

## LOCAL MEMBER OBJECTIONS

COMMITTEE DATE: 17/04/2019

APPLICATION No. **18/01669/MJR** APPLICATION DATE: 16/07/2018

ED: **PLASNEWYDD**

APP: TYPE: Full Planning Permission

APPLICANT: WPI ESTATES

LOCATION: 217 TO 223, NEWPORT ROAD, ROATH

PROPOSAL: PROPOSED DEMOLITION OF EXISTING ANNEX TO 223 AND REAR OUTBUILDINGS TO 217-223 NEWPORT ROAD CONSTRUCTION OF TWO 15 BED HMO'S & ONE 6 BED HMO WITH ONSITE AMENITY, PARKING, CYCLE & REFUSE STORES

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**RECOMMENDATION** : That planning permission be **REFUSED** for the following reason:

1. The proposed development, by virtue of the application site area, meets the threshold set out in policy H3 of the Cardiff Local Development Plan for the provision of affordable housing but the proposal does not include appropriate affordable housing on site, an acceptable scheme for alternative off-site provision, confirmation from the relevant parties that they are willing to provide a financial contribution in lieu of such provision, or a satisfactory viability appraisal setting out how the developer is unable to meet the full policy requirements, and is therefore contrary to policies KP6, KP7 and H3 of the Cardiff Local Development Plan and Cardiff Supplementary Planning Guidance "Planning Obligations" (January 2017).

### 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks full planning permission for the demolition of an annex and rear outbuildings at 223 Newport Road and the construction of two detached 3 storey buildings (to be classed as Houses in Multiple occupation), each containing 15 bedrooms, on the site to the rear of 221 and 223 Newport Road, fronting onto Roath Court Road, and one 3 storey 6 bedroom HMO constructed to the rear of the existing building on the site of the demolished annex, which would also have a frontage onto Roath Court Road.
- 1.2 To the rear of the two detached buildings will be approximately 130 sq.m of outdoor amenity space, including a clothes drying area, a 9 space car park, a bin store and a bicycle store for up to 72 cycles, accessed via the adopted lane that runs along the rear of 187 to 223 Newport Road linking Roath Court Road and Oakfield Street. There will also be direct access to this area from

each of the housing units.

- 1.3 The two detached blocks will each have 3 floors containing 5 kitchen/bed/living rooms and shared bathroom facilities. The six bed unit constructed to the rear of the existing building will also be 3 storeys in height and will have 2 rooms on each floor with shared shower room facilities on each level.
- 1.4 Access into the buildings will be via Roath Court Road, and they will be set back from the highway behind a wall and a narrow strip of planting.
- 1.5 The buildings will be finished in red brickwork and painted render with grey synthetic slate pitched roofs. There will be two flat roofed 2 storey projecting bays on the front elevation of each building (finished in brick), located either side of the central entrance door, and three roof gables. Windows and doors will be grey UPVC double glazed units and fascias, bargeboards and downpipes will be coloured UPVC.
- 1.6 The existing buildings on the site will remain as HMOs and flats – 223 Newport Road will comprise 12 studio rooms after demolition of its annex; Nos. 221 and 219 have 9 studio rooms each and No. 217 contains 3 flats.

## **2. DESCRIPTION OF SITE**

- 2.1 The application site covers 0.22 hectares and is situated on the corner of Newport Road and Roath Court Road, extending behind 217, 219, 221 and 223 Newport Road as far as the rear access lane which links Roath Court Road and Oakfield Street.
- 2.2 223 Newport Road is a detached, stone faced, gabled and slate roofed Victorian building with stone bays to the front elevation. 217 to 221 Newport Road are terraced buildings of the same design, which have been converted to flats/HMOs. The side and rear walls and the rear annexes are faced in concrete render. Each has a substantial rear garden and there are also a number of single storey garage outbuildings which adjoin the rear lane.
- 2.3 Further to the west and on the opposite side of Newport Road there are more semi-detached and terraced Victorian villas, many of which have been converted to such uses as flats, offices, care homes and guest houses. To the east the houses on Newport Road are of a smaller scale, finished in red brick and render, and date from the early 20<sup>th</sup> century. To the north and east of the site along Roath Court Road are two storey hipped roof semi-detached and terraced dwellings faced in red brick, set back from the highway behind low red brick boundary walls.
- 2.4 The site to the rear of 217, 219, 221 and 223 Newport Road is overgrown and largely unused, and is bounded by a tall concrete block wall. There is a gap in the wall and an existing vehicular access onto Roath Court Road.

### 3. **SITE HISTORY**

- 3.1 08/01551/C – Demolition of all buildings on site. construction of 47 self contained apartments with on site car and cycle parking, bin stores and amenity facilities. Permission granted 21/09/2011. Development commenced September 2016.
- 3.2 03/262R – Permission granted for conversion of 217 Newport Road from 2 to 5 flats.
- 3.3 93/1875R – Permission refused for a change of use of the site to a drug dependency unit.

### 4. **POLICY FRAMEWORK**

- 4.1 *Cardiff Local Development Plan 2006-2021:*  
KP5 (Good Quality and Sustainable Design);  
KP6 (New Infrastructure);  
KP7 (Planning Obligations);  
KP13 (Responding to Evidenced Social Needs);  
KP15 (Climate Change);  
KP16 (Green Infrastructure);  
H3 (Affordable Housing);  
EN10 (Water Sensitive Design);  
EN13 (Air, Noise, Light Pollution and Land Contamination);  
T5 (Managing Transport Impacts);  
C3 (Community Safety/Creating Safe Environments);  
W2 (Provision for Waste Management Facilities in Development).
- 4.2 *Supplementary Planning Guidance:*  
Houses in Multiple Occupation (October 2016).  
Waste Collection and Storage Facilities (October 2016).  
Cardiff Residential Design Guide (January 2017).  
Planning Obligations (January 2017).  
Cardiff Infill Sites (November 2017).  
Green Infrastructure (November 2017).  
Managing Transportation Impacts (Incorporating Parking Standards) (2018).
- 4.3 *Planning Policy Wales (Edition 10 – December 2018):*  
2.2 All development decisions, either through development plans policy choices or individual development management decisions should seek to contribute towards the making of sustainable places and improved well-being.  
2.8 Planning policies, proposals and decisions must seek to promote sustainable development and support the well-being of people and communities across Wales. This can be done through maximising their contribution to the achievement of the seven well-being goals and by using the five Ways of Working, as required by the Well-being of Future Generations Act. This will include seeking to maximise the social, economic, environmental and cultural benefits, while considering potential impacts when assessing

proposals and policies in line with the Act's Sustainable Development Principle.

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surrounding area.

3.4 Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

3.6 Development proposals must address the issues of inclusivity and accessibility for all.

3.7 Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution.

