

HAVANT BOROUGH COUNCIL

Town & Country Planning Act 1990

Consultation on Planning Application

MEMORANDUM

From:	Environmental Health	To:	Development Control
Our Ref:	CONS/21/02987	Your Ref:	APP/21/00866
EH Case Officer Extn:	44 6677	Date:	21 September 2021
DC Case Officer:	Selina Donophy		
DC Case Officer Extn:	6698		
Application Number:	APP/21/00866		
Site Address:	7 Northlea, Prince George Street, Havant, PO9 1FR		
Proposed Development:	Prior Approval for development consisting of a change of use of a building from Class E (commercial, business and service) to 2No.1 bed flats (Class C3).		

Observations / Comments:

Notwithstanding the qualified objections of others; the context of this development is essentially identical to the related prior application (APP/18/00787, 40 North St.). As such the advice is the same as that given previously, for the same reasons. Reproduced below for ease of reference (blue text).

It is recommended that the informative (blue text, italics) be placed on any decision notice that the Development Management service is minded to grant/recommend in respect of this notification. The purpose of this is to ensure that the developer is aware that liability rests with the developer for contaminants which ought to have been identified during the development, where these contaminants subsequently prove capable of causing significant harm to future occupants. Given the form of development, this applies in particular to contaminants identifiable by olfactory means (by odour; solvents, fuels etc.) which may impact indoor air quality.

I am not recommending a proactive investigation of soil conditions for the following reasons;

- the proposals involve modification of the building, and not a substantial or wholesale replacement, and;
- there is no specific known / expected potentially contaminating feature within the development redline or it's immediate vicinity (e.g. a specific storage tank or potentially contaminating business use).

[Previous Comments, '] The building has a long history of commercial use spanning a period probably exceeding 120 years. No specific information is provided as to the nature of that prior use, nor the prior use of buildings or land in the immediate vicinity, which may affect land quality at the plot of 40 North Street. No information is presented to qualify the statement given at 4.5 in depth (i.e. beyond last known, or recent uses - or to describe the nature of the structure or proposed construction relative to exposure pathways, in the event that contamination were to be assumed to be present. No factual information is provided to facilitate the Council in drawing a conclusion in respect of contamination risk, and so it could be argued that the application documents are contrary to NPPF paragraph 178 c) [* para 183 NPPF 2021].

I do however note the comments from Environmental Health for a similar development site at East St., Havant. That consultation acknowledged both the possibility of materially

contaminating landuses in buildings of this type & scale, and the likelihood of retail use at prominent locations such as this town centre corner plot. Whilst it may be reasonable to conclude that retail uses are generally very low risk, it must also be recognised that below ground fuel storage for retail sale has been identified at similar Havant Town Centre 'terraced-glazed shopfront' type properties (South St.), and with this in mind I am a little wary of the proximity of this site to the former permanent agricultural Markets where there may well have been a market for fuel (petroleum or kerosene), or other potentially contaminating preparations (for precautionary treatment of pests for example).

In the East Street case, Environmental Health acknowledged that residual uncertainty remained as regards the commercial history of the site, but equally recognised that there was no specific reason to suspect that significant contamination was likely to be present.

In its conclusions, Environmental Health was reliant upon para 179 of the NPPF [* para 184 NPPF 2021], in recommending an informative to make clear that the developer would retain liability for any active pollutant linkages which remain following completion of development, where the developer might reasonably have known or suspected that contamination might affect future occupants (this would form a key consideration in the event that a need arises to consider the site under the Council's Part 2A duties (EPA 1990) in future - e.g in response to a complaint from a resident about ill health or visual / olfactory evidence of contaminants).

In interests of consistency, it is considered that the adopt same approach should be adopted for this development. Suggested wording is reproduced below:

"It is the responsibility of the developer to ensure that upon completion, the development is safe & suitable for its intended future use. There remains uncertainty with respect to the commercial history of this site, and it is possible that former activities could represent potentially contaminating landuses. Contamination may become apparent during the course of development, for example during the installation of new below ground services, or when accessing enclosed service ducts, cavities or voids. In the event that any discoloured soils or groundwater, oily sheens, fuel or solvent odours, or deposits / inclusions comprising fibrous or other obvious waste materials be encountered during works, construction should cease in that area of the site until an appropriate assessment of the nature and extent of the suspected contamination has been undertaken. Building Control should be notified immediately in the event that visual or olfactory evidence of suspected contamination is identified. Environmental Health should be notified of the nature of the contamination, and how that contamination is to be dealt with"

[‘ previous comments end]

Mr. Jonathan Driver
Environmental Control Officer