



Appeal Decision

Site visit made on 21 January 2026

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2026

Appeal Ref: APP/J1725/W/25/3371977

139 High Street, Lee on the Solent, Gosport PO13 9BX

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr G Plunkett of JP Developments Ltd against the decision of Gosport Borough Council.
- The application Ref is 24/00385/FULL.
- The development proposed is 3 Storey Building Comprising Ground Floor retail unit with 3 Flats over.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Lee-on-the-Solent Conservation Area (CA);
 - whether the proposal would provide an acceptable standard of living accommodation for future occupants, having regard to the internal space, layout and overall quality of the residential environment;
 - whether the development would achieve nutrient neutrality, or otherwise secure appropriate mitigation for increased nutrient discharge affecting European designated sites; and
 - whether adequate mitigation is secured to address recreational disturbance impacts on the Solent Special Protection Areas (SPAs).

Reasons

Conservation Area

3. The Lee-on-the-Solent Conservation Area Appraisal (2009) (the Appraisal) identifies the area as a composite townscape reflecting successive phases of development from the late-Victorian period through to the inter-war years. Its special interest derives from the variety of architectural forms, including numerous buildings by the inter-war architect Trevor J. Tatham, the terraced rhythm of the High Street, the variety of roof forms, the commercial character of the frontage and the incremental evolution of the town, which has resulted in a pleasing diversity of styles, materials and scales.

4. Sub-Area 2, within which the appeal site sits, is described as having a marked contrast in building styles, defined by similarities in the height of the buildings and their terraced arrangement. The Appraisal emphasises that the area's significance lies not in uniformity but in the coexistence of contrasting forms, unified by their collective contribution to the street's enclosure and commercial character.
5. The previously approved scheme established that a pitched-roof building of broadly similar footprint, materials and architectural style is acceptable in principle. The approved building had accommodation within the roof. The appeal scheme increases the ridge height and introduces a third flat within the roofspace. The eaves height is also raised, although the overall form, massing and architectural approach remain closely aligned with the approved design. The fallback is therefore a realistic alternative that could be built on the site.
6. The Council's concern is that the increased eaves height and additional storey would disrupt the transition between the pitched-roof corner building at 137 High Street and the taller flat-roofed block to the northwest. It considers the flank walls and increased massing to be visually intrusive.
7. The appellant provides a detailed contextual analysis, including historic plans, photographs and a CGI. This demonstrates that the immediate street frontage contains a pronounced variety of roof forms, eaves lines and architectural treatments. The Appraisal itself highlights this variety as a defining characteristic.
8. From street level, views are experienced at eye height. The CGI and site photographs show that the modest increase in ridge height would not appear discordant when read against the tall three-storey flat-roofed block that is adjacent to the site. The relationship with No.137 would remain legible and the tiled roof treatment would visually soften the transition.
9. Small areas of flank wall are visible in several nearby buildings, including historic Tatham examples. The limited flank exposure in the appeal scheme would not appear unusual or harmful in this context. Additionally, the proposal reinstates a continuous frontage on a site that currently forms a conspicuous gap.
10. Taking all of the above into account, including the fallback position, I find that the proposal would preserve the character and appearance of the CA. It therefore complies with Policies LP10, LP12 and LP24 of the Gosport Borough Local Plan 2011 – 2029 (LP), which collectively require development in Gosport's conservation areas to preserve or enhance their character and appearance, with particular emphasis on high-quality design and protection of heritage assets.

Living conditions

11. The Council's position is that there is uncertainty over the amount of usable floorspace in the roofspace flat, particularly in relation to areas affected by sloping ceilings, and that this may necessitate internal reconfiguration to achieve a satisfactory layout. No other aspect of the scheme's living conditions is disputed. The issue therefore turns on whether the evidence demonstrates that the unit can provide an acceptable standard of accommodation within the constraints of the roof form.
12. The appellant has submitted detailed survey information confirming that the flat has a gross internal area of 59.61 square metres, excluding all areas below 1.5

metres head height. The resulting figure exceeds the nationally described space standard's minimum requirement for a one-bedroom, two-person flat. It also exceeds the floorspace of the previously approved second-floor flat on the site, which the Council accepted as providing adequate living conditions. The Council has not provided any technical evidence to contradict the appellant's measurements or to demonstrate that the usable floorspace is materially less than stated.

13. Hampshire Fire and Rescue Service raised no objection to the proposal, indicating no concerns regarding access, escape routes or internal configuration from a fire safety perspective. The Building Control Partnership noted that some internal layout adjustments may be required to meet Building Regulations. However, such matters fall within the remit of the Building Regulations regime, which operates independently of the planning system. The need for potential internal refinement does not, in itself, demonstrate that a compliant and functional layout cannot be achieved. The Council has not identified any specific constraint that would prevent the creation of a satisfactory arrangement of rooms within the available floorspace.
14. The submitted section drawing provides clear evidence that the principal habitable spaces, including the living area and bathroom, benefit from adequate headroom. The drawing shows that the areas most affected by the roof slope fall within circulation or secondary spaces, rather than within the primary living accommodation. On this basis, I am satisfied that the flat would not be unduly compromised by the roof form and that the internal environment would be capable of meeting the expectations of Policy LP24 of the LP in terms of usability, comfort and functionality.
15. For these reasons, the proposal would provide an acceptable standard of living accommodation for future occupants, having regard to the internal space, layout and overall quality of the residential environment. It therefore complies with Policies LP10 and LP24 of the LP, insofar as they require development to provide a healthy living environment for future occupants.

