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AGENDA

Committee PLANNING COMMITTEE

Date and Time of Meeting

THURSDAY, 8 DECEMBER 2022, 1.30 PM

Venue CR 4, COUNTY HALL - MULTI LOCATION MEETING

Membership Councillor Stubbs (Chair)

Councillors Humphreys, Ahmed, Hunt, Jones, Joyce, Michael, Naughton,

Reid-Jones, Robson, Sattar and Wong

1 Apologies for Absence

2 Declarations of Interest

To be made at the commencement of the agenda item in question, in accordance with the Members Code of Conduct.

3 Minutes - to follow

To approve as a correct record the minutes of the meeting held on 3 November 2022.

4 Petitions

Petitions have been received in relation to the following applications in accordance with Committee Meeting Procedural Rule 14.2. The petitioners have been advised of their right to speak and the applicants/agents of their right to reply:

22/01636/MNR, Land to the rear of Canolfan Garden and sheds between 238 Pantbach Road and Heol Y Bont, Rhiwbina.

5 Development Control Applications

- a 20/01882/MJR, WINDRUSH, 58 PWLLMELIN ROAD, LLANDAFF
- **b** 22/01636/MNR, LAND TO THE REAR OF CANOLFAN GARDEN AND SHEDS BETWEEN 238 PANTBACH ROAD AND HEOL Y BONT, RHIWBINA
- c 22/01707/MNR, 88 SPLOTT ROAD, SPLOTT

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- d 22/01718/MJR, MOORLAND ROAD DAY CENTRE, MOORLAND ROAD, SPLOTT
- e 22/01717/MJR, INTERNATIONAL SPORTS VILLAGE, INTERNATIONAL DRIVE, GRANGETOWN
- f 21/02138/MJR, CARDIFF COASTAL FLOOD DEFENCES. THE SEVERN ESTUARY COASTLINE AND EAST AND WEST BANKS OF THE RIVER RHYMNEY
- 6 Applications decided by Delegated Powers
- 7 Urgent Items (if any)
- 8 Date of next meeting 12 January 2023

Davina Fiore Director Governance & Legal Services

Date: Friday, 2 December 2022

Contact: Kate Rees, 029 20872427, krees@cardiff.gov.uk

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LOCAL MEMBER OBJECTION

COMMITTEE DATE: 08/12/2022

APPLICATION No. 20/01882/MJR APPLICATION DATE: 23/09/2020

ED: **LLANDAFF**

APP: TYPE: Full Planning Permission

APPLICANT: Windrush (Llandaff) Ltd

LOCATION: WINDRUSH, 58 PWLLMELIN ROAD, LLANDAFF, CARDIFF,

CF5 2NL

PROPOSAL: DEMOLITION OF EXISTING DWELLING HOUSE AND

REPLACEMENT WITH 23 SELF CONTAINED RESIDENTIAL APARTMENTS, CONTAINED WITHIN FOUR SEPARATE BLOCKS, WITH LANDSCAPING, ACCESS, PARKING AND

ASSOCIATE INFRASTRUCTURE

RECOMMENDATION 1: That, subject to relevant parties entering into a binding legal agreement with the Council under the provisions of **SECTION 106** of the Town and Country Planning Act 1990, within 2 months of the date of this Resolution, with the following Heads of Terms:

- £41,917 (Parks / POS)
- £5,000 (TROs)
- £100,000 affordable housing

(as detailed in paragraphs 5.6, 5.10 and 8.28 of this report), that planning permission be **GRANTED** subject to conditions listed at section *.

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.

ALTERNATIVE RECOMMENDATION (following deferral at 3rd November 2022 Committee): -

That planning permission be REFUSED for the following reason:-

 Policy H3 (Affordable Housing) of the adopted Cardiff Local Development Plan (2006-2026) seeks to achieve 20% affordable housing on residential sites on Brownfield land, and Policy KP7 (Planning Obligations) seeks to achieve planning obligations to mitigate any impacts directly related to the development, with the Planning Obligations SPG setting out the Council's approach to securing such necessary obligations.

Although the whole site is defined as 'brownfield', large parts of the site are undeveloped garden land, such that there is an expectation that development proposals on the site should appropriately contribute towards the acute shortfall of affordable housing in the city. Notwithstanding the submitted viability appraisal, in the absence of on-site affordable housing, or the full requested financial contribution of £413,714 towards the provision of affordable housing off-site, the scheme is considered to fail to accord with Policies H3, KP7 and the 'Planning Obligations' SPG, insofar as it fails to ensure the proposed development contributes adequately to the need for affordable housing in Cardiff.

BACKGROUND INFORMATION

- O.1 This application was reported to the Planning Committee on 3rd November 2022, at which time a resolution was made to DEFER to enable officers to draft reasons for refusal based on the Committee's objections to the proposal. Delegated authority was given to officers to word a reason for refusal for approval by the Chair, based on their objection to the scheme's failure to provide the requested financial contribution (£413,714) towards affordable housing, which is required by Policy H3 of the adopted Cardiff Local Development Plan (2006-2026).
- 0.2 It is noted that LDP Policy H3 (affordable housing) seeks on site provision of affordable housing (20% on brownfield sites and 30% on greenfield) or a financial contribution in lieu of such housing, for developments of more than 5 units and it is clear that this threshold is triggered by this proposal.
- 0.3 The following report is largely that which was presented to the 3rd November committee, incorporating an alternative recommendation of refusal to respond to the concerns identified by Members.
- 0.4 The report has, however, been updated to reflect an amended financial offer made by the applicant (see paragraphs 8.28 8.31) of £100,000 towards Affordable Housing. This offer has been made without prejudice to their position in any subsequent proceedings, and has been made on the basis that such an increased offer can be made as the debt charges that would be incurred by the owner during the time it would take to conclude an appeal would equate to approximately £100,000. The substantive Officer recommendation (to approve) now reflects this increased financial offer, as well as requiring such legal agreement to be concluded swiftly (within two months).

DESCRIPTION OF PROPOSED DEVELOPMENT

1.1 The application is for full planning permission for the demolition of a bungalow and associated outbuildings and the construction of 4 no. blocks of apartments containing a total of 23 one and two bedroom units. Block A will be 2 storeys in height, block B 3 storeys and blocks C and D 4 storeys. All the blocks have a broadly rectangular footprint.

- 1.2 Block A, located at the southern end of the site, around 25m from the access onto Pwllmelin Road, will contain 2 no. one bedroom and 2 no. two bedroom flats. The building will have a flat, 'green' roof to a height of around 6.5m and will be finished in grey brick with darker brick feature panels, with louvres covering the first floor windows in the east elevation (which serve non-habitable rooms). The area between Pwllmelin Road and Block A will accommodate 4 car parking spaces, a bin store and an a small area of soft landscape.
- 1.3 Block B, further to the north and separated from Block A by a 5-space car park and a bin store, with soft landscaping to the margins, would contain 5 no. two bedroom flats, with the second floor taken up by a single apartment. The third storey will be stepped in from the outer edges of the building, providing the second floor apartment with a roof terrace, and will be finished in contrasting material (zinc cladding), with the lower two storeys finished in grey brick to match Block A. Block B will also have a flat, 'green' roof and, as with Block A, all windows in the east elevation above ground floor level will have external louvres.
- 1.4 Blocks C and D are of the same general design as B but are 4 storeys in height. Both would contain 7 no. two bedroom flats.
- 1.5 Each flat will have access to private outdoor amenity space in the form of a balcony and/or optional conservatory, the latter comprising a fully glazed 'external room'.
- 1.6 The development would be accessed via a spine road running south to north from Pwllmelin Road along the eastern boundary of the site and a total of 24 car parking spaces would be provided in separate areas to the south of each block and alongside the spine road. Cycle storage would be in the form of covered bike racks located adjacent to the car parking areas.

2. DESCRIPTION OF SITE

2.1 The site comprises the overgrown curtilage of a disused dwelling and has a frontage onto Pwllmelin Road of approximately 15m, a maximum width of around 26m and is almost 190m long with a north/south alignment. The land slopes down from south to north, with the northernmost part of the site being around 3m lower than the south. A railway line runs through a cutting along the western boundary and there is a railway station (Fairwater) on the opposite side of Pwllmelin Road. The rear gardens of houses on The Chantry border the site to the east and the north eastern part of the site adjoins the playing fields of the Bishop of Llandaff School. Windrush (a large dormer style bungalow) and its associated outbuildings, are situated at the southern end of the site. The surrounding area is characterised by large detached houses of varying designs.

3. SITE HISTORY

3.1 18/00642/MNR - Proposed demolition of existing dormer bungalow and construction of 5 new detached houses (outline permission granted subject to S106 obligation - £143,318 for affordable housing).

- 3.2 99/00102/W Demolition of existing dwelling and erection of four dwellings renewal of planning permission no. 96/182W
- 3.3 96/00182/W Demolition of existing dwelling and erection of four dwellings.
- 3.4 93/00684/W Demolition of existing dwelling and erection of four dwellings.
- 3.5 89/02385/W Demolition of existing dwelling and erection of four dwellings.
- 3.6 89/01439/W Ten dwellings. Refused (inadequate visibility at junction; loss of trees; over intensive development poor amenity standards; loss of privacy to adjacent occupiers).

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);

EN6 (Ecological Networks and Features of Importance for Biodiversity);

EN7 (Priority Habitats and Species);

EN8 (Trees, Woodlands and Hedgerows);

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:

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 11 – February 2021):

- 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
- 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.
- 3.16 Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence.
- 3.21 The planning system must consider the impacts of new development on existing communities and maximise health protection and well-being and safeguard amenity.
- 3.23 Green infrastructure can be an effective means of enhancing health and well-being, through linking dwellings, workplaces and community facilities and providing high quality, accessible green spaces.
- 4.1.9 The Welsh Government is committed to reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport.
- 4.1.10 The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which:
- are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;
- are designed in a way which integrates them with existing land uses and neighbourhoods; and
- make it possible for all short journeys within and beyond the development to be easily made by walking and cycling.
- 4.1.32 Planning authorities must ensure new housing, jobs, shopping, leisure and services are highly accessible by walking and cycling.
- 4.1.35 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.
- 4.1.37 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.
- 4.1.40 To encourage the use of Ultra Low Emission Vehicles (ULEVs), the planning system should encourage and support the provision of ULEV charging points as part of new development.

- 4.1.50 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.
- 4.1.52 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.
- 4.2.29 Where development plan policies make clear that an element of affordable housing or other developer contributions are required on specific sites, this will be a material consideration in determining relevant applications.
- 4.2.31 Site specific targets are indicative affordable housing targets which should be established for each residential site and for each mixed-use site which includes a residential component. For sites which fall below the site threshold planning authorities may secure commuted sums using a Section 106 agreement. When setting the affordable housing thresholds and/or site-specific targets planning authorities must consider their impact on site viability to ensure residential sites remain deliverable.
- 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.
- 6.1.7 It is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way.
- 6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity.
- 6.7.24 The potential impacts of noise pollution arising from existing development, be this commercial, industrial, transport-related or cultural venues, must be fully considered to ensure the effects on new development can be adequately controlled to safeguard amenity and any necessary measures and controls should be incorporated as part of the proposed new development
- 4.4 Technical Advice Note 2 Planning and Affordable Housing (2006).

- 4.5 Technical Advice Note 11 Noise (1997).
- 4.6 Technical Advice Note 12 Design (March 2016).
- 4.7 Technical Advice Note 18 Transport (2007).
- 4.8 Building Better Places: The Planning System Delivering Resilient and Brighter Futures Placemaking and the Covid-19 recovery (July 2020).
- 4.9 Future Wales- the National Plan 2040.
 It is considered that the proposed decision is in accordance with the 11 key outcomes to be achieved by the planning system as set out in 'Future Wales The National Plan 2040'

5. INTERNAL CONSULTEE RESPONSES

- 5.1 *Transportation:* Clarity in the location of the long-stay / resident cycle parking is required. It is assumed that the cycle facilities illustrated on the landscape plan (012), which do not appear to be covered, offer the visitor cycle parking option.
- The site appears to offer access to a variety of vehicles refuse, fire and private cars are illustrated. The extent of the carriageway access for refuse vehicles needs to be confirmed. Confirmation that the access road, or at least part, is to be adopted under S38, and the extent of the proposed adoption, is required. Within the adopted area the applicant should provide a minimum quality of access as outlined in the Technical Standards (covered by the Managing Transportation Impact SPG). The technical details state the minimum acceptable carriageway width and footway width. The proposed footway width of 1.8m is below the 2m minimum set out in the adopted technical details.
- 5.3 The materials would also need to be amended to remove paving from proposed turning points/heads along the road. The carriageway must be constructed to an adoptable standard.
- 5.4 A pedestrian crossing facility is offered in the TS and required to enable access to the south of Pwllmelin Road. S278 junction design will include the access to the site and the required pedestrian crossing. The junction and adopted area will include 2m pedestrian facilities.
- 5.5 Conditions are requested requiring the approval of the location and design of cycle parking facilities, maximum numbers of car parking spaces not to be exceeded, a construction management plan, details of suitable street lighting and carriageway surfacing for the adopted highway (for S38 highways approval) and details of the design of the junction, including an uncontrolled pedestrian crossing facility (for S278 highways approval).
- 5.6 A S106 financial contribution of up to £5,000 will also be required, to pay for a Traffic Regulation Order to protect sight lines at the access junction and the pedestrian crossing facility.
- 5.7 Pollution Control (Noise & Air): I am of the opinion that an acoustic report is required in order to establish the potential impacts of existing noise sources

upon the development site. All habitable rooms must achieve an internal noise level of 35 dBA 16 hour during the day [07.00 to 23.00 hours], and 30 dBA Leq 8 hour at night [23.00 to 07.00 hours]. With regards to the railway vibration, due consideration must be given to the design and construction of the dwellings so as to ensure that vibration dose values do not exceed 0.4m/s1.75 between 07.00 and 23.00 hours, and 0.26m/s1.75 between 23.00 and 07.00 hours, as calculated in accordance with BS 6472:1992. In addition, the developer must submit a Demolition and Construction Management Plan.

- 5.8 Pollution Control (Contaminated Land): In reviewing available records, the site has been identified as formerly residential. Contamination is not known at this site, however the potential for this cannot be ruled out. I would therefore advise the use of the 'unforeseen contamination' condition. Should there be any importation of soils to develop the garden/landscaped areas of the development, or any site won recycled material, or materials imported as part of the construction of the development, then it must be demonstrated that they are suitable for the end use. Standard conditions and recommendations are requested relating to unforeseen contamination, imported and site-won materials and contaminated/unstable land.
- 5.9 Parks Development: 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. On-site provision would not be expected for this development particularly with Fairwater Park and Pwllmelin Recreation Ground nearby therefore an off-site contribution is sought.
- 5.10 Based on the information provided on the number and type of units, I have calculated the additional population generated by the development to be 40.4. This generates an open space requirement of 0.098 ha of on-site open space based on the criteria set for Housing accommodation, or an off-site contribution of £41,917.
- 5.11 The use of S106 contribution from this development will need to satisfy CIL and the current distance requirements set out in the 2017 Planning Obligations SPG play areas 600m (not applicable to student and sheltered accommodation), informal recreation 1000m, and formal recreation 1500mm, measured from edge of the site. In the event that the Council is minded to approve the application, I assume it will be necessary for the applicant and the Council to enter into a Section 106 Agreement to secure payment of the contribution. Consultation will take place with Ward Members to agree use of the contribution, and this will be confirmed at S106 stage. The closest areas of recreational open space within 1km are:
 - Llandaff Ward Insole Court, Cathedral Green, Bridge Road River Walk, Mathew Walk Open Space
 - Fairwater Ward Fairwater Park, Pwllmelin Recreation Ground and Fairwater Recreation Ground.
- 5.12 Waste Strategy & Minimisation Officer: The tracking details for the refuse vehicle have been noted and this is acceptable. Each block will require the following for recycling and waste collections: 1 x 660 litre bin for general waste;

1 x 660 litre bin for mixed recycling (equivalent to 140 litres); 1 x 240 litre bin for food waste; 1 x 240 litre bin for garden waste (if needed). Refuse storage, once implemented, must be retained for future use. The developer is advised, as bulk containers are specified for this development, access paths to the kerbside for collection should be at least 1.5 metres wide, clear of obstruction, of a smooth surface with no steps. Dropped kerbs should also be provided to ensure safe handling of bulk bins to the collection vehicle. Please be advised that the developers of all new residential units are required to purchase the bin provision required for each unit. The bins have to meet the Council's specifications. As mentioned in section 3.11 of the Waste Collection and Storage Facilities Supplementary Planning Guidance it is considered best practice to have a Site Waste Management Plan for demolition projects. Materials should be reused and recycled as much as possible.

- 5.13 Housing Strategy: In line with the adopted LDP (Policy H3), an affordable housing contribution of 20% of the 23 units (5 units) is sought on this brownfield site. Our priority is to deliver on-site affordable housing, in the form of affordable rented accommodation, and this site is suitable for affordable rented accommodation. built to Welsh Government Development Requirements (DQR) for purchase by a nominated Registered Social Landlord (RSL) partner or the Council. For information, any affordable housing scheme should be appraised on a NIL Social Housing Grant (SHG) basis, and all of the units must meet Welsh Government DQR standards. Given the proposed design/configuration of the scheme, we would need to understand how any onsite affordable units can meet DQR standards and how any demarcation between the market and the affordable would work in reality. The scheme has to be able to be managed and easily maintained by the Registered Social Landlord or the Council.
- 5.14 In exceptional cases, if it is not possible to deliver the units on site, then, as an alternative to on-site provision, we would be willing to enter into discussions with the applicant with regard to providing the affordable housing contribution as a financial contribution in lieu. On that basis we would seek a financial contribution of £413,714 (in lieu of 1 x 1 bf & 4 x 2bf) which is calculated in accordance with the formula in the Affordable Housing Supplementary Planning Guidance (SPG) (2017). Discussion with the applicant is required.
- 5.15 *Drainage:* No comments received.

6. EXTERNAL CONSULTEES RESPONSES

6.1 Welsh Water: Confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. As of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with the Local Authority, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru

- Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.
- 6.2 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. No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.
- 6.3 A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure.
- 6.4 Transport For Wales: Due to the proposal being next to AIW managed infrastructure, prior to any works beginning on site the applicant will need to engage with AIW Asset Protection so that AIW are able to determine the interface with any assets, buried or otherwise and by entering into a Basis Asset Protection Agreement. The applicant should make contact a minimum of 3 months prior to works starting.
- 6.5 South Wales Police: Observations are provided on perimeter security, lighting, parking bays, bicycle stores, landscaping, bin storage, drainpipes, utilities, door and window security, access control and dwelling identification.

7. REPRESENTATIONS

- 7.1 The application and the subsequent amended plans have been advertised by press notice (initial application only), site notice and neighbour notification. Representations from 11 individual households were received in objection to the initial proposals along with objections from the Llandaff society and Councillor Philippa Hill-John. Following the notification of the amended plans, 9 individual households plus the Llandaff Society and Councillor Philippa Hill-John have re-iterated their objections.
- 7.2 The individual objections are summarised as follows:
 - The design, scale and construction materials are not in keeping with the character of the existing area and properties and would ruin a wellestablished and attractive residential area.
 - 2. The proposal represents overdevelopment of the site in terms of density of development.
 - 3. Conditions previously placed on the development of the site, limiting any construction to two storeys, have been ignored. The height of the buildings proposed is not in keeping with current properties in the area.
 - 4. The internal access road and the junction with Pwllmelin Road are unsafe. The site entrance, directly off a busy road, has impaired visibility. The minor changes made to the splay at the junction with Pwllmelin Road in the amended plan fails to alleviate the safety issues for pedestrians and vehicles in the area. The revised plans also fail to address the poor and dangerous vehicle and pedestrian access to the properties themselves and arise from the cramped dimensions and geometry of the roadway.
 - 5. The internal road is unlikely to be adopted therefore refuse vehicles will

- not be able to enter the site and a large amount of waste will have to be presented on Pwllmelin Road, creating safety hazards.
- 6. The traffic survey doesn't take into account the large number of dwellings being built at Plasdwr.
- 7. The parking arrangements are inadequate. Vehicles which are unable to park on-site will seek parking on neighbouring streets. This situation is made worse by vehicles left all day by 'Park and Riders" using Fairwater station, visitors to flats in The Retreat and parking in relation to drop-offs and pick-ups at the Bishop of Llandaff High School. The low number of dedicated parking slots in the proposed development will add further pressures on vehicle movement particularly affecting access for refuse collection and emergency vehicles.
- 8. Land stability has not been considered. There is no protection against any adverse affects which might be caused to the land on the Chantry side or that of the Bishop of Llandaff School.
- 9. Bishop of Llandaff High School playing fields will be overlooked, giving rise to Safeguarding concerns. This is especially pertinent given that the Bishop of Llandaff High School incorporates The Marion Centre, a Specialist Resource Base for students 11 to 19 years with an Autism Disorder (ASD) diagnosis.
- 10. The developer has not complied with previous planning requirements vegetation has been cleared in May, disturbing nesting birds, and trees have been felled without the prior consent of the Local Planning Authority.
- 11. The applicants Planning Statement ignores the full history of the site, i.e. a previous refusal and conditions placed on outline planning consents. Previous conditions should still apply, e.g. no building to be more than two storeys in height.
- 12. Loss of privacy to properties in The Chantry, Chatsworth Close and Kirton Close.
- 13. Windrush (Llandaff) Limited is in Receivership. The application to demolish the bungalow and construct 24 self-contained apartments in 4 blocks was submitted after the appointment of the receivers. This reinforces concerns and objections - this planning application is being led by receivers whose role is to sell the property and repay any debts owed to lenders.
- 14. The number of proposed apartments will increase traffic movement in the area. The lockdown restrictions and changes in people's life-style resulting from Covid 19 has generated considerable extra traffic in the area. Also the number of daily vehicle movements into and out of The Chantry resulting from the recent completion of The Retreat has greatly exceeded forecasts and triggered access and parking problems for residents in the area.
- 15. There are already too many empty flats in Cardiff. Overprovision of flats in Cardiff has been an issue for 30 years and is a consequence of overdevelopment driven by greed.
- 16. There is not enough outdoor amenity space for residents.
- 17. Landscaping proposals are inadequate.
- 18. The proposed boundary with the rear gardens of the houses of The Chantry is unacceptable. A low-level retaining wall would be highly inadequate because there is in excess of a 3metre drop between the garden levels of The Chantry and the existing site levels at Windrush.

- Minimal consideration has been given to appropriate boundary landscaping/screening, particularly as the site has recently been cleared of all mature trees.
- 19. Loss of light to Chatsworth Close. Overshadowing of houses on Chatsworth Close, and loss of light as the skyline will change - the land at Windrush is already one storey higher than the land beyond the railway line.
- 20. Delivery vehicles, refuse and recycling lorries and emergency vehicles are likely to find loading/unloading/turning very difficult on this narrow strip of land.
- 21. Loss of trees will be damaging to wildlife, the environment and to the Council's ambitions to increase tree cover both on council and private land. Allowing more buildings to be erected on this land would be contrary to the Council's own strategy. Cardiff Council should play its part in tackling climate change by refusing planning applications which are a threat to our environment.
- 22. Construction work will compromise the safety of pupils at the nearby school due to the presence of heavy machinery and dust could affect children's health.
- 23. Insufficient information has been provided until TfW have decided whether they will make representations, and, if so the nature of those representations, the Council will not have sufficient comprehensive information about the application to enable them to make a decision.
- 24. The pumping station proposed does not conform with the design parameters as set out in the current drainage standards of Welsh Water. A compound and tanker provision will be required within the scheme. The current planning layout does not therefore accurately depict how the scheme could be built and is not deliverable in its current format.
- 25. The proposal to locate Swales and soakaways on the legal boundary with the Transport for Wales railway line will not be allowable. Permeation of soils at this location will undermine the structural integrity of the graded embankment and cause detriment to the stability of the ground serving the railway line. Furthermore the current design does not conform with building control regulations with regard to the proximity of soakaways and swales to the proposed buildings.
- 26. The brick wall will create a climbing aid to scale the neighbour's fence and compromise the security of their site.
- 27. Flat roofs attract nesting seagulls to the area, which is a blight on developments making it difficult to maintain and sell properties.
- 28. The developers state that the fact that the site slopes away from Pwllmelin Road towards the north west of the site by approximately 3 metres enables the introduction of an additional floor. However, the site elevation shows that the site's slope only becomes relevant in respect of Block D.
- 29. Two substantial developments will have taken place in The Chantry in recent years adding a further 42 dwellings with all the consequent pressures this places on the community.
- 30. The front of 64 Kirton Close faces the railway line and is in direct view of the proposed development but the residents weren't notified of the application. Properties 54 to 72 Kirton Close are in close proximity to the development and should have been notified by letter and given the

- opportunity to raise objections. Also, it has not been possible to view the plans online.
- 31. Views of greenery will be lost.
- 7.2 The Llandaff Society has submitted a number of objections, which are summarised below:
 - (i) Overdevelopment.
 - The current single dwelling would be replaced with twenty four units, plus an access road and parking areas. The Council has approved 5 homes on this site (18/00642/MNR), but this is a significantly more intensive development. It would be surrounded by swathes of tarmac and would grossly overdevelop this previously leafy suburban site.
 - (ii) Lack of consideration of land stability.

 Earth-moving and engineering works would break down soil cohesion and disrupt drainage in and around the railway embankment. The scale of development proposed would put extra strain on this embankment. This could lead to structural instability and a risk to safety for trains using the rail line below. The Council should consult Transport for Wales on this issue now, before any decision is made on the application.
 - (iii) Inappropriate design.

 The proposed flats would appear as four, utilitarian, 4 and 5 storey slab blocks interspersed with car parking areas, with little planting, contrasting with the majority of development in the area which is individual, 2 storey, high quality detached houses in large plots with mature landscaping.
 - (iv) Inadequate landscaping for a development of this size.

 The current site used to contain plentiful trees and shrubs before they were cleared in 2020. Views into the proposed development from the main road and neighbouring properties would be dominated by hard surfaces. The majority of the current garden would be covered by impermeable surfaces (buildings and roadways) leaving a minute amount of landscaping.
 - The wildlife corridor running along the railway line would be disrupted and much of it would disappear under concrete and tarmac. Tree felling and garden clearance has already reduced wildlife habitats on the site (in breach of a condition on the current planning permission for the site). The "Ecological Assessment" was undertaken after the site clearance and does not represent a true picture of the losses actually incurred. All planning applications in Wales must include proposals for a net benefit in biodiversity. It is impossible for this proposal to deliver any increase on what existed prior to the destruction of habitats on this site.
 - (vi) Dangerous junction with Pwllmelin Road. The proposed junction to be provided with Pwllmelin Road would be unsafe. It would be on a narrow pinch point on a radial route into Cardiff that is a rat run for residents from the 12,000 new dwellings being built in North West Cardiff. The adjoining listed rail overbridge only has a footway on its south side. Little consideration has been given to the safety of schoolchildren particularly when pupils are walking to and from school and crossing Pwllmelin Road in the vicinity of the development. Also, the submitted traffic data are out of date.
 - (vii) Inadequate internal access road and parking provision.The proposed dimensions of the turning head make it unlikely that it would

be adopted. If this is the case, it would create difficulties for Fire and Emergency vehicles, as well as delivery vehicles. Large vehicles and refuse lorries would have to back up onto Pwllmelin Road, or park on the main road causing congestion and a traffic hazard. Also, 24 parking spaces for 24 residential units is totally inadequate as it would provide no spaces for visitors or multiple car-owning households

- (viii) Breach of Condition 4 re approval 18/00642/MNR.

 This condition specifically excludes "demolition or vegetation clearance" between 1 March and 15 August. We understand from residents of the adjacent houses that tree felling and site clearance was indeed undertaken at the height of the nesting season this summer.
- 7.3 With regard to the amended plans, the Llandaff Society confirm that they maintain their objections and comment that:
 - 1. The amendments give a derisory reduction of only 1 in the total number of flats and some minor changes to access and landscaping. These would do nothing to change the major adverse impacts of this proposal.
 - 2. Their major concern is the negative impact on road safety, in particular for school children as the site is close to an entrance to the Bishop of Llandaff School. Pwllmelin Road is an increasingly busy road.
 - 3. It would be a travesty if this proposal was given permission, particularly if it was in order to gain S106 monies which would be at the expense of children's safety and wellbeing.
 - 4. Revisions to landscaping are minor and cosmetic and would not add significantly to biodiversity compared with its previous uses, or give any significant screening effect for the nearest neighbours.
 - Additional run-off from the roofs, road and parking areas during increasingly frequent periods of heavy rainfall would add to the likelihood of flooding.
- 7.4 The Llandaff Society considers that allowing this development would be in conflict with the Council's duties under the Wellbeing of Future Generations Act and its obligations under PPW to improve road safety, enhance biodiversity and mitigate climate change.
- 7.5 Councillor Philippa Hill-John objects as follows:

 "There is considerable interest in this application locally and I would ask that the following points are taken into account in line with the respective planning guidelines.
- 7.6 Having visited the site I would also like to request a video walk through 'site visit' of the site in order to fully appreciate the proximity to the railway line and the access into the site off a very busy road, a radial route into Cardiff, Pwllmelin Road, the steep banking adjoining the railway line, the proximity to the Bishop of Llandaff school, the proximity to existing properties and the height of the proposed properties in relation to the properties along The Chantry. I would also ask committee members who are not familiar with the area to visit it please as only by doing this will you get a full appreciation of the characteristic of the neighbouring street scene and the scale and impact of the proposed application.

- 7.7 The Council has granted outline planning permission, submitted by previous owners of "Windrush" for the construction of 5 detached houses and the demolition of the existing bungalow. The outline permission was granted on the 8th October, ref 18/00642/MNR. The current application is now for 24 flats across 4 separate blocks up to 5 storeys high. A very different proposal.
- 7.8 I would ask whether this proposal has fully taken into account the aims of the SPG that are infill development: under these respective headings
 - Makes a positive contribution to the creation of distinctive communities, places and spaces.
 - Responds to the context and character of the area.
- 7.9 I would also ask that the committee take into consideration and have taken the text from the document relating to Residential Design guide as it is clear there are a number of areas that contravene this.

Character and context

- 3.7 As an overarching guide for all residential development, the Residential Design Guide SPG sets out the following list of design characteristics that should inform a character analysis:
- Locally distinct patterns of streets and spaces.
- Urban grain/built form relationships.
- Local or strategic views.
- Building envelope: scale, mass, form, height, roof form.
- Detailing and visual richness: window profiles, timberwork, building entrances, materials.
- Layout: plot widths, set backs.
- Topographical, microclimatic and ecological features.
- Local patterns of landscape: front garden treatments, street trees.
- 3.8 Infill development needs to be sensitive to its context. It is important that in residential areas where there is a clear existing pattern and form of development, that new buildings, landscaping and boundary treatments (e.g. gates, railings, walls and hedges) complement the character of the surroundings. A thorough understanding of detailing in the street scene which contributes to the form and character of the area needs to be gained and responded to..
- 3.11 Proposals must respect the urban grain and consider locally distinct patterns of streets and spaces including:
- Elements of the form of the street (organic or regular).
- Predominant housing layouts (terraced, semi-detached or detached).
- Garden sizes.
- 3.12 Materials (colour, texture and extent) used for roofing, walls, doors and window frames should respond to the dominant construction or facing material in the area; materials should either match exactly or be complimentary.
- 3.13 The fenestration of new developments should complement the size, proportions, design and rhythm of detailing of neighbouring properties. The roofline should include appropriate design and pitch of roofs, ridge height, eaves level, and notice taken of any other relevant details in the street scene.

There is clearly is a disconnect between the character and context of this proposal and the surrounding area.

7.10 Height, scale and massing

3.18 Infill development should take account of and respond to existing building heights (number of storeys and floor to ceiling heights), scale and massing of buildings in the street.

There are no three storey properties adjacent to this site let alone 4 & 5 storey as proposed. The proposed heights of these building alone should be sufficient grounds for refusal.

7.11 Privacy, overlooking and overshadowing

New developments should allow for adequate privacy for the occupiers of the proposed buildings as well as for neighbouring properties. Normally, a minimum of 21m should be maintained between principal windows to habitable rooms.

This again had been taken from the Residential design guide and has been challenged in objections submitted. I would like to support the statement submitted by Mr and Mrs Bolton where it details that the distance between the existing properties and the proposal is considerably less than the recommended 21 m. Despite the proposal to have opaque glazing, this becomes redundant where a balcony overlooks the neighbouring property.

7.12 Biodiversity and landscaping

I would like to draw the committees attention to the assessment submitted below. This suggests that there is further work to be done. It was also noted by the local residents that trees have already been removed and during the nesting season which contravenes the specification set out below. I question why it is that this is permitted and what recourse the council will take against the contractor?

David Clements Ecology Assessment recommendations

Further surveys

- 6.1.1 The following further survey work is required:
- Flight surveys for bats of the on-site buildings
- Reptile refugia surveys of the on-site habitats
- 6.1.2 Further recommendations for mitigation will be set out for these species (if required) following the completion of the further surveys.

6.2 Nesting Birds

6.2.1 Works affecting either the buildings or the trees and scrub of the site must have regard to the possible presence of nesting birds. The bird nesting season runs approximately between March and August inclusive, and therefore it is recommended that any building work, felling or tree works are undertaken outside of this period. Undertaking works outside the bird nesting season minimises the risk of causing avoidable harm or disturbance to nesting birds, which is a statutory obligation. If this timing is not possible, however, then the works must be preceded by a survey by an appropriately qualified person to

ascertain that no nesting birds are present.

6.2.2 In the event that nesting birds are found to be present during works, all works in the immediate vicinity must cease immediately and appropriate expert advice sought as a matter of urgency. The 'immediate vicinity' would comprise any nesting bird-occupied void in its entirety, plus an area of at least 5m radius around the find site. Nesting birds must not be harmed or disturbed, and should be left undisturbed until the young have fledged. This is a statutory requirement.

7.13 Adoption and Access road

The details surrounding this are already outlined in the objection submitted by Mr Bolton. To note there is no turning facility along the private driveway.

7.14 Amenities

No bin collection points or storage have been identified to my knowledge and only 22 parking spaces for 24 apartments. I cannot see cycle storage on the plans, which is not in line with the vision of 50:50 modal split and sustainable transport.

- 7.15 Please also take into account that Network Rail hold no objection, according to Litchfields statement however this was in relation to the previous application for 5 properties. I would ask that confirmation is given that TFW has been consulted and the response shared.
- 7.16 In summary there are numerous elements to this proposal that contravene planning guidelines and I would ask that the committee refuse this application on these grounds."
- 7.17 Following the submission of the amended plans, Councillor Hill-John has made the following additional observations and objections:

"I would like to re instate my objection to the above proposed development and to request a site visit. Revised objections have been received and I would like to support these and in particular focus on –

- 1. The proposed development represents an overdevelopment of the site.
- 2. Conditions previously placed on the development of the site, limiting any construction to two storeys, have been blatantly ignored.
- 3. The Traffic Survey carefully neglects to consider the impact of the approximately 7,000 dwellings currently being created in the St Fagans, Radyr, Morganstown and Fairwater wards (Plasdwr).
- 4. The design is inappropriate.- my observations from my previous objection still stand.
- 5. Road Safety -The junction with Pwllmelin Road is unsafe. Pwllmelin Road is an increasingly busy road, with traffic added to by that generated by new developments at Plasdwr not only cars but delivery vehicles of varying sizes as well as the 2-way bus service. We support the objection from the School which cites road safety as a key concern.
- 6. The internal access Road is unsafe.
- 7. The anticipation that the access road will be adopted is unlikely to be met.

This would necessitate the presentation of an unacceptable amount of waste at the kerbside on Pwllmelin Road, presenting a danger to road users and pedestrians alike.

- 8. Revisions to landscaping are minor and cosmetic and would not add significantly to biodiversity compared with its previous uses despite the requirement for this in the current edition of Welsh Government's Planning Policy Wales (PPW Edition 11). Nor would they give any significant screening effect for the nearest neighbours.
- 9. Run-off from the roofs, road and parking areas during increasingly frequent periods of heavy rainfall would add to the likelihood of flooding both in the locality and in lower lying areas of the City.
- 7.18 In view of the above Llandaff Society considers that allowing this development would be in conflict with the Council's duties under the Wellbeing of Future Generations Act and its obligations under recently updated national planning policy in PPW to improve road safety, enhance biodiversity and mitigate climate change.
- 7.19 The amended plans published on 4 October 2021 include the following changes:
 - 1 The total number of units has been reduced from 24 to 23.
 - 2 Block A has been reduced from 4 floors to 2.
 - 3 Block B has been reduced from 4 floors to 3.
 - 4 Block C has been reduced from 5 floors to 4.
 - 5 Block D has been reduced from 5 floors to 4.

In Reference Note A, the developers state that the fact that the site slopes away from Pwllmelin Road towards the north west of the site by approximately 3 metres enables the introduction of an additional floor. However, the site elevation shows that the site's slope only becomes relevant in respect of Block D. There is no significant change in level between Blocks A and B and little change between Blocks B and C (the slope only being of any significance in the northern portion of this building). The argument for introducing an extra floor can, therefore, only apply to Block D. Given the site topography, Block B should also be reduced to 2 floors and Blocks C and D to 3, thereby reducing the total number of units to 20. It should also be noted that conditions previously placed on the development of the site have limited construction to 2 storeys."

8. ANALYSIS

- 8.1 The site is within the existing settlement boundary as defined in the Cardiff Local Development Plan, within an existing residential area, and outline planning permission has twice been granted for residential development on this site, therefore there are no objections to the principle of the proposal.
- 8.2 The site is adjacent to the Grade II Listed railway bridge carrying Pwllmelin Road; however it is considered that the development would not adversely affect the setting of the bridge. The main considerations with regard to this application are therefore: biodiversity and nature conservation interests; the character and appearance of the street scene; the amenities of neighbouring occupiers,

the living environment of prospective occupiers and access and parking arrangements.

- 8.3 With regard to biodiversity and nature conservation interests, the application is supported by an Ecological Assessment, which concludes that the buildings on the site have potential to support roosting bats and other habitats within the site have potential to support reptiles, and that although the proposed development would likely result in the loss of the majority of existing habitats, the impact would be of no more than local significance. Also, any negative impacts could be mitigated and/or compensated for through the implementation of appropriate mitigation measures to avoid harm to protected species, such as nesting birds, and habitats during construction and operation.
- 8.4 The Ecological Assessment makes the following recommendations
 - 1. Further survey work should be carried out (flight surveys for bats and reptile refugia surveys) to determine if mitigation is necessary for these species.
 - 2. Works affecting either the buildings or the trees and scrub of the site must have regard to the possible presence of nesting birds.
 - 3. Consideration should be given to the incorporation of bird-boxes on the developed site, either on the new buildings or on any suitable trees in the vicinity.
 - 4. Any retained habitats should be securely fenced off with appropriate temporary fencing at the start of construction work to prevent access and incidental damage.
 - 5. All retained trees should be treated in accordance with British Standard BS5837 (2012) Guidance for the Treatment of Trees in Relation to Construction.
 - 6. Building compounds and storage areas should not be sited on areas of habitat which are to be retained or in the off-site habitats and should be suitably fenced and bunded where they stand adjacent to semi-natural habitats. Similarly, no equipment, machinery or materials should be brought into the retained areas, or stored under retained tree canopies, or ground levels altered within these clearly demarcated zones of protection.

 7. Any trees which must be removed as part of the development should be replaced on a like-by-like basis as a minimum with native species which are indigenous to the region.
 - 8. To provide ecological enhancement following the development, consideration should be given to the erection of bat roosting and bird nesting boxes in suitable trees around the site.
 - 9. The services of an appropriately qualified and licensed ecologist should be available on an 'on-call' basis throughout the development.
 - 10. Any new fencing installed within the new development should allow the passage of hedgehogs and other small mammals.
 - 11. Any excavations should be suitably fenced off at night to prevent any wildlife falling and becoming trapped.
 - Any new lighting scheme within the newly developed site must be designed in liaison with an ecologist and following the advice set out by BCT (2018). No lighting of the adjacent woodland habitats should occur.

- 8.5 The above recommendations can be incorporated into planning conditions to ensure that there is no unacceptable impact on wildlife and that any loss of habitat is compensated for in the new development.
- 8.6 Consideration must also be given to the visual impact of the development and its effect on the street scene. Although the proposed buildings are larger in scale than the houses in the surrounding area, the scheme is visually contained, with a relatively narrow frontage to Pwllmelin Road, and block A, which is only two storeys in height, will be set back more than 30m from the highway and orientated with its narrow side facing the road. The development will not be viewed in context with existing houses, being separated from the dwellings to the west by a deep railway cutting and with those to the east facing away from the site, but as a separate and distinctive new area of development.
- 8.7 The scale and massing of the buildings are considered acceptable the blocks are prevented from appearing 'slab-like' by the use of 'stepped' building footprints, contrasting materials (grey brick with darker brick feature panels, timber louvres and zinc cladding) and relatively large areas of glazing with vertical emphasis.
- 8.8 The visual impact of the development will also be minimised by the site's topography, as the ground level slopes away from Pwllmelin Road towards the rear of the plot. Overall, it is considered that there will be no unacceptable impact on the street scene – the buildings have been designed to minimise their visual impact by using a combination of flat, 'green' roofs and a layout that works with the topography and levels of the site, and although the contemporary design contrasts with the 20th century detached housing in the immediate vicinity, the site is not within a conservation area (where the development might be expected to replicate, or at least reference, the existing style of housing) and, provided the scheme is acceptable within its context, there can be no objection to the proposals on design grounds. Paragraph 4.9 of Technical Advice Note 12 (Design) advises that 'a contextual approach should not necessarily prohibit contemporary design' and, as stated in paragraph 3.16 of PPW, local planning authorities 'should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence.'
- 8.9 Regarding the amenities of neighbouring residents, concerns have been expressed that, due to the narrowness of the site, it would not be possible to achieve the normally accepted minimum privacy distance of at least 10.5m between the new apartments and the rear gardens of dwellings on The Chantry. However, the site layout plans show that Block D is located beyond the end of The Chantry, facing towards playing fields to the north and east and at a distance of more than 23m from any garden boundaries on Chatsworth Close to the west; Block C is mostly beyond the end of The Chantry at a distance of more than 11m from the rear garden boundary of the nearest property and more than 24m from any garden boundaries on Chatsworth Close; Block B is also more than 11m from the rear garden boundaries of The Chantry and more

than 30m from those in Chatsworth Close, and only Block A does not achieve the 10.5m minimum distance as it is sited at between around 8.7m and 10.5m from the rear garden boundaries of 9 – 11 The Chantry.

- 8.10 Concern regarding obtrusiveness or loss of privacy caused by the closeness of Block A to the rear garden boundaries has, however, been overcome by reducing the height of this block to 2 storeys, having no habitable room windows in the east-facing elevation, only windows serving bathrooms, internal balconies and the lobby area, and by the use of louvres to screen these windows. Block A also has no external roof terraces.
- 8.11 The distances between habitable room windows in the new development and the windows of the nearest existing dwellings will be adequate to protect privacy. The normally accepted minimum distance of 21m between facing habitable room windows will be achieved in all the blocks: Block A will be more than 40m from facing dwellings on Chatsworth Close; Block B will have no habitable room windows in the east facing elevation (other than secondary bedroom windows) and any windows in this elevation above ground floor level will be screened by louvres, and it will be more than 21m from the rear elevation of the nearest house on The Chantry and 40m from dwellings on Chatsworth Close; Block C will be more than 22m from the nearest house on The Chantry and 26m from those on Chatsworth Close; Block D will be around 50m from houses on The Chantry and more than 23m from the nearest house on Chatsworth Close.
- 8.12 With regard to the amenities of prospective occupiers of the development, the internal living space of each apartment will be generous and all will have acceptable daylight and outlook. There will be lift access to the upper floors in blocks B, C and D, each flat will have private amenity space in the form of at least one balcony, and the top floor apartments in blocks B, C and D will have large roof terraces. Car parking and cycle parking spaces will be provided in accordance with the Council's adopted standards. The development will be subject to railway noise and vibration but this can be mitigated by design features which can be the subject of planning conditions. It is not considered that there are any grounds for refusal of the application based on the standard of accommodation that will be provided.
- 8.13 Highways and Transportation officers have raised no concerns regarding the vehicular access onto Pwllmelin Road and confirm that the site appears to offer access to refuse and emergency vehicles as well as private cars. The Waste officer confirms that the tracking details for a refuse vehicle are acceptable. A contribution will be obtained from the developer for a Traffic Regulation Order relating to sight lines at the access and a pedestrian crossing linking the application site to the south side of Pwllmelin Road.
- 8.14 In response to the objections set out in section 7.2 of this report:
 - Design and visual amenity considerations are discussed earlier in this
 report. It is considered that the scheme is well designed and that there will
 be no unacceptable impact on the character of the area.
 - 2. The density of development on this site is greater than in the surrounding

residential streets but this accords with local and national planning policies which encourage higher densities on sites within settlement boundaries which are in sustainable locations. Paragraph 4.2.22 of PPW, for example, states that '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.' Given that this site is very close to Fairwater railway station and has very good public transport links, it is considered appropriate that it should be developed at the highest density acceptable.

