
Site Address: Land adj 9-12 Stone Square, Havant, PO9 2DZ
Proposal: Construction of 7No. dwellings, 4 x studio flats, 2 x 2 bedroom flats & 1 x 1 bedroom flat. provision of access parking, refuse/recycling, garden boundaries, landscaping and cycle store facilities.
Application Type: Full Planning Permission
Application No: APP/21/00834 Expiry Date: 18/02/2022
Applicant: Patel
Agent: Mr Fletcher Case Officer: Lesley Wells
Emerge Architecture
Ward: Battins

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The site is located within the compound to the rear of 9-12 Stone Square. 9-12 Stone Square comprises of commercial units at ground floor, with residential flats at first floor. In the south-east corner, where the built development is proposed, this comprises of garages and storage units, with hard surfacing to the front of these buildings. To the rear is an access road, with a grass area in the north west corner, which at the time of the officer's site visit appeared to be used by residents of the flats above 9-12 Stone Square. To the northeast of the access road, at the time of the site visit, was untidy and appeared to be used as a general dumping ground.
- 1.2 As to the boundary treatment this is partially formed by the garages along the southern boundary and by metal and wooden fencing up to 1.8m. There are a couple of trees to the north and south east of the site.
- 1.3 As to development within Stone Square this comprises of bungalows, facing onto a grassed open area. To the rear of the site, the residential development comprises of two-storey properties

2 Planning History

00/65271/001 - Construction of block of two garage/store units - PERM 9/5/2001
APP/20/00097 - First floor rear extension to provide a covered and enclosed walkway.
, PERM,25/03/2020

3 Proposal

- 3.1 The proposal comprises the construction of 7No.dwellings, 4 x studio flats, 2 x 2 bedroom flats & 1 x 1 bedroom flat. Provision of access parking, refuse/recycling, garden boundaries, landscaping and cycle/bin store facilities.

- 3.2 The proposal involves the demolition of 6 empty garages, built in the 1950s along the south east boundary, to be replaced with 4 residential flats. A first floor addition to the units along the north-east boundary is proposed, by building over the existing building, which would provide 3 additional residential units, whilst retaining on part of the ground floor one of the commercial storage units for the applicant. Both the existing and the proposed buildings are close to their respective boundaries. Car parking for these units is proposed along the north east boundary, with a communal garden in the northern corner.
- 3.3 According to the application form the existing use of the proposal's site is: 'Storage and unused garden space'

4 Policy Considerations

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

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS2	(Employment)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM2	(Protection of Existing Community Facilities and Shops)
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
DM19	(Small Shops outside Town, District and Local Centres)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Emsworth Neighbourhood Plan Post Examination Version 2020

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

5 Statutory and Non Statutory Consultations

Arboriculturist, Havant Borough Council - No Objection

No objection. Work to be carried out in accordance with the tree report by ROAVR Environmental 24/11/21.

Building Control, Havant Borough Council - Comments

Building Regulation consent needed for this work

Sewer crosses site affection Units 5-7 Consult with SWS

If hose length is greater than 45m turning facility needed in accordance with Approved Document B none shown Show compliance with AD B

Possible unprotected area issue with Units 5-7 if notional boundary is within 1m (Elevation document not available at time of checking) Show compliance with AD B

Community Infrastructure, Planning Policy & Urban Design

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>. Credit cannot be given for the demolition area, which is stated to have last been in lawful use on 5 April 2010.

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 number of additional dwellings and their 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>

Councillor Jo Lowe

No comment.

Councillor T Moutray

No comment.

Crime Prevention -Minor Apps

No comment.

Developer Services, Southern Water - No Objection

Please see the attached extract from Southern Water records showing the approximate position of public foul and surface water sewers within the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.

The attached plan shows that the proposed development (unit 1-4) will lie over/close to an existing public foul sewer, which will not be acceptable to Southern Water. The exact position of the public apparatus must be determined on site by the applicant before the layout of the proposed development is finalised.

It might be possible to divert the sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

–The 225 mm public foul and surface water sewers requires a clearance of 3 metres on either side of the gravity sewers to protect it from construction works and to allow for future maintenance access.

–No development or tree planting should be carried out within 3 metres of the external edge of the gravity sewer without consent from Southern Water.

