TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

STATEMENT OF HAVANT BOROUGH COUNCIL

26-32 Padnell Road, Cowplain,Waterlooville, PO8 8DZ

Local Planning Authority Reference:-APP/21/00024
Planning Inspectorate Reference:- APP/X1735/W/21/3279615

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY D & K Contracting Services Limited AGAINST REFUSAL of PLANNING PERMISSION for the following development:
Erection of block of flats with associated parking and bin/cycle storage
At: Land between 26-32 Padnell Road, Cowplain, Waterlooville PO8 8DZ

Planning Inspectorate Reference: APP/X1735/W/21/3279615

LPA Ref: APP/21/00024

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

1.1 The appeal site relates to an open parcel of land located on the south side of Padnell Road, opposite St Wilfred's church. It has been known locally as "Joeys Field" for many years. It comprises a gap in an otherwise continuously built-up frontage within the defined urban area, close to the Cowplain District Centre. The site area extends to some 0.107 ha. There have been no known permanent structures on the site since at least the 1950's and as such the site is not considered to comprise Previously Developed Land as defined by the NPPF.

1.2 The site is primarily open and grassed land with the recent addition of some builders' materials, rubble etc as a store. Formerly the site was wooded, but the trees were felled in Spring 2020. The site is currently secured to the Padnell Road frontage with high wooden boarding and gates; and the perimeter enclosed with 2m high close boarded fencing. In addition, across the centre of the site is a green railing fence. The site slopes down to the south with mature trees the subject of a Tree Protection Area Order on the land immediately to the south, beyond which are the Padnell infant and junior schools.

1.3 Either side are residential dwellings – to the east, number 32 is a detached chalet style bungalow sited close to the shared boundary. This has a ground floor window and first floor dormer window facing directly into the site. To the west, number 26 is a semi-detached two storey dwelling having a single storey side garage built right up to the shared boundary.

1.4 This southern side of Padnell Road is characterised by predominantly detached dwellings of a mix of architectural design and age, but all set in a linear fashion with fairly consistent 'building line' and long rear gardens. The northern side of the road includes two larger developments – the church and Nightingale Lodge, which comprises retirement apartments. These developments are of a similar two storey height and scale but much deeper than surrounding residential properties; their handed layout is such that they do not unduly impact adjacent standard residential properties.

1.5 There are no parking restrictions directly outside the application site, although there is a stretch of double yellow lines outside the church. Padnell Road is unclassified. A Southern Water surface water drain runs close to the eastern boundary of the site.

1.6 The Borough Map and 1:1250 Location Plan are provided at **Appendix A**.

2.0 PLANNING HISTORY

2.1 There is no relevant planning history on the appeal site, but the Inspector's attention is drawn to a current planning application on the same site, as yet un-determined, for an alternative development, as follows:

APP/21/01041 – Erection of 2No. 3 bed and 2No. 2 bed dwellings associated parking and bin/cycle storage.

2.2 Should the Inspector wish to see the plans or documents associated with this development, then they can be found using the following link:

https://planningpublicaccess.havant.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_251838

2.3 Also of relevance is a nearby recent appeal for a backland bungalow at 23 Padnell Road, which was dismissed by the Inspectorate on 14th January 2022 - see Planning Inspectorate Reference: APP/X1735/W/21/3271208; LPA reference APP/20/01026, relevant documents can be viewed on the following link:

https://planningpublicaccess.havant.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_249396

3.0 THE APPLICATION

3.1 The application for the *Erection of block of flats with associated parking and bin/cycle storage* was validated by the Local Planning Authority on the 21st January 2021 and subsequently refused for the following reasons on the 12th May 2021:

First Reason:

The proposed development, by reason of its footprint size, depth and siting, would be not be in keeping with the pattern and character of linear development on the south side of Padnell Road, and would fail to respect building lines and depths. The layout including frontage car park would be out of keeping with the area and visually harmful to the street scene. The proposal is considered to be at variance with the local context and contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy E1 of the Havant Borough Local Plan Submission version, Havant Borough Council Borough Design Guide SPD 2011 and National Planning Policy Framework.

Second Reason:

The proposed development, due to its excessive depth, siting and design including first floor side windows and rear balconies, adjacent to existing residential property, would have an overbearing and dominant effect, harmful to neighbours amenity from loss of outlook, overshadowing (to number 32) and loss of privacy. The noise and disturbance from increased activity associated with comings and goings and use of balconies would be intrusive and harmful to the quiet enjoyment of neighbours amenity. The proposal is considered harmful to residential amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy E1 of the Havant Borough Local Plan Submission version Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

Third Reason:

The under provision of on-site parking spaces would lead to an increased demand for on-street parking which has not been adequately demonstrated to be available at peak times. The increased pressure for parking on the public highway would be harmful to highway amenity and further interrupt the free flow of traffic in Padnell Road, contrary to adopted policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy IN3 of the Havant Borough Local Plan Submission version and the National Planning Policy Framework.

4.0 PLANNING POLICIES

National Policy:

4.1 The planning decision was made on 12th May 2021 and the National Planning Policy Framework was revised on 20th July 2021. It is considered that the revised NPPF places more emphasis on design quality with effective use of land that creates beautiful and sustainable places. This change in emphasis supports the LPA's view that the proposed development is poorly related in local context terms with harmful effect on the street scene, failing to be sympathetic to the character or quality of the area. The proposal is therefore considered to remain contrary to the updated NPPF, particularly chapter 12 seeking well designed places and paragraph 130 b) and c) that require developments to:

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Adopted Local Policies

4.2 The Council has an adopted Local Plan, made up of the Core Strategy (2011) and the Allocations Plan (2014). Relevant policies listed in the Delegated report have already been forwarded with the Appeal Questionnaire, as follows:

Havant Borough Local Plan (Core Strategy) 2011
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)
CS21 (Developer Requirements)
DM10 (Pollution)
DM13 (Car and Cycle Parking on Residential Development)
DM8 (Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) 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)

Adopted Supplementary Planning Guidance

Havant Borough Council Borough Design Guide SPD 2011
Havant Borough Council Parking SPD 2019

4.3 One other policy not previously forwarded of relevance is policy CS9, Housing. This policy sets out the general support for an appropriate mix of sustainable housing on sites that takes account of need, seeking to deliver appropriate levels of affordable housing etc, whilst respecting surrounding landscape, character and built form. A copy of this policy is included at **Appendix B.**

Emerging Havant Borough Local Plan

4.4 The emerging Havant Borough Local Plan was submitted for Examination on 12 February 2021 and the application the subject of this appeal was determined on 12 May 2021.

4.5 Stage 1 Examination Hearings on more strategic matters took place in July 2021. The Inspectors' Interim Findings report were subsequently received in November 2021. The Inspectors' letter is clear that not all of the Plan has been examined, and instead explicitly focuses on areas of concern. The receipt of the Interim Findings Report is not considered to represent a change in status of the plan, and at the time of writing, the Council is strongly resisting its withdrawal from Examination and requesting a suspension. As such, under paragraph 48 of the National Planning Policy Framework (NPPF), the policies in the Submission Local Plan may continue to be afforded limited weight. Whilst some of the emerging policies may be subject to outstanding objections (and have yet to be examined), the Submission Plan does set out a very clear direction of travel.

4.6 The relevant planning policies of the emerging Local Plan are:

E1 (High Quality Design)
E12 (Low Carbon Design)
E14 (The Local Ecological Network)
E16 (Solent Special Protection Areas)
E18 (Trees, hedgerows and woodland)
E22 (Amenity and pollution)
IN3 (Transport and parking in new development)
H1 (High Quality New Homes)

H3 (Housing density)
EX1 (Water Quality impact on the Solent European Sites)

4.7 Also of relevance is the Position Statement and Mitigation Plan for Nutrient Neutral Development August 2020 the Position Statement and Mitigation Plan can be viewed at the following address: https://www.havant.gov.uk/sites/default/files/documents/Appendix%201%20-%20Revised%20Position%20Statement%20and%20Mitigation%20Plan%20020920.pdf

5.0 PLANNING CONSIDERATIONS

5.1 The attached officers report (**Appendix C)** sets out the position of the Local Planning Authority and is considered sufficiently detailed to form the basis of the LPA's Statement of Case. This appeal statement will not duplicate, but will simply provide an update on relevant issues, in particular with regard to the Habitats Regulations; the Borough's five-year housing land supply position; and commentary on the Appellants grounds of appeal.

HABITAT REGULATIONS

5.2 As the Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations, it will be necessary for the Inspectorate to undertake a Habitats Regulations Assessment, taking into account the impacts of development on the internationally designated sites and the likelihood of significant effects. These fall into **two key areas,** see below - the Council's original screening of the proposal under Regulation 63(1)(a) found that there was likely to be a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed development of 6 flats.

5.3 However the appropriate mitigation for these effects was secured at application stage with the Appropriate Assessment concluding that the mitigation packages were sufficient to remove the likely significant effect on the European Sites, which was agreed by Natural England. A copy of the final Habitats Regulations Assessment, Screening and Appropriate Assessment dated 05/05/21, is attached at **Appendix D** for the Inspector's attention. Natural England's consultation response has been forwarded with the appeal questionnaire.

5.4 An explanation of the two key issues is provided below:

Solent Recreation Mitigation Strategy

5.5 The application site falls within the 5.6km zone of Chichester and Langstone Harbours SPA 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

5.6 The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within **Appendix E**. The evidence base to support the mitigation strategy can be found on the link below:
http://www.birdaware.org/research

5.7 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 Havant Borough Local Plan (Allocations) 2014 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

5.8 On 1st April 2018, the Solent Recreation Mitigation Strategy came into force and applies to new residential development (this was as approved by Havant Borough Councils Cabinet on the 7th February 2018.) The 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, a development

of 4 x 1 bed flats and 2 x 2 bed flats would require a total contribution of £2,635.40.

5.9 This contribution has been paid with the appropriate Unilateral Undertaking signed and dated, see copy in **Appendix F**. This mitigation package was considered sufficient to overcome the likely significant effect to the Chichester & Langstone Harbours SPA due to increased recreational pressures arising from the development. As such the proposal met requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), Solent Recreation Mitigation Strategy, Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, emerging Policy E16 of the Submission Havant Borough Local Plan and the National Planning Policy Framework.

Water Quality

5.10 The second likely significant effect on the Solent European Sites arises from a decrease in water quality from the proposed development. 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.

5.11 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, including the proposed residential 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'.

5.12 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.

5.13 In this regard, it should be noted that the Council has published a 'Position Statement and Mitigation Plan for Nutrient Neutral Development (August 2020)' (**Appendix G**). The Position Statement and Mitigation Plan includes the Council's strategic mitigation scheme at Warblington Farm which can be used by developers where nutrient neutrality cannot be achieved on site. It requires the applicant to submit a European Avoidance and Mitigation Checklist, and to indicate whether they wish to use the Council's mitigation scheme. The scale of financial contribution towards the Council's mitigation scheme is proportionate to the nitrogen load of the development, which is calculated using a nutrient budget. As part of the nutrient budget, development is expected to achieve a maximum water use standard of 110 litres per person per day (l/p/p/d) which is secured via two conditions. The wording of these conditions is outlined on pages 5-6 of the Position Statement.

5.14 As part of the evolution of the Submission Havant Borough Local Plan, a new policy EX1 has been established. This policy clarifies that proposals for all new dwellings need to provide a nutrient budget and will only be permitted if a mitigation package can remove the likely significant effect.

5.15 Since the Council now has a strategic mitigation solution in place, then it is possible for the proposed development of 6 flats to address the significant effect on water quality which would otherwise be likely to result. During the course of determining the planning application the Nitrogen Budget was amended to reflect Natural England's view that the site comprised open space/greenfield land, resulting in a nitrogen load of 5.9 Kg/N. The appropriate mitigation for such a nitrogen budget amounts to £7,344.90 and this has been paid with the appropriate Unilateral Undertaking signed and dated, see copy in **Appendix H**.

5.16 This mitigation package was considered sufficient to overcome the likely significant effect to the Chichester & Langstone Harbours SPA due to impacts on water quality arising from the

development. As such the proposal met requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), Solent Recreation Mitigation Strategy, Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policies E16 and EX1 of the Submission Havant Borough Local Plan and the National Planning Policy Framework.

6.0 HOUSING FIVE YEAR SUPPLY AND PLANNING BALANCE

6.1 Since the planning application was determined in May 2021, the Borough's five-year housing land supply has further decreased. Following receipt of the Inspector's interim findings into the Examination of the Submission Havant Borough Local Plan, some of the sites have been removed from the Council's anticipated supply. The Council's Five-Year Housing Land Supply Update at November 2021 indicates the Borough's housing land supply position has therefore fallen to 3.9 with 20% buffer applied. See latest published document:

https://cdn.havant.gov.uk/public/documents/EB36d%20Five%20Year%20Housing%20Land%20Supply%20Update%20(November%202021).pdf

6.2 This shortfall engages Paragraph 11d) of the NPPF. It is accepted that the proposal, within the main urban area of Waterlooville, would make a modest contribution to housing supply and this benefit of the appeal proposal must be afforded weight in the overall planning balance. However, it is contended that the adverse impacts of the development on local character, neighbouring amenity and highway amenity, as per the decision notice, would significantly and demonstrably outweigh the modest housing supply benefit when assessed against the policies of the NPPF as a whole.

6.3 Since adopted policies CS16 and DM13 of the Core Strategy are broadly consistent with the NPPF's approach to character and design, and parking provision, then these policies should still be afforded great weight in accordance with paragraph 219 of the NPPF.

7.0 COMMENTS ON APPELLANTS STATEMENT OF CASE

7.1 It is not intended to comment on aspects of the Appellants statement of case where matters have previously been addressed in this Appeal Statement or in the Officers Delegated Report **(Appendix C)**. The following comments are made by way of amplification or explanation only.

Comments on Section 6, pages 19-24, on Character of Surrounding Area

7.2 With respect to the discussion on linear development, the essential point is that the southern side of Padnell Road is characterised by continuous residential development set in an approximate linear fashion i.e. each house sits roughly adjacent the other, within the front of their long plots, with long rear gardens. The reference to building line was never meant to reference the angle each house fronts the highway, which is clearly staggered slightly, but simply provide a much more general description about the pattern and layout of the houses within the area generally.

