
Site Address:	Land rear of 50 Silvester Road, Waterloooville, PO8 8TL		
Proposal:	Variation of conditions 2, 4, 6, 7 and 9 of Planning Permission APP/19/00839 relating to changes to roof, elevations, landscaping and a reduction in car port size.		
Application No:	APP/21/00917	Expiry Date:	28/10/2021
Applicant:	Mr I Williamson		
Agent:	Mr D Treagus	Case Officer:	Tina Pickup
	Derek Treagus Associates		
Ward:	Hart Plain		

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 50 Silvester Road is a detached dwelling located on the north side of the road and has recently been extended under APP/20/00768. To the rear of this frontage dwelling a new backland bungalow is currently under construction - this has a long planning history, see below. The permission being implemented, APP/19/00839, is for a 3 bedroom bungalow of contemporary design with off-set dual mono-pitch roof with sedum covering. Access is taken via a drive to the east of the frontage dwelling and adjacent 48a. Works on site are advanced, with the roof trusses in situ. This application seeks some variations to the dwelling, including omission of sedum roof and use of concrete tile instead with associated increase in pitch; some changes to the window arrangement; reduction in size of car port from double to single; and a revised landscaping scheme.
- 1.2 To the east of the site number 48a is a semi detached property that is set back further and only 1m from the shared side boundary. This dwelling has a large rear, largely glazed conservatory which is used as a living/dining room. To the west is a semi-detached chalet style bungalow, also set a bit further back than the application site. To the rear of the site the boundary was previously trees with an open ditch. The trees have been cleared and a close boarded fence erected on this rear boundary, with the ditch beyond the site.
- 1.3 The levels across the site are contentious: originally the site appeared flat but there was a slight slope from east to west with the garden land of number 52 to the west being slightly lower. It is alleged that when the original outbuildings on the site were demolished they were not removed but used as rubble to further level the site which has resulted in the ground becoming slightly higher again compared to number 52 - the original barge boards of the dividing fence are now just below the new ground level.
- 1.4 There is a Southern Water sewer that crosses the site which is subject to a 3m easement which includes restrictions on tree planting affecting the landscaping scheme.

2 Planning History

89/53303 - Erection of 2 storey dwelling and double garage to rear, new double garage at rear for No. 50 - Refused 21 June 1989 for 3 reasons:

1. undesirable backland development, out of keeping with character of area and detrimental to amenities of adjoining residents
2. access and turning would cause unacceptable disturbance to adjoining residents
3. 50 Silvester would be left with unacceptably small plot

Appeal was Dismissed on 15 May 1990 - the Inspector noted that the dwelling itself would result in a limited adverse impact and whilst the garden for No 50 would be reduced it would not be unacceptably small. However it was noted that the access would have a far greater impact, particularly on 48a - the increased traffic and use of drive penetrating deeply into the rear space of frontage dwellings would have an adverse impact on neighbours and in particular No 48a and also residents of No 50 itself.

APP/17/01121 - Demolition of existing outbuildings and conservatory, construction of 1No. 3 bed detached bungalow with associated car port, revised drive and landscaping.

Refused 29/03/2018 as considered the use of the narrow access within 1m of habitable conservatory at 48a would be harmful to neighbouring amenity

Appeal was dismissed on 4 July 2019 - but on increased impact on water quality of SPA from nitrates issues only; With respect to residential amenity the Inspector considered that as a low set bungalow sited to the rear, there would be no significant overlooking and suitable privacy between gardens could be provided; it was noted that in suburban areas it was not unusual for a driveway to a single dwelling to pass close to a neighbouring dwelling or its garden and whilst there would be some additional brief noise and disturbance it would not result in unacceptable harm to amenity. It was concluded that the proposal would accord with policy CS16.

APP/19/00839 - Following removal of the existing out buildings and conservatory, construction of detached bungalow with associated car port, revised drive and landscaping. (Approved 08/11/2019). Request to discharge condition No/s 4, 6, 9 and 10 (11/09/2020).

