

The proposal has been subject to extensive review and consultation. Extended negotiations have taken place, along with research into previous proposals in similarly sensitive locations, resulting in the plans being improved and amended to address concerns; revising the layout and improving landscaping.

Additionally, specialist reports were commissioned to address concerns over some key issues - including landscape impact, management of the site, ecology, highways, and flooding. The site is in flood zone 1, with the access being located in zones 2 and 3 and the proposal will include, through a recommended condition, a Flood Warning and Evacuation Plan to ensure that those occupying the site can evacuate in a safe manner during a flood event.

This application has been considered against both the criteria set out in policy CS5 of the Havant Borough Local Plan (Core Strategy) 2011 and paragraph 83 of the National Planning Policy Framework 2019. The Highway Authority has raised no objection to the scheme. Furthermore, the development is not considered to have a significant adverse impact on the amenities of neighbouring properties.

The development is acknowledged to affect, to some degree, the character and setting of this part of the area in terms of impact on its rural appearance and tranquillity. The impact of the development on the character, setting and rural appearance of this part of the Island has been improved, when compared to the original submissions. When this more sensitive layout is considered in conjunction with the provision of tourism facilities, it is considered that the impact on the landscape, whilst altered, is not so detrimental when weighed up against the other material considerations as to warrant a refusal. In addition, the appeal decision for the previous application is clear that the Inspector considered that the development *“would have a limited effect on the character and appearance of the area due to the transient nature of the use, the screening provided by the mature trees and landscaping, and the limited scale and massing of the caravans and other structures on the site.”*

To conclude, in assessing the proposal (including associated evidence) against the adopted Local Plans and the National Planning Policy Framework (NPPF) it is considered that whilst the proposal is a departure from the Development Plan, the application is recommended for permission because it is a sustainable form of tourism development appropriately located in the countryside and at a scale which supports the local economy of Hayling Island and represents sustainable development, subject to appropriate controls through conditions.

1 Site Description

- 1.1 The site is located to the south of the residential curtilage of the dwellinghouse known as Mandai. Mandai is one of a linear form of residential properties, made up of detached dwellings, to the north of the site. To the west and south of the appeal site are open agricultural fields. St Peters Road runs along the eastern boundary of the site, beyond which is additional agricultural land.
- 1.2 The site is enclosed by mature planting to all boundaries, with the addition of timber fencing between the boundary of Mandai and the application site. The site also benefits from vehicular access onto St Peters Road in the south-east corner of the site.
- 1.3 The site has recently had two touring caravans on the site, one towards the front boundary of the site and the second more centrally positioned. In addition to the touring caravans there is a Wendy house, used for play, an enclosed hot tub, a timber

shed like structure containing a shower, toilet and washing machine, a storage container with building equipment inside to the far west of the site, a white van, electric connection, decked area in front of the central caravan and additional hardstandings. These are all unauthorised, and are outlined in more detail in paragraph 2.4.

- 1.4 The site is located outside of the settlement boundary within a rural setting, and is within the defined 'Non-Urban' area, as defined by the Havant Borough Local Plan (Allocations) 2014. The site is within Flood Zone 1, although the access and adjoining road fall within Flood Zones 2 and 3.
- 1.5 The site has an extensive planning history, including regarding Enforcement Action, which is outlined in detail below.

2 Relevant Planning History

Planning History

- 2.1 APP/18/00207 - Use of Land for touring holiday/tourism caravan site and erection of utility block (Resubmission). Application refused by Development Management Committee, for the following reason:

The proposal represents the undesirable addition of a touring holiday/tourism caravan site in a non-urban area, for which there is no overriding justification, and which would adversely affect the character and appearance of the countryside. It is therefore, contrary to policies CS9 and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Publication Local Plan (Allocations) and the National Planning Policy Framework 2012.

A Planning Appeal, decision attached at appendix D, was subsequently dismissed on 15th August 2019. In respect of the Committee's reason for refusal the Inspector concluded on this issue that "the effect of the proposal on the character and appearance of the countryside would be acceptable, and therefore find no conflict with the design aims of CS Policy CS16".

The appeal was however dismissed on another matter, which was on the grounds of the likely adverse effects on the integrity of the Solent SPAs, either alone or in combination with other plans and projects, because of additional nitrogen and phosphorous from additional waste water generated by the proposed use.