7.3 Furthermore this description appertains to the main dwelling houses and not the various outbuildings each property may have. Because each dwelling benefits from a long rear garden, then each household has considerable permitted development rights to erect Class E outbuildings within the rear curtilages. But notably these single storey modest outbuildings do not contain primary living accommodation and have an ancillary function only. Therefore, the presence of outbuildings or not, should not influence the description of the general pattern of primary living accommodation in the area, which is clearly a mix of chalets and two storey, frontage linear development.

7.4 The LPA remains of the view that the primary residential accommodation contained within the main dwelling houses sits in an approximate line and does not encroach deep into the rear garden areas. The annotated aerial photo below demonstrates this general pattern of development and shows how the proposed two storey development would extend well beyond the rear of main frontage dwelling houses, introducing primary two storey accommodation deep into the site, at variance with the established pattern and layout of the area:



Fig 1 – Aerial photo showing approximate pattern of linear development in yellow, with approximate proposed flat scheme in red (Note – Not to scale, diagramitic only)

7.5 It is noted that four of the 6 flats proposed would be located to the south of the neighbouring dwellings, extending that primary accommodation and intensification of use adjacent private quiet garden areas. These adjacent gardens feature modest ancillary outbuildings and have an open outlook and character. The scale and mass of two storey primary accommodation so deep into the site, would be at odds with the character and local pattern of development. The updated NPPF 2021 requires development to be *"sympathetic to local character*" (para 130) which is repeated in local policies CS16, clause 1.c) and emerging policy E1. Therefore, the LPA remain of the view that the scale, footprint, siting and layout of the proposal is out of character with the context of the site.

7.6 With respect to the frontage parking, it is noted that generally adjacent dwellings' parking areas are quite informal, with a mix of surface materials, curved planting surrounds etc. They are generally modest in extent of hard surfacing, often utilising tandem parking. In contrast the proposed grasscrete block area for drive, turning and line of 6 spaces, would be more extensive and uniform, appearing quite draconian and commercial, out of keeping with the area.

7.7 It is noted that parking areas serving single-family dwellings, are shared by occupiers, i.e. family members, and there is no need to mark out with white line painting to depict who parks where. But the proposed flatted scheme would need to identify parking spaces to avoid disputes between un-related occupiers, and this need to 'white line' or somehow demark the frontage area, would result in a much more commercial visual appearance, inappropriate to the residential character of the area and street scene.

<u>Comments on Section 6, pages 25 - 29, on Impact on Amenity of Adjoining Properties</u>

7.8 The Appellants statement of case asserts that the impacts on the immediate neighbours would not be excessive or result in any loss of privacy, light or harm generally. The LPA strongly contends this: the proposal would result in a 13 to 14m, two storey projection beyond the rear elevation of numbers 26 and 32, which, due to the sloping site, would have a ridge height of 7.6m. The sheer presence of such a long and high and building mass adjacent open gardens, cannot fail but to have an overbearing and dominant presence, affecting outlook, light and privacy.

7.9 The 45-degree line drawn on Drawing No. 2020/02 Rev D clearly demonstrates the breach of this guideline with respect to number 32. The adopted Havant Borough Design Guide SPD, 2011, at page 47 (see link below) seeks to protect both light and outlook of neighbours with the use of the 45-degree code. The example provided is for a single storey development and indicates that both the plan and section 45-degree line should not extend beyond the centre line of the nearest

adjacent main habitable window. The submitted drawings do not show the section 45 degree line but being a two storey development, the impact would be far greater and unlikely to meet this requirement on either side.

https://cdn.havant.gov.uk/public/documents/Borough%20Design%20Guide%20SPD%20V2%20with%20Copyright.pdf

7.10 It is also noteworthy that both numbers 26 and 32 have their private sitting out area close to the rear of their properties. As such the looming presence of such a high and deep two storey development above the shared boundary, with windows, would lead to a sense of enclosure, loss of light, and loss of privacy. Just because the development narrows and tapers away slightly from the shared boundaries, would not provide sufficient separation to mitigate against the sheer scale and dominance such a high two storey development would have on the outlook from both 26 and 32. Number 32 is only a chalet style property with low eaves line of about 2.5m, and ridge of 6m. The proposed east elevation where directly aligned with the rear corner of number 32 would have an eaves height of 5.8m and ridge of 8m – this would completely dwarf the side of the chalet and rear garden area of number 32 and be overwhelmingly oppressive and dominant.

7.11 The rear of number 26 also reduces in scale with a single storey habitable room with lantern light and decked area immediately outside. So again, the same dominant relationship would result from the proposed two storey west elevation towering above this single storey extension and private sitting out area of number 26.

7.12 With respect to the proposed side windows, just because they are proposed to be obscure glass, does not mitigate their presence. Simply having windows in the first-floor elevations, directly facing the private sitting out area of numbers 26 and 32, would result in a perception of being overlooked. The proximity and relationship of these windows to the previously private sitting out areas of adjacent gardens would lead to a loss of amenity, contrary to policy CS16 clause 1.e).

7.13 Paragraph 6.34 of the Appellants statement infers that the garden of number 32 is currently overlooked by number 34 and 36, and the proposal would not result in significant additional overlooking. This is considered a preposterous suggestion as the approximately aligned siting of number 32 with number 34 and 36 is such that the rear windows of each dwelling are arranged in a standard format – all rear gardens of linear development suffer from a degree of overlooking from upper floor windows; but the appeal proposal would introduce significant fenestration into first floor *side* elevations that extend some 12 to 13m into the side gardens. This overlap with private rear gardens and direct 90-degree orientation of the proposed windows over private gardens cannot fail but to introduce significant perception of being overlooked.

7.14 In addition, the proposed balconies, set halfway down the neighbours' gardens, would mean even the end of their gardens, which are usually the most private, would be invaded and no longer private. Paragraph 6.38 notes that the balconies would be 16m from the rear of number 32, but it fails to note that they would only be 5.5m from the shared boundary, adjacent the most private part of the gardens. Furthermore, the size of the balconies, at 1.5m x 2.7m, would be sufficiently large to enable small table and chairs for outside dining, smoking etc. This use, within 5.5m of the shared boundary, would undoubtedly increase activity and noise levels at first floor level where previously there was none. This would be harmful to neighbouring amenity and contrary to policy CS16, clause 1.e).

7.15 The LPA strongly contend that the excessive depth of the proposed two storey development sited against the private gardens of number 26 and 32 would result in unacceptable overbearing and enclosing effect, with resultant overshadowing and perception of overlooking, harmful to the amenity of these occupiers, contrary to policy CS16.

<u>Comments on Section 6, pages 29 - 31, on Impact on Highway Network</u>

7.16 The third reason for refusal relates to highway amenity, and not highway safety. It is acknowledged that the Highway Authority did not raise any objection to the proposal from a highway safety point of view as the scale of the development would be unlikely to have any significant adverse impact on the transport network. However, it is the role of the LPA, not the Highway Authority, to assess the parking implications of any proposed development, compliance with parking policies (DM13) and the adopted Parking SPD, 2016.

7.17 The NPPF at para 108 suggests use of maximum parking standards should only be used in certain circumstances and hence infers the use of minimum standards is more appropriate. Havant Borough Council's Parking SPD, 2016, updated 2019, sets out minimum standards and as such complies with the aims of the NPPF.

7.18 As a point of correction, the LPA would like to apologise for the error regarding assessment of the cycle provision. The delegated report at para 7.22 only acknowledges the outside 2 cycle locker spaces and fails to acknowledge the internal secure cycle store off the ground floor entrance. Together with the outside spaces, this would provide sufficient cycle storage to serve the development.

7.19 It is noted that the shortfall in car parking spaces is minimal, between 2 spaces and 0.2 spaces depending on whether the parking is allocated or un-allocated. But given the overwhelming third-party comments noting lack of on street parking, it is clear that there is local friction over parking at peak times, due to the site's location near schools and the church. In such circumstances paragraphs 4.28 to 4.33 on page 29 of the adopted Parking SPD are engaged, requiring a parking survey to demonstrate availability of on-street parking – see link below:

https://cdn.havant.gov.uk/public/documents/Final%20Parking%20SPD%20-%20for%20web%20(updated)_0.pdf

7.20 The SPD is clear in requesting any parking survey to be undertaken "*over a period of at least one week including both weekends and weekdays at a variety of times throughout the day including late in the evening and early in the morning".* The submitted parking survey did not comply with this requirement, being only 2 surveys, during a lockdown, and both at 22:00 at night. Such timings are not considered to represent the worst-case-scenario, which for this particular site would clearly be during the school drop off and collection, and church peaks. Therefore, the proposal had not adequately demonstrated that the shortfall in spaces could be accommodated on street. Any additional pressure for on-street spaces could result in further indiscriminate parking which further affects neighbouring amenity from inconvenience and neighbour disputes and friction over on-street parking and access to drives.

7.21 The Appellants statement indicates that the school and church peaks would differ from the peak in demand arising from the development. But with more people working from home, and more shopping deliveries then ever at all times, then the traditional assumption that residential parking demands peak in the evenings, no longer applies. Therefore, there could easily be a peak for on-site parking, whether from residents or deliveries or both, coinciding with a school drop off or collection. It is this peak that would result in additional on-street parking demands, for which it has not been demonstrated there would be sufficient capacity in the local road network for the shortfall in spaces.

7.22 Since policy DM13 clearly only permits developments that provide parking in full compliance with the Parking SPD, and the proposal fails to comply or successfully justify a shortfall, then the proposal is contrary to both policy DM13 and the Parking SPD. The reason for refusal based on highway amenity grounds, i.e. the inconvenience to neighbouring amenity from indiscriminate overflow parking on the highway, is therefore justified and does not conflict with paragraph 111 of the NPPF which is about highway safety, not highway amenity.

Other matters

7.23 The Inspector's attention is drawn to the consultee comment received from Southern Water which indicates that network reinforcements would be necessary to accommodate the development. Please find a copy in **Appendix I** for ease of reference. In the event of permission being granted then phased occupation would be necessary to align with delivery of sewage network improvements, necessitating a Grampian style condition – please see suggested conditions list.

8.0 CONCLUSIONS

8.1 Whilst the Borough's current five-year housing supply engages paragraph 11d) of the NPPF, it is strongly contended that the adverse impacts of the proposal are so significant as to demonstrably outweigh the benefit of the six additional dwellings proposed when assessed against the policies of the NPPF taken as a whole. Since the most relevant adopted policies of the Havant Borough Core Strategy, 2011, namely CS16 and DM13, as well as the relevant Supplementary Planning

Documents, the Borough Design Guide SPD 2011 and the Parking SPD 2016, are all broadly consistent with the NPPF's approach to character and design, and minimum parking provision, then these policies should still be afforded great weight, in accordance with paragraph 219 of the NPPF.

8.2 Overall, the appeal proposal would result in the provision of six additional residential units within the built-up area, at an appropriate density. Whilst this benefit is acknowledged, it must be balanced against the identified significant harm arising from the development, namely the variance with local character, harm to neighbouring amenity and harm to highway amenity. The NPPF requires development to be of a high quality that is sympathetic to local character. The scale of the development proposed, its depth and relationship with neighbouring properties would result in a dominant and overbearing development that would be out of keeping with the pattern of linear development in the area, and harmful to neighbouring amenity, contrary to paragraph 130 of the NPPF, adopted policy CS16 and the Borough Design Guide SPD. In addition, the shortfall of on-site parking, without adequate justification through a sufficiently robust parking survey, would be harmful to highway amenity, contrary to policy DM13 and the Parking SPD.

8.3 The Planning Inspectorate are now the Competent Authority under Regulation 63 of the Habitats Regulations. The development would be likely to have a significant effect on the Solent European Sites, but adequate mitigation in relation to the development's impact upon the Solent SPA sites in relation to recreation and water quality was received at application stage. The mitigation packages received are considered to overcome the likely significant effect to the Chichester & Langstone Harbours SPA and meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), Solent Recreation Mitigation Strategy, Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policies E16 and EX1 of the Submission Havant Borough Local Plan and the National Planning Policy Framework.

8.4 In conclusion it is considered that there would be significant adverse impacts of granting permission that would outweigh the modest contribution to the Borough's housing needs, and as such the Inspector is respectfully requested to dismiss the appeal in accordance with paragraph 11 d) ii) of the NPPF.

