

**TOWN AND COUNTRY PLANNING ACT  
1990 (AS AMENDED)**

**STATEMENT OF  
HAVANT BOROUGH COUNCIL**

**162 Stakes Hill Road  
Waterlooville  
P07 7BS**

**Local Planning Authority Reference:  
APP/20/00696**

**Planning Inspectorate Reference:  
APP /X1735/W/21/3272259**

## **HAVANT BOROUGH COUNCIL**

### **TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)**

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**APPEAL BY Cloud Lifestyle Holdings Ltd AGAINST REFUSAL to grant planning permission for the sub-division of an existing house to form 1No. 2bed and 2No. 1bed apartments and erection of a two storey side extension to form 2No. 2bed apartments with provision of car and cycle parking and bin storage. (Revised).**

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#### **1. Site Description**

- 1.1 The site lies on the north side of Durham Gardens and the west side of Stakes Hill Road, within the established urban area. The Fox and Hounds public house boundary adjoins the site to the north. The existing vehicular access is onto Durham Gardens, with existing parking to the front of the property. A footpath and cycleway traverse the pavement to the front of the access.
- 1.2 There are mature deciduous hedges along the southern and eastern boundaries, with fencing along the boundaries to the north and west. Along the southern boundary there are mature trees, two of which are the subject of a Tree Preservation Order. There are also trees along the northern boundary.
- 1.3 The existing building on the site is a chalet style bungalow, with a single storey garage and extensions to the sides. The bungalow is red brick, with a rendered base and grey roof tiles. The bungalow lies to the rear of the site, with a large garden area to the front, following the development of the rear garden under Planning Permission 06/57799/002. The surrounding area is characterised by different types, styles and designs of residential development.
- 1.4 It appears likely that the current dwelling was erected on or around 1897, following the demolition of what appears to be a dwelling and other buildings on the land. However, it should be noted that the Council's records are vague on this point as this pre-dates the current planning system, and the agent is unaware of the age of the building.
- 1.5 The site lies in Flood Zone 1, which is the lowest risk for flooding.
- 1.6 A site location plan is attached as **Appendix A**.

#### **2 Planning History**

92/57799/000 - Demolition of existing out buildings and erection of 2 single storey rear extensions. Permitted 09/11/1992

06/57799/002 - Construction of 2 No. semi-detached 3 bedroom houses with detached sheds and new access to Durham Gardens. Dormer window and external alterations to existing dwelling. Permitted 24/08/2006 and implemented – now Nos.36 and 38 Durham Gardens.

APP/19/01190 - Erection of a 2 1/2 storey block of 7 apartments after demolition of existing dwelling, utilising existing access and with provision of car and cycle parking and bin storage. Withdrawn 27/4/20.

### 3. **THE APPEAL**

- 3.1 The appeal is against the refusal to grant planning permission for the sub-division of an existing house to form 1No. 2bed and 2No. 1bed apartments and erection of a two storey side extension to form 2No. 2bed apartments with provision of car and cycle parking and bin storage. (Revised).

### 4. **PLANNING POLICIES**

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS8 (Community Safety)

CS9 (Housing)

CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough)

CS16 (High Quality Design)

CS17 (Concentration and Distribution of Development within the Urban Areas)

CS19 (Effective Provision of Infrastructure)

CS20 (Transport and Access Strategy)

CS21 (Developer Requirements)

DM6 (Coordination of Development)

DM8 (Conservation, Protection and Enhancement of Existing Natural Feature)

DM10 (Pollution)

DM13 (Car and Cycle Parking on Residential Development)

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)

Havant Borough Submission Local Plan 2036

The Submission Havant Borough Local Plan 2036 was submitted for examination by the Secretary of State for Housing Communities and Local Government on 12 February 2021. The Stage 1 Hearings was held in July 2021, with the Stage 2 Hearings due to comment in **October 2021?**

The Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless

other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Submission Local Plan referenced below are currently afforded some weight, dependent on the level of objection received to each individual policy.

The relevant planning policies of the Submission Local Plan are:

DR1 – Delivery of Sustainable Development  
IN1 - Effective Provision of Infrastructure  
IN3 – Transport and Parking in new development  
E1 – High Quality Design  
E2 - Health and wellbeing  
E3 – Landscape and settlement boundaries  
E12 – Low Carbon Design  
E14 The Local Ecology Network  
E15 – Protected Species  
E18 – Trees, hedgerows and woodland  
E20 – Drainage infrastructure in new development  
E22 – Amenity and pollution  
Ex1 – Water quality  
H1- High Quality Homes  
H3 – Housing Density

## 5.0 **PLANNING CONSIDERATIONS**

5.1 The application the subject of the appeal was considered by the Development Management Committee (DMC) on 21 January 2021. Officers' recommendation was for the grant of conditional planning permission, full detail of which are set out in the Committee report attached as **Appendix B**.

5.2 The application was refused by the DMC for the following reasons:

“ 1. The proposed development would be an overdevelopment of the site by reason of its scale, bulk, lack of amenity space and urbanisation by the built form, which would be an incongruous feature out of keeping with the street scene, to the detriment of the visual amenities of the area. The proposal is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

2. In the absence of a suitable agreement to secure appropriate mitigation measures in respect to water quality, 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 in relation to this planning application. The development would be likely to result in detriment to water quality and as such, it is contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policies E16 and EX1 of the Pre-Submission Havant Borough Local Plan 2036, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.”

5.3 A copy of the decision notice dated 22/1/21 has already been forwarded to the Planning Inspectorate.

## 5.4 **Five Year Housing Land Supply**

5.5 Since the refusal of planning permission the Council has published its 'Five Year Housing Land Supply Update December 2021', available at:

<https://cdn.havant.gov.uk/public/documents/EB36%20Five%20Year%20Housing%20Land%20Supply%20Update.pdf>

- 5.6 This indicates that the Council cannot demonstrate a five-year supply of deliverable site. The assessment found that the Council could only demonstrate a 4.2 year housing land supply, with a 20% buffer. In addition, the Housing Delivery Test for Havant indicates that delivery of housing was substantially below (less than 75%) of the housing requirement over the previous three years.
- 5.7 The Framework directs in paragraph 11(d) that where a five-year supply of housing land cannot be demonstrated, the presumption in favour of sustainable development requires the application of the “tilted balance” in decision making.
- 5.8 In view of the Council’s 5-year land supply, the LPA has carried out a review of the appeal proposal, which is set out below under the heading ‘The Planning Balance.’
- 5.9 **Definitive Solent Recreation Mitigation Strategy**
- 5.10 As the Planning Inspectorate is now the Competent Authority under Regulation 63 of the Habitats Regulations, the LPA has sought to assist the Inspector by outlining the two key issues below regarding this appeal and the associated Appropriate Assessment.
- 5.11 The application site falls within the 5.6km zone of Chichester and Langstone Harbours Special Protection Area which are large estuarine basins that contain extensive intertidal mudflats and sandflats that support internationally and nationally important numbers of overwintering and breeding bird species. Please find additional information about the characteristics of the area, the reasons for its designation, interest features and conservation objectives on the link to Natural England’s website below:
- <https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK9011011>
- 5.12 Natural England’s advice in regard to all new housing development within the 5.6km zone is that it is likely to have a significant effect on the SPA. Policy DM24 of the Allocations Plan covers this issue and allows for a financial contribution to be made towards mitigation measures. Additional information in relation to the Bird Aware Solent Strategy can be viewed via the following web address:
- <http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>
- 5.13 On 1st April 2018, the (‘Definitive’) Solent Recreation Mitigation Strategy (SRMS) replaced the ‘Interim’ and the ‘Definitive’ Strategy now applies to new residential development (this was as approved by Havant Borough Council’s Cabinet on the 7th February 2018.) The updated Strategy uses a sliding scale to calculate the SRMS contribution for new residential development built within 5.6km of the coastline. As such, the contribution is now calculated based on the number of bedrooms per individual dwelling. In this case, the development would require a contribution of £2,254 plus 5% monitoring fee of £112.70 and Administration Fee of £23 such that the total contribution required would be £2,389.70.
- 5.14 Prior to a decision being made on the application a signed Unilateral Undertaking (UU) was received by the LPA on 9<sup>th</sup> December 2020, with the contribution of £2,389.70 received on the 14 December 2020. Therefore, the appropriate mitigation measure for the SRMS was discharged for this development, in accordance with the Appropriate

### 5.15 **Water Quality**

- 5.16 The European Court of Justice determined a case related to considering water quality in Appropriate Assessments. This is generally referred to as 'The Dutch Case' (Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord- Brabant (Case C-293/17 and C294/17)) available at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>

The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture.

- 5.17 Natural England began to issue revised advice regarding planning applications to Local Planning Authorities on 1 April 2019 as a result of the Dutch Case. Considering this advice and the implications of the case law, it can only be concluded that some forms of new development could increase nitrogen and phosphate deposition into the protected harbours above consented levels. This results in increased nutrients in the harbour which cause a dense growth in certain plants. This in turn leads to harm to the species which use them – a likely significant effect. The only way that a new scheme could prevent this likely significant effect is for there to be no increase in nutrients into the harbour, i.e. for it to be 'nutrient neutral'.
- 5.18 Havant Borough Council is committed to achieving sustainable development, including the relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality of any European Designated Nature Conservation Sites.
- 5.19 In August 2020, Havant Borough Council's Cabinet approved a 'Position Statement and Mitigation Plan for Nutrient Neutral Development' available at :

<https://cdn.havant.gov.uk/public/documents/Position%20Statement%20on%20Nutrient%20Neutrality.pdf>

(This supersedes an earlier document which accepted a Grampian condition to secure the neutrality of the development, if permission was forthcoming.)

- 5.20 This puts in place mechanisms for development to achieve nutrient neutrality. For development on sites currently used for agricultural purposes, there must be an aim to achieve nutrient neutrality on-site. However, for development on non-agricultural sites, particularly brownfield sites, this is not possible. The Position Statement sets out how development proposals should consider the issue, and in terms of the implications for the development the subject of this appeal, Paragraphs 2.1 - 2.13 sets out the development schemes that are likely to result in a significant effect on the European Sites, with paragraphs 3.7 - 3.25 setting out the options available to achieve neutral nitrogen development, which cannot be achieved on site.
- 5.21 The mitigation calculated for Nutrient Neutral Development on the site is £3,847.10 with an Administration Fee of £23 such that the total contribution required would be £3,870.10.

- 5.22 Following the lodging of the appeal, LPA carried out a further Habitats Regulation Assessment (HRA) and an Appropriate Assessment (AA) in respect of the SRMS and nitrates and the development. Natural England (NE) was consulted on the HRA/AA and stated that “Provided the local planning authority is satisfied that timely mitigation can be delivered in this case, Natural England raises no further comments for consideration.” The LPA confirm that such mitigation has been secured.
- 5.23 The Appellant enter into a legal agreement on 30 April 2021 and paid the mitigation payment on 5 May 2021. A copy of the legal agreement is attached as **Appendix D**.
- 5.24 In view of this the LPA confirms that it has withdrawn reason 2 on the decision notice.
- 5.25 As the Planning Inspectorate is now the Competent Authority under Regulation 63 of the Habitats Regulations, it is hoped this information will assist the Inspector.
- 5.26 Impact of the Development**
- 5.27 As the Inspector will note from the Committee’s report, the recommendation to permit was a balanced decision, which was a planning judgement; a planning judgement the Development Management Committee did not agree with, which was a democratic decision.
- 5.28 As the Inspector will note from the decision notice the appeal proposal is considered to be an overdevelopment by reason of its scale, bulk, lack of amenity space and urbanisation by the built form which would be an incongruous feature out of keeping with the street scene to the detriment of the visual amenities of the area.
- 5.29 The proposal is considered to be contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 (HBLPCS) and the National Planning Policy Framework, hereinafter referred to as ‘the Framework’. The proposal is also considered to be contrary to Submission Local Plan Policy E1, which requires, amongst other matters, for development to be of a high standard.
- 5.30 Policy CS16 requires that development is designed to a high standard, which helps to create places where people want to live, work and relax. All development should also identify with the local character within or close to the proposed development site and uses the characteristics of the locality to help inform the development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors.
- 5.31 High quality design, is a fundamental requirement in paragraph 126 of the Framework July 2021, to ensure, “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.” This paragraph also emphasises that “Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”
- 5.32 Submission Local Plan Policy E1, is in accordance with the guidance in the Framework and states, amongst other matters, that all development is designed to a high standard, and produces a positive relationship with and between existing and proposed building, streets and spaces.
- 5.33 The size of this small site is only 0.09 hectares and the proposal would increase the number of units of accommodation on the site from 1 to 5, resulting in a density of 56 dwellings per hectares. This level of development would amount to an

overdevelopment of the site, which would not accord with the spatial characteristics of the locality which the Inspector will note from the plan attached as **Appendix A** is of a lower density.