- 3. The condition restricting development to two storeys appeared in an outline consent dating from 2002. The last outline permission (2018) did not have such a condition and in any case this is a stand-alone application for full planning permission which is not restricted by any conditions which may have been imposed on any previous outline consents. The height of the buildings does not match the height of existing properties in the area but this does not make it automatically unacceptable it is the impact of the buildings' heights that must be considered.
- 4. Highways officers have raised no concerns regarding the safety of the access road or the junction, and the dimensions of the internal roadway and parking areas are in accordance with the Council's standards.
- 5. Only minor changes would be needed to bring the road up to adoptable standard (see the comments of the Transportation officer earlier in this report) and the Waste Management officer has confirmed that refuse vehicles will be able to access the site.
- 6. Highways officers have not raised this as an issue of concern. Not all traffic generated by the Plasdwr development will travel past this site.
- 7. The parking arrangements accord with the standards set out in the adopted SPG 'Managing Transportation Impacts (Incorporating Parking Standards)' and are considered adequate. Any vehicles parked illegally in surrounding streets or obstructing the highway would be subject to enforcement action under Highways legislation.
- 8. Land stability is ultimately the responsibility of the developer and is controlled under other legislation.
- 9. The playing fields are already overlooked by dwellings. The Marion Centre is more than 100m from the application site, beyond The Chantry and will not be overlooked by the new development. Also, there is a belt of trees within the school grounds which will screen the new development. It would be unreasonable to cite Safeguarding as a reason for the refusal of planning permission in this instance.
- 10. Previous planning requirements relating to vegetation clearance related to previous planning permissions. There was no Tree Preservation Order protecting the trees on this site therefore the consent of the Local authority was not required to remove them. If nesting birds were disturbed, an offence may have been committed under the Wildlife and Countryside Act but this is not a planning issue and cannot form grounds for the refusal of this application.
- 11. Planning officers are aware of the full planning history of the site. Previous refusals and conditions placed on outline planning consents in the past do not apply to this proposal. Each application has to be determined on its

own merits.

- 12. Privacy concerns are discussed earlier in this report. It is not considered that there will be any unacceptable loss of privacy as a result of this development.
- 13. The motives for submitting the application are irrelevant to the consideration of its planning merits and cannot be taken into consideration.
- 14. Any increase in traffic movements in the area will be minimal. Highways and Transportation officers have raised no concerns regarding traffic generation.
- 15. The current demand for flats and the need for the proposed development is not a material planning consideration in this instance.
- 16. The issue of amenity space is discussed above. Each flat will have at least one private balcony and Parks officers have confirmed that on-site provision of open space is not to be expected for this development, particularly with Fairwater Park and Pwllmelin Recreation Ground nearby. The developer will however be expected to provide a financial contribution towards the improvement of existing open space in the area which would be likely to be used by residents of the flats.
- The current landscaping proposals are considered to be inadequate in that the planting details and specifications need to be informed by a Soil Resource Survey and Plan (given the existing function as largely vegetated soil, it is assumed there is a valuable, potentially re-usable soil resource) and proposed planting/seeding is largely restricted to a narrow strip of land bounding the railway. Otherwise there are some peripheral verges proposed for shrub planting and sedum roof treatments to dwellings. The absence of designed space for new trees and the monoculture planting with a short-lived species that demands a very free draining soil, and that is not well adapted to the predicted impacts of climate change, runs contrary to the advice on planting in the adopted 'Trees Technical Guidance Note.' Tree planting should focus on high diversity, suitability to context, biodiversity and suitability to climate change. There is also a lack of detail relating to the proposed 'wildflower' areas. However, it is noted that options for tree planting may be restricted by the requirements of Transport for Wales regarding the species of trees which they accept as suitable to be planted close to a railway line. Also, the applicant has advised that the current landscaping proposals are not finalised and they will be drawing up detailed landscaping proposals once there is certainty of the finalised scheme and planning permission (to avoid unnecessary abortive expenditure at the design stage of the development). Appropriate landscaping details can therefore be required to be submitted as a condition of planning permission should this application be approved.
- 18. The amended plans indicate that a taller boundary structure would be erected. However, details of all boundary treatments can be controlled via a planning condition to ensure that any new walls or fences provide an appropriate level of privacy without appearing oppressively tall.
- 19. There will be no unacceptable loss of light to properties on Chatsworth Close they are to the west of the application site and at a sufficient distance to avoid overshadowing. The new buildings may be visible above

- the existing trees on the railway embankment but they will not have such a detrimental impact on the skyline as to warrant the refusal of planning permission.
- 20. Highways officers have raised no concerns regarding the vehicle turning facilities proposed within the development site.
- 21. Most of the trees have already been removed from the site (see previous comments) and the majority of the tree coverage is now not on the application site but on the railway embankment. These trees should not be affected by the proposed development as they are mostly set far down the side of the embankment. The Council is committed to increasing tree cover and tackling climate change but must balance this with the need to enable new housing to be built, particularly in highly accessible and sustainable locations such as this, where increases in the density of development are to be encouraged so as to avoid the need for development in less sustainable locations. It would not be reasonable to refuse planning permission for new development within the settlement boundary on the grounds that the site previously contained trees. The local planning authority does not have powers to prevent the removal of trees from private land unless those trees are legally protected.
- 22. A construction management plan can be required to be submitted as a condition of planning permission to ensure that health and safety issues are adequately addressed.
- 23. Transport for Wales have responded to consultation and have confirmed that they have no objections. The developer will have to enter into an agreement with TfW with regard to asset protection. This is separate to planning permission.
- 24. Welsh Water have confirmed that they have no objections to the proposals.
- 25. Surface water drainage is controlled by the SUDS Approval Body, who will determine whether the proposed swales and soakaways are acceptable, and the design will also have to conform to the relevant Building Regulations as well as the asset protection requirements of Transport for Wales. This is separate to planning permission.
- 26. Details of boundary treatments will be controlled via a planning condition. Security issues will be considered at that stage.
- 27. It would be unreasonable to refuse planning permission for a development on the grounds that gulls may nest on the roof.
- 28. Block C will be slightly taller than the other blocks but this is considered acceptable given that it will be at a distance from the highway, behind blocks A and B when viewed from Pwllmelin Road, is not directly opposite the rear of any houses on The Chantry and is separated from houses on Chatsworth Close by the railway cutting and embankment vegetation.
- 29. As stated previously, increases in the density of development in sustainable locations such as this are encouraged by planning policies. There is no evidence of sever pressure on the existing community caused by new development.
- 30. 64 Kirton Close does not directly face the proposed buildings and is more than 45m from the site boundary on the opposite side of a cul-de-sac. It would not be usual to send a consultation letter to a property in such a situation. Letters were sent to 56, 58, 60 and 72 Kirton Close as these

- properties do either face towards the proposed buildings or, in the case of no. 72, are directly on the far side of the railway cutting. The plans have been made available on the website and it is not known why the objector was not able to view them.
- 31. There are no rights to a view across someone else's land and the planning system cannot be used to protect such views.
- 8.15 The majority of the objections raised by Councillor Philippa Hill-John and the Llandaff Society are considered above. In addition, the concerns regarding additional run-off from the roofs, road and parking areas adding to the likelihood of flooding will be addressed by the use of sustainable drainage (which is mandatory).
- 8.16 In conclusion, the proposals are considered to represent an acceptable scheme for the development of this site and the application is recommended for approval subject to the conditions listed at Recommendation 1 and subject to the signing of a S106 agreement, which will now be discussed in detail.

SECTION 106 MATTERS

- 8.17 This application was first reported to the Planning Committee on 03 November 2021 and deferred for a site visit, which took place on 06 December 2021. The application was then reported back to the Planning Committee for determination on 15 December 2021 and was approved subject to conditions and subject to those having an interest in the site entering into a binding planning obligation in agreement with the Council under Section 106 of the Town and Country Planning Act 1990 encompassing the matters referred to in paragraphs 5.6, 5.10 and 5.14 of this report. The applicant had agreed to enter into the required S106 planning obligation.
- 8.18 Before the S106 obligation was signed, the applicant indicated that they were not able to provide the full sum of financial contributions as required by the obligation and as originally agreed, and they submitted a viability report, which was independently assessed by the District Valuer. The District Valuer concluded that "a planning policy compliant scheme is not viable", "this scheme can support £0 policy requirements", "the proposed development is unable to support full planning policy requirements" and "In order to be delivered there must be either flex in the landowners' expectation of the developer's profit or a reduction in development costs or a combination of all".
- 8.19 The Housing Strategy Officer confirmed that, as the application has been subject to independent assessment by the District Valuer, they can raise no objection to the scheme going ahead without an affordable housing contribution; however, a shorter timescale for commencing development should be imposed so as to allow for reconsideration if economic conditions change. This measure is also suggested by the DV, who states that "The council may consider it appropriate to make it a pre commencement condition that viability is reviewed if construction does not start within a prescribed period of time."
- 8.20 Although officers considered that it would be acceptable in this case for the development to go ahead without a contribution towards affordable housing,

given that such a contribution is not necessary in order to make the development itself acceptable, there are residential amenity and highway safety reasons for the requested contributions relating to Public Open Space and the Traffic Regulation Order which are directly related to the proposed scheme. Without these, the development would not provide an appropriate level of amenity for future residents and may result in hazards for pedestrians and road users. The Transportation officer confirmed that "the £5k for the traffic orders is integral to the safety of the access and the pedestrian crossing. If the developer is refusing to incorporate the safety facility then transportation would be obliged to object to the proposal on highway safety grounds."

- 8.21 Given that the application would be recommended for refusal should the necessary contributions relating to Public Open Space and Traffic Regulation not be forthcoming, the developer agreed to provide the £41,917 parks contribution (see paragraphs 5.9 to 5.11 above) and the £5,000 required to pay for a Traffic Regulation Order to protect sight lines at the access junction and the pedestrian crossing facility (see paragraph 5.6 above).
- 8.22 Therefore the application was reported back to the Planning Committee on 3rd November 2022 for the Committee to make a decision as to whether the proposal was acceptable with the above contributions still payable but without the financial contribution of £413,714 towards affordable housing.
- 8.23 The 'Planning Obligations' SPG states that:

"Developers will be expected to provide, pay for, or contribute towards mitigation measures and infrastructure provision where the need arises as a result of their proposed development. It is recognised however that there may be occasions where development proposals are unable to meet all the relevant policy requirements whilst still remaining viable." (para. 18.1);

"Based on independent financial viability findings and other evidence, planning obligations may potentially be deferred / phased, or discounted" (para. 18.4);

and

"Any reduction in contributions would be to the minimum necessary to make the scheme financially viable. The Council would need to determine whether a development would still be acceptable in planning terms with a reduced level of contribution(s)." (para. 18.6).

8.24 Officers considered that the developer had provided sufficient evidence to demonstrate that the development is unviable if the S106 contributions are paid and had overcome objections to the impact that the failure to provide the Parks and Highways contributions would have on amenity and safety by offering the necessary sums for those purposes. The reduced S106 contribution was considered justified and the Planning Committee were advised that there would be no reasonable grounds for refusal of this application. It was recommended that planning permission be granted subject to conditions, including a reduced time limit for the commencement of development as advised by the District Valuer, and the signing of a Section 106 Obligation, as set out above.

- 8.25 As noted earlier in the report, to DEFER to enable officers to draft reasons for refusal based on the Committee's objections to the proposal due to the failure to provide the financial contribution (£413,714) towards affordable housing, which is required by Policy H3 of the adopted Cardiff Local Development Plan (2006-2026).
- 8.26 The officer report has considered the planning balance of delivering sustainable housing within an established residential area against the lack of affordable housing provision (which is considered under KP6 as necessary infrastructure i.e. matters to make a scheme policy compliant), taking into account the supporting text to Policy H3 which seeks to ensure acceptable development is not made unviable by the need for affordable housing and states the following:
 - "5.11. In negotiating affordable housing, each proposal's actual contribution will depend on that scheme's capacity for provision. This will ensure that the affordable housing contribution in itself will not make the scheme unviable. The Council will work with developers to agree a contribution in an open and transparent manner. In cases where agreement cannot be reached, an independent assessment will be commissioned to be paid for by the applicant/developer. The assessment should include details and costs of the necessary infrastructure to be delivered either wholly or in part to support the delivery of sustainable neighbourhoods."
- 8.27 The weight to be given to development plan policies is a matter for the decision maker, in this case the Planning Committee, who may conclude that the need for affordable housing within Cardiff outweighs the need to develop this site and that, based upon the updated policy framework highlighted above, the need for affordable housing is a significant and overriding material consideration.
- 8.28 Members are advised, however, that since the deferral the applicant has reviewed the scheme and amended their offer of financial contributions to the following payments in total:
 - £41,917 (Parks / POS)
 - £5,000 (TROs)
 - £100,000 affordable housing

(Total £146,917)

- 8.29 As background, the offer made previously when reported to Committee was for a contribution of £41,917 (Parks / POS) and £5,000 (TROs). No financial contribution was offered towards the £413,714 for affordable housing. The applicant has emphasised that they have been able to submit this increased offer as the debt charges that would be incurred by the owner during the time it would take to conclude an appeal would equate to approximately £100,000.
- 8.30 This amended offer goes beyond what was previously considered by officers to be policy compliant and the recommendation remains to approve, albeit with the increased financial contribution totalling £146,917.

- 8.31 Should Members not accept this offer and resolve to refuse the application, it must be noted that the applicant has the right to appeal to the Welsh Government against the Council's decision, at which time they would be highly likely to withdraw their offer of an additional financial contribution.
- 8.32 Members should also note the advice in the Welsh Government's 'Development Management Manual' (Section 12 Annex, paragraphs 3.9 and 3.11) relating to potential award of costs in appeal proceedings:

"Local planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers or received from statutory consultees. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority."

"Local planning authorities are at risk of an award of costs being made against them if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include....

...Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations:

....Failure to produce evidence to substantiate the impact of the proposal, or each reason, or proposed reason for refusal (i.e. taking a decision contrary to professional or technical advice without there being reasonable planning grounds to do so);

....Pursuing unreasonable planning obligations (i.e. section 106 agreements) in connection with a granting of planning permission, where it is not justified and does not accord with the law or relevant policy..."

8.33 Should members choose to agree with the substantive (amended) recommendation to approve, it is also considered appropriate that the s106 be signed within two months from any resolution to grant rather than the usual 6 months, to ensure that a decision is issued expeditiously (having regard to the content of the financial offer made and the current situation in relation to viability) and the wording of Recommendation 1 has been amended accordingly.

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

The Well-being of Future Generations (Wales) Act 2015 places a duty on the Welsh Ministers (and other public bodies) to produce well-being objectives and take reasonable steps to meet those objectives in the context of the principle of sustainable development. The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act), has been considered and account has been taken of the ways of working set out at section 5 of the WBFG Act in the determination of this application, and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the well-being objectives referred to in section 9 of the WBFG Act.

RECOMMENDATION

RECOMMENDATION 1: That, subject to relevant parties entering into a binding legal agreement with the Council under the provisions of **SECTION 106** of the Town and Country Planning Act 1990, within 2 months of the date of this Resolution, with the following Heads of Terms:

- £41,917 (Parks / POS)
- £5,000 (TROs)
- £100,000 affordable housing

(as detailed in paragraphs 5.6, 5.10 and 8.28 of this report), that planning permission be **GRANTED** subject to conditions listed below.

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.

CONDITIONS

1. The development shall begin not later than **two years** from the date of this decision

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, and to enable the Local Planning Authority to take into account any changes in economic conditions that affect the viability of the proposed development and its capacity for the provision of financial contributions under the provisions of Section 106 of the Town and Country Planning Act 1990.

- 2. The development shall be carried out in accordance with the following approved plans and documents:
 - A002 Rev B Proposed site plan.
 - A003 Rev A Proposed site elevations.
 - A004 Rev B Proposed floor plans: Block A.
 - A005 Rev A Proposed elevations: Block A.
 - A006 Rev B Proposed floor plans: Block B.
 - A007 Rev A Proposed elevations: Block B.
 - A008 Rev B Proposed floor plans: Block C.
 - A009 Rev A Proposed elevations: Block C.
 - A010 Rev B Proposed floor plans: Block D.
 - A011 Rev A Proposed elevations: Block D.
 - A012 Rev C Proposed landscape plan.
 - 013 Demolition plan.

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.

- 3. No development shall commence, including any works of demolition, until a scheme of demolition and construction management has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be adhered to throughout the demolition and construction periods. The scheme shall provide for:
 - i) the mitigation of demolition and construction noise and vibration;
 - ii) a noise management plan;
 - iii) measures to control the emission of dust and dirt during demolition and construction;
 - iv) wheel washing facilities;
 - v) the parking of vehicles of site operatives and visitors;
 - vi) loading and unloading of plant and materials;
 - vii) storage of plant and materials used in constructing the development; and
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of highway safety and public amenity, in

accordance with policies T5, T6 and EN13 of the Cardiff Local Development Plan.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA 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 policy EN13 of the Cardiff Local Development Plan.

5. 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 to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced, in accordance with policy EN13 of the Cardiff Local Development Plan.

6. 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 to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced, in accordance with policy EN13 of the Cardiff Local Development Plan.

7. 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 by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced, in accordance with policy EN13 of the Cardiff Local Development Plan.

8. All habitable rooms must achieve an internal noise level, in relation to road traffic noise, of 35 dBA 16 hour during the day [07.00 to 23.00 hours], and 30 dBA Leq 8 hour at night [23.00 to 07.00 hours]. In addition, any private open space (excepting terraces or balconies to any apartment) shall be designed to provide an area which is at least 50% of the area for sitting out where the maximum day time noise level does not exceed 55 dBA Leg 16 hour [free field].

Habitable rooms subject to sound insulation measures shall be provided with acoustically treated active ventilation units. Each ventilation unit (with air filter in position), by itself or with an integral air supply duct and cowl (or grille), shall be capable of giving variable ventilation rates ranging from –

- 1) an upper rate of not less than 37 litres per second against a back pressure of 10 newtons per square metre and not less than 31 litres per second against a back pressure of 30 newtons per square metre, to:
- 2) a lower rate of between 10 and 17 litres per second against zero back pressure.

No habitable room shall be occupied until the appropriate sound insulation and ventilation measures have been installed in that room.

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policy EN13 of the Cardiff Local Development Plan.

9. All habitable rooms exposed to external railway noise in excess of 66 dBA Leq 16 hour (free field) during the day (07.00 to 23.00 hours) or 59 dBA Leq 8 hour (free field) at night (23.00 to 07.00 hours) shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 40 dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. Habitable rooms subject to sound insulation measures shall be provided with acoustically treated active ventilation units. Each ventilation unit (with air filter in position), by itself or with an integral air supply duct and cowl (or grille), shall be capable of giving

variable ventilation rates ranging from -

- 1) an upper rate of not less than 37 litres per second against a back pressure of 10 newtons per square metre and not less than 31 litres per second against a back pressure of 30 newtons per square metre, to:
- 2) a lower rate of between 10 and 17 litres per second against zero back pressure.

No habitable room shall be occupied until the appropriate sound insulation and ventilation measures have been installed in that room.

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policy EN13 of the Cardiff Local Development Plan.

10. The buildings shall be designed and constructed so as to ensure that vibration dose values do not exceed 0.4m/s1.75 between 07.00 and 23.00 hours, and 0.26m/s1.75 between 23.00 and 07.00 hours, as calculated in accordance with BS 6472:1992, entitled "Guide to Evaluation of Human Exposure to Vibration in Buildings", [1Hz to 80Hz].

Reason: To ensure that the amenities of future occupiers are protected, in accordance with policy EN13 of the Cardiff Local Development Plan.

11. The noise emitted from fixed plant and equipment on the site shall achieve a rating noise level of background – (minus) 10 dB 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 future occupiers are protected, in accordance with policy EN13 of the Cardiff Local Development Plan.

- 12. Prior to the commencement of development, a landscaping scheme comprising:
 - A soft landscaping implementation programme.
 - Scaled planting plans prepared by a qualified landscape architect.
 - Evidence to demonstrate that existing and proposed services, lighting, CCTV, drainage and visibility splays will not conflict with proposed planting.
 - Schedules of plant species, sizes, numbers and densities prepared by a qualified landscape architect.
 - Scaled tree pit sectional and plan drawings prepared by a qualified landscape architect that show the Root Available Soil Volume (RASV) for each tree.
 - 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 (i.e. Soil Resource Survey and Plan), 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, a soil scientists interpretive report demonstrating that the planting soil not only meets British Standards, but is suitable for the specific landscape type(s) proposed. The specification shall be supported by a methodology for storage, handling, amelioration and placement.

 Planting methodology and post-planting aftercare methodology prepared by a qualified landscape architect, including full details of how the landscape architect will oversee landscaping implementation and report to the LPA to confirm compliance with the approved plans and specifications.

shall be submitted to and approved in writing by the Local Planning Authority and upon approval shall be carried out in accordance with the approved implementation programme.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to mitigate against/adapt to the effects of climate change, in accordance with policies KP5 and KP15 of the Cardiff Local Development Plan.

13. Any trees, plants, or hedgerows included in the landscaping scheme required by condition 12 which, within a period of five years from the completion of the development, die, are removed, become seriously damaged or diseased, or become (in the opinion of the Local Planning Authority) otherwise defective, shall be replaced in the current planting season or the first two months of the next planting season, whichever is the sooner, unless the Local Planning Authority gives written consent to any variation.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, in accordance with policies KP5 and EN8 of the Cardiff Local Development Plan.

14. Notwithstanding the details of cycle parking shown on the approved plans, the development shall not be occupied until facilities for the secure storage of cycles at a rate of at least one cycle space per bedroom have been provided in accordance with details to be submitted to and approved in writing by the local planning authority and the approved facilities shall be retained in perpetuity.

Reason: To ensure that adequate provision is made for the secure parking of cycles in accordance with policies KP5 and T5 of the Cardiff Local Development Plan.

15. The proposed car parking and manoeuvring areas shall be laid out in accordance with the approved details before the development is brought into beneficial use and shall be thereafter maintained and retained at all times for those purposes in association with the development, and the car parking and manoeuvring areas shown on the approved plans shall not be increased in size at any time.

Reason: To make provision for the parking of vehicles clear of the roads so as not to prejudice the safety, convenience and free flow of traffic, and to ensure that excessive car parking provision is not provided at the site, in accordance with policy T5 of the Cardiff Local Development Plan and the requirements of Cardiff Supplementary Planning Guidance "Managing Transportation Impacts (Incorporating Parking Standards)" (April 2018).

16. Development shall not commence until details of suitable street lighting and carriageway surfacing for the adopted highway and details of the design of the junction, including an uncontrolled pedestrian crossing facility, have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the beneficial occupation of the development.

Reason: In the interests of highway safety, in accordance with policy T5 of the Cardiff Local Development Plan.

17. No removal of trees, shrubs, bushes or hedgerows shall take place between 1st February and 15th August unless it has been demonstrated to the Local Planning Authority that there are no birds nesting in this vegetation immediately (48 hrs) before works commence.

Reason: To avoid disturbance to nesting birds, in accordance with policy EN7 of the Cardiff Local Development Plan.

18. Before the development hereby approved is brought into beneficial use, details of provisions to be made for the installation / incorporation of bat roosting and bird nesting boxes in suitable locations on the buildings and in any suitable trees within the site, in accordance with the recommendations in section 6 of the David Clements Ecology Ltd 'Windrush, Llandaff: Ecological Assessment: v.2: August 2020' shall be submitted to and approved in writing by the Local Planning Authority and the approved items shall be installed within a timescale agreed by the Local Planning Authority and thereafter retained.

Reason: In the interests of biodiversity enhancement, in accordance with paragraph 6.4.5 of Planning Policy Wales (Edition 11 – February 2021).

19. Prior to the commencement of development a survey shall be carried out to assess the potential impact of the development on reptiles. The survey shall be carried out in accordance with a methodology which shall have been submitted to and approved in writing by the Local Planning Authority. If the results of the survey show that reptiles are present on the site, prior to the commencement of development a Method Statement setting out an exclusion, trapping and translocation exercise to ensure that reptiles on site are not harmed during site clearance shall be submitted to and approved in writing by the Local Planning Authority. This shall be undertaken by suitably qualified consultant ecologists, using recognised best-practice techniques, at an appropriate time of

year, such that reasonable effort to avoid harm to these species can be demonstrated. The Method Statement shall specify monitoring and habitat management measures on the receptor site for a minimum of three years after translocation, together with intervention measures if the monitoring reveals that the translocation has not been successful.

Reason: In the interests of biodiversity and the protection of a UK Protected Species, in accordance with policy EN7 of the Cardiff Local Development Plan.

20. Prior to the commencement of demolition of any existing buildings on the site, flight surveys for bats to determine if mitigation is necessary for these species shall be carried out in accordance with a methodology which shall have been submitted to and approved in writing by the Local Planning Authority. If the results of the survey show that bats are present on the site, a strategy for the mitigation of the impact of the development on bats shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the approved mitigation strategy.

Reason: To ensure the protection of European Protected Species, in accordance with policies KP16 and EN7 of the Cardiff Local Development Plan.

21. Any retained trees and wildlife habitats shall be protected during demolition and construction works in accordance with the recommendations set out in section 6 of the David Clements Ecology Ltd 'Windrush, Llandaff: Ecological Assessment: v.2 : August 2020'.

Reason: In the interests of biodiversity, in accordance with policy EN7 of the Cardiff Local Development Plan.

22. Before the installation of any lighting associated with the development, including that associated with the construction phase, a scheme of lighting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed in liaison with an ecologist and shall follow best practice guidance set out by BCT (2018) to ensure that no additional lighting of the adjacent woodland habitat will occur and that bat mitigation and flight lines are protected from light spill. The approved scheme shall be implemented before the development is occupied and maintained thereafter.

Reason: To avoid disturbance to nocturnal species such as bats, in the interests of biodiversity and the protection of European Protected Species, in accordance with policies KP16, EN6 and EN7 of the Cardiff Local Development Plan.

23. Prior to beneficial occupation of the development hereby approved, a plan indicating the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. Any new fencing installed within the new

development shall have 13cm by 13cm squares cut out of the base or a continuous 13cm tall gap running along the bottom of the fence to allow the passage of hedgehogs and other small mammals. The boundary treatment shall be completed as approved before the buildings are occupied and retained thereafter,

Reason: In the interests of visual and residential amenity and biodiversity, in accordance with policies KP5 and EN6 of the Cardiff Local Development Plan.

INFORMATIVE 1: 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. The applicant is also advised to seek approval for any proposed piling operations.

INFORMATIVE 2: 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 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 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.

INFORMATIVE 3: Since January 7th 2019, all new developments of more than 1 house, or where the construction area is 100 square metres or more, require sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by the Welsh Ministers.

These systems must be approved by the local authority acting in its SuDS Approving Body (SAB) role before construction work begins. The SAB will have a duty to adopt compliant systems so long as they are built and function in accordance with the approved proposals, including any SAB conditions of approval.

It is recommended that the developer engage in consultation with the Cardiff Council

SAB team as the determining SuDS Approval Body (SAB) in relation to their proposals for SuDS features. To arrange discussion regarding this please contact SAB@cardiff.gov.uk

Further information is available on the Council's website: https://www.cardiff.gov.uk/ENG/resident/planning-and-suds/suds-approval-bdy/

The legislation set by Welsh Government can be reviewed at: https://gweddill.gov.wales/topics/environmentcountryside/epq/flooding/drainage/

INFORMATIVE 4: The applicant is advised that the owners/developers of all new residential units are required to purchase the bin provision required for each unit. Each block will require the following for recycling and waste collections:

- 1 x 660 litre bin for general waste
- 1 x 660 litre bin for mixed recycling (equivalent to 140 litres)
- 1 x 240 litre bin for food waste
- 1 x 240 litre bin for garden waste (if needed).

The bins have to meet the Council's specifications. Individual 140 litre/240 litre wheeled bins can be purchased via waste Connect to Cardiff at (029) 2087 2087. Bulk supply of individual bins, or 660litre/1100 litre wheeled bins should be ordered via the bin order form located at www.cardiff.gov.uk/wasteplanning. As bulk containers are specified for this development, access paths to the kerbside for collection should be at least 1.5 metres wide, clear of obstruction, of a smooth surface with no steps. Dropped kerbs should also be provided to ensure safe handling of bulk bins to the collection vehicle. Further information regarding waste/recycling and the types of bins required is available in the Supplementary Planning Guidance "Waste Collection and Storage Facilities", which can be found on the Council's website.

INFORMATIVE 5: The developer is advised that, as mentioned in section 3.11 of the Waste Collection and Storage Facilities Supplementary Planning Guidance, it is considered best practice to have a Site Waste Management Plan for demolition projects. Materials should be reused and recycled as much as possible.

INFORMATIVE 6: In the interests of security it is recommended that:

- a) The entrance doors into the apartment blocks and all vulnerable windows should meet the SBD standard PAS24 2016 or equivalent and preferably be third party tested and certificated. Vulnerable windows should have window locks fitted, preferably ones that are key operated. The individual apartment external doors should also meet the same standards. Glass fitted in or adjacent to door panels should be laminated. Doors in recesses of more than 600 mm deep should be avoided.
- b) Access into apartment blocks should be controlled by access control with audio and visual verification fitted if there are 4 or more apartments using a communal entrance.
- c) Utility meters should be located to the outside and front of the apartment blocks.
- d) The site, especially the vehicle parking bays, cycle stores and bin stores, should be lit during the hours of darkness. Lighting should be controlled by photo electric cells or time switches.
- e) The side and rear of the apartment blocks and communal areas should be

protected by walls/fencing at least 1.8 metres high which should be robust and designed to be difficult to climb over.

Please visit the website www.securedbydesign.com for more information.

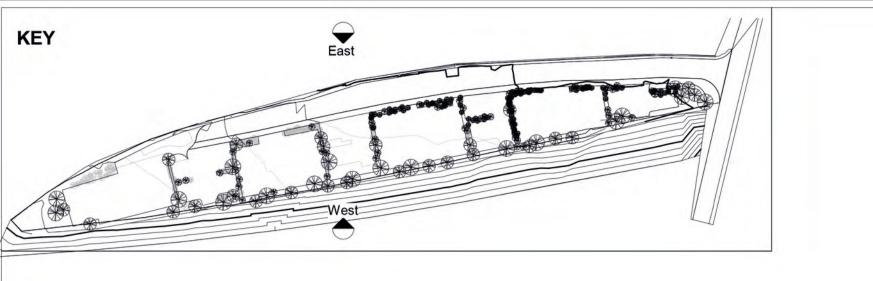
INFORMATIVE 7: No work should be carried out on the development site that may endanger the safe operation of the railway or stability of the railway structures and adjoining land. In view of the close proximity of these proposed works to the railway boundary, prior to any works beginning on site the applicant will need to engage with AIW Asset Protection so that AIW are able to determine the interface with any assets, buried or otherwise and by entering into a Basis Asset Protection Agreement. The applicant should make contact a minimum of 3 months prior to works starting. Initially the outside party should contact CVLAssetProtection@tfwrail.wales.

INFORMATIVE 8: To encourage the use of Ultra Low Emission Vehicles (ULEVs), the developer is advised to include ULEV charging points as part of the development.









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Elevations

PD

Checked by

July 20

Rev

Project no.

00_02

Drawn by

Scale

1:200

A003

Drawing No.

Rev A Sept. 2021 Penthouse second floor omitted

Block A penthouse omitted
External communal balconies omitted in all blocks
Elevations amended for privacy
Canopy added at the main entrace to all blocks



East Elevation

1:200



KEY

Facing Bricks- Grey

Zinc cladding panels

Glass balustrade

Louvres

Corten Steel Balustrade



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KEY

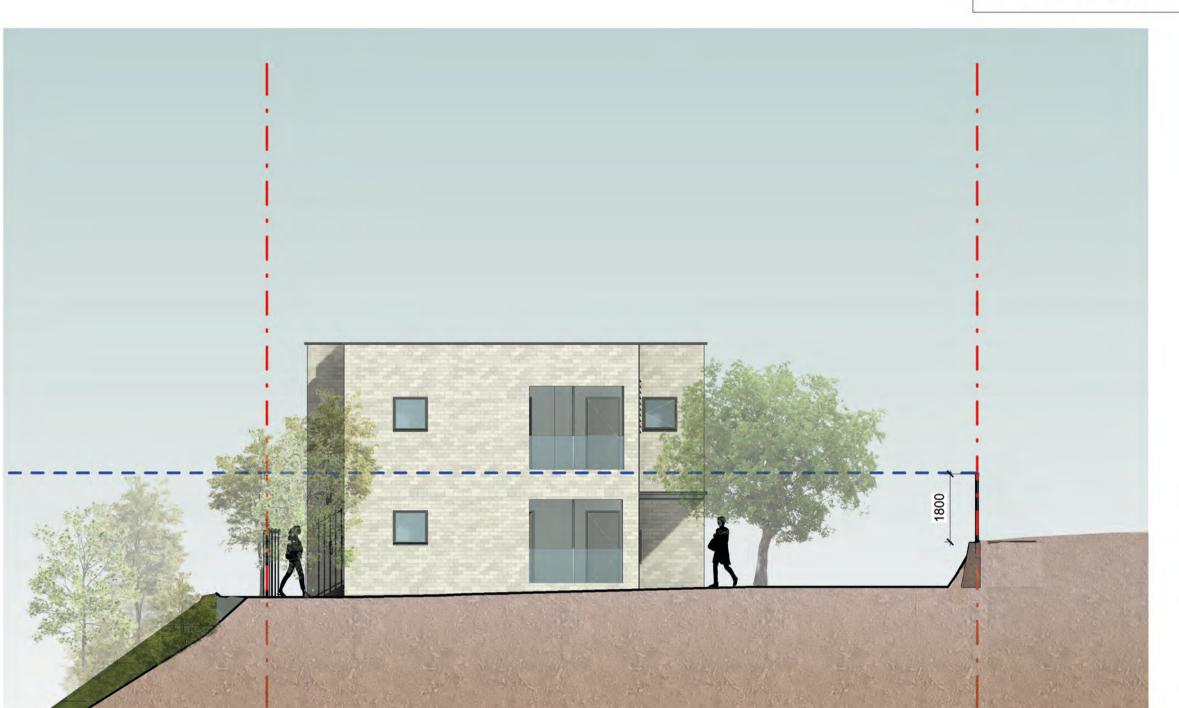


Block A West Elevation

1:100

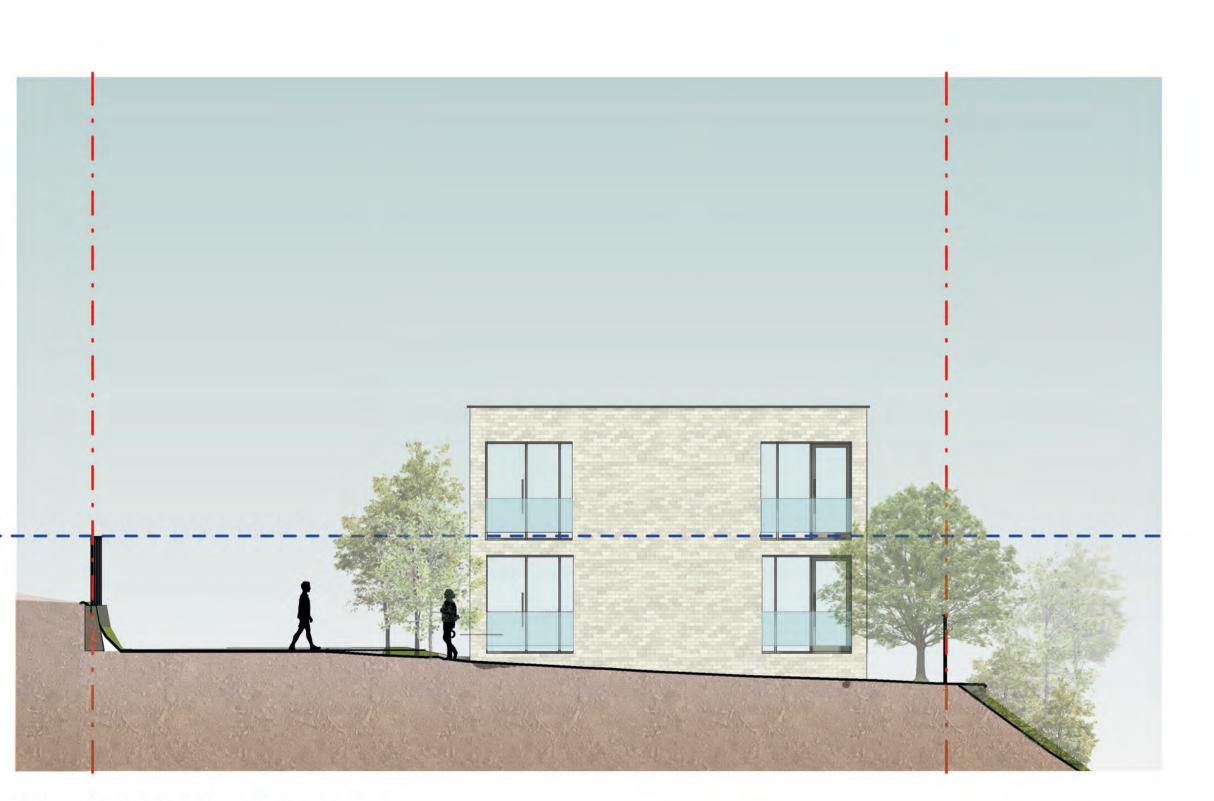


Block A East Elevation 1:100



Block A South Elevation

1:100



Block A North Elevation 1:100

Rev A Sept. 2021 Penthouse and external communal balconies removed. Elevations amended for privacy Canopy added at the main entrace

NOTE
For additional information in regards to Block A and the existing houses in The Chantry, refer to A014- Proposed Site Sections 1 of 2

Blue dotted line denotes boundary wall height to "The Chantry" gardens

1. Facing Bricks- Grey

2. Zinc cladding panels

5. Glass balustrade

6. Brick feature panel

4. Louvres

3. Corten Steel Balustrade

Red dotted line denotes site boundary

Project

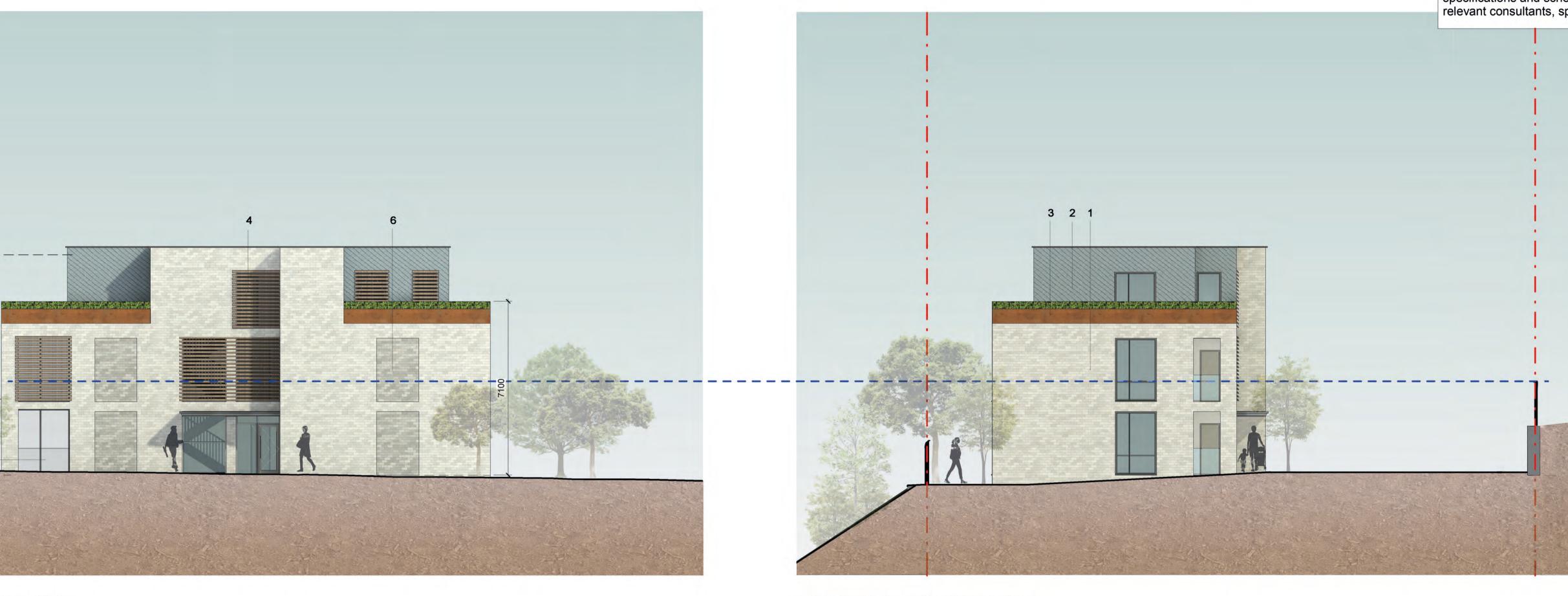
Windrush

Block A Elevations

Drawn by	Checked by		Date
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KEY



Block B South Elevation



Block B North Elevation 1:100



Block B West Elevation

Block B East Elevation

1:100

Rev A Sept. 2021 IG
Third floor and external communal balconies removed. Elevations amended for privacy Canopy added at the main entrace

NOTE
For additional information in regards to Block B and the existing houses in The Chantry, refer to A014- Proposed Site Sections 1 of 2

boundary

Blue dotted line denotes

boundary wall height to "The Chantry" gardens

Red dotted line denotes site

1. Facing Bricks- Grey

2. Zinc cladding panels

5. Glass balustrade

6. Brick feature panel

4. Louvres

3. Corten Steel Balustrade

Project

Windrush

Title

Block B Elevations

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Drawing No			Rev
A007			Α



Block C East Elevation

1:100



Block C West Elevation

1:100



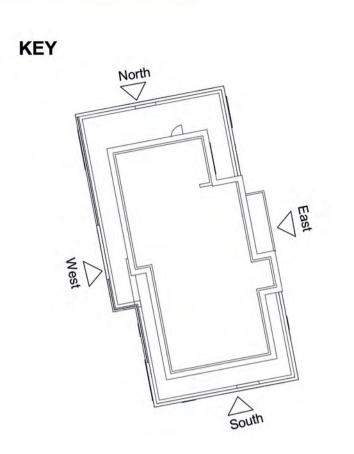
Block C South Elevation 1:100



Block C North Elevation

1:100

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NOTE
For additional information in regards to Block C and the existing houses in The Chantry, refer to A015-Proposed Site Sections 2 of 2

- Red dotted line denotes site boundary

- 1. Facing Bricks- Grey
- 3. Corten Steel Balustrade

2. Zinc cladding panels

- 4. Louvres
- 5. Glass balustrade
- 6. Brick feature panel

Rev A Sept. 2021 IG
Fourth floor and external communal balconies removed. Elevations amended for privacy
Canopy added at the main entrace

Project

Windrush

Title

Block C Elevations

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Drawing No.			Rev
A009			Α



Block D East Elevation

1:100



Block D West Elevation

1:100



Block D South Elevation

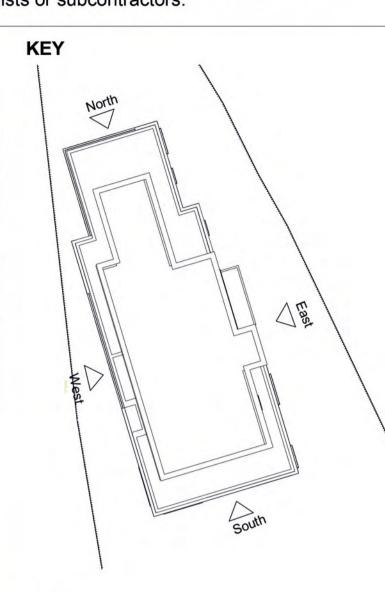
1:100



Block D North Elevation

1:100

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NOTE
For additional information in regards to Block D and the existing houses in The Chantry, refer to A015- Proposed Site Sections 2 of 2

Red dotted line denotes site boundary

1. Facing Bricks- Grey

3. Corten Steel Balustrade

- 2. Zinc cladding panels

4. Louvres

- 5. Glass balustrade
- 6. Brick feature panel

Sept. 2021 Fourth floor and external communal balconies removed. Elevations amended for privacy Canopy added at the main entrace

Project

Windrush

Block D Elevations

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PETITION AND LOCAL MEMBER OBJECTION

COMMITTEE DATE: 08/12/2022

APPLICATION No. **22/01636/MNR** APPLICATION DATE: 26/09/2022

ED: RHIWBINA

APP: TYPE: Full Planning Permission

APPLICANT: Snails Deli

LOCATION: LAND TO THE REAR OF CANOLFAN GARDEN AND

SHEDS BETWEEN 238 PANTBACH ROAD AND HEOL

Y BONT, RHIWBINA, CARDIFF, CF14 6LX

PROPOSAL: RETENTION OF STORAGE CONTAINER FOR SNAILS

DELI

RECOMMENDATION 1: That planning permission be **REFUSED** for the following reasons:

- 1. The industrial appearance of the storage container, including its scale, form and materials, and its siting forward of the building line to Heol Y Bont, are out of keeping with the residential character, quality and pattern of development in the surrounding area, resulting in an insensitive and obtrusive feature in the street scene which is detrimental to visual amenity and the character of the area, contrary to policy KP5(i) of the Cardiff Local Development Plan.
- 2. The storage container, by virtue of its scale, form, materials, siting forward of the building line to Heol Y Bont and projection above the adjacent boundary wall, is unneighbourly and detrimental to the amenities of residents of 1, Heol Y Bont in that it is unsightly and obtrusive when viewed from that property, contrary to policy KP5(x) of the Cardiff Local Development Plan.

