

Adur & Worthing Councils
Planning team
Portland House
Richmond Road
Worthing
West Sussex
BN11 1LF

Our ref: HA/2025/126876/02
Your ref: AWDM/0738/25
Date: 22 September 2025

Dear Planning team (FAO: Stephen Cantwell),

OUTLINE APPLICATION FOR THE DEMOLITION OF THE EXISTING BUILDING AND THE ERECTION OF A ONE TO NINE-STOREY BLOCK OF RESIDENTIAL APARTMENTS, A COMMERCIAL UNIT (CLASS E), WITH ASSOCIATED CYCLE PARKING AND CAR PARKING.

39 - 41 BRIGHTON ROAD, SHOREHAM-BY-SEA, WEST SUSSEX, BN43 6RE.

Thank you for consulting the Environment Agency on the above application following the submission of a revised Flood Risk Assessment.

We have reviewed the information as submitted and set out our position and comments below.

Environment Agency position

We are satisfied that our previous objection (as per our letter dated 9 July 2025) can be removed, provided that the following conditions be attached to any planning permission granted, and that the details in relation to these conditions be submitted and approved by the Local Planning Authority.

Condition 1 – Flood risk

The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) (ref 70118838 Revision 1, September 2025) and the following mitigation measures it details:

- **Finished floor levels of residential accommodation shall be set no lower than 8.00 metres above Ordnance Datum (AOD) (section 6.2.3 of the FRA).**
- **Flood resistance and resilience measures outlined in section 6.3 of the FRA shall be fully implemented.**

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The

measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

To reduce the risk of flooding to the proposed development and future occupants.

The condition is in line with the Planning Practice Guidance (PPG) to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change.

Condition 2 – Remediation strategy

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

- 1. A preliminary risk assessment which has identified:**
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
- 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite. This should include areas to be demolished.**
- 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.**
- 4. 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 in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.**

Any changes to these components require the written consent of the local planning authority.

The scheme shall be implemented as approved.

Reasons for condition 2

We note that currently submitted Preliminary Risk Assessment fulfils part 1 of the above condition. The previous use of the proposed development site as industrial usage presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a Principal aquifer and neighbouring to the River Adur.

The submitted 'Preliminary Risk Assessment' (by WSP, dated May 2025, report no:

70228838-PRA-Rev.01) demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 196 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 187 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Condition 3 - Verification report

Prior to any part of the permitted development being occupied or brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation 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 to demonstrate that the site remediation criteria have been met.

Reasons for condition 3

To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 187 of the National Planning Policy Framework.

Condition 4 - Previously unidentified contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reasons for condition 4

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 187 of the National Planning Policy Framework.

Condition 5 - SuDS infiltration of surface water into ground

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any

proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons for condition 4

The previous use of the proposed development site as industrial usage presents a high risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). This could pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a Principal aquifer and neighbouring to the River Adur. In light of the above, we do not believe that the use of infiltration SuDS is appropriate in this location. We therefore request that the following planning condition is included as part of any permission granted. Without this condition we would object to the proposal in line with paragraph 187 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Please notify us immediately if you are unable to apply our suggested conditions to allow further consideration and advice.

Advice to the Local Planning Authority

Flood warning and emergency response

Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. We therefore do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out this type of role /responsibility during a flood.

Planning practice guidance (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise Local Planning Authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 181 (inc. footnote 63) of the NPPF and the guiding principles of the PPG.

We have considered the findings of the flood risk assessment in relation to the likely duration, depths, velocities and flood hazard rating against the design flood for the proposal. We agree that this indicates that there will be a danger to most people (e.g. there will be danger of loss of life for the general public).

This does not mean we consider that the access is safe, or the proposal is acceptable in

this regard. We remind you to consult with your emergency planners and the emergency services to confirm the adequacy of the evacuations.

Sequential test

What is the sequential test and does it apply to this application?

In accordance with the NPPF (paragraphs 175-177 (inc. footnote 62)), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test and:
 - the proposed development is consistent with the use for which the site was allocated; and
 - there have been no significant changes to the known level of flood risk to the site, now or in the future, which would have affected the outcome of the test
- Developments where no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the Local Planning Authority, to determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability. You may also ask the applicant to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Further guidance on the area of search can be found in paragraphs 027-030 of the planning practice guidance [here](#).

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also

won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance [here](#).

Advice to the Applicant

Floodline

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit [Sign up for flood warnings - GOV.UK](#). Our flood warning service is a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up. Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

For practical advice on preparing for a flood, visit [Prepare for flooding: Protect yourself from future flooding - GOV.UK](#).

To get help during a flood, visit [What to do before or during a flood - GOV.UK](#).

For advice on what do after a flood, visit [What to do after a flood - GOV.UK](#).

Waste on-site

The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works is waste or has ceased to be waste. Under the Code of Practice:

- Excavated materials that are recovered via a treatment operation can be reused on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution.
- Treated materials can be transferred between sites as part of a hub and cluster project.
- Some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays (03708 506 506 (Monday to Friday 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk).

We recommend that developers should refer to:

- The [position statement](#) on the Definition of Waste: Development Industry Code of Practice.
- The [waste management](#) page on GOV.UK.

Waste to be taken off-site

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays (03708 506 506 (Monday to Friday 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk).

If you receive (or reject) any hazardous waste, you must send a report to the Environment Agency. These are known as 'returns'. If you dispose of hazardous waste at the premises where it's produced you may also need to send returns. You should follow the guidance provided here: [Hazardous waste: consignee returns guidance](#).

If you have any queries regarding the above information, please do not hesitate to contact the advisor identified below.

Yours faithfully,

Environment Agency – Solent & South Downs

Sustainable Places Advisor: Anna Rabone

Direct dial: 02077 140525

Direct e-mail: anna.rabone@environment-agency.gov.uk