proposed development would not make efficient and effective use of land having particular regard to site constraints and the character of the area. It would therefore conflict with Policies CS9 and CS17 of the Core Strategy as referred to above. It would also not accord with the Framework which supports development that makes efficient use of land whilst taking into account the character of the area.

01/51660/005 - Renewal of outline application 98/51660/3 for 7 detached houses and garages with new access for 2 of the dwellings onto Warblington Road and modification of an existing private drive from Warblington Road to serve 5 of those houses plus Fowley Cottage. Permitted 03/12/2001

98/51660/003 - Residential development comprising 7 detached houses/garages and including a new access for 2 of those houses from Warblington Road and modification of an existing private drive from Warblington Road to serve 5 of those houses plus existing Fowley Cottage. Permitted 30/07/1998

94/51660/002 - Renewal of Outline consent for 2 chalet bungalows with garages. Permitted 31/03/1994

91/51660/001 - Renewal of outline permission 16871/4 for two chalet bungalows with garages. Permitted 21/02/1991

Trees

The site has also been the subject of a large number of applications for works to trees covered by a Tree Preservation Order (TPOed trees).

3 Proposal

- 3.1 The application is for 9 dwellings comprising: 1 No. 1 bedroom, 4 No. 2 bedroom, 1 No. 3 bedroom and 3 No. 4/5 bedroom units. Unit 8 addresses Warblington Road. Unit 7 is set at an angle and presents an oblique end-on elevation to the street creating a corner transition between Warblington Road and Curlew Close. The seven dwellings to the rear of the site are orientated to preserve views through the site and ensure that where possible the plots benefit from a sea view with a path providing access to the sea from all plots.

- 3.2 The design proposals are contemporary in appearance with the dwellings typically consisting of a narrow two storey element and a single storey section.
- 3.3 All but one of the properties, plot 8 on the Warblington Road frontage, would be accessed off Curlew Close. Plot 8 together with the existing dwelling Fowley Cottage would be accessed off Warblington Road.
- 3.4 The submitted arboricultural report indicates that 14 individual trees and three groups of trees are to be felled – all category C or U except Himalayan Birch. Additionally, a number of trees would be crown lifted or trimmed back.
- 3.5 Each plot would sit roughly 150mm above existing ground level at the entrance onto Warblington Road. The site has a natural fall away to the sea, so external patios would have steps down to the existing garden levels, and those properties at the southern end of the site would be elevated by 400 to 500mm above existing ground level.
- 3.6 The layout and dwellings have been designed to maximise harbour views and the dwellings would be constructed of untreated vertical timber boarding on grey brickwork plinths with riven slate for the pitched roofs and planted single storey roofs, permeable bonded gravel is to be used to provide vehicular access
- 3.7 The proposed ridge heights would follow ground levels which slope towards the harbour and be in the region of 14.860 AOD at the Fowley Road end of the site and 12.941 AOD at the harbour end of the site. For comparison the ridge height of Fowley Cottage is 14.000AOD.

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)
CS12	(Chichester Harbour Area of Outstanding Natural Beauty (AONB))
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS21	(Developer Requirements)
CS8	(Community Safety)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)
DM9	(Development in the Coastal Zone)

Havant Borough Local Plan (Allocations) July 2014

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

Submission Havant Borough Local Plan

E1 High quality design

E2 Health and wellbeing
E3 Landscape and settlement boundaries
H13 Fowley Cottage
E11 Sports and recreation
H1 High quality new homes
H3 Housing density
IN1 Effective provision of infrastructure
IN3 Transport and parking in new development
E22 Amenity and pollution
E16 Recreation impact on the Solent European Sites
EX1 Water quality impact on the Solent European Sites
E12 Efficient use of resources and low carbon design

Emsworth Neighbourhood Plan Post Examination Version 2020

D1 – General Design Policy
D2 – Height, Mass & Materials
D3 – Layout, Form & Density
D4 – Design of Public Spaces & External Areas
D5 – Integration & Strong Connections
D6 – Resource Efficiency
D7 – Mitigate Light Pollution
L1 – General Housing Policy
L2 – Housing Mix
WF1 – Public Enjoyment of the Waterfront

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

5 Statutory and Non Statutory Consultations

Arboriculturalist

It would appear that the latest revisions to this application have addressed our initial and ongoing concerns and objections to the scheme, and this revised proposal is certainly significantly improved to a standard where we are able to now withdraw an objection on arboricultural grounds.

However, I note that 13 trees one of which is a Cat B Birch are proposed for removal within the site, whilst I am not happy with the loss of trees to facilitate a development the trees highlighted for removal are in the main a lower quality (Birch excepted) and can easily be replaced and mitigated for - a comprehensive tree replanting scheme must be agreed in writing and any trees that fail within the first five years of planting must be replaced by the owner.

In reference to BS:5837 (2012) it would be difficult to argue that the trees highlighted for removal should remain and be considered a constraint to development due to their categorisation and position.

If permission is given, then the following must be conditioned:

A pre-commencement site visit / meeting must take place between the Site Manager, Arb Consultant and an HBC representative to ensure that all tree protection is in place prior to any works beginning on site.

All works within the RPA of trees must be supervised by the Arb Consultant to ensure no harm occurs, any roots found above 25mm in diameter must not be cut without the permission of the LPA.

The AMS and TPP must be strictly adhered to with no deviation.

Any underground services must be installed outside of the RPA.

Building Control, Havant Borough Council

Building Regulation consent will be required for this work

Access to dwellings should comply with Approved Document B Section 5 Fire Authority access and consideration of waste collection AD H vehicles and collection points

Consultation with Southern Water regarding easements as sewer line may differ

Once Building Regulation submission made issues such as thermal considerations due to glazing amounts will need to be discussed and ensuring means of escape provisions comply

Chichester Harbour Conservancy

At the meeting of its Planning Committee today, Conservancy Members remarked on the drainage solution to serve the development and whether capacity to treat sewage existed at the Thornham Waste Water Treatment Works, and wished to add to the officer recommended planning conditions to ensure an appropriate drainage solution was delivered to both serve the development, safeguard water quality in Chichester Harbour and ensure flood risk was not increased off-site.

Subject to those observations, the following was resolved in terms of the above planning application –

“No objection, provided -

(a) The Council secures the necessary SDMP payment to fund ecological mitigation from increased recreational disturbance through a formal legal agreement before the development commences; and,

(b) The following planning conditions being imposed:-

- Tree protection to be in place before the commencement of development and retained throughout in accordance with the arborist report recommendations;
- Any tree felling to take place outside the bird nesting season (i.e. not between March to October);
- Agreement of a Construction Environment Management Plan, to ensure that the public right of way in front of the site is not obstructed during the build process;
- Samples of external facing and roofing materials – including solar panels if they are to be installed on roof surfaces - to be agreed (with the Conservancy's preference of colour finishes of a dark hue);
- A management plan should be prepared to maintain the land between the site and the coastal footpath and no structures should be erected within it (i.e. if these areas are to be formally conveyed to any of the residential plots proposed, permitted development rights relating to outbuildings, including swimming pools should be withdrawn);
- Details of a hard and soft landscape design to follow the principles set out in the previous Terra Firma Landscape Strategy drawing 2067-TF-00-00-SK-L-0001 02 (submitted under application APP/19/00623), to be submitted for approval/implemented/maintained: the scheme should at least include the replanting of 20 new trees to heavy nursery standard;
- All external lighting to be submitted for approval and be so designed to minimise impact on the setting of the AONB;
- Implementation to the incorporation of bat or bird boxes into the fabric of the new dwelling, and wild flower meadow planting, recommended by the applicant's ecologist,

to achieve a net gain to biodiversity and,

- The submitted foul and surface water drainage solution shall be fully implemented to ensure the development is properly serviced, that water quality in Chichester Harbour is safeguarded and that flood risk off-site is not increased.”

If you wish to see a copy of the Conservancy's report, please go to –

[https://www.conservancy.co.uk/assets/files/cms_item/447/d-](https://www.conservancy.co.uk/assets/files/cms_item/447/d-13_July_2020_Planning_Committee_Agenda_and_Papers-98X0jzODb0.pdf)

[13_July_2020_Planning_Committee_Agenda_and_Papers-98X0jzODb0.pdf](https://www.conservancy.co.uk/assets/files/cms_item/447/d-13_July_2020_Planning_Committee_Agenda_and_Papers-98X0jzODb0.pdf)

- for the 13 July 2020 Committee papers.