– No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of public sewers.

–All existing infrastructure should be protected during the course of

construction works. Please refer to:

southernwater.co.uk/media/3011/stand-off-distances.pdf

Also, the existing building (unit 5-7) lies over/close to a public foul sewer. If the works to be carried out will alter the existing foundation line or depth or the structural load applied on the sewer it will be necessary for the applicant to contact Southern Water.

Furthermore, 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.

In order to protect drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission; for example, the developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development.

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.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse for new developments.

- Reuse
- Infiltration
- Watercourse
- Storm sewer
- Combined Sewer

Guidance on Building Regulations is here:
[gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h](https://www.gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h)

The Council's technical staff and the relevant authority for land drainage should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

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

Hampshire Highways - No Objection

The applicant is proposing 7 new accommodation units utilising an existing access adjacent to number 12 Stone Square. The Highway Authority have undertaken a TRICS assessment and are satisfied that the construction of these 7 accommodation units will not lead to a detrimental impact on the wider Highway Network.

The applicant should be made aware that ultimately the final decision regarding vehicle and cycle parking is for Havant Borough Council as the local parking authority. Thus, the applicant should secure confirmation with Havant Borough Council about whether the proposed parking provision will be accepted or not. The Highway Authority will be satisfied subject to suitable provision in accordance with the standards being provided.

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

Natural England - Objection

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 not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

Norse South East, Operations Director

No comment.

Nutrient Team - Objection

Following the national rollout of updated guidance and catchment calculators earlier in 2022, the applicant has not provided a nutrient budget calculator. The European Site avoidance and mitigation checklist indicates the proposed development will include an avoidance and mitigation package, in line with the Council's Nutrient Neutrality Mitigation Plan. However at this time, the exact scale of the avoidance and mitigation required is not known and as such, it would not be possible for the Council to lawfully grant any planning permission.

Whilst the applicants' preference is noted, there is limited capacity remaining in the Council's mitigation scheme at Warblington Farm. In the event of any subsequent S78 appeal, the applicant/appellant should be advised that there is mitigation available from third party providers in order to avoid and mitigate the water quality impact arising out of the proposed development. The details of other schemes have been published on the Partnership for South Hampshire's website at:

<https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/>

We would obviously be happy to provide further comment on the receipt of the submission of a nutrient budget which takes into account the 2022 methodology.

Public Spaces

No comment.

Waste Services Manager

No comment.

6 Community Involvement

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

Number of neighbour notification letters sent: 27

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 14

14 representations of objection

The following is a precis of the representations received.

Impact on residential amenity

- Totally overlooked by proposal - by close proximity and windows.
- Serious loss of privacy, security and social issues for all affected properties
- Loss of sunlight
- Dominant and overbearing building bulk - cause a sense of enclosure and loss of privacy what will have a negative impact on the comfort of my household
- Noise, disturbance, fumes and vibrations during the development intrusive and harmful to this quiet neighbourhood.

Access & Parking

- Existing residents not permitted to park at rear - add to parking problems in Stone Square - negative impact on existing residents.
- Insufficient parking proposed - cause immense disturbance and possible congestion
- Increased pressure for parking on the road would be harmful to highway amenity and interrupt the flow of traffic in Stone Square.
- Development will put many users of mobility scooters on Stone Square at risk
- Majority of residents on the road live in especially adapted properties for mobility issues - will be negatively impacted by proposal- indirectly discriminated by affect on our quality of life. Breach of Equality Act 2010 on the grounds of disability.

- No space for refuse lorries to access rear of shops if development proceeds
- Serious lack of consideration to the safety of pedestrians - with added traffic and extra parked cars.
- The shop and take away restaurant have many cars visiting and parking is an issue .
- People want to park close to their properties for security and convenience.
- Some drivers dangerous use Stone Sq - proposal likely to exacerbate this.
- Already dangerous for emergency vehicle to access Stone Sq.
- Highways approval not considered public access and covering public pavement

Trees

- Tree survey November 2021 - high quality images - was this taken at the right altitude?
- Tree survey suggests no issues - previous trees removed in 1980/90s from 37 Battens Way - caused major pavement and subsistence issues in the adj alleyway.