Note: Grampian Condition applies, contact LPA for details, PERM,08/11/2019

APP/20/00768 - Proposed single and two storey rear extension including external alterations; render to elevations, new roof finish. (Approved 03/12/2020). Request to discharge condition No. 6 (24/08/2021)., PERM,03/12/2020

3 Proposal

3.1 Variation of conditions 2, 4, 6, 7 and 9 of Planning Permission APP/19/00839 relating to changes to roof, elevations, landscaping and a reduction in car port size.

3.2 The pre-commencement conditions for APP/19/00839 had been discharged before development commenced, with the pre-occupation Grampian nitrates mitigation condition 3 outstanding. By seeking to amend the roof, elevations and car port, the details previously submitted under the original conditions also needed further amending. This application provides all the details in relation to revised materials, hard and soft landscaping and includes the nitrogen budget and water efficiency calculator to discharge the nitrates Grampian condition.

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)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

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)
IN1	(Effective provision of infrastructure)
E1*	(High quality design)
H1*	(High quality new homes)
E12	(Low carbon design)
E16	(Solent Special Protection Areas)
IN3	(Transport and parking in new development)
EX1	(EX1 Water Quality impact on the Solent European Sites)

Emsworth Neighbourhood Plan Post Examination Version 2020

n/a

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

5 **Statutory and Non Statutory Consultations**

Southern Water

the comments provided on 06/11/2019 remain unchanged and valid for this variation of condition application

Officer Note - these confirmed the siting respected the 3m standoff distance to public foul sewer was satisfactory and noted no soakaway, swales, pond etc should be within 5m of the public sewer. The siting of the structures on site have not changed and remain acceptable.

Landscape Team

From a landscape perspective we have the following comments in relation to the variation of the above conditions:

Condition 2:

- Having reviewed the amended elevation drawing no. 21/156/06 in relation to the approved drawing no. 15/10/17 it appears that the pitch of the roof has increased from 3.4m to 4.5m. Given the application is a backland development this increase in height coupled with the removal of the sedum roof would be too dominant on contrary to HBC design guides which states 'Backland sites are generally landlocked, such as rear gardens and private open space and therefore by their nature are largely out of view. The proposed development should therefore not dominate in terms of mass or height?

Condition 4

- The submitted landscape plan drawing no. LS1 is unclear in relation to the proposed hard surface treatments. The legend and the hatching do not match and we require clarity on all proposed materials as stated in the condition. The approved drawing no. 1051-5300 proposed a tarmac drive way, however from drawing no. LS1 we can infer that block paving is suggested to the frontage of the new dwelling. Should this be the case we require further details on any amended materials such as type, colour, laying bond and manufacturer.

Condition 6

- The soft landscaping has been amended and is now proposing a cherry tree within the sewer easement zone. This could be an issue and as such we recommend reverting to the proposed specimen shrub.

Condition 9:

- The removal of the sedum roof is deemed to be detrimental to the bio-diversity of the scheme. Furthermore the sedum roof softened the visual impact of the development to neighbouring properties and removal at this stage is considered a negative amendment.

Officer Note - cherry tree has been omitted from the sewer easement

Natural England Government Team

No Objection subject to securing appropriate mitigation

Your appropriate assessment, dated 22 October 2021, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions.

Your authority has measures in place to manage potential impacts through contributions to an agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the Habitats Site(s) for the duration of the proposed development.

We recommend a condition that secures the water use of 110 litres per person per day.

Nutrient Team, Planning Policy

Confirm there is sufficient capacity within the Council's mitigation scheme for planning application APP/21/00917.

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: 7

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 4

Comment	Officer Comment
This bungalow APP/19//00839 was granted permission through planning via an appeal. The inspectors comments are quite clear in his considerations to grant permission. The original proposal stated the eaves height would be 2.5m. Using the approved plans Proposed floor plan and elevations CFA/FULL/BS as on the Council web site Aug 2019 the typical section shows the Above Ordnance Datum being GROUND LEVEL and the eaves being 2.5m as per item 3 of the granting of permission documents.	Noted - see section 7 below

The "as built" measurement of the height of the eaves exceeds this already to a height of approximately 2.8. Referring to item 7.8 of the impact upon residential amenity it quotes "with respect to privacy the inspector also noted that as a low- set bungalow sited well to the rear of the frontage properties, there would not be any significant overlooking between windows or unacceptable standards of privacy. He noted that suitable privacy between gardens could be achieved by fencing".

