

COMMITTEE DATE: 21st December 2023

APPLICATION No. **23/02286/FUL**

APPLICATION DATE: 9/10/23

ED: Cathays

APP: TYPE: Full Planning Permission

APPLICANT: TE Cardiff 7 Ltd

**LOCATION: Howells Of Cardiff 14 – 18 St Mary Street Cathays Cardiff
CF10 1TT**

PROPOSAL: Proposed redevelopment (Phases 2 and 3) of part of the former Howells department store, including partial demolition, to deliver studio apartments (Use Class C3) and flexible commercial floorspace (Use Classes A1, A2, A3, B1, D1 and D2); restoration of Bethany Chapel and Sunday School plus upward extension (additional storeys) to the Percy Thomas Wharton Street block; public realm; related infrastructure and engineering works.

RECOMMENDATION 1:

That planning permission be **GRANTED** subject to the relevant parties (and having regard to condition 4) entering into a binding legal agreement under the provisions of **SECTION 106** of the Town and Country Planning Act 1990 within 6 months of the date of this Resolution, unless otherwise agreed by the Council in writing, in respect of matters detailed in section 9.108 of this report, and the conditions listed below in section 12.

RECOMMENDATION 2:

That delegated authority is given to the Head of Planning & Operational Manager: Strategic Development & Placemaking, to make changes to the conditions and/or Heads of Terms of the required legal agreement, subject to consultation with the Chair of Planning, up to the point where the legal agreement is signed and planning permission issued.

1. DESCRIPTION OF THE SITE AND AREA

- 1.1 The application site forms part of the wider former Howells department store which extends to 0.70ha. The 0.39ha application site encompasses the Percy Thomas Wharton Street block, the Bethany Baptist Chapel and associated Sunday School, the central area of the former department store plus linkages through to St Mary Street and Trinity Street.

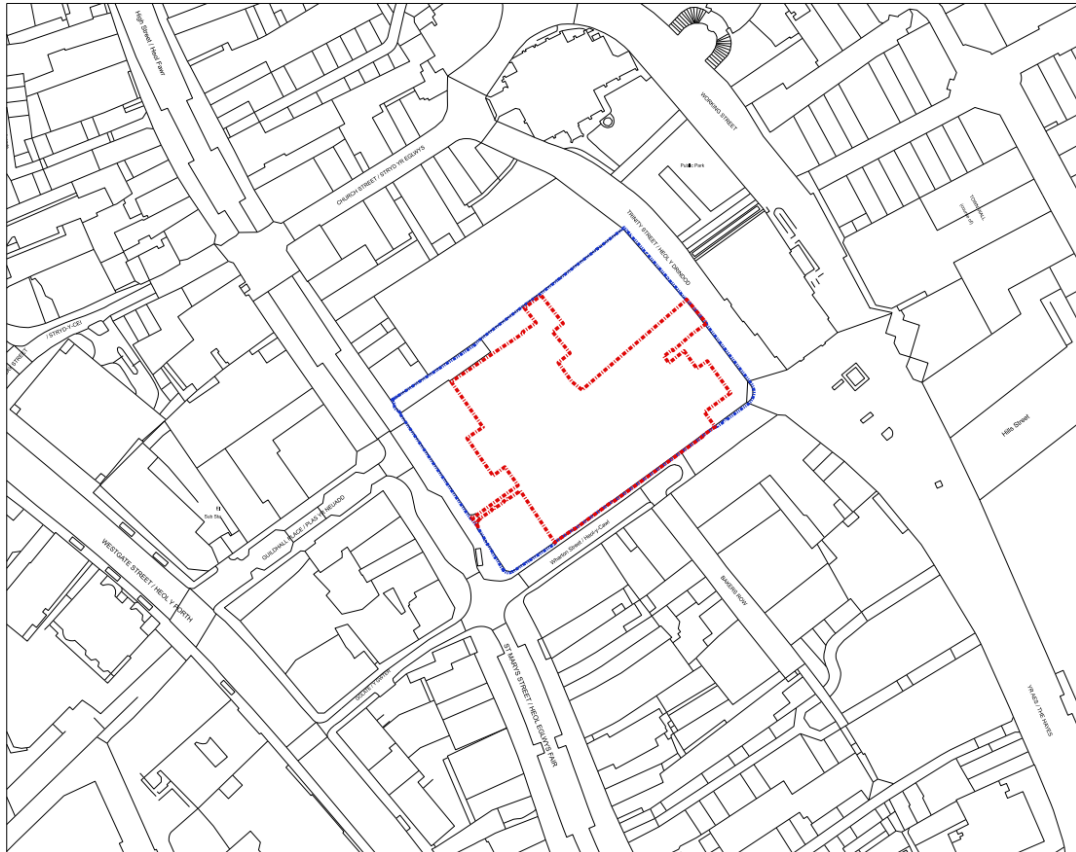


Figure 1: Site Location Plan

- 1.2 The entirety of Howells Department Store including the application site is listed Grade II*. It was designated on 1st February 1988 and the listing entry updated on 30th April 1999. It lies within what is now the St Mary Street Conservation Area but was originally designated in January 1975 as Central Conservation Area No.1 and then extended in 1983 and 1984 and again in 1988 when it was renamed. The Conservation Area Appraisal is dated 2006.
- 1.3 The Howells building(s), formerly occupied by House of Fraser, is now entirely vacant.
- 1.4 The application site is within the City Centre which has approximately 170 listed buildings, the majority are listed at Grade II. There are 12 Grade II* buildings including Cardiff Central Market and the Former Central Library in close proximity. There are 8 Grade I buildings within the wider catchment including the Church of St John the Baptist, Cardiff Castle and Cardiff City Hall. The application site is situated within the City Centre Archaeologically Sensitive Area ('ASA').
- 1.5 According to the TAN 15 Development Advice Maps, the application site is located in Zone A – land considered suitable for new development from a flood risk policy perspective.
- 1.6 There are five Sites of Special Scientific Interest ('SSSI') within 5km of the application site. The Severn Estuary, is also a Special Area of Conservation ('SAC'), Ramsar site and Special Protection Area ('SPA'). This is the only internationally designated site within 10km of the Site.

- 1.7 There are two locally-designated Sites of Importance for Nature Conservation ('SINCs') within a 2km radius of the Site. The closest is the River Taff located 450m to the west. Ocean Park South is located around 2km to the south east of the Site
- 1.8 The application site is located in the Cardiff City Centre Air Quality Management Area declared in April 2013.

2. DESCRIPTION OF DEVELOPMENT

- 2.1 This application seeks full permission for the redevelopment of part of the former Howells department store, including partial demolition, to deliver studio apartments (Use Class C3) and flexible commercial floorspace (Use Classes A1, A2, A3, B1, D1 and D2); restoration of Bethany Chapel and Sunday School plus upward extension (additional storeys) to the Percy Thomas Wharton Street block; public realm; related infrastructure and engineering works.

Retention Strategy (Wider Site / Masterplan)

- 2.2 The masterplan for the site (which has been submitted to support the application but has no formal status) seeks to retain the most significant built forms in their entirety, namely the St. Mary's Street Building, the Percy Thomas corner Building and the 19th century chapel and Sunday School currently obscured from street level views. These buildings are proposed to be retained and converted for new uses including retail. The majority of buildings along Wharton Street are proposed for retention and internal reconfiguration, whilst along Trinity Street, the elevations and volumes behind are retained and incorporated into new structure which reinterpret the alignment of the medieval street pattern defined by the linear burgage plots.
- 2.3 The majority of the demolition is concentrated within the centre interior of the site. The removal of structures of primarily low or neutral significance will allow for new public realm and pedestrian connections. All structures to be removed will be exhaustively recorded before demolition.

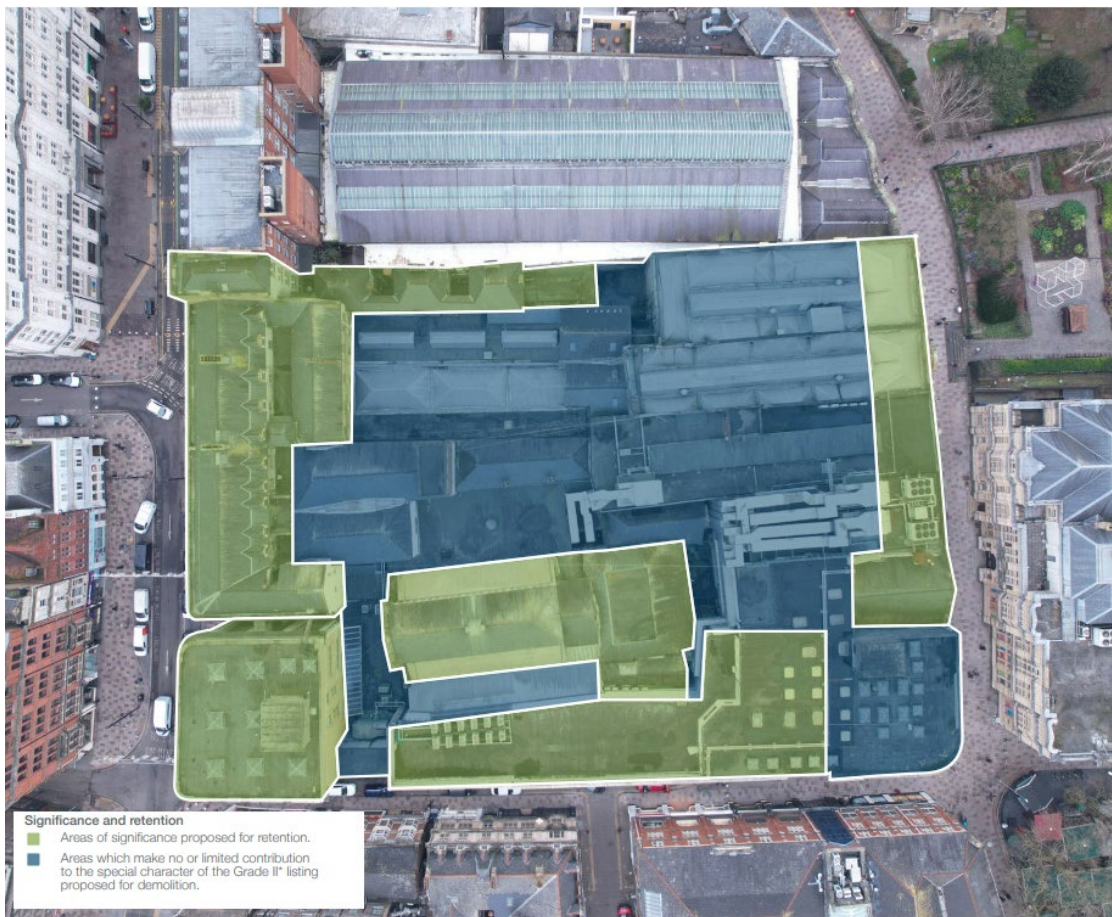


Figure 2: Areas of Significance and Retention

Phasing

- 2.4 The phased re-development of the site emerged during pre-application discussions with the Local Planning Authority, where it was agreed that a phased approach was appropriate mindful of the complex nature of the site. The above masterplan framework for redevelopment of the Howells complex was developed during these discussions, and has informed the current application which seeks permission for phases 2 and 3 of the redevelopment of the Howells complex. There are five phases in total, as shown in Figure 3 below.
- 2.5 Phase 1 comprises the Percy Thomas ‘corner’ building at the junction of Wharton Street and St. Mary Street. Phase 1 received planning permission for the change of use from retail to mixed uses (A1, A3, B1, C1, D1 and D2) in 2019 followed by permissions for a rooftop extension in April 2023. The planning history is summarised in Section 3 of this report.
- 2.6 The later phases (4 and 5) relate to the St. Mary Street frontage, the south-east corner building fronting onto The Hayes and the Trinity Street buildings. These phases do not form part of this application.



Figure 3.14: Phasing

Figure 3: Phasing Plan

Demolition

- 2.7 To enable the delivery of new public realm and connections into the site, phase 2 and 3 of the regeneration of the Howells site will involve significant demolition. The demolition is mainly within the centre of the site and involves structures of limited heritage significance in relation to the rest of the building complex (see associated report on Listed Building Consent).
- 2.8 The extent of demolition will facilitate the delivery of future phases of development including the new public square as well as three new connections / entrances from St Mary Street, Wharton Street and Trinity Street. Demolition will also allow for a potential future connection to Cardiff Central Market. There will also be some internal demolitions within Bethany Baptist Chapel and Wharton Street building to remove unsympathetic additions and allow for the new uses to be instated within the buildings.



Figure 4: Proposed Demolition

Wharton Street Building

- 2.9 The application proposes to change the use at ground floor to Class A3 use (Food and Drink) and subdivide into different commercial units. The 61 no. studio apartments would be accommodated at upper floors including a four-storey roof extension (of which the lower floor (Level 3) would be screened by the existing parapet).
- 2.10 These works would require 4 no. pedestrian entrances from Wharton Street (including one existing), two to serve the new commercial units and one for a dedicated entrance to the residential element. A fourth access would serve a potential leisure use at basement level where servicing, refuse storage and cycle parking would also be accommodated.

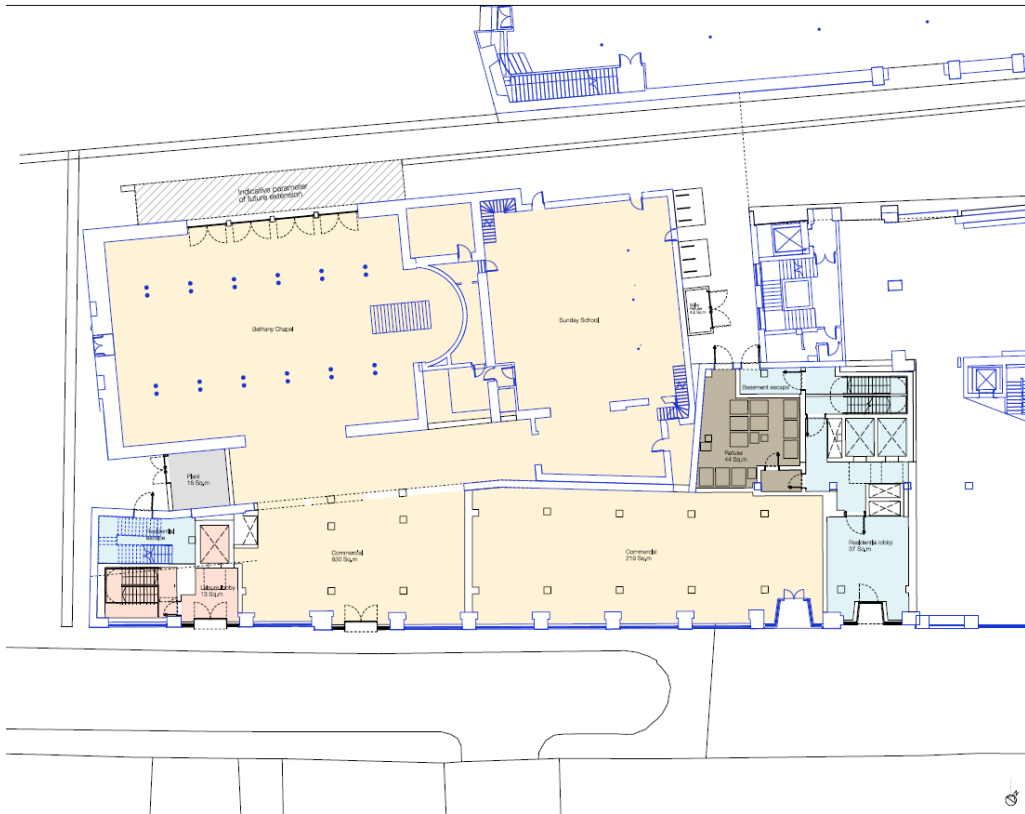


Figure 5: Proposed Ground Floor (Wharton Street)

- 2.11 Apartments at Levels 1 and 2 would utilise the upper floor windows of the existing building, with an access corridor to the north elevation. One apartment on each floor would face northwards, into the site.