Ecology

- Impact on natural light and wildlife in area

Flooding/Drainage

- No surface water plans - run-off to adj properties
- Main concerns - issues with water regulations

Contamination

- Claimed contaminated land due to incorrect disposal of waste on site.
- Problem with toxic fumes and smoke - further building works will increase this.
- Risk of garden used for dumping
- No space for shop skips
- Serious concerns under the Waste Management Licensing Regulations 1994
- Further assessment of soil required
- No Asbestos survey or plan undertaken for asbestos garages or ground contamination

Policy

- Contrary to the Borough Design Guide SPD 2011, Policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy H1 and IN13 of the Havant Borough Local Plan (Submission version) and the National Planning Policy Framework.

Other Matters

- Block plan incorrect - left gate is locked - closed for over 10 years - opening a hazard to pedestrian
- Changes to boundaries made to properties in Batten Ways.
- Concerned that the building work involving deep adjacent excavation and moving the existing drainage will cause damage to property.
- Neighbours' issues concerning fence damage
- Council picket fences and concrete bollards removed- such land included in application site.
- Removal of bird boxes from trees
- Breach planning permission and 106 agreement under 00/65271/00 restrict use to garages and store - images show used as living accommodation and offices.
- Remove brick wall back of Nos. 11 & 12 - should be replaced with the same not a wooden fence.
- Stone Sq prone to flooding - proposal will exacerbate this.
- Permission sought for bungalow - rejected by Council
- Vegetation/trees overgrown onto footway between Stone Sq. and Battens Way - causes access problems.
- Alleged damage to highway infrastructure.
- Permission sought for a bungalow - refused by the Council.
- Knotweed survey not carried out.
- Proposal likely to impact on our Human Rights (1998) Articles 24, 25 & 28.
- Health concerns over development of the site
- Number of the bungalows in Stone Square have been converted and occupied by persons with disabilities.
- Sign notices poorly displayed.
- Concern foundations are inadequate - if new foundations added to close to current sewer main
- No lighting details for communal area - be installed without permission - disturb residents

Officer Comment: *most of the points are covered under Section 7 below, or in the following bullet points.*

- As to the alleged boundary disputes and damages to fences these are private matters between the parties involved.
- Applicant confirmed ownership of site.
- Loss of property value is not a material planning consideration.
- As to the development leading to an increase in anti-social behaviour the LPA has no evidence to support this claim.
- Any disturbance during construction work, if permission was granted would be mitigated by a CMP and if amounted to a statutory nuisance, would be controlled by other legislation.
- The claimed use of the land for dumping of waste has been reported to HCC, in their role as Waste Authority, as claimed contamination of the site, falls outside of the remit of the Council's Environmental Health legislation
- Any existing access arrangements would be between the parties involved.
- Any damage to property as a result of building work would be a private matter between the parties involved.
- The removal of bird boxes from trees would be a private matter between the parties involved. If this occurred during the bird nesting season this should be reported to the Police.
- The Case Officer was advised that the only use of the existing building was for residential storage purposes.
- Emerging Local Plan withdrawn.
- If permission is granted details of boundary treatment would be conditioned.
- If permission is granted, external lighting for the site would be conditioned.
- The footpath between Stone Sq. & Battens Way is an adopted highway, which at the time of the Case Officer's visit was accessible
- Alleged damage to highway infrastructure, would be a matter for HCC, in their role as Highway Authority.
- The Council has no record of an application for a bungalow on the site.
- The Council has no record of a S106 attached to the permission for the storage units - the use of the units is controlled by a condition
- A knotweed survey is not a local requirement to validate/determine the application and is outside of the LPA's remit.
- The notice was adequately displayed to the front of 9 -12 Stone Square by the Case Officer.
- The proposal does not intent to open the gate in the north west corner.
- Adequacy or otherwise of the foundations would be a building control matter, as would any asbestos in the buildings.

