

Horsham District Council
Planning team
Park House
North Street
Horsham
West Sussex
RH12 1RL

Our ref: HA/2024/126108/01
Your ref: DC/23/0189
Date: 06 August 2024

Dear Planning team (FAO: Amanda Wilkes),

OUTLINE APPLICATION FOR ERECTION OF A CONTINUING CARE RETIREMENT COMMUNITY OF UP TO 72 UNITS OF ACCOMMODATION (USE CLASS C2) AND UP TO 10 STARTER HOMES (USE CLASS C3) WITH ASSOCIATED COMMUNITY FACILITIES INCLUDING MEDICAL CENTRE AND ON-SITE LAUNDRY AND CATERING FACILITIES, WITH ACCESS, INFRASTRUCTURE, OPEN SPACE, LANDSCAPING AND ASSOCIATED WORKS (ALL MATTERS RESERVED EXCEPT FOR ACCESS).

SANDGATE NURSERY, WEST END LANE, HENFIELD, WEST SUSSEX, BN5 9RD.

Thank you for the 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

We have no objection to the proposal 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.

We note that the proposal includes a groundwater abstraction for human consumption. All groundwater abstractions intended for human consumption or food production purposes have a default Source Protection Zone 1 with a minimum radius of 50 metres applied. This zone is the one which requires the highest level of protection as groundwater is particularly sensitive. As a general rule of thumb, there can be 50 day travel time from any point below the water table to the source. Depending on the geology of the area, this travel time can be much less (such as in chalk).

Condition 1 – Investigation boreholes

Investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the local planning authority.

The development shall be carried out in accordance with the approved details.

Reasons for condition 1

Investigation boreholes using penetrative methods can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Groundwater is particularly sensitive in this location because the proposal includes a groundwater abstraction for human consumption which creates a default Source Protection Zone 1 with a minimum radius of 50 metres.

In light of the above, the proposed development will only be acceptable if a planning condition controlling disturbance of the aquifer is imposed. Without this condition we would object to the proposal in line with paragraph 180 of the National Planning Policy Framework because it cannot be guaranteed that the development will not present unacceptable risks to groundwater resources.

Condition 2 - Decommission of investigative boreholes

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes, shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes, will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reasons for condition 2

The submitted documents indicate that boreholes will need to be installed at the development site to investigate groundwater resources. If these boreholes are not decommissioned correctly, they can provide preferential pathways for contaminant movement which poses a risk to groundwater quality. Groundwater is particularly sensitive in this location because the proposal includes a groundwater abstraction for human consumption which creates a default Source Protection Zone 1 with a minimum radius of 50 metres.

The above condition ensures that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 180 of the National Planning Policy Framework.

Condition 3 – 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.**
 - 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 3

The previous use of the proposed development site as a nursery and neighbouring historic landfill presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposal includes a groundwater abstraction for human consumption which creates a default Source Protection Zone 1 with a minimum radius of 50 metres.

The submitted 'Flood Risk Assessment, Drainage Strategy and Water Neutrality Report' (dated August 2023, by Price & Myers) 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 189 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 180 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.

It is noted that the existing Preliminary Risk Assessment does not include the proposed abstraction to supply the site as a receptor, or the associated borehole as a pathway to the underlying principal aquifer. This should be addressed.

Condition 4 - 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 4

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 180 of the National Planning Policy Framework.

Condition 5 - 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 5

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 180 of the National Planning Policy Framework.

Condition 6 - SuDS Infiltration of surface water into ground in a new SPZ 1

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, such as a hydrogeological risk assessment, and details of the pollution prevention measures to be utilised.

The development shall be carried out in accordance with the approved details.

Reasons for condition 6

The proposed sustainable drainage system (SuDS) poses a pollution risk to controlled waters. Controlled waters are particularly sensitive in this location because the proposal includes a groundwater abstraction for human consumption which creates a default Source Protection Zone 1 with a minimum radius of 50 metres.

The proposed SuDS does not take into account the proposed abstraction and the associated 50 metre Source Protection Zone 1 and should be re-examined taking this into account.

In light of the above, we believe that the use of infiltration SuDS may not be appropriate

in this location. We therefore request that the above planning condition is included as part of any permission granted. Without this condition we would object to the proposal in line with paragraph 180 of the National Planning Policy Framework and Position Statement B3 and G13 of the [‘The Environment Agency’s approach to groundwater protection’](#) 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 Local Planning Authority and Applicant

New abstraction

The development includes an abstraction for human consumption. As previously mentioned, all groundwater abstractions intended for human consumption or food production purposes have a default Source Protection Zone 1 with a minimum radius of 50 metres applied. In some cases depending on the volumes abstracted, a default Source Protection Zone 2 with a minimum radius of 250 metres also applies.

Activities within these source protection zones should not put the abstraction at risk. For more details, we would refer to our groundwater position statements in [‘The Environment Agency’s approach to groundwater protection’](#). Careful consideration should be made of *‘Table 1 . Summary of the position statements that apply to developments and activities in SPZ1’*.

Advice to the Applicant

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 (please contact our National Customer Contact Centre on **03708 506 506** (Monday to Friday 8am to 6pm) or email 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 is produced, you may also need to send returns. You should follow the guidance provided here: [Hazardous waste: consignee returns guidance](#).

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 (please contact our National Customer Contact Centre on **03708 506 506** (Monday to Friday 8am to 6pm) or email 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.

Discharges affecting groundwater – offence under Environmental Permitting Regulations

The Environmental Permitting (England & Wales) Regulations 2016 make it an offence to cause or knowingly permit a groundwater activity unless authorised by an environmental permit issued by the Environment Agency. A groundwater activity includes any discharge that will result in the input of pollutants to groundwater.

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

[Redacted signature block]