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|-----------------|-------------------------------------|---------------|-------------|
| Site Address:   | 16 Selborne Avenue, Havant, PO9 4PX |               |             |
| Proposal:       | Erection of 1No.2bed dwelling.      |               |             |
| Application No: | APP/21/00353                        | Expiry Date:  | 14/06/2021  |
| Applicant:      | Mr Sturgess                         |               |             |
| Agent:          | Mrs T Parker                        | Case Officer: | Tina Pickup |
|                 | Bespoke Architects                  |               |             |
| Ward:           | Barncroft                           |               |             |

Recommendation: **REFUSE PERMISSION**

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## **1 Site Description**

- 1.1 The application site relates to an end of terrace traditional two storey post-war dwelling, located on the north side of Selborne Avenue. The property is constructed of pale red brick with gabled end, beneath a dark concrete tiled roof. It is set back from the road by between 4.5m and 5m. The application site is triangular in shape, representing a corner plot, with a wide frontage but tapering to a point to the rear. The dwelling at number 16 has been separated off from the side land with fencing erected from its eastern corners to the highway frontage and enclosing a rear garden the width of the house.
- 1.2 The host dwelling is set at a slightly higher level than the highway with the frontage recently hard surfaced with tarmac on a slight slope. It is noted that the kerb in front of this frontage has still not yet been dropped. There are double yellow lines around the junction with Middle Park Way and Selborne Avenue which end just before the application site. To the east of the new fence, the original frontage hedge remains in part, before a former driveway. The eastern boundary hedge has been removed and this boundary is currently open and marked by a low post and wire fence. Through disuse the site has become overgrown and unkempt.
- 1.3 The area is characterised with similar style dwellings and there is a strong uniformity of house types, alignment and materials in the area. There is a strong pattern of development comprising rows of terraced properties, set back but fronting the highway, and this alignment is a feature of the area.
- 1.4 The application site is the last dwelling on this north side of the road before an open grassed area that forms part of the adopted highway. To the east, the terrace of No. 22 to No. 32 Overton Crescent, are set at 90 degrees to the application site such that the rear of No.32 and No.30 share a boundary with the application site.
- 1.5 By virtue of the adjacent open grassed area and the fact that No.32 Overton Crescent has a relatively open side garden, bounded by low wire fence, the area has a spacious feel. Originally the dwellings in the area were constructed without any on site parking, but over time several have formed hard surfaced frontages for the parking of cars.
- 1.6 The site lies within Flood Zones 2 and 3; and there is a public foul sewer that runs close to the eastern boundary of the site.

## **2 Planning History**

APP/19/00860 - Erection of 1No. 3 bedroom detached dwelling., WD,16/10/2019

APP/19/01254 - Erection of 1No. 3bedroom detached dwelling.(Revised).  
Refused 06/03/2020 for 4 reasons: not meeting sequential or exception tests; siting and design out of character with street scene; overbearing, shadow and loss of privacy to neighbour; and lack of SRMS mitigation

APP/20/00302 - Erection of 1No. 3bedroom detached dwelling.(Revised).,  
Refused 03/06/2020 for 5 reasons: not meeting sequential or exception tests; forward siting, height and design out of character with street scene; overbearing, shadow and loss of privacy to neighbour; substandard parking space sizes harmful to highway safety; and lack of SRMS & Nitrates mitigation

## **3 Proposal**

Erection of 1No.2bed dwelling.

- 3.1 This application follows the refusal of APP/19/01254 and APP/20/00302 and attempts to overcome some of the previous concerns. The key changes relate to the design of the dwelling - it is now proposed as an attached end of terrace dwelling with matching eaves and ridge line. The subdivision of the rear garden has also changed with the alignment of the fence now offset with increased width of garden for the proposed dwelling but reduced width for the host dwelling number 16. A cycle store is shown in the rear garden and bin storage is proposed at the front of the site.
- 3.2 The revised siting results in a stepped footprint with corners up to the shared boundary with number 32 Overton Crescent and a slightly larger side parking area. A cross section plan has been submitted demonstrating a finished floor level of 12.22m AOD. During the course of determining this application additional documents have been submitted to update the previous Flood Risk Assessment, and Sequential Test and Exception Tests for consideration.

