

APPLICATION DETAILS

No: 17/0223 **Ward:** ST JULIANS

Type: DISCHARGE CONDITIONS

Expiry Date: 30-JUNE-2017

Applicant: KEEPMOAT

Site: LAND TO SOUTH OF GLAN USK PRIMARY SCHOOL, HERBERT ROAD, NEWPORT

Proposal: PARTIAL DISCHARGE OF CONDITIONS 14 (NOISE ATTENUATION FENCING) AND 24 (BOUNDARY TREATMENTS) OF PLANNING PERMISSION 13/1279 FOR THE DEVELOPMENT OF 251 DWELLINGS AND ASSOCIATED WORKS INCLUDING BOUNDARY TREATMENTS, RETAINING WALLS, VEHICULAR ACCESS, PARKING, PATHWAYS AND LANDSCAPING AFFECTING PUBLIC RIGHT OF WAY 407/1

DECISION: APPROVED

1. CONSULTATIONS

1.1 NETWORK RAIL:

Whilst there is no objection in principle to this proposal, providing the toe of the embankment is not excavated or changed. The site construction road should not be constructed in such a way that it will undermine the existing earthworks, therefore, we request they do not excavate the toe of the embankment in this section.

Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

Fencing

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

Foundations

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

Drainage

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

Ground Disturbance

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

Access Points

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

Excavations / Earthworks

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Signalling

The proposal must not interfere with or obscure any signals that may be in the area.

Landscaping

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

Plant, Scaffolding and Cranes

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement. In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works.

2. INTERNAL COUNCIL ADVICE

2.1 PUBLIC PROTECTION MANAGER (ENVIRONMENTAL HEALTH; NOISE):

I refer to the above application and my comments dated 28th April 2017.

I have now had the opportunity to appraise the Waterman Energy November 2013 report (included in the EIS for the proposed development) and note that proposed mitigation measures included the use of a suitable glazing specification and the provision of acoustically attenuated trickle ventilation for the worst affected facades so as to minimise the need for residents to open windows. No reference to this is made in this application to discharge condition 14 or the façade treatment to certain specified properties in Acoustics & Noise Limited Report No: 1406067R03, 12th August 2014.

In my view the information submitted, namely Retaining wall drawing revision A 7/3/17 and Product data sheet PCD12 (acoustic fencing), **satisfies part of condition 14 only**. If it is the intention for the proposed embankment/retaining wall with acoustic fence lines above to negate the need for façade treatment the developer must demonstrate the effectiveness of these proposals with regard to the source / background levels and relevant standards as provided in the afore mentioned reports.

3. REPRESENTATIONS

3.1 None.

4. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
13/1279	DEVELOPMENT OF 251 DWELLINGS AND ASSOCIATED WORKS INCLUDING BOUNDARY TREATMENTS, RETAINING WALLS, VEHICULAR ACCESS, PARKING, PATHWAYS AND LANDSCAPING AFFECTING PUBLIC RIGHT OF WAY 407/1	GC 11 August 2015
15/1231	NON MATERIAL AMENDMENT TO EARTH EMBANKMENTS TO EASTERN AND WESTERN BOUNDARIES GRANTED PERMISSION UNDER APPLICATION 13/1279.	AC 10 December 2015

5. ASSESSMENT

5.1 The applicant is seeking to partially discharge conditions 14 (noise attenuation) & 24 (boundary treatments) of planning permission 13/1279 for 251 dwellings on land to the south of Glan Usk School. Those conditions read as follows:

Noise Attenuation: Notwithstanding the information submitted pertaining to boundary treatments full details of noise attenuation measures, including acoustic fencing as required to protect the amenity, both internally and externally of Plots 1 – 36, 37 – 41, 101 – 106, 147 – 150 & 151 – 203, 232 – 251 as identified in Drawing sw49 (04) 01J from adjacent noise sources (including railway noise where relevant) shall be submitted prior to the construction of any identified dwelling. Following the LPA's written agreement to the proposed scheme of mitigation the scheme shall be implemented fully as agreed prior to the occupation of any plot identified and retained thereafter.

Reason: in the interests of residential amenity and the effective mitigation of noise.

Boundary Treatments: No work shall be commenced on the construction of any building in the approved scheme in relation to each phase as defined by Condition 7 until full details of all boundary treatments have been submitted to and approved in writing by the local planning authority for that phase. Boundary treatment details in relation to any dwelling or building shall be implemented in accordance with the approved scheme prior to first occupation of that dwelling or building and shall be maintained as such thereafter.

Reason: to ensure adequate security and privacy and that the scheme is completed in a compatible manner to its surroundings.

5.2 The applicant has submitted details of the proposed retaining walls for the site. These are required to hold material in place since the site is to be raised to take it out of the flood plain and to cap contamination on the site. The proposed means of retention are:

- Gabion Basket Retaining Walls varying between 0.3m and 2.5m high
- A 2.5m high earth embankment adjacent to the railway line (Newport to Abergavenny)
- 1.8m high acoustic fences along the railway and along the site boundaries adjacent to land retained in industrial use.

5.3 Network Rail requires the railway estate to be secured and the proposed boundary treatment would achieve this. There is no objection to the proposed form of the earth embankment.

5.4 The Head of Public Protection confirms that the proposed fencing is suitable to protect the amenity of external areas in terms of noise mitigation but notes that further measures will be required to protect the amenity of internal areas in the proposed dwellings such as appropriate fenestration and appropriate means of ventilation which will allow windows to be kept closed as required to mitigate noise. As such condition 14 can only be discharged in part. The appearance of the proposed acoustic fence will be timber posts and rails with vertical close boarding.

- 5.6 The proposed retaining walls generally do not abut any sensitive boundaries and neither their height nor appearance would harm any amenity interest. However a section of gabion walling is proposed adjacent to Morgan Street and Courtney Street and the scale and finish of this wall could potentially impact upon existing residents in those streets. The applicant has confirmed that the gabion fill will be limestone and has provided a photograph of the material which shows it to be an attractive natural grey multi-coloured stone. Sections show the gabion wall in this area will vary between 1.3m and 0.3m high which is not considered to be unduly high and would not have an oppressive impact on users of Morgan Street and Courtney Street. The applicant has confirmed that a balled topped fence 1.2m high will run along the top of this section of gabion walling to prevent people falling off it (considered necessary despite its admittedly low height).

6. OTHER CONSIDERATIONS

6.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

6.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

6.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

6.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

6.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

6.6 *Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

7. CONCLUSION

- 7.1 Conditions 14 (Noise Attenuation) & 24 (Boundary Treatments) of planning permission 13/1279 for 251 dwellings on land to the south of Glan Usk School can be discharged in part.

8. DECISION

APPROVED

NOTE TO APPLICANT

01 This decision relates to the following documents:

- Drawing 1155090 305 – Gabion Basket and Reinforced Earth Bank Extents Plan
- Drawing 1155090 304 C – Gabion Basket Retained Boundary
- Drawing 1155090 303 C - Gabion Basket Retained Boundary
- Drawing 1155090 302 B - Gabion Basket Retained Boundary
- Drawing 1155090 301 A – Reinforced Earth Details (70 Degrees)
- Drawing 1155090 300 A – Reinforced Earth Details (60 Degrees)
- Unnumbered Drawing – Retaining Walls Revision A (07.03.2017)
- Acoustic Fencing PCD12
- Photograph of Proposed Gabion Fill (09.06.2017)
- Information Sheet (Stone facing, limestone)
- Email from Emma Harding 09.06.2017 (14:20) – in relation to 1.2m high ball top fencing.
- Email from Emma Harding 09.06.2017 (16:33) – in relation to the appearance of the acoustic fence

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No policies were relevant to the determination of this application.

03 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

04 Condition 14 (noise attenuation) is partially discharged in relation to acoustic fencing only. Additional information will need to be submitted to show internal noise levels can be appropriately mitigated; further details relating to glazing and ventilation will be required.