7 Planning Considerations

Appropriate Assessment (AA)

- 7.1 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 (as amended). The Council's assessment as competent Authority under those 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 Solent European Sites (as defined in the applications HRA) due to both the increase in recreation and the decrease in water quality that would be a result of the proposed development.
- 7.2 However, the applicant has not provided a package of avoidance or mitigation measures aimed at removing the significant effects. As a result, the HRA concludes that the planning application would be likely to lead to significant effects on several European Sites (these are specified in the HRA). The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. As such, the planning application cannot be lawfully permitted.
- 7.3 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:
- (i) Principle of development
 - (ii) Impact upon the character and appearance of the area
 - (iii) Impact upon residential amenity
 - (iv) Loss of ancillary business use
 - (v) Highways & Parking
 - (vi) Drainage & Flood Risk
 - (vii) Trees
 - (viii) CIL
 - (ix) Human Rights Act 1998 and the Equality Act 2010
 - (x) Planning Balance
- (i) Principle of development
- 7.4 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The addition of 7 new apartments in such a location would make a contribution, albeit a modest one, to the Council's overall housing requirements. The updated NPPF 2021 continues to have a presumption in favour of sustainable development, whilst noting that good design is a key aspect of sustainable development. The creation of high quality buildings and places is a fundamental aim and paragraph 134 notes that "Development that is not well designed should be refused...".
- 7.5 Policy CS16 of the HBLPCS 2014 requires quality design in all proposals, as does Havant's Design Guide SPD.

- 7.6 As regard the Council's Five Year Land Supply Update (November 2021) this indicates the Council has a 3.9 year supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is a presumption in favour of sustainable development (para 11d of the NPPF). This is considered below under the heading 'The Planning Balance'.
- 7.7 The proposal would result in the loss of a row of 6 empty brick and asbestos garages built in the 1950s along the south east boundary, which appear to be in a poor condition, for which no planning history was found. The proposal would also result in the loss of the use of part of the garage/store granted permission on 9 May 2001 under reference 00/65271/001. The latter is linked by condition 3 to only be used in association with the retail units at 11 and 12 Stone Square. The applicant has advised "These units now have no relationship to the commercial units as a new business resides in 11-12 Stone Square and the owner uses them for personal storage only." The intention is that one of the storage units would remain (in the south east corner) and would be used by the applicant for his own personal storage, who proposes to occupy one of the units.
- 7.6 The loss of this ancillary business use is considered under the heading below.
(ii) Impact upon the character and appearance of the area
- 7.7 Policy CS16 of the HBLPCS, requires amongst other matters, that development should use "the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors;"
- 7.8 There is a mixture of developments within the locality. Commercial uses, including shops, with flats above, with garaging/storage to the rear of 9 -12 Stone Square with 2 storey dwellings in the wider locality. The residential development to the north west and south east of Stone Square are bungalows.
- 7.9 The site is set back off Stone Square. Residential (and commercial) development within the locality generally benefits from space about the buildings and/or long rear gardens.
- 7.10 Havant Design Guide states that "Garden length should normally allow 10 metres between the dwelling and the boundary". It goes on to state that "Where a dwelling faces a blank gable, 10 metres separation distance is required". Due to the small area where the proposal is sited, the rear elevation of units 5-7 is approximately 0.6m from the boundary with existing residential development in Battens Way. As to the flank wall of units 1-4 the separation distance with units 5-7 at its narrowest is less than 5m; at its widest point approximately 6m. The separation distance with units 1-4 is approximately 2m from the boundary. The separation distance between units 1-4 with No. 12 Stone Square's flank wall would be 8m at its closest point, with 3 small windows at first floor on this part of the flank wall.
- 7.11 The site is considered to be of an insufficient size to provide adequate space within and around the built development, resulting in inappropriate separation distances between the boundaries and existing residential development, and the proposed two blocks and 12 Stone Square, which would result in a cramped and congested layout and an overdevelopment of the site, to the detriment of the locality, contrary to Policy CS16 of the HBLPCS, Havant's Design Guide and the guidance in the National Planning Policy Framework, which promotes well designed places.

(iii) Impact upon residential amenity

- 7.12 The National Planning Policy Framework at paragraph 130 f, promotes in planning policies and decision making, that developments:

" create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users..."

- 7.13 Policy CS16 promotes and recognises the value of high quality design, an aim positively promoted by the NPPF and Havant's Design Guide SPD, which applies to all new development. Policy CS16 also requires that:

"The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking."

