

Your ref: Chichester Harbour Conservancy

Our ref: Planning Recommendation



Havant Borough Council
Development Management
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

BY EMAIL ONLY

13 January 2026

Dear David,

Apologies for the delay in replying.

Application: APP/21/01434

Location: Rook Farm, land off St Marys Road, Hayling Island

Description of development: Outline application for development of up to 300 dwellings (including affordable housing). The proposal includes provision for structural planting and landscaping; informal public open space; children's play areas; sustainable drainage system (SuDS); a new vehicular access from St Mary's Road; and associated ancillary works. All matters reserved except for means of vehicular access. Accompanied by an Environmental Statement.

Chichester Harbour Conservancy is a unique organisation in that it is the only Harbour Authority with statutory responsibility for a National Landscape (NL). Further details are explained in the Appendix to this response.

Please note that the above case has been considered under the fully consulted delegated protocol of The Conservancy.

Chichester Harbour Conservancy's Response

Recommendation – Objection: Notwithstanding the submission of the November 2025 'Brent Goose Mitigation Strategy' and its paragraph 5.3 confirming the replacement site acquisition - (detailed in Appendix 'C') - will be the responsibility of the developer, with no evidence of an legally binding option to purchase the managed replacement refuge site submitted, the proposals are still considered contrary to Policies CS11 and DM23 of the adopted Development Plan and Policies 20 and 25 of the emerging local plan ("Building a Better future") and so likely to harm the integrity of the Habitat sites within Chichester Harbour.

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However, Should the local planning authority be minded to approve the application, this should be subject to a S.106, at least covering-

- (i) replacement core site brent geese and waders site, with provision for its future maintenance in perpetuity (defined as a period of 80 years);
- (ii) delivery of a minimum of 4.24 hectares of public open space as part of the development to accord with Policies CS1 (3) & CS13 of the Development Plan, with provision for its future maintenance and subsequent retention;
- (iii) recreational disturbance contribution under Local Plan Policies CS11, CS12 & CS21 for the net gain of dwellings on the site, as the site is within 5.6km of the Chichester Harbour AONB; and,
- (iv) any ecological mitigation measures as a material planning consideration under Policies CS11 and DM23 of the Development Plan, including any approved nitrates strategy.

With the site being at least 600m distant from the nearest part of the Chichester Harbour National Landscape (NL), the proposals are not considered to adversely affect the setting of the NL. As such, a list of suggested planning conditions is not put forward, but would be left to the Council to formulate.

Conservancy Officers' comments and reasoned justification

1.0 Site and its context

1.1 Located 0.6km outside of the Chichester Harbour National Landscape (NL) boundary and 6.2km south of Havant Town Centre, this 11.77 ha, irregularly shaped site, formed of two arable fields – (7.2ha of grade 2 land and 4.3ha of subgrade 3a agricultural land), is located outside of but adjoining the 'urban area' shown in the Development Plan (policies CS17 and AL2 refer). The land slopes gently north-south and site levels vary between 8.3m to 6.5 AOD, within easy walking distance of local shopping facilities in Elm Grove to the east. Surrounding nearby built form is generally two or single storeys high.

1.2 The site has no intervisibility with the NL and the site is well defined by a strong framework of hedgerows and mature trees.

1.3 The site is bisected by an east-west drainage ditch with a pond mid-way along that. Trees at the site are mostly confined to site boundaries and around the pond. Those features contain the biodiversity value of the site which is otherwise zoned as a 'core' site for Brent Geese and Waders under local plan Policy DM23 (site H46B of the Solent Waders and Brent Goose Strategy). That is to say it is considered to have functional connectivity to Langstone and Chichester Harbour Special Protection Area (SPA) for birds, whereby at high tide, particularly dark bellied Brent geese, seek feeding and roosting opportunities inland.

1.4 The site is bordered to the north and west by public footpaths, offering limited views back towards the NL, but as the land is flat and the immediate context is existing built form, no harm to the setting of the NL would result. Two listed buildings are relatively close to the site (ST.Mary's Church, Farm Cottage and Rook Farmhouse).

2.0 Planning History

2.1 A previous outline application for up to 210 residential dwellings (including affordable housing) and 0.6ha for apartments with care (C2), structural planting and landscaping, informal public open space, children's play areas, sustainable drainage system (SuDS) vehicular access from St Mary's Road and associated ancillary works, under APP/17/00007, was refused on 13.4.2017 for the following 12 reasons –

“1 The proposal represents the unsustainable addition of residential development in a non-urban area for which there is no overriding justification. It is therefore contrary to policy CS17 of the Havant Borough Local Plan (Core Strategy) 2011, policies AL1 and AL2 of the Havant Borough Local Plan (Allocations) 2014 Guiding Principle 2 of the Local Plan Housing Statement and the National Planning Policy Framework.

2 The proposed development has failed to demonstrate that it would constitute sustainable development as it does not adequately address the infrastructure requirements for the development by itself and in combination with other sites on Hayling Island. The suitability of the site for residential development has been assessed under the Local Plan Housing Statement and at this stage the site is classified as having uncertain potential for development due to sustainability concerns in particular in relation to Highway Capacity and the single access onto the Island, Flooding, Healthcare, Education and provision of Utilities. The consultation on the Draft Local Plan Housing Statement highlighted specific infrastructure issues on Hayling Island which will require further investigation before future development can be considered sustainable under the National Planning Policy Framework. The proposal therefore fails to meet the three dimensions of Sustainable Development: economic, social and environmental as set out in the National Planning Policy Framework and policies CS1, CS7, CS15, CS19, CS20, CS21, DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL1 of the Havant Borough Local Plan (Allocations) 2014 together with the Local Plan Housing Statement Guiding Principle 4 and the National Planning Policy Framework.

3 The proposal, without completion of the appropriate binding arrangements in relation to the Solent Recreation Mitigation Project, is contrary to the Council's Policy on securing the necessary measures required and adopted by the Local Planning Authority. These measures seek to ensure that the provision is made from new development to counteract increasing recreational pressure on the Chichester & Langstone Harbours Special Protection Area. The development is therefore contrary to policies CS11 and 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.