Coastal Engineering

The Eastern Solent Coastal Partnership (ESCP) have no objection in principle to the proposed development.

The site is shown to lie within the Environment Agency's present-day Flood Zone 1 and is therefore considered to be at low risk (less than 1 in 1000 year / 0.1% annual probability) of experiencing an extreme tidal flood event. By 2115, a small portion of the south of the development site is predicted to be located between Flood Zones 2 & 3 and may therefore be at risk from a 1:200 year (0.5% annual probability) extreme tidal flood event.

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 a revised Flood Risk Assessment (FRA), dated 7th August 2020, which sufficiently outlines how flood risk at the site will be mitigated.

The ESCP would concur with the following proposed planning conditions as requested by the Environment Agency, to be implemented prior to occupation of the development:

1. The proposed dwellings will have a minimum finished floor level (FFL) of 4.89 mAOD, equivalent to the 2115 design tide level and including a 300mm freeboard allowance.
2. To ensure safe access and egress for all vehicles in the event of extreme tidal flooding, the road will also be set at 4.89 mAOD.
3. Appropriate flood resistance and resilience measures will be incorporated into the construction of the development, where practical to do so.

Community Infrastructure

CIL

The CIL rate is set out in our Charging Schedule:

<http://www.havant.gov.uk/sites/default/files/documents/HBC%20CIL%20Charging%20Schedule%20Full%20Document%20Feb%202013.pdf>

The amounts in the Charging Schedule are indexed according to the year in which permission is issued, if a permission is issued in 2021 the amount of indexation would be 48.66%. It is expected to change/potentially increase if permission is issued in 2022. Given the recently updated description of the site a new CIL Form 7 (1) should be submitted.

CIL liability of £214,368.75 arises

S106

Additionally, pending a response from Natural England on the 'HRA', instructions

should be passed by the Case Officer to the CI Team to:

(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the additional dwellings 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/nitrogen-developers>

If a wider S106 is required, arising out of statutory consultee responses, it should include the above.

Subject to statutory consultee responses we would expect the S106 to include (amongst any other site-specific obligations necessary):

HBC Monitoring Fees: As part of the HBC 'Heads of Terms' it would be necessary to include monitoring fees. The amended CIL Regulations effective 1/9/19 regularise the collection of S106 monitoring fees. We have an agreed schedule of charges and these are set out in Appendix A (updated figures provided from 1/4/21): <https://www.havant.gov.uk/sites/default/files/documents/Update%20Apr%202020.pdf>

Countryside Access Team

No comments received

County Ecologist

The application is accompanied by a Phase I Ecological Survey (EcoSupport, Updated April 2020) and I have also reviewed the previous Ecological Impact Assessment in Respect of Bats (Ecosa, August 2019). The site itself is of generally limited ecological value, comprising a large residential garden containing managed lawn and various planted trees, shrubs and herbaceous plants. The existing dwelling and outbuildings are located in the north of the site. Given the generally limited ecological value of the site itself I am content that sufficient information has been provided and that the proposed ecological mitigation, compensation and enhancement measures are proportionate.

Overall I would not raise any particular concerns in relation to on-site ecological matters. The site is in close proximity to the Solent Maritime Special Area of Conservation, Chichester & Langstone Harbours Special Protection Area and Ramsar site, and the underlying Chichester Harbour Site of Special Scientific Interest. There is clearly potential for construction activities, as well as the presence of new dwelling in this location, to result in impacts to these designated sites and the species and habitat they support.

The potential impacts from construction activities can be addressed through the submission of a Construction Environment Management Plan (CEMP). This should detail all measures designated to avoid/mitigate potential impacts arising from e.g. noise and visual disturbance, and airborne and waterborne pollution. I note that Natural England have requested that a CEMP is secured.

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

Development shall proceed in accordance with the ecological mitigation, compensation and enhancement measures detailed within the Phase I Ecological Survey (EcoSupport, Updated April 2020) and Ecological Impact Assessment in Respect of Bats (Ecosa, August 2019) unless otherwise agreed in writing by the Local Planning Authority. Ecological mitigation, compensation and enhancement measures shall be implemented as per ecologists instructions and all compensation and enhancement features retained in perpetuity in a location suited to their intended function.

Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.

In addition I would suggest that a CEMP is secured.

Prior to the commencement of development activities, a Construction Environment Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority. This CEMP shall include (but not be restricted to): pollution prevention measures; measures to control surface water run-off and the emission of dust and noise; and specific measures to avoid damage and disturbance to important habitats and species.

Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.

County Minerals

No comments received

Crime Prevention -Minor Apps

No comments received

Developer Services, Southern Water

The submitted drawing (15048-RFT-00-ZZ-DR-A-0121-S1) indicates sewer easement of 3 metres for 300 mm public foul sewer and 3.5 metres for 450 mm public surface water sewer which would be satisfactory to Southern Water.

We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication "A Guide to Tree Planting near water Mains and Sewers"

(southernwater.co.uk/media/1642/ds-tree-planting-guide.pdf) and the Sewerage Sector Guidance (water.org.uk/sewerage-sector-guidance-approved-documents) with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers, rising mains and water mains.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer.

Developer can discharge surface water flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the sewerage system. No additional flows other than currently received can be accommodated within exiting sewerage network.

The planning application form makes reference to drainage using Sustainable Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here:

water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

Environment Agency

We have reviewed the submitted documents and consider that it satisfactorily addresses our earlier concerns. Subject to the condition below, we therefore withdraw our previous objection.

The proposed development will only meet the National Planning Policy Framework (NPPF) policy of the Planning Practice Guidance for Flood Risk and Coastal Change if the following planning conditions are included.

Conditions

The development permitted by this planning permission shall be carried out in accordance with the submitted updated flood risk assessment (FRA) TR/MT/5042.FRA.7 August 2020 and the following mitigation measures they detail:

- Section 3.5 - It will be ensured that the proposed dwellings will have a minimum FFL (finished floor level) of 4.89m AOD (i.e. 2115 flood level of 4.59m AOD + 300mm freeboard allowance).
- Section 4.3 - It will also be ensured that the level of the road will be set at a minimum level of 4.89m AOD. To ensure safe access for all vehicles, including emergency vehicles. It is suggested that this is controlled by a suitably worded planning condition.
- Section 3.6 - In accordance with Planning Practice Guidance, the proposed buildings

should be designed and constructed with flood resilience measures in mind, thus reducing the impact in the unlikely event that flood water enters the proposed buildings, to ensure no permanent damage is caused, structural integrity is maintained and drying and cleaning is easier. In this regard, the proposed dwellings will be designed in accordance with the Communities and Local Government document entitled, 'Improving the Flood Performance of New Buildings - Flood Resilient Construction'. Examples of flood resilience measure include raised electrical sockets; sump and pump systems; and using water resistant materials in kitchens and bathrooms.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To reduce the risk of flooding to the proposed development and future occupants.
To ensure safe access and egress from and to the residential buildings.

Advice to LPA

The LPA should list the FRA in the conditions as an approved plan/document to which the development must adhere. It is recommended these conditions are in place before the development begins.

Environmental permit

Planning permission does not remove the requirement for an Environmental Permit. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity."

Hampshire Highways

The applicant has provided drawing number 15048-RFT-00-ZZ-DR-A-0121-S1 Rev P20 which incorporates revisions to the development layout. The latest proposal relocates dwelling number 9 away from the site frontage to be accessed via Curlew Close, removing the requirement for the new northern dropped kerb access. The Highway Authority raises no objection to this proposed layout change.

The plan also revises the parking layout for dwelling number 8 to remove the requirement for tandem parking. Instead, 3 parking spaces will be provided for a larger property accessed via the Fowley Cottage dropped kerb. The Highway Authority acknowledges that the updated proposals will remove the requirement for a car to reverse back onto the footway when manoeuvring into the parking bays and is therefore the preferred option from those presented to date. This addresses the

concern raised within previous responses.

Whilst not an impact on the public highway, the Highway Authority does note that the easternmost parking bay for property number 8 could be constrained in that a car out of the space may be affected by the space provided on the private access track, despite the additional width provided on the southern side of the track. Tracking has not been provided to confirm that a car can undertake this manoeuvre. Visibility to cars travelling down the access track from Fowley Cottage may also be restricted by the boundary features in place. The planning authority may wish to consider these points further.

