

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

95 North Street, Emsworth

**Local Planning Authority Reference:
APP/18/00665**

**Planning Inspectorate Reference:
APP/X1735/18/3215679**



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR DAVID LUCAS AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR Demolish existing outbuildings to ground/first floor at rear of site and construct 2No. new two bedroom houses with off road parking. (Revised application.)

Planning Inspectorate Reference: APP/X1735/18/3215679

LPA REF: APP/18/00665

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The appeal site is located on the corner of North Street and Sultan Road in Emsworth. The entrance to the Emsworth railway station is located opposite to the site. The area is characterised by mainly Victorian style terrace housing along Sultan Road and North Street. A number of the properties on North Street, including the adjacent neighbour at No. 93 have been subdivided into two flats. Parking is predominantly on street. A recent development has occurred at the adjacent site on Sultan Road which involved a conversion of a former industrial/office building into three dwellings with a further new dwelling located in the rear garden facing onto Seagull Lane.

The application site comprises a two-storey building, with a traditional pitched roof. It has a white painted render finish to the external facade with some mock Tudor detailing. The building is currently used as a public house with B & B accommodation at first floor level. The main entrance fronts onto North Street and includes a front external seating area enclosed by iron railings. There is a flat roof area at first floor level at the rear of the building which includes a single storey unit of accommodation which is ancillary to the public house and used as managers accommodation. There are other flat sections of the building which are not enclosed and used for servicing.

2.0 PLANNING HISTORY

The most relevant planning history to this proposal, with regard to the provision of further dwellings on the site are:

APP/17/00567 - Demolition of existing rear outbuildings, erection of 2No. 2 bed dwellings (Revised submission). Permission 6/11/17 - Not implemented to date

APP/18/00535 - Application to remove Condition 5 of Planning Permission APP/16/01311 and variation of Condition 6 of Planning Permission APP/16/01311 relating to alterations on the south elevation comprising removal of access door onto flat roof area and insertion of 2No. AOV obscurely glazed windows. , Refused,24/07/2018 – Currently at appeal

APP/16/01311 - Raise roof height and form 1No. self contained manager's flat to second floor roof area with new internal stairwell from first floor, Permission,14/03/2017

APP/16/00821 - Demolition of existing rear outbuildings, erection of 4No. three storey townhouses with parking and raise height of existing pub roof to form 1No. self contained flat to second floor roof area., Refused on 18/10/2016 for the following reasons:

1. Development of the site in the manner proposed would amount to over-development, in that it would give rise to unsatisfactory plot sizes for two-bedroomed dwellings with minimal external amenity space. Furthermore, in providing this level of accommodation the proposed design features on the

front elevations of the terraced units including balconies and undercroft parking would be out of keeping with the character of the streetscene and harmful to the visual amenity of Sultan Road. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework 2012.

2. The proposed development would result in an excessive building bulk adjacent to No. 93 North Street, visible from the adjoining wider terrace row, detrimental to the visual outlook and amenities of these properties. The proposed balcony to serve the access to the second floor accommodation would give rise to the potential for overlooking of the private amenity space of No. 93 North Street. The presence of windows in the rear elevation of the proposed residential units would result in a loss of privacy in terms of the potential for noise disturbance and light pollution. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework 2012.

3. Development of the site in the manner proposed would not provide adequate provision of car parking in accordance with the Local Planning Authority's adopted standards and would therefore encourage the parking of vehicles on the public highway which would be harmful to the amenity of the immediate locality. The proposal is therefore contrary to Policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011, the Parking Supplementary Planning Document 2016 and the National Planning Policy Framework 2012.

4. The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority which seeks to ensure that the provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. It is therefore contrary to Policy CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

The appeal was subsequently dismissed by the Planning Inspectorate on 6th September 2017, for the following reasons (summarised):

Although I have found no harm to result in terms of parking provision, significant harm would result upon the character and appearance of the area, neighbouring living conditions and the SPA. This harm is the overriding consideration and leads me to conclude that the proposal would be contrary to the development plan when considered as a whole. Consequently, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Other planning history, relating to the existing pub:

01/63424/000 - Installation of two windows to ground floor, side (north) elevation., Permission, 19/06/2001

06/63424/001 - Replace pan tiles to roof., Permission, 04/12/2006
07/63424/002 - Retention of refrigeration unit. Resited to east elevation and enclosed with insulation board. , Permission, 15/08/2007

09/63424/003 - Enclosure of the front forecourt including the erection of 0.9m high railings positioned above the existing 0.4m high boundary wall, erection of 0.4m high conifer planters above the existing brick piers and the erection of 1.3m high railings and iron gate in between the existing brick piers and boundary wall and the erection of 1No. retractable awning to the north side of the front entrance, Permission, 02/02/2010

3.0 THE APPLICATION

3.1 The proposal is for the demolition of existing rear outbuildings, and erection of 2 No. 2 bed dwellings with off road parking (Revised submission). The proposal sought to amend the planning permission granted under application APP/17/00567 in the following ways:

- The proposal includes undercroft car parking, which would provide 1 car parking space per unit
- The size of the dwellings has been amended in the following ways, the ridge height of the dwellings will be 7.2m in height compared to 7.1m under the previous approval
- The depth of the dwellings has been increased, resulting in a reduced courtyard area of 2.55m, compared to the approved depth of 2.95m
- The fenestration of at first floor on the rear elevation has reduced the number of windows from 3 to 2 for each dwelling.

