
Site Address: Yacht Haven Development Site, Copse Lane, Hayling Island

Proposal: Construction of 6No. 5 bed detached houses, 1No. detached boat store and ancillary office building, 1No. detached boat store for sailing charity use with hardstanding, pontoon restricted to 12 berths (6 for house residents and 6 for non residents), improvements to slipway, beach, reposition concrete sea defence to side of slipway, coastal footpath and the creation of one area of coastal meadow and one area of conservation grassland. (Revised application.)

Application No:	APP/13/00317	Expiry Date:	13/06/2013
Applicant:	Mr Laundon	Team:	Team 1
	Yachthaven (Hayling) Limited		
Agent:	Mr Thompson	Case Officer:	Steve Weaver
	PWP Architects		
Ward:	Hayling East	DMC Lead Member	

Reason for Committee Consideration:

Density:

HDS Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The site comprises approximately 6.4ha half of which is dry land, the other half is part of a tidal water inlet or 'creek' which is covered by water at high tide and is mud flats at low tide. The main part of the site is on the northern shore of the creek, immediately to the west of scatter of detached houses in large gardens. To the west is open land and on the opposite shore of the creek to the south is Verner Common, also used for grazing. Access is via a long, tree-lined, unmade and slightly raised track which extends north to Copse Lane, where it emerges at a pronounced bend in the road. The entrance is flanked by a caravan park to the north east and a house used as a bed and breakfast business to the south west.
- 1.2 The site was formerly a boatyard and contains the remains of boat sheds which probably predate 1945, these are scattered around the site among areas of hardstanding. The southern edge of the site appears to be made ground and sits at a slightly higher level than the main part of the site. Sporadic vegetation has colonised the surface of the made ground and areas of hardstanding. Buried rubble can be seen where the made ground meets the waterline, along with occasional items such as old piping, which indicate that some of this material is of quite recent origin. A concrete slipway and remnants of a pontoon are located at the wateredge. Close to this is an independently owned rectangle of land containing a shed and boat hard, which is not within the application site.
- 1.3 The western quarter of the site is a low-lying meadow set behind an earth bank and made ground along the shoreline. The northern boundary is marked by mixed mature trees, including oak. At the eastern boundary is another cluster of mature and semi mature trees and shrubs.
- 1.4 A public footpath runs along the shoreline edge. Part of the access drive which runs

close to the boundary also appears to be used as a footpath linking the neighbouring caravan site to the shore.

2 Planning History

93/50888/2: Outline permission for 6 houses arranged in two rows of three in the north-eastern part of the site, where the former boatyard buildings are located. - Approved 7/3/1996

94/50888/3: Outline permission for a replacement pontoon with 19 moorings, replacement slipway, mast/sail store and boat compound/parking area. - Approved 7/3/1996

04/50888/012 Outline application for 9 detached dwellings. - Refused 14/2/2005

APP/11/00955: Six detached houses, detached marine office, 6 boatsheds, boatyard and pontoon for 19 berth, improvement to sea defences, restoration of sluice pond and creation of nature reserve - Withdrawn 6/12/2013.

3 Proposal

3.1 The application is for full planning permission. The proposal is to clear the existing boat buildings from the site and construct six detached houses, a residential boat store and ancillary office building, a boat store for a sailing charity, a 12-berth pontoon, with improvements to the slipway and coastal footpath.

3.2 The western quarter of the site would become a coastal meadow and the area of made ground along the south east shoreline would become an area of conservation grassland.

3.3 This application is brought to Committee for determination as it falls within the Environmental Impact Assessment Regulations and is accompanied by an Environmental Statement. Councillor M. Wilson has also requested determination by the Committee as he considers that it may raise several important and possibly contentious issues, a neighbour has also requested Committee determination.

4 Policy Considerations

National Policies

National Planning Policy Framework 2012

Core Strategies 2011 forming part of the HBLDF

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS12	(Chichester Harbour Area of Outstanding Natural Beauty (AONB))
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS21	(Developer Requirements)
CS7	()
DM10	(Pollution)

DM13	(Car and Cycle Parking on Residential Development)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM3	(Protection of Existing Employment and Tourism Sites)
DM9	(Development in the Coastal Zone)

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations (in summary)

HBC Access & Building Control Officer: Observations /Recommends conditions

The following items will require attention from a Building Regulations perspective:

- i) The access road for plots 2 and 3 does not comply with requirement B5 (for Fire Brigade access). Alternative means, for example a sprinkler system, will be required for these plots (condition).
- ii) Bin Storage to be provided for each plot. Collection points to be agreed for plots 2 and 3 as vehicles may have difficulty with the proposed access.
- iii) A public sewer is located in the existing access road for plots 4, 5 and 6. This should be identified on site as the garages for plots 5 and 6 may be positioned within 3m of a public foul sewer. (**Officer comment:** The Southern Water response refers to this)

HBC Arboriculturist: No objection

The arboricultural evidence is comprehensive and recommendations for tree works in the applicant's tree assessment / report reports (AMS & TPP) appear to be sound arboricultural management; some updating is needed in light of recent changes to British Standards. Prescribed methods should be strictly adhered to and monitored.

Some of the trees shown for removal (as Grade C class) are prominent e.g. Group 6, which provide green vista of Oak, Ash, Hawthorn. Field Maple and shrubs when viewed from the water, with some habitat and ecological importance. Important groups of oaks to the western aspect/boundary must also be afforded full protection during any development, including any upgrading of the existing access road, as the Arboricultural Impact Assessment document suggests.

There is scope for new tree planting, however due to the condition of the soil - made up ground and I believe contamination planting measures must be addressed to ensure that any proposed tree planting is successful. Would wish to be involved in the planting scheme if development goes ahead.

HBC Economic Development Officer: No objection, if no impact on the wildlife.

HBC Engineering/Coast & Drainage: No objection

The flood risk assessment (FRA) is acceptable and demonstrates how the development has been designed that the occupants remain safe from flooding. The area shows that the site is likely to be affected by rising sea levels after 2055. Conditions recommended:

- i) compliance with FRA and minimum floor levels
- ii) details of management of flood defences

In respect of the sea defences, the North Solent Shoreline Management Plan Policy is to 'Hold The Line' for the next 100 Years but no public funds are likely to be available to deliver these. The location is considered to be a low energy coastal environment within Chichester Harbour, the scale and nature of the sea defence proposals are therefore deemed to have a limited impact on coastal processes within the locality.

HBC Environmental Health Officer: No objection.

Development is unlikely to significantly impact on air quality or to generate a significant degree of noise. However, unauthorised waste transfer and burning has taken place in the past and previous industrial processes are likely to have left contamination; a pond has also been filled-in. Removal of the filled land and reinstatement of the pond is considered to be a betterment, subject to appropriate control over the mobilisation of contaminants.