3.8 Good design can help to ensure high environmental quality. Landscape and green infrastructure considerations are an integral part of the design process.

3.9 The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations.

3.11 Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take.

3.12 Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys.

3.47 Higher densities should be encouraged in urban centres and near major public transport nodes or interchanges, to generate a critical mass of people to support services such as public transport, local shops and schools

3.51 Previously developed (also referred to as brownfield) land should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In settlements, such land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome. It is recognised, however, that not all previously developed land is suitable for development. This may be, for example, because of its unsustainable location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated.

4.1.11 It is Welsh Government policy to require the use of a sustainable transport hierarchy in relation to new development, which prioritises walking, cycling and public transport ahead of the private motor vehicles.

4.1.13 The sustainable transport hierarchy must be a key principle in the preparation of development plans, including site allocations, and when considering and determining planning applications.

4.1.30 Planning authorities must support active travel by ensuring new development is fully accessible by walking and cycling.

4.1.33 In determining planning applications, planning authorities must ensure development proposals, through their design and supporting infrastructure,

prioritise provision for access and movement by walking and cycling and, in doing so, maximise their contribution to the objectives of the Active Travel Act.

4.1.34 New development must provide appropriate levels of secure, integrated, convenient and accessible cycle parking and changing facilities. As well as providing cycle parking near destinations, consideration must also be given to where people will leave their bike at home.

4.1.36 Planning authorities must direct development to locations most accessible by public transport. They should ensure that development sites which are well served by public transport are used for travel intensive uses, such as housing, jobs, shopping, leisure and services, reallocating their use if necessary.

4.1.51 A design-led approach to the provision of car parking should be taken, which ensures an appropriate level of car parking is integrated in a way which does not dominate the development. Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed. The needs of disabled people must be recognised and adequate parking provided for them.

4.1.52 Planning authorities must require good standards of car parking design, which do not allow vehicles to dominate the street or inconvenience people walking and cycling. Car parking should be overlooked by surrounding properties, to provide natural surveillance.

4.1.53 Parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places. 4.2.22 Planning authorities will need to ensure that in development plans and through the development management process they make the most efficient use of land and buildings in their areas. Higher densities must be encouraged on sites in town centres and other sites which have good walking, cycling and public transport links.

4.2.23 Infill and windfall sites can make a useful contribution to the delivery of housing. Proposals for housing on infill and windfall sites within settlements should be supported where they accord with the national sustainable placemaking outcomes.

4.2.25 A community's need for affordable housing is a material planning consideration which must be taken into account in formulating development plan policies and determining relevant planning applications.

5.12.9 Adequate facilities and space for the collection, composting and recycling of waste materials should be incorporated into the design and, where appropriate, layout of any development as well as waste prevention measures at the design, construction and demolition stage.

6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design.

6.6.18 The provision of SuDS must be considered as an integral part of the design of new development and considered at the earliest possible stage when formulating proposals for new development.

## 5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 *Transportation:* Our position is to generally consider additional vehicle parking allowable in association with additional building areas, and in this case the only additional buildings are the 3 HMO's. However, it is accepted that the existing consent has parking for a larger number of vehicles on-site, and that there are existing garages at the rear of the site (adjoining the rear access lane), which would theoretically allow some car parking now, and we would therefore accept a maximum of 9 parking spaces on the site accessing onto the rear lane.
- 5.2 I would ideally like to see amendments to the cycle parking at this stage, as the additional spacings will have an effect on the layout. The cycle store plan indicates horizontal spacings between the Sheffield stands of only 800mm (should be 1m), with aisle gaps of less than 1m (should be 1.8m). There should be room to reconfigure, and revised plans should be provided.
- 5.3 *Drainage:* Recommend deferring the application until full drainage details are submitted or imposing a condition requiring the approval of a scheme for the disposal of surface water including an assessment of the potential disposal of surface water via sustainable means.
- 5.4 *Pollution Control (Noise & Air):* Recommend an advisory note on construction site noise be added to the decision notice.
- 5.5 *Parks Development:* 3 highway trees are located on Roath Court Road, two of which will be impacted by the development. The two trees could create some shading of properties. The proposed property (plot c) would benefit from being set back slightly further from the street, to match the alignment of the other new buildings as it would take it further from the street tree, as well as creating a more consistent street frontage. The root systems of the two trees are also likely to extend into the grounds of the property which is currently soft landscape, with hard landscaping being proposed in the root protection area. There is significant risk that the 2 street trees could also be damaged during the demolition and building process and so should be protected by fencing or timber boxing around the trunk.
- 5.6 The Council's LDP requires provision of a satisfactory level and standard of open space on all new housing/student developments, or an off-site contribution towards existing open space for smaller scale developments where new on-site provision is not applicable. However as there are only 3 properties involved this falls below the threshold for providing a POS contribution.
- 5.7 *Waste Strategy & Minimisation Officer:* The refuse storage area, shown in the site plans, has been noted and is acceptable; however Waste Management do not accept keys to bin stores therefore either the gate would need to be left open on collection day or an access code would need to be provided. the collection method utilised by Cardiff Council will likely change in the future

which could result in different/more receptacles being required for the storage of waste between collections. In light of this, the bin store areas should allow a degree of flexibility in order to be able to adapt to potential collection changes. A designated area for the storage of bulky waste is now a compulsory element of all communal bin stores. Refuse storage, once implemented, must be retained for future use

5.8 *Housing Strategy:* On the basis that the size of the application site (being more than 0.1hectares) triggers a requirement for an affordable housing contribution under current policy, and if the scheme is for 3 units (1 x 6 bed and 2 x 15 bed), then a contribution of **£93,403** is sought.

5.9 *Housing & Communities Team, Neighbourhood Regeneration:* No comments received.

## 6. **EXTERNAL CONSULTEES RESPONSES**

6.1 *Welsh Water:* Note that the intention is to drain both foul and surface water to the mains sewer for which they can only comment on the acceptability of the foul water proposal at this stage. In the absence of a surface water strategy in which an assessment is undertaken to explore the potential to dispose of surface water by sustainable means, Welsh Water cannot support the application in full. Also advise that their records indicate that the proposed application site is crossed by a public sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. Therefore the position of the sewer must be accurately located and marked out on site before works commence and the applicant should ensure that no operational development be carried out within 3 metres either side of the centreline of the public sewer. Request conditions and advisory notes relating to the submission of a drainage scheme for the disposal of foul, surface and land water, including an assessment of the potential to dispose of surface and land water by sustainable means, and requiring the position of the public sewer to be accurately located and marked out.