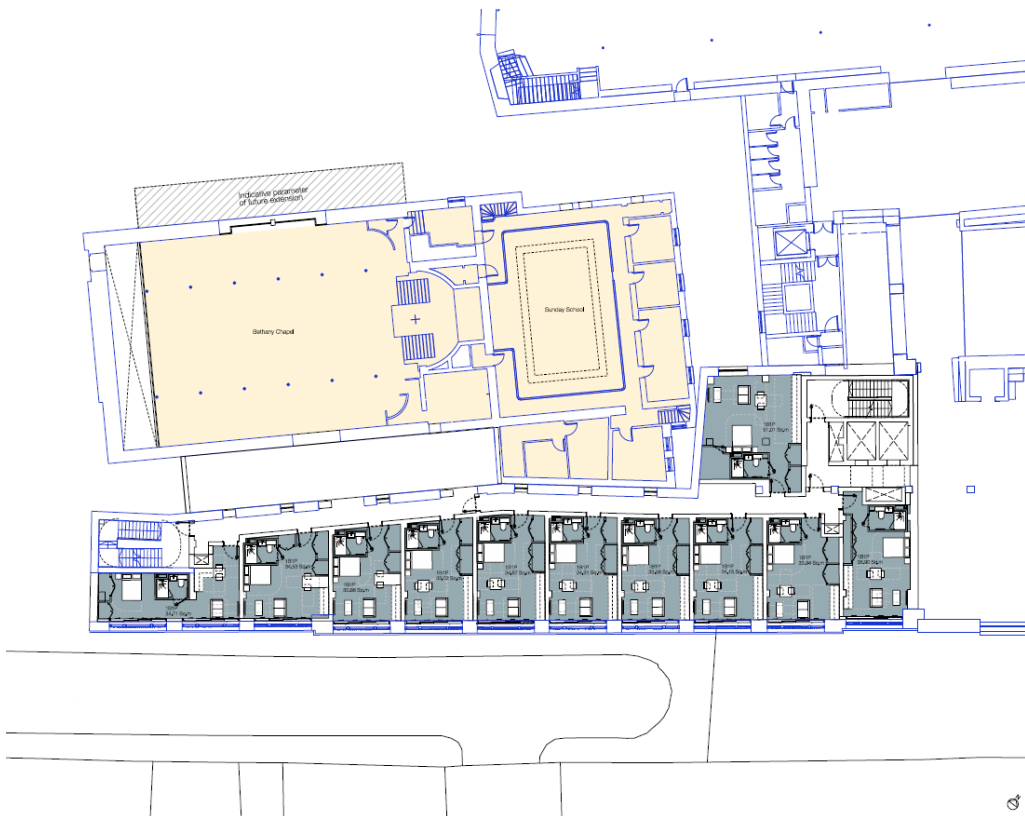


Figure 6: Proposed First Floor (Wharton Street)

- 2.12 On level 3, the arrangement is reversed with the apartments switching to face northwards (with the exception of 1 no. apartment) so that the access corridor can be accommodated behind the existing parapet. Some additional cycle parking is also proposed at Level 3.

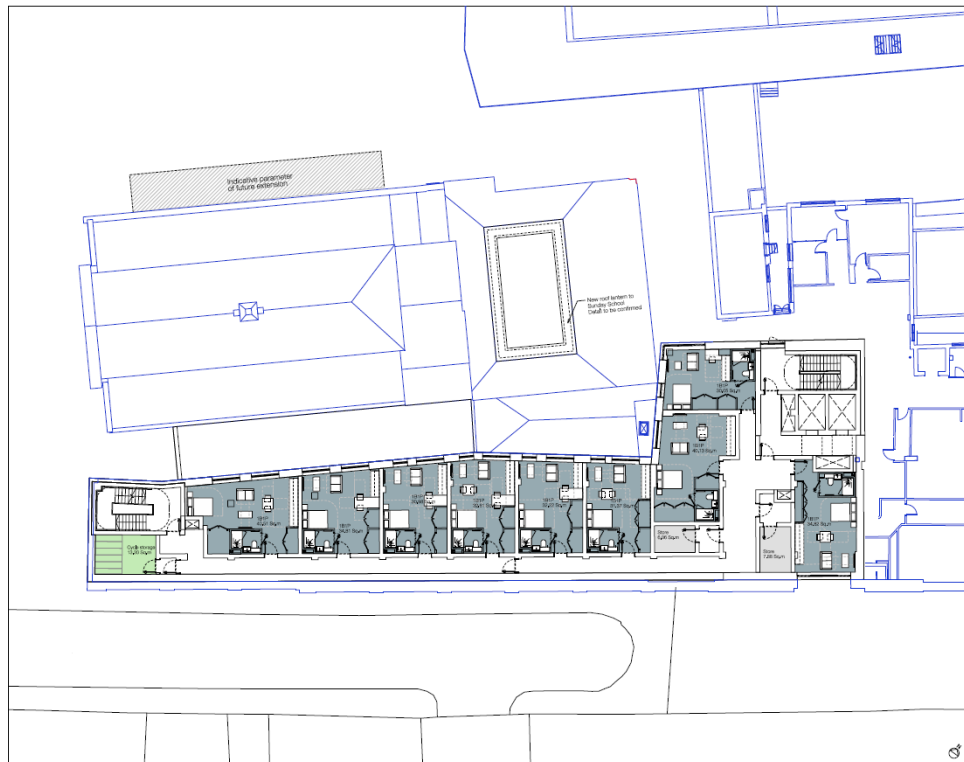


Figure 7: Proposed Third Floor (Wharton Street)

- 2.13 On levels 4 – 6 the arrangement switches back to south-facing apartments with 1 no. studio on each of these floors facing north. Level 6 is set back from the Level 5. The extension at floors 4 to 6 cantilevers above the existing building on the north elevation.
- 2.14 All 61 no. studio apartments will have a floor area of at least 30m².



Figure 8: Proposed /Fifth/Floor (Wharton Street)

2.15 Proposed external finishes to the rooftop extension includes a light grey stone frame, metal screening, brick slips, white render and a glazed terracotta façade.



Figure 9: Proposed Elevations (Wharton Street)

- 2.16 The application states there is limited scope to provide private amenity space for residents. Balconies cannot be provided on the existing listed building due to the resulting impact that would occur to the façade. There is also limited scope for a roof top space given the narrow building footprint and the need to accommodate plant (and potentially photovoltaics). Juliet balconies are proposed to all apartments from level 3 and above. An exception is at Level 6 where the southern most apartment would benefit from a terrace. The application notes that Bute Park is a 10 minute walk from the application site.

Bethany Chapel and Sunday School

- 2.17 The application proposes to change the use of the existing chapel and Sunday School from retail to Class A3 Use (food market or restaurant). Three bays of the Wharton Street frontage will be used to form part of this single commercial unit.
- 2.18 The plans suggest potential for a future extension of the chapel to the north (fronting the public square), which would need to be subject to a separate detailed application and associated Listed Building Consent.



Figure 10: CGI of Bethany Chapel

Public Realm & Pedestrian Links

- 2.19 A new area of public realm is proposed within the centre of the site to occupy the space created by the demolished buildings. This space would be accessed via three new connections/entrances from St. Mary Street, Wharton Street and Trinity Street. In addition, the demolition works extend to the northern site boundary and present an opportunity for a potential future pedestrian connection to Cardiff's Indoor Market.

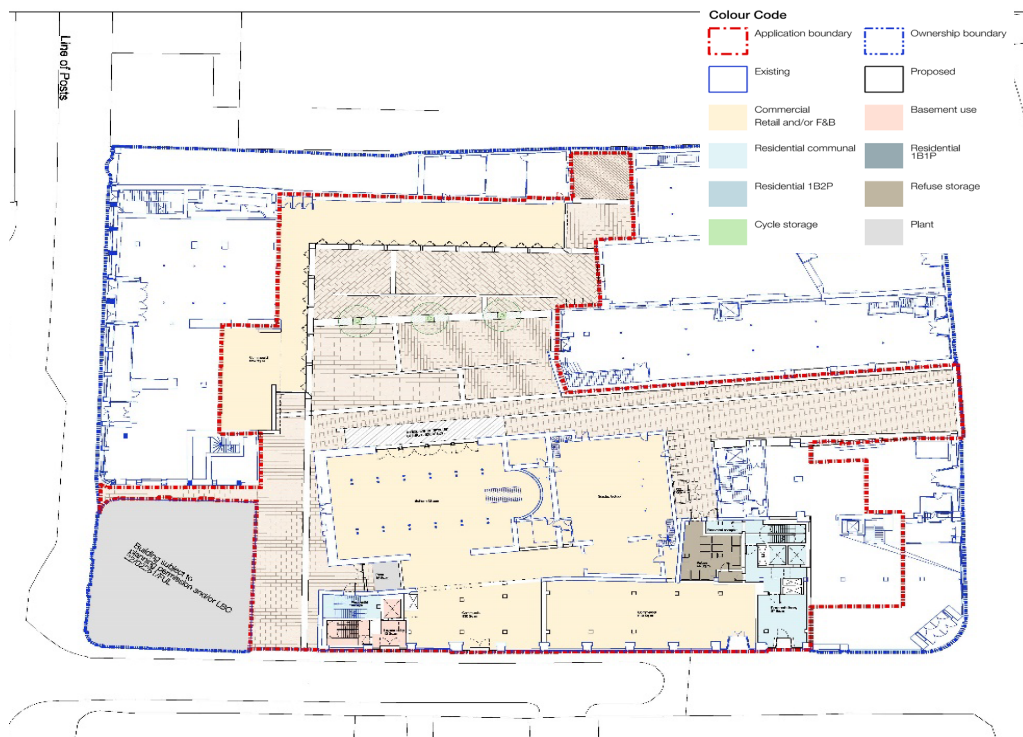


Figure 11: Proposed Site Plan including Public Realm

- 2.20 The public realm to be provided within this application proposed a permanent area, to incorporate the southern half of the space and the three pedestrian connections, together with a temporary area at the northern half of the space. This temporary area (resin-bound gravel) will ensure suitable drainage provision and will allow for emergency access, and the future construction access for later phases of the development.
- 2.21 The application proposes that the hard landscaping design highlights the medieval burgrave plots which once existed on the site (evidence of which still remains). Some feature trees are also proposed.
- 2.22 The application also suggests that the hard landscaping designs will also feature elements of street art that reference the history and cultural strategy.

St. Mary Street Rear Extensions

- 2.23 The demolition of structures in the centre of the site would create a series of openings in the remaining rear facade of the building. 3 interventions are proposed:
- Infill - the area formerly occupied by the two demolished southern bays demolished is infilled with a two storey structure;
 - Extension - the rear of the St Mary Street frontage is extended to increase the commercial floorspace at ground (c. 364m²) and provide an outdoor terrace on first floor.
 - Facade - a new facade is proposed to enclose the retained northernmost bay and the new extension.

- 2.24 The proposed material palette for these works comprises precast concrete, dark bronze metal, glass and brickwork.

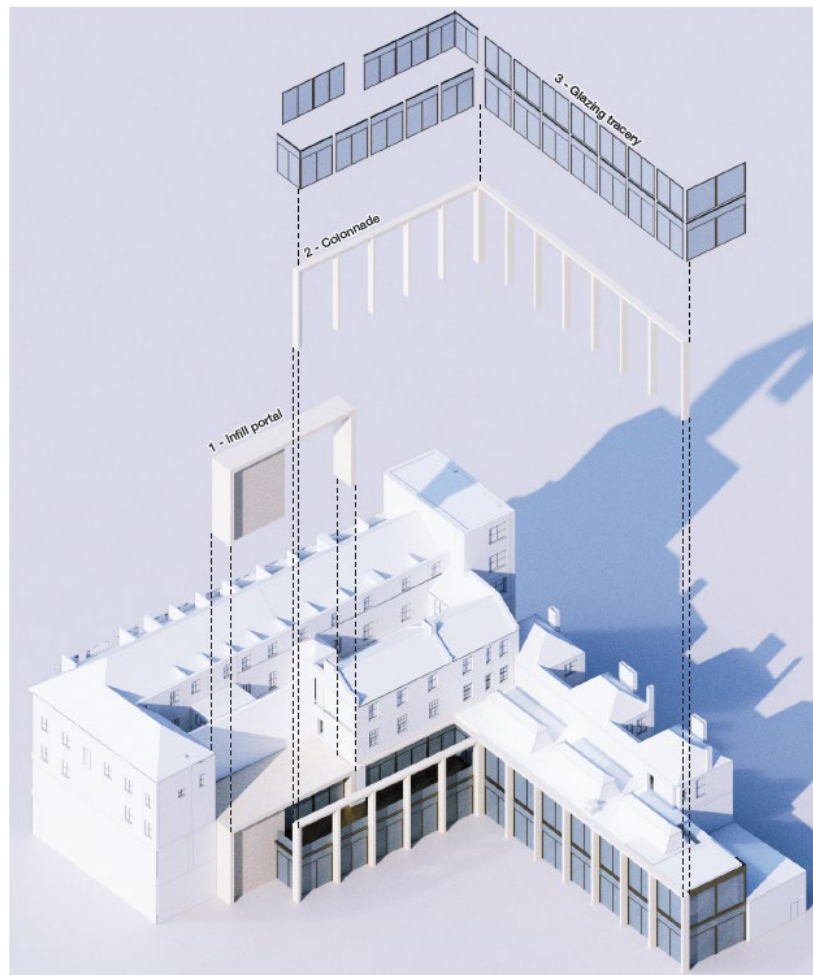


Figure 12: St. Mary Street Rear Extension Composition

Access & Servicing

- 2.25 Being located in the heart of Cardiff's City Centre, the site is highly accessible by public transport. The site is a 5-minute walk from Cardiff's Central Station and several bus stops are located adjacent to the site, the closest on St Mary Street by the corner of Wharton Street.
- 2.26 The new pedestrian connections will ensure the site can be accessed on foot from east, south and west directions. A fourth route from the north may be achievable via a potential route through Cardiff's Indoor Market.
- 2.27 Cycle storage facilities for future residents are provided at basement level with a smaller provision at third floor of the Wharton Street building. 15 no. Sheffield Stands (30 no. spaces) and 19 double-stacker stands (38 no. spaces) will be provided at basement level together with an additional 6 double-stacker stands (12 no. spaces) at Level 3.
- 2.28 10 no. Sheffield Stands (20 no. spaces) are proposed within the public realm for visitors and staff.

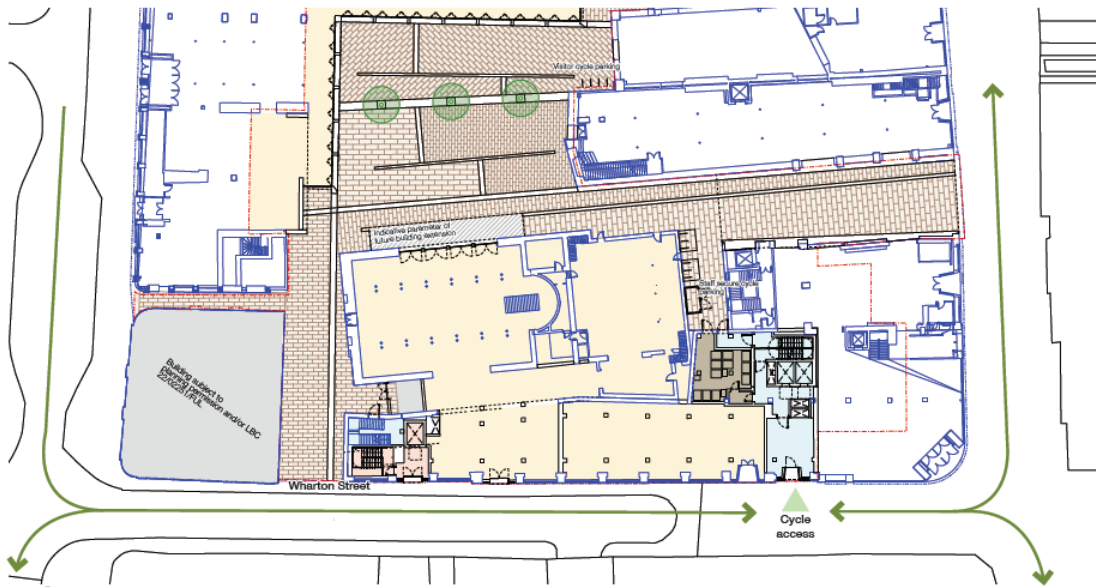


Figure 10.6: Cycle Access - Ground floor

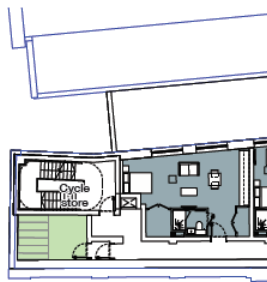


Figure 10.6: Cycle Access - Third floor

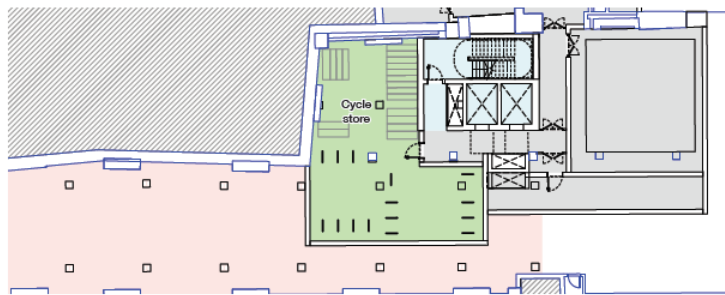


Figure 10.7: Cycle Access - Basement

Figure 13 : Proposed Cycle Parking Provision

- 2.29 Servicing, deliveries and waste management will be via Wharton Street. Raised bollards on Wharton Street restrict access onto Trinity Street where the waste collection point is proposed.
- 2.30 Loading bays exist on Wharton Street, with servicing restricted to between 0000 – 1000 hours (the same spaces are restricted to use by blue badge holders between 1000 – 0000 hours)..
- 2.31 Swept path analysis has been submitted for a fire tender to demonstrate that the square can be accessed in an emergency.

