

Delegated Decision Report

Application No:	24/0229	Statutory Period Expires:	23rd August 2024
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Site:	<i>Land To South Of Glan Usk Primary School Herbert Road Newport South Wales</i>		
Proposal:	NON MATERIAL AMENDMENT APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) AND 29 (HARD SURFACES) OF 18/0293 DEVELOPMENT OF 195 NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1. AMENDMENTS INCLUDE ADDITION OF KING POST RETAINING WALL AND ALTERATIONS TO SURFACE FINISHES.		
Applicant:	<i>Equans</i>		
Type:	Non-Material Amendment	Ward:	St Julians
Decision:	Approved & Conditions		

1. BACKGROUND

- 1.1 The applicant is seeking to non-materially vary Permission 18/0293 in relation to materials used for the surfacing of the estate roads and to vary the construction of a retaining wall from gabion baskets to driven posts and retaining planks for a section approximately 45m long.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is located South of Glan Usk Primary School on the Bank House housing development undertaken by Pobl on the east bank of the River Usk north of the railway bridge.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The site was previously derelict post-industrial land which has been redeveloped for housing.

4. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
18/0293	DEVELOPMENT OF 195NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1	GC 03 October 2018
19/0331	NON-MATERIAL AMENDMENT TO PLANNING PERMISSION 18/0293 FOR DEVELOPMENT OF 195NO. RESIDENTIAL UNITS AND ASSOCIATED WORKS FOR CHANGES TO WINDOWS, TO HOUSE TYPES K, L, C & D AND FLOOR LAYOUT CHANGES TO HOUSE TYPE C & D	AC 18 July 2019
19/0808	NON-MATERIAL AMENDMENT TO PLANNING APPLICATION 18/0293 FOR 'DEVELOPMENT OF 195NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1. AMENDMENTS FOR RE-ORIENTATION OF CAR PARKING	AC 19 September 2019

	AREA ASSOCIATED WITH PLOTS 88-99 AND LANDSCAPING AREA TO ACCOMMODATE THE PROW CONSTRUCTED DURING PHASE 1.	
23/0797	NON-MATERIAL AMENDMENT APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) IN RESPECT OF 18/0293 DEVELOPMENT OF 195 NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1. AMENDMENTS INCLUDE CHANGES TO LOCATION OF BIN AND CYCLE STORES AND LANDSCAPING/HIGHWAYS LAYOUT	PA/PR 23 November 2023

5. PLANNING POLICY

5.1 Newport Local Development Plan (2011-2026)

The following Policies of the adopted Newport Local Development Plan 2011-2026 are relevant:

- GP2 – Amenity
- GP4 – Highways & Access
- GP6 - Design

5.4 Supplementary Planning Guidance: None.

6. CONSULTATION RESPONSES

6.1 NCC LANDSCAPING: No comment.

6.2 NCC HIGHWAYS: No objection.

6.3 NCC STRUCTURES: Comments in regard to drainage behind the proposed wall and avoiding inadvertent loading by vehicular access from adjacent highways and advises on construction details in terms of the driven posts.

7. PUBLIC REPRESENTATIONS

None

8. ASSESSMENT

8.1 The applicant is seeking confirmation that certain proposed changes to permission 18/0293 are non-material. Those changes are:

- i. A change to Condition 29 from:
Hard surfaces shall be provided as per drawing 3073 (04) 100 N – Site Layout other than as amended by information provided to discharge other conditions of this permission.
Reason: to ensure the development is completed using appropriate materials.

To

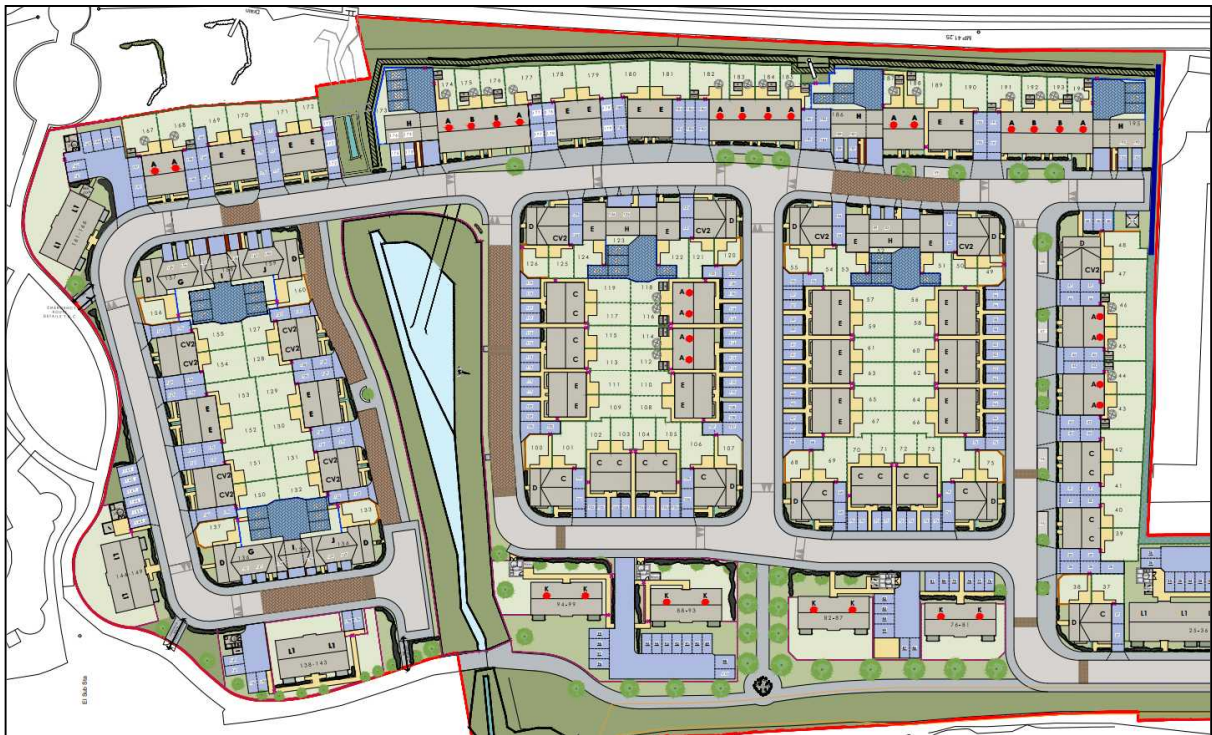
Hard surfaces shall be provided as per drawing 1839 PRL-01 U Production Layout and other than as amended by information provided to discharge other conditions of this permission. Reason: to ensure the development is completed using appropriate materials.

- 8.2 The proposed change would change the reference of the controlling plan in regard to this matter to account for discrepancies in the delivery of the surfaces and their materials. The clause in regard to other conditions related to the parking courts which were shown as being delivered in black top in the controlling plan but this was seen as an unacceptable treatment with alternative details being required. Since the courts have now been built and the alternative materials agreed then this clause is redundant and could be omitted. However its retention is not confusing or unnecessarily onerous to the developer.
- 8.3 The changes in surfacing relate to the disposition of tarmac and paviour blocks on estate roads across the site. The main changes appear to be the greater use of tarmac rather than block paviments with associated granite rumble strips as sensory features used to indicate a change in the road environment and encourage vehicles to move more slowly.
- 8.4 On review it was clear that the applicant would also need to change the approved engineering plan since that reflected the originally approved disposition of materials rather than that now proposed and revised engineering plans have been submitted which are consistent with the production layout. The plan extracts below summarise the changes sought in materials some of which appear to have been derived from the on-going adoption process.

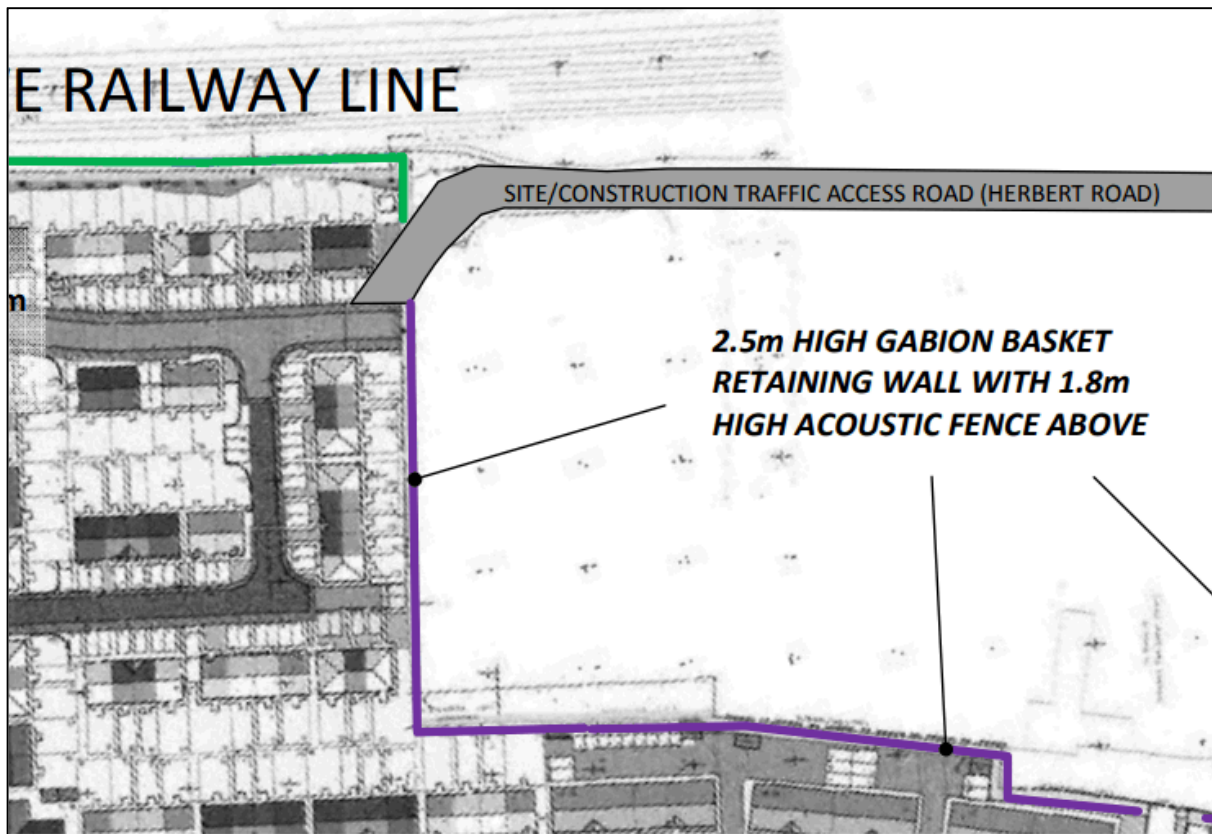
Extract from Drawing 3073 (04) 100 O – Site Layout (18/0273)



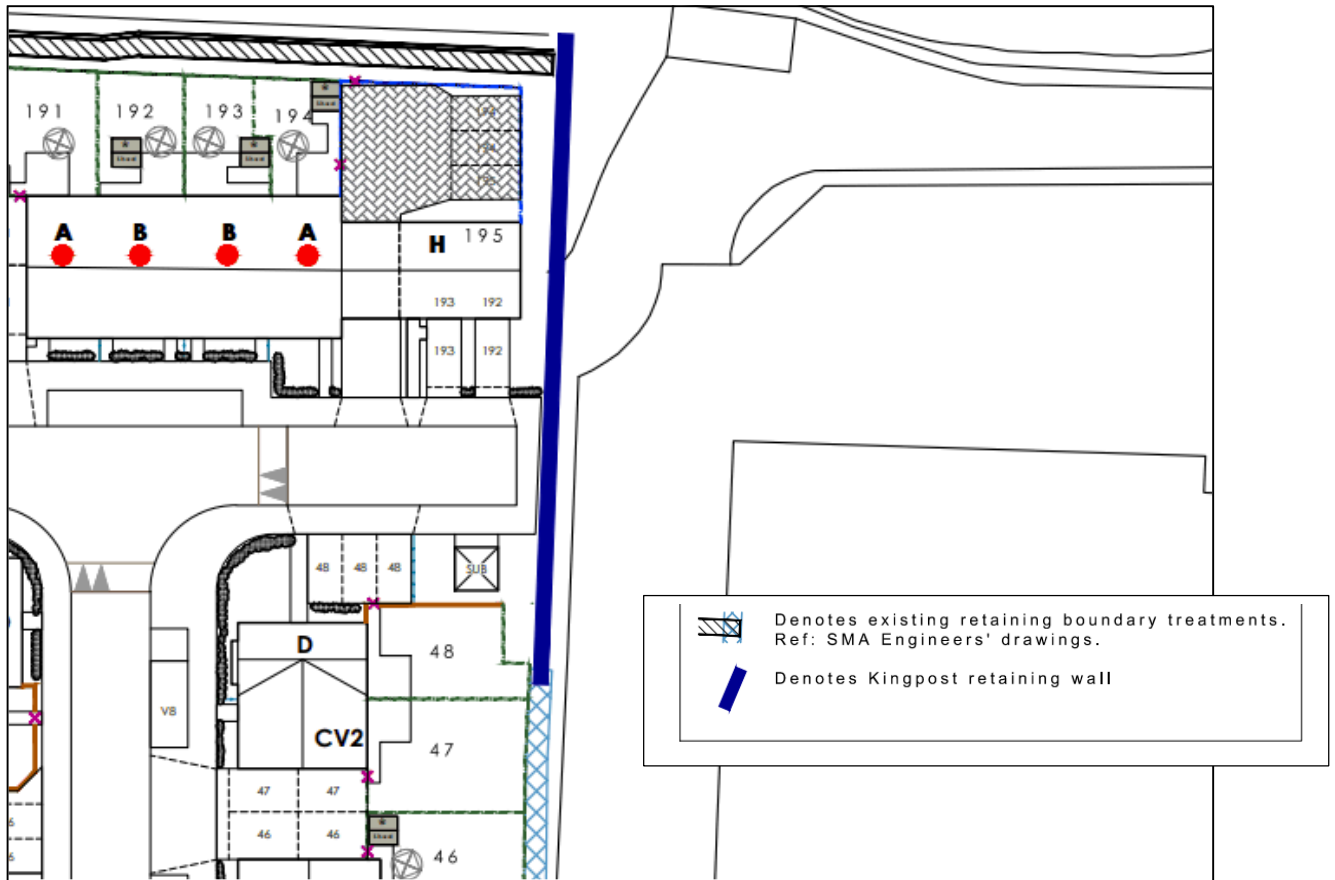
Extract from Drawing 1839 PRL-01 U – Production Layout (this submission)



- ii. The second proposed change is to the approved drawing list (Condition 01), in part to reflect the above change but also to cover off variation in boundary treatments where part of the initially proposed form of retaining wall (gabion basket) has not been installed and has been replaced by a 'Kingpost' retaining wall system instead. This is system of slotted posts and concrete planks that retains earth.



Extract from Drawing 1839 EN-01 R – External Enclosures (this submission)



- 8.5 The relevant tests are set out in Approving Non-material Amendments to an Existing Planning Permission (July 2014) at Paragraph 2.6. They are as follows:
- (a)(i) is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme; and,
 - (a)(ii) would the proposed change result in a detrimental impact either visually or in terms of local amenity?
- or,
- (b) would the interests of any third party or body be disadvantaged in planning terms;
 - (c) would the proposed change conflict with national or development plan policies?

And any other test that is considered appropriate in the context of the application.

Additionally the impact of any other agreed changes should be considered so that creeping incremental changes do not become material in its totality. This requires reference from the start point to the sought end point.

- 8.6 In terms of the surfacing these are changes that have taken place within a traditional street arrangement of running surfaces for vehicles and segregated footways. The materials are not an essential element of a shared surface arrangement where a switch in materials could undermine a shared surface ethos by giving the wrong visual cues to drivers. Consequently, there is no risk to highway safety and the Highways Officer has not objected in any event. In terms of materiality the key changes are visual with areas that were to pavements now not being so and some smaller areas that were to be black top now being paved.

- 8.7 The change in visual impact is not seen as harmful to amenity in any significant way and nor does it undermine speed control or 'driver management' and so is not material in those assessments. Road legibility and road hierarchy is not adversely impacted by the changes and there is no clear offence to policy. As such the changes to the road materials and the means to encourage speed control within the estate are seen as non-material.
- 8.8 The changes to the retaining wall type are visual but are of minimal impact visually and are of non-material effect in that sense. NCC Structures have commented on the application and required details of drainage so that water behind the wall would not be trapped and potentially increase loadings and also advised that a means to prevent vehicles from the adjacent highway from parking near the wall and increasing the loads upon it should be implemented. The applicant has subsequently provided information to confirm that drainage will be provided behind the wall that would be contiguous with that proposed for the already approved gabion wall and that a knee rail would be installed to prevent vehicle access. The form of the knee rail and its location have been provided and are considered non-material in their impact as is the wall itself. NCC Structures did not request further detail, such as structural calculations and the additional information addresses their concerns and would not lead to any conclusion that the change is anything other than non-material.
- 8.9 In terms of the totality of the changes agreed on this site, previous non-material amendments have been minor and would not tip the extent of the currently proposed changes into materiality.
- 8.10 The totality of the proposed changes are considered non-material.

9. OTHER CONSIDERATIONS

9.1 *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.

9.2 *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.

9.3 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.

9.4 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.

9.5 **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.

9.6 **Newport's Well-Being Plan 2018-23**

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have 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.

10. **CONCLUSION**

10.1 The proposed changes are non-material and can be agreed.

11. **RECOMMENDATION**

APPROVED & CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents:

- Drawing 1839 EN-01 R – External Enclosures
- Drawing 1839 PRL-01 U – Production Layout
- Drawing 1795 103 F – Engineering Layout Complete Phase Plan (other than as amended by Drawing 1795 201 T)
- Drawing 1795 201 T – Engineering Layout Phase 2B

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

02 Hard surfaces shall be provided as per drawing 1839 PRL-01 U Production Layout other than as amended by information provided to discharge other conditions of this permission.

Reason: to ensure the development is completed using appropriate materials.

03 The knee rail shown in Drawing 1795 201 T – Engineering Layout Phase 2B shall be provided as shown at the same time as the Kingpost retaining wall and shall be retained thereafter.

Reason: to prevent vehicles bumping the kerb and placing excessive loading on the wall.

NOTE TO APPLICANT

01 This decision relates to the following unconditioned plans & documents:

- Drawing 3073 (04) 001 B – Site Location.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP6 & T3 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

04 It is considered that the decision has been made in conformity with the Marine Policy Statement (2011) and in accordance with marine national planning policy contained within the Welsh National Marine Plan (2019) as demonstrated in the assessment of this proposal.

05 This approval should be read in conjunction with those cited at Paragraph 4 of the relevant Officer Report since those decisions and their associated plans remain relevant and enforceable to the development approved under this submission.

06 This decision only relates to the changes to the road surfacing and road grading as shown in Drawing PRL-01 and to the change to the retaining wall structure adjacent to Plots 48 and 195 shown in Drawing EN-01. Any other changes shown in these drawings have not been considered and have not been approved.