- 7.14 Havant's Borough Design Guide states that " It is important that applications for new development consider the impact of the development on existing residents."

Impact on existing residents

- 7.15 The proposal sits on the boundary and backs onto residential development in Woodlands Way to the south east and Battens Way to the north east. The two storey pitched and hipped roof Units 1-4, would be next to 4 Stone Square which is a single storey bungalow, with a garage in between.

- 7.16 Havant's Design Guide states that the garden of "... a two storey home should be a minimum of 10 m in length to provide appropriate daylight and to minimise overlooking, ..." In order to maintain a reasonable relationship between new dwellings and neighbouring properties, there should also be a minimum of 20 m separation. The location of the 2 storey block proposed in the north east corner of the site with residential development in Battens Way, is approximately 0.6m from the shared boundary. Therefore, whilst there may be approximately 27m separation distance between the 2 storey apartment block and housing in Battens Way, the boundary is only 0.6m from the rear of this part of the development, which would result in material overlooking from the rear windows of Units 5, 6 and 7, particularly in respect of the rear gardens of 23 - 27 Battens Way. Windows in the side elevation of Unit 7 would also significantly overlook the rear gardens of the properties in Woodlands Way. This would result in a significant loss of privacy to the occupiers of these properties, contrary to Policy CS16 of the HBLPCS.

- 7.17 As to the 2 storey building on the south east boundary for 4 units, this would replace single storey flat roofed garages. This two storey building would also be erected in close proximity of the shared boundary (by approximately 2m), with properties in Woodlands Close. Whilst the separation distance between this part of the development would be approximately 30m at its closest point, due to the close proximity of the development to the shared boundary (2m), this would also result in a serious loss of privacy and overlooking from the first floor of the development, (which due to the impact on future occupiers of the development, would not be addressed by obscure glazing), for the occupiers of Woodland Close, contrary to Policy CS16 of the HBLPCS.

- 7.18 This part of the development would also be adjacent to a bungalow to the south east (ie 4 Stone Square), which has a hipped roof and a single storey mono pitched roof extension to the side boundary. The separation distance at the widest point between the two, would be approximately 2.2 m. Due to the height and bulk of the development, its orientation and its close proximity with No 4. Stone Square it would give rise to an unacceptable level of over shadowing and dominance to the detriment of the amenities of the occupiers of No. 4 Stone Square.
- 7.19 As to the existing flats 9 - 12 Stone Square, the one most likely to be impacted would be 12 Stone Square, which would be directly opposite Units 1-4, with 3 small windows at first floor on the flank wall. The separation distance would be approximately 8m. However, on the information available, these windows are not servicing primary accommodation and therefore any shadowing would not be significantly detrimental to residential amenity.
- 7.20 The proposal would be contrary to policy CS16 of the HBLPCS, Havant's Design Guide and the advice in the Framework that states that development that is not well designed should be refused.

Impact on proposed residents

- 7.21 The proposal would be to the side and rear of 9 -12 Stone Square. Communal car parking would be provided along the north western boundary, with a communal garden area in the northern corner. During the site visit it was noted that where the car parking is proposed, it appeared to be a general dumping/storage area, with the communal garden area partly in use by existing occupiers of the flats on the first floor of 9 - 12 Stone Square. It was also noted that there is a vehicular track to the rear of 9 -12 Stone Square, to service the commercial units. The applicant has advised that this is no longer in use by the occupiers of the commercial units, with any deliveries and servicing via the front of the units. The proposal has been determined on this basis.
- 7.22 Land to the rear of the site, is not visible from the public realm, as it is enclosed by the existing main building and by 1.8m gates and fencing. The proposal, if granted would result in the tidying up of the rear of the site and would provide an area of communal garden for existing and future residents.
- 7.23 The floor area of the units would comply with the Government's Technical housing standards - nationally described space standard, with a mixture of studio flats, 1 and 2 bedroom flats (1 of the 2 bed would be over 2 floors - i.e. unit 5), the latter of which there is a recognised need. Internal ground floor cycle storage, with external bin storage are proposed.
- 7.24 The outlook from unit 7 from the front of the development would be the flank wall of units 1 - 4 and storage bins, which at its narrowest point would be approximately 4m. Havant's Design Guide requires that "Where a dwelling faces a blank gable, 10 metres separation distance is required", to ensure a satisfactory outlook and sunlight. The close proximity of the two buildings would not ensure this and would be contrary to Havant's Design Guide.