3.2 The application was refused on the 22nd August 2018 for the following reasons: -

1. The proposed design features on the front elevations of the development, in the form of the undercroft parking, would be out of keeping with the character of the streetscene and harmful to the visual amenity of Sultan Road. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework 2018.

2. 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 Special Protection Areas and so is contrary to Policy DM24 Havant Borough Local Plan (Allocations Plan) and the Conservation of Habitats and Species Regulations 2017.

4.0 PLANNING POLICY

4.1 The relevant Planning Policy is set out in: -

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

Havant Borough Local Plan (Allocations) July 2014

Havant Borough Council Borough Design Guide SPD December 2011

4.2 Of particular relevance to this appeal are Havant Borough Local Plan) Policies: -

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

AL1 (Presumption in Favour of Sustainable Development)

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements), which support the principles of development in the built up area.

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

CS16 (High Quality Design)

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

Copies of the relevant local plan policies were forwarded with the questionnaire.

5.0 PLANNING POLICY UPDATE

Draft Local Plan

- 5.1 With respect to the Local Plan, the Council is preparing a new Local Plan and consulted on a Draft (Regulation 18) version of the [Havant Borough Local Plan 2036](#) (HBLP 2036) between 8 January to 16 February 2018. Whilst the Plan has limited weight in decision-making at this stage in the plan preparation, the Draft Local Plan, it is of relevance in setting out the Council's direction of travel.
- 5.2 The Council's Draft Havant Borough Local Plan 2036 Consultation Summary indicates that consultation on a Pre-Submission Local Plan will take place in early 2019. With respect to this appeal, the draft High Quality Design Policy E6, reiterates the Council's commitment to achieving high quality design that respects its context and does not cause unacceptable harm to the amenity of neighbours. Additionally, new draft policy E9 seeks to protect, enhance and conserve the historic environment and the contribution it makes to local distinctiveness and sense of place. These draft policies are copied in full in **Appendix B**.
- 5.3 The Development Plan comprises the Havant Borough Local Plan (Core Strategy) 2011 the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2018.
- 5.4 The following policies of the Havant Borough Local Plan (Core Strategy) 2011 (HBLP (CS) 2011) are considered to be particularly relevant to the determination of this appeal:
CS9 (Housing)
CS16 (High Quality Design)
CS17 (Concentration and Distribution of Development within the Urban Areas)
CS21 (Developer Requirements)
DM13 (Car and Cycle Parking on Residential Development)
The following policy of the Havant Borough Local Plan (Allocations) 2014 (HBLPA 2014) is also of relevance.
DM24 (Recreational Disturbance to Special Protected Areas (SPAs) from
Also of relevance is the Borough Design Guide (2011)

6.0 CONSULTEE RESPONSES AND REPRESENTATIONS

- 6.1 The application, which is the subject of this appeal, was published in accordance with the Council's adopted publicity procedures.
- 6.2 Copies of all consultee responses have been forwarded with the questionnaire. The representations from the members of the public raised mainly related to adverse impact on the character and appearance of the area, loss of amenity, loss of privacy and parking issues.

7.0 PLANNING CONSIDERATIONS

- 7.1 The Council's decision in this case is best explained by expanding upon the reasons for refusal having regard to the local and national policy framework outlined in Section 4 above.
- 7.2 The NPPF was updated on 24 July 2018 and with respect to this proposed development and appeal, continues to have a presumption in favour of sustainable development with the 3 overarching objectives: - economic, social and environmental. The importance of design and conserving and enhancing the historic and natural environment remain relevant considerations as set out in Chapter 12 on Achieving well designed places.
- 7.3 Paragraphs 125 and 126 endorse the requirement for high quality design and state:

Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies

should be developed with local communities so, they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.

- 7.4 To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high-quality standard of design. However, their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified.
- 7.5 Policy CS9 (Housing) identifies the need to deliver housing and achieve sustainable development, and this is supported by Policy CS 17 (Concentration and Distribution of Development within the Urban Areas) which promotes the most effective use of land and the concentrating of development within the urban areas of Havant, Leigh Park, Waterlooville, Emsworth and Hayling Island.
- 7.6 Policy CS21 (Developer Requirements) advises that where new or improved infrastructure is essential for planning permission to be granted the council will require the on-site or off site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for offsite provision. While Policy DM 24 seeks to mitigate the impacts of disturbance from recreational activities on the Solent SPAs.
- 7.7 Having regards to the relevant policies of the development plan and supplementary planning documents, and the reasons for refusal given in the Decision Notice dated 18 October 2017, it is considered that the main issues arising from this appeal are:
- Impact on the character and appearance of the area from the new dwellings
 - Solent Recreation Mitigation Strategy