- 2.2 APP/17/00942 - Use of land for touring caravan site and alteration of access. Application withdrawn 30/01/2018.
- 2.3 APP/14/00999 Application for lawful development certificate relating to existing use of land as leisure plot. Refused 21 January 2015 – No appeal lodged.
- 2.4 05/60059/000 Outline application for construction of a chalet bungalow with/without shared access - Refused 24 May 2005.

Appeal Dismissed – 02 March 2006 – APP/X1735/A/05/1192877
High Court Challenge – Withdrawn – 11/07/2006

Enforcement History

- 2.5 13/00262/CMP Alleged unauthorised use of land.

Following an enforcement investigation, a Planning Enforcement notice was served in respect of the site on 27 May 2016, which was appealed and was the subject of a Public Inquiry.

The matters which appeared to constitute the breach of planning control were, within the last 10 years, the change of use of the Land to use as a leisure plot with ancillary development. In addition to the unauthorised development the following ancillary items were on the land in breach of planning control:

- (a) The siting and use of two caravans
- (b) The parking and storing of vehicles on site
- (c) The siting of a storage container
- (d) Associated ancillary development including CCTV installation, hardstandings, decking, patios, siting of hot tub, siting of timber shed, chiminea and skips, kerbing and play house.

- 2.6 The requirements of the notice were to:
1. Permanently cease the use of the Land as a leisure plot.
 2. Permanently remove all vehicles parked and stored on the Land.
 3. Permanently remove boat and trailer parked and stored on the Land.
 4. Permanently remove the storage container from the Land
 5. Permanently remove the caravans from the Land
 6. Permanently remove all associated development and paraphernalia from the Land, including CCTV installation, hardstanding and patios, hot tub, timber sheds, decking, chiminea, skips, bench, picnic table, kerbing and playhouse.
 7. Re-instate the Land to its original undeveloped condition prior to the breach of planning control.
- 2.7 The time period for compliance with the notice was for 3 months from the date it took effect.
- 2.8 The notice would have taken effect on 1st July 2016, but was held in abeyance pending the outcome of the appeal.
- 2.9 The appeal was made on three grounds; (d), (f) and (g). **Ground (d)** that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. **Ground (f)** that the steps required to comply with the requirements of the notice were excessive, and lesser steps would overcome the objections. **Ground (g)** that the time given to comply with the notice was too short. It is important to note that the grounds of appeal **did not include ground (a)**, which refers to an opinion that planning permission should be granted for the proposal. As such the Inspector did not consider whether Planning Permission should have been granted, and only considered those matters contained under grounds (d), (f) and (g).
- 2.10 The appeal was dismissed, with the Enforcement Notice Varied and upheld, on 2 May 2017, for the following reasons:
Ground (d) – that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. The Inspector did not consider that the appellant had proven on the balance of probability that no material change of use requiring planning permission had occurred since 23 September 2004. The evidence indicates that a material change of use occurred in or around 2009/2010 from use as a garden detached from a dwelling to use as a leisure plot with ancillary development. As this represents development for which planning permission is required, the current use of the land is unauthorised. The appeal on

ground (g) therefore was dismissed.

Ground (f) - An appeal on this ground is that the steps exceed what is necessary to remedy the breach of planning control. The Inspector concluded that the requirements did not exceed what was necessary to remedy the breach of planning control and did not preclude the appellant doing what he is lawfully entitled to do in the future once the notice has been complied with.

Ground (g) - An appeal on this ground is that the compliance period is too short. The Inspector outlined that the three-month compliance period specified in the notice would place the appellant in some difficulty bearing in mind his personal circumstances. Instead, the Inspector considered a compliance period of 6 months to be more appropriate and varied the compliance period of the notice to this effect.

As such the requirements of the Enforcement Notice should have been complied with by **2 November 2017**. To date, whilst some clearance has taken place on the site, full compliance with the Notice is yet to be achieved.

3 Proposal

- 3.1 The application is identical to the previous application APP/18/00207, which was for the Use of Land for touring holiday/tourism caravan site and erection of utility block. The application proposes that the number of pitches would be restricted to three, with it being anticipated that those using the site would stay for 1 or 2 weeks, using the site as a base to explore the local area.
- 3.2 The proposal would be utilising some of the existing hardstandings for the caravans, which would be restricted to concrete strips to form a hard surface under the wheels, while retaining the rural appearance of the site.
- 3.3 The site already has electricity and water supplies. Toilet and shower facilities would be provided near the entrance in the form of a small building. These would be connected to the main sewer, in order to ensure that the site is appropriately drained. The application outlines that no additional facilities would be brought on to the site
- 3.4 The application form and drawings have been submitted with:
 - A Design & Access Statement including management plan of the facility
 - Transport Statement
 - Flood Risk Assessment
 - Ecology Assessment