Environmental Impact Assessment

- 2.32 The applicant requested a screening opinion in August 2023 to establish whether the proposed development for Phases 2 and 3 required Environmental Impact Assessment (EIA). In issuing its opinion (ref. no. 23/01912/SCR), the Local Planning Authority concluded that the project (including later phases), either alone or cumulatively, is unlikely to have a significant adverse effect on the environment and therefore the likely effects of the development are unlikely to be significant enough to warrant EIA development.

Amended Plans Submission

2.33 Amended Plans and additional information was submitted to the Local Planning Authority on 22nd November 2023 in response to concerns that were made by consultees during the statutory 21 day consultation period. The proposed amendments are as follows:

- (i) The loss of a single residential unit, reducing the total number of flats from 62 to 61;
- (ii) Removal of one of the parapet interventions at Level 3 on the Wharton Street frontage, leaving a single parapet intervention on the recessed façade (east end of the building);
- (iii) New brickwork finish to the north-east projecting elevation;
- (iv) Inclusion of 9 no. additional cycle stands at basement level in the Wharton Street building;
- (v) The addition of a 4.5m² bulky goods store and 3 no. 240l communal food waste bins at ground floor level;
- (vi) A Daylight/Sunlight Assessment Addendum to re-assess 6 no. studio apartments at 150 lux (these studios failed a 200 lux assessment);
- (vii) An addendum to the Heritage Impact Statement (HIS) to address adjustments to the internal and external design of the Wharton Street building and its proposed upward extension;
- (viii) A revised Design and Access Statement (DAS) that reflects the above amendments.

2.34 All documentation relating to the application, including plans, can be viewed on the Council's website using the following link:

[23/02286/FUL | Proposed redevelopment \(Phases 2 and 3\) of part of the former Howells department store, including partial demolition, to deliver studio apartments \(Use Class C3\) and flexible commercial floorspace \(Use Classes A1, A2, A3, B1, D1 and D2\); restoration of Bethany Chapel and Sunday School plus upward extension \(additional storeys\) to the Percy Thomas Wharton Street block; public realm; related infrastructure and engineering works. | Howells Of Cardiff 14 - 18 St Mary Street Cathays Cardiff CF10 1TT \(cardiffidoxcloud.wales\)](#)

2.35 All documentation for the corresponding application for Listed Building Consent can also be viewed on the Council's website using the following link:

[23/02287/LBC | Proposed redevelopment \(Phases 2 and 3\) of part of the former Howells department store, including partial demolition, to deliver studio apartments \(Use Class C3\) and flexible commercial floorspace \(Use Classes A1, A2, A3, B1, D1 and D2\); restoration of Bethany Chapel and Sunday School plus upward extension \(additional storeys\) to the Percy Thomas Wharton Street block; public realm; related infrastructure and engineering works. | 14 - 18 St Mary Street Cathays Cardiff CF10 1TT \(cardiffidoxcloud.wales\)](#)

3. PLANNING HISTORY

3.1 The site has a long and varied planning history due to its previous retail use. Those applications considered material to the application are:

- 22/02252/LBC: Listed Building Consent granted in March 2023 for proposed development of roof terrace for flexible use (Use Classes A1, A2, A3, B1, D1 and D2), associated internal and external alterations, including landscaping and engineering works.
- 22/02251/FUL: Full planning permission granted in April 2023 for proposed development of roof terrace for flexible use (Use Classes A1, A2, A3, B1, D1 and D2), associated internal and external alterations, including landscaping and engineering works.
- 19/01838/MJR: Listed Building Consent granted in August 2019 for demolition of modern extension to allow remodel of the area directly in front of the Bethany Chapel, connecting it to Wharton Street.
- 19/01837/MJR: Full planning permission granted in August 2019 to remodel the area directly in front of the Bethany Chapel, connecting it to Wharton Street.
- 19/01665/MJR: Full planning permission granted in July 2019 for the change of use from retail to mixed use (Use Classes A1, A3, B1, C1, D1 and D2).

4. POLICY FRAMEWORK

National Policy

- 4.1 The **Well-being of Future Generations (Wales) Act 2015** (WFG) imposes a duty on public bodies to carry out 'sustainable development' in accordance with the 'sustainable development principle'.
- 4.2 'Sustainable development' means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.
- 4.3 'Sustainable development principle' means that Local Authorities must 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.
- 4.4 Well-being goals identified in the Act are:
- A Prosperous Wales
 - A Resilient Wales
 - A Healthier Wales
 - A More Equal Wales
 - A Wales of Cohesive Communities

- A Wales of Vibrant Culture and thriving Welsh Language
- A Globally Responsible Wales

4.5 The **Environment (Wales) Act 2016** has been designed to complement the WFG Act. It imposes a duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.

National Planning Policy

4.6 [Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with the publication of, and take into account the policies, themes and approaches set out in, [Future Wales - the National Plan 2040](#) (see below) and to deliver the vision for Wales that is set out therein.

4.7 The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

4.8 PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision-making process.

4.9 The updated Chapter 6 of PPW11, which came into effect on 11 October 2023, places a stronger emphasis on taking a proactive approach to green infrastructure, securing net benefit for biodiversity, strengthening the protection of Sites of Special Scientific Interest (SSSIs) and giving more consideration to the protection and enhancement of trees and woodlands.

4.10 It states that “*development plan strategies, policies and development proposals should be formulated to look to the long term protection and enhancement of the special characteristics and intrinsic qualities of places, be these of natural, historic or built environments, ensuring their longevity in the face of change. This means both protecting and enhancing landscapes, habitats, biodiversity, geodiversity and the historic environment in their own right as well as other components of the natural world, such as water resources or air quality.*”

Technical Advice Notes

4.11 PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -

- TAN 4: Retail and Commercial Development (2016)
- TAN 5: Nature Conservation and Planning (2009);

Noting also the Chief Planning Officer letter dated 23/10/19: securing bio-diversity enhancement;

- TAN 11: Noise (1997)
- TAN 12: Design (2016)
- TAN 16: Sport, Recreation and Open Space (2009)
- TAN 18: Transport (March 2007)
- TAN 20: Planning and the Welsh Language (2017)
- TAN 21: Waste (February 2017)
- TAN 23: Economic development (2014)
- TAN 24: The Historic Environment (May 2017)

4.12 On 16th July 2020 the Welsh Government published [Building Better Places: The Planning System Delivering Resilient and Brighter Futures](#) which provides planning policy guidance for local planning authorities and the development industry on priorities for the planning system to deliver post Covid-19. The guidance is to be read in conjunction with PPW, which contains the principles and policies needed for Wales to recover from Covid-19 in a positive manner, putting placemaking at the heart of future development.

4.13 It also emphasises that development management decisions should focus on creating healthy, thriving active places with a focus on a positive, sustainable future for our communities. The planning system has an important role in supporting healthier lifestyles and reducing inequalities. This includes both direct and indirect opportunities such as the allocation of land for health facilities, ensuring good design and barrier free development, jobs and skills, improving air quality, soundscapes and protecting and improving access to recreation and natural green spaces. These can provide both physical and mental health benefits, improve well-being and help to reduce inequality.

The Development Plan

4.14 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.15 [Future Wales - the National Plan 2040](#) now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate- resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.

4.16 The Local Development Plan is the [Cardiff Local Development Plan 2006-2026](#) which was adopted in January 2016, and within which the following policies are of relevance:

KEY POLICIES

- KP4 Masterplanning Approach
- KP5 Good Quality and Sustainable Design
- KP6 New Infrastructure
- KP7 Planning Obligations
- KP8 Sustainable Transport
- KP10 Central and Bay Business Areas
- KP12 Waste
- KP13 Responding to Evidenced Social Needs
- KP14 Healthy Living
- KP15 Climate Change
- KP16 Green Infrastructure
- KP17 Built Heritage
- KP18 Natural Resources

DETAILED POLICIES

Housing

- H2 Conversion to Residential Use
- H3 Affordable housing
- H6 Change of use or redevelopment to residential use

Environment

- EN6 Ecological Networks and Features of Importance for Biodiversity
- EN7 Priority Habitats and Species
- EN9 Conservation of the Historic Environment
- EN10 Water Sensitive Design
- EN11 Protection of Water Resources
- EN12 Renewable Energy and Low Carbon Technologies
- EN13 Air, Noise, Light Pollution and Land Contamination

Transport

- T1 Walking and Cycling
- T5 Managing Transport Impacts

Retail

- R1 Retail Hierarchy
- R2 Development in the Central Shopping Area
- R3 Protected Shopping Frontages
- R8 Food and Drink Uses

Community

- C1 Community Facilities
- C3 Community Safety/Creating Safe Environments
- C5 Provision for Open Space, Outdoor Recreation, Children's Play and Sport
- C6 Health

Waste

- W2 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance:

4.17 The following [Supplementary Planning Guidance](#) (SPG) is of relevance to this application: -

- City Centre Design Guide (September 1994)
- Planning for Health and Well-being (November 2017)
- Archaeology and Archaeology Sensitive Areas (July 2018)
- Food, Drink and Leisure Uses (November 2017)
- Green Infrastructure (including Technical Guidance Notes relating to: Ecology and Biodiversity; Trees and Development; Protection and Provision of Open Space in New Developments Soils and Development) (November 2017)
- Managing Transportation Impacts (Incorporating Parking Standards) (July 2018)
- Planning Obligations (January 2017)
- Public Art (June 2006)
- Residential Design Guide (January 2017)
- Waste Collection & Storage Facilities (October 2016).

6. INTERNAL CONSULTEE RESPONSES

- 6.1 **Shared Regulatory Services Environment Team (Contaminated Land)** notes that the application identifies the potential for contaminants within the made ground on site and recommends intrusive investigations to confirm the situation. Given the nature of the existing site, it would be appropriate to require assessments post-demolition. Relevant conditions and an informative are recommended.
- 6.2 The **Council's Tree Officer** advises that it is of critical importance that full details of new planting is submitted at the earliest opportunity to ascertain if it will be appropriate and viable above and below ground. He lists his requirements including implementation programme, scaled plans by a qualified professional, details of service provision, plant species, planting schedules, tree pit sections, soil specifications, and planting methodology and aftercare arrangements. He is willing to accept that these be secured via condition rather than prior to determination.

- 6.3 The **Housing Strategy Manager** advises that, in line with LDP Policy H3 (Affordable housing), an affordable housing contribution of 20% of the 61 units (12 units) is sought for this application. Their priority is to deliver on-site affordable housing, in the form of affordable rented accommodation, built to Welsh Government Development Quality Requirements (WDQR) for purchase by a nominated Registered Social Landlord (RSL) partner or the Council at a specified price. However, given the proposed design, and the number of units on the scheme, they would be prepared to accept a financial contribution in lieu of on-site affordable housing provision. On the basis of the above, they would seek a financial contribution of £1,097,520 in lieu of 12 x 1-bedroom units which is calculated in accordance with the formula in the Planning Obligations – Supplementary Planning Guidance (SPG) 2017. This could be secured as a planning obligation in a Section 106 Agreement.
- 6.4 The **Operational Manager, Parks Services**, highlights that the LDP requires provision of a satisfactory level and standard of open space on all new housing developments over 8 units or an off-site contribution towards existing open space for smaller scale developments where new on-site provision would not be applicable. Based on the amended plans, he has calculated the additional population generated by the development to be 61.9. This results in an open space requirement of 0.15ha of on-site open space based on the criteria set for housing accommodation or an off-site contribution of £64,224. Although some amenity space is proposed in the form of a public square, no functional public open space is proposed so the developers will be required to make a financial contribution towards the provision of new open space, or the design, improvement and/or maintenance of existing open space in the locality given that demand for usage of the existing open spaces would increase as a result of the development. It will be necessary for a Section 106 Agreement to be completed to secure payment of the contribution. The use of S106 contribution will also need to satisfy CIL and the current distance requirements set out in the 2017 Planning Obligations SPG – informal recreation 1000m, and formal recreation 1500m, measured from the edge of the site. Eligible parks/open spaces will be listed in the S106 and then consultation will take place with Ward members about its specific use.
- 6.5 He also supports the Tree Officer's comments on landscaping and in particular – in light of the Council's canopy cover targets – appropriate allowance for trees to be planted and for them to achieve healthy long term growth.
- 6.6 The **Operational Manager (Traffic and Transportation)** makes the following comments:
- (i) The principle of a car-free development is accepted for this City Centre location;
 - (ii) Cycle parking / Resident parking – Provision on Level 3 is not convenient nor is it conducive to encouraging cycling as an attractive travel option. The additional 9 no. Stands at basement level shown on the amended plans are welcomed as an alternative. The application also needs to demonstrate the development will satisfactorily provide 20 no. accessible stands and 42 no. less accessible stands (e.g. two-tier racks) and that the provision

will meet the clearance dimensions required by the Active Travel Wales Act Policy Document (July 2021);

- Commercial/Public Parking – 10 external stands are shown, i.e. 12 no. Covered commercial spaces and 8 no. uncovered visitor spaces
The SPG requirement is 2 no. spaces per 100sqm (i.e. 40 spaces).
The amended submission has not met this requirement

- (iii) Traffic Regulation Orders - £5,000 is sought via a Section 106 Agreement to mitigate any traffic management issues that may arise as a consequence of the development, mindful that the city centre location has parking controls and loading/unloading restrictions
- (iv) Concerns are expressed that the swept path for emergency access (e.g. fire tenders) relies upon the use of on-street parking on Wharton Street, which is dedicated disabled parking during the daytime and servicing/unloading/loading during the night.

6.7 The **Operational Manager (Waste Management)** advises that a designated area for the storage of bulky waste is a compulsory element of all communal bin stores. They offer a collection service for items which are too large to be disposed of in general waste bins (i.e. fridges, televisions, mattresses etc). There must be a designated area where these items can be left, with appropriate access to allow Council collection crews to remove. This area will prevent unwanted waste being left in the communal bin store or other areas, thereby improving the aesthetics of the site. For a development of this size the recommended storage area is 6m², though they accept the area shown on the amended plans, which is 4.5m², being mindful of the nature of this proposal. The amended proposals meets the current requirements for refuse storage provision as follows:

Dry Recyclables:	6 x 1100 litre bulk bins
General waste:	6 x 1100 litre bulk bins
Food Waste	3 x 240 litre bin

6.8 The developer must provide bins to the Council's specification as determined by Section 46 of the Environment Protection Act 1990. Bins can be supplied by the Council if required.

6.9 The **Lead Local Flood Authority (LLFA)** confirms that permission from the SuDS Approval Body (SAB) is not required for the development, due to the roof area not increasing in size and the discharge point. Separate approval from Dŵr Cymru Welsh Water will be required for discharge rates.

6.10 The **Operational Manager, Regeneration**, advises that the relevant section of the Planning Obligations Supplementary Planning Guidance (SPG) 2017 states that growth in population arising from new development generates demand for and increases pressure on community facilities. To meet the needs of future residents, it may be necessary to meet this additional demand through the provision of new facilities and the extension to or upgrading of existing facilities. If no onsite provision is proposed, a financial contribution is sought on residential developments containing 25 or more new dwellings where it has been identified that investment in community facilities will be required to meet the needs of the new population.