Impact on the character and appearance of the area from the new dwellings

- 7.8 Sultan Road is predominantly characterised by modest two storey terraced properties which are generally uniform in their appearance. New development has recently taken place immediately to the east of the application site. In terms of the proposed dwellings which would replace this section of the building, they could in principle, have potential to improve the streetscene, as was identified in the previous permission APP/17/00567, which had simple forms of design which integrated into the existing character of the area. However, this depends on the quality of the design, particularly as the key to the success of a terrace is a degree of uniformity. Other than the Railway Inn itself, the height of the existing terrace along Sultan Road is two-storey, within none of the properties having on site parking provision in the form of undercroft car parking. The recent development at Tealwood, Sultan Road has resulted in properties with a slightly different front elevation in terms of window apertures, however, this still draws inspiration from the existing terrace row.
- 7.9 As has been highlighted in this application was amended from the previous permission, with main visual impact being the inclusion of the undercroft parking, and the slight increase in height of the development. Policy CS16 of the Local Plan advises that all development should demonstrate in its design that it responds to, draws inspiration from and respects local context and in section 1.c. advises that it uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing building lines, plot widths and depths, materials and proportions of openings including windows, doors and openings for parking.
- 7.10 The importance of high quality design is also set out in the National Planning Policy Framework (NPPF) which states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 7.11 In contrast to the existing terrace in Sultan Road, the proposed dwellings would include open, undercroft parking bays at ground floor level. The use of this design features would result in the

extension to the terrace forming a highly incongruous pocket of development, with a contrived and unwelcoming appearance from the undercroft parking, resulting in a significant harmful impact to the visual amenity of the streetscene and contrary to Policy CS16 of the Local Plan (Core Strategy).

- 7.12 In terms of the remainder of the scheme, these largely follow the previous approved application and in this respect the development is not considered to have a significant adverse impact on the character and appearance of the area.

7.13 Definitive Solent Recreation Mitigation Strategy

The application site falls within the 5.6km zone of Chichester and Langstone Harbours SPA which are large estuarine basins that contain extensive intertidal mudflats and sandflats that support internationally and nationally important numbers of overwintering and breeding bird species. Please find additional information about the characteristics of the area, the reasons for its designation, interest features and conservation objectives on the link to Natural England's website below:

<https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK9011011>

- 7.14 The potential effects of new residential development on the Chichester and Langstone Harbour SPA is outlined in a table contained within Appendix C. The evidence base to support the mitigation strategy can be found on the link below:

<http://www.birdaware.org/research>

- 7.15 Natural England's advice in regard to all new housing development within the 5.6km zone is that it is likely to have a significant effect on the SPA. Policy DM24 of the Allocations Plan covers this issue and allows for a financial contribution to be made towards mitigation measures. Additional information in relation to the Bird Aware Solent Strategy can be viewed via the following web address:

<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

- 7.16 On 1st April 2018, the ('Definitive') Solent Recreation Mitigation Strategy replaced the 'Interim' and the 'Definitive' Strategy now applies to new residential development (this was as approved by Havant Borough Councils Cabinet on the 7th February 2018.) The updated Strategy uses a sliding scale to calculate the SRMS contribution for new residential development built within 5.6km of the coastline. As such, the contribution is now calculated based on the number of bedrooms per individual dwelling. In this case, the development would require a contribution of £974.00 plus 5% monitoring fee of £48.70 and Administration Fee of £20 such that the total contribution required would be £1,042.70.

- 7.17 A Unilateral Undertaking was sent to the agents on the 19th July 2018, requesting the amount of £1,042.70. A UU was returned to the LPA on 22nd August 2018. The agent was advised that UU was not compete as it was not signed, and the relevant monies were not received and submitted in accordance with our normal procedures then the application will not be in compliance with the Habitat Regulations and this will form a reason for refusal. Therefore, in the absence of the completed deed and payment of the contribution, it is the opinion of the Local Planning Authority that the appropriate mitigation measures have not been secured to meet the Definitive Strategy and policy DM24. A copy of this correspondence is attached at Appendices C & D. This correspondence outlined to the agent that it is not acceptable to secure the contribution as a planning condition, and it must be secured through a UU with payment made up front rather than pre-commencement of the development.

- 7.18 It should also be noted that following the Councils determination of this planning application the Court of Justice of the European Union (CJEU) issued a judgement (People over Wind, Peter Sweetman v Coillte Teoranta) which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgement as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage. PINS Note 05/2018 refers to the judgement.