- 5.34 The existing chalet bungalow's rear garden was re-developed under reference 06/57799/002, with the construction of 2 semi-detached dwellings. The result of this, is that the only meaningful garden area available to the bungalow is to the front of the site, which is a green space that adds to the attraction and character of the area. The two storey extension to the chalet bungalow, would increase the existing gross internal floor area of the host bungalow from 250 sqm to 376 sqm, which would cover a large part of the front garden.
- 5.35 The development, would sit forward of the existing chalet bungalow and due to the scale and bulk of the proposal would be an incongruous feature in the street scene, resulting in the loss of a green space, further urbanising the built form to the detriment of the visual amenities of the area. This urbanising of the built form would also be adversely impacted by the level of hard surfacing required to facilitate the necessary car parking, turning area and footpaths for the development. As with the building, this would be visible from the public realm, as the proposal necessitates the loss of a section of hedging at the existing access onto Durham Gardens, to provide adequate lines of sight for vehicles leaving the site, together with the loss of a section of the hedge on the southern boundary to provide a pedestrian access.
- 5.36 The proposal does not provide any form of private amenity as promoted by Havant's Design Guide in the form of balconies. The only meaningful amenity area is a small private shared amenity space, in the north east corner. This area would be approximately 12m x 12m for a total of 5 apartments, all of which would comply with the nationally described space standards for 2 persons. Therefore, having regard to these space standards, up to 10, with the possibility of more persons residing in the apartments. The amenity space provided is not considered to be sufficient for the passive recreational requirements for future occupiers of these 5 apartments.
- 5.37 The Framework emphasises the role of design guides and codes (paragraph 129), and that there should be a high standard of amenity for existing and future users to achieve high quality design in residential development (paragraph 130). Havant's Design Guide seeks to achieve high quality design in all development as does policy CS16 of the HBLPCS and Submission Policy E1. The proposal would not achieve a high standard of amenity for future users or a high quality development for the site/locality, contrary to the aims of adopted, emerging policy and the advice in the Framework.

#### **5.38 The Planning Balance**

- 5.39 As a 5-year land supply cannot be demonstrated the LPA has reviewed the development the subject of the appeal to determine whether the weight to give to this planning considerations overrides the other material planning considerations pertaining to the proposal.
- 5.40 The proposal would provide 4 additional units of accommodation, which would be a modest addition to the Borough's housing supply. Having regard to the impetus to increase the supply of housing of all types is explicit in the Framework and the identified need for such housing in the Borough, modest weight is given to the provision of housing.

- 5.41 The proposal would bring some economic benefits through construction and through the additional spend generated by new residents, who would also help sustain local services, these benefits attribute moderate weight.
- 5.42 The proposed development is not considered to be of a high design, due to the overdevelopment of this small site, its lack of private amenity space and its adverse impact on the street scene, to which substantial weight is given.
- 5.43 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.
- 5.44 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 consider 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.
- 5.45 The harm that would arise from the appeal proposal, significantly and demonstrably outweigh the benefits of the scheme and the appeal should be dismissed.

## **6.0 Appellant's Statement**

- 6.1 The LPA has covered all the relevant points to the appeal in the statement above.

## **7.0 Suggested Conditions**

- 7.1 Notwithstanding the LPA's continuing objection to the proposal, if the Inspector is minded to grant the appeal a list of suggested conditions is set out in the Committee's report, which has already been sent to the Planning Inspectorate.

## **8.0 CONCLUSION**

- 8.1 The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme. The proposal is contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy E1 of the Submission Havant Borough Local Plan and the Framework.
- 8.2 The Inspector is respectfully requested to dismiss the appeal.

## **APPENDICES**

- (A) Borough Map and 1:1250 Location Plan
- (B) Committee report for this application
- (C) Signed Unilateral Undertaking dated 14/12/20
- (D) Signed Unilateral Undertaking dated 5/5/21

# APPENDIX A

# Borough of Havant

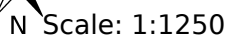


THE SITE - 162 STAKES HILL ROAD

- Main Retail/Commercial/Office Areas
- Urban Areas
- Industrial Areas
- Open Space/Recreation
- Borough Boundary



**Havant**  
BOROUGH COUNCIL



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# APPENDIX B

HAVANT BOROUGH COUNCIL  
PUBLIC SERVICE PLAZA  
CIVIC CENTRE ROAD  
HAVANT  
HAMPSHIRE P09 2AX



Telephone: 023 9247 4174  
Fax: 023 9248 0263  
Website: [www.havant.gov.uk](http://www.havant.gov.uk)

## DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

**Membership:** Councillor Satchwell (Chairman)

Councillors Mrs Shimbart (Vice-Chairman), Crellin, Howard, Keast, Lloyd and Lowe

Standing Deputies: Councillor David Guest, Councillor Husky Patel, Councillor Diana Patrick and Councillor Tim Pike

**Meeting:** Development Management Committee

**Date:** 21 January 2021

**Time:** 5.00 pm

**Venue:** Remote Meeting - Via Skype for Business

The business to be transacted is set out below:

Gill Kneller  
Chief Executive

12 January 2021

Contact Officer: Mark Gregory 023 9244 6232  
Email: [mark.gregory@havant.gov.uk](mailto:mark.gregory@havant.gov.uk)

Page

### PART A - (Items Open for Public Attendance)

#### 1 Apologies for Absence

To receive and record apologies for absence.

#### 2 Site Viewing Working Party Minutes

To Follow

To receive the minutes of the Site Viewing Working Party held on 12 January 2021.

### **3       Declarations of Interest**

To receive and record declarations of interests from members present in respect of the various matters on the agenda for this meeting.

### **4       Matters to be Considered for Site Viewing and Deferment**

The Committee are invited to consider any matters they wish to recommend for site viewing or deferment.

### **5       Applications for Development and Development Control Matters                   1 - 4**

#### **Part 1 - Applications Viewed by the Site Viewing Working Party**

#### **5(1)    APP/20/00696 - 162 Stakes Hill Road, Waterlooville, PO7 7BS                   5 - 44**

Proposal: Sub-division of existing house to form 1No. 2bed and 2No. 1bed apartments and erection of a two storey side extension to form 2No. 2bed apartments with provision of car and cycle parking and bin storage. (Revised).

[Additional Information](#)

Site Briefing held on 3rd December 2020

#### **5(2)    APP/20/01019 - Hooks Lane Ground Clubhouse, Fraser Road, Havant, PO9 3EJ                   45 - 62**

Proposal: Conversion of existing Multi-games play area (MUGA) into a car park, by way of, creating a connection through the existing car park serving the rugby club, and associated footpath and lighting alterations.

[Additional Information](#)

Site Briefing held on 12th January 2021

## GENERAL INFORMATION

**IF YOU WOULD LIKE A VERSION OF THIS AGENDA IN LARGE PRINT, BRAILLE, AUDIO OR IN ANOTHER LANGUAGE PLEASE CONTACT DEMOCRATIC SERVICES ON 023 92 446 231**

### Internet

This agenda and its accompanying reports can also be found on the Havant Borough Council website: [www.havant.gov.uk](http://www.havant.gov.uk). Would you please note that committee reports are subject to changes and you are recommended to regularly check the website and to contact *Mark Gregory (tel no: 023 9244 6232)* on the afternoon prior to the meeting for details of any amendments issued.

### Public Attendance and Participation

The meeting will be streamed live online to enable members of the public to watch in real time. The meeting will also be recorded and the recording will be published on the council's website.

IP addresses will not be collected, however in order to function, Skype for Business collects background data limited to when a user enters and leaves the meeting and the web browser version used. Data collected will be kept and recorded for the purposes of this meeting.

Members of the public, County Councillors, and Non-Members of the Development Management Committee may submit a written deputation to meetings of the Development Management Committee provided that it relates to an item on the Agenda for a particular meeting. A person, who has submitted a written deputation may also be given an opportunity to address the Committee.

Full details of the deputations scheme can be viewed at:

<https://havant.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD1202&ID=1202&RPID=962835>

Written Deputations may be sent to:

By Email to: [DemocraticServices@havant.gov.uk](mailto:DemocraticServices@havant.gov.uk)

By Post to :

Democratic Services Officer  
Havant Borough Council  
Public Service Plaza  
Civic Centre Road  
Havant, Hants P09 2AX

Delivered at:

Havant Borough Council

Public Service Plaza  
Civic Centre Road  
Havant, Hants P09 2AX

marked for the Attention of the “Democratic Services Team”

### **Who To Contact If You Wish To Know The Outcome Of A Decision**

If you wish to know the outcome of a particular item please contact the Contact Officer (contact details are on page i of the agenda)

## **PROTOCOL AT MEETINGS – RULES OF DEBATE**

### Site Briefing

- A private remote meeting may be held to enable the Councillors to familiarise themselves with a site's characteristics and request additional information to be provided prior to the meeting the Development Management Committee, where it is considered necessary to do so.
- A site briefing will normally be initiated either by:
  - The Head of Planning in advance of the Development Management Committee, in circumstances where she considers it important to understand the physical circumstances of the site, and representations of third parties (particularly where a deputation is expected), or where the application raises issues of precedent where Councillors need to understand the wider implications of any decision
  - The submission of a Red Card and specific request to site briefing by a Councillor
  - Resolution of the Development Management Committee
- The site briefing is an opportunity for members of the Committee to familiarise themselves with the site officially and have a proposal explained to them by Officers. No decision is made at a site briefing; the matter is always referred to a future meeting of the Development Management Committee for decision.
- Whilst attending a site briefing it is important for members of the Committee to consider:
  1. The site layout and boundaries;
  2. Physical features and constraints including levels and orientation;
  3. The general characteristics of the site and how it relates to the surrounding area;
  4. Nearby land uses, and
  5. Any relevant transport issues affecting the site.
- The site briefing should be a 'fact finding mission' and a means of identifying issues for consideration by the Development Management Committee. It must not therefore be used as an opportunity to debate the merits of an application. There will be no opportunity to receive representations from members of the public or applicants. Members should however ask questions of the Officers present, make points and highlight certain characteristics that they can only draw to the attention of other members of the Site briefing.

- The minutes of the meeting shall be published. The presentation together with supporting materials, which have not already been published on the Council's website, will be published as an appendix to the minutes of the meeting.
- Any member of the site briefing who has a disclosable pecuniary interest (as set out in the Members Code of Conduct) or has formed a concluded view – in the application must disclose to the meeting the existence and nature of that interest. If a disclosable pecuniary interest or a concluded view is declared the Councillor must not take any part in the site briefing or vote on the recommendation regarding the site in question and must not be part of the meeting during the briefing.
- Whilst the site briefing does not make a decision on an application or other planning matter, it is normal working practice for the briefing to make a recommendation to the Development Management Committee in one of the following forms
  1. To resolve, on the basis of the site briefing and information available at the time, that the site briefing does not wish to draw to the attention of the Development Management Committee any additional matters, OR
  2. To resolve on the basis of the site briefing and information available at the time, that the site briefing would wish that the Development Management Committee to consider the following matters in addition to those detailed in the Head of Planning report before making a decision:
    - a. the need for additional information, and/or
    - b. the need for additional conditions, and/or
    - c. areas of concern arising from the site briefing
- The Chairman will seek to secure a majority view as to the recommendation for the need or otherwise of additional matters being drawn to the attention of the Development Management Committee. If it is apparent that a majority cannot be obtained, he will recommend that the site briefing do not record a view.
- Any Councillor interested in a matter on the agenda can attend the site briefing, in order to have a better understanding of a proposal in their own ward or one that is of Borough wide interest. However, other Councillors attending the site briefing will not be allowed to address the working party, other than to point out matters of fact, detail, local knowledge and history.
- No recommendation of the site briefing to the Development Management Committee should be regarded as the final view of any Councillor as to how an application should be determined by the Committee.