6.2 *Police Crime Prevention Design Advisor:* South Wales Police recognise concerns in some areas that HMO's can have an impact on crime, disorder, parking, nuisance and general neighbourhood cohesion. Indeed research carried out by the Police Foundation (2015) indicates that HMOs had higher burglary, violent incidents and fire risks. Due to the fact that this development could be described as a large HMO and the density of HMO's in the street/area is less than 10% of total properties, South Wales Police would recommend the following:

- Access should be denied to the rear of the development by unauthorised persons by installing lockable gates to the front building lines of each block.
- Audio and visual access control systems should be installed on each communal entrance door.
- Secure cycle storage should be provided preferably in a secured purpose built building.
- PAS24 2016 compliant entrance/exit doors to apartment blocks.
- PAS24 2016 compliant ground floor windows.

- Every individual apartment door should be PAS24 2016 compliant.
- Ensure that an adequate fire risk assessment is in place in relation to fire prevention, detection and evacuation.
- Premises management plan should be put in place.
- Premises to meet secured by design standards and be inspected by police (to minimise crime risk).

## 7. **REPRESENTATIONS**

7.1 The application has been advertised by press notice, site notice and neighbour notification. 25 individual objections have been received. The grounds for objection are summarised as follows:

1. Concern about the type of tenants the accommodation will be offered to. This is likely to be people with problems such as drug dependency, domestic abuse, debt etc. The risks of crime and anti-social behaviour are likely to increase. There will be a danger to the vulnerable homeless women and children in a nearby facility and to the surrounding residents generally.
2. It does not appear that the local police have been consulted on the application.
3. The neighbourhood already has too high a density of HMOs. The development will cater for a transient population and will change the character of the area which is currently made up of family homes.
4. The site should be developed for affordable family homes.
5. The increasing number of HMOs in Roath has driven up property prices.
6. The residents will create disturbances and noise nuisance. There could be over a hundred people resident on the site.
7. There will be an increase in mess and vermin problems.
8. There will be inadequate outdoor amenity space for the residents.
9. The accommodation will be cramped and will have inadequate shared bathroom facilities. Cramped living conditions are widely acknowledged as contributing to poor mental and physical health. Individuals within each HMO will have little opportunity to socialise.
10. The current property, especially its garden, is badly maintained. It is unlikely that the proposed development will be properly maintained once built.
11. The nature and scale of the development will place significant strain on existing infrastructure (waste collections, parking etc.).
12. There will be increased pressure on the local schools, which are already oversubscribed.
13. There will be an increase in traffic which will adversely affect the safety of pedestrians and current road users. Many families and elderly people live on this street and this poses a significant risk. The junction with Newport Road is already dangerous.
14. Inadequate parking facilities. Inconsiderate parking and competition for parking spaces in Roath Court Road already causes problems.
15. During the development works there will be problems with disturbance to residents and the parking of construction vehicles in the area.



16. Loss of privacy to existing properties - the side windows on the development look directly into the gardens of 106 and 104 Roath Court Road. They also appear to look directly into patio kitchen doors of 104 Roath Court Road.
17. The Planning Committee was unfairly influenced by officers when the original scheme was approved in 2011. Objectors were not allowed as much time to address the committee as the planning officer was. The councillors were threatened by, rather than guided by, council officials. The planning committee had more than adequate grounds to reject the planning application in 2011. Decisions are not democratic if planning officers are promoting the interests of developers and landlords, who often rely upon receipt of public money to make their schemes work.
18. Not one ward councillor is on the planning committee, even though its decisions can have a serious impact on our neighbourhood. The ward councillors will be able to protest that they 'opposed' the development and then wring their hands afterwards when the development gets permission, and still clamour for our votes.
19. The application cannot be rejected on the grounds that there are too many existing HMOs in the area but this does not mean that it must be approved.
20. The 'consultation', conducted by the architects for WPI Estates was just a 'tick box' exercise.
21. The proposed development is of poor quality, unlike the consistent high quality exteriors of the houses on Roath Court Road. The design is out of keeping architecturally with the existing properties. The development does not respect the character of the area as it introduces three storey development onto a street characterised by traditional two-storey residences and does not follow the building line of frontages of houses on the street.
22. This site will be over-developed in an already densely populated area of the city, thereby breaching the saturation point guidance in the SPG on HMO's. There are currently 12 persons registered as the maximum for the HMO at 223 Newport Rd, 9 to the HMO registered at 221 Newport Road, and 12 to the HMO registered at 219 Newport Road. The addition of 36 HMOs on this site will make 69 HMOs at just three neighbouring houses. This represents a significant overdevelopment that will adversely affect local amenities and the character of the area. This contravenes policy H5 of the Local Development Plan.
23. The existing expired planning permission is for an entirely different scheme and should not be taken as a precedent. The current application is substantively different in character - there is a significant increase in the residential density of the property, the current application is for HMOs rather than self-contained flats, Cardiff Council planning policies are different, and the previous permission was granted while the council was under the control of a different political party. Also, parking and traffic levels in the surrounding area have changed since a new development of 37 flats was completed at 158-164 Newport Rd.

24. The application does not comply with the Cardiff Residential Design Guide in that the drawings do not show the scale of the proposal in comparison with the existing neighbouring housing on Roath Court Rd.
25. The application wrongly states that no trees are affected. There is a large sycamore on site which would need to be removed, and building too far forward would compromise the health of the street trees and the contribution made by them to the public space.
26. The site is covered with bushes and wild plants which are a very good habitat for biodiversity.
27. The application has been inadequately publicised.

7.2 Ward Councillors Peter Wong, Dan De'Ath, Mary McGarry and Sue Lent have submitted the following objections on behalf of a number of residents living in the surrounding area.:

Overdevelopment and change of character to the area.

The proposal is for the construction of two 15 bed HMOs and one 6 bed HMO. This is effectively a 36 bed HMO development in a very small site accessed through a quiet residential street in the Plasnewydd area. Plasnewydd already suffers from a saturation of HMOs in the area including Newport Road, Oakfield Street, Connaught Road, Claude Road. This development is a clear over-intensification, breaching the saturation point guidance within the SPG on Houses of Multiple Occupancy.

Policy H5 of the Local Development Plan also states: 'Proposals for any conversion to flats or Houses in Multiple Occupation will be permitted where:

- ii) There would be no material harm to the amenity of existing, nearby residents by virtue of general disturbance, noise, or overlooking.
- iii) The cumulative impact of such conversions will not adversely affect the amenity and/or character of the area.
- iv) Does not have an adverse effect on local parking provision.'

This massive development, on the back of planning permission for multiple flats, will have a significant cumulative impact that will adversely affect the amenity and character of the area.

Additionally as per KP5 of the LDP, none of the proposed development's scale, form, massing, height, density, colour, materials, detailing could be described as in keeping with the distinctive Victorian residential houses in the area, and certainly not in keeping with the local character and context of the built and landscape setting. The proposed development bears no resemblance to the distinctive local Victorian architecture, heritage or fabric of the area.

Impact on Neighbours.