- 7.19 In this case, the development is located within a zone of influence of an SPA, the Local Planning Authority has undertaken a HRA screening which includes the requirement for avoidance and mitigation measures in terms of the Definitive Solent Recreation Mitigation Strategy.
- 7.20 As a result of the above judgement and consequent update in case law, an Appropriate Assessment is also now necessary in accordance with Regulation 63 of the Habitats Regulations. Natural England are a statutory consultee on the Appropriate Assessment stage. As the Inspectorate are now the competent determining authority in relation to this appeal, it will be necessary for the Inspectorate to determine whether this is satisfactory to address the new case law.
- 7.21 However, it is the opinion of the LPA that without receipt of a completed and lawful unilateral undertaking (UU) to secure such planning obligations in line with the requirements of the current Definitive Solent Recreation Mitigation Strategy, then all mitigation measures have not been adequately secured. Unless the contribution of £1,042.70 and a fully complete UU are confirmed as being received by the LPA before the Inspector determines this appeal, then the proposal would be contrary to both the Definitive Solent Recreation Mitigation Strategy and policy DM24. This could constitute a new reason for refusal if the Inspector is minded dismissing this appeal. If the monies are confirmed as being received before the decision is made, then the LPA will advise the Inspector accordingly.

COMMENT ON GROUNDS OF APPEAL

- 7.22 The points raised in the appellants' grounds for appeal have largely been dealt with under the 'Planning Considerations' section of this statement.

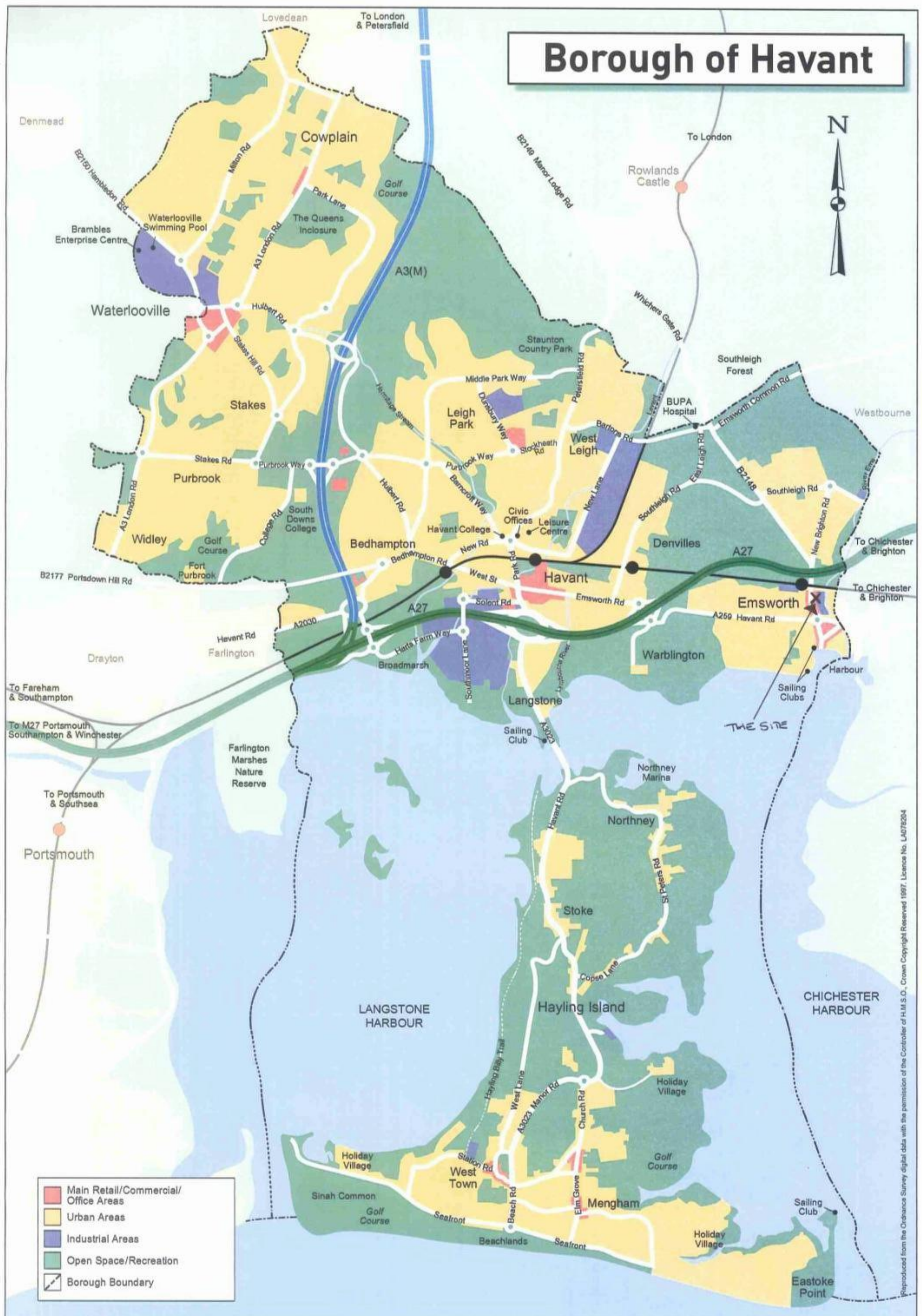
CONCLUSION

- 7.23 The design of the front elevation of the terrace row, through the provision of undercroft parking is considered to be out of character and visually harmful to the streetscene. Furthermore, no contribution has been provided towards the Solent Recreation Mitigation Strategy. Overall it is considered that the proposal is contrary to Policies CS16, DM13 and DM24 of the Local Plan and advice laid out at national planning policy level and results in a form of unsustainable development in respect of which the harm heavily outweighs any perceived benefits.

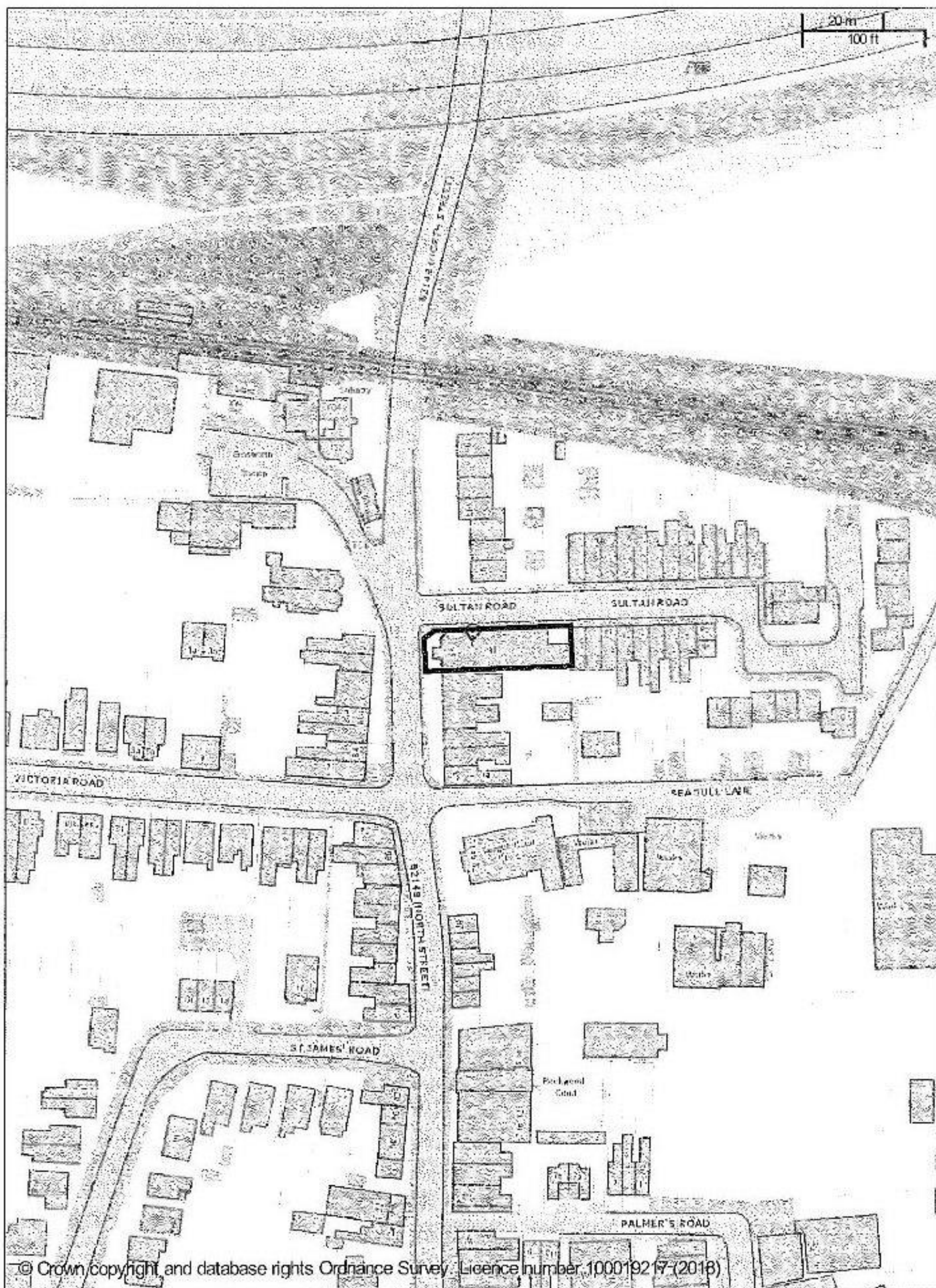
APPENDICES

- (A) Borough Map and 1:1250 Location Plan
- (B) Emerging Policies E6 and E9 from Draft Havant Borough Council Local Plan 2036
- (C) Potential effects on SPA of residential development
- (D) Email from agent requesting SRMS payment made before commencement
- (E) Email to agent re Deed for Solent Mitigation Strategy and contribution.

Borough of Havant



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E6 | High Quality Design

- 5.57 This policy would update and replace Policy CS16 (High Quality Design) in the Core Strategy and Policy DM21 (Shopfronts, Signs, Security Shutters and Advertisements) of the Allocations Plan. It also covers aspects of Policy CS8 (Community Safety) of the Core Strategy.

Why this policy is needed

- 5.58 The NPPF makes clear that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. This policy sets out the Borough's place-making objectives in terms of delivering high quality design, enhancing connections between people and places and integrating new development with the Borough's high quality natural, built and historic environment.
- 5.59 The Borough has a diverse built environment, but in many cases it will be appropriate to forge new places particularly where areas suffer from neglect and lack of identity. The policy also sets out how the Council aims to create safe and accessible environments so that crime and disorder, and the fear of crime²⁵, do not undermine the quality of life for the Borough's residents.
- 5.60 Havant and Waterloo Town Centres and Hayling Island Seafront in particular lack identity and/or suffer from neglect and have poor connections to the surrounding areas. The Council therefore recognises the importance of good design as part of new development in order to forge new places, as well as responding to and enhancing its natural assets and more attractive built features.
- 5.61 Using Active Design principles²⁶ new development can encourage greater levels of daily physical activity in and around buildings and spaces, and promote healthy communities. Safe and convenient connections for walking and cycling within and around development can also help people to take responsibility for their own health and wellbeing. This policy indicates how appropriate supporting infrastructure can be integrated as part of new development to support physical activity and meet the needs of different users. Policy E7 (Health and Wellbeing) also sets out how new dwellings will be expected to contribute towards improved health and wellbeing of occupants.

E6 | High Quality Design

Planning permission will be granted for development that:

- a. Is designed to a high standard, which helps to create places where people want to live, work, visit and enjoy;
- b. Demonstrates that account has been taken of local design statements, neighbourhood plans and the design elements of conservation area appraisals which identify local character and distinctiveness;
- c. Demonstrates that it:
 - i. Responds to, and draws inspiration from its local context and where appropriate, forge a new sense of place through design;
 - ii. Considers characteristics such as heights, massing, existing building lines, plot widths and depths and proportions of building features such as windows and doors;

²⁵ Department for Communities and Local Government (2017) Chief Planning Officer letter – security and planning

²⁶ Sport England (2015) Active Design. Planning for health and wellbeing through sport and physical activity

<https://www.sportengland.org/media/3426/spe003-active-design-published-october-2015-email-2.pdf>

- iii. Identifies and positively responds to existing natural and built features including listed buildings, conservation areas and other heritage assets within or close to the development;
- iv. Makes a positive contribution to the overall appearance of the street scene and wider area by use of good quality materials of appropriate scale, profile, finish, colour and proven weathering ability;
- v. Produces a positive relationship with and between existing and proposed buildings, streets and spaces;
- vi. Avoids over-dominance and not cause unacceptable harm to the amenity of neighbours through overshadowing, massing, the loss of privacy, outlook, overlooking, and through odour, noise or disturbance; and
- vii. Plans for adverts, signage, lighting and other security features to be fit for purpose, fully integrated with the design, and do not adversely affect the visual amenity of the street scene or the amenity of neighbours.

d. In addition, all non-householder development which will create new floorspace is expected to:

- i. Ensure the layout is appropriate in density, scale, and appearance and sufficiently flexible to respond to changing uses, lifestyles and demography;
- ii. A setting for any new buildings is provided which is in keeping with the surrounding area
- iii. Reduce opportunities for crime and anti-social behaviour and contribute to the creation of safe and inclusive communities;
- iv. Consider new technologies and construction methods as part of building design, taking into account sustainability and resource efficiency;
- v. Integrate with existing local landscape features and characteristics of the area protecting and enhancing local wildlife, biodiversity and ecology;
- vi. Be well connected to and integrate with the local area by linking to existing pedestrian and cycle routes and encourages people to use public transport where possible;
- vii. Ensure that it does not undermine the development potential of adjacent sites;
- viii. Maximise opportunities for mixed uses and the co-location of facilities, particularly in town and district centres in accordance with the design principles set out by Policies KS4 and KS5;
- ix. Promote and encourage healthy lifestyles and neighbourhoods in line with Policy E1.
- x. Incorporate safe, secure and convenient provision for cycle storage and refuse and recycling facilities which is integrated within the overall design in line with Policy IN3;
- xi. Ensure safe and convenient access for all in the public realm, including the elderly, the disabled and less able; and
- xii. Integrate and design affordable housing in a way that is indistinguishable from market housing.

How the policy works

5.62 The criteria set out under section c of the Policy E6 apply to all types of development including (but not limited to) the following householder and other minor developments and external alterations to existing buildings:

- Extensions
- Garages, car ports, outbuildings, sheds and greenhouses
- Boundary walls, fences or gates
- Porches
- Satellite dishes/radio aerials
- Dormer windows or other alterations to the roof

- Conversions and changes of use
- Shopfronts
- Signage
- Lighting

- 5.63 The Council recognises it is important to ensure that new signs do not result in a cluttered appearance on an individual building or on the wider street scene. Signs must also be of an appropriate size and scale for the building and its surroundings. Security shutters and other features can also create significant visual intrusions in the street scene. It is important that proposals are fit-for-purpose and are fully integrated within the design.
- 5.64 Illumination, particularly in or adjacent to conservation areas, heritage assets and in or adjacent to or visible from Chichester Harbour AONB, can detract from the overall appearance of a building or area. Signage in or close to the AONB should also have regard to the Policy E11 and the Chichester Harbour AONB SPD (July 2017).
- 5.65 In addition to section c, the criteria set out under section d are relevant to developments which include the creation of one dwelling or more and any new commercial floorspace. It is recognised that the criteria in section d are a guide and development will not be expected to fulfil requirements which are not relevant to the scheme in question.
- 5.66 Constructive pre-application advice is a valuable tool in guiding and progressing development proposals, prior to their submission. The Council's procedure for pre-application advice is set out under the planning pre-application advice guidance note which can be found on the Council's web site. For major proposals, developers will also be expected to engage with Councillors, key stakeholders and the public on major proposals through the Council's Development Consultation Forums. Where appropriate, the local planning authority will also consult the Design Review Panel on development proposals.
- 5.67 At pre-application stage, consideration will be given to the site's opportunities and constraints in light of the policies in the Adopted Local Plan; identifying any aspects which may need to be resolved, and relevant material planning considerations and constraints. Advice will be provided on planning obligations and the appropriate documents which would need to be submitted.
- 5.68 The Borough Design Guide Supplementary Planning Document (SPD)²⁷ complements Policy E6 and provides detailed guidance to raise the standard of design across the Borough. The SPD sets out what developers are expected to deliver in terms of the design of new development, and how the distinctive character and qualities of the Borough could be enhanced through development. Designated Conservation Areas within the Borough also have Character Appraisals and Management Plans, which provide detailed information on these areas which should be given regard when proposing development in line with Policy E9 (Heritage).
- 5.69 The Council is supportive of new technologies and construction methods integrated as part of new development, including Passivhaus design principles in line with Policy E8 (Low Carbon Design). The sustainability and resource efficiency will be considered in the overall design and layout of schemes, including ensuring that where appropriate schemes maximise solar gain and minimise the need for energy heating.

²⁷ The Council intends to consult on a revised Design SPD alongside the Pre-Submission HBLP2036.

E9 | Historic Environment and Heritage Assets

- 5.103 This policy would update and replace part of Policy CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough) of the Core Strategy and Policy DM20 (Historic Assets) of the Allocations Plan.

Why this policy is needed

- 5.104 The Borough's heritage assets include scheduled ancient monuments, registered parks and gardens and archaeological sites, 14 designated conservation areas as well as buildings listed on the Statutory List of Buildings of Special Architectural or Historic Interest and the Local List of Buildings of Special Architectural or Historic Interest.
- 5.105 The Council recognises that heritage assets are an irreplaceable resource that should be conserved and, where possible, enhanced in a manner appropriate to their significance. The Borough's historic environment contributes to its distinctive character. New development should enhance the Borough's sense of place, not reduce it.

E9 | Historic Environment and Heritage Assets

Development proposals will be permitted which:

- a. Protect, conserve and enhance the historic environment and the contribution it makes to local distinctiveness and sense of place; and
- b. Make sensitive use of historic assets through regeneration and re-use, particularly where redundant or underused buildings are brought into an appropriate use.

Heritage Statements

- c. A proposal that affects or has the potential to affect a heritage asset is required to provide a Heritage Statement that:
 - i. Describes the significance of the asset and its setting, using appropriate expertise and where necessary a site specific survey, at a level of detail proportionate to the significance of the heritage asset and sufficient to understand the potential impact of the proposal; and
 - ii. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy the heritage asset. Any identified necessary mitigation measures should be fully incorporated into the development proposals.

Proposals likely to cause 'substantial harm' to a heritage asset

- d. Development proposals that are likely to cause 'substantial harm' to the significance of heritage assets or their setting will not be permitted unless either:
 - i. They are necessary to achieve substantial public benefit that would outweigh the harm or loss; or
 - ii. All of the following apply:
 - a) The nature of the heritage asset prevents all reasonable uses of the site
 - b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation
 - c) Conservation by grant-funding or some form of charitable or public ownership is

- demonstrably not possible
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.

Proposals likely to cause 'less than substantial harm' to a heritage asset

- e. Where a development proposal will lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Proposals for the removal of part or all of a heritage asset

- f. The removal of part or all of a heritage asset cannot proceed until it can be demonstrated that the approved replacement development will take place.

How the policy works

- 5.106 The term 'heritage assets' embraces all features that contribute to creating the unique sense of place including Listed Buildings, Conservation Areas, Registered Parks & Gardens, Scheduled Ancient Monuments, Locally Listed Buildings, Parks & Gardens of Local Historic Interest and areas of archaeological interest. It will be a key priority for the design of new development to conserve the Borough's heritage assets and where possible enhance them.
- 5.107 The Council has a positive strategy for the conservation and enjoyment of the historic environment in line with the NPPF. The Council will appropriately manage development and determine planning applications that affect the Borough's historic environment through Local Plan policies, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF, in particular paragraphs 126 to 141 and any other material considerations.
- 5.108 The NPPF considers that the more important the heritage asset the greater the weight that should be attached to its conservation, for example the loss or harm to a nationally important site is considered to be wholly exceptional.
- 5.109 Applications that affect or have the potential to affect heritage assets and their setting, including sites with archaeological potential, are expected to be supported by a Heritage Statement. The content of the Heritage Statement will vary depending on the significance of the heritage asset and the impact of development. It should include a consideration of the positive contribution of the development and the loss and harm caused by the development. In such cases it must include an appropriate mitigation of that loss and harm, including: design considerations; recording, where adverse impacts are unavoidable; and the promotion of knowledge such as interpretation and exhibitions. It should contain an appropriate level of information and detail to satisfy the requirements set out in paragraphs 128-141 of the NPPF. This includes consulting the Hampshire Historic Environment Record (HER), as a minimum. There are a number of site allocations that will need to be supported by a Heritage Statement at the planning application stage. This is set out in the development requirements for each site. The Council encourage opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset will be treated favourably.