Due to the "as built" height of the bungalow as it stands both of these observations have been forfeited with the window heights being higher than the original proposal as a result.

The drawings relating to this proposal now show the heights of the building being measured from damp course rather than the original measuring point of finished ground level (AOD) and then applying to lift the roof height by increasing the pitch of the roof to accommodate concrete tiles. If the removal of the sedum roof is such a big issue then a flat roof, such as recently constructed by the same builders to 50 Silvester Road, would have been the logical path to take, rather than the blot on the landscape being proposed for all the local residents to view for years to come by raising the height of the roof.

Item 7.10 quotes "The 3 bed bungalow would be a low profiled contemporary design with sedum roof. The rear ditch and line of mature trees are outside of the application site and would be retained for screening.

These trees have since been removed by the contractor and the conditions of having to fit bat and bird boxes seems irrelevant now the habitat they need has been removed as well as the owls that did reside in the oak trees for many years.

Noted - see section 7 below re landscaping

Whilst the addition of an extra window and the reduction of the car port from double to single has little impact on us over the original proposal, the change in roofline/material does. The Western side of the roof is, from what we can ascertain, pretty much in line with the original plans, however the Eastern roof elevation has considerably more impact than the original. As has already been stated by others, the heights on plan are not indicative of the impact 'on the ground', it is also worth noting that the retrospective planning notice for the roof was submitted before the roof trusses/timbers/frames were installed. Particular consideration and checks will also be requested in regards to the porous nature of the drive and hardstanding, given the lack of drainage in the area. Likewise the planting intended to provide screening, shelter and safety to local residents, given that trees that were part of the original application have already been felled, even those on land not owned by the applicant/land owner.	Noted - see section 7 below Noted - see section 7 below re landscaping
We are very disappointed how things are looking from our garden. There is NO screening now, all of the trees have been cut down, including an Oak tree which was not on the land belonging to the house in Silvester. We could not do any thing about it , as we were out when it was taken down. Now the bungalow has been built it's impact is quite notable's , and the seeded roof might have assisted with the over bearing on our on site maybe	Noted - see section 7 below re landscaping
I believe the roof replacement should not be allowed to go ahead on the basis of the mortgage company not liking the green grass roof - find a mortgage company with green credential and think of the ecology of the area, owls frequent these gardens along with other birds and wildlife.	Noted - but applicants reason/justification for application is not a material consideration Noted

It is a disgrace that developers can back fill spaces and destroy the tree-line and the privacy of others. The tile roof will have a higher profile and be a black blot on the landscape. Photos have been sent to the planning officer to show the invasive nature of the roof struts so far! I bought my house because I did not want to be overlooked and this is a breach of my privacy	Principle of development allowed on appeal; changes under consideration will have no further affect on privacy Noted & viewed - see section 7
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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) Impact of changes on neighbouring amenity
- (iii) Impact of revised landscaping scheme
- (iv) Impact of revised parking layout
- (v) Compliance with Habitats Regulations
- (vi) CIL

(i) Principle of development

7.2 This is a Section 73 application and if approved, its granting effectively re-issues the original permission and must repeat the relevant conditions unless they have been discharged. In this case it is sought to amend the previously agreed details for conditions 2 (approved plans); 4 (materials); 6 (landscaping); 7 (parking arrangements); and to proceed without condition 9 (sedum roof). The submitted documents also include information appertaining to conditions 3 (nitrates) and condition 10 (boundary treatments).

7.3 This application must consider the impact of the proposed changes only, and does not need to re-consider the principle of the development which already has planning permission by virtue of APP/19/00839.

(ii) Impact of changes on neighboring amenity

7.4 The change from sedum roof to slate grey concrete tiled roof has an associated pitch change and resultant increase in height of the bungalow - from 3.4m to 4.25m. The starting point for measuring these figures has been disputed by third parties as inconsistent. The original figure was taken from the submitted plans from APP/19/00839 which assumes adjacent ground level, (which is the standard way to measure height); whereas the current figure appears to be from damp course level (which is normally 150mm - ie the 4.25m would become 4.4m). And because the ground level of the site has increased slightly with hardcore then the resultant finished effect of the bungalow is higher again, and higher than neighbours were expecting.