The latest amendments to the internal layout has addressed the Highway Authority's previous concerns. No objection is raised, subject to the following condition:

CONSTRUCTION METHOD STATEMENT REQUIRED

No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:

- (a) A programme of and phasing of demolition (if any) and construction work;
- (b) The provision of long term facilities for contractor parking;
- (c) The arrangements for deliveries associated with all construction works;
- (d) Methods and phasing of construction works;
- (e) Access and egress for plant and machinery;
- (f) Protection of pedestrian routes during construction;
- (g) Location of temporary site buildings, compounds, construction material, and plant storage areas;

Demolition and construction work shall only take place in accordance with the approved method statement.

Reason - In order that the Planning Authority can properly consider the effect of the works on the amenity of the locality.

Hampshire Wildlife Trust, Beechcroft House

No comments received

Nutrient Team

There is sufficient capacity within the Council's mitigation scheme for planning application APP/20/00376.

Natural England Government Team

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 11th August 2020 (our ref: 322632).

The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which **significantly** affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Comments of 11 August:

Thank you for consulting Natural England on the above HRA and AA. This response also covers our response to the consultation for the above application itself.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural

England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that we concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.

Solent Recreation Mitigation Strategy – no objection subject to mitigation

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Nutrient Neutrality – no objection subject to mitigation

Natural England is aware that your authority has adopted an interim strategy using Grampian conditions to address nutrient impacts from developments currently in the planning system and we have been working with the Council to develop this approach. It is noted that the mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. With regard to deterioration of the water environment, it is noted that the approach to address the positive nitrogen budget for this development is to offset against the interim strategy, with measures to ensure this approach can be adequately secured and accounted for.

It is Natural England's view that in this case, provided the Council as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Please consult Natural England on the discharge of the Grampian condition.

Construction Impacts – no objection subject to mitigation

It is noted that a CEMP will be secured with any planning permission, with some mitigation measures included in the Appropriate Assessment. Provided the CEMP includes best practice measures for dust control, pollution and surface water drainage measures during construction and measures to prevent noise, lighting and visual disturbance on the designated sites, Natural England raises no further comments. It is also recommended that the following condition is attached to any planning permission:

Wherever possible, percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive). If such a

condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service. Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

We advise that you may want to seek your own legal advice on the implications of the Sweetman II ruling and the level of detail that should be included within an Appropriate Assessment.

Surface water drainage

Due to the close proximity of the designated sites, we advise that any SuDS should be designed and installed in accordance with the requirements in the CIRIA SuDS Manual (C753).

The pollution hazard indices in the CIRIA SuDS Manual (C753) relate to 'protected waters' with regards to drinking water supply. Step 3 under Section 26.7.1 of the SuDS manual outlines that the requirement for extra treatment should be considered in relation to discharge to environmentally protected sites. It states that 'an additional treatment component (i.e. over and above that required for standard discharges), or other equivalent protection, is required that provides environmental protection in the event of an unexpected pollution event or poor system performance'.

Provided this is secured with any planning permission, Natural England raise no further comments.

Open Space Society

No comments received.

Planning Policy

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. The [Havant Borough Local Plan](#) (HBLP) was submitted for Examination on the 12th February 2021 and can be afforded limited weight.

The following Adopted Local Plan policies are of particular relevance:

- CS8 – Community Safety
- CS9 – Housing
- CS16 – High Quality Design
- CS17 – Concentration and Distribution of Development within the Urban Areas
- CS19 – Effective Provision of Infrastructure
- CS21 – Developer Requirements
- DM8 – Coordination of Development
- DM10 – Pollution
- DM13 – Car and Cycle Parking in Residential Development
- AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements

In the Pre-submission Plan the following policies are of particular relevance:

- E1 | High quality design
- E2 | Health and wellbeing
- E3 | Landscape and settlement boundaries
- E11 | Sports and recreation
- H1 | High quality new homes
- H3 | Housing density

- E1 | High quality design
- IN1 | Effective provision of infrastructure
- IN3 | Transport and parking in new development
- E22 | Amenity and pollution
- H13 | Fowley Cottage

Importantly, the [Emsworth Neighbourhood Plan \(ENP\)](#) has also reached an advanced stage of preparation, and the examiner's report was received on 6 January 2020. A referendum is scheduled to take place on 8th July 2021. Planning Practice Guidance indicates that a neighbourhood plan may be given significant weight in decision-making in advance of a referendum.

The following policies from the ENP are of relevance:

- D1 – General Design Policy
- D2 – Height, Mass & Materials
- D3 – Layout, Form & Density
- D4 – Design of Public Spaces & External Areas
- D5 – Integration & Strong Connections
- D6 – Resource Efficiency
- D7 – Mitigate Light Pollution
- L1 – General Housing Policy
- L2 – Housing Mix
- WF1 – Public Enjoyment of the Waterfront

This application is a revised submission following the refusal of planning permission reference APP/19/00623 on 29 April 2020 for the retention of the existing 'Fowley Cottage' dwelling and the construction of 6 No. 5 bed detached dwellings. This scheme has also been subsequently revised since my original comments dated 22nd June 2020, and the commentary below has been updated accordingly.

Principle of Development:

The site lies within the urban area as defined by Policies CS17 and AL2 of the adopted local plan and emerging E3 of the Pre-Submission Local Plan. Policy CS17 caveats that development will be acceptable within the five urban areas of the Borough where it *makes the most effective use of land*. The policy also prioritises previously developed land or underused land or buildings within the urban area. Therefore, development is supported in principle where it can be shown it will make the most effective use of land, subject to other relevant considerations. The acceptability of the principle of development therefore hinges on whether it makes an effective use of land.

The site is identified for about 20 dwellings under Policy H13 in the Submission version of the Plan.

For the purposes of Policy H3 (Housing Density) which is considered in further detail below, residential density is taken as dwellings per hectare across the net developable area. Figure 1 of the [Residential Density Evidence Paper](#) indicates the development elements should be included for gross and net area calculations. In the case of the latter "any significant buffer areas required for landscape, ecological or infrastructure such as underground pipes" should be excluded. It is considered that retained trees and the necessary buffers and root protection zones would qualify within that definition.

For allocations in the Submission Plan, yields were calculated using the net developable area considering any high-level mappable constraints including access, ground conditions, flood risk and contamination. In this case, the Flood Zones 2 and 3

affecting the southern part of the site were taken into account, reducing the net developable area to approximately 1ha. More detailed information was submitted by the applicant during the previous application reference (APP/19/00623) which indicated a developable area of no more than 0.5ha, having regard to the tree constraints and sewer easement. As such, the submitted Local Plan indicates a reduced site capacity of 20 dwellings (from the 40 dwellings included in the [CD09 2019 Pre-Submission Local Plan](#)).

The site yield was calculated by applying 40dph across the developable area accordingly (0.5ha x 40 dph = 20 dwellings).

It is acknowledged the site capacities of allocations are set at 'about' rather than minimums or maximums. This is because depending on the form of development proposed through a planning application, it could be that different numbers of homes are achieved subject to other relevant policies or material considerations in the Plan.

It should also be noted that the application site area differs from the allocation site in the Submission Local Plan. The existing house and tennis courts are excluded from the application red line, of which the submitted application form indicates the site has an area of 0.71 ha (when compared to the 1.1 ha site area identified by the allocation).

Housing Density:

National Policy Context

The 2019 NPPF includes a specific section on 'Achieving appropriate densities' which contains guidance on how planning policies and decisions should support development that makes efficient use of land (paragraph 122).

Paragraph 123 of the 2019 NPPF is clear that planning policies and decisions avoid homes being built at low densities and seeks to ensure that developments make optimal use of the potential of each site, especially where there is an existing or anticipated shortage of land for meeting identified housing needs. In such cases, the use of minimum density standards should be considered and as a result are being taken forward through the Havant Borough Local Plan 2036.

In addition, part c) under paragraph 123 indicates that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. It is noted this represents a step change from the 2012 NPPF which did not include a specific section on 'Achieving appropriate densities' (paragraphs 122-123).

The 2012 NPPF previously stated that planning policies and decisions should encourage the *effective* use of land by re-using land that has been previously developed (brownfield land) (added emphasis) (paragraph 111) as opposed to making 'efficient' or 'optimal' use of the land. Though it is noted that it did provide for local planning authorities to 'set their own approach to housing density to reflect local circumstances' (paragraph 47).

