

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/17/02092	Your Ref:	APP/17/01042
EH Case Officer Extn:	44 6677	Date:	08 November 2017
DC Case Officer:	Lewis Oliver		
DC Case Officer Extn:	44 6263		
Application Number:	APP/17/01042		
Site Address:	Main Building, Northney Marina, Hayling Island		
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. [& Noise]		

Observations / Comments:

These proposals have previously subject to informal consultation with Environmental Health broadly under the Environmental Information Regulations, as regards contamination & noise - as an initial screen of relevant matters, and under a contamination assessment scoping opinion (N.B not having the same meaning as under the EIA Regulations).

It is not clear that the advice provided was for the benefit of the current applicant, but at least one of the requesters has been engaged by the current applicant, and I note that no reference has been made to the advice given. As might be expected, this means that the applicant has not responded to that advice - indeed, page 2 of the Luken Beck application cover letter makes a statement in respect of contamination which is directly contrary to the advice provided, without providing any basis for the certainty of the statement.

For your information, the advice provided to Peter Brett Associates on 26-04-17 included the following text:

"...Contamination is however within scope of a PN application under Class O. I am aware that the site is both reclaimed land, and a working Marina – both of which represent contamination risk factors. The planning history for the site extends back to at least the early '60's, with over 80 related applications (obviously, for the wider marina site). Multiple phases of tipping / reclamation have been undertaken, and several applications relate to, or anecdotally refer to potentially contaminative Marina uses (maintenance / repair workshops, lubrication (engine & drivetrain) bays, refuelling bays, fuel storage).

If the PN application relates to conversion of ground floor office accommodation, or includes any significant communal amenity land (soft landscaping or play areas) or any private gardens; Environmental Health may require a proportionate investigation of soil quality to confirm that the land does not pose a risk to future occupants. It might be sufficient to undertake a desk based assessment (only) and incorporate some precautionary mitigation provisions within the build, or it may be necessary to undertake

a limited intrusive investigation to characterise the level of risk. This would largely depend on the location of the building relative to any previous or current landuses that may act represent a source of local contamination. "

It was subsequently related to OMNIA Consulting that Planning Ref's: 61/13076, 67/13076, and 71/13076 refer to pre-Control of Pollution Act 1974 tipping / landfill activity (where landfill controls would have been limited / ad-hoc). 75/13076 could similarly have been implemented prior to the Control of Pollution (Licensing of Waste Disposal) Regulations 1976 which implemented the controls under the 1974 Act (i.e. thereby representing an elevated risk compared with activity post-dating 1976, or 1994 whereupon the controls were further tightened under the Environmental Protection Act 1990). Reference to British Geological Society data shows that the area of filled / made / reclaimed ground underlies the rotunda building.

Planning ref's. 65/13076/XXX(1), 65/13076/XXX(2), 69/13076 all refer to potentially contaminating land uses at the marina. The precise location of such activities, and their association with the rotunda building is unclear. Environmental Health did not review the contents of the extensive planning archive relating to this site in detail, the onus being upon the applicant to demonstrate that these risk factors do not materially affect the proposals.

It is considered that the applicant has not addressed contamination as a risk factor for these proposals as required by O.2b), either by way of assessment, or by way of a scheme of precautionary mitigation. I cannot confirm whether the site (being environmentally sensitive) could not be described as contaminated land in it's current usage - though;

- Due to the large averaging area as a statistical source term, and dilution factors within the harbour as a receptor, this is not considered likely (it remains theoretically possible).
- Similarly, the commercial usage is of lower sensitivity as regards human exposure, and is less likely to be determinable as contaminated land than would a residential use, though assuming a source is present on site, it is qualitatively more likely to be determinable on the basis of commercial landuse scenario human exposure than on environmental grounds.

The change of use to sensitive residential at ground floor level is material irrespective of the intent to undertake groundworks. It is also unclear what the scope of ancillary external works might be - the Peter Brett Associates report introduces some ambiguity in this regard, and it is considered that some change-of-use related works may increase risks for outdoor exposure pathways.

There are known circumstantial & evidential contamination risk factors at this site, and the applicants assertion that the site is not contaminated is not justified by any assessment made available to the Council, and thus cannot be accepted. There is a possibility, due to the increase in receptor sensitivity that is associated with implementation of these proposals, that the site could be determinable as a direct result of the development. On this basis it is potentially the duty of the Local Planning Authority to refuse the application.

Given the quantum of development, and that the location is likely to attract a premium in terms of attainable values; I am reasonably comfortable in concluding that use of a *Grampian* condition to secure a scheme of assessment & mitigation, or precautionary mitigation (particularly the latter) would be unlikely to stray into *Wednesbury Unreasonableness*. On this basis, I would be reasonably content if you were minded to grant consent for this to be done subject to a comprehensive suite of conditions requiring a scheme of assessment &/or mitigation to be approved prior to commencement, and for verification of implementation to be required prior to first occupation.

Flood Risk & SuDS

There is no need for me to comment on flood risk, I note the Environment Agency has reviewed the submitted report and has commented accordingly.

It is worth noting that the Peter Brett Flood Risk Assessment outlines anticipated geology, but at 2.4.1 fails to identify that recorded geological succession includes artificial geology directly underlying rotunda building.

2.4.2 indicates freely draining acid loamy soils - the basis for this conclusion must be a high level assessment that has insufficient resolution to ID local conditions at this site, and it is unlikely to be safe to assume this to apply to this site, given the recorded geological succession (made ground deposits)

I also note that 7.1.4 contains conflicting statements - indicating that the proposals will *"not result in a change to impermeable areas"*, and that *"with the proposed external area, there is not less hard surfaced impermeable area..."*, and indicating that the volume of surface water runoff will be reduced. I assume that the former statement refers to the roof area, and the latter to landscaping. The latter is a potential risk factor with regards to contamination, in terms of increased percolation and mobilisation of contamination (if present) within the unsaturated zone above tidal range, and in terms of removal of barriers to exposure.

I note that the SuDS propose continuation of existing arrangements - no new infiltration drainage proposed (again, a contamination risk factor), and no high risk activity / landuse from a pollution perspective. No adverse comments as regards drainage / SuDS.

Transport Technical Note

Notwithstanding that the initial commercial trip rate estimate would appear to be (qualitatively) a little on 'the high side', I agree in principle the reasons for exclusion of some survey locations from the TRICS database (for the reasons stated), and can similarly broadly agree the assessment conclusions that a net reduction of trips to the site is likely. I would not normally expect a development of this scale to have a demonstrably significant adverse transport impact in any event, and the submitted assessment confirms this generic assessment. No adverse impact on transport impact (air quality) grounds.

Mr. Jonathan Driver
Environmental Control Officer