

3 Proposal

- 3.1 Variation of Condition 2 of Planning Permission APP/19/00686 (which gave consent for Variation of Condition 2 of Planning Permission APP/17/01179 to vary approved plans (increase in footprint of property and addition of a third bedroom at first floor)) to vary approved plans and retain dwelling in as-built location and proposed number of external alterations.
- 3.2 Although the previously approved application APP/19/00686 stated that the distance between the north boundary of the site and north elevation of the intended dwelling would be 5.36 metres, it was actually 5.47 metres (i.e. a difference of 0.11 metres). Due to an error made when setting out the site, the applicant states that the dwelling was inadvertently constructed a further 0.58 metres to the south of the approved location.

4 Policy Considerations

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

Havant Borough Local Plan (Core Strategy) March 2011

CS14	(Efficient Use of Resources)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

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

Submission Version Havant Local Plan

E22	(Amenity and pollution)
E5	(Chichester Harbour Area of Outstanding Natural Beauty)
DR1	(Delivery of Sustainable Development)
E1*	(High quality design)
H1*	(High quality new homes)
E19	(Managing flood risk in new development)
E16	(Solent Special Protection Areas)
E14	(The Local Ecological Network)
IN3	(Transport and parking in new development)
EX1	(EX1 Water Quality impact on the Solent European Sites)

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

5 Statutory and Non Statutory Consultations

Hampshire Highways

Due to the scale of the proposal and that there is no change to the vehicular access, HCC's standing advice should be referred to in the first instance. As a result, the Highway Authority will not provide detailed comments on this planning application. For more information on standing advice please use the following link:

www.hants.gov.uk/transport/developers/consultation

Coastal Team

Coastal Partners have no objection in principle to the proposed variation, and refer back to our previous comments made to application APP/19/00686 in relation to the management of tidal flood risk at the property, sent on 5th August 2019.

Coastal Partners would recommend that the applicant sign up to the Environment Agency's Flood Warning Service, and consider preparing a Flood Warning and Evacuation Plan for the property, in accordance with advice from the Environment Agency.

Environmental Health Manager, Community Group

No adverse comments.

Community Infrastructure, Planning Policy & Urban Design

The Solent Recreation Mitigation Strategy Unilateral Undertaking was signed and the appropriate payment received as part of planning application APP/19/00686. No further payment is required for this variation of condition as the bedroom accommodation remains the same.

Building Control Team

No comments.

Natural England Government Team

Natural England currently has **no comment** to make on the variation of Condition 2.

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 any further consultations regarding this development, 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.

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: 6

Number of site notices: At least one site notice exists

Statutory advertisement: Not applicable.

Number of representations received: 5

4 letters of objection raising the following issues:

- Original plans were for a modest two bedroomed dwelling
- Rear of property is significantly past the houses either side
- Now enables overlooking of a large proportion of neighbouring garden
- Due to watercourse unable to plant hedges or trees to mitigate invasion of privacy so will suffer from being overlooked to a much greater degree if property as built in line with the two properties either side
- Any balconies/terraces to the rear of the development will increase level of overlooking
- If these latest plans are given permission, then the rear of the property at 56A will break even further the natural rear building line of the two adjacent properties (No. 56 and No. 56B) which would be wholly inappropriate
- Terrace area on the 2nd floor would directly overlook balcony at the rear of No.56B
- Would breach privacy
- Planning permission to date has stipulated that the ground floor rooms should not be for normal dwelling purposes
- Design of bi-fold doors and a terrace at the rear of the 'workshop' demonstrate intention to use this area as normal living space, which would be a further breach of planning
- Raised terrace would overlook property and garden and would be obtrusive and breach of privacy, even with an obscured glass panel in place
- Current front building line is not in sympathy with the rest of the road
- Projects substantially from the existing building line being forward of 56B by approximately 2.1m
- View towards the east has been substantially reduced
- If it had been built to the original plan the loss of light and view obstruction would be less
- Culvert to the rear has been given straight sides reducing the capacity of the culvert, which affect all neighbouring properties as the flood risk increases
- House is situated on an increasingly busy junction with residential, recreational and emergency lifeboat crews which require access at this narrow point
- The new line of the house will not allow vehicles to be parked without projecting onto the nature strip at a point where the road narrows
- Building line of the partially constructed property has been built further forward to the north and further south to the rear than permission that was given
- View from eastern elevation to the north has been partially obscured from the new construction
- Culvert to the rear has been given straight sides, reducing capacity of the culvert, which affect all of the neighbouring properties as the flood risk increases

