

APPLICATION DETAILS

No: 21/0048 **Ward:** St Julians

Type: Discharge Conditions

Expiry Date: 15th March 2021

Applicant: Engie

Site: Land to South Of Glan Usk Primary School, Herbert Road, Newport, South Wales

Proposal: **SUBMISSION OF INFORMATION PURSUANT TO CONDITION 16 (REMEDATION VERIFICATION) OF PLANNING PERMISSION 18/0293 FOR DEVELOPMENT OF 195NO. RESIDENTIAL UNITS TO VARY THE REMEDIATION STRATEGY AGREED UNDER DISCHARGE APPROVAL 17/0082.**

Decision: APPROVED

1. CONSULTATIONS

- 1.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES (CNC/NRW): The amendment relates solely to human health risk and the proposal to reduce clean cover material in soft landscaping areas to 300mm.

Therefore, we have no further comment on this and refer you to our advice in response to application 20/0875. We advise you consult your Environmental Health team on this amendment.

If you have any queries please do not hesitate to contact me.

2. INTERNAL COUNCIL ADVICE

- 2.1 PUBLIC PROTECTION MANAGER (SCIENTIFIC OFFICER): It is noted that soil acceptance criteria that are protective of human health have been specified for residential gardens and public open space (POS). The placing of a “deter to dig layer” below clean cover systems in residential and public open space environments is also noted.

The specification of the “deter to dig layer” in the POS should incorporate an additional tensar geogrid (or equivalent) anti dig layer to prevent animals digging through the proposed 300mm of clean cover in POS.

Details and samples of the “deter to dig” and anti-dig materials being used must be provided to the LPA prior to use, and all verification of these works must include extensive photographs and survey work showing emplacement.

Subject to the above considerations the proposed amendments to the remedial strategy are supported.

3. REPRESENTATIONS

- 3.1 None.

4. RELEVANT SITE HISTORY

Ref.No.	Description	Decision & Date
17/0082	DISCHARGE OF CONDITION 03 (REMEDATION STRATEGY), PARTIAL DISCHARGE OF CONDITION 10 (REMEDATION	A

	VERIFICATION REPORT) AND PARTIAL DISCHARGE OF CONDITION 20 (IMPORTED MATERIAL) OF PLANNING PERMISSION 13/1279 FOR CONSTRUCTION OF 251NO. DWELLINGS ON LAND SOUTH OF GLAN USK PRIMARY SCHOOL	16 March 2017
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
20/0875	PARTIAL DISCHARGE OF CONDITION 12 (DETAILS OF GLAZING AND VENTILATION) AND 16 (REMEDATION VERIFICATION) IN RELATION TO PLOTS 39-46 AND 56-75 OF PLANNING PERMISSION 18/0293 FOR THE DEVELOPMENT OF 195NO. RESIDENTIAL UNITS, INTERNAL ROAD NETWORKS, PARKING, LANDSCAPING AND ASSOCIATED WORKS AFFECTING PUBLIC RIGHT OF WAY 407/1	A 01 February 2021

5. ASSESSMENT

- 5.1 The applicant is seeking to submit information pursuant to condition 16 (Remediation Verification) of Planning permission 18/0293. That condition reads as follows:

Remediation Verification

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.

- 5.2 As written the condition directs remediation to be undertaken in accordance with approval 17/0082 but allows the submission of an alternative strategy to achieve the remediation of this contaminated site. The purpose of this was to give the developer flexibility in the event circumstances on the site were found to have changed and the agreed remediation strategy was no longer appropriate.
- 5.3 In essence that is what has happened here. The applicant wishes to vary the agreed remediation strategy as follows:

The site has a long history of assessment, remediation, and regulatory liaison. It is not the intention to review that in detail. It is our understanding that circa 45,000m³ of soil was imported to raise site levels to alleviated flooding risk. TerraFirma validated this material and concluded that it presented a risk to human health. They recommended that such risks be mitigated through laying of 600mm clean capping and a basal deter to dig layer. This was recommended for gardens and POS (public open space).

The purpose of this addendum is to amend these recommendations. In brief, we seek to reduce the thickness of clean cover in POS to 300mm, revise the chemical specification for clean cover soils and allow the reuse of chemically suitable, validated site-won subsoil. No changes to the proposed ground gas mitigation measures are proposed and thus ground gas is beyond the remit of this report.

- 5.4 In essence the changes requested are the provision of reduced depths of clean cover in areas of public open space and agreement to different chemical composition for the proposed clean cover layer. That layer will be 300mm deep with a minimum of 100mm of top soil.
- 5.5 The Contaminated Land Officer makes recommendations on the characteristics of the no-dig layer which is not specified in detail in this submission. Under approval 17/0082 the following was approved:

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.

The strategy further clarified:

Due to the presence of asbestos a geotextile membrane should be placed between the stockpiled materials and the 300mm clean fill. This will act to ensure adequate protection of future site users (developer site construction workers who are to raise the level of fill from 8.95m AOD to 9.95m AOD) and neighbouring site users from any fugitive asbestos fibres.

In effect the proposal was for the then owner of the site to bring levels up to 8.95m AOD with the top 300mm of this landraising to be clean material which would be separated from deeper and more contaminated layers by the proposed geotextile membrane.

The site would then be handed over to housebuilders who would achieve the final site raising to 9.95m AOD to provide at least 600mm of clean cover as required by the strategy.

The approved strategy did not specify the attributes of the geo-textile membrane to be used and nor did this submission initially. However the Contaminated Land Officer has provided clear advice on what should be provided and the applicant has now confirmed the proposed no-dig barrier will meet this specification as follows:

As Principle contractor (Engie) for this development I can confirm we will ensure a double no dig barrier in line with your comments. All SI reports and references to double no dig barriers have been included in the groundworks enquiries which has been priced. The use of this material will be checked by Terra Firma when they come to check the 300mm depth of soils in the POS areas north of the reen.

The Scientific Officer has confirmed this information relating to the no-dig barrier is acceptable and that the revised decontamination strategy is acceptable.

- 5.6 Given the Contaminated Land Officer's agreement to the variation in the approved Remediation Strategy and the lack of interest from CNC/NRW the proposed change can be agreed.

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 ***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.

7. CONCLUSION

7.1 The proposed variation to the approved Remediation Strategy (17/0082) can be agreed.

8. DECISION

APPROVED

NOTE TO APPLICANT

01 This decision relates to the following plans & documents:

- Letter to Steve Manning from Envirotreat Technologies Ltd dated 04 January 2021
- REMEDIATION STRATEGY, PROPOSED RESIDENTIAL DEVELOPMENT, HERBERT ROAD, NEWPORT Prepared for: Riversee Limited August 2015 Job No: 12032/RS
- Email from Tom James 07.4.2021 10:09

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP2 & GP7 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 decision should be read in conjunction with approval 17/0082 since that decontamination strategy remains in place as varied by this approval.
