

APPLICATION DETAILS

No: 15/0408 Ward: ST JULIANS

Type: DISCHARGE CONDITIONS

Expiry Date: 02-JUN-2015

Applicant: R. HOWELLS, TERRA FIRMA (WALES) LTD

Site: LAND TO SOUTH OF AND INCLUDING GLEBELAND, BANK STREET, NEWPORT

Proposal: PARTIAL DISCHARGE OF CONDITIONS 05 (REMEDIATION STRATEGY TO SAFEGUARD THE AQUATIC ENVIRONMENT) AND 06 (REMEDIATION STRATEGY TO SAFEGUARD RESIDENTIAL AMENITIES) OF PLANNING PERMISSION 00/0768 FOR REPLACEMENT PRIMARY SCHOOL, ALL WEATHER PITCH, SOFT AND HARD PLAY AREAS AND RESIDENTIAL DEVELOPMENT IN RELATION TO THE AREA OF RESIDENTIAL DEVELOPMENT ONLY.

DECISION: APPROVED

1. CONSULTATIONS

1.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): No objection.

2. INTERNAL COUNCIL ADVICE

2.1 HEAD OF LAW & REGULATION (CONTAMINATION): No objection but would prefer to see the remediation strategy confirming CNC/NRW have issued the relevant Environmental Permit.

3. REPRESENTATIONS

3.1 None.

4. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
00/0768	REPLACEMENT PRIMARY SCHOOL, ALL WEATHER PITCH, SOFT & HARD PLAY AREAS & RESIDENTIAL DEVELOPMENT	GC 31 October 2000
03/1531	ERECTION OF A REPLACEMENT PRIMARY SCHOOL, ALL WEATHER PITCH, SOFT AND HARD PLAY AREAS AND RESIDENTIAL DEVELOPMENT (PURSUANT TO 00/0768)	AC 19 May 2004
06/0170	PARTIAL DISCHARGE OF CONDITION 06 (CONTAMINATION REMEDIATION) OF PLANNING PERMISSION 00/0768 FOR ERECTION OF REPLACEMENT SCHOOL AND RESIDENTIAL DEVELOPMENT	A 05 April 2006
07/0820	PARTIAL DISCHARGE OF CONDITION 06 (CONTAMINATION REMEDIATION) OF PLANNING PERMISSION 00/0768 FOR ERECTION OF REPLACEMENT SCHOOL AND RESIDENTIAL DEVELOPMENT -AMENDMENT TO PARTIAL DISCHARGE UNDER REFERENCE 06/0170	A 05 September 2007
07/0939	PARTIAL DISCHARGE OF CONDITION 06 (CONTAMINATION REMEDIATION RELATING TO RESIDENTIAL) OF PLANNING PERMISSION 00/0768 FOR THE ERECTION OF REPLACEMENT SCHOOL AND RESIDENTIAL DEVELOPMENT	A 17 October 2007
09/0591	DISCHARGE OF CONDITION 7 (CERTIFICATION REPORT FOR SCHOOL SITE ONLY) OF PLANNING PERMISSION 00/0768 FOR THE ERECTION OF A REPLACEMENT PRIMARY SCHOOL. ALL	A 19 January 2010

5. ASSESSMENT

- 5.1 The applicant is seeking to partially discharge conditions 5 and 6 of permissions 00/0768 for a replacement primary school and residential development on land at the former Glebelands Stadium, Newport. Those conditions read as follows:

05 Details provided in accordance with condition 01 and pursuant to discharging siting as a reserved matter shall include a quantitative risk assessment that assesses levels of contamination on site and their potential to impact controlled waters (groundwater and surface water) identified end receptors. The risk assessment will have regard to the layout and design of the end development / use, particularly the foundation works required on site.

Such a risk assessment must be based upon information acquired following an investigation of the mobility of contamination on site in addition to the results of the site investigation entitled 'Durham Road Schools PFI Project Contamination Investigation Interpretive Report' (June 2000) and previous investigations of the area. The risk assessment must identify any / all clean up levels required to ensure the integrity of controlled waters and identified end receptors.

A remediation strategy shall be formulated and approved in writing by the local planning authority and the agreed scheme shall be implemented in accordance with the approved details.

Reason: To safeguard the aquatic environment and prevent pollution from the physical disturbance associated with construction works in the short term and re-development of the site in the longer term, and to protect the integrity of the River Usk candidate Special Area of Conservation.

06 Prior to the commencement of development on the site (including any demolition or land raising works) the following shall be conducted:

- a) a site investigation consisting of at least 3 months duration of monitoring to ascertain the presence of gas having regard to the end use of the site. This shall include an analysis of the source of any gas and a report on the investigation shall be submitted for the consideration and approval of the local planning authority. This assessment must include the results of the survey and recommendations regarding any structural precautions to be incorporated into the buildings.*
- b) A quantitative risk assessment of the ground conditions on the site having regard to the end use of the site. Such a risk assessment must use both the results of the site investigation entitled 'Durham Road Schools PFI Project Contamination Investigation Interpretive Report' (June 2000) and previous investigations in the area, together with additional ground investigation as required to carry out a comprehensive risk assessment.*

A remediation strategy in relation to both a) and b) above shall be formulated and approved in writing by the local planning authority and the agreed scheme shall be carried out prior to the commencement of any works on the site.

Reason: To ensure the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interest of residential amenities and to safeguard the interests of future users of the site.

- 5.2 The above permissions gave approval for the redevelopment of the site for a primary school at the northern end of the site and for housing at the southern end of the site. The school element of the development has been carried out and is in place and is known as Glan Usk School. The housing element of the scheme has not been built and the land remains in Council ownership.
- 5.3 The Council informally agreed to the phased development of the site and dealt with a series of discharge of condition applications for the school site on that basis. As such the above two conditions were not dealt with in relation to the southern (housing) part of the site.

- 5.4 The conditions in broad terms, both seek the development of a contamination remediation strategy on a site that was known to have been used a tip in the past. Condition 05 seeks to protect the aquatic environment and was intended to protect the interests of the Environment Agency (Wales) as was and to ensure the aquatic environment is protected. Condition 06 seeks similar information in the interests of protecting human health. The conditions had differing remits but any coherent remediation strategy would need to address both issues.
- 5.5 The applicant has submitted a document called 'Remediation Strategy: Proposed Residential Development, Herbert Road, Newport' (June 2015). The strategy is summarised as follows:
- Cover of site with up to 2.75m of imported fill (intended to raise site above flood plain).
 - Cover is to include subsoil and topsoil material in garden and landscaped areas. A minimum of 600mm of clean imported fill (topsoil/subsoil) is required in garden and landscaped areas.
 - Monitoring and management of any soils if disturbed and excavated at the location of TP7 to protect against asbestos fibres.
 - Current minimum requirement is the installation of a 2000 gauge membrane suitable for protection against ground gas, radon gas and PCB vapours in all new buildings. Passive under-floor venting and taping and sealing of all joints will also be required. Dependent on further on-site flux box gas monitoring more robust gas protection measures may be required.
 - New water supply pipes to be chosen in accordance with UKWIR Report Ref No 10/WM/03/21 'Guidance for the Selection of Water Supply Pipes to be used in Brownfield Sites'.
 - Additional assessment of groundwater quality during and immediately following placement of fill by Riversee Limited
 - All works carried out on site should be documented and recorded, and reported to Newport City Council Environmental Protection and National Resources Wales in the form of a Validation Report.
 - Any unexpected ground conditions or contamination identified during site development should be inspected and appropriately investigated by a geo-environmental engineer. This may include suspension of site works until the details and severity of any contamination has been established and the potential risks to human health assessed.
- 5.6 The proposed strategy has not been objected to by consultees. The Head of Law and Regulation would like to see the strategy include confirmation that the necessary Environmental Permitting from CNC/NRW is in place. However planning considerations should not duplicate or depend upon decision made under other permitting regimes and as such this omission is not considered to be a reason to withhold approval for the submitted details.
- 5.7 In prior considerations of contamination issues on this site the treatment of Lottery's Reen, was a key issue. Previously it was proposed to line the reen and cut off contamination pathways from ground pollution to the aquatic environment. The report address the River Usk and Groundwater at Paragraph 3.7 which states '*Groundwater and reen water testing to date has not identified a risk to the River Usk. No hydraulic continuity between the river and groundwater has been identified*'. The report goes on to comment that to increase confidence that there is no risk to the aquatic environment 6No. monitoring wells will be sunk and subject to testing before and after the works to raise the land. In the event any issues arise the remediation strategy includes contingency for further works to address any identified issues. To be clear the current strategy does not require the lining of the reen but that is one possible contingency in the event problems are identified through the monitoring regime. The report leaves potential remediation of the reen and other risks to the aquatic environment as open ended pending the results of the further monitoring.
- 5.8 The proposed monitoring regime is:
- Prior to works commencing

- Immediately after filling
- One month after completion of filling
- In the event that the fill works are not completed within 5 months of commencement the wells will be monitored 5 months after commencement and then at 6 months after commencement with the same revised remediation strategy contingency being in place dependent on the results of the monitoring.

5.9 Overall the proposed monitoring is considered acceptable and enforceable if necessary.

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 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

7. CONCLUSION

7.1 The submitted remediation plan is acceptable and the conditions can be discharged in part.

8. DECISION

APPROVED

NOTE TO APPLICANT

01 This decision relates to plan Nos: 'Remediation Strategy: Proposed Residential Development, Herbert Road, Newport' (June 2015).

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 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.
