

Mr Peter Barnett  
Adur District Council  
Development Control  
Portland House Richmond Road  
Worthing  
West Sussex  
BN11 1LF

**Our ref:** HA/2012/112877/03-L01  
**Your ref:** AWDM/0501/12  
**Date:** 27 February 2013

Dear Mr Barnett

**DEMOLITION OF EXISTING WAREHOUSE TO FACILITATE NEW MIXED-USE DEVELOPMENT OF 132 DWELLINGS (USE CLASS C3) (COMPRISING 32 X 1-BED FLATS, 87 X 2-BED FLATS AND 13 X 3-BED FLATS OF WHICH 27% ARE AFFORDABLE UNITS), A 1265SQM FOODSTORE (USE CLASS A1) AND 121SQM OF ANCILLARY COMMERCIAL FLOORSPACE (USE CLASSES A1, A2, A3, A5 AND B1) IN A 5-7 STOREY BUILDING WITH 150 PARKING SPACES PLUS CYCLE SPACES AT BASEMENT LEVEL AND AT THE FRONT OF THE SITE, NEW VEHICULAR ACCESS TO SERVE THE FOODSTORE FROM BRIGHTON ROAD, ACCESS TO RESIDENTIAL UNITS VIA SURRY HARD, IMPROVEMENTS TO THE EXISTING RIVER WALL, PUBLIC HARD AND BOATHOUSE AND NEW LANDSCAPING.**

**79 - 81 BRIGHTON ROAD SHOREHAM-BY-SEA WEST SUSSEX BN43 6RE**

Thank you for the above consultation. The Environment Agency has the following comments to make:

The submitted Flood Risk Assessment (FRA) states that flood depths surrounding the development could be up to 1.2m. Assuming little or no velocity this represents a 'danger for most' in line with table 13.1 of Technical Report FD2320/TR2. During an extreme flood event, there will be no safe access/egress from the development.

We therefore wish to highlight to the Local Planning Authority (LPA) the importance of an adequate Flood Response Plan and the proposed resistance/resilience measures that form part of the overall strategy for managing flood risk on the site.

The LPA may wish to additionally make these issues conditional of any planning permission granted, but we will not be in a position to discharge any such planning condition as these issues are considered to lie outside of our remit.

We would also mention that our flood warning information contained within the FRA has been superseded. When compiling any flood plan please ensure this information is up to date.

**If the LPA is not satisfied, taking into account all relevant considerations, that the proposed development can be considered safe without the provision of safe**

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[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)  
Cont/d..

**access and exit then planning permission should be refused.**

We will support the decision of the LPA on flood risk matters and should the LPA be minded to refuse the application on the grounds that the mitigation proposed is not considered satisfactory we would provide our full support at appeal.

### **Environment Agency position**

We have no objection to the proposal as submitted but would however request that the following six planning conditions be attached to any planning permission granted, and that details in relation to these planning conditions (and on which the we would wish to comment) be submitted to and approved in writing by the LPA.

#### **Planning Condition 1 of 6**

**The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) ref: 42285 Issue 3, dated December 2012 and the following mitigation measures detailed within the FRA:**

- 1) Finished floor levels of residential units are set no lower than 5.57m above Ordnance Datum (AOD).**
- 2) A scheme for managing surface water, including arrangements for the storage of surface water during periods when the system may be tide locked.**

**Reason:** To reduce the risk of flooding to the proposed development and future occupants in accordance with the principles of the National Planning Policy Framework (NPPF)

#### **Planning Condition 2 of 6**

**The development hereby permitted shall not be commenced until such time as the following have been submitted to, and approved in writing by, the LPA.**

- 1) Design details of the proposed on site flood defences, including the flood gates. This should include confirmation that the proposed gates are as few in number as possible.**
- 2) A scheme for the maintenance and operation of the on site flood defence measures over the lifetime of the development, with assurances in place that the relevant parties have formal responsibility for these structures.**

**Reason:** To demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere in accordance with the principles of the NPPF.

We have recommended the operation and maintenance of the defences could be dealt with by way of a planning condition, however if it is more appropriate to deal with this via a legal requirement we would also be supportive of this approach.