- 7.5 Notwithstanding the measurement figure, the key consideration is whether the bungalow as under construction and now proposed, with its higher roof with tiled finish, has any adverse impacts. The previous Inspector noted that as a low set bungalow sited to the rear there would be no significant overlooking. There is no doubt that the changed roof profile has a greater presence and the outlook from neighbouring properties will see more of a solid roof rather than a green sedum lower roof. But in relative terms the proposal is still modest and low - the bungalow still has low eaves line and the roof is still sloping away from side boundaries. Its height, at 4.25m/4.4m, is still low compared to a two storey dwelling or chalet bungalow. It is also noteworthy that a permitted development Class E outbuilding could have a height of 4m (measured from adjacent ground level). So the proposed bungalow is only 0.4m higher than a neighbour could erect an outbuilding.
- 7.6 Whilst the loss of the sedum green roof is regrettable, the use of grey slate effect concrete tiles still represents a muted and traditional roofing material. The longer views of the rooftop from neighbours further a field would simply be of a dark, muted roof above boundaries, that would blend with surrounding landscaping and development. It would not be overly prominent. The external elevations for the dwelling remain as previously approved ie white render with grey windows.
- 7.7 Due to the slight increase in ground level then the top of the windows sit marginally higher than originally proposed or expected, but nevertheless remain single storey with intervening fencing preventing any direct overlooking or loss of privacy. The revised window positions are as a result of re-arranging the internal layout with the living room and kitchen now to the rear. Overall this will have no impact on the adjacent neighbours. The revised car port has also been reduced slightly in height as well as footprint, to minimise its impact to neighbours.
- 7.8 Whilst it is accepted that neighbours continue to object to this backland development per se, nevertheless it is only the impacts of the proposed changes that can currently be taken into account. It is considered that the change in roof material and height still represents a relatively low key bungalow and there is little demonstrable harm from the proposed changes that would warrant a refusal of permission. Accordingly, in the absence of any identified harm, the proposal is considered compliant with policy CS16.

(iii) Impact of revised landscaping scheme

- 7.9 The revised landscaping scheme no longer includes the frontage dwelling, number 50 which has been sold, but does retain 4 trees in the border adjacent 48a to help screen the outlook from their conservatory. These continue to respect the SW easement. It has also included 2 trees in the north-east corner of the site to help soften and mitigate against the trees that were taken out along this back boundary. In addition some climbing honeysuckle is proposed for outside the front window adjacent the boundary with 52. This is the fence that has been affected by the level change and allegedly now leans and is less steady. To ensure the honeysuckle does no further damage to this neighbours fence but is allowed to grow up high for screening, it is suggested to condition the provision of supporting freestanding trellis/obelisk or similar to this shrub border 3.

7.10 In terms of hard landscaping the revised scheme reduces the amount of tarmac side drive and enlarges the turning area with block paving. This also has the benefit of being more porous and improving surface water drainage. It has been confirmed that the hard landscape materials will be as already approved under APP/19/00839 ie Marshalls grey block paving and Fairford grey flag paving. It is further clarified that the side and rear boundaries will be enclosed with 2m high close boarded fencing (ie the details required for condition 10).

7.11 Overall the revised landscaping scheme will help screen the development as intended at appeal stage within the limits of the SW easement and is considered acceptable.

(iv) Impact of revised parking layout

7.12 As a three bedroom dwelling 2 on site parking spaces are required. These can still be provided on site, with on site turning, with the proposed single car port. The revised parking layout is therefore considered acceptable.

(v) Compliance with Habitats Regulations .

7.13 When APP/19/00839 was permitted the appropriate mitigation for the recreational disturbance from the new dwelling was secured. However at the time there was still no mitigation package for the potential harm to water quality from increased nutrients within the European Designated Special Protection Areas available, and hence a Grampian style condition was imposed to be discharged before occupation. This has not been discharged under APP/19/00839 and since the development is advanced on site, it is pertinent to resolve as part of this application.

