

Recommendation Report for Planning Permission

REF NO:	AB/45/21/PL
LOCATION:	Former Gasholder Station (land opposite Arundel Cemetery) Ford Road Arundel
PROPOSAL:	Remediation works to mitigate potential liabilities associated with ground conditions resulting from the site's historic use as a gasworks. This site is in CIL Zone 1 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal does not include any change of use of the land from the current commercial (open storage) use. The planning application is for remediation works, to mitigate potential liabilities associated with ground conditions resulting from the site's historic use as a gasworks. The works involve the use of mechanical excavation and processing of materials. An Environmental Permit will be deployed at the site under agreement and regulated by the Environment Agency. There will be no permanent installations and all processes will finish on completion of the remediation works. There will be no plant, machinery or commercial processes left on-site following the proposed remediation works.
SITE AREA	0.44 hectares
TOPOGRAPHY	Slopes gently to the South and Arun River
TREES	None of any significance affected.
BOUNDARY TREATMENT	The boundary adjacent to Ford Road consists of a mix of hedgerow, trees and 1.8m high wire fencing.
SITE CHARACTERISTICS	The site comprises a redundant former gas works which has been cleared. No trees have been felled as a result of this clearance. The site slopes gently from Ford Road to the south down to the river Arun and at its most southerly point has a ground level below the Arun river bank.
CHARACTER OF LOCALITY	The site is abutted by the gable of a terrace of housing (California Terrace). To the north east and south are areas of open land which form part of the floodplain of the River Arun which lies beyond. The site is partly in Flood Zones 2 and 3. Arundel Cemetery is opposite on the north-west side of Ford Road. The site fronts Ford Road adjacent to residential properties.

These have a uniform character consisting of 2 storey terraced properties with long rear gardens stretching down the slope towards the Arun. The site overlooks the cemetery in Arundel on the northern side of Ford road.

The area is located close to the A27 and the roundabout on the west side of Arundel around 500m from Arundel Town Centre. The Arun is to the south of the site beyond a public footpath.

RELEVANT SITE HISTORY

AB/88/19/PL	38 No residential apartments (9 No 1-bed units & 29 No. 2-bed units) along with access, off-street parking, amenity space & enhancements to the local footpath network.	ApproveConditionally 04-06-20
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REPRESENTATIONS

Arundel Town Council - No Objection - request everything is done to ensure the mitigation on the effect of the remedial work and further leaking of toxic/hazardous waste into the Arun.

COMMENTS ON REPRESENTATIONS RECEIVED:

None.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection. Concern over impact of the remediation works where there is likely to be a protracted construction phase and it is important to address the issues relating to noise, air quality and other emissions including hours of work by imposition of conditions.

Environment Agency - No Objection subject to imposition of conditions in respect of contamination.

Archaeology Officer - No Objection

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The application includes a Construction Management Plan and a condition is imposed to ensure it is complied with.

POLICY CONTEXT

Designation applicable to site:
Within Built Up Area

Flood Zones 2 & 3

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary

[Arundel Neighbourhood Plan 2014 POLICY1:](#)

The Presumption in Favour of Sustainable Development

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Arundel has a made Neighbourhood Development Plan (ANP) and the relevant policy within it has been taken into account

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties or pollution/contamination levels.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The key Arun Local Plan policy considerations are DDM1 (Aspects of Form and Design Quality), SD SP1 (Sustainable Development), QEDM3 (Contamination) and QE SP1 (Quality of the Environment) of the Arun Local Plan.

Policy AR1 and Policy 1 which set out the Built Up area boundary for Arundel which includes the site and

states applications which accord with the policies in the Neighbourhood Plan will be approved, unless material considerations indicate otherwise.

CONTAMINATION

A gas works on the site dates back to 1841. Within the next century three more gas holders were built, although the first one was demolished at the end of the 19th century and the buildings were expanded. By 1994 only the electricity substation, valve pits, toilet and a concrete base of a tank were remaining with the gas holder in the south having been recently decommissioned. Chemical analysis from the current investigation identified the highest contaminant concentrations to be in the made ground, within the three holder bases in the north part of the site and below the demolished gas processing area. The 'hotspot' to the north east of the former buildings (TP5) contained visible tarry residues, where a wide range of contaminants were detected.

Policy QEDM3 of the Arun Local Plan (Contaminated Land), promotes, and will permit, the use of previously developed land and the remediation of contaminated land to ensure that land is brought back into use, subject to requirements.

The polluting use of the site that has since ceased has left the site in need of substantial remediation. The application is supported by a Site Investigation Report, a Detailed Quantitative Risk Assessment Report and a Remediation and Implementation and Verification Plan. These evidence that the risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development provided the conditions suggested by Environment Agency and Environmental Health are imposed.

The investigations conclude the site features contamination from chemicals relating to the former gas works, trapped gasses and remnants of asbestos. Further detailed site investigation will be required to inform a comprehensive remediation strategy that would include all works necessary to make the site safe to future users and the surrounding environment.

Environmental Health and Environment Agency have no objection subject to imposition of conditions. Subject to the imposition of conditions, the proposal complies with Policy QEDM4 of the Local Plan.

THE MARINE ENVIRONMENT

This application seeks to carry out works adjacent to the river, but not within it and to reduce the amount of contamination adjacent to it. The proposal has been considered against the Marine Plan as a whole but it is clear that the policies outlined within this plan do not conflict with this proposal.

RESIDENTIAL AMENITY

Policy QE SP1 and D DM1 of the Arun Local Plan requires development to not have a significantly negative impact upon residential amenity.

The nearest neighbours with the potential of being affected are the terraced properties to the north-west but the proposal reduces the contamination of the site and have a positive impact on the properties.

It is not considered there will be any adverse residential amenity impacts to neighbouring properties and therefore, the proposal complies with ALP policies D DM1 and QE SP1.

IMPACT ON TREES

There are no trees growing in the development of such value as to be a significant constraint. Off-site trees which may be affected above or below ground have been adequately considered and an off site Oak tree has recently been made the subject of a preservation order.

BIODIVERSITY

Policy ENV DM5 of the Arun Local Plan requires that development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. The Ecology Officer has not responded to the consultation, but the previous application (AB/89/19/PL) included a report which identified site clearance had recently taken place (November 2019), undertaken by the current site owner. This observed both the recommendations of an Extended Phase 1 Ecological Assessment, published in February 2019 and those of the Ecologist who stated that clearance should take place outside of bird nesting season ending on 1st October. The Ecological Appraisal report submitted stated 'without exception, none of the habitats or floral species identified within the site is especially rare or afforded statutory protection, and all are readily replicated. Similarly, none of the habitats are identified as a section 41 Priority Habitat. None is considered to have more than very low intrinsic ecological value and their loss as a result of the development would not be considered likely to result in a significant ecological impact at anything beyond the immediate confines of the site itself ' and went on to conclude that no specific mitigation was assessed to be required in response to impacts on the existing habitats due to the lack of significant floral interest identified and the highly localised significance of any impact that would be generated by their removal. The proposal would result in less contamination at the site which would only improve the potential for wildlife benefits in the future.

SUMMARY

For the reasons above the proposal is considered to be acceptable and is recommended for approval subject to the following conditions

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans and reports:

Location Plan P6100/2410/4986/Fig A1 rev0

Detailed Quantitative Risk Assessment Report

Analytical Report No 11-28269

Site Investigation Report

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 3 As per the National Planning Policy Framework (NPPF) (updated February 2019) air quality should be considered at the design stage and incorporate appropriate and effective mitigation. The applicant must follow the Air Quality & Emissions Mitigation Guidance for Sussex (2013), available at:

<http://www.sussex-air.net/Consultation/AirQualitydocument.pdf>

This countywide adopted guidance states that where a major sized development is proposed a number of checklists

should be followed in order to determine the likely impact of the development on air quality. The intention of the guidance is to identify any air quality impacts through an impact assessment and ensure the integration of appropriate mitigation into a scheme at the design stage, so the damage costs on health can be properly mitigated. The air quality impact assessment can follow the procedures contained within the Institute of Air Quality Management (IAQM) Guidance entitled: 'Land-Use Planning & Development Control: Planning For Air Quality' (January 2017), available at:

<http://www.iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf>

Reason: To protect the amenity of local residents in accordance with Policy QE SP1 of Arun Local Plan.

- 4 Following completion of development a verification report demonstrating completion of the 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.

Reason: To protect the environment and prevent harm to human health by ensuring that the remediated site has been reclaimed in an appropriate standard in accordance with Arun Local Plan policies QE SP1 and QE DM4.

- 5 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. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development does not contribute to, 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 in accordance with policies QE SP1 and QE DM4 of Arun Local Plan and paragraph 170 of the National Planning Policy Framework.

- 6 Development shall proceed in accordance with the submitted Construction Management Plan ref R1820/21/5089 rev 0 dated June 2021 and the plan shall be adhered to throughout the entire restoration period.

Reason: In the interests of the amenities of the area in accordance with policy QE SP1 of the Arun Local Plan.

7 INFORMATIVE:

Requirement for an Environmental permit

The dewatering and remediation works associated with this development will require an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at: <https://www.gov.uk/environmental-permit-check-if-you-need-one>.

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 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 onsite providing they are treated to a standard such that they 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.

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.

If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste

producer. Refer to the hazardous waste pages on GOV.UK for more information.

- 8 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.