

APPLICATION DETAILS

No: 14/0300 **Ward:** ST JULIANS

Type: DISCHARGE CONDITIONS

Expiry Date: 18-MAY-2014

Applicant: J. WILKS, ASBRI PLANNING

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

Proposal: PARTIAL DISCHARGE OF CONDITION 6 (SITE INVESTIGATION AND REMEDIATION STRATEGY FOR RESIDENTIAL AREA) OF PLANNING PERMISSION 00/0768 FOR THE REPLACEMENT PRIMARY SCHOOL, ALL WEATHER PITCH, SOFT AND HARD PLAY AREAS AND RESIDENTIAL DEVELOPMENT

Recommendation: APPROVED

1. INTRODUCTION

1.1 The applicant is seeking to partially discharge condition 6 (contamination) of planning permission 00/0768 for the replacement primary school, all weather pitch, soft and hard play areas and residential development. The condition reads as follows:

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 Interpretative Report" (June 2000) and previous investigations in the area, together with any 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 site.

Reason: *To ensure that 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*

2. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
00/0768/O	REPLACEMENT PRIMARY SCHOOL, ALL WEATHER PITCH, SOFT & HARD PLAY AREAS & RESIDENTIAL DEVELOPMENT	GC 31/10/2000
03/1531	ERECTION OF A REPLACEMENT PRIMARY SCHOOL, ALL WEATHER PITCH, SOFT AND HARD PLAY AREAS AND RESIDENTIAL DEVELOPMENT (PURSUANT TO 00/0768)	AC 19/05/2004
06/0170	PARTIAL DISCHARGE OF CONDITION 06 (CONTAMINATION REMEDIATION) OF PLANNING PERMISSION 00/0768 FOR ERECTION OF REPLACEMENT SCHOOL AND RESIDENTIAL	A 05/04/2006

	DEVELOPMENT	
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 05/09/2007
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 17/10/2007
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 WEATHER PITCH, SOFT AND HARD PLAY AREA AND RESIDENTIAL DEVELOPMENT	A 19/01/2010

3. POLICY CONTEXT

3.1 None relevant.

4. CONSULTATIONS

4.1 CYFOETH NATURIOL CYMRU / NATIONAL RESOURCES WALES (CNC/NRW): No comment since the condition was required in the interests of human health which falls outside the purview of CNC/NRW.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF PUBLIC PROTECTION (SCIENTIFIC OFFICER):

5.1.1 The site investigation report has been reviewed in conjunction with earlier reports which present information from site investigations conducted by other specialist consultancies. I have also had a number of discussions with the consultants undertaking the geo-environmental works at the site and am in receipt of an additional document (Ground Water Monitoring March 2014) which I have attached for your information which is relevant to this application.

5.1.2 The ground investigation has not identified the same level of gross contamination as found north of the reen and in the area of the existing Glan Usk School. However significant contamination was identified and will therefore require remediation. Site investigation conducted by Terra Firma has over-lapped areas remediated previously during the school development and it is reassuring that remediation measures implemented during the schools construction have been recorded in exploratory locations – namely the adequate thickness of capping layer, geotextile membrane and low level of residual PCB material. As I understand it this material will be subject to a further layer of clean capping material.

5.1.3 Ground gases have also been reassessed and have provided some conflicting results with previous ground gas assessments undertaken in the general area during the school construction. I have therefore requested that some additional assessment is undertaken and focussed on potential pathways (namely band drains and piles) using Flux box recorders. This will need to be undertaken once construction has started and after these features are constructed on the site. The results obtained from this will help confirm the level of ground gas mitigation measures required for the dwellings and help remove the uncertainty generated by the differing data sets.

5.1.4 The historic site investigation data combined with the most recent work undertaken on behalf of the applicant by Terra Firma is enough to satisfy the desk study and site investigation and proposed remediation strategy aspect of the conditions. However it is essential that the recommendations within the proposed remediation strategy are implemented by the developer, in order for the remainder of this condition to be fully

discharged in the future. Particularly the additional ground gas considerations discussed above.

5.1.5 Therefore there is no objection to the partial discharge of this condition.

6. REPRESENTATIONS

6.1 None.

7. ASSESSMENT

7.1 The School element of the site has been built and the above condition was discharged in relation to that (northern) part of the site under previous applications as outlined in the site history. The condition was not discharged for the (southern) housing part of the site. This phased approach was agreed by the Council under application 07/0939. The applicant is now seeking to discharge condition 6 across the southern part of the site in order to facilitate a land raising exercise required for flood mitigation and as a capping exercise to contain contaminated materials.

7.2 The applicant has submitted two principle pieces of information:
a) 'Geotechnical and Geo-Environmental Report' (Job No:12032) dated March 2013;
b) 'Additional Groundwater Monitoring' dated 01 April 2014;
c) Remediation Strategy (12032/RS-V3) February 2014.

7.3 CNC/NRW have been consulted but have not offered any opinion on the information submitted since the reason for the condition relates to 'human health' i.e. the future occupiers of the site rather than to any interest under the purview of CNC/NRW.

7.4 The Council's Scientific Officer has commented on the information in detail as reported and concludes that the condition can be partially discharged in relation to the site investigation and remediation strategy as proposed. Condition 7 of permission 00/0768 requires confirmation that the remediation strategy has been implemented as agreed.

7.5 The Scientific Officer also advises that a further round of gas monitoring is necessary after the band drains and piling have been installed. The results of this monitoring may require revisions to the in-built mitigation that is to be provided to the dwellings (gas membranes) dependent on the results of the gas monitoring. The applicant has revised the Remediation Strategy and has committed to undertaking the additional ground gas monitoring. The applicant has also confirmed that the results of the monitoring will be provided to the Council and any revisions to the remediation strategy that follow from the additional monitoring will also be provided to the Council and implemented subject to the Council's written agreement. As such the remediation strategy can be modified to account for any new circumstances that may arise during works ensuring it remains fit for purpose and the Council can ensure any necessary modifications to the strategy are agreed and subsequently implemented. It is considered this approach is acceptable and will achieve the aims for which the condition was initially applied.

7.6 The remediation strategy does not propose lining Lottery's Reen which was part of earlier remediation strategies on the site. As such it would still be open for contamination to drain to the reen and then to the River Usk. Pollution of controlled waters is a CNC/NRW matter. NRW has not commented on this application despite more than one attempt to procure an opinion. That said the Head of Public Protection is content that human health would be protected under the terms of this submission so the purpose of the condition would be met. Condition 05 of permission 00/0768 relates more directly to issues relating to controlled waters which is a matter for CNC/NRW. It remains open to the applicant to address condition 5 by formal submissions in the future although it is considered that would require the variation of time limit conditions attached to permission 00/0768. As such there is no reason to consider that controlled waters would be at risk if this application is approved since the already agreed remediation measures agreed could be implemented (and these are judged acceptable to protect controlled waters) or new alternative measures could be considered under future submissions.

7.7 This request is reported to Committee by reason of a previous Committee resolution removing delegated powers to determine discharge of condition requests on what were

viewed as the more contentious elements of original proposals, these being contamination and traffic related matters in particular. Consequently, since the reserved matters submission in 2003, condition 06 has been partially discharged three times with the submission of acceptable site investigation and remediation details for the whole site. There are, in fact, two conditions on the original outline permission relating to contamination matters (one relates to remediation certification and has been discharged for the school only), 3 relating to access and traffic related matters and 1 relating to flood risk mitigation. All of these have been partially or fully discharged, or removed, previously via decisions made by the Committee. However, the timing for building out this site, and notably the residential element of it, has changed and previous information may be subject to amendment to take into account current knowledge and requirements. This request is an example of this.

- 7.8 It is requested that Committee re-consider and agree to remove its original resolution and grant delegated authority to the Head of Regeneration and Regulatory Services to determine all requests to alter or discharge conditions on the extant outline and reserved matters permissions (i.e. 00/0768 and 03/1531). This has regard to the fact that the most contentious conditions have previously been dealt with in any event and the fact that current requests to alter or discharge conditions are to deal with comparatively minor changes to information previously agreed and likely to relate to the residential part of the scheme (not the school which is built out and operational). This request does not affect members ability to call proposals to Committee in accordance with current protocols.

8. OTHER CONSIDERATIONS

8.1 *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.

8.2 *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.

8.3 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.

8.4 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.

9. CONCLUSION

- 9.1 The condition can be partially discharged in regard to the site investigation, risk assessment and proposed remediation strategy for the residential area.

10. RECOMMENDATION

APPROVED

RECOMMENDATION

TO GRANT DELEGATED AUTHORITY TO THE INTERIM HEAD OF REGENERATION AND REGULATORY SERVICES TO DETERMINE ALL REQUESTS TO ALTER/MODIFY/DISCHARGE/PARTIALLY DISCHARGE ALL CONDITIONS ON THE ORIGINAL OUTLINE AND RESERVED MATTERS (00/0768 AND 03/1531) PERMISSIONS FOR THE GLEBELANDS SITE

NOTE TO APPLICANT

01 This decision relates to plan Nos: 'Geotechnical and Geo-Environmental Report' (Job No:12032) dated March 2013; 'Additional Groundwater Monitoring' dated 01 April 2014; Remediation Strategy (12032/RS-V3) February 2014 & email from Terra Firma Wales (09 May 2014, 09:46).

02 The development plan for Newport is the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006). 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.

04 This approval only partially discharges condition 6 of permission 00/0768 and confirmation remediation has been completed as agreed under this discharge is required under condition 7 of permission 00/0768.