7.14 A nitrogen budget and water calculator has been submitted and the Council has been able to conduct an updated Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 that takes into account the water quality issue. The Councils assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to the decrease in water quality that would be as a result of the proposed development of 1 dwelling.

7.15 The planning application was then subject to Appropriate Assessment under Regulation 63. This included a mitigation package based on the Position Statement on Nutrient Neutral Development. The applicant indicated a willingness to enter into a legal agreement to secure the mitigation package and the appropriate financial contribution of £1,015.80 and the signed Deeds have been secured.

7.16 The Appropriate Assessment concluded that this is sufficient to remove the significant effects on 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.

7.17 The submitted water calculator demonstrates that water consumption in the development would be 102.42 l/p/p/d which is within the target of 110 l/p/p/d. It is necessary to condition that all measures to achieve this water efficiency are maintained in perpetuity.

(vi) CIL

- 7.18 The CIL liability was dealt with under the original application APP/19/00839 and has been paid in accordance with CIL Regulations as a commenced development. Since there is no additional floor space associated with this Sec 73 application, then there is no additional CIL Liability with this application.

8 Conclusion

- 8.1 This is a Section 73 application and its granting effectively re-issues the original permission and must repeat or amend accordingly the relevant conditions unless they have already been discharged. It is recommended to grant permission to vary conditions 2 (approved plans); 4 (materials); 6 (landscaping); and 7 (parking arrangements) of APP/19/00839, without the sedum roof and therefore condition 9 can be omitted. The details provided are also sufficient to amend the wording of conditions 3 (nitrate mitigation) and condition 10 (boundaries) from pre-commencement to compliance only. The development has already commenced so the commencement time limit condition need not be repeated.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/21/00917 subject to the following conditions:

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

Proposed Site & Location Plan Drawing No. 21-156-06 REV A
Proposed Elevations & Floor Plans - Drawing No. 21/156-07 Rev B
Landscaping Scheme - Drawing No. LS1 Rev B
Nitrogen Budget on Council's website dated 4 October 2021
Water Efficiency calculations on Council's website dated 4 October 2021

Reason: To ensure provision of a satisfactory development.

- 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.

- 3 The materials to be used externally on the dwelling and car port shall be as shown on the hereby approved drawings. The hard landscaping shall comprise a mix of Marshall grey block paving and Fairford grey flag paving as shown on the approved plans, unless otherwise agreed in writing with the Local Planning Authority.

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

- 4 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension, building or structure (other than those shown on the hereby approved plans) permitted by Part 1, Classes A, B and C of The Town and Country Planning (General permitted Development) Order 2015, as amended, shall be erected within the curtilage of the site without the prior written approval of the Local Planning Authority.

Reason: To enable the Local Planning Authority to maintain control of such additions in the interests of the amenity of neighbouring residents, to ensure an adequate amount of amenity space and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 together with the National Planning Policy Framework.

- 5 The soft and hard landscaping shown on the hereby approved Drawing Number LS1 Rev B, shall be implemented in full prior to the first occupation of the hereby approved dwelling. The honeysuckle approved for Shrub Border 3 shall be supported by a free standing trellis or obelisk. Any tree or shrub planted or retained as part of such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.

Reason: To ensure the appearance of the development is satisfactory and achieves satisfactory screening, having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2019.

- 6 The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be surfaced in a non-migratory material where within 6m of the highway. The hereby approved parking spaces and turning shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 The dwelling hereby permitted shall not be occupied unless or until the development has erected a minimum of one bat roosting unit and one bird nesting unit within the curtilage of the dwelling, in regards to securing ecological mitigation and enhancement measures in accordance with Conservation Regulations. The boxes shall be retained as such thereafter.

Reason: To provide ecological protection and enhancement in accordance with the Conservation Regulations 2010, Wildlife & Countryside Act 1981, NPPF, NERC Act 2006 and Policy CS 11 of the Havant Borough Core Strategy March 2011 and National Planning Policy Framework.

- 8 No part of the dwelling hereby approved shall be first occupied until the boundary enclosures as shown on the hereby approved Drawing Number LS1 Rev B have been provided. The fencing shall thereafter be retained.

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