8.5 In the event that the Appeal is allowed, recommended conditions will be forwarded separately.

APPENDICES

(A) Borough Map and 1:1250 Location Plan
(B) Copy of Policy CS9 from Havant Borough Core Strategy, March 2011
(C) Officers delegated report for appeal scheme - APP/21/00024
(D) Copy of LPA's final Habitats Regulations Assessment, Screening and Appropriate Assessment dated 05/05/21
(E) Potential effects on SPA of residential development
(F) Copy of SRMS Unilateral Undertaking, dated 31st March 2021
(G) Havant Borough Council's Position Statement and Mitigation Plan for Nutrient Neutral Development, dated August 2020
(H) Copy of Water Quality Mitigation Unilateral Undertaking, dated 29th April 2021
(I) Copy of Southern Water's consultee response, dated 18/02/2020

APPENDIX A

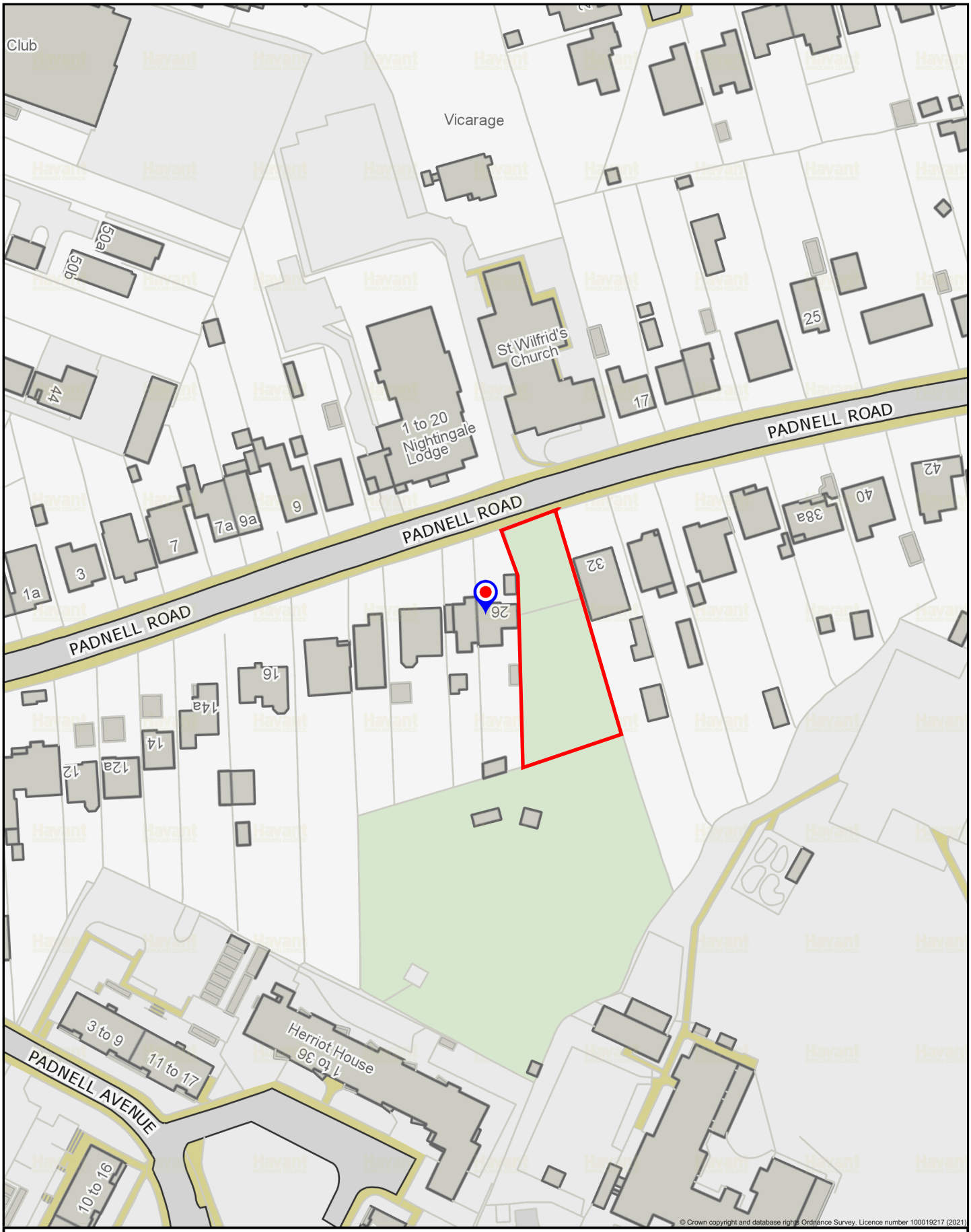
Borough of Havant

N

Lovedean
To London & Petersfield
Denmead
B2150 Hambledon Rd
Milton Rd
Cowplain
THE SITE
Golf Course
Park Lane
The Queens Inclosure
Waterlooville Swimming Pool
Brambles Enterprise Centre
A3 London Rd
A3(M)
B2149 Manor Lodge Rd
To London
Rowlands Castle
Whichers Gate Rd
Waterlooville
Hulbert Rd
Stakes Hill Rd
Staunton Country Park
Southleigh Forest
Middle Park Way
Dunsbury Way
Petersfield Rd
Hermitage Stream
Lavant
BUPA Hospital
Emsworth Common Rd
Westbourne
Stakes
Leigh Park
Barfons Rd
West Leigh
Stockheath Rd
Stakes Rd
Purbrook Way
Purbrook
Barncroft Way
East Leigh Rd
B2148
Southleigh Rd
River Ems
New Lane
Civic Offices
Leisure Centre
Havant College
South Downs College
College Rd
Widley
Golf Course
Fort Purbrook
Bedhampton
New Rd
Bedhampton Rd
Park Rd
Havant
Denvilles
A27
New Brighton Rd
To Chichester & Brighton
B2177 Portsdown Hill Rd
West St
Emsworth Rd
Emsworth
Solent Rd
A259 Havant Rd
A2030
Havant Rd
Harts Farm Way
Drayton
Farlington
Broadmarsh
Southmoor Lane
Lymbourne River
Warblington
Harbour
Sailing Clubs
To Fareham & Southampton
Langstone
To M27 Portsmouth Southampton & Winchester
Sailing Club
A3023
Farlington Marshes Nature Reserve
Northney Marina
To Portsmouth & Southsea
Portsmouth
Northney
St Peters Rd
Stoke
Copse Lane
LANGSTONE HARBOUR
Hayling Island
CHICHESTER HARBOUR
Hayling Billy Trail
West Lane
A3023 Manor Rd
Church Rd
Holiday Village
Station Rd
West Town
Golf Course
Sinah Common
Golf Course
Beach Rd
Elm Grove
Mengham
Sailing Club
Seafront
Beachlands
Seafront
Holiday Village
Eastoke Point

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

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Land between, 26-32 Padnell Road, Waterlooville

Havant BOROUGH COUNCIL

N Scale: 1:1250

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APPENDIX B

Where else to look:



The Strategic Housing Land Availability Assessment (SHLAA): Is an evidence based document.

The SHLAA is updated annually in the Annual Monitoring Report

PPS3: Housing paragraphs 10, 52 and 60 require a flexible supply of housing land.

Sustainability of construction and design is another important aspect in housing delivery. This is dealt with in Chapter 7: Caring for our Borough.

Policy CS9 Housing

Planning permission will be granted for housing proposals that will: -

1. **Contribute to achieving a net total of 6,300 new dwellings between 2006 and 2026.**
2. **Deliver on average 30-40% affordable housing on sites of 15 dwellings (gross) or more and secure a suitable contribution, or on-site provision, equivalent to on average 30-40% on smaller housing developments between 5 and 14 dwellings (gross), unless a lesser requirement has been transparently justified on viability grounds.**
3. **Ensure mixed communities are created through the planned distribution and avoidance of a concentration of affordable housing.**
4. **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.**
5. **Provide a mix of dwelling types, sizes and tenures which help meet identified local housing need and contribute to the development of mixed and sustainable communities.**
6. **Provide accommodation for the ageing population in sustainable locations, taking account of the need to provide for a variety of care needs and flexibility to accommodate differing requirements of ageing care.**
7. **Contribute to achieving 450 extra-care dwellings between 2006 and 2026.**
8. **Ensure housing development is delivered in a phased manner with an appropriate proportion of previously developed land so as to avoid unnecessary development on greenfield urban extension sites.**

Housing Distribution

6.07 The Development Delivery (Allocations) Plan DPD will take into account a range of alternative distributions within the borough and will distribute this allocation in a way that avoids adversely affecting the integrity of international sites.

6.08 Housing development will be dispersed through the borough. The Sustainability Appraisals have shown the benefits of this approach as existing infrastructure can then be harnessed. Table 6.1 sets out an indicative/approximate distribution of the housing between five areas of the borough. This table is based on potential supply as identified in evidence base work. The Development Delivery (Allocations) Plan will detail those sites to be allocated for development. This is likely to see the numbers reduce slightly so that the overall supply figure is closer to the 6,300

APPENDIX C

Site Address:	Land between, 26-32 Padnell Road, Waterlooville		
Proposal:	Erection of block of 6 flats with associated parking and bin/cycle storage.		
Application No:	APP/21/00024	Expiry Date:	18/03/2021
Applicant:	Mr A DeSouza		
Agent:	Mr Chahal ACA Design Limited	Case Officer:	Tina Pickup
Ward:	Cowplain		

Recommendation: **REFUSE PERMISSION**

1. Site Description

1.1 The application site relates to an open parcel of land located on the south side of Padnell Road, opposite St Wilfred's church. It has been known locally as "Joeys Field" for many years. It comprises a gap in an otherwise continuously built up frontage within the defined urban area, close to the Cowplain District Centre. The site area extends to some 0.107 ha. There have been no known permanent structures on the site since at least the 1950's and as such the site is not considered to comprise Previously Developed Land as defined by the NPPF.

1.2 The site is primarily open and grassed land with the recent addition of some builders materials, rubble etc as a store. Formerly the site was wooded, but the trees were felled in Spring 2020. The site is currently secured to the Padnell Road frontage with high wooden boarding and gates; and the perimeter enclosed with 2m high close boarded fencing. In addition, across the centre of the site is a green railing fence. The site slopes down to the south with mature trees the subject of a Tree Protection Area Order on the land immediately to the south, beyond which are the Padnell infant and junior schools.

1.3 Either side are residential dwellings – to the east, number 32 is a detached chalet style bungalow sited close to the shared boundary. This has a ground floor window and first floor dormer window facing directly into the site. To the west, number 26 is a semi detached two storey dwelling having a single storey side garage built right up to the shared boundary.

1.4 This southern side of Padnell Road is characterised by predominantly detached dwellings of a mix of architectural design and age, but all set in a linear fashion with fairly consistent 'building line' and long rear gardens. The northern side of the road includes two larger developments – the church and Nightingale Lodge, which comprises retirement apartments. These developments are of a similar two storey height and scale but much deeper than surrounding residential properties; their handed layout is such that they do not unduly impact adjacent standard residential properties.

1.5 There are no parking restrictions directly outside the application site, although there is a stretch of double yellow lines outside the church. Padnell Road is unclassified. A Southern Water surface water drain runs close to the eastern boundary of the site.

2 Planning History

2.1 None

3 Proposal

3.1 Erection of block of 6 flats with associated parking and bin/cycle storage.

3.2 The proposed development would comprise 2No 2 bed units and 4No 1 bed units within a two storey building having a maximum height of 8.3m with footprint measuring some 10.5m wide and 24.5m deep (including bay and balconies). It would be sited about 18m back from the site frontage where 6 parking spaces would be provided. The gap to the shared boundary with number 32 would be a continuous 3.5m but to the shared boundary with number 26 the gap would taper from 0.5m to 8m. The proposed building would present to the highway with a hipped roof and front gable feature being constructed of a mix of render and facing brick. The side elevation would be broken up in two sections; the front half being render and the rear being facing brick; and each side elevation includes several windows. To the rear 2 first floor balconies are proposed, each 1.5m deep.

3.3 A bin storage area is proposed in the north-eastern corner adjacent the highway; and a bike cycle locker is proposed near the front entrance. Front boundary details would be 1.2m high wall with railings. Indicative associated landscaping is proposed to the frontage area. The planning application is accompanied by a Design & Access Statement, Transport Statement and Ecological Assessment.

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)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS21	(Developer Requirements)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

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

Submission Version Havant Local Plan

E22	(Amenity and pollution)
E1*	(High quality design)
H1*	(High quality new homes)
H3*	(Housing density)
E12	(Low carbon design)
E16	(Solent Special Protection Areas)
E14	(The Local Ecological Network)
IN3	(Transport and parking in new development)
E18	(Trees, hedgerows and woodland)
EX1	(EX1 | Water Quality impact on the Solent European Sites)

Emsworth Neighbourhood Plan Post Examination Version 2020

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

5 Statutory and Non Statutory Consultations

Arboriculturalist
Having undertaken a desk-based exercise reviewing the submitted plans and arboricultural report I raise no objection based on the following observations:
• The trees are a significant distance from the area proposed for development and they will not be affected as works will fall outside the RPA.
• The submitted TPP must be conditioned and adhered to so as the trees will be protected by the tree protection measures outlined in the report

Building Control
1) The plans show a storm water public sewer but this appears to be over 3m from the proposed building
2) To allow adequate fire service access to the building, the driveway will need to be designed to support 12.5tonne vehicles and have a minimum clear width of 3.7m
3) The bin store should be located so that the maximum distance from any flat entrance door to the bins is 30m, the plans show that the worst case is 34m

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

Additionally, pending a response from Natural England on the HRA, instructions should be passed by the Case Officer to the CI Team to:
(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of additional dwellings and their respective number of bedrooms. See http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy.

Issue the Nutrient Neutrality Unilateral Undertaking. See https://www.havant.gov.uk/nitrogen-developers

County Ecologist

The application is supported by ecological assessment by 4 Woods Ecology (November 2020). The site lies in a suburban area with mature trees bounding the southern boundary, beyond lies a small area of habitats providing opportunities for wildlife such as fox hedgehogs and birds.

At the time of the ecological survey the site comprised tall ruderal and grassland habitat and had piles of woodchip, having recently been cleared of trees, shrubs and grassland.

The ecology report found limited ecological value at the site and has recommended measures to protect hedgehogs during works and nocturnal wildlife south of the site from lighting impacts post works. Enhancements include tree planting however this is not reflected in the site plan. Swifts nest sites and bat bricks are also recommended.

I would support these measures. In addition to the enhancement planting of trees and shrubs along the south and west boundaries of the site (Section 4.4 of the 4 Woods Ecology report, Nov 2020), to mitigate the loss of trees and grassland onsite the applicant should include the installation of a hedgehog house and the creation of meadow habitat within the site. As well as gaps (13 cm x 13 cm) for hedgehog permeability along the southern eastern and western fences. Details of which shall be included in the proposed site plan and submitted for approval prior to commencement.

If you were minded to grant permission I would recommend the following condition is added to the planning permission as follows:

Prior to commencement an updated site plan shall be submitted to and approved in writing by the local planning authority, showing the location of trees, shrubs and meadow habitat to be planted, hedgehog house and gaps in fences. Once approved, works shall proceed in accordance with this document and Section 4.4 of the 4 Woods Ecology report) ***Reason:*** *to protect biodiversity in accordance with the Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.*

Crime Prevention

None received

Southern Water

The submitted drawing shows (2020/02 Rev-D) 3 meters protection measures (Easement) on either side of the 225 mm Public surface water sewer is satisfactory to Southern Water.

We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication “A Guide to Tree Planting near water Mains and Sewers” and the Sewerage Sector Guidance with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers, rising mains and water mains.

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

Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water.

Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development programme and the extent of network reinforcement required. Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of any works required.
Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline) however for large developments our assessment of the time scales needed will require an allowance for the following which may result in an extension of the 24 month period:
- Initial feasibility, detail modelling and preliminary estimates.
- Flow monitoring (If required)
- Detailed design, including land negotiations.
- Construction.
Southern Water hence requests the following condition to be applied: Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.
In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations: Reuse/Infiltration/Watercourse/Strom sewer/Combined Sewer
We request that should this application receive planning approval, the following condition is attached to the consent: “Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.”