#### Submission of Questions for the Development Management Committee

- Councillors are encourage to forward questions to be raised at the meeting to Democratic Services at least 4 hours before the meeting. These questions can then be addressed either as part of the officer's presentation or shortly after. This

does not inhibit your ability to ask questions at the meeting, but questions in advance can help facilitate a smoother and easier to follow virtual meeting.

- Questions cannot be directed to persons who have submitted written deputations.
- Questions and answers will be published and attached as an appendix to the minutes.

#### Meeting Protocol

- Microphones will be muted centrally unless it is a councillor/officers turn to speak. When unmuted centrally please note that a councillor/officer will also need to press the unmute button before speaking!
- Councillors are encouraged to arrive at the virtual meeting no less than 15 minutes prior to the meeting start time. This will allow any technical issues to be resolved and the quorum to be confirmed.
- Whilst being held remotely, the meeting remains a formal meeting of the council with the same rules of conduct. There is the potential for greater audience numbers due to people being able to watch from their own homes. The meeting will also be recorded and the recording publicly available.
- After reading the report and attending the site briefing, if any, Councillors must forward primary questions to Democratic Services at least 4 hours before the meeting to facilitate a smoother meeting. These questions will be addressed by the officers at the meeting. Please note that the opportunity to ask supplementary questions at the meeting will be limited (please see above).
- There is a viewing pane showing all participants on the left-hand side (clicking the icon depicting three people in the top left of the screen will open). This lists the attendees (committee members) in alphabetical order, which is useful to ascertain when you will have an opportunity to speak.

The Chairman will read out a detailed introduction to outline how the meeting will run.

#### Apologies for Absence

Will be read by the Democratic Services Officer.

#### Confirmation of Attendance/ Declarations of Interest/ Supplementary Matters

For expediency, the Chairman will ask each councillor in turn to confirm the above. Attendees will be able to mute and unmute their own microphones. Councillors and Officers are requested to mute their microphone when not speaking and wait to be invited to speak by the Chairman at the appropriate time unless you they are experiencing technical difficulties in hearing another person. A standard form of words has been drafted:

*Present. I confirm that I have read the Supplementary Matters papers and that I have no interests to declare.*

If you have an interest:

*Present and I confirm that I have read the Supplementary Matters papers. I have an interest to declare in application xxxx/xxxx – Land at xxxxx, item x of the agenda.*

*The nature of this interest is xxxxxxxx and I shall.....(remain in the meeting for the discussion/voting on this item/ remain in the meeting for the item but abstain from voting/ withdraw from the meeting for this item)*

Please use this form of words.

### **Confirmation of Minutes**

The Chairman will ask each councillor in turn whether they have any amendments to the previous minutes. Either reply 'No amendments Chairman', or yes and clearly state the amendment.

The Chairman will ask for a proposer, at this point all microphones will be unmuted. The first councillor to speak, stating only their name 'Cllr X' will be taken as the proposer. The process will be repeated for the seconder. Prior to speaking please remember that you need to unmute your microphone!

### **First Application**

The officer will introduce as usual, with a PowerPoint shown via Skype for Business. During his introduction, the officer will highlight any new issues raised in the presentation, which are not covered in the report or supplementary papers. Public and ward councillor deputations will be submitted in advance and published. They will not be read aloud.

Following this the Planning Officer will respond to the deputations and answer questions that have been submitted by members of the committee prior to this meeting. After a reply has been given to each question, The Chairman shall ask the Councillor, who asked the questions if they are satisfied with the answer and/or have a supplementary question prompted by the answer.

The Chairman will then ask each Councillor in turn whether they have any supplementary questions. Once questions have been answered the Chairman will move to the debate. This will follow the same format as questions. Councillors are encouraged to move a motion (including an amendment) at any stage during the debate. The Chairman will announce when a motion has been proposed and name the proposer and will then call for a seconder. All microphones will be made live and Councillors must state their name if they wish to propose/seconder. At this point the Chairman shall ask each Councillor in turn if they wish to speak, the debate centring solely on the motion.

If members are minded to refuse an application, contrary to officer advice they must clearly state their reasons for refusal. If a member wishes to add conditions not recommended by the officers, he or she must also give reasons for this new condition. These reasons will be noted by the Officers. Councillors should make it clear that they are putting a motion forward and state the wording of the motion clearly.

Officers shall be given an opportunity to comment on any motion (including amendments) and any issues raised during the debate.  
At the end of a debate the Chairman shall ask each member, alphabetically, if they have anything to add.

### **Voting**

When voting, the Chairman will ask each Councillor in turn, alphabetically, to state either 'FOR, AGAINST or ABSTAIN'. Your microphone will be made live to enable you to speak, but please - remember to unmute before speaking!  
The Democratic Services Officer will confirm the voting numbers, following which the Chairman will declare the result of the vote.

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## HAVANT BOROUGH COUNCIL

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### Development Management Committee

#### APPLICATIONS FOR DEVELOPMENT AND OTHER DEVELOPMENT CONTROL MATTERS REPORT BY THE HEAD OF PLANNING

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#### **Applications to be determined by the Council as the Local Planning Authority**

Members are advised that all planning applications have been publicised in accordance with the Code of Practice for Publicity of Planning Applications approved at Minute 207/25/6/92, and have been referred to the Development Management Committee in accordance with the Delegation Procedure for Determining Planning Applications 'Red Card System' approved at minutes 86(1)/4/97 and 19/12/97.

All views of consultees, amenity bodies and local residents will be summarised in the relevant report only if received prior to the report being prepared, **otherwise** only those views contrary to the recommendation of the Head of Planning will be reported **verbally** at the meeting of the Development Management Committee.

***Members are reminded that all letters received are placed upon the application file and are available for Development Management Committee Members to read on request. Where a member has concerns on such matters, they should speak directly to the officer dealing with the planning application or other development control matter, and if appropriate make the time available to inspect the file and the correspondence thereon prior to the meeting of the Development Management Committee.***

The coded conditions and reasons for refusal included in the recommendations are set out in full in the Council's Manual of Model Conditions and Reasons for Refusal. The standard conditions may be modified to meet the specific circumstances of each individual application. Members are advised to bring their copies to the meeting of the Development Management Committee.

In reaching decisions on the applications for development and other development control matters regard should be paid to the approved development plan, all other material considerations, the views of consultees, the recommendations of the Head of Planning, and where applicable the views of the Site Viewing Working Party.

The following abbreviations are frequently used in the officers' reports:

|        |                                                                                                                                                                                                 |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HPS    | Head of Planning Services                                                                                                                                                                       |
| HCSPR  | Hampshire County Structure Plan - Review                                                                                                                                                        |
| HBLP   | Havant Borough Local Plan (comprising the adopted Core Strategy 2011 and saved policies from the District Wide Local Plan 2005. A related emerging document is the Draft Allocations Plan 2012) |
| HWLP   | Hampshire, Portsmouth & Southampton Minerals & Waste Local Plan                                                                                                                                 |
| NPPF   | National Planning Policy Framework 2012                                                                                                                                                         |
| HBCCAR | Havant Borough Council Conservation Area Review                                                                                                                                                 |
| AONB   | Area of Outstanding Natural Beauty                                                                                                                                                              |
| CA     | Conservation Area                                                                                                                                                                               |
| LB     | Listed Building included in the list of Buildings of Architectural or Historic Interest                                                                                                         |
| SAC    | Special Area of Conservation                                                                                                                                                                    |
| SINC   | Site of Importance for Nature Conservation                                                                                                                                                      |
| SPA    | Site identified as a Special Protection Area for the protection of birds under the Ramsar Convention                                                                                            |
| SSSI   | Site of Special Scientific Interest                                                                                                                                                             |
| FP     | Definitive Footpath                                                                                                                                                                             |
| POS    | Public Open Space                                                                                                                                                                               |
| TPO    | Tree Preservation Order                                                                                                                                                                         |
| HBC    | Havant Borough Council                                                                                                                                                                          |
| GPDO   | Town & Country Planning (General Permitted Development) Order                                                                                                                                   |
| DMPO   | Town & Country Planning (Development Management Procedure)(England) Order 2010 amended                                                                                                          |
| UCO    | Town & Country Planning (Use Classes) Order                                                                                                                                                     |
| S106   | Section 106 Agreement                                                                                                                                                                           |
| Ha.    | Hectare(s)                                                                                                                                                                                      |
| m.     | Metre(s)                                                                                                                                                                                        |

## RECOMMENDATIONS

To reach decisions on the applications for development and other matters having regard to the approved development plan, all other material considerations, the views of consultees, the recommendations of the Head of Planning, and where applicable the views of the Site Viewing Working Party.

### **Implications**

#### **Resources:**

None unless detailed in attached report.

#### **Legal:**

Details set in the individual reports

**Strategy:**

The efficient determination of applications and making of other decisions under the Town & Country Planning Acts in an open manner, consistent with the Council's planning policies, Regional Guidance and Central Government Advice and Regulations seeks to ensure the appropriate use of land in the public interest by the protection and enhancement of the natural and historic environment; the promotion of the economy; the re-use of existing buildings and redevelopment of 'brownfield' sites; and the promotion of higher densities and good quality design in all new development all of which matters assist in promoting the aims of the Council's Community Strategy.

**Risks:**

Details set out in the individual reports

**Communications:**

Details set out in the individual reports

**Background Papers:**

Individual Applications with Case Officers

Simon Jenkins  
Head of Planning

David Brown  
Monitoring Officer

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Site Address: 162 Stakes Hill Road, Waterloooville  
Proposal: Sub-division of existing house to form 1No. 2bed and 2No. 1bed apartments and erection of a two-storey side extension to form 2No. 2bed apartments with provision of car and cycle parking and bin storage. (Revised).  
Application No: APP/20/00696                      Expiry Date: 03/11/2020  
Applicant: Cloud Lifestyle Holdings Ltd  
Agent: Mrs Knapp                      Case Officer: Lesley Wells  
            BBF Fielding Ltd  
Ward: Stakes

Recommendation: **GRANT PERMISSION**

Reason for Committee Consideration: At the request of Councillor Patrick.

Density: 56 dwellings per hectare

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## Executive Summary

This application was the subject of a Site Briefing on 3<sup>rd</sup> December 2020 which requested the age of the existing dwelling and details of potential contamination on the site, both of which have been incorporated into this updated report.

The proposal is a revised scheme for the redevelopment of the site following the withdrawal of APP/19/01190, which originally proposed the erection of a 2 1/2 storey block of 7 apartments after demolition of the existing dwelling.

This revised scheme proposes the sub-division of the existing chalet bungalow to form 1No. 2bed and 2No. 1bed apartments and erection of a two-storey side extension to create 2No. 2bed apartments (5 units in total) with provision of car parking and cycle/bin storage on an urban site of 0.09 hectares. To the south of the site is Durham Gardens, with Stakes Hill Road to the east. The Fox and Hounds PH lies to the north.

In terms of the principle of development, the site is located within the urban area where there is a presumption in favour of development subject to the usual development management criteria being satisfied.

The revised proposal reduces the number of flats from 7 to 5 and when analysing the scheme, it is considered that the development would not have a significant impact on the locality, residential amenity, trees, ecology or the highway network, such as would warrant a refusal.

The Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this includes an Appropriate Assessment under Regulation 63. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several of the Solent's European Sites. The subsequent Appropriate Assessment included a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy and the Position Statement on Nutrient Neutral Development.

To conclude, it is considered that the scheme would contribute to the need for

market apartments in the Borough on a sustainable site within the urban area, and the proposal is recommended for permission.