6.11 The formula in the SPG is based on the number of bedrooms and associated occupancy figures per dwelling, and is calculated as follows:

No. of bedrooms	Number of Dwellings	Contribution per dwelling	Total
1	61	£720.51	£0.00
2		£997.63	£0.00
3		£1,385.60	£0.00
4		£1,718.14	£0.00
5+		£2,106.11	£0.00
Single Student Bedroom		£554.24	£0.00
TOTAL:			£43,951.23

6.12 In justifying their request, they refer to CIL Regulation 122(2) which requires planning obligations to be:

- (i) necessary to make the development acceptable in planning terms;
- (ii) directly related to the development; and
- (iii) fairly and reasonably related in scale and kind to the development.

6.13 Regarding necessity, the SPG was adopted to help to ensure that developments contribute toward the provision of necessary infrastructure and measures required to mitigate their impact. Policy KP6 of the Cardiff Local Development Plan (adopted January 2016) supports the provision of community facilities as part of new residential developments. PPW11 which supports the negotiation of planning obligations and states “Contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable”. A development proposing a significant increase in population, such as this, would create pressures on existing local facilities that need to be offset via a financial contribution. They consider it would be unacceptable to grant planning consent in the absence of such provision.

6.14 The request is directly related to the development as it would be directed towards one of several community facilities located within proximity to the site which are likely to experience added pressures as a result of the new population.

6.15 The contribution is derived using a formula-based calculation which takes into account, amongst other things, the size of the residential development and the projected increase in population. It is therefore fairly and reasonably related in scale and kind to the proposed development.

- 6.16 The **County Ecologist** recommends a number of conditions be attached to any permission to cover data shelf life, a plan for construction environmental management, ecological enhancements, bat survey to the roof, landscaping design and maintenance, and climate change.
- 6.17 **Shared Regulatory Services, Neighbourhood Services (Noise Pollution)** is satisfied that his concerns can be satisfactorily address through the imposition of relevant conditions to any planning permission. He recommends a condition that requires façade glazing to be installed to certain specifications in the south elevation of the Wharton Street to safeguard against any noise impacts from the street or nearby neighbouring uses e.g. food and drink establishments. He also seeks a condition to secure internal sound insulation measures for any gymnasium use that may be introduced to protect the amenities of future occupiers.

7. EXTERNAL CONSULTEE RESPONSES

- 7.1 **CADW** have no objection to the proposed development with regard to the scheduled monuments at Cardiff Castle and Roman Fort (GM171) or the Dominican Friary (GM173) or the registered historic parks and gardens at Sophia Gardens (PGW(Gm)21(CDF)), Cardiff Castle and Bute Park (PGW(Gm)22(CDF)) or Cathays Park (PGW(Gm)26(CDF)). These historic assets are located inside 1km of the proposed development, but intervening topography, buildings and vegetation block all views between them except for scheduled monument GM171 Cardiff Castle and Roman Fort. In respect of GM171 they agree with the conclusions of the Heritage Impact Assessment accompanying the application i.e. The proposed development is potentially visible from elevated areas of the scheduled monument though it will be seen in the context of a heterogeneity of architectural form and style that has developed across the St Mary Street Conservation Area over the course of centuries and within this context the proposed development is sympathetic to the heritage significance of the St Mary Street Conservation Area. Whilst there may be a very slight visual change in the view from the monument this will not have any effect on the way that it is experienced, understood, and appreciated. Consequently, the proposed development will have no impact on the setting of scheduled monument GM171.
- 7.2 **Dŵr Cymru Welsh Water** raise no objection to the proposal, confirming that capacity exists within the public sewerage network to receive the domestic foul only flows from the proposed development. However, in respect of potable water, they anticipate this development will require the installation of a new single water connection to serve the new premises. The water supply system in the immediate vicinity has insufficient capacity to serve the development and will also cause detriment to existing customers' water supply. The provisions of Section 45 of the Water Industry Act 1991 apply. They therefore rely on the Local Planning Authority to control the delivery of any required reinforcement works by planning condition. They request an appropriate condition and informatives to ensure no detriment to existing residents, the environment or their assets.
- 7.3 **Natural Resources Wales** have no objection to the application and provide the following comments:

- (i) Protected Species: Paragraph 4.5 of the submitted Preliminary Ecological Appraisal (PEA) notes that an external survey of accessible elevations did not identify any features suitable for roosting bats, though there was no roof survey due to health and safety constraints. Therefore the presence of roosting features at rooftop level has not been ruled out. They recommend the views of the County Ecologist are sought to determine whether further surveys are required.
- (ii) Land Contamination: Having reviewed the submitted Ground Conditions Desk Study they consider that the controlled waters at this site are not of the highest environmental sensitivity, therefore they will not be providing detailed site-specific advice or comments. They recommend that the requirements of PPW and the Land Contamination Risk Management (LCRM) guidance be followed.

7.4 **Glamorgan Gwent Archaeological Trust (GGAT)** consider that the proposed works will require archaeological mitigation. The Historic Environment Record shows that the application site is located within the *Archaeologically Sensitive Area of the City Centre*, defined for the significance and concentration of Roman, Medieval and post-Medieval remains, both upstanding and buried.

7.5 The site is in the area of the planned Medieval town, at a crossroads on the main thoroughfare. The former course of the River Taff prior to its mid 19th century changes flowed to west of St Mary Street, and Wharton Street / Golate was one of the Medieval routes to the river. Historic mapping shows buildings at this location. The Howells store is a Listed Grade II* building, Cadw reference 14109, and the listing includes the Bethany Chapel. The application includes the 1931 block for the store, and a 1970s link building, and the elevation to the west frontage of Bethany. The chapel was built in 1807, and has undergone at least two re-buildings and extensions, before being incorporated into the store in the 1960s. This preserved many elements of the structure, including columns, walls, doorways, and plaques, within the store buildings. The store has a large basement and whilst the construction of this is likely to have damaged or removed any archaeological deposits, there may be deposits remaining outside this.

7.6 Newspapers of the time record that there were burials in the chapel area, although the number is not known, which were considered as part of the rebuilding works, by the Cardiff Board of Health in 1864. Some were removed to other burial grounds, 11 at the west of the chapel, and 6 to the north remained in situ; the article details that some had to be disturbed and covered by asphalt or concrete during the course of the rebuilding. The current number of burials or detailed location of them is not known, and there is potential that they may be disturbed during the course of the current proposal.

7.7 Their understanding of the archaeological resource has not changed since their previous responses and it remains their opinion that the proposed development may encounter archaeological remains related to early Medieval and Medieval settlement and activity, as well as evidence of 19th century activity, potentially including human remains. This will require mitigation that follows the guidance

in PPW11 and TAN24. They recommend a condition which should require a detailed written scheme of investigation (WSI) for a programme of archaeological work in the form of a watching brief during the groundworks including any phases of below ground demolition to the link and store, including those which impact on the chapel, which are outside the area of the basement, any ground disturbance, including hard landscaping. The WSI should also include detailed contingency arrangements, including the provision of sufficient time and resources to ensure that any archaeological features, or finds, or human remains that are located are properly investigated and recorded; and also detail provision of detail regarding human remains, their excavation, study, treatment and reinternment. It should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations they recommend that the condition be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014. An advisory is also recommended.

- 7.8 The **South Wales Fire Service** has no comments to make in addition to those made at pre-application consultation stage when they issued their standard advice (via their 'BR13 letter') which details, amongst other things, the access requirements for fire appliances. They also confirm that they would examine the application in more detail at Building Regulations Stage (Approved Document 'B') and provide a more detailed response in respect of their access requirements.

8. REPRESENTATIONS

- 8.1 The application was advertised on the Council Website and by way of neighbour notification letters, site notices and advertisement in the local press, dated 19th October 2023. The notices were necessary because the application is a major development involving a listed building that may affect the character and appearance of a conservation area and the setting of listed buildings.
- 8.2 In total four letters of representations have been received to date, expressing their support of the application for the following reasons:
- (i) They comprise a sympathetic repurposing of original buildings into more relevant and usable space for the next 100 years;
 - (ii) The proposal will transform buildings in the heart of the City Centre;
 - (iii) Much needed public realm will be provided;
 - (iv) History of the site will be retained; and
 - (v) Significant amounts of embodied carbon will be retained
- 8.3 All public representations made on the application are available to view in full on the Council's website at: [23/02286/FUL](#)
- 8.4 In addition to the statutory public consultation process outlined in paragraph 8.1, the applicant also undertook a pre-application consultation (PAC) exercise prior to the submission of the application. This PAC process applies to all planning applications for "major" development, as defined in Article 2 of the Town and Country Planning (Development Management Procedure) (Wales)

Order 2012 as amended. A public exhibition was held as part of the PAC process on 8th September 2023 when an estimated thousand visitors attended. The PAC report accompanying the application states “Overall, the feedback received has been overwhelmingly positive” (paragraph 4.2).

9 ANALYSIS

9.1 The key material considerations in the determination of this application are:

- Land Use Policy/Principle of Development
- Impact Upon Listed Buildings and the St Mary Street Conservation Area
- Impact upon the Character of the Area (Townscape)
- Impact Upon Archaeology
- Impact upon Residential Amenity
- Impact upon Ecology
- Access, Parking and Servicing
- Public Realm & Landscaping
- Energy / Sustainability
- Flood Risk & Hydrology
- Economic Impact
- Section 106 Matters

Land Use Policy / Principle of Development

Brownfield Land

9.2 PPW11 advises that, wherever possible, previously developed land (i.e. ‘brownfield’ land) should be used in preference to developing on ‘greenfield’ land (paragraph 3.55), particularly where sustainability principles will be promoted and provided constraints can be overcome.

9.3 The existing buildings, formerly occupied by the Howells Department Store and House of Fraser, is now currently vacant and under-used. Being located in the heart of the City Centre its location is considered to be highly sustainable, being well-served by public transport services and a wide range of facilities and amenities within a short walk. It is considered that the redevelopment of the site is consistent with PPW’s preference for the development of ‘brownfield’ land.

Commercial Floorspace

9.4 The site is situated within the Central Business Area (CBA) as defined by Local Development Plan Policy KP10 (Central and Bay Business Areas), the Central Shopping Area (CSA) as defined by Policy R2 (Development in the Central Shopping Area) and within Protected Shopping Frontages no. 51, 52 and 53 (Policy R3, Protected Shopping Frontages).

9.5 The former Howells department store closed in April 2023 and is currently vacant. LDP Policy R2 (Development in the Central Shopping Area) identifies that proposals within the Central Shopping Area will be considered against a series of criteria, including; whether the proposal involves the loss of shop uses

(Class A1) from within Protected Shopping Frontages; whether the proposal involves retail and other uses which enhance the vitality, viability and attractiveness of the city centre; whether it allows for or retains the effective use of upper floors and whether it supports the regeneration, renewal and enhancement of the city centre. Alongside this, Policy KP10 (Central and Bay Business Areas) identifies new office, residential and commercial leisure uses as being considered appropriate within the Central Business Area, whilst Policy R3 (Protected Shopping Frontages) allows for other uses (including Class A2 and A3) at appropriate locations within Protected Frontages.

- 9.6 In this regard, taking into consideration that the application forms Phases 2 and 3 of the wider redevelopment and repurposing of the site (moving from a single large floorplate department store to a series of smaller commercial units), the nature of the proposed uses of the flexible commercial units (as open Class A1, Shop / A2, Financial and Professional Services / A3, Food and Drink / B1, Business / D1, Non-residential Institutions and D2, Assembly and Leisure), that commercial units will be introduced along the Wharton Street frontage (Protected Shopping Frontage no.51), that a new focal public square will be created within the centre of the site and that the upper floors of the building will also be developed for effective use, the commercial floorspace proposals are considered to accord with the aforementioned policies.

Residential Floorspace

- 9.7 LDP Policy H6 (Change of Use or Redevelopment to Residential Use) states that change of use of redundant premises or redevelopment of previously developed land for residential use will be permitted, subject to 5 criteria:

- (i) There is no overriding need to retain the existing use of the land or premises and no overriding alternative local land use requirement;
- (ii) The resulting residential accommodation and amenity will be satisfactory;
- (iii) There will be no unacceptable impact on the operating conditions of existing businesses;
- (iv) Necessary community and transportation facilities are accessible or can be readily provided or improved; and
- (v) It can be demonstrated that the change of use to a more sensitive end use has been assessed in terms of land contamination risk and that there are no unacceptable risks to the end users.

- 9.8 The application responds to these criteria, as follows:

- (i) The premises are currently vacant and are in a state of deterioration and decay due to a lack of maintenance. The introduction of new, smaller commercial units at ground and first floor level will likely attract a variety of users which will help create a vibrant mixed use community;
- (ii) The flats will each achieve a minimum floorspace of 30m². Daylight sunlight provision is assessed later in this analysis. There exists ample outdoor amenity space such as Bute Park, a short walk from the application site. The application site is constrained and has no opportunity to provide external amenity space within the development.

- (iii) Existing businesses are not expected to experience any unacceptable impacts. Pre-commencement conditions can be attached to manage the demolition and construction phases of the development to safeguard neighbouring occupiers.
- (iv) As established in paragraph 9.3, there are ample sustainable modes of transport to and from the site, which is highly permeable for pedestrians, mindful of its City Centre location.
- (v) The application is accompanied by a Phase 1 Ground Conditions Desk Study which identifies the potential for contaminants in the made ground (subject to conditions, the SRS Environment Team do not object).

9.9 The applicant's response to these criteria is noted. The need to retain the existing retail floorspace is an important consideration. The recent closure of the House of Fraser department store, lack of uptake by another operator, the assortment of buildings in the Howell's complex, and the retention of smaller retail and commercial units at basement and ground floors leads to a conclusion that the proposals accord with criterion (I). It is recognised that the application is a mixed use development and the introduction of residential units at upper floors are necessary to attract investors so that the long-term future of this listed asset can be realised. Criterion (ii) - (v) are considered in more detail elsewhere in this analysis.

Impact Upon Listed Buildings and the St Mary Street Conservation Area

- 9.10 LDP Policy EN9 (Conservation of the Historic Environment) requires any development relating to historic assets (including their settings) to demonstrate that it preserves or enhances that asset's architectural quality, historic and cultural significance, character, integrity and/or setting.
- 9.11 In addition to Policy EN9, for the nearby Listed Buildings there is also a statutory duty on the decision maker under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have *special* regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Case law has stated this is an important consideration and not a balancing exercise with other planning considerations.

Central Part of the Site

Demolition

- 9.12 The creation of a courtyard within this dense retail block forms a key concept for future regeneration and reuse of this department store site. This requires part-demolition of those former ground and first floor retail spaces that linked the taller primary buildings to St Mary Street, Trinity Street and Wharton Street – but also into the former chapel. This sees division of a dense retail block that gradually amalgamated as Howells expanded in the 100 years or so from its arrival on this side of Wharton Street in the mid-1800s.
- 9.13 Opening-up the site in this location does produce some heritage benefits: widening public appreciation of the site in terms of views towards interesting elevations and the creation of what should be characterful public realm (albeit likely with restricted access akin to the arcades) in the heart of the conservation

area. The opportunity for a new public link into the south aisle of central market should also enhance the sustainability of these listed buildings (both graded II*), opening up a potential new meandering north-south route from Wharton Street to Church Street. No details have yet been approved for the works that would be required to the market, but a new entrance would be supported in principle – particularly given the current vacancy and condition of the stalls in the position indicated.

Temporary Blocking-Up

- 9.14 Following demolition, temporary hoardings and flashings are proposed to be installed, to protect retained fabric along the demolition lines. Given the uncertainty relating to structure and precise future uses of the accommodation behind, this approach has been agreed as necessary pending more detailed surveying. Conditions are applied to the associated LBC application to secure further details.

Ground and first floor courtyard-facing extensions

- 9.15 These new elevations are considered to be appropriately high quality and simply detailed. They sit in contrast to the richly varied character of the retained buildings above and adjacent, whilst also making clear architectural reference to the classically arranged masonry (paired with deep-set large bronze windows) found within the public facing elevations. Conditions are applied to the concurrent LBC application to ensure that more detailed drawings are required post-demolition.

