

## APPLICATION DETAILS

No: 17/0082 Ward: ST JULIANS

Type: DISCHARGE CONDITIONS

Expiry Date: 02-APR-2017

Applicant: KEEPMOAT

Site: LAND TO SOUTH OF GLAN USK PRIMARY SCHOOL, HERBERT ROAD, NEWPORT

Proposal: DISCHARGE OF CONDITION 03 (REMEDIATION STRATEGY), PARTIAL DISCHARGE OF CONDITION 10 (REMEDIATION 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

## 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 (ENVIRONMENTAL HEALTH): No objection.

### 3. REPRESENTATIONS

3.1 None.

### 4. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
13/1279	DEVELOPMENT OF 251 DWELLINGS AND ASSOCIATED WORKS INCLUDING BOUNDARY TREATMENTS, RETAINING WALLS, VEHICULAR ACCESS, PARKING, PATHWAYS AND LANDSCAPING AFFECTING PUBLIC RIGHT OF WAY 407/1.	GC 11 August 2015

### 5. ASSESSMENT

5.1 The applicant is seeking to fully discharge condition 03 (Remediation Strategy) and partially discharge condition 10 (Remediation Verification Report) & condition 20 (Imported Material) of planning permission 13/1279 for the construction of 251 dwellings and associated works on land to the south of Glan Usk School. Those conditions read as follows:

*03 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:*

*a. A preliminary risk assessment which has identified:*

- all previous uses*
- potential contaminants associated with those uses*
- a conceptual model of the site indicating sources, pathways and receptors*
- potentially unacceptable risks arising from contamination at the site.*

*b. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.*

*c. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.*

*d. A verification plan providing details of the data that will be collected in order to*

*demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

*Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.*

**Reason:** *Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity due to proximity to River Usk SAC and contamination is known/strongly suspected.*

*10 Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for that part 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 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 following remediation of the site.*

*20 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 which may arise as a result of potential land contamination are satisfactorily addressed.*

- 5.2 In terms of condition 03 the applicant has submitted a 'Remediation Strategy' (August 2015). This document considers existing site conditions, contamination risks to human health and controlled waters, mitigation and subsequent monitoring to check that decontamination has been successful. The main elements of the decontamination strategy are:
- Raise the site by up to 2.75m including 600mm of clean imported fill in garden and landscaped areas; a geotextile membrane will be installed between the last 600mm fill layer and that fill which is below it;
  - Gas protection in buildings: ground gas membranes, underfloor venting & joint sealing. Further gas monitoring is to be carried out and gas protection will amended if necessary;
  - Water supply pipes to be selected as appropriate for contaminated ground;
  - On-going assessment of ground water during the filling operation; assessments show there is no hydro-logical connectivity between site ground waters and the River Usk;
  - Surface waters generated on the site are considered to pose no risk to controlled waters;
  - Imported materials to be tested for chemical suitability for a residential end use on the site;
  - Contingencies are made for any unexpected contamination that may be encountered.
- 5.3 Consultees consider that the proposed strategy is appropriate and as such condition 03 can be discharged in full.
- 5.4 Condition 10 requires that site decontamination is verified prior to the occupation of any units. The applicant has provided an 'Imported Fill Validation Report' (December 2016). This concludes that:
- The filling exercise has not adversely impacted on groundwaters and there is no hydrological connection between groundwaters and the River Usk

- The fill material used so far has been shown to be acceptable and any residual risk from identified exceedances in the fill so far brought in will be mitigated by the final layer of clean fill.

5.5 As such condition 10 can be agreed in relation to the fill material that has been imported onto the site so far. Other elements of the contamination verification plan (gas protection and final filling) remain to be discharged. Condition 10 can be discharged in part.

5.6 Condition 20 requires the chemical testing of imported fill material to ensure it is appropriate for the proposed end use of the site (residential). The submitted 'Imported Fill Validation Report' (December 2016) identifies the soil sources and contains the testing results. Certain slight exceedances were identified in parts of the imported soil but the exceedances were small and considered acceptable by NCC Environmental Health and CNC/NRW who have no objection to the partial discharge of this condition. The condition cannot be fully discharged since the final 'clean' capping layer has not been brought in yet and the condition will need to be further discharged in relation to that material.

## **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 *Wellbeing of Future Generations (Wales) Act 2015***

Section 3 of the Act 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 (section 5). This duty has 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 Condition 03 (Remediation Strategy) of permission 13/1279 is discharged.  
Condition 10 (Remediation Verification) of permission 13/1279 is discharged in part in relation to part of the capping layer.  
Condition 20 (Chemical Testing of Imported Material) of permission 13/1279 is discharged in part in relation to part of the capping layer.

## 8. **DECISION**

### **APPROVED**

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos:

- Imported Fill Validation Report, Proposed Residential Development, Herbert Road, Newport (December 2016),
- Remediation Strategy, Proposed Residential Development, Herbert Road, Newport (August 2015),
- Drawing sw49(00)01 – Site Location Plan

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 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 Conditions 10 (Remediation Verification) & 20 (Chemical Testing of Imported Material) are only discharged in part in relation to the capping layer so far installed. Further information will need to be submitted to discharge these conditions in full following the full implementation of the approved Remediation Strategy.

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