## **1 Site Description**

- 1.1 The site lies on the north side of Durham Gardens and the west side of Stakes Hill Road, within the established urban area. The Fox and Hounds public house boundary adjoins the site to the north. The existing vehicular access is onto Durham Gardens, with existing parking to the front of the property. A footpath and cycleway traverse the pavement to the front of the access.
- 1.2 There are mature deciduous hedges along the southern and eastern boundaries, with fencing along the boundaries to the north and west. Along the southern boundary there are mature trees, two of which are the subject of a Tree Preservation Order. There are also trees along the northern boundary.
- 1.3 The existing building on the site is a chalet style bungalow, with a single storey garage and extensions to the sides. The bungalow is red brick, with a rendered base and grey roof tiles. The bungalow lies to the rear of the site, with a large garden area to the front, following the development of the rear garden under Planning Permission 06/57799/002. The surrounding area is characterised by different types, styles and designs of residential development.
- 1.4 It appears likely that the current dwelling was erected on or around 1897, following the demolition of what appears to be a dwelling and other buildings on the land. However, it should be noted that the Council's records are vague on this point as this pre-dates the current planning system, and the agent is unaware of the age of the building.
- 1.5 The site lies in Flood Zone 1, which is the lowest risk for flooding.

## **2 Relevant Planning History**

92/57799/000 - Demolition of existing out buildings and erection of 2 single storey rear extensions. Permitted 09/11/1992

06/57799/002 - Construction of 2 No. semi-detached 3 bedroom houses with detached sheds and new access to Durham Gardens. Dormer window and external alterations to existing dwelling. Permitted 24/08/2006 and implemented – now Nos.36 and 38 Durham Gardens.

APP/19/01190 - Erection of a 2 1/2 storey block of 7 apartments after demolition of existing dwelling, utilising existing access and with provision of car and cycle parking and bin storage. Withdrawn 27/4/20.

## **3 Proposal**

- 3.1 The proposal is for the sub-division of an existing chalet bungalow to form 1No. 2bed and 2No. 1bed apartments and erection of a two-storey side extension to form 2No. 2No. bed apartment. (Total: 5 units). The size of the apartments would comply with the nationally described space standards. A private amenity space in the form of a communal garden would be provided along part of the north/east boundary.
- 3.2 Vehicular and pedestrian access to the development would be taken from the existing access onto Durham Gardens, with visibility splays enhanced, with a new pedestrian

access provided onto Durham Garden on the south boundary. The waste/recycling bin storage would be located near the vehicular access on the southern side.

- 3.3 Car parking within the scheme has been designed in line with the Havant Borough Council Parking SPD. On-site communal parking would provide a total of 7 spaces, which includes 1 visitor space. Eight cycle racks are also proposed. Electric charging points would be provided on 2 of the parking spaces.
- 3.4 Both foul and surface water drainage would connect to existing sewer networks, with water efficient taps and dual flushing WC's to be specified.
- 3.5 The planning application includes the following documents:

Arboricultural Method Statement by Bernie Harverson, July 2020  
Ecological & Bat Potential Assessment by Sylvatica Ecology June 2-19  
Environmental Noise Survey & Noise Impact Assessment Report by Corbiere Woking Ltd, June 2019  
Transport Statement by MA Wright Ltd, June 2020  
Design & Access Statement August 2020

#### **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)  
CS8 (Community Safety)  
CS9 (Housing)  
CS16 (High Quality Design)  
CS17 (Concentration and Distribution of Development within the Urban Areas)  
CS19 (Effective Provision of Infrastructure)  
CS20 (Transport and Access Strategy)  
CS21 (Developer Requirements)  
DM10 (Pollution)  
DM13 (Car and Cycle Parking on Residential Development)  
DM6 (Coordination of Development)  
DM8 (Conservation, Protection and Enhancement of Existing Natural Feature)  
DM10 (Pollution)

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)

Havant Borough Pre Submission Local Plan 2036

DR1 – Delivery of Sustainable Development  
IN1 - Effective Provision of Infrastructure  
IN3 – Transport and Parking in new development

E1 – High Quality Design  
E2 - Health and wellbeing  
E3 – Landscape and settlement boundaries  
E12 – Low Carbon Design  
E14 The Local Ecology Network  
E15 – Protected Species  
E18 – Trees, hedgerows and woodland  
E20 – Drainage infrastructure in new development  
E22 – Amenity and pollution  
Ex1 – Water quality

Housing  
H1- High Quality Homes  
H3 – Housing Density

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

## **5 Statutory and Non Statutory Consultations**

### **Arboriculturalist - No Objection**

I have no objection in principal to the new proposals however I have the following comments: -

It is noted within the supplied documents that an engineer designed piled solution or Abbey Pynford system of construction will be used, details will need to be submitted for approval prior to commencement (conditioned).

Provided there is extensive Arboricultural supervision undertaken as detailed in the arb method statement, the development is achievable in terms of retention of the trees.

If permission is to be granted please could conditions be added in respect of a pre commencement meeting with the Arboricultural Consultant, Site agent and Council Arboricultural Officer prior to commencement. Also a condition added for there to be a staged workplan for all operations requiring Arboricultural supervision and sign off to ensure a workplan in relation to trees is achieved.

Details of proposed utilities and services will need to be supplied and a separate method statement to detail how this will be undertaken without detriment to the trees. This should be submitted as part of the application.

All work should be carried out in accordance with the Arboricultural Method Statement and Tree Protection Plan by Bernie Harverson, July 2020

### **Building Control, Havant Borough Council**

No public sewers are shown within 3m of extension and fire service access appears satisfactory. Details should be provided for solid waste storage.

### **Community Infrastructure**

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>.

Additionally, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of net additional dwellings and their respective number of bedrooms. See

<http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>.

See also information on Nutrient Neutrality: [www.havant.gov.uk/nitrogen](http://www.havant.gov.uk/nitrogen)

### **County Ecologist – No Objection**

The application is accompanied by an Ecological and Bat Potential Assessment (Sylvatica, June 2019) and a Bat Survey Report (Sylvatica, August 2019). The site comprises a single detached building set within areas of hardstanding and amenity grassland with associated ornamental plantings and trees. Overall, I am content that the site is of limited ecological value. The building has been shown not to support roosting bats and therefore no further surveys are required.

Given the existing ecological value of the site there is an opportunity for ecological enhancement, although the majority of the site will comprise either building or paved/surfaced parking. Given the lack of greenspace within the proposed site I would therefore recommend that the new building provides opportunities for roosting bats and nesting birds such as common swift (e.g. swift bricks). Bird and bat boxes can readily be incorporated into the fabric of the new building and there is a variety of inexpensive commercially-available options.

If you are minded to grant permission can I suggest that ecological enhancements are secured by condition.

The new building shall incorporate a minimum of two built-in bat roosting units and two built-in bird nesting units. These ecological enhancement features shall be installed as per manufacturer's instructions and retained in a condition 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.

### **Crime Prevention -Minor Apps**

No comments received.

### **Environmental Health Manager, Contamination - No Objection**

#### Summary of Environmental Health's comments on contamination in respect of previous Application APP/19/01190 (withdrawn application)

Some contamination risks arise at the site from the likely presence of construction and demolition wastes associated with the development history of the site, as well as residuals from domestic combustion (e.g. coal storage & use, and ash disposal - the existing dwelling depicted in the 1957 planning application benefited from 4 no chimneys).

Asbestos may be present within the building fabric - asbestos fibres / fragments of asbestos containing building materials may be present in soils in association with construction & demolition of outbuildings.

A large glasshouse is formerly associated with the property - represents an elevated risk from the use of kerosene or similar oil.

The scheme represents a relatively low exposure risk, including amenity planting only. Asbestos within the structure of the building is regarded as a construction health &

safety risk, and is not strictly relevant to the planning process. Asbestos within soils is material to the use of the land, albeit that it is recognised that the risk profile of the site will, if anything, improve following development. Coal / ash could in principle be elevated above human health guideline values, but I suspect that a domestic source (e.g. from coal storage) is unlikely to be of sufficient scale to make an 'unacceptable risk' to future occupants 'likely'. These contaminants are readily identifiable by visual means (ashy deposits / clinker, black staining or residues, fragments of asbestos containing cement or insulation board etc.).

### **Environmental Health's comments on current proposal – No objection**

I have little material to add to the comments provided under the consultation to APP/19/01190 (CONS/20/00002, 21/01/2020), and I would refer you to that response for justification & context.

#### *Contaminated Land Risk*

I would reiterate the proposed condition making explicit the duty to remain vigilant to the possibility of potentially harmful contaminants within made soils at the site, with a duty to report & appropriately manage any encountered. Suggested wording below:

### **Condition 1: Unexpected Contamination**

*"In the event that suspected contamination is encountered during groundwork (e.g. obviously contaminated soil / groundwater, or any buried waste materials not assuredly comprising non-harmful construction materials); works in affected areas of the site shall cease until the Local Planning Authority has been notified of the discovery, and a scheme to deal with the risks associated with the suspected contamination has been submitted to- and approved in writing by- the Local Planning Authority.*

*The scheme may take a proportionate approach to the degree of formality adopted, and may comprise separate results / reports / statements as appropriate, but unless specifically excluded by agreement shall include;*

- 1) Reasonable investigation in the vicinity of suspected contamination, sufficient to characterise it's nature, likely extent & mobility,*
- 2) An appropriate assessment of the risks to all receptors that may be affected, based upon 1), and;*
- 3) Where potentially unacceptable risks are identified by 2), a Remediation Strategy that by competent persons, and the findings presented as written report. The scheme shall be implemented as approved.*

*Prior to the occupation of any relevant part of the permitted development, EITHER of the following shall be submitted to the Local Planning Authority;*

*A. A statement confirming that no suspected contamination was identified during development, OR;*

*B. Documentation in accordance with 1)-3) above; together with a Verification Report (where appropriate) demonstrating that remediation objectives have been met.*

*Reason: Having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014] and the National Planning Policy Framework, there is a potential for contamination to exist at the site in connection with prior development activity which could pose a risk to site groundworks staff, and future occupants"*

In line with para 179 of the NPPF, both the developer & landowner are responsible for delivering a safe development.

#### *Air Quality*

I note that the design & access statement includes text at 3.5 stating that '*Havant Borough parking standards have been met, including cycle parking and electric vehicle charging infrastructure (Parking Standards SPD)*', and that the transport statement at 4.6.2 indicates that '*a total of 8 cycle parking spaces would be provided on the site within a dedicated bicycle storage facility at the southern corner of the site within the on-site car park*'.

Whilst a structure is shown on the site layout plan in the position indicated by 4.6.2 of the Transport Statement, I have not identified any plan annotation identifying this as a cycle store, or confirming its capacity. Similarly, there does not appear to be any plan mark-up or design detail to indicate how the EV charging infrastructure will be delivered. In the absence of any clarification (amendment of details within documents to comprise the approved plans) or any conditions aiming to secure these features, there is a risk that the impetus to deliver these may be lost.

Given the quantum of development & wording of emerging policy E23, I am not in a position to object on air quality grounds specifically, but parking & sustainable travel policies apply, and are 'air quality relevant' as they directly concern support for sustainable modes of travel & low emission vehicles. Raised for consideration as a planning / policy compliance matter.

#### *Conclusion*

In line with the response for the previously proposed scheme, no objection to the principle of development, subject to the precautionary (non Grampian-) contamination condition reproduced above.

**Officer comment:** *The previous application proposed the demolition of the existing dwelling, whereas the current application proposes its conversion and extension only. The Environmental Health Officer has raised no objection to the application. However, in the event that contamination is encountered during groundwork, Condition 21 is recommended to address this.*

#### **Environmental Health - No Objection**

Whilst the scheme differs to that previously submitted for the site, we still have concerns in relation to the proximity to the public house (north facade of the structure) as patron noise in external areas is almost impossible to control and an intensification of the use of outdoor areas of the public house might raise issues in the future. I do note that the layout of the proposed extension shows no opening windows for habitable rooms on this element which means that potential issues have been 'designed out' of the proposed structure.

The acoustic assessment submitted with the application has not been updated to reflect the alterations made to the proposed scheme, however its conclusions remain applicable to this scheme making our previous comments still relevant in this case.

Providing the recommended mitigation measures (in terms of double glazing and incorporation of trickle vents recommended in the acoustic report) are incorporated into the whole development we would have no objections to raise in respect of this

application.

