

Delegated Decision Report

Application No:	24/0640	Statutory Period Expires:	18 th November 2024
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Site:	<i>Land to South of Glan Usk Primary School Herbert Road Newport South Wales</i>		
Proposal:	<i>PARTIAL DISCHARGE OF CONDITIONS 2 (IMPORTED MATERIAL) AND 16 (REMEDATION VERIFICATION) FOR PHASE 3 (PLOTS 47-55 & 120-195) OF PERMISSION 18/0293 FOR DEVELOPMENT OF 195NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1</i>		
Applicant:	<i>Equans</i>		
Type:	Discharge Conditions	Ward:	St Julians
Decision:	Approved		

1. BACKGROUND

- 1.1 The applicant is seeking to partially discharge Condition 02 (Imported Materials to raise the site) and Condition 16 (Remediation Verification) of Permission 18/0293 for 195no. residential units, internal road networks, parking, landscaping and associated works.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is a post-industrial site south of Glan Usk Primary School adjacent to the River Usk. The development is nearing completion and residential use has commenced on the site.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The relevant conditions read as follows:

02 Imported Materials to raise the site: Prior to import to site, soil material or aggregate used as clean fill or capping material, shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority before that material is imported to the site. No other fill material shall be imported onto the site.

Reason: To ensure that any potential risks to human health or the wider environment including controlled waters which may arise as a result of potential land contamination are satisfactorily addressed.

***21/0196 – Partial Discharge approved on 17/06/2021 By Newport City Council
21/0570 - Partial Discharge approved on 08/09/2021 By Newport City Council***

16 Prior to occupation of any part of the approved development, a verification report demonstrating completion of the works set out in the remediation strategy submitted under discharge of condition approval 17/0082 (or any other strategy that may be subsequently agreed) and the effectiveness of the remediation for that part of the site 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 any plan (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, and

for the reporting of this to the Local Planning Authority.

Reason: In order to demonstrate that the remediation criteria relating to controlled waters and human health have been met. In order to (if necessary) secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters or human health following remediation of the site.

20/0875 – Partial Discharge approved (in relation to Plots 39-46 and 56-75) on 01/02/2021 by Newport City Council.

21/0048 – Partially Discharged – 06.05.2021 in relation to variation of remediation strategy in relation to depth of clean cover.

21/0196 – Partial Discharge approved on 17/06/2021 by Newport City Council

21/0570 - Partial Discharge approved on 08/09/2021 by Newport City Council

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	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

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:

- SP9 – Conservation of the Natural, Historic & Built Environment
- GP7 – Environmental Protection & Public Health

5.4 SUPPLEMENTARY PLANNING GUIDANCE

None relevant.

6. CONSULTATION RESPONSES

6.1 Cyfoeth Naturiol Cymru / Natural Resources Wales: No objection.

7. PUBLIC REPRESENTATIONS

None.

8. ASSESSMENT

8.1 In terms of Condition 02 the permission required the site to be raised for two reasons:

- To raise the site to mitigate flood risk adjacent to the river Usk; and
- To cut off linkages with contaminated soils on this post-industrial site.

- 8.2 The applicant has discharged this condition in a piecemeal fashion and this amounts to a further discharge for parts of Phase 3, green on the plan below, this comprises all the Plots in Phase 3.

Extract from Drawing LP P12 & 3 01 - Phase 1, 2 & 3 Location Plan



- 8.3 The submitted validation information for the piling mat and the fill on the individual plots has been submitted via two main capping validation reports and a supplementary report relating to Plots 131 & 133.
- 8.4 Report RH/12032/VR-PHASE3/1 relates to Plots 47-55, 120-126, 138-149 and 161-195 and confirms that a piling mat was installed on the site of suitable composition and that a no-dig barrier was required beneath Plots 138-143 and 161-166 (flatted blocks). A further 600mm of clean cover was installed over this piling mat to complete the formation and prevent direct linkages between residents and any contamination at depth. Chemical testing has been provided and the depth of the final capping layer confirmed on a sample of Plots and open space areas and the presence of the no-dig barrier verified. This information has attracted no adverse comment and is sufficient to further discharge Condition 02 of permission 18/0293.
- 8.5 Report 12032/VR-PHASE 3 (N) relates to Plots 127-137 and 150-160. The report confirms that soil chemical composition and depth were adequate other than Plot 133 where elevated levels of lead and cadmium were found and Plot 131 where there was an exceedance of dibenz(a,h)anthracene was found. The report recommends the capping material on these Plots is removed and replaced with new material that is also tested and shown to be suitable. A supplementary report (12032/VR-PHASE 3 (N) – P131-133) for these two Plots has been provided and this confirms the unacceptable material was removed and replaced with material that met the required standards and is acceptable.
- 8.6 Condition 16 is a decontamination verification condition. In effect requiring the applicant to show that the programme of decontamination has been successful and any residual risks to controlled waters and human health are acceptable. As submitted the applicant is seeking discharge of the condition on specific Plots these

being the entirety of Phase 3, shaded green on the plan extract at Paragraph 8.2 and the same area as for the discharge of Condition 02.

8.7 The summary at the start of the Terra Firma letter of 16.07.2024 addresses various other site areas but concludes that decontamination works have been completed and verified and shown to provide minimal risk to human health and controlled waters. The report makes reference to report submissions to CNC/NRW and the Council's Environmental Health Section (Scientific Officer) which appear to have been outside of the planning process. The letter makes reference to previous rounds of chemical testing on soils imported to the site and the confirmation that these were suitable. In effect the conclusion is that there is:

- No hydraulic continuity with the river Usk from soils beneath the site and so no risk to controlled waters,
- Lottery's re-en has minimal impact on controlled waters in the River Usk;
- Capping soils cut off linkages to deeper soils and mitigate the risk to Human Health,
- Piling has not opened pathways up or down through the soil profile.

On its face this information is acceptable.

8.8 The information submitted with the capping reports advises that appropriate material was used to cap all the relevant Plots and that no-dig membranes were installed as required. The submitted information is acceptable and the condition can be discharged in part. Policies GP2 and GP7 are complied with.

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 submitted information is acceptable and the relevant conditions can be discharged in part for Phase 3 of the site.

11. RECOMMENDATION

APPROVED

NOTE TO APPLICANT

01 This decision relates to the following documents:

- Drawing 3073 (04) 001 B – Site Location
- Drawing LP P1,2 & 3 01 Phase 1, 2 & 3 Location Plan
- Terra Firma letter Ref. 12032 dated 16.07.2024 – Verification Report
- Herbert Road Phase 3 – Validation of Imported Piling Mat Material (06.10.2023)
- Capping Validation Report 12032/VR-PHASE 3 (N): Herbert Road, Phase 3 – Plots 127-137 & 150-160 - The Island (06.10.2023) -
- Capping Validation Report RH/12032/VR-PHASE3/1: Herbert Road, Phase 3 – Plots 47-55, 120-126, 138-143 & 161-195 (15.12.2023)
- Capping Validation Report 12032/VR-PHASE 3 (N) – P131-133: HERBERT ROAD, PHASE 3 PLOTS 131 & 133

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP9 and GP7 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 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 decision relates to the area of Phase 3 of the approved scheme only, that is Plots 47-55 and 120-195 (Drawing LP P1, 2&3 01)