It can be clearly seen from the submitted plans that the development faces both side on to houses on Roath Park Road, and the back gardens of Princes Avenue. The sheer size of the development will also have a detrimental impact on the privacy of the residential gardens on both Roath Park Road and Princes Avenue: the proposed flats on the higher levels will have a clear view into neighbour's gardens and rooms.

Paragraph 4.3 of the SPG on Houses of Multiple Occupancy notes that HMOs can lead to “Increased population density, leading to greater demand for infrastructure, such as waste collections and on-street parking.” This is a massive HMO development in a residential area, and will create significant waste issues for the surrounding neighbours, and the lane next to it.

Car parking & amenity space.

The development provides 13 car parking spaces for a 36 bed HMO development. This is clearly inadequate for such a massive development and will have a detrimental impact on local parking provision. Additionally the plans show that there is virtually no amenity space, and certainly not enough to facilitate a 36 bed HMO development.

Paragraph 4.10 of the HMO SPG notes that “the concentration of HMOs as exists in parts of the city does not come without social or amenity costs. While any individual new HMO may not directly impact upon this, collectively, their concentration is something that the Council can justifiably feel may need management for the benefit of the community at large. In this respect, a concentration of HMOs may conflict with parts of policy KP13.”

This massive 36 bed HMO development, on the annexe of an already huge development will directly impact on both the social and amenity of the local community.

## 8. **ANALYSIS**

- 8.1 The main issues for consideration with regard to this application are - design and the impact of the development on visual amenity and the street scene, the impact on the amenities of neighbouring occupiers, whether the development will provide a satisfactory standard of accommodation for future occupiers. and whether the proposal complies with the requirements of the Cardiff Local Development Plan in terms of obligations under Section 106 of the Town and Country Planning Act 1990.
- 8.2 In design terms the proposals are an improvement on the previously-approved scheme for 47 apartments (08/01551/C, granted in 2011 and commenced in 2016) as the development now consists of separate “villas” with the existing buildings on Newport Road retained. The 3-storey scale of the buildings is one storey higher than other buildings on Roath Court Road but the third storey is contained partly within the roof space and the height (approximately 10.5m to the ridge of the roof) is therefore little different to that of the nearby houses, is typical of similar Victorian villas and is similar in scale to the previously-approved development on the Roath Court Road frontage (being a maximum of around 60cm taller than the approved development).
- 8.3 The architectural style of the buildings is considered to be acceptable. The blocks make reference to Victorian villas with their characteristic symmetry around an entrance, gables and bays. They lack the richness of detailing of many of the nearby original homes (such as door and windows surrounds,

banding, leaded lights and mock timbering) but it is not unusual for new homes to lack such details. The site is not within a conservation area or close to any listed buildings that might justify closer adherence to traditional detailing. The external materials of the development (brick and render) will reflect the materials used in neighbouring buildings and a planning condition can be used to ensure that these are of an appropriate quality and are suitable for the area.

- 8.4 The existing street is also characterised by front gardens with boundary walls and hedging. The proposed development will also be set back behind a front boundary, although this will not be as deep as the existing front gardens in the area, and a planning condition will be required to ensure that the front boundary treatment matches the local character of wall and hedge as far as possible as these details are not shown on the submitted plans. The existing mature street trees will be retained on the site frontage, which will also help to minimise the visual impact of the development.
- 8.5 The scheme currently lacks detailed proposals for landscaping. An area of shared amenity space is depicted on the plans but its treatment and usability is unclear, and no provision has been made for planting to the Newport Road frontage, which is especially bleak and would benefit considerably from soft landscaping. A planning condition is therefore required to ensure that suitable details of landscaping are submitted, including planting methodology, post-planting aftercare methodology and an implementation programme.
- 8.6 With regard to the impact on the amenities of neighbouring residents, no habitable room windows will directly face the windows of existing properties at a distance of less than 21m, which is the minimum distance normally accepted between upper floor windows for the maintenance of privacy. The buildings will not be so tall and bulky that they will appear unacceptably overbearing and they will not overshadow the rear gardens of neighbouring houses. Therefore it is not considered that there will be such an adverse effect on amenity as to justify the refusal of planning permission.
- 8.7 Regarding the living conditions of future occupiers of the development, the buildings are not typical HMOs both in terms of their design (with kitchens in the rooms rather than in a communal space) and size (having 15 bedrooms in two of the blocks) and there would be some concerns over what the maintenance and management arrangements would be. However, to operate an HMO in this location, and of this size, the applicant will need both planning permission and a licence, and matters such as management arrangements and the details of internal space standards would be dealt with by the Licensing system. HMO licensing also lays down fire safety requirements, applies standards relating to kitchen and bathroom facilities and sets maximum occupancy limits.
- 8.8 The room sizes would be unacceptably small if this were a development consisting of separate self-contained flats rather than HMOs. However, planning permission would be needed to convert the development to flats. For the avoidance of doubt, and to ensure that the standard of accommodation

remains acceptable, a planning condition preventing changes to the internal layout is recommended.

- 8.9 The amount of outdoor amenity space – approximately 130 square metres – is acceptable for a development of this size. The Supplementary Planning Guidance “Houses in Multiple Occupation” (October 2016) requires 100 square metres for this number of rooms. The amenity space would be shared between the 3 HMOs: ideally each would have its own separate amenity space but in this case, as the HMOs are within a self-contained cluster, this is considered acceptable. The amenity space will be south facing and will contain a drying area, and landscaping can be used to enhance its amenity value. It will be easily accessible to all residents. It should be noted that no Section 106 contributions relating to Public Open Space are sought for this development. Parks officers have accepted that the development relates to 3 individual residential units and that therefore policy does not permit the Council to request an open space contribution.
- 8.10 Adequate facilities for cycle parking can be provided for residents (although amended plans are required via a condition as the number of proposed stands is acceptable but the horizontal spacings between the stands as shown on the current plans are not adequate) and the number of car parking spaces will be in accordance with the adopted Supplementary Planning Guidance “Managing Transportation Impacts (Incorporating Parking Standards)” (2018). The car and cycle parking facilities will be within a secure, gated area to the rear of the buildings which will be accessible to all residents.
- 8.11 The proposed parking facilities comply with the requirements of policy T5 of the Cardiff Local Development Plan, the adopted SPG and Planning Policy Wales (edition 10) which have no minimum standards for numbers of car parking spaces. The site is within the central area of the city, as defined in the SPG, where limiting the provision of parking is necessary to manage the demand for travel by car to central Cardiff and encourage travel by public transport, walking and cycling in order to achieve the Local Development Plan target of a 50:50 modal split. The SPG recognises that the availability of parking spaces and their location can influence travel choices and excessive provision can serve to stimulate demand for car travel and perpetuate reliance on the car. The application of parking standards to new developments is therefore an important tool in managing demand for travel by car and encouraging a shift to sustainable transport modes. Planning Policy Wales (2018) advises that “good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys” and it is Welsh Government policy to require the use of a sustainable transport hierarchy in relation to new development, which prioritises walking, cycling and public transport ahead of the private motor vehicles. Planning Policy Wales advises that the sustainable transport hierarchy must be a key principle when considering and determining planning applications and planning authorities must ensure development proposals, through their design and supporting infrastructure, prioritise provision for access and movement by walking and cycling and, in doing so,

maximise their contribution to the objectives of the Active Travel Act.

- 8.12 In accordance with the adopted SPG, the maximum number of car parking spaces that should be allocated to a development of this nature in this area is one per unit, i.e. in this case the new development of 3 HMO units should propose only 3 car parking spaces – however, the 9 spaces shown on the plans are considered acceptable as the site could already be used for parking for the existing development and the new spaces will also be shared by the existing units at 217 to 223 Newport Road (which by themselves would have a maximum car parking allowance of around 7 spaces)
- 8.13 The concentration of HMOs in the area must also be considered. Concentrations of HMOs clustered in small geographical areas can detract from the character of those areas and actively contribute towards a number of perceived problems such as greater demand for infrastructure, less community cohesion and higher crime levels.
- 8.14 The HMOs SPG aims to identify a threshold at which the level of HMOs is deemed to be such that it has a detrimental impact upon the community. A two-tier threshold is applied to determine when an area has reached the point at which further HMOs would cause harm. In Cathays and Plasnewydd the figure is 20%. This means that within Cathays or Plasnewydd, if more than 20% of the dwellings within a 50m radius of the proposed HMO are already established HMOs (i.e. either C4 or sui generis in Planning terms) then this development would be considered unacceptable. However, developments of HMOs on brownfield sites, or developments of new HMOs that do not result in the loss of an existing C3 property, may be viewed more favourably. Although this will result in an increased concentration of HMOs, with the issues this may bring, it will be an addition to the total housing stock which will not result in the loss of family dwellings.
- 8.15 There are already HMOs in this area – 219, 221 and 223 Newport Road are HMOs or mixed HMO/flats, containing around 30 individual bedrooms. The proposed development will add 36 individual bedrooms, although some existing rooms within no. 223 Newport Road will be lost through the demolition of part of the building. This will increase the concentration of HMOs in the immediate area above the 20% threshold. However, the HMOs SPG states that developments of HMOs on brownfield sites, or developments of new HMOs that do not result in the loss of an existing C3 property, may be viewed more favourably. In this case, there will be no loss of any family dwellings, the development will be adjacent to existing HMOs and it will increase the housing stock in a sustainable location within a part of the city that already contains a mixture of uses such as flats, offices and care homes, as well as family houses. As such the principle of developing this site for HMOs is considered acceptable.
- 8.16 With regard to the objections raised by local residents (as set out at paragraph 7.1 above):
1. It is not inevitable that residents will engage in crime or anti-social behaviour. Any such behaviour would be a matter for the police and

would be dealt with under other legislation. South Wales Police do not object to the application but have made several recommendations regarding security, which have been incorporated into the suggested planning conditions and informative notes to the applicant.

2. South Wales Police were consulted on the application.
3. The issue of the concentration of HMOs is discussed above. The character of Roath Court Road will remain as one of predominantly family homes. The development will not reduce the number of such properties and will be confined to the area close to the junction with Newport Road, within the curtilage of the existing HMOs, where there is a wider mix of accommodation types.
4. The Local Planning Authority must consider the acceptability of the development that has been applied for, irrespective of whether others may prefer an alternative scheme.
5. The impact of development on the value of other property is not a material planning consideration and cannot be taken into consideration in the determination of this application.
6. Any noise generated by the residents of the properties would be domestic noise that would not be out of place in a residential area such as this. It cannot be assumed that the residents would generate high levels of noise and in any case excessive noise, causing a nuisance to others, is controlled under Environmental Health legislation and is not a planning matter.
7. Adequate facilities for the storage of waste and recycling containers will be provided and waste management officers have raised no concerns in this respect. The development of a currently derelict and overgrown site is likely to reduce rather than increase vermin problems.
8. Amended plans have been submitted which demonstrate that an appropriate amount of outdoor amenity space will be provided.
9. Internal space standards and bathroom facilities are controlled by the licensing regime. There will be no shared space for socialising other than the outdoor amenity space but this would also be true of a block of one-bedroom flats and does not constitute grounds for refusal of the application.
10. It cannot be assumed that the development will not be properly maintained. The licensing system will control issues around the management of the property.
11. It would be unreasonable to refuse planning permission for a development on the grounds that the new residents will use the existing facilities and services in the area. If there is increased demand for services, this should be managed by the service-providers. Waste management officers have raised no concerns relating to waste collections and highways/transportation officers have no concerns regarding parking.
12. It is highly unlikely that children will live in this development.
13. Highways/transportation officers have raised no concerns regarding traffic or pedestrian and highway safety.
14. The proposed parking facilities comply with the requirements of policy T5 of the Cardiff Local Development Plan, the adopted Supplementary Planning Guidance "Managing Transportation Impacts (Incorporating

Parking Standards)” and Planning Policy Wales (edition 10) which have no minimum standards for numbers of car parking spaces.

15. A construction management scheme can be required, which would minimise disruption caused by building works. It would be unreasonable to refuse planning permission on the grounds of the temporary disturbance that would be caused during construction.
16. The only windows in this elevation will be small, obscurely glazed bathroom windows. There will be no loss of privacy to neighbouring properties.
17. The way in which the planning committee came to a decision on a previous application is not relevant to the consideration of the current proposals and is not a material planning consideration.
18. The local ward councillors have made representations on this application, which are reproduced in full at paragraph 7.2 of this report and which will be taken into consideration when this application is determined.
19. The application is not recommended for approval simply on the grounds that there are not too many HMOs in the area – all other material planning considerations have been taken into account.
20. It is mandatory for developers to carry out a pre-application consultation exercise for major developments in accordance with section 61Z of the Town and Country Planning Act 1990 Act and to include a pre-application consultation report with their planning application. The legislation does not require them to make any amendments to their proposals as a result of issues raised by consultees at that stage.
21. Issues of design are addressed earlier in this report. It is not considered that the design and scale are so out of keeping that refusal of the application would be justified.
22. The issue of HMO concentration is discussed earlier in this report. Policy H5 is not relevant in this case as it relates to conversions or sub-divisions of existing properties whereas the proposed development is for new buildings.
23. The existing planning permission has not expired as the pre-commencement conditions have been discharged and development has commenced. The approved development could be implemented subject to compliance with the Section 106 obligation that was attached to the permission. It does not represent a precedent for the current proposals but it must be borne in mind that it is a “fall-back” position for the developer should this application be refused.
24. It is not necessary for the application to include drawings showing the scale of the proposal in comparison with the existing neighbouring housing on Roath Court Road, although it would have been helpful. The lack of such a drawing does not constitute grounds for refusal of the application.
25. The tree on the site is of poor quality and its retention could not be justified. The Tree Preservation Officer has confirmed that the street trees on the Roath Court Road frontage will not suffer unacceptable harm subject to protection with tree protection boxes erected for the full course of demolition and construction, and any excavations/demolition



close to them being undertaken under arboricultural supervision and roots dealt with in accordance with section 7.2 of BS 5837:2012.

26. There is no evidence that any Protected Species are present on the site. The developer can be advised of their obligations under wildlife protection legislation. It would be unreasonable to refuse planning permission on the grounds that a site had become overgrown.
  27. Publicity has been carried out in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) - the applicant carried out a pre-application consultation exercise and after the application was submitted the Local Planning Authority published details of the application on the Council's website and advertised it in the press, by the display of 8 site notices in nearby streets and by sending individual letters to 152 addresses in the area. This is considered to be adequate publicity.
- 8.17 The objections raised by Councillors Peter Wong, Dan De'Ath, Mary McGarry and Sue Lent reiterate the concerns of local residents and are addressed above.
- 8.18 In conclusion, there would be no grounds for refusal of this application on the basis of the above considerations. However, the relevant parties are not willing to enter into a binding legal agreement with the Council in respect of the required financial contribution in lieu of affordable housing provision, for the reasons given below. Failure to provide an appropriate element of affordable housing on site, or a financial contribution in lieu of such provision, is, in the absence of satisfactory evidence that the scheme would be unviable were the contribution to be made, contrary to the requirements of policy H3 of the Cardiff Local Development Plan and Supplementary Planning guidance "Planning Obligations" (January 2017).
- 8.19 Policy H3 of the Cardiff Local Development Plan states that :
- " The Council will seek 20% affordable housing on Brownfield sites and 30% affordable housing on Greenfield sites in all residential proposals that:*
- i. Contain 5 or more dwellings; or*
  - ii. Sites of or exceeding 0.1 hectares in gross site area; or*
  - iii. Where adjacent and related residential proposals result in combined numbers or site size areas exceeding the above thresholds, the Council will seek affordable housing based on the affordable housing target percentages set out above.*
- Affordable housing will be sought to be delivered on-site in all instances unless there are exceptional circumstances."*
- 8.20 The SPG "Planning Obligations" confirms that policy H3 applies to all residential developments that fall into the above categories, including conversions, changes of use and mixed use developments where the site description and plans show 5 or more dwellings. Schemes providing specialist accommodation are included within this definition, except those in which residents require a significant element of care. Paragraph 2.7 of the SPG

states that “Student accommodation is classified as a ‘sui generis’ use. Where a planning application identifies that a site and / or an element within a mixed use development will be specifically and exclusively used for this purpose, the corresponding units will not be expected to contribute toward affordable housing provision.”

8.21 On the basis of the above, the applicant argues that –

- a) The specific wording of Policy H3 refers to ‘dwellings’, not residential units. The Town and Country Planning (Use Classes) Order 1987 (as amended) clearly defines dwelling houses as falling with Class C3. Therefore policy H3 only applies to the C3 use class (residential housing). The proposed use, House in Multi Occupation, would fall under a ‘Sui Generis’ use class (meaning ‘of their own kind’). The proposed use is therefore a non-residential use. The description of the proposed development does not include a dwelling but refers to the construction of “ two 15 bed HMO’s & one 6 bed HMO with onsite amenity, parking, cycle & refuse stores” - the proposed development clearly seeks planning consent for a ‘Sui Generis’ use, not a ‘C3’ dwelling house.
- b) The Planning Obligations SPG (January 2017) contains no reference to HMO’s within the document or the specific section on affordable housing. The SPG recognises that student accommodation is classified as a ‘sui generis’ use and states that “ Where a planning application identifies that a site and / or an element within a mixed use development will be specifically and exclusively used for this purpose, the corresponding units will not be expected to contribute toward affordable housing provision.” Sui Generis’ uses are not expected to contribute toward affordable housing provision. The proposal would provide accommodation for multiple people living in one building, who would share common facilities. This is identical to student accommodation which falls within the same use class, namely Sui Generis.
- c) The Council’s adopted SPG specifically relating to Houses in Multiple Occupation (HMOs) does not make reference to Policy H3 or affordable housing contributions. It is reasonable to conclude that Policy H3 is not applicable to applications for HMO’s.

8.22 In response to the above,

- a) Policy H3 does not only apply to the C3 use class. The term “residential proposals” is used. Policy H3 and the Planning Obligations SPG refer to “dwellings” rather than “dwellinghouses” or “residential units” and, as there is no currently accepted planning definition of a dwelling, we must fall back on the dictionary definition, which is “ a house, flat or other place of residence” (OED) or “a place where someone lives” (Collins). This differs from the term “dwellinghouse” which is used in the Use Classes Order. A Sui Generis HMO is a

dwelling, is not “non-residential”, and is therefore eligible for affordable housing contributions under current Local Development Plan policy.

- b) The SPG does not refer to HMOs as they are “residential development” and do not require specific reference. The exemption referred to in paragraph 2.7 of the SPG relates to student accommodation and not to all sui generis uses, which is consistent with LDP policy. The supporting text to policy H3 gives specific instances where the policy does not apply, i.e. “*housing specifically designated to cater for students*” and schemes providing specialised accommodation “*in which residents require a significant element of care*”. These are the only exceptions mentioned. HMOs, unless specifically developed as student accommodation or providing a significant element of care for residents, are therefore not exempt from the requirements of policy H3. Furthermore, “sui generis” is not a use class – it means that the use does not fit comfortably within any of the classes defined in the Town and Country Planning (Use Classes) Order 1987. HMOs are therefore not within the same use class as student accommodation.
- c) The adopted HMOs SPG does not refer to S106 contributions because these are covered by LDP policy H3 and the Planning Obligations SPG.

8.23 HMOs are not specifically referred to in affordable housing policy in the Cardiff Local Development Plan. However, Supplementary Planning Guidance is intended to clarify LDP policies and in this case the fact that the Planning Obligations SPG singles out student accommodation and specialist housing where a significant element of care is provided for residents as being exempt from affordable housing contributions but does not mention HMOs in that context shows that it has never been intended that HMOs be exempt. Given that the development does not include an appropriate element of affordable housing and that the developer has not agreed to the provision of a financial contribution in lieu of such provision, or submitted evidence that the scheme would be unviable were such a contribution to be made, the proposals are considered to be contrary to the requirements of policy H3 of the Cardiff Local Development Plan and Supplementary Planning Guidance “Planning Obligations” (January 2017), and it is recommended that this application be refused.