I would be grateful if the following conditions could be included in any permission which you are minded to grant:

#### 1. Construction Environmental Management Plan:

No development shall take place until a site-specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- ☐ Procedures for maintaining good public relations including complaint management, public consultation and liaison
- ☐ Arrangements for liaison with the Council's Pollution Control Team
- ☐ All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
  - ☐ 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Public/Bank Holidays.
  - ☐ Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
  - ☐ Mitigation measures as defined in BS 5528: Parts 1 and Part 2 2009 and A1:2014 – Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
  - ☐ Procedures for emergency deviation of the agreed working hours.
  - ☐ Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
  - ☐ Measures for controlling the use of site lighting whether required for safe working or for security purposes.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

#### 2. Noise Mitigation Scheme - approval and installation

No development shall take place above slab level until details have been submitted to and approved in writing by the Planning Authority in relation to proposed noise mitigation measures (e.g. installation of approved windows/trickle ventilation as per the acoustic specification) – in accordance with the recommendations provided in the acoustic report from Hann Tucker Associates, Ref: 26838/N1A1 and dated 7th June, 2019, - Sections 11. Mitigation Measures and

#### 3 . Plant Noise Emission Criteria.

Before any part of the development hereby permitted is first occupied the approved noise mitigation works shall have been fully completed.

Reason In the interest of the amenities of future occupiers of the development

#### **Hampshire Highways - No Objection**

The Highway Authority raised no objection to the previous application, subject to conditions. The current application retains the proposed location of the vehicular

access but alters the internal layout, which remains acceptable.  
In their capacity as parking authority, Havant Borough Council should consider whether the number of parking spaces complies with adopted parking standards.

With no change proposed to the vehicular access and the reduced quantum of development, the Highway Authority raises no objection, subject to the previously requested conditions:-

#### Conditions

1. Prior to the first occupation visibility splays of 2.4m. x 15m shall be provided to the north and west by the clearance of existing material between 0.6m, and 2m. above in the case of west, the adjacent carriageway level, and in the case of north the adjacent shared use (foot/cycleway level). These visibility splays shall be maintained at all times thereafter.
2. Prior to the first occupation at least the first 6m. of access track measured from the nearside edge of carriageway of Stakes Hill Road shall be surfaced in a non-migratory material. The surface shall be maintained in this condition thereafter.

#### Landscape Team

- Construction detailing as set out in the arb method statement to mitigate any impacts on RPA are required to be submitted to ensure the recommendation are implemented.

- The design of the development does not provide private outside amenity space for residents. HBC design guide states;

‘Where ground floor apartments are being proposed the applicant should endeavour to provide private gardens for individuals where possible. When not possible communal gardens should be provided, with safe and convenient access for residents. In addition, the design of apartments should incorporate balconies where possible, particularly in the absence of communal gardens. However, balconies are not acceptable everywhere, particular in historic and conservation areas’. As such we require provision for amenity space for residents to be provided.

- A soft landscape scheme requiring submission of fully annotated plans at sufficient scale to identify species of individually planted trees, shrubs, hedges, marginal, bulbs and any areas of turfing / seeding. Planting areas should show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include plant specification schedules, comprising plant size, number and density.

- Hard landscape details requiring submission of fully annotated plans at sufficient scale that comprise the proposed range of coloured and textured surfacing treatments, which identify:

- hard surfacing material type / product reference and colour
- laying bond
- edging or kerb detail / type

- Boundary details requiring submission of fully annotated plans at sufficient scale showing the locations of existing, retained and proposed new boundary treatments, with scaled elevation drawings to show height, design, materials, type and colour of proposed new.

**Officer comments:** *Whilst the amenity space would be overlooked from parts of the*

*development this is a communal private area for all residents, where a level of overlooking is to be expected. Access to this area is from the front of the property, which is considered to be a safe/convenient means of access for future occupiers. Private amenity spaces and balconies have been explored with the developer who does not wish to go down this route, as it is considered what has been provided is appropriate for the development. The proposal is considered on this basis.*

*A landscape condition is recommended along the lines suggested above.*

### **Natural England Government Team**

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.

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 all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. Please find comments on the mitigation below.

### **Solent Recreation Mitigation Strategy**

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.

### **Deterioration of the water environment**

The nutrient budget has been calculated in line with Natural England's Advice on Achieving Nutrient Neutrality in the Solent (version 5 June 2020). Provided the competent authority is assured and satisfied that the site areas used in the calculation are correct and that the existing land uses are appropriately precautionary, then Natural England raises no concerns with regard to the nutrient budget.

In line with Natural England's advice, it is noted that a planning condition will be imposed on any permission to secure that the dwellings shall not be occupied until the Building Regulations Optional requirement of a maximum water use of 110 litres per person per day has been complied with.

It is noted that the approach to address the positive nitrogen budget for this development is via Havant Borough Council's mitigation scheme. We welcome and support this initiative which has scope for nutrient offsetting and biodiversity gain.

Natural England has reviewed the Position Statement and Mitigation Plan for Nutrient Neutrality Development (August 2020) and Warblington Farm Study Evidence Base (Ricardo, June 2020). Natural England concurs with the conclusion of this work that this scheme will deliver effective mitigation for developments draining to Budd's Farm WwTW and Thornham WwTW.

The nitrogen capacity of the land and proposed management of the offsetting land has been discussed and agreed. It is understood that this has been secured through legal agreements to ensure that effective mitigation is delivered for the lifetime of the development. It is also understood that a system has been set up to monitor the developments using the mitigation scheme to ensure there is capacity available for each scheme. Provided this is the case and the long term management of the mitigation scheme is monitored by the local planning authority, as competent authority, to ensure effective mitigation for the lifetime of the development, Natural England raises no further concerns.

It is for the competent authority to determine the importance of timing issues for each development, depending on location and form of mitigation applied. Given the close proximity of the mitigation land to designated sites, Natural England is not expecting any significant timing issues in this case, provided the land is brought into appropriate management at the earliest opportunity. In considering the significance of timing issues within an appropriate assessment competent authorities should take account of the average time taken from the removal of agricultural activities to first occupation and rate of completions for each development. Provided the local planning authority is satisfied that timely mitigation can be delivered in this case, Natural England raises no further comments for consideration.

### **Portsmouth Water Company - No Objection**

The site is located in Source Protection Zone 1c (SPZ1c) for an essential public water supply source. The SPZ1c relates to subsurface activity only, where the Chalk aquifer is confined and may be impacted by deep drilling activities. Subterranean activities such as deep drainage solutions and/or piling may pose a risk to groundwater quality and the local public water supply source.

#### **Portsmouth Water's Position**

Portsmouth Water would not object to the proposed development in principle, however due to the sensitivity of the groundwater environment we would wish to be further consulted on any piling or deep excavations on the site.

#### **Drainage**

The proposed surface water strategy is disposal by an existing main sewer; this is acceptable to Portsmouth Water in relation to groundwater protection. The proposed foul water strategy is discharge into the foul main sewers; this is acceptable to Portsmouth Water in relation to groundwater protection. Portsmouth Water require the use of the highest specification pipework and designs for schemes involving new sewerage systems in SPZ1 to minimise leakage.

#### **Piling & Foundations**

Portsmouth Water would have no objection to piling at this location if the piles terminate within the Clay cover, if the piles penetrate the full depth of the Clay cover we would expect a piling risk assessment and method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried

out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, vibration and the programme for the works) to be submitted to and approved in writing by the local planning authority in consultation with Portsmouth Water.

*Reason: Piling or any other foundation designs using penetrative methods can pose a risk to potable supplies from, for example, turbidity, mobilisation of historical contaminants, drilling through different aquifers and creation of preferential pathways.*

### **Public Spaces**

No comments received.

### **Traffic Management Team – No Objection**

Following amended plans to remove the highway from the red line, no objection raised as to 7 car parking spaces provided.

### **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: 48

Number of site notices: 1.

Statutory advertisement: N/A

Number of representations received: 29

### **Summary of comments received:**

#### Character & Appearance

- Overdevelopment of the site.
- Scale, massing and height are excessive and out of keeping
- Out of character
- Durham Gardens is a quiet secluded cul-de-sac
- Adverse impact on area
- Detrimental to visual amenities and spatial characteristics of street scene
- Waste capacity inadequate, attract vermin
- Inappropriate site for more housing
- No need for development

#### Amenity of area

- Adverse impact on Public House business
- Increase levels of pollution
- This site has room for about 4 dwellings and no more, as insufficient space
- Security risk to everyone living around the area and for all those using the schools

### Highways

- Visibility splays inadequate, accident waiting to happen
- Lack of on-site parking, result in on-street parking which lack capacity - will exacerbate congestion problem
- Road gridlocked due to traffic
- Yellow lines fail to prevent school visitors parking on them
- Serious on street parking during drop off/collection for schools/colleges
- St Peter's School now a car free environment – further strain on car parking in the area
- Adverse impact on Durham Gardens (DG)
- More pressure on local roads
- Danger to highway safety caused using the access
- Official cycle route to front of access, danger to pedestrian & cyclists
- Need to close pedestrian/cycle route during construction, no practical alternative
- Large footfall used by pedestrian/cycle way for schools & college
- Health & safety concerns for the community
- Insufficient space for emergency and construction vehicles to enter DG
- Visitors park on green and over drives
- Electrical charging points needed or other renewal energy to reduce carbon footprint

### Trees

- Damage to trees, tree roots and hedges
- Loss of protected trees

### Occupation of development

- Noise & disturbance from PH & garden
- Residential incompatible with PH business
- Lack of amenity area for residents

### Flooding

- Potential for flooding

### Other Matters

- Infrastructure concerns
- Applicant already applied for a 2 and a half storey development for 7 units – turned down
- Construction concerns

## **7 Planning Considerations**

### **Habitat Regulations Assessment & Appropriate Assessment**

- 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.
- 7.2 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 and water quality. 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. Natural England were consulted on the findings of the HRA.

#### Recreational Pressure

- 7.3 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 Draft Havant Borough Local Plan 2036 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, 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 for the Solent Recreation Mitigation Strategy in line with the requirements of the Habitats Regulations and Policy DM24.

#### Water Quality

- 7.4 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. The applicant has undertaken a nutrient budgeting assessment for this application.
- 7.5 The Council's adopted Position Statement on Nutrient Neutral Development sets out that for development on agricultural sites, that it would be expected that on-site avoidance and mitigation measures would be used to achieve nutrient neutrality. In this case, this site is in use as urban development. Natural England have produced 'Advice on achieving nutrient neutrality for new development in the Solent region'. This sets out a methodology to calculate the nutrient emissions from a development site. The applicant has used this methodology to calculate the nutrient emissions from the site. This calculation has confirmed that the site will emit a net nutrient load into European Sites. The Position Statement and Mitigation Plan for Nutrient Neutral Development sets out a mitigation package which will mitigate the impact that this development would have on the designated European Site. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages.

#### Appropriate Assessment conclusion

- 7.6 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 was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3). Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England advised that they concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission. The applicant entered into a legal agreement for the Solent Recreation Mitigation Strategy and has indicated a willingness to enter into a legal agreement for nutrient mitigation and appropriate conditions to secure the mitigation packages.

7.7 In other respects, 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) Residential and Neighbouring Amenity
- (iv) Access & Parking Implications
- (v) Drainage Implications
- (vi) Impact on Trees
- (vi) Impact on Ecology
- (viii) Development Contributions & CIL

(i) Principle of development

7.8 The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria. The addition of five new apartments in such a location would contribute, albeit a modest one, to the Council's overall housing requirement.

7.9 The Council has identified that it has a finite amount of undeveloped land and environmental designations in the borough which limit opportunities for new development. Within this context, the Council's strategy for the delivery of new growth is to concentrate development within the urban areas where there are existing facilities and where new development would have the least impact on the range of highly protected designations within the Borough. To support this approach, Policy CS17 of the Havant Borough Core Strategy (2011) (Core Strategy) sets out that development will be permitted that makes the most effective use of land in the borough.

7.10 Policy CS9 of the Core Strategy supports housing proposals which achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shops and services in addition to respecting the surrounding landscape, character and built form. The supporting text of the policy sets out density thresholds, and in this regard the proposal would represent a medium density development at 56 dwellings per hectare on a site of 0.09 hectares.

