

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/24/03105	Your Ref:	APP/24/00711
EH Case Officer Extn:	44 6677	Date:	04 October 2024
DC Case Officer:	Kayleigh Taylor		
DC Case Officer Extn:			
Application Number:	APP/24/00711		
Site Address:	69 North Street, Emsworth		
Proposed Development:	Application to determine whether prior approval is required for the method of demolition of 1No.gas managers house.		

Observations / Comments:

Procedure;

It is understood that Development Management has determined that prior approval is required, and has not at this stage been granted, pending comments from internal & external consultees. It is also understood that this application type cannot be conditionally determined, and that the approved documents represent the only opportunity to secure particulars of the means of demolition & any specific mitigation measures.

Whilst the subject of this application is narrow in scope, limited to the demolition of a residential dwelling; the scope of the supporting documentation is broader, covering unspecified remedial works which the application is able to proceed without seeking any formal consent from the LPA.

This conflicts slightly with references at 1.1 of the demolition method statement (DMS) to an application for remedial works under permitted development rights, however I note that the SI 2015/596 provision referred to within the cover letter does not require any form of approval. The cover letter post-dates the DMS and is assumed to supersede – I have found no reference to a related remediation application on our internal systems which would indicate that an application has been made.

Asbestos;

I note that the asbestos re-inspection report submitted indicates that it should not be used in place of the original survey (not submitted), but should act as a supplement. Access to the property has been increasingly restricted during successive reports, and it is not clear that the original 2017 asbestos survey had access to the first floor, which was available at the time of the original structural condition survey.

At re-inspection, there was no internal access to the building. The DMS refers to this access as restricting the ability to undertake a 'demolition and refurbishment' asbestos survey ahead of the demolition, which the DMS implies would ordinarily be undertaken.

The submitted survey notes several types of asbestos as being present (or assumed to be still present, based upon the 2017 survey) within the fabric of the building, and in several locations externally. From a contamination perspective, above-ground asbestos can for these purposes be regarded as a matter for health & safety (and specific control of asbestos-) legislation, and not a material planning matter per se. This would include fragments of asbestos on the land. Asbestos fibres and small fragments at the surface that cannot be hand-picked and are likely to become entrained within the soil are ground contaminants, as would be any other buried asbestos containing materials.

There is no particular need to seek to control above ground asbestos as part of the demolition works, but its presence is relevant to the provisions of the CEMP, which covers both the demolition and remedial works.

The provisions of the CEMP are in line with best practice, and generally speaking, its provisions are excellent. There is however some ambiguity over how asbestos will be managed as part of the demolition process. At 2.2 the DMS indicates that access will not be possible to undertake a pre-demolition survey, and also states that the method of demolition will 'take cognizance of the prior [2017] survey, and that works will be 'under the supervision of' a licenced asbestos operative. This contrasts with the demolition risk assessment, which indicated that all asbestos will be removed by a licenced asbestos removal contractor (LARCS). It is unclear how this will be undertaken internally if there is no safe access to the first-floor of the structure (that has not been surveyed, but where asbestos is not unlikely to be present).

As above – largely matters for other regulations & regulators, but my expectation is that the demolition carries a risk of unlicenced personnel undertaking removal works for licensable materials, and/or of demolition works treating asbestos containing materials in such a way as to risk fibre release.

The air monitoring provisions of the CEMP are relied upon to minimise this risk, and it is implicit that these should be in place throughout the works, whether or not there is an expectation of disturbing asbestos containing material.

It follows that release of fibres to the soil surface is also possible, and this may include areas outside of the 3 areas identified (in documents not submitted) as requiring remediation. This may in turn impact the scope & effect of the remedial works insofar as it relates to future development of the site.

No further clarity on working practice around asbestos – monitoring provisions & management procedures outlined within the CEMP are adequate for nuisance purposes.

Method of demolition, residential building superstructure, general;

In so far as the scope of this application, the demolition of the structure will have no material impact on the contamination risk profile for the site, or its contamination conceptual site model. There is therefore no reason to seek to control the method of demolition for contamination purposes, inclusive of the grubbing-out of foundations and services.

Remediation works, CEMP provisions;

The subject of this application does not include the remediation works, and so the provisions of the CEMP covering this aspect have no bearing on the determination of this application. However, as the CEMP does cover the remediation work, it may be helpful to highlight some aspects which are relevant to nuisance and environmental pollution, assuming that this can be communicated back to the applicant for action.

In terms of nuisance, this is intended to aid the understanding of how the Council might define 'unreasonable interference', and in terms of environmental pollution, this is for information, in the interests of seeking to avoid a material pollution incident.

Nuisance;

Section 6.5.5 of the CEMP refers to monitoring of vapours, and management measures to minimise impacts. Quantitative Monitoring proposals are agreed to represent good practice, but it is noted that both quantitative and qualitative assessments are benchmarked to occupational exposure control values. The threshold of olfactory detection will be much lower, and nuisance (not being prejudicial to physical health) can occur at much lower levels.