In this particular case, the application site relates to residential garden land which is excluded from the definition of 'previously developed land' in Annex 2 of the 2019 and 2012 NPPF respectively. It is noted the 2019 NPPF does not distinguish between previously developed land and undeveloped land in the context of achieving appropriate densities.

Local Policy Context

Policy CS9 of the Adopted Local Plan (Core Strategy) states that planning permission will be granted for housing proposals that will:

“achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shop and services in addition to respecting the surrounding landscape, character and built form.”

Paragraph 6.21 of the supporting text indicates that the density of new housing will depend on its design and appropriateness to its location. A range of minimum density thresholds were developed using the Havant Borough Townscape and Seascape Character Assessment and the levels of accessibility to a range of facilities:

High Density	- Minimum of 60 dwellings per hectare
Medium Density	- Minimum of 45 dwellings per hectare
Low Density	- Up to 45 dwellings per hectare

Paragraph 6.22 indicates that where the quality of design justifies it, much higher densities could be achievable. This is likely to be more appropriate in town centres or highly accessible locations. It also notes that seeking higher density in such locations will reduce the requirement for greenfield land release and ensure that more people have excellent access to jobs, public transport, shops and services.

Policy H3 in the emerging Local Plan indicates that residential development must maximise its contribution to addressing housing need in the context of the finite undeveloped land in the Borough. The policy also requires development to provide for a minimum of 40 dph outside of town and district centres and defined opportunity areas. This increases to 55dph within defined ‘opportunity areas’. The [Residential Density Evidence Paper](#) defines opportunities for higher density residential development dependent on accessibility to services that would support future occupants. For Emsworth, this includes shops and services, train station and bus routes. Figure 23 of the plan confirms that the site is partly within the Emsworth opportunity area and partly outside it.

Policy D3 in the emerging Neighbourhood Plan also indicates that development proposals should make the most efficient use of land and be developed at the optimum density. The optimum density should result from a design-led approach to determine the capacity of the site, with particular consideration given to:

- the site context
- its connectivity and accessibility to surrounding areas by walking, cycling and public transport.

It also confirms that residential development that does not demonstrably optimise the density of the site should be refused.

Site Specific Constraints

Paragraph 6.33 of the supporting text for emerging Policy H3 indicates that site-specific constraints and local character may justify a different approach having regard to the site context. In such circumstances, a detailed Design and Access Statement must fully explain the rationale to the proposed approach to the design and layout of the scheme. In this respect, Section 2 of the submitted Design and Access Statement provides an assessment of the site constraints which have influenced the arrangement and design of the proposed houses, including important trees, the extent of flood risk affecting the southern part of the site; sewers, residential amenity of neighbouring occupiers and a restrictive covenant (which would not be a material consideration) on Curlew Close which allows a maximum of 5 dwellings to the south of the existing house.

The submitted Constraints Plan includes a quantitative assessment of the likely developable area which takes into account the site's constraints including easement needed for the sewer, the TPOs and the root protection areas. It is understood the applicant has revised the scheme following the comments of the Arboricultural Officer which suggested a need to reduce the quantum of development on the front (northern part) of the site. The Revised Constraints Plan indicates a maximum deliverable area of 0.478ha. In addition, an additional studio dwelling is proposed within the southern part of the south which would provide a total of 7 dwellings to the south of the existing house. It is understood that this would be achieved by altering the covenant which currently restricts the number of new dwellings which can be accessed off Curlew Close.

Based on the revised Constraints Plan, the northern part of the site has a net developable area of 0.103 ha and the southern part of the site has a developable area of 0.373 ha to provide a total net developable area of 0.476ha. Based on the submitted scheme of 9 dwellings, this would provide a density of about 18.9 dph. However, the northern part of the site falls within the 'area of search for 55 dph' as defined by Figure 23 in the -Submission Local Plan, whilst the southern part of the site would be expected to provide 40 dph under the emerging policy.

It is acknowledged that the northern part of the site is constrained by trees and its capacity is therefore likely to be limited. If 40 dph is applied across the developable area of the southern part of the site, this would equate to around 14.92 dwellings (0.373ha x 40 dph) when compared to the proposed 7 dwellings.

Local character

Whilst it is noted that the street scene character is predominantly large, detached dwellings, with the information available there is a limited justification for the proposed form of development and why it justifies a deviation from the density standard of 40 dph under emerging Policy H3.

The amended development scheme would provide for a total of nine dwellings, of which a greater proportion (four) would be smaller dwellings including four no. 2 bedroom dwellings and a studio (1 bed) which is welcomed. Larger units would include: one 3-bed, and three 4-bed. However, these would be substantial when compared to the Nationally Described Space Standards:

	Floorspace (Gross Internal Area)	Nationally Described Space Standards GIA	Comparison
4 x 2-bedroom detached houses	123-170	79 (4 person)	+155-215%
1 x 3-bedroom detached houses	247	95 (6 person)	+260%
3 x 4-bedroom detached houses	279	124 (8 person)	+225%

The above table shows that the small dwellings (2 bedroom units) would be at least one and a half, and that two of the 2-beds would be twice the size of NDSS for two-bedroom dwellings. The 3 and 4 bedroom units would be over twice the size when compared NDSS.

It is acknowledged that the front (northern) part of the site and the developable area means that it is unlikely to be capable of accommodating more than two dwellings. However, it is difficult to conclude that the proposals would make an efficient use of available land on the southern part of the site in accordance with Policy CS17.

Paragraph 123 section c) of the 2019 NPPF is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.

It should, however, be noted that there are other considerations such as local character which may justify an alternative design approach and this would need to be weighed in the overall planning balance.

Coordination of Development

Policy DM6 of the Core Strategy indicates that development will only be permitted where they do not undermine the future development of adjacent sites. This principle is reinforced by criterion h. of emerging Policy DR1. Paragraph 10.21 of the supporting text in the Core Strategy indicates that

“Development should not be piecemeal or prejudice the potential for the satisfactory development of a larger area. Piecemeal schemes which avoid the need for developer contributions will be refused.”

In this particular case, it is noted the applicant is the current owner of the existing house and the tennis courts are in the same ownership and are to be retained as part of a shared communal facility. It is noted that this could potentially prevent a larger development coming forward and could be seen to circumvent other developer requirements. These are set out in further detail below.

Housing mix and affordable housing

Policy CS9 (as amended by the NPPF) sets out that 30-40% affordable housing should be provided on housing sites of 10 or more dwellings; and that housing proposals will provide a mix of dwelling types, sizes and tenures which help meet identified local housing need and contribute to the development of mixed and sustainable communities. It is considered that the proposed development could potentially create a form of ‘gated community’ and would not support social cohesion with the surrounding area.

Paragraph 6.24 of the Core Strategy states that a mix of dwelling types should sought from one and two bedroom flats to terrace and larger detached houses. It is noted that the proposal would provide nine detached dwellings.

It is considered, with the available evidence, that the site has the potential to accommodate more development than is proposed. Emerging policies on affordable housing (H2 of the HBLP and L1 of the ENP) and mix (H4 of the HBLP and L2 of the ENP) have a threshold of ten dwellings and so would not apply to the proposal as currently designed.

The Neighbourhood Plan also recognises that the neighbourhood plan area may wish to encourage the provision of more flats and terraced housing which would complement the large number of existing larger detached houses. In this respect, the provision of a proportion of smaller dwellings (1-2 bedrooms) is encouraged, for which there is evidenced demand. It is noted that five of the nine dwellings would fall into this category.

In terms of mix, the Council’s [Specialist Housing Analysis](#) indicates that Emsworth has a surplus of 4+ bedroom market properties (25%) relative to assessed need (11.6%) and a deficit of 2 bedroom properties for which there is a clear need (20% stock v 34.2% need).

In addition to the above, the supporting text to Policy H2 (para 6.28) sets out that:

“Housing proposals will be expected to make efficient use of land in line with Policy E1 (High Quality Design). Any proposal that appears to have an artificially lower density in order to avoid the affordable housing requirement may be refused planning permission”.

The latter principle is also set out in Policy DM8 of the Adopted Local Plan.

Design

More generally, both the adopted and emerging local plan require high quality design in all development under policies

- CS16 High Quality Design (Core Strategy)
- E1 High Quality Design (HBLP 2036)

These considerations are reinforced through the Design Policies (D1 to D7 + design checklist) in the Emsworth Neighbourhood Plan.