1 letter of support making the following points:

- Can see that had the property been set out in line with the original dimension at the front it would result in the building being forward of the building line and possibly affect the views from houses to the west
- At the rear the building line as built is now much in line with the rear of No.56B
- If a line is drawn along the rear of the houses No's 56 through to 60 then the as-built location also does not appear to project south of that line
- Appears to be no reason why this application should not be approved

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. 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 European Sites due to both the increase in recreation and the decrease in water quality that would be results of the proposed development.
- 7.2 The application in question would constitute a new planning permission on the site as it is a S73 submission. However, the application is in effect an amendment of an existing scheme with planning permission (APP/19/00686), for which construction has commenced. The existing scheme was assessed under the Habitats Regulations at the time of determination. The original application was for the creation of a new two bedroom dwelling subsequently amended to a three bedroomed dwelling. As a result, the creation of the new dwelling has already been granted planning permission. This application only proposes changes to the appearance and layout of the dwelling.
- 7.3 In relation to water quality, for this Section 73 application there is no net increase in the overnight accommodation compared to the original planning application which was approved (APP/19/00686). It is therefore considered that section 73 application will not result in any additional significant impacts on the integrity of the Solent European Sites.
- 7.4 In relation to recreational pressure The Solent Recreation Mitigation Strategy Unilateral Undertaking was signed and the appropriate payment received as part of planning application APP/19/00686. No further payment is therefore required for this variation of condition as the bedroom accommodation remains the same.
- 7.5 Whilst Natural England had already advised that they have no comments to make, in accordance with the Regulations, the HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they have no comments to make on the HRA.
- 7.6 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) Impact on highways/parking
 - (v) Flooding issues
 - (vi) Compliance with Habitats Regulations
 - (vii) Developer contributions
 - (viii) Other matters

(i) Principle of development

- 7.7 The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria.
- 7.8 Section 73 provides for the determination of applications to develop land without compliance with conditions previously attached. It only provides for the variation of conditions attached to an existing permission; it does not provide a means of varying the development permitted (other than through the imposition of new/varied conditions).
- 7.9 Given the previous permissions, the principle of the development is considered to be acceptable.

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

- 7.10 The changes are relatively minor and the resultant siting of the new dwelling is not considered to result in any adverse impact on the character and appearance of the area or the visual amenities of the street scene and is considered acceptable.

(iii) Impact upon residential amenity

- 7.11 The objections raised to the application are noted, however, the principle of a new dwelling on this site has already been established. The resultant change in the siting of the new building and minor changes, including a rear patio area are not considered, as a matter of judgement, to result in any adverse impacts on the residential amenities of neighbouring properties.

(iv) Impact on highways/parking

- 7.12 The development proposes the same access to that previously approved, which would result in a new access onto Bracklesham Road. The layout includes on site parking and turning, and cycle parking can be provided. The Highways Authority has raised no objections to the proposals.

(v) Flooding issues

- 7.13 The site is located within a Flood Zone 3 as identified on the Environment Agency (EA) flood zone map and the proposed development of an additional dwelling house is classified as a More Vulnerable Use by the EA. The previous permitted applications considered this proposal against the required sequential and exception criteria, which is required for residential dwellings in a Flood Zone 3. It was concluded that, whilst the site is categorised as being within an area of potentially high flood risk, it can be concluded that this proposal meets the requirements of the necessary Sequential and Exception tests. As such the principle of development on this site has been accepted, notwithstanding its location within Flood Zone 3.