## **9. OTHER CONSIDERATIONS**

### **9.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

**9.2** *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. 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.

**9.3** *Environment (Wales ) Act 2016*

The Environment (Wales ) Act 2016 imposes a duty on the Local Authority to seek to maintain and enhance biodiversity in the proper exercise of its functions. and in doing so to promote the resilience of ecosystems. It is considered that the proposed development does not have any significant implications for, or effect on, biodiversity.

**9.4** *Well-being of Future Generations (Wales) Act 2015*

*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.





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CHIEF EXECUTIVE

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**Cyngor Caerdydd**

**Cardiff Council**



Title

Scale: 1:3000

Date: 9/4/2019 at 10:17 AM

Coordinates

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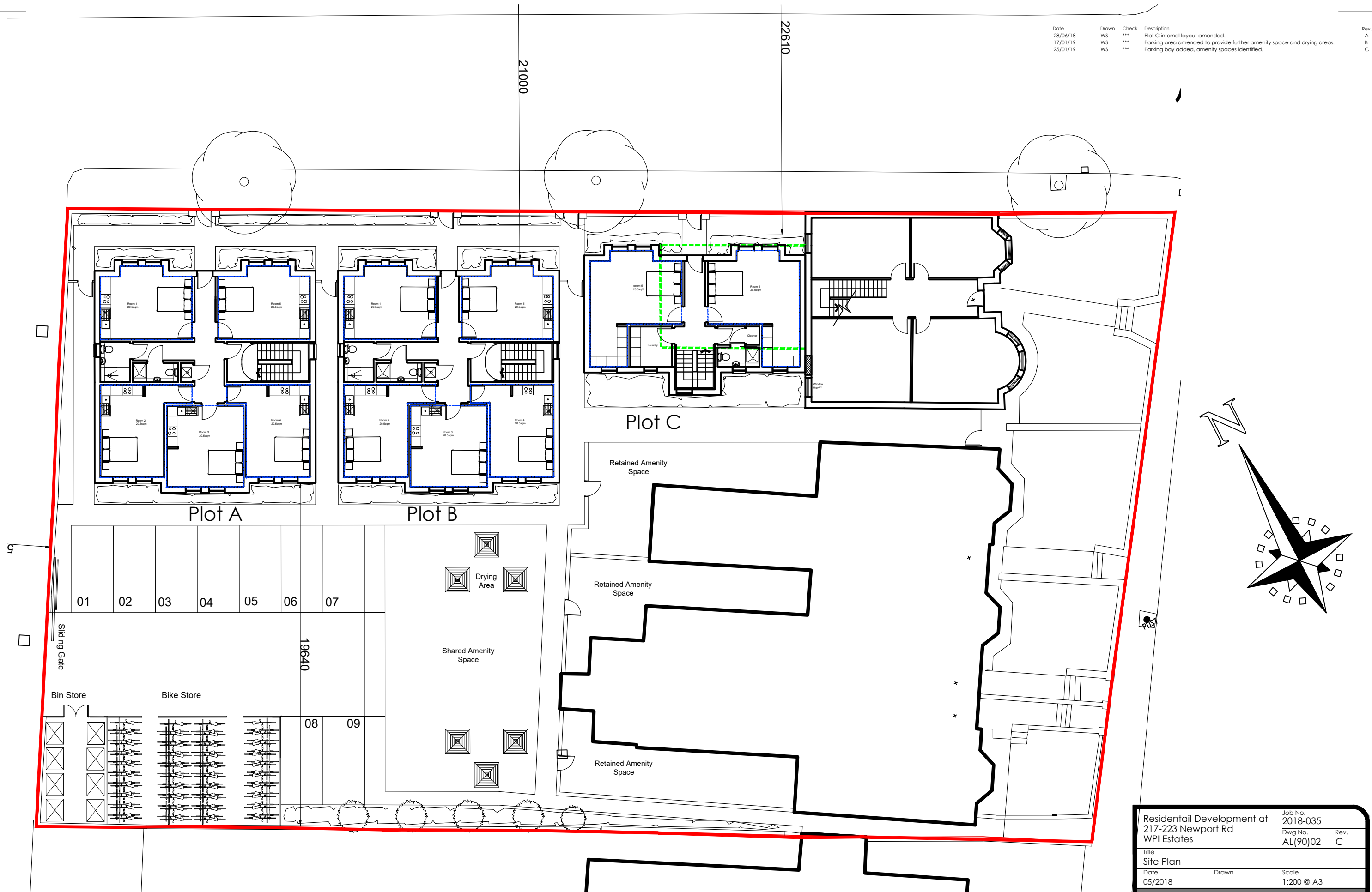








Date	Drawn	Check	Description	Rev.
28/06/18	WS	***	Plot C internal layout amended.	A
17/01/19	WS	***	Parking area amended to provide further amenity space and drying areas.	B
25/01/19	WS	***	Parking bay added, amenity spaces identified.	C



Site Plan 1:200

Residential Development at 217-223 Newport Rd WPI Estates		Job No. 2018-035	Rev. C
Title Site Plan			
Date 05/2018	Drawn	Scale 1:200 @ A3	

**C<sup>2</sup>** Architects · Town planners  
Environmental & Urban design

Unit 1A, Compass Business Park,  
Pacific Road, Cardiff. CF24 5HL. [www.c2architects.co.uk](http://www.c2architects.co.uk)  
tel: 029 20452100

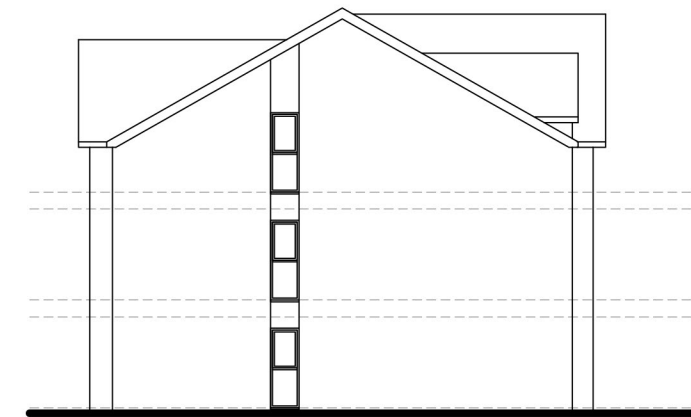
Date  
17/01/19

Drawn  
WS  
Check  
Description  
Finishes amended.

Rev.  
A



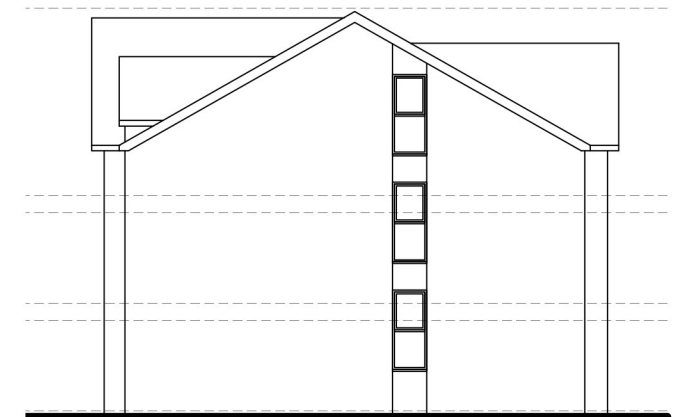
Front Elevation to Roath Court Rd - 1:200



Side Elevation Plot A/B - 1:200




Rear Elevation - 1:200

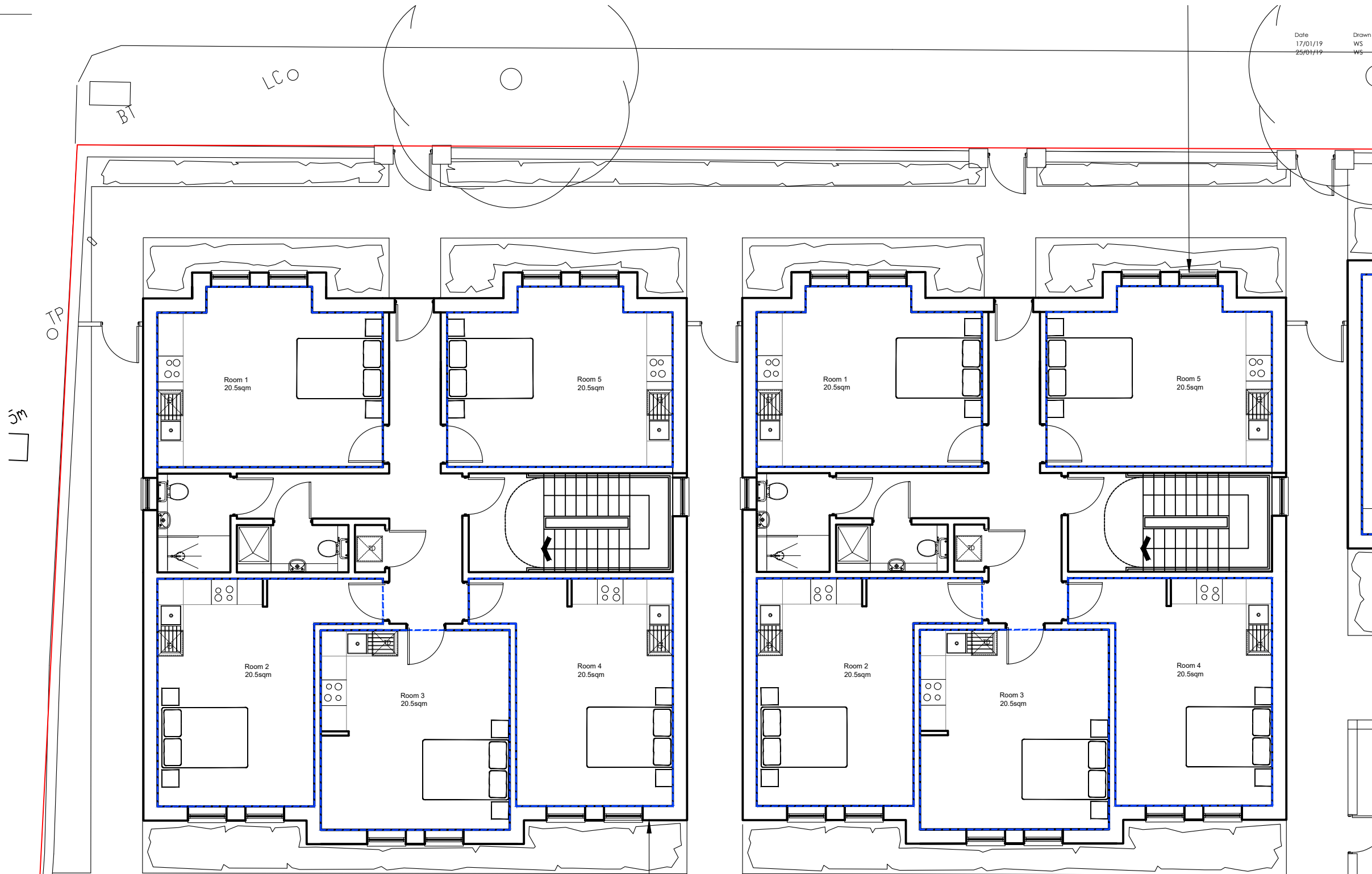


Side Elevation Plot A/B - 1:200



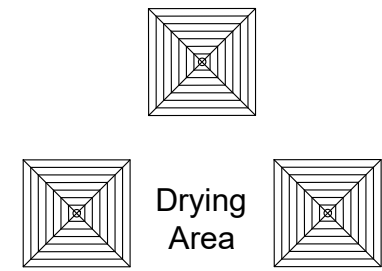
Side Elevation Plot C - 1:200

Residential Development at 217-223 Newport Rd WPI Estates		Job No. 2018-035 Dwg No. AL(01)10 Rev. A
Title Proposed Elevations		
Date 05/2018	Drawn	Scale 1:200 @ A3
 Architects · Town planners Environmental & Urban design		
<small>Unit 1A, Compass Business Park, Pacific Road, Cardiff. CF24 6HL. www.cjarchitects.co.uk tel: 029 20452100</small>		




Plot A

Plot B



Drying Area

Plots A & B - Ground Floor Plan 1:100

Residential Development at 217-223 Newport Rd WPI Estates		Job No. 2018-035
Title Plots A+B Ground Floor Plan		Dwg No. AL(01)02
Date 05/2018	Drawn	Scale 1:250/1250 @ A3
 <b>Architects</b> · Town planners <b>Environmental &amp; Urban design</b>		
<small>Unit 1A, Compass Business Park, Pacific Road, Cardiff. CF24 5HL.</small> <small>www.cjarchitects.co.uk tel: 029 20452100</small>		





**AMENDED PLAN**  
CARDIFF COUNTY COUNCIL  
STRATEGIC PLANNING  
& ENVIRONMENT  
08/1/551C  
DATE 12-11-08






Elevation A



Elevation B

AMENDED PLAN  
CARDIFF COUNTY COUNCIL  
STRATEGIC PLANNING  
& ENVIRONMENT  
08/11/08  
DATE 12-11-08

Residential Development 217 -233 Newport Rd. Richard Walters	Job No. 07-092	Rev. B
Title Elevations A and B	Drawn ***	Scale 1:100 @ A1
Date 24/04/08	Drawn ***	Scale 1:100 @ A1
	Architects Environmental	Town planners & Urban design
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