Health and wellbeing

The Submission Local Plan (E2 and E11)) and the NPPF (paras 96-101) promote achieving health gains through planning decisions. Both (E11 and para 97) set put a presumption against the loss of sports provision. Whilst a private and not public facility, ensuring that it would not be lost through development is considered appropriate in that it would serve to boost healthy living for the proposed occupants. There would be an opportunity to allow public use of the facility though it would appear only to be available to the residents of the development, and potentially those of Curlew Close.

The site also includes common parts, including vehicular and pedestrian access to the southern properties from Curlew Close. At the south of the site there is an access to Chichester Harbour and Footpath 56 (Wayfarers Way), which runs along the coast from Emsworth to Langstone. However, this is private access for use by residents only. Policy E2 of the Submission Local Plan highlights the need to enhance existing and facilitate new opportunities for active travel (walking and cycling) ...by...creating and improving pedestrian and cycle routes linkages within the Borough and to surrounding areas, particularly...along the coast. The need for a safe and convenient access to Footpath 56 is also highlighted in the allocation for the site (H13). In this respect, it is also noted that criterion f of Policy E1 indicates that the layout should provide safe and convenient access for all users. It is recognised that consideration should be given to the need for natural surveillance and lighting, ensuring that the latter does not adversely affect designated habitats or the landscape.

The Neighbourhood Plan refers to access to the waterfront and recognises the health and leisure benefits that residents can gain from the coastal path. Policy WF1 is clear that any new development on any waterfront site shall provide public right of access to the waterfront. It is also indicates that applications should include an appraisal of options for the provision of public spaces and leisure facilities, and must clearly explain how the proposals have taken account of this appraisal. This must be afforded substantial weight.

Development Requirements:

The full set of developer considerations can be found in the emerging allocation policy; please see Policy H13 in the Submission Draft Local Plan. The applicant should ensure these are satisfactorily addressed through assessments of these site issues as part of

any planning application.

In addition to the above, emerging policies which are of particular relevance to the proposed development are summarised below:

- **Low Carbon Design** – Residential development is expected to achieve a 19% reduction in Dwelling Emission Rate in accordance with emerging Policy E12.
- **EV Charging Infrastructure** – Electric Vehicle charging infrastructure should be provided for each new residential unit with private off-street parking in line with emerging IN3.
- **Management Plans** – A management plan is likely to be required through a legal agreement to establish the whole life management and maintenance of the common parts within the development.

Parking:

The proposals would need to ensure that appropriate parking provision is provided in accordance with Policy DM13, emerging policy IN3 and the Council's Parking SPD.

Summary:

Emerging policy H3 must be afforded some weight particularly given the clear direction in national policy to optimise the use of land. The NPPF in and of itself is also a material consideration in the determination of planning applications.

The development proposals would provide for a significantly lower density than set out by emerging policies H3 and H13. Paragraph 123 section c) of the 2019 NPPF is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework. Whilst it is acknowledged that the northern extent of the site is constrained, it is difficult to conclude that the proposals would make an efficient use of available land on the southern part of the site, by virtue of the scale and massing of the dwellings. The larger (3&4 bed) dwellings which are over 2-2.5 times the size required by space standards, and although effectively "pass" this requirement clearly overachieve at the expense of the density that could be provided on this site. For example, these dwellings could relatively easily be subdivided to provide 2no. dwellings in place of one.

It is also noted that there may be other considerations such as local character which may justify an alternative design approach, and this must be weighed carefully in the overall planning balance. Furthermore, the proposed form of development by virtue of the scale of the dwellings seeks to artificially lower the density of the site, and thereby circumvent the requirements for housing mix and affordable housing.

Public Spaces

No comments received

Ramblers Association

No comments received

Royal Society for the Protection of Birds

No comments received

Traffic Management, East Hampshire District Council

We would expect to see a minimum of 2 spaces for the 2 and 3 bedroom properties and 3 spaces available for the 4+ bedroom properties as per HBC Parking Standards 2016 and visitor parking to be provided up to 2 spaces.

Waste Services Manager

No comments 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: 45

Number of site notices: 2

Statutory advertisement: Not applicable.

At the time of writing the report the number of representations received was 61 comprising 30 objections, 30 in support and 1 comment. It should be noted however that in submitting their representations there are instances where the author has recorded their comments in the 'sense box' on the website as an objection, when in some cases the comments actually are in support or neutral.

In the interests of transparency all comments in support or neutral have been summarised below, as have objections. These include the letter from the Emsworth Residents Association which supports the current proposal but not the higher density of the draft allocation.

Summary of Comments

Principle	
<i>Objection</i> Not required as HBC has already satisfied its target for housing. Accepting several builds in the flood region will set a precedent for all neighbouring properties to apply to build onto the foreshore destroying the beauty of the coastal pathway. Covenants should not be ignored. There will be a considerable additional demand on utility services. Use of the field by local clubs and for dog training will cease.	
<i>Neutral</i> Property values are high in the road and any new houses even if at high density would not be affordable. If Fowley Cottage and the tennis court come forward for development this would unacceptably increase the density. Whilst 9 dwellings are a lot better than 19 this should not come into the equation as it could be seen as a threat. We note that plot 9 now has its own delineation whereas in earlier iterations of the proposed development this shows as a garden studio. We presume it now becomes a distinctly separate plot to appease planners and keep the property count up on the development.	

The South West aspect of Emsworth is an area of natural charm for walkers and this should be preserved against higher density builds.

Support

There is enough land elsewhere to meet housing need, why spoil this beautiful area next to designated AONB, support this planning application. It provides more housing in this area without adding unduly to the traffic intensity and complements the low-intensity buildings currently set along the shoreline. 20 houses would be totally unacceptable and at a density excessively greater than the neighbouring properties or let out for parties which will not contribute to local housing need and the community.

16 or 20 new buildings on this site is too much. It would spoil the surrounding area quite considerably - this plot should not be for affordable housing since there is nothing similar in the area. Instead, it should be developed as a quality residential development and for this reason, I support the application for 8 or 9 dwellings. An increased development would strain already failing infrastructure (road and sewage).

These are brilliant buildings that fit in well with the surrounding area. I would like to see this go ahead as something that Emsworth residence can be proud of. The alternative is rather sad and unsustainable.

I write in strong support of this application and in opposition to any suggestion of a higher density development on the site. The proposals are sensitive and appropriate for this tranquil and beautiful site. The plans are an aesthetically pleasing contemporary design in keeping with housing density and character of the neighbourhood. More houses would mean more traffic and detriment to important habitat.

Very much better than having high-density houses that would otherwise detract from the area. I would hate to see this site wrecked by a careless developer not considering the surroundings.

Traffic and parking

Objection

Warblington Road cannot cope it is narrow, heavily trafficked, used to access the foreshore and extensively used for on road car parking which restricts width causing congestion. Recent construction traffic has parked illegally on the footpath causing obstruction to pedestrians.

Additional traffic on the roads from construction and future occupiers and delivery vehicles parking in Warblington Road.

Parking for visitors should be provided.

Inevitably cars will be parked along the length of Curlew Close, for example when there is a party.

New housing will cause increased traffic volume along Warblington Road and into the junction with the A 259. This is already a difficult junction, with space for only one car at a time.

