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Development Control Team
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08 April 2024

Dear Sirs

144 ALBION STREET SOUTHWICK WEST SUSSEX BN42 4AU
AWDM/0099/23

This letter is submitted with regard to the application for approval of condition 3 of the above planning application. The condition seeks to ensure that there is either no contamination on the site, or that there is a scheme for removal of contamination if any is present.

This application to clear the condition includes a technical report by Ashdown Site Investigation Ltd.

The Planning Condition, and Timing of Development

The planning condition is in four parts, requiring 1) a risk assessment for site contamination; 2) a site investigation scheme based on the risk assessment; 3) results of the site investigation and a strategy for any remedial measures required, and 4) a verification plan to confirm that remediation has been carried out.

Obviously the remediation strategy and verification plan (from parts 3 and 4 of the condition) are only necessary if contamination has been found.

Officers will note that Condition 3 is a pre-commencement condition, and that development has already commenced through the demolition of the previously *in situ* building. However, this does not prevent condition 3 being determined as per its current wording. This is because the planning permission is still within its three year lifespan (the permission does

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not expire until the end of March 2026). This matter was confirmed in the legal case *Whitley &Sons v. Secretary of State for Wales (1992) 64 P. & C.R. 296; [1992] 3 P.L.R. 72.*

Information to Clear Condition 3

The information required by Condition 3 is set out in the Ashdown Site Investiagation report.

Section 5 of the report contains the preliminary contamination risk assessment and conceptual model, as required under part 1 of the planning condition.

Section 6 of the report details the site investigation scheme required as a result of the risk assessment, and in conformity with part 2 of the planning condition.

Sections 7, 8 and 9 of the report detail the findings of the site investigation scheme. Note that sections 7 and 8 relate to ground conditions for matters such as foundation design, whilst section 9 specifically refers to the findings of the investigation with regard to site contamination. As noted in 9.3.1 of the report:

> *"Following assessment of the laboratory test results, no sources or contamination that warrant further investigation or assessment have been identified."*

Given the report's findings with regard to part 3 of the planning condition, there is no requirement for the provision of a remediation strategy (also part 3 of the planning condition) or for a verification plan of actions under a remediation strategy (part 4 of the planning condition). This is also confirmed in the executive summary for the report, which states:

> *The investigation did not record concentration of petroleum hydrocarbons of volatile organic compounds (VOC) considered to pose an unacceptable risk to end users of the proposed development . No remedial measures of further assessment works are considered to be necessary"*

We therefore trust that the condition can be approved without delay.

Yours faithfully

LCP

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