4 Policy Considerations

National Planning Policy Framework 2019

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS20	(Transport and Access Strategy)
CS5	(Tourism)
DM11	(Planning for More Sustainable Travel)

- DM12 (Mitigating the Impacts of Travel)
- DM14 (Car and Cycle Parking on Development (excluding residential))
- DM8 (Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

- AL1 (Presumption in Favour of Sustainable Development)
- AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

The Pre-submission Havant Borough Local Plan 2036 was approved by the Council on 30 January 2019 and was subsequently published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 4 February 2019 to 18 March 2019. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption.

Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Pre-Submission Local Plan referenced below are currently afforded some weight, dependent on the level of objection received to each individual policy during the consultation process.

The relevant planning policies of the emerging Local Plan are:

- IN3 - Transport and New development
- E1 - High Quality Design
- E3 - Landscape and Settlement Boundaries
- E4 - Development on the Coast
- E19 - Managing Flood Risk in New Development
- E5 - Chichester Harbour AONB
- E22 - Amenity

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

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

5 Statutory and Non Statutory Consultations

Council's Ecologist

The application is accompanied by an Ecological Assessment of Impacts on Brent Geese Report (HES, January 2018). The application site itself is clearly unsuitable for supporting wintering birds and there is considered to be sufficient vegetation screening present for visual disturbance not to be an issue. I am content that the issue of potential impacts to overwintering birds has been addressed.

The site is also considered to offer some potential for supporting common reptiles and nesting birds. Some general recommendations are provided for ensuring that

ecological impacts continue to be avoided.

If you are minded to grant permission can I suggest that ecological mitigation measures are secured by condition:

Development shall proceed in accordance with the ecological mitigation measures detailed within the Ecological Assessment of Impacts on Brent Geese Report (HES, January 2018) unless otherwise agreed in writing by the Local Planning Authority.

Reason: to protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.

Southern Water

In order to protect drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission. For example “The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to protect the public sewers, prior to the commencement of the development.”

The applicant is advised to discuss the matter further with Southern Water.

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. We request that should this application receive planning approval, an informative is attached to the consent. Please note our public records do not show a public foul sewer within St Peters Road.

Environment Agency

The Environment Agency has no objection to the proposed development as submitted.

Advice to Local Planning Authority

Due consideration should be given by Havant Borough Council to the acceptability and adequacy of rescue or evacuation arrangements and the provision of and adequacy of a temporary refuge. These are not within our direct remit or expertise, but nevertheless are important considerations for managing flood risk for this development.

The applicant has demonstrated through the FRA that they understand the requirement for flood emergency planning including flood warning and evacuation of people. A Flood Warning and Evacuation Plan was not submitted with this application however the applicant is prepared to produce this. The FRA comments that the evacuation plan would involve towing the touring caravans off the site. However, this may not be possible due to the potential lack of access to the site during an extreme flood event. The potential lack of access should be addressed through a site specific flood management plan which would need to be agreed with the LPA.

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

The FRA states that during an extreme event, guests would potentially have suitable

shelter on the site as the proposed hardstanding areas for the three caravans are to be located in Flood Zone 1 which has a low annual probability of river and sea flooding.

The LPA should consider whether the proposed location of the caravans can provide suitable shelter until flooding on the road frontage has fallen to a safe level.

If the LPA is not satisfied, taking into account all relevant considerations, that the proposed development can be considered safe without the provision of safe access and exit then planning permission should be refused.

Environmental Health Manager

No objection to the site being used for the proposed purpose of a caravan site for 3 touring caravans with a relevant utility / ablution block.

However, if this application is to be approved, the applicant will need to apply for a caravan site licence for the proposed number of sites, and the conditions imposed thereon must be fully complied with. These conditions will be laid down in terms of the Caravan Sites and Control of Development Act 1960.

Highway Authority

The Highway Authority have no objection to the application subject to condition.

Planning Policy,

Notwithstanding the site's location outside of the urban area, the proposal has the potential to support small scale rural tourism development. As such, subject to appropriate conditions to secure the safety of development from residual flood risk throughout its lifetime, there is no policy objection to the development.

Natural England

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Deterioration of the water environment

With regard to deterioration of the water environment, it is noted that the approach to address the positive nitrogen budget for this development is to offset against the interim strategy, with measures to ensure this approach can be adequately secured and accounted for.