RECOMMENDATION 2: That the Chief Legal and Democratic Services Officer be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 to secure the removal of the unauthorised storage container.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

1.1 The application seeks planning permission for the retention of a metal shipping container measuring 6.1m (I) x 2.44m (w) x 2.59m (h) which is

used for the storage of non-food items such as furniture and seasonal decorations for the 'Snails' delicatessen / restaurant at 6-8 Beulah Road. The container abuts the boundary with 1, Heol-Y-Bont on the north eastern side and is set back by around 3.5m from the highway. The container has been painted black and a trellis for climbing plants has been attached to the south western side along with troughs in which to grow food produce for the use of Snails Deli.

2. **DESCRIPTION OF SITE**

2.1 The application site is a 5.7m wide x 16.5m long (approx.) driveway located between the side boundary of the dwellinghouse at 1, Heol-Y-Bont to the east and a vacant site surrounded by hoardings which formerly accommodated a commercial building with associated car park (now demolished) to the west. At the rear of the driveway is a single storey detached garage building. The site is also used for bin storage and was formerly also a staff parking area for the commercial premises at 6 Beulah Road, to which there is pedestrian access directly from the application site via the side of the garage.

3. **SITE HISTORY**

- 3.1 07/02357/W Change of use of ground floor to mixed shop/restaurant/gallery use (sui generis).
- 3.2 09/00363/W Removal of condition 2 of 07/2357/W to allow the mixed shop/ restaurant/ gallery use (sui generis) to extend throughout the ground floor of 6 8 Beulah road. Variation of conditions 3 and 4 of 07/2357W: condition 3 to extend the opening hours from 7:30 am to 11pm Monday to Saturday (to be closed on Sundays); condition 4 to allow outside dining within the area to the rear of 8 Beulah Road shown on drawing no A-P-S-001.
- 3.3 10/01583/DCO Removal of condition 20 of planning permission 09/00363/W (permission restricted to one year only).
- 3.4 18/01758/MNR Variation of conditions 4 (opening hours), and 16 (external dining area doors) and removal of conditions 14 (external dining area), 17 (means of enclosure) and 18 (number of diners) of 09/00363/W.

 Refused increased noise and disturbance to residents of properties close to the site on Heol-Y-Bont and Beulah Road; noise / disturbance also affecting residents over a longer period of time.

4. **POLICY FRAMEWORK**

4.1 Cardiff Local Development Plan 2006-2021:

KP5 (Good Quality and Sustainable Design).

4.2 Planning Policy Wales (Edition 11 – February 2021):

- 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
- 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.
- 3.9 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.
- 3.16 Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence.
- 3.21 The planning system must consider the impacts of new development on existing communities and maximise health protection and well-being and safeguard amenity.
- 6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity.

4.3 Technical Advice Note 12 - Design (March 2016).

4.4 Future Wales- the National Plan 2040.

It is considered that the proposed decision is in accordance with the 11 key outcomes to be achieved by the planning system as set out in 'Future Wales – The National Plan 2040'.

5. **INTERNAL CONSULTEE RESPONSES**

None.

6. **EXTERNAL CONSULTEES RESPONSES**

None.

7. **REPRESENTATIONS**

- 7.1 The application was publicised via the Council's website and by means of neighbour notification letters. In total 9 letters of representation and a petition of more than 50 signatures have been received to date, objecting on the following summarised grounds:
 - 1. The container is unsightly and out of keeping with the appearance and character of surrounding properties and the residential character of the street.
 - 2. The container is overbearing.
 - 3. Noise is created daily by the container doors being opened and closed and by staff moving the contents around.
 - 4. The container has already caused structural damage to the adjacent wall, is too close to enable proper maintenance and may affect the wall's stability.
 - 5. New fencing has been erected which now blocks what was a clear view for a neighbouring property to safely pull out of their drive.
 - 6. The container impedes convenient access for the collection of the bins from the Flower Lodge's bin store. This has caused an increase in noise and disturbance in the early hours of the morning when the bins are collected.
 - 7. Retention of the container would set a precedent for future developments of the same character in this area.
 - 8. The container is used to store the applicant's household goods and furniture, not items associated with 'Snails' as stated in the application.
 - The area is poorly maintained, is extremely unkempt and dangerous. The permanent siting of the container will only make it more dangerous.
 - 10. Snails are storing used cooking oil in the bin store which should only be used to store bins.
 - 11. The applicant only leases the driveway who takes on responsibility for the container should their lease come to an end?

- 7.2 In addition 3 representations have been received from residents of Beulah Road and one from the owner of the adjoining vacant site, supporting the proposal for the following summarised reasons:
 - The area is a business area and the container has improved the appearance of the area. It can hardly be seen from the road. The hoarding around the old NatWest building is much more of a concern.
 - 2. Storage containers are "on trend" and used by schools, cafes and even as housing options.
 - 3. The trellis planting with seasonal food crop for the shop is a great eco/enviro stance.
 - 4. The container deters people from using the permissive path, which has improved privacy for 4A Beulah Road and led to a reduction in dog fouling.
 - 5. Snails is a credit to the area as a community hub. As a keystone business in the village, the viability of Snails is integral to the success of all the business in Rhiwbina. The container is integral to the development of the business.
 - 6. The container is a secure form of storage, and with a recent spate of break-ins this is of real concern to businesses.
 - 7. It is not accessed frequently but is used to store seasonal furniture.

8. ANALYSIS

- 8.1 The principal issues in the determination of this application are the effect of the development on the character and appearance of the area and on the amenity of neighbouring occupiers.
- 8.2 LDP policy KP5 seeks to ensure that new development responds 'to the local character and context of the built and landscape setting so that layout, scale, form, massing, height, density, colour, materials, detailing and impact on the built and natural heritage are all addressed within development proposals'. In this case, although partly screened from the east by the side boundary wall of number 1 Heol y Bont, the container still projects above the top of the wall and is also highly visible when approaching the site from the west along Heol Y Bont. Attempts have been made to soften its appearance using a trellis and planters and by painting it black but the container still has a very obvious 'industrial' appearance which detracts from its surroundings and is inappropriate in this suburban residential area.
- 8.2 The siting of the container is also out of keeping with the pattern of development in the surrounding area, being located well forward of the building line formed by the houses on the north side of Heol Y Bont. This also increases its prominence within the street scene and is contrary to the

guidance set out in the 'Infill Sites' SPG (paragraph 3.16) which states that: 'Development should seek to respond to the prevailing building line that is created by the main frontages of houses, taking into account how the buildings are set back from the street and any rhythms or patterns of existing development, or protrusions.'

- 8.3 LDP policy KP5 also seeks to ensure that 'no undue effect on the amenity of neighbouring occupiers' results from development. In this case, the storage container not only detracts from the visual appearance of the neighbouring residential property at 1, Heol-Y-Bont but it is also considered to be detrimental to the amenities of residents of that property in that it is sited immediately adjacent to their side boundary, extends along the boundary for some distance and projects above the wall, creating an obtrusive feature which can be seen from the entrance to the house, the driveway, the outdoor amenity space at the side/front of the house and the first floor front elevation windows.
- 8.4 The applicant seeks to justify the retention of the container by referring to the 2.6m hoarding around the adjacent site and the likelihood of that site being developed in the future, stating that 'In comparison, with the likely future development of the adjacent site, this proposed development is insignificant in terms of its scale, appearance and is acceptable in its context'. However, this is not considered to constitute adequate justification – there is no planning permission for the redevelopment of the adjoining site: planning officers recommended approval of a 3 storey mixed retail and residential development in 2017 (reference 17/00208/MNR) but the application was refused by the Planning Committee and a subsequent appeal was dismissed, the Inspector finding its scale and massing and its overbearing impact on neighbours unacceptable. It is therefore by no means likely that a development of the scale of that previously proposed will be constructed on the adjoining site in the future.
- 8.5 The applicant also proposes that a hydrangea and rosemary hedge will be planted either side of the existing gateway entrance to soften the appearance of the storage facility. However, no details of this have been submitted for consideration and in any case the need to retain a wide, gated opening at this point coupled with the restricted height that these species of plant would achieve even when mature means that the proposed hedge would do little to mitigate the harmful visual impact of the container.
- 8.6 A number of objections, including a petition, have been submitted and are detailed in section 7 of this report. I would offer the following comments in response to the points raised by the objectors:

- 1. It is acknowledged that the container is unsightly and out of keeping with the appearance and character of surrounding properties and the residential character of the street, and this constitutes one of the recommended reasons for refusal of the application.
- 2. The overbearing impact on the adjoining residential property is discussed above. The detrimental impact on the amenities of neighbouring occupiers caused by the obtrusive nature of the container constitutes the second recommended reason for refusal.
- 3. There will be a certain amount of noise generated by the opening and closing of doors and movement within the container but this is relatively infrequent and not severe enough to constitute a nuisance to neighbours or grounds for the refusal of planning permission.
- 4. This is a private legal matter between the landowners and is not a material planning consideration. Planning permission would not confer the right to cause damage to another person's property.
- 5. The container is set far enough back from the highway (i.e. around 3.5m) to allow adequate visibility for vehicles using the adjoining driveway. Planning permission is needed for boundary structures more than 1m in height adjacent to a highway and it appears that a new screen fence has been added to the top of the existing wall between the container and the highway but this does not form part of this application and will have to be considered separately on its own merits.
- 6. This does not constitute grounds for the refusal of planning permission. Other obstacles, that do not need planning permission, could be placed in this area. If the Flower Lodge has rights of access to and from its bin store across this land then interference with these rights is a legal matter between the parties involved. It is not a material planning consideration. Also, if excessive noise caused by bins being collected at unsociable hours is causing a nuisance to neighbouring residents, this would be a matter for Environmental Health officers to investigate.
- 7. Retention of the container may alter the character of this part of Heol-Y-Bont but it would not necessarily set a precedent for future developments of the same character in this area as each proposal would have to be considered on its own merits.
- 8. The nature of the goods stored in the container is not relevant to the consideration of this application.
- 9. The maintenance of the site in a safe and tidy condition is the responsibility of the site owner this is separate to material planning considerations.
- 10. The nature of items stored elsewhere in the vicinity of the container is not relevant to the determination of this application.
- 11. Planning permission is linked to the land and not to a particular applicant therefore the landowner, whoever that may be, is ultimately responsible for development on their land. There may be

legal obligations on tenants etc. but these are not material planning considerations.

- 8.7 In response to the points made in support of the application:
 - 1. The container is located on Heol-Y-Bont, which is not a 'business area' but is a residential street. The container is readily visible from the highway. It cannot be compared with the hoarding around the 'Nat West' site (which is within the Local Shopping Centre) which is a temporary hoarding erected around a demolition site for safety purposes.
 - 2. The fact that storage containers are used in other locations for various purposes does not make this particular container in this particular location acceptable.
 - 3. Seasonal vegetables could be grown on the site without the need to retain the storage container.
 - 4. The 'permissive path' is not a public footpath and is for the use of Snails patrons only, as is stated on a sign on the gate leading onto the site. If this is causing security or littering issues for neighbours, then this is a matter that should be addressed by the landowner it is not necessary to place a container on the site to prevent problems occurring.
 - 5. It is highly unlikely that Snails would go out of business if the container was removed. Other methods of storing furniture could be used.
 - 6. There are other ways to store furniture securely. The fact that the container is considered to be secure does not override considerations of visual and residential amenity.
 - 7. Residents living adjacent to the container have noticed it being accessed regularly, and it would not be possible to control the frequency of access via a planning condition.
- 8.8 In conclusion, the container is considered to be detrimental to the visual amenity and character of the area and to the amenities of neighbouring residents, contrary to policy KP5 of the Cardiff Local Development Plan which requires all new development to be "of a high quality, sustainable design and make a positive contribution to the creation of distinctive communities, places and spaces by" (inter alia) "responding to the local character and context of the built and landscape setting so that layout, scale, form, massing, height, density, colour, materials, detailing and impact on the built and natural heritage are all addressed within development proposals; ensuring no undue effect on the amenity of neighbouring occupiers and connecting positively to surrounding communities." For these reasons, it is recommended that this application be refused and that the Chief Legal and Democratic Services Officer be authorised to issue an Enforcement Notice under Section 172 of the Town

and Country Planning Act 1990 to secure the removal of the storage container from the site.

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

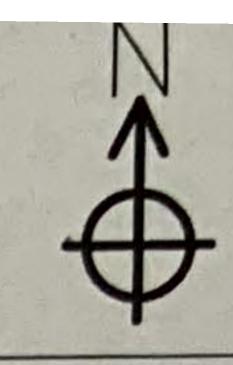
The Environment (Wales) Act 2016 imposes a duty on the Local Authority to seek to maintain and enhance biodiversity in the proper exercise of its functions. and in doing so to promote the resilience of ecosystems. It is considered that the proposed development does not have any significant implications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

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

The Well-being of Future Generations (Wales) Act 2015 places a duty on the Welsh Ministers (and other public bodies) to produce well-being objectives and take reasonable steps to meet those objectives in the context of the principle of sustainable development. The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act), has been considered and account has been taken of the ways of working set out at section 5 of the WBFG Act in the determination of this application, and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the well-being objectives referred to in section 9 of the WBFG Act.

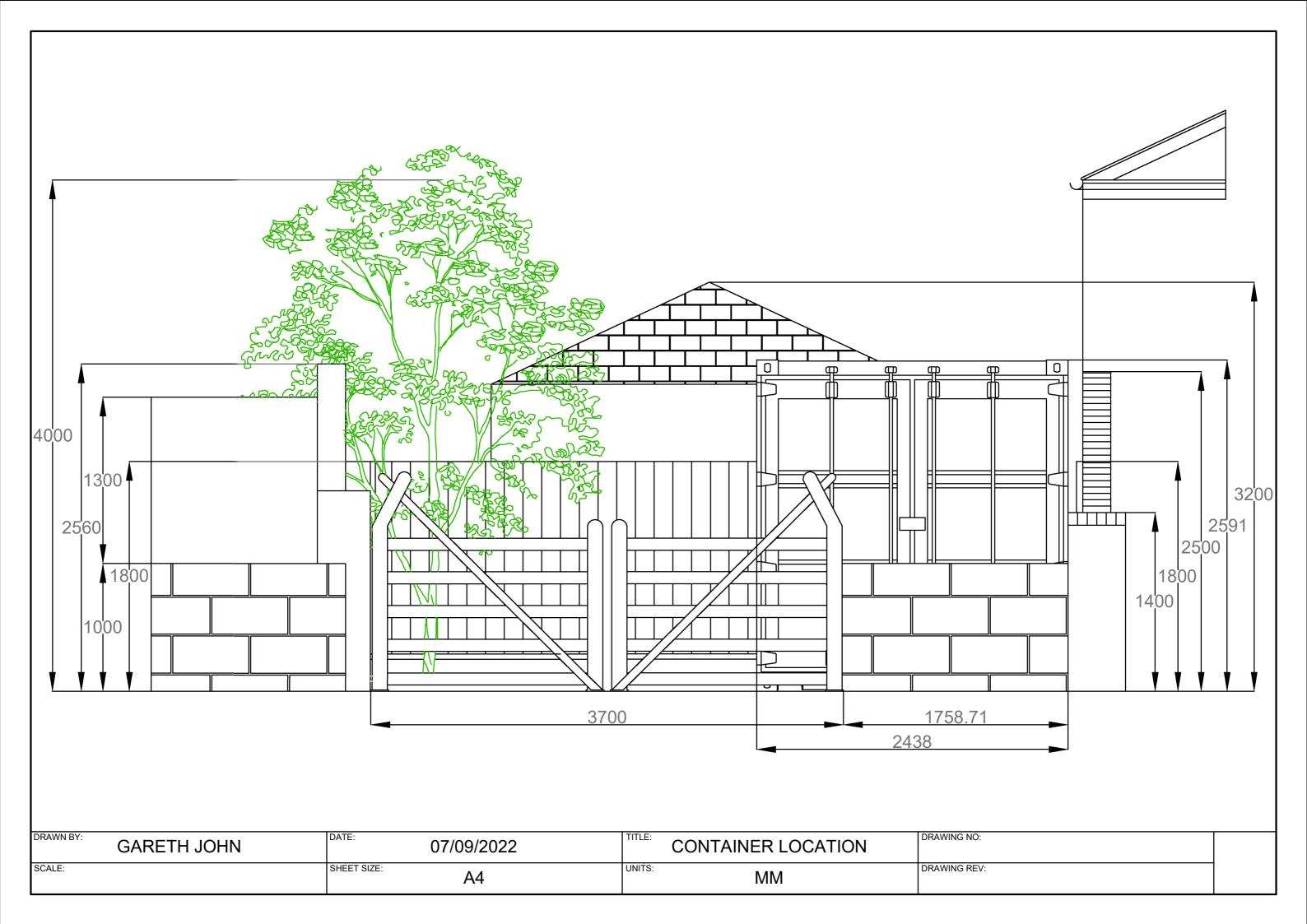


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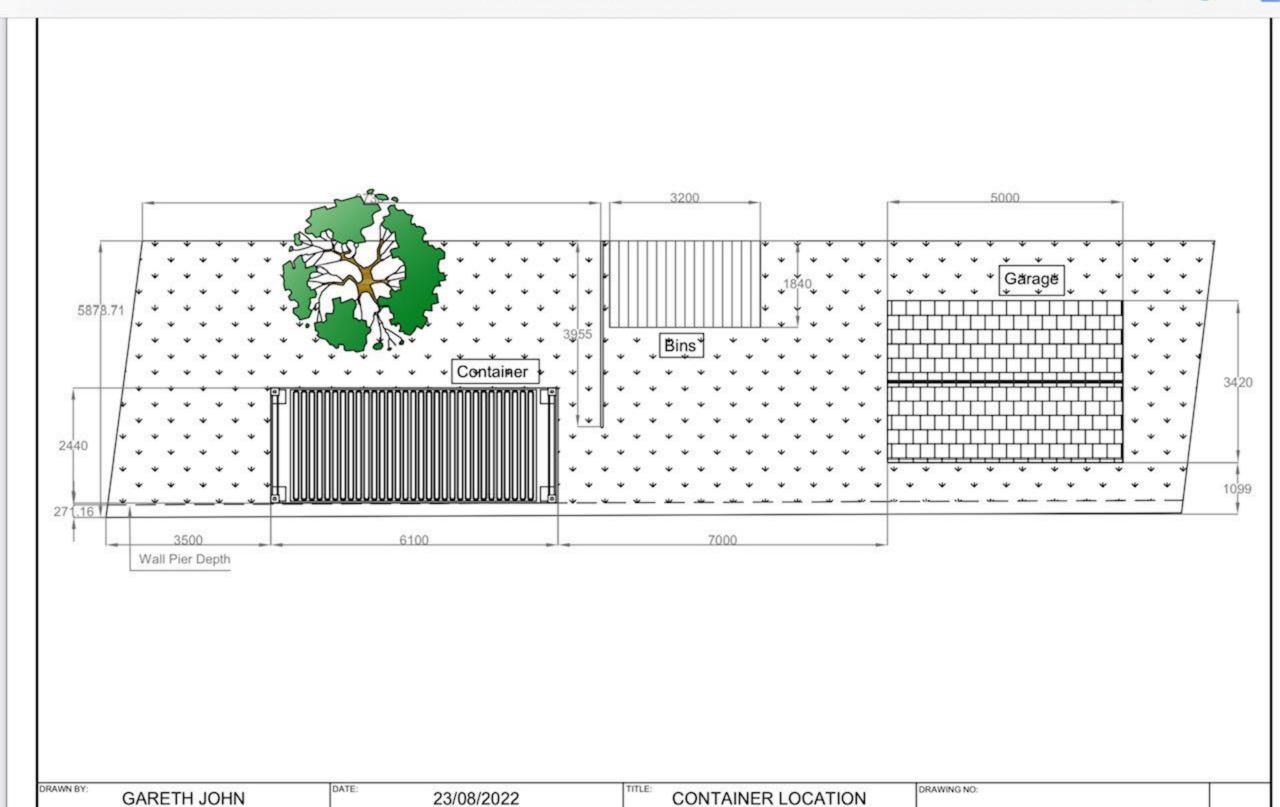
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LOCAL MEMBER OBJECTION & PETITION

COMMITTEE DATE: 08/12/2022

APPLICATION No. 22/01707/MNR APPLICATION DATE: 12/08/2022

ED: SPLOTT

APP: TYPE: Full Planning Permission

APPLICANT: MR PRITCHARD

LOCATION: 88 SPLOTT ROAD, SPLOTT, CARDIFF, CF24 2DB

PROPOSAL: GROUND FLOOR REAR EXTENSION, DORMER LOFT CONVERSION,

ALTERATIONS AND CHANGE OF USE TO LARGE SUI GENERIS HOUSE

IN MULTIPLE OCCUPATION

RECOMMENDATION 1: That planning permission be **GRANTED** subject to the following conditions:

- 1. C01 Statutory Time limit
- 2. The development shall be carried in accordance with the following approved plans:
 - CXB3/4/a/b/c Proposed Floor Plan
 - CXB2/5/a Proposed First and Second Floor Plan
 - CXB3/6/a/b Proposed Elevations

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.

Prior to the beneficial use of the property as an 8 bedroom sui generis HMO 8 undercover and secured cycle parking spaces, as indicated on the submitted plans, shall be provided within the curtilage of the property and shall thereafter be retained and maintained for as long as the use hereby permitted remains in existence.

Reason: To ensure that secure cycle parking facilities are provided to encourage other modes of transport over the private car in accordance with Policy T5 of the Cardiff Local Development Plan 2006-2026.

Prior to the beneficial use of the property as an 8 bedroom sui generis HMO a refuse storage area, as indicated on the approved site layout plan, shall be provided within the curtilage of the property. The refuse storage area shall thereafter be retained and maintained for as long as the use hereby permitted remains in existence.

Reason: To secure an orderly form of development and to protect the amenities of the area in accordance with Policy W2 of the Cardiff Local Development Plan 2006-2026.

The materials to be used in the construction of the external surfaces of the ground floor rear extension and dormer roof extension hereby permitted shall match those used on the existing building.

Reason: To ensure the external materials harmonise with the existing building in the interests of the visual amenity of the area in accordance with Policy KP5 of the Cardiff Local Development Plan 2006-2026.

- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order amending, revoking or re-enacting that Order) no windows shall be inserted in the side elevation of the extension facing 90 Splott Road.

 Reason: To ensure that the privacy of adjoining occupiers is protected in accordance with Policy KP5 of the Cardiff Local Development Plan 2006-2026.
- 7. No more than 8 occupants shall reside at this property at any one time.

 Reason: For the avoidance of doubt as the permission hereby granted relates to the use of the property as a Sui Generis HMO.

RECOMMENDATION 2 The applicant be advised that the property may now be licensable under Part 2 of the Housing Act 2004 and in this respect they should contact Shared Regulatory Services on 0300 123 6696 to confirm if a license is required.

RECOMMENDATION 3: That the applicant be advised that no work should take place on or over the neighbour's land without the neighbour's express consent and this planning approval gives no such rights to undertake works on land outside the applicants ownership.

BACKGROUND INFORMATION

This application was considered at the 3rd November 2022 Planning Committee when it was resolved to defer the application to the next meeting of the Planning Committee for reasons for refusal. In response to members concerns expressed at the last planning committee the applicant has subsequently provided amended details for committee to consider. The amended details include changes to the configuration of the ground floor bedroom window to bedroom 3 (detailed in paragraph 8.10) to facilitate additional usable garden space, and changes to the proposed ground floor rear extension (detailed in paragraph 9.2). The alterations seek to address matters of concern that were raised at the last meeting of the committee. In addition, a petition in support of the proposal has been submitted and is detailed at paragraph 7.4. The alternative recommendation (refusal) is detailed at paragraph 13.1.

1. DESCRIPTION OF PROPOSED DEVELOPMENT

1.1 This application seeks planning permission to change the use of a C3 residential dwelling into an 8 bedroom sui generis HMO together with the erection of a ground floor rear extension and a rear dormer roof extension. The submitted drawings/details provide

information regarding the principal matters for consideration as set out in the relevant Supplementary Planning Guidance.

- 1.2 Internally the property accommodates three en-suite bedrooms and a lounge/kitchen on the ground floor; three en-suite bedrooms on the first floor; and two bedrooms and a shower room on the second floor within the converted roofspace.
- 1.3 Externally a rear amenity area of approximately 35 square metres will be provided excluding the area shown for waste storage and cycle storage.

2. **DESCRIPTION OF SITE**

2.1 The site comprises a two storey property located within a terrace of two storey properties within the Splott Ward of Cardiff. The lawful use of the property is as a C3 residential dwelling.

3. **RELAVANT SITE HISTORY**

Application No: 22/00796/MNR

Proposal: GROUND AND FIRST FLOOR REAR EXTENSIONS,

DORMER LOFT CONVERSION AND CHANGE OFUSE

TO 8 BEDROOM SUI

GENERIS HMO

Application Type: FUL

Decision: REFUSED Decision Date: 29/06/2022

4. **POLICY FRAMEWORK**

4.1 The site lies within a residential area as defined by the proposals map of the Cardiff Local Development Plan 2016.

Relevant National Planning Guidance:

Planning Policy Wales (2021)

Future Wales: The National Plan 2040 (2021)

Planning Policy Wales TAN 11: Noise Planning Policy Wales TAN 12: Design

Planning Policy Wales TAN 15: Development and Flood Risk

Planning Policy Wales TAN 21: Waste

Relevant Cardiff Local Development Plan Policies:

Policy KP5: Good Quality and Sustainable Design

Policy KP8: Sustainable Transport

Policy KP13: Responding to Evidenced Social Needs

Policy EN 14 (Flood Risk)

Policy H5: Sub-Division or Conversion of Residential Properties

Policy T1: Walking and Cycling

Policy T5: Managing Transport Impacts

Policy W2: Provision for Waste Management Facilities in Development

Relevant Supplementary Planning Guidance:

Waste Collection and Storage Facilities (2016)
Houses in Multiple Occupation (2016)
Cardiff Residential Extensions and Alterations (2017)
Managing Transportation Impacts (Incorporating Parking Standards) (2018)

5. **INTERNAL CONSULTEE RESPONSES**

5.1 Waste Management have been consulted and have advised that the proposed area for the storage of waste and recycling has been noted and is acceptable.

The property will require the following for recycling and waste collections:

- 1 x 240 litre bin for general waste
- 2 x 25 litre kerbside caddy for food waste
- Green bags for mixed recycling (equivalent to 240 litres)
- 1 x 240 litre compost bin if required

The kitchen should be designed to allow the separation of waste into three waste streams; general, recycling and food waste, in order to encourage the correct disposal of waste.

Residents will be required to present all waste themselves to the kerbside for collection.

5.2 Traffic and Transportation have been consulted and have no objection to the application.

6. **EXTERNAL CONSULTEE RESPONSES**

6.1 South Wales Police have been consulted and have not commented on this planning application.

7. **REPRESENTATIONS**

7.1 Neighbours have been consulted and objections have been received from 12 local residents. A summary of the objections is as follows:

Insufficient parking facilities
Boundary wall ownership for the single storey extension
Building standards and infrastructure
Overcrowding
Nearby planning decisions for HMOs
Overshadowing
Resubmission changes
Disruption whilst building work takes place
Waste management issues

Increased noise from occupiers and visitors;

Loss of privacy from the dormer roof extension;

Increased potential for anti social behaviour

Change in the character of the area from family homes in a street close to schools and parks Sub standard accommodation

7.2 An objection has also been received from Local Ward Councillors Ed Stubbs and Huw Thomas who have advised the following:

We write as two of the ward Cllrs for Splott to object to the above-mentioned application. We have been contacted by residents about this application and want to amplify their voice on this matter.

The grounds for our objection are as follows.

Significant overbearing impact on neighbouring property.

The proposed extension to the property will go beyond the current building line and 5m estimate beyond the building line of number 90 Splott Road. This will have an overbearing impact on residents at number 90 both for their garden and the use of the rear rooms of their property. It is also worth noting that the extension will be in permanent use unlike the current lightly used conservatory.

Proposals for dealing with waste.

We believe the proposals contained in the plans do not sufficiently recognise the amount of waste that will be generated by the number of residents who would live in this property. There is no proper dedicated waste area and what is suggested is very small in scale for a property of this size. This could lead to waste being incorrectly presented and will add to problems already being experienced on Splott Road.

Sustainable transport proposals.

The councils transport policy clearly identifies the need for adequate cycle storage in such properties. We do not believe the layout of these plans allows for future residents to realistically store bikes at this property. The cycle storage is poor and infeasible, and we believe it falls well short of the minimum the planning authority would expect.

Saturation of HMO's in the area.

We are concerned by the potential proliferation of unregistered HMO's on this part of Splott Road and believe that it may push us over the 10% figure the council allows for such properties. This, as we know has a cumulative impact on community waste, transport, antisocial behaviour and impact on local services.

Parking.

Last year we carried out a survey of residents on Splott Road about parking and many described a situation at breaking point with parking impossible to come by. We have subsequently asked officers to start the conversation about dedicated residents parking, this application would add to an already very difficult situation. As the Police will confirm the road is a bottleneck and suffers from double parking for most of its length, this plus the over saturation of cars can make the situation dangerous at peak times.

Please accept the above as a formal objection to this application.

7.3 A petition of 62 signatories has also been submitted objecting to the proposal. A summary of the petition is as follows:

Potential negative impact on adjacent properties and the local community of their street from disruption of the build;

Burden on local resources:

Parking;

Privacy;

Potential antisocial behaviour and noise:

Changes to the character of the area.

7.4 Since the application was considered at Planning Committee on 3rd November 2022, a petition of support has been submitted by the applicant.

8. ANALYSIS

- 8.1 This application seeks planning permission to convert the property presently used as a C3 residential dwelling into a 8 bedroom sui generis HMO together with the erection of a ground floor rear extension and a rear dormer roof extension.
- 8.2 The previous planning application (22/00796/MNR) sought permission for "Ground and first floor rear extensions, dormer loft conversion and change of use to 8 bedroom sui generis HMO" was refused the for the following reasons
 - 1. The proposed first floor extension by virtue of its height, length and proximity to the neighbouring boundaries would have an overbearing and un-neighbourly impact upon the neighbouring occupiers at No. 86 Splott road contrary to Policy KP5: Good Quality and Sustainable design of the Cardiff Local Development Plan and the advice contained within Supplementary Planning Residential Extensions and Alterations SPG.
 - 2. The proposed first floor extension would be out of keeping with the character of the terrace and would represent an incongruous feature contrary to Paragraph 7.24 of the Residential Extensions and Alterations SPG, Policy KP5 of the City of Cardiff Local Development Plan (2006-2026) and paragraphs 4.3 and 4.5 of TAN 12: Design (2016).
 - 3. Insufficient information has been submitted to demonstrate that there is sufficient room height available contrary to Policy H5: Sub-Division or Conversion of Residential Properties and KP5: Good Quality and Sustainable design of the Cardiff Local Development Plan and the guidance contained within the Houses of Multiple Occupation Supplementary Planning Guidance.

This application has therefore been submitted in an attempt to overcome the previous reasons for refusal. In this respect the first floor extension has been omitted and details have been submitted indicating headroom for the habitable rooms.

As the proposal seeks tenanted living accommodation occupied by up to eight people, who

are not related and who share one or more basic amenities as their only or main residence, the main issue for this application is the impact the change of use will have on the character of the area, the 'community and the living conditions of future occupiers of the property together with the impact of the extension and the dormer roof extension upon the surrounding neighbouring properties.

- 8.3 **Policy Considerations** In respect of the conversion of the property to 8 bedroom HMO Policy H5 of the adopted LDP is considered relevant. Further guidance can also be found in the adopted HMO SPG.
- 8.4 Policy H5 of the LDP is considered to be a prescriptive policy whereby as long as the relevant criteria is met there is unlikely to be any objection to such proposals. It advises that:
 - "Proposals for any conversion to flats or Houses in Multiple Occupation will be permitted where:
 - i. The property is of a size whereby the layout, room sizes, range of facilities and external amenity space of the resulting property would ensure an adequate standard of residential amenity for future occupiers.
 - 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 the character of the area.
 - iv. Does not have an adverse effect on local parking provision."
- The approved Supplementary Planning Guidance on HMO's further expands on this Policy and aims to provide background information on and provide a rationale for how the Council will assess applications for planning permission to create new C4 and Sui Generis HMOs. It aims to identify the threshold at which it is deemed that the concentration of HMOs in an area has reached a level considered to adversely impact upon the community. It is recognised that HMOs can provide an important source of housing and it is recognised that demographic change has driven many of the changes that have seen traditional family homes become HMOs. HMOs are a popular accommodation source for many groups, including students, young professionals, migrant workers and often people on lower incomes.

However, concentrations of HMOs clustered in small geographical areas can detract from the character of the area and actively contribute towards a number of perceived problems, including, but not limited to:

- Increased population density, leading to greater demand for infrastructure, such as waste collections and on-street parking.
- Higher proportion of transient residents, potentially leading to less community cohesion, undermining existing community facilities
- Areas of higher HMO concentrations becoming less popular with local residents, with many properties taken out of the owner-occupier market.
- A proliferation of properties vacant at certain points of the year
- Subsequent impact on crime, local centre viability, as a result of the number of properties temporarily vacant for long periods.

It is considered that this may conflict with policy KP13 of the LDP which aims to improve the quality of life for all.

Having identified some of the issues caused by HMOs the Council considered it was necessary to determine a threshold at which new HMOs may cause harm to a local area. This threshold will resist further HMOs in communities that already have a concentration above this limit, while also controlling the growth of HMOs in communities below this threshold. A two-tier threshold will therefore be applied to determine when an area has reached the point at which further HMOs would cause harm. In Cathays and Plasnewydd the figure of 20% is to be applied and in all other wards, the figure of 10% is to be applied. 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. In other wards the figure would be 10%.

When calculating the number of HMOs within the 50m radius, it is important to refer to and respect the location of existing HMOs. This will be determined by using data at the Councils disposal such as planning applications, licensed HMO data, Council Tax data or electoral roll information. This will help identify the areas where the concentration is such that the Council will seek to prevent additional HMOs.

Having regard to the "cumulative impact" of such conversions in respect of this application, analysis has been made on the extent of HMO's (including those defined as such under Sections 254 259 of the Housing Act 2004) against the threshold limits identified above. As the application site is located within the Splott Ward of Cardiff a 10% threshold limit will be relevant. There are 39 properties within a 50m radius of the application site. Of these 1 is registered as a HMO. Planning permission has also been granted to convert 100 Splott Road into a HMO. Taking this into account the cumulative impact equates to 5%. The threshold for Splott is 10% therefore the proposal is below the threshold contained within the SPG on HMO's.

- 8.6 **Room Sizes** The Cardiff HMO Licensing Fire & Safety Standards (updated in 2014) sets standards in terms of amenity, space standards and facilities which must be adhered to in order to obtain a License from the Council. From a planning perspective, paragraph 6.1.1 of the adopted HMO SPG identifies that this would be the minimum that would be expected to be achieved for all applications for both C4 HMO's and larger sui generis HMO's. Having had regard to this criteria the submitted plans indicate that these standards would be met.
- 8.7 **Waste** Policy W2 of the Cardiff Local Development Plan seeks to ensure that adequate provision is made for waste management facilities within new developments, in order to aid the Council in meeting the challenging waste recycling targets set by European and National targets. Facilities provided should be secure, unobtrusive and easily assessable.

The adopted Waste Collection and Storage Facilities SPG supplements policies adopted in the LDP relating to the provision of waste management facilities in new development. Paragraph 4.12 of the approved SPG on Waste Collection and Storage Facilities advises that for HMO's the recommended bin allocation for between 6 & 8 residents is as follows:

1 x 240L bin for general waste 1 x 240L bin for garden waste (if required) 2 x 25L bins for food waste Green bags for recycling.

Details of waste provision have been submitted as part of this application. Waste Management have confirmed that the submitted details are acceptable and condition 4 has been imposed accordingly.

8.8 **Transportation** – Policy KP8 of the LDP seeks to reduce travel demand and dependence on the car. It identifies that to accommodate the planned growth levels predicted for the city, existing and future residents will need to be far less reliant on the private car and seeks to ensure that more everyday journeys are undertaken by sustainable modes of transport. Policy T5 of the LDP also identifies that all new development for which planning permission is required will contribute to reducing reliance on the private car, in line with national planning policies and the strategic transport objectives of the LDP.

The creation of a HMO in this sustainable location is considered to fundamentally accord with the principles of sustainable design, locating places to live within walking distance of local amenities, public transport links and places of work. It would therefore intrinsically accord with the principles of sustainable transport and the promotion of a 50/50 modal split, as promoted by Policy KP8, as occupiers would not be reliant upon the private car as a mode of transport. The creation of bicycle parking spaces for occupiers of dwellings is considered an essential element in promoting sustainability and achieving the modal split. The Managing Transport Impacts (Incorporating Parking Standards) (2018) SPG identifies that a HMO will require a minimum of 1 cycle parking space per bedroom. As the proposal is for an 8 bedroom HMO then 8 cycle parking spaces will be required.

In respect of cycle parking the applicant has submitted details showing the provision of 8 undercover and secure cycle parking spaces within the rear garden. These are considered acceptable and accord with advice contained within the SPG and condition 3 has been imposed accordingly.

In respect of car parking the Managing Transport Impacts (Incorporating Parking Standards) (2018) SPG identifies that an 8 bedroom HMO will require between zero and one off street car parking space to be policy compliant. The application does not propose any off street car parking spaces which is in accordance with the aims and objectives of both the LDP and SPG in seeking to reduce dependence on the private motor vehicle.

8.9 **Amenity Space** – Criterion i) of Policy H5 of the LDP advises that planning permission will be granted where "The property is of a size whereby the ...external amenity space of the resulting property would ensure an adequate standard of residential amenity for future occupiers." This is further reinforced by the HMO SPG which advises that amenity space is important in retaining a quality of life for people living within the dwelling. Paragraph 6.3.2 of the SPG states "The City of Cardiff Council has typically used the figure of 25m² as the minimum expected external useable amenity space for C3 dwellings, i.e. for those

dwellings up to 6 persons. This level should also apply to C4 properties. Each additional person would be expected to have 2.5m². As such, for example, the minimum expected for a 7 bed HMO would be 27.5m² of external amenity space. Each additional person should result in a corresponding increase of 2.5m². Useable amenity space is considered to be at least 1.4m wide, enabling storage and access."

In respect of amenity space as the application seeks permission to change the use of the property to an 8 person HMO then 30 square metres will be required. Having undertaken an assessment of the proposal a private rear amenity space of approximately 35 square metres will be available for all occupiers to use in addition to provision for bin and cycle storage facilities. As the minimum amenity space requirement, as specified in the HMO SPG, will be 30 square metres the proposal is therefore considered acceptable.

8.10 Since the application was considered at Planning Committee on 3rd November 2022, the applicant has submitted revised plans in an attempt to overcome Committee's concerns with respect to the amount of amenity space provided. The revision includes reconfiguring the window to bedroom 3 which has resulted in the amount of useable amenity space being increased by an additional 1.5 square metres. Paragraph 6.2.3 of the adopted SPG on HMO's advises that amenity space should not overlook bedrooms and the relocation of the window has resulted in additional amenity space being made available.

9. <u>EXTERNAL ALTERATIONS</u>

9.1 **Ground Floor Rear Extension** - In respect of the proposed ground floor rear extension that seeks to replace an existing conservatory, the proposed extension is increasing the height by approximately 0.30m to 2.7m, which is a similar size to the existing conservatory. When taking in to account the existing conservatory the extension is considered acceptable and not considered to be overshadowing or overbearing to the neighbouring dwelling.

Furthermore, the existing conservatory currently has glazed and opening windows close to the boundary with No.90 Splott road, and so this proposal will have a solid wall to prevent any further overlooking to the neighbouring property, furthermore, condition 6 is also attached to prevent any windows being created and would prevent any further privacy issues.

Condition 5 is also attached so that the extension is finished in materials that match the existing dwelling and so it is considered that the proposal would not be out of character or generally un-neighbourly which would justify concern.

- 9.2 Since the application was considered at Planning Committee on 3rd November 2022 the applicant has amended the proposed ground floor rear extension where the existing conservatory is located. The revised plans show that the proposed extension will now be no higher than the conservatory to which it is to replace. The roof profile will be the same as the existing conservatory to lessen the impact for the adjoining neighbour.
- 9.3 Dormer Roof Extension and Rooflights In respect of the dormer roof extension this will be set up the roof slope and is to be finished in materials to match the existing roof covering in accordance with advice contained within the Residential Extensions and Alterations SPG and raises no concerns. The rooflights to the front elevation are considered acceptable. It

should also be noted that a dormer roof extension of this size and rooflights could also be undertaken utilising existing Permitted Development rights.

10 OBJECTIONS

10.1 In response to the objections received the following should be noted:

Boundary wall ownership for the single storey extension – The plans show that the extensions will be undertaken on the owner's land and certificate A has been signed by the agent to confirm this. Recommendation 3 has been attached to remind the applicant that this approval gives no such rights to undertake works on land outside of their ownership; Building standards and infrastructure – The building standards in regards to fire safety and building quality matters would be covered under Building Regulation legislation.

Nearby planning decisions for HMOs - This is covered in paragraph 8.5 of this report;

Overshadowing – This is covered in paragraph 9.1 of this report;

Resubmitted changes – This is covered in paragraph 8.2 of this report.

Insufficient parking facilities – This is covered in paragraph 8.8 of this report;

Disruption whilst building work takes place – This is not a planning matter;

Waste management issues – This is covered in paragraph 5.1 and 8.7 of this report;

Health and Safety concerns due to potential fire, rubbish and or vermin – This is not a planning matter;

Increased noise from occupiers and visitors – If residents/visitors are creating a noise nuisance then this would be a matter for the Pollution Control Section of Shared Regulatory Services to deal with;

Loss of privacy from the dormer roof extension – The dormer roof extension complies with advice contained within the Residential Extensions and Alterations SPG. It could also be built at present utilising existing householder Permitted Development rights and did not therefore have to be included on this planning application;

Increased potential for anti social behaviour – This would be a matter for the police;

Change in the character of the area from family homes in a street close to schools and parks – This is covered in paragraphs 8.3 -8.5 of this report;

Substandard and overcrowded accommodation – This is covered in paragraph 8.6 of this report;

11. OTHER CONSIDERATIONS

- 11.1 Crime and Disorder Act 1998 Section 17(1) of the Crime and Disorder Act 1998 imposes 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 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.

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.

12. **RECOMMENDATION**

12.1 The Council is mindful with respect to the number of HMO's within the City and that concerns are often expressed that a proliferation of such uses can undermine the character of an area to the detriment of local residents. While the previous application for the use was refused as detailed in paragraph 8.2, the existing proposal has removed the first floor extension and provided further information on the habitable room heights.

The Council is satisfied that the proposal complies with Policy H5 of the Cardiff Local Development Plan 2026-2026 and advice contained within the HMO Supplementary Planning Guidance as mentioned previously in this report.

Having taken all of the relevant factors into consideration there are no grounds to justify a refusal of this application and it is therefore recommended that planning permission be granted, subject to conditions.

13 **ALTERNATIVE RECOMMENDATION**

- 13.1 This application was considered at 3rd November 2022 Planning Committee where it was resolved to defer the application to the next meeting of Planning Committee for reasons for refusal, with reference to the amenity space available for future occupants. If members remain minded to refuse the application the following reason is suggested:
 - 1. By virtue of the alterations required to facilitate the use of the property as a House in Multiple Occupation the proposal will provide an insufficient amount of useable amenity space to serve the number of occupiers contrary to Policy KP5: Good Quality and Sustainable Design and Policy H5: Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan and the advice contained within the House in Multiple Occupation Supplementary Planning Guidance 2016.