4 The development would result in a direct loss of supporting habitat (listed as site H46B of the Solent Waders and Brent Goose Strategy) for the Chichester & Langstone

Harbours Special Protection Area (SPA), in particular for dark-bellied brent geese which is one of the qualifying features of that SPA. A likely significant effect on the Chichester & Langstone Harbours SPA cannot be ruled out, insufficient information has been provided to determine the extent to which the proposals will adversely affect the integrity of the SPA and it cannot therefore be ruled out that this proposal would not have an adverse effect on site integrity. No measures have been proposed or approved that would counteract or avoid a likely significant effect, or to otherwise address any adverse impacts on site integrity. The proposed development is therefore contrary to Policies CS11 and CS21 of the Local Plan (Core Strategy) 2011 and DM23 of the Local Plan (Allocations) 2014, section 118 of the National Planning Policy Framework and the provisions of the Conservation of Habitats and Species Regulations (2010) (as amended).

5 The proposal involves development that cannot be reconciled with the National Planning Policy Framework in that the significant movements generated could not be accommodated adequately on the existing transport network. This would result in a severe impact on road safety and the operation of the local transport network contrary to the NPPF and policy DM12 of the Havant Borough Local Plan (Core Strategy) 2011.

6 The proposal involves development that cannot be reconciled with the National Planning Policy Framework in that the proposed access is inadequate to accommodate the development safely. This would result in an unacceptable impact on the safety of users of the development and adjoining highway contrary to the NPPF and of the Havant Borough Local Plan (Core Strategy) 2011 policies CS20 and DM11.

7 The proposal involves development that cannot be reconciled with the National Planning Policy Framework in that there is insufficient provision of, or support for, sustainable transport options. This would result in a greater number of trips by private car which will create a severe impact on the local transport network and environment contrary to the NPPF and policies DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2014.

8 Insufficient information has been submitted to demonstrate that the proposals would not be likely to result in harm to protected species and their habitat, specifically in this instance, bats, reptiles and Great Crested Newts. As a result, there is insufficient information to either confirm absence, or if present, determine the extent that species would be affected taking into account appropriate and proportionate avoidance, mitigation and compensation measures. The proposed development is therefore contrary to policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework along with Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended).

9 The development in the absence of an associated S106 Agreement fails to address financial and other requirements necessary to secure a sustainable development. In particular the following matters have not been suitably addressed at this stage: · Affordable Housing · Highway Works · Sustainable Transport Requirements including footpath/cycle routes · Travel Plan requirements · SUDs provision, management and maintenance including SUDs bond · Education Contribution · Traffic Regulation Order ·

Apartments with care requirements · Design, Management and Maintenance of Common Parts · Management Plan Common Parts · Employment and Skills Plan · Ecological requirements · Appropriate legal fees and monitoring fees Together with any further infrastructure requirements established through the Infrastructure Delivery Plan and emerging Havant Borough Local Plan 2036. In the absence of such provisions the proposed development would be contrary to policies of the Havant Borough Local Plan (Core Strategy) 2011 policies CS1, CS3, CS7, CS11, CS13, CS16, CS19, CS20, CS21, DM7, DM8, DM11 and DM12 Havant Borough (Allocations) Plan 2014 policy DM23 and the National Planning Policy Framework.

10 Notwithstanding reasons for refusal Nos 1 and 2, the proposed development would not represent an efficient use of greenfield land. This would fail to make the best use of a finite land resource and constitute an unsustainable form of development failing to address housing need in an efficient manner. The development would therefore be contrary to policies CS9 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

11 The proposal would result in a less than substantial harm to the setting of St Marys Church a Grade II listed building. In particular, in relation to the appreciation of the building in its rural setting and in terms of views across the wider landscape including from parts of the footpath network. The impact on an historic asset is irreversible. Whilst the impact on the setting of St Mary's Church is considered to represent less than substantial harm this should be weighed against the public benefits of the proposal. Given that the development is not considered to meet the requirements of sustainable development it is not considered that the benefits of the proposal would outweigh the impact to the setting of St Marys Church. The proposal therefore contrary to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and DM20 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.*

12 The application site constitutes primarily Grade 2 and 3a land which is classed as best and most versatile agricultural land. Such land represents a valuable resource for local food production with associated economic benefits. The proposed development would result in the loss of a significant area of such land. Given that the development is not considered to meet the requirements of sustainable development the loss of this land to agriculture is not justified. The development is therefore contrary to policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and in coming to its decision the Council considered plans and other documents submitted with regard to your application and the relevant policies of the Havant Borough Local Plan and other planning policy documents including the National Planning Policy Framework 2012."

- no Appeal was lodged. Chichester Harbour Conservancy (CHC) objected to that application in the following terms –

"...contrary to Policy DM23 of the Development Plan, being premature to the consideration of whether this site becomes allocated for housing in the Development Plan and with insufficient/poor information provided on bird counts.

2.2 Under GEN/21/00922 the applicant made a request for a scoping opinion. That was issued 29.9.2021 and has informed the submitted (and now updated) Environmental Statement.

2.3 In a Housing Statement issued December 2016 by Havant Borough Council - (since superseded) - the site was given the identifier code UE77 (Land at Rook Farm) under the heading of 'uncertain potential', where development applications for new housing were to be resisted until the sustainability of further large housing on Hayling Island and the necessary infrastructure could be properly assessed through the local plan process.

2.4 In terms of a first submission version of the emerging local plan recently at Examination, the site was shown as an allocation H27, where up to 390 dwellings were envisaged. However, in a letter to the Council, the Inspectors published their interim findings and encouraged the Council as they considered it to be 'unsound' on a number of grounds. The Council resolved to withdraw the plan on 16.3.2022 and recommence preparing the plan.

