

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

**Our ref:** HA/2025/126876/01  
**Your ref:** AWDM/0738/25  
**Date:** 09 July 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.

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

**Environment Agency position**

In the absence of an acceptable Flood Risk Assessment (FRA) we **object** to this application. The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, **the FRA fails to include details on proposed flood resistance and resilience measures and to what level they will be provided to.**

**Overcoming our objection**

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. The applicant should provide more detail on what flood resistance and resilience measures are proposed and to what level (mAOD) they are providing them to.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we will respond within 21 days of receiving it.

## **Advice to the Local Planning Authority and Applicant**

Please note that once our objection is overcome, we will be recommending that the following planning conditions are included in any permission granted as well as any flood risk related conditions:

### **Condition 1 – 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 off-site. 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 1**

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 2 - 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 2

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 3 - 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 3

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 4 - 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.

#### Advice to the Applicant

##### 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](mailto: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](mailto: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](mailto:anna.rabone@environment-agency.gov.uk)