SITE LOCATION PLAN 1:1250 THE SITE



NORTH











PHOTOS—EXISTING



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DTB DESIGN Architectural & Property Development Consultants

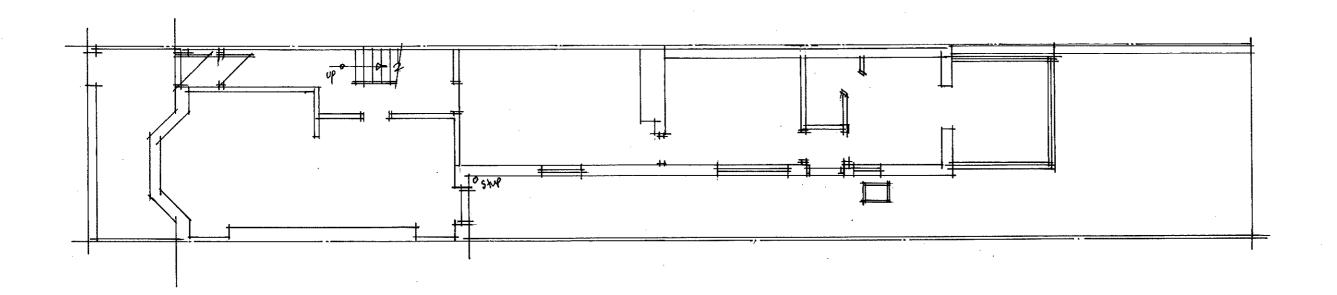
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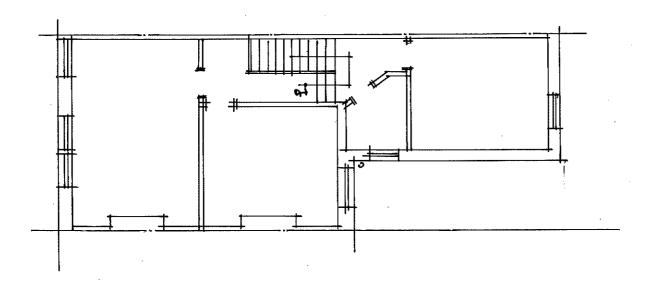
DEVELOPMENT AT

88 SPLOTT ROAD CARDIFF

March 2022

CXB3/1





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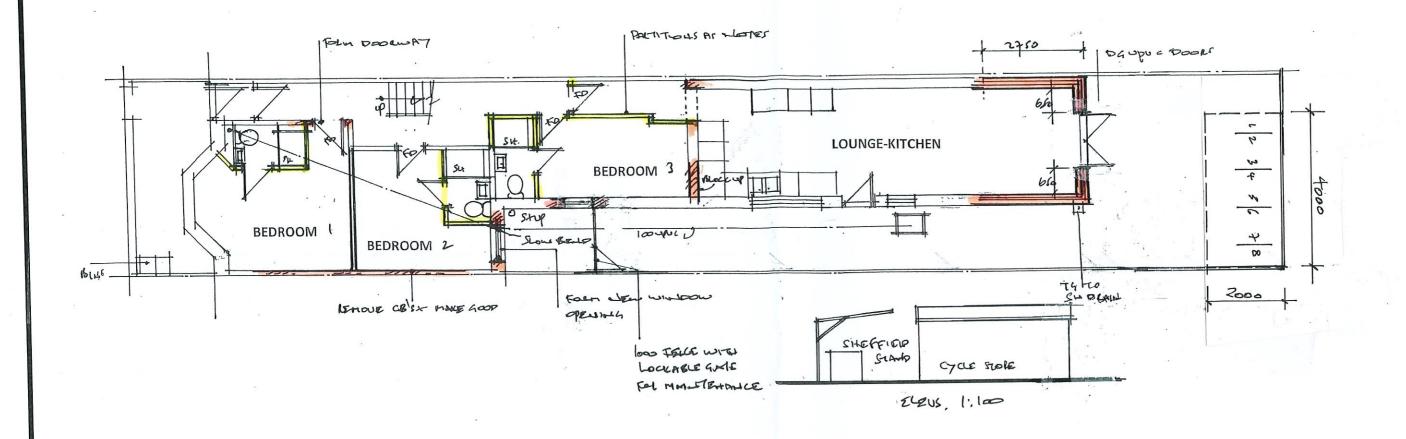
DEVELOPMENT AT

88 SPLOTT ROAD CARDIFF

March 2022

PLAN NO. CXB3/2

GROUND & FIRST FLOORS EXISTING 1:100 at A3



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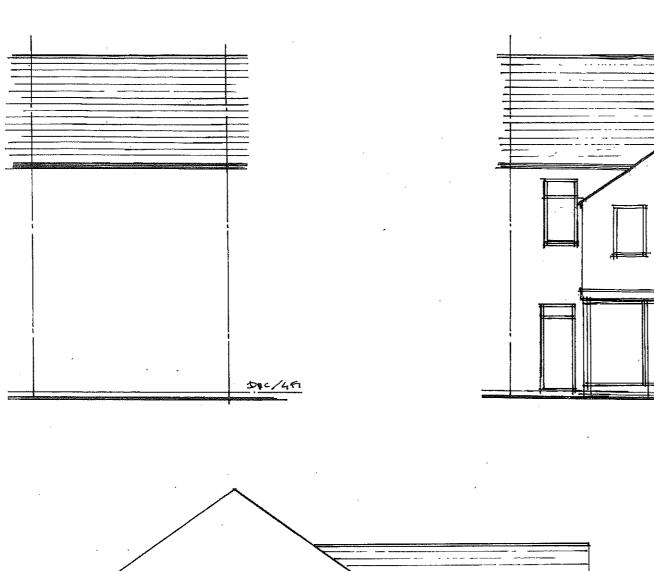
DEVELOPMENT AT

88 SPLOTT ROAD CARDIFF

March 2022

PLAN NO. CXB3/4/a

GROUND FLOOR PROPOSED 1:100 at A3





FRONT, REAR & SIDE ELEVATIONS EXISTING 1:100 at A3

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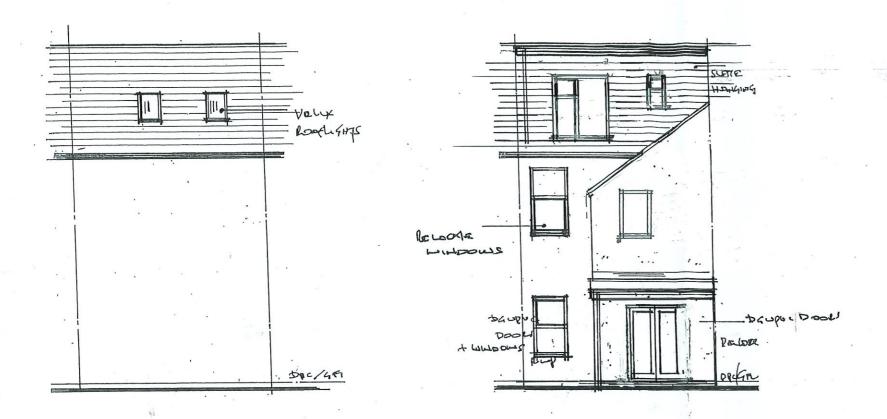
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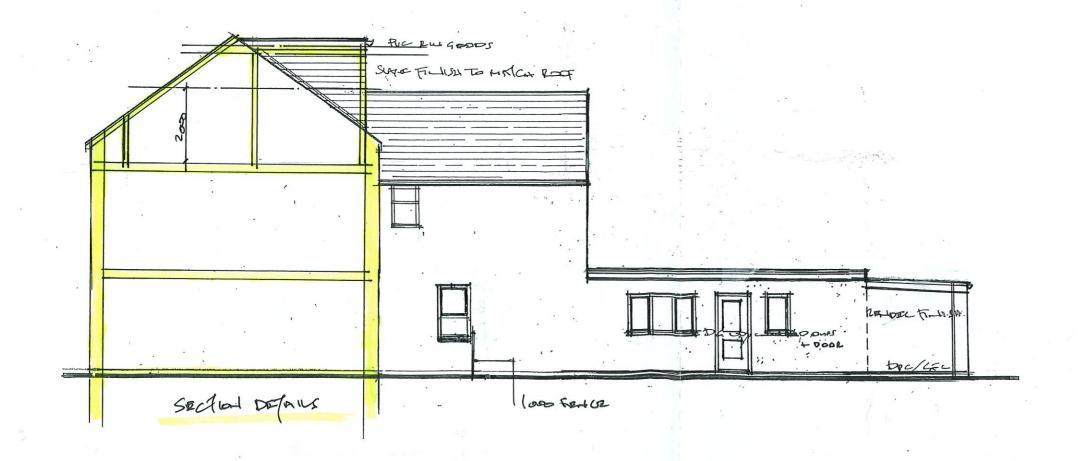
DEVELOPMENT AT

88 SPLOTT ROAD CARDIFF

March 2022

PLAN NO. CXB3/3





FRONT, REAR & SIDE ELEVATIONS PROPOSED 1:100 at A3

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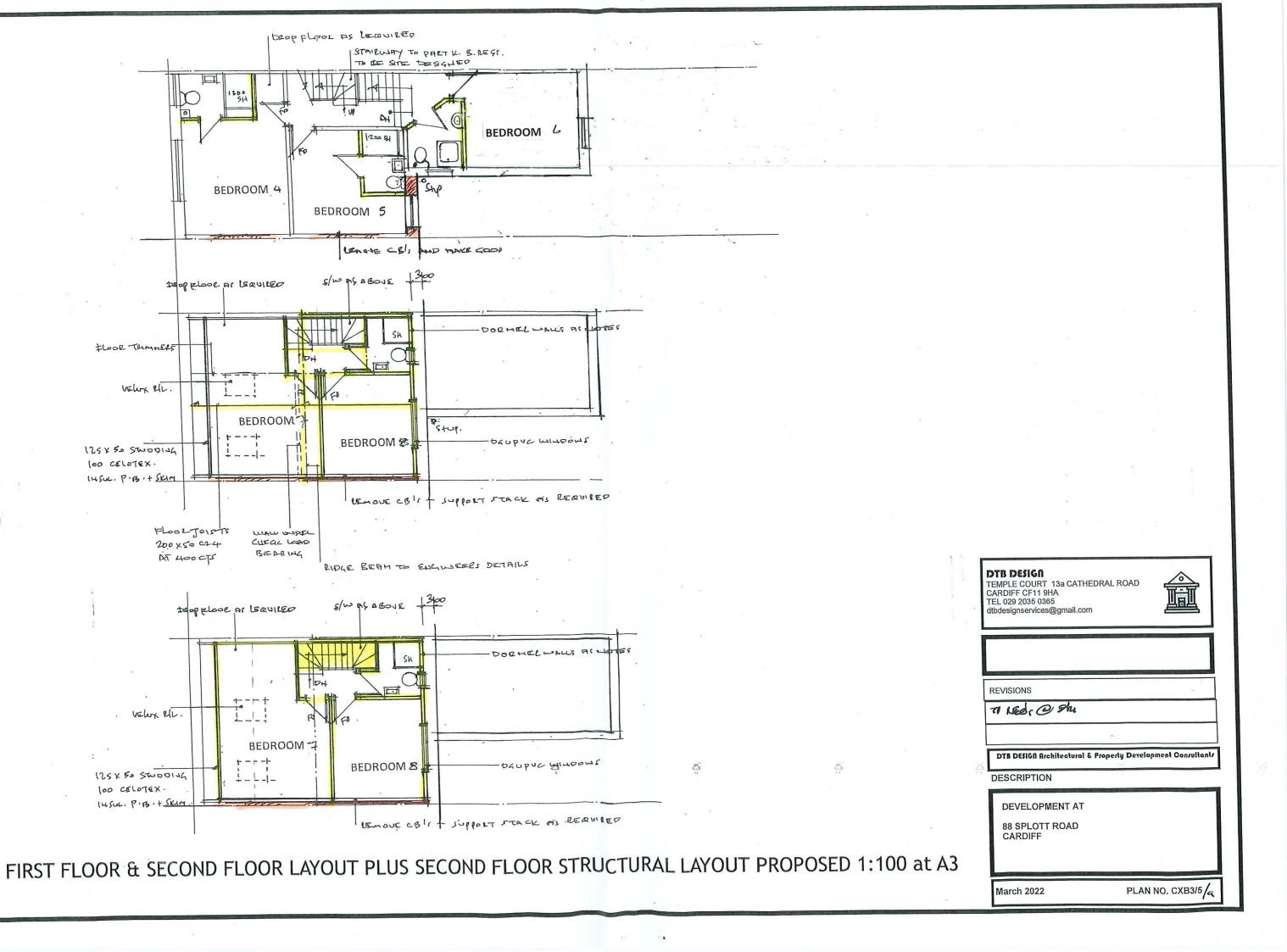
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DEVELOPMENT AT

88 SPLOTT ROAD CARDIFF

March 2022

PLAN NO. CXB3/6



COMMITTEE DATE: 08/12/2022

APPLICATION No. **22/01718/MJR** APPLICATION DATE: 15.08.2022

ED: **SPLOTT**

APP: TYPE: FULL PLANNING PERMISSION

APPLICANT: HOUSING DEVELOPMENT TEAM, CARDIFF COUNCIL

LOCATION: MOORLAND ROAD DAY CENTRE, MOORLAND ROAD.

SPLOTT, CARDIFF, CF24 2LG

PROPOSAL: DEMOLITION OF THE EXISTING MOORLAND COMMUNITY

CENTRE AND THE PROPOSED DEVELOPMENT OF 13 INDEPENDENT LIVING FLATS FOR OLDER PERSONS.

COMMUNITY FACILITY AND ASSOCIATED WORKS

RECOMMENDATION 1:

That planning permission be **GRANTED** subject to the applicant entering a Unilateral Undertaking to (i) contribute £9,738.00 towards Open Space within the locality of the site, (ii) contribute £25,000.00 to secure the provision of a new raised zebra crossing outside the application site, and (iii) retain 20% of the flats as affordable in accordance with Chapter 2 of the adopted *Cardiff Planning Obligations SPG* (July 2017), 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 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. BACKGROUND INFORMATION

1.1 This application is reported to Committee because the applicant, Cardiff Council, is proposing a scheme which 'is not of a 'minor' nature' and therefore must be determined by the Planning Committee.

2. <u>DESCRIPTION OF THE SITE AND AREA</u>

2.1 The application site is located within the Splott area of Cardiff, approximately 1 kilometre from Cardiff City Centre and comprises a square-shaped parcel of land on a corner plot between Moorland Road and North Park Road.

2.2 It is accessed from the western boundary along Moorland Road and currently comprises a brownfield site with a single storey, vaulted brown brick building surrounded by hardstanding. The site benefits from a small parking area to the south and has a managed area of grass and trees along the northern boundary.



Figure 1: Site Location Plan

- 2.3 The existing building is used as a community centre providing a lunch club and pre-Covid, provided a range of physical activities, hobby activities and facilitated outings.
- 2.4 The site is located within an established residential area with predominantly terraced properties of the late 19th Century positioned to the north, south and west. The site is bounded to the east by the Railway Line.
- 2.5 Properties within the vicinity of the site are mostly two and two-and-a-halfstorey terraced dwellings which have a consistent architectural style and pallet of materials, mostly finished with pennant or ashlar stone and brick detailing.
- 2.6 The site is relatively flat in nature and benefits from a pedestrian access point off Moorland Road.

3. DESCRIPTION OF DEVELOPMENT

3.1 The development proposes the demolition of the existing single storey building and the erection of a three-four storey building comprising a replacement community centre at ground floor level with 13 older persons' apartments above.

3.2 The building proposed is split into three elements, each with a pitched roof gable fronting Moorland Road. The central, four storey element of the proposal will reach a height of 25.25 metres, whilst the other three storey elements positioned to the north and south of the central element will reach a height of 21.34 metres and 21.63 metres respectively.



Figure 2: Illustrative Drawing

- 3.3 The building will comprise a community centre at ground floor level, with a core area for community use with kitchen, staff facilities and office, and a separate access point to the residential access point at ground floor level. A courtyard is also provided to the rear of the building which is accessed directly from the community centre and residential core.
- 3.4 The remainder of the ground floor comprises a plant room, residential core access point which forms an entranceway through a corridor to a central lift and staircase area, cycle store and bin store separated for residents and community centre.
- 3.5 The first and second floors introduce four one bedroom and one two bedroom flats accessed off the core area, and each comprising a hallway, kitchen/dining area, bathroom, storage cupboard and balcony, as shown on figure 3 below:



Figure 3: Proposed First and Second Floor Plan

- 3.6 The third floor comprises three one bedroom units which also include a hallway, kitchen/dining area, bathroom, storage cupboard and balcony. Each residential unit proposed will be accessed from a central corridor which is accessible from a centrally located staircase and lift area at ground floor level.
- 3.7 In addition to the residential units and community centre, two sperate bin stores are proposed at ground floor level; one to serve the residents and one to serve the community centre.
- 3.8 An internal cycle storage area accommodating five Sheffield stands (totalling 10 cycle spaces) is provided for residents at ground floor level, which includes for the provision of electric bike charging points. This storage area will be accessible via the community garden area to the rear of the building.
- 3.9 A total of six Sheffield stands (twelve cycle parking spaces) will be provided for the community centre visitors. Four of these stands (eight spaces) will be provided to the rear of the building under a canopy in the communal garden area with secure and gated access. One stand (two spaces) is to be provided internally at ground floor level adjacent to the staff facilities area/reception, and one stand (two spaces) will be located to the north of the building, adjacent to the junction between Moorlands Road and North Park Road.
- 3.10 All documentation relating to the application, including plans, can be viewed on the Council's website using the following link: 22/01718/MJR

4. PLANNING HISTORY

4.1 The site has no relevant planning history.

5. POLICY FRAMEWORK

National Policy

- 5.1 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'.
- 5.2 '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.
- 5.3 '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.
- 5.4 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
- 5.5 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

- 5.6 <u>Planning Policy Wales</u> (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, <u>Future Wales the National Plan 2040</u> (see below) and to deliver the vision for Wales that is set out therein.
- 5.7 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.

5.8 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.

Technical Advice Notes

- 5.9 PPW is supported by a series of more detailed <u>Technical Advice Notes</u> (TANs), of which the following are of relevance: -
 - TAN 2: Planning and Affordable Housing (2006)
 - 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 18: Transport (March 2007)
 - TAN 21: Waste (February 2017)
 - TAN 23: Economic development (2014)
- 5.10 On 16th July 2020 the Welsh Government published <u>Building Better Places: The Planning System Delivering Resilient and Brighter Futures</u> 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.
- 5.11 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

5.12 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.

- 5.13 <u>Future Wales the National Plan 2040</u> 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.
- 5.14 The Local Development Plan is the <u>Cardiff Local Development Plan 2006-2026</u> which was adopted in January 2016, and within which the following policies are of relevance:

KEY POLICIES

- KP4 Master Planning Approach
- KP5 Good Quality and Sustainable Design
- KP6 New Infrastructure
- KP7 Planning Obligations
- KP8 Sustainable Transportation
- KP10 Central and Bay Business Area
- KP15 Climate Change
- KP16 Green Infrastructure

DETAILED POLICIES

Housing

- 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
- EN8 Trees, Woodlands and Hedgerows
- EN13 Air, Noise, Light Pollution and Land Contamination

Transport

- T1 Walking and Cycling
- T5 Managing Transport Impacts
- T6 Impact on Transport Networks and Services

Community

- C1 Community Facilities
- C2 Protection of Existing Community Facilities
- C3 Community Safety/Creating Safe Environments

Waste

• W2 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance:

- 5.15 The following <u>Supplementary Planning Guidance</u> (SPG) is of relevance to this application: -
 - Food, Drink and Leisure Uses (November 2017)
 - Green Infrastructure (including Technical Guidance Notes relating to: Ecology and Biodiversity; Trees and Development; Public Rights of Way and Development; River Corridors; Protection and Provision of Open Space in New Developments; Soils and Development) (November 2017)
 - Managing Transportation Impacts (Incorporating Parking Standards) (July 2018)
 - Planning for Health and Wellbeing (November 2017)
 - Planning Obligations (January 2017)
 - Residential Design Guide (January 2017)
 - Residential Extensions and Alterations (2017)
 - Waste Collection & Storage Facilities (October 2016).

6. INTERNAL CONSULTEE RESPONSES

- 6.1 The **Operational Manager (Traffic and Transportation)** raises no objection to the proposed development in a consultation response dated 3 November 2022, subject to the imposition of the recommended planning condition which requires the submission of details, prior to the above-ground development commencing, of cycle parking provision and access.
- In a consultation response dated 5 September 2022, **Shared Regulatory Services (SRS) Environment Team** recommend the inclusion of planning conditions and informative notes which relate to land quality, in accordance with CIEH best practice and to ensure that the safety of future occupiers is not prejudiced in accordance with Policy EN13 of the Cardiff Local Development Plan.
- 6.3 **Parks Services** require an off-site contribution of £9,783.00 towards Open Space Provision, to be secured through a Section 106 Agreement, entered into by the applicant and the Council.
- 6.4 The Council's **Tree Officer** welcomes the retention of the dominant cherry tree (T5) although acknowledges that the loss of the well-formed snowy mespil (T4) tree is unfortunate due to it's down-grading to a 'C' category. The primary concern in respect of the tree loss is that there is sufficient mitigation and a landscape design which is well-integrated with the development and affords space for a significant tree. Therefore, the Tree Officer has recommended the inclusion of planning conditions which require a revised Arboricultural Method Statement and full details of a soft landscaping scheme prior to the commencement of development. The inclusion of a condition which requires the

replacement of any newly planted trees, plants or hedgerows which are defective within a period of 5 years from the completion of the development is also recommended

- No objection is raised by the **Affordable Housing** team; the scheme is a new build scheme that will provide 100% affordable housing for older person/s.
- 6.6 In a consultation response dated 27 October 2022, **Shared Regulatory Services (SRS) Noise Team** recommend the inclusion of planning conditions which:
 - (1) secure the submission of a post-build Acoustic Report to demonstrate compliance with the noise mitigation measures proposed;
 - (2) ensure there is no unacceptable arrival, departure, loading or unloading of delivery vehicles between set hours in the interests of protecting the amenities of neighbouring occupiers
 - (3) ensure that any extraction equipment to be installed in association with the permitted use at ground floor level is assessed and mitigated;
 - (4) specify the rating level of noise to be emitted to protect the amenities of future and neighbouring occupiers
 - (5) restrict the construction hours or demolition and construction works
 - (6) submit a scheme of sound insulation works to ensure that both future and neighbouring occupiers are not adversely affected by noise disturbance from the Community Centre.

Subject to the imposition of the recommended planning conditions, no objection is raised.

7. EXTERNAL CONSULTEE RESPONSES

- 7.1 **Dŵr Cymru Welsh Water** have confirmed in a consultation response dated 16 September 2022 that the foul only flows from the proposed development can be accommodated within the public sewerage system, and encourage the applicant to use the existing on site drainage system.
- 7.2 In respect of surface water, it is noted that the applicant is proposing to dispose via sustainable drainage, which is acceptable subject to the imposition of the recommended conditions and informative notes.
- 7.3 **Dŵr Cymru Welsh Water** raise no objection to the proposal subject to the inclusion of a condition which requires the submission of a drainage scheme, providing details of foul, surface and land water disposal and an assessment of the potential to dispose of surface and land water by sustainable means, prior to the commencement of development.
- **7.4 Network Rail** raise no objection to the proposed development.

8. REPRESENTATIONS

- 8.1 The application was advertised on the Council Website and by way of neighbour notification letters dated 01 September 2022. Site notices were placed on lamposts immediately adjacent to the application site on 07 September 2022.
- 8.2 In total, three letters of representations have been received to date, on the following summarised grounds:

Scale

Concerns are raised that the scale of the building proposed is disproportionate within this location and would be an overbearing feature which would 'dwarf' properties within Moorland Road. The building is not in keeping with the residential area, is too high and imposing and is not of appropriate context within the streetscene.

Health and Well-being Impact

An objection is raised on grounds that an assessment which reviews the health and well-being impacts of the proposed development upon neighbouring residential properties has not been submitted as part of the planning application documentation.

Off-street Parking Provision

There is no off-street parking provided for future residents or visitors which will result in more on-street parking to the detriment of existing residents.

Overlookina

The introduction of balconies will overlook the street and cause loss of privacy for neighbouring properties.

Construction Hours

The construction phase of development will be disruptive for local residents.

Devaluation of Property

The existing properties within the vicinity of the site will devalue if this scheme were approved and implemented.

Sewerage and Drainage System

Concerns are raised that the development will overwhelm the existing sewage and drainage system.

8.3 All public representations made on the application are available to view in full on the Council's website at: 22/01718/MJR

9. ANALYSIS

9.1 The key material considerations in the determination of this application are the principle of development, the impact of the development on the visual amenities of the area and on the occupiers of neighbouring properties.

Land Use / Principle of Development

- 9.2 The planning system manages the development and use of land in the public interest, contributing to improving the economic, social, environmental and cultural well-being of Wales, as required by the Well-being of Future Generations (Wales) Act 2015, and as stated in paragraph 1.2 of Planning Policy Wales (Edition 11, February 2021) (PPW11).
- 9.3 The application site lies within the settlement boundary as defined by the adopted Local Development Plan (2016) (LDP) and has no specific land use allocation or designation within the Plan.
- 9.4 The development proposes a mixed-use scheme comprising 13 older persons' independent living accommodation with a replacement ground floor community centre. As such the principle of such mixed use development is considered to be acceptable, subject to an assessment of its impacts below.
- 9.5 Policy C2 (Protection of Existing Community Facilities) is relevant, because it seeks to ensure that existing community facilities are maintained. It states the following:

Proposals involving the loss or change of use of buildings currently or last used for community facilities will only be permitted if:

- i. An alternative facility of at least equal quality and scale to meet community needs is available or will be provided within the vicinity or;
- ii. It can be demonstrated that the existing provision is surplus to the needs of the community.
- 9.6 In this case, the ground floor of the building will be retained as a community centre, offering 270 square metres of community space with dedicated staff facilities, including a main hall, kitchen, medical suite, and office space. The community centre will also benefit from a visual and physical link to the shared communal garden area to the rear of the building.
- 9.7 The proposed development seeks to ensure, through direct consultation with the managers of the community centre, that the scheme is fit for purpose and that the updated, modern facility will result in a betterment of the existing community centre, benefiting the wider community.
- 9.8 Given the above, the proposal is considered to be compliant with Policy C2 of the adopted LDP and is therefore an acceptable in principle.

Impact on the Character of the Area

9.9 As noted earlier, the Welsh Government publication <u>Building Better Places: The Planning System Delivering Resilient and Brighter Futures</u> 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.

- 9.10 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.
- 9.11 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.
 - 9.12 The application site is currently occupied by Moorland Community Centre, which comprises a vaulted single storey brown brick building, surrounded by hardstanding and soft landscaping to the north:



Figure 4: Existing Community Centre

- 9.13 In general terms, the redevelopment of the site as a mixed-use scheme proposing 13 older persons' accommodation with an updated community centre in an already established residential area is welcomed, and is generally considered as an appropriate and complementary form of development in this location.
- 9.14 The intention to replace a poor and partially dilapidated building is a significant development for the City and community, retaining a community use and providing much needed homes for elderly persons' which are well designed, spacious and have an excellent design.
- 9.15 The building itself is a striking and attractive feature on this corner plot which is complementary to the surrounding context and of its time. The proposed scale of the building, whilst of a more significant height than nearby residential properties, is designed to integrate with the existing context of the streetscene

and is orientated to create a feature-point sat on the corner plot between Moorland Road and North Park Road.



Figure 5: Proposed Elevations



Figure 6: Illustrative Street View

- 9.16 Any form of development proposed at this location will affect the visual setting of the area. This building, being four storeys, is a large addition but its richness allows its overall massing to be moderated, while the separation of the building into three elements of varying height and depth reflect the architectural rhythms and widths of the neighbouring properties. This combination helps to mitigate the massing of the scheme and allow it to blend within the streetscene to an acceptable degree.
- 9.17 It is noted that the intended materials to be used on the external elevations of the building take reference from and generally reflect the character and appearance of the surrounding area. Brick of a light-coloured finish (grey/beige/light-grey colour) will form the primary facing materials with masonry and coated metal with projecting and recessing elements to complement, creating a distinctive but relevant addition to the streetscene. The bricks will use a colour matched mortar to provide a homogenous finish. The main communal entrance to the residential units and community centre will be finished in a coloured glazed brick (likely to be in green/blue) to complement

the dominant brickwork and differentiate the entrances for users. The use of this pallet and intended finish is considered to be respectful of the general appearance of the wider area surrounding the application site, and is considered to be acceptable in this case.

- 9.18 In respect of the proposed site layout, the community centre has a prominent and exclusive entrance from the street which is separate to the residential access point. The bike and bin store are well located to the south of the main building and are separated for users of the community centre and residents.
- 9.19 Whilst the objections received relating to scale are noted, it is considered that the overall design and intended finish of the scheme seeks to enhance the appearance of the general area, and introduce a modern building to serve the needs of the users of the community centre and provide affordable housing for older persons', whilst reflecting the existing and established character. On balance, it is not considered that the proposal will have a significantly adverse impact upon the visual amenities of the area, due to its design, architectural features and intended finish. When considering the context of the site and the wider area, the development is considered to be appropriate in respect of its scale and therefore accords with criterion (i) of Policy KP5 of the adopted LDP.

Impact on Residential Amenity

- 9.20 PPW11 states at paragraph 2.7 that "placemaking in development decisions happens at all levels and involves considerations at a global scale, including climate change, down to the very local level, such as considering the amenity impact on neighbouring properties and people".
- 9.21 The building has been designed as a landmark building on this corner plot and whilst no concerns are raised in respect of its impact upon the streetscene or character and appearance of the residential area, regard must be given to its impact upon neighbouring residential properties.
- 9.22 The building is large, and centrally, extends to four storeys in height, reaching 25.25 metres at its maximum. Having particular regard to this height, an assessment of its impact upon residential amenity must be undertaken to ascertain whether the development is compliant with criterion (x) of Policy KP5 of the adopted LDP, which requires that development proposals should ensure that "no undue effect on the amenity of neighbouring occupiers" occurs.

Overlooking

9.23 Given the position of the site on a corner plot between Moorland Road and North Park Road, the proposed building will be separated from residential properties located to the north, north west and west by highway infrastructure. Therefore, no concerns are raised in respect of overlooking into nearby residential properties, owing to the separation distance provided by the adjoining highway network. 9.24 To provide further context, the application site is bordered to the south by a residential property known as 71 Moorland Road, Splott. This property is split into five individual flats, with four of these being located within the original building, and one in an annex built to the rear. As a visual aide, each unit is shown in a different colour below, with the shared amenity space shown in purple, adjacent to the development site shown in red:



Figure 7: Adjacent Property (Five Residential Units)

- 9.25 The Design and Access Statement submitted in support of the application confirms that there are no known habitable rooms with a primary aspect facing the application site. The shared external amenity space is of a poor quality and looks somewhat unused.
- 9.26 To assess the impact of the development on the occupiers of the neighbouring property, guidance contained within Supplementary Planning Guidance Cardiff Residential Extensions & Alterations (2017) (SPG CREA) is relevant here. Paragraph 7.25 of SPG CREA states that to ensure a development does not result in a loss of privacy by means of overlooking, a minimum distance of 10.5 metres must be provided between the wall of the property and its boundary. In this case, the distance provided between the southern elevation of the proposed building and the shared boundary with the neighbouring property known as 71 Moorland Road, Splott is 10.5 metres, as demonstrated below:

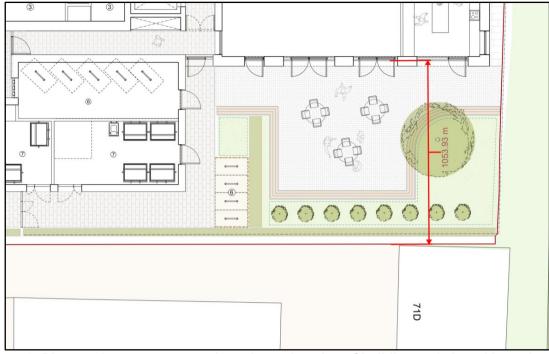


Figure 8: Distance between proposed southern elevation of building and shared boundary

- 9.27 Whilst acknowledging that the development only achieves a 10.5 metre distance between the southern elevation of the proposed building and the shared boundary with the neighbouring property, and the rear wing looking south (see Fig. 9 below) has three floors of upper residential accommodation, on balance it is deemed that the distance provided to the rear remains sufficient, given the constraints of the site and especially having regard to the nature of the shared amenity area serving the units to the south.
- 9.28 The developer is proposing to plant trees along the southern boundary of the application site to satisfy the requirements for sustainable drainage approval from the SAB. This will also provide a further buffer for adjoining residents and introduce additional screening.
- 9.29 Thus, in acknowledging that any form of development at this location would inevitably result in an impact upon the occupiers of the neighbouring property to the south, it is considered that the developer has designed the scheme to minimise any form of overlooking to the greatest extent possible, and as a distance of 10.5 metres has been provided, it would be remiss to argue that the levels of overlooking would be harmful for the occupiers of the neighbouring property, particularly when having regard to the fact that the property is split into five separate units with no known Habitable room windows facing the proposed building, and has a poor quality shared amenity space to the rear.
- 9.30 On balance, and in consideration of the site constraints, developer requirements and distance provided, the development is not considered to cause overlooking into the neighbouring property to the south to an extent that would warrant a refusal of planning permission on such grounds, and therefore the development is considered to be acceptable in this regard.

Overbearing

- 9.31 It is noted that few rear gardens are entirely private and the existing relationship between the property known as 71 Moorland Road, Splott and the existing community centre is arguably relatively intimate. Any form of development should be appropriate and should not have a significant detrimental impact upon the level amenity currently enjoyed by neighbouring occupiers.
- 9.32 In respect of this application, a degree of concern is raised in respect of a potential overbearing impact of the four storey element of the scheme on the property to the immediate south. The proposed elevation is reproduced below:



Figure 9: Elevation facing 71 Moorland Road

- 9.33 Whilst the four storey element of the scheme is set 10.5 metres away from the shared boundary, it's height will certainly significantly increase the impact on the property to the south, and arguably could be considered to be an overbearing feature, particularly when using the shared amenity space to the rear of the neighbouring property.
- 9.34 Owing to the positioning of the adjacent property, it is not considered that the development will unreasonably dominate the outlook of the adjoining property, but the height of the proposed building may have an overbearing impact on the rear garden areas.
- 9.35 In consideration of these concerns, negotiations have been undertaken with the developer to ascertain whether the rear element of the building could be reduced in height to minimise as far as possible any impact from the building. However, given the requirements of the developer to replace the existing community centre and introduce 13 older person's affordable residential units, they have advised that any requirement to reduce the number of residential units would mean that the overall scheme would be inviable and could not deliver the identified benefits in terms of housing and enhanced community provision.

9.36 Further consideration of this impact is assessed at paragraphs 9.86-9.98 as part of the 'planning balance' section of the report.

Transportation / Highway Impacts

- 9.37 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.
- 9.38 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;
- 9.39 Policy T5 of the adopted LDP relates to managing the transport impacts of development proposals, to ensure that all new developments properly address the demand for travel and its impacts, contribute to reducing reliance on the private car, making satisfactory provision for access, parking and circulation with particular regards for pedestrians, cyclists and public transport users as well as to avoid unacceptable harm to the safe and efficient use and operation of the road, public transport and other movement networks.
- 9.40 The explanatory text which supports Policy T5 of the adopted LDP states at paragraph 5.233 that "in assessing the transport and access aspects of proposals the Council will be more likely to give favourable consideration to development which through their design and layout, give priority to movements by sustainable travel modes and reflect the user hierarchy in Department for Transport Manual for Streets". This specifies a hierarchy whereby pedestrians, cyclists, public transport and special service vehicles (emergency services, waste) are considered above the use of other motorised traffic.
- 9.41 In respect of car parking, the existing building has a small car parking area to the south which supports up to three vehicles. This would not be provided as part of the current proposal. The objections received raise concern with the loss of off-street parking provision, stating that there will be additional pressure on the existing on-street provision, to the detriment of neighbouring residents.

- 9.42 As specified within Supplementary Planning Guidance Managing Transportation Impacts (Incorporating Parking Standards) (2018) (SPG MTI). the maximum car parking spaces per residential unit required for this development equate to 1 space per residential dwelling, and nil spaces for the community centre (operating within a D1 Use Class (Non-residential Institution)). Given the hierarchy mentioned in the supporting text to Policy T5. and the specifications outlined within SPG MTI, the removal of the existing three off-street car parking spaces raises no concern, as the car parking standards are maximum requirements, and the decision to remove the existing spaces supports the aim of the Council to encourage a modal shift towards the use of sustainable transport modes over the use of the private vehicle.
- 9.43 Whilst the concerns raised regarding parking provision are noted, the car parking standards are maximum requirements to encourage a modal shift to more sustainable transport modes. Thus, whilst the comments received are noted, no concern is raised with the loss of the three spaces from a highway safety perspective, and the scheme is considered to be compliant with the aforementioned policy guidance.
- 9.44 In respect of cycle parking however, SPG MTI requires a minimum provision. In this case, the cycle parking quantum (for 'elderly person dwellings') equates to a minimum number of 1 cycle space per 10 residential units (two spaces), and 5 cycle spaces plus 1 per 50 square metres for the community centre (seven spaces).
- 9.45 An internal storage area accommodating five Sheffield stands (totalling 10 cycle spaces) is provided for residents at ground floor level, which includes for the provision of electric bike charging points. This storage area will be accessible via the community garden area to the rear of the building.
- 9.46 A total of six Sheffield stands (twelve cycle parking spaces) will be provided for the community centre visitors. Four of these stands (eight spaces) will be provided to the rear of the building under a canopy in the communal garden area with secure and gated access. One stand (two spaces) is to be provided internally at ground floor level adjacent to the staff facilities area/reception, and one stand (two spaces) will be located to the north of the building, adjacent to the junction between Moorlands Road and North Park Road.
- 9.47 As per the extract below, the internal residential secure storage (ten spaces) is annotated light purple and the internal cycle storage for the community centre is shown in dark purple (two spaces). The external cycle storage area (eight spaces) lies to the immediate west of the communal garden area to the south of the building whilst one additional stand (two spaces) is positioned to the north of the proposed building:



Figure 10: Cycle Parking Provision

9.48 It is noted that the applicant has provided more cycle parking than the minimum requirements which is welcomed and encouraged (also making the accommodation adaptable). Whilst this is noted, further detail is required in respect of visitor access to the cycle storage area to the south of the building, to the immediate west of the communal garden area. Concerns are raised that the spaces may be compromised if staff members are unavailable to provide access and therefore it is requested that a condition is imposed which requires the submission of further detail showing the provision of cycle parking spaces and appropriate access to them, prior to the above-ground development commencing. Subject to the inclusion of the recommended planning condition, the scheme is considered to be acceptable in this regard.

Impact on Trees / Landscaping

- 9.49 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 netbenefit), the resilience of ecosystems and green infrastructure should be demonstrated as part of development proposals.
- 9.50 LDP Policy EN8 states that "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".

9.51 In this case, a total of seven trees have been identified as part of the arboricultural analysis within and surrounding the site:

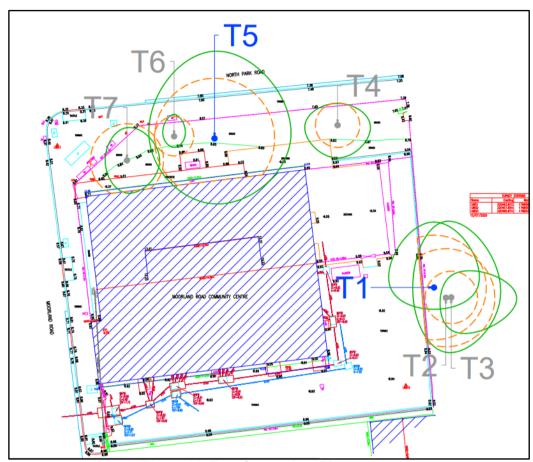


Figure 11: Tree Constraints Plan

- 9.52 Trees annotated as T1, T2 and T3 lie outside of the application site and are positioned on land within separate ownership and as such, could not be fully assessed or accurately measured. And, as they lie within separate ownership, cannot form part of the assessment of this application.
- 9.53 The dominant Cherry tree (tree T5 refers) which lies to the north of the existing building is proposed to be retained, along with T6 and T7, whilst the remaining tree to the north east (T4 refers) is to be removed, resulting, in the opinion of the Tree Officer, with a relatively significant loss of 'canopy cover'.
- 9.54 In order to mitigate this, the developer has proposed to plant a Golder Alder tree (Alnus incana 'Aurea') within the rear communal garden area, as shown in figure 12 below:



Figure 12: Landscape Proposals

- 9.55 This mitigation planting to the rear of the building is welcomed in principle, subject to the inclusion of a planning condition which requires full landscaping details prior to the commencement of development.
 - 9.56 In addition, the Tree Officer has recommended the inclusion of a condition which requires the submission of a revised Arboricultural Method Statement (AMS) prior to the commencement of development, to ensure that details are provided to demonstrate how landscape works within the Root Protection Area of retained trees are to be implemented to protect the tree roots and ensure the works do not cause significant damage and/or loss.
- 9.57 Therefore, subject to the imposition of the recommended planning conditions, the development is considered on balance, to be acceptable in this regard, given the introduction of a tree to the rear of the building within the communal garden area. The scheme complies with Policy EN8 of the LDP.

Sustainability / Energy

9.58 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.

- 9.59 Policy 17 Renewable and Low Carbon Energy and Associated Infrastructure outlines support for developing renewable and low carbon energy at all scales.
- 9.60 *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.
- 9.61 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.
- 9.62 The Design and Access Statement submitted in support of the application states the following:

In respect of renewable energy, the scheme will be expected to achieve Welsh Government's 2025 energy performance standards and will reflect an energy strategy that will achieve a Standard Assessment Procedure (SAP) rating of 'A' using a high standard of fabric efficiency and low carbon heating, minimising environmental impact and reduce ongoing running costs for tenants. A communal heating system is being considered, utilising ground source heating alongside renewable technology such as solar photovoltaics with batteries as appropriate.

9.63 This scheme reflects the Council's Fabric First approach towards renewable energy and low-carbon development and is therefore consistent with the approach of Policy EN12 of the adopted LDP.

Drainage and Flooding

- 9.64 Surface water drainage will be controlled through the requirement for sustainable drainage approval from the SAB.
- 9.65 Subject to the imposition of the recommended drainage condition, which requires the submission of a drainage scheme, providing details of foul, surface and land water disposal and an assessment of the potential to dispose of surface and land water by sustainable means, in line with the advice received from Dŵr Cymru Welsh Water, the application is considered to be acceptable in land drainage terms and is therefore complaint with Policy EN10 of the adopted LDP.
- 9.66 It is noted that one letter of objection raised concern that the development will overwhelm the existing sewage and drainage system. Whilst these concerns are noted, Dŵr Cymru Welsh Water have confirmed that foul flows from the

proposed development can be accommodated within the public sewerage system. This matter is therefore considered to be addressed through the imposition of the recommended planning condition.

Public Protection: Contamination

- 9.67 Policy EN13 of the adopted LDP states that "development will not be permitted where it would cause or result in unacceptable harm to health, local amenity, the character and quality of the countryside, or interests of nature conservation, landscape or built heritage importance because of air, noise, light pollution or the presence of unacceptable levels of land contamination".
- 9.68 In support of the application, the applicant has submitted a Geotechnical and Geo-environmental Report, written by Terra Firma and dated July 2021, together with a Supplementary Investigation dated December 2021.
- 9.69 The report has not identified any significant concerns but the site investigation was limited to the periphery of the building and the potential for contamination cannot be ruled out. Therefore, 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, Shared Regulatory Services recommend the inclusion of the 'unforeseen contamination' condition. This will ensure the development can be carried out safely without unacceptable risk.
- 9.70 Should there be any importation of soils to develop the garden/landscaped areas of the development, or any site won recycled material, or materials imported as part of the construction of the development, then it must be demonstrated that they are suitable for end use. This is to prevent the introduction or recycling of materials containing chemical or other potential contaminants which may give rise to potential risks to human health and the environment for the proposed end use.
- 9.71 Subject to the inclusion of the recommended planning conditions, the proposed development is considered to be compliant with Policy EN13 of the adopted LDP.

Section 106 Matters

- 9.72 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".
- 9.73 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.

- 9.74 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.
- 9.75 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.
- 9.76 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 relate specifically to the provision of Open Space, Affordable Housing and Transport Infrastructure Provision.
- 9.77 In respect of **Open Space**, the adopted LDP requires provision of a satisfactory level and standard of open space on all new housing/student development, or an off-site contribution towards existing open space for smaller scale development where new on-site provision is not applicable.
- 9.78 Although the scheme does provide some amenity space for future residents on site, no public open space is being provided, and therefore the developers will be required to make a financial contribution towards the provision of new open space, or the design, improvement or maintenance of existing open space within the locality.
- 9.79 Based on the information provided (and the Council's formula), the additional population generated by the development will be 17.9, which generates an off-site contribution of £9,783.00.
- 9.80 If the Council are minded to approve the application, and the applicant enters into a S106 Agreement with the Council to secure the payment of the contribution, consultation will take place with Ward Members to agree the use of the contribution. Eligible parks and green spaces within the distance threshold include Splott Park, Moorland Park and Tremorfa Park.
- 9.81 In respect of **Affordable Housing**, it is noted that the scheme proposes 100% affordable units for older persons. Chapter 2 of Supplementary Planning Guidance *Cardiff Planning Obligations SPG* (July 2017) refers specifically to Affordable Housing and stipulates at paragraph 2.2 that a 20% Affordable Housing contribution will be sought on brownfield sites if the development meets any of the following criteria:
 - i. Contain 5 or more dwellings; or
 - ii. Sites of or exceeding 0.1 hectares in gross site area; or
 - iii. Where adjacent and relates 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 opposite.