2.5 The Council is currently said to only have a 3.9 years housing land supply. The EIP Inspectors had queried the ability of the A3023 to cope with a further 900 -(this site and others) - dwellings being built on Hayling Island, particularly in the summer when tourist traffic was most prevalent. Other housing sites on Hayling Island under Policy KP3 were also considered to be in areas of considerable flood risk and their allocation unsound, with the Inspectors concluding - *"Further work would be required to demonstrate that these allocations can be made safe for their lifetime."*

2.6 In respect of (then) Policy H27, the EIP Inspectors concluded in paragraphs 34-35 of their Interim Report –

"34. Rook Farm is proposed as an allocation for 390 dwellings under Policy H27 and is subject to further site-specific guidance under Policy E17 for Solent Waders and Brent Geese. The sites importance relates mainly to Brent Geese. In this regard, it is subject to an outstanding objection from Natural England. The site is identified as a 'core area' and it comprises 'Functionally Linked Land'. In order to mitigate for the loss of the appeal site, it is likely that any replacement site would need to be on Hayling Island. At the time of the hearings, no such replacement site had been secured, despite the scheme first being proposed for development in an outline application that was refused planning permission in 2017 (Ref APP/17/00007).

35. Whilst the site promoter stated at the hearings that they were at an advanced stage in securing a replacement mitigation site, that site is not currently in the public domain, nor have Natural England or the Council's ecologist had a chance to review it and any supporting justification. In these circumstances, it is unclear whether an appropriate mitigation site can be secured, and there are consequently, in our view, significant uncertainties over the site's delivery. Given this, we are unable to find that the site currently meets the definition of 'deliverable' or 'developable' as set out at Annex 2 of the NPPF. On this basis, 390 dwellings should be removed from the Council's anticipated supply."

A Council briefing was held with stakeholders on 28 April 2025, in relation to statutory consultation on the replacement local plan ('Building a better future'). The Council revealed that it would not be allocating any land on Hayling Island for new housing. Public consultation ended on 1 July 2025. The Council has yet to report on the results of the consultation exercise and whether any adjustments are to be made before the submission version is to be published for examination by a Planning Inspector.

2.7 The Council first consulted Chichester Harbour Conservancy (CHC) on application APP/21/01434 on 25 February 2022. CHC responded on 11 April 2022, after the application was considered by its Planning Committee. An objection was made in the following terms -

"With no managed replacement refuge site identified the proposals are considered contrary to Policy DM23 of the Development Plan and so likely to harm the integrity of the European sites (including Chichester Harbour). The proposals are also considered to be premature to the consideration of whether this site becomes allocated for housing in the Development Plan. Following the withdrawal of the emerging local plan including its Policy H27, the proposals are also therefore considered to be contrary to Policies CS17, A11 and AL2 of the adopted local development plan.

However, Should the local planning authority be minded to approve the application, this should be subject to a S.106 at least covering-

(i) delivery of a minimum of 4.24 hectares of public open space as part of the development to accord with Policies CS1 (3) & CS13 of the Development Plan, with provision for its future maintenance and subsequent retention;

(ii) recreational disturbance payment under Local Plan Policies CS11, CS12 & CS21 for the net gain of dwellings on the site, as the site is within 5.6km of the Chichester Harbour AONB; and,

(iii) any ecological mitigation measures as a material planning consideration under Policies CS11 and DM23 of the Development Plan, including any approved nitrates strategy."

2.8 Having offered the applicant a scoping report for the pre-application enquiry for 390 dwellings, etc at the site on 29 September 2021, saying the proposals would trigger an Environmental Impact Assessment, the Council has now reconsulted CHC on 28 November 2025 advising it of the revisions made to the Environmental Statement (ES) that had been prepared to support the application and allow an appropriate assessment by the Council under the Habitat Regulations 2017.

2.9 The main issues of interest for CHC remain –

- Impact to the integrity of the Habitat sites within Chichester Harbour, arising from loss of a 'core' Brent geese and waders site, providing supporting habitat;
- Recreational disturbance at Chichester Harbour shoreline; and,

- Impact to nutrient loading on Chichester Harbour contributing to eutrophication.

3.0 Proposed development

3.1 The 'headlines' from the revised (322 pages now compared to 304 before) ES include -

- Updated dark bellied Brent geese overwinter survey figures, confirming the site is still regarded as a 'core's site in terms of Policy 25 of the emerging local plan and DM23 of the adopted local plan. Although the highest recent count was 800, with as little as 20 on one day, the applicant accepts the site should still be classified as a 'core' site. Observations at the (larger) replacement site being offered on land west of West Lane, also confirm that to be a 'core' site, albeit impacted by what crop is being grown in rotation and noise disturbance from the Hayling Billy line public footpath, during winter months when trees and bushes are not in leaf;
- The replacement refuge site is 14.6ha (approximately 24% bigger than the application site (identified on a plan in the November 2022 first iteration of the 'Brent Goose Mitigation Strategy'. Hampshire and Isle of Wight Wildlife Trust has offered a letter in the November 2025 update, following a meeting of its Board, confirming it is in principle willing to manage the site, once enhancements have been made to it. A number of enhancements are proposed to qualitatively improve its function as a replacement 'core' site including –

* cessation of the growing of arable crops and planting as lush perennial rye grass with white clover, or similar.

*a number of shallow 'scrapes' to be created in lower portions of the site to form obvious in-field wet features that can support a wide variety of aquatic, terrestrial and aerial invertebrates, and in turn provide important feeding areas for wading birds (and their chicks, in the case of those which stay to breed).

*stock fencing to all boundaries

*increased hedge planting to a 6m zone in from the western boundary to prevent intervisibility between those using the Hayling Billy footpath and birds using the refuge.

The applicant suggests details of all these matters can be secured through planning conditions or S.106 legal agreement (CHC preference is that these details should be secured through a S.106 as (a) this is more legally binding and (b) the applicant has not edged the West Lane land blue at this stage, so it is not known if the applicant yet owns or controls this land).

