

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/20/03077	Your Ref:	APP/20/00658
EH Case Officer Extn:	44 6677	Date:	10 December 2020
DC Case Officer:	David Eaves		
DC Case Officer Extn:	44 6549		
Application Number:	APP/20/00658		
Site Address:	Proposed Development site (former Electricity Board site), Bartons Road, Havant		
Proposed Development:	Mixed-use development comprising 191 apartments and two drive-through restaurants, together with associated access, parking and landscaping		

Observations / Comments:

Firstly, my apologies for the delayed response to the consultation on these proposals. I have now reviewed the application supporting documentation, alongside comments from a selection of relevant third-party consultees.

I note that significant concerns have been raised in respect of these proposals, and I will endeavour not to duplicate issues raised by others.

Ground Contamination

The environmental desk study did not identify the location of the on-site 27,000 diesel-fuel storage facility, thought to be located beneath the stockpile of crushed concrete on the extant site. As a result of the position of the stockpile, this area was not directly targeted by the site investigation.

Elevated hydrocarbon concentrations were identified in soils at the nearest trial holes (TP2, TP2A & 2B, thought to be up-gradient). Elevated hydrocarbons were also detected within the sampled groundwater, at levels exceeding theoretical solubilities.

Initial inspection of hydrocarbon results yields a spatial distribution potentially consistent with a migrating plume of contamination (from the on-site source), but most samples were taken from the unsaturated zone above the perched groundwater levels, and probably reflect contamination associated with the made ground rather than gross contamination from a storage tank. No visual / olfactory evidence of contamination is noted on groundwater encountered, and the report points out the relatively low sensitivity of the groundwater environment.

I broadly agree that assessment, but would point out that there does remain 'room' in un-investigated areas of the site for soils to be grossly impacted by localised fuel leakage (not desperately likely given age of installation), and perhaps much more significantly; that the draft drainage strategy includes filter-drains connected to on-site private surface water sewers which discharge to the public system; ultimately discharging to a local surface water. In this way, there is a direct vector to a controlled water, and in order for the contamination risk to controlled waters

to be regarded to be as low as indicated, the SuDS system would need to be capable of intercepting / treating the degree of groundwater contamination noted (i.e. solubility saturation + potentially contamination-impacted soil particle suspension).

The report only presents the one datapoint in this respect, and if we accept that the hydrocarbon source is the made soils and not a local leakage - so we must assume that the results are broadly representative of leaching associated with percolation of rainfall through the soil matrix.

Given the context of the site & the investigation results, I am relatively comfortable in accepting the probable absence of gross contamination associated with the on-site fuel storage tank & generator set; and consequently, to deal with the risk of fuel contamination to controlled water's as a material factor in the detailed design of SuDS.

From a human health perspective, the PCB results are arguably of greater concern. I am reluctant to accept the proposed GAC of 1 mg/kg (derived from a US EPA guideline) given the available tolerable intake values associated with European regulations. Extrapolation from European tolerable weekly intake values (TWI) result in a tolerable daily intake (TDI) value of around 20pg/day for a 70kg adult, and around 4.3 pg/day for a 15kg 3 yr old infant. At the maximum recorded concentration in soils, these values equate to consumption of just over 0.33g/day of the contaminated 'soil' (at the site) for adults, and just over >0.07 g/day for an infant. CLR risk assessment guidance quotes annualised daily average soil ingestion rates for infants to be 0.124 g/day. In other words, if the soil sample results for PCB's from TP2B were representative of topsoil concentrations over a relevant averaging area (e.g. an area functioning as an outdoor amenity space to a ground floor flat, as proposed), then an infants daily intake would be expected to exceed the tolerable daily intake, with resultant bioaccumulation and adverse health impacts.

I'd acknowledge that only one sample identified elevated concentrations, however it is the only sample representative of made soils described as '*dense brown sand and gravel of broken brick and concrete*'. It is not clear how widespread this deposit / layer of made soils is, but material of this general description is present across all three TP2 positions, and could in principle represent a deposit of more than 40 radius / 1250sq.m. It is similarly not clear whether the PCBs are likely to be present as a result of transformer units associated with the nearby generator set (now removed), or whether it is representative of contamination impacted recycled aggregate. The latter is considered more likely, and that may suggest that the contaminant was imported to the site during first construction, or that it was relocated within the site in connection with a prior phase of development (demolition & replacement of structures etc.).

I am somewhat undecided as to the most appropriate response to these results. Many of the conclusions of the risk assessment can be agreed in principle if it is accepted that the available results are likely to have captured the full range of contamination concentrations likely to be present at the site, however, this is far from certain. In order to address this potential for unacceptable risk;

- a further phase of site investigation could be undertaken with the aim of delineating the extent of 'brown sandy (...)' made soils, and better quantifying the representative degree of contamination within that material (e.g. as a 95th percentile estimate). This would better inform an appropriate risk assessment, and facilitate more refined remedial proposals, or;
- site development could proceed on the assumption that 'brown sandy (...)' made soil is likely to be unacceptably contaminated, where a materials management plan is implemented which seeks to ensure that this material is placed so as to avoid any active exposure pathways upon completion.

The report already concludes that '*due to the absence of topsoil across the site this will require importing and this growth medium will protect the roots from the underlying made ground*' and (due to potentially phytotoxic concentrations of Nickel) recommends that '*...[the] landscape designer ...provide details of the thicknesses and soil types*

required to be placed across the proposed soft landscaped areas to provide a suitable growth medium for the future planting'

Given –

- That the only groundwater sample available suggests hydrocarbon concentrations exceeding solubility limits,
- That I disagree with the absence of a pathway to controlled waters (given likely direct communication via surface water sewers, via the proposed filter drain-),
- That the 'clean cover' is being proposed as both a remedial measure and a necessary planning measure for amenity purposes, and
- That the PCB concentrations are of potential concern to human health where present within a metre of finished levels in areas of amenity landscaping;

I am minded to regard the various deferred proposals (e.g. the import of suitable growing medium, to finalise a detailed drainage strategy post-consent-, and to consult with Portsmouth Water on appropriate specification for the potable supply-) to be *de-facto* risk mitigation proposals.

In respect of human health risks via soil exposure pathways, this would require that measures be secured which either place material of concern outside the 'exposure relevant' zone (i.e. deeper than 1.0m below finished ground levels) or that physical barriers are implemented for the purpose of effectively preventing mixing of the clean growing medium & the made soils that are to be regarded as probably contaminated (e.g. through bioturbation in the medium-long term). The latter could permit contamination-impacted made soils to be left in situ at shallower depths.

The applicant may prefer to undertake additional site investigation to limit the area over which measures might be taken to be required (N.B. the results of which could in principle justify dismissing altogether the need for mitigation). I am comfortable with an approach which relies upon the gathering of additional factual information, if preferred. Dialogue with the applicant may be helpful prior to determination of this application in order to determine the preferred form of condition to secure an appropriate degree of risk mitigation (i.e. that complies with local policies DM10 & DM17 and NPPF para 178).

On the basis of the relatively limited investigation presently available I would conclude that it would be difficult to agree that the risks at the site are negligible. There is enough in the preliminary results to indicate that tangible risks could exist, as suggested by the results obtained, and as may exist to a greater or lesser extent within the areas of the site that have not been physically inspected or sampled (but where made soils are almost certain to be present).

Given the conclusions of reports submitted with the application, it is likely that a bespoke condition would be required to secure the risk mitigation measures. If Development Management are minded to either grant- or recommend- consent for this scheme, please contact Environmental Health to discuss appropriate wording.

Air Quality (Concentrations at proposed new pollution sensitive receptors)

The air quality assessment does not attempt to quantify likely air quality at any specific location within the development red-line area, by reference to published background concentrations, monitoring at a representative location, or through assumed worst-case concentrations and reference to quantified dispersal relationships.

Qualitatively, the submitted statement relies upon the set-back of the residential facades from the kerbside, and the extant physical & vegetative barriers (to be retained).

I am aware that Friends of the Earth has raised concern over the 'dismissiveness' of the approach taken by the applicant, however, from experience I would expect the factors cited by

the applicant to be sufficient to ensure that the proposed residences are not contrary to policy DM18 (protecting new development from pollution) insofar as it relates to air quality (i.e. notwithstanding other factors as may be referred to by my Environmental Health colleagues).

Air Quality (Assessing the Impact of Development Transport Demand)

The applicant is reliant on the premise that the *'proposed development prioritises movement by means other than the car'* to dismiss the need to quantify the likely impact of the transport demand of the development.

I would agree that the position of the site is inherently sustainable in terms of the extant local pedestrian / cycle facilities, access to public transport and the distance to local facilities. However, other than these baseline factors, active proposals to discourage travel by private motor car and encourage sustainable modes of transport are relatively sparse, and in terms of the framework travel plan are weak on oversight & contingency.

In particular, that both commercial units proposed are proposed with a 'drive thru' configuration directly contradicts the stated priority, and I note that the development does not propose any significant improvements to local infrastructure in line with the cycling strategy.

I would highlight that broadly accepted industry guidance on assessing the air quality impacts of development accounts both for threshold effects, and proportional effects, setting thresholds for when an assessment would be required, and where not. It may not be possible to determine whether an air quality assessment should be required against these criteria until the transport demand model is clearer (see below); however from experience a mixed-use development of this quantum (especially given the customer travel priority by private motor car) is likely to require an assessment.

I would refer the applicant to the EPUKL & IAQM Guidance document 'Land-Use Planning & Development Control: Planning For Air Quality' v1.2 Jan 2017 (or any more recently updated version) for guidance. It is considered necessary for the purposes of policy DM10 at a minimum to present a reasoned rationale (against the available guidance) for dismissing the need to quantify air quality impacts of the development.

If that cannot be done, it will be necessary to consider the impact of the net transport demand of the proposed scheme, at critical receptors (which may include residents of proposed units, or existing residents in the vicinity of road links of junctions where the development contributes significantly to traffic flows. Such assessment may need to account for the impact of additional traffic on the capacity of the junction to facilitate certain turning movements (i.e. should account for disproportionate effects of queuing caused by exceeding recommended junction ratio of flow-to-capacity).

Air Quality (Mitigating the Development Emissions Contribution; Sustainability Generally)

I note the statement at section 9.2 of the Planning Design & Assess Statement which appears to refer to a viability assessment which indicates that the development is not viable based upon BCIS build costs. The applicant is reliant upon this to excuse the need to meet the basic general sustainability requirements of policy CS14.

In general terms, given that the Council can currently demonstrate a 5 yr housing supply, and that the applicant is seeking a development quantum significantly in excess of the extant allocation for the site; my expectation would be that the development would need to demonstrate strong sustainability credentials & exceptional design quality (or other exceptional planning merit) in order to secure consent against the site-specific development policy. I am also mindful of the need for planning decisions to be rational, i.e. that consent should only be granted for development with a reasonable prospect of being built out in the near term – and further, that planning conditions should not impose restrictions that make a development economically unviable.

Whilst I've not reviewed the viability assessment, it would appear that the applicant is seeking permission for an unviable development, which would by definition be an irrational planning determination. This is relevant, as under emerging policy, I would ordinarily seek a design response to policy IN3 j (provision of ULEV charging points) and to policy E23 a (offsetting emissions of new development). Such requirements would render the development more unviable than the applicant is suggesting, and would further suggest that the appropriate response would be to recommend refusal on the basis that the development a) has not demonstrated compliance with policy DM10, E23 or IN3, and b) that seeking to secure such aspects by condition would risk the determination being considered irrational on appeal.

The current proposals offer little against the emerging policy areas, and ultimately it is a planning decision as to whether these carry sufficient weight to justify refusal on the basis suggested.

I am unable to recommend positive determination given the poor sustainability credentials of the scheme with particular reference to design features capable of reducing development emissions (transport, domestic or commercial) or positively impacting local air quality (e.g. though interception, filtration and absorption).

I see little value at this stage in outlining the range of features that could positively contribute to emissions offsetting, it is clear that the current scheme viability will not accommodate further improvements in design quality & sustainability. I would be happy to discuss measures with the applicant in the event that a revised scheme is to be brought forward in the future.

Transport Assessment

I have read with interest the consultation response from the HCC Highways consultee, and note that substantial concerns have been raised, both in respect of the access strategy, and in terms of the transport demand assessment.

Given those concerns, I would consider it to be inappropriate to use the transport assessment in its current form as the basis for an assessment of the air quality impact of the development. I would recommend that further consideration of Air Quality impact of the development be deferred until there is agreement with the Highways Authority on the conceptual transport model for the site – in particular;

- The likely gross transport demand of the proposed development, based upon a representative selection of TRICS travel surveys,
- The likely transport distribution; based upon a production/attraction model that accounts for the retail impact of the commercial element of the scheme,
- The proportion of 'site as destination' trips that may be regarded to be pass-by & locally diverted trips (to the commercial portion of the scheme), apportioned by road link, and;
- The viability of the access strategy if connectivity between Martin Road & Bartons Road is to be retained.

SuDS / Pollution

The proposed scheme appears to offer adequate pollution control measures. I note some likely errors in the application of the simple index approach, and also that the SuDS features exist on different flow paths (SuDS are not arranged in series).

I have no specific concerns other than to highlight that the specification of the proposed filter drain should account for the likely presence of contaminants that may be leachable from made soils, given that the public surface water sewers (to which the system is proposed to discharge) communicates ultimately with a controlled water (statutory main river).

A Grampian-style condition is likely to be necessary to secure detailed design for drainage

strategy, in consultation with Southern Water, and Environmental Health (due to the potential for interaction with Ground Contamination requirements). Otherwise, no adverse comments.

Conclusion

Development not supported on Air Quality grounds (contrary to exiting policy DM10 1), assessment of impacts of development; and contrary to emerging policy E23 a, and IN3 j).

Compliance with other 'air quality related' emerging policy in the areas of sustainability, design quality & wellbeing may also be relatively poor; I am reliant upon other consultees to highlight significant omissions.

Grampian style conditions will be required to be placed upon any positive determination to secure either or both;

- i) further refinement of the site conceptual model for contamination risk assessment
- ii) physical risk mitigation measures for the protection of Human Health, the development landscaping, and downstream controlled waters;

Environmental Health will recommend condition wording in the event that development management is minded to award or recommend consent, and following consultation with the applicant on preferred approach.

A routine Grampian condition will also be required to secure the detailed specification of the drainage strategy (for the purposes of Environmental Health, the Lead Local Flooding Authority, and the Sewage Undertaker).

Mr. Jonathan Driver
Environmental Control Officer