7.11 The adopted Local Plan policies echoes the advice in the National Planning Policy Framework (NPPF).

7.12 Paragraph 117 of the NPPF sets out that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment.

- 7.13 Paragraph 122 of the Framework supports development that makes efficient use of land where it takes into account the desirability of maintaining an area's prevailing character. Policies CS17 and CS9 together are broadly consistent with this approach.
- 7.14 The Framework goes further and sets out at Paragraph 123 that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that development makes optimal use of the potential of each site.
- 7.15 The principle of making more efficient use of an existing urban site is therefore supported, albeit that the acceptability of the scheme put forward will turn on consideration of a number of detailed planning considerations as set out below.

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

- 7.16 The surrounding area is a well-established residential neighbourhood, characterised by a mixture of bungalows and two-storey detached and semi-detached housing, with St Peter's and Oaklands Schools and Crookhorn College of Technology to the east on Stakes Hill Road.
- 7.17 The proposal would convert the existing chalet bungalow to 1No. 2 bed flat and 2 No. 1bed flats. There would be little in the way of changes to the existing fenestration of the bungalow, which includes a dormer and rooflights on the south elevation. The key change would be the two-storey extension to the north and east which would incorporate 2No. 2 bed flats.
- 7.18 The site benefits from a mature hedge along the southern and eastern boundaries. There are also mature trees along the southern boundary, two of which are the subject of a Tree Preservation Order (TPO). To enhance the sight lines for the access onto Durham Gardens a small section of the hedge, either side of the access would be removed, together with a section of the hedge on the southern boundary to provide a pedestrian access.
- 7.19 The maximum height of the proposed extension would be 7.3m which would reflect the height of the existing chalet bungalow. The existing gross internal floor area for the chalet bungalow is 250sqm. The proposal would increase the floor area to 376 sqm. The overall footprint of the development would be concentrated in the west and north of the site, with private amenity space in the north-east corner of the site. Car parking and the vehicular access is in the south-east corner. The design of the extension is traditional in nature, with a vertical theme, reflecting the design of the existing bungalow. A dormer to the south on the existing building is proposed together with a number of rooflights on this elevation. The proposed materials would be facing bricks and render to match existing, with clay tiles for the roof, to replace the existing grey slate. The extension would incorporate a hipped roof reducing the overall bulk of the development.
- 7.20 Refuse collection would continue to be provided on-street from Durham Gardens, consistent with the existing arrangement for all dwellings on the adjacent street, with the recycle/waste storage area located to the south of the access.
- 7.21 As to the impact on the street scene, the proposal would remain approximately 2.5 m lower in height than the Fox and Hounds PH to the north. The proposal would also generally be in line with the building line on the eastern elevation with the public house, albeit it is recognised that the building line along Stakes Hill Road is staggered in nature. The proposal is also set off the eastern boundary by over 11m, with the

amenity area in front of the building, which helps provide its setting. The setting back in the site, with a mature hedge over 2m in height along this boundary would reduce the impact of the proposal on the street scene from this direction, to an acceptable level.

- 7.22 As to the impact of the development to the west this would not materially change, as the position and height of the proposal at this point would be the same as the existing chalet bungalow. As to the impact on the street scene to the south, this would substantially remain the same, as the only changes to the exterior of the existing bungalow would be a new dormer and roof lights on the south side of the roof. As to the proposed extension this would be set back by approximately 9m from the western boundary and at the closest point approximately 12m from the southern boundary. When viewed from the south, this would be screened by existing mature trees and hedging along this boundary, providing a level of screening which, together with its location on the site, would mitigate the development's impact on the street scene. Therefore, the size and scale of the development, would not be out of keeping with the character and appearance of the area. A refusal is not considered warranted on these grounds.

(iii) Impact upon existing residential amenity and future occupiers

- 7.23 The nearest residential properties are to the west of the site, which are 36 and 38 Durham Gardens. There is a 1.8m wooden fence along the western boundary with the existing bungalow sited approximately 1m back from the fence. The existing bungalow lies adjacent to the front gardens of 36 and 38 Durham Gardens. Changes to the existing bungalow to the rear (west) elevation would be to the windows at ground floor level, which would be set behind the 1.8m fence along this boundary. As now, there would be two windows at first floor, which would serve a bedroom, which would overlook the front gardens of properties in Durham Gardens, not private amenity space.
- 7.24 The proposed extension is set off the western boundary by approximately 9m. The extension would not materially impact on neighbouring residential development to the west.
- 7.25 The relationship of the conversion of the bungalow with development opposite in Durham Gardens would not materially change, with the insertion of a dormer and rooflights in the south side of the roof. This would be screened by mature trees along this boundary, with a separation distance of approximately 17m with the closest dwelling. As to the extension part of the proposal, this is set back into the site, approximately 12m from the southern boundary at its closest point, with a mature hedge and trees along this boundary. The nearest property in relation to the extension would be 172 Stakes Hill Road, on the other side of Durham Gardens with a separation distance of approximately 29m. The separation distances from the proposal are appropriate and reflective of development within Durham Gardens, which would not give rise to a significant loss of privacy or overlooking to this property.
- 7.26 There is no residential development to the east that would be affected by the proposal, as there are mature trees along this boundary to the east of the cycleway/footpath. As mentioned above, the site adjoins the Fox & House PH to the north, so the development would not impact on residential amenity in that direction.
- 7.27 As to the development's relationship with the Fox & Hounds PH, and the implications of this for future occupiers, the extension at its closest point would be 1m away from the boundary and 5m from the PH, with a 1.8m fence along the boundary, together with trees. The windows in the north elevation of the extension would service

bathrooms and kitchen areas only, with obscure glazing at first floor with limited openings.

- 7.28 The Council's Environmental Health Team has been consulted over the proposal and whilst they have concerns in relation to the proximity to the public house (north facade of the structure) and noise associated with its use they:

*"...note that the layout of the proposed extension shows no opening windows for habitable rooms on this element which means that potential issues have been 'designed out' of the proposed structure."*

Provided the recommended mitigation measures (in terms of double glazing and incorporation of trickle vents recommended in the acoustic report) are incorporated into the whole development and a Construction Environmental Management Plan (CEMP) is conditioned, Environmental Health has no objection to the proposal. Conditions regarding compliance with the acoustic report and the submission of a CEMP are recommended.

- 7.29 As to the flat sizes they comply with the nationally described space standards, with the size of 1 bed units 54 and 57 sqm – minimum standard 50 sqm for 2 persons. The 2 bed units would be 70, 71 and 79 sqm – minimum standard 70 sqm for 2 persons. This is in conformity with emerging Local Plan Policy H1.
- 7.30 Communal private amenity space is provided in the north-east corner of the site and to a lesser degree to the north of the development. It is recognised that the amenity space is not large, but is, on balance, of a sufficient size for the development. This area would be screened from public views from the footpath/cycleway by mature hedging along the east boundary and by proposed planting within the site to the south. Landscape areas are also proposed to the front of the development, alongside the footpaths to the flats and the car parking, which would be conditioned and would provide a suitable setting for the building.
- 7.31 The proposal would be of medium density as noted in Policy CS9 of the Core Strategy on a site in the urban area, which supports the efficient use of land for housing. The proposal would be an efficient use of an urban site, which would provide a satisfactory level of space standards and amenity area for future occupiers. The proposal is considered to accord with Policies CS9, CS16 and CS17 of the Core Strategy.

(iv) Access & Parking

- 7.32 The access to the site would be retained via the existing vehicle crossover onto Durham Gardens. Improvements at the existing access would take place by cutting back of the existing hedgerow to the north and south to provide adequate visibility splays of 2.4m by 15m for egressing vehicle and passing cyclists and pedestrians.
- 7.33 The Highway Authority has been consulted over the proposal and has raised no objection to the increased use of the access, subject to the aforementioned visibility splays being provided before occupation and the first 6m of the driveway being surfaced in non-migratory materials. These conditions are recommended.
- 7.34 The proposal would provide 7 communal parking spaces, which includes one visitor parking space. Two electric vehicle charging points would be provided in the car parking area. The surfacing for the parking bays would be permeable paving. A cycle shelter, (details of which are only indicative at this stage), would be provided to the front of the extension, providing space for 8 cycles.

- 7.35 The level of objection on parking and highway safety grounds are noted. However, the proposal accords with the Council's adopted Car Parking SPD and Policy DM13 of the Core Strategy and the Highway Authority has raised no objection on highway safety grounds. Therefore, the proposal addresses highway and parking issues for this development.

(v) Drainage

- 7.36 Portsmouth Water has been consulted over the development and have no objection in principle to the proposal. However, due to the sensitivity of the ground water environment, they would wish to be consulted on any piling or deep excavations on the site and a condition to this effect is recommended.
- 7.37 As to surface water it is proposed that this would be disposed of by an existing main sewer. The proposed foul water strategy is also to discharge into the foul main sewers. The disposal of surface and foul water is acceptable to Portsmouth Water in relation to groundwater protection.

(vi) Impact on Trees

- 7.38 There are established trees along the southern boundary, 2 of which are the subject of a Tree Preservation Order. In support of the proposal the applicant has provided an Arboricultural Method Statement. The Council's Arboriculturalist has been consulted over the proposal and has no objection in principle to the development, subject to prior approval of the construction method to be used; that there is extensive Arboricultural supervision as detailed in the Arboricultural Method Statement; and with a staged workplan for all operations requiring such supervision, with a meeting on site prior to commencement with the Arboricultural Consultant, Site agent and Council Arboricultural Officer. Details as to services are also required. These conditions are recommended.

(vii) Impact on Ecology

- 7.39 The Council's Ecologist has been consulted over the proposal and on reviewing the applicant's Ecological and Bat Potential Assessment and Bat Survey Report is content that the site is of limited ecological value, with the existing building not supporting roosting bats. However, the Ecologist suggests that ecological enhancements could be secured within the new build by a condition requiring a minimum of two built -in bat roosting units and two built -in bird nesting units. A condition is recommended.

(viii) Developer Contributions, CIL & Legal Agreement

- 7.40 As discussed at 7.1-7.6 above 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 Appropriate Assessment has concluded that the avoidance and mitigation packages proposed are sufficient to remove the significant effects on European Sites which would otherwise have been likely to occur. The applicant has entered into a legal agreement and paid the relevant fee for the Solent Recreation Mitigation Strategy and has indicated a willingness to enter into a legal agreement to secure the mitigation package for nutrients.
- 7.41 Members are advised that the CIL liability for this site currently stands at £15,030.

## 8 Conclusion

- 8.1 The proposed development would be an efficient use of the land in housing terms, and would add to the Borough's housing stock. The impact on the locality would be limited, with landscaping further reducing any impact. The development would not adversely impact on trees or ecology, or the residential amenity of existing and proposed occupiers. It has also been concluded that the development would not have an adverse impact on highway safety, in terms of providing a safe access to the site. The proposed car parking levels comply with the standards set out in the Parking SPD, both in terms of communal and visitor parking. In addition, it has been concluded that the proposed development would not give rise to any harmful impacts from disturbance and the natural environment subject to necessary mitigation works secured through a S106 Agreement and conditions. Accordingly, the application is recommended for permission.
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## 9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/20/00696 subject to:

- (A) a Section 106 Agreement as set out in paragraphs 7.1-7.6 and 7.40 above;
- (B) the following conditions (subject to such changes and/or additions that the Head of Planning considers necessary to impose prior to the issuing of the decision):
  - 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:

### **Architectural plans**

Block Plan 16014 – PL L04B  
Site Location Plan 16014 – PL L03A  
Proposed Site Plan 16014– PL 401G  
Pedestrian Entrance from Durham Gardens 16014 PL 411  
Front Elevation (S) 16014 – PL 406  
Rear Elevation (N) 16014 – PL 407 rev B  
Side Elevation (E)- 16014 – PL 408  
Side Elevation (W) 16014 - PL 409 rev. A  
Ground Floor Plan 16014 – PL 402  
First Floor Plan 16014 – PL 403  
Roof Plan 16014 – PL 404 Rev. B  
Street Elevation to Stake Hill Road 16014 – PL 405

### **Statements**

Arboricultural Method Statement by Bernie Harverson July 2020  
Ecological & Bat Potential Assessment by Sylvatica Ecology June 2-19  
Environmental Noise Survey & Noise Impact Assessment Report by Corbiere Woking Ltd June 2019

### **Materials & Landscaping**

3. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. 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.