- Natural England's (NE's) latest comments on the application were dated 1 March 2024. The letter sought an updated nutrient report, but only made a comment on the updated Brent Goose Mitigation Strategy – (which, by then had identified the replacement 'core' site in West Lane, Hayling Island) – to seek - *"A Habitat Management and Monitoring Plan (HMMP), or equivalent management document, setting out details for the implementation and management of the proposed bird refuge site"* and concluded – *"Provided that the council as competent authority are*

satisfied that the above mitigation can be secured in perpetuity (further details below), then Natural England raise no further comments on the principle of these mitigation proposals.”;

- The applicant is using the application site and the West Lane land to demonstrate biodiversity net gain in the following terms of a metric prepared in accordance with latest NE guidance –

* Informal grassland (c. 0.8ha equating to 5.53 Biodiversity Units)

* Formal grassland (c. 2.33ha equating to 8.06 Biodiversity Units)

* Scrub (c. 0.36ha equating to 2.44 Biodiversity Units)

* New tree planting (c. 90 small trees equating to 0.8 Biodiversity Units)

The above measures will contribute to an overall net gain of 0.77 Watercourse Units (+32.21%) and 3.51 Hedgerow Units (394m) (+321.30%), however the on-site habitat creation is not sufficient to achieve an onsite net gain. An off-site offsetting parcel has been identified to contribute to the Site's Biodiversity Net Gain, which will result in an overall net gain of 23.54 Habitat Units (+75.84%).

- Updated ecological report, particularly noting the function and contribution of on site ditches and proposed improvements to them;
- A commitment to continue with over-wintering bird surveys 10 years after establishment of the refuge at West Lane, carried out every other year;
- Updated nutrient impact report (Appendix E to the shadow Habitats Regulations Assessment), recognises that ceasing to grow arable crops with fertilizer applied at the application site and West Lane land will cause a net 16.53 kg TN/year drop per se in nitrogen finding its way into the Langstone and Chichester Harbours SPA/SAC/Ramsar/SSSI designations, compared to the nutrient loading of the proposed housing;
- Updated reference to concurrent permissions and live applications in terms of cumulative impact to the Habitats sites;
- Updated Transport Assessment and Travel Plan. The former still concludes that even taking into account summer tourist traffic and peak hour flows that with a package of highway improvements, following discussions with National Highways and Hampshire County Council as Highways Authority, assert that no 'severe' impact to the Highways network would occur. The main access design geometry has been clarified;
- A noise impact assessment has been updated, but this has no impact on the NL and relates to satisfactory living conditions for new residents, some of whom would be living close to an existing engineering business;
- Updated ES chapters on Air Quality (found not to be at issue at Langstone Bridge, owing to tidal effects dispersing pollutants), Ecology, Transport and the Water Environment;
- The applicant has asked for a small change to the description of development to cover demolition of farm buildings.

3.2 The application is still made in outline for the construction of 300 dwellings (30% as affordable housing), informal public open space, 3.74Ha including children's play areas, allotments and community gardens and sustainable drainage system (SuDS), with all matters reserved except access. An illustrative 'development framework' has been submitted along with a more detailed plan showing the intended

single point of access to the site and one emergency point of access via Rook Farm Way.

3.3 The conceptual layout does however show retention of the only two short stretches of native (species poor) hedgerows, and on-site pond and the majority of existing trees, most of which are confined to boundaries. Bat activity surveys recorded moderate levels of foraging and dispersal, however this was heavily dominated by common and widespread species and restricted to boundaries with structural vegetation, with an additional hotspot around the existing pond.

3.4 The application is supported by an Environmental Statement (ES) with chapters related to –

- Methodology for the construction and operational phase assessments
- Background pollutant concentrations
- Traffic data used in air quality assessment
- Existing and proposed sensitive receptor locations
- Ecological impact assessment including biodiversity metric
- Information to inform a Habitats Regulations Assessment
- Transport assessment and link sensitivity classification
- Travel plan
- Soils and agricultural land classification
- Relevant correspondence with statutory consultees and utility providers
- List of relevant legislation and guidance
- Methodology for assessing significance of impacts
- Flood risk assessment
- Assessment of impacts to water quality
- Rights of way
- Risk table
- Heritage statement
- Affordable housing statement

- As well as other reports related to –

- Trees
- Floodwater management
- Foul sewage and utilities assessment
- Heritage and archaeological assessment
- Landscape and visual impact assessment (LVIA), concluding the site to have medium landscape value given its edge of settlement location
- Noise assessment
- Site investigation report
- Planning and affordable housing statement
- Heads of terms to S.06 items
- Statement of community involvement, including dedicated website and postcard drop to 460 surrounding properties alerting the public to that as a means of leaving comments before this outline application has been made
- Socio-economic Recovery Following Covid-19

3.5 Highlighted conclusions on matters related to impact to the NL and the promotion of nature conservation/enhancement in general include –

3.5.1 The ES properly references nearby heritage assets and the Habitat (Pre Brexit titled – ‘European’) sites of which Chichester and Langstone Harbours SPA is one and that nitrates are an issue to be considered. If consented, the intention is to commence building by 2027 and fully build out by 2035, depending on market conditions. Improvements to bat roosting, opportunities for nesting birds and reptile translocation/new refugia are put forward as enhancements at the site, to comply with adopted Policy DM8. The ES has worked from a baseline situation to then consider effects of the development to see how the baseline would change and the magnitude of that change, where change could be concluded to be either adverse or beneficial. No adverse effect on the European sites from increased vehicle emissions owing to the distance separation from the site. The applicant has concluded that there would not be ‘a severe cumulative impact’ to highway users, after a package of works to 44 identified highway links were completed. Sensitive receptors that are at potential risk from the proposed development, including the Sinah Common SSSI, a public surface water sewer, the Solent, an aquifer which the site overlays and groundwater, and surface water, but the applicant considers the drainage strategy put forward would avoid such risks. Adverse effects recorded include –

- Air quality effects during construction
- Recreational disturbance and displacement of Brent geese and waders using the site
- Displacement of slow worms
- Loss of grade 2 agricultural soil