Neutralising mists, odourising sprays, and PVA seals may need to be employed at lower vapour levels than the CEMP anticipates. This benchmarking is also material to how the applicant proposes to address complaints.

It is not clear that secure-site will be set-up and managed in a way which facilitates local residents making complaints to the site, and there is no explicit commitment to put management contact details on an information board at the front gate to facilitate direct contact. There is similarly no explicit procedures to liaising with complainants, or communication with the LPA or regulators (e.g. Environmental Health or the Environment Agency). All procedures relate to internal management measures and communication between principal contractor and other parties with which it has a commercial relationship. The management measures are explicitly benchmarked against occupational exposures, and qualitative measures are set at levels which probably exceed those which could amount to nuisance.

The CEMP tends to assume that nuisances are likely to arise from working practices – i.e. that stopping work serves as an ultimate backstop to temporarily cease nuisance until a solution is found. This may not apply to vapours, which may arise from the exposure of contaminated soils, and so (where occurring-) the impact would persist for the duration that the material remains exposed.

The Council will expect the complaints procedures to include a dialogue with the complainant about the actions taken, and to make clear that complainants dissatisfied with the outcome can approach the Council. When investigating alleged nuisance, the Council will also expect the monitoring and recordkeeping referred to in the CEMP to be made available on request.

Environmental Pollution;

Section 10 of the CEMP recognises the possibility of encountering perched groundwater, and accumulations of surfacewater in excavations containing contaminated soils. It's provisions for managing this are fairly vague however ('necessary precautions' to be taken in advance).

Backstop control measures essentially comprise dewatering by pumping to storage, and subsequent disposal. As an observation, I note that the storage provisions proposed are all low-volume, and there are no references to characterising the level of contamination before selecting a disposal route. This is likely to be necessary to satisfy the requirements a temporary trade effluent consent, or the receiving site for off-site disposal.

Section 11 refers to sealing 'routes identified as providing a pathway to impact surfacewaters'. For the purposes of these works, this should include a survey of site

drainage, and the effective stopping-up of any surfacewater drains which may receive contaminated runoff or pumped groundwater that communicate with the public network (as local drainage discharges to the Ems). The applicant should inform the Environment Agency in the first instance where any issues are identified with contaminated runoff/pumped water from dewatering operations either directly migrating across the East boundary of the site, or reaching a surfacewater drain communicating with the public network.

Remediation works, general – future development of land;

The general principal of voluntarily remediating sources of gross contamination identified by the site owner/occupier is of course fully supported, and will achieve environmental betterment.

Such work does not need to be agreed by the Council, and there does not need to be any oversight of the process – it falls outside of any regulatory function, and as has been established, does not fall under any planning policy, being subject to existing permitted development rights that do not require approval, and cannot have conditions attached.

However, I would highlight that the site owner will need to take care in describing the scope and effect of the remedial works to any future purchaser or developer, as when a detailed scheme of development does come forward, relevant planning policy will apply. There is a risk of a mis-match between the marketing of the site, and how the Council would seek to apply relevant policy in connection with a future development.

No site investigation or assessment information has been submitted in connection with this application, and it is noted that the supporting documentation referring to the remedial works would suggest that the scope is limited to addressing serious contamination hotspots only, in consideration of human receptors (commercial) only.

In the interests of clarity, the Council expects controlled waters to be likely to be the primary risk driver at the site, residential human health to be significant, and commercial human receptors certainly secondary. In the absence of an agreed scope of works, remedial standard, or verification, there is a risk that further works will be required in future in the targeted remediation areas, and elsewhere within the development boundary.

At this stage it is not clear that all relevant sources of potential contamination have been identified, or are proposed to be addressed.

The site should not be marketed as 'clean & ready for development' on the basis of works that have not been agreed with the Council. Where detailed plans for future development are brought forward, that application should ideally include details of the works undertaken voluntarily, in order to inform an updated conceptual site model and avoid the Council requiring as a condition of development investigative works that seek to re-establish pre-existing site knowledge.

Where no such information is submitted with a future application, it is likely that the Council will require a comprehensive general site investigation to set the baseline, as it would had the (unreported) voluntary works not been undertaken. Remediation

requirements will be driven by the risk posed by the land to the water/ecology of the river Ems, and also by the form of development proposed.

Conclusions;

No objections are raised to the demolition of the former Gas Manager's House, and no additional information required to support the granting of approval of the method of demolition – the supporting information submitted is adequate from a contamination and pollution perspective.

My nuisance/amenity colleague may provide additional advice under separate cover with respect to noise, working hours, smoke/burning, communication and complaints management procedures; these comments are made without prejudice.

There are no specific requirements for the voluntary remediation, in terms of information to support determination of this application for the method of demolition. The provisions of the CEMP referenced above are outside of the scope of this application.

The Council does not require oversight of the voluntary remedial works. The advice given above is for information only. Environmental Health may be able to review the prior investigations & scope of remedial works with a view to agreement, but this would have to take secondary priority to core functions. My expectation is that residual contamination at this site will be addressed if/when a detailed scheme is brought forward.

Mr. Jonathan Driver
Environmental Control Officer