

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/18/01585	Your Ref:	APP/18/00715
EH Case Officer Extn:	44 6677	Date:	14 August 2018
DC Case Officer:	Bee Crawford		
DC Case Officer Extn:	44 6514		
Application Number:	APP/18/00715		
Site Address:	Unit 1, Station Approach, North Street, Emsworth, PO10 7PW		
Proposed Development:	Prior notification for change of use from Class B1 office use to C3 residential use subject to prior approval covering flooding, highways and transport issues and contamination.		

Observations / Comments:

I note that the applicant has responded to the previous refusal, providing an updated noise & vibration assessment, and a 'land contamination site investigation report' (Ref: CL/2508/TSBP). I have reviewed the latter, and will be addressing it's conclusions in the comments below.

Mark has been allocated the case for critical review of the noise assessment, and I would expect comments to follow under separate cover in due course.

Contamination Assessment

The submitted assessment report follows an environmental desk study and preliminary risk assessment (EDS & pRA) also undertaken by Apple Environmental Ltd.). It is implicit that this preceding document informed the design of the assessment & testing work presented in the land contamination site investigation (P2SI) report, but the EDS & pRA has not to my knowledge been submitted to Havant Borough Council for review. Similarly, Environmental Health was not consulted on the scope of the submitted report.

The P2SI report acknowledges that it's scope is limited. For clarity, whilst titled a 'land contamination assessment', the content might more accurately be described as an 'indoor air quality report'. This does speak to the correctly identified principle exposure pathway insofar as a baseline risk *for the existing building*, but I would caution against 'over-application' of the results to the conceptual model for the site.

The report does not present any intrusive work, and therefore provided no empirical information relating to the nature, appearance, character, or chemical composition of material underlying the building. Inferences cannot be drawn as to the likely risks arising from modification of the building in connection with the proposal.

I would also caution that several risks within the tabulated conceptual site model are dismissed under the rationale that 'if a significant impact had occurred, it would have been plainly evident by now' (referring to the age of the building, being ca. 1990).

With particular reference to groundwater impact, I would disagree that an impact which could be deemed to be significant would necessarily be self evident - e.g. a plume of contamination

moving with groundwater could take many years to traverse the ~60m or so to the nearest residential property at Victoria Road - this may not be detected until it reaches the footprint of the building; but it doesn't mean that conceptually speaking, a source at the subject site isn't directly linked to a migrating plume of contamination likely to cause harm in future if that source is allowed to remain.

Similarly with harm to the building fabric, attack of foundations could have resulted in significant weakening which has not manifested in structural movement or failure to date, but which may have made such a failure substantially more likely to occur than it would be in the absence of contaminants which contribute to an aggressive environment for concrete. Perhaps more critically for human health, the report does not attempt to answer the question of whether or not the water supply has been-, or is likely to be- compromised by volatile contaminants capable of penetrating a standard MDPE water main. The exposure risk from tainted water at a commercial premises is substantially less than it would be at a residential dwelling where that water represents the primary source for consumption, cooking, and bathing. Tainted water capable of causing harm to health would not necessarily be characterised by a substantial discolouration, malodour or taste.

The above points notwithstanding, the principle limitation of the report is that it provides no information on the presence or otherwise of contaminants within soils beneath the building, or in the immediate vicinity. As regards the sampling data presented, I am mindful that the volume of the present building is large relative to the volume of the proposed residential units - it is open plan, and at this point unclear whether ground & first floors are readily contiguous airspaces, or functionally separate (as the residential units would be).

There are also uncertainties in factors which might have substantially influenced the results obtained; hampering confident interpretation of results and limiting the validity of inferences that can be made.

As an example, the level of permanent ventilation within the existing structure is not stated, nor was it's degree of structural air-tightness, the degree to which the ground floor space could be considered to be functionally contiguous with first floor space, nor was either the physical volume or temperature of the space (influencing the rate of accumulation & exposure due to air changes and volumetric dilution, and the rate of ingress due to thermal stack effect). Conceptually, the current configuration and the 'risk-relevant' residential configuration are quite different, and in particular, the factors listed above are likely to differ substantially between the two building use scenarios.

Pressure conditions at the time of measurement were suitable to identify any actively gassing material (where positive pressure is created within containing strata), but are not regarded as representing 'worst case' conditions (e.g. sharply falling atmospheric pressure, tending to lead to a 'pulse' of gas / vapour from confining strata). Continuous monitoring usually shows this exposure model (generally little ingress, with pulses of exposure driven by changes in atmospheric pressure) to be much more likely than a 'slow & steady' ingress - especially in relation to VOC, and where gas sources are characterised by variable made ground deposits or biodegradation of contaminants in soils.

