

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From: Environmental Health **To:** Development Control

Our Ref: CONS/19/00358 **Your Ref:** APP/19/00198

EH Case Officer Extn: 44 6677 **Date:** 12 March 2019

DC Case Officer: Daphney Haywood

DC Case Officer Extn: 44 6513

Application Number: APP/19/00198

Site Address: 39 Creek Road, Hayling Island, PO11 9QZ

Proposed Development: Prior notification for change of use from retail use (Class A1/ A2) or a mixed retail and residential use to C3 residential use subject to prior approval covering flooding, highways and transport issues, contamination and impact on adequate provision of services falling within A1/ A2 and sustainability of the shopping area, where applicable; additionally, any operational development necessary for conversion is subject to prior approval of design and external appearance.

I attach a copy of the above application that has been received under the Town and Country Planning Acts.

Any views you should wish to make should be returned to me no later than 20/03/2019.

Observations / Comments:

I have reviewed the information submitted with this application, alongside the comments submitted by my colleague, Mr. Mark Moss.

I note that Mark has offered comments on Noise - but believe that 2015 No., 596 Sched.2 Pt. 3 Class M (as amended) still does not make this right subject to prior approval of residential amenity in terms of noise. In line with following comments, if this development does not in fact comprise Class M development, and planning is required; Marks comments should be considered.

It is recognised that this development is directly related to proposals made under APP/18/01239, relating to no's 37-39 Creek Road. In an email dated 19-01-15 registered under that application, the case officer raised a query about the description 'hot food takeaway' and A5 use of one of the premises - recommending withdrawal and resubmission of the PN application for one unit only, and standard application for the other.

At first glance, this application appears to relate to no. 39 only, and was assumed to be the unit currently permitted for A1/A2 use. It remains unclear which unit #37 represented by the former hairdressers, as both #37 and #39 appear to be former food businesses (as shown on Google Streetview).

I also note that the email submitting the 'revised redline plan' includes conversion plans for the unit at #37, and I am therefore unclear as to what the applicant is actually applying for. It is entirely unclear from the application whether the use class issue has been resolved, and whether or not these proposals comprise Class M development or not.

Largely, these are planning matters - save for the comments on preserving residential amenity which Environmental Health would like to make, but is only able to be accounted for under a standard application. If development is to be under Class M and Standard terms, it could be that the one of the units is as a consequence substantially poorer quality in terms of residential amenity.

With respect to the conversion of units at both #37 & #39, or indeed #37 or #39 individually; the contamination risk profile of the site remains unchanged, and the applicant has not submitted any material information with this application which would cause the assessment to be altered. Therefore, comments offered under APP/18/01239 remain valid. My recommendation under that application was that prior approval is required, and should be refused. This recommendation would likely be unchanged under a standard application submitted without supporting empirical information which allows the assessment of the site to be changed (i.e. demonstrates that the risk is negligible, or economically manageable. It would not be expected that the developer of #37 &/or #39 clean up an off-site source of contamination, but it would be expected that any unacceptable long-term risk to future occupants of #37 &/or #39 be adequately mitigated in order to yield a development which is safe and suitable for use, in accordance with national and local policy.

For completeness, the pertinent comments from that consultation are reproduced below in italics;

"[...]As regards contamination, the statement provided on the application form has no basis, other than to say that the applicant is not aware of any obvious visual or olfactory evidence of significant contamination. This is not the same as there existing no risk.

The submitted plan clearly identifies a 'garage' on contemporary mapping, and as such I thought it prudent to undertake a search of available records. This search has identified several factors which suggest non-trivial risk:

- Fuel storage tanks & dispensing pumps pre-dating 1975 were formerly present within 25m of the property. Documents indicate that the tanks are likely remain in situ. No reference is made in the planning archive to the installation of the tanks or pump island, and it is therefore possible that the tanks pre-date the first T&CP Act.*
- A 6000 gallon fuel storage tank is located within 10m of the property, dating from approximately 1975. The tank appears to be a 3 compartment tank, corresponding to 3 separate dispensing pumps (present within around 15m of the property), so I would expect leaded petroleum & Diesel Fuels, and possibly either a premium (high-octane) petroleum or kerosene in the smallest compartment. Lead, Toluene, MTBE, Naphtha, and general hydrocarbons (C5-C35) might be expected to be likely to be present.*
- The adjacent garage (vehicle servicing & repair) use has evolved over the course of it's history, with a number of phases of development and alterations dating from before 1949 to at least 1976. This use remains to date.*
- A 1963 application refers to the addition of a spray shop & paint mixing room. Documents refer to 'cellulose'. The building is shown on subsequent plans (1975) as existing, so the 1963 approval is assumed to have been proceeded with. Cellulose thinner (Xylenes) might be expected to be present, alongside other light fraction hydrocarbon solvents, VOC, and traditional metallic paint pigments (Cu, Zn, Pb, Cr, Co).*

Position is ca. 45m from the property.

- There are several references to the use of soakaway drainage (at least 3 no. separate soakaways), one of which serving the paint shop, and present 'at least 10 feet' from the building. Use of soakaway drainage at a site where there is a risk of both surface spillage of liquid contaminants (fuels, oils, solvents, paints) and where particulate contaminants are being released (e.g. sanding residues connected with preparation of surfaces for painting) represents a risk of a rapid transport vector with bypasses site hardstanding, and introduces contaminants directly to soils &/or groundwater.*
- Some plans suggest private drainage lines cross the property boundary between no. 35 & no.37 creek road, also representing a risk of preferential migration of any contamination present on the garage site, to the application site.*
- The application site has a similar history of frequent alterations, use- & replacement- of temporary buildings. This sort of history increases risk of pathways to interior spaces, and could potentially hamper efforts to provide vapour barriers (for example).*
- The only specific reference to pollution (potential contamination) that I have found in relation to the application site is an anecdotal reference to an enforcement notice dating from around 1949 for the clean up of an accumulation of waste associated with the adjacent commercial garage, but apparently deposited on/at the application site. Given the nature of the adjacent business, that waste could have conceivably included items likely to have leaked / leached.*
- Groundwater is known to be shallow in this area, and the geology is permeable (river terrace silty-sands over wittering formation (sands). The Groundwater may be tidally influenced, and considering all the factors, migration of contaminants from the point of release is considered both likely, and likely to be occurring within zones (at depths) relevant to human health.*

From the above, I would regard there to be a reasonably high risk of presence of contaminants of concern within the soils at the application site and within the immediate vicinity.

The proposals do not make provision for areas of private soft landscaping, but plans to appear to show that the frontage is to be divided and subject to boundary treatment to create private 'yard' areas. No detail is provided on ground cover.

Were this a redevelopment (demolition & rebuild), I would require a full intrusive site investigation to quantify the risks, and mitigate them if necessary.

The question here is whether the Change of Use to unrestricted C3 is acceptable (where presumably, C3 PDR would be available) accounting for the contamination risk. Given:

- the indoor inhalation pathway risk, the potential for contaminants (PAH/VOC) to penetrate water supply pipework (chronic ingestion risk),*
- the potential for volatile contaminants (<C8, naphtha, Xylenes, VOC) to enter the property, and,*
- the possibility of future owners / occupants introducing planting beds, or soft ground cover around the building in future;*

I would have to conclude that the LPA would not be complying with NPPF Para 178 without requiring further information from that applicant regarding contamination risk & mitigation. Given the results of above research, it seems unlikely that desk based sources of information will be sufficient to dismiss the risk (or determine that the risk is acceptable), and so I would expect that

empirical results from an intrusive investigation would be necessary to support a positive determination.

Given the small quantum of development, and especially in light of the applicant wishing to explore reducing quantum to a single unit following the query raised in respect of the existing A5 use class; I am not sure that it would be rational to grant consent subject to conditions. The cost of investigation and effective implementation of risk mitigation may be disproportionate to the scale of development, and may therefore prejudice delivery.

In accordance with NPPF 178 c), I would anticipate the results of a site investigation as being necessary in order to accompany an application.

On the basis of the above, I would conclude that prior notification is required, and should be refused.

Mr. Jonathan Driver
Environmental Control Officer