## **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

|      |                                                                        |
|------|------------------------------------------------------------------------|
| CS15 | (Flood and Coastal Erosion)                                            |
| CS16 | (High Quality Design)                                                  |
| CS17 | (Concentration and Distribution of Development within the Urban Areas) |
| CS21 | (Developer Requirements)                                               |
| CS9  | (Housing)                                                              |
| DM13 | (Car and Cycle Parking on Residential Development)                     |

### Havant Borough Local Plan (Allocations) July 2014

|      |                                                                                           |
|------|-------------------------------------------------------------------------------------------|
| LP2  | (Leigh Park Housing Allocations (Garage Courts/Parking Areas))                            |
| AL1  | (Presumption in Favour of Sustainable Development)                                        |
| DM24 | (Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development) |

#### Submission Version Havant Local Plan

|     |                                            |
|-----|--------------------------------------------|
| E22 | (Amenity and pollution)                    |
| DR1 | (Delivery of Sustainable Development)      |
| E1* | (High quality design)                      |
| H1* | (High quality new homes)                   |
| E12 | (Low carbon design)                        |
| E19 | (Managing flood risk in new development)   |
| E16 | (Solent Special Protection Areas)          |
| E14 | (The Local Ecological Network)             |
| IN3 | (Transport and parking in new development) |

#### Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

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

### **Building Control**

Building Regulation consent will be needed for this work

Public sewer shown on location map if within 3m consultation with SWS will be required

Ground floor WC should comply with Approved Document M requirements

### **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>.

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

### **Crime Prevention**

None received

### **Southern Water**

The exact position of the public foul sewer must be determined on site in consultation with SW.

Public foul sewer requires a clearance of 3m either side to protect it and allow for future maintenance;

No development or tree planting within 3m without consent from SW:

No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features within 5m;

All existing infrastructure to be protected during construction.

Restrictions on tree planting

If any other sewer found during construction works an investigation will be required

Formal application for a connection to the public foul sewer required

The supporting documents reference use of SuDs - under certain circumstances SuDs will be adopted by SW; if not then need to ensure arrangements for the long-term maintenance of the SuDs facilities for their effectiveness in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the LPA should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

### **Engineering/Drainage**

None received

### **Environment Agency**

On Original submission:

The proposed development will only meet the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change requirements in relation to flood risk if the following planning condition is included. As per our response to APP/19/01254 (HA/2020/121943/01-L01), we request that the following condition be attached to any planning permission granted, and that the details in relation to the condition be submitted and approved by the Local Planning Authority.

**Condition** The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) (ref 72330R1, dated 7 November 2019, by GeoSmart Information Ltd) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 12.80 metres above Ordnance Datum (AOD) (as specified on Page 3, and Table 10 in Section 7 (Resilience and mitigation) of the submitted FRA).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

**Reasons** To reduce the risk of flooding to the proposed development and future occupants. The condition is in line with the Planning Practice Guidance (PPG) to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change.

### **Environment Agency**

On amended plans showing FFL of 12.2m AOD:

In our written response HA/2021/123171/01, we stated that the proposed development would only meet the National Planning Policy Framework (NPPF) requirements for Flood Risk and Coastal Change if our planning condition requiring Finished Floor Levels to be set at 12.80AOD, as set out in the Flood Risk Assessment (FRA), was attached to any planning permission granted. We note that no update has been made to the FRA, however we have reviewed the additional information submitted.

We can see from the submitted information that the applicant proposes a SUDS system. It is our understanding that it is the responsibility of the Local Planning Authority to calculate whether the SUDS proposed will mitigate against the level of flooding in this case. However, our assessment, looking at the flood maps, is that the property will still likely flood to a 1 in 100 year plus 105% climate change allowance level of 12.50m AOD. Therefore, the SECTION\_DRAWING-1514217 which shows a Finished Floor Level of 12.22m AOD would provide an inadequate level of mitigation, and would not meet the criteria of our condition or the National Planning Policy Framework (NPPF) requirements for Flood Risk and Coastal Change and would consequently likely result in an objection from the Environment Agency.

### **Hampshire Highways**

None received

### **Natural England**

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended).

It is the advice of Natural England that we concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.

#### ***Solent Recreation Mitigation Strategy – no objection subject to mitigation***

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured (£571.10), Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

#### ***Nutrient Neutrality – no objection subject to mitigation***

Natural England is aware that your authority has adopted a position statement, to ensure that development achieves nutrient neutrality through the agreed site specific nutrient budget. Specifically, mitigation measures for this development involve 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 nutrient budget calculated for this development, with a net increase of 1 dwelling is 0.80 kg/TN/yr. As set out in the Position Statement and Mitigation Plan for Nutrient Neutral Development, an appropriate scale of mitigation for this scheme would be £1,015.80.