(vi) Compliance with Habitats Regulations

- 7.14 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. 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 European Sites due to both the increase in recreation and the decrease in water quality that would be results of the proposed development.
- 7.15 The application in question would constitute a new planning permission on the site as it is a S73 submission. However, the application is in effect an amendment of an existing scheme with planning permission (APP/19/00686), for which construction has commenced. The existing scheme was assessed under the Habitats Regulations at the time of determination. The original application was for the creation of a new two bedroom dwelling subsequently amended to a three bedroomed dwelling. As a result, the creation of the new dwelling has already been granted planning permission. This application only proposes changes to the appearance and layout of the dwelling.
- 7.16 In relation to water quality for this Section 73 application there is no net increase in the overnight accommodation compared to the original planning application which was approved (APP/19/00686). It is therefore considered that section 73 application will not result in any additional significant impacts on the integrity of the Solent European Sites.
- 7.17 In relation to recreational pressure The Solent Recreation Mitigation Strategy Unilateral Undertaking was signed and the appropriate payment received as part of planning application APP/19/00686. No further payment is therefore required for this variation of condition as the bedroom accommodation remains the same.
- 7.18 Whilst Natural England had already advised that they have no comments to make, in accordance with the Regulations, the HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they have no comments to make on the HRA.

(vii) Developer contributions

- 7.19 In terms of the Community Infrastructure Levy (CIL), the applicant previously submitted a Self Build Exemption Claim Form that was acknowledged by the Council confirming the relief granted, which reduced the amount of CIL owing to nil

(viii) Other matters

- 7.20 As this is a Section 73 application any new permission sits alongside the original permission, which remains intact and unamended. Government guidance states that for the purpose of clarity to reinstate the conditions imposed on earlier permissions that continue to have effect.
- 7.21 The time limit for implementation is no longer necessary as the original permission has been implemented.
- 7.22 Other pre commencement conditions have been discharged so do not need to be reimposed other than for clarity reference is made to the approved details.

8 **Conclusion**

- 8.1 In conclusion, the proposed alterations and siting of the building are modest and are considered to be acceptable in terms of impact on the character and appearance of the area and impact on the residential amenities of neighbouring properties. As such, permission under S73 can therefore be recommended for approval.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/21/01045 subject to the following conditions:

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

22107/101 - LOCATION PLAN AND EXISTING BLOCK PLAN

22107/102 - PROPOSED SITE PLAN

22107/103 - PROPOSED GROUND FLOOR AND FIRST FLOOR PLANS

22107/104 - PROPOSED SECOND FLOOR AND ROOF PLANS

22107/105 - APPROVED AND PROPOSED NORTH AND SOUTH ELEVATIONS

22107/106 - APPROVED AND PROPOSED EAST AND WEST ELEVATIONS

Reason: To ensure provision of a satisfactory development.

- 2 The development shall be constructed in accordance with the schedule of materials and finishes dated September 2020 by Jeffrey Douglas submitted in relation to planning permission APP/19/00686 (Condition 3) and subsequently approved by the Local Planning Authority on 9 October 2020. K REND Brochure, James Hardie Brochure - Cladding Vertical Installation Arrangement.

Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2021.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Class A, of Schedule 2, Part 1, Class A, AA, B, C, D, E, F of the Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: Any extensions to the dwelling hereby approved need to be carefully controlled given the limited garden size remaining and proximity to the immediate neighbouring properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 4 The development permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA by Ambient Technical Solutions Ltd. Dated September 2017 submitted with application APP/17/01179.
- All habitable living accommodation shall be located at first floor level or above. The first floor level should be set no lower than 3 metres above existing ground levels (paragraphs 1.7 and 7.4 of FRA.)
 - Internal access is to be provided throughout the dwelling to provide an area of safe refuge on the upper floors of the property (paragraph 1.7 of FRA.)
 - The provision of flood resilient construction measures has been submitted with the FRA and a site specific flood warning and evacuation plan is in place and to be implemented (section 7 of FRA.)

Reason: To ensure the safety of the development and future occupants in line with section 9 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change and policy CS15 of the Havant Borough Core Strategy 2011.

- 5 No floodlighting or other form of external lighting scheme shall be installed unless it has been approved by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting scheme agreed in writing by the Local Planning Authority shall thereafter not be altered without prior consent other than for routine maintenance, which does not change its details.

Reason: To protect the occupiers of nearby residential properties from light disturbance/pollution and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the building the windows on the side elevations (east and west elevation) at first and second floor shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent), and shall be non-opening and retained as such thereafter.

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

- 7 A 1.8 metre high obscure glazed privacy screen as shown on drawing No. 22107/103 along the eastern edge of the rear terrace area shall be installed prior to the use of the terrace area hereby approved and thereafter retained in perpetuity.

Reason: To protect the amenities of adjoining residential properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.