It appears that the access road for the new development is too narrow to accommodate street parking for visitors and delivery vehicles. This will cause overspill parking onto Warblington Road, which already has a problem with the

volume of street parking. Congestion and danger around the entrance and to Curlew Close which is a single lane private road with visibility and no footpath, I am certain that many will simply park outside on Warblington Road itself. Vast majority of 'new' traffic associated with the dwellings, will enter the site right opposite number 43 Warblington Road, and those in Curlew Close itself will see a vast increase of passing traffic from seven of the proposed properties The local road cannot cope with the additional traffic and the junctions with the A259 at the North end of both Clovelly Road and Warblington Road are narrow, and neither is wide enough for a car to safely exit and enter these. The traffic situation in the area is already very serious and dangerous and the extra vehicles would have a serve and detrimental impact on safety. <i>Neutral</i> Yellow lines in Warblington Road extending 200M east and west of Clovelly Road required because the Clovelly junction with Warblington Road is at a difficult angle and already causes congestion.	
Visual impact	
<i>Objection</i> This site is the only remaining green space along the shore West of Emsworth until Nore Barn Woods. such green spaces should surely be preserved. The destruction of a very unique part of the local character and environment. Unattractive design, with huge barn-like slab sides too close to the road, overly tall and large and detrimental to character of the area and Warblington Road. Dwellings should be more modest, and of a design more in keeping with the area. This would be damaging to the feel and aesthetic by truncating the line of sight with a large house out of character with nearby properties. Out of character - All 9 dwellings use the same lifeless cold materials and are of substantially the same design and external appearance, whereas dwellings in the local vicinity are of a significant mix of design, appearance, materials and alignment. The southern aspect of the development along the foreshore is not in keeping with the current foreshore profile, and the loss of open space by the crowding of such large houses toward the southern aspect diminishes the unique rural qualities of Chichester Harbour. The two most southern properties are elevated above sea level and tower above the surrounding houses in order to ensure that the properties fall outside of the 2115 flood levels. Beautiful Fowley Cottage is swamped by this belittling, expansive housing estate when viewed from the foreshore and open character of the area destroyed. No provision for boat/ water equipment storage would result in cluttered appearance. No boats should be stored on this site. <i>Neutral</i> If Fowley Cottage and the tennis court come forward for development in the future this would further impact the character and amenities of the area. Fowley Cottage, along with several other Warblington Road and shore line	

properties, should be listed buildings given their domestic architecture.	
Amenity	
<i>Objection</i> Inadequacy of parking on congested road will be detrimental. Added height reduces daylight, privacy and outlook for adjacent properties. The design and appearance of the towering and heavy proportions of the buildings oppressively dominate the sky line of neighbouring properties. To offer views and increase the market value of the properties the builds are set only meters away from established builds reducing light due to their towering aspect and privacy with the design open aspect. The size and siting of house no.1 blocks the only open aspect we have left in our home. The loss of light to our property would be significant and is our main objection. We are already grossly overshadowed by Fowley's dense, fast growing trees and lose all sunlight by mid-afternoon. The new house effectively blocks the sky to the south of the trees and we would sit in shadow for much of the day. This unacceptable loss of light (and house value) is the most significant consequence of the proposal and must be addressed. Plan misleading as trees inaccurately plotted and boundary with 44 Warblington Road inaccurate and street elevation does not show pitched roof over car port to No 44. Loss of light, open aspect and amenity caused by the tall height and barn like structure of the house in plot 1. It is located close to the boundary and presents a long tall featureless mass to our plot. It will reduce significantly the light reaching our garden, which is already overshadowed by surrounding houses and tall trees. The long narrow design of houses 1 and 2, with a roof that projects over a balcony at the front and over bedrooms above car parking at the rear, offers a grim prospect from the side. No attempt has been made to reduce this impact, for example by locating the house further away from the boundary, or changing the roof line (eg hip roof). Both houses appear forward of the building line, close to the outer boundaries, and will be raised up on tall foundations due to flood risk. Will create the feel of a private, gated community totally separate from the local community of Emsworth. We understand that this revision to the application requires the properties nearest to the sea to be raised by 400mm with external steps, but that the overall height of the buildings will not change as ceiling heights will be reduced accordingly. House 3 where its side wall will be only 3 metres from the garden boundary of the existing houses in Beacon Square. The design and appearance of this aspect of the house is extremely imposing and uncompromising and will impact greatly on the view from these gardens, in terms of reducing daylight, privacy and outlook. Currently trees provide some screening but would be lost through damaged to roots from foundations. Disruption, noise, dust and pollution during the course of the build. Security has not been considered. Concerned by the use of carports without garages causing a problem with security and appearance with storage of sports equipment, bikes, water craft etc is rising. Plots 6 and 7 would directly over look 54 Warblington Road and access should be via Warblington Road.	

Detrimental impact on the setting of the Solent Way which is a very popular semi-rural walk. <i>Neutral</i> Whilst existing trees retained they must be maintained. Boundary hedging on eastern boundary should be retained.	
Flooding	
<i>Objection</i> I note that the plans have avoided any building on the area of land at the south of the plot, which currently floods at high tides with a low pressure and southerly winds. This currently happens several times each year. The plans don't take into account the very real possibility that with global warming, the sea levels are going to rise by at least a meter before the end of this century. This estimate is possibly conservative, the sea level rise may be higher and may come significantly earlier. This would make most of the southern part of this development a part of a new flood plain. The Fowley plot is subject to flooding in winter. Weather systems are becoming more extreme with more intense rain and increased flood risk. It would be totally unacceptable if the development increased flooding to adjacent properties. This site is subject to flooding and although this fact has been considered in the proposal and allowance made for predicted sea height rises there will inevitably be an effect due to increased hard surfaces on surrounding properties built in the past that have not been raised. Recent severe weather events have in many cases not been predicted and allowing building on such a sensitive and vulnerable site appears irresponsible in the light of recent accelerating changes in weather patterns. There have been occasions when the ground could not cope with all the surface water and/or the tidal. At present Fowley Cottage gives the area an ability to cope with more of this type of water which this development will affect to the potential detriment of the adjoining properties. Drainage proposed cannot cope adequately with the issue. The very large house proposed for the south west corner of the plot is in an area that floods at least once a year. The portion of the field near the sea is subject to flooding. Even at the present levels spring tides and a southerly gale produces large waves that break into the field. This would increase with climate change. Building in flood zone may cause over properties to flood. Paving over part will exacerbate the problem.	
Ecology	
<i>Objection</i> Adverse impact of sewage on the sea and wildlife. Loss of hedgerows and trees adversely impact wildlife. Increase light and noise pollution to the foreshore compromising the natural	

habitat of the AONB.

Loss of the only green space along the coastal path between Emsworth centre and Nore Barn Woods would be extremely regrettable for the harbour, the environment and for Emsworth.

Natural habitats would be lost as the wild field is developed to houses, roads and gardens and to disturbance and damage during construction. Once gone they are likely to be irreplaceable.

Nitrate runoff into the sensitive waters of Chichester Harbour AONB and SSSI will surely be an issue resulting from approval of this further increased size development.

Officer comment: *These matters are considered in section 7 below.*

7 Planning Considerations

Appropriate Assessment

The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (hereafter referred to as the Habitats Regulations).

The Council's assessment as Competent Authority under the Habitats Regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to recreational pressure, water quality, loss/degradation of supporting habitats and construction impacts. The planning application was then subject to Appropriate Assessment under Regulation 63. This included a package of avoidance and mitigation measures. The first element of this is a financial contribution based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Council's agreed Position Statement on Nutrient Neutral Development. The third is measures to control the impact on the environment during construction of the 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), Policy E16 of the Submitted Havant Borough Local Plan 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 pre April 2021. The rates increased in April 2021 and a revised agreement has now been forwarded to the applicant.

Water Quality

The Partnership for Urban South Hampshire (PUSH) Integrated Water Management Study 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. NE have highlighted that there are high levels of nitrogen input into the water

environment at these sites, with evidence that these nutrients are causing eutrophication and that there is uncertainty about the efficacy of catchment measures to deliver the required reductions in nitrogen levels, and/or whether upgrades to existing waste water treatment works will be sufficient to accommodate the quantity of new housing proposed. To secure nutrient neutrality the applicant has indicated an willingness to enter into a legal agreement to secure appropriate mitigation.

Construction Impacts

There is potential for construction noise and activity to cause disturbance of SPA qualifying bird species. Control measures could be covered by a Construction Environment Management Plan (CEMP), to include measures controlling matters such as minimising idling by machinery, locating construction compounds in less noise sensitive areas of the site and maintaining machinery to further reduce these noise levels. Subject to the imposition of a condition securing these controls, it is considered that the significant effect due to noise, disturbance and construction related pollutants which would have been likely, could be suitably avoided and mitigated, and subject to a condition it may be possible to conclude that as such, no likelihood of a significant effect remains on this issue.

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 HRA format has been agreed with Natural England as the appropriate nature conservation body under Regulation 63(3). Provided all mitigation measures are adequately secured with any permission the proposal accords with the advice from Natural England.

The applicant has indicated a willingness to enter into legal agreements to secure the mitigation packages, however at the time of drafting this report they have yet to be completed in full. In the absence of completed agreements there would be an unmitigated significant effect on the Solent's European sites and refusal must be recommended at this stage. Should the situation change, and should be agreements be secured prior to the Committee meeting, an update to the recommendation will be provided.