Report Conclusions

I note that (largely for the reasons outlined above) the conclusions of the report are heavily caveated, being explicitly limited to a conceptual end point (residential occupation) being achieved without compromising or modifying the existing concrete slab, and without introducing any areas of soft landscaping. Implicitly, the report assumes a transition to the risk-relevant exposure scenario without materially affecting the characteristics of the internal space to which the monitoring results are directly applicable.

The report acknowledges the potential presence of a contamination source within material underlying the building and the hard-standing in the immediate vicinity, and it's conclusions rely

upon this source not being disturbed, and the activation of potential pathways of exposure being avoided.

I do agree that the <LOD results for gas and vapour within the existing building interior does not demonstrate an active indoor inhalation pollutant linkage exists presently, under a baseline assumption that the use of the existing building transfers from B1a >C3 without any material physical construction works.

I am however unconvinced that it is reasonable to assume that the required caveats will apply in practice, and I note that no detail is provided on construction precautions to be applied in order to ensure that the slab is not compromised by either the installation of domestic services, or the affixing of partitioning systems.

The results submitted are not inconsistent with a cold, well ventilated building overlying a VOC containing soil with low rates of degradation of organic components in fill, where pathways could be characterised by atmospheric-pressure-driven 'pulse' flows. I acknowledge that the results are similarly consistent with an uncontaminated site. The issue is whether we have sufficient information to discern one from the other.

Application status

I am mindful of the status of this application type, and am unclear on the scope and extent to which the local and national policy provisions apply to their full extent under the PN process - for example, as application is limited to change of use & internal works, is the scope of consideration of contamination limited to the risk to the development itself (i.e. future occupiers only), or (as would be the case for a comprehensive development) could the scope be taken to be '...risks to all receptors that may be affected, including those off-site'.

I am similarly mindful that the NPPF standard is that upon completion of development, the land should not be capable of being determined as contaminated land within the meaning of Part 2A of the Environmental Protection Act 1990, and sufficient information should be presented to determine whether this standard is reasonably likely to be met. It is in principle possible under this regime for a site to be determined as a direct result of a realised risk at a nearby contamination sensitive location (i.e. the risk need not apply at the 'source' site - in this case, at the 'application site').

I do note that the condition I recommended under APP/17/00938 omits the wording 'including those off-site', and I would consider that the lack of opportunity for accessing any contamination that may be found to be present within the footprint of the building to weigh against the reasonableness of requiring a proactive remedial approach be taken on the basis of a conceptual future risk.

It is similarly unclear as to the conceptual timescale over which a judgement against the NPPF standard should account - for example, would a permitted C3 use under this application type allow associated permitted development (comprising the creation of soft landscaping areas) in future? If so, the site could in principle / conceptually become capable of being determined as Part 2 A land in future under the landuse which the LPA is currently considering the 'in principle acceptability' of, under this application. I would normally consider the timescale to be the 'anticipated lifespan of the consented buildings', and under this definition, the contamination assessment should account for (frame it's risk assessment as-) the most contamination sensitive scenario that falls within the consent being sought.

Summary and Conclusions

- The report does not identify any gaseous or vapour phase contaminants at measurable concentrations within the internal space of the existing building, and in this way presents favourable results.

- Spot measurements taken over a short period, under stable atmospheric conditions are unlikely to capture worst case conditions.
- There are differences between the 'as measured' and 'risk relevant' building configurations likely to directly affect exposure pathways, such that <LOD results under the measurement conditions could in principle have been obtained even where an unacceptable risk to the proposed development exists.
- The report does not provide any information to indicate whether contamination exists within soils at the site at all. For this reason, it is not possible to accurately infer likely risks arising from penetration of the concrete slab (or other pathway creation), the future failure of the seal between the concrete slab and the soil, or indeed the chemical penetration of water supply pipework in place, whether arising during conversion or in future.
- Results presented are consistent with an uncontaminated site, but could also have been obtained at a contaminated site where unacceptable residual risks exist. The results presented are not sufficiently robust as to permit discernment between these potential scenario's.

Were I consulted on the 'scope of works for phase 2 investigation' [to address an HBC imposed planning of the wording recommended under APP/17/00938], I would have rejected the strategy of 'indoor air sampling as a standalone line of evidence', and would have strongly recommended the physical inspection and sampling of soils within the footprint of the building. I would also have strongly encouraged the screening of soils arising (from beneath the slab) and the trail holes themselves, in preference to the measurement of concentrations within the internal air space.

Whether this is sufficient grounds to reject the application (especially where no contaminants were detected) is ultimately a planning decision. I would be inclined, however, to conclude that insufficient information has been submitted to demonstrate the suitability of the site for the proposed conversion.

It is possible that the conclusions of the previous consultation (APP/17/00938) remain valid - that prior approval would be required for the proposed development on grounds of contamination risk, and support for consent would only be possible if it were made subject to robust conditions relating to the physical investigation of soils (and if necessary, mitigation of contamination risks).

Mr. Jonathan Driver
Environmental Control Officer