- for which mitigation would need to be put forward in the form of –

- a best practice dust mitigation plan
- establishment of a permanent off-site brent goose refuge and financial contributions toward the Solent Recreation Mitigation Strategy
- a reptile Mitigation Strategy
- Depth and method of topsoil stripping and stockpiling
- Identification of landscaping soil requirements and assessment of suitability and availability of on-site resources
- Means of subsoil protection from compaction damage and remedial measures (such as ripping/subsoiling) to remove damage

The potential impacts of the proposals are reassessed with the mitigation measures in place and the resulting effect is referred to as the ‘*residual effect*’. It is the purpose of the mitigation measures to have reduced any potential adverse effects to the lowest level possible. Cumulative effects are also considered and the applicant has researched other nearby developments, whether already applied for or set out in the emerging local plan, referred to on page 8 of the ES non-technical summary. Improvements to greenspace and public access/connectivity are seen as beneficial impacts. In conclusion the applicant states –

“In summary with the embedded design measures and additional mitigation, and

assuming standard practice and regulatory compliance if followed, it is not anticipated that the proposed development will cause, make worse, or be affected by, a major accident and/or disaster that will result in significant effects on the natural environment or human health”.

3.5.2 Great crested newts were absent from the site the breeding bird assemblage modest, but a moderate population of slow worms was recorded with high concentrations along the northern boundary and within a parcel of grassland to the east. Much of the slow worm habitat is due to be lost, but the applicant says this will be compensated by the creation of new greenspace (albeit no minimum hectareage is specified). The applicant intends to retain nearly all the trees, except where the access is to be formed onto ST Mary's Road, but there would be additional areas of grassland, SuDS, tree and woodland planting to connect and extend the existing habitats on the site.

3.5.3 The layout would connect to the adjoining public footpath network and new greenspace at the site would provide alternative dog walking opportunities to visiting the NL shoreline.

3.5.4 Structural landscape planting to provide a buffer to open countryside beyond and the retention and positive management of key landscape features. To protect and extend the site's existing environmental assets and use them as a framework for the creation of 4.24 ha of new green infrastructure respecting the landscape and promoting biodiversity (where the applicant states only 1.87 ha needs to be provided under policy). This represents almost 36% of the site area and will include recreational space, equipped playspace (exceeding 0.03 ha) and teenage space (exceeding 0.02 ha), footpaths, attenuation basins and structural planting.

3.5.5 The scale of built form intended is predominantly two storeys with the occasional 2.5 storeys with all dwellings to take vehicular access from a single point off ST. Marys Road. There would be pedestrian/cycle linkage to the surrounding area at a number of points. A central tree lined avenue is indicated offering a s-w to n-e vista through to ST. Marys Church. A set of typical urban design principles closely following the Borough Design Guide has informed the illustrative masterplan to create a safe and legible layout.

3.5.6 It is expected that the design will explore the following in order to promote reduction in carbon emissions –

- Flexible building and house design, allowing for the expansion of living areas and storage needs, and where practicable making better use of roof spaces.
- Ensuring that buildings can be easily adapted to suit different occupiers' needs, through the use non structural internal walling and easily extended services;
- The use of locally sourced or recycled construction, building materials and aggregates;

- The preference for using environmentally friendly and more sustainable materials and products, such as recycled timber;
- The use of porous/concrete block permeable paving and surfaces for some streets, driveways and spaces;
- Low flow showers, smaller baths and dual low flush toilets as part of controlled water demand and use;
- Low carbon lighting, energy controls and management;
- Double and triple glazing, and improved insulation;
- Wherever possible using an optimum plot orientation for solar gain with south facing windows; and the use of solar thermal panels to collect solar energy to heat water and to reduce carbon emissions;
- Conservation of the natural resource such as the site's hedgerows and trees;
- Ground level 'urban greening' with the use of street trees, parks, linear parkland, open space, private spaces and gardens; and,
- The planting and setting out of grassland, native trees, shrub and hedgerow species that will encourage wildlife, and sustainable drainage.

3.5.7 The proposed drainage strategy for the development will be to introduce two drainage basins. Together these basins will reduce the risk of flooding both on and off site and will be used to manage the surface water run off from the northern and southern parcels of the proposed development. The line of drainage will follow the natural fall of the land with a positive connection to the nearby public surface water sewer network and run-off maintained at pre-development rates. Careful integration of these features into the site will create potential habitats for wildlife and promote biodiversity, providing valuable open space and amenity value.

3.5.8 The concept for the layout is built around 3 distinct character areas (seen above), namely the main street, secondary roads and green lanes, reducing in density down this hierarchy, identifying the situations where focal buildings may be used to close a vista or turn a corner etc. Each area has subtle differences in the road width, planting, offset to road, building orientation and density. These variations provide each street with its own character.

3.5.9 Residential land use would represent 7.53ha of the 11.77 ha site, building at a density of 40 dwellings/ha. The applicant states district wide benefits, in terms of making a strategically important contribution to the supply of market and affordable housing and supporting economic objectives would be delivered.

4.0 Key issues and related Policy framework*

4.1 Matters of principle and the emerging local plan status

4.1.1 The applicant's updated ES concludes the highways impact would not be significant, refuting the Inspectors who recommended that the submitted local plan be. National Highways and HCC final comments have yet to be received by the Council.

4.1.2 The submitted local plan is now withdrawn, so Policy H27 relating to the site no longer is a material planning consideration. No such allocation appears in the emerging local plan, where the site is not within the 'urban area'. The applicant submitted this outline planning application before the EIP Inspectors made their recommendation to withdraw the submitted local plan. As such, the applicant has relied heavily on (now withdrawn) Policy H27 and has sought to address the 12 reasons for refusal to APP/17/00007. However, because the Council cannot currently demonstrate a 5 year housing land supply, Policies CS17 and AL2 are technically considered to be out of date and the 'tilted balance of NPPF paragraph 11d therefore applies, unless "*material considerations indicate otherwise*".

4.1.3 The HIWWT has commented – "...document CR18 of the Havant Borough Emerging Local Plan Examination concluded that Policy H27 (Rook Farm) should be removed from the Council's supply as the Inspector is 'unable to find that the site currently meets the definition of 'deliverable' or 'developable' as set out at Annex 2 of the NPPF' due to the lack of clarity on if an appropriate mitigation site can be secured and significant uncertainties over the site's delivery.". The RSPB has made similar observations.

4.1.4 The applicant acknowledges the need to acquire the refuge site in West Lane, to mitigate the impact of loss of a 'core' supporting site and the net nutrient loading caused by the new housing. However, the applicant has still not produced evidence of a deeds to or option to purchase that land subject to the granting of outline permission. If such an option exists, it should be made public to offer absolute certainty that the improvements at the refuge site are deliverable. Given that the application site has technically become a 'departure' from the adopted local plan and that NPPF footnote 7/paragraphs 194 and 195 makes it clear that the 'tilted balance' would not apply if evidence of harm to the integrity of protected designations would be likely to occur (recognised in the ES), full clarity on this issue should be set out before any permission can be granted.

4.2 Safeguarding intrinsic setting, character and beauty of the NL/biodiversity from inappropriate development and promoting nature conservation –

4.2.1 It is noted from HIWWT comments that a peak count of 1100 individuals feeding during the winter of 2017 and, more recently, records of over 800 individual dark bellied brent geese - (but sometimes as little as 20 individuals seen) - during the Winter of 2025 have been recorded at the site. It concludes – "*The unmitigated loss of these sites would impact on the integrity of the SPA over the long term.*"

4.2.2 Proposed tree planting would take some time to establish so the housing here would be particularly noticeable in the otherwise open landscape at this point, seen

from public vantage points. However, given distance from the NL boundary and intervening built form, no adverse impact to the setting of the NL is foreseen.

4.2.3 It is acknowledged that the new greenspace and SUDs could enhance biodiversity at the site.

4.3 Flood risk and foul/surface water drainage –

4.3.1 Being in flood zone 1, no risk is predicted, and the applicant has a clear surface water drainage strategy in mind including two attenuation basins.

4.3.2 Southern Water has not raised any concerns regarding connection to the foul water sewer system, which would drain to Budds Farm and has not identified any capacity issues at the WWtW. Suitable management arrangements would need to be in place to manage the proposed SUDs and to protect the foul sewer crossing the site during construction. The Environment Agency has raised no objections to the proposals.

4.3.3 An updated nutrient budget shows a beneficial reduction of 16.53 kg TN/year to the water environment (235.22 kg TN/year from arable crop production, compared to 218.69 kg TN/year arising from the new residential development). However, this is contingent on acquiring the land at West Lane and taking it out of arable crop production.

4.4 Economic and social needs and the ‘tilted balance’ –

4.4.1 Leaving aside ecological issues, from a pure planning perspective it is still somewhat surprising that a mixed use development has not been promoted with some employment land perhaps being more sustainable in terms of the potential for trips off the island to reach employment to be reduced in the long term.

4.4.2 A mix of housing is proposed - up to 300 dwellings - offering 1-5 bedroom properties, comprising a range of house types from linked townhouses to detached properties and apartments.

4.4.3 The applicant makes great emphasis on the national housing shortfall and the Council's inability to deliver the forecast amount of new housing in recent years. With the local plan out of date in terms of Policies HCS17 and AL2, the applicant considers the NPPF's tilted balance should apply. However, significant material considerations as to not providing a replacement refuge for Brent Geese and Waders, leading to long term uncertainty over impact to the Chichester Harbour SPA still would not deliver sustainable development.

4.4.4 The Government's key imperative for the town and country planning system is sustainable economic growth to provide for housing needs and it is acknowledged that construction jobs would be created, having the potential to create short term local employment opportunities. Furthermore, those who would come to live at the site could help sustain local businesses on Hayling Island.

4.4.5 Whilst recognising the significant boost to housing and more particularly affordable housing, the proposals could provide to the Council's housing land supply for the Borough, the proposals are premature following withdrawal of the submitted local plan.

4.5 Heritage –

4.5.1 The County Archaeologist has concluded - "Whilst there is the potential for early -medieval/medieval remains, this is likely a lower potential with lower potential significance. Although not assessed, the potential impact of residential development of this scale is such that any in situ archaeological remains would either be partially or totally destroyed by the development".

4.5.2 If the Council is minded to permit, suitable conditions could be applied to record finds.

4.5.3 Historic England consider the development would have some impact to the rural setting of ST Mays Church which is Grade II* Listed, but conclude it is for the Council to assess this impact to significance against the public benefits that may arise from the development.

4.6 Urban design and high quality, low carbon design –

4.6.1 A considered approach, having regard to the Council's Borough Design Guide has produced a development framework and illustrative masterplan which would be sympathetic to existing site features, the local footpath network, the setting of Listed Buildings and surrounding built form.

4.6.2 It is clear that the applicant is committed to incorporating sustainable measures/lifetime homes standards as part of the build, but such matters – which every developer should be implementing in any case - are secondary to the main principle as to whether greenfield land/open countryside, contributing positively to functional land related to Habitats sites and rural character should be entertained, now that a replacement local plan - (which at the time of writing this report does not include any new housing allocations on Hayling Island) - must still be examined and found to be 'sound'.

4.6.3 Whether it is appropriate that the site takes all vehicular access off a single point is a matter for the Highways Authority to comment upon.

5.0 Conclusions

5.1 The development is outside a defined urban area although 'contiguous' with the existing settlement edge. No harm would result to the setting of the Chichester Harbour NL. The Council cannot demonstrate a 5 year housing land supply, so the applicant is arguing the 'tilted balance' must be applied, although with the withdrawal of the submitted local plan including Policy H27, the proposals represent a departure from the adopted local plan.

5.2 There are still unanswered questions about definitely securing the replacement Brent Goose refuge land at West Lane, because the applicant has not demonstrated they own or control that land. One still cannot therefore rule out a significant adverse affect to the Habitat sites, including the Chichester Harbour SPA/Ramsar/SAC/SSSI.

5.3 It is accepted that on and off-site enhancements to biodiversity could be delivered.

*Policy framework

NPPF paragraphs - 1-3, 6-12, 15-21, 23, 25-29, 32-35, 39-44, 48-51, 55-59, 61-66, 71-73, 75, 77-81, 85-86, 96, 98, 103, 105, 109-113, 115-119, 124-125, 129, 131-132, 135-140, 161-166, 168, 170-175, 177, 180-182, 187-189, 192-199, 202-203, 205, 207-208, 210, 212-213, 215, 231-237, 240, 242; **NPPG ID's** - 2a, 3-9, 14-15, 18a, 20, 21a, 21b, 23b, 25-26, 31-34, 37, 42, 53-54, 56-57, 60, 63, 65, 67-68, 70, 74; **HBDP** – CS1, CS3, CS7-CS9, CS11-CS17, CS19-CS21, DM1, DM7-DM13 (DM9 only in respect of replacement Brent Geese refuge), AL1-AI2, DM18, DM20, DM23-DM24; **HBLPBaBF** – 1-5, 7-27, 29-33, 43-48, 48, 50-55; **CHMP** – Policy aims 1.1, 1.3 and 4.4; **SPG/SPD**.

*Abbreviations used:

NPPF - National Planning Policy Framework December 2024, as adjusted 7-2-2025)

NPPG - National Planning Practice Guidance (March 2014 onwards)

HBDP – Havant Borough Development Plan: Core Strategy (2011) and Site Allocations DPD (2014)

HBLPBaBF – Havant Local Plan Building a better future (2025)

CHMP - Chichester Harbour AONB Management Plan (2025-2030)

SPD/SPG relating to:-

Borough Design Guide (2011)

Housing (2011)

Parking (2016)

Position Statement and Mitigation Plan for Nutrient Neutral Development (August 2025)

Housing Delivery Action Plan – (January 2025)

Developer contributions guide (November 2025)

DAS – Design and access statement

LVIA – Landscape visual impact assessment

SUDs – Sustainable urban drainage systems

Yours sincerely,

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Appendix

Chichester Harbour National Landscape (NL - formerly AONB)

Chichester Harbour was designated as an Area of Outstanding Natural Beauty (AONB) in 1964. It is the smallest mainland NL in England, and in terms of moorings, it is largest recreational sailing and boating harbour in Europe. Chichester Harbour is quite rightly regarded as a nationally important protected landscape.

Local Planning Authorities must seek to further the purposes of the NL.

The primary purpose of the NL designation is to **conserve and enhance the natural beauty**. In pursuing the primary purpose, account should be taken of the needs of agriculture, forestry, other rural industries and of the economic and social needs of local communities. Regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment. Recreation is not an objective of designation, but the demand for recreation should be met insofar as it is consistent with the conservation of natural beauty and the needs of agriculture, forestry, and other uses.

The management of the NL was formalised through the Countryside and Rights of Way Act of 2000 with Chichester Harbour Conservancy appointed as the Joint Advisory Committee (JAC) for the AONB.

Chichester Harbour Conservancy

Chichester Harbour Conservancy was established in 1971. It is a unique organisation in that it is the only Statutory Harbour Authority with responsibility for the NL. Its purposes extend beyond that of other NL's, to include leisure, recreation, and the conservation of nature.

Section IV, part 21, of the 1971 Act states:

21.– (1) It shall be the function of the Conservancy, subject to the provisions of this Act, to take such steps from time to time as to them seem meet for the conservancy, maintenance and improvement of–

- a) The harbour, for the use of pleasure craft and such other vessels as may seek to use the same;
- b) The amenity area, for the occupation of leisure and recreation and the conservation of nature:

and the facilities (including, in relation to the harbour, navigational facilities) afforded respectively therein or in connection therewith.

(2) In the fulfilment of the function with which they are charged by subsection (1) of this section, the Conservancy shall have regard to the desirability of conserving the natural beauty and amenity of the countryside and of avoiding interference with fisheries.

The full text of the Chichester Harbour Conservancy Act of 1971 is published on the Conservancy's website.

<https://www.conservancy.co.uk/page/279-the-conservancy>

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Chichester Harbour Conservancy's Planning Committee

Chichester Harbour Conservancy utilises a member-led Planning Committee to act on behalf of the Conservancy Board in responding to planning applications and consultations. Membership is derived from the Conservancy Board and the Statutory Advisory Committee. The Planning Committee meet every 6-8 weeks. The Conservancy's Case Officer reports, agendas, and minutes of past meetings are on the Conservancy's website.

<https://www.conservancy.co.uk/page/committees-and-meetings>

Chichester Harbour Statutory Management Plan

The Chichester Harbour Management Plan (2019-2025) details the 10 Special Qualities of the NL and features 15 policies to guide the management of the protected landscape. Chichester Harbour Conservancy prepared the Management Plan on behalf of the Local Planning Authorities: Chichester District Council, Havant Borough Council, West Sussex County Council, and Hampshire County Council. Prior to adoption, the Plan was subject to a public consultation over 8 weeks. The Plan is a material planning consideration under Policy CS12 of the Havant Borough Core Strategy (2011-2026). This means it is relevant to making planning decisions in and around Chichester Harbour (whether to grant or refuse an application for planning permission).

<https://www.conservancy.co.uk/page/management-plan>

<https://www.havant.gov.uk/local-plan>

Chichester Harbour Planning Principles

Chichester Harbour Conservancy has developed 19 Planning Principles to guide development in and around the NL. These Planning Principles can be read in Section 3 of the Management Plan. The Planning Principles directly inform whether a planning application is likely to be supported by the Conservancy.