4. Notwithstanding any description of landscaping shown on the Proposed Site Layout Plan no above ground construction works shall take place until a soft landscape scheme including submission of fully annotated plans at sufficient scale to identify species of individually planted trees, shrubs, hedges, marginal, bulbs and any areas of turfing has been submitted to and approved in writing by the Local Planning Authority. Planting areas should show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs and plant specification schedules, comprising plant size, number and density.

The information shall also include:

- A soft landscape scheme requiring submission of fully annotated plans at sufficient scale to identify species of individually planted trees, shrubs, hedges, marginal, bulbs and any areas of turfing / seeding. Planting areas should show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include plant specification schedules, comprising plant size, number and density.
- Hard landscape details requiring submission of fully annotated plans at sufficient scale that comprise the proposed range of coloured and textured surfacing treatments, which identify:
  - hard surfacing material type / product reference and colour
  - laying bond
  - edging or kerb detail / type
- Boundary details requiring submission of fully annotated plans at sufficient scale showing the locations of existing, retained and proposed new boundary treatments, with scaled elevation drawings to show height, design, materials, type and colour of proposed new.
- Timing provisions for the carrying out of all hard and soft landscaping works.

The development shall thereafter be carried in accordance with the approved details and timing provisions.

**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.

5. The existing hedges along the south and east boundaries as shown on the Proposed Layout Plan shall be retained and maintained at a minimum height of 2m.

**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.

### **Trees & Ecology**

6. Prior to any demolition, construction or groundwork commencing on the site the approved tree protective measures, including fencing and ground protection, as shown on the Arboricultural Method Statement and Tree Protection Plan by Bernie Harverson, dated July 2020 and shall be installed and agreed at a pre-commencement meeting with the Council's Arboricultural Officer and within the fenced area(s), there shall be no excavations, storage of materials or machinery, parking of vehicles or fires. The development shall be carried out strictly in accordance with the submitted details.

**Reason:** To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the National Planning Policy Framework and Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

7. Prior to development commencing the following details shall be submitted in writing to the Local Planning Authority for approval:
- (i) Details of the proposed utilities and services on the land with a separate method statement detailing how these works will be undertaken without detriment to protected trees; and
  - (ii) A staged workplan for all operations requiring Arboricultural supervision and sign off to ensure a workplan in relation to trees is achieved.
- The approved works shall be carried out in accordance with the approved details.

**Reason:** To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the National Planning Policy Framework and Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

8. Prior to occupation of the development hereby approved, details of bat and bird boxes to be installed on all of the flats shall be submitted to, and approved in writing by the Local Planning Authority. The approved bat and bird boxes shall be installed in full accordance with the approved details before the occupation of the flats and retained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of nature conservation and biodiversity net gain, and having due regard to Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

### **Highways**

9. Prior to first occupation, visibility splays of 2.4m. x 15m shall be provided to the north and west of the vehicular access by:
- (a) in the case of the west, by the clearance of existing material between 0.6m and 2m above the adjacent carriageway level; and
  - (b) in the case of the north, by the clearance of existing material between 0.6m and 2m above the adjacent shared use (foot/cycleway level).
- These visibility splays shall be maintained at all times thereafter.

**Reason:** In the interests of highway safety and having due regard to policies CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

10. Prior to the first occupation of the development at least the first 6m. of the access measured from the nearside edge of carriageway of the adjacent highway shall be surfaced in non-migratory material. This area shall be maintained in this condition thereafter.  
**Reason:** In the interests of highway safety and having due regard to policies CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
11. The car parking and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.  
**Reason:** In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
12. Prior to the first occupation of the development details of the cycle shelter shall be submitted in writing to the Local Planning Authority for approval. The approved shelter shall be installed before occupation in accordance with the approved details and therefore maintained.  
**Reason:** In the interests of alternative transport provision and in accordance with Havant's Car Parking SPD, Policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

### **Electric Charging Points**

13. Prior to the occupation of the development full details of the Electrical Vehicle Charging points, as shown on approved plan 16014 – PI 4016 shall be submitted to and approved in writing by the Local Planning Authority. The details shall include samples, location and / or a full specification of the materials to be used externally on the buildings. Only the materials so approved shall be used, in accordance with any terms of such approval and shall be retained at all times, unless otherwise agreed in writing by the Local Planning Authority. The Charging Points shall be installed prior to the occupation of the development.  
**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 Policy IN3 of the Pre-Submission Havant Borough Local Plan 2036 and the National Planning Policy Framework.

### **Drainage**

14. In the event that piling is to be carried out on the site, prior to development commencing, a piling risk assessment and method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, vibration and the programme for the works) shall be undertaken and submitted to and approved in writing by the Local Planning Authority. The piling shall be carried out in accordance with the approved scheme.  
**Reason:** Piling or any other foundation designs using penetrative methods can pose a risk to potable supplies from, for example, turbidity, mobilisation of historical contaminants, drilling through different aquifers and creation of preferential pathways, having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning

Policy Framework.

15. No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains, SuDs features and sewers proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.

**Reason:** To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies CS15, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

16. Prior to occupation the following drainage details shall be submitted to and approved in writing by the Local Planning Authority: Details of consent from the Sewerage Authority for a connection to the public sewer for the development. The development shall be implemented in accordance with the approved details

**Reason:** Without the provision of an appropriate drainage connection point the development cannot be occupied having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

**Water Efficiency/sustainability**

17. The development hereby permitted shall not be occupied until:

- (a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; and
- (b) All measures necessary to meet the approved water efficiency calculation have been installed.

**Reason:** There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011, and Policy E14, EX1 and E12 of the Pre-Submission Havant Borough Local Plan.

18. At all times following occupation of the development hereby approved, all measures necessary to meet the approved water efficiency calculation shall be

maintained so as to ensure that no more than 110 litres per person per day shall be consumed in the development in perpetuity.

**Reason:** There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that necessary avoidance measures are provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy E14 EX1 and E12 of the Pre-Submission Havant Borough Local Plan.

### **Contamination & Noise**

19. No development shall take place until a site-specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:
  - Procedures for maintaining good public relations including complaint management, public consultation and liaison
  - Arrangements for liaison with the Council's Pollution Control Team
  - All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:  
08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Public/Bank Holidays.
  - Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
  - Mitigation measures as defined in BS 5528: Parts 1 and Part 2 2009 and A1:2014 – Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
  - Procedures for emergency deviation of the agreed working hours.
  - Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
  - Measures for controlling the use of site lighting whether required for safe working or for security purposes.

**Reason:** In the interests of the amenities of surrounding occupiers during the construction of the development having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
20. The acoustic measures in terms of double glazing and incorporation of trickle vents shall take place in accordance with the Environmental Noise Survey & Noise Impact Assessment Report by Corbiere Woking Ltd June 2019. Before any part of the development hereby permitted is first occupied the approved noise mitigation works shall have been fully completed.

**Reason** In the interest of the amenities of future occupiers of the development in accordance with Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

21. In the event that suspected contamination is encountered during groundwork (e.g. obviously contaminated soil / groundwater, or any buried waste materials not assuredly comprising non-harmful constriction materials); works in affected areas of the site shall cease until the Local Planning Authority has been notified of the discovery, and a scheme to deal with the risks associated with the suspected contamination has been submitted to- and approved in writing by- the Local Planning Authority.

The scheme may take a proportionate approach to the degree of formality adopted, and may comprise separate results / reports / statements as appropriate, but unless specifically excluded by agreement shall include;

- 1) Reasonable investigation in the vicinity of suspected contamination, sufficient to characterise its nature, likely extent & mobility,
- 2) An appropriate assessment of the risks to all receptors that may be affected, based upon 1), and;
- 3) Where potentially unacceptable risks are identified by 2), a Remediation Strategy that includes appropriately considered remedial objectives and clearly defined proposals for achieving these, having due regard to sustainability.

All investigation, assessments & other actions required by 1)-3) above (and B, below) shall be undertaken by competent persons, and the findings presented as written report. The scheme shall be implemented as approved.

Prior to the occupation of any relevant part of the permitted development, EITHER of the following shall be submitted to the Local Planning Authority;

- A. A statement confirming that no suspected contamination was identified during development, OR;
- B. Documentation in accordance with 1)-3) above; together with a Verification Report (where appropriate) demonstrating that remediation objectives have been met.

**Reason:** Having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM17 of the Havant Borough Local Plan (Allocations) [2014] and the National Planning Policy Framework, there is a potential for contamination to exist at the site in connection with prior development activity which could pose a risk to site groundworks staff, and future occupants.

22. Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the development hereby permitted the windows in the first floor on the north elevation as shown on drawing number 16014 – PL 407 rev.A shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) 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

## **Appendices**

- (A) Site Location Plan – Drawing No. 16014 – PL L03A
- (B) Proposed Site Plan – Drawing No. 16014– PL 401G
- (C) Front Elevation – Drawing No. 16014 – PL 406
- (D) Rear Elevation – Drawing No. 16014 – PL 407
- (E) Side Elevation (E)- Drawing No. 16014 – PL 408
- (F) Side Elevation (W) Drawing No. 16014 – PL 409 rev. A

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LOCATION PLAN



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Site Plan



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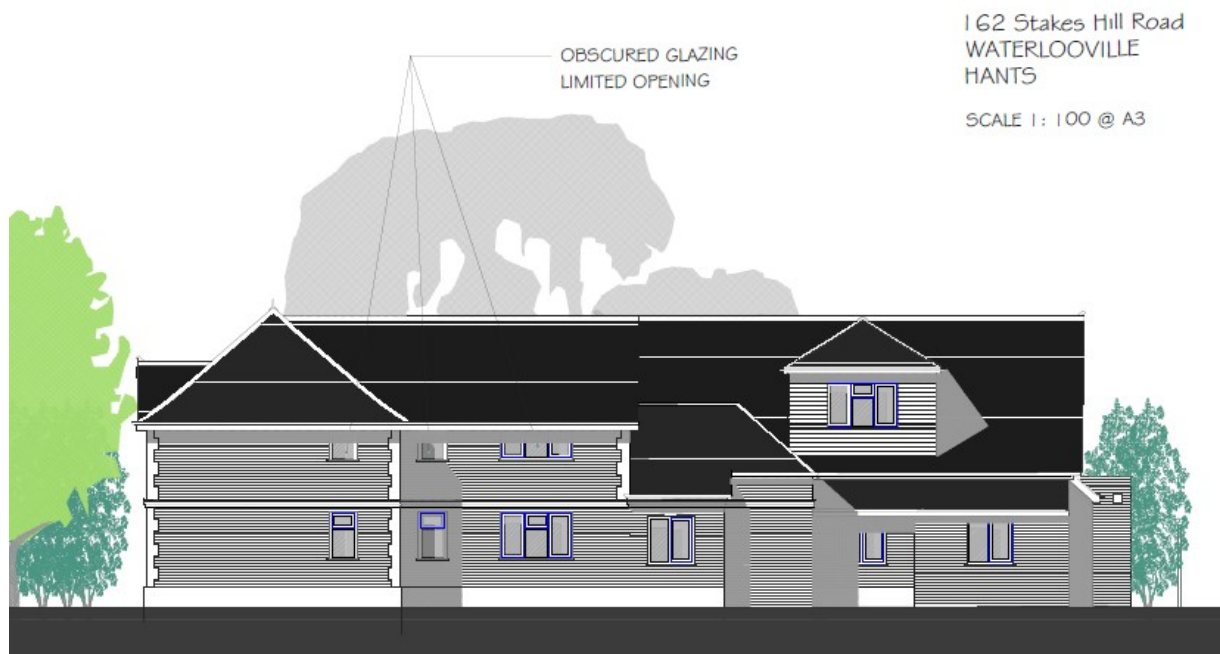
Proposed Front Elevation