It is Natural England's view that in this case, provided the Council as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Solent Recreation Mitigation Strategy

This application is within 5.6km of Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has adopted a planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

The Appropriate Assessment has taken this into consideration, therefore, providing the appropriate mitigation is secured by any approval, Natural England are satisfied that

the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site, and has no objection to this aspect of the application.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 14

Number of site notices: 1

Statutory advertisement: 6/12/19.

Number of representations received:

Objections: 5, including North East Hayling Residents Association

Summary of planning issues raised:

- 6.1 Adverse impact on the character of the area and the amenity of local residents. This is a very rural site with no surrounding businesses or offices which spoil the landscape. If this development is allowed it will in time lead to further development.
- 6.2 The site was meant to be cleared by the current owners and many villagers are unsure why HBC have not enforced this Notice. There are no grounds for this application to be permitted, in view of the outstanding enforcement notice and the fact that this is a garden site.
- 6.3 The three current caravan sites in the road are indeed within walking distance to a pub, this site will not support local business. There are already adequate facilities with 2 caravan sites further down the road on more appropriate sites.
- 6.4 The fact that there is a pumping sewer across this site and it is in a flood zone is against HBC development plan.
- 6.5 Highway Safety and Traffic - Although there is a traffic assessment provided with the application, the site itself is on a very narrow winding part of the road with traffic often travelling well above the speed limit. The proposed access route from Northney Road is in places particularly narrow especially through the village itself with very limited room to pass 2 normal cars, certainly not a touring caravan - with the limited site access and nature of the roads, this application will cause dangerous conditions.
- 6.6 Design, appearance and layout - the site is not suitably located, there does not appear to be any restriction on occupancy. From the road, this site would be extremely out of keeping - although the application says it cannot be seen from the road this is incorrect. This application is a commercial activity which will generate noise, congestion and a hazard within a residential area. There is no tourist need for this site as there are 2 other adequate, more suitable sites along the same road towards the south end.
- 6.7 The previous application was dismissed at appeal, and this one should be as well.

1 letter of support

- 6.8 Support the application and think this will be a great use of the site. As owner of the Farm Shop on the main road our business relies on tourist trade who have a tendency to shop little and often in our shop.

7 Planning Considerations

- 7.1 The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (hereafter referred to as the Habitats Regulations).
- 7.2 The Council's assessment as competent Authority under the Habitats Regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to recreational pressure and water quality. The planning application was then subject to Appropriate Assessment under Regulation 63. This included a package of avoidance and mitigation measures. The first element of this is a financial contribution based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Council's agreed Position Statement on Nutrient Neutral Development. Natural England were consulted on the findings of the HRA.

Recreational Pressure

- 7.3 The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations), Policy E16 of the Draft Havant Borough Local Plan 2036 and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures. The applicant has proposed a mitigation package based on the methodology in the Developer Contributions Guide. The scale of the proposed mitigation package would remove the likelihood of a significant effect. The applicant has confirmed that they would be willing to enter into a legal agreement to secure the mitigation package in line with the requirements of the Habitats Regulations and Policy DM24.

Water Quality

- 7.4 The second element is a package of measures based on the Council's agreed Position Statement on Nutrient Neutral Development. The applicant has agreed the Grampian style condition, as outlined in the Position Statement, in order to mitigate the impact of the development in terms of achieving Nutrient Neutral Development. It is noted that the Inspector in the previous appeal decision raised some concerns regarding the proposed Grampian condition. A Grampian Condition prohibits development authorised by the planning permission or other aspects linked to the planning permission (in this case occupation of the development) until a specified action has been taken (in this case the provision of an avoidance and mitigation package). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission, which is not envisaged in this case as the Council continues to work towards a more definitive mitigation strategy, as a matter of priority. This condition has been formulated and agreed as an appropriate approach both by the Council and Natural England, and sets out a mechanism through which some certainty can be provided to developers, whilst

fully protecting the Solent's European Sites from the significant effect that would otherwise arise through this development. As such given this it is considered that the proposal has addressed the concerns raised by the Inspector in this regard.

