

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/18/00601	Your Ref:	APP/18/00321
EH Case Officer Extn:	44 6677	Date:	26 April 2018
DC Case Officer:	David Eaves		
DC Case Officer Extn:	44 6549		
Application Number:	APP/18/00321		
Site Address:	Northney Farm, St Peters Road, Hayling Island, PO11 0RX		
Proposed Development:	Proposed Development: Change of use of agricultural building to a dwellinghouse (class C3) and for associated operational development subject to prior approval.		

Observations / Comments:

I have reviewed the revised documentation submitted in support of this new application, following the refusal of the 2017 application.

I note that the scheme is broadly similar to that previously put forward, and is essentially unchanged as regards matters relevant to pollution, contamination and air quality. In this respect, comments made under the 2017 application (APP/17/00983, ref: CONS/17/01846, 04/10/2017) are considered to remain valid. For convenience, I will reproduce comments and recommended conditions below.

Contamination

Essentially, the logic presented for refuting need to address contamination is flawed. It is not relevant that the land is not known to be contaminated - this is supposition, not supported by empirical data. By virtue of it's agricultural association there is increased risk of contaminants being present at the site, and the proposed landuse (general C3) is contamination sensitive - with dwellings with private garden areas being the most contamination sensitive residential use type. It should be noted that small averaging areas (i.e. single gardens) are more likely to meet the statutory definition of Contaminated Land (Part 2A of the EPA 1990), as the definition is related to a statistical assessment of the likely true population mean over a relevant averaging area - a source within a small relevant area is likely to have a higher mean/area than the same source within an area of increased size.

National Planning Policy (and 10 c) i) of schedule 2, Pt. 3, W (to the GPDO 2015)) require that as a minimum standard, developed land must not be capable of being determined to be contaminated land under Part 2A of the EPA 1990. It follows that there must be sufficient evidence to decide this (or sufficient provision to determine this, and ensure that the site cannot be determined to be contaminated land prior to occupation) in order for a positive determination of a PN application to be made. It is essential therefore for empirical data to be collected, both from within existing building footprints, and within the proposed garden areas. It is not

anticipated that adverse results will prejudice deliverability of a residential scheme, so I would be comfortable with this being dealt with by way of conditional approval.

"Unacceptable" Living Environment

I would also like to make a general comment as regards the submission addressing 'Reason 1', in respect of Q2 1. e) (related to the previous reason for refusal), and more generally in respect of the application of policy.

I note that the applicant refers to having "no intention of splitting the site from the Northney Farm", and claims that as a result, the development would not be in conflict with policy CS16 or DM10. I also note that the submission implies that the applicant intends to reside within the proposed dwelling, and that the LPA should take account of their connection / familiarity with farm operations (and their impacts) in the application (or otherwise) of local and national policy.

I would challenge these assertions on the basis that;

- i) the change in use class from agricultural building to C3 dwellinghouse is by definition separating the site from Northney Farm (as an operational agricultural concern), and;
- ii) the initial occupant is irrelevant to the application - the permitted development is a change of use to C3 dwellinghouse, and unless otherwise controlled by restrictive conditional approval (of which the reasonableness would be in doubt), this use class is non-specific as to either the type- or tolerances- of occupants. It must be assumed that at some point during the anticipated lifetime of the use class allocation, the dwelling could be occupied by pollutant / contaminant / nuisance sensitive persons - e.g. a family caring for young infants, producing home grown vegetables, working non-standard hours, working from home or with employment not connected with the farm (etc.)

It is considered that 'desirable' is a key conditional phrase, and I would interpret the proper definition of this in terms of compliance with local & national policy - a scheme which complies with local & national policy should be regarded as 'desirable', and one which is contrary should be regarded as 'undesirable' (and therefore conclude that it should not be permitted). In this way, I see no reason for the PN status of this application to excuse it from the need to comply with policy DM10, or any other policy relating to the desirability of a C3 use.

I am aware that there has been some input from my colleague, Mark Moss as regards odour, noise, and other public health issues - so there is no need for me to comment in more detail. I thought it useful however to set out the basis by which it is expected that a PN application would meet the same 'principle of development' standards as a standard application in areas listed in Q.2, where the provisions of 1. e) are notably broad.

Previous Comments, and suggested conditions:

The text below is reproduced from the October 2017 consultation response referenced above. The application is considered to be insufficient to demonstrate that the scheme is not contrary to local & national policy, if granted without being subject to conditions 1 & 2 listed below.

- The land and buildings in question are agricultural (a potentially contaminating landuse, where contamination is typically associated with the central 'yard' complex, vehicle & equipment storage areas, and with made ground located beneath hardstanding).
- The buildings may not form part of the active farm, but were present <1867, and would have formed part of the active farm at some point during their history.
- Some demolition and construction works are associated with the Eastern end of the building, dating to approximately the mid 1960's.

- Vehicle garaging and storage areas with large openings (more likely to be associated with mechanical equipment storage)
- The proposed landuse is sensitive, comprising residential accommodation predominantly on ground floor, with private garden areas, and within buildings with elevated pathway risk resulting from their construction type (e.g. solid wall, ground bearing floor slab)

Contaminants typically associated with Farm use are materials linked with livestock parasite & pest control (e.g. Arsenic, Copper), hydrocarbons (lube oils, solid & liquid fuels, combustion residues), construction related contaminants (Lead, Asbestos), and various metallic compounds associated with imported fill (e.g. hardcore - especially where combustion process derived) and local waste disposal.

The proposed development could in principle meet the description of contaminated land as a result of the proposed development. Insufficient information is presently available to dismiss this risk.

For the reasons summarised above, it is considered that prior approval is required for this development, and if granted, should be subject to suitable conditions to ensure that the land is either confirmed to be suitable for use in C3 class, or will be made suitable through a scheme of appropriate remediation or risk mitigation. Suggested wording overleaf:

Contamination (Standard – omitting EDS) [1]

Prior to the commencement of development hereby approved (other than any site clearance partial demolition and consequential works for the purpose of ensuring structural stability), 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) Site investigation appropriate to both the previous & approved use of the site, 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 future occupants.
- 2) The results of an appropriate risk assessment based upon (1), 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.
- 3) 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 (2) are complete, to include consideration of 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 & current land uses (&/or activities) that could pose a risk to future site occupiers.

Verification (Standard) [2]

Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with condition [1] shall be submitted to and approved in writing by the Local Planning Authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, and must demonstrate that site remediation criteria have been met. Where longer-term monitoring of pollutant linkages is identified as being necessary, the report shall clearly set out plans for monitoring, provision for maintenance, relevant triggers and contingency actions (a “long-term monitoring and maintenance plan”).

The long-term monitoring and maintenance plan shall be implemented as approved.

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 & current land uses (&/or activities) that could pose a risk to future site occupiers.

Mr. Jonathan Driver
Environmental Control Officer