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APPENDIX D

Proposed Rear Elevation



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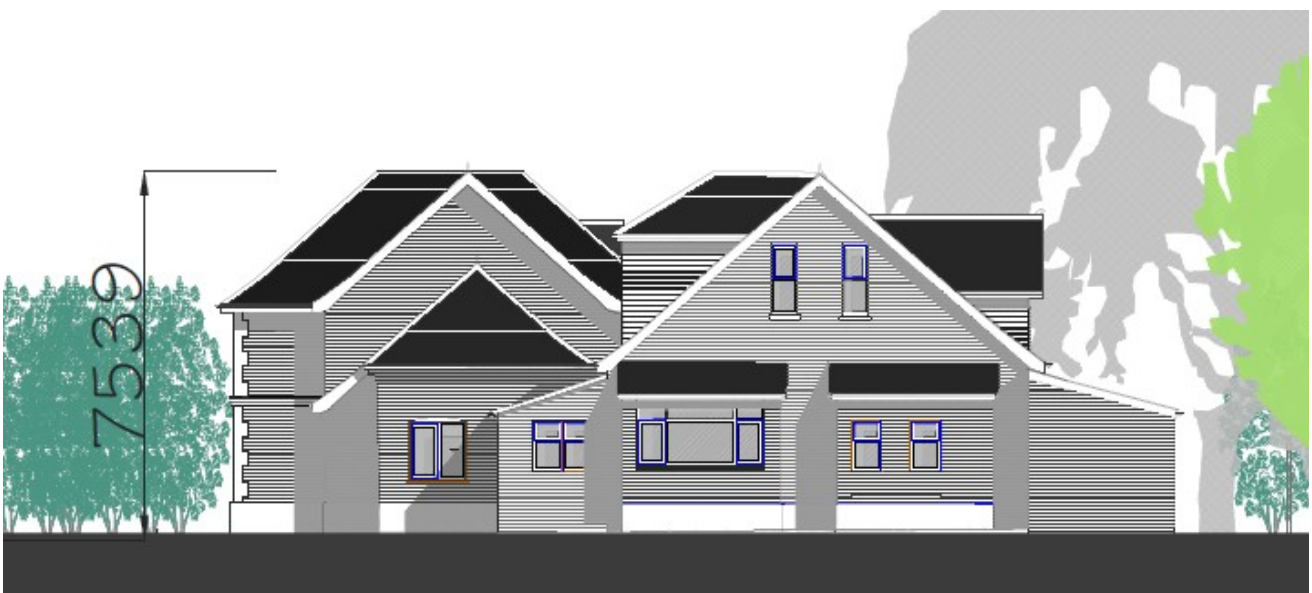
## APPENDIX E

### Proposed Side Elevation (E)



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Proposed Side Elevation (W)



# APPENDIX C

THIS **UNILATERAL UNDERTAKING** is made by **DEED** on the (to be inserted by Havant  
Borough Council 9th of December 2020)

**AND GIVEN BY**

CLOUD LIFESTYLE HOLDINGS LTD>

Venture house

The Tanneries

East street

TITCHFIELD

HANTS

PO14 4AR

Company reg. no 10184760

**TO**

The Council of The Borough of Havant of Public Service Plaza Civic Centre Road  
Havant PO9 2AX

**BACKGROUND**

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The Owner owns the Land and has made the Planning Application and is proposing to carry out the Development.
- (C) The Owner gives this undertaking to perform the obligations set out in this deed.

**AGREED TERMS**

**1. INTERPRETATION**

The following definitions and rules of interpretation apply in this deed.

**1.1 Definitions:**

**Act:** the Town and Country Planning Act 1990

**Administration Fee:** the sum of £23

**Commencement of Development:** the date on which any material operation (as defined in section 56(4) of the Act) forming part of the Development is begun save that (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, site survey works, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" and similar expressions shall be construed accordingly

**Contribution:** the sum of £2,254.00 as a contribution towards measures to mitigate the impacts of the Development on the Solent Special Protection Areas in accordance with the Solent Recreation Mitigation Strategy dated 1 April 2018.

**Development:** the development of the Land described in the Planning Application.

**Land:** the freehold land at 162 Stakes Hill Road, Waterloooville, PO7 7BS.

**Monitoring Fee:** the sum of £112.70 (calculated as 5% of the Contribution).

**Planning Application:** an application for planning permission registered by the Council on 8 September 2020 under reference number APP/20/00696.

**Planning Permission:** the planning permission to be granted by the Council in respect of the Planning Application.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.5 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 References to clauses are to the clauses of this deed.
- 1.8 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

## **2. STATUTORY PROVISIONS**

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972 and any other enabling powers.

2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by those persons in the Land and their respective successors and assigns.

2.3 This deed shall have effect from the date hereof.

2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the Act.

### **3. COVENANTS WITH THE COUNCIL**

The Owner covenants with the Council to pay the Contribution, Administration Fee and Monitoring Fee to the Council on the date of this deed.

### **4. DETERMINATION OF DEED**

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

### **5. FUTURE PERMISSIONS**

5.1 Nothing in this deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this deed.

5.2 This deed shall apply to any planning permission subsequently granted under Section 73 or 73A of the Act which permits non-compliance with any of the conditions attached to the Planning Permission (a "Subsequent Permission") and the Planning Permission shall be construed to include the development as stated in the Subsequent Permission unless otherwise required by the Council.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**[FOR  
INDIVIDUALS]**

**Executed and  
delivered as a**

deed by

**Signature:**

in the  
presence of:

Witness  
signature

Witness name

Witness  
address

Witness  
occupation  
Carpenter

**[FOR COMPANIES OPTION 1]**

**Executed and delivered as a deed by**  
acting by two directors

[INSERT DIRECTORS NAME]

Director

[INSERT DIRECTORS NAME]

Director

[FOR COMPANIES OPTION 2]

Executed and delivered as a deed by

Cloud Lifestyle Holdings Ltd

acting by M A Wright by a director

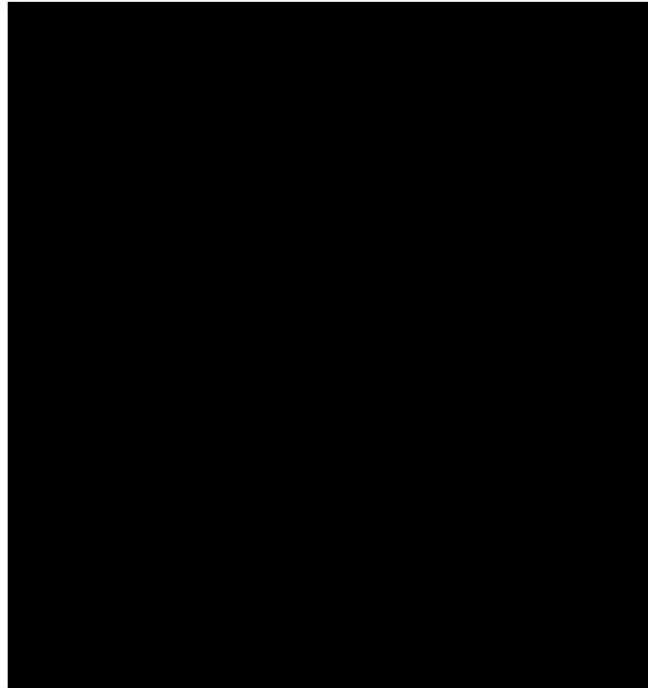
in the presence of:

Witness signature

Witness name

Witness address

Witness occupation



# APPENDIX D

THIS **UNILATERAL UNDERTAKING** is made by **DEED** on the of **30<sup>th</sup>** April 2021

**AND GIVEN BY**

**CLOUD LIFESTYLE HOLDINGS LIMITED** incorporated and registered in England and Wales with company number 10184760 whose registered office is at **VENTURE HOUSE THE TANNERIES EAST STREET TITCHFIELD HANTS PO14 4AR (Owner)**

**TO**

The Council of the Borough of Havant of Public Service Plaza Civic Centre Road Havant PO9 2AX (**Council**)

**BACKGROUND**

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The Owner owns the Land and has made the Planning Application and is proposing to carry out the Development.
- (C) The Owner gives this undertaking to perform the obligations set out in this deed.
- (D) The Owner has submitted an appeal number APP/X1735/W/21/3272259 against the Council's refusal to grant planning permission for the Application and the Owner enters into this Deed conditionally upon the Planning permission being granted on appeal.

**AGREED TERMS**

**1. INTERPRETATION**

The following definitions and rules of interpretation apply in this deed.

**1.1 Definitions:**

**Act:** the Town and Country Planning Act 1990.

**Administration Fee:** the sum of £23.

**Commencement of Development:** the date on which any material operation (as defined in section 56(4) of the Act) forming part of the Development is begun save that (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, site survey works, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services and "Commence Development" and similar expressions shall be construed accordingly.

**Contribution:** the sum of £3828.50 as a contribution towards measures to mitigate the water quality impacts of the Development on the Solent European Sites.

**Development:** the development of the Land described in the Planning Application "Sub-division of existing house to form 1No. 2bed and 2No. 1bed apartments and erection of a two storey side extension to form 2No. 2bed apartments with provision of car and cycle parking and bin storage. (Revised)".

**Land:** the freehold land at 162 Stakes Hill Road Waterlooville PO7 7BS and shown edged red on the plan annexed to this deed.

**Planning Application:** an application for planning permission registered by the Council on 8 September 2020 under reference number APP/20/00696.

**Planning Permission:** means the planning permission which may be granted for the Development pursuant to an appeal made under Section 78 of the Act under reference APP/X1735/W/21/3272259.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 A reference to any party shall include that party's personal representatives, successors and permitted assigns.]
- 1.5 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 References to clauses are to the clauses of this deed.
- 1.8 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

## **2. STATUTORY PROVISIONS**

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by the Owner in the Land and their respective successors and assigns.
- 2.3 This deed shall have effect from the date hereof.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the Act.

## **3. OWNERS COVENANTS WITH THE COUNCIL**

- 3.1 The Owner covenants to pay the Contribution and Administration Fee to the Council on the date of this deed.
- 3.2 Subject to clause 3.4, the Owner covenants that clause 3.1 shall apply to any subsequent planning permission that is granted by the Council under section 73 or 73A of the Act which permits non-compliance with any of the conditions attached to the Planning Permission or any subsequent permission granted under such powers ("Subsequent Permission") and the Planning Permission and the Development shall be construed to include the development as granted under a Subsequent Permission.
- 3.3 Where clause 3.3 is engaged, the Owner agrees and acknowledges that the Council may treat the Contribution and Administration Fee as having been made under any Subsequent Permission.
- 3.4 For the avoidance of doubt, clause 3.3 shall not be construed as to require the Owner to fulfil the covenant provided at clause 3.1 more than once.

#### 4. DETERMINATION OF DEED

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development,
- (b) is revoked, or
- (c) is quashed following a successful legal challenge.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**Executed and delivered as a deed by CLOUD LIFESTYLE HOLDINGS LIMITED acting by M A WRIGHT by a director**

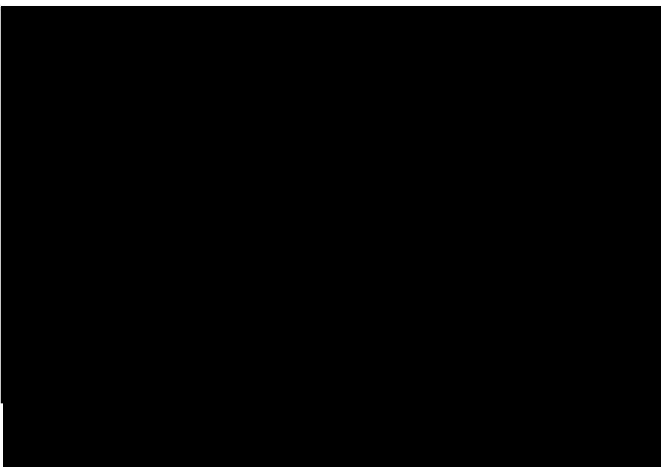
in the presence of:

Witness signature

Witness name

Witness address

Witness occupation



SEPTEMBER 2020

16 014 -PL L03A  
SITE LOCATION PLAN

PROPOSED RESIDENTIAL  
EXTENSION

162 Stakes Hill Road  
WATERLOOVILLE  
HANTS  
SCALE 1: 1250 @ A4



© BBF-FIELDING

 **Fielding**  
Architecture