Appropriate Assessment conclusion

- 7.5 The Habitats Regulations Assessment concluded that the avoidance and mitigation packages proposed in the Appropriate Assessment are sufficient to remove the likely significant effects on the Solent's European Sites which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3). Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England advised that they concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission. The applicant has entered into a legal agreement and has accepted the appropriate Grampian condition to protect water quality to secure the mitigation packages.
- 7.6 In other respects, and having regard to the relevant policies of the development plan and all other material considerations it is considered that the main issues arising from this application are:
- (i) Principle of development
 - (ii) Impact upon the character and appearance of the area
 - (iii) Impact upon residential amenity
 - (iv) Impact on highways
 - (v) Impact on flooding
 - (vi) Impact on ecology
 - (vii) Impact on drainage
 - (viii) Enforcement history
- (i) Principle of development
- 7.7 Policy AL2 and Policy CS17 of the adopted Local Plan seek to concentrate development in the defined urban area. The application site lies outside the urban area and would therefore be contrary to these policies, unless there is an overriding need for it to be located within the countryside. In this regard it should be noted that Policy E3 of the Pre-Submission Havant Borough Local Plan 2036 proposes to define Northney (including this site) as lying within a settlement boundary, where such a policy conflict would not occur – however this policy has only limited weight at this time.
- 7.8 Policy CS5 of the adopted Local Plan supports appropriate development proposals that provide hotel and other types of tourist accommodation in principle. This is supplemented by paragraph 83 of the National Planning Policy Framework 2019 (NPPF) which states that in order to promote a strong rural economy, local plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This could include supporting the provision and expansion of tourist and visitor facilities in appropriate locations.
- 7.9 The planning guidance provided by Visit Britain and Visit England indicates tourism sites must be easily accessible for visitors, and where possible enable sustainable travel. It is however, acknowledged that many small-scale rural tourism developments are car dependent, but the use of the car does not make the proposal unsustainable. Encouraging greater domestic tourism has the potential to support jobs in rural areas, reducing out commuting.

- 7.10 The submitted Planning Statement also indicates the site would be restricted to three touring caravans and “those using the site would stay for 1 or 2 weeks” (paragraph 5.18). In this respect, though the proposal is for the change of use of the land to a touring caravan site, in order to ensure that the touring caravans do not become permanent residential accommodation owing to their location away from local services or owing to their form and setting, appropriate controls need to be in place to control this. The former Good Practice Guide on Planning for Tourism (GPGPT), now withdrawn and replaced by the NPPF, which provides similar advice, recommended conditions to allow all year holiday use and prevent residential use of holiday/touring caravans, subject to appropriate controls.
- 7.11 The former Guide records that tourism is increasingly a year-round activity and that such a spread of demand for self-catering accommodation is advantageous to local economies, but recognises that occupancy conditions are reasonable to preclude permanent residential use. It is therefore considered that given the evolving nature of the tourism market flexibility is required to respond to an evolving tourist and day visitor market. As such it is considered in this instance that subject to suitable conditions and a legal agreement, which would limit the number of touring caravans permitted on the site and ensure that the site is used for tourism/holiday purposes and therefore not result in the creation of permanent residential dwellings, that the use of the site in the manner proposed would be consistent with the approach set out in the Guide and the NPPF.
- 7.12 Furthermore the Inspector in the previous appeal concluded that *“CS Policy CS5 supports development proposals that provide hotels and other types of tourist accommodation, which are not restricted to urban areas. Camping facilities are not generally associated with the urban environment and are more commonly found in countryside locations. The proposed caravan site would be located outside an urban area, but would support small scale rural tourism. Paragraph 83 of the Framework advises that planning decisions should enable sustainable rural tourism and leisure development which respect the character of the countryside.”*
- 7.13 As such it is considered that the principle of development is considered acceptable, subject to relevant conditions and legal agreement, as both national policy and development plan policies consider that tourism facilities are appropriate in the countryside, provided they do not harm protected landscapes and environmentally sensitive areas, which is considered in detail below.

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

- 7.14 As noted in paragraph 2.1 of this report the Inspector in the last appeal concluded that the development would respect the distinctiveness and character of the surrounding countryside. The Planning Inspectorate is bound by government advice, legislation and national policy in the same way as the Council and the decision by the Planning Inspectorate overrides the previous decision of the Council. The appeal decision is therefore a material consideration in determination of this application and case law requires that like cases should be considered in a like manner to allow for consistency in decision making. As such it is considered, given the Inspector’s findings, and the fact that the policy position is unchanged and there is nothing new to indicate an alternative decision, that it would be unreasonable to refuse this application on this issue.
- 7.15 From St Peters Road the site is largely hidden when approaching from both directions by existing vegetation and the neighbouring buildings at Mandai, although there are

