

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Leah Turner - Hayling East

No comment

Councillor M Wilson - Hayling East

No comment

Councillor R Raines - Hayling East

No comment

Countryside Access Team

Thank you for sending us this consultation. Please accept this response as being that of the Countryside Service, in relation to this application we are responding on behalf of Hampshire County Council as Highway Authority in respect of Public Rights of Way

Comment:

Havant Footpath 116 on the western boundary is unaffected by the proposals. We therefore have no objection

County Ecologist

Thank you for re-consulting me on this planning application. During the initial consultation, it was requested that a Preliminary Ecological Appraisal (PEA) is submitted to inform the LPA of the impacts of the proposals on the ecology of the site and if any mitigation measures would be required. The application is now supported by a PEA by ECOSA Ltd. (April 2022). This report confirms that the main building on site has high potential for roosting bats due to the presence of a number of lifted roof tiles, whilst the garage is of low suitability for bats. The report correctly states that further bat emergence/re-entry surveys are required in order to ascertain the presence/ likely absence of roosting bats within these buildings.

Unfortunately it is not appropriate to defer bat surveys as a condition of a planning permission – Circular 06/2005 identifies that information on protected species must be available before a decision is made, and this is supported by Natural England's standing advice on protected species. Planning authorities are required to engage with the Habitats Regulations and without the right level of information (survey, impact assessment and appropriate, proportional avoidance, mitigation and compensation measures), this engagement is not possible. Therefore, it is my recommendation that permission is not granted until further survey work is carried out.

In addition, the site is located immediately adjacent to two Solent Wader and Brent Goose Strategy sites (i.e. H60F Candidate site – adjacent to western boundary & H60E Candidate site – adjacent to northern boundary). Therefore, any noisy works resulting in the disturbance of birds should be undertaken outside of the wintering bird period. This can be secured via a Planning Condition. Furthermore, the report recommends that a Construction Environment Management Plan (CEMP), with input from an ecologist should be prepared to include measures such as control of surface water run off into the offsite drainage ditches, prevention of dust and spills and safe storage of materials to ensure that no degradation occurs to habitats that are hydrologically linked. This is sensible and can be secured via a pre-commencement condition. The other avoidance and mitigation measures included in Section 5 of the PEA report by ECOSA are also acceptable.

Please do not hesitate to contact me if you require any additional information

Case Officer comment : Further Ecology comment received :

I have now reviewed the further information provided which confirms the presence of a non-breeding day roost for low numbers of soprano pipistrelles within the dwelling. The development is therefore likely to result in a breach of the EU Directive underpinning the Habitats Regulations.

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

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

It is for you as the case officer to assess the proposals against the first two tests. In order to assess the development against the third test, sufficient details must be available to show how killing / injury of bats will be avoided and how the impacts to bat roosts will be addressed. In this case, a method statement is provided that includes methods to be followed during the development to ensure bats are not disturbed, killed or injured, together with new roosting opportunities to be provided within the extended dwelling. I would support all these measures and, on the basis of the information currently available, and if you are satisfied that the first two tests can be met, I am confident that the development is not unlikely to be licensed.

Provided that the agreed mitigation proposals are implemented, I would have no concerns over these proposals. Therefore, if you were minded to grant permission, I would simply suggest that the following condition be added to the decision notice:

- Development shall proceed in accordance with the measures set out in Section 5 'Mitigation Requirements' of the Bat Emergence Survey Report by ESL Ltd. (August 2022), unless varied by a license issued by Natural England. Thereafter, the replacement bat roost features shall be permanently maintained and retained in accordance with the approved details. **Reason:** to ensure the favourable conservation status of bats.

Please do not hesitate to contact me if you have any queries.

Developer Services, Southern Water

Please see the attached extract from Southern Water records showing the approximate position of our existing public foul sewer assets 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.

Please note:

- The 150 mm public foul sewer requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future access for maintenance.
- No development or tree planting should be carried out within 3 metres of the external edge of the public 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 a public sewer.
- All existing infrastructure should be protected during the course of construction works.

Please refer to: southernwater.co.uk/media/3011/stand-off-distances.pdf.

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.

Southern Water requires a formal application for any new connection to the public foul 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
For further advice, please contact Southern Water, Southern House, Yeoman Road,
Worthing,
West Sussex, BN13 3NX (Tel: 0330 303 0119).
Website: southernwater.co.uk or by email at:
SouthernWaterPlanning@southernwater.co.uk

Natural England Government Team

Thank you for your consultation on the above dated and received by Natural England on 28 January 2022.

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. If you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require advice.

The lack of detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the local authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision making process.

Open Space Society

No comment 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: 4

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
No comments received	

7 Planning Considerations

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

- (i) Principle of development
- (ii) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties
- (iv) Parking
- (v) Ecology

(i) Principle of development

7.2 The application site is not within the defined urban area, therefore development will only be permitted if it is consistent with the policies for the countryside set out in national policy as specified in Policy CS17. This policy follows the principle that new dwellings are not supported in non-urban locations however in this case the application proposes an extension to an existing building and no objection is raised to this as a matter of principle as it accords with Policy AL2 of the Allocations Plan.

(ii) Appropriateness of design and impact on the character of the area

7.3 This proposal has been amended following its initial submission as concerns were raised due to the mismatch of traditional bungalow and modern design. The proposals have since been amended with the dormers now being separate and not in a wrap around style as previously proposed. The proposals therefore include two dormers, one to the side (west) elevation and one to the rear (north) elevation. The rear dormer would be approximately 3 metres wide and the side dormer would be approximately 5.5 metres wide. Also proposed would be a flat roof rear extension which would lead out on to a raised deck area. The single storey rear extension would have a flat roof and would have dimensions of approximately 4.5 metres depth, 3.5 metres height and 10 metres width. This space would create an open plan kitchen/living area which would be accessed via bi-fold doors to the rear and side and a high level window. The additions to the roof would allow for two bedrooms at first floor level alongside an en-suite and shower room. Both bedrooms would be served by the dormer windows. A chimney would also be added to the side (west) elevation. The roof would be re-tiled in grey tile, with clay tiles to the dormers and pvc aluminium to the dormers, timber cladding to the rear extension and side elevations of the main dwelling. Decking is also proposed to the rear- there are some land level changes however this would have an approximate height of 40cms and would be accessed via the rear doors of the extension and would project beyond the rear extension by approximately 3.5 metres.

7.4 Other changes include the enlargement of the garage which is located to the side of the property. This would have a flat roof and dimensions of approximately 15 metres depth with doors and windows to the side and a garage door to the front and would be used for general storage purposes. The garage would be formed from light grey render as would the front elevation.

- 7.5 The proposed additions to the dwelling would allow for increased habitable use at first floor level .The proposed dormers are considered to sit subserviently within the roof slope and proposed rear extension is considered to be in keeping in scale and design with the host dwelling and would not result in overdevelopment of the plot. The proposed materials would differ from the general material palette used on surrounding properties however the property is not in a highly visible siting and the proposals would not result in harm to the character of the area.
- 7.6 The design and appearance of the proposal is deemed appropriate in context to the main building and is therefore considered to be acceptable, meeting the requirements of Policy CS16 of the HBLP (Core strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality.

(iii) Effect on neighbouring properties

- 7.7 To the east of the application site is San Sook which is the neighbouring dwelling. The enlarged garage would be located adjacent to this shared side boundary.The garage would project beyond that at the adjacent property however this would not result in harmful overshadowing or overbearing impact to the amenity of this dwelling as there are sheds on this side , with windows sited away from the shared boundary. A velux window would be added to the side roof slope of the main dwelling facing east however this would serve an ensuite and would be sited at high level in the roof slope. The decking would be buffered by the garage and is not deemed to result in harmful overlooking.
- 7.8 To the west and north of the site is farm land whereby no harmful impact has been identified.
- 7.9 Consequently, it is considered that the proposal will not appear overbearing or lead to overlooking and would have limited and acceptable impact on the properties immediately adjacent to the application site and the properties opposite or to the rear, meeting the requirements of Policy CS16 of the HBLP (Core Strategy). It is noted no letters of objection were received with respect to the scheme.

(iv) Parking

- 7.10 The bedroom number on site would be increasing from 3 to 4 bedrooms . As per the Havant Parking SPD this would require 3 parking spaces allocated on site. This could readily be provided on the front driveway of the site and therefore meets the requirements .