- 9.82 Whilst it is acknowledged that in this instance, the proposal comprises the introduction of 13 affordable residential units, the Authority will seek an obligation to ensure that 20% of the units are retained as affordable in perpetuity.
- 9.83 In addition to the above, Traffic and Transportation request a £25,000.00 contribution towards a new raised zebra crossing outside the application site on Moorland Road. This is to maximise the pedestrian accessibility of the site, especially considering the potential mobility needs of future residents and users of the community centre. This provision will allow the bus stops on Habershon Street and shops on Splott Road to be reached without the use of uncontrolled crossings.
- 9.84 The proposed broad Heads of Terms for the required section 106 agreement are as follows (in line with the Planning obligations SPG):-
 - Financial contribution of £9,783 towards Open Space
 - Affordable Housing (20% i.e. 3 units) to be provided and retained in line with Chapter 2 of the adopted *Cardiff Planning Obligations SPG* (July 2017).
 - Financial contribution of £25,000 towards the provision of a new raised zebra crossing outside the site on Moorland Road.
- 9.85 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.

Overall Assessment – 'The Planning Balance'

- 9.86 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.
- 9.87 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.

- 9.88 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.
- 9.89 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.
- 9.90 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.
- 9.91 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.
- 9.92 In this case, regard must be given to the concerns raised regarding the potential overbearing impact of the development upon the occupiers of the neighbouring property to the south known as 71 Moorland Road, Splott. As noted above, the four storey element of the scheme upon the occupiers of the neighbouring property to the south could be considered as detrimental in amenity terms.
- 9.93 Having attempted to negotiate with the developer to reduce the height of the building to the rear, questions regarding the viability of the scheme were raised; however the number of residential units proposed is non-negotiable owing to the cost of the overall scheme. If the scheme were reduced in size to address the concerns raised, it would not be delivered.
 - 9.94 The recently published <u>Building Better Places: The Planning System Delivering</u>
 <u>Resilient and Brighter Futures</u> document states that planners are uniquely

places to think systematically and work strategically to shape the vision for better places and lead positive change in a post-Covid world. With this in mind, it is important to place weight on the fact that the introduction of a brand-new community centre will bring economic, cultural, social, environmental and health benefits to the people and the community of Splott, creating a better place for residents and visitors to live, work and socialise.

- 9.95 In addition, the introduction of 13 affordable housing units is vital in the Council's aims to deliver housing in accordance with the evidenced need, and will also help to provide a range and mix of house types in accordance with Policy KP13 of the adopted LDP.
- 9.96 Given its height and relative proximity to the site boundary, there will clearly be an impact on the property to the south, albeit restricted to the shared amenity space between the buildings on that plot. However, there is also no doubt that the implementation of this development will bring great benefit by way of introducing additional affordable housing and a replacement community centre.
- 9.97 Given this, and on balance, the benefits of delivering 13 affordable units which are dedicated to older persons' independent living apartments together with the replacement of a dilapidated and poor community centre with a brand-new facility to serve the current needs of the facility are considered to outweigh the potential impact of the development on the occupiers of neighbouring properties.
- 9.98 On balance, and in consideration of the scheme as a whole, it is considered that the weight given to the benefits of the scheme outweigh the potential overbearing impact of the development on neighbouring occupiers of the property to the south, and therefore the development is recommended for approval.

Other Matters Not Assessed Above

9.99 As identified earlier in this report, a number of objections were received in response to the publicity exercise. In response to the main issues raised which have not been addressed elsewhere in this report, the following comments are made:

Construction Hours

A condition which restricts the construction hours of operation can be imposed upon planning permission to ensure that the amenities of neighbouring occupiers are protected, and to address the concerns raised.

Devaluation of Property

This is not a material consideration in the determination of this planning application and will not be addressed further.

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 Having regard to the above and notwithstanding the objections raised, in this case, it is clear that the development proposed development will make an important contribution to the overall housing supply within Splott, and will provide 13 older persons' affordable residential units on brownfield land providing much needed accommodation and reducing the need to develop on greenfield sites, in accordance with Policies H3 and KP13 of the Local Development Plan (2013).
- 10.3 In addition, the proposed development will provide a replacement community centre, in accordance with the criterion of Policy C2 of the adopted LDP.
- 10.4 The building itself is considered, in general terms, to be in keeping with the mix of land uses within the vicinity of the site and, whilst it will be visible, the building will not be so excessive in terms of its size or scale that it would be detrimental of harmful to the general character and appearance of the area. Its introduction is considered to be in keeping with the general architectural character of the area and the pallet of materials proposed takes reference from buildings within the immediate vicinity of the site. On balance, whilst the building is modern in nature, it is considered that it will not detract from the overall character of the streetscene and is considered to be acceptable in this regard.
- 10.5 No concerns are raised in respect of highway safety, landscaping, contaminated land or land drainage, and the development is therefore considered to be compliant with Policies EN8, EN13 and T5 of the LDP.
- 10.6 While concern is raised that the height of the building to the rear will impact the occupiers of the immediate neighbouring property to the south greater weight is given that the scheme is providing 13 affordable units for older persons', and is replacing a dilapidated, poor community facility with a brand-new facility, and it is considered on balance, that the wider benefits of the scheme as a whole outweigh the impact upon the neighbours of the residential property.
- 10.7 In conclusion, on balance, the development is considered to be acceptable in principle and is recommended for approval.

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 applicant entering a Unilateral Undertaking to (i) contribute £9,738.00 towards Open Space within the locality of the site, (ii) contribute £25,000.00 to secure the provision of a new raised zebra crossing outside the application site, and (iii) retain 20% of the flats as affordable in accordance with Chapter 2 of the adopted *Cardiff Planning Obligations SPG* (July 2017), 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 of this report, and the conditions listed below in section 12

12.2 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.

12.3 CONDITIONS

Time Limits

1. 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.

Approved Plans

- 2. The development, unless otherwise required by the ensuing conditions, shall be carried out in accordance with the following approved plans and documents:
 - Existing Location Plan (20017 M A (00_001) Rev P11) received on 27 October 2022
 - Proposed Site Plan (20017 M A (00)_001 Rev P11) received on 27 October 2022
 - Proposed Ground Floor Plan (20017 M A (00)_110 Rev P11) received on 27 October 2022
 - Proposed First & Second Floor Plan (20017 M A (00)_111 P12) received on 27 October 2022
 - Proposed Third Floor Plan (20017 M A (00)_112 Rev P12) received on 27 October 2022
 - Proposed Roof Plan (20017 M A (00)_113 Rev P11) received on 27 October 2022

- Proposed Elevation 1 (20017 M A (00)_210 Rev P10) received on 15 August 2022
- Proposed Elevation 2 (20017 M A (00)_211 Rev P10) received on 15 August 2022
- Proposed Elevation 3 (20017 M A (00)_212 Rev P10) received on 15 August 2022
- Proposed Elevation 4 (20017 M A (00)_213 Rev P10) received on 15 August 2022
- Proposed Street Elevations (20017 M A (00)_201 Rev P10) received on 15 August 2022
- Proposed Section AA (20017 M A (00)_310 Rev P10) received on 15 August 2022
- External Wall Bay Detail (20017 M A (00)-401 Rev P10) received on 15 August 2022
- Tree Constraints Plan received on 15 August 2022
- Tree Protection Plan received on 15 August 2022
- Arboricultural Impact Assessment received on 15 August 2022
- Landscape Proposals MoorLL.401 (TC22050_112688-1_MoorLL400-401[B] 18 October 2022) received on 27 October 2022
- Landscape General Arrangement MoorLL.400 (TC22050_112688-1_MoorLL400-401[B] 18 October 2022) received on 27 October 2022
- Drainage Strategy Plan (9850-GRY-01-00-DR-C-008 Rev P1) received on 15 August 2022
- Topographical Survey (ACAD-MOORLAND-COMMUNITY-CENTER Rev R2 13.07.2020) received on 15 August 2022
- PAS128 Utility Survey (ACAD-MOORLAND-COMMUNITY-CENTRE Rev R1 10.11.2020) received on 15 August 2022
- Design and Access Statement Version P02 (14 April 2022) received on 15 August 2022
- Planning Statement prepared by LRM Planning Limited (April 2022)
- Party Wall Assessment (19131_R01_0 V0, 19 July 2021) received on 18 August 2022
- Arboricultural Impact Assessment and Arboricultural Method Statement (25 August 2022) received on 30 August 2022
- Geotechnical and Geo-environmental Report (July 2021)
- Supplementary Investigation (December 2021)
- Tree Survey (September 2020)
- Transport Statement (December 2021)
- Noise and Vibration Assessment Report (January 2022)
- Ecological Assessment (September 2022)

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. No development shall take place until full details of soft landscaping have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - A soft landscaping implementation programme.
 - Scaled planting plans prepared by a qualified landscape architect.
 - Evidence to demonstrate that existing and proposed services, lighting, CCTV, drainage and visibility splays will not conflict with proposed planting.
 - Schedules of plant species, sizes, numbers and densities prepared by a qualified landscape architect.
 - Scaled tree pit sectional and plan drawings prepared by a qualified landscape architect that show the Root Available Soil Volume (RASV) for each tree.
 - 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 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, a soil scientists interpretive report demonstrating that the planting soil not only meets British Standards, but is suitable for the specific landscape type(s) proposed. The specification shall be supported by a methodology for storage, handling, amelioration and placement.
 - Planting methodology and post-planting aftercare methodology prepared by a qualified landscape architect, including full details of how the landscape architect will oversee landscaping implementation and report to the LPA to confirm compliance with the approved plans and specifications.

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.

4. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Action Conditions

- 5. Prior to their use in the development hereby permitted, 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).
- 6. Prior to first beneficial use, the site shall be enclosed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary, and all means of enclosure shall thereafter be retained as approved.
 - Reason: To ensure the amenities of the area are protected in accordance with Policy KP5 of the Cardiff Local Development Plan 2006-2026.
- 7. Prior to the commencement of development, a revised Arboricultural Impact Assessment and Arboricultural Method Statement shall be submitted to the Local Planning Authority which shall include details as to how landscape works within the Root Protection Area of retained trees are to be implemented, to ensure tree roots are not subject to significant damage/loss.
 - The submitted details shall be consistent with other plans submitted in support of the application and revised methodology shall be carried out in accordance with the approved details.
 - Reason: To maintain and improve the amenity and environmental value of the area.
- 8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA 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 policy EN13 of the Cardiff Local Development Plan.

9. 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 to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.

10. 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 to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.

11. 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 by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.

12. Prior to the beneficial occupation of the units, a post-build Acoustic Report shall be conducted in order to demonstrate compliance with the noise mitigation measures detailed within the Acoustics Report reference CA12079/0001 (dated January 2022, written by Wardell Armstrong). The report, with a validated certificate of compliance by an approved acoustic assessor, shall have been

submitted to and approved in writing by the Local Planning Authority to demonstrate that this has been achieved.

Reason: To protect the amenity of future occupiers, in accordance with Policies EN13 and KP5 of the adopted City of Cardiff Local Development Plan (2006-2026).

13. The development shall not be brought into beneficial use until such time as a scheme of sound insulation works to the ground floor Community Centre and first floor residential properties above has been implemented on site, in accordance with a scheme which shall first have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall ensure reference is made to the specific use, acoustic qualities, support from a competent person and relevant British Standards.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

14. Prior to above-ground development commencing details showing the provision of cycle parking spaces, and appropriate access to them, shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of practical management arrangements so that all visitor centre users will have suitable access to/egress from the covered cycle parking. The approved details shall be implemented prior to the development being put into beneficial use. Thereafter the cycle parking spaces shall be maintained and shall not be used for any other purpose.

Reason: To ensure that adequate provision is made for the sheltered and secure parking of cycle

Regulatory Conditions

15. The ground floor of the development hereby approved shall only be used as a community centre, and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order).

Reason: Permission is granted based upon an assessment of the particular characteristics of the proposal and other uses may be contrary to the Policies of the Cardiff Local Development Plan 2006-2026.

16. 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 in discharge of condition C4P, unless the Local Planning Authority gives written consent to any variation.

Reason: To maintain and improve the amenity and environmental value of the area.

17. There shall be no arrival, departure, loading or unloading of delivery vehicles between the hours of 18:00 – 08:00am Monday to Friday and 13:00 – 08:00 on Saturday's, no deliveries on Sunday or public holidays.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

18. The rating level of the noise emitted from any fixed plant and equipment on the site shall not exceed the existing background noise level at any time by more than 5dB(A) at any residential property when measured and corrected in accordance with BS 4142: 1997(or any British Standard amending or superseding that standard).

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

19. 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.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

INFORMATIVE NOTES

- 1. 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
 - (i) determining the extent and effects of such constraints;
 - (ii) 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

• 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. The applicant may need to apply to Dŵr 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 Dŵr Cymru / Welsh Water 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 Dŵr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dŵr Cymru Welsh Water has rights of access to its apparatus at all times.

3. Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway.

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on

approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way.



COMMITTEE DATE: 08/12/2022

APPLICATION No. **22/01717/MJR** APPLICATION DATE: 12/08/2022

ED: **GRANGETOWN**

APP: TYPE: Variation of condition

APPLICANT: Cardiff Council

LOCATION: International Sports Village

PROPOSAL: VARIATION OF CONDITION 2 OF 21/02848/MJR TO AMEND

THE LIST OF APPROVED PLANS TO SUBSTITUTE WITH THE

AMENDED PLANS

1. BACKGROUND INFORMATION

1.1 At the 2nd March 2022, Planning Committee resolved to grant full planning permission, subject to conditions, under application reference 21/02848/MJR for the construction of a 333 metre outdoor velodrome with pavilion and viewing stand.

- 1.2 This application seeks to approve changes to the approved plans as a 'minor material amendment' under section 73 (see section 3).
- 1.3 Whilst no objections have been received to this proposal, it is being reported to committee as the original permission was approved by the Planning Committee and having regard to the nature of the application in question.
- 1.4 For clarity the other conditions imposed under planning reference 21/02848/MJR have been re-imposed under this application.

2. DESCRIPTION OF THE SITE AND AREA

- 2.1 The application site currently comprises a 250 space car park (formerly used in connection with the Toys R Us unit) and adjacent scrub land. Access to the site is via Olympian Drive and the A4055 (Cogan Spur). There is also pedestrian and cycle access to the site via the existing road/ pavements around Grangetown then along Ferry Road and International Drive. From Penarth access can be gained via the cycle / pedestrian bridge (Pont Y Werin)
- 2.2 To the north of the site, at an elevated height, is the A4055 (Cogan Spur), while to the west are the new flats known as Cogan House and Marina View. To the south is the former Toys R Us building with Cardiff International White water rafting centre and the car parking serving the area beyond, and to the west is the International swimming pool and Ice Arena Wales.

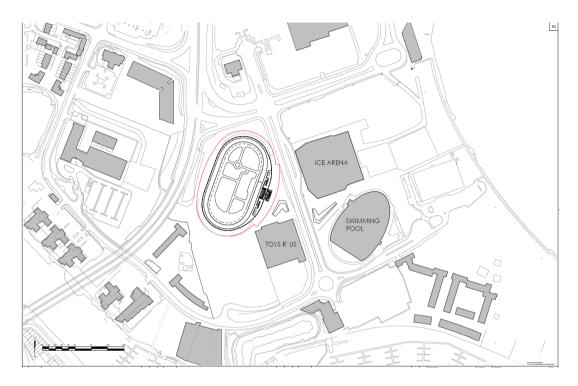


Figure 1: Site Location Plan

3. <u>DESCRIPTION OF DEVELOPMENT</u>

- 3.1 This application proposes the variation of Condition 2 (List of Approved Plans) to allow the following amendments to the scheme (as approved):
 - Change to the wind break geometry (Elevation) a reduced height from 9m to 7m:
 - Change to the wind break geometry (Reduction of Perimeter in plan);
 - Change to the infield layout (Reduction in tarmac area);
 - Reduction in the building footprint (Ground and First Floor) (to 17m x 14m);
 - Removal of Architectural "Bay" from main building;
 - Reduction in overall building height from 10.56 metres to 9.2 metres:
 - Reduction in container storage from 6 to 2
 - Removal of the gabion basket screen to the public realm
- 3.2 The approved clubhouse/stand had a footprint of 25 metre x 15 metres and a height of 10.56 metres and accommodated changing rooms, WC, Offices and on the first floor a multi-use hall with a separate kitchen area that was linked to the viewing platform.
- 3.3 The plans before committee amended pavilion building reduce the footprint to 17 metres x 14 metres with a height of 9.2 metres. It is also noted that the ground floor internal configuration has removed the gym and there are fewer showers and changing rooms have been removed but lockers are still available.
- 3.4 The covering letter submitted as part of this application highlights that these facilities are now to be located, along with additional storage and cycle

provision, within the existing former Toys'R'Us building that will act as a welfare hub for a number of additional activities that will be brought forward as part of the wider master plan.

- 3.5 Given the shift in activities from the pavilion building to the vacant Toy'R'us building the Transport Statement has been updated to reflect these minor changes
- 3.6 For clarity the track remains as approved i.e 7 metres wide with a maximum 28 degree banking. The applicant still of the view that the track is still suitable for all users.
- 3.7 All documentation relating to the application, including plans, can be viewed on the Council's website using the following link: 22/01717/MJR

4. PLANNING HISTORY

- 4.1 The site has the following relevant planning history: -
 - 21/02848/MJR- Construction of a 333M outdoor Velodrome with club house and stand- approved
 - 00/1340R, permitted remediation on the ISV site. Granted in September 2001
 - 01/2617R Outline planning permission for international sports village comprising sports, leisure, retail, residential, hotel, conference centre, casino, restaurant/bar development, highway access, transportation infrastructure, promenade/revetment wall/pier structures in Cardiff bay and landscaping. Granted on 21 February 2003
 - <u>03/2880R</u>, Outline planning permission granted on 23 April 2004, permits the same development as 00/2617R but with a varied condition 28, which controls retail floorspace.
 - 16/01375/MJR- temporary 5 year 712 surface car park approved

5. POLICY FRAMEWORK

National Policy

- 5.1 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'.
- 5.2 '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.

- 5.3 '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.
- 5.4 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
- 5.5 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

- 5.6 <u>Planning Policy Wales</u> (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, <u>Future Wales the National Plan 2040</u> (see below) and to deliver the vision for Wales that is set out therein.
- 5.7 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.
- 5.8 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.

Technical Advice Notes

- 5.9 PPW is supported by a series of more detailed <u>Technical Advice Notes</u> (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 15: Development and Flood Risk (2004)
- 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)
- 5.10 On 16th July 2020 the Welsh Government published <u>Building Better Places: The Planning System Delivering Resilient and Brighter Futures</u> 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.
- 5.11 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

- 5.12 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.
- 5.13 <u>Future Wales the National Plan 2040</u> 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.
- 5.14 The Local Development Plan is the <u>Cardiff Local Development Plan 2006-2026</u> which was adopted in January 2016, and within which the following policies are of relevance:

KEY POLICIES

- KP5 (Good Quality and Sustainable Design);
- KP6 (New Infrastructure);
- KP15 (Climate Change);
- KP16 (Green Infrastructure);
- KP17 (Built Heritage).

DETAILED POLICIES

Environment

- EN6 (Ecological Networks and Features of Importance for Biodiversity);
- EN7 (Priority Habitats and Species);
- EN8 (Trees, Woodlands and Hedgerows);
- EN9 (Conservation of the Historic Environment);
- EN10 (Water Sensitive Design);
- EN11 (Protection of Water Resources);
- EN13 (Air, Noise, Light Pollution and Land Contamination).

Transport

- T1 (Walking and Cycling);
- T5 (Managing Transport Impacts);
- T6 (Impact on Transport Networks and Services).

Community

- C3 (Community Safety/Creating Safe Environments);
- C6 (Health).

Waste

W2 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance:

- 5.15 The following <u>Supplementary Planning Guidance</u> (SPG) is of relevance to this application: -
 - 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; Public Rights of Way and Development; River Corridors; Protection and Provision of Open Space in New Developments; Soils and Development) (November 2017)
 - Managing Transportation Impacts (Incorporating Parking Standards) (July 2018)
 - Planning for Health and Wellbeing (November 2017)
 - Planning Obligations (January 2017)
 - Waste Collection & Storage Facilities (October 2016).

6. INTERNAL CONSULTEE RESPONSES

6.1 The Operational Manager (Traffic and Transportation) advises as follows:

The updated Transport Statement ("220218 Transport Statement (Amended Nov 22)") has reflected the changes arising from the Section 73 application, including the relocation of most of the cycle storage into the new hub building that is to be provided on the Toys R Us site. Given the close proximity between the Velodrome and proposed Hub it is considered that the changes would not result in Transport concerns/impacts in comparison with the consented scheme. The amended plans demonstrate that 30 cycle stands (60 spaces) can be accommodated on-site for visitors and other users. The previous transport conditions should be re-imposed with any consent, plus an additional condition ensuring the hub facility (including necessary cycle storage provision) is available when the velodrome is operational.

6.2 The **Operational Manager (Waste Management)**: No objections subject to refuse storage and services conditions

7. EXTERNAL CONSULTEE RESPONSES

7.1 Natural Resources Wales: No objections

8. REPRESENTATIONS

8.1 The application was advertised on the Council Website and by way of, site notice. No letters of representations have been received to date,

9 **ANALYSIS**

9.1 The key material considerations in the determination of this application concern the extent to which the proposed changes are acceptable, having regard to the nature of the proposed development.

Land Use / Principle of Development

- 9.2 The principle of the use and design has already been agreed through the existing planning permission. The proposal for a smaller and simpler design while retaining the size of track approved is considered to be acceptable and would accord with the council's design policy.
- 9.3 As outlined in paragraph 3.3 above a number of the ground floor facilities e.g. gym, workshop will no longer be accommodated within the pavilion and there will also be fewer toilets and showers. The proposed ground floor plans still provide a level of provision to allow cyclists and spectators to use the facility. Provision for greater welfare facilities, that can be used by the users of the Velodrome, will be located a distance of approximately 10 metres away and will be available when the velodrome is built. A comparison between 'approved' and 'proposed' is shown on the two plans below.

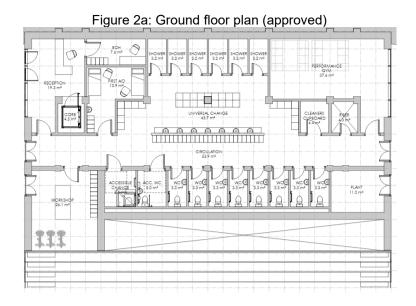
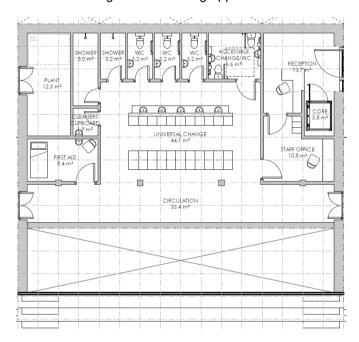


Figure 2b: Seeking approval

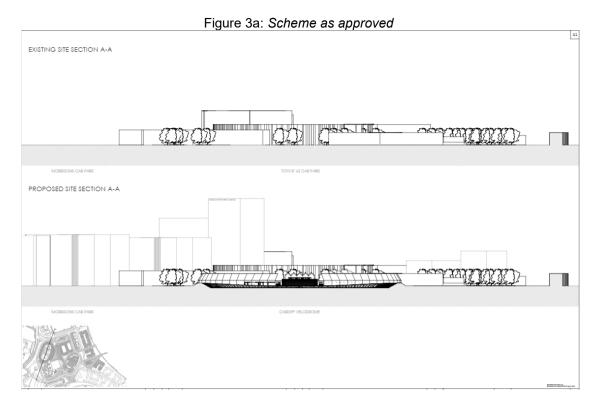


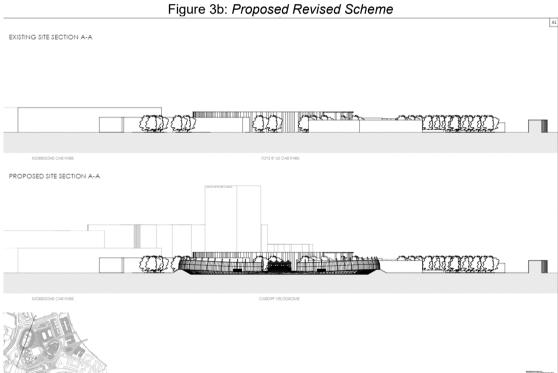
It is clear that whilst some facilities within the building will now be located elsewhere the track and the smaller pavilion building are still considered sufficient for the users. Those that are likely to be heavy users will still be able to use the containers on site for those pieces of equipment that need to be next to the track but will also benefit from the additional facilities that will be located just 10 metres away. In land use terms the proposal is still considered acceptable

Impact on the Character of the Area

9.4 As noted earlier, the Welsh Government publication <u>Building Better Places: The Planning System Delivering Resilient and Brighter Futures</u> 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.

- 9.5 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.
- 9.6 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.
- 9.7 The variations from the approved scheme are shown on figures 3a/3b and 4a/4b below and, as identified earlier, comprise the following:
 - Change to the wind break geometry (Elevation) a reduced height from 9m to 7m;
 - Change to the wind break geometry (Reduction of Perimeter in plan);
 - Change to the infield layout (Reduction in tarmac area);
 - Reduction in the building footprint (Ground and First Floor) (to 17m x 14m);
 - Removal of Architectural "Bay" from main building;
 - Reduction in overall building height from 10.56 metres to 9.2 metres;
 - Reduction in container storage from 6 to 2
 - Removal of the gabion basket screen to the public realm
- 9.8 The proposed scale, form, massing, design materials and colour palette has not materially altered from the approved scheme, and while there is a variation in the height of the building and wind break, the only noticeable difference is the loss of the gabion 'wings' that linked to the main building, however this is not considered to be significantly different to the approved scheme. The main Pavilion building retains its overall appearance and materials to that of the approved scheme but without the wings feature.
- 9.9 In terms of the wider views of the site, the proposed changes are considered to have a minimal impact from the consented scheme and thus are still considered to meet KP5 objectives of good design.





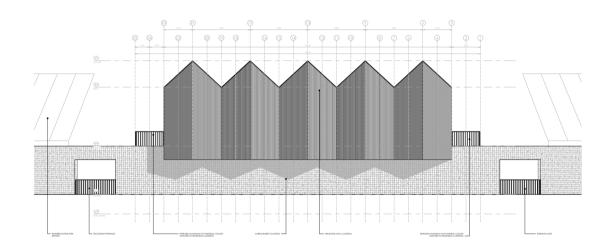
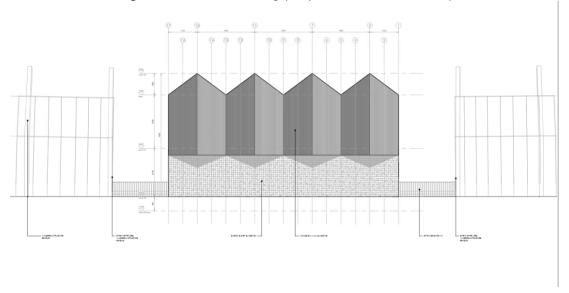
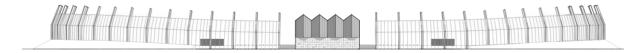




Figure 4b: Pavilion Building (Proposed Revised Scheme)





Transportation / Highway Impacts

- 9.10 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.
- 9.11 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;
 - Network Management measures to make best use of the available capacity, supported by targeted new infrastructure;
- 9.12 The updated Transport Statement (TS) has considered the relationship and the relocation of some facilities from the Pavilion building to the vacant Toys'R'Us building (noting that such use will require its own separate planning permission). These changes are minor and given the close relationship between the building, in terms of how people would visit the centre and the original assessment is still considered relevant to this application. For reference, these are the key findings from the TS:
 - The existing 250 car park spaces that served the former Toys'R'Us site will
 be lost, with the existing vehicular access to the site from Olympian Drive
 proposed to be closed (a separate stopping up order application will be
 submitted in later stage for closure of the highway access). The stopping up
 will be in place prior to the operational use of the Velodrome.
 - As part of the wider ISV proposals, it is anticipated that in the long term, vehicular access will potentially be modified to accommodate the future development aspirations. Therefore, the access arrangements for the Velodrome are sufficient to accommodate this use until the wider ISV proposals come forward which will need to consider the Velodrome as part of any future modifications to the highway network.
 - Changes will be required to the existing vehicular access and frontage /
 public realm directly in front of the velodrome, with the existing vehicular
 access redesigned as a drop off/pick up point onto Olympian Drive, and the
 area between the layby and the Velodrome being paved to allow pedestrian
 and cyclist access.

Although outside of the red line boundary, such land is in the control of the Council as applicant and therefore can be conditioned.

- There will not be any dedicated car parking provision for the Velodrome which is compliant with the Parking Standards however there are circa
 550 car parking spaces i.e. c.320 spaces in car park to the South (including
 22 disabled spaces) and c.230 spaces (13 disabled) in the car park to the
 rear of the pool nearby that would be available for Velodrome users.
- The TS therefore indicates that general use of the Velodrome can be absorbed into the existing car parks that are located within the International Sports Village (ISV). However, it is recognised that major events will require proper management of all available parking, which could include such events not conflicting with other major events in the ISV. An Events Management condition has been imposed to ensure that the assumptions made in the TS are delivered on site.
- The TS also states there will be significant levels of secure bike storage available on site, including for potentially resident Clubs (circa 300 bikes) and for hire for clubs/groups/individuals (200). There will also be 30 Sheffield Stands available on site which provide secure parking for 60 bikes (this is in line with the existing permission).
- The TS provides an assessment of potential trips generated to the site being between 20-45 riders hourly for general use and between 50-300 for regional/national events. It also breaks down anticipated day-to-day activity over 7 days a week, noting likely peak times (weekday evenings and weekend mornings.
- 9.13 It is noted that surrounding the site are shared pedestrian and cycle routes that link into the wider city network via Ferry Road then onto the city centre and Taff Trail (see Figure 5).
- 9.14 The TS also notes that the site is accessible from various bus stops in close proximity to the site that are serviced by various hourly services (Cardiff bus routes 5,7,9/9A, H95, X45 & NAT services 89A/89B 304). The site is also accessible from train stations (within reasonable walking distance), including Cogan Train Station (0.6 miles), which has a high frequency train services (circa every 15 minutes).
- 9.15 Having regard to the above, it is considered that the site is in a sustainable location, which accords with the wider Council aspirations to deliver a sustainable, accessible and inclusive leisure destination.

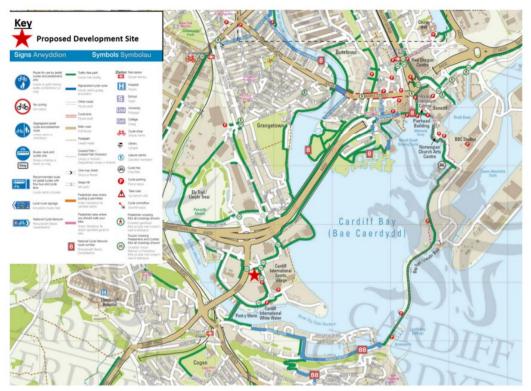


Figure 5: Cycling Infrastructure

- 9.16 The key difference between the approved and proposed schemes is the cycle provision and additional storage capacity which is addressed within the updated TS and can be summarised as follows:
 - The original scheme included container storage allocated for bike storage, predominantly for bikes that belong to Clubs and identified groups that would be used specifically on the new velodrome. The amount of space was initially calculated on the number of bikes that are required to be relocated from Maindy bike store (circa 300) based on each container accommodating between 44 and 50 bikes. In addition, allowances were made for other clubs and groups who had expressed a requirement to store bikes at the new site. In addition to bikes, there would also be a requirement to store other associated items, such as event and coaching equipment.
 - Relocating the majority of the storage allocation to the former Toys R Us building and retaining 2 storage containers on site allows adequate provision of storage of items that should be retained on site, whilst relocating the other items, including bikes. It is considered that this will not have a detrimental impact on the operational functionality of the facility, as the former Toys-R-Us building (edged in blue) is very close (circa 10m away) and is intended to become a centralised sports hub such that it will provide additional secure bike storage to service the Velodrome and the wider site, including more clubs, groups and individuals (and will be subject to a separate planning application).

- In respect of cycle parking on the velodrome site itself the amended plans illustrate a total of 30 cycle parking spaces (as per the previous scheme) which have been re-designed so that there is adequate manoeuvring space around them.
- 9.17 It is considered that the complimentary facilities are not required for the function of the Velodrome itself but are important for regular users and therefore whilst there is a commitment for these wider facilities to become available within the former Toys'R'Us building that will form part of the wider master plan (likely to be submitted to the Planning Department in early 2023) a *Grampian* condition has been imposed to ensure these facilities are delivered prior to the velodrome becoming operational. Whilst the Toys'R'Us building is not within the red line, it is on land that is under the ownership of the applicant (the council) and therefore can be conditioned. Such a condition is also not considered to undermine the likely master plan that will be put forward in 2023.

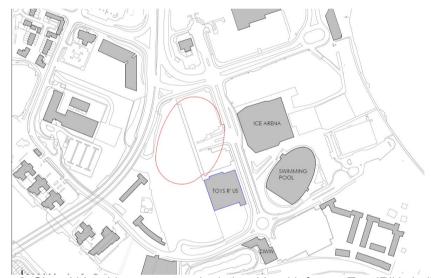


Figure 6: Site within wider context and relationship with former Toys'R'Us building

- 9.18 The Councils' Transportation section has considered the updated submission and the amended TS and raise no objection to the proposal subject to a number of conditions which seek design details of the car park, cycle storage and the new lay by.
- 9.19 While it is noted that no Electric Vehicle (EV) Spaces will be provided as part of the Velodrome site, provision for these will be addressed as part of the permanent parking provision under the masterplan for the wider CISV.
- 9.20 Accordingly, subject to conditions the proposal is considered to have no unacceptable impact on the highway network or highway safety in general.

Impact on Residential Amenity

9.21 The proposed Velodrome would be off set from the existing residential properties to the north west by an additional 2 metres, resulting in an overall separation of approximately 42 metres. These separation distance still ensures that the scale, massing and design would not result in an overbearing

- or unneighbourly form of development.
- 9.22 To ensure that the development does not create excessive noise, the previous conditions have been re-imposed on this application, to which noise colleagues and the previous planning committee agreed were acceptable. For reference these were to ensure the track will not be illuminated after 10pm.
- 9.23 In terms of noise, consideration has been given that during competition events there is likely to be a degree of noise, however the council's noise section is satisfied that the proposal would not result in excessive noise given its use, their experience of the existing Maindy facility (that is also located within a residential area), and the background road noise. However, to ensure an acceptable form of development a condition has been imposed requiring approval of an events management plan that will need to consider matters relating to operation of any PA system, a complaints procedure and light trial before first use of the facility. Given the location it is not considered reasonable to limit hours of operation, although a condition restricting use of floodlighting to 23:00 will in effect provide such control in the interests of protecting amenity.

Impact on Ecology

- 9.24 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 netbenefit), the resilience of ecosystems and green infrastructure should be demonstrated as part of development proposals.
- 9.25 LDP Policy EN 8 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
- 9.26 The application has been supplemented by a stage 1 ecological report dated December 2021 (ecological report remains valid for 2 years). The assessment includes a desktop and habitat survey of the site, which concludes that no protected habitat will be affected by the proposal and the proposal would not affect protected species.
- 9.27 However, the report notes that structure S1 and Building B1 (the Toy'R'Us building), and the seminatural woodland are suitable for bats and recommends that the lighting spill does not exceed 1 lux on these areas. This proposal, in terms of the lighting provision remains as approved therefore it is considered that the proposal would
- 9.28 NRW has considered the plans and raise no objection to the submission subject to conditions that the submitted lighting plan is conditioned along with a lighting plan during the construction phase to ensure the light spill does not exceed 1lux. Conditions have been recommended to address such matters.

Landscaping

9.29 The application has been supplemented by an Arboricultural Technical Note (desktop review) that concludes that the 2 young trees to be lost are category C (trees of low quality) and can be mitigated in the wider development. Whilst the concerns of the Tree Officer are noted it is considered that a landscaping condition which incorporates the wider site and a Tree protection plan to ensure the existing highways trees that front the Cogan spur are retained would overcome the Tree Officers concerns. It is considered that would ensure Future Wales, PPW and LDP Policy EN7 are met.

Sustainability / Energy

- 9.30 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.
- 9.31 Policy 17 Renewable and Low Carbon Energy and Associated Infrastructure outlines support for developing renewable and low carbon energy at all scales.
- 9.32 *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.
- 9.33 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.
- 9.34 The applicant, in their covering letter, suggest that a smaller new build and a potential use of the existing former Toys'R'Us store would reduce the carbon footprint of the development and the use of ground source heat pumps would meet the council's corporate 'one planet' objectives.

Economic Impact

9.35 PPW 11 places a duty on the LPA the need to improve the social economic of Wales' disadvantaged areas. Chapter 5 'Productive and Enterprising Places' covers the economic components of placemaking and states that "a more Equal Wales can be achieved through promoting sufficient employment and enterprise opportunities for people to realise their potential and by recognising and building on the existing economic strengths of places to assist in delivering prosperity for all."

- 9.36 PPW11 also recognises (in chapter 4) the need to "realise the potential of new sustainable transportation infrastructure to create new or renewed hubs of activity to support sustainable communities which capitalise on their location and the opportunities these present." TAN 23 (Economic Development) also states economic generation is a material consideration.
- 9.37 Whilst the proposal would provide limited employment opportunities it is considered that the Velodrome is a key component of the wider master plan which will create or retain employment within the area.

Drainage and Flooding

Flooding

- 9.38 Future Wales Policy (Policy 8), PPW, TAN15 and LDP Policy EN14 (Flood Risk) seek to direct highly vulnerable development (HVD) away from C1/C2 flood zones.
- 9.39 The site is sited within Flood zone 'B' as defined on the TAN15 DAM maps, and accordingly it is considered that the siting of the velodrome would not be at flood risk, and as a result the proposal accords with flood risk policies. Members should also note that no objection has been raised by Natural Resources Wales (NRW), who are a technical advisor to the LPA on flood risk.

Surface Water

9.40 Given the topography of the site TAN15 requires the consideration of surface water flooding. Surface water design is now considered through a technical approval through drainage colleagues acting as the SAB authority. The LPA understands that discussions are advanced in meeting the technical requirements of SAB and therefore there is no requirement for the planning system to duplicate that framework with planning conditions.

Overall Assessment - 'The Planning Balance'

- 9.41 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.
- 9.42 Paragraph 3.38 of PPW states that the countryside is a dynamic and multipurpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources. The need to conserve these attributes should be balanced against the economic, social and recreational

needs of the local communities and visitors.

- 9.43 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.
- 9.44 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.
- 9.45 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.
- 9.46 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.
- 9.47 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.
- 9.48 The proposed smaller club house and the offsetting additional facilities into the Toys'R'Us building are noted, along with the simpler design and form of the building. It is acknowledged that these changes have had an impact on cycle provision and the useability of the proposed 36 cycle spaces (up from the approved 30) but these concerns are matters that can be controlled through conditions to ensure that appropriate level of provision is provided.

- 9.49 It must also be noted that there is a fall-back position of the approved scheme, which is similar in design, form and use as that before committee.
- 9.50 It is also worth noting that the provision of a cycle facility within the Grangetown ward has the potential to provide health and active exercise to residents in the southern arc of the poorest wards within the city.

Section 106

- 9.51 The TS still advises that the proposed new lay by in front of the Velodrome will require parking restrictions. As the lay-by is located on the adopted highway any restrictions can only be enforced through a Traffic Order. The Traffic Orders are to be paid for by the applicant.
- 9.52 The council's Highways Officer has advised that the cost in issuing the order would be £15,000. The legal tests for when planning obligations can be used are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010. The tests are:
 - (i) necessary to make the development acceptable in planning terms;
 - (ii) directly related to the development;
 - (iii) fairly and reasonably related in scale and kind to the development.
- 9.53 LDP Policy KP7 (Planning Obligations) confirms that obligations will be sought to mitigate any impacts directly related to the development and will be assessed on a case-by-case basis. Accordingly, the financial contribution has been agreed with the applicant to mitigate the impacts of the proposed development.
- 9.54 Having regard to the legal and policy test outlined above, it is clear that the requested monies are necessary and reasonable to ensure that the proposal accords with planning policy. However a legal agreement under section 106 is not required in this case because this is a Council development, and therefore such matters will be addressed through internal procedures

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 proposal would seek to reuse a brownfield site for leisure use. A bigger velodrome has already been approved at this site and this proposal seeks alter the size of the approved building with complimentary facilities e.g gym being located within the former Toys'R'us building. It is considered that the proposed changes are not significant in terms of their impact or intent from the approved scheme and are considered acceptable.

10.3 Accordingly, the proposed amended development is still in accordance with Policies

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.
- 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 following conditions.

12.2 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 planning permission is issued.

12.3 CONDITIONS

That planning permission be **GRANTED** subject to the following conditions:

- 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. The development shall be carried out in accordance with the following approved plans and documents:
 - 3549-WSP-XX-XX-DR-E-600102 Rev P01- external lighting isolines drawing.
 - 3846-FBA-00-XX-DR-A-01_23 P1.1 existing and proposed site section DD
 - 3846-FBA-00-XX-DR-A-01_22 P1.1 existing and proposed site section C-C
 - 3846-FBA-00-XX-DR-A-01_54 Rev P1.1- Proposed long elevation;
 - 3549-WSP-ZZ-GF-DR-E-680101P01- Electrical services security & CCTV layout level 00;
 - 3846-FBA-00-XX-DR-A-01 80 Rev P01 wall detail 001;
 - 3846-FBA-00-XX-DR-A-01 30 rev P1.1 proposed long section;
 - 3846-FBA-00-XX-DR-A-01_31 Rev P1.1 proposed short section;
 - 3846-FBA-00-XX-DR-A-01_50 Rev P1.1 proposed building elevation north;
 - 3846-FBA-00-XX-DR-A-01_51 Rev P1.1 proposed building elevation south;
 - 3846-FBA-00-XX-DR-A-01 52 Rev P1.1 proposed building elevation east;

- 3846-FBA-00-XX-DR-A-01_53 Rev P1.1 proposed building elevation west;
- 3846-FBA-00-XX-DR-A-01001 Rev P1.1 proposed velodrome plan;
- 3846-FBA-00-XX-DR-A-01100 Rev P1.1 proposed first floor plan;
- 3846-FBA-00-XX-DR-A-01 05 Rev P1.1 proposed site plan.
- 3846-FBA-00-XX-DR-A-01 01 Rev P1.1 Site Location Plan.
- 3846-FBA-00-XX-DR-A-01 02 Rev P1.1 Site Location Plan.
- 3846-FBA-00-XX-DR-A-01_03 Application Area.
- 3846-FBA-00-XX-DR-A-01 04 Existing Site Plan.
- 3846-FBA-00-XX-DR-A-01 81 Wall Detail 002
- 3846-FBA-00-XX-DR-A-01_82 Wall Detail 003. 3846-FBA-00-XX-DR-A-01_83 Roof Pitch Detail
- 3846-FBA-00-XX-DR-A-01000 Rev P1.3 Proposed Ground Floor Plan.
- 3846-FBA-00-XX-DR-A-01002 Rev P1.3 Proposed Secure Public Bike Storage.

Documents

Transport Statement (Amended Nov 22) received 30/11/2022 Preliminary Ecological Appraisal (WSP) project no. 70083549 our ref. no. pea v2 date: December 2021;

Pre-Application Consultation Report project no. 70083549: December 2021

Reason: For the avoidance of doubt as to the extent of the permission.

- 3. Prior to the commencement of any site clearance, construction works or development a Construction Environmental and 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:
 - (a) an implementation programme for the construction of the roads, footpaths and other publicly accessible areas;
 - (b) details of Construction Traffic Management, which shall include identification of the routes that construction vehicles would take and measures to regulate the routing of construction traffic; times within which traffic will enter and leave the site; times of deliveries, site access, loading and unloading of plant and materials; access within the site including measures to ensure safe and convenient pedestrian, cycle and vehicular access through those areas not under construction or where construction is complete; wheel washing facilities; and details of parking for contractors vehicles, site operatives and visitors;
 - (c) details of the storage of plant and materials, construction compounds, any temporary facilities for construction;
 - (d) details of site hoardings (including the erection, maintenance, security and any decorative displays):

- (e) details of restrictions to be applied during construction including timing, duration and frequency of works and measures to control light spill and monitor and supress the emission of dust, dirt, vibration and noise during construction:
- (f) details of site waste management for the recycling and/or disposal of all waste resulting from construction works;
- (g) a Construction Drainage Scheme indicating how surface water and land drainage flows will be controlled to prevent contamination, nuisance, subsidence or flooding to land, buildings, watercourses or adjacent highways during the construction period;
- (h) details of fuel and chemical storage and containment including buffer zones; details of waste generation and its management; details of water consumption, wastewater and energy use;
- (i) demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan with particular attention paid to silt mitigation measures.
- (j) invasive species management, species and habitats protection, avoidance and mitigation measures (including a detailed lighting plan showing type and siting of lighting and light spill reduction measures, warning signs and site toolbox talks to ensure all key habitat retention and sensitive areas are protected and remain unaffected by construction works);
- (k) details of topsoil strip, storage and amelioration for re-use.
- (I) Landscape and Ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.
- (m) List of on-site contacts and their responsibilities.
- (n) The development shall be carried out in accordance with the approved plan.

