

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/17/02324	Your Ref:	APP/16/00875
EH Case Officer Extn:	44 6677	Date:	05 January 2018
DC Case Officer:	David Eaves		
DC Case Officer Extn:	44 6549		
Application Number:	APP/16/00875		
Site Address:	KFC Drive Thru, Larchwood Avenue, Havant		
Proposed Development:	The erection of a drive-thru restaurant (Use Class A3/A5), car parking, access, servicing, landscaping, engineering works and ancillary works (approved 17/02/2017). Request to Discharge Conditions 2, 4, 5, 6, 10, 14, 15 and 20 (10.04.2017). Request to Discharge Condition 7 (10.11.2017).		

Observations / Comments:

I have reviewed the Terra Firma Statement Letter (Scope of works / role) dated 12/12/2017 and Classification of excess soil report dated 31/07/2017.

The report covers Waste Acceptance Classification (WAC) tests only, providing only summary information. Neither 'full-form' WAC results, nor asbestos screening results have been provided, nor has the asbestos screening method been described.

It is noted that the waste characterisation presented in the WAC result summary does not reflect the level of hazard indicated by the Site Investigation. The apparent absence of any further visual inspection / screening would mean that all excavated material removed from site would have carried a "non-hazardous soil & stones" description irrespective of it's apparent condition (e.g. visible ACM fragments).

No legible copies of waste tickets have been provided, to demonstrate variation from the stated descriptions, or confirm destination. Direct transfer to a non-landfill site for placement is theoretically possible. and it is theoretically possible that the material could be used inappropriately - e.g. as near surface sub-soil in a private residential garden are of a local development site.

Conclusions

By virtue of the space created for the imported topsoil, and in line with my previous comments that the imported soil is on balance likely to be suitable for use in soft landscaping areas at a commercial site - it is considered that the marginal risks to this specific development have been mitigated to the minimum degree required by condition 7. This is for the specific reasoning that exposure pathways associated with direct contact, and inhalation of soil particles mobilised from at-surface soils of soft landscaping areas have been broken by the introduction of an adequate

thickness of clean soils, and through hard-ground cover associated with the construction of the consented scheme.

It cannot be said however that the risk mitigation work undertaken has resulted in site betterment, and I would for this reason like to caveat this response in the interests of consistency of decision-making for any future applications.

As has been previously highlighted, soil was selected for removal based upon proposed future landuse, and not the character of the material (its degree of contamination). The Terra Firma Classification of excess soil report focussed solely on classification of soils in areas already identified as requiring removal, and did not seek to characterise the volume of material that required removal due to its state of contamination. Contaminated soils must therefore be regarded to remain present at the site. The logic for this is broadly that;

- i) the site investigation report identified that contaminated soil was present, and
- ii) the Terra Firma report indicates that material removed from the site was not classified as being contamination impacted. In particular, it is stated that asbestos was absent from soils removed, and;
- iii) no waste ticket has been provided to indicate removal from site of any quantity of asbestos containing waste, therefore;
- iv) asbestos contaminated soils must still be present at the site.

The site cannot be regarded as being 'remediated', and it is likely that the state of contamination will need to be re-assessed upon any further development (Commercial or Residential scheme).

Notwithstanding the above (idealized) reasoning, it is noted that no evidence has been presented to indicate that a watching brief was observed (inspection of excavations or soil loads), or that any ACM picking was undertaken.

It is also acknowledged that WAC testing represents only a limited sample from a large volume of soil (relative to sample volume), and further, that samples were taken by non-technical staff (leaving significant room for sample selection error, and issues to arise with storage and transport conditions [which could affect analysis for hydrocarbons]). Samples taken could therefore have been unrepresentative of the bulk material removed. Coupled with the lack of inspection / oversight during removal, potential is created for soils described as 'clean' to in fact be contamination impacted.

In this way, the waste permitting process does leave room for diversion of wastes with a 'soil and stones' description to be diverted and deposited at inappropriate locations / for inappropriate use (e.g. a local development, for use in garden areas). HBC is entirely reliant upon the NPPF assumption that the waste permitting process has been effective in order to discharge its minimum duty to ensure appropriate treatment of contaminated soils. The applicant has not provided robust information in this regard.

Whilst the management of the contamination issue has been poor at this site, there is little benefit in refusing to discharge condition 7 given that the site is now trading (in technical breach). The above interpretation is largely given to make clear how the Council currently views the site, and will treat this issue in future. It is recommended that c.7 be discharged.

Mr. Jonathan Driver
Environmental Control Officer