Recommends conditions:

- i) the control of times for development work and deliveries,
- ii) dust suppression
- iii) wheel washing.
- iv) the control lighting and disposal of waste.

Would object unless the following conditions are incorporated :

- v) the submission of a land contamination assessment for agreement with appropriate remediation,
- vi) submission and agreement of measures to deal with any other contamination if present.

HBC Development (Highways) Engineer: No objection.

Financial contribution £32,742 required. (officer comment: this response predated the introduction of CIL charging on 1st August)

HBC Landscape Officer & Urban Design: Objection

Landscape & Visual Impact Assessment (LVIA): Concerned at the mass of the proposed buildings, their urban appearance and their visual impact on the site itself as viewed from the harbour and the coastal footpath. The Chichester Harbour Conservancy's Design Guidelines for New Dwellings and Extensions in the AONB advice for the North Hayling Island Coastal Strip character area is for '*use of materials in predominantly muted or darker tones*' which 'can help to ensure buildings blend into background and reduce visual impact.' They also advise '*avoid breaking the existing skyline where possible.*' The proposed flat roofed houses are in muted colours but they will dominate the site with unsympathetic built form and even if the new planting grows up to soften them, the buildings will still be dominant due to their size in relation to the green gaps between them. There is also a potential problem with the screening because the new householders will not want their views of the water obscured by the new planting, therefore some of the screen planting may be removed after 5 years.

Landscape Strategy Plan: The retention of existing native boundary planting and

augmentation with additional native tree, hedge and wildflower planting is welcomed.

However, areas of concern are:

- the mown grass path through linear wildflower grassland area between plots 1 and 2 and plots 4 and 5. The benefits of providing public access between private back gardens are not clear.
- the proposed timber bench next to the junction of roads and path is very close to back gardens and could cause a noise nuisance if used by walkers.
- the sinuous hedge along the development edge, the flowering and fruiting trees and the feature trees should all be native species.
- the raised timber decks with steel square mesh front panels that it is proposed to plant with ivy to enclose and screen the areas under the timber decks are of varying heights. The lowest for house type C are 700-900mm height but the highest for house type B are up to 2.5 metres high and the exposed steel mesh will look very ugly until the ivy grows up to cover it. I recommend using a timber detail for these panels instead.

HBC Planning Policy Officers: Observations

Principles:

Housing development could contribute to the total needed up to 2026 but the principle of new residential development in this location is not supported by the Local Plan as it lies outside the urban area. However, other material considerations e.g. positive aspects in relation to other objectives and/or the vision of the Development Plan and previous permissions should be considered. Do these outweigh the principle?

The application does not meet the four criteria in para 55 of the NPPF, which deals with housing in rural areas, nor the four criteria of paragraph 28 which supports a prosperous rural economy.

Policy CS2.5 & DM3 safeguard existing employment sites that are fit for purpose. Policy CS2.7 also protects marine businesses located on waterfront locations. The site appears to be derelict and not in active commercial use for a considerable period. It is acceptable to make an exception in this case where the site is clearly not fit for economic development. The extent to the use of buildings which this use could be resumed without the need for planning permission is a key consideration. The impact of a marine business in this location could be significant and this should be weighed against the impact of the proposed development.

Planning permission for new dwellings on the site was granted in 1996. Although the permission has now expired, this could carry some weight. The key consideration here is the extent to which policies have changed, particularly in terms of environmental protection, since permission was granted. [and difference in scale, condition of site] Impact.

The proposed 12-berth pontoon is contrary to policy CS1.12 of the Local Plan and would extend into the harbour and close to an area of sea grass, used by brent geese. A reduction in size would improve the visual and environmental impact. Modification of an existing mooring / berth could be permitted under Policy CS1.

Questions the level of development necessary to enable the beneficial works to be

carried out. If not, a reduction in the scale of development should be considered. Would the environmental benefits (clearing of waste, concrete structure and overgrown grassland and foreshore); are these significant enough to justify the level of development proposed? It is not an “eye sore” from the harbour and the proposed use is likely to be more visible from the harbour than the existing, albeit this could change if it were re-instated and this would need to be weighed.

Community provision: (Even Keel Project) would be in line with policy CS1.10 on the provision of new community facilities it may be appropriate for a condition tying the use of the building to the named charity.

CIL: On the 20 February 2013, the Council approved that the Havant Borough Community Infrastructure Levy Charging (CIL) Schedule which takes effect on 1st August. Therefore, from 1st May applicants will need to take the charging schedule into account when discussing developer contributions. More information is available on the Council's website.

Policies of the Draft Havant Borough Local Plan (Allocations) are material considerations to be taken into account where relevant.

HCC Archaeologist: No objection

This is archaeologically sensitive area, a focus of prehistoric activity from the Mesolithic onwards with possible iron age and Roman importance

It is likely that salt production was an important industry and remains associated with this may be present within the site. While archaeology is unlikely to present an overriding concern there is a potential for previously unidentified archaeological remains of local or regional significance to be present that would be impacted by the proposed development works. Trenching or trial pits needed before ground works. The results of this will inform the nature and extent of any further mitigation. Planning conditions are needed:

- 1) A programme of archaeological investigation and evaluation to be agreed
- 2) A programme of archaeological mitigation to be agreed
- 3) Post-excavation assessment, specialist analysis and reports, publication and public engagement.

HCC Ecologist: Recommends further advice from Natural England (NE)

On-site Ecology

Yacht Haven Nature Reserve: The applicant has demonstrated a detailed understanding of the existing vegetation communities and their conservation. One of the areas of coastal grassland within the site form part of the non-statutory SINCS. A long term management Plan for both areas is recommended and a condition is recommended:

Legally-protected species:

Site surveys have identified the presence/potential presence of slow-worm and common lizard and there is good habitat for breeding birds, although no breeding bird

surveys produced. Scrubby coastal grassland may provide suitable habitat for rare, protected, breeding species such as Dartford warbler.

Bats - An assessment was made in 2010. The only suitable building has been destroyed through vandalism but soprano pipistrelle bats are within close proximity. I would expect an updating assessment in 2014 if development works were delayed. The local landscape is likely to be of importance to foraging and commuting bats and that potential impacts may occur through inappropriate lighting of vegetation.

Water voles - I note neighbour correspondence referring to possible water voles inhabiting ditch habitat close to the application site. There are no records of this species for Hayling Island, and I think it unlikely that this species is present on the Island, although I have seen them at Langstone. I strongly recommend that the applicant seeks the advice of their ecological consultant on this.

In summary, there are protected species issues are perfectly manageable provided that appropriate mitigation measures are in place.