Reason: In the interests of highway safety, and protection of the environment and public amenity in accordance with Local Development Plan Policies T5 (Managing Transport Impacts), T6 (Impact on Transport Networks and Services), EN7 (Priority Habitats and Species), EN10 (Water Sensitive Design), and EN13 (Air, Noise, Light Pollution and Land Contamination).

4. Prior to the first beneficial use of the velodrome, secure/covered cycle parking and appropriate access to such spaces, shall have been provided on site in full accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking spaces shall be retained / maintained and shall not be used for any other purpose.

Reason: To ensure that adequate provision is made for the sheltered and secure parking of cycles in accordance with Local Development Plan Policies KP8 (Sustainable Transport), T1 (Walking and Cycling) and T5 (Managing Transport Impacts).

5. Prior to the beneficial use of the Velodrome hereby approved an update active travel plan shall be submitted to and approved in writing with the Local Planning Authority. The active travel plan shall include, but not limited to, the submission of a named active travel co-ordinator and their contact details, monitoring of active travel modes that shall be submitted yearly along with a strategy to

promote the use of sustainable transport.

Reason: to ensure a sustainable form of development in accordance with Policies T1, T2 and T5 of the adopted Cardiff Local Development Plan (2006-2026)

6. The velodrome hereby approved shall not be brought into beneficial use until such time as additional storage and cycle storage provision has been provided within the former Toys'R'Us building (identified in blue on plan reference 3846-FBA-00-XX-DR-A-01_01 Rev P1.1) in accordance with a schedule of facilities that shall first have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition prior to development commencing. The velodrome shall thereafter only operate while such approved additional storage and cycle storage provision is available to serve the development, unless alternative provision has subsequently been approved

Reason: To ensure an acceptable form of development in accordance with Polices KP5 (Good Design) and T1 (Walking and Cycling) of the adopted Cardiff Local Development Plan (2006-2026)

- 7. Prior to the beneficial use of the Velodrome hereby approved details of the refuse provision and collection shall be submitted to and approved in writing with the Local Planning Authority. The approved details shall be implemented on site and thereafter to retained.
 - Reason: To ensure a satisfactory refuse provision in accordance with Policies KP5 (Good Design) and W2 (Provision of Waste facilities in Development) of the adopted Cardiff Local Development Plan (2006-2026)
- 8. No development shall take place until details of the proposed highway and pedestrian/ cycleway works have been submitted to and approved in writing by the Local Planning Authority, to include:
 - (a) details of the existing junction to be closed (including impacts/changes for the traffic and pedestrian signals);
 - (b) the new lay-by for drop off and servicing use;
 - (c) parking restrictions/traffic orders;
 - (d) footway and cycleway amendments/ improvements;
 - (e) adopted highway implications;
 - (f) swept path assessment: and
 - (g) footway/public realm improvements between Olympian Drive and the Velodrome entrances.

Following approval of these details the highway authority shall be contacted in relation to the required highway agreement process. The velodrome shall not be brought into beneficial use until such time as the approved details have been implemented on site.

Reason: To ensure that the use of the proposed development does not interfere with the safety of traffic or pedestrian/cycle accessibility in accordance with policies T1 (walking and cycling) & T5 of the adopted Cardiff Local Development Plan (2006-2026).

9. No development shall take place until details of the finished floor levels of velodrome in relation to the existing ground level and the finished levels of the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and completed in accordance with the approved details.

Reason: To ensure an orderly form of development in accordance with Local Development Plan Policy KP5 (Good Quality and Sustainable Design).

- 10. No development shall take place until the following have been submitted to and approved in writing by the Local Planning Authority (LPA) in accordance with the current British Standard 5837:
 - (a) An Arboricultural Method Statement (AMS) detailing the methods to be used to prevent loss of or damage to retained trees within and bounding the site, and existing structural planting or areas designated for new structural planting. The AMS shall include details of site monitoring of tree protection and tree condition by a qualified arboriculturist, undertaken throughout the development and after its completion, to monitor tree condition. This shall include the preparation of a chronological programme for site monitoring and production of site reports, to be submitted to the Local Planning Authority to demonstrate how the approved tree protection measures have been complied with.
 - (b) A Tree Protection Plan (TPP) in the form of a scale drawing showing the finalised layout and the tree and landscaping protection methods detailed in the AMS that can be shown graphically.

The development shall be carried out in full conformity with the approved AMS and TPP.

Reason: To enable the Local Planning Authority to assess the effects of the proposals on existing trees, the measures for their protection, to monitor compliance and to make good losses, in accordance with Local Development Plan Policy EN8 (Trees, Woodlands, and Hedgerows).

- 11. No above ground development shall take place until full details of soft landscaping have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - (a) A soft landscaping implementation programme.
 - (b) Scaled planting plans prepared by a qualified landscape architect.
 - (c) Evidence to demonstrate that existing and proposed services, lighting, CCTV, drainage and visibility splays will not conflict with proposed planting.
 - (d) Schedules of plant species, sizes, numbers and densities prepared by a qualified landscape architect including a strategy for the removal and replacement of retained ash that may succumb to ash die-back disease.
 - (e) Scaled tree pit sectional and plan drawings prepared by a qualified landscape architect that show the Root Available Soil Volume (RASV) for each tree.

- (f) 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 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, a soil scientists interpretive report demonstrating that the planting soil not only meets British Standards, but is suitable for the specific landscape type(s) proposed. The specification shall be supported by a methodology for storage, handling, amelioration and placement.
- (g) Planting methodology and post-planting aftercare methodology prepared by a qualified landscape architect, including full details of how the landscape architect will oversee landscaping implementation and report to the LPA to confirm compliance with the approved plans and specifications.

The landscaping shall be carried out in accordance with the approved design and implementation programme.

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

12. Any newly planted trees, plants, or hedgerows which within a period of five years from the completion of the development die, are removed, become seriously damaged or diseased, or become (in the opinion of the Local Planning Authority) otherwise defective, shall be replaced during the first available planting season, to the same specification approved in discharge of condition 10.

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

13. Prior to the commencement of development, a Scheme of Ecological Enhancement Measures and a Detailed Implementation Timetable shall be submitted to and approved by the Local Planning Authority. The Ecological Enhancement Measures shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.

Reason: To provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales.

14. Prior to the commencement of any development works a scheme to investigate and monitor the site for the presence of gases* being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to the Local Planning Authority for its approval.

Following completion of the approved monitoring scheme, the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved

in writing to the LPA. If no protection measures are required than no further actions will be required.

All required gas protection measures shall be installed and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the Local Planning Authority agrees in writing that the measures are no longer required.

 'Gases' include landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas Monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 and BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

Reason: To ensure that the safety of future occupiers is not prejudiced.

- 15. Prior to the commencement of the development an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. This assessment must 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:
 - (i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
 - (ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
 - (iii) 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)
 - (iv) 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 must 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 the Local Planning Authority agrees to any variation.

* 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.

16. Prior to the commencement of the development 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 must 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 must 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 the Local Planning Authority agrees to any variation.

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 policy EN13 of the Cardiff Local Development Plan.

17. The remediation scheme approved by condition 12 must be fully undertaken in accordance with its terms prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of

the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition must 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 the Local Planning Authority agrees to any variation.

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 policy EN13 of the Cardiff Local Development Plan.

18. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA 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 policy EN13 of the Cardiff Local Development Plan.

19. Any site won or imported 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 by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the adopted Cardiff Local Development Plan(2006-2026).

20. No development shall take place until a scheme for the drainage of the site and any connection to the existing drainage system has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the scheme is carried out and completed as approved.

Reason: To ensure an orderly form of development in accordance with policy EN10 of the adopted Cardiff Local Development Plan(2006-2026).

21. Prior to their use on site, samples of external finishing materials to the walls, the roofs of the main stand and public realm 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).

22. Prior to the first beneficial use of the Velodrome, details of all security measures (which shall include but not be limited to: location of external CCTV and its recording/retention period, bollards) shall have been submitted to and approved in writing with the Local Planning Authority. The velodrome shall thereafter operate in accordance with such approved details.

Reason: To ensure a safe secure form of development in accordance with policy C3 (Community safety/creating safe spaces) of the adopted Cardiff Local Development Plan(2006-2026).

23. Prior to the first beneficial use of the Velodrome, an Events and Car Parking Strategy Management Plan (ECPSMP) shall be submitted to and approved in writing with the Local Planning Authority. The details shall include but not limited to: the proposed public announcement system (including proposed noise levels), number of major events (and how these will be scheduled with other events within the Sports Village) and their timings, details of nearby car parks and parking area that will be used, how the proposed central hub within the former Toys'R'Us building will be used and contact details of a named person for complaints, together with appropriate monitoring arrangements and review mechanisms. All measures contained within the ECPSMP shall be implemented on site, and thereafter all events at the site shall be run in accordance with the approved Plan.

Reason: To ensure a neighbourly form of development which has no unacceptable impact also on highway safety, in accordance with policies EN 13 (Air, noise and light pollution), T5 of the adopted Cardiff Local Development Plan(2006-2026).

24. The floodlighting hereby approved shall not be operational during the hours 22:00- 08:00.

Reason: To ensure the amenities of adjoining neighbours in accordance with policies EN 13 (Air, noise and light pollution), T5 of the adopted Cardiff Local Development Plan (2006-2026).

25 Prior to their application a public art strategy shall be submitted to and approved in writing with the Local Planning Authority, which shall include the design of the people/symbols or other design on the proposed windshield to the Velodrome hereby approved.

Reason: To ensure the proposed artwork harmonises with the character of the area in accordance with Policy KP5 of the adopted Cardiff Local Development Plan(2006-2026).

INFORMATIVES:

INFORMATIVE 1: The applicant is reminded that during the works an arboriculturist and ecologist are on site before, during and after the whole works and provide a report to the Local Planning Authority to demonstrate compliance with the approved details.

INFORMATIVE 2: 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. The applicant is also advised to seek approval for any proposed piling operations.

INFORMATIVE 3: 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

- (i) determining the extent and effects of such constraints and;
- (ii) 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
- (iii) 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.

INFORMATIVE 4: Since January 7th 2019, all new developments of more than 1 house, or where the construction area is 100 square metres or more, require sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by the Welsh Ministers. These systems must be approved by the local authority acting in its SuDS Approving Body (SAB) role before construction work begins. The SAB will have a duty to adopt compliant systems so long as they are built and function in accordance with the approved proposals, including any SAB conditions of approval. It is recommended that the developer engage in consultation with the Cardiff Council SAB team as the determining SuDS Approval Body (SAB) in relation to their proposals for SuDS features. To arrange discussion regarding this please contact SAB@cardiff.gov.uk.

INFORMATIVE 5: The applicant is advised that section 3.25 of Planning Policy Wales states that the land use planning system should take account of the conditions which are essential to the Welsh language and in so doing contribute to its use and the Thriving Welsh Language well-being goal. In this context and with regard to the Welsh Language (Wales) Measure 2011, it is recommended that: (1) developments adopt a Welsh name that is consistent with the local heritage and history of the area, including street naming, (2) during the construction phase, on site marketing information (i.e. text on construction hoardings / flags / banners – as consented) be provided bilingually and (3) for commercial developments, shopfront / premises signage be provided in Welsh or bilingually. Where bilingual signage is provided, Welsh text must not be treated less favourably in terms of size, colour, font, prominence, position or location (it is recognised that Welsh translation does not extend to company / business names). Cardiff Council's Bilingual Cardiff team (BilingualCardiff@cardiff.gov.uk) can provide advice on unique and locally appropriate Welsh names for developments, bilingual marketing / branding and bilingual signage.

INFORMATIVE 6: Prior to the commencement of development, the developer shall notify the Local Planning Authority of the commencement of development, and shall display a site notice and plan on, or near the site, in accordance with the requirements of Article 12 of the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

INFORMATIVE 7: The developer should contact the Local Highway Authority with regards to proposed works to the public highway as these works will be subject to a Highways Agreement between the developer and Local Highway Authority.



COMMITTEE DATE: 08/12/2022

APPLICATION No. 21/02138/MJR APPLICATION DATE: 02/09/2021

ED: SPLOTT/RUMNEY

APP: TYPE: FULL

APPLICANT: County Council of the City and County of Cardiff

LOCATION: Cardiff Coastal Flood Defences. The Severn Estuary

Coastline and East and West Banks of the River Rhymney,

Cardiff

PROPOSAL: The Construction of a Series of Fluvial and Coastal Flood

Defences along the Severn Estuary Coastline and East and West Banks of the River Rhymney, to include Rock Armour Revetments, Concrete Erosion Protection Mats, Earth Bunds, a Double Flood Gate (at the Rhymney River Motor Boat Sail &

Angling Club) and Sheet Piling

RECOMMENDATION 1:

That planning permission be **GRANTED** subject to 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. BACKGROUND INFORMATION

1.1 This application is reported to Committee as it comprises 'major' development proposed by the Council. It is also of general public interest.

2. DESCRIPTION OF THE SITE AND AREA

2.1 The application site comprises 10.07Ha of land on both banks of the River Rhymney from where the A4232 crosses the river down to the confluence between the river and the Severn Estuary, and extending along the Severn Estuary coastline, east and west from the River Rhymney. This area includes the eastern extent of the Lamby Way landfill site to the northeast and the Rover

Way Traveller Site and Dwr Cymru Welsh Water (DCWW) Cardiff East Waste Water Treatment Works (WWTW) to the southwest (see Figure 1 for application site boundary).

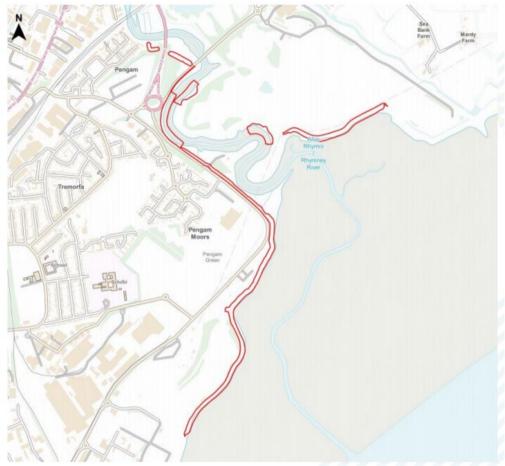


Figure 1: Site Location Plan

- 2.2 To the west of the Rhymney River, landward of Rover Way, land use is a mix of open, residential, commercial and industrial land. Rover Way itself runs parallel to the coastline and along the eastern bank of the river.
- 2.3 Along the coastline, west of Rover Way, the Celsa steelworks plant is situated with the adjacent area being used for storage of the waste generated by the plant. On the opposite side of Rover Way, the Cardiff Motocross centre operates on the land while further south along the road is DCWW Cardiff East WWTW.
- 2.4 To the east of the river Rhymney, Lamby Way landfill extends along the eastern bank of the river and is bounded by Lamby Way road to the north.
- 2.5 The Rhymney River Motor Boat, Sail & Angling Club is located on a narrow bankside area on a large meander of the river close to its confluence with the Severn Estuary, with extensive areas of saltmarsh habitat located on bankside areas immediately downstream, which provide high-tide roosting for a large number of wintering birds.

2.6 The Rhymney River flows along a wide, meandering course from the mainline railway line southwards to its confluence with the Severn Estuary. The channel is approximately 80m wide and contains extensive inter-tidal mudflats exposed at low tide. The Severn Estuary in this area contains a wide, shallow foreshore area, comprising extensive areas of inter-tidal mudflat and smaller areas of fringing saltmarsh habitat. Along the foreshore west of the river, immediately adjacent to higher ground, is a wide area of rocky rubble material, including remnants of building waste (e.g. bricks, slabs, concrete, rebar, etc) that is likely to have been eroded from the Frag Tip. To the east of the river, a rocky substrate is again present in the foreshore area adjacent to higher ground and includes the remnants of earlier rock revetment defences that have failed and eroded.

3. <u>DESCRIPTION OF DEVELOPMENT</u>

Background to the Project

- 3.1 The Rhymney River is a designated Site of Importance for Nature Conservation (SINC) and is one of the main rivers that runs through Cardiff, South Wales, starting in a Hamlet called Rhymney, located just south of the Brecon Beacons National Park. When it reaches Cardiff, it flows along a wide, meandering course towards its confluence with the Severn Estuary. The Severn Estuary is one of the largest estuaries in Britain located between South Wales and South West England. It is protected by UK legislation and is a designated Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site, and also as a Site of Special Scientific Interest (SSSI) for a range of habitats and species.
- 3.2 In the past, flood defences were built along the Severn Estuary and part-way up the River Rhymney. These defences were composed of rock armour revetments, a sheet-pile wall, earth embankments, and blockstone defences. Today, these defences are severely eroded from tidal and fluvial forces and in some sections are completely lost. The remaining defences are at significant risk of failure in the near future and no longer provide flood protection especially with sea level rise predictions.
- 3.3 The defences along the Severn Estuary coastline to the west of Rhymney River are in very poor condition with erosion occurring at a rapid rate. This is causing landfill material to be deposited into the Severn Estuary from the disused Frag Tip and the Travellers site to be at risk of disappearance. Along the river bank, sea level rise is predicted to cause overtopping of the existing defences causing increased flood risk to properties and key infrastructure. In addition, the Lamby Way roundabout and Rover Way are at risk of being undermined and lost to erosion within 20 years. The defences along the east bank of the river and along the coastline to the east of the Rhymney River are also at risk of erosion. It is predicted that erosion will increase and impact upon the disused Lamby Way Landfill within 20 years, causing landfill material to be released into the Severn Estuary if preventative works are not undertaken. Due to the land elevations being higher on this side of the river, flood risk will be limited however, the risk of erosion is up to 50m along the coast within 20 years, and 270m by 2117

The Proposals

- 3.4 Detailed planning permission is sought for the construction of a series of fluvial and coastal flood defences along the Severn Estuary coastline and east and west banks of the River Rhymney, to include rock armour revetments, concrete erosion protection mats, earth bunds, a double flood gate (at the Rhymney River Motor Boat Sail & Angling Club) and sheet piling. The project is being taken forward by Cardiff Council with support from Welsh Government.
- 3.5 The proposed scheme is to improve and extend coastal and fluvial defences along the coastline between the Dwr Cymru Welsh Water (DCWW) Cardiff East Waste Water Treatment Works (WWTW) to the west and the eastern extent of the Lamby Way landfill site to the east. It is anticipated that the project will prevent breaches of the existing defences, reducing erosion and flooding of critical transport, waste management, and energy infrastructure located immediately landward of the scheme, and of extensive residential and commercial areas in the surrounding hinterland.
- 3.6 The proposed development is anticipated to manage flood risk to 2,326 residential and 204 non-residential properties for over 100 years, as well as preventing erosion of landfill material, key road/rail infrastructure, and the Rover Way Traveller Site.
- 3.7 The proposals comprise of the construction of new embankments, raising of existing embankments, installation of sheet piling, and installation of scour protection. Rock armour revetement is proposed at Locations 11 and 12 on the coast. Improvements to earth embankments are proposed at Locations 22,42 and 52. Hybrid erosion protection (including elements of bio-engineering along with concrete erosion protection) is proposed in the remaining locations Locations 21, 31 and 32.
- 3.8 Due to the size of the project the scheme has been split into sections 1 to 5 (see *Figure 2*) with the works to each section detailed below (see section 3.2 of the Planning, Design and Access Statement).

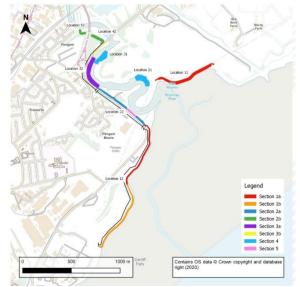


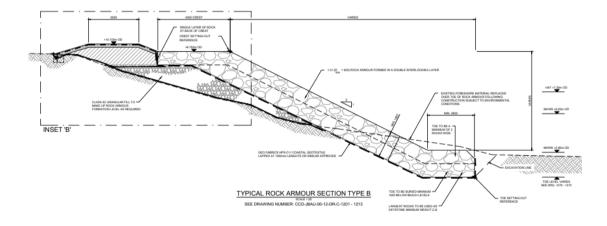
Figure 2: Location and scheme section plan

Section 1a/Locations 11 & 12: Severn Estuary coastline east and west of the confluence with the Rhymney River

3.9 These areas are generally natural coastline, although there is a short length of existing defence. The design cross-section includes a rock armour revetment on the foreshore area with an (imported) clay bund behind. To the east of the Rhymney, the bund is at approximately the same level of the existing ground, with rising levels behind. To the west of the Rhymney, the bund is at a higher level than existing, approximately 500mm above the rock crest. The bund will be covered in seeded topsoil and will double as pedestrian access.

Section 1b/Location 12: Severn Estuary coastline west of the confluence with the Rhymney River

3.10 This area is generally a natural coastline, although there is exposed manmade materials on the shallow cliff behind the beach. The design cross-section includes a rock armour revetment set forward on the foreshore area with an (imported) fill material slope behind. The slope behind the new rock revetment slackens the existing slope and ties into existing ground levels with a termination detail. Earthworks will be required to construct both the rock armour and slope behind, requiring granular fill material import. Additionally, various geotextiles and a turf reinforcement mat are included in the structure build-up.



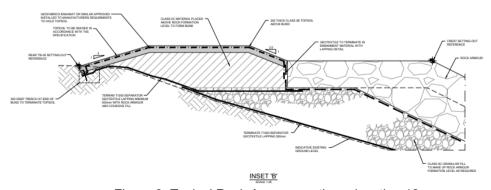


Figure 3: Typical Rock Armour section – location 12

Section 2a/Location 22: Segment of the west bank of the Rhymney River from its confluence with the Severn Estuary northwards to the southern approach to the Rover Way/A4232/Lamby Way roundabout

3.11 The proposed defence raises the existing bund (where present) to the required level, continuing the existing bund slope face adjacent to Rover Way up to the new crest level. The flood defence will be achieved using imported clay fill with a seeded topsoil finish. The crest of the embankment will provide pedestrian access alongside the Rhymney River. The frontage includes a double flood gate installed within a concrete housing structure to provide access to the Rhymney River Motor Boat Sail & Angling Club.

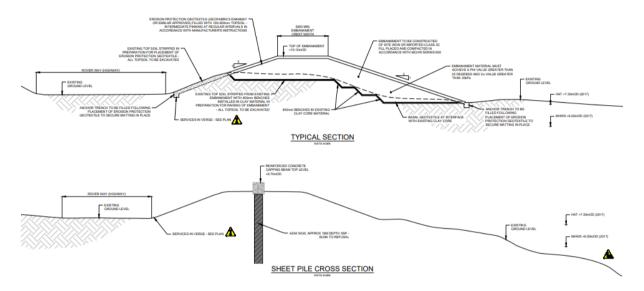


Figure 4: Earth embankment - location 22

Section 2b Locations 42 & 52: West bank of the Rhymney River from the Lamby Way road bridge, northwards to Page Drive

3.12 The proposed defence raises the existing bund (where present) to the required level, generally following the centreline of the existing where this is simply achieved. The flood defence will be achieved using imported clay fill with a seeded topsoil finish.

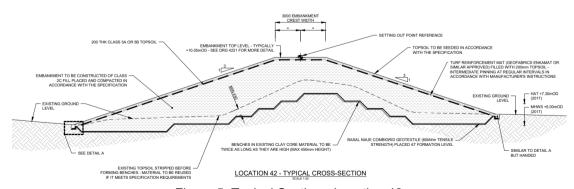


Figure 5: Typical Section - Location 42

Section 3a/Location 32: West bank of the Rhymney River, from the southern approach of Rover Way up to Rover Way/A4232/Lamby Way roundabout.

The design proposes concrete erosion protection mats installed on the 3.13 riverbank, their toes secured by backfilling with rock armour units. On the lower portion of the bank, the mats will be exposed on the surface of the bank as required to manage scour action. The design proposes that at a suitable level, the erosion mats cut back into the bank and continue up under a depth of natural mud material. The risk of erosion of this mud layer is reduced, but over the service life there is the possibility that the erosion protection beneath may become exposed. At the transition point between buried and exposed erosion mats, wooden stakes and brushwood is proposed to facilitate establishment of the mud layer. To construct the rock revetment, earthworks will be required to shape formation level. As part of this, some granular fill material import will be required. Additionally, various geotextiles and a turf reinforcement mat are included in the structure build-up. At the top of the bank, a sheet piled flood defence is proposed completed with concrete capping beam. This will provide to the flood defence level.

Section 3b/Location 32: West bank of the Rhymney River, from the Rover Way/A4232/Lamby Way roundabout, northwards to the Lamby Way road bridge

3.14 This section is generally a natural riverbank alongside Lamby Way. There are signs that this area is currently accreting and so no erosion protection is proposed. At the top of the bank, a sheet piled flood defence is proposed completed with concrete capping beam. This will provide to the flood defence level.

Section 4/Locations 21 & 31: Segments of the East bank of the River Rhymney at the Lamby Way road bridge and the large meander opposite the Rhymney River boat club

3.15 This section is generally a natural riverbank adjacent to a historic landfill. There are signs of active erosion. The design proposes that concrete erosion protection mats are installed on the riverbank, their toes buried into the riverbed below the low water line and secured by backfilling with rock armour units. On the lower portion of the bank, the mats will be exposed on the surface of the bank as required to manage scour action. The design proposes that at a suitable level, the erosion mats cut back into the bank and continue up under a depth of natural mud material. The risk of erosion of this mud layer is reduced, but over the service life there is the possibility that the erosion protection beneath may become exposed. At the transition point between buried and exposed erosion mats, wooden stakes and brushwood is proposed to facilitate establishment of the mud layer.

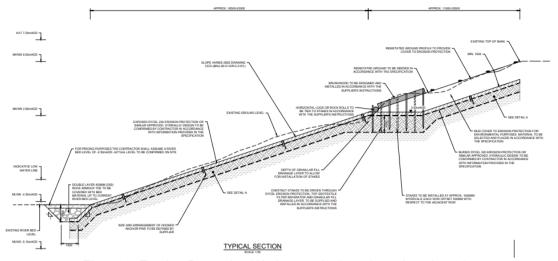


Figure 6: Erosion Protection Works – typical section – location 21

Section 5/Location 22: Segment of the west bank of the Rhymney River at the meander adjacent to Rover Way.

- 3.16 This section comprises an existing earth bund that is located between Rover Way and the Rhymney River channel. The proposed defence is a steel sheet pile wall complete with concrete capping beam. The sheet pile provides more resilience to erosion than a flood embankment in this location due to the restricted space between the highway and river channel
- 3.17 Construction is programmed to take approximately 18 months to 2 years to complete.
- 3.18 Three construction access points for all vehicles to the coast and riverside will be needed:
 - West of Rhymney River via Rover Way initially and then via an existing access point onto the Frag Tip/motocross track to the west of the Traveller's site.
 - East of Rhymney River via Lamby Way or by turning off onto the existing vehicular entrance to Lamby Way Landfill. The construction vehicles will then access the river sections and Severn Estuary coastline via an existing vehicular access track across the landfill.
 - North of Lamby Way via road bridge, vehicles will enter via a new access created off Lamby Way or via an existing vehicular route through the StarGarAllot Community Garden (Pengam allotments).

Marine Licensing

3.19 The Project overlaps between two consenting main regimes, with a marine licence - administered by Natural Resources Wales acting on behalf of the Licensing Authority (Welsh Ministers) - also required under the Marine and Coastal Access Act 2009

3.20 The Marine License was issued on 7th July 2022 as follows: -

Marine License
Marne License Regulatory Decision (report)

Supporting Information

- 3.21 Cardiff Council provided their EIA screening and scoping response on the 16th April 2021, confirming that as flood relief works the proposed development falls within Schedule 2, Paragraph 10(h) of the Town and Country Planning EIA Regulations. Having considered the characteristics of the development, its location and potential impact it was concluded that the proposals would require statutory EIA.
- 3.22 The application has thus been identified as an EIA application as defined by the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, ('the EIA Regulations') and an Environmental Statement (ES) has been provided. The EIA process aims to ensure that any significant effects arising from a development are systematically identified, assessed and presented to help local planning authorities in determining planning applications. If measures are required to minimise or reduce effects then these are clearly identified.
- 3.23 The development proposals also require (and have obtained) consent under the Marine & Coastal Access Act 2009, and therefore also fall within the requirements of the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended).
- 3.24 The submitted Environmental Statement (comprising non-technical summary, main text and technical appendices) has identified 'the baseline conditions', and assessed the potential effects of the development, in relation to:
 - Geomorphology and Coastal Processes
 - Biodiversity and Nature Conservation
 - Landscape and Visual Impact
 - Historic Environment
 - Climate Change
 - Cumulative / Residual Effects
- 3.25 An ES Addendum (June 2022) has also been submitted which contained further information relating to:
 - Biodiversity and Nature Conservation
 - Land Contamination
 - Flood Risk
- 3.26 The assessment below has had regard to all environmental information submitted within the ES (and addendum) along with the comments of statutory consultees on the information supplied, and the comments, observations and

- representations provided by members of the public have been taken into consideration in the recommendation.
- 3.27 All documentation relating to the application, including plans, can be viewed on the Council's website using the following link: 21/02138/MJR
- 4. PLANNING HISTORY
- 4.1 The site has no relevant planning history.
- 5. POLICY FRAMEWORK

National Policy

- 5.1 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'.
- 5.2 '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.
- 5.3 '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.
- 5.4 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
- 5.5 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".
- 5.6 The **Welsh National Marine Plan (2019)** is directly informed by High Level Marine Objectives set out in the **Marine Policy Statement (2011).** These objectives align with the Welsh Government's Well-being Goals and principles for sustainable development and the direction provided in the EU Directive on Marine Spatial Planning 89/2014.

- 5.7 The plan objectives of particular relevance to the scheme include:
 - Plan Objective 7: Support enjoyment and stewardship of our coasts and seas and their resources by encouraging equitable and safe access to a resilient marine environment, whilst protecting and promoting valuable landscapes, seascapes and historic assets.
 - Plan Objective 8: Improve understanding and enable action supporting climate change adaptation and mitigation.
 - Plan Objective 9: Support the achievement and maintenance of Good Environmental Status and Good Ecological Status.
 - Plan Objective 10: Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Plan Objective 11: Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
- The National Strategy for Flood and Coastal Erosion Risk Management in Wales sets out a framework to help communities, the public sector and other organisations work together to manage flood and coastal erosion risk. It supports local decision-making and engagement in flood and coastal erosion risk management, making sure that risks are managed in a co-ordinated way across Wales. This includes the development of Local Flood Risk Management Strategies by Local Flood Authorities.
- 5.9 The National Strategy sets out four main objectives for managing flood and coastal erosion risk:
 - Reducing the consequences for individuals, communities, businesses and the environment from flooding and coastal erosion;
 - Raising awareness of and engaging people in flood and coastal erosion risk:
 - Providing an effective and sustained response to flood and coastal events; and
 - Prioritising investment in the most at-risk communities
- 5.10 The Welsh Minister's Written Statement Flood and Coastal Erosion Risk Management Programme for 2020-2021 identifies the unprecedent changes as a result of COVID-19 but emphasises that it is crucial that flood and coast risk is continued to be managed. The flooding Wales suffered during February 2020 was the worst in a generation and brought into sharp focus the importance of our flood and coastal risk management programme in protecting lives, homes and businesses. In addition to announcing the Government's flood and coastal risk management programme for 2020-21, it states there will be additional support to Local Authorities and Natural Resources Wales and that the programme will bring forward more flood defence projects and develop a stronger pipeline of future schemes while increasing grant support for scheme preparation, coastal works and natural flood management.

National Planning Policy

- 5.11 <u>Planning Policy Wales</u> (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, <u>Future Wales the National Plan 2040</u> (see below) and to deliver the vision for Wales that is set out therein.
- 5.12 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.
- 5.13 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.
- 5.14 Section 6.5 of PPW sets out the main principles for coastal places to reflect the principles of Integrated Coastal Zone Management. These principles are 'to support urban and rural development, whilst at the same time being aware of, and appropriately responsive to, the challenges resulting from the dynamic interaction of natural and development pressures in coastal areas.'
- 5.15 Section 6.6 of PPW deals with Water and Flood Risk and identifies that Government resources for flood and coastal defences are directed at protecting existing developments and are not available to provide defences in anticipation of future development. New or improved flood defences in coastal and/or riverside locations should be carefully planned, ensuring all potential environmental effects, both on and off-shore, and relevant SMP policies are taken into account. Flood defence works can provide opportunities to achieve wider social, economic and environmental benefits, which should be maximised where possible.

Technical Advice Notes

- 5.16 PPW is supported by a series of more detailed <u>Technical Advice Notes</u> (TANs), of which the following are of relevance: -
 - 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 13: Noise (1997)
 - TAN 14 Coastal Planning

- TAN 15: Development and Flood Risk (2004)
- TAN 20: Planning and the Welsh Language (2017)
- TAN 24: The Historic Environment (May 2017)
- 5.17 On 16th July 2020 the Welsh Government published <u>Building Better Places: The Planning System Delivering Resilient and Brighter Futures</u> 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.
- 5.18 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

- 5.19 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.
- 5.20 <u>Future Wales the National Plan 2040</u> 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.
- 5.21 Future Wales and the Welsh National Marine Plan work together to provide a framework for the management of change around our coast.
- 5.22 FW also identifies that flooding from rivers and the sea is a major issue across the South-East region, noting that Cardiff and Newport are estuarine cities while major rivers flow through all the south Wales Valleys, meaning many communities are at risk of flooding. Large parts of the region's key rail and road infrastructure are on valley floors or coastal locations and reliant on effective flood risk management to remain operational at all times.

- 5.23 Places in the region benefit from strong coastal defences, including the Cardiff Bay Barrage and the Gwent levels sea wall, but sea levels are expected to rise more on the south coast than any other part of Wales over the next thirty years. The potential for flooding in the National Growth Area has implications for the delivery of growth in the region.
- 5.24 Policy 8 thus sets out the national strategic approach to flood risk management and seeks to ensure growth aspirations in National Growth Areas are coordinated with strategic decisions on managing flood risk, when it states that:

Flood risk management that enables and supports sustainable strategic growth and regeneration in National and Regional Growth Areas will be supported. The Welsh Government will work with Flood Risk Management Authorities and developers to plan and invest in new and improved infrastructure, promoting nature-based solutions as a priority. Opportunities for multiple social, economic and environmental benefits must be maximised when investing in flood risk management infrastructure. It must be ensured that projects do not have adverse impacts on international and national statutory designated sites for nature conservation and the features for which they have been designated.

- 5.25 The supporting text to Policy 8 further emphasises the need to make sustainable development choices, noting that the Welsh Government and flood risk management authorities will focus on delivering nature-based schemes and on enhancing existing defences, to improve protection to developed areas. This can enable opportunities for the redevelopment of brownfield land in Growth Areas ... [although] ... It is important that proposals do not cause unacceptable impacts on the surrounding natural environment.
- 5.26 The Local Development Plan is the <u>Cardiff Local Development Plan 2006-2026</u> which was adopted in January 2016, and within which the following policies are of relevance:

KEY POLICIES

- KP5 Good Quality and Sustainable Design
- KP6 New Infrastructure
- KP15 Climate Change
- KP16 Green Infrastructure
- KP17 Built Heritage
- KP 18 Natural Resources

DETAILED POLICIES

Environment

- EN4 River Corridors
- EN5 Designated Sites
- EN6 Ecological Networks and Features of Importance for Biodiversity
- EN7 Priority Habitats and Species

- EN8 Trees, Woodlands and Hedgerows
- EN9 Conservation of the Historic Environment
- EN10 Water Sensitive Design
- EN11 Protection of Water Resources
- EN13 Air, Noise, Light Pollution and Land Contamination
- EN14 Flood Risk

Transport

- T1 Walking and Cycling
- T5 Managing Transport Impacts
- T6 Impact on Transport Networks and Services
- T8 Strategic Recreational Routes

Supplementary Planning Guidance:

- 5.27 The following <u>Supplementary Planning Guidance</u> (SPG) is of relevance to this application: -
 - Archaeology and Archaeology Sensitive Areas (July 2018)
 - Green Infrastructure (including Technical Guidance Notes relating to: Ecology and Biodiversity; Trees and Development; Public Rights of Way and Development; River Corridors; Protection and Provision of Open Space in New Developments; Soils and Development) (November 2017)
 - Managing Transportation Impacts (Incorporating Parking Standards) (July 2018)

Shoreline Management Plan

- 5.28 Shoreline Management Plans (SMPs) set out a shared strategic approach for managing the coastline from coastal flooding and erosion risks. Their aim is to reduce the risks to people, the developed, historic and natural environments over the next century.
- 5.29 The Severn Estuary Shoreline Management Plan 2 covers the Severn Estuary Coastline from Anchor Head to Lavernock Point. The policy for this SMP2 is 'Hold the Line' over the next three defined epochs (0-20 years, 20-50 year, 50-100 years). The SMP2 states this policy is required as further erosion into Lamby Way Industrial Site could be harmful to water quality, and the flood defences are also currently protecting important transport links.
- 6. <u>INTERNAL CONSULTEE RESPONSES</u>
- 6.1 The Council's **Ecologist** makes the following comments:
 - Habitats Regulations Assessment (HRA) the Appropriate Assessment (see Appendix 1) concluded that the loss of coastal habitat due to land take and future coastal squeeze required compensation via derogation.
 Welsh Government has been notified of the Council's intention to carry

- out the project for 'Imperative Reasons of Overriding Public Interest' (IROPI). Their 21 day notification period expired on 7th December 2022.
- Conditions are recommended to secure a saltmarsh habitat management plan, a sediment sample plan, a construction environmental management plan, a biosecurity risk assessment, and repeat ecology surveys (if required).
- 6.2 The **Operational Manager (Traffic and Transportation)** raises no objection subject to conditions to address construction impacts, including:
 - A phasing plan detailing the start and end dates, quantum of each phase of development; the transportation elements of each phase (including, but not limited to, access junctions).
 - Construction Management Plan, to minimise the impact on the highway arising from on-site and off-site construction activities during the construction period
 - Details of the scale and form of the junctions
 - Active Travel routes The provision of active travel routes within the site, which are to be made fully accessible, to be approved in writing by the LPA, incorporating the Wales Coastal Path and the Rhymney embankment PROW and the coastal PROW.
- 6.3 The **Operational Manager (Waste Management)** does not envisage any detrimental impact on the Lamby Way landfill infrastructure. They emphasise the need to ensure various historic leachate outfalls on the Lamby Way site remain sealed to prevent leachate from discharging into the river. They are also currently relocating perimeter monitoring locations at the Lamby Way site and construction activities will need to have regard to these also.
- 6.4 The **Operational Manager**, **Parks & Sport** expresses concern that the existing access track through the Pengam Allotments is intended to be used as one of the construction access points. He is concerned as the existing track is narrow (single width) and may result in damage and restricted access for existing allotment holders.
- 6.5 The Council's **Tree Officer** considers that a revised scrub mix for the proposed landscape mitigation at Queens Gate Roundabout and the Rover Way Travellers Site is required. He advises that a soil resource survey and plan inform the mix together with tree pit sections, plus an ecotone treatment to planting to prevent conflict with passing traffic, encourage habitat diversity and ensure wind flows are smooth and dissipated effectively. Relevant conditions are attached
- 6.6 The Council's **Public Rights of Way Team** considers that, following completion, the development will provide a more accessible route for the Wales Coast Path (WCP). An existing diversion route is currently in place which should be promoted during construction works as this brings the WCP through Splott instead of along the coastline. Confirmation of the precise position of the route is required.

- 6.7 Shared Regulatory Services (Environment Team), having considered the application and accompanying Environmental Statement, notes that the concentration of potential contaminants of concern were below the screening levels for public open space and risks to human health were low. However, they consider it is possible to encounter contaminants of concern during the construction phase. In addition, despite low concentrations of ground gas being recorded during monitoring, there remains potential for gas generation on the site, due to the landfill and therefore they consider some mitigation including monitoring will be necessary. Relevant conditions and an informative are recommended to ensure that the safety of future occupiers is not prejudiced in accordance with Local Development Plan Policy EN13 (Air, Noise, and Light Pollution).
- 6.8 **Shared Regulatory Services (Noise and Air)** recommends conditions be attached in respect of a Construction Environmental Management Plan (CEMP) and details regarding piling activities which should take place during daytime hours wherever possible.

7. EXTERNAL CONSULTEE RESPONSES

- 7.1 **Dŵr Cymru Welsh Water**: Raise no objection to the proposal but highlight that they are in discussions with the applicant concerning proximity to their public sewerage assets. They are seeking clarification regarding the raising of ground levels and the additional loading and future access arrangements to ensure that they can carry out their duties. They are satisfied that their concerns can be mitigated and through careful design ensure that there is no impact on their assets.
- 7.2 **Natural Resources Wales**: Makes the following comments having considered the Environmental Statement Addendum:
 - Habitats Regulations Assessment (HRA) a likely significant effect cannot be ruled out and as such the authority should carry out an Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). They request to be consulted. Their assessment under the Marine Licensing Regime concluded the project will have adverse effects on the integrity of the Severn Estuary SAC, SPA and Ramsar site. As such, the project was progressed to Stage 4 (imperative reasons of overriding public interest (IROPI)) of HRA which requires ministerial approval for compensatory measures. (Approval from the Ministers was received and the Licence issued in July 2022).
 - Coastal Squeeze clarification and justification has been resolved through the Marine Licensing Regime (MLR) and used to address compensatory measures under HRA.
 - Intertidal Habitats survey methodology and maps are sufficient.
 - Contaminated Sediment they are satisfied with sediment sample plans and therefore the principle of how contaminated sediment will be managed. Condition requested.
 - National Vegetation Classification (NVC) survey data resolved following further details justifying methodology and giving confidence in results.

- SSSI features the outline Saltmarsh Management plan and CEMP, also submitted via the MLG, should safeguard SSSI features. Conditions advised.
- European Protect Species resolved following justification provided in December 2021.
- 7.3 Glamorgan Gwent Archaeological Trust (GGAT) advise that the proposals has an archaeological restraint. They have consulted the regional Historic Environment Record (HER) and have considered Chapter 7 (Historic Environment) of the Environmental Statement plus the desk-based assessment at Appendix I. Several archaeological sites have been identified and, to mitigate, an archaeological watching brief is proposed during GI work together with a targeted watching brief during the construction phase. They consider this to be an acceptable approach and a relevant condition is recommended.

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 on 23rd September 2021.
- 8.2 Following receipt of additional information in support of the application in respect of biodiversity and nature conservation, land contamination, and flood risk, additional publicity was undertaken on 7th July 2022 in accordance with Regulation 24 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (requiring site and press notice providing an additional 30 day's consultation).
- 8.3 1 no. letter objecting to the proposals has been received to date, on the grounds that the application does not confirm that proposed flood defences will not increase flood risk for dwellings at Pengam Green.
- 8.4 3 no. letters expressing concerns have been received to date querying the effectiveness of various aspects of the proposals (e.g. flood gate to sailing club, retention of existing embankments), alternative design solutions (e.g. barrage) as well as the timing and duration of works.
- 8.5 All public representations made on the application are available to view in full on the Council's website at: 21/02138/MJR

9 ANALYSIS

- 9.1 The key material considerations in the determination of this application are:
 - Land Use / Principle of Development
 - Landscape and Visual Impacts
 - Ecology and Biodiversity
 - Heritage and Archaeology
 - Water Framework Directive
 - Flood Risk; and

Impacts on Highways including Public Rights of Way

Land Use / Principle of Development

- 9.2 Future Wales: The National Plan 2040, Planning Policy Wales, Technical Advice Note 15 and LDP Policies KP15, EN11 and EN14 all look to reduce flood risk and the associated measures to manage the potential for flooding.
- 9.3 The objectives and need of the Project are described in Chapter 2 of the Environmental Statement, which notes that existing flood defences in the scheme area, located along the Severn Estuary and the Rhymney River, have failed or are at significant risk of failing. Much of the coastline across the project area is eroding and with predicted sea level rise due to climate change, the flood and erosion risk will increase into the future.
- 9.4 The proposed scheme will manage flood risk to 2,326 residential and 204 non-residential properties over 100 years, as well as preventing erosion of landfill material, key road/rail infrastructure, and the Rover Way Traveller Site.
- 9.5 The scheme is comprised of two main areas:
- 9.6 Land to the west of the Rhymney River - The coastal defences along this section of the Severn Estuary are in very poor condition and erosion is taking place at a rapid rate. Landfill material is eroding into the Severn Estuary from the disused Frag Tip, while the Rover Way Travellers Site is at risk of being lost to erosion and flooding. The coastal defences here are already at risk of breach due to erosion, leading to flooding of the land behind. Along the west bank of the river there are low sections of defence which will overtop as sea levels rise. increasing flood risk to people and property to the west of the river. The Lamby Way roundabout and Rover Way, key infrastructure supporting the economy of Cardiff, are situated immediately behind the embankment on the outside of the river meander and are at risk of being undermined and lost to erosion within 20 years. Here people and property are at risk from coastal erosion and flooding from the sea. In addition, fluvial erosion and tidal flooding can occur from the River Rhymney. The frequency and likelihood of both significantly increases in the future as a result of climate change.
- 9.7 Land to the east of the Rhymney River The defences along the east bank of the river and the coastal defences to the east of the river mouth are also at risk of erosion. It is estimated that if no works are undertaken along the coast, erosion will continue to increase and will impact upon the disused Lamby Way Landfill within 20 years, releasing landfill material into the Severn Estuary and having significant environmental impacts. Land elevations are higher on this side of the river leading to more limited flood risk but there is a risk of up to 50m of erosion along the coast within 20 years, and 270m by 2117.
- 9.8 The flood risk is predicted to increase in the future with the effects of climate change, leading to over 2,656 residential and 294 non-residential properties being at risk in the year 2119 if the flood risk is not managed.