European sites

16. The Solent SPAs comprise the Chichester and Langstone Harbours SPA, the Portsmouth Harbour SPA, the Solent and Southampton Water SPA and the Solent and Dorset Coast SPA, designated because their estuarine mudflats, saltmarsh, seagrass and coastal waters support internationally important bird populations.
17. Chichester and Langstone Harbours SPA is designated for large overwintering wader and wildfowl assemblages; Portsmouth Harbour SPA for productive intertidal feeding habitat for wintering waterbirds; Solent and Southampton Water SPA for breeding terns and Mediterranean gulls and key overwintering species including dark-bellied brent goose and black-tailed godwit; and the Solent and Dorset Coast SPA for the offshore marine feeding areas essential to breeding common, Sandwich and little terns.
18. The development would introduce three additional dwellings within the established zone of influence for the Solent SPAs. Evidence underpinning the Solent Recreation Mitigation Strategy demonstrates that new residential development within this zone contributes to increased recreational pressure, particularly dog walking and coastal access, which can disturb overwintering bird species such as

dark-bellied brent geese and dunlin. Even small-scale developments contribute cumulatively to this impact pathway, and mitigation is therefore required.

19. The Council's Bird Disturbance Mitigation Protocol requires a financial contribution to the Bird Aware Solent scheme, which delivers strategic, cross-boundary mitigation measures including ranger patrols, visitor engagement, monitoring and education. The appellant has made the required contribution under Section 111 of the Local Government Act, and a receipt confirming payment has been provided. The scheme is endorsed by Natural England and is specifically designed to address the recreational disturbance impacts arising from residential development within the Solent region. Given its strategic nature and established governance, it provides a robust and proportionate means of mitigating the identified effects.
20. The Bird Aware Solent scheme provides strategic mitigation for recreational pressure across the Solent SPAs. The appellant has made the required financial contribution, and the Council has confirmed receipt. The mitigation is established, effective and capable of being relied upon for the purposes of this assessment.
21. Additionally, residential development within the Solent catchment is recognised as having the potential to increase nitrogen loading to European designated sites. Even modest increases in population can cumulatively contribute to eutrophication, undermining the conservation objectives of these sites. In line with Natural England's guidance, the appellant has prepared a nutrient budget using the recognised methodology. This identifies a residual nitrogen load of 2.39 kg Total Nitrogen per year requiring mitigation. The calculation appears to adopt appropriate assumptions regarding occupancy, wastewater pathways and land-use change, and there is no substantive evidence before me to suggest that the methodology or inputs are flawed.
22. To address this requirement, the appellant has submitted a completed Unilateral Undertaking (UU) securing off-site mitigation through the Meon Springs (Whitewool Stream Wetland Project). This scheme lies within the correct hydrological catchment and is expressly approved by Natural England under a Section 33 agreement with the Council, confirming its suitability as a mitigation provider. The operator has issued written confirmation that sufficient mitigation capacity is available to meet the specific nitrogen budget arising from this development. The scheme is already functioning, monitored and recognised as delivering quantifiable nutrient reductions, thereby providing a reliable and established mitigation pathway.
23. However, I am not satisfied that the UU provides the level of clarity and enforceability required for reliance in an Appropriate Assessment. The UU contains several drafting inconsistencies that create uncertainty as to the scope and operation of the obligations. For example, the definition of "the Appeal" refers to an incorrect reference number, and it is unclear whether the obligation is tied to the correct planning permission. Section 8.1 refers to "The First Owners" rather than the "Chargee", despite the latter being the only defined term relevant to mortgagees. This creates ambiguity as to which parties are bound and in what circumstances. Schedule 2 contains references to "HM", a term that is not defined anywhere in the document, and which appears in operative notification provisions. These defects collectively create uncertainty as to the identity of the parties, the triggers for compliance and the mechanism by which the Council would be notified of commencement.

24. If any planning obligations are to be relied upon to give the necessary certainty, they must be precise, clear and enforceable. Given the drafting defects identified, I cannot be satisfied that the UU would operate effectively in practice or that the Council would be able to enforce the mitigation with the necessary degree of certainty. The 'blue-pencil' clause within the obligation might allow me to disapply certain obligations, but it does not go so far as allowing me to correct defects in the drafting of the obligation.
25. In the absence of a valid and enforceable mechanism securing nutrient mitigation, I cannot conclude that the development would achieve nutrient neutrality. The proposal therefore conflicts with Policies LP42 and LP44 of the LP and as competent authority under the Habitats Regulations, I am unable to agree to the proposal.

Planning Balance and Conclusion

26. The Council cannot demonstrate a five-year housing land supply. In that circumstance, Paragraph 11 of the National Planning Policy Framework (the Framework) sets out the presumption in favour of sustainable development. However, Paragraph 11(d)ii is expressly disapplied where development is subject to the Habitats Regulations and where the competent authority cannot be satisfied that no adverse effects on the integrity of a European site would arise. As such, the proposal does not benefit from the presumption in favour of sustainable development and the Framework, read as a whole, does not weigh in favour of the development.
27. For the reasons given above, the proposal conflicts with Policies LP42 and LP44 of the LP and the development plan, as a whole. The material considerations do not indicate that the appeal should be decided otherwise than in accordance with the development plan. Accordingly, the appeal should be dismissed.

K Reeves

INSPECTOR