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

- (i) Principle of development
- (ii) Impact on the Character and Appearance of the area
- (iii) Residential and Neighbouring Amenity
- (iv) Access and Highway Implications
- (v) Flooding and Drainage
- (vi) The Effect of Development on Ecology
- (vii) Impact on Trees
- (viii) Community Infrastructure Levy (CIL), Contribution Requirements and legal agreement

- (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 control criteria. The site is a draft housing allocation for 20 dwellings in the emerging local plan.
- 7.3 The site lies within the urban area as defined by Policies CS17 and AL2 of the adopted local plan and E3 of the Submission Local Plan. Adopted policy CS17 caveats that

development will be acceptable within the five urban areas of the Borough where it makes the most effective use of land. The policy also prioritises previously developed land or underused land or buildings within the urban area. Additionally, Policy CS9 of the Core Strategy supports housing proposals that achieve a suitable density of development, with the supporting text setting out density thresholds, with low density being development providing up to 45 (dph). In respect to the Emsworth Neighbourhood Plan, Policy D3 sets out new development should make the most efficient use of land. Therefore, development is supported in principle in the urban area where it can be shown it will make the most effective use of land, subject to other relevant considerations. The acceptability of the principle of development in this case therefore hinges on whether it makes an effective use of land. The requirement to make efficient use of land, as set out above, is identified in the Emsworth Neighbourhood Plan and both the development plan and NPPF which includes a specific section on 'Achieving appropriate densities' (paragraphs 122-123 NPPF published on 19 February 2019).

- 7.4 The Planning Policy consultation response in Section 5 above sets out in detail an assessment of the proposal in respect to making efficient use of land.
- 7.5 In summary adopted policies CS9 (Housing) and CS17(Concentration and Distribution of Development within the Urban Areas), together with policy D3 (Layout, Form & Density) carry significant weight and Emerging policy H3 (Housing density) and H13 (Fowley Cottage) must be afforded some weight particularly given the clear direction in national policy to optimise the use of land. The NPPF in and of itself is also a material consideration in the determination of planning applications.
- 7.6 The development proposals would provide for a significantly lower density than required by adopted local plan policy CS19 and emerging policies H3 and H13. Paragraph 123 section c) of the 2019 NPPF is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework. Whilst it is acknowledged that the northern extent of the site is constrained, it is difficult to conclude that the proposals would make an efficient use of available land on the southern part of the site, by virtue of the scale and massing of the individual dwellings. The larger (3&4/5 bed) dwellings, which are over 2-2.5 times the size required by space standards, although effectively "passing" the space standard requirement clearly overachieve at the expense of the density that could be provided on this site. For example, these dwellings in floorspace terms could be easily subdivided to provide 2no. dwellings in place of one.
- 7.7 In considering the matter of density the Planning Inspector in respect to the appeal on the scheme for 7 dwellings considered:

"The National Design Guide 2019 sets out that well-designed new development makes efficient use of land with an amount of development that optimises density. It also relates well to and enhances the existing character and context. In view of my findings relating to the character of the area and notably the differences between the developed areas directly east and west of the site, I have no substantive evidence before me that a higher density of development could not be achieved on site and also achieve a good design."

- 7.8 And furthermore the Inspector considers that:

"The proposal would be contrary to the Council's approach as set out in the Core Strategy, the ENP as well as the direction of travel in the Pre-Submission Plan. More fundamentally, it would be contrary to the Framework objectives to make efficient use of land and to refuse applications which fail to do so."

- 7.8 The Inspector concludes:

"I conclude that the proposed development would not make efficient and effective use of land having particular regard to site constraints and the character of the area. It would therefore conflict with Policies CS9 and CS17 of the Core Strategy as referred to above. It would also not accord with the Framework which supports development that makes efficient use of land whilst taking into account the character of the area."

- 7.9 Whilst the current application involves a higher density than the appeal proposal and increases the number of dwellings from 7 to 9, one of these is formed by the previously proposed studio to plot 1, such that it is now a separate dwelling with its own curtilage. It is considered that the proposed layout, which continues to propose a relatively small number of substantial dwellings, does not make efficient and effective use of land and that, having particular regard to site constraints and the character of the area, a more efficient use of land could be achieved.

- 7.10 In respect to 5-year housing land supply the Appeal Inspector noted:

"The Council can demonstrate a 5.4 year supply of deliverable housing land. It has also met and marginally exceeded its housing delivery requirements for the past three years. The proposed changes to the Pre-Submission Plan indicate that the Council would be able to meet its objectively assessed housing need of 10,433 homes with a small buffer of 51 homes. However, this would be reliant on all the sites being delivered during the plan period. These figures would need to be fully tested through the examination process. However, given the very small buffer in combination with the finite amount of developable land and environmental constraints within the borough, the need to secure optimal and increased densities on available sites is persuasive in these circumstances."

- 7.11 The 5 year housing land supply position has now deteriorated. The Borough's housing land supply was updated in February 2021 and shows that the Borough now has a 4.2-year housing land supply with a 20% buffer applied. It does not have a five year housing land supply, and this is considered to lend weight to the need to pursue appropriate densities on housing land and making the most efficient use of such sites.
- 7.12 Based on the above officers consider that in the particular circumstances that prevail at this time, if the applicant's scheme is granted planning permission, it would not constitute sustainable development as it would not make efficient use of land having particular regard to site constraints and the character of the area. It would therefore conflict with Policies CS9 and CS17 of the Core Strategy, Policies H3 and H13 of the emerging local plan and D3 of the Emsworth Neighbourhood Plan. Furthermore, it would also not accord with the Framework which supports development that makes efficient use of land whilst taking into account the character of the area

(ii) Impact on the Character and Appearance of the area

- 7.13 The proposed site itself is outside of the Chichester Harbour AONB and separated from the Harbour's ecological designations by a public footpath along the shoreline.
- 7.14 The site lies within Landscape Character Area 25 (LCA 25) Emsworth- western suburbs. The area contains one landscape character type: Urban Lower Harbour Plain and displays the following land form characteristics:-

a The landform forms a flat coastal plain, sloping from the north from around 10m AOD to below 5mAOD at the harbour edge, developing into a more gentle undulating landform to the north

b River terrace deposits cover an underlying geology of London Clay to the north followed by the Lambeth Group, then the chalk formation including Lewes Nodular Chalk Formation, Seaford Chalk Formation, Newhaven Chalk Formation, Culver Formation and

Portsdown Chalk Formation; this has produced a soil described as loamy with a naturally high water content

c No evidence of surface drainage

d Mature street trees along main arteries

e Mixed hedgerow boundary treatment around older properties

f The periphery of the residential area to the north is dominated by pony paddocks, playing fields, allotments and rear garden boundary treatment

g The largest internal open space is covered by allotments, which provides a spread of contrasting colour and texture

h Long stretches of adjacent gardens provide swathes of greenery throughout this built environment, although not particularly visible from the roadside

i Open areas of grassland forming verges and larger areas of grassland around 60's/70's residential development.

7.15 Being part of a flat coastal plain the site is clearly visible from the water and the coastal footpath itself and forms part of the setting of the AONB and LCA 25. This flatness makes the AONB and its landscape setting particularly vulnerable to visual intrusion from inappropriate development, which can often be seen from significant distances across inlets, the main harbour channels, or open countryside. However, in this case the development would be set back from the harbour, retains most of the TPO trees, utilises a design which at first floor presents a relatively narrow aspect to the harbour with recessed glazing and subdued materials (slate, timber and brickwork), and would be viewed in the context of the existing two storey development, which lies on rising ground levels to the north. In terms of the raised floor levels of the proposed dwellings, these relate to plots on the southern part of the site where the ground slopes down to the harbour, and the proposed floor levels for these plots would be consistent with the floor levels of the plots proposed to the rear, against which they would be viewed. As such the impact on the wider character area would be limited and it is concluded that there are no significant implications for the setting of the AONB. It is noted that Chichester Harbour Conservancy have not raised objection to the application.

7.16 With respect to the impact on the character of the immediate adjacent residential area, the layout is for dwellings of a large floor space and substantial built form. The proposed design is contemporary in contrast to the more traditional character of the nearby properties, although a number of these established properties have been updated to provide a more contemporary appearance. In this context and having regard to the proposed materials which would comprise slate, timber, mellow finished brickwork and the spacious form of the layout the impact of the development on the character and appearance of the area is not adverse.

(iii) Residential and Neighbouring Amenity

7.17 The site adjoins dwellings in Warblington Road, Beacon Square and Curlew Close. The development has been designed with main windows facing into the site or also onto Warblington Road, and obscure glazing for first floor windows where first floor windows face the site boundaries with neighbouring properties. This retains privacy and the proposal complies with the separation distances set out in the Borough Design Guide. Whilst there will be an impact on views, especially in respect to properties in Beacon Square which have rear elevations facing onto the site, the separation distance at a minimum of 21m exceeds the requirements of the Borough Design Guide. In respect to

22a Beacon Sq. which currently enjoys sea views across the site, the proposed development on plot 1, especially given the elevated floor level, will obstruct these views but regard cannot be had to loss of a view. The planning consideration is whether the development would be overly dominant. Given that the closest proposed 2 storey dwelling would be over 30m from the windows serving 22a Beacon Square, the proposed development is not considered over dominant. The submitted plans have had regard to the existing properties and the layout designed to respect privacy and outlook.

7.18 The proposed development would introduce additional traffic to the surrounding roads, but the site is within an urban area where the impacts of traffic, noise and pollution from new development are inevitable and refusal based on the impacts of the additional traffic could only be supported if it resulted in highway safety issues. In this case the Highway Authority have no objection subject to the recommended conditions.

7.19 It is therefore considered that the impact on neighbouring properties does not support a reason for refusal.

(iv) Access and Highway Implications

7.20 Fowley Cottage would continue to be accessed from Warblington Road, together with plot 8 and access for the other 8 dwellings would be off Curlew Close. The access has been assessed by the Highways Officer and no objection has been raised. In respect to parking, all dwellings would be provided with on site parking in accordance with the adopted parking standards. There is also separate provision for visitor parking with 5 spaces provided. It is therefore considered a refusal based on highway impact and parking cannot be substantiated.

(v) Flooding and Drainage

7.21 The proposed dwellings and access would be sited wholly within Flood Zone 1 and National Guidance states that Flood Zone 1 is suitable for all types of development. Whilst the southern extent of the curtilage to Fowley Cottage is in Flood Zone 3 it lies outside the application site.

7.22 The application is supported by a Flood Risk Assessment which has been updated in response to consultation comments from the Environment Agency (EA). Given the location the EA require an appropriate freeboard is added to the design flood levels for 2115 to achieve Finished Floor Levels (FFLs) to take account of rising sea levels and to make the development flood resilient for its lifetime. Consequently Finished Floor Levels (FFL) of the proposed dwellings, and level of the access road, have been designed will be a minimum of 4.89m AOD, i.e. above the 2115 estimated flood level of 4.59m AOD and to also include a freeboard allowance of 300mm. Additionally the buildings have been designed and constructed having regard to flood resilience measures.

7.23 The existing dwelling utilises the Southern Water surface water and foul water sewers located in the vicinity of the application site. The surface water sewer borders the western boundary of the application site and outfalls into Chichester Harbour. There are two foul water sewers in the vicinity of the site, one bisects the application site on a broadly west/east alignment and the other is present within Warblington Road.

7.24 As the sub-strata is not suitable for soakway drainage surface water drainage would comprise holding tanks which would discharge into the nearby surface water sewer.

7.25 With regards to the foul water strategy, it is proposed that plots 6-9 will connect to the existing foul water sewer within Warblington Road, and the remainder (plots 1-5) will connect to the foul water sewer that bisects the site.

- 7.26 The proposal has been the subject of consultation with the Environment Agency, the Coastal Team and Southern Water, and subject to conditions no objection has been raised in respect to flooding and drainage. It is therefore considered that flooding and drainage matters have been appropriately addressed.

(vi) The Effect of Development on Ecology

- 7.27 The southern boundary adjoins Chichester Harbour, an ecologically sensitive area which has a number of associated national and international statutory nature conservation designations. As a result, there is the potential for both direct and indirect impacts on Chichester and Langstone Harbour SPA/Ramsar site and Solent Maritime SAC during the construction phase and once operational. The site lies in close proximity to the water edge and nearby designated sites and special protection areas. Additionally, it is considered the site has potential to support the species identified within the data search (i.e. Birds, Bats and potentially Stag Beetle). The application is supported by a Phase I Ecological Survey. The Council's Ecologist has raised no objection subject to securing all ecological and enhancement measures by condition. It is therefore considered that ecological matters can be appropriately addressed.

(vii) Impact on Trees

- 7.28 The site supports a number of mature trees, including those covered by Tree Preservation Orders. 13 trees, one of which is a Category B Birch, are proposed for removal within the site. The Council's Arboriculturalist has advised that, whilst the loss of trees to facilitate a development is regrettable, the trees highlighted for removal are in the main a lower quality (Birch excepted) and can easily be replaced and mitigated for with a comprehensive tree replanting scheme. It is therefore considered that the loss of trees in itself does not represent a supportable ground to refuse the application.

(viii) Community Infrastructure Levy (CIL), Contribution Requirements and legal agreement

- 7.29 The CIL liability for the proposed development is £214,368.75. In respect to contributions and legal agreements, as set out under the 'Appropriate Assessment' section of this report, Unilateral Undertakings in respect to the Solent Recreation Mitigation Strategy and Nutrient Neutrality are required and have been forwarded to the agent. At the time of drafting this report they have yet to be completed, and therefore this must form a further reason for refusal.

8 Conclusion

- 8.1 The site lies within the built-up area and within an area where residential development is acceptable in principle. Local Plan policy as set out under Policy CS17 identifies the need to make the most effective use of land, which is a limited resource. The site is identified as a housing allocation in the emerging local plan. In accordance with the NPPF, and having regard to the site constraints and character of the area, the allocation has been calculated by applying 40 dph across the net developable area, resulting in a figure of in the region of 20 dwellings expected to arise from the development. Whilst the emerging plan carries limited weight it has been prepared in response to NPPF (paragraphs 122-123) and the need to achieve appropriate densities.
- 8.2 The proposed development of just 9no. dwellings at a density of 18.9 dph on this site which is sustainably located in the built up area would not make an efficient use of the available land under Policy CS17. As such, it cannot be concluded that the proposed form of development would fully maximise the potential of the site to address housing needs and would therefore be contrary to the aims and objectives of emerging Policy H3 and paragraph 123 of the NPPF. Paragraph 123 section c) of the 2019 NPPF is clear that

local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.

- 8.3 Having regard to the site constraints and the fact that the floorspace of the proposed dwellings is over twice that required by the National Space Standards, it is considered that there is potential to increase the number of dwellings without compromising space standards or the impact on the site and surrounding development. A larger number of smaller dwellings would not only assist in meeting housing need, but provide an opportunity for Affordable Housing which is required under adopted LP Policy CS9 for schemes of 10 dwellings or more.
- 8.4 There is a finite amount of undeveloped land and significant environmental designations in the Borough which mean that it is important that development is provided in a sustainable way in order to maximise this finite resource.
- 8.5 As in the case of the dismissed appeal where the Inspector concluded:
"...the proposed development would not make efficient and effective use of land having particular regard to site constraints and the character of the area. It would therefore conflict with Policies CS9 and CS17 of the Core Strategy as referred to above. It would also not accord with the Framework which supports development that makes efficient use of land whilst taking into account the character of the area."

The application, which only provides two more dwellings, one of which is a plot formed from the studio of the appeal proposal, does not make efficient and effective use of land and as such cannot be supported.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/20/00376 for the following reasons:

- 1 At a density of only 18.9 dph the application fails to make efficient use of land and is therefore contrary to the requirements of the National Planning Policy Framework, Policies CS9 and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, Policies H3 and H13 of the Submission Havant Borough Local Plan and D3 of the Emsworth Neighbourhood Plan.
- 2 In the absence of suitable agreements to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken on this planning application. As such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan), Policy E16, EX1 and E12 of the Submission Havant Borough Local Plan, paragraph 175(a) of the NPPF and The Conservation of Habitats and Species Regulations 2017 (as amended).

Appendices:

- (A) Location Plan
- (B) Site Plan
- (C) Plot 3 Elevations (plot 4 similar)
- (D) Plot 5 Elevations
- (E) Plot 6 Elevations
- (F) Plot 7 Elevations (plots 1 and 2 similar)
- (G) Plot 8 Elevations

- (H) Street Elevation
- (I) Section
- (J) Appeal decision APP/19/00623
- (K) Site Plan for APP/19/00623