- 9.9 The Severn Estuary Shoreline Management Plan 2 (SMP2) policy for these sections of the coastline is to 'Hold the Line' (HTL). This means that the flood defences should be maintained and upgraded or replaced in their current position. Substantial new flood defences are required to maintain and improve the level of protection currently provided.
- 9.10 The proposed scheme seeks to respond to the consequences of climate change which will continue to cause flood events to be more frequent, more severe and less predictable. The scheme has been designed to incorporate allowances for current and future climate change over the next 100-year period. A Flood Consequences Assessment (FCA) has been submitted in support of the application which concludes that when analysing the effect of the proposed coastal scheme for the lifetime of its construction the benefits of the scheme to the wider community greatly outweigh the potential present-day detriment to a small number of properties.
- 9.11 Having regard to the above, the principle of the proposed development is acceptable insofar as it provides a 'Hold the Line' scheme as required by the Severn Estuary Shoreline Management Plan 2 and will manage flood risk taking into account climate change over the next 100-year period. Furthermore, it is also considered to be compliant with key policies KP5 and KP15 and Policies EN4 and EN14 of the Cardiff Local Development Plan (2006-2026).
- 9.12 It would accord with the national principles of the Welsh National Marine Plan (2019), the National Strategy for Flood and Coastal Erosion Risk Management in Wales, the Welsh Minister's Written Statement Flood and Coastal Erosion Risk Management Programme for 2020-2021, Future Wales: The National Plan 2040, Planning Policy Wales, and Technical Advice Notes 14 and 15 and the Wellbeing of Future Generations (Wales) Act 2015.

Landscape and Visual Impact

9.13 Much of the site lies on the edge of National Landscape Character Area 35, Cardiff, Barry and Newport. Part of the site lies on the far western edge of National Landscape Character Area 34, Gwent Levels. The site is also just to the west of The Gwent Levels, a Registered Landscape of Outstanding and of Special Interest in Wales. This has been designated due to its extraordinarily diverse environmental and archaeological potential. The site is part of Marine Character Area 29 Severn Estuary (Wales).

Construction Impacts

9.14 During the construction phase, there will be slight effects to landscape features and landscape character due to the operation of machinery and excavation of landscape features including the riverbanks and channel. There will be moderate impacts upon the coastal area resulting from significant increases in noise pollution during construction activities. This disturbance will also have a moderate-substantial adverse impact on receptors on the Wales Coast Path (WCP) and Public Rights of Way (PRoW). Such impacts are, however,

temporary.

9.15 The landscape and visual impact associated with the construction phase of the scheme will be suitably controlled and mitigated through the implementation of the submitted Landscape Mitigation Plan (Appendix H of the ES). The mitigation options include accelerated recovery by replacing lost trees and vegetation, planting to provide a natural screen, and the erection of private fencing.

Operational / Post-Construction Impacts

- 9.16 The site location is a predominantly flat landscape with a few small hills that have been created by landfill sites in the surrounding area. It is considered that the proposed scheme would not create intrusive landscape features and therefore would not have any significant long-term impact in regard to landscape or visual amenity.
- 9.17 During the operational phase there will be slight beneficial impacts upon the coastal area due to an improvement in the appearance of man-made coastal defences. The defences will have a slight adverse effect upon the river, although these impacts will reduce once mud begins to accrete on the surface. There will continue to be slight moderate adverse effect upon trees as colonisation of the bare earth will take time.
- 9.18 After 15 years, the accretion of mud will have helped blend the defences into the natural environment, thus the visual impact on the river will be negligible. Trees will have grown in stature by this stage and thus the visual impact will reduce. Impacts upon urban areas will be negligible.
- 9.19 Residents of the Traveller site on Rover Way will continue to be able to see walkers on the WCP/PRoW, though this may have reduced slightly over time with some natural vegetation growth along the boundary between the site and the coast. Effects on most other receptors at this point are likely to be negligible.

The Queen's Gate Roundabout

9.20 Trees and vegetation lost in this area during the works will be replaced with new planting that will be designed to integrate with the species that remain, to provide visual interest, and to provide some screening of the busy road network for those using the WCP/PRoW. The planting, which will be secured via condition, will be required to make a positive contribution to the overall landscape character of the area.

The Traveller Site

9.21 There will be planting to provide a natural screen between the Traveller Site and the WCP/PRoW. By Year 15 in winter the new planting will be providing an improvement to the baseline with visual interest, as well as acting as a visual screen, and adding a positive feature to the landscape character in this area. Planting details will be secured via condition.

Transportation / Highway Impacts

- 9.22 The only highway-related impacts arising from the proposals relate to the construction phase, with construction programmed to take approximately 18 months to complete.
- 9.23 The overall construction site boundary extends to approximately 39.8 hectares which includes the footprint of the permanent works (the application site boundary) the areas needed to accommodate construction compounds and storage facilities, and the construction access routes from the public highway to facilitate access for construction plant, vehicles and staff.
- 9.24 Construction Access for all vehicle types to the west of Rhymney River will be via Rover Way initially and then via an existing access point onto the Frag Tip/motocross track to the west of the Traveller site. Access to the east of Rhymney River will be via Rover Way and then Lamby Way before turning off onto the existing vehicular entrance to Lamby Way Landfill. The construction vehicles will then access the river sections and Severn Estuary coastline via an existing vehicular access track across the landfill. To access the construction areas north of the Lamby Way Road bridge, vehicles will either turn off Rover Way via an existing vehicular access through the Stargarallot Community Garden (Pengham allotments) (to gain access to areas west of the river) and or via a new access to be created off Lamby Way. Most construction materials i.e., sheet piles, earth, etc, will be brought to the construction site via the existing highway network (primarily via Rover Way from Cardiff Docks). Rock will be brought to the site by road.
- 9.25 The works programmed at location 32 (sheet piling adjacent to the A4232/Lamby Way/Rover Way roundabout) may require temporary changes to the highway network to provide additional room to enable two lane traffic to be maintained throughout the construction period. Alternatively, should it not be feasible to reduce lane widths work at this location would be carried out in the off-peak hours between 9.30 am and 3.30 pm to ensure minimal disruption to traffic. Any such necessary work would be programmed with the highway team through a Construction Traffic Management Plan which is recommended to be controlled by condition (within the CEMP).

Impact on Rights of Way

- 9.26 LDP Policies T1, T6 and T8 look to enhance people's accessibility to sustainable transport routes and the provisions for walking and cycling.
- 9.27 The Wales Coast Path runs directly through the site from the east, heading south west along the top of the Lamby Way Landfill and crosses the Rhymney River, where it is currently diverted inland to the west before re-joining the Coast at Cardiff Bay. Having crossed the River Rhymney, The Wales Coast Path continues as a footpath heading south east from Lamby Way, parallel to Rover Way, continuing along the River Severn estuary foreshore to the south.

- 9.28 The Rights of Way Officer has reviewed the Public Right of Way alignment, which also has the Wales Coast Path along it, and advises that the coastal defence project will provide a more accessible route. A relevant condition is attached to secure details of its provision.
- 9.29 The proposals will maintain the current route (and proposed route over Lamby Way landfill site) of the Public Right of Way (PROW) over which the WCP route runs along, with no permanent diversions to any existing PROWs proposed in relation to this scheme (although some temporary diversions would be required during construction).
- 9.30 Overall it is agreed that the short-term impacts from diversions during construction will be outweighed by the increased protection from flood risk and erosion once the scheme is operational, ensuring the Public Rights of Way can continue to be used long-term. The scheme will also encourage increased recreational use of the area by providing a convenient and attractive route in accordance with the national principles of Planning Policy Wales (Edition 11) and the Wellbeing of Future Generations (Wales) Act 2015, thus complying with Policies T1, T6 and T8 of the Local Development Plan.

Heritage and Archaeology Impacts

- 9.31 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.
- 9.32 The Environmental Statement (Chapter 7) identifies that the wider study area contains several designated heritage assets, but none of these will be significantly affected by the scheme. GGAT agree with the archaeological sites that have been identified and proposed mitigation. They also agree that a watching brief during GI work and the construction phase should be conditioned.

Impact on Amenity

- 9.33 The only material amenity impacts arising from the development are considered to be during the construction phase, both in terms of the impact on landscape features and landscape character, and in terms of noise 'pollution' due to the operation of machinery including piling activities and excavation of landscape features including the riverbanks and channel.
- 9.34 In addition to such temporary impacts on persons using the area for recreation and leisure (notably on the Wales Coastal Path), there are a number of nearby residential receptors, with the closest properties being: -
 - Page Drive off Beaufort Square (near Location 52); and
 - The Traveller Site on Rover Way (near Location 12)

- 9.35 Each of these areas could be affected by construction noise impacts during both the daytime and night-time, including from increases in construction related traffic. Nevertheless, given the existing baseline lighting, noise and traffic levels along Rover Way, such impacts are not expected to be significant.
- 9.36 Potential construction impacts arising will be addressed through the development of a detailed Construction Environmental Management Plan (CEMP) that sets out the controls to be implemented during construction to effectively manage environmental risks such as noise, dust and tranquillity, pollution, amenity and health are minimised. This will be required by condition.
- 9.37 The applicant also advises that a Community Liaison Officer will be appointed during the construction phase of the project to communicate and coordinate between the construction contractor and local residents. This will ensure that any disruptive construction activities are well communicated to residents in advance, and that the views or concerns of residents are taken into account by the construction contractor when planning any disruptive works. The Community Liaison Officer would also assist residents with complaints, with a view to having any issues of concern addressed.
- 9.38 With particular reference to the Travellers site, it is also noted that the submissions (Landscape Mitigation Plan ES Appendix H) propose a new fence boundary, together with hedge planting, to protect their amenity. Implementation of the mitigation will be required by condition.

Water Framework Directive Assessment

- 9.39 The WFD assessment accompanying the application acknowledges that the assessment cannot yet be finalised because the scheme design has not yet been finalised. For example, details of construction methods are not known at this stage and therefore further assessment may be required once these details are known.
- 9.40 NRW notes these matters but also expresses its satisfaction that further details can be provided through conditions and compensatory provision through the HRA process.

Flood Risk

- 9.41 Technical Advice Note 15 and Local Development Policy EN14 (Flood Risk) are relevant, the latter states development will not be permitted within tidal or fluvial flood plains unless it is justified in line with national guidance, where flood risk increases, where maintenance and improvements are hindered, where adverse effects on defence integrity occurs or where ground floor bedrooms are proposed in areas subject to high risk of flooding.
- 9.42 Section 5.3 and Table 5.3 of the submitted FCA outline the post-development scenario with the scheme in place. This demonstrates the predicted significant reduction in the number of properties affected by flooding during the 0.5% (1 in 200 year) and 0.1% (1 in 100 year) tidal events in both 2019 and 2119 if the

- scheme is constructed. Whilst there is still predicted to be flooding within the scheme development site, particularly within the channel of the Rhymney River and existing flood plain on Llanrumney sports fields and Parc Tredelerch, other areas are predicted to benefit from reduced risk over the lifetime of the scheme.
- 9.43 In the predicted 0.5% (1 in 200 year) tidal event in the year 2119 the scheme is shown to provide significant benefits in terms of the numbers of properties at risk of flooding and depths of flooding over a wide area. It is also demonstrated that no properties experience detriment in terms of increased flooding.
- 9.44 In the predicted present day 0.5% (1 in 200 year) event the FCA states that flood depths inside the application site boundary increase but this is largely within the channel of the Rhymney River and therefore the FCA considers this to be acceptable. Outside of the site boundary some other areas of existing flood plain on public open space and greenfield land experience increased flood depths, predicted to increase by between 6mm to 9mm.
- 9.45 Table 5-5 outlines the significant overall reduction in numbers of properties at risk of flooding in each scenario as a result of the scheme. It is stated that in the 2119 0.5% (1 in 200 year) event flood risk will be mitigated for approximately 2326 residential and 204 commercial properties.
- 9.46 In the predicted 0.1% (1 in 1000 year) tidal event in 2119 the scheme is shown to provide significant benefits in terms of the numbers of properties at risk of flooding and depths of flooding over a wide area. It is also demonstrated that no properties experience detriment in terms of increased flooding.
- 9.47 In the present day 0.1% (1 in 1000 year) event the FCA confirms that whilst the overall flood extent is reduced in many areas there is again an increase in flood depths inside the site boundary which the FCA considers to be acceptable. There is also a larger increase in depths in the open spaces outside the site boundary of up to 62mm. It is however also stated that in the present day 0.1% (1 in 1000 year) event a number of existing residential and commercial properties will experience increased flood depths of up to 53mm.
- 9.48 Table 5-6 confirms that in the present 0.1% (1 in 1000 year) event whilst there is an overall reduction in the number of properties at risk, 121 properties will experience detriment in terms of increased flooding.
- 9.49 Of the 121 properties experiencing detriment the FCA states that 4 of these did not previously flood but that the depth of flooding predicted means that only the curtilages will flood, floodwater is not anticipated to enter the buildings. The other 117 properties are already predicted to flood but will experience increased flood depths.
- 9.50 The FCA accepts that the construction of flood defences can result in some negative impacts due to disruption of flow paths and displacement which can increase flooding to some areas. It is also accepted that building flood defences in an urbanised area can make it very difficult to avoid all negative impacts and detriment to existing property in all scenarios. Increasing flooding elsewhere is

not in line with TAN15 requirements, meaning that any scheme that results in such detriment cannot fully comply. However, the FCA argues that a risk-based approach should be adopted in such instances and that the overall betterment provided by the scheme, over its lifetime, outweighs any detriment. We can therefore advise that the FCA has considered and assessed the relevant requirements of TAN15 and provides sufficient information to inform a decision.

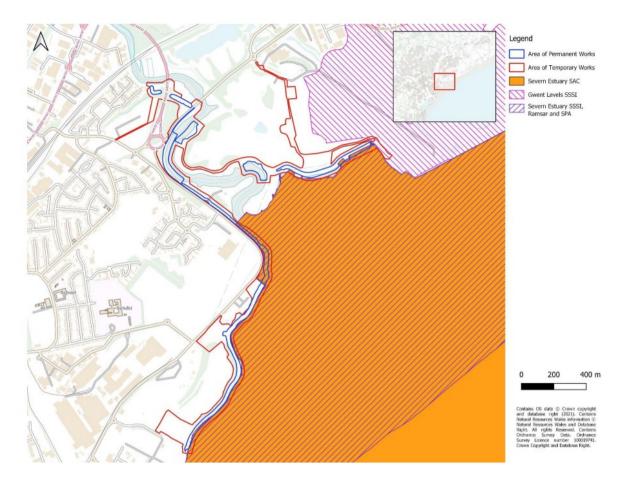
9.51 It is recognised that the scheme does cause detriment but there is also an overall betterment regarding the wider scheme. In particular, it was put forward as the best compromise on the basis that the significant benefits in the more frequent events outweighed the detriment in the extreme event.

Impact on Ecology

- 9.52 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 netbenefit), the resilience of ecosystems and green infrastructure should be demonstrated as part of development proposals.
- 9.53 LDP Policy EN 8 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
- 9.54 European sites are those designated under The Conservation of Habitats and Species Regulations 2017 (as amended) ("Habitats Regulations") as Special Protection Areas ("SPAs"), Special Areas of Conservation ("SACs") or Sites of Community Importance ("SCIs"). The proposal is located within a European Protected Site.
- 9.55 The effects of proposal on the following European Sites, their features and conservation objectives have been considered by NRW during the licence determination:
 - Severn Estuary Special Area of Conservation (SAC) UK0013030
 - Severn Estuary Special Protection Area (SPA) UK9015022
 - Severn Estuary Ramsar Site UK11081
- 9.56 The Council has carried out a Habitats Regulation Assessment (HRA) (see Appendix 1), for which the Appropriate Assessment concluded that the integrity test failed due to damage and loss of coastal habitats (Annex 1 intertidal habitats) during construction and due to future coastal squeeze as these effects cannot be fully mitigated for. Only permanent losses of the above-mentioned habitats are considered to require compensation.

Table 1 – Permanent and Temporary Losses of Annex 1 Habitats					
	Total	Annex 1 habitat – mudflats and sandflats not covered by seawater all the time (ha)	Annex 1 habitat – Atlantic Salt Meadows (ha)	Total Annex 1 - mudflats and sandflats not covered by seawater all the time and Atlantic Salt Meadow (ha)	Other Habitat (ha)
Permanent works (outside SAC)	4.59	1.26	1.51	2.77	1.82
Permanent Works (within SAC)	3.37	1.09	0.08	1.17	2.20
Temporary Works (outside SAC)	31.11	6.20	3.38	9.58	21.52
Temporary Works (inside SAC)	5.67	1.50	0.49	1.99	3.68

- 9.57 Scheme operation will also result in indirect loss of Annex 1 intertidal habitats (Mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadows) through coastal squeeze. Coastal squeeze calculations predict a loss of 24.59 ha by the year 2122. Therefore, a total of 25.76 ha of permanent direct and indirect losses of habitat will need to be compensated.
- 9.58 The Appropriate Assessment also concluded that adverse effects may also occur on estuaries, mudflats and sandflats not covered by seawater at low tide, Atlantic salt meadow, dunlin, redshank, shelduck, gadwall, waterfowl assemblage, fish assemblage, migratory fish, fish features as a result of mobilisation/introduction of contaminants of synthetic and non-synthetic compounds during construction; adverse effects on estuaries, mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadow from introduction of non-native species; disturbance to birds during construction and operation; and disturbance of sensitive fish species and migratory fish through vibration of the water column during construction.
- 9.59 Damage to habitats and disturbance to birds and fish features will be minimised through mitigation measures including a sediment sample plan, a saltmarsh management plans, a construction environmental management plan, and a biosecurity risk assessment.



- 9.60 Following the conclusion of adverse effects on the integrity of a European Site, the HRA proceeded to Stage 3 (Derogation). The Council, as the competent authority, notified Welsh Government of its intention to proceed with the project under Regulation 64(5) of the Habitats Regulations. The Regulation provides a derogation which would allow a plan or project to proceed in limited circumstances even though it would or may have an adverse effect on the integrity of a European site. Under Regulation 64 a plan or project can only proceed provided three sequential tests are met:
 - There must be no feasible alternative solutions to the plan or project which are less damaging to the affected European site(s).
 - There must be imperative reasons of overriding public interest for the plan or project to proceed.
 - All necessary compensatory measures must be secured to ensure that the overall coherence of the network of European sites is protected.

No Feasible Alternative Solution

9.61 The Severn Estuary Shoreline Management Plan policy for the relevant sections of the coastline is to 'Hold the Line' (HTL). This means that the flood defences should be maintained and upgraded or replaced in their current position. The relevant policy unit numbers within the SMP are CAR2 and CAR3. The SMP was subject to assessment in accordance with Regulation 63 of Conservation of Habitats and Species Regulations 2017. That assessment

concluded that the delivery of the SMP would adversely affect the integrity of the Natura 2000 sites. The SMP was nevertheless approved by the Welsh Ministers as a derogation in accordance with the provisions regulation 64 of the Regulations, namely that there are no alternative solutions, and that the SMP is necessary for imperative reasons of over-riding public interest.

9.62 A variety of alternatives or options have been assessed in the ES (chapter 2.3) and the Outline Business Case. As per government guidance 1, valid alternative/s must meet the original objectives of the proposal and only be acceptable if: achieves the same overall objective as the original proposal; are financially, legally, and technically feasible; and is less damaging to the European site and/or does not have an adverse effect on the integrity of this or any other European site.

Imperative Reasons of Overriding Public Interest

- 9.63 The project is imperative for the improvement and extent of the coastal protection asset at Cardiff along Rhymney and Severn estuaries. The Severn Estuary Shoreline Management Plan policy for the relevant section for the coastline is to 'Hold the Line' (HTL). This means that flood defences should be maintained and upgraded or replaced in their current position.
- 9.64 The project is in the public interest as it will manage flood risk to approximately 2,326 residential properties and approximately 204 commercial properties over 100 years as well as preventing erosion of landfill material, key road/rail infrastructure, and the Rover Way Travellers Site.
- 9.65 The Lamby Way roundabout and Rover Way, key infrastructure supporting the economy of Cardiff, are situated immediately behind the embankment on the outside of the River Rhymney meander and are at risk of being undermined in and lost to erosion within 20 years.
- 9.66 For these reasons the project is considered to be in the public interest, both locally and regionally.
- 9.67 These reasons are overriding because the works have a very small footprint (1.17ha of Annex 1 habitats directly affected within the SAC) in relation to the size of the Severn Estuary SAC and SPA (73,714.11ha) and Severn Estuary Ramsar (24,701ha). The predicted coastal squeeze which may affect Annex 1 habitats (24.59ha) is also small in relation to the size of the designation. The 25.76ha loss is able to be compensated for as described below and the implementation of a Saltmarsh Management Plan will benefit this habitat and the species associated with it in this area.
- 9.68 Furthermore, the proportion of the bird populations recorded within the SPA which may be affected by habitat loss will be small, compensation for loss of habitats can be provided, disturbance effects on birds in the area during construction works will be mitigated and the implementation of a Saltmarsh Management Plan will benefit this habitat and the bird species associated with it.

- 9.69 It is considered that the imperative reasons of overriding public interest outweigh the relatively small proportion of the Severn Estuary SAC/SPA and Ramsar Annex 1 habitats and percentage of the wintering bird populations that will be affected.
- 9.70 The Annex 1 habitat losses will be compensated through the Welsh Government National Habitats Creation Programme (NHCP). NRW's NHCP programme manager has confirmed that compensation at Cwm Ivy should be sufficient to cover losses identified.

Impact on SSSI

- 9.71 The proposal has the potential to impact upon the Severn Estuary SSSI and the Gwent Levels SSSI, particularly for impacts on features not covered under the Severn Estuary SAC, SPA and Ramsar designations, such as the notable plant species Bulbous Foxtail (Alopecurus bulbosus) and Slender Hare's-ear (Bupleurum tenuissimum). NRW also raised their concern regarding habitat continuity and integrity of the saltmarsh that provides a habitat corridor to Shrill Carder Bee, a feature which has been recorded on the site.
- 9.72 NRW is satisfied that an adequate survey and appropriate mitigation can be incorporated as part of the proposed Saltmarsh Management Plan to ensure the features of the SSSI are protected, such that NRW considers that when the activity is completed in line with its recommended conditions, there will be no adverse impact on any of the features of the SSSIs.

Invasive Species

9.73 Following expressions of concern from NRW regarding the risk of spread of Invasive Non-Native Species (INNS), a Biosecurity Risk Assessment will be produced prior to commencement of works to reduce the risk of transfer or movement of INNS.

Construction Impacts

9.74 The applicant has committed to produce a Construction Environmental Management Plan (CEMP) prior to commencement of works. The CEMP will detail the environmental management and mitigation actions required during the construction phase. Monitoring of the CEMP will be undertaken by the Environmental Clerk of Works (ECW). Supporting the ECW would be an appropriately qualified Ecologist (as an Ecological Clerk of Works, ECoW) and Archaeologist. The ECoW will support supervision of the construction phase and associated weekly environmental audits, advise the project team on ecological risks, and support the contractor to effectively manage any unforeseen ecological issues. The ECoW will also monitor adherence to the CEMP.

Impact on Non-Statutory Sites of Importance for Nature Conservation (SINC):

- 9.75 There are also five non-statutory Sites of Importance for Nature Conservation (SINC): located within 1km of the proposed development, namely: Lamby North, Lamby Saltmarsh, Lamby Way, Rhymney Grassland Easy, and The Rhymey River SINC.
- 9.76 These SINCS include the River Rhymney itself plus bankside habitats. Impacts to these habitats have been considered and mitigation developed including measures in the draft CEMP. Subject to relevant conditions it is considered that the interests of these local designations can be satisfactorily safeguarded.

Conclusion

9.77 There are several protected areas which have the potential to be affected by the Project. A Habitat Regulation Assessment concluded that adverse effects on the integrity of the Severn Estuary SAC could not be ruled out. The proposed works will contribute to footprint and coastal squeeze losses in the Severn Estuary SAC. The works are considered to be justified on grounds of no alternative solutions and 'imperative reasons of overriding public interest' (IROPI). Therefore, these losses will be compensated through the Welsh Government National Habitats Creation Programme (NHCP). The ES considered potential for other impacts on biodiversity including on saltmarsh and water quality and considered that additional mitigation was required. Although there is potential impact on these features, any significant impact can be avoided through the implementation of appropriate mitigation including a Biosecurity Risk Assessment, a Saltmarsh Management Plan, a CEMP and a Sediment Sample Plan. Considering the mitigation proposed within the ES and the recommended conditions, no significant impact on biodiversity is predicted.

Waste

9.78 Any waste removed from site will be subject to waste management controls. Waste must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. Should waste be removed from site it must be taken to an appropriate facility authorised to accept this waste.

Overall Assessment – 'The Planning Balance'

- 9.79 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.
- 9.80 Paragraph 3.38 of PPW states that the countryside is a dynamic and multipurpose resource. In line with sustainable development and the national

planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources. The need to conserve these attributes should be balanced against the economic, social and recreational needs of the local communities and visitors.

- 9.81 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.
- 9.82 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.
- 9.83 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.
- 9.84 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.
- 9.85 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.
- 9.86 It is recognised that some adverse environmental effects will occur should the development proceed, notably by losses to the Severn Estuary SAC through the development footprint and coastal squeeze, plus associated biodiversity

impacts on water quality and saltmarsh habitat. However, these can be mitigated for, to a certain degree, through the imposition of conditions and it must be noted that the losses of SAC are relatively small in comparison to the overall designation.

- 9.87 The FCA also identifies that in the present 0.1% (1 in 1000 year) event whilst there is an overall reduction in the number of properties at risk, 121 properties will experience detriment in terms of increased flooding (curtilage flooding only), of which 4 did not previously flood.
- 9.88 These adverse impacts need to be balanced against the benefits of the project proceeding, which will result in the effective management of flood risk to approximately 2,326 residential properties and approximately 204 commercial properties over 100 years, as well as preventing erosion of landfill material, key road/rail infrastructure and the Rover Way Travellers site. These social and economic considerations weigh heavily in favour of the development proceeding.
- 9.89 It is also accepted that there may be some short-term adverse social effects during construction, which is estimated to take 18 months. Noise and air disturbance may occur for nearby residential properties from plant and machinery however conditions are recommended to mitigate against these impacts.
- 9.90 Overall, there are imperative reasons of overriding public that are considered to outweigh the environmental harm that would be caused by the development, such that they justify a conclusion being reached that subject to conditions planning permission should be granted for the development.

Other Matters Not Assessed Above

- 9.91 As identified earlier in this report, 1 no. objection and 3 no. letters of concern were received in response to the publicity exercise. In response to the main issues raised which have not been addressed elsewhere in this report, the following comments are made:
 - A condition is recommended to approve details of the flood gates to the River Rhymney Sailing Club;
 - Alternative design solutions have been considered (see ES 2.3).

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. In addition, the Council, in accordance with Section 3(3) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, has taken all

the environmental information into consideration.

- 10.2 The proposed development will construct a series of fluvial and coastal flood defences along the Severn Estuary coastline and east and west banks of the River Rhymney.
- 10.3 The development will manage and reduce erosion along the coast to reduce the risk of failing coastal flood defences and the release of contaminated landfill material into the Severn Estuary from the Lamby Way Tip and the Rover Way Frag Tip, in the immediate future and over the next 100 years. It will also reduce and manage the flood risk to approximately 2,326 residential properties and 204 commercial properties for a 0.5% AEP event over the same period.
- 10.4 Given the hard-engineered composition of the scheme it is considered that the structure would be low maintenance over the 100-year design life of the scheme. The proposals respect the character of the area and surrounding land uses and encourage increased recreational use of the area through improved public rights of way.
- 10.5 The technical assessments that have been prepared in support of the planning application have demonstrated that there will be no significant adverse effects arising from the proposed development in terms of landscape and visual impacts or biodiversity or ecology. Any short-term impacts of the construction phase of development will be mitigated through conditions.
- 10.6 The proposed development is fully in accordance with the provisions of national planning guidance as well as those policies of relevance within the Local Development Plan. As such, it is considered that there is a compelling case for this flood defence scheme.
- 10.7 Accordingly, the proposed development is in accordance with LDP Policies KP5, KP6, KP15, KP16, EN4, EN5, EN6, EN7, EN8, EN9, EN10, EN11, EN13, EN14, T1, T5, T6, T8.

11 <u>OTHER MATTERS RELEVANT TO THE CONSIDERATION OF THIS APPLICATION</u>

- 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 <u>RECOMMENDATION</u>

12.1 RECOMMENDATION 1:

That planning permission be **GRANTED** subject to the conditions listed below.

12.2 RECOMMENDATION 2:

That delegated authority is given to the Head of Planning & Operational Manager: Strategic Development & Placemaking, to make changes to the

conditions subject to consultation with the Chair of Planning, up to the point where the planning permission issued.

12.3 CONDITIONS

1. 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. The development shall be carried out in accordance with the following approved plans:

Drawing title	Reference	Revision
Overview of plan scheme locations	CCD-JBAU-00-00-SK-Z-0001	P02
Site location and red line boundary plan Temporary land requirements plan		
Location 11 – Embankment tie-ins	CCD-JBAU-00-11-DR-C-1106	P01
Location 11 – General Arrangement	CCD-JBAU-00-11-DR-C-100	P01
Location 11 – Site Plan 1 of 5	CCD-JBAU-00-11-DR-C-1102	P01
Location 11 – Site Plan 2 of 5	CCD-JBAU-00-11-DR-C-1102	P01
Location 11 – Site Plan 3 of 5	CCD-JBAU-00-11-DR-C-1103	P01
Location 11 – Site Plan 4 of 5	CCD-JBAU-00-11-DR-C-1104	P01
Location 11 - Site Plan 5 of 5	CCD-JBAU-00-11-DR-C-1105	P01
Location 11 - Typical Rock Armour Section	CCD-JBAU-00-11-DR-C-1150	P01
Location 11 – Rock Armour Tie-ins	CCD-JBAU-00-11-DR-C-1151	P01
Location 12 – Embankment Tie-in	CCD-JBAU-00-12-DR-C-1214	P01
Location 12 – General Arrangement	CCD-JBAU-00-12-DR-C-1200	P02
Location 12 – Site Plan (1 of 13)	CCD-JBAU-00-12-DR-C-1201	P01
Location 12 – Site Plan (2 of 13)	CCD-JBAU-00-12-DR-C-1202	P01
Location 12 – Site Plan (3 of 13)	CCD-JBAU-00-12-DR-C-1203	P01
Location 12 – Site Plan (4 of 13)	CCD-JBAU-00-12-DR-C-1204	P01
Location 12 – Site Plan (5 of 13)	CCD-JBAU-00-12-DR-C-1205	P01
Location 12 – Site Plan (6 of 13)	CCD-JBAU-00-12-DR-C-1206	P01
Location 12 – Site Plan (7 of 13)	CCD-JBAU-00-C-DR-1207	P01
Location 12 – Site Plan (8 of 13)	CCD-JBAU-00-12-DR-C-1208	P01
Location 12 – Site Plan (9 of 13)	CCD-JBAU-00-12-DR-C-1209	P01
Location 12 – Site Plan (10 of 13)	CCD-JBAU-00-12-DR-C-1201	P01
Location 12 – Site Plan (11 of 13)		
Location 12 – Site Plan (12 of 13)	CCD-JBAU-00-12-DR-C-1212	P01
Location 12 – Site Plan (13 of 13)	CCD-JBAU-00-12-DR-C-1213	P01
Location 12 – Typical Rock Armour Section – Type A	CCD-JBAU-00-12-DR-C-1251	P01
Location 12 – Typical Rock Amour	CCD-JBAU-00-12-DR-C-1251	P01

Section – Type B		
Location 21 – Flank Detail	CCD_JBAU-00-21-DR-C-2151	P01
Location 21 – General Arrangement	CCD-JBAU-00-21-DR-C-2100	P01
Location 21 – Site Plan	CCD-JBAU-00-21-DR-C-2101	P01
Location 21 – Typical Section	CCD-JBAU-00-21-DR-C-2150	P01
Location 22 – General Arrangement	CCD-JBAU-00-22-DR-UT- 2200	P02
Location 22 – Site Plan (1 of 5)	CCD-JBAU-00-22-DR-UT- 2201	P02
Location 22 – Site Plan (2 of 5)	CCD-JBAU-00-22-DR-UT- 2202	P02
Location 22 – Site Plan (3 of 5)	CCD-JBAU-00-32-DR-C-2203	P01
Location 22 – Site Plan (4 of 5)	CCD-JBAU-00-22-DR-UT- 2204	P02
Location 22 – Site Plan (5 of 5)	CCD-JBAU-00-22-DR-UT- 2205	P02
Location 22 – Typical Embankment Section	CCD-JBAU-00-22-SK-Z-0005	P02
Location 31 - Flank Detail	CCD-JBAU-00-31-DR-C-3151	P01
Location 32 – General Arrangement	CCD-JBAU-00-31-DR-C-3100	P01
Location 32 – Site Plan (1 of 4)	CCD-JBAU-00-32-DR-D-3201	P01
Location 32 – Site Plan (2 of 4)	CCD-JBAU-00-32-DR-C-3202	P01
Location 32 – Site Plan (3 of 4)	CCD-JBAU-00-32-DR-C-3203	P01
Location 32 – Site Plan (4 of 4)	CCD-JBAU-00-32-DR-C-3204	P01
Location 32 – Typical Section (1 to 2.5 slope detail)	CCD-JBAU-00-32-DR-C-3251	P01
Location 32 – Typical Section (1 to 3 slope detail)	CCD-JBAU-00-32-DR-C-3250	P01
Location 42 – General Arrangement and Site Plan	CCD-JBAU-00-42-DR-C-4200	P01
Location 42 – Typical Section	CCD-JBAU-00-42-DR-C-4250	P01
Location 52 – General Arrangement and Site Plan	CCD-JBAU-00-52-DR-C-5200	P01
Location 52 – Typical Section Landscape Mitigation Plan	CCD-JBAU-00-52-DR-C-5250	P01
Landsoape minganon i ian		

The development shall be carried out in accordance with the following approved documents:

Document title	Reference	Revision
Environmental Statement (including Appendices C & D)	CCD-JBAU-00-00-RP-EN-0002	P04
Non-Technical Summary	CCD-JBAU-00-00-RP-EN-0003	P01
ES – Appendices E,F,G,H and J	CCD-JBAU-00-00-RP-EN-0002	P04
ES – Appendix I & K – GGAT Archaeological desk-based assessment and site walkover		
ES – Appendix L – Ground Investigation Report	CCD-JBAU-ZZ-00-RP-GT-0001-GIR	
ES – Appendix L-1 – Contaminated Land Review	CD-JBAU-ZZ-00-RP-GT-0002	P01
Flood Consequence Assessment	CCD-JBAU-XX-XX-RP-HM-0001	P01
Water Framework Directive Assessment	CCD-JBAU-XX-XX-RP-EN-0003	P01

Coastal Processes Impact Statement		
Coastal Squeeze Methodology and Calculations Detailed Botanical Survey Report	CCD-JBAU-XX-XX-TN-EN-0001	P01
Rover Way Coastal Squeeze and HRA NRW		
Cardiff Coastal Design PEA Update	CCD-JBAU-00-00-TN-EN-0002	P01
Water Framework Directive Assessment (update)	CCD-JBAU-XX-XX-RP-EN-0003	P02
Coastal Squeeze Numbers Clarification	CCD-JBAU-00-00-TN-EN-0001	P01
Cardiff Preliminary Ecological Appraisal Update Environmental Statement Addendum		

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.

3. The development hereby permitted shall be carried out in substantial accordance with the principles and mitigation measures as set out within the Environmental Statement and Addendum unless provided for in any other conditions attached in this permission.

Reason: The proposed development is the subject of an Environmental Impact Assessment and due regard must be had to the principle impacts of the development in the operation of the site. Any material alteration to the proposal may have an impact which has not been assessed by the process.

PRE-COMMENCEMENT CONDITIONS

4. No development shall take place until a phasing plan and schedule has been submitted to and approved in writing by the Local Planning Authority. The plan and schedule shall detail the projected start and end dates for construction, the quantum of development per phase, and the transportation elements including, but not limited to, access junctions per phase. The development shall be carried out in accordance with the approved phasing plan and schedule unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development is carried out in a comprehensive, sustainable and coherent manner.

- 5. No development, including site clearance, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of:
 - Construction methods: details of materials, sediment management measures (including if contaminated sediment present); how waste generated will be managed; linked to Construction Method Statement and Contaminated Sediment Plan or Strategy (subject to separate conditions)
 - General Site Management: the construction programme including timetable, details of site clearance; details of site construction drainage, containments

areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain, piling type and timings; vehicle access routes over sensitive habitats e.g. saltmarsh and associated protection measures; contaminated sediment plan and strategy

- Biodiversity Management: details of saltmarsh habitat protection; measures to avoid disturbance to overwintering and ground nesting birds; invasive species management including link to biosecurity risk assessment and management plan; measures to protect otter and badger during construction and avoidance measures for foraging and commuting bats; Precautionary Working Method Statement for amphibians and reptiles; other species and habitats protection, avoidance and mitigation measures (to include breeding birds, bats, dormouse, water vole and invertebrates). To be informed by update and pre-construction surveys as necessary.
- Soil and Sediment Management: details of topsoil strip, sediment removal, storage and amelioration for re-use. Link to contaminated sediment plan and strategy.
- Measures to ensure new bunds will naturally regenerate or if seeded, the use of locally sourced seeds;
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration including piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies;
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of sediment management; details of water consumption, wastewater and energy use
- Traffic Management: details of site deliveries, plant on site, wheel washing facilities; site hoardings, dedicated vehicle access routes, construction staff parking, traffic management and habitat protection measures;
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan; details of how contaminated sediments will be dealt with.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Contact details of the Community Liaison Officer who will communicate and coordinate between the construction contractor and local residents
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;
- NVC maps to inform construction access routes and compound locations so to avoid sensitive places.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: In the interests of highway safety, protection of the environment and public amenity in accordance with Local Development Plan Policies T5

(Managing Transport Impacts), T6 (Impact on Transport Networks and Services), EN5 (Designated Sites). EN6 (Ecological Networks and Features of Importance for Biodiversity), EN10 (Water Sensitive Design), and EN13 (Air, Noise, Light Pollution and Land Contamination).

6. No development of any phase shall take place until details of the temporary construction access serving that phase has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, as required, junction scale and form, ducting and cabling, CCTV, pedestrian/cycle crossings and details of repair and restoration. The temporary construction access shall be constructed in accordance with the approved details and the access shall be restored to its original condition following completion of construction in that location.

Reason: To manage construction traffic effectively in accordance with Local Development Plan Policies T5 (Managing Transport Impacts) and T6 (Impact on Transport Networks and Services).

- 7. No piling activities shall take place until details have been submitted to and approved in writing by the Local Planning Authority to demonstrate:
 - no unacceptable risk to groundwater
 - no adverse impact on the amenities of the nearest noise sensitive residential receptors when assessed against BS5228 2009 'Code of Practice for Noise and Vibration on Construction and Open Sites'.
 - all piling works will be undertaken above Highest Astronomical Tide (HAT);
 - vibration piling is the preferred method of piling and that percussive piling will only be undertaken where it is evidenced that vibration piling is not possible due to e.g. ground conditions;
 - percussive piling within 30m above HAT conducted between October-March (inclusive) can occur without tidal restrictions; percussive piling within 30m above HAT conducted between June-September (inclusive) can only occur on the ebb tide to protect upstream migrating Atlantic salmon and sea trout; and no percussive piling within 30m above HAT shall be conducted during April and May to protect upstream migrating shad and European eel glass eels from disturbance, together with downstream migrating Atlantic salmon and sea trout smolts.

The piling activities shall be implemented in accordance with the approved details.

Reason: To ensure that the development can be carried out safely without unacceptable risks to groundwater nor cause unacceptable harm to designated sites, and to safeguard the amenities of neighbouring occupiers EN13 (Air, Noise, Light Pollution and Land Contamination).

8. No development or phase of development including site clearance shall be carried out until a detailed Saltmarsh Habitat Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Saltmarsh Habitat Management Plan shall be implemented in accordance with the approved details.

Reason: To ensure the Annex 1 habitat Atlantic saltmarsh and other valuable saltmarsh habitats are protected, reinstated where necessary and enhanced to benefit this habitat and associated species in accordance with Local Development Plan Policies EN5 (Designated Sites) and EN6 (Ecological Networks and Features of Importance for Biodiversity).

9. No development or phase of development, including site clearance, shall commence until a detailed sediment sampling plan based on the "Proposed Sediment Sample Plan 1.0 28.01.2022" has been submitted to and approved in writing by the Local Planning Authority. Sampling shall be undertaken in accordance with the sampling plan and analysed at an NRW approved laboratory. Written results of the sediment sampling shall be submitted for approval by the Local Planning Authority prior to construction of the coastal defences along the coastline and along the riverbank of the River Rhymney and shall include an outline of an assessment of alternative uses for the sediment that is to be disposed.

Reason: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity in accordance with Local Development Plan Policies EN5 (Designated Sites), EN6 (Ecological Networks and Features of Importance for Biodiversity) and EN13 (Air, Noise, Light Pollution and Land Contamination).

10. No development or phase of development, including site clearance, with the potential to impact on invasive non-native species, shall commence until a site wide or phase Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive non-native species both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Reason: To secure measures to control the spread and effective management of any invasive non-native species at the site in accordance with Local Development Plan Policies EN5 (Designated Sites), EN6 (Ecological Networks and Features of Importance for Biodiversity) and EN13 (Air, Noise, Light Pollution and Land Contamination).

11. No development 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 approved 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 9 (Conservation of the Historic Environment).

12. No development shall take place until a method statement and risk assessment to protect the structural integrity of the strategic and public sewers within and adjacent to each development location on drawing no. CCD-JBAU-00-00-SK-Z-0001 Revision P02 hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall be implemented in full prior to the commencement of that part of the development and shall be retained at all times for the duration of those approved operations including any restoration works.

Reason: To ensure that the proposed development does not affect the integrity of the public water supply system in the interests of public health and safety in accordance with Local Development Plan Policy EN11 (Protection of Water Resources).

- 13. No development shall take place in each of the 'Locations' 12, 22, 32, 42 and 52 (as shown on drawing no. CCD-JBAU-00-00-SK-Z-0001 Revision P02) until full details of soft landscaping for that Location have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - A soft landscaping implementation programme.
 - Scaled planting plans prepared by a qualified landscape architect.
 - Evidence to demonstrate that existing and proposed services, lighting, CCTV, drainage and visibility splays will not conflict with proposed planting.
 - Schedules of plant species, sizes, numbers and densities prepared by a qualified landscape architect.
 - Scaled tree pit sectional and plan drawings prepared by a qualified landscape architect that show the Root Available Soil Volume (RASV) for each tree.
 - 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 (i.e. Soil Resource Survey and Plan), 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, a soil scientists interpretive report demonstrating that the planting soil not only meets British Standards, but is suitable for the specific landscape type(s) proposed. The specification shall be supported by a methodology for storage, handling, amelioration and placement.
 - Planting methodology and post-planting aftercare methodology prepared by a qualified landscape architect, including full details of how the landscape architect will oversee landscaping implementation and report to the LPA to confirm compliance with the approved plans and specifications.

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 maintain and improve the amenity and environmental value of the area, and to monitor compliance in accordance with Local Development Plan

Policy KP16 (Green Infrastructure).

14. No development that affects the Wales Coast Path shall take place until details of the alignment, surface treatment and signage for that section or sections of the Wales Coast Path have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To maintain and enhance the Wales Coast Path in accordance with Local Development Plan Policies EN4 (River Corridors) and T8 (Strategic Recreational Routes).