(iv) Loss of ancillary business use

- 7.25 The proposal would result in the loss of storage ancillary to the retail units at 11 and 12 Stone Square. As stated above, the applicant has advised "These units now have no relationship to the commercial units as a new business resides in 11-12 Stone Square and the owner uses them for personal storage only." The LPA has no evidence that would otherwise dispute this claim.
- 7.26 Policy DM2 seeks to protect existing community facilities and shops. The proposal would not result in the loss of a shop; only ancillary storage, which on current information, is not required by the current occupiers of units 11 and 12 Stone Square. Therefore, as the proposal would not result in the loss of a shop, it does not need to satisfy the criteria set out in Policy DM2 and would not be contrary to this policy.

(v) Access & Parking

- 7.27 A number of representations have been received regarding access to the site via Stone Square, lack of on-site parking and current on-street parking problems. The applicant has advised that the existing 4 flats above 9 -12 Stone Square do not benefit from on site car parking, with the existing parking associated with the outbuildings the subject of the application. The proposal cannot address any current shortfall of on-site parking; it can only consider the onsite car parking generated by the proposal.
- 7.28 To the front of the 9-12 Stone Square, is parking in the form of a layby.

Access

- 7.29 The site lies to the north east of Stone Square, with access off Bedhampton Way. The existing access in the south east corner of the site would serve the development. The Highway Authority (HA) was consulted over the proposal and have raised no objection on the grounds that they are satisfied that the development would not lead to a detrimental impact on the wider Highway Network. The HA's no objection is subject to a condition requiring a Construction Method Statement. If permission was forthcoming such a condition would form part of the recommendation.

Parking

- 7.30 According to the application form, there are currently 3 existing parking spaces on the site, with 4 additional spaces proposed. The applicant has advised that the residents at 9 -12 Stone Square do not have access to the existing parking spaces; nor do the occupiers of the commercial units, with all their servicing and deliveries taking place from the front of the site. The Proposed Block Plan shows 7 car parking spaces (unallocated), 1 of which would be in the front of Units 5-7, with the remaining 6 along the north eastern boundary. The proposal is for 4 x studio flats, 2 x 2 bedroom flats and 1 x 1 bedroom flat.
- 7.31 Havant's Car Parking SPD, sets out the car parking requirements for Shared/Communal car parking for residential development. 7 car parking spaces are proposed for the development which would conform to Havant's Car Parking SPD. As to the storage unit to remain the applicant has advised that this would be for his own personal storage space, "... as he wishes to reside within the development..." . In such circumstances, this would not necessitate additional car parking provision, and if permission is forthcoming, a condition linking the storage unit to the residential units would be recommended.

- 7.32 As to cycle storage this would be provided internally in units 5-7, with access off the Lobby. Therefore, the level of car parking and cycle storage would conform to the requirements of Havant's Car Parking SPD and Policy DM13 of the HBLPCS.

(vi) Drainage & Flood Risk

Drainage

- 7.33 As to foul sewage for the development this would be via a main sewer, with the intention to dispose of surface water by water courses and main drainage. Both foul and surface water disposal for the development would be dealt with via Building Regulations and by a condition recommended by Southern Water, if permission was forthcoming.

Flood Risk

- 7.34 The site falls wholly within Flood Zone 1. Overall, the development is considered to be a low flood risk. (<0.1% AEP).

(vii) Trees

- 7.35 There are no trees on the site, or on adjacent land that are the subject of a Tree Preservation Order. With the exception of two trees, they are located, adjacent, but on neighbouring land. A tree report has been commissioned, which includes an Arboricultural Impact Assessment. The Council's Arboricultural Officer has commented on the report and raised no objection, subject to the work being carried out in accordance with the tree report by ROAVR Environmental 24/11/21. If permission was forthcoming, a condition to this effect would be recommended.