New Public Realm

- 9.16 A permanent landscaping scheme is shown indicatively for the whole block, which is intended to be delivered partially as part of this phase of development. The northern section is shown to be temporarily surfaced with bonded resin, to allow for construction of adjacent later phases. Further details and implementation requirements should be secured by conditions. A Heritage Interpretation and Public Art Strategy should also be secured by condition (as noted at page 138 of the DAS and page 147 of the HIS).

The Inter-War Trinity Street Building

- 9.17 This portion of the varied Trinity Street elevation was designed by the practice of Percy Thomas and Ivor Jones in 1922. It was built in two stages; the basement, ground floor and half of the first floor constructed initially, before work started on the remainder of the first floor and the entirety of the second floor in 1922.
- 9.18 Proposals for ground floor demolition are key to strategic connectivity for the proposed semi-public space within this site, involving ‘...removal of a section of the shopfront to Trinity Street, demolition of the modern treatment rooms to the western end of the building, and partially demolish its rear external wall.’

- 9.19 At present, part of the original shop window is obscured by a large fascia sign, which impacts negatively upon this significance. It is unclear from the low-detail proposed drawing whether existing signage is to be removed as part of this work and, more generally, what amendments are proposed to the principal shopfront elevation here – or its newly revealed passageway returns, which are simply shown unchanged within the proposed sections.
- 9.20 This negative impact may be somewhat tempered by a very high-quality intervention here, wherein the Percy Thomas shopfront is carefully modified and adapted to form a new, grand northern entrance to the site. In this way, it may reflect not only the temporary arcade designed by Jones to Wharton Street in the 1920s, but also those arcade arrangements across the wider city centre. As it stands the newly formed passageway seems to be overly wide and fundamentally lacking in character or interest.
- 9.21 Details for this entranceway and its newly created ‘external’ arcade elevations are to be secured by conditions applied to the LBC.

Wharton Street - Extension and Alteration

- 9.22 The three storey (+ basement) 1935 Wharton Street block is proposed for separation from the 1960s corner building (retail floorspace of which it currently flows into) and conversion to residential use. Secondary glazing is specified to improve thermal and acoustic performance. This is supported as it will facilitate the retention of the original windows and glazing. Details are required via condition on the LBC.
- 9.23 A substantial proposed extension adds a floor behind the existing 3m deep parapet and three further floors above with a two-stage set-back. The submitted HIS and DAS confidently conclude that the rooftop extension will be a high-quality addition that will compliment rather than detract from the Wharton Street frontage.
- 9.24 The DAS notes that the design of the massing of the set back sixth floor ensures that it is not visible in closer views. In terms of the more prominent extension four and five, the document concludes that *“the considered design of the extension will enhance the eclectic character of the streetscape.... the profiled terracotta adding a striking new material which relates to the surrounding sky, whilst the fins breaking the extension into individual bays reaffirm the rhythm of the building below.”* (DAS, p102)



Figure 14: View 2 – St. Mary Street

9.25 In consideration of the oblique and partially screened views that will be possible towards it, together with the stepped back positioning, it is concluded that the extension will not have a materially harmful impact upon external appearance or character of the building or the wider conservation area. Concerns previously raised regarding large areas of blank rendered walls that would be visible in longer views from the east have been overcome by changing this to brick, which will offer more visual interest and be less likely to suffer from harmful visual impacts from weathering.



Figure 15: View 6 – Hayes

- 9.26 As noted within the application documents, the acceptability of the extension is heavily predicated on high quality materials and execution. This will require very careful attention to detailing and selection of materials, so conditions are recommended to both the FUL and LBC apps.

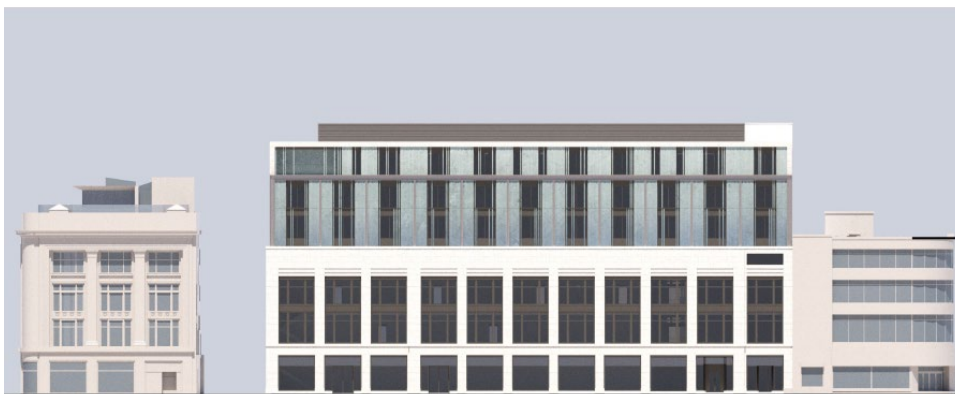


Figure 16: Proposed Elevation to Wharton Street

- 9.27 The Victorian Society (under the associated LBC application) have raised concerns about impact of the height on the wider conservation area, but this view is not shared given the variety of scale present within the wider area. As explained within the amended documentation published 24th November, the overall height of c.30m is not without precedent in this context. Limited and channelled views that will be possible reduce impact to an acceptable level. It is accepted that the character of Wharton Street will change given the relatively narrow width that will be far exceeded in height to the north side, but this is also not uncommon within this dense conservation area, and it does only affect the central part of the street.

Wharton Street Exterior Upper Floors

- 9.28 A punched window is proposed within the parapet of the recessed easternmost bay. Plans have been revised to omit a further window proposed within the central seven-bay projecting element of the façade, as this was considered to represent an unacceptably harmful modification that would have interrupted the consistency of the deep parapet and the symmetry of this element. While representing a minor degree of harm from lost fabric and visual impact, the single window is felt to be acceptable, given that this element is set back and would follow the setting out and materiality of the fenestration below. The character of the conservation area would be preserved. Precise construction details are required via condition to the LBC.

Wharton Street Ground Floor

- 9.29 New entrances are proposed at ground floor to service the new residential lobby and new retail space. These will involve some loss of fabric in the existing windows (below the fixed top lights) and stone stall risers. Each window also features a bronze 'James Howells and Co Ltd' sign, some of which are missing and require replacement (An LBC condition is applied to require this) – and those displaced from the new doorways will need to be reused. Reuse of the stone within returns is also required. Plans are not detailed at this stage,

meaning that further information will be required by condition (to the LBC). Refurbishment of the original shop front canopies is also a requirement of the LBC conditions.

Chapel and Sunday School

- 9.30 The building has not been visible from the public realm until very recently, where it adds considerable interest to the character and appearance of the conservation area, albeit currently still boarded off. The proposal to increase public access and visibility will further enhance the area.

Chapel

- 9.31 In combination with proposed demolition to open more of the northern elevation at ground floor level, these proposals for partial restoration of this space somewhat limit the heritage benefits to be gained here. The large, glazed doors proposed for installation in this phase of works are intended to '*...ensure ground floor activation of the public realm*' and to '*...highlight the architectural interest of the chapel, contrasting with the rubblestone elevations of the building.*' Since a substantial opening already exists in this northern elevation, there is doubt it will accrue any additional benefit. Negative impact may be tempered by a very high-quality installation here. Details for the doors are to be secured by LBC condition.
- 9.32 Removal of the existing, two-storey 1960s connection between the chapel with Wharton Street building is proposed, to be replaced with a link of single-storey height only. Pending details secured by condition, this aspect of the proposed will reveal more of the chapel's southern elevation and provide further enhancements towards its legibility and significance.

Sunday School

- 9.33 In order to improve permeability of the site, a number of demolitions are proposed to the Sunday School portion of the building. These proposals necessitate demolition of the north wing of the chapel in order to create the new route into the site from Trinity Street. This is certainly the least architecturally interesting portion of the building and as stated within the HIS: '*Without the demolition of the north wing to create a broad, straight passageway connecting Trinity Street and the centre of the site the open space and the heart of the site will lack activation with no pedestrian access.*'
- 9.34 In order to improve accessibility from the Wharton Street block, further demolitions within the south wing are proposed. Though impactful, it is accepted that existing access to this area of the building is highly constrained. As per the HIS, the proposed route maintains (although widens) the historic access route into the school, whilst '*...removal of fabric is limited to that which is considered necessary to allow access through from the Wharton Street commercial space, back into the central volume of the Sunday School.*'

- 9.35 More certain are proposals for restoration of the 'lantern' to the roof of the former Sunday School. Though fine details are unclear, supplied drawings indicate that some form of flat roofed structure '*surrounded by glazed lights*' is to be installed: a marked deviation from the original vaulted structure in this location which must have once lent considerable drama. The lantern will be visible from the public realm and will enhance the character and conservation area.
- 9.36 A new and viable public use for this building is welcomed. Wider demolitions proposed within this site (to enable a new area of semi-public realm) will reveal more of this significant building, allowing its original form to be better appreciated within fresh public views - though it should be noted that revealing of the most significant front elevation has already been approved under previous applications. This fine front elevation is now proposed for detailed repair and restoration, to be secured by condition attached to the LBC.

Setting of Adjacent Listed Buildings

- 9.37 It is acknowledged that the proposed rooftop extension has been developed through rigorous testing and design review, to limit impact upon both the host building and the wider historic environment. Where this design process (including, form, massing, articulation, and materiality) has been fundamental to mitigation of impact upon the character of the host building to Wharton Street, it is equally fundamental to impact upon the wider area – including the setting of adjacent historic assets.
- 9.38 Of those listed assets in proximity to the proposed where setting may reasonably be considered as being affected, the potential impacts are summarised below.

Buildings to the southern side of Wharton Place: Grade II 20 St Mary Street (Cadw ref 21644), Grade II 3 Wharton Street (21684), Grade II Former Glassworks at 4 Wharton Street (21684)

- 9.39 Principal views of 20 St Mary Street (northern elevation of which fronts Wharton Street) are afforded from St Mary Street, where its ornate front may also be appreciated in longer views from the North-West and South-East. The proposed will not form direct backdrop to the asset within these views. Considering the junction is already dominated by its much grander Howell & Co neighbour, impact upon its setting will be negligible.
- 9.40 Long views of those other assets to the south side of the proposed are mostly oblique, due to the constrained and narrow nature of Wharton Street. By virtue of its location, the proposed does not intrude into principal views of these primary elevations, though it will inevitably intrude into those oblique views from the south-west along Wharton Street, where the new will substantially increase built mass to the opposite side of the street.
- 9.41 The Glassworks building extends to the corner to Bakers Row, where it also displays fine elevations to the east. Views of this prominent corner from the north-east (along Wharton Street) will not be impacted by this development.

The new will, however, terminate views down Bakers Row with new and significant height, which will inevitably provide some distraction from the oblique views of Glassworks elevations available from there.

Grade II Listed St Davids Hall (87914)

- 9.42 The proposed has potential to impact upon the Setting of Grade II Listed St David's Hall, where long northerly views along both Golate and Wharton Street are terminated by its remarkable, sloping, irregular mansard roof. There will be some impact here, though setting-back of the fourth and fifth floors means that the proposed does not impinge unduly upon the distinctive silhouette of St David's Hall.

Grade II: Former Central Library (14111)*

- 9.43 A number of principal views are available of this building, due to its isolated location within the street layout. Of these, the proposed will form an offset backdrop within oblique views of the grand south-eastern elevation of the former library, which dominates this part of The Hayes. As demonstrated by View 6 (p.172 of the HIS):

'...this building screens all but the front portion of the roof extension where it fronts Wharton Street, which will importantly, remain visibly lower than the cornice line of the library.'

- 9.44 There will be some screening of the proposed development by the mature trees to Hayes Island, primarily in summer. Stepping back of the roof extension and appropriate materiality to the end elevations will mitigate this massing however, to further soften setting impact upon the Grade II* listed asset.
- 9.45 The former library presents another grand elevation to the north-east, best appreciated within long views down Working Street. Here, the rear of the proposed development will extend above the existing roofline of the Howells block, to be visible adjacent to the asset. However, there is some tree cover within long views here. The new will also be substantially set-back within the wider viewscape and, as before, proposed materiality will reduce its visual impact.

- 9.46 Overall, the impact upon the setting of listed buildings is considered to be low.

Conclusion

- 9.47 The proposals would bring parts of the complex back to beneficial use and there are numerous regeneration benefits associated with the creation of new spaces and public routes through this characterful block.
- 9.48 Existing public-facing elevations are overwhelmingly retained and will be enhanced through repair. The Wharton Street extensions will have some impact upon the character of the conservation area, adding mass to a block that is relatively uniform in scale, however this is not considered to be harmful given

limited unscreened viewpoints available towards it. It has been demonstrated that the settings of nearby listed buildings will be unharmed.

- 9.49 It is considered that, subject to conditions requiring additional information and works of mitigation, it is possible to conclude that the overall character and appearance of the conservation area would be enhanced by these works.

Impact on the Character of the Area

- 9.50 As noted earlier, the Welsh Government publication [*Building Better Places: The Planning System Delivering Resilient and Brighter Futures*](#) contains the principles and policies needed for Wales to recover from Covid-19 in a positive manner, putting placemaking at the heart of future development.
- 9.51 It also emphasises that development management decisions should focus on creating healthy, thriving active places with a focus on a positive, sustainable future for our communities, and that WG will thus play its role in supporting the vibrancy of places and helping a people-focussed and placemaking-led recovery.
- 9.52 PPW11 also embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision-making process.
- 9.53 The application assesses the visual impact of the Wharton Street block from 9 key views and makes similar conclusions to the conservation area assessment in the preceding section. The use of conditions to control the quality of the external finishing materials and architectural detailing will be key to ensure a high quality development that is appropriate for its setting. The corresponding listed building consent application contains a suite of detailed conditions to ensure an appropriate development is secured and these conditions are not repeated for this planning application in the interests of avoiding unnecessary duplication.
- 9.54 PPW11 paragraph 4.1.19 states that *“Well-designed, people orientated streets are fundamental to creating sustainable places and increasing walking, cycling and use of public transport. New development should improve the quality of place and create safe, social, attractive streets where people want to walk, cycle and enjoy.*
- 9.55 LDP Policy KP6 (New Infrastructure) seeks that new developments make appropriate provision for, or contribute towards, necessary infrastructure required as a consequence of proposed development, including public realm improvements.
- 9.56 The demolition works within the centre of the site will present an opportunity to open up the site, make important new pedestrian connections to the surround streets and create a new area of public realm that the surrounding commercial

uses can spill out onto, creating a vibrant space.

- 9.57 Initial proposals for this space set out in the Design and Access Statement include using the hard landscaping to highlight the historic Medieval burgage plots with some feature tree planting. The use of different paving types, colours and textures as well as street art within the paving to reference the site's history has the potential to create a high-quality area of public realm within the application site boundary. Conditions will be used to secure full details of both hard and soft landscaping as well as a strategy for delivering the public realm.
- 9.58 A temporary surface finish of resin-bound gravel for the northern half of the public realm to allow for the construction of later phases of the wider development in due course, is recognised to be an appropriate interim solution.

Impact on Archaeology

- 9.59 PPW11 advises that the conservation of archaeological remains and their settings is a material consideration in determining planning applications, whether those remains are a scheduled monument or not (Paragraph 6.1.23).
- 9.60 The site is located within the Archaeologically Sensitive Area of the City Centre, where Roman, Medieval and post-Medieval remains are present. Records indicate there is potential that Medieval burials may be disturbed during construction, despite the basement level likely causing damage to the resource when it was built. Glamorgan Gwent Archaeological Trust, in commenting on the application (see paragraphs 7.4 – 7.7) recommend a relevant condition to mitigate the impact on the buried archaeological resource. They seek a written scheme of investigation to take the form of a watching brief during groundworks, including any below-ground demolition.

Impact on Residential Amenity

- 9.61 PPW11 (Paragraph 2.13) identifies maximising environmental protection and limiting environmental impact as one of the 5 key principles for making sure that the right development is in the right place. This can include ensuring developments consider air quality, noise and create appropriate soundscapes in their developments (paragraphs 6.7.5 and 6.7.6).
- 9.62 Minimising pollution is identified as a key component to ensure long-term sustainable development in LDP Policy KP18 (Natural Resources). LDP Policy EN13 (Air, Noise, Light Pollution and Land Contamination) states that development will not be permitted where it would cause or result in unacceptable harm to health, local amenity because of air, noise, light pollution or unacceptable levels of land contamination.

