

Environmental Health Manager, Community Group

I have read through the documentation provided by the applicant and have no objection to the development. I would however ask that the following informatives be added to any approval that may be granted.

Informatives:**Regarding Hours of Work:**

You are hereby requested to ensure that no works or ancillary operations associated with any demolition, excavation, clearance and construction works at the development, which are audible at the site boundary, shall take place on any Sunday or Bank / Public Holiday, nor on any other day except between the following times: Monday to Friday: 8.00 – 18.00 and Saturday: 8:00 – 13.00.

This is in order to protect the occupants of nearby residential properties from noise and vibration nuisance

Regarding Bonfires:

You are hereby requested to ensure that no bonfires take place on this site, during any phase of the operation i.e. demolition, excavation, clearance and construction works. If you feel you have a legitimate reason for a bonfire, it is recommended you enquire with the Environmental Health Pollution team, at Havant Borough Council, prior to taking this action.

This is in order to protect the occupants of nearby residential properties from smoke pollution.

Regarding Dust Control:

You are hereby requested to ensure that dust mitigation measures are put in place, to prevent any potential dust nuisance from occurring during the demolition, excavation, clearance and construction phases of the development.

This is in order to protect the occupants of nearby residential properties from dust pollution.

Regarding light pollution:

You are hereby requested to ensure that any external lighting that may be installed on this site, within the grounds or attached to the proposed building, is so positioned so as not to cause nuisance.

This is in order to protect the occupants of nearby residential dwellings from light pollution.

Please contact me should you require any clarification of any of the above items.

Note: My colleague Jonathan Driver will comment if necessary on issues such as contaminated land.

Comments from Jonathan Driver, Environmental Control Officer:

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 parceling 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 2018; 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 2018; 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.

Highways Engineer, Development Engineer

No adverse comment.

Natural England Government Team

No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Please note in future cases where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on European Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the Appropriate Assessment can conclude that there will be no adverse effect on the integrity of the European Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 12

Number of site notices: 1.

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

- 7.1 An application was submitted under APP/12/00362 for the change of use from redundant rural building to 1 No. 3 bed dwelling. This was refused on 14 September, an appeal was lodged and dismissed on 21 February 2013. This was a separate process which considered the planning merits rather than the requirements set out under Class O of the General Permitted Development Order.
- 7.2 The change of use of the premises proposed is the subject of recent changes to the General Permitted Development Order (GPDO) which have given a general permitted development right for such changes to take place with only a 'prior approval' process to go through. Consequently the principle of the change of use is considered acceptable. Having regard to the relevant conditions of the GPDO it is considered that the main issues arising from this application are:
- (i) Transport and highways impacts of development
 - (ii) Contamination risk on the site
 - (iii) Flooding risks on the site
 - (iv) Impacts of noise from commercial premises on the intended occupiers of the development
 - (v) Other matters
- (i) Transport and highways impacts of development
- 7.3 The site lies within the grounds of Deer View Lodge, to the south and is located outside the defined urban area on Hayling Island. The proposal will create a three bedroom property, subsequently there will be a requirement for two on site parking spaces as recommended in the HBC Parking SPD (July 2016). A parking plan has not been submitted as part of the application and a condition is recommended to provide the spaces prior to the development being brought into use and retained thereafter for parking at all times. The Highways Engineer has raised no concerns with regard to the impact on the highway or transport issues.
- (ii) Contamination risk on the site
- 7.4 The submitted Planning Statement has stated that "the site is not contaminated and no excavation is proposed. Consequently there are no contamination risks associated with the proposed conversions." However, The Havant Borough Council Environmental Control Officer has identified that residential use represents increased sensitivity, and different exposure pathways must be considered. Based on the limited information submitted, it is concluded that contamination is a material planning consideration and that it both reasonable and necessary to require confirmation that soils at the site are suitable for residential use. Prior approval is required, and should be granted subject to a suite of suitable conditions to address the contamination risk.
- (iii) Flooding risks on the site
- 7.5 The site is not situated within either Flood Zones 2 or 3 and as such there are no flood risks concerns associated with the proposal.

(iv) Impacts of noise from commercial premises on the intended occupiers of the development

- 7.6 The site is located outside the urban area and the building is adjacent to a private drive accessing a small residential caravan site. On this basis, it is not considered that there are any in-principle noise concerns associated with the surroundings which will prejudice the amenity of the future occupiers of the development.

(v) Other matters

- 7.7 Under the Habitat Regulations the proposal results in a new dwelling, for which avoidance and mitigation measures must be secured to protect the habitats and species of the Borough's European sites. To comply with these regulations the applicant is required to make a financial contribution towards the Solent Recreation Mitigation Strategy before development commences. At the time of the determination of this application, whilst the Unilateral Undertaking has been signed and returned, the required payment of £688.85 has not yet been received. This would be payable before the commencement of any works.

8 Conclusion

The proposed change of use is supported by the current GPDO and the NPPF, and there are considered to be no adverse impacts relating to flooding, transport, contamination or noise arising from the proposal. Prior Approval is therefore required and granted subject to relevant conditions regarding contamination.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to determine that **PRIOR APPROVAL IS REQUIRED AND APPROVED** for application APP/18/00596 subject to the following conditions

- 2 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 2018; 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.

- 3 Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with condition 2 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 2018; 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.

- 4 The development shall not be brought into use until a minimum of 2 parking spaces have been provided within the curtilage of the site and thereafter all of those spaces kept available for such purposes.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

- 5 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drg no. 5362 Location plan, existing and proposed floor and elevations plan
Supporting information dated 24 May 2018

Reason: - To ensure provision of a satisfactory development.