Provided that the applicant is complying with the requirements of the Interim Strategy for 0.80 kg/TN/yr and that the Council, as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

### **Nutrient Team, Planning Policy**

I can confirm there is sufficient capacity within the Council's mitigation scheme for planning application APP/21/00353.

## **Planning Policy**

I have been asked to provide comments on the application of the Flood Risk Sequential & Exception tests for this application. I note that the scheme is a resubmission with revisions of APP/19/01254 and APP/20/00302.

### **Sequential Test**

It has previously been agreed with the applicant that it is acceptable for the area of search for alternative sites at lower risk of flooding to be limited to the Leigh Park area of the Borough. I acknowledge that the applicant has also searched beyond this area in the latest information submitted in July 2021.

The applicant has consulted a number of sources of information to identify possible alternative sites. These include the sources recommended by the Council – allocated sites, property agents and outstanding permissions. The applicant has comprehensively reviewed this information and considers the sequential test passed, on the basis that there are no suitable alternative sites. This includes rejection of an allocated site of a suitable size on the basis of overlooking and the loss of parking / the need for parking provision.

I am satisfied that the applicant has undertaken a comprehensive search for alternative sites using agreed sources of information. The methodology of the sequential test is therefore not questioned. Nevertheless, the position remains as with the previous applications, that the Council and the applicant disagree on the position with regard to an allocated site in the Local Plan. The applicant considers it unsuitable, while the Council maintains that the fact of an allocation in a Local Plan inherently demonstrates the suitability of the site. On this basis the Council considers that the sequential test is not passed.

### **Exception Test**

Even if the application passed the sequential test, it would also have to pass the exception test, and since the applicant has included information on this test, that is also considered here.

For the exception test to be passed, according to paragraph 164 of the NPPF, it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The applicant seeks to demonstrate that the scheme meets criterion of a) on the basis of its drainage strategy, which proposes extensive SuDS. It is acknowledged that sustainable drainage is indeed a sustainability benefit. However, Policy CS15 of the adopted plan and the NPPF expect their use in any case. Further, Policy E20 of the emerging local plan, which may be given some weight, expects a reduction in pre-development run-off rates. Overall, while it is acknowledged and welcomed that the applicant seeks to maximise the use of SuDS, including proposing drainage alterations beyond the site at the adjacent property, it is not considered that this is a sustainability benefit of the development that outweighs the flood risk. The applicant's claim that the SuDS reduce flood risk overall is questioned, with the risk of fluvial flooding to the proposed dwelling remaining (see consideration of part b) of the exception test below).

In assessing part b) note has been taken of the Environment Agency's view that the design of the dwelling, and in particular the finished floor level, would provide an inadequate level of flood risk mitigation. Therefore, it cannot be concluded that the development is safe for its lifetime.

On both counts it is suggested that the exception test is not passed.

### **Conclusion**

Both the sequential and the exception test must be passed for development to be considered acceptable. It is not considered that the scheme passes these tests.

### **Public Spaces**

None received

### **Traffic Management**

The Traffic Team would request that any vegetation surrounding the entrance to this proposed property is no higher than 0.6 metre so to enable clear lines of sight when manoeuvring vehicles off of the 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: 11

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 2 on the original submission and 1 further on the amended plans/information

| <b>Comment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Officer Comment</b>      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Major concerns same as before:<br>plot size, no back garden; design now 2 bedrooms instead of previous 3, but house same size so rooms will just be bigger;<br>siting still right up to my border fence with overhanging and same issues re overshadowing and feeling hemmed in; no privacy with windows side and back looking into my property and garden. Back garden space a joke - no room for a family and cycle space<br>Selborne Avenue even more congested since yellow lines put in. | Noted - see section 7 below |

|                                                                                                                                                                                                                                                                                         |                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Still of the same opinion as last time - I still feel a new build will overshadow my property blocking light and privacy; still feel the garden space allocated too small for a garden for a family home. Same objections as last time and hope these will be taken into consideration. | Noted - see section 7 below |
| <u>On amended info:</u>                                                                                                                                                                                                                                                                 |                             |
| have seen flood risk assessment but with all the heavy rain we've had recently my side garden was badly flooded, I couldn't walk on it for about 4 days; still serious concerns here                                                                                                    | Noted - see section 7 below |