A single, site-wide ecological management plan is recommended by planning condition:

Prior to commencement, a detailed site-wide Ecological Management Plan shall be submitted for written approval to the Local Planning Authority. The Ecological Management Plan should include details of mitigation and enhancement measures designed to protect and enhance populations of legally-protected species throughout the development process and should include (but not necessarily be restricted to): species capture and translocation measures, timing and methods of habitat clearance, habitat creation and planting, details of the site lighting scheme and proposed enhancements such as bat and bird boxes.. Development shall subsequently proceed in accordance with any such approved details.

Reason: to protect and enhance biodiversity in accordance with NPPF, the Wildlife & Countryside Act 1981, the Natural Environment and Rural Communities Act 2006 and Policy CS11 of the Havant Borough Local Plan (Core Strategy).

Off-site Ecology

The assessment of impacts and the efficacy of mitigation is based to a large extent on incomplete data and an over-reliance on third-party action.

Whilst acknowledging the response from Natural England (NE) and their primacy in respect to designated sites, I consider that there are several issues which require further clarification before it can be conclusively determined that there will be no 'likely significant effect' on the integrity of the European designated sites:

i) The realistic likelihood (based on a *de facto* three-fold increase in active moorings) of increased boat movements and the impact on birds and intertidal habitats.

ii) Clarification of the need for bottom levelling (of water inlet).

iii) Justification of how limitations in bird survey methodology, and thus assessment of impacts, have been addressed - is the assessment based on good science?

iv) Clarification of how proposed 'voluntary' mitigation measures will be monitored and enforced where necessary (e.g. voluntary code of conduct by boat users, limitation on number of mooring licences by Chichester Harbour Conservancy).

Given NE's stance, you may wish to determine this application based upon their recommendation to 'permit subject to conditions'. , which appear to provide NE with a suitable level of confidence that the proposals will not result in 'likely significant effect'. I should add that on the whole I consider these conditions to be acceptable and pragmatic (if followed they will in effect 'capture' all of my points raised above, although normally such issues should be dealt with prior to determination) and they should provide a robust framework for ensuring that the proposed works are undertaken in such a way that does not, either alone or in combination, result in damage to the designated sites. I can provide additional comments, and assist in condition wording, once you have received further advice from NE.

HCC County Planning Officer: No response

HCC Rights of Way & Countryside officer: No objection

A public footpath (No 86) runs through the site. The many planned improvements to the site are welcomed. No work may be carried out on the footpath without the prior approval of HCC Highway Authority.
[Informative]

Hants Police - Crime Prevention: No objection

The site is fairly isolated and can be approached from both the land and the sea. The boundary treatments have not been specified but are unlikely to be substantial enough to prevent access. I recommend the a condition relating to the security accreditation of the external doors and windows i.e. PAS24, or British Standard 7950 as referred to at page 50 of 'Safer Places the Planning System and Crime Prevention'. Boat stores should conform to Loss Prevention Standard (LPS) 1175 SR 2.

Hants & loW Wildlife Trust (HWT): No objection

Current application includes welcomed management of the coastal wetland and creation of conservation grassland. The Trust has asked for more details about funding, delivery and long-term maintenance of this ecological mitigation. How would the applicant ensure that the number of movements of vessels at the moorings is restricted in winter and that signage is provided and maintained to ensure that vessels do not land at the Gutner Peninsular and Verner Common opposite.

The reduction and control of swing moorings should be secured by agreement in order to control impacts of marine vegetation (Eelgrass)

Officer comment: The applicant has provided further information, which is referred to in this report.

The HWT has also provided standing advice on the protection of designated sites, Notable/Protected Species and Priority Habitats, to check for any adverse impact.

Chichester Harbour Conservancy: Recommends refusal

In the absence of any attempts to market the site for marine related businesses or other suitable employment uses, and a viability appraisal, the proposed loss of a commercial site with marine potential is a principle to which the Conservancy raises a strong objection. This would be clearly at odds with Core Strategy policies CS2 & DM3 and CHC planning guideline policy D1b. It is not the case that Natural England

would object to a purely commercial use of the site and there are no other compelling justifiable reasons to accept a predominantly residential development.

Furthermore, the proposed boatshed identified for charitable use does not satisfy the requirement for commercial use of the site and even were a charitable use taken up, its long term viability given its scale and close association with the residential development is questionable.

The scale, design and density of the development is at odds with the rural setting and would be in stark contrast to the character of adjoining residential development. It would have a harmful impact on the character and appearance of this sensitive area and there is consequently a strong objection with regards to the design of the houses, their number and the impact they have on the local landscape. The proposal is contrary to the criteria set out in Core Strategy policies CS12, CS16 and DM8 and planning guidelines A1, B1 and B3 of the CHC Management Plan and paragraph 55 of the NPPF.

Finally, the proposals would likely have significant direct impacts on the intertidal area and in the absence of a detailed plan setting out the ecological mitigation measures, the Conservancy again strongly objects to the application.

Environment Agency: No objection

No objection to the principle of development subject to further information, conditions and Informatives.

The site is in flood zone 2 and a sequential test is needed to demonstrate that no alternative sites are available in a lower flood risk zone. Current sea defenses would need to be improved, although the site is relatively sheltered in respect of wave action and water velocities. An aquifer lies adjacent to the site and further information is needed regarding the nature of landfill, recent unauthorised waste operations and burning and groundwater and leachate sampling and analysis. The EA supports the control of the number of mooring (not to exceed 12) and the view that bottom levelling of the inlet should not take place.

Conditions recommended by Natural England should be used to minimise the risk of sediments arising from works to the foreshore and intertidal zone. Other conditions should cover:

- i) Control of floor levels and provision of safe routes in time of flood,
- ii) Surface water drainage design
- iii) Limitation of surface water infiltration
- iv) Limitation of piling
- v) Contamination – risk assessment and remediation
- vi) Working methods statement to be agreed

Natural England: No Objection subject to Conditions

The site is partly adjacent and partly within the Chichester Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Solent Maritime Special Area of Conservation (SAC), and Chichester and Langstone Harbours Special Protection Area (SPA) Natura and Ramsar site.

If undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the sites are designated, either alone or in combination with other plans or projects, subject to the Mitigation and

Enhancement Measures set out in the Revised Ecological Assessment Report being secured as part of any permission granted, subject to conditions:

i) A Mitigation Strategy be submitted and agreed including the amount of designated habitat restored through removal of structures from within the intertidal area.

ii) A method statement detailing how the works will be undertaken in order to avoid any impacts upon the designated sites.

iii) A Legal Agreement or Formal undertaking is entered into by the applicant to purchase all 26 available mooring licenses for Yachthaven, but only to make use of the 12 detailed in the application.

iv) Prior to works commencing on site a Habitat Creation strategy and Management Plan for the „wildlife enhancement“ area.

v) A dog proof fence to be erected and maintained along the landward side of the coastal path adjacent to Fields and Saltmarsh South of Copse Lane SINC.

vi) No dredging or bottom levelling should be permitted within the designated site.

vii) Timing of works to minimise disturbance to over wintering birds.

viii) Best practice is in place for operating machinery to reduce unnecessary noise.

ix) No percussive piling or works with heavy October to March inclusive, unless the existing noise level exceeds 69dbA max.