(viii) CIL

- 7.36 The CIL rates to be applied to development are set out in the Havant Borough Community Infrastructure Levy Charging Schedule, which was adopted by the Council on the 20 February 2013. This followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiner's Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The levy is charged at £80 per square metre (plus indexing) on new floorspace (measured as gross internal area) in Havant.
- 7.37 The proposal would result in new residential development which is Community Infrastructure Levy (CIL) liable and the appropriate forms have been submitted. The gross increase in new internal floor space for the dwelling has been calculated by the agent as 281.30 sqm, which would be £10,600.29.

(ix) Human Rights Act 1998 and the Equality Act 2010

- 7.38 The Human Rights Act 1998, which incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community. The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public hearing), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property). The planning application has been assessed (and notwithstanding the recommendation to refuse) to ensure that the determination of the development proposal is compatible with the Act and would not conflict with Articles 8, and 14 and Article 1 of Protocol 1 of the Human Rights Act 1998.
- 7.39 The Equality Act 2010, which places a duty on all those responsible for providing a service to the public not to discriminate against disabled people by providing a lower standard of service. The determination of the application would not discriminate against disabled people by providing a lower standard of service, as access to the site is not considered to impact on the wider highway network and an appropriate level of on site car parking would be provided for the development in accordance with Havant's Car Parking SPD, if permission was granted.

(ix) Planning Balance.

- 7.40 A 5-year land supply cannot be demonstrated by the LPA and consideration is given to the weight to be given to this planning consideration and whether this overrides the other material planning considerations pertaining to the proposal.
- 7.41 The proposal is for seven additional apartments which would be a modest addition to the Council's housing stock, to which moderate weight is given.
- 7.43 The development would bring some economic benefit through construction and through the additional spend generated by the new residents, which in a limited way, could help to sustain local services, which are attributed moderate weight.
- 7.44 The development would provide sufficient amenity space for both the existing flats and the proposed apartment, with an adequate level of internal living space, which are attributed moderate weight.
- 7.45 The development would significantly impact on the residential amenity of the occupiers of Woodlands Way and Battens Way by reason of overlooking and loss of privacy to which significant weight is given.
- 7.46 The proposal would amount to overdevelopment of the site, which would result in a cramped and congested layout to the detriment of the locality which would adversely impact on the outlook and amenity of future residents, contrary to Havant's Design Guide SPD, Policy CS16 of the Havant Borough Local Plan (Core Strategy) and the National Planning Policy Framework, to which significant weight is given.

- 7.47 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that applications should be determined in accordance with the provisions of the Development Plan unless other material considerations indicate otherwise.
- 7.48 The Framework indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites the policies in the development plan are to be considered out of date. In such cases planning permission should be approved without delay unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme.
- 7.49 The demonstrable harm that would arise to existing neighbouring occupiers and future occupiers of the proposal and the overdevelopment of the site, which would result in a cramped and congested layout, would significantly and demonstrably outweigh the benefits of the scheme and the recommendation is to refuse permission.

8 Conclusion

- 8.1 The proposal in parking, access, trees and drainage terms would be acceptable. However, the proposal would be an overdevelopment of the site which would have an adverse impact on the locality and the residential amenity of the occupiers of neighbouring properties and future occupiers of the development. In addition, mitigation measures have not been secured in respect of the Solent Recreation Mitigation Strategy and neutral nutrient development, so it would not be lawful to grant the application, without such mitigation. The proposal is contrary to the adopted Borough Design Guide 2011, the development plan when considered as a whole and the National Planning Policy Framework.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/21/00834 for the following reasons.

- 1 The proposed development would constitute an undesirable over-intensive use of the site, with inadequate space within and around the built development, resulting in inappropriate separation distances between the boundaries and existing residential development, which would result in a cramped and congested layout to the detriment of the locality and neighbouring residential amenity contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy), Havant Borough Design Guide Supplementary Planning Document and the guidance in the National Planning Policy Framework, which promotes well designed places.
- 2 The proposed development would constitute an undesirable over-intensive use of the site, which would adversely impact on the residential amenity of neighbouring properties, by reasons of overlooking, loss of privacy and overshadowing, contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy), Havant Borough Design Guide Supplementary Planning Document and the guidance in the National Planning Policy Framework, which promotes well designed places.

- 3 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 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) 2014, paragraph 180(a) of the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017 (as amended).