

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/18/01240	Your Ref:	APP/18/00596
EH Case Officer Extn:	44 6677	Date:	04 July 2018
DC Case Officer:	Bee Crawford		
DC Case Officer Extn:	44 6514		
Application Number:	APP/18/00596		
Site Address:	Deer View Lodge, Copse Lane, Hayling Island, PO11 0QB		
Proposed Development:	Prior notification for change of use from class B1(a) office use to C3 residential use subject to prior approval covering flooding, highways and transport issues and contamination.		

Observations / Comments:

I have reviewed the application documents, and note that they focus predominantly upon the alterations to the building, and provide little if any information with respect to the parcelling of space (relationship with-, or segregation from- the holiday accommodation to the North), the intended tenure (holiday let, rental or private), or the provision of private parking or garden areas.

This might seem unnecessary for a PN application, however the consented change of use is to a standard C3 use class, and such elements are relevant to contamination risk (inherent sensitivity). As these proposals are for a 3 bedroom dwelling, in the absence of any further information (&/or opportunity for the LPA to restrict use, and irrespective of intention-) it must be assumed that the consent allows the dwelling to be used as a completely separate planning unit, used for family accommodation where infants are likely to use the grounds for play, and where gardens may support the production & consumption of home-grown vegetables.

Site History & Contamination Sources

It appears that the building is likely to have been constructed at some time between 1898 & 1909, on greenfield land, probably originally as agricultural storage, as stables or for the housing of livestock. Numerous prior applications relate to the plot of land described variously-, but generally as "between the Orchard and the Groves"; some referring to the clearance of animal pens and demolition of livestock accommodation. Evidence from mapping appears to corroborate this type of use, with various small structures, building extensions, and enclosures shown on the plot (and on the land now occupied by static holiday caravans).

Agricultural uses are often associated with localised contamination, typically found within the footprint, and in the vicinity of barns, stables, buildings used as storage, in yard areas, and at access tracks. Contaminants found can be variable depending upon prior use/activities, but may range from agricultural chemicals and pathogens, to more typical mix of metals, asbestos, fuel range & aromatics hydrocarbons; largely from storage of equipment, fuel, the undertaking of maintenance, construction and demolition, and combustion residues (often local waste disposal).

The site is also immediately adjacent to- (East of-) a site used for the industrial production of bricks, with process areas within 25m of the building. This could be a source of contamination in the form of metals, and aromatic hydrocarbons. It is not atypical for both fuel and raw materials to be processed at brick works, as well as the undertaking of combustion processes, often in temporary structures insulated with site-won soils (i.e. lots of soil movements on site). No formal kiln / chimney is marked on mapping, indicating that combustion processes may have occurred anywhere within that site, possibly close the boundaries.

A number of associated processes are 'wet' (transporting contaminants), and both dry processes and combustion represent a chronic source of contaminants to nearby land by airborne deposition of dust. It is anticipated that the adjacent Brick Works was operated (on a site corresponding to the boundary of the subject plot) for a maximum period of use spanning less than 30 yrs. This is long enough to have had a material impact, and a number of contaminants associated are persistent in the environment, so it is considered to represent a credible contamination risk.

In terms of contemporary sources that may affect the site, I note that available aerial photography shows a large stockpile of recently deposited material immediately north of the office building. The origin of this material is unknown, and it could represent anything from clean sub-soils, to soils or construction & demolition waste imported from a brownfield site which could be impacted by contamination.

Conclusions

Based upon the limited information submitted, I would conclude that *'prior approval is required, and should be granted subject to a suite of suitable conditions to address the contamination risk...'*

I am mindful of the landuse to the north, the balance of accommodation within the proposed dwelling, and the lack of consideration of external space - all of which suggests that the applicant may have a 'holiday accommodation' use in mind.

It is understood (with reference to Moore v. SoS for the DCLG; 18/09/2012) that whilst holiday let use need not always be taken to fall within class C3 (could be sui generis), use as a short-term holiday let could be taken to fall within class C3, and likely would in this case. Where such a use is granted as a conventional consent under a full planning application, the LPA often takes the opportunity to restrict use by condition where the accommodation standards have not been shown to be (or do not-) meet those expected of a permanent dwelling. I don't believe that this is an option open to the LPA under the PN procedure to which the current application is subject.

I must therefore treat the property as if it were a permanent dwelling which could be sold on the open market to an occupant unconnected with the applicant (i.e. as a separate planning unit), and I must therefore assume that there is intended to be allocated parking, and defensible landscaped space which could conceivably be used for the most contamination-sensitive residential activities (e.g. infants play). I am not sure that in the absence of these details, it could be said that the applicant has submitted sufficient information to allow the LPA to make a determination (as otherwise, we are consenting the building only for C3 use, with the remainder being of ambiguous use class - perhaps retaining a B class use - obviously this would cause complications in future in the event that the applicant wished to dispose of the property).

Irrespective - the NPPF sets a minimum standard that following development, land should not be capable of being determined to be Contaminated Land within the meaning of Part 2A of the Environmental Protection Act 1990.

There are risks at the site which would likely not be significant under a commercial landuse scenario, but (if realised) could in principle lead to the determination of the site as Part 2A contaminated land following a change of use. It should be noted that when considered in the regulatory sense, contamination risk is determined by actual use, irrespective of use class - meaning that use of areas of the site retaining a commercial use class as if they were residential gardens, would be treated as if those areas carried a residential use class. Residential receptors would not be present were it not for a positive determination on this application, and as such the consideration of contamination risk under this application should include ancillary land likely to be used whether or not the applicant has specifically incorporated it within the scope of the application.

Assessment of contaminated land is sensitive to averaging area, and where a source is present within a small relevant exposure area (e.g. small private garden, used for veg growing or children's play, or indeed a small building footprint), the degree of exposure is increased relative to the same source in a much larger area (where the majority of soil may be clean). As such, the likelihood that the site would be determinable is increased.

Given;

- i) the increased sensitivity represented by the proposed landuse (relative to the existing),
- ii) the potential sources of contaminating local to the subject building (at-, and immediately adjacent to-), and;
- iii) the potential source of historic contamination at the adjacent site -

I must conclude that contamination is a material planning consideration, and that it is both reasonable & necessary to require confirmation that soils at the site are suitable for residential use.

If Development Control are minded to grant consent, I would ask that the consent be issued subject to the following conditions;

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], DM17 of the Havant Borough Local Plan (Allocations) [2014], & the NPPF 2012; Contamination may be present at the site as a result of both previous land uses (&/or activities) at site and on adjacent land that could pose an unacceptable risk to future residential occupants."*

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], DM17 of the Havant Borough Local Plan (Allocations) [2014], & the NPPF 2012; Contamination may be present at the site as a result of both previous land uses (&/or activities) at site and on adjacent land that could pose an unacceptable risk to future residential occupants."*

For the benefit of the applicant (as guidance, not dictation), I consider that a proportionate site investigation should include a minimum of three trial holes, and should focus on near surface made ground (i.e. need not assess natural soils in the first instance). It may be possible to achieve the required depth using hand excavation methods.

Private garden areas represent the greatest exposure risk, but the investigation should also consider placement of a trial hole within the building, as agricultural uses carry a risk of volatile hydrocarbons being present (e.g. storage and handling of fuels for portable petrol powered equipment & transport) and indoor vapour pathways could be important if contamination is present with the building footprint.

It would also be helpful if the configuration and parceling / segregation of outdoor space is determined prior to the submission of the investigation - this will provide the necessary context within which to consider contamination exposure risk.

Mr. Jonathan Driver
Environmental Control Officer