## 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) Flood risk
- (iii) Impact upon the character and appearance of the area
- (iv) Impact upon residential amenity
- (v) Highways and parking
- (vi) Drainage
- (vii) Compliance with Habitats Regulations
- (viii) CIL

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable in principle, subject to the usual development control criteria. The NPPF supports sustainable development with three aims: the economic; social; and environmental objectives. Havant Borough Council has an up-to-date development plan, comprising the Hampshire Minerals and Waste Plan; the Local Plan (Core Strategy) 2011 and the Local Plan (Allocations) 2014 and in accordance with paragraph 11 of the NPPF decisions should be made in accordance with the development plan.

7.3 The Council submitted its Havant Borough Local Plan, for examination in February 2021 and the Stage 1 Hearings have taken place. Until adoption the policies within the Submission Local Plan have limited weight. The emerging policies do however indicate the direction of travel.

7.4 It is noted that the Council's Five Year Housing Land Supply Update (July 2021) shows that the Borough has 4.4 years housing land supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is a presumption in favour of sustainable development (para 11d of the NPPF). Significantly, however, it does not follow there is a tilted balance in favour of permission being granted – permission should only be refused where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Significantly, the proposal would result in the provision of a single dwelling which is recognised as making a very small contribution to the Council's housing need and should be afforded weight in the overall planning balance accordingly.

(ii) Flood risk \_

- 7.5 The application site lies within Flood Zone 3 and as a more vulnerable form of development requires a Flood Risk Assessment as well as a sequential and exception test. The NPPF aims to direct development away from areas at high flood risk and the aim of the sequential test is to steer development to areas with the lowest risk of flooding. If development cannot be re-directed to suitable and reasonably available lower risk sites, then the exception test must also be applied and this requires that a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development would be safe for its lifetime without increasing flood elsewhere. Paragraph 165 of the NPPF makes it clear that both elements of the exception test need to be satisfied for development to be permitted.
- 7.6 The original submission included the FRA and sequential and exception tests repeated from the previous application APP/20/00302 which were considered by the agent to remain valid, and were supplemented by submission of a Sequential Test Addendum by Ark Environmental. However the LPA considered the Addendum to be a rebuttal and not an update, and requested alternative sites be more fully considered. Since only a small part of Leigh Park focussed around Middle Park Way is constrained by Flood Zone 2 and 3, there remain large urban areas in Leigh Park that are at lower risk of flooding. These areas are sequentially preferable, so these needed to be considered within the sequential test. The methodology was agreed with the agent to include similar extant permissions within the PO9 area that are 'reasonably available' (considered as not having had any conditions discharged) and other land availability from estate agent searches. Ark Environmental subsequently provided a further update to their Addendum in July 2021 which has been considered by the LPA.
- 7.7 This document concluded that there were no extant planning permissions in the PO9 area that were reasonably available i.e. had not had their conditions discharged. Whilst the search was fairly thorough and 6 sites were identified, the LPA identified a total of 10 sites, 2 of which have not (at the time of writing in August 2021) had their conditions discharged, making them reasonably available alternative sites:
- APP/18/01141 - 13 Sparsholt Close, Havant, PO9 4AP - First floor side extension and single storey rear extension to create new 2 bed end of terrace house and associated parking. Permission Granted 11/02/2019
  - APP/19/00257 - 15 Elm Park Road, Havant PO9 2AD - Construction of 1No. detached 3 bed dwelling with parking. (Revised application) Permission Granted 02/10/2019

7.8 The Ark Addendum continues to reject allocated site L146 (Forestside Avenue) from adopted Policy LP2, Leigh Park Garage Courts/Parking Areas as having other planning issues such as parking, and overlooking making it not a reasonable alternative site. It contends factors such as proximity of adjacent dwellings, existence of side windows/entrances, need for a novel design response, daylight and sunlight impacts, displaced parking issues etc make the site more complex and not realistically available as required by the NPPF as an alternative site. But the LPA is of the view that the application site is equally constrained by proximity of adjacent dwellings, existence of side windows, daylight factors and an equally "novel design response" has been put forward with its dog-legged garden to try to overcome such standard development management issues. The only difference the LPA would concede is the need to account for displaced parking at site L146. Overall the LPA continues to believe that site L146 offers a realistic alternative site for residential development away from flood risk. Site L146 offers the opportunity for development which would be in principle deliverable and developable, and its inclusion within the adopted Development Plan adds weight to its suitability as an alternative site. The planning merits of any future scheme would, in the same way as any other application, be considered on its merits. It is the view of the LPA that site L146 represents a suitable alternative site.

7.9 Therefore it is considered that the sequential test is not passed. It is the view of the LPA that both the allocated site L146 and other windfall sites for single dwellings do exist and are regularly submitted - the fact that there have been 10 permissions for similar dwellings in just the PO9 search area within the last 3 years demonstrates the frequency with which such alternative sites are identified and come forward. As a largely urban Authority there are many other sites outside of any flood risk area within the Borough that would be better suited for new residential development - and whilst it is acknowledged that the agent was not asked to search the whole Borough, nevertheless it is not considered appropriate to allow the development of this flood zone 3 site when sites at lower risk of flooding exist.

7.10 In terms of the exception test, the Ark Addendum makes no reference to the fact that the finished floor level, at 12.22m AOD, is below that requested by the Environment Agency and would still likely flood to a 1 in 100 year plus 105% climate change allowance, event. The site is close to a main river and is prone to Fluvial flooding, not Pluvial flooding. SuDs are a solution to manage storm water and urban run-off, ie Pluvial flooding and do not totally address Fluvial flooding. The NPPF is clear that flood risk from 'all sources' must be considered.

7.11 The Ark Exception test offers SUDs as mitigation to the general flood risk situation without considering the specific type of fluvial flooding, suggesting that SuDs would offer a benefit not only on the site, but also to neighbours. The LPA are of the opinion that if the finished floor level is below the required level and the property vulnerable to fluvial flooding as a result, then clause b) of the exception test, i.e. safe for its lifetime, cannot be passed. The Environment Agency object to the proposed finished floor level as not being safe for its lifetime. In terms of clause a) it is the opinion of the LPA that the SUDs offered should form part of any sustainable proposal to mitigate pluvial flooding and surface water management and are not sufficient alone to provide a wider community benefit that outweighs the fluvial flood risk at the site. The LPA considers the proposal fails both parts a) and b) of the exception test.

- 7.12 Independent of the sequential and exception tests, it is noted that the original FRA by GeoSmart has not been updated and recommends a finished floor level of 12.80mAOD. This has been superseded with the current proposal and cross section plan Drawing P04 demonstrates that only 12.22mAOD can be achieved. The FRA is a separate technical site level document assessing whether the development will be safe for its lifetime and can be delivered without increasing flood risk elsewhere, and is considered by the Environment Agency. In this instance they object to the proposal on the basis that the FRA is out of date and the finished floor level of 12.22mAOD would not provide adequate mitigation and would be contrary to the NPPF requirements for Flood Risk and Coastal Change.
- 7.13 Overall it remains the view of the LPA that the unsustainable location in flood risk terms that is not safe for its lifetime and without sufficient benefit to the community to outweigh the risk, fails the sequential and exception tests as set out in the NPPF and would be an inappropriate form of development in this location, contrary to adopted policy CS15, emerging policy E19 and the NPPF .

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

- 7.14 Within the vicinity of the application site there is a strong uniformity of two storey terraced dwellings set in linear rows, fronting the highway. All have consistent ridge and eaves height. The proposed development would add an attached dwelling to the existing terrace, matching the ridge and eaves line and would thus be visually appropriate to the character of the area. The width and proportions of the proposed dwelling reflect the rhythm of the host terrace with a ginnel proposed allowing pedestrian and bin access to the rear gardens for both the host dwelling and proposed dwelling, a feature common on the terraced properties in the area. The pattern of fenestration would also generally match the remainder of the terrace.
- 7.15 Overall, in visual street scene terms, the proposed dwelling is considered to reflect the appearance of the area and be suitable. The site slopes up slightly and by matching the levels of the host dwelling, the height and dominance of the development as it presents to the road is considered appropriate. This does however mean the internal finished floor level falls below the EA's requested for flood risk purposes, as noted above.
- 7.16 However, considerations under character of the area also include the more general plot size and pattern and layout issues. It is noted that the site comprises a triangular corner plot but the subdivision of the site in the manner proposed results in two very tight and contrived plots that are considered out of character with the surrounding pattern of development. All nearby properties have rear gardens the full width of the dwelling and most have at least 10m in length, certainly in part. In an attempt to increase the rear garden for the proposed dwelling, the alignment of the boundary line between the host dwelling and proposed dwelling has been kinked and reduces the width of the host property's garden. This results in an awkward and contrived garden layout with dog-legged side boundary that is at variance with the traditional pattern of the area and fails to respect local context. Policy CS16 clause c) requires the characteristics of the locality, including plot widths and depths, to inform design. This proposal would fail that criteria, which is repeated in emerging policy E1.

(iv) Impact upon residential amenity

- 7.17 The site is a triangular shape, tapering to the rear. To make the dwelling fit it has a stepped footprint with two corners being sited tight to the shared boundary with number 32 Overton Crescent. Now that the proposed dwelling aligns with the host terrace, the dwelling is set further back in the site than the previous proposals and would reduce the separation and exacerbate the poor relationship with number 32. At its closest point the back-corner to back-corner separation would only be 6m with number 32 Overton Crescent which would result in a dominant building mass in close proximity having an enclosing effect. The outlook from both inside the dwelling and the private amenity area of number 32 would be detrimentally impacted and would feel very hemmed-in.
- 7.18 Whilst the height of the proposed dwelling is not now artificially elevated but would follow the natural ground level of number 16, nevertheless the presence of the additional building bulk in such close proximity to the shared boundary would have a very dominant effect. Due to the orientation of the site, overshadowing from the proposed dwelling would result. The proposed dwelling would be sited south-west of the private garden of number 32 such that the garden would be overshadowed all afternoon through to the early evening, detrimental to the enjoyment of their private space.
- 7.19 Due to the shape of the site and proximity of the dwelling to the shared boundary, it is considered that insufficient separation between building bulk and private rear gardens can be achieved to avoid an overbearing effect, overshadowing and loss of outlook and amenity. The proposal would therefore be harmful to neighbouring amenity and contrary to adopted policy CS16 and emerging policy H1.
- 7.20 In terms of amenity for future occupiers, the proposed layout would result in a rear garden depth of between 8m and 0m. Due to the steep taper of the site, the boundary alignment with the host dwelling number 16 has been staggered in an attempt to increase the usable amenity area available. However the amount of usable amenity space is still below the minimum 10m deep garden, as set out in the adopted Design Guide SPD and as a family dwelling the available area is considered substandard. The use of the dog-legged area is also considered intrusive to the occupiers of number 16 - the juxtaposition of the outside space would enable views back into the rear of number 16, further harming their amenity. Overall the layout and size of the amenity area proposed is considered contrived and insufficient for future occupiers, contrary to the Design Guide SPD, adopted policy CS16 and emerging policy H1.

(v) Highways and parking

- 7.21 To meet the adopted Parking SPD, 2 on site spaces are required to serve the proposed 2 bedroom dwelling. These can be provided to the side of the site using the existing dropped kerb. It is further noted that 2 spaces are shown to serve the existing dwelling and this frontage area has been hard surfaced, but the kerb not yet been dropped. Hampshire Highways previously noted under APP/19/01254 that to provide adequate visibility the frontage hedge would need to be lowered. If this application had been recommended for permission, then the height of any retained or new front landscaping could be conditioned. Overall there is no highways or parking objection to the proposal.

(vi) Drainage

- 7.22 There is a Southern Water public foul sewer running close to the eastern boundary of the site. To protect this sewer no development or tree planting should be within 3m from its external edge; and no soakaways etc within 5m. The proposed layout plan marks the location of this sewer but proposes the dwelling within 1.5m, contrary to Southern Waters advice. This issue is not addressed further in the submitted Design and Access Statement. On the information available the proposed layout would therefore be likely to result in damage to, and fail to protect this public sewer. However, should the application be acceptable in other respects, then this technical issue would not be considered a reason for refusal in its own right; it is likely that there are technical Build-Over Agreement or diversion options that could be explored with Southern Water and Building Regulations.