views in through the access. The introduction of the touring caravans in combination with the proposed utility block will therefore have an impact upon the character and appearance of the locality. To that end views through to the touring caravans from the main road are likely to be achievable. It is also reasonable to assume that once the site is further established that more domestic paraphernalia might accumulate on the site further detracting from the openness of the location. However, views of the site would have to be actively sought; it would not be directly evident to users of the road, or passers-by, that the site is being used as a touring caravan site. Furthermore, touring caravans are of limited height, and from going along St Peters Road beyond the site entrance, the touring caravans and ancillary block would only be glimpsed, given the combination of mature trees and hedging on the front (eastern boundary) and close boarded fencing, behind the landscaping.

- 7.16 Therefore, whilst it is accepted that the proposed use would cause some harm to the openness of the countryside location, it is well screened, and the impacts would be limited. In reaching this conclusion, account has been taken of the opportunity to introduce additional landscaping within and around the site, which is proposed to be secured by condition. Whilst native species are likely to take some time to establish, these would, in time, reinforce the well-established screening which already exists, particularly on the eastern boundary with St Peters Road.
- 7.17 Whilst it is acknowledged that the landscape impact could be improved in the longer term through additional landscaping, there are still concerns regarding its wider visual impact from neighbours and the Residents Association. However, given the proximity of the site to existing built form; its sensitive design, layout and scale; provision of a tourism use and its subsequent contribution towards the wider economy of the district; it is considered that on balance the landscape impact, whilst altered, is not so detrimental when weighed up against the other elements outlined in this report as to warrant a refusal of this application. In addition, the Inspector was clear in the previous decision that that the effect of the proposal on the character and appearance of the countryside would be acceptable, and therefore found no conflict with the design aims of policy CS16. Furthermore, the scheme would accord with the policies for the countryside as detailed within the Framework, and there would subsequently be no conflict with CS Policies CS5 and CS17, as well as LP Policy AL2.
- 7.18 It is acknowledged that there is a need for control over night sky pollution and that no lighting should be installed unless necessary and justified accordingly. A condition would control external lighting on the site and would be subject to the agreement of the LPA.

(iii) Impact upon residential amenity

- 7.19 The proposed development has the potential to have a detrimental impact on the amenities of neighbouring residents to the north along St Peters Road, through the potential of visitors to cause noise and disturbance unless these activities are carefully managed particularly given the proximity of the site. To address these concerns, the application has been submitted with an operational management plan which outlines how the site would be managed and controlled, and further outlines measures to control arrivals, waste and noise management and how occupiers can contact the site owner, if any issues arise. This management plan has been considered by the Environmental Health team, who have raised no objection to this application, subject to the imposition of relevant conditions requiring the site to be managed in accordance with these measures. Moreover, the previous refusal of APP/18/00207 did not cite residential amenity as a reason for refusal.

(iv) Impact on highways

- 7.20 In considering the highway issues arising from the application it is considered that two aspects need to be considered - firstly the ability of the site to accommodate the parking and turning movements, including provision of adequate visibility when using the existing access onto the highway associated with the proposed uses; and secondly the appropriateness of the site's location in terms of the access to and impact on the wider highway network.
- 7.21 On the first issue it is considered that the submitted site layout plan satisfactorily demonstrates that the car and touring caravan parking, turning and access requirements associated with the proposed use can be accommodated on the site without prejudicing highway safety and is acceptable to the Development Engineer.
- 7.22 In terms of traffic generation, the application is supported by a Transport Statement. This highlights that this development would not generate a significant number of additional journeys and whilst some additional movements might be expected, these would be expected outside of peak network operation hours. The Highway Authority has reviewed the application and has noted that the numbers of trips would not generate a significant number of additional of vehicular movements along St Peters Road and raises no objection. The National Planning Policy Framework outlines that proposals would have to have proven severe cumulative harm on the highway network, for applications to be refused for highway reasons. As such while the development will lead to some additional vehicle movements in the vicinity of the site, they are not considered to be of a degree that would be detrimental to the safety and free flow of the surrounding highway network and would not justify a reason for refusal on this issue. Moreover, the previous refusal of APP/18/00207 did not cite highway safety as a reason for refusal.