Advice regarding protected species should be obtained from HCC Ecologist. Impacts on local sites, local landscape character and local or national biodiversity priority habitats and species are relevant. The LPA must notify NE if it proposes to approve development without these conditions.

Royal Society for the Protection of Birds (RSPB): Objection

i) Under-assessment of the importance of the creek and surroundings to SPA/Ramsar/SSSI birds.

ii) Lack of mitigation for the loss of intertidal mudflats from within the SPA/Ramsar/SSSI as a result of the pontoon and coastal defence works (including anomalies in the calculation of these losses).

iii) Inadequate mitigation for damage to intertidal habitat, including *Zostera* (eelgrass) beds, from boat movements in and out of the creek.

iv) Lack of assessment/mitigation of further potential impacts on the designated sites as a result of “bottom levelling” (NB there is a contradiction between the revised Environmental Statement and the Design and Access Statement on this)

v) Unmitigated disturbance to roost sites at Gutner Point and Verner Common from boat movements and walkers/dog-walkers.

A likely significant effect on the SPA/Ramsar cannot be ruled out, and an *appropriate assessment* is therefore required under the Habitats Regulations (Regulation 61(1)). Based on the current information provided, we do not believe it will be possible to

reach a conclusion of *no adverse effect on the integrity* of the SPA/Ramsar site. The application should therefore be refused under the provisions of the Habitats Regulations.

Southern Water: No objection

Applicant should determine the precise location of an existing public sewer crossing the site. No development or tree planting permissible within 3m of this and no soakaways within 5m. It should be protected during development. Any other existing sewer should be investigated to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

Initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. The Council's Building Control officers/technical staff or Environment Agency should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

Informative requested:

"A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk".

Waste Services Manager: No comment

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: 36

Number of site notices: Three

Statutory advertisement: 26/04/2013

Responses have been received from a total of 16 addresses. The responses are as follows:

Support (9 no.)

There are eight resident letter in support and one from NEHRA (North East Hayling Residents Association).

The resident letters comment that the application is well presented following consultation with various bodies. It brings benefits to the site, the coast path, habitats,

sea defences and economic benefit. It should be embraced. The site is currently an eyesore. The proposed house designs are found on other parts of the island. There should be no dredging of the creek. One letter refers to the proposal as excellent.

Letter from NEHRA: The proposal has answered a lot of objections to the previous scheme. NEHRA is willing to support proposal subject to:

- No dredging of the creek
- No further commercial activity beyond the Even Keel project who should only store and maintain their craft here.
- Remove existing hard standing to prevent creeping commercial use
- Code of conduct for boat uses to be managed by boat office
- Boat lockers only for residents and berth users
- Boat stores should be finished in timber
- Drainage provision should be adequate
- Disabled access to be provided – information needed

Objections (5no.)

Housing: In general there is support for a mixed development but the number of houses is too great and does not adhere to the building line and character of the area along the creek. The raised floor levels will (around 1.9m above existing ground) will make the buildings prominent to the detriment of the landscape / AONB. The design of houses is unsympathetic, it includes some three storey elements and is out of keeping with the Northney and Tye Design Statement. It will create a precedent for future development of the adjoining Yachthaven House site, which is also said to be owned by the applicant. A smaller scheme with only three houses should be considered.

Sewer: The sewage pumping station has failed three times in past six months and is understood to be at capacity. This must be explored urgently.

Boating: Concern at possible future creeping of commercial development, only the boat charity should be able to use the boathouse and this should not be expanded in future. The need for the residential boat store with office and individual lock up boat stores is questioned; this is not normally required even for full scale marinas. The future commercial use is questionable.
Six berths would be for non-residents and there is no need for a boat building. Another neighbour will apply for moorings if this is allowed. The hard standings should be removed to prevent future commercial use.

Ecology: The sensitive biodiversity in the wider area (SINC, and the Chichester Harbour SPA/SAC & Ramsar designation) is at risk from increased vessels, size of the 12 berth pontoon, discharge of effluent from vessels and dredging harmful to protected vegetation. A water vole survey should be undertaken. The creek is privately owned by residents. Development will also increase noise and activity, disturbing tranquillity, wildlife, roosting areas and nearby residents. Who will police the voluntary code of conduct for boat users in order to safeguard ecology?

Highways: The site access to Copse Lane is inadequate and on a blind bend. Accidents and road blockages, especially by HGVs have occurred. HGVs have also damaged overhanging trees and there is concern of future risk of damage to protected trees at the site access. The access track is noisy and would need to be

improved but this may harm trees and intensify existing flooding to the neighbour, it is noted that ditches long the track have not been maintained.

Traffic predictions do not include weekend traffic or delivery vehicles but have over-estimated historic levels of vehicular use. There is inadequate parking for the proposal.

Accuracy: Plans are inaccurate at the site access, including land owned by the neighbour, it also omits important trees (**Officer comment:** An amended plan has now corrected this)

The application should be determined by Committee.

Letters with no overall view (2no.)

- Also in favour of building of 'suitable homes' and restoration of meadow but concerned at impact of the pontoon and vessels on creek and wildlife, including increased risk of discharge from vessels. Due to shallow water the site would only be suitable for fixed keel boats
- The planned seawall is 3.0m the boat stores and the boathouse will flood in extreme events.
- The semi metalled surface might be better removed to allow recolonisation by vegetation.
- How will disabled access be provided given the high floor levels?
- High quality design should not be reduced by statutory consultees.

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) Previous Use of the Site & Moorings
- (iii) Character and Visual Impact
- (iv) Boathouses and Employment
- (v) Ecology
- (vi) Flood Risk & Drainage
- (vii) Highways and Access
- (viii) Land Remediation and Environmental Protection
- (ix) Delivery and Viability

(i) Principle of development

7.2 The National Planning Policy Framework (NPPF) is explicit in stating that housing applications should be considered in the context of the presumption in favour of

sustainable development; and that there are three dimensions to this: economic; social and environmental. Sustainable development is also defined by the range of other policies in the NPPF. In terms of rural housing it states that isolated homes in the countryside should be avoided unless there are special circumstances such as the re-use of redundant or disused buildings or where development is 'truly outstanding or innovative' with the highest standards of architecture, significantly enhancing its immediate setting and sensitive to the characteristics of the surrounding area. That the site is within the countryside is confirmed by the Local Plan proposals map. The NPPF also encourages the re-use of previously developed land (PDL) provided that it is not of high environmental value. In the local context the Local Plan policy CS17 concentrates new development, including redevelopment of PDL, into the defined urban area.

- 7.3 The extent to which the site can currently be regarded as Previously Developed Land (PDL) is debatable. It contains two boathouses towards the southern end which, although in poor condition, are substantial and capable of re-use with limited repair work. At the northern end are two other large boathouse/workshops but in such a poor state of repair, (one is currently shored-up by scaffolding), along with smaller brick-built buildings that the view could be taken that these have blended with the surrounding landscape. This blending is a distinguishing characteristic in the NPPF definition of PDL. Part of the curtilage around the buildings is also hard surfaced but this quickly dwindles away from the buildings. Whilst there is no structural survey with this application it is considered reasonable that part of the site can be regarded as PDL but this is limited to the two southern boathouses and perhaps the nucleus of the largest buildings to the north and their immediate curtilages. Otherwise the site is generally open in character immediately adjoining and partly covered by the Chichester Harbour AONB, where this character contributes to the coastal environment.
- 7.4 Development in rural areas which supports business and sustainable tourism and leisure is supported in the NPPF where it meets identified needs that cannot be met elsewhere and where it respects the character of the countryside. The Local Plan policy CS7 supports development shaped by community and stakeholder involvement but subject to the urban concentration policy CS17 mentioned above. In coastal areas policy CS2 safeguards existing marine businesses from non-marine related development along with Policy DM3, which safeguards employment uses across the Borough.
- 7.5 The coastal environment is subject of Local Plan Policy DM9, which only allows for development subject to a series of criteria including; no harm to designated sites for ecology such as Chichester Harbour; maintains the distinctiveness of coastal landmarks and contributes positively to the coastal landscape. Coastal footpaths should be upgraded and there should be no adverse effect on coastal recreation or infrastructure. Development is allowed where it improves or redistributes moorings. These considerations are largely re-enforced in the AONB and its setting by policy CS12 and the NPPF, the latter attaches 'great weight' and 'the highest status of protection' to conserving its scenic beauty.
- 7.6 In summary, policies only allow for new housing outside urban areas in special circumstances and where there is significant enhancement of the immediate setting and sensitivity to the surrounding area. Other leisure and tourism development is permissible where it meets identified needs. Existing coastal uses are safeguarded as is the coastal landscape and ecology. The coastal landscape of the AONB and its setting is afforded the highest status of protection.

7.7 Whether the proposed development can be accepted in principle therefore depends on the extent to which housing is considered to be truly outstanding and innovative. The re-use of PDL does not in itself allow for new rural housing but it is a material consideration to be weighed, together with consideration of the site's existing environmental value along with the broader consideration of the impact of development on the coastal character and landscape. It is also important to consider the extent to which the development would represent the loss of marine business and coastal uses and whether other material considerations override such a loss, for instance the benefit of introducing the new community leisure use proposed here (the boathouse). The extent to which development would affect marine ecology depends on the extent to which the 12 berth mooring is either a new use or the replacement of an existing one. It is a material consideration to consider the other ecological benefits of the proposed land remediation and habitat creation schemes here. One further material consideration is any previous planning history; planning permission for moorings and dwellings were granted in the 1990s. These matters will be considered in detail below, starting with an exploration of the existing use and planning history.

(ii) Previous Use of the Site & Moorings

7.8 The applicant comments that the boatyard has not operated at full capacity since the 1970s, it has not been used as a proper commercial boatyard for 40 years and is now largely abandoned and physically degraded. They suggest that there is no appetite in the market for a commercial re-use. Outline consent was granted in March 1996 for a residential development with all matters of detail, access, layout, design and landscaping, reserved for subsequent approval, albeit an illustrative plan show these arranged in two rows of three. The notice of permission contained the words '6 dwellinghouses' in brackets. At the same time permission was granted for a replacement pontoon with the words '19 moorings' in brackets. A legal agreement was completed to eliminate industrial use rights and to limit the number of moorings to 19no. Both permissions lapsed in 2001.

7.9 The application contains no information regarding activity at the site since the approvals of 1996. Planning records show that in 1991 a planning enforcement notice was served against an unlawful scrapyards and car breaking use. This was upheld at appeal. In the absence of other information there is no clear lawful use of the land since that time.

7.10 In terms of moorings, there is little trace remaining on site of the pontoon which is shown on a land registry extract dating from the 1960s, provided by the applicant. It is understood that this might have provided for up to 26 berths; the lapsed permission of 1996 approved a lesser number. However, only a few poles and rusted section of floating steel flooring can be seen at low tide. Aerial photographs from 1998, 2002 & 2005 show no sign of boat mooring use and licences have not been issued by the Conservancy since at least 1997 who confirm that they have not been used at least since then, possibly longer, although it is understood that these remain available to be uptaken.

7.11 The importance of this history is that there is no clear lawful use for the site, nor are there existing physical means by which the site could accommodate multiple moorings, other than perhaps by attaching ropes to shore and there is no evidence to suggest that mooring has taken place at least since 1997, possibly longer. The significance of this history is that the current proposal can be regarded as seeking approval for new moorings rather than replacements. This in turn will influence judgements about the degree of potential impact, particularly on ecology. The lack of a clear lawful use for the land within the site will also influence judgements about the impact of the use on employment.

7.12 The two lapsed permissions of 1996 are material considerations. However, as these have been expired for twelve years, their relevance is limited. Whilst legislative changes since 1996 governing the designation of AONBs (the Countryside and Rights of Way Act 2000), do not change the fundamental duty of planning authorities to take all expedient action to conserve and enhance their natural beauty (but add recreation aims and economic and social needs into the consideration of development), the recent NPPF policy which now affords them 'the highest status of protection'. Furthermore the designation of the Special Area of Conservation (SAC) and the Special Protection Area (for birds), designated 30th January 1996 predated the Committee resolution to approve those applications in February 1995. These changes mean that the policy of protection afforded to the AONB is enhanced and that there is a legal duty to consider the impact of ecology of the harbour. These are important changes affecting the current application such and the 1996 permission is therefore of limited weight.

(iii) Character and Impact

7.13 The proposal is for 6 houses located in the northern part of the site and arranged in two rows with an access drive in between. The houses would be of contemporary modernist design with flat roofs, some with tower features providing an enclosed and roof third-storey deck area. The main materials would comprise brick, render and sections of stone panelling. Ground floors appear to be raised between 0.9m - 1.5m above ground level for resilience against floodwater so that the overall heights range between 7.8m - 9.5m. The layout places gardens on the south side of each house and a notable separation or 'green corridor' between the western-most two houses and the other four; this is designed to avoid the suggestion of a continuous block of development.

7.14 The replacement boathouse / office building would occupy a position similar to that of the existing boathouse at the southern edge of the site, close to the shore. It would have a pitched roof of 4m height, with the gable ends facing south and north, similar to the existing building. The materials would be timber cladding and slate roof tiles. A small boatyard containing one vessel and a mud dock 12m to the south west of this building, is independently owned and not included in this application; this would remain.

7.15 A boat store building of 4m height with six lockable bays would be built in the western part of the site, close to the position of another building which would be demolished. The new building would be clad with green profiled-steel. All existing buildings within the application site would be demolished, these include pitched roof buildings at the northern end of the site which are estimated to be around 5 - 6m tall.

7.16 The pontoon would extend southward approximately 35m from the shoreline with space for 12 vessels. Concrete sleepers along much of the eastern part of the shoreline would be removed, with removal of rubble and debris along all of the shore. A length of 23m of new concrete shoreline defence would be created along

the eastern side of the existing concrete slipway, which would also be restored.

7.17 Areas of semi-metalled surface would be variously removed and grassed over to form conservation grassland or allowed to naturalise (a process which is already well advanced in the western part of the site). The western-most meadow, which is a SINC, would undergo selective removal of shrubs and small trees to allow for improved bird roosting (improved lines of sight to the water are important for birds)

7.18 In terms of visibility, the site is flat and open to the south, with good tree screening to the north, north west and much of the east. Its visibility is greatest from the public footpath at the shoreline, running along the southern edge of the land within the site, also from Verner Common on the opposite bank (although this is not publicly accessible) and part of the caravan park to the south west. These are within or at the edge of the AONB. The site is visible from the water; the creek and Chichester Harbour to the west and south west.

7.19 The applicant has undertaken a landscape assessment, focusing on 5 vantages and concludes that if existing trees are retained, the impact is slight and limited to two vantages: the shoreline edge close to the eastern boundary of the site and the entrance to the creek some 750m to the east. He concludes that this is not significant or harmful to the AONB.

7.20 The landscape officer disagrees with this assessment and is concerned at the mass and design of the proposed houses, which are formal and urban in appearance and an unsympathetic built form. Although they are proposed in muted colours, there is concern that they would dominate the site. In consideration of this point, it is noted that the houses would occupy much smaller plots than the proposed scatter of buildings along the northern shore of the creek and would be closer together. Existing development is generally spaced in generous plots, separated by intervening lush vegetation, including mature trees, with buildings glimpsed in between. Most of the houses have pitched roofs, tapering toward the skyline, receding in to a backdrop of trees and making little impact on the skyline. It is noted that two houses of less traditional form and greater prominence exist to the east of the existing scatter, which create a more built-up appearance but this is not typical of the northern shoreline, where built development is generally of low visual impact when seen from the water and land to the south west. From the footpath, the spaciousness around buildings and vegetation gives a rural and informal impression.

7.21 Although the applicant has incorporated a green corridor to separate some of the buildings, there is concern

that the degree to which the site would appear built-up, would still be much greater than its neighbours. The new two / three storey rooflines are likely to form a largely unbroken mass when seen from some angles. There is a potential problem that screening and tree planting will be of limited benefit, as the several new householders are likely to wish to have views of the water, which would be compromised as trees and bushes grow. For the same reason the tree officer is also concerned that pressure would arise for reduction or removal of trees and bushes at the east boundary. This would increase the visibility of the proposed development and reduce the informal character of existing vegetation, revealing the formal design and layout of the proposed development. By contrast, the existing buildings at site, are well spaced and several of them are clustered to the northern end of the site where they have more limited visual impact than the proposal.

7.22. These criticisms do not imply that the buildings are not of high architectural standard, but that they are considered to be out of keeping here. the Council's Design Guide and the Chichester Harbour Conservancy's Design Guidelines for New Dwellings and Extensions in the AONB can be generally summarised as seeking an less formal pattern of development in this context. Whether they are of truly outstanding or innovative design is a matter of judgement, but in any case this test would not necessarily have to be met if other merits of the scheme are sufficiently strong.

7.23 Whilst it appears that in planning terms the proposed moorings are likely to be new rather than a replacements, consideration of their visual impact is also relevant. In this case the length of the pontoon (35m) is such that it would make a significant projection into the narrow head of the creek. Vessels moored here would be visible from both the land and water, and whilst this is consistent with coastal recreation, it will add to the overall sense of formality in the proposal.

7.24 In summary, it is considered that the design and amount of development here is harmful to the character of the area, the AONB and its setting.

(iv) Boathouses and Employment

7.25 The proposed boatstore building with ancillary office is intended for occupation by a local volunteer-run charity 'Even Keel Project (EKP)' based on Hayling Island. The charity provides sailing opportunities for people who would otherwise be unable to do so, including people with disabilities. They participate in sailing events in the Harbour and all around the British isles. The charity has need for accommodation in the area, including the secure storage of boats. The site would allow for storage of the boats which could then be launched from the site via the pontoon and

transferred to the Hayling island Sailing Club by water (they are currently towed by road), from which they would be sailed. In land use terms, this is consistent with policies for leisure uses around the coast.

7.26 As mentioned earlier, the lawful use of the site is unclear. If it is accepted that the site could revert to a commercial use (Class B2 use was mentioned as the previous use in the 1991 enforcement notice), then by virtue of policy DM3 the loss of an employment use would require evidence in the form of 12 months of marketing information. Such evidence has not been provided. Furthermore, policy CS2 (7) safeguards marine business sites from non-marine related business.

7.27 Whilst the lawful use is unclear, the existence of at least two boatsheds in outwardly reasonable condition and the slipway, suggests that some extent of commercial marine use could be regarded as lawful and a starting point for any assessment about the degree of loss of employment and marine business opportunity. The Chichester Harbour Conservancy is concerned that the loss would be contrary to its own policies and those of the Borough Council. In response the applicant has provided information about twenty other sites which are currently on the market along the Hampshire/West Sussex coast. As a material consideration this information is important. One further factor to be considered, is the impact which a rekindled commercial use might have in terms of surrounding amenities by reason of noise, commercial traffic and disturbance, with at least one residential garden immediately alongside the access drive and others close to the east.

7.28 Taking into account the lack of clarity regarding the lawfulness of a commercial use at the site and the availability of numerous other similar premises, together with the possibility of noise and disturbance, it is not considered that a strong argument could be made against the potential loss of employment in this case. The future presence of the marine-related charity would maintain some relationship between the site and the coast and is supported by policies. Subject to conditions to avoid its loss to other uses such as residential or other business, the boatstore / office could coexist successfully with the residential properties nearby.

(v) Ecology

7.26 Ecology has great importance in the determination of this application. The creek / harbour is designated for its nature conservation value, which is of international importance (SAC/SPA) and national importance (SSSI). By law this Authority must be satisfied that development would not affect the integrity of the SAC/SPA. This involves assessment of the individual animal and plant species and their habitat and the extent to which development might

impact, including the works to remediate contamination of the land and the provision of moorings. The benefits of habitat creation which is proposed onshore within the site, is also relevant.