(vii) Compliance with Habitats Regulations

- 7.23 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 (Amendment) (EU Exit) Regulations 2019. 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 due to both the increase in recreation and the decrease in water quality that would result from the proposed development of one new residential unit.
- 7.24 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 on Nutrient Neutral Development. The applicant has indicated a willingness to enter into a legal agreement to secure the appropriate mitigation packages.
- 7.25 With respect to the Solent Recreation Mitigation Strategy the mitigation package amounts to £571.10 and based on the submitted nitrogen budget the water quality mitigation amounts to £1,015.80. The applicant has been sent the appropriate joint agreement and Deed requesting these payments but this has not been returned or received and therefore it is considered that both the recreational harm and water quality impacts of the development have not been adequately mitigated against. This lack of mitigation is contrary to policies CS11, CS21 and DM24, and emerging policies E16 and EX1.
- 7.26 The Appropriate Assessment concluded that, subject to the securing of these packages through a legal agreement/condition, this is sufficient to remove the significant effect on the SPAs 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 objection on this basis. However the lack of receipt of the appropriate mitigation packages means the development would be likely to have a significant effect on the Solent European Sites and be contrary to the Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework. Therefore, on the basis of a refusal of planning permission for other matters, then it is necessary to include the non-provision of the avoidance and mitigation package for recreational disturbance as a reason for refusal.

(viii) CIL

- 7.27 The development would be CIL liable for the net additional internal floor space. CIL Form 1 has not been submitted with the details of the floor area. The Havant Borough Community Infrastructure Levy Charging Schedule, was adopted by the council on the 20<sup>th</sup> February 2013 and followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiners Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The CIL Regulations require the use of the national All-in Tender Price Index published by the Build Cost Information Service and this index has now increased to 2020 - 49.107%.
- 7.28 In light of the recommendation for refusal on other matters, the lack of CIL information has not been pursued, but could be done at appeal stage to enable a Draft Liability Notice to be prepared if necessary.

## **8 Conclusion**

- 8.1 It is considered that the proposed dwelling in this flood risk area would not represent a sustainable form of development when the LPA consider there are other reasonably available sites within lower flood risk areas nearby. The proposal is considered to fail the sequential and exception tests contrary to the NPPF and adopted policy CS15 and emerging policy E19. Furthermore it is considered that the subdivision of the site in the manner proposed would result in a contrived and cramped plot that would be out of keeping with the pattern of development in the area, and would have a detrimental impact on the amenity of neighbours from overbearing and overshadowing effects. Additionally the available amenity space for future occupiers is considered inadequate. The lack of appropriate mitigation measures for likely significant recreational harm to the Solent European Sites as specified by the Habitats Regulations is also contrary to policy DM24 and emerging policy E16. The proposal is therefore recommended for refusal.
- 8.2 It is acknowledged that the Council's Five Year Housing Supply is below the threshold and that the proposal would provide a single dwelling making a very small contribution to the Council's housing need. However the adverse impacts of the proposed development are considered to significantly and demonstrably outweigh the benefits of provision of a single dwelling such that the planning balance is not tilted in favour of the proposal.
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## 9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/21/00353 for the following reasons

- 1 The site falls within flood zone 3 and it is considered that reasonably available alternative sites exist that are at a lower risk of flooding. The proposed development is not considered safe for its lifetime with the finished floor level below the level required by the Environment Agency. The proposed SuDs solution is not considered sufficient to provide a community benefit that outweighs the fluvial flood risk. Therefore the development proposal is considered to fail the sequential and exception tests as set out in the NPPF and would represent unsustainable, inappropriate development in an area of high risk of flooding, contrary to adopted policy CS15 of the Havant Borough Core Strategy, 2011, emerging policy E19 of the Pre-Submission Havant Borough Local Plan 2036; and the National Planning Policy Framework.
- 2 The proposed subdivision of the plot in the manner proposed with dog-legged garden boundary with number 16, results in a tight and contrived layout that is at variance with the traditional plot width and layout of the area. The proposal is therefore considered to fail to respect local context would be harmful to the character of the area, and is considered contrary to policy CS16, clause c) of the Havant Borough Local Plan (Core Strategy) 2011, the Borough Design Guide SPD, 2011, the National Planning Policy Framework and emerging policy E1 of the Submission Havant Borough Local Plan.
- 3 The proposed dwelling, by reason of its siting, proximity to 32 Overton Crescent, and orientation, would result in a dominant and overbearing building bulk adjacent to existing residential properties, causing overshadowing, loss of outlook and a sense of enclosure, detrimental to the amenities of the occupiers of adjacent properties. Additionally, the contrived triangular garden size would not provide adequate amenity space for future occupiers and its use would be harmful to the amenity of the occupiers of number 16 Selbourne Avenue. The proposal is therefore contrary to the Borough Design Guide SPD, 2011, adopted policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework and emerging policy H1 of the Submission Havant Borough Local Plan.
- 4 In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to this planning application. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policy E16 and EX1 of the Submission Havant Borough Local Plan, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.