Appendix C

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

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

Further details in relation to the Bird Aware Solent Strategy can be viewed via the following web address:

<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

Havant Borough Council

Public Service Plaza

Civic Centre Road

Havant. PO9 2AX.

Fao: Mr L Oliver (Principal Planning Officer).



19 August 2018



Dear Mr Oliver,

Re: The Railway Inn, 95 North Street, Emsworth. PO10 7PQ. Application No. APP/18/00665.

Further to your letter dated 19th July 2018 regarding the above application for 2no houses to the rear of the above site.

Please see attached as requested the completed Unilateral Undertaking regarding The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). It is requested that the amount due would be required to be paid at commencement of any works on the site and therefore confirmed as a Condition of any Planning Consent to be given on the proposal.

I trust this is acceptable, however if you have any further queries at this stage please contact me.

Yours Sincerely,



Mark Singleton.

14 Brightside

Waterlooville

Hants. PO7 7BA.

From: Havant CIL
Sent: 22 August 2018 10:36
To: 'mark.singleton@hotmail.co.uk' <mark.singleton@hotmail.co.uk>
Cc: Oliver, Lewis <Lewis.Oliver@havant.gov.uk>
Subject: APP/18/00665 - The Railway Inn, 95 North Street, Emsworth

Thank you for your letter dated 19 August (received on 21 August) enclosing the signed SRMS Unilateral Undertaking.

With regard to your question about payment of the SRMS contribution, our policy is below:

A unilateral undertaking made pursuant to Section 106 of the Town and Country Planning Act (TCPA) is the mechanism by which the Council can secure planning obligations. It is a requirement of S106 TCPA that the Council enter into a deed either by agreement or through a unilateral undertaking (UU) to secure such planning obligations. It is therefore not a discretionary but a statutory requirement that a S106 agreement/UU is entered into for all and any planning obligations, in this instance, a SRMS contribution.

The Council is entitled to secure the contribution on completion of the UU. The Council has opted to do so as it allows the Council to keep the costs for the preparation and monitoring of the UUs to a minimum. Your client is of course able to make his own arrangements for mitigation but this will undoubtedly be more time consuming and expensive and will incur legal expenses with both the Council's Legal Team and the applicant's legal representative.

Unfortunately, if the agreement is not signed and submitted in accordance with our normal procedures then the application will not be in compliance with the Habitat Regulations and this will form a reason for refusal.

I note that the application has today been refused, but the above may be useful to you in respect of any future applications you submit.

Kind regards

Jemma Howard
CIL/S106 Assistant
Planning Services
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant, PO9 2AX
Tel: 023 9244 6273
Team Phone: 023 9244 6539
CIL Email: CIL@havant.gov.uk
Email: jemma.howard@havant.gov.uk
www.havant.gov.uk

If you are requesting information under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act then please redirect your email to customer.services@havant.gov.uk. Any statutory timeframe for a response for requests will not commence until the request is received by the Customer Services Team.

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HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)



APPEAL BY MR DAVID LUCAS AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR Demolish existing outbuildings to ground/first floor at rear of site and construct 2No. new two bedroom houses with off road parking. (Revised application.)

Planning Inspectorate Reference: APP/X1735/18/3215679

LPA REF: APP/18/00665

List of Suggested Conditions

1. The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans.
Reason: - To ensure provision of a satisfactory development.
3. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the buildings and the hardsurfaced areas, including the frontage parking spaces and access drive, have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
4. No development shall take place until plans and particulars specifying the following matters have been submitted to and approved in writing by the Local Planning Authority:
(i) The provision to be made within the site for contractors' vehicle parking during site clearance and construction of the development;
(ii) The provision to be made within the site for a material storage compound during site clearance and construction of the development.
Thereafter, throughout such site clearance and implementation of the development, the approved parking provision and storage compound shall be kept available and used only as such.
Reason: To safeguard the amenities of the locality and/or in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

5. No development shall take place until details of existing and finished floor and site levels relative to previously agreed off-site datum point(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
6. Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order 2015, no additional windows shall be inserted above ground floor level without the prior approval of the Local Planning Authority.
Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
7. Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the building the windows on the rear elevation shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and retained as such thereafter.
Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
8. The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.
Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
9. At no time shall gates or garage doors be installed at the entrance to the undercroft parking area.
Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
10. Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extensions (including that to the roof) shall be constructed within the curtilage of the site without the prior approval of the Local Planning Authority.
Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.