### Planning Condition 3 of 6

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the LPA), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the LPA:

- 1) A site investigation scheme, based on the completed Phase 1 Geotechnical and Geo-environmental Site Investigation to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 2) The results of the site investigation and detailed risk assessment referred to in (1) 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.
- 3) 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 (2) 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 express written consent of the LPA. The scheme shall be implemented as approved.

**Reason:** To ensure the protection of controlled waters from potential contamination relating to the former activities of the site.

The NPPF paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

### Planning Condition 4 of 6

No occupation of any part of the permitted development shall take place until a verification report demonstrating 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 LPA. 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.

It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

**Reasons:** To ensure that any remediation, if deemed necessary, is satisfactorily

completed for the protection of controlled waters.

The NPPF paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

#### **Planning Condition 5 of 6**

**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 LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA. The remediation strategy shall be implemented as approved.**

**Reasons:** To ensure that any contamination identified during the demolition or construction works is fully characterised and assessed.

The NPPF paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

#### **Planning condition 6 of 6**

**Any piling works should only be carried out in the period between December and June and ideally at low water (when the piling area is clear of the water so that piles are not driven through the water column).**

**Reason:** The River Adur supports a self sustaining and viable run of Sea Trout (*Salmo trutta*) which migrate into the river from June through to late November. The timings of piling works will minimise the occurrence of acoustic deterrence to migratory fish, as well as preventing damage to local estuarine fish species in accordance with the principles of the NPPF.

#### **Planning Informative**

The following consents/licences are separate to the requirement for planning permission

The site incorporates/is bounded by the River Adur, a main river under the jurisdiction of the Environment Agency. Any works whatsoever in, over, or under the channel of this watercourse on its banks or within 15 metres from the landward toe of the tidal wall, would require the prior consent of the Environment Agency under Section 109 of the Water Resources Act 1991 and the Southern Region Byelaws.

## **Advice to applicant**

### **Contamination**

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 are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used 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, we should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for further guidance.

We have reviewed the Phase 1 Geotechnical and Geo-environmental Site Investigation as completed by Eastwood & Partners Consulting Engineers (Report Ref. 34380, dated March 2012). This report uses and updates a previous risk assessment undertaken in 2003. No additional investigations have been undertaken.

The current report summarises the assessment previously undertaken. In section 5.3.6 it states that "Phase-separated product has not been identified and therefore significant risks are not expected to be posed to the River Adur.", the risk assessment must consider other forms of contamination beyond phase separated hydrocarbons.

The underground is noted on the plan titled "Proposed BH Locations and Locations of existing TP's" which is included in the report. This is a topographic survey which indicates the tank approximately half way between TP1 and BH1. It is unknown whether this is a fuel or chemical storage tank, it is also possible that it may relate to the existing surface water drainage system.

We agree with the report's recommendation for additional investigations, the findings of which must be used to inform and update the current conceptual site model and risk assessment.

### **Ecology**

Proposals for ecological enhancements to this frontage with the estuary and within

existing slipway would be expected in any planning submission. Enhancements could be incorporated within any works to the frontage abutting the estuary or existing slipway areas. Such enhancements may provide enhanced habitats for colonisation by inertial species. See developers guide for further information.

The National Planning Policy Framework (NPPF) requires that planning decisions should prevent harm to biodiversity interests and should also seek to enhance and expand biodiversity interests where possible.

The site is in close proximity to the Adur Estuary, a Site of Special Scientific Interest (SSSI), which represents important mudflat and saltmarsh Priority Biodiversity Action Plan (BAP) habitats. The estuary also supports a variety of wading birds, almost all of which feed on invertebrates living in the mudflats exposed at low tide. The SSSI and its associated habitats and species, and the BAP species within the Estuary, must not be detrimentally impacted by the works.

I hope the above comments are satisfactory but if you require any further information please contact me.

Yours sincerely

**Helen Tier**

**Environment Agency  
Sustainable Places East Team Planning Adviser**

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cc CB Richard Ellis