7.27 The application is accompanied by a detailed ecological assessment, which considers the effect of the development, ground remediation and proposed moorings on the SAC/SPA. Natural England (NE) has replied that there is no objection to the proposal, having considered matters such as vegetation in the tidal muds and water channel and bird species on the water and adjoining banks and land. NE has recommended planning conditions, including the proposed removal of rubble and waste from the shore and bank regrading to increase inter-tidal habitat and the provision of the onshore habitat improvements. It also recommends a legal agreement requiring that mooring licences (which are issued by the Harbour Conservancy) for any more than 12 berths, must be purchased and frozen by the applicant. It also recommends against dredging, which the applicant agrees to and a voluntary code of practice for users of the pontoon. In planning terms, it is unlikely that these specific controls could be subject of an enforceable condition or agreement, planning controls can only extend to limiting the number of moorings. In consideration of this it is noted that the NE response is based on an understanding that 26 moorings could lawfully be used without planning control. This is considered further in the next paragraph.

7.28 As discussed earlier in this report, the original pontoon is gone and mooring activity does not appear on any aerial photographs since 1998, nor have any licences been uptaken since at least 1997. Therefore the extent of lawful mooring use is highly questionable. In light of this the impact of the proposed moorings and movement of vessels on the water has potentially greater impact on ecology, a point which NE has indicated it would wish to review. RSPB has also questioned some of the information provided. In light of this, it is considered that the degree of impact might be greater than could already occur lawfully and that re-evaluation is needed in order to satisfy the legal requirement to ensure that the integrity of the SAC/SPA is not harmed.

7.29 In terms of onshore ecology, the western part of the site is identified in the Local Plan as a SINC and therefore policy CS11 seeks protection and enhancement. The proposal here is to undertake selective removal of some trees and bushes to create favourable habitat for roosting and feeding birds, and to allow the ingress of sea water in order to restore habitat for wading birds. The County Ecologist is satisfied that this could be controlled by planning conditions and long-term maintenance by legal agreement. He has recommended that the applicant's ecologist provides further comment regarding the alleged siting of water voles by a local resident, albeit he comments that he considers

their presence to be unlikely here.

(vi) Flood Risk & Drainage

7.30 The site and half of the access road is within flood zone 2, which means that there is a risk of flooding to a depth of approximately 1.4 metres within a frequency of 100 - 200 years. The NPPF requires the undertaking of a *sequential test*, to consider whether the proposal could be located in an area with less probability of flooding. The mixture of uses proposed on this site vary in terms of their vulnerability to flooding (residential = 'more vulnerable' office = less vulnerable, boat store and mooring = water compatible). Considering the Hayling Coast where this mixed development would serve the needs of the 'Even Keel Project' the sequential test shows that there is no lesser risk with some minor exceptions in areas of undeveloped on the eastern Hayling coast. Within the site itself, the highest ground levels are at the southern end but relocation of the proposed buildings here would increase the distance between the site and dry land during times of flood, and would increase the visual impact. The benefit of redevelopment of the part of the site which may be regarded as previously developed land is also relevant. Finally, national policy also refers to an exceptions test which must be applied in certain cases. The proposed uses do not trigger the need for this.

7.31 The Environment Agency has recommended that subject to the sequential test in section 7.30 above, the development is acceptable subject to conditions. These would cover flood levels, the provision of a safe route, which involves raising the access road by approximately 20-30cm to allow a safe route in times of flood. Other conditions would control of working methods and piling in order to prevent contamination of groundwater or seawater.

7.32 The Agency notes that sea defences would need to be improved, but does not advise as to what degree of protection this should provide. In landscape terms, tall or conspicuous defences would be undesirable and further advice has been sought on this point.

Surface Water and Foul Drainage

7.33 There is no existing formal surface water drainage on the site. Water currently runs-off into the creek / harbour and the proposal is to continue this. The Environment Agency raises no in-principle objection but has recommended the provision of sustainable drainage scheme but noted that soakaways would be unacceptable in areas where contaminated ground would cause run-off to become contaminated. The contamination study within the Environmental Statement makes no specific proposal on this point, but a planning condition can control the detailed design of surface

water drainage.

7.34 Foul drainage is the subject of neighbour concerns, who have noted that the existing pumping station has failed three times in a six month period. They question whether there is capacity for the proposed development. In its response, Southern Water (SW) has recommended an informative that the applicant should undertake a capacity check as part of its separate application to SW for making a connection. Mindful of the concerns expressed and the remoteness and environmental sensitivity of the site, a standard planning condition could be used to ensure that development would not proceed until details of foul drainage have been submitted, with confirmation of its acceptability by SW.

(vii) Highways and Access

7.35 The application proposes to use the existing vehicular access to Copse Lane which would be reconstructed, including protection of tree roots (the road is flanked by important mature trees). Details of the reconstruction, which would increase the width by approximately 30cm (giving 4.8m overall), would be needed in order to assess both the impact on tree roots and any visual change, together with drainage, which would be important as the road would also be raised by approximately 20/30cm to provide a flood safe route.

7.36 In terms of capacity the traffic assessment with this application concludes that the peak hours flow of 29 two-way movements, can be accommodated without added danger. It is noted that the adjoining neighbour has questioned these figures and whether they include weekend traffic and delivery vehicles. Following consultation the Council's Highway Engineer has raised no objection to the proposal but recommended conditions are awaited.

7.37 Each dwelling would be provided with space for four vehicles, which exceeds the Council's minimum requirements. Four spaces would be provided for the boat office/store but a larger area of existing concrete would be retained and available for use if needed.

7.38 The proposal includes the resurfacing of the public footpath along the shoreline, which is currently uneven. A formal surface should be avoided, given the rural character of the area. The Rights of Way officer raises no objection.

(viii) Land Remediation and Environmental Protection

7.39 In terms of ground conditions, a contamination study, including soil and groundwater testing confirms that the site contains contaminants due to its former commercial boatyard use, (and it is noted by environmental health officers that unauthorised waste operations/tipping have taken place more recently). The testing suggests

that contamination is likely to be limited to 'hot spots' within the site and that this is unlikely to find its way into groundwater or water run-off. However, these hot spots are noted in the eastern part of the site and exceed guideline values for residential development. A scheme of further investigation and remediation is needed. The environmental health officer recommends standard conditions for detailed agreement of this. In light of the sensitivity of the environment, this must contain methods to safeguard ecology, (for instance, to prevent contaminants passing into the creek during and after development). Remediation is likely to involve some amount of soil importation.

7.40 In addition to the assessment of ground conditions ecology, landscape, trees, highways, flooding and drainage, the Environmental Statement (ES) has also considered the potential impacts from noise and has concluded that whilst construction activities would impact on neighbours, this can be controlled by limitation of hours, hoardings and selection of quieter types of machinery.

7.41 The ES concludes that the scheme does not lead to environmental impact subject to conditions. The Environmental Health officer and Environment Agency have recommended conditions to control potential impacts and pollution risks and these could be used in the event of planning permission.

(ix) Delivery and Viability

7.42 It is important to note that development of the site would incur particular costs associated with the remediation of contamination and ecological management and enhancement. The applicant states that these are in the region of £700,000. In addition the CIL charge would be greater than the Highway contribution which would have been liable before 1st August, it would also fall within the requirements for affordable housing, (which could be provided as a financial contribution rather than on-site), unless an exception were made on the grounds of viability.

7.43 Therefore if development were to take place, it must be viable. Whilst the overall development costs and profit have not been provided for consideration, the applicant also states that neighbours do not wish to see a commercial use and underlines the environmental benefits of development. These include overall improvement of the site and provision for the locally-based Even Keel Project. These are considerations to be weighed in determination of the application.

7.44 Finally, on the matter of CIL, the applicant has asked that as the application was submitted in April and that officers started to advise upon liability for this from early May, the scheme should not be considered liable for this, but be considered under the former transport contributions policy. In response, the introduction and the setting of the rate of charge has followed the undertaking of commercial research into the impact on viability with agreement by the Council's Cabinet. The only discounting which can be applied to the amount payable, within the Council's CIL policy has already been taken into account. The staging of payments it is hoped could be of some benefit. Officers advised the applicant of the introduction of CIL in May early in the life of the current application, an given the complexity of the case, it was not possible to bring it to committee on 11th July, which would have been the last possible date prior to the introduction of CIL.

7.45 It is understood that Central Government is reviewing the national rules for CIL but that at this point in time the requirement is mandatory for this development. It is noted that an annual review of CIL is proposed by this Council, which it is anticipated will

take into account the experience of applying it during this first year, mindful of the importance attached to the delivery of both housing development and infrastructure.

8 Conclusions

- 8.1 This application contains many important considerations to be weighed in the context of national and local policies; landscape & design, environmental, ecological, land remediation, the lack of clarity about its lawful use and moorings and development costs and viability.
- 8.2 In terms of lawful use, following the enforcement notice and appeal in 1991, there is little information about lawful activity at the site and much of the site and buildings are in a derelict condition. Furthermore, there is no evidence of mooring activity since at least 1997 and there are negligible remains of the original pontoon. Accordingly the amount and nature of commercial and moorings which could take place without planning permission and the impact these could have is unclear. This means that comparisons are hard to draw in terms of the degree to which the development will cause negative and positive impacts.
- 8.3 In terms of ecology, the introduction of the international designations in 1996 and 1998 mean that this Authority must be satisfied that the development does not affect the integrity of these. Natural England (NE) has based its views on the assumption that 26 moorings are lawful and that the degree of impact of the proposal for 12 berths is less. This is now unclear and thus further information has been sought from the applicant and a further comment from NE. RSPB has objected with concerns about the information provided. Accordingly, under law a precautionary principle operates and development can only be permitted once it has been ascertained that there is no adverse impact on the integrity of the designated site (the harbour). The proposed improvements to the shore, by removal of rubble and concrete edging, together with onshore enhancements to provide for roosting and wading birds in the meadow and conservation grassland close to the shore are important benefits but these must be weighed in light of the state of information about the existing lawful use and moorings. Further advice is also needed regarding the alleged sighting of water voles at the site.
- 8.4 In terms of visual impact, the proposal would remove derelict and some substantial buildings. However, it is considered to create a formal and more built-up character, with considerably smaller plots and space for vegetation than is characteristic of the area. The calibre of design is considered to be good in itself but unsympathetic to this location. The principle of a residential development in this previously developed rural site could be accepted, subject to greater clarity as to the lawful planning use which would allow for a more detailed analysis of the relative impacts. and its potential impact. Less built mass and greater space with more sympathetic designs could be key to a development which is suitable in this landscape and acceptable in the setting of the AONB, which is now afforded the highest status of protection.
- 8.5 In terms of sustainable development as defined in the NPPF, the concerns about landscape and ecology impacts are such that the proposal is not considered to meet the environmental dimension as set out in the NPPF and therefore does not benefit from the presumption in favour of development.
- 8.6 Given the uncertainty about the existing use of the site, there is a lack of certainty about the loss of employment, to which policy DM3 and CS2 refers. However, the market availability of other local commercial marine premises and the provision for a locally-based, marine related charity, which is supported by CS7, suggests that this

aspect of the proposal could be accepted.

- 8.7 On a more detailed matter, the need for information about the reconstruction, raising and drainage of the access road means that the impact of works on important mature trees requires further consideration. The trees are part of the backdrop to the site and setting of the AONB, as well as a screen to neighbours. Further discussion with the applicant will take place before the Committee meeting on this issue.
- 8.8 On the matter of development costs, the need for land remediation, CIL payment, ecological management and affordable housing provision would impact on overall profits. Currently the full costs are not known and it is likely to pose the question as to how far environmental impacts could be accepted in order to enable a viable development here. Given that the principle of a mixed development comprising the boat-related use and high quality, sympathetic residential development is considered acceptable, the consideration of viability would figure in any further negotiation.
- 8.9 Therefore, whilst the scheme has several potential merits which have received local support, the impact on the character and appearance of the area, including the setting of the AONB is such that the scheme is not supported. Furthermore there is concern that the impact on ecology, in particular the designated SPA/SAC has not been resolved. There is also need for further information regarding works to the access road and impact on trees alongside it. This recommendation does not preclude the possibility of further negotiation in which the lawful use of the site and detailed concerns could be explored towards a future submission.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to
REFUSE PERMISSION for application APP/13/00317

for the following reasons

Appendices:

- A) Site Location Plan
- B) Site Layout Proposed
- C) Elevations - House Type A
- D) Typical Floor Plans - House type A
- E) Elevations - House Type B
- F) Elevations - House Type C
- G) Office Layout & Elevations
- H) Boat Store Layout & Elevations
- I) Elevations and Long Sections Layout - View From the Harbour to the South
- J) Elevations and Long Sections Layout - View From the Site Entrance to the North
- K) Elevations and Long Sections Layout - Section Through the Site North to South

L) Site Survey as Existing

- 1 The proposal, by reason of the size and number of proposed houses and the restricted plot sizes by comparison with existing development in the vicinity, would be out of keeping with and harmful to the character of the coastal zone and the setting of the Chichester Harbour, Area of Outstanding Natural Beauty. This is contrary to the National Planning Policy Framework 2012 and policies CS12, CS16 and DM9 of the Havant Borough Local Plan (Core Strategy 2011).
- 2 On the basis of the information available, the Local Planning Authority is not satisfied that the proposal will not adversely affect the integrity of areas designated as Special Areas for Conservation and Special Protection Area of international importance for nature conservation and SSSI, and therefore the precautionary principle under associated Regulations applies. The development is therefore contrary to the National Planning Policy Framework 2012 and policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011.

Appendices:...