

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/17/00039	Your Ref:	APP/16/01303
EH Case Officer Extn:	44 6677	Date:	24 January 2017
DC Case Officer:	Lewis Oliver		
DC Case Officer Extn:	44 6263		
Application Number:	APP/16/01303		
Site Address:	41 Creek Road, Hayling Island, PO11 9QZ		
Proposed Development:	Prior notification for change of use of ground floor from a retail use (class A1/A2) or a mixed retail and residential use to C3 residential use and for associated operational development.		

Observations / Comments:

I have reviewed the information attached to the above referenced case. I note the subject building to be likely to have been constructed during the approximate period of 1932-1938, on greenfield land, likely as a dwelling. Dwellinghouses are not zero risk, but the risk factors are very unpredictable, and are essentially occupant (behaviour) dependent. Due to this uncertainty, previous residential use is usually regarded as being low (acceptable) risk, until there is some evidence to suggest otherwise.

Externally to the subject plot, I note that a service and repair garage is located at numbers 33-35, just South of number 42. This building appears to have been built between 1962 & 1969; potentially representing a redevelopment of a plot (at number 33) formerly occupied by a dwelling contemporaneous with number 42.

The garage is marked in 1969 & 1982 mapping, and is shown with a layout indicative of both retail fuel sales & vehicle service & repair. It is unclear when retail sale of fuel ceased at the site, but I am not aware of an authorisation being in place for this premises. Waste oil, solvents, automotive fluids, and a variety of fuel types are likely to have been stored, handled, and sold from this site. Underground tanks may remain on site, as may brick built oil interceptor units (which can represent a localised source of contamination).

The geology in this area is made up of a thin mantle of undifferentiated river terrace deposits (silty/sandy, variable permeability) over wittering sand (sandy, permeable). Matrix migration of contamination is possible; with unpredictable directionality (likely to be tidally influenced, but also affected by variations in density / porosity of underlying deposits). Preferential migration along service duct bedding material is also a very plausible migration route. It is possible that some extant contamination exists undetected at the current commercial site.

Environmental Health has no specific records of tank locations at the former filling station - at this stage I have not researched the planning archive to identify probable locations. Tanks are however likely to be located within 40m of the proposed dwelling (11-35m from southern wall),

and migration over this distance is considered to be plausible within the underlying soils, or along service ducts. There is therefore a theoretical contamination risk, and the development is considered to be contamination sensitive - albeit not representing the most sensitive form of residential development.

I am unclear on the nature of the proposals, with discord between the description given on the application form and the notation on the block / site plan. The application form refers to 'retail storage accommodation', implies that the traffic associated with the 'current use of retail' (generating... traffic throughout the day) is the baseline traffic generation for the site, to which the 'proposed change of use at first floor level' will not significantly add.

Google Streetview confirms retail accommodation at ground floor, and so references to retail storage, first floor conversion, and retail traffic would appear consistent within the description. The plans however state clearly identify space for conversion as retail space, and that conversion is proposed at ground floor.

From a contamination perspective, this is important as vapour intrusion pathways (probably the only important mode of exposure for a conversion at this site) are negated by the air volume separating soils & the internal air space of the dwelling.

Ground floor conversion is considered to represent a potential risk to the occupant, and mitigation (probably, but not necessarily, in the form of a scheme of precautionary vapour protection) is likely to be required. A limited site investigation may be appropriate to confirm that the site is not being adversely affected by a source of contamination outside its curtilage. As the contaminants involved are volatile (in terms of likelihood of vapour loss from samples) & LNAPL (likely to be migrating on shallow groundwater, where water table samples may be necessary), it is unlikely to be acceptable for the applicant to undertake representative sampling on a 'DIY' basis.

It is acknowledged that the applicant is only responsible for ensuring that the development is 'safe & suitable for use' and is not therefore responsible for contamination external to the site. Liability for contamination that may have reached the subject site will rest with the site owner, and it is important to consider quantifying the associated risks.

I consider that prior approval is required for contamination (M.2(1)b), and that the applicant has provided insufficient information to determine the suitability of the proposals. I have no 'in principle' objection to the proposals, so whilst refusal could be justified on these grounds, this would not necessarily be my recommendation.

As with standard applications, it could be appropriate to permit subject to prior commencement conditions. This approach would require support of Development Control conditions monitoring & enforcement team. In accordance with the NPPF, consent should not be granted to developments that upon completion could qualify as statutorily contaminated land (statutory resolutions not available for recent consents). Smaller sites that are contamination impacted are more likely to meet the definition of contaminated land as the averaging areas are small.

I am only able to support the permitting of this development subject to the following conditions overleaf.

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] and DM17 of the Havant Borough Local Plan (Allocations) [2014], Contamination may be present at the site as a result of adjacent landuses &/or activities that could pose a 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] and DM17 of the Havant Borough Local Plan (Allocations) [2014], Contamination may be present at the site as a result of adjacent landuses &/or activities that could pose a risk to future residential occupants.*

Mr. Jonathan Driver
Environmental Control Officer