Air Quality

- 9.63 No car parking provision is proposed within the development and therefore, aside from servicing requirements, the operational development will be car-free. Vehicle emissions are therefore anticipated to be minimal. The site is located within the Cardiff City Centre AQMA which seeks to enhance air quality in the

future.

Noise

- 9.64 The application site lies in the heart of the City Centre in close proximity to a number of evening and night-time uses. PPW11 (paragraph 4.3.44) states that where residential development is proposed next to or near such uses, it will be necessary to consider the compatibility of uses and to incorporate mitigation measures to minimise any impact on the amenity of any future residents. The *agent of change* principle says that a business or person responsible for introducing a change is responsible for managing that change.
- 9.65 The noise assessment accompanying the application proposes glazing (specification to be agreed) to the south façade of the Wharton Street residential accommodation to safeguard against any unacceptable noise impacts from existing evening and night-time uses in the vicinity. Mechanical Ventilation & Heat Recovery will be installed to ensure adequate internal ventilation. A condition is also sought by the Shared Regulatory Services Noise Pollution Officer in the event that a gym operator occupies the basement floor to safeguard against internal noise disturbance. Subject to relevant conditions, it is considered that the amenities of future occupiers can be satisfactorily protected as well as protecting the operations of existing businesses nearby.
- 9.66 Subject to relevant conditions to control the proposed commercial uses, it is also considered that the amenities of patrons of the neighbouring Sandringham Hotel can be satisfactorily safeguarded (noting that patrons of this City Centre hotel would likely be short-term guests who would expect a degree of evening and night-time noise given the hotel's location).

Daylight & Sunlight

- 9.67 LDP Policy KP5 (Good Quality and Sustainable Design) requires all new development to be of a high quality, sustainable design. In its Residential Design Guidance SPG the Council commits to applying the BRE guidance "*Site Planning for Daylight and Sunlight – a guide to good practice*" in its assessment of relevant schemes.
- 9.68 There is a recognition that the nature of the development, and its relationship with neighbouring buildings may make it difficult for all units to fully achieve the require standard of daylight/sunlight. Nevertheless, there have been considerable discussions with the developer to maximise the ambient light levels for the future occupiers of the apartments. The Daylight Sunlight Assessment submitted with the application revealed that, using this BRE guidance, 6 of the proposed apartments failed to ensure that at least 50% of the floorspace was meeting 200Lux, of which 3 no. apartments were failing substantially (i.e. 13%, 19%, 25%).
- 9.69 Following an internal re-design seeking to address such concerns, and given the city centre location, the Council has applied flexibility to the scheme which has allowed assessment against a 150 LUX requirement rather than 200 LUX. The further assessment showed that 3 flats now meet the 50% target for

daylight and sunlight, and 3 remaining flats continued to fail (now achieving 14%, 21% and 31%).

- 9.70 The 3 failing flats are on Levels 1, 2 and 3, within the fabric of the existing listed building and have a north-facing aspect. There may be scope to further improve daylight and sunlight by inserting windows into an existing lightwell at Levels 1 and 2 though the gains may only be marginal. It is recognised that working within the constraints of the listed asset presents some challenges in achieving the 50% standard.
- 9.71 Ultimately, the scheme has been improved to the maximum extent possible within the constraints of the site/development and having regard to viability considerations. In this regard and given the acknowledgement of the specific context of the site, the failure of parts of the development to achieve a satisfactory level of light to some apartments and amenity space, while regrettable, is not considered, on balance, to outweigh the positive benefits of the scheme in terms of bringing forward residential-led, city centre regeneration. This is acknowledged to be a matter for the planning balance.

Impact on Ecology

- 9.72 Future Wales Policy 9 Resilient Ecological Networks and Green Infrastructure requires developers to ensure the enhancement of biodiversity, the resilience of ecosystems and provision of green infrastructure. In all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net-benefit), the resilience of ecosystems and green infrastructure should be demonstrated as part of development proposals.
- 9.73 The recently published update to Chapter 6 of PPW states that “*The quality of the built environment should be enhanced by integrating green infrastructure into development...green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes.*” (paragraph 6.2.5), The update recognises that there are multiple ways of incorporating green infrastructure depending on the needs and opportunities a site presents and recommends using the ‘Building with Nature’ standards in proportion to the nature and scale of the development.
- 9.74 LDP Policy EN8 states development will not be permitted that would cause unacceptable harm to trees, woodlands and hedgerows of significant public amenity, natural or cultural heritage value, or that contribute significantly to mitigating the effects of climate change.
- 9.75 The County Ecologist is satisfied that the imposition of relevant conditions will ensure that net benefits for biodiversity will be secured through the development. An ‘Ecological Enhancement’ condition will ensure a range of biodiversity features including tree and planting species and bird and bat boxes. The new public square has the potential to provide some feature tree planting.
- 9.76 LDP Policy EN7 (Priority Habitats and Species) only permits development proposals that would have a significant adverse effect on the continued viability

of habitats and species which are legally protected in certain circumstances. Compensation measures will be sought where harm is unavoidable and mitigation measures are not possible. This policy highlights the importance of ensuring a development proposal maintains the nature conservation value of its area.

- 9.77 Consultation responses from Natural Resources Wales and the County Ecologist have noted that the bat survey accompanying the application did not assess the roof's potential for bat roosts (for reasons of health and safety). The County Ecologist is satisfied that a relevant condition should be attached to any permission to ensure a survey is carried out before development of this part of the site commences. In the event bats were found, then there would be a requirement for a license to be sought from NRW.

Access, Parking and Servicing

- 9.78 Chapter 4 of PPW 'Active and Social Places' addresses transport, stating that people should have access to jobs and services through more efficient and sustainable journeys, by walking, cycling and public transport. It further states that *"new development should prevent problems from occurring or getting worse such as...the reliance on the private car and the generation of carbon emissions."* It further notes that land use and transport planning should be integrated to minimise the need to travel, reduce dependency on the private car and enable sustainable access to employment, local services and community facilities.
- 9.79 By influencing the location, scale, density, mix of uses and design of new development, the planning system can improve choice in transport and secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change and airborne pollution by:
- Enabling More Sustainable Travel Choices – measures to increase walking, cycling and public transport, reduce dependency on the car for daily travel; And
 - Network Management – measures to make best use of the available capacity, supported by targeted new infrastructure.
- 9.80 LDP Policy T1 (Walking and Cycling) supports developments that incorporate a range of measures to enable people to access employment, essential services and community facilities by walking and cycling, including high quality and sustainable design, permeable, legible, safe, convenient and attractive routes, connections to wider strategic networks, prioritisation of pedestrians and cyclists, provision of car-free zones and the provision of supporting facilities e.g. secure cycle parking.
- 9.81 LDP Policy T5 (Managing Transport Impacts) states that developments, where necessary, will seek safe and convenient provision for a range of road users to thus contributing to reducing reliance on the private car (paragraph 5.2.30).

- 9.82 The application will be a car-free development; there will be no provision within the site for car parking. This approach is welcomed for this City Centre location, which is very well-served by public transport services.
- 9.83 Some concerns were raised by the Operational Manager Transportation, regarding the quantum and location of cycle parking provision within the original submission. 20 no. spaces (10 no. 'Sheffield' stands) were proposed for commercial/visitor parking and 80 no. spaces (68 no. Basement level spaces through 15 no. 'Sheffield' stands and 19 no. double-stacker stands, with a further 2 no. space/6 no. double-stackers at Level 3).
- 9.84 There was particular concern regarding the provision of cycle parking at Level 3, due to its perceived inaccessibility, which could be a deterrent to encouraging residents to cycle. In responding to these concerns, the application has been amended to include a further 9 no. 'Sheffield' stands at basement level, equating to a further 18 no. spaces.
- 9.85 No changes have been proposed to the commercial/visitor provision. The agent points to future phases of the development, including basement space, having potential to accommodate further cycle parking provision. Notwithstanding this possibility, a condition is recommended to secure additional, accessible commercial/visitor cycle parking within the new public realm being delivered by these phases.
- 9.86 The amended plans confirm the provision of a 4.5m² bulky goods store and 3 no. 240 litre food waste bins in accordance with the requirements of the Council's Waste Management Team. The Team have confirmed their acceptance of the amended plans. The proposed collection arrangements, with ground access/egress from the north elevation to the collection point on Trinity Street are accepted to comply with the requirements of LDP Policy W2 (Provision for Waste Management Facilities in Development).
- 9.87 The Fire Service have confirmed that their standard advice applies in respect of emergency access, previously shared with the applicant during the pre-application consultation. Any subsequent Building Control application will assess emergency access for the development which the Fire Service will engage with at that time.

Flood Risk & Hydrology

- 9.88 PPW11 refers to the need to ensure that drainage systems have sufficient capacity and water quality measures and the requirement that development should reduce and must not increase flood risk to the site or elsewhere (Paragraphs 6.6.9 and 6.6.25).
- 9.89 LDP Policy KP15 (Climate Change) advises that development proposals should, in mitigating against the effects of climate change, avoid areas susceptible to flood risk and prevent development that increases flood risk. According to the TAN 15 Development Advice Maps, the site is located in an area that is at little to no risk of flooding.
- 9.90 LDP Policy EN10 (Water Sensitive Design) supports the application of water

sensitive urban design solutions in development and EN11 (Protection of Water Resources) prevents development that would cause unacceptable harm to water quality or quantity.

- 9.91 The Lead Local Flood Authority has confirmed that permission from the SuDS Approval Body (SAB) is not required for the development due to the roof area not increasing in size and the discharge point.
- 9.92 Whilst Welsh Water raise no objection to the application, they anticipate a new single water connection will need to be installed to ensure a satisfactory supply of potable water as insufficient capacity exists in the vicinity of the site, and also has the potential to cause detriment to existing customers' supply. A relevant condition is recommended.
- 9.93 Subject to relevant conditions, it is considered that the development will meet planning policy requirements in respect of flood risk, water capacity and quality.

Sustainability / Energy

- 9.94 Future Wales Policy 16 emphasises that large scale mixed-use development should, where feasible, have a heat network with a renewable / low carbon or waste heat energy source. Planning applications for such development should prepare an Energy Masterplan to establish whether a heat network is the most effective energy supply option and, for feasible projects, a plan for its implementation.
- 9.95 Policy 17 Renewable and Low Carbon Energy and Associated Infrastructure outlines support for developing renewable and low carbon energy at all scales.
- 9.96 PPW (para 5.8.1) states that 'the planning system should support new development that achieves high energy performance, supports decarbonisation, tackles the causes of the climate emergency and adapts to the current and future effects of climate change through the incorporation of effective mitigation and adaptation measures.
- 9.97 LDP Policy EN12 Renewable Energy and Low Carbon Technologies requires major development to maximise the potential for renewable energy. The Council will encourage developers to incorporate schemes which generate energy from renewable and low Carbon technologies.
- 9.98 An Energy and Sustainability Statement has been submitted with the application which concludes that a centralised heating system powered by a centralised air-source heat pump will be utilised to provide energy efficient heating and hot water for the studio apartments and heating to all other areas. Additionally, a 19.95kWp (kilo-watt peak) Photovoltaic array will provide further CO₂ reduction and will supply the building's communal areas. Overall, the building is expected to achieve a 56% reduction in CO₂ emissions when compared against an existing individual gas boiler.
- 9.99 It is considered that these renewable installations will help mitigate against the effects of climate change through reducing carbon emissions and provides an effective response to the climate emergency, in accordance with LDP Policy

KP15 (Climate Change). A relevant condition is recommended.

Section 106 Matters

- 9.100 Policy KP7 (Planning Obligations) states that *“planning obligations will be sought to mitigate any impacts directly related to the development and will be assessed on a case by case basis in line with Planning Policy Guidance”*.
- 9.101 The supporting text emphasises that new development often generates additional demands upon existing services, facilities, infrastructure and the environment, with planning obligations being a means of seeking contributions from developers towards these demands, as well as negotiating benefits that improve the standard of development proposals by providing necessary infrastructure and community benefits.
- 9.102 The Planning Obligations SPG sets out the Council’s approach to planning obligations when considering applications for development in Cardiff, providing further guidance on how the policies set out in the LDP are to be implemented.
- 9.103 The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers), and state that a planning obligation may only legally constitute a reason for granting planning permission if it is: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
- 9.104 In view of the type and form of development proposed, having regard to local circumstances and needs arising from the development, the need for planning obligations which are considered necessary to make the development acceptable in planning terms and to meet the policy and legislative tests for planning obligations
- 9.105 The proposed broad Heads of Terms for the required Section 106 agreement are as follows (in line with the Planning Obligations SPG): -
- £1,097,520 towards affordable housing in lieu of 12 x 1-bed units (20%);
 - £64,224 towards new off-site public open space;
 - £73,381 towards public realm improvements at Wharton Street/St Mary Street incl. footway upgrading, carriageway resurfacing and kerb, tree, bollard, wayfinding, cycle parking & lighting column replacements/ improvements;
 - £43,951.23 towards local community facilities; and
 - £5,000 towards Traffic Regulation Orders (TROs) to mitigate any traffic management issues that may arise as a consequence of the development, mindful that the city centre location has parking controls and loading/unloading restrictions.
- 9.106 Having regard to the legal and policy test outlined above, it is clear that the requested monies are necessary and reasonable to mitigate the impacts of the proposed development and thus ensure that the proposal accords with planning

policy.

- 9.107 However, the submission of a **viability appraisal** during the application process concluded that the development would be unviable were these contributions to be required for the scheme. This appraisal has been assessed and the applicant's position accepted, though it was also strongly recommended that all previous and current viabilities are considered together in the future phases of the development so that the whole development is considered in the context of any future requests for planning obligations.
- 9.108 Notwithstanding the scheme's viability, the applicant has agreed to contribute £5,000 towards Traffic Regulation Orders to mitigate any traffic management issues that may arise as a consequence of the development, mindful that the City Centre location has parking controls and loading/unloading restrictions.

Overall Assessment – 'The Planning Balance'

- 9.109 PPW11 refers to the need to assess the Sustainable Benefits of Development and (at 2.27) emphasises that Planning authorities should ensure that social, economic, environmental and cultural benefits are considered in the decision-making process and assessed in accordance with the five ways of working to ensure a balanced assessment is carried out to implement the Well-being of Future Generations Act and the Sustainable Development Principle.
- 9.110 There may be occasions when one benefit of a development proposal outweighs others, and in such cases robust evidence should be presented to support these decisions, whilst seeking to maximise contributions against all the well-being goals.
- 9.111 Key factors in the assessment process include:
- *Social Considerations*, including: - who are the interested and affected people and communities; who will benefit and suffer any impacts from the proposal;
 - what are the short and long-term consequences of the proposal on a community;
 - *Economic Considerations* including: - the numbers and types of long term jobs expected to be created or retained; whether, and how far, the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing local employment opportunities;
 - *Cultural Considerations* including: - how far the proposal supports the conditions that allow for the use of the Welsh language; whether or not the development protects areas and assets of cultural and historic significance; have cultural considerations and their relationships with the tourism industry been appropriately maximised; and
 - *Environmental Considerations* including: - will important features of the natural and built environment be protected and enhanced; are the environmental impacts of development on health and amenity limited to acceptable levels and the resilience of ecosystems improved.

- 9.112 At 2.29 it further refers to the need to have an integrated approach to balancing priorities against policy on an individual basis, which enables the full range of costs and benefits over the lifetime of development to be taken into account.
- 9.113 Section 5 of PPW11 provides further emphasis on the need to develop 'Productive and Enterprising Places' which promote our economic, social, environmental and cultural well-being by providing well-connected employment and sustainable economic development.
- 9.114 The role of the Local Planning Authority is therefore to balance the weight to be attributed to each of the positive and negative impacts of the development and come to a balanced conclusion as to whether the development is acceptable or not.
- 9.115 The submission forms phase 2 and 3 of a wider regeneration scheme for one of the most important Grade II* buildings in the City centre, bringing forward major mixed use development on a now vacant, substantial former department store site which is in clear need of restoration and reuse, and would be unlikely to be achieved without substantial investment.
- 9.116 The report (and associated report on the Listed Building Consent) has concluded that the scheme would have no unacceptable impacts in heritage, conservation area or townscape terms, while also ensuring there would be no unacceptable wider amenity impacts that could to be adequately controlled through condition or be acceptable having regard to the wider scheme.
- 9.117 While the scheme will fail to deliver affordable housing, together with other related contributions towards open space and public realm, the viability of this project has been accepted to be finely balanced, and it is further considered that the wider benefits of the scheme in bringing forward the regeneration of the site, thus securing its long-term future, together with the 'in kind' benefits through opening up of the Bethany Chapel, creation of the new internal plaza and connections through the site - potentially into the listed Market - would outweigh any harm caused by failure to achieve such section 106 contributions.