Hampshire Highways
The applicant is seeking planning permission for the erection of 6 flats off Padnell Road. Access into the site is proposed via a new 4.8m wide access onto Padnell Road. Whilst no visibility splays have been provided from the access, it is noted that good visibility is afforded along Padnell Road and the access would be in-keeping with similar residential accesses in the area. This matter is therefore considered acceptable, subject to the applicant obtaining a S184 licence.
It is noted that the site will provide an under provision of on site parking spaces when compared to Havant's Parking SPD. It is also noted that the applicant has undertaken a parking survey of Padnell Road to ascertain whether there is spare on-street parking capacity. The survey confirms that on-street parking spaces are available; however, on-street parking should be discouraged wherever possible with parking retained within the site boundary. In their capacity as local parking authority, HBC should determine whether the quantum of proposed parking is considered acceptable.
The Highway Authority has no further comments to make regarding the proposed internal layout of the site.
Having reviewed the documentation submitted in support of the above planning application Highways Development Planning is satisfied that the proposal would have no detrimental impact on highway safety or operation. A recommendation of no objection would therefore be given, subject to the applicant obtaining a S184 licence to construct the site access.

Natural England

This application is supported by a nutrient budget calculation dated 13th April 2021 which calculates a positive nitrogen burden of 5.9kg/TN/yr.

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.

Please note the calculation is based on all wastewater from the development being treated at Budds Farm WwTWs. If this situation changes, a reassessment of the nutrient calculation will be required and a revised Habitats Regulations Assessment will be necessary.

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.

Nutrient Team

I can confirm there is sufficient capacity within the Council's mitigation scheme for planning application APP/21/00024

Portsmouth Water Company
No adverse comment as low risk to groundwater quality.

The site, although located in Source Protection Zone 1c for an essential public water supply source, the underlying impermeable geology (London Clay) offers a depth of protection to the chalk aquifer. The depth to the water table in this area is estimated to be around 30-40 mbgl (metres below ground level).
The proposed drainage strategies utilise the existing main sewers in the area, this is acceptable to Portsmouth Water in relation to groundwater protection.

If piling or deep bore soakaways are proposed Portsmouth Water wish to be further consulted. The application must be accompanied by detailed plans and a risk assessment stating how risks to the underlying principal aquifer have been assessed and mitigated through design.
This should include as a minimum:
a) the methods to be used;
b) the design depths of the various structures involved and rationale;
c) the density of piling/deep bore soakaways, if any; and
d) details of materials to be removed or imported to site.

Public Spaces
None received

Traffic Management
The Traffic Team would raise the issue that there appears to be a shortfall of parking and cycle storage facilities for this development.

Waste Services Manager
None 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: 63

Number of site notices: 1 - posted by agent due to Covid restrictions

Statutory advertisement: Not applicable.

Number of representations received: 35

The third party representations all object to the proposal, raising the following issues:

Siting/Layout
development extends to rear of plot; mis-aligned with all other buildings in Padnell Road; dos not respect rear building line; extends approx 10m beyond rear building line adding to impacts; undesirable backland development out of keeping with locality and policy CS16 in that it does not have proper regard to character and appearance of area; extremely close in NW corner and footings will impact existing property; gap to this NW side will restrict all access and egress to and from rear of site by emergency services and residents should main entrance become blocked;

Privacy & Outlook
will look directly into adjacent gardens and school; unobstructed views from balconies and side windows; will be overbearing by major building and balcony; siting of side elevations and windows will impact neighbours negatively; will be intrusive and invasion of privacy; rear balconies provide elevated viewing platforms into adjacent gardens and habitable rooms; 45/25 degree not been properly applied; close proximity adds to foreboding presence; size, bulk, height and position will dominate outlook from adjacent properties; will be constantly in eye line from all rear rooms and garden; will add to feeling of being constantly observed, detrimental to emotional and mental health; will affect enjoyment of garden; to maintain privacy would need to draw curtains

Daylight/Sunlight
Impacts on neighbours daylight & sunlight must be considered; due to size and location would affect neighbours light; by going beyond building line will block day/sun light to neighbours

Noise and disturbance
noise and disruption from flats eg comings and goings, music, tv etc would be detrimental to our lives and well being, especially considering proximity; additional vehicle traffic, pedestrians will add to noise pollution impacting quality of local environment contrary to section 79 of Environmental Protection Act 1990; will introduce noise and light to rear garden where previously a peaceful environment; with number of residents grounds could be used for ball games, BBQs, parties unacceptable and frequently disturbing neighbours; will affect quiet enjoyment of our property;

Out of keeping/character
Most properties in local area are semi-detached or detached houses and chalet bungalows; flats out of keeping; would be a tremendous eyesore; car park at front instead of garden would be eyesore; current dwellings predominantly houses so flats not in keeping - constant letting/for sale signs would be an associated eyesore; sheer size, bulk and unsightliness would be discordant feature in street scape, shoehorned in, detrimental to local views; does not respect local context or character;

Scale/Overdevelopment
oversized development will dominate outlook from gardens; height layout and siting is an overdevelopment; proximity of side elevations will impact neighbours negatively ; dominating development; will be overbearing; excessive size and siting out of character; building and footprint dwarfs those around it; height should not be higher than properties either side; lack of outdoor space for future residents; HBC refused comparatively small extensions to dwellings resulting in acceptable building lines - this greatly exceeds; intensification of development that would be incongruous;

Loss of open space & natural habitats

land always been wild natural habitat for birds, insects & animals; including hedgehogs, foxes, bats, newts, frogs and slow worms; destruction of trees last April destroyed habitat; unrestricted movement of animals across site will be lost, contrary to Councils biodiversity plans; bats and owls frequent the established oaks to the rear of the site - additional lighting would affect nocturnal animals; wouldn't conserve green spaces; no street trees along Padnell Road as alternative to destruction of trees on site; frogs/toads/slow worms do return to previous habitation sites for generations; should be some replacement trees

Inadequacies of Ecological survey

Ecological survey was carried out after clearance of all trees and vegetation meaning all wildlife had already relocated; bats hibernate when statement was produced; their hunting site has been destroyed impacting their presence;

Highway safety & traffic

only 6 spaces provided so additional cars and visitors will have to park on road; Padnell Rad a main bus, emergency vehicle & delivery route and access to Hazleton and Cherry Tree estates; busses already struggle to pass badly parked vehicles, and emergency vehicles and bin collection vehicles; street parking will impede traffic flow, its already like driving down a chicane with cars parked both sides; street parking already affected with Nightingale Court, health centre, schools, recreation ground, and community centre which impacts traffic flows; school picking up and dropping off exacerbates local parking congestion; 6 spaces inadequate when most households have 2 cars and makes no allowance for visitors; does not meet HBC parking standards; insufficient cycle storage; opposite St Wilfred's church which causes congestion as vehicles use the church car park during services, weddings and funerals; will add to congestion and traffic fumes and queuing at the traffic lights at junction with London Road; road already at saturation point; extra road side parking will further make reversing out of existing drives difficult; safety risk to many children and parents walking to schools and nurseries; despite yellow lines cars often parked on both sides of roads and on pavements obstructing pedestrians; mobility scooter use affected/endangered by added traffic and parked cars; been previous accidents with children knocked over or knocked off bikes ear site; access to drives is hampered by parked vehicles; parking in road prevented repair/resurfacing works last year; no further development should be permitted until better road communications between existing housing and main arterial roads in the area; proposed development at end of road for 82 dwellings will add to future chaos and "rat-run"; is driveway wide enough for emergency vehicles?; surface of road already disintegrating with cracks and potholes;

Inadequacies of parking survey

Parking survey undertaken during a Sunday evening during Tier 4 restrictions when traffic flow minimal and church closed - gives no valid information re road congestion, pavement parking or buses; unrepresentative of normal activity; timing of report - most houses provide adequate off street parking - on site parking a significant problem during the working day;

Drainage
Site provides natural surface water drainage leading to Hermitage stream and its loss will lead to more local flooding; sub-soil is clay and flooding already occurs during heavy rain; building and associated hard surface constitutes about 3/4 of site curtailing surface water drainage; extra surface water and run-off from large roof will not drain due to clay soil; proposal to drain surface water to sewer is contrary to practice elsewhere; roadside storm drains are insufficient to cope; junction of Park Lane & Winscombe Avenue often flooded; no details of surface water easement provided; soakaways unsuccessful mitigation;

Sewerage
main sewer already struggles and drains sometimes overflow with raw sewage in gardens; additional 6 flats would increase severity & frequency of this problem; the Environment Agency maintain an open case as its a regular occurrence, especially during heavy rain; drains over 100 years old; health hazard to connect more homes - many homes in road have been fitted with non-return valves; additional 6 flats would place unnecessary additional burden on existing sewage system;

Overdevelopment
site suitable for one or 2 dwellings - 6 is excessive and indicates greed of developer wanting to maximise profit without any concern for impacts on local residents; contradicts guidelines for minimum densities;

Devalue house prices
Would lower the values of houses around

Noise & Vibrations during construction works
Could feel vibrations just when carried out some ground tests so major building works will be worse and detrimental to health; construction will be disruptive to residents; loss of trees on site resulted in experiencing more road noise from A3 and London Road traffic; additional light deep into plot would effect sleep patterns;

Pollution - air and light
Additional vehicles will add to particulates in air providing a health hazard to children in nearby infant and junior schools and nurseries in the church and at No.10; additional lighting will effect current dark environment at night; more congestion and fumes; light & noise pollution will extend to middle and rear of plot where currently none;

Existing Use of Site
Site is not/never was a brown field site; it is a greenfield site; contrary to Draft Local Plan vision to focus regeneration of brownfield sites;

Housing Contribution/Local Plan
modest contribution to housing needs is outweighed by other issues; not needed as HBC have met new homes targets; Local Plan identifies a need for 9260 dwellings by 2036; as of Feb 2018 surplus of 289; this site development only makes a small contribution and other larger sites eg site (H46) - Padnell Grange for 85 dwellings, indicates this site not essential in meeting the requirements of the plan; criteria of National Design Guide of Ministry of Housing of enhancing surroundings and a coherent pattern of development are not met;

Fire Regulations
note first floor windows are shown as non-opening and obscure glass - this would contravene fire regulations;

Plan/form errors
Balconies not shown on south elevation; planning forms state there are trees on site when there are not;

Precedent
Other applications for single dwellings have been refused and if granted this will lead to more;

Bins
Bins adjacent to pavement with associated smell; nowhere else on road are bins in sight or close to passing pedestrians;

Other comments
Will not contribute any additional benefits to the local community or its economy; this developer appealed for extra flat on a Romsey scheme;

7 Planning Considerations

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

(i) Principle of development
(ii) Housing land supply and density
(iii) Impact upon the character and appearance of the area
(iv) Impact upon residential amenity
(v) Highways, parking, cycle storage and refuse
(vi) Drainage
(vii) Trees and Ecology
(viii) Compliance with Habitats Regulations

(i) Principle of development

7.2 Although the site has not been occupied by any permanent structure and had until recently been wooded for many years, it nevertheless falls within the defined urban area. Therefore, although not Previously Developed Land (PDL) as defined by the NPPF, i.e. a brown field site, it does represent a site within a settlement policy area with an associated presumption in favour of development, subject to other material considerations.

7.3 Policies CS17 of the Havant Borough Local Plan (Core Strategy) 2011 and AL2 of the Havant Borough Local Plan (Allocations) 2014 direct development to the main urban areas of the Borough and as such the development of this site is considered appropriate in principle, subject to detailed considerations of any adverse impacts. In this case there are a number of detailed considerations appertaining to the design, siting and layout which are detailed below.

(ii) Housing land supply and density

7.4 The Borough's five year housing land supply was updated in February 2021. This indicates the Council has 4.2 years supply with a 20% buffer applied. This is below the five year supply threshold and as such paragraph 11d of the NPPF applies. This does not follow that there is a tilted balance in favour of permission being granted – permission can be refused where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

7.5 The proposal would result in the provision of 6 residential units and it is recognised that the development would therefore make a contribution towards the Council's housing need. Given the limited scale of development this contribution would be relatively modest and would make an undiscernible contribution to housing land supply in the context of the overall planning balance.

7.6 In terms of densities, the provision of 6 flats on a site comprising 0.107 ha results in a density of 56 dpha. The NPPF supports development that optimises the use of land and emerging policy H3 in the Submission Havant Borough Local Plan, 2021 specifically seeks to maximise residential development's contribution to housing need by identifying minimum densities for differing accessible areas. This site would fall within clause c) under this emerging H3 policy with a minimum density of 40 dph sought. The proposal therefore meets this aim and can be considered to make efficient use of the site.

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

7.7 The site is located within an urban area predominately characterised by detached chalet style and two storey dwellings set in a linear arrangement. In street scene terms, the height and two storey scale of the proposed front, north elevation, would represent a logical infill between the adjacent chalet bungalow at number 32 and the two storey semi-detached dwelling at number 26. The proposed ridge line would match number 26 and the use of hipped roof would minimise visual bulk to the street scene.

7.8 Separation to number 32 benefits from a Southern Water easement, but to number 26 is only some 0.5m. However in visual terms number 26 only has single storey development to the shared boundary so the two-storey to two-storey separation would be some 4.5m. This upper level and roof line sense of space, skyline and separation between properties is considered comparable to other spacings in the vicinity and appropriate to the spatial characteristics of the area.

7.9 Therefore, in pure front elevation terms alone, the height, scale and design of the proposal is considered visually appropriate and compatible with the character of the area. However, in terms of footprint, with a depth of 24.5m, the proposed building would be much larger and deeper than others on the south side of Padnell Road. Its siting on the plot would encroach far beyond the established rear building line of properties on this side of the road and would be of an uncharacteristic depth and scale, not in keeping with the pattern of development in the vicinity. Additionally it is noted that the extensive hard surfacing to provide frontage parking to serve a flat scheme would also be out of character with the area - even Nightingale Lodge and the church opposite have rear car parks and retain landscaped frontages. The layout and siting of the proposed flat scheme is considered to be at variance with the layout of linear residential dwellings in the area and would be harmful to the visual characteristics of the area.

7.10 Whilst the scale of footprint of Nightingale Lodge and St Wilfreds church opposite are noted, these are staggered away from their respective shared boundaries with residential neighbours. The planning histories and merits of these developments (the church and vicarage would have been part of the historic settlement of the area) are not considered relevant to the current application which must be considered on its own merit.

7.11 Furthermore, oblique views of the long side elevations would also be possible from the public street scene, exacerbating the sense of size and scale of the proposed development. Overall, it is considered that due to the excessive footprint size, depth of building proposed, siting and layout within the plot, the proposed development would not be in keeping with the pattern and character of the south side of Padnell Road. Policy CS16 requires developments to respect local context and clause c) specifically requires, amongst other issues, that existing building lines and depths are used to inform designs. Emerging policy E1 of the Submission Havant Borough Local Plan, 2021 continues the requirement to consider characteristics such as building lines and depth, and the proposal would therefore remain contrary to this emerging policy. It is considered that the proposed development fails to respect that pattern of local development and would be contrary to adopted policy CS16 and emerging policy E1.

(iv) Impact upon residential amenity

7.12 Due to the size and design of the development and its siting within the plot, it is considered that the impact on the immediate neighbours would be harmful. The presence of a two storey building extending some 13 to 14m beyond the rear elevations of numbers 26 and 32 would undoubtedly be detrimental to their outlook and enjoyment of both their main habitable rooms and gardens. The introduction of such a large development would have a dominant and overbearing effect on the amenities of neighbours. The structure would be clearly visible from several gardens along in both directions and its significant bulk an incongruous feature in private rear outlooks.

7.13 In terms of overshadowing from the proposed building, shading diagrams are provided within the submitted Design & Access Statement for the spring equinox. Due to the orientation of the site, the greatest impact and overshadowing would be early morning to number 26 and late afternoon to number 32. It is the significant loss of late afternoon sun to number 32's private sitting out area and main habitable windows in their rear elevation that is considered harmful to the current enjoyment of their outdoor space. This overshadowing and loss of sunlight during the late afternoon and early evening would be harmful to the amenity of the occupies of number 32.

7.14 Both numbers 26 and 32 have private sitting out areas to the immediate rear of their properties and the proposed first floor side windows would have a direct line of sight into those private gardens, as well as down into the orangey/lantern light of number 26 and side dormer of number 32. Whilst it is noted that the proposed first floor side windows are offered as obscure glazed with only fan light openable, nevertheless their sheer presence would lead to a perception of continual overlooking and loss of privacy.

7.15 Furthermore, the proposal includes 2 rear first floor balconies. These are each proposed with a depth of 1.5m so large enough for small table and chairs. Side screens are inconsistently proposed on the elevation drawings and would not adequately mitigate the harm from the use of the balconies. The use of these balconies, at first floor level, sited approximately half way down the neighbours rear gardens, would introduce a level of noise and disturbance with potential for overlooking within a previously quiet and private area. Furthermore the comings and goings associated with 6 flats, and in particular the location of the main entrance serving 5 of the flats on the east side, adjacent the rear of number 32, would result in an intensification of use and disturbance to the otherwise quiet enjoyment of number 32. This entrance would need to be lit and the activity and light associated with comings and goings at all times of the day and night would be intrusive. This introduction of disturbance and loss of privacy would be harmful to neighbouring amenity.

7.16 Overall the proposed development is considered to have a detrimental and harmful impact on neighbours amenity from loss of outlook, overshadowing (to number 32), loss of privacy, and noise and disturbance, contrary to adopted policy CS16, in particular clause e) and emerging policy E1 clause vi).

(v) Highways, parking, cycle storage and refuse

7.17 Hampshire Highways have not objected to the provision of a new 4.8m wide access to serve the proposed development on this unclassified road, being satisfied that adequate visibility splays would exist. There is therefore no highway safety objection to the proposed new access and its use.

7.18 However the on site parking provision falls below that required by the adopted Parking SPD, 2016. Table 4A of this document sets out allocated parking requirement and for the proposed 2No 2 bed units and 4No 1 bed units, 8 on site spaces would be required to serve the development. However if the spaces were unallocated, then table 4B applies and the requirement would be 6.2 spaces. In addition table 4D sets out the cycle storage requirement which would equate to 8 long stay, secure spaces.

7.19 The proposed layout provides 6 on site parking spaces and one twin cycle locker ie for 2 bikes. The application is supported by a Transport Statement which includes a parking survey undertaken at 22.00 on Sunday 6/12/20 and 22.00 on Wednesday 9/12/20.

7.20 Overwhelmingly the 35 letters of objection all refer to the lack of on street parking due to the sites context near schools, nurseries, the health centre, opposite the church etc and the fact that Padnell Road is a busy through road and bus route. Local residents evidence parked cars in Padnell Road at busy times of the day, especially school drop off and collection times and church services/events. These parked vehicles and buses at the nearby bus stops allegedly then affect the flow of traffic.

7.21 Whilst the shortfall of on-site parking is minimal if based on unallocated parking, nevertheless the lack of any drop off, servicing, visitor space to serve the development is concerning. Realistically delivery vehicles will frequently need to stop at the site to serve future residents. The parking survey to justify the shortfall was undertaken during the Covid pandemic when Tier restrictions were in place limiting normal traffic movements. The submitted survey does not meet the guidelines set out in paragraph 4.33 of the Parking SPD which requires surveys to be carried out over a whole week at a variety of times throughout the day. By omitting the peak daytime demand times the results are not considered representative of the parking conditions in the vicinity of the site.

7.22 The under provision of on site parking spaces is considered to lead to increased demand for on street spaces which has not adequately been demonstrated to be available. Such increased pressure for overflow on street parking would be harmful to the highway amenity and flow of traffic in Padnell Road, contrary to policy DM13. Additionally there is a shortfall of secure cycle storage proposed with only 2 bike spaces provided instead of 8. It is however accepted that the site is of adequate size to provide a secure shed for 8 bikes in the rear garden area and if permission had been recommended then this matter could be subject to condition.

7.23 With respect to refuse collection provision, the current siting of the bin store, next to the road, would be both unsightly and prominent in the street scene, and has been noted by Building Inspectors to exceed the distance for residents to travel of 30m. If permission had been recommended these matters would have been subject to negotiation and amendment.

(vi) Drainage

7.24 Southern Water have indicated that the additional foul sewerage flows from the proposed development may lead to increased risk of flooding from the sewer network. This is endorsed by third party comments that also refer to inadequate sewerage system that overflows.

7.25 Southern Water have confirmed they would provide any network reinforcements to mitigate the problem but the timing of delivery would need to align with the proposed occupation (should permission be granted). To take account of time to monitor, design, construct and deliver, any network reinforcements could take up to 24 months from any planning consent and therefore Southern Water request that occupation is conditioned to be phased to align with delivery of sewerage network improvements.

7.26 Since such infrastructure works are outside the application site and applicants control, this would be a matter for a Grampian style condition if permission were granted. However the lack of adequate drainage infrastructure to serve the proposed development would not be a direct reason for refusal.

(vii) Trees and Ecology

7.27 As noted by third parties the site has been cleared of previous trees and vegetation, destroying any wildlife it once supported. Whilst this is regrettable, the trees were not protected by any Tree Preservation Order and no breach of planning legislation has occurred. The proposed development is sufficiently distanced from the TPO'd trees to the rear of the site to have no adverse impact on their health.

7.28 The application is supported by an Ecological Assessment which notes the current lack of nature conservation features but recommends mitigation measures of avoiding illuminating the trees to the rear and care in removal of debris re potential hedgehogs on the site. It goes on to recommend ecological enhancements are provided with native planting, bat and bird nest boxes and provision of hedgehog highways in the boundary fences. Had permission been recommended then provision of these enhancements could be conditioned.

(viii) Compliance with Habitats Regulations

7.29 The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several Solent European Sites (as defined in the applications HRA) due to both the increase in recreation and the decrease in water quality that would be a result of the proposed development of 6 new residential units.

7.30 The planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement and Mitigation Plan for Nutrient Neutral Development.

7.31 With respect to the Solent Recreation Mitigation Strategy the applicant has entered into a Unilateral Undertaken and paid the appropriate sum of £2,635.40 to address the potential recreational harm from the new development. Therefore it is considered that this recreational element of the impacts of development have been adequately mitigated against.

7.32 With respect to the water quality issue and the Councils updated Position Statement, August 2020, the applicant has been able to enter into the mitigation scheme at Warblington Farm to offset the nitrogen from the development. During the course of resolving this issue Natural England advised that for the purposes of the nitrogen budget the existing land use should be classified as greenspace, and corrected a rounding error in the nitrogen budget submission. The agent co-operated with the need for addendum and uplift payments and Unilateral Undertakings. As a result, correct signed Unilateral Undertaking has been received, together with the appropriate total contribution of £7,344.90 as nutrient mitigation. This is based on the development achieving a water efficiency of 110 l/p/p/d and to ensure these measures are provided as part of the development, and for ongoing compliance, if permission were being recommended it would be necessary to add 2 conditions.

7.33 The Appropriate Assessment concluded that these mitigation packages are sufficient to remove the significant effects on the 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) who have confirmed that they agree with the findings of the assessment and raise no further objection. The monies are refundable in the event of a dismissed appeal and the applicant has chosen to resolve these matters at this stage, despite the recommendation of refusal. This will ease any appeal process.

8 Conclusion

8.1 In conclusion, it is acknowledged that the development would be of an appropriate density to make efficient use of the land; would make a relatively modest contribution to housing land supply and has assessed and removed the significant effect on the European Sites in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). However the scale and depth of the building proposed, its siting and design would be out of character with the pattern of development in the area and have an adverse impact on neighbouring residential amenity. Additionally the lack of adequate on site parking would lead to pressure for on street parking which has not been demonstrated to be available at peak times and would harm highway amenity. The adverse impacts from the development are considered to significantly and demonstrably outweigh the benefits, and as such the proposal is recommended for refusal.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/21/00024 for the following reasons

1 The proposed development, by reason of its footprint size, depth and siting, would be not be in keeping with the pattern and character of linear development on the south side of Padnell Road, and would fail to respect building lines and depths. The layout including frontage car park would be out of keeping with the area and visually harmful to the street scene. The proposal is considered to be at variance with the local context and contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy E1 of the Havant Borough Local Plan Submission version, Havant Borough Council Borough Design Guide SPD 2011 and National Planning Policy Framework.

2 The proposed development, due to its excessive depth, siting and design including first floor side windows and rear balconies, adjacent to existing residential property, would have an overbearing and dominant effect, harmful to neighbours amenity from loss of outlook, overshadowing (to number 32) and loss of privacy. The noise and disturbance from increased activity associated with comings and goings and use of balconies would be intrusive and harmful to the quiet enjoyment of neighbours amenity. The proposal is considered harmful to residential amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy E1 of the Havant Borough Local Plan Submission version Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

3 The under provision of on-site parking spaces would lead to an increased demand for on-street parking which has not been adequately demonstrated to be available at peak times. The increased pressure for parking on the public highway would be harmful to highway amenity and further interrupt the free flow of traffic in Padnell Road, contrary to adopted policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011, emerging policy IN3 of the Havant Borough Local Plan Submission version and the National Planning Policy Framework.

APPENDIX D

Havant BOROUGH COUNCIL

Habitats Regulations Assessment (HRA)
Screening and Appropriate Assessment (AA)

PLEASE NOTE: Undertaking the HRA process is the responsibility of Havant Borough Council as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

HRA drafting date:	14/04/21
HRA completion date:	05/05/21
Application reference:	APP/21/00024
Application address:	Land between 26-32 Padnell Road, Waterlooville
Application description:	Erection of block of 6 flats with associated parking and bin/cycle storage
Lead Planning Officer:	Tina Pickup NOTE – REVISED HRA AA taking into account updated use of existing land as Open space/Greenfield with correct Nitrogen Budget of 5.9
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017 (as amended).	

Stage 1 - details of the plan or project	
European site potentially impacted by planning application, plan or project:	▪ Chichester & Langstone Harbours Special Protection Area (SPA) ▪ Chichester & Langstone Harbours Ramsar site ▪ Solent Maritime Special Area of Conservation (SAC) ▪ Solent and Dorset Coast Special Protection Area (SPA) ▪ Solent and Southampton Water SPA ▪ Solent and Southampton Water Ramsar ▪ Portsmouth Harbour SPA ▪ Portsmouth Harbour Ramsar ▪ Solent and Isle of Wight Lagoons SAC (Hereafter known as the Solent European Sites)
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other projects or plans that together with the planning application being assessed could affect the site?	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity in combination with other development in the Solent area due to increase in recreational pressure.

	All new housing development that would drain to the Budds Farm or Thornham Wastewater Treatment Works due to increase in nitrogen deposition leading to a reduction in water quality. The PUSH Spatial Position Statement (https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire.

Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

Recreational Pressure

The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. In accordance with advice from Natural England and as detailed in Policy DM24 of the adopted Havant Borough Local Plan (Allocations), Policy E16 of the Pre-Submission Havant Borough Local Plan and the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites.

The proposed development represents a net increase in residential dwellings. Paragraph 6.4 of the Solent Recreation Mitigation Strategy sets out that the “developer contribution will be required for every net additional dwelling within 5.6 kilometres of the boundaries of the Solent Special Protection Areas” (see para 6.3).

As a result, there would be a likely significant effect to the Chichester & Langstone Harbours SPA due to recreation.

Water Quality

The proposed development is within the catchment of a wastewater treatment works that would drain into the Chichester and Langstone Harbours SPA.

Natural England advises that there is a likely significant effect on the Solent European Sites due to the increase in wastewater from the new housing as a result of the Havant Borough Local Plan. Natural England also advises that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the Solent’s European Sites.

Natural England advise that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. This causes eutrophication, which affects vegetation growth and food resources for qualifying species such that it affects the status and distribution of those species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites. The Partnership for South

Hampshire (PfSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PfSH region to accommodate future housing growth without having a detrimental effect upon the water environment. There is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

Natural England recommends that any new proposals which include overnight accommodation have inevitable wastewater implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Habitats Regulations. Nonetheless, the existing use of the site can be taken into account and it is the 'net' nutrient emissions into European Sites that is critical.

This would need to be examined within an appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account.

As a result, there would be a likely significant effect to the following Solent European Sites due to water quality:

- Chichester & Langstone Harbours Special Protection Area (SPA)
- Chichester & Langstone Harbours Ramsar site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Special Protection Area (SPA)
- Solent and Southampton Water SPA
- Solent and Southampton Water Ramsar
- Portsmouth Harbour SPA
- Portsmouth Harbour Ramsar

Solent and Isle of Wight Lagoons SAC

Would the proposal lead to a likely significant effect on European site integrity? Yes, due to recreational pressure and water quality loss/degradation of supporting habitats and construction impacts.
(If yes, continue to Stage 3).

Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

Recreation Pressure
The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations), Policy E16 of the Pre-Submission Havant Borough Local Plan and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

Havant Borough Council formally adopted the Solent Recreation Mitigation Strategy in February 2018. The SRMS provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Size of units	Scale of mitigation per unit	Amount proposed in this scheme	Cost
1 bedroom	£361.00	4	£1,444.00
2 bedroom	£522.00	2	£1,044.00
3 bedroom	£681.00	0	£0.00
4 bedroom	£801.00	0	£0.00
5 bedroom	£940.00	0	£0.00
Flat Rate (Caravan/ Tent Pitches)	£604.00	0	£0.00

Monitoring fee[1] for this scheme:	£124.40
Administration fee[2] for this scheme:	£23.00
TOTAL AVOIDANCE AND MITIGATION PACKAGE:	**£2,635.40**

[1]Monitoring fee is 5% of total mitigation cost

[2]Administration fee is £23 per application

Policy E16 of the Pre-Submission Havant Borough Local Plan and sets out HBC's approach to securing the appropriate mitigation measures to address the in-combination impact of increased recreational disturbance arising from increased housing development. It states:

"Planning permission will be granted for residential development resulting in a net increase in population that mitigates a likely significant effect on the Solent SPAs"

A legal agreement will be necessary to secure the mitigation package. The applicant has confirmed through a European Site Avoidance and Mitigation Checklist that they commit to providing a mitigation package. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore the development will not act against the stated conservation objectives of the European sites.

Water Quality

The project being assessed would result in an increase in population in the catchment of several Solent European Sites as set out in stage 2. As advised by Natural England, a permanent significant effect on the Solent European Sites due to the decrease in water quality as a result of new development, is likely. As such, in order to lawfully be permitted, further assessment is needed as to the net nutrient emissions from the site, including any avoidance or mitigation measures proposed.

Havant Borough Council has published a Position Statement and Mitigation Plan for Nutrient Neutral Development. This sets out how mitigation can be provided to enable development to take place within Havant Borough whilst avoiding any likelihood of a significant effect on the Solent European Sites identified in stage 2.

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, based on the existing use of the site comprising open space/greenfield land for HRA AA purposes. This calculation has confirmed that the site will emit a nutrient load into any European Sites. The revised Nutrient Budget calculations for this development site are part of the application case file.

Achieving a position where there are no net nutrient emissions into the Solent European Sites from this development involves the use of a specific on-site avoidance measure as well as the use of Warblington Farm as a specific off-site mitigation measure. The scientific report 'Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough' is available at www.havant.gov.uk/nitrogen which confirms suitability of the use of Warblington for nutrient mitigation to mitigate for development in Havant Borough.

As set out in the Position Statement and Mitigation Plan for Nutrient Neutral Development, an appropriate scale of mitigation for this scheme would be:

Amount of mitigation required kg/N[1]	Cost of mitigation
5.90	£7,321.90
Administration Fee[2]	£23.00
Total avoidance and mitigation package for nutrient neutrality:	£7,344.90
[1]Please refer to the nutrient budget for the final figure of mitigation required	
[2]Administration fee is £23 per application	

A legal agreement will be necessary to secure this avoidance and mitigation package in perpetuity. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the water quality of the Solent European Sites and therefore the development will not act against the stated conservation objectives of the Solent European Sites.

Please note mitigation based on 5.8 Kg/N, i.e. £7,220.80 has already been received; this amended HRA AA updates to correct 5.9 Kg/N and therefore seeks the uplift contribution of £124.10

Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

This assessment represents Havant Borough council's Appropriate Assessment as a Competent Authority in accordance with requirements under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended), Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework.

This assessment concludes that the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above Solent European sites.

The authority has concluded that the adverse effects arising from the proposal are wholly consistent with the effects detailed in the Solent Recreation Mitigation Strategy with regards recreational disturbance. The adverse effects are also consistent with the effects detailed in the Position Statement and Mitigation Plan for Nutrient Neutral Development with regards water quality.

The authority's assessment is that the application complies with these strategies and the potential to provide mitigation to remove the significant effects that otherwise would have been likely. It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

Natural England Officer:

Summary of Natural England's comments:

The nutrient budget calculation dated 13th April 2021 which calculates a positive nitrogen burden of 5.9kg/TN/yr 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.

Please note the calculation is based on all wastewater from the development being treated at Budds Farm WwTWs. If this situation changes, a reassessment of the nutrient calculation will be required and a revised Habitats Regulations Assessment will be necessary.

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.

Noted use of HBC's mitigation scheme at Warblington Farm and concur that this scheme will deliver effective mitigation. Provided mitigation secured through legal agreements and delivered for lifetime of the development, capacity available and long-term management of the mitigation scheme is monitored by the LPA, NE raises no further concerns.

APPENDIX E

[redacted]

The potential effects of new residential development on the Chichester and Langstone Harbour SPA can be summarised as follows:

Potential Effect	Site Conservation Objective(s)	Qualifying features	Potential for Impact?	Relevant Mitigation Measures
Decrease in survival rates and populations of over-wintering birds due to increase in disturbance, caused by increasing human population (in combination with other plans and projects)	Maintain or restore the population of each of the qualifying features. Maintain or restore the distribution of the qualifying feature within the site.	All for Chichester and Langstone Harbours SPA.	Yes. Indirect impact. Without mitigation, bird populations would be reduced and/or re-distributed by increased numbers of visitors leading to increased disturbance	Bird Aware Solent Strategy The Strategy proposes:- • a team of 5-7 coastal rangers to advise people on how to avoid bird disturbance, liaise with landowners, host school visits, etc.; •communications, marketing and education initiatives; • initiatives to encourage responsible dog walking; • preparation of codes of conduct for a variety of coastal activities; • site-specific projects to better manage visitors and provide secure habitats for the birds; • providing new/enhanced greenspaces as an alternative to visiting the coast;

Further details 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

APPENDIX F

THIS **UNILATERAL UNDERTAKING** is made by **DEED** on the (to be inserted by Havant Borough Council 31st of March 2021)

AND GIVEN BY

D K & R Properties Ltd incorporated and registered in England and Wales with company number 7307410 whose registered office is at Unit 5, Frobisher Industrial Centre, Budds Lane, Romsey SO51 0EZ

Alwyn DeSouza of Fishlake, Greatbridge Road, Romsey SO51 0HB **Owner**

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 £2,488.00 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 Land between 26-32 Padnell Road, Waterlooville.

Monitoring Fee: the sum of £124.40 (calculated as 5% of the Contribution).

Planning Application: an application for planning permission registered by the Council on 21 January 2021 under reference number APP/21/00024.

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 [INSERT NAME]

Signature: .....

in the presence of:

Witness signature .....

Witness name .....

Witness address .....

.....

Witness occupation .....

[FOR COMPANIES OPTION 1]

Executed and delivered as a deed by

acting by two directors

.....

Director

.....

Director

[FOR COMPANIES OPTION 2]

Executed and delivered as a deed by D K & R Properties Ltd acting by Alwyn DeSouza by a director

[redacted]

.....

Director

in the presence of:

[redacted]

Witness signature

Witness name

Witness address

Witness occupation

APPENDIX G

Local Plan

Havant BOROUGH COUNCIL

Position Statement and Mitigation Plan for Nutrient Neutral Development

August 2020

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1. Introduction

1.1 Havant Borough benefits from its position on the Solent coast which is internationally designated for its wildfowl and wading species. This creates a high-quality natural environment highly worthy of protection for both its intrinsic value as well as its value in making Havant Borough an attractive place to live, work and study. The Council also takes seriously the requirement under the National Planning Policy Framework "to support the Government's objective of significantly boosting the supply of homes". The Council has an ambitious regeneration agenda and development strategy set out in the Havant Borough Local Plan and Regeneration Strategy.

1.2 Nonetheless, the Council is committed to development only taking place if it is sustainable development that includes relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality on any European Designated Nature Conservation Sites.

1.3 New development necessitates the provision of connections to the foul water drainage network and can increase surface water run-off. This could increase the amount of nutrients entering Solent European Sites, even if it is a proportionately small contribution.

1.4 New housing schemes and other proposals which include a net gain in overnight accommodation or development which has a high volume of water use will need to prevent any increase in nutrients into the harbour in order for them to be 'nutrient neutral' if they would otherwise lead to a likely significant impact on a European site.

The Habitats Regulations

1.5 Under the Conservation of Habitats and Species Regulations (2017 as amended) (hereafter referred to as the Habitats Regulations), there are significant responsibilities conferred on the Council as a 'competent authority'. Chiefly, it requires the Council to only approve plans or projects (such as planning applications or a local plan) if there is no likelihood of a significant effect on any European designated nature conservation site.

1.6 A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water quality, increase in recreation, light pollution, tall buildings or construction activity.

1.7 In order to assess whether planning applications would lead to a 'likely significant effect' a Habitats Regulations Assessment (HRA) is carried out. This generally includes an Appropriate Assessment (AA), which is the second more detailed stage[1] of an HRA. Natural England must be consulted on the findings of an HRA and there is a duty to consider their response.

1.8 A potential effect would be considered 'likely' if it cannot be ruled out based on the information available as opposed to it merely being probable or possible. When then moving to the appropriate assessment stage, an established principle under law is that AAs must use the 'precautionary principle'. An appropriate assessment must enable the local planning authority to apply the

[1] This is set out in Regulation 63 of The Habitats Regulations.

regulation 63(5) “integrity test” on a “precautionary basis”. Authorisation may only be given if the competent authority has made certain there will be no adverse effect on the integrity of the site and where no reasonable scientific doubt remains. It must therefore be shown that there would not be no likelihood of a significant effect in order for the Council to lawfully grant planning permission.

1.9 The need for Habitats Regulations Assessments has existed since 2004 when the original regulations came into force. It has been known for many years that new development does lead to an increase in recreation at the coast and that this has an impact on the birds which use the coastal mud flats to feed and roost (this is a ‘likely significant effect’). As a result, mitigation is required from all new development which is then used to fund the Bird Aware Partnership, of which the Council is a member. The partnership implements the mitigation scheme, largely consisting of a ranger patrols along the coast. This is an established part of the development process at the Solent.

The Dutch Case

1.10 The European Court of Justice determined a case related to considering water quality in Appropriate Assessments in late 2018. This generally referred to as The Dutch Case[2].

1.11 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.

1.12 As a result, the only way that a new housing 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’.

The purpose of this Position Statement

1.13 This Position Statement sets out the Council’s approach to new development which is likely to have an adverse effect on the integrity of the Solent European sites. It provides guidance on how the nutrient load of new development should be calculated, and how an increase in nutrients into the harbour should be mitigated in order for development to be ‘nutrient neutral’.

1.14 The statement also includes an ‘Mitigation Plan’ which sets out specific measures which will be implemented to mitigate development in Havant borough. It indicates how the scale of mitigation should be calculated. If mitigation is shown to be necessary this Position Statement will also allow applicants to calculate the level of mitigation, in the form of a financial contribution, which will be required from the proposed development.

Water Quality and the European Designated Nature Conservation Sites

1.15 Eutrophication is increased plant growth which reduces the oxygen content in water and occurs when an excessive amount of nutrients within a water body are present. This process makes it difficult for aquatic insects or fish to survive, in turn removing a food source from the food cycle.

1.16 Addressing the sources of eutrophication reduces the input of nutrients into the internationally designated marine environment. However, if the issue of eutrophication is not addressed, it could have a negative impact on the marine environment and the conservation objectives of the European designated nature conservation sites (see below).

[2] 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

1.17 Water quality can be measured by chemically testing water samples. Chemical testing can test for parameters such as nitrogen and phosphates which are indicators of poor water quality.

1.18 Nutrients from wastewater treatment works represent one source of excess nutrients in the marine environment. However, it is not the only source, nor is it generally the highest. Agriculture in particular typically represents a higher level of input of nutrients into the marine environment than wastewater treatment works.

1.19 There are two wastewater treatment works that serve Havant Borough: Emsworth drains to Thornham, the rest of the Borough drains to Budds Farm. Development on the boundary of the catchment areas will need to seek confirmation from Southern Water as to which wastewater treatment works it would be served by as this will depend on the network in that area.

1.20 Whether an effect would be significant depends on whether it would threaten the specific features and conditions of the protected sites concerned by the plan or project. In the case of water quality and the Solent's European Sites, the condition varies site by site. However none are fully favourable and many are not recovering[3]. As such, any further deterioration of water quality at those sites, no matter how small, can be considered likely to cause a significant effect on those sites in terms of the application of the Habitats Regulations.

1.21 As such, it has been confirmed that development draining to Budds Farm Wastewater Treatment Works and Thornham Waste Water Treatment Works would be likely to lead to a significant effect on the following European Sites:

- Chichester & Langstone Harbours Special Protection Area (SPA)
- Chichester & Langstone Harbours Ramsar site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Special Protection Area (SPA)
- Solent and Southampton Water SPA
- Solent and Southampton Water Ramsar
- Portsmouth Harbour SPA
- Portsmouth Harbour Ramsar
- Solent and Isle of Wight Lagoons SAC

[3] More information regarding this is contained in *Review of the Need for Nutrient Neutral Development in the Budds Farm Wastewater Treatment Works* catchment available at /www.havant.gov.uk/localplan/evidence-base

2. Development Management Process

Development schemes that could be affected

2.1 A large number of schemes are likely to result in a significant effect on the European Sites. The key test is whether there would be an increase in nitrogen emissions into one or more European Sites once the development is occupied compared to if it was not built.

2.2 The advice below is general in nature and does not remove the necessity to discuss this matter through a pre-application enquiry at an early point in the development process.

2.3 It is also possible that there is another likely significant effect from the proposed development. It has already been noted that a large amount of development in the Borough, if not mitigated, would be likely to cause a significant effect due to recreational disturbance. This is generally addressed through the Bird Aware Solent Mitigation Scheme and a separate mitigation package. However, as set out above, there are many less common reasons why a significant effect may be caused and it is incumbent upon applicants to familiarise themselves with the issues involved.

2.4 All of Havant Borough is within the catchment of a Wastewater Treatment Works that drains into a Solent European site. As such, all of the Borough is affected.

Types of applications that will be affected

2.5 Full and outline planning applications for applicable uses are affected and so an avoidance and mitigation package will be needed.

2.6 It is the Council's advice to the Planning Inspectorate[4] that any planning appeals for applicable uses should include an avoidance and mitigation package to remove any likelihood of a significant effect.

2.7 Any increase in residential dwellings that takes place as permitted development must undertake a separate HRA through Regulations 75 and 77 of the Habitats Regulations. Such assessments will need to consider water quality. Mitigation packages for such development will be needed on the same basis as those for dwellings that require planning permission.

Residential (C3) dwellings

2.8 Any residential development would lead to an increase in nitrogen and thus would be likely to cause a significant effect.

2.9 In this context, 'dwelling' also includes net new dwellings created through the sub-division of existing dwellings, second homes, dwellings to be used as holiday accommodation, houses in multiple occupation, self-contained student accommodation, and new dwellings created as a result of approval granted under the General Permitted Development Order e.g. change of use from office to residential (including houses and flats). It includes permanent accommodation for gypsies and

[4] In a scenario where an applicant has appealed to the Secretary of State (in practice the Planning Inspectorate) against a refusal of planning permission, the Planning Inspectorate become the Competent Authority under Regulation 63 of the Habitats Regulations. As part of this, they will need to undertake an assessment under that regulation.

travellers. Temporary/transit pitches will be assessed on a case-by-case basis by the local planning authority in consultation with Natural England.

Other forms of development providing overnight accommodation

2.10 There is a range of development other than C3 dwellings which provides overnight accommodation. Most commonly, this includes care homes and other forms of housing for older people and hotels.

2.11 Such development would be considered to increase nitrogen and thus would be likely to cause a significant effect. This is due to such development housing people who otherwise would not have been in the catchment of a wastewater treatment works which drains to a Solent European Site.

Commercial and other non-residential development

2.12 Non-residential development is unlikely to lead to a significant effect as it would not involve a net increase in population in the catchment.

2.13 However in some cases there would be a significant effect due to the type of operation. In particular, high water use developments would be likely to cause a significant effect. Such schemes would be considered on a case by case basis. It is recommended that any high-water use developments engage with Natural England's Discretionary Advice Service prior to preparing a nutrient budget for submission as part of a pre-application enquiry to the Council.

How applications will be considered and what information is needed to assess the 'likely significant affect'

2.14 It is necessary for the Council, as the competent authority under The Regulations, to undertake a Habitats Regulations Assessment, including Appropriate Assessment (AA), on any development that it is considered could lead to a likely significant effect on a European Site.

2.15 The Council has undertaken HRAs on applications for many years as there has been an acknowledged significant effect from recreation since 2014, with new development providing mitigation packages. For the avoidance of doubt, a mitigation package will be needed for water quality and recreation for the vast majority of residential developments.

2.16 It is incumbent on the applicant to provide all of the information necessary to undertake that assessment. When submitting planning applications, applicants will need to submit the following information to set out how any likely significant effects on Solent European Sites will be mitigated through the application:

- A site-specific nutrient budget, using Natural England's methodology
- A European Sites Mitigation Checklist (see Appendix A of this Position Statement)

2.17 As part of the overall nutrient budget, development will be expected to achieve a maximum water use standard of 110 litres per person per day (l/p/p/d) which will be secured via two conditions. The planning conditions used are as follows:

1. 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.

2. 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 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"

Calculating a nutrient budget

2.18 All development which results in a net-increase of overnight accommodation or a development which has a high water use will be required to submit a nutrient budget as part of their application.

2.19 To calculate the nutrient load of any development Natural England has created a methodology[5] containing the following stages which can be summarised as follows and contains examples for each stage:

Stage 1

Calculates the total nitrogen in kilograms per annum which is derived from development that would exist the Wastewater Treatment Works after treatment. For any housing developments on brownfield sites, stage one and stage 4 are the only stages that will need completing in order to establish the scale of mitigation that will need to be provided.

STAGE 1 - WORKED EXAMPLE TO CALCULATE TOTAL NITROGEN (TN) LOAD FROM DEVELOPMENT WASTEWATER

Step	Measurement	Value	Unit	Explanation
Development proposal	Development types that would increase the population served by a wastewater system	1000	Residential dwellings	
Step 1	Additional population	2400	Persons	Uses an average household size of 2.4 x 1000 dwgs (greenfield site).
Step 2	Wastewater volume generated by development	264,000	litres/day	2400 persons (step 1) x 110 litres. Where relevant, deduct wastewater volume of population displaced by the proposed development.
Step 3	Receiving WwTW environmental TN permit limit. Assume discharge to be at 90% of consent limit.	8.1	mg/l TN	90% of the consent limit = 8.1 mg/l TN.
Step 4	Deduct acceptable TN loading (@ 2 mg/l TN) (as defined in paragraph 4.40)	6.1	mg/l TN	8.1 (step 3) – 2 mg/l TN
Step 5	TN discharged after WwTW treatment	1,610,400	mg/TN/day	264000 (step 2) x 6.1 (step 4) =1,610,400
Step 6	Convert mg/TN to kg/TN per day	1.6104	Kg/TN/day	Divide by 1,000,000
Step 7	Convert kg/TN per day to kg/TN per year	587.8	Kg/TN/yr	1.6104 x 365 days
Wastewater total nitrogen load	**587.8 kg/TN/yr**			

[5] Available at https://www.push.gov.uk/2020/03/18/natural-englands-latest-guidance-on-achieving-nutrient-neutrality-for-new-housing-development/

Stage 2

Calculates the existing nitrogen load from the current land use of the development site.

STAGE 2 - WORKED EXAMPLE TO CALCULATE NITROGEN LOAD FROM CURRENT LAND USE				
Step	**Measurement**	**Value**	**Unit**	**Explanation**
1	Total area of existing agricultural land	40	Hectares	This is the area of agricultural land that will be lost due to development
2	Identify farm type and confirm nitrate loss.	26.9	Kg/ha/yr	The developable area covers several farm types therefore an average has been used. Reference Appendix 1 and Table 2
3	Multiply area by nitrate loss	1,076	Kg/N/yr	40 ha x 26.9 kg/N/yr
Nitrogen load from current land use	1,076 Kg/N/yr			

Stage 3

This calculates the nitrogen load from the proposed land uses for the development site.

STAGE 3 - WORKED EXAMPLE TO CALCULATE NITROGEN LOAD FROM FUTURE LAND USES				
Step	**Measurement**	**Value**	**Unit**	**Explanation**
1	New urban area	38	Hectares	Area of development that will change from agricultural land to urban land use
2	Nitrogen load from future urban area	543.4	Kg/N/yr	38 ha x 14.3 Kg/N/yr
3	New SANG / open space	2	Hectares	Area of development that will change from agricultural land to SANG / open space
4	Nitrogen load from SANG / open space	10	Kg/N/yr	2 ha x 5.0 Kg/N/yr
5	Combine nitrogen load from future land uses	553.4	Kg/N/yr	543.4 Kg/N/yr + 10 Kg/N/yr
Nitrogen load - future land uses	553.4 Kg/N/yr			

Stage 4

This takes all the above stages and calculates the net nitrogen load that would result from development.

STAGE 4 - WORKED EXAMPLE TO CALCUATE THE NET CHANGE IN NITROGEN LOAD FROM THE DEVELOPMENT

Step	Measurement	Value	Unit	Explanation
1	Identify nitrogen load from wastewater (stage 1)	587.8	Kg/TN/yr	See Table 1
2	Calculate the net change in nitrogen from land use change - subtract existing land uses nitrogen load (stage 2) from future land uses nitrogen load (stage 3)	-522.6	Kg/TN/yr	553.4 (stage 3) - 1076 (stage 2) = -522.6 Kg/TN/yr
3	Determine nitrogen budget – the Total Nitrogen wastewater load for the proposed development plus the change in nitrogen load from land use change (the latter figure may be positive i.e. the change in land use will generate more nitrogen, or negative i.e. the change in land use will generate less Nitrogen)	65.2	Kg/TN/yr	587.8 (step 1) + -522.6 (step 2) = 65.2 Kg/TN/yr
4	Where TN budget is positive add 20% precautionary buffer	78.24	Kg/TN /yr	64.8 + 20% = 78.24
Total Nitrogen that needs to be neutralised		**78.24 Kg/TN /yr**		

2.20 On the basis of the following calculation stages if the final figure in stage 4 is positive then mitigation is required for the development, if the final figure is negative no mitigation is required.

3. Options for mitigation

3.1 For the HRA accompanying the planning application to conclude that there is no likelihood of a significant effect on the Solent's European Sites, the proposed development would need to be nutrient neutral.

3.2 Avoidance and mitigation measures to achieve nutrient neutrality should be provided on site, in line with the Habitats Regulations, wherever possible. However, for the vast majority of developments in Havant Borough, particularly brownfield development and regeneration schemes, it is acknowledged that this is not possible.

On-site Mitigation Options

3.3 Some development will be able to use on-site measures in order to achieve nutrient neutrality or reduce the scale of off-site mitigation required to achieve nutrient neutrality. Wherever possible, on site measures should be used to avoid an impact before relying on off-site mitigation. Examples of the type of on-site measures that may be used can be found in Natural England's methodology[6].

3.4 In some cases, on site mitigation could include taking land out of agricultural use and using the land for an alternative use, notably development and open space[7]. It should be noted that a greenfield site is not automatically in use as agriculture. The following uses are classed as agricultural within Natural England's methodology:

AVERAGE NITRATE-NITROGEN LOSS PER FARM TYPE IN THE SOLENT CATCHMENT AREA (kg/ha)	
Cereals	31.2
Dairy	36.2
General Cropping	25.4
Horticulture	29.2
Pig	70.4
Lowland Grazing	13.0
Mixed	28.3
Poultry	70.7
Average for catchment area	**26.9**

3.5 In the event a nutrient budget and a proposed onsite avoidance and mitigation package shows the proposed development will be nutrient neutral, there will need to be the necessary certainty that any mitigation measures will reduce the nutrient load of the land. In such circumstances the Council will secure the requisite mitigation via a legal agreement to ensure that it is maintained in perpetuity

3.6 For some developments, a bespoke on-site mitigation solution will be a viable option, particularly where watercourses can be found on site. The applicant will be expected to fund the project level Habitats Regulations Assessment that will be required on such an application.

[6] https://www.push.gov.uk/wp-content/uploads/2020/03/Advice-on-Achieving-Nutrient-Neutrality-for-New-Deveopment-in-the-Solent-Region-March-2020.pdf

[7] To be taken into account the open space must be 0.5 ha or above.

Off-Site Mitigation Options– Warblington Farm Mitigation Scheme

3.7 Development on non-agricultural land will not be able to provide mitigation on site. In such cases, developments will need to contribute towards an off-site scheme. The Council has set up a cost effective and simple scheme which can be used by applicants at Warblington Farm.

3.8 The Council actively encourages applicants to use Warblington Farm as mitigation where the principle of the development is accepted by the Council as Local Planning Authority. In any instances where the Council does not accept the principle of development, it will not be possible for applicants to use the Council's mitigation scheme. This is because Warblington Farm is needed to mitigate the development planned for through the Havant Borough Local Plan and Regeneration Strategy. The Local Plan HRA confirms that Warblington Farm is an acceptable mitigation option. This has been confirmed by the Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough report.

3.9 The Warblington Farm scheme will be fully funded by the development industry, with no financial support from the Council. The scheme will involve changing the use of the site in a phased manner from a dairy farm to a nature reserve. In the longer term, the Council aims to make Warblington Farm a key site in Havant's ecological network, increasing biodiversity and helping residents to enjoy and understand the intrinsic value of the natural environment.

3.10 In addition to providing cost effective mitigation for nutrient neutrality, land at Warblington Farm also has the potential to deliver the following benefits:

- A permanent refuge for Solent Waders and Brent Geese - a number of emerging allocations in Havant Borough Local Plan will need to provide mitigation by means of a financial contribution towards the enhancement of habitats, particularly those on secondary support areas or low use sites;
- A replacement habitat for Curlew which currently use land at Campdown, this is one of the largest allocations in the Council's emerging Local Plan;
- The Environment Bill means there is likely to be a requirement for all new development to achieve a net gain in biodiversity. For development unable to make the necessary improvements on site, development contributions could be made to create and enhance habitats at Warblington Farm; and
- The potential to provide additional nutrient mitigation subject to further feasibility and analysis.

3.11 In terms of development achieving nutrient neutrality, the Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough report[8] confirms that there is a scientific link between the likely significant effect from the development and the mitigation at Warblington, as required by the Habitats Regulations. The mitigation is suitable for development draining to Budds Farm and Thornham Wastewater Treatment Works and is therefore suitable for mitigating the impact of any development in Havant borough.

3.12 A financial contribution will be sought based on the calculation of the load provided by the nutrient budget associated with the planning application in question. The following table summarises the rates which are payable on a cost per kilogram basis according to the catchment which the new dwellings connect to which will be updated on annual basis.

[8] Available at https://www.havant.gov.uk/nitrogen

Per kilo contribution/ Catchment	Total nitrogen discharged (kg N per year)	Cost per kilo contribution
Per kilo contribution	1	£1,241.00

3.13 In addition to the above an administrative fee of £23 per legal agreement is payable. The financial cost of per kilogram of nitrogen will be increased annually in accordance with the Cost Price Index at the start of each financial year. Further information for applicants, together with live costs, can be found in the Council's Developer Contributions Guide9. The following examples set out how costs would be calculated in the Thornham and Budds Farm catchments respectively:

Thornham catchment (Emsworth)

3.14 For development which drains to Thornham Wastewater Treatment Works it will be calculated as follows:

Development of 4 dwellings on a brownfield site draining to Thornham Wastewater Treatment Works	
Amount of mitigation required kg/N	3.2 kg/N
Cost of mitigation	£3971.20
Administration Fee	£23.00
Total avoidance and mitigation package for nutrient neutrality	£3994.20

Budds Farm catchment (Rest of Havant Borough)

3.15 For development which drains to Budds Farm Wastewater Treatment Works it will be calculated as follows:

Development of 4 dwellings on a brownfield site draining to Budds Farm Wastewater Treatment Works	
Amount of mitigation required kg/N	3.1 kg/N
Cost of mitigation	£3847.10
Administration Fee	£23
Total avoidance and mitigation package for nutrient neutrality	£3870.10

3.16 The mitigation charge has been calculated on the basis of costs and fees associated with the management of the site, the value of the asset as well as the details of costs, fees and taxes.

[9] Available at www.havant.gov.uk/community-infrastructure-levy

Further phases of the scheme will become available in due course to enable development to continue in compliance with the Habitats Regulations.

3.17 As the land at Warblington will be phased out of agricultural use, mitigation will be made available on a phased basis. The Council will carefully monitor the capacity of the land at Warblington to ensure that there continues to be sufficient mitigation available for development coming forward.

3.18 Warblington Farm will be managed in such a way that restricts the future use to operations that prohibit the use and application of any nutrient load on the land, and only carry out management activities which would lead to a net decrease of nitrogen compared to current use.

3.19 The first phase of Warblington Farm provides 25ha of mitigation land which will be available for development coming forward. The first phase would be turned into grassland which will then be cut as necessary by the tenant farmer ensuring less than 5kg per hectare per year of nutrients will be produced. If the activity on the land were to change this would have to be agreed by Natural England and Havant Borough Council.

3.20 Due to the additional environmental benefits which are available on Warblington Farm a management plan will be produced when all phases of Warblington are available.

3.21 The Council has established the costs of the management of the site over an 80-year time period, the value of the asset and returning the control of the leasehold. These outgoings have been factored into a cash flow analysis to provide a per kilogram cost of nitrogen.

3.22 In addition to the above, the water efficiency standard of 110 l/p/p/d will be secured and enforced by planning condition for all new residential developments.

Off-Site Mitigation Options - Alternative mitigation schemes

3.23 Third parties are also progressing potential mitigation plans which could provide effective mitigation for development in Havant Borough or applicants may have their own suitable mitigation scheme. In such cases, applicants are encouraged to enter into early discussions with Natural England through the Discretionary Advice Service[10]. It will also be necessary to discuss the proposals with the Council as the competent authority.

3.24 In such cases, it will need to be established that there is a clear scientific link between the proposed development and the mitigation and that the mitigation package ensures that the development in question is nutrient neutral. The legal agreement put in place will likely need to be bespoke to that development and the mitigation scheme in question. It will need to be signed by the landowner of the mitigation site.

3.25 Given the geographical nature of Havant Borough, it is likely that some third party mitigation schemes could be progressed outside of the Borough. In such cases, the planning authority of the mitigation land together with the landowner of the mitigation site would both need to be signatories to the legal agreement. In such scenarios, the planning authority for the mitigation land would either need to be willing to undertake any necessary enforcement action or be willing to delegate that authority to Havant Borough Council. Applicants should be aware that this may well extend the period of time needed to complete legal agreements. If applicants wish to use a third party scheme,

[10] https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals

it will be necessary for the project level HRA associated with that planning application to be undertaken by a contractor. The cost of this will need to be met by the applicant.

4. Review of this Position Statement

4.1 The Council is committed to both complying with the Habitats Regulations and also enabling sustainable new housing development. This Position Statement includes a mitigation plan which will enable development management decisions to be taken on planning applications in compliance with the Habitats Regulations. This position statement has been prepared using the best and most up-to-date scientific knowledge available and has applied the precautionary principle where appropriate.

4.2 The Council's emerging Havant Borough Local Plan must also comply with the Habitats Regulations and an HRA has been undertaken at each point in the plan's preparation.

4.3 Moving forwards, it will be necessary for further research to be undertaken regarding the role of nitrogen and phosphorous in the water environment, the sources of nitrogen and phosphorous in the Solent's European Sites and the effectiveness of potential measures to mitigate this. This research is already underway in collaboration with partner authorities in the Partnership for South Hampshire (PfSH).

4.4 The Council will continue to call for Government to take action to address this issue through a review of the consents of wastewater treatment works at the Solent. However it is acknowledged that many operate at the currently best available technology and such a review would take time in any case.

4.5 The Council wishes to work towards a more definitive mitigation strategy. This should ideally be on a PfSH or wider basis. The Council will continue to positively and proactively work with its partner authorities, through PfSH, together with Government, Natural England, the Environment Agency, Southern Water and any other stakeholder in order to address this issue appropriately.

APPENDIX H

THIS **UNILATERAL UNDERTAKING** is made by **DEED** on the 29th of April 2021

AND GIVEN BY

D K & R Properties Ltd incorporated and registered in England and Wales with company number 7307410 whose registered office is at Unit 5, Frobisher Industrial Centre, Budds Lane, Romsey S051 0EZ (Owner)

Alwyn DeSouza of Fishlake, Greatbridge Rpad, Romsey S051 OHB (Owner)

TO

The Council of the Borough of Havant of Public Service Plaza Civic Centre Road Havant P09 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.

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 £7321.90 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.

Land: the freehold land at Land between, 26-32 Padnell Road, Waterlooville, Erection of block of 6 flats with associated parking and bin/cycle storage.

Planning Application: an application for planning permission registered by the Council on 21 January 2021 under reference number APP/21/00024.

Planning Permission: the planning permission granted/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 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.

[FOR INDIVIDUALS]

Executed and delivered as a

deed by [INSERT NAME] .....

in the presence of:

Witness signature .....

Witness name .....

Witness address .....

.....

Witness occupation .....

[FOR COMPANIES OPTION 1]

Executed and delivered as a deed by [COMPANY NAME]

acting by two directors .....

[INSERT DIRECTORS NAME] **Director**

[INSERT DIRECTORS NAME] .....

Director

[FOR COMPANIES OPTION 2]

Executed and delivered as a deed by D K & R Properties Ltd acting by **Alwyn DeSouza,** by a director

[redacted]

.....

Director

in the presence of:

Witness signature

Witness name

Witness address

[redacted]

Witness occupation

APPENDIX I

from Southern Water

Department of Planning and Development
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

Your ref
APP/21/00024

Our ref
PLAN-037513

Date
18/02/2020

Contact
Tel 0330 303 0119

Dear Sir/Madam,

Proposal: Erection of block of 6 flats with associated parking and bin/cycle storage.
Site: APP/21/00024: - Land between, 26-32 Padnell Road, Waterlooville PO8 8DZ.

Thank you for your letter dated 29/01/2021.

The submitted drawing shows (2020/02 Rev-D) 3 meters protection measures (Easement) on either side of the 225 mm Public surface water sewer is satisfactory to Southern Water.

We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication “A Guide to Tree Planting near water Mains and Sewers” (southernwater.co.uk/media/1642/ds-tree-planting-guide.pdf) and the Sewerage Sector Guidance (water.org.uk/sewerage-sector-guidance-approved-documents) with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers, rising mains and water mains.

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

Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water.

Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

Southern Water Services Ltd, Registered Office: Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX Registered in England No. 2366670

It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development programme and the extent of network reinforcement required.

Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of any works required.

Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline) however for large developments our assessment of the timescales needed will require an allowance for the following which may result in an extension of the 24 month period:

- Initial feasibility, detail modelling and preliminary estimates.

- Flow monitoring (If required)

- Detailed design, including land negotiations.

- Construction.

Southern Water hence requests the following condition to be applied: Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations:

- Reuse

- Infiltration

- Watercourse

- Strom sewer

- Combined Sewer

Guidance on Building Regulations is here:

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h

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

Southern Water Services Ltd, Registered Office: Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX Registered in England No. 2366670

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).

Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk

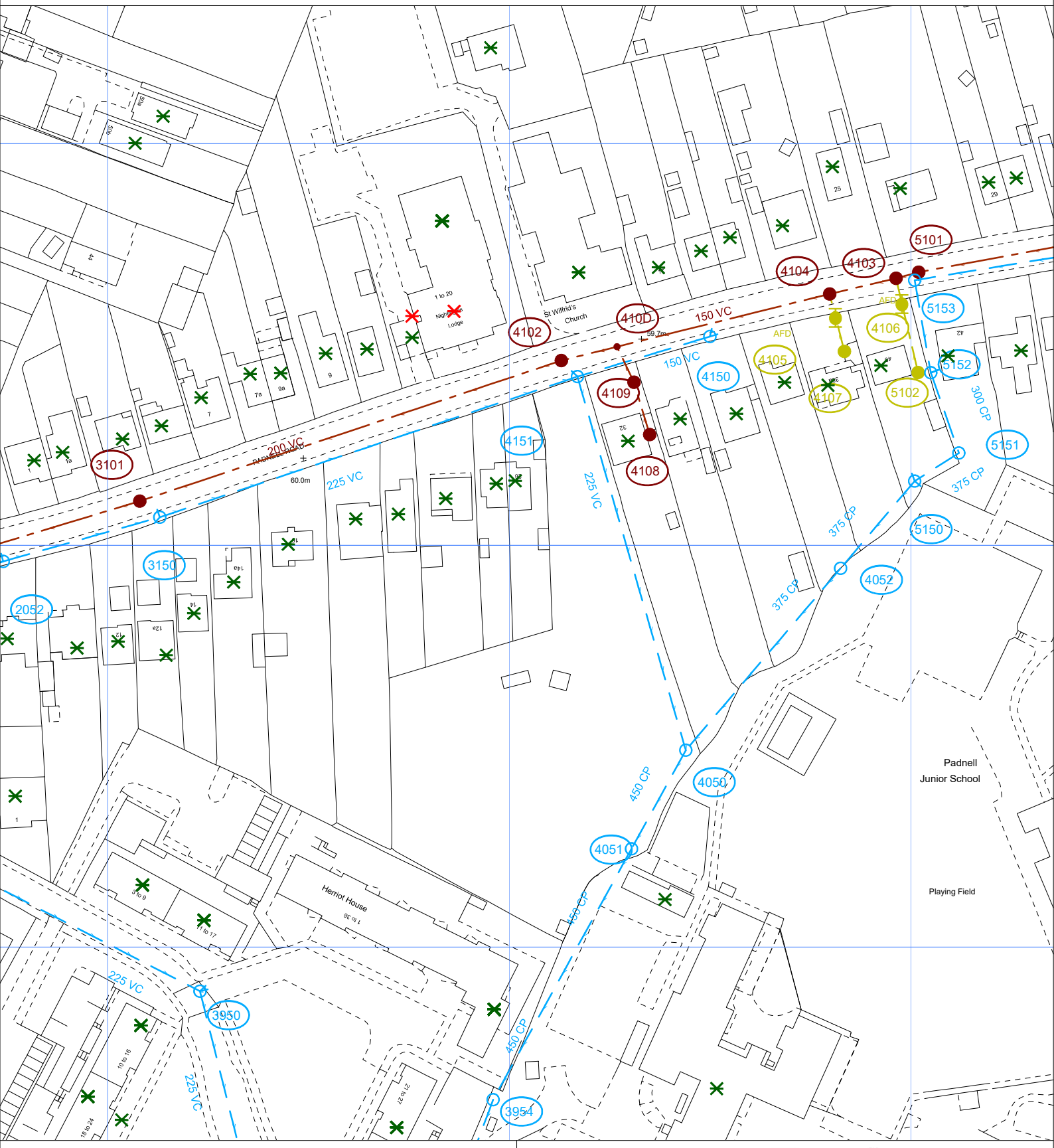
Yours faithfully,



Joff Edevane
Growth Planning Lead
Business Channels

Southern Water Services Ltd, Registered Office: Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX Registered in England No. 2366670

SOUTHERN WATER



The positions of pipes shown on this plan are believed to be correct, but Southern Water Services Ltd accept no responsibility in the event of inaccuracy. The actual positions should be determined on site.

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Southern Water

O.S. REF: SU6911SW	Scale: 1:1250	N	Printed By: kishoku
			Date: 18-2-2021
Screen Print			Southern Water MapGuide Browser
WARNING: BAC pipes are constructed of Bonded Asbestos Cement			Requested By:
WARNING: Unknown (UNK) materials may include Bonded Asbestos Cement			

from Southern Water

Planning ref
APP/21/00024

Our ref
PLAN-037513

Date
03 March 2021

Contact
Tel 0330 303 0119

Dear Sir/Madam,

Southern Water – Your build rates and occupation information
Site Name: Land between, 26-32 Padnell Road, Waterlooville PO8 8DZ.

We are contacting you to request information which is required by Southern Water in order to prepare for the connection of your development site (as listed above), to our public sewer network.

In April 2018, water companies in England published their new connection charges (part of the charges are also known as the infrastructure charge). A copy of the Southern Water New Connection Charging Document is available on our website: southernwater.co.uk/media/3305/new-connections-services-charging-arrangements-20_21.pdf

Under the new charging rules, our customers can connect to the closest point of connection, to a pipe of equivalent size or greater. If any reinforcement to the public sewer network is required to enable your connection, this will be provided through the new infrastructure charge. It will take time for us to provide any such network reinforcement. To enable us to plan for this, we require some information.

Action request:

Please provide the details of your anticipated occupation dates and build out rate for the site listed above. This information will support us in planning the required works across our region in readiness for your site to be occupied. If we do not receive this information about the site, we may not be able to progress with the work required to prepare for the connection of your site and your development program. Please note this does not constitute a discharge of any pre-commencement condition that may be attached to your planning consent.

Southern Water Services Ltd, Registered Office: Southern House, Yeoman Road, Worthing West Sussex BN13 3NX Registered in England No. 2366670

Build Rate & Occupation details

Please fill out the tables below in block capital letters and email this back to us as soon as possible. Please email the form to: SouthernWaterPlanning@southernwater.co.uk

If the site is not proceeding please email the address above with the site references listed above and a brief description of why it is not going ahead. If you have queries about the information required, please call Developer Services on 0330 303 0119.

Your earliest reply would be much appreciated.

Joff Edevane
Growth Planning Lead
Business Channels

Southern Water Services Ltd, Registered Office: Southern House, Yeoman Road, Worthing West Sussex BN13 3NX Registered in England No. 2366670

A. Contact Information in case of further queries:

Name of person completing form
Company
Phone number
Email address
Date form completed

B. Site references:

Proposal
Site Name (on letter)
Site Postcode/location
Planning Reference (on letter)
Planning Authority (on letter)
Our reference (on letter)

C. Site information:

Proposed start date	/ /
Proposed connection date	/ /
First occupation date	/ /
Forecast completion date	/ /
Proposed date of full occupancy	/ /
Proposed connecting manhole reference number	

Build out period (Per month for each year of development)												
Year	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
20												
20												
20												
20												
20												

If the site had previous use, please describe the type of previous use: e.g. greenfield/brownfield, block of flats, warehouse etc.

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