

Stephen,

I understand – given the nature of the initial application, it would have been easy for us to have missed the opportunity to comment – I'm now viewing all EH consultations to try to avoid these slipping through the net. I've responded to a few in Emsworth centre this week (with similar recommendations). This one is arguably the greatest risk, owing largely to the specific identification of marine engineering uses adjacent, and unspecified 'production' on site.

Fortunately, the proposals are very low risk, and any significant contamination would be expected to be obvious, by odour / staining / encountering free product. I acknowledge that for this application, justification is difficult in the absence of a tightening of regulation since the original consent (there hasn't been any - arguably standards have been relaxed, though this only applies where sampling data is available). There wasn't sufficient concern to require any physical confirmation of risk levels (in the absence of an indication of the presence of physical contamination); the proposed condition was intended to formalise the general duty upon the applicant that the development should be safe & suitable for use.

I would be comfortable in this instance with the omission of the condition if a suitable informative can be added. However, I would not support routinely taking this more informal approach on other cases where there is a relatively 'low probability of encountering' contamination that could be 'significant if encountered'. My feeling is that that general adoption of this approach is likely to bite us in future.

Please include the informative. I'm sure that you will have your own take on appropriate wording, but in line with wording agreed for dust / working hours / smoke, I'd suggest something along the lines of:

"You are hereby requested to ensure that where soil or groundwater that appears to be impacted by contamination is found to be present during groundworks, no further development be undertaken until an appropriate assessment has been undertaken, and a report detailing how that contamination is to be dealt with has been agreed with the Local Planning Authority. The works outlined in the agreed report shall be adhered to. (*e.g. stained or discoloured soils or groundwater – black, blue, green or red/purple in particular, occurrence of unexplained oil sheens within excavations, solvent or oil odours, or the occurrence of skin irritation or other acute symptoms) This is to ensure that future employees & customers are protected from unacceptable exposure to chemical contaminants that could be present as a result of historic landuses both on & adjacent to the application site; to protect the fabric of the building, address the site owners potential environmental liabilities, and protect the commercial value of the property."*

The critical elements are obviously the 'if encountered', 'notify the LPA', 'assess the severity & agree a way forward' and 'do what was agreed' – I'm happy for you to amend the 'reason for the informative' / 'what might be encountered' elements (etc.) as appropriate, as long as the key elements are retained.

Best Regards,

Jon

Jonathan Driver
Environmental Control Officer