(v) Impact on flooding

- 7.23 The main body of the application site lies within flood zone 1, which has the lowest probability of flooding. However, parts of the access and St Peters Road lie in parts of flood zones 2 and 3. The applicant has demonstrated through their Flood Risk Assessment that they understand the requirement for flood emergency planning including flood warning and evacuation of people, if the areas in flood zone 3 are inundated in a flood event. A Flood Warning and Evacuation Plan was not submitted with this application however the applicant is prepared to produce this. The FRA comments that the evacuation plan would involve towing the touring caravans off the site. However, this may not be possible due to the potential lack of access to the site during an extreme flood event. It is considered that the arrangements required during such an event, which would be tidal and therefore time-limited, can be addressed through a site-specific flood management plan which can be secured through appropriate conditions. This approach is supported by the Environment Agency.

(vi) Impact on ecology

- 7.24 The application is accompanied by an Ecological Assessment of Impacts on Brent Geese Report (HES, January 2018). The application site itself is clearly unsuitable for supporting wintering birds and there is considered to be sufficient vegetation screening present for visual disturbance not to be an issue. As such it is considered that the issue of potential impacts to overwintering birds has been addressed.
- 7.25 The site is also considered to offer some potential for supporting common reptiles and nesting birds. Some general recommendations are provided for ensuring that

ecological impacts continue to be avoided, these can be secured through ecological mitigation measures by a condition, as recommended by the Council's Ecologist.

(vii) Impact on drainage

- 7.26 Southern Water have responded to this application, outlining that a public foul rising main crosses the site. As such given the limited degree of development in that area, it is considered appropriate to apply a condition to ensure that the public sewer is protected during construction and for an ongoing period.

(viii) Enforcement history

- 7.27 The site has had a complex enforcement history, with the previous enforcement appeal being dismissed by the Planning Inspectorate on 2 May 2017. As noted in the planning history, the appellant appealed the Enforcement notice on three grounds; (d), (f) and (g). Ground (d) refers to, at that time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. Ground (f) that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. Ground (g) that the time given to comply with the notice is too short. It is important to note that the grounds of appeal did not include ground (a), which refers to that planning permission should be granted for the proposal.
- 7.28 Local residents are concerned that allowing the proposed development would invalidate the enforcement dismissed appeal and set a precedent for similar development to take place on the adjoining land. However, there is no substantiated evidence that any such development is proposed. Moreover, any such proposals, including this application, have to be considered on their own merits having regard to adopted policy at the time and all other material considerations. The enforcement history of the site is therefore not a reason to refuse permission for this scheme, particularly bearing in mind the conclusions of the Inspector in considering the planning appeal submitted under APP/18/00207.

8 Conclusion

- 8.1 It is recognised there is a balance to be taken in determining this proposal. In considering whether the presumption in favour of sustainable development is satisfied the economic, social and environmental aspects of the proposal must be weighed. The development lies outside of the built-up area, however it is accepted that this is a tourism development, which is appropriately located in the countryside and at a low key scale which supports economic development in form of providing further tourism facilities on Hayling Island.
- 8.2 In addition, any harmful visual impact of the development would be localised. The additional landscaping that is proposed would reduce, and mitigate to a degree, the landscape impact of the development and overall the development would not unduly affect the character and appearance of the wider area. Furthermore, the Inspector in the previous appeal, for an identical scheme, concluded that the effect of the proposal on the character and appearance of the countryside would be acceptable, and therefore find no conflict with the design aims of CS Policy CS16.
- 8.3 It has also been concluded that the development would not have an adverse impact on highway safety, both in terms of its impact on the surrounding highway network and providing safe access to the site. Furthermore, it is not considered to have a significant

adverse impact on neighbour amenity or protected species, subject to appropriate conditions.

- 8.4 In considering the means to mitigate the impact of the development in terms of achieving Nutrient Neutral Development, it is noted that the Inspector in the previous appeal decision raised some concerns regarding the proposed Grampian condition. However, this condition has been formulated and agreed as an appropriate approach both by the Council as competent authority, and Natural England, and sets out a mechanism through which some certainty can be provided to developers whilst fully protecting the Solent's European Sites from the significant effect that would otherwise arise through this development. As such given this it is considered that the proposal has addressed the concerns raised by the Inspector in this regard.
- 8.5 In conclusion, having regard to the presumption in favour of sustainable development and the requirements of the NPPF, that planning permission should be granted for such development unless any other material considerations indicate otherwise, it is considered that there are benefits from the environmental, social and economic dimensions that can be captured from this proposal, and as such the proposal does constitute sustainable development.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/01131 subject to the following 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 and details:

PROPOSED BLOCK PLAN HAYLING 02
SITE PLAN - HAYLING 03 Rev D
LOCATION MAP - HAYLING 04 Rev D
Proposed elevations of utility block HAYLING 05
Flood Risk Assessment dated 21 December 2017
Transport Statement
Ecological Assessment of Impacts on Brent Geese Report - January 2018
Planning statement

Reason: - To ensure provision of a satisfactory development.
- 3 The holiday accommodation hereby approved shall not be occupied by any person, group or their dependants, for a period of more than four calendar weeks in any twelve month period. A register of the occupancy of the unit shall be maintained and kept up-to-date by the operator of the units, that shall be made available to the Local Planning Authority upon request (within 14 days of a written request being made). The register shall record the arrival and departure dates of all occupiers..

Reason: To ensure that control over the development and that the caravans do not become separate residential dwellings in accordance with policy DM4 of the Havant Borough Local Plan (Core Strategy) 2011 and NPPF.

- 4 There shall be no more than 3 touring caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) stationed on the site at any time,

Reason: To ensure that control over the development and that level of development on the site, given its sensitive location in accordance with policies DM4, DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and policies AL1 and AL2 of the Havant Borough Local Plan (Allocations) 2014.

- 5 No development shall take place until a Site Development Scheme has been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the details shown on any of the previously submitted plans, the Site Development Scheme shall include details of:

- (a) the positioning of the proposed touring caravans;
- (b) all boundary treatments;
- (c) all parking and hardstanding areas;
- (d) all external lighting;
- (e) any proposed new landscaping, planting, seeding or turfing;
- (f) the proposed means of foul water disposal; and
- (g) a timetable for the implementation of the above works.

The approved Scheme shall have been carried out in full, and completed in accordance with the approved timetable. unless otherwise agreed in writing by the Local Planning Authority. Following the implementation of the approved Site Development Scheme specified in this condition, the works thus carried out shall thereafter be retained and maintained, and shall remain in use throughout the lifetime of the development.

Reason: To achieve an appropriate landscaping scheme to integrate the development into the landscape and mitigate any impact upon the amenities of neighbouring properties, in accordance with policies CS12 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the NPPF.

- 6 Prior to the use commencing any gates or other obstruction to the passage of vehicles on the access shall be a minimum of 12m measured from the nearside edge of carriageway of the adjacent highway.

Reason: To safeguard the amenities of the locality and 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.

- 7 Prior to the use hereby permitted commencing the access shall be improved as indicated on the approved plan HAYLING 03 REV D by the provision of a 4m. radius on the north side and visibility splays of 2.4m. x 33m. to the north and 43m. to the south. Anything other than street furniture shall be removed from the splays and they shall be maintained at all times thereafter.

Reason: To safeguard the amenities of the locality and 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.

- 8 Development shall proceed in accordance with the ecological mitigation measures detailed within the Ecological Assessment of Impacts on Brent Geese Report (HES, January 2018) unless otherwise agreed in writing by the Local Planning Authority. All avoidance and mitigation features shall be permanently retained and maintained in accordance with the agreed details

Reason: To protect biodiversity in accordance with the Conservation Regulations 2010, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Local Plan (Core Strategy) 2011, in order to provide ecological protection and enhancement in accordance with the Wildlife & Countryside Act 1981, NERC Act 2006, NPPF, Policies DM23 and DM24, CS21 of the Havant Borough Local Plan (Allocations) 2014, and the NPPF.

- 9 Prior to the occupation of any relevant part of the permitted development, a Flood Warning and Evacuation Plan to ensure the safety of residents/occupiers in the event of a flood or tidal occurrence shall be submitted to and approved in writing by the Local Planning Authority. The Flood Warning and Evacuation Plan shall be implemented in accordance with the approved details.

Reason: To ensure the safe evacuation of residents in accordance with Section 9 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change and Policy CS15 Flood and Coastal Erosion Risk of the Havant Borough Local Plan (Core Strategy) 2011.

- 10 Prior to the commencement of development, details including methods of protection in order to protect the public sewer which runs across the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure adequate provision for drainage in accordance with the NPPF and in accordance with policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011.

- 11 The development hereby permitted shall not be occupied until:
- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority;
 - b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
 - c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European

designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites.

In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy E14 of the Pre-Submission Havant Borough Local Plan 2036.

Appendices:

- (A) Location Plan
- (B) Proposed elevation and floorplan of utility building
- (C) Site layout plan and block plan
- (D) Appeal decision for previous application APP/18/00207