

Ein cyf/Our ref: CAS-264943-X0D1
Eich cyf/Your ref: n/a

Ceri Griffiths
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Dyddiad/Date: 25 October 2024

Annwyl Ceri/Dear Ceri,

STATUTORY PRE-APPLICATION CONSULTATION – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES) ORDER 2012 AS AMENDED

BWRIAD/PROPOSAL: The construction of 30 affordable apartments along with associated parking and external areas.

LLEOLIAD/LOCATION: Land formerly known as 21 Kelvedon Street, Newport, NP19 0DW

Thank you for providing a requisite notice to us under Article 2D of the above Order. We received a copy of your proposed application on 24 September 2024.

We have concerns with the application as proposed. However, we are satisfied that these concerns can be overcome by the planning authority attaching the following conditions to any planning permission granted and include the following document in the approved plans and documents condition on the decision notice:

Condition: Protected Sites

Condition: Land Contamination

Document: *Kelvedon Road, Newport – Flood Consequence Assessment by JBA Consulting, dated October 2024, Rev P01, Ref: OCA-JBA-XX-XX-RP-Z-0001-S3-P01-Kelvedon_Road_FCA: Section: 2.5, Table 2-2 ‘Proposed Site Levels’*

Please note, without the inclusion of these conditions and documents by the planning authority we would be likely to object to the planning application.

Flood Risk

The planning application proposes highly vulnerable development (residential). Our Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls into Flood Zone 3 Sea.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

The FCA shows that the risks and consequences could be managed to an acceptable level, provided the submitted FCA is included within the approved plans and documents condition attached to any permission granted as follows:

Kelvedon Road, Newport – Flood Consequence Assessment by JBA Consulting, dated October 2024, Rev P01, Ref: OCA-JBA-XX-XX-RP-Z-0001-S3-P01-Kelvedon_Road_FCA: Section: 2.5, Table 2-2 ‘Proposed Site Levels’.

Technical Advice

The FCA has utilised Version 7 of the Newport Tidal Flood Model from June 2020, which includes the appropriate 100 year lifetime of development and climate change allowance. We confirm that at the time of assessment the best available data has been used.

The submitted FCA states that existing site levels range from 6.57 – 7.04mAOD (a high point of 8.99mAOD associated with rubble tipping on site is also noted).

The maximum predicted flood level during the 0.5% (1 in 200) year event (including climate change allowance) is 7.37mAOD. During the 0.1% (1 in 1000) year event (including climate change allowance), the maximum predicted flood level on site is 8.31mAOD. Therefore the site is at risk of flooding.

In order to mitigate the predicted flood risk on site, the proposal involves the raising of site levels to 8mAOD within the area proposed for residential use and 7.72mAOD within the proposed car parking area.

As a result of the proposed land raising, the FCA states that the entire site will remain flood free during the 0.5% (1 in 200) year event (including climate change allowance). This complies with Section A1.14 of TAN 15. Furthermore, during the 0.1% (1 in 1000) year event (including climate change allowance), the site is predicted to flood to a maximum depth of 310mm for the residential areas and 590mm for the car parking area. These flood levels remain within the tolerable limits set out within A1.15 of TAN15.

The FCA states that, due to the near limitless volume of tidal inundation that would be experienced, the proposed development is unlikely to impact upon flood risk elsewhere. We agree with this statement and consider the development to accord with A1.12 of TAN15.

We note that the FCA provides further access / egress information on the flood risk likely to be experienced along Kelvedon Road to aid evacuation should flooding occur on this site. As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures

accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Protected Sites

The site is located within approximately 200m of the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Due to the potential pollution risk to the protected sites during the construction phase, we would advise that the following condition is attached to any grant of planning consent:

Condition

No development or phase of development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption and wastewater.
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

Further Advice

As the Competent Authority under the Conservation of Habitats and Species Regulations 2017 (as amended), the Local Planning Authority (LPA) must carry out a Test of Likely Significant Effect (TSLE)/Appropriate Assessment (AA) of the implications of this project for the relevant sites in view of those site's conservation objectives.

Ultimately, it is the LPA's responsibility to properly carry out the appropriate assessment. NRW will advise in respect of the implications for the relevant international sites, in terms of the conservation objectives and on the robustness of the assessment and whether this has been properly assessed.

The LPA should demonstrate how NRW's advice below has been considered in carrying out the appropriate assessment and ensure that there is an evidence based and reasoned decision.

Land Contamination

Our records indicate that the site is located within close proximity to commercial and industrial land use which historically have the potential to have contaminated the soil and groundwater at the site. Our records also indicate a historic landfill which has been suspected of taking chemical waste. Based on this information, we would request the following conditions are attached to any grant of planning permission:

Condition

No development, of land known to be / suspected of contamination, shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.

1. A preliminary risk assessment which has identified:
 - i. all previous uses
 - ii. potential contaminants associated with those uses
 - iii. a conceptual model of the site indicating sources, pathways and receptors
 - iv. 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.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

Justification: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

Condition

Prior to the occupation of the development 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 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. It shall also include 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 carried out in accordance with the approved details.

Justification: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition

Prior to the occupation of the development a long term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority. The long term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken
- Timescales for the long term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for x years)
- Timescales for submission of monitoring reports to the LPA e.g. annually
- Details of any necessary contingency and remedial actions and timescales for actions
- Details confirming that the contingency and remedial actions have been carried out.

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Justification: A long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on controlled waters.

Condition

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 unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

Further Advice

These conditions has been recommended as Natural Resources Wales is satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing.

In line with the advice given in Planning Policy Wales we understand that the Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission. Should the LPA decide to obtain the necessary information under condition we would request that this condition is applied.

Other Matters

Please note, if further information is prepared to support an application, it may be necessary for us to change our advice in line with the new information.

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

In addition to planning permission, you are advised to ensure all other permits/consents/licences relevant to the development are secured. Please refer to our [website](#) for further details.

Further advice on the above matters could be provided prior to your planning application being submitted, however there would be a charge for this service. Additional details are available on our [website](#).

Advice for the Developer

Waste

Natural Resources Wales recommends that developers should:

1. Follow the risk management framework provided in [Land contamination risk management \(LCRM\)](#)
2. Refer to '[Land Contamination: a guide for developers](#) (WLGA, 2017) for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Refer to our [groundwater protection](#) advice on www.gov.uk.

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the [CL:AIRE Definition of Waste: Development Industry Code of Practice](#). This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

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, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Eleanor Sullivan

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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi./Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.