<https://www.conservancy.co.uk/page/planning>

Chichester Harbour NL Landscape Character Assessment

The purpose of the Landscape Character Assessment is to provide an understanding of the unique landscape character and special qualities of the Chichester Harbour AONB to inform the development of NL Management Plans and wider planning policy. The Chichester Harbour NL - (or AONB, as it was at the time of publication) - Landscape Character Assessment was first published in 2005, and subsequently reviewed in 2018. The Landscape Character Assessment is a material planning consideration.

<https://www.conservancy.co.uk/page/management-plan>

The Joint Supplementary Planning Document for the NL

Chichester Harbour Conservancy supported two Local Planning Authorities (Chichester District Council and Havant Borough Council) to jointly publish guidance on development proposals in Chichester Harbour NL -(or AONB, as it was at the time of publication) - which was adopted in 2017. It expands upon the relevant policies in the Local Plans, particularly relating to the design of replacement dwellings and extensions and provides photographic examples showing the impacts of developments and suggested techniques for limiting those impacts. The Joint SPD is a material planning consideration.

In addition to the guidance within the main part of the SPD, there are several further issues to consider if you are proposing to undertake development or works within the Chichester Harbour NL. Applicants may need at least one of several consents, including: Planning Permission; other

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Local Authority Consents; a Marine Licence from the Marine Management Organisation; Consent from Natural England; Consent from the Environment Agency; and/or a Works Licence from the Chichester Harbour Conservancy (see below).

<https://www.conservancy.co.uk/page/planning>

NL Impact Statement

It is best practice for all planning applications inside the NL to submit an NL Impact Statement to the Local Planning Authority. This Statement will detail how the application: a) will conserve and enhances natural beauty; b) complement the special qualities of the NL; b) will deliver the adopted policies in the Statutory Management Plan. The level of detail provided in the NL Impact Statement is expected to reflect the relative complexity of the planning application. A NL Impact Statement is also a good idea for planning applications outside of the boundary, but close enough to affect the character and setting of the protected landscape (within 500m).

<https://www.conservancy.co.uk/page/management-plan>

Conservancy's Works Licence

The Chichester Harbour Conservancy Act 1971 (Sections 45, 47 and 48) makes it an offence for any person to construct, alter, renew, or extend any works on, under or over tidal waters or tidal lands below the level of Mean High-Water Springs in Chichester Harbour unless licensed to do so by the Conservancy. The only exceptions are works specifically authorised by an Act of Parliament or the renewal of works which were in place on 1st August 1970. Most projects below Mean-High Water Springs are required to apply for a Works License. Approval must be gained before any works commence.

<https://www.conservancy.co.uk/page/planning>

Addendum

Natural England

Natural England is a non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs. It is responsible for ensuring that England's natural environment, including its land, flora and fauna, freshwater and marine environments, geology, and soils, are protected and improved. It also has a responsibility to help people enjoy, understand, and access the natural environment. Natural England advise that Chichester Harbour Conservancy's "knowledge of the site and its wider landscape setting, together with the aims and objectives of the NL's Statutory Management Plan, will be a valuable contribution to the planning decision."

Summary of Environmental Designations at Chichester Harbour

Worldwide Designation	Ramsar Site	Wetlands are among the most diverse and productive ecosystems. Chichester and Langstone Harbours were recognised as a wetland of international importance when they were designated as a Ramsar Site in 1987, under the Ramsar Convention.
Nationally Important Designations	Area of Outstanding Natural Beauty	An Area of Outstanding Natural Beauty - (now National Landscape (NL)) - is a landscape which is considered so precious that it is protected for the nation. The criteria for designating a NL include valuable wildlife, habitats, geology, and heritage, as well as scenic views. Chichester Harbour was designated as an AONB - (now National Landscape (NL)) - in 1964.
	Bass Nursery Area	A Bass Nursery Area is a place that is recognised as a haven for small school bass. Fishing for bass, or fishing for any fish using sand-eels as bait, by any fishing boat within any part of the Harbour as defined, is prohibited between 30th April and 1st November each year. Chichester Harbour was designated a Bass Nursery Area in 1990.
	Site of Special Scientific Interest (SSSI)	Chichester Harbour was designated a Site of Special Scientific Interest in 1970 because it was of special interest by virtue of its fauna, flora, geological or physiographical / geomorphological features.
	Special Area of Conservation (SAC)	A Special Area of Conservation is a site designated under the Habitats Directive. These sites, together with Special Protection Areas, are called Natura sites and they are internationally important for threatened habitats and species. Solent Maritime SAC was designated in 1994.
	Special Protection Area (SPA)	A Special Protection Area is a site designated under the Birds Directive. Chichester and Langstone Harbours SPA was designated in 1979.
	Water Framework Directive	This aims for good water quality and covers groundwater, surface water (rivers, canals, lakes, reservoirs, estuaries, other brackish waters, and coastal waters) out to one nautical mile from shore as well as wetlands. The Directive, which came into effect in 2000, gives shellfish harvesting waters and bathing waters special protection.
Locally Important Designations	Conservation Area	Conservation Areas protect special architectural and historical places of interest. There are ten Conservation Areas in and around Chichester Harbour.
	Dark Sky Discovery Site	Three Dark Sky Discovery Sites were defined in Chichester Harbour in 2017. They are particularly good sites for stargazing.
	Local Nature Reserve	Local Nature Reserves are particularly appropriate for educational, research or public information purposes. There are five Local Nature Reserves in Chichester Harbour.
	Local Wildlife Site	Local Wildlife Sites in West Sussex feature important habitats that complement Local Nature Reserves and the Site of Special Scientific Interest. They are the equivalent of a Sites of Importance for Nature Conservation in Hampshire. There are 16 Local Wildlife Sites in Chichester Harbour.
	Site of Importance for Nature Conservation (SINC)	Sites of Importance for Nature Conservation in Hampshire feature important habitats that complement Local Nature Reserves and the Site of Special Scientific Interest. They are the equivalent of Local Wildlife Sites in West Sussex. There are 25 SINCs in Chichester Harbour.