(v) Ecology

7. 11 A preliminary Ecological Appraisal was submitted by the applicant which showed the site to have high bat roosting potential. Subsequently a Bat Emergence Survey Report was submitted with the application after the request from the County's Ecologist. The Assessment has identified that the proposal will impact a European Protected Specie. Therefore consideration of the three Habitat Regulations derogation tests is necessary.

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

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

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

7.13 The proposal is for extensions alongside additions to the roof with dormers , with the proposal benefitting the occupiers of the property allowing for an enlarged and modernised family dwelling . There is no satisfactory alternative, as the proposal may only be erected on the building. The applicant has provided a Bat Emergence Survey Report , which has identified, from the surveys undertaken, that the raised hip tile and soffits support a soprano pipistrelle bat roost. The Bat Emergence Survey Report has also identified that the proposed works would result in the destruction of the access point for bats via the soffit. As such, a European Protected Species Mitigation (EPSM) licence will be required to enable the development to proceed lawfully under a derogation from the Habitat Regulations 2017."

7.14 The Bat Emergence Survey Report has also set out a mitigation strategy that has been designed to ensure the maintenance of the favourable conservation status of bats, that includes methods to be followed during the development to ensure bats are not disturbed, killed or injured. In summary, this comprises the provision of replacement roost opportunities which are proportionate to the scale of impact and the removal of roost features by hand, under the supervision of a licensed bat worker to ensure that individual bats are not killed or injured."

7.15 The County Ecologist has advised that provided that the agreed mitigation proposals are implemented, there are no concerns over these proposals, subject to the following condition be added to the decision notice:

'Development shall proceed in accordance with the measures set out in Section 5 'Mitigation Requirements' of the Bat Emergence Survey Report by ESL Ltd. (August 2022), unless varied by a license issued by Natural England. Thereafter, the replacement bat roost features shall be permanently maintained and retained in accordance with the approved details. Reason: to ensure the favourable conservation status of bats in accordance with the Havant Borough Local Plan.'"

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

In paragraph 28 of his judgment Lord Brown of Eaton-under-Heywood referred to what Ward L.J. had said in the Court of Appeal (in para.61 of his judgment) (part set out below):

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

7.17 The Bat Emergence Survey Report includes a mitigation strategy, to allow other access points in the building for the bat roost amongst other measures which would compensate for the loss of the existing bat roost in the building, which the County Ecologist has found to be acceptable, which the LPA agreed with. Therefore, the proposal will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

7.18 To conclude, having assessed the proposal, the Local Planning Authority is satisfied that there is a need for the development and there is no satisfactory alternative and that tests 1 and 2 above are satisfied. As to the third test, (the favourable conservation status of the species) this is met because the applicant’s ecologist has characterised the status of the bat roost and set out measures that ensure favourable conservation status of the species can be maintained. In light of this, the Local Planning Authority considers it likely that Natural England will grant a licence and therefore conditional planning permission may be granted for the proposal.

7.19 The proposal is considered to comply with Policy CS 11 of the HBLP.

8 Conclusion

8.1 The scale, siting and design of the proposal would have limited and acceptable impact on the neighbours and is therefore considered to be appropriate and recommended for approval.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/21/01455 subject to the following conditions

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

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

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

Bat survey uploaded on the 12.09.2022 (BESR_EPSL_Kanga Warren_F. Dodds_August 2022)

P1050-A-ELE-311-B Amended proposed north and east elevations

P1050-A-ELE-312-A Proposed west and east elevations

P1010-A-ELE-310-B Proposed south and west elevations

P1010-A-ELE-312-A Amended proposed garage elevations

P1010-A-PLN-100-B Amended location and block plan

P1010-A-PLN-210-A Amended proposed ground floor plan

P1010-A-PLN-211-B Amended proposed second and roof plan

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Reason: To ensure provision of a satisfactory development.

- 3 Development shall proceed in accordance with the measures set out in Section 5 'Mitigation Requirements' of the Bat Emergence Survey Report by ESL Ltd. (August 2022), unless varied by a license issued by Natural England. Thereafter, the replacement bat roost features shall be permanently maintained and retained in accordance with the approved details.

Reason: to ensure the favourable conservation status of bats in accordance with the Havant Borough Local Plan.

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

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