

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/18/00547	Your Ref:	APP/16/00631
EH Case Officer Extn:	44 6677	Date:	13 April 2018
DC Case Officer:	Ms R Ballam		
DC Case Officer Extn:			
Application Number:	APP/16/00631		
Site Address:	42 Milton Road, Waterlooville, PO7 6AA		
Proposed Development:	Erection of 1No. 1 bed bungalow (Approved 12/08/2016). Request to Discharge Condition 10 (16/03/2018).		

Observations / Comments:

I have reviewed the details provided (or at least, uploaded to the case on-) 10/04/2018. I note that both soil samples for which results have been provided were taken from 0.25m bgl, assumed from the brief description likely to have been taken at a soil horizon transition between the topsoil & MG (Made /Worked Ground).

It is understood that the applicant has no photographs of the trial holes, and that no trial hole log / description of succession was taken at the time. Locations are broadly described, and the 'on plan' (2D) positioning is not inappropriate. It is acknowledged that the samples do not show any evidence of significant contamination, though I would regard it to be a stretch to interpret their results as 'proof' that the site is not affected by contamination.

I would interpret the sample results & supplied descriptions as providing good evidence that appears to rule out any impact on topsoils at the subject site from cutting / grinding / finishing / painting activities undertaken at the adjacent site (i.e. essentially deposition of airborne contaminants originating from the adjacent site). This goes a long way to the ruling out of a number of exposure pathways, namely direct contact exposure, consumption or inhalation of mobilised soil particles / dust (exterior), and active interior exposures due to exterior / interior tracking of contaminated soils by occupants/pets (etc.).

I would also accept that there are factors evident from the general site history that would (with a reasonable degree of confidence) rule out there being any industrial features / infrastructure (e.g. a former tank, below ground tank remaining in situ, or made ground likely to contain harmful deposited materials). Evidence for this largely relates to the build-dates of the commercial & residential structures, and the greenfield status of the site prior to these developments.

Notwithstanding the above, the limited depth of the samples however leaves room in the basic conceptual site model for a source to exist at the adjacent site, for that source to have a mode of migration that would not have been detected by the samples taken, and plausible 'in principle' modes of exposure of future residents.

An example scenario which the submitted results do not rule out, could be summarised as follows: a previous bulk release of liquid product (e.g. volatile hydrocarbon / flammable substance or solvent) from storage at the adjacent site (source); migration within granular & variable head deposits present from ~>0.25m depth, and release as vapour through soils to granular service bedding or voids (pathway) into the habitable spaces within the new dwelling (receptor). Whilst this is not necessarily especially likely, it is equally not entirely unlikely - many similar sites have been shown to be contaminated via this kind of scenario.

I note that the local geology would permit the above conceptual scenario, and from the 54 planning applications which refer the industrial site adjacent to the plot of #42, and which pre-date the first appearance of the factory unit on OS mapping in 1972; several contain references to potentially contaminating uses. Of greatest interest are descriptors such as 'store for inflammable materials', though any engineering / marine use (also referenced) is potentially of interest, as are references to the garaging of commercial vehicles (often associated with fuel storage and maintenance). Many of these applications omit any description at all on our electronic 'lookup' register, and would require research within the planning to determine (or rule out) any significance.

I would agree with the conclusions of the submitted 2017 desk study that vapour from volatiles under the ground is a principle risk, but would also consider that perhaps the most plausible & significant risk lies in the penetration of below ground potable water supply pipework by volatile hydrocarbons (should any exist at the site).

In light of the above, it could be argued that the submission fails "...to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site" (as required by c.9, pt.1).

Whilst I am mindful of the scale of the consented development & proportionality of requirements under the condition applied; it does not appear rational on the above basis for the LPA to discharge conditions on the strength of information insufficient to demonstrate that the basic standard required under the NPPF's (namely, certainty that the developed site could not be determined to be 'Contaminated Land' within the meaning of Part 2A of the EPA 1990) has been met.

Recommendation

I am therefore minded to recommend that the application to discharge condition no's 9 & 10 be refused at this time.

Way Forward

The information submitted so far is not valueless, it is informative (and favourable) but its implication is naturally limited in scope. What is needed is to address the areas of risk that the submitted information does not provide useful data. Several approaches could be taken to achieve this;

- i) In circumstances where risk is uncertain (e.g. unable to collect relevant or additional information), it is acceptable to simply assume that a risk exists, and to propose to mitigate it (a precautionary scheme - usually construction related measures to break potential pathways).
- ii) Desk based research could also be used to robustly rule out a risk of a source being present (in this case, storage of liquid hydrocarbon-species (VOC / PAH / Fuels) sufficiently close to the site as to be regarded a risk.
- iii) Collect additional samples, from areas / depths targeting risks which remain uncertain.

With specific reference to this site;

- a) Source risk is broadly speaking limited to bulk release of liquids. In this way, detailed desk based research might prove fruitful for ruling out residual risk
- b) Migration pathways are broadly limited to 'within and / granular soils / deposits', so there could be benefit in undertaking a physical inspection of soils (trip pits / soil description). As the source risk relates primarily to volatile hydrocarbons, visual & olfactory evidence (description of appearance & odour) could provide sufficiently definitive information to allow discharge of the condition
- c) Exposure pathways broadly speaking comprise 'penetration of the building fabric (including services)', which means that the use of simple construction measures to break exposure pathways could be proposed to address an assumed risk.
- d) Source risk is (again, broadly speaking) limited to substances which would be detectable by visual or olfactory means if exposures are likely to be unacceptable. In this way, proceeding under a formalised watching brief for contamination might be acceptable. This would need to form a 'mitigation measure', and should set out a basic procedure for identifying contamination, notification of the LPA, a commitment to appropriately addressing any contamination identified, and the provision to the LPA of a declaration in the event that no contamination is identified during groundworks (or any other stage in construction - normally given just prior to occupation)
- e) Given that we are only concerned (in planning terms, for this site) about human receptors - the 'relevant soil zone' is between ground level, and 1.0 metres below existing ground level. In this way, samples could be collected upon excavating for services / foundations, or from hand dug trial holes as a stand-alone investigation undertaken prior to construction. As we are only concerned about a specific off-site source, placement close to the boundary is sufficient to identify a risk, and as top soil has been shown to be clean (and as we are concerned about below ground migration of a contaminant originating off-site), samples would only need to target a limited depth range (e.g. 0.25 to 1.0m below ground level).

In consideration of a) - e) above, there are a number of options available to the applicant to inexpensively address the requirements of condition no's 9 & 10.

The aims of conditions 9 & 10 are clear & focused and have both a basis in-, and support from-, the NPPF. I am looking for sufficient information to achieve that basic aim - I am entirely comfortable with the applicant taking any of the range of available approaches to provide sufficient information to enable a positive and rational determination of a conditions discharge application.

Mr. Jonathan Driver
Environmental Control Officer