ACTION CONDITIONS

- 15. If site clearance 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 for wintering birds, otter, badger, bat roost potential of trees and habitats/vegetation communities, the approved ecological measures secured through (other planning conditions) shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to:
 - i) establish if there have been any changes in the presence and/or abundance of wintering birds, otter, badger, bat roost potential of trees and habitats/vegetation communities; and
 - ii) identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised, and 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 approved ecological measures and timetable.

Reason: To ensure that the assessment of the impacts of the development upon the species concerned, and any measures to mitigate those impacts, are informed by up-to-date information to comply with the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), the Section 6 Duty of the Environment (Wales) Act 2016, and Local Development Plan Policy EN7 (Priority Habitats and Species).

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must 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 until a scheme to deal with the contamination found has been approved in writing. 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, Light Pollution and Land Contamination).

17. 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 that shall first 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, Light Pollution and Land Contamination).

18. 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 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, Light Pollution and Land Contamination).

19. Prior to its erection on site, details of a suitable means of enclosure to the Rover Way Traveller Site shall be submitted to and approved in writing by the Local Planning Authority. The enclosure shall be constructed in accordance with the approved details prior to beneficial completion of works within Location 12 on drawing no. CCD-JBAU-00-00-SK-Z-0001 Revision P02 and retained thereafter.

Reason: In the interests of visual amenity and to safeguard the privacy of occupiers of the traveller site in accordance with Local Development Plan Policy KP5 (Good Quality and Sustainable Design).

20. Prior to their installation, details of the Flood Gates at the entrance to the River Rhymney Sailing Club shall be submitted to and approved in writing by the Local Planning Authority. The gates shall be constructed in accordance with the approved details prior to the beneficial completion of works within Location 22 on drawing no. CCD-JBAU-00-00-SK-Z-0001 Revision P02 and retained thereafter.

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

REGULATORY CONDITIONS

21. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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

22. 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) are otherwise defective, shall be replaced. Replacement planting shall take place during the first available planting season, to the same specification approved in discharge of condition 13, unless the Local Planning Authority gives written consent to any variation.

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

INFORMATIVE NOTES

1. HOURS OF CONSTRUCTION

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 any 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. Permission for works outside of these hours must first be sought under Section 61 of the Control of Pollution Act 1974.

2. PUBLIC HIGHWAY WORKS

This permission does not authorise works on or in the public highway. A Highway

Agreement under Section 278 or S38 of the Highways Act 1980, or other permission or license in respect of minor or temporary works, must first be agreed with the Highway Authority. Any such agreement, license or permission is subject to technical approval, inspection and the payment of such fees as required by the agreement

3. PUBLIC SEWER CONNECTION

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.dwrcvmru.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. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

4. ARCHAEOLOGY STANDARDS

The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), (www.archaeologists.net/codes/ifa) and it is recommended that it is carried out either by a CIfA Registered Organisation (www.archaeologists.net/ro) or an accredited Member.

5. 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:

- (i) determining the extent and effects of such constraints;
- (ii) 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
- (iii) 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.

6. LAMBY WAY INFRASTRUCTURE

That the developer be advised to contact the Lamby Way Depot and Infrastructure Manager prior to commencing any works on or adjacent to the landfill site to ensure for the protection of sealed leachate outfalls and monitoring locations during the construction

	CARDIFF CITY COU	NCIL		
	Habitat Regulations Assess	ment Record		
Name of Relevant CCC	Tim Walter	Date:	27/07/22	
Officer:				
1.INTRODUCTION				
This is a record of the Habi	tats Regulations Assessment of the proposal outlined belo	w, undertaken by	Cardiff City Council as the Competent Authority.	
This assessment is required	by Regulations 63 of Conservation of Habitats and Speci	es Regulations 201	.7 (as amended) to be undertaken before the	
Council as the 'Competent	Authority' under the Regulations can give consent for the	proposal.		
2.INFORMATION ABOUT T	HE PROJECT			
2.1 Type of activity:	Improvement of existing coastal defences			
2.2 National Grid	The project area extends up the Rhymney River to Lan	nby Way bridge (ST	[216780], and along the coast west, towards Dwr	
Reference:	Cymru Welsh Water Works (ST214756), and east along			
2.3 Site Reference:	CARDIFF COASTAL FLOOD DEFENCES. THE SEVERN EST	UARY COASTLINE A	AND EAST AND WEST BANKS FO THE RIVER	
	RHYMNEY			
2.4 Brief description of	THE CONSTRUCTION OF A SERIES OF FLUVIAL AND CO.	ASTAL FLOOD DEFE	ENCES ALONG THE SEVERN ESTUARY COASTLINE	
the project:	AND EAST AND WEST BANKS OF THE RIVER RHYMNEY,	TO INCLUDE ROCK	K ARMOUR REVETMENTS, CONCRETE EROSION	
	PROTECTION MATS, EARTH BUNDS, A DOUBLE FLOOD	GATE (AT THE RHY	MNEY RIVER MOTOR BOAT SAIL & ANGLING CLUB)	
	AND SHEET PILING			
3.INFORMATION ABOUT T	HE NATIONAL NETWORKS SITES			
3.1. European site	Site(s) to be taken forward:			
name(s) and status:	Severn Estuary SAC.			
	2. Severn Estuary SPA.			
	3. Severn Estuary Ramsar.			
	4. River Usk SAC.			
	5. River Wye SAC.			
	Reason(s): Due to being located within the boundary of	f the European site	a located within 1000m of the boundary of a	
	European site and located on land or any area of water	•	· ·	
	with a European site.	rcourse in Hydrolog	gical conflectivity (tributaries, ground water etc.)	
	Site(s) to be ruled out: Cardiff Beech Woods SAC			
	Reason(s): Due to distance and the nature of developr	nent.		

3.2 Site description

(reasons for designation, key ecological characteristics, information available on general ecological trends and current issues or sensitivities)

Severn Estuary SAC

Key characteristics:

The Severn Estuary is the largest example of a coastal plain estuary in the United Kingdom and one of the largest estuaries in Europe. Human activity has increasingly influenced the character of the marginal wetland mudflats and marshes, with extensive land claim occurring during and since the Roman period. Sediment flows and fluxes affecting the estuary are of particular importance for estuarine processes and ecology and the morphology of the estuary is constantly changing due to the complex hydrodynamics. Sediment deposits provide essential material to maintain the mudflats, sandflats and saltmarsh.

The Severn Estuary is important for its immense tidal range, which affects both the physical environment and the diversity and productivity of the biological communities. The tidal range is the second largest in the world, reaching in excess of 13m at Avonmouth. This macrotidal environment is partly due to the estuary's funnel shape which concentrates the tidal wave as it moves up the Bristol Channel.

Qualifying Features:

SAC Habitat Features

- Estuaries:
- Mudflats and sandflats not covered by seawater at low tide;
- Atlantic salt meadow (Glauco-Puccinellietalia maritimae);
- Sandbanks which are slightly covered by sea water all the time; and
- Reefs.

SAC Species Features

- Sea lamprey Petromyzon marinus;
- River lamprey Lampetra fluviatilis; and
- Twaite shad *Alosa fallax*.

Vulnerability: Physical loss (Removal/substratum loss and smothering); Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure, abrasion/physical disturbance (of habitats), changes in grazing management); Non-physical disturbance (Noise and visual presence); Toxic contamination (Introduction of synthetic compounds, introduction of

	radionuclides); Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration), changes in salinity, changes in oxygenation); Biological disturbance (Introduction of microbial pathogens, introduction of non-native species, selective extraction of species.
Severn Estuary SPA	Key characteristics: The Severn Estuary SPA supports internationally important assemblages of wildfowl and waders during the winter months and migratory periods.
	 Qualifying Features: Internationally important populations of the Annex 1 species Bewick's swan. Internationally important populations of regularly occurring migratory species (gadwall, shelduck, redshank, dunlin and European white-fronted Goose).
	The site also qualifies as an SPA since it regularly supports in excess of 60,000 waterfowl during the winter. The species listed on the SPA citation as forming part of the assemblage include wigeon, teal, pintail, pochard, tufted duck, ringed plover, grey plover, curlew, whimbrel and spotted redshank. Mallard, lapwing and shoveler have also been added as a result of the 1995 SPA review.
	Vulnerability: Physical loss (Removal/substratum loss and smothering); Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure, abrasion/physical disturbance (of habitats), changes in grazing management); Non-physical disturbance (Noise and visual presence); Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic compounds, introduction of radionuclides); Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration), changes in salinity, changes in oxygenation); Biological disturbance (Introduction of microbial pathogens, introduction of non-native species, selective extraction of species.
Severn Estuary Ramsar	Key characteristics:
	Qualifying Features:

- Bewick's swan
- European white-fronted goose
- Dunlin
- Redshank
- Shelduck
- Gadwall
- Assemblage of waterfowl

Vulnerability: Physical loss (Removal/substratum loss and smothering); Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure, abrasion/physical disturbance (of habitats), changes in grazing management); Non-physical disturbance (Noise and visual presence); Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic compounds, introduction of radionuclides); Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration), changes in salinity, changes in oxygenation); Biological disturbance (Introduction of microbial pathogens, introduction of non-native species, selective extraction of species.

River Usk SAC

Key Characteristics:

Qualifying Features:

SAC Habitat Features

• Watercourses of plain to montane levels with Ranunculion fluitantis and Callitricho-batrachion vegetation

SAC Species Features

- Allis shad Alosa alosa;
- Twaite shad Alosa fallax;
- Bullhead Cottus gobio;
- River lamprey Lampetra fluviatilis;
- Brook lamprey Lampetra planeri;
- Otter Lutra lutra;
- Sea lamprey Petromyzon marinus; and
- Atlantic salmon Salmo salar

	Vulnerability : Invasive non-native species, grazing, forestry activities, pollution to surface waters (Limnic and terrestrial, marine and brackish), soil pollution and solid waste (excluding discharges), human induced changes in hydraulic conditions, forest and plantation management and use, other ecosystem modifications.
River Wye SAC	Key Characteristics: The SAC has a geologically mixed catchment, including shales and sandstones, and there is a clear transition between the upland reaches, with characteristic bryophyte-dominated vegetation, and the lower reaches, with extensive Ranunculus beds. This is a cross Welsh/English border SAC with 9 SSSIs included. The Lower Wye SSSI is the nearest to the project site. The nearest management unit of the SAC is unit 1c, Lower Wye, Wyastone to Redbrook
	Qualifying Features: Annex I habitats and Annex II species that are primary reasons for selection of the site include water course of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation (Status: unfavourable: unclassified)*KH, sea lamprey*Ks (Status: favourable: unclassified), brook lamprey* (Status: unfavourable: unclassified), river lamprey* (Status: unfavourable: unclassified), twaite shad*KS(Status: unfavourable: unclassified), Allis Shad* (Status: unfavourable: unclassified) Atlantic salmon* (Status: unfavourable: unclassified), bullhead (Status: unfavourable: unclassified), European otter*KS (Status: unfavourable)).
	*Present in this Management Unit. Ks Key Species for this Management Unit. KH Key Habitat for this Management Unit.
	Vulnerability : Water quality impacts arising from changing agricultural land-use within the catchment are having direct and indirect effects on the SAC interests through effects of diffuse pollution such as nutrient run-off and increased siltation. Water quality is also affected by synthetic pyrethroid sheep-dips and by point-source discharges within the catchment. Loss of riparian habitat is occurring as a result of changes in agricultural land-use practices and other factors, including riverside development and the loss of alder tree-cover through disease. Fishing activities are implicated in the decline of the salmon. There is increasing demand for abstraction from the river for agriculture and potable water. Demand for increased recreational activities is a source of potential concern for the future.
3.3 Reference documents that provide further details on the site, and have been used to inform	21_02138_MJR-SITE_LOCATION_AND_RED_LINE_BOUNDARY_PLAN-2522064 SC2103_CCD-JBAU-00-00-RP-EN-0001-A1-C01-EIA_SCREENING_AND_SCOPING_OPINION-2439757 SC2103_CONSULTATION_LETTER_SCREENING_AND_SCOPING-2439755 21_02138_MJR-PAC_REPORT-2522062
the assessment:	21_02138_MJR-PAC_APP_2_NRW_COMMENTS_TRACKER_SEPTEMBER_2021_FINAL-2527462 21_02138_MJR-ENVIRONMENTAL_STATEMENTINCLUDING_APPENDICES_C_AND_D2522287

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21 02138 MJR-ES - APPENDICES E F G H AND J-2522288
21 02138 MJR-ES - APPENDIX A - NRW EIA SCREENING OPINION-2522289
21 02138 MJR-ES - APPENDIX B - CARDIFF COUNCIL EIA SCREENING AND SCOPING OPINION-2522290
21 02138 MJR-HABITATS REGULATIONS ASSESSMENT-2521992
21 02138 MJR-LANDSCAPE MITIGATION PLAN-2521993
21 02138 MJR-OVERVIEW PLAN OF SCHEME LOCATIONS-2522300
21 02138 MJR-PLANNING DESIGN ACCESS STATEMENT-2522063
21_02138_MJR-TEMPORARY_LAND_REQUIREMENTS_AND_WORKING_AREA_PLAN-2522066
21 02138 MJR-WATER FRAMEWORK DIRECTIVE ASSESSMENT-2522067
21 02138 MJR-CARDIFF COASTAL IMPACT ASSESSMENT JBA 2021A-2527461
21 02138 MJR-COASTAL SQUEEZE METHODOLOGY AND CALCS V2-2535815
CCD-JBAU-XX-XX-TN-EN-0001-S3-P01-Botany Survey
NVC Map
Rover Way Coastal Squeeze and HRA NRW April2021
CCD-JBAU-00-00-TN-EN-0002-S3-P01-PEA Update
CCD-JBAU-00-00-TN-EN-0001-S0-P01-CS numbers clarification FINAL 10.12.21
CCD-JBAU-00-00-MP-EN-S3-P01-Intertidal Phase 1 Habitats
CCD-JBAU-00-00-MP-EN-S3-P01-Protected Sites
21.02138.MJR Cardiff Coastal Flood Defences (Major) v1
Cardiff Coastal Defences Environmental Statement Addendum – Response to Planning Comments v2 14.06.22
2019s0183 Cardiff Outline CEMP v1.0 28.01.2022
2019s0183 Cardiff Outline SMP v2.1 28.01.2022
Proposed Sediment Sample Plan 1.0 28.01.2022
CML2147 Marine licence issued
CML2147 EIA Consent Decision
CML2147 Form 1 HRA
CML2147 WFD
Tyldesley, D. (2011) Assessing Projects under the Habitats Directive: guidance for competent authorities. Report to
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Hafren Special Area of Conservation (SAC), The Severn Estuary Special Protection Area (SPA), The Severn Estuary / Môr
Hafren Ramsar Site. Natural England & the Countryside Council for Wales' advice given under Regulation 33(2)(a) of the
Conservation (Natural Habitats, &c.) Regulations 1994, as amended. June 2009.
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4.1 is the proposal directly connected or necessary to the management of the site for nature conservation? 4.2 Severn Estuary SAC / SPA / Ramsar The Interest Features which could be affected are: 1. SAC and Ramsar habitats; 2. SPA and Ramsar bird features; 3. Migratory and non-migratory fish. The following potential hazards are taken forward for the Test of Likely Significant Effect below: 1. Physical loss (Removal/substratum loss and smothering). 2. Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure, abrasion/physical disturbance (Of habitats), changes in grazing management); 3. Non-physical disturbance (Noise and visual presence); 4. Biological disturbance (Noise and visual presence); 5. Toxic contamination (Introduction of non-native species). 5. Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic compounds, introduction of radionuclides). 6. Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration)). The possible effects may occur: 1. During Construction 2. During Operation The following potential hazards are screened out due to the scale and nature of the proposed development and distance from the protected site: Biological disturbance (Introduction of microbial pathogens, selective extraction of species). 4.3 River Usk SAC The interest features which could be affected are:	NRW's consultation response dated 29/03/22.	
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 Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic compounds, introduction of radionuclides). Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration)). The possible effects may occur: During Construction During Operation The following potential hazards are screened out due to the scale and nature of the proposed development and distance from the protected site: Biological disturbance (Introduction of microbial pathogens, selective extraction of species). 4.3 River Usk SAC	Non-physical disturbance (Noise and visual presence);	
compounds, introduction of radionuclides). 6. Non-toxic contamination (Changes in nutrient loading, changes in turbidity (light penetration)). The possible effects may occur: 1. During Construction 2. During Operation The following potential hazards are screened out due to the scale and nature of the proposed development and distance from the protected site: Biological disturbance (Introduction of microbial pathogens, selective extraction of species). 4.3 River Usk SAC	Biological disturbance (introduction of non-native species).	
 6. Non-toxic contamination (Changes in nutrient loading, changes in turbidity (light penetration)). The possible effects may occur: During Construction During Operation The following potential hazards are screened out due to the scale and nature of the proposed development and distance from the protected site: Biological disturbance (Introduction of microbial pathogens, selective extraction of species). 4.3 River Usk SAC 	5. Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic	
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development and distance from the protected site: Biological disturbance (Introduction of microbial pathogens, selective extraction of species). 4.3 River Usk SAC	2. During Operation	
development and distance from the protected site: Biological disturbance (Introduction of microbial pathogens, selective extraction of species). 4.3 River Usk SAC	The following potential hazards are screened out due to the scale and nature of the proposed	
pathogens, selective extraction of species). 4.3 River Usk SAC	• • • • • • • • • • • • • • • • • • • •	
	·	
The interest features which could be affected are:	4.3 River Usk SAC	
	The interest features which could be affected are:	

- 1. Twaite.
- 2. Allis Shad.
- 3. Migratory Fish

The following potential hazards are taken forward for the Test of Likely Significant Effect below:

- 1. Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic compounds, introduction of radionuclides).
- 2. Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration)).

The possible effects may occur:

1. During Construction

The following potential hazards are screened out due to the scale and nature of the proposed development and distance from the protected site: Physical loss (Removal/substratum loss and smothering). Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure, abrasion/physical disturbance (of habitats), changes in grazing management); Non-physical disturbance (Noise and visual presence); Biological disturbance (Introduction of microbial pathogens, introduction of non-native species, selective extraction of species).

4.4 River Wye SAC

The interest features which could be affected are:

- 1. Twaite.
- 2. Allis shad.
- 3. Migratory Fish.

The following potential hazards are taken forward for the Test of Likely Significant Effect below:

- 3. Toxic contamination (Introduction of synthetic compounds, introduction of non-synthetic compounds, introduction of radionuclides).
- 4. Non-toxic contamination (Changes in nutrient loading, changes in thermal regime, changes in turbidity (light penetration)).

The possible effects may occur:

2. During Construction

The following potential hazards are screened out due to the scale and nature of the proposed development and distance from the protected site: Physical loss (Removal/substratum loss and smothering). Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure, abrasion/physical disturbance (of habitats), changes in grazing management); Non-physical disturbance (Noise and visual presence); Biological disturbance (Introduction of microbial pathogens, introduction of non-native species, selective extraction of species).

4.3 Severn Estuary SAC / SP	A / Ramsar – Test of Like	ly Significance			
Hazard	Interest Features	Possible Effect	Magnitude in the absence of mitigation	Design of the scheme which reduces impacts on Interest Features (in light of the CJEU ruling (People over Wind and Sweetman v Coillte Teoranta (C-323/17))	Conclusion
Physical loss (Removal/substratum loss and smothering) Physical damage (Changes in suspended sediment, desiccation and changes in emergence regime, changes in water flow rate, changes in wave exposure,	 Estuaries. Mudflats and sandflats not covered by seawater at low tide. Atlantic salt meadow (Glauco- 	Table 4.3 in the HRA (Sept 2021) sets out the areas of intertidal habitats affected permanently and temporarily during the flood defence scheme works. The scheme will directly impact these habitat features. The project will have an effect as the total extent of these habitats will not be maintained and the project may	and Temporary – at least minor	N/A	Likely significant effect.

abrasion/physical	Puccinellietalia	also affect the extent, variety,			
disturbance (of habitats),	maritimae).	spatial distribution, and			
changes in grazing	•	composition of these specific			
management);		habitat communities.			
, ,		Construction activity may also			
Damage to and loss of		affect 'the topography of the			
coastal habitats during		intertidal flats and the			
construction.		morphology' of the area.			
		In addition, construction activity			
		may also result in the loss of			
		relative abundance of the typical			
		species of the Atlantic salt			
		meadow', 'abundance of notable			
		species', 'structural variation of			
		the salt marsh sward', and 'any			
		areas of <i>Spartina anglica</i> salt			
		marsh capable of developing			
		naturally into other saltmarsh			
		communities.			
		A geomorphological assessment	Negligible	N/A	No likely significant
	 Sandbanks 	has been undertaken by JBA			effect.
	which are	Consulting which has concluded			
	slightly	that the proposed project is not			
	covered by sea	likely to affect subtidal habitats.			
	water all the	-			
	time.	The closest identified Sabellaria			
		reef is located over 2km from the	Negligible	N/A	No likely significant
	 Reefs. 	project area. Therefore, the			effect.
		proposed project is not likely to			
		affect reef habitats			

Damage and loss of coastal	Bewick's swan	As set out in Table 5.1 of the HRA	Negligible		No likely significant
habitats during	and European	prepared by JBA Consulting (Sept	Negligible		effect.
construction affecting	white-fronted	2021), data obtained from the			effect.
_		British Trust for Ornithology			
roosting and foraging behaviour.	goose	,			
benaviour.		(BTO) Wetland Birds Surveys			
		(WeBS) Bewick's swan and			
		European white-fronted goose			
		using 5-year peak mean			
		individual counts (taken between			
		2014 and 2019) show that no			
		Bewick's swans and a single			
		individual of European white			
		fronted goose were present			
		within the project area and hence			
		it is concluded that no likely			
		significant effect will occur upon			
		these species.			
	Dunlin,				
	redshank,	Damage to coastal habitats could	Permanent	As set out in the	No likely significant
	shelduck,	affect these bird features by	and	HRA (Sept 2021),	effect.
	gadwall and	affecting their foraging and	Temporary –	the scheme has	circu.
	the waterfowl	roosting behaviour. Table 4.3 in	at least minor	sought to	
	assemblage	the HRA (Sept 2021) sets out the	at icast illiloi	minimise	
	assemblage	areas of intertidal habitats		intertidal habitats	
		affected permanently and		directly impacted	
		temporarily during the flood		by the scheme by	
		defence scheme works.		identifying only	
		Plant movement in the intertidal		the most at risk	
		area has the potential to		sections of the	
		negatively impact intertidal		Rhymney. These	
		habitats through compaction of		sections comprise	
		the foreshore.		steep sections of	
		the foreshore.		steep sections of	

Damage and loss of coastal habitats during construction on fish features. Damage and loss of coastal	 Fish assemblage. Migratory fish. Fish features. 	Direct habitat loss as set out in Table 4.3 of the shadow HRA. Construction activities will also affect the extent, variety, spatial distribution, and community composition of hard substrate habitats and the abundance of notable estuarine species. Coastal squeeze will cause a loss	Permanent and Temporary - At least minor.	the riverbank on the outside of the bends and it is not considered that these areas provide foraging or roost potential for bird species associated with the Severn Estuary EMS. The permanent works within the SPA boundary will be limited to the replacement of existing imported rock with similar artificial rock. N/A	Likely significant effect.
habitats post-construction due to coastal squeeze.	 Estuaries; Mudflats and sandflats not covered by 	of coastal habitat due to sea level rise. This will have an effect as the 'total extent of the estuary' will not be maintained and may also	At least minor.	IN/A	Likely Significant effect.

seawater at	affect the characteristic physical		
low tide;	form and flow of the estuary.		
 Atlantic salt 	Coastal squeeze will also affect		
meadow	the extent, variety, spatial		
(Glauco-	distribution, and community		
Puccinellietalia	composition of hard substrate		
maritimae);	habitats and the abundance of		
Bird features	notable estuarine species. In		
	addition, coastal squeeze may		
	also affect 'the topography of the		
	intertidal flats and the		
	morphology' of the area. In		
	addition, coastal squeeze may		
	also result in the loss of 'relative		
	abundance of the typical species		
	of the Atlantic salt meadow',		
	'abundance of notable species',		
	'structural variation of the salt		
	marsh sward', and 'any areas of		
	Spartina anglica salt marsh		
	capable of developing naturally		
	into other saltmarsh		
	communities'.		
	Damage to and loss of coastal		
	habitats (saltmarsh and mudflat)		
	in the future as a result of coastal		
	squeeze due to sea level rise,		
	which could affect dunlin,		
	redshank, shelduck, gadwall and		
	waterfowl assemblage foraging		
	and roosting behaviour, and could		
	lead to reduced feeding		
	opportunities. This will have an		
	opportamities. This will have all		

		effect on 'the extent of saltmarsh, mudflats and sandflats' which may in turn affect the '5 year peak mean population size for the these species.'			
Disturbance to birds during construction works.	Bewick's swan and European white-fronted goose	As set out in Table 5.1 of the HRA prepared by JBA Consulting (Sept 2021), data obtained from the British Trust for Ornithology (BTO) Wetland Birds Surveys (WeBS) Bewick's swan and European white-fronted goose using 5-year peak mean individual counts (taken between 2014 and 2019) show that no Bewick's swans and a single individual of European white fronted goose were present within the project area and hence it is concluded that no likely significant effect will occur upon these species.	Negligible	N/A	No likely significant effect.
	 Dunlin, redshank, shelduck, gadwall and waterfowl assemblage 	There is potential for construction activities to cause visual and noise disturbance these bird features. Sensitive areas adjacent to the Rhymney and Severn Estuaries have been identified in locations 11, 21 and	Temporary - At least miner	N/A	Likely significant effect.

The state of the s					
		22. In these locations, the initial			
		excavations, placement of rock			
		within the intertidal zone, plant			
		movements through the			
		intertidal zone and contractors			
		wandering away from the work			
		zone, could disturb wetland birds			
		while they are roosting or			
		foraging on the wider foreshore			
		habitats. As a general rule, a			
		distance of 200m between the			
		receptor (i.e. the birds) and the			
		activity (i.e. construction) is taken			
		as the maximum distance over			
		which the activity can affect the			
		receptor. The entirety of the			
		proposed project is within 200m			
		of mean high water, and			
		therefore potentially all			
		construction works at this site			
		may cause disturbance to			
		wetland birds on the foreshore.			
		During construction the Wales	Negligible	N/A	No likely significant
		Coast Path will be diverted or	3 0		effect.
		closed. Communications with the case officer confirmed that the			
		WCP will not be diverted onto			
		the foreshore during construction			
		therefore no impacts will occur.			
Disturbance to birds	 Bird features 	Increased use of the Wales Coast	Permanent –	N/A	Likely significant effect.
during operation		Path.	at least minor		

Disturbance to fish	et.t.	Davagraph F F 30 of the FC states	Tamananan.	NI/A	Likaly significant off+
Disturbance to fish	• Fish	Paragraph 5.5.20 of the ES states	Temporary –	N/A	Likely significant effect.
assemblage during	assemblage.	that "Whilst no piling will take	at least minor.		
construction works.	 Migratory fish 	place below Highest Astronomical			
	assemblage.	Tide (HAT) there is the potential			
	 Fish features. 	risk of disturbance to migratory			
		fish from working practices that			
		will cause vibrations within the			
		water column e.g. percussive			
		piling." Table 2.7 of the ES listing			
		machinery and plant to be used			
		during construction includes a			
		Sheet pile Leada rig as an			
		alternative which may be			
		employed to install the longer			
		15m sheet piles along the			
		roadside. The table states that			
		this will be subject to ground			
		investigation which will inform			
		the driving conditions and			
		therefore there is uncertainty			
		over which method will be used.			
		The use of percussive piling in			
		close proximity of the river during			
		construction could cause			
		disturbance to fish.			
		Lampreys are not particularly			
		sensitive to noise and vibration,			
		however shad are considered			
		particularly sensitive to noise and			
		vibration (NRW HRA, 2022).			
		VIDIACION (IVINVV I IINA, 2022).			

Blocking migration routes for fish.	Migratory Fish Assemblage	The works will not block migration routes or destroy foraging or nursery grounds.	Negligible	N/A	No likely significant effect.
Mobilisation/introduction of synthetic and non-synthetic compounds during construction.	 Estuaries; Mudflats and sandflats not covered by seawater at low tide; Atlantic salt meadow (Glauco-Puccinellietalia maritimae); Sandbanks which are slightly covered by sea water all the time; and Reefs. Qualifying Fish features; and Qualifying Bird features. 	The intertidal mudflats and sandflats and the saltmarsh which are also habitats used by qualifying fish features are currently highly vulnerable to the introduction of synthetic and non-synthetic compounds. Habitat and fish features could be adversely affected during construction through the following three mechanisms: • Potentially contaminating construction materials (i.e., fuel, oils, concrete constituents, soils, etc) are mobilised, washing chemical pollutants into surface waters and affecting coastal habitats. • Construction activities cause the mobilisation of soils and silt, which are washed into the river. • Construction activities create new pathways linking ground contamination with underlying groundwater, which in turn migrates to	At least minor - dependent on nature of pollution event.	N/A	Likely significant effect.

		surface waters and			
		affects coastal habitats			
		and species.			
		Waterfowl are subject to the			
		accumulation of toxins through			
		the food chain or through direct			
		contact with toxic substances			
		when roosting or feeding. Their			
		ability to feed can also be			
		affected by the abundance or			
		change in palatability of their			
		prey caused by toxic			
		contamination. At the moment			
		there is no evidence to show that			
		this is the case on the Severn			
		Estuary, but the estuary is			
		vulnerable to oil spills and there			
		is a continuous discharge of			
		toxins into the estuary, some of			
		which bind to the sediments. This			
		is an area that requires further			
		assessment.			
Introduction of non-native	Estuaries.	The ES and HRA (Table 5.2)	At least minor	N/A	Likely significant effect.
species	Localites.	recognise that imported rock	7101000011111101	,	
Species .		material may provide a distinct			
		pathway for the introduction of			
		marine INNS which could affect			
		the estuary habitats. The material			
		is planned to be transported to			
		the site by road thereby reducing			
		the risk of marine INNS. However,			
		•			
		it is identified that an INNS			

4.4 River Usk SAC – Test of	likely Significance	management plan will need to be developed. This would constitute mitigation and an adverse effect cannot be ruled out at this stage.			
Hazard	Interest Features	Possible Effect	Magnitude in the absence of mitigation	Design of the scheme which reduces impacts on Interest Features (in light of the CJEU ruling (People over Wind and Sweetman v Coillte Teoranta (C-323/17))	Conclusion
Mobilisation of synthetic and non-synthetic compounds during construction.	 Twaite Allis Shad Migratory Fish 	As stated in the HRA (JBA, 2021), water quality in the Severn Estuary could be adversely affected during construction through the following three mechanisms: • Potentially contaminating construction materials (i.e., fuel, oils, concrete constituents, soils, etc) are mobilised, washing chemical pollutants into surface waters and affecting coastal habitats.	Dependent on nature of pollution event.	N/A	Likely significant effect.

		 Construction activities cause the mobilisation of soils and silt, which are washed into the river. Construction activities create new pathways linking ground contamination with underlying groundwater, which in turn migrates to surface waters and affects coastal habitats and species. 			
Blocking migration routes for fish.	Migratory Fish	The works will not block migration routes or destroy foraging or nursery grounds in the River Usk.	Negligible	N/A	No likely significant effect.
Disturbance to fish during construction works.	Migratory Fish	Paragraph 5.5.20 of the ES states that "Whilst no piling will take place below Highest Astronomical Tide (HAT) there is the potential risk of disturbance to migratory fish from working practices that will cause vibrations within the water column e.g. percussive piling." Table 2.7 of the ES listing machinery and plant to be used during construction includes a Sheet pile Leada rig as an alternative which may be employed to install the longer	Temporary – at least minor.	N/A	Likely significant effect

4.5 River Wye SAC – Test o	f Likely Significance Interest Features	Possible Effect	Magnitude in the absence of mitigation	Design of the scheme which reduces impacts on Interest Features (in light of the CJEU ruling (People over Wind and Sweetman v Coillte Teoranta	Conclusion
		15m sheet piles along the roadside. The table states that this will be subject to ground investigation which will inform the driving conditions and therefore there is uncertainty over which method will be used. The use of percussive piling in close proximity of the river during construction could cause disturbance to fish. Lampreys and salmonids are not particularly sensitive to noise and vibration, however shad are considered particularly sensitive to noise and vibration (NRW HRA, 2022).			

Mobilisation of synthetic	 Twaite 	As stated in the HRA (JBA,	Dependent on	N/A	Likely significant effect.
and non-synthetic	Allis Shad	2021), water quality in the	nature of	1477	Likely significant cricet.
compounds during	Migratory Fish	Severn Estuary could be	pollution		
construction.	• Wilgratory Fish	adversely affected during	event.		
construction.		construction through the	event.		
		•			
		following three mechanisms:			
		Potentially			
		contaminating			
		construction materials			
		(i.e., fuel, oils, concrete			
		constituents, soils, etc)			
		are mobilised, washing			
		chemical pollutants			
		into surface waters			
		and affecting coastal			
		habitats.			
		 Construction activities 			
		cause the mobilisation			
		of soils and silt, which			
		are washed into the			
		river.			
		 Construction activities 			
		create new pathways			
		linking ground			
		contamination with			
		underlying			
		groundwater, which in			
		turn migrates to			
		surface waters and			
		affects coastal habitats			
		and species.			
		and species.		1	

		The works will not block migration routes or destroy foraging or nursery grounds.			
Blocking migration routes for fish.	Migratory Fish	The works will not block migration routes or destroy foraging or nursery grounds in the River Wye.	Negligible	N/A	No likely significant effect.
Disturbance to fish during construction works.	Migratory Fish	Paragraph 5.5.20 of the ES states that "Whilst no piling will take place below Highest Astronomical Tide (HAT) there is the potential risk of disturbance to migratory fish from working practices that will cause vibrations within the water column e.g. percussive piling." Table 2.7 of the ES listing machinery and plant to be used during construction includes a Sheet pile Leada rig as an alternative which may be employed to install the longer 15m sheet piles along the roadside. The table states that this will be subject to ground investigation which will inform the driving conditions and therefore there is uncertainty over which method will be used.	Temporary – at least minor.	N/A	Likely significant effect

4.4. Based on the Test of	Yes.	The use of per close proximity of construction disturbance to fix Lampreys and sa particularly sensitivity vibration, however considered particularly sensitivity to noise and vibration.	of the river during could cause sh. Imonids are not tive to noise and er shad are cularly sensitive	g e			
Likely Significant Effect, is							
the project likely to have a							
Significant Effect on the							
Severn Estuary							
SAC/SPA/Ramsar alone?							
4.5 Conclusion of the Test	Yes – Likely significant e	ffects have been ic	dentified via the	pathways stated	above and ther	efore a full Appr	opriate
of Likely Significant Effect:	Assessment is required.						
Will a full Appropriate							
Assessment be required?							
5.APPROPRIATE ASSESSMEN							
5.1 Appropriate Assessment		· -					
Interest Features	Element of the Project	Mitigation Meas			uired?, type & n	nethod of securi	ng)
Estuaries;	Construction Phase	Damage and los					
Mudflats and		Annex 1 habitat	-	nently and temp	orarily lost as a	result of the scl	neme as set out
sandflats not		in the table belo	w.				
covered by							
seawater at low	Table 5.1 – Permanent and Temporary Losses of Annex 1 Habitat						
tide;			Total	Annex 1	Annex 1	Total Annex 1	Other Habitat
Atlantic salt				habitat –	habitat –	 mudflats and sandflats not 	(ha)
meadow (<i>Glauco</i> -				mudflats and sandflats not	Atlantic Salt Meadows (ha)	covered by	
	l			Sananats not	incadows (ila)	20 reied by	

Puccinellietalia maritimae);			covered by seawater all the time (ha)		seawater all the time and Atlantic Salt Meadow (ha)	
	Permanent works (outside SAC)	4.59	1.26	1.51	2.77	1.82
	Permanent Works (within SAC)	3.37	1.09	0.08	1.17	2.20
	Temporary Works (outside SAC)	31.11	6.20	3.38	9.58	21.52
	Temporary Works (inside SAC)	5.67	1.50	0.49	1.99	3.68

Only permanent losses (1.17ha) of the above-mentioned habitats are considered to require compensation.

This loss will require off-site compensation and therefore the integrity test for this factor is **failed** and the HRA must proceed to **Stage 3: Derogation**.

The following mitigation measures will minimise the scale of this loss:

Along the coastline, the rock armour will be kept as close to the original footprint as possible to reduce damage to coastal habitats.

Plant movement in the intertidal area also has the potential to negatively impact intertidal habitats through compaction of the foreshore. To minimise disturbance and habitat degradation plant will be kept to agreed haul routes and not stray outside of these areas. It is considered that in this case the haul routes will rapidly recover following the completion of the works.

The redline boundary has been amended to avoid impacts to saltmarsh through plant movement. All saltmarsh not directly impacted by the scheme will be avoided.

An outline saltmarsh habitat management plan which sets out the mitigation and enhancement measures to be carried out during construction, and post-construction, to benefit this habitat and associated species has been prepared.

A detailed saltmarsh management plan will be prepared prior to commencement of the development and conditioned (see section 5.4).

Mobilisation/introduction of contaminants of synthetic and non-synthetic compounds during construction.

The following pollution prevention measures will be implemented during the works:

- All works will be carried out in accordance with the Pollution Prevention And Control Act 1999.
- Plant nappies will be in place at all times during the works.
- A spill response contractor on call at all times throughout the works.
- Any chemicals will be stored on impermeable surfaces within secure storage containers.
- All plant will be equipped with biodegradable hydraulic oil.
- Drip trays will be kept underneath standing machinery to prevent pollution events by oil/fuel leaks, with any refuelling of vehicles or machinery carried out on an impermeable surface well away from the river or any other drainage channels.
- Spill kits will be available on site at all times and staff trained in their use.
- Vehicles and machinery will be checked on a daily basis for any leakages, with any found reported immediately and the equipment removed from site.

		The above measures will be included within a Construction Environmental Management Plan (CEMP) which will be conditioned (see section 5.4). JBA also submitted a proposed sediment sample plan 1.0 . JBA confirmed that they will undertake contamination sampling as requested by NRW Advisory as set out in the plan. To confirm the presence (or not) and levels of any contamination, JBA proposed sampling which will be undertaken where works are taking place below MHWS. The sample analysis will be assessed by NRW pre-construction. If sediment to be excavated is deemed contaminated as per Cefas action levels, it will be disposed to landfill. The sediment sample plan will be conditioned (see section 5.4).
		Notwithstanding the above, other conditions (conditions 8 – 11 as recommended by NRW in their consultation response dated 12.11.2021) will be attached to any approval of the development to counteract other adverse effects upon the integrity of the Severn Estuary from the mobilisation of soil and silt. Introduction of Non-native Species
		Construction materials will be transported to the site via roads thus reducing the risk of the introduction of non-native species affecting the estuarine habitat. However, as this risk from imported rock material cannot be ruled out fully mitigation is required.
		A Biodiversity Risk Assessment will be developed and implemented during construction. The risk assessment shall include measures to control, remove or for the long-term management of invasive non-native species both during construction and operation. The Biosecurity Risk Assessment will be conditioned (see section 5.4). Details will be incorporated into a CEMP for the scheme which will be conditioned (see section 5.4).
Dunlin, redshank, shelduck, gadwall	Construction Phase	Habitat Loss A total of 7.96ha of intertidal habitats will be permanently lost to facilitate the construction of the coastal sea defences, both within the SAC/SPA/Ramsar and outside the boundary of the

and the waterfowl assemblage.

designations. 36.78ha of intertidal habitats will be temporarily lost to facilitate the construction of the coastal sea defences, both within the SAC/SPA/Ramsar and outside the boundary of the designations.

This loss will require off-site compensation and therefore the integrity test for this factor is failed and the HRA must proceed to **Stage 3: Derogation**.

To minimise the scale of the loss the following mitigation measures will be undertaken. Along the coastline, the rock armour will be kept as close to the original footprint as possible to reduce damage to coastal habitats. To further mitigate the hard engineering approach, soft engineering will be used on the upper banks of the River Rhymney sections. This will involve replacing mud and using brushwood to keep it in place. Sensitive habitats such as saltmarsh and reedbeds have been identified during the design process and removed from the red line boundary that would allow construction plant to enter these areas.

An outline saltmarsh habitat management plan which sets out the mitigation and enhancement measures to be carried out during construction, and post-construction, to benefit this habitat and associated species has been prepared.

A detailed saltmarsh management plan will be prepared prior to the development commencing and conditioned (see section 5.4).

<u>Disturbance</u>

There is potential for construction activities to cause visual and noise disturbance to overwintering and migratory wetland birds which are features of the SPA. For example, use of cranes, or personnel working at height on scaffolding etc, together with noisy activities such as drilling, piling and operation of machinery, could disturb bird features while they are roosting or foraging on nearby foreshore habitats. Overwintering birds are disturbed by sudden movements and sudden noises. This can displace the birds from their feeding grounds. Disturbance can prevent the birds from feeding and in response they either a) decrease their energy intake at their present (disturbed) feeding site through displacement activity, or b) move to an alternative less favoured feeding site. Such a response affects energy budgets and thus survival. At present NE and NRW assess that the

Annex 1 species are moderately sensitive to noise and visual disturbance on the intertidal mudflats and sandflats and are highly sensitive to this category of operation on the saltmarsh.

The ES and HRA acknowledges that there is the potential to disturb dunlin, redshank, shelduck, gadwall and the waterfowl assemblage if the works are carried out in the wintering period. Higher risk areas have been identified as works locations 11, 21 and 22 where there is a significant construction phase risk of disturbance to birds using the saltmarsh that have been identified as high tide roosts.

In principle, it is possible to avoid disturbance to birds during construction. For example, overwintering and migratory bird species are at their greatest concentration in the Severn Estuary between October and March inclusive. Therefore, construction during the April to September period (inclusive) would not cause significant disturbance. However, it is recognised that it may not be feasible to restrict works to this period.

During the overwintering / migratory period, it is possible to avoid disturbance to birds on the foreshore by avoiding works activity during the period between two hours before high tide and two hours after high tide. It is during this four hour window that SPA-feature birds are most likely to occur within 200m of the construction activity. This is the distance within which we typically consider disturbance effects to be significant and thereby any birds using the identified high tide roosts near Locations 11, 21 and 22 would be disturbed by construction activities within 200m of these roosts.

The mitigation measures are therefore as follows:

Works in vicinity of high tide bird roost areas should be avoided over winter wherever possible. Any works identified as having the potential to cause disturbance adjacent to identified high tide roosts will be restricted during a 2 hour window either side of high tide.

An Ecological Clerk of Works must be appointed to oversee these measures.

The CEMP will provide details on the measures required to minimise disturbance impacts on bird features and will be conditioned (see section 5.4).

Mobilisation/introduction of contaminants of synthetic and non-synthetic compounds during construction.

The following pollution prevention measures will be employed on the site:

- All works will be carried out in accordance with the Pollution Prevention And Control Act 1999.
- Plant nappies will be in place at all times during the works.
- A spill response contractor on call at all times throughout the works.
- Any chemicals will be stored on impermeable surfaces within secure storage containers.
- All plant will be equipped with biodegradable hydraulic oil.
- Drip trays will be kept underneath standing machinery to prevent pollution events by oil/fuel leaks, with any refuelling of vehicles or machinery carried out on an impermeable surface well away from the river or any other drainage channels.
- Spill kits will be available on site at all times and staff trained in their use.
- Vehicles and machinery will be checked on a daily basis for any leakages, with any found reported immediately and the equipment removed from site.

A **CEMP** will provide details on the pollution prevention measures required to minimise disturbance impacts on the intertidal habitats during construction (see section 5.4).

JBA also submitted a proposed sediment sample plan 1.0 . JBA confirmed that they will undertake contamination sampling as requested by NRW Advisory as set out in the plan. To confirm the presence (or not) and levels of any contamination, JBA proposed sampling which will be undertaken where works are taking place below MHWS. The sample analysis will be assessed by NRW pre-construction. If sediment to be excavated is deemed contaminated as per Cefas action levels, it will be disposed to landfill. The sediment sample plan will be conditioned (see section 5.4).

Notwithstanding the above, other conditions (conditions 8-11 as recommended by NRW in their consultation response dated 12.11.2021) will be attached to any approval of the development to

		counteract other adverse effects upon the integrity of the Severn Estuary from the mobilisation of soil and silt.
Fish assemblageMigratory fishFish features	Construction Phase	Disturbance of fish species through vibration of the water column during construction Adverse effects as a result of piling on shad and migratory fish assemblage were predicted. Shad are particularly sensitive to noise and vibration.
		The following mitigation measures will be undertaken to minimise effects on these species:
		No piling will take place below highest astronomical tide (HAT).
		Vibration piling will be the preferred methodology and percussive piling will only be used when this fails to break through ground.
		In line with the applicant's outline CEMP submitted "2019s0183 Cardiff Outline CEMP" the following is proposed is also proposed: If percussive piling is required, percussive piling within 30m above HAT conducted between October-March (inclusive) can occur without tidal restrictions; percussive piling within 30m above HAT conducted between June-September (inclusive) