

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/18/02445	Your Ref:	APP/18/00713
EH Case Officer Extn:	44 6677	Date:	14 December 2018
DC Case Officer:	David Eaves		
DC Case Officer Extn:	44 6549		
Application Number:	APP/18/00713		
Site Address:	70 West Street, Havant, PO9 1LN		
Proposed Development:	Outline Application for erection of 2No. two bed dwellings.		

Observations / Comments:

I have reviewed the amended application documents, and I note that the changes are principally aimed at addressing planning and conservation concerns.

The scheme alterations do not materially alter the environmental risks or mitigation requirements, and as a result, comments provided previously under GEN/18/00273 & the prior consultation (APP/18/00713) remain largely valid. I would refer you to the content of the prior consultation for suggested conditions, and the rationale for proposing them.

The reduced quantum is however not without significance – providing further support to feasibility of sustainable features (such as pollution control features of SuDS), but also increasing uncertainty with regards to the deliverability of other measures, such as assessment of soil Contamination and mitigation of unacceptable risks. It would also appear that the applicant has not acknowledged comments made previously by Environmental Health when putting together the revised method statement.

As a result, I feel it would be worth covering a couple of points in more detail.

Construction phase

Several smoky bonfires were witnessed during the construction phase of developments on land under the same ownership as is the subject of these development proposals. I have previously raised concerns about construction practice in relation to this site, suggesting that a CEMP be secured by condition in order to clearly establish the need for more disciplined site practice, regarding bonfires and other aspects such as preventing site runoff affecting the river. Mark Moss has recommended a condition which specifically prohibits bonfires at the site.

I note that 2.9 of the landscape method statement makes provision for the position of bonfires. I would like to make clear that bonfires are not considered to be an appropriate means of disposal of either green waste or construction and demolition wastes at this location (the latter would in large part not be able to be undertaken without breaching the duty of care under s33 of the Environmental Protection Act in any event). Whilst it is not necessary to impose conditions

requiring *both* the specific prohibition of bonfires *and* that a CEMP be approved prior to commencement and implemented throughout the construction phase; it is considered prudent to seek to control bonfires at this site. Given the wider issues of materials transport, positioning of skips at this access-restricted site (associated potential for interfering with traffic flow), and the control of pollution to the controlled water – My preference would be to deal with these issues by means of a suitable CEMP.

Contamination

I agree with the applicant's assertion that the site is brownfield. In line with previous recommendations, the principle of development is only acceptable on the securing of a suitable suite of conditions relating to the appropriate assessment and mitigation of contamination risks. The site is extremely sensitive, being main river adjacent, within an SPZ 1 for the regional potable water supply, and being a residential development with private garden areas. The risk profile is unchanged under this revised scheme than under previous design iterations.

The reduced quantum could however be material in a planning sense. A reduced quantum potentially reduces the monetary yield from the site, and as is noted above, under an unchanged risk profile, investigation and mitigation costs are expected to be broadly equivalent for either a low density or high-density scheme.

In principle therefore, site investigation and mitigation costs for a reduced quantum could consume the available 'slack' in the economics of the scheme. Considering the scheme currently proposed, we may be approaching a stage where the quantum of development is insufficient for it to be reasonable for the Council to continue to simply *assume* that viability would not be critically harmed by the costs of meeting the requirements of a condition to deal with contamination.

As you will be aware, conditions need to be proportionate having regard among other things, to costs. Where a condition is required to make an otherwise unacceptable development acceptable, and where the costs of meeting the condition requirements are contrary to the general rule that conditions should be reasonable and proportionate - the only reasonable conclusion is that consent should not be granted.

The NPPF is clear that the LPA should be furnished with sufficient information to support an informed decision, and there are examples from case law which are clear that the LPA would be making an irrational determination by seeking condition requirements which may not be reasonable to meet.

It may be necessary to secure sufficient site investigation information to enable the Council to take a rational decision with full cognisance of the deliverability of development which is a safe & suitable for use.

I would also note that the text of the suggested condition 1 under APP/18/00713 (CONS/18/01637, 21/08/2018) was incorrect, and if (the above notwithstanding-) Development Management are minded to grant consent, should be substituted with the condition wording below.

Contamination (Standard) [1]

Prior to the commencement of any specific phase of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority and notwithstanding any assessment provided with the planning application), an assessment of the nature and extent of contamination at the site, whether originating from within or outside the curtilage, shall be submitted to and approved in writing by

the Local Planning Authority. The assessment shall be undertaken by competent persons, and the findings presented as a written report.

The assessment may comprise separate reports as appropriate, but unless specifically excluded in writing by the Local Planning Authority, shall include;

- 1) A site walk-over survey &/or sufficient desk-based research to identify;*
 - All relevant previous uses of the site*
 - Potentially significant contaminants associated with those uses*
 - Uncertainties relating to previous use or associated potential contaminants*
 - A conceptual site model identifying all relevant sources, exposure pathways and receptors, and;*
 - A summary of potentially unacceptable risks arising from contamination at the site.*
- 2) Site investigation based on (1), to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to all receptors that may be affected, including those off site.*
- 3) The results of an appropriate risk assessment based upon (1) & (2), and where unacceptable risks are identified, a Remediation Strategy that includes;*
 - appropriately considered remedial objectives,*
 - an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;*
 - clearly defined proposals for mitigation of the identified risks.*
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy (3) are complete, identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

All elements shall be adhered to unless agreed in writing by the Local Planning Authority

Reason: *Having due regard to policies DM10 of the Havant Borough Adopted Core Strategy [2011] and DM17 of the Havant Borough Local Plan (Allocations) [2014], Contamination may be present at the site as a result of both previous land uses, activities and multiple prior phases of construction and demolition. Contamination could pose a risk to future occupiers, and to local surface waters.*

Mr. Jonathan Driver
Environmental Control Officer