10 CONCLUSION

- 10.1 The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Cardiff Local Development Plan (2011–2026) adopted January 2016.
- 10.2 The proposed development is considered to be a sustainable form of development that aligns with the key aims of PPW, the national well-being goals, the adopted Local Development and the Council's post-covid recovery strategy.
- 10.3 The application is key part of the wider re-development of the former Howell's Department Store, with further phases of development expected. The

development will deliver a major mixed-use development including 61 no. new homes, the restoration of a vacant Grade II* listed asset, thus securing its long-term future, and will also deliver a mix of new commercial uses, high-quality public realm and key new connections with adjoining streets (and potentially Cardiff Market).

- 10.4 Accordingly, the proposed development is in accordance with Local Development Plan Policies KP4, KP5, KP6, KP7, KP8, KP10, KP12, KP13, KP14, KP15, KP16, KP17, KP18, H2, H3, H6, EN6, EN7, EN9, EN10, EN11, EN12, EN13, T1, T5, R1, R2, R3, R8, C1, C3, C5, C6, AND W2.

11 OTHER MATTERS RELEVANT TO THE CONSIDERATION OF THIS APPLICATION

- 11.1 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.

- 11.2 Equality Act 2010. The Act 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. The Council's duty under the above Act 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.

- 11.3 Well-Being of Future Generations Act 2016. Section 3 of this 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 recommended decision. It is also noted that section 2(5) of the Planning (Wales) Act 2015 affords protection to decisions taken under Part 3 of the 1990 Act, in that the Well-being of Future Generations (Wales) Act 2015 does not alter whether regard is to be had to any particular consideration under section 70(2) of the 1990 Act or the weight to be given to any consideration to which regard is had under that subsection. This means the provisions of the development plan, so far as material to the application, and any other relevant other material considerations remain the primary considerations when determining planning applications.

- 11.4 Section 6 of Environment (Wales) Act 2016 subsection (1) imposes a duty that a public authority must seek to maintain and enhance biodiversity in the exercise of its functions, and in so doing promote the resilience of ecosystems, so far as is consistent with the proper exercise of those functions. In complying

with subsection (1), a public authority must take account of the resilience of ecosystems, in particular the following aspects:

- (a) Diversity between and within ecosystems;
- (b) The connections between and within ecosystems;
- (c) The scale of ecosystems;
- (d) The condition of ecosystems (including their structure and functioning);
- (e) The adaptability of ecosystems.

It is considered that the LPA has considered its duty under this Act and has met its objectives for the reasons outlined above.

12 RECOMMENDATION

12.1 RECOMMENDATION 1:

That planning permission be **GRANTED** subject to the relevant parties entering into a binding legal agreement under the provisions of **SECTION 106** of the Town and Country Planning Act 1990 within 6 months of the date of this Resolution, unless otherwise agreed by the Council in writing, in respect of matters detailed in section 9.108 of this report, and the conditions listed below.

12.2 RECOMMENDATION 2:

That delegated authority is given to the Head of Planning &/Or Operational Manager: Strategic Development & Placemaking, to make changes to the conditions and/or Heads of Terms of the required legal agreement, subject to consultation with the Chair of Planning, up to the point where the legal agreement is signed and planning permission issued.

12.3 CONDITIONS

1. STATUTORY TIME LIMIT

The development permitted shall be begun before the expiration of five years from the date of this planning permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. APPROVED PLANS

The development, unless otherwise required by the ensuing conditions, shall be carried out in accordance with the following approved plans and details:

- Site Location Plan 631-PTA-ZZ-ZZ-DR-A-2301 PL1
- Site Location Plan 631-PTA-ZZ-ZZ-DR-A-2302 PL1
- Sitewide Existing Basement Plan 631-PTA-ZZ-B1-DR-A-2300 PL1
- Sitewide Existing Ground Floor Plan 631-PTA-ZZ-00-DR-A-2300 PL1
- Sitewide Existing Level 1 Plan 631-PTA-ZZ-01-DR-A-2301 PL1

- Sitewide Existing Level 2 Plan 631-PTA-ZZ-02-DR-A-2302 PL1
- Sitewide Existing Level 3 Plan 631-PTA-ZZ-03-DR-A-2303 PL1
- Sitewide Existing Level 4 Plan 631-PTA-ZZ-04-DR-A-2304 PL1
- Sitewide Existing Roof Plan 631-PTA-ZZ-RF-DR-A-2309 PL1
- Sitewide Existing Elevations 631-PTA-ZZ-XX-DR-A-2310 PL1
- Sitewide Existing Sections 1 (A, B and C) 631-PTA-ZZ-XX-DR-A-2311 PL1
- Sitewide Existing Sections 2 (D, E and F) 631-PTA-ZZ-XX-DR-A-2312 PL1
- Sitewide Demolition/Retention Strategy – Basement Level Plan 631-PTA-ZZ-B1-DR-A-2310 PL1
- Sitewide Demolition/Retention Strategy – Ground Floor Plan 631-PTA-ZZ-00-DR-A-2310 PL1
- Sitewide Demolition/Retention Strategy – Level 1 Plan 631-PTA-ZZ-01-DR-A-2311 PL1
- Sitewide Demolition/Retention Strategy – Level 2 Plan 631-PTA-ZZ-02-DR-A-2312 PL1
- Sitewide Demolition/Retention Strategy – Level 3 Plan 631-PTA-ZZ-03-DR-A-2313 PL2
- Sitewide Demolition/Retention Strategy – Level 4 Plan 631-PTA-ZZ-04-DR-A-2314 PL1
- Sitewide Demolition/Retention Strategy – Roof Plan 631-PTA-ZZ-RF-DR-A-2319 PL1
- Existing/Demolition/Proposed Strategy – Section A Plan 631-PTA-ZZ-ZZ-DR-A-2341 PL1
- Existing/Demolition/Proposed Strategy – Section B Plan 631-PTA-ZZ-ZZ-DR-A-2342 PL1
- Existing/Demolition/Proposed Strategy – Section C Plan 631-PTA-ZZ-ZZ-DR-A-2343 PL1
- Existing/Demolition/Proposed Strategy – Section D Plan 631-PTA-ZZ-ZZ-DR-A-2344 PL1
- Existing/Demolition/Proposed Strategy – Section E Plan 631-PTA-ZZ-ZZ-DR-A-2345 PL1
- Existing/Demolition/Proposed Strategy – Section F 631-PTA-ZZ-ZZ-DR-A-2346 PL1
- Sitewide Proposed Ground Floor with Temporary Fills 631-PTA-ZZ-00-DR-A-2329 PL2
- Sitewide GA Plans – Proposed Ground Floor Plan 631-PTA-ZZ-00-DR-A-2320 PL2
- Sitewide GA Plans - Proposed Basement Plan 631-PTA-ZZ-B1-DR-A-2320 PL2
- Sitewide GA Plans - Proposed Level 1 Plan 631-PTA-ZZ-01-DR-A-2321 PL2
- Sitewide GA Plans - Proposed Level 2 Plan 631-PTA-ZZ-02-DR-A-2322 PL2
- Sitewide GA Plans - Proposed Level 3 Plan 631-PTA-ZZ-03-DR-A-2323 PL2
- Sitewide GA Plans - Proposed Level 4 Plan 631-PTA-ZZ-04-DR-A-2324 PL1
- Sitewide GA Plans - Proposed Level 5 Plan 631-PTA-ZZ-05-DR-A-2325 PL1
- Sitewide GA Plans - Proposed Level 6 Plan 631-PTA-ZZ-06-DR-A-2326 PL1
- Sitewide GA Plans - Proposed Roof Plan 631-PTA-ZZ-RF-DR-A-2327 PL1
- Sitewide Proposed GA Elevations Plan 631-PTA-ZZ-ZZ-DR-A-2310 PL2
- Wharton Street Frontage – Bay Elevation Detail Plan 631-PTA-CE-ZZ-DR-A-2360 PL2

- Wharton Street Frontage – Bay Elevation Detail Plan (Rear Elevation) 631-PTA-CE-ZZ-DR-A-2361 PL1
- GA Sections – Section 1 Plan 631-PTA-CE-ZZ-DR-A-2341 PL1
- GA Sections – Section 2 Plan 631-PTA-CE-ZZ-DR-A-2342 PL1
- GA Elevations – South East Elevation Plan 631-PTA-CE-ZZ-DR-A-2330 PL2
- GA Elevations – North West Elevation 1 Plan 631-PTA-CE-ZZ-DR-A-2331 PL1
- GA Elevations – South West Elevation Plan 631-PTA-CE-ZZ-DR-A-2332 PL1
- GA Elevations – North East Elevation Plan 631-PTA-CE-ZZ-DR-A-2333 PL2
- GA Elevations – North West Elevation 2 631-PTA-CE-ZZ-DR-A-2334 PL1
- GA Elevations – North West Elevation 3 631-PTA-CE-ZZ-DR-A-2335 PL1
- GA Plans – Basement Plan 631-PTA-CE-B1-DR-A-2320 PL2
- GA Plans – Ground Floor Plan 631-PTA-CE-00-DR-A-2320 PL2
- GA Plans – Level 1 Plan 631-PTA-CE-01-DR-A-2321 PL2
- GA Plans – Level 2 Plan 631-PTA-CE-02-DR-A-2322 PL2
- GA Plans – Level 3 Plan 631-PTA-CE-03-DR-A-2323 PL2
- GA Plans – Level 4 Plan 631-PTA-CE-04-DR-A-2324 PL1
- GA Plans – Level 5 Plan 631-PTA-CE-05-DR-A-2325 PL1
- GA Plans – Roof Plan 631-PTA-CE-RF-DR-A-2327 PL1
- GA Plans – Section and Elevation Lines 631-PTA-CE-ZZ-DR-A-2328 PL1
- Façade Detail Section Plan 631-PTA-CE-ZZ-DR-A-2362 PL1
- Detail Section – Interaction of New Structure with Existing Building 631-PTA-CE-ZZ-DR-A-2363 PL1
- Rear Extension to St Mary Street – Ground Floor Plan 631-PTA-A-00-DR-A-2320 PL1
- Rear Extension to St Mary Street – First Floor Plan 631-PTA-A-01-DR-A-2321 PL1
- Extension to the rear of St Mary Street Elevations – South-East Elevation 631-PTA-A-ZZ-DR-A-2330 PL1
- Extension to the rear of St Mary Street Elevations – North-East Elevation 1 631-PTA-A-ZZ-DR-A-2331 PL1
- Extension to the rear of St Mary Street Elevations – North-East Elevation 2 631-PTA-A-ZZ-DR-A-2332 PL1
- Extension to the rear of St Mary Street Elevations –South-East Elevation 2 631-PTA-A-ZZ-DR-A-2333 PL1
- Swept Path Analysis for 7.9m Fire Tender 24455-HYD-XX-XX-DR-C-0102 P03
- Swept Path Analysis for 9.2m Refuse Vehicle 24455-HYD-XX-XX-DR-C-0103 P03

Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.

PRE-COMMENCEMENT CONDITIONS

3. DEMOLITION MANAGEMENT PLAN

Prior to the commencement of any demolition works, a Demolition Management Plan (DMP) shall be submitted to and approved in writing by the Local Planning Authority. The DMP shall include, but not be limited to, a programme of works, details of dust control measures, noise management, proposed temporary means of site enclosure, compounds and storage areas, parking and access arrangements and an existing highway inspection with a commitment to repair any damage caused by demolition works. The DMP shall take account of the 'worst case' scenario for demolition activities and Cardiff Council Pollution Control's "Construction site handbook". The demolition shall proceed in accordance with the approved DMP.

Reason: In the interests of highway safety and public amenity in accordance with Local Development Policies T6 (Impact on Transport Networks and Services) and EN13 (Air, Noise and Light Pollution and Land Contamination).

4. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

Prior to commencement of development, excluding demolition, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority in order to manage the impacts of construction. The CEMP shall include, but not be limited to:

- (1) a programme of works
- (2) details of dust control measures
- (3) noise management
- (4) proposed temporary means of site enclosure
- (5) compounds and storage areas
- (6) parking and access arrangements
- (7) an existing highway inspection with a commitment to repair any damage caused by construction works.
- (8) Emergency procedures: Emergency spill procedures and an incident response plan that will be followed in light of any spill at the site. This will include having the relevant materials to stop/contain a spill.
- (9) Site contamination: How known contamination at the site will be managed. How unsuspected contamination if discovered will be managed.
- (10) Pollution prevention: Demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, covering, GPP1, GPP6, GPP8, and GPP21 and PPG6 (despite its withdrawal). This will be through the consideration of:
 - i. Details of harmful materials that will be used/stored at the site ~approximate quantities.
 - ii. Storage of plant and materials (including chemicals and fuels) – including unloading, containment, bunding and/or appropriate buffer zones, including from any drain.

- iii. How drainage will be controlled to prevent release of soil from the site, wastewater and contaminants, including wheel washing facilities, during construction to the storm water system, which includes implementing the site drainage strategy, this is a major consideration. Control at source is required.
 - iv. Measures to monitor mobilisation of contaminants to water.
- (11) Environmental management.:
- i. Identification of “biodiversity protection zones” and the means to prevent impacts i.e., protection, modification etc;
 - ii. Reference to supporting documentation that indicates mitigation/works during construction activities, that run in parallel with construction and are covered separately.
 - iii. Measures for the protection and initial management of retained ecological assets:
 - 1. Bats.
 - 2. Birds.

This will include an introduction to each feature, the proposed protection/surveys/precautionary measures, toolbox talks and initial management prescription at construction.
 - iv. The procedure for incidental finds. (works would require a licence if a European Protected Species is discovered).

Reason In the interests of highway safety, public amenity, protection of the environment, green infrastructure, biodiversity and pollution prevention in accordance with Local Development Plan Policies KP16 (Green Infrastructure), T6 (Impact on Transport Networks and Services), and EN13 (Air. Noise, Light Pollution and Land Contamination).

5. CONTAMINATED LAND MEASURES – ASSESSMENT

Prior to the commencement of the development, except demolition, an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. This assessment shall be carried out by or under the direction of a suitably qualified competent person * in accordance with BS10175 (2011) Code of Practice for the Investigation of Potentially Contaminated Sites and shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

- (1) an intrusive investigation to assess the extent, scale and nature of contamination which may be present;
- (2) an assessment of the potential risks to:
 - human health,
 - groundwaters and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - ecological systems,

- archaeological sites and ancient monuments; and
 - any other receptors identified at (i)
- (3) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition shall be conducted in accordance with the Environment Agency's 'Land contamination: risk management (LCRM)' (October 2020) and the WLGA / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017) unless otherwise agreed in writing with the Local Planning Authority.

* A 'suitably qualified competent person' would normally be expected to be a chartered member of an appropriate professional body (such as the Institution of Civil Engineers, Geological Society of London, Royal Institution of Chartered Surveyors, Institution of Environmental Management) and also have relevant experience of investigating contaminated sites.

Reason: To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment, in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

6. CONTAMINATED LAND MEASURES – REMEDIATION & VERIFICATION PLAN

Prior to the commencement of the development, except demolition, a detailed remediation scheme and verification plan to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

All work and submissions carried out for the purposes of this condition shall be conducted in accordance with the Environment Agency's 'Land contamination: risk management (LCRM)' (October 2020) and the WLGA / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017) unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other

offsite receptors in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

7. ARCHAEOLOGY WATCHING BRIEF

No development, except above-ground demolition works, shall take place until a written scheme of historic environment mitigation has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the programme of work shall be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource, in accordance with Local Development Plan Policy EN9 (Conservation of the Historic Environment).

8. LANDSCAPE DESIGN AND IMPLEMENTATION

Within 12 months of commencement of above ground works, full details of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- (1) A soft landscaping implementation programme.
- (2) Scaled planting plans prepared by a qualified landscape architect, horticulturist or garden designer (details of tree, shrub, hedge and woody climber planting may be provided by an arboriculturist) including 75% or greater native species use.
- (3) Evidence to demonstrate that existing and proposed services, lighting, CCTV, drainage and visibility splays will not conflict with proposed planting.
- (4) Schedules of plant species, sizes, numbers and densities prepared by a qualified landscape architect, horticulturist or garden designer (details of trees, shrubs, hedging and woody climbers may be provided by an arboriculturist).
- (5) Scaled tree pit sectional and plan drawings prepared by a qualified arboriculturist, landscape architect, horticulturist, or garden designer, that show the Root Available Soil Volume (RASV) as per the Cardiff Council Green Infrastructure Supplementary Planning Guidance, for each tree and expressed in cubic metres.
- (6) Topsoil and subsoil specification for all planting types, including full details of soil assessment in accordance with the Cardiff Council Soils and Development Technical Guidance Note (Soil Resource Survey and Plan) where in-situ or site won soil is proposed for use, soil protection, soil stripping, soil storage, soil handling, soil amelioration, soil remediation and soil placement to ensure it is fit for purpose. Where imported planting soils are proposed, full specification details shall be provided including the parameters for all imported planting soils to demonstrate they are suitable for the specific landscape type(s) proposed. Parameters shall include profile depths, textural range, nutrient status, pH on placement, drainage performance and other factors relevant to their functionality in supporting the landscape type.
- (7) Planting methodology and minimum 5-year post-planting aftercare methodology prepared by a qualified landscape architect, horticulturist or

garden designer (details on tree, shrub, hedge and woody climber planting may be provided by an arboriculturist) including full details of how they will oversee landscaping implementation and report to the Local Planning Authority to confirm compliance with the approved plans and specifications.

- (8) Methods for the creation of ecological enhancements (see Condition 18) which shall include the planting and/or implementation methodology and year 1 post-planting aftercare. This shall include how the landscape architect (or other relevant professional) will oversee landscaping implementation and report to the Local Planning Authority to confirm compliance with the approved plans and specifications and the initial implementation during construction.

The submitted details shall be consistent with other plans submitted in support of the application and the landscaping shall be carried out in accordance with the approved design and implementation programme.

Reason: To enable the Local Planning Authority to determine that the proposals will maintain and improve the amenity and environmental value of the area, and to monitor compliance, in accordance with the Environment (Wales) Act 2016 and Policies EN6 to EN8, KP5 and KP16 of the adopted Cardiff Local Development Plan (2006-2026).

ACTION CONDITIONS

9. CONTAMINATED LAND MEASURES - REMEDIATION & VERIFICATION

The remediation scheme approved by Condition 6 shall be fully undertaken in accordance with its terms. The Local Planning Authority shall be given two weeks' written notification of commencement of the remediation scheme works.

On the completion of the measures identified in the approved remediation scheme and prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition shall be conducted in accordance with the Environment Agency's 'Land contamination: risk management (LCRM)' (October 2020) and the WLGA / WG / NRW guidance document 'Land Contamination: A guide for Developers' (2017) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

10. CONTAMINATED LAND MEASURES – UNFORESEEN CONTAMINATION

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing within 2 days to the Local Planning Authority, all associated works shall stop, and no further development shall take place, unless otherwise agreed in writing by the Local Planning Authority, until a scheme to deal with the contamination found has been approved in writing by the Local Planning Authority.

An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme and verification plan shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the Local Planning Authority within 2 weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

11. IMPORTED SOIL

Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale which shall be approved in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

12. IMPORTED AGGREGATES

Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and

approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale which shall be approved in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

13. USE OF SITE WON MATERIALS

Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved in writing by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

14. POTABLE WATER SUPPLY

No part of the development shall be occupied until a potable water scheme to serve the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, following the implementation of any necessary reinforcement works, the public water supply system shall satisfactorily accommodate the proposed development. The approved scheme shall be implemented prior to beneficial occupation of any part of the development and shall be retained thereafter.

Reason: To ensure the development is served by a satisfactory potable water supply in accordance with Local Development Plan Policy EN10 (Water Sensitive Design).

15. CYCLE PARKING

No studio apartment hereby approved shall be occupied until a detailed specification of the double-stacker cycle parking provision has been submitted to and approved in writing by the Local Planning Authority.

No commercial unit shall be occupied until the 6 no. commercial cycle parking stands hereby approved have been provided and a cycle parking strategy detailing how additional cycle parking will be provided as part of the wider masterplan site that has regard to 'Managing Transport Impacts' Supplementary Planning Guidance (July 2018) has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details and no part of the development shall be occupied until the cycle parking serving the relevant part of it has been constructed, with such cycle parking thereafter retained as approved to serve the development.

Reason: To ensure that adequate provision is made for the secure parking of cycles in accordance with Local Development Plan Policies KP8 (Sustainable Transport) and T1 (Walking and Cycling).

16. TRAVEL INFORMATION PACKS

Prior to beneficial occupation of any residential unit a Travel Information Pack (TIP) promoting the use of active travel and public transport by setting out information of on-site and off-site transport infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The approved TIP shall be made available to residents at the point of occupation.

Reason: To encourage the use of sustainable and active modes of transport and promote healthy lifestyles in accordance with Local Development Plan Policies KP8 (Sustainable Transport), KP14 (Healthy Living), and T1 (Walking and Cycling).

17. ECOLOGY DATA SHELF LIFE

If demolition in respect of the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the most recent survey, all the approved ecological measures and those secured through other planning conditions and ecological reports, shall be reviewed and, where necessary, amended and updated, with careful consideration of "new" ecological receptors. The review shall be informed by update or further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of habitats and species, ii) identify any likely new ecological impacts that might arise from any changes and iii) and identify any changes to legislation, policy or best practice that may alter the conclusions of the assessment. Where the survey results/desk study indicate that changes have occurred that will result in ecological impacts, having not been previously addressed in the approved scheme, the original approved ecological measures shall be revised. New or amended measures and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works shall then be carried out in accordance with the new approved ecological measures and timetable.

NB: If an existing ecological report suggests the reassessment of a particular feature before 2 years, that recommendation takes precedence.

Reason: To ensure the assessment of impacts from the development upon the species concerned, and any measures to mitigate those impacts, are informed by up-to-date information in accordance with Local Development Plan Policies KP16 (Green Infrastructure), EN6 (Ecological Networks and Features of Importance for Biodiversity) and EN7 (Priority Habitats and Species).

18. ECOLOGICAL ENHANCEMENTS

Prior to their installation on site, details of the following ecological enhancement measures shall be submitted to and approved in writing by the Local Planning Authority:

- The use of native plants (including seed mixes, shrubs and trees) within the landscaping.
- 2 x bat boxes suitable for maternity roosting purposes;
- 2 x house sparrow terraces and 8 x swift boxes, in two conglomerations of 4;
- A minimum of 4 no. 1m² shallow trays of sand/gravel for use by gulls, installed on appropriate flat roof sections at the development (i.e. sheltered positions such as behind parapets).

Evidence that the approved enhancement measures have been installed shall be submitted to and approved in writing by the Local Planning Authority within one month of beneficial occupation of any part of the development.

Reason: To maintain and enhance biodiversity and promote the resilience of ecosystems in accordance with the Environment (Wales) Act 2016 and Local Development Plan Policies KP16 (Green Infrastructure), EN6 (Ecological Networks and Features of Importance for Biodiversity) and EN7 (Priority Habitats and Species).

19. BAT SURVEY

No works to the roof of the existing Wharton Street building shall take place until a Preliminary Roost Assessment has been carried out and the results, together with the results of any recommended further surveys / visual inspection of any features of interest or an emergence survey for bats, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the conclusions and recommendations of the required surveys.

Reason: To ensure the favourable conservation status of bats will be maintained in accordance with Local Development Plan Policies KP16 (Green Infrastructure), EN6 (Ecological Networks and Features of Importance for Biodiversity) and EN7 (Priority Habitats and Species).

20. RENEWABLE ENERGY PROVISION

Prior to their installation, details of the Air Source Heat Pumps and 100m² of Photovoltaic Panels on the roof space of the Wharton Street building shall be submitted to and approved in writing by the Local Planning Authority. The approved technologies shall be installed prior to the beneficial occupation of any part of the development and retained thereafter.

Reason: To mitigate against the effects of climate change in accordance with Local Development Plan Policy KP15 (Climate Change).

21. REFUSE STORAGE (COMMERCIAL)

No commercial unit shall be occupied until a waste management scheme for that unit has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on beneficial occupation of the relevant unit and shall be thereafter retained.

Reason: To ensure satisfactory provision for waste management facilities in the development in accordance with Local Development Plan Policy W2 (Provision for Waste Management Facilities in Development).

22. EXTERNAL FINISHING MATERIALS

Prior to their installation, samples of the external finishing materials for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory finished appearance of the development in accordance with Local Development Plan Policy KP5 (Good Quality and Sustainable Design)

23. ARCHITECTURAL DETAILING

Prior to the construction of the rooftop extension above the existing Wharton Street Block, drawings showing the architectural detailing of the extension shall be submitted to and approved in writing by the Local Planning Authority. The extension shall be constructed in accordance with the approved details.

Reason: In the interests of good design in accordance with Local Development Plan Policy KP5 (Good Quality and Sustainable Design)

24. HERITAGE INTERPRETATION AND PUBLIC ART STRATEGY

No construction of the rooftop extension to Wharton Street shall take place until details of heritage interpretation and a public art strategy have been submitted to

and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to beneficial occupation.

Reason: To protect the site's distinctive heritage assets in accordance with Local Development Policies KP17 (Built Heritage) and EN9 (Conservation of the Historic Environment)

25. PUBLIC REALM STRATEGY

Notwithstanding the submitted plans, within 12 months of commencement of above ground works, a public realm strategy for the internal courtyards, its public/private open space, and junctions with the adjacent public highways/footways shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, details of phases/timescales for implementation, surfacing (including temporary surfaces), kerbs, edging, drainage, lighting, service routes, trees, soft landscaping, cycle parking, seating, artwork, and such other features required as a consequence of the scheme. The approved scheme shall be implemented to the written satisfaction of the Local Planning Authority in accordance with the agreed phases/timescales.

Reason: To ensure the provision of an acceptable public realm environment to facilitate safe commodious access to and use of the proposed development, in accordance with Local Development Plan Policy KP5 (Good Quality and Sustainable Design).

26. KITCHEN EXTRACTION

All fumes from any commercial Kitchen/Food preparation areas shall be mechanically extracted and deodorised in accordance with a scheme of detail which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved equipment shall be installed and be operational prior to the sale of food. All equipment shall be mounted and installed so as not to give rise to any noise/olfactory nuisance to nearby residents/premises or result in additional height to the structures hereby approved.

Reason: To ensure that any food-based operations will not result in any undue loss of amenity to residents/occupiers of nearby premises, in accordance with the provisions of Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination) and to protect the character and appearance of the conservation area in accordance with Local Development Plan Policy EN9 (Conservation of the Historic Environment).

27. GYMNASIUM USE

There shall be no beneficial use of the basement level D2 use on drawing no. 631-PTA-ZZ-B1-DR-A-2320 Rev PL2 as a health and fitness studio/gymnasium, until such time as details of the noise control scheme and a Noise Management Plan

have been submitted to and approved in writing by the Local Planning Authority, and all identified works undertaken in accordance with the approved details.

The noise control scheme (including sound insulation and isolation measures) shall target airborne and impact noise levels detailed in ProPG:GAG2022 (Table 2) with consideration given to the internal background sound level in receptor rooms.

Thereafter, the use shall only be in accordance with the approved details, and no alteration to the scheme which undermines the sound insulation or isolation integrity of the areas it applies to, shall be undertaken without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of future occupiers, in accordance with Local Development Plan Policies KP5 (Good Quality and Sustainable Design) and EN13 (Air, Noise and Light Pollution and Land Contamination).

REGULATORY CONDITIONS

28. LANDSCAPING IMPLEMENTATION

Any newly planted trees, plants or hedgerows, which within a period of 5 years from the completion of the development die, are removed, become seriously damaged or diseased, or in the opinion of the Local Planning Authority (LPA) otherwise defective, shall be replaced. Replacement planting shall take place during the first available planting season, to the same specification approved, unless the Local Planning Authority gives written consent to any variation.

Reason: To maintain and improve the amenity and environmental value of the area in accordance with Local Development Plan Policy KP16 (Green Infrastructure).

29. FAÇADE GLAZING SPECIFICATION

Prior to beneficial use of any residential unit hereby approved, glazing shall be installed to the upper floors of the Wharton Street with a minimum sound reduction index as identified within Table 7 Façade Glazing Specifications of the Noise Impact Assessment (Document Reference 24455-HYD-ZZ-XX-RP-Y-1001, Hydrock, 28 September 2023), complete with evidence of lab performance values by manufacturers.

Reason: To protect the amenities of future residents in accordance with Local Development Plan Policies KP5 (Good Quality and Sustainable Design) and EN13 (Air, Noise and Light Pollution and Land Contamination).

30. GREASE TRAP

Prior to the beneficial use of any commercial kitchen or food preparation areas, all discharges to the public sewerage system shall be fitted with proprietary

grease/fat/oil interceptor which shall thereafter be serviced in accordance with manufacturer's instructions.

Reason: To prevent potential blockage of the public sewerage system in accordance with Local Development Plan Policy EN11 (Protection of Water Resources).

31. PLANT NOISE

No fixed plant or equipment on the site shall exceed a rating noise level of background -5dB at the nearest noise sensitive premises when measured and corrected in accordance with BS 4142:2014 (or any British Standard amending or superseding that standard).

Reason: To ensure that the amenities of nearby occupiers are protected in accordance with the provisions of Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

32. REFUSE STORAGE (RESIDENTIAL)

The residential refuse storage facilities hereby approved on drawing no. 631-PTA-ZZ-00-DR-A-232 Revision PL2 (Ground Floor Plan) shall be provided prior to the beneficial occupation of any residential unit and shall be retained thereafter for future use.

Reason: To ensure satisfactory provision for waste management facilities in the development in accordance with Local Development Plan Policy W2 (Provision for Waste Management Facilities in Development).

33. HOURS OF USE

No commercial unit hereby approved shall be open to the public, nor any members of the public be allowed to remain on the premises outside of the hours of 08.00 – 00.00 on any day. These hours are inclusive of any period of 'finishing up time' on all days. No use until 01.00 on any day shall take place until a noise assessment demonstrating that no unacceptable harm to the amenities of neighbouring occupiers would occur has first been submitted to and approved in writing by the Local Planning Authority.

Reason: The use of the commercial units outside of these hours may be harmful to the amenities of the area, contrary to the provisions of Local Development Plan Policy EN13 (Air, Noise and Light Pollution and Land Contamination).

34. RETENTION OF GROUND FLOOR OPEN FRONTAGES

The ground shop fronts of the commercial units hereby approved shall be fitted with clear glazing, and shall at all times retain an open frontage and not obscured by other materials.

Reason: To ensure a good quality, safe, and welcoming environment in accordance with Local Development Plan Policy KP5 (Good Quality and Sustainable Design).

INFORMATIVES

1. CONTAMINATION AND UNSTABLE LAND ADVISORY NOTICE

The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for:

(1) determining the extent and effects of such constraints;

(2) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;

- Unprocessed / unsorted demolition wastes.
- Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
- Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and

(3) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

2. PUBLIC SEWER CONNECTIONS

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more

than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

3. STANDARDS FOR ARCHAEOLOGICAL WORKS

The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), CIfA regulations, standards and guidance | Chartered Institute for Archaeologists and it is recommended that it is carried out either by a CIfA Registered Organisation or a MCIfA level accredited Member Looking for an archaeologist? | Chartered Institute for Archaeologists.

4. EPS LICENCING

Should bats be identified in trees/a buildings, a European protected species (EPS) Licence would be required for this development. This development approval does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/permits-andpermissions/species-licensing/when-you-need-to-apply-for-a-protected-species-licence/?lang=en>

5. POLLUTION PREVENTION

During the construction phase you should take any precaution to prevent contamination of surface water drains and local watercourses. Oils and chemicals should be stored in bunded areas and spill kits should be readily available in case of accidental spillages. For further guidance please refer to Pollution Prevention Guidelines 6: Working at construction and demolition sites, which are available on the NetRegs website.

Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<https://naturalresources.wales/permits-and-permissions/waste-permitting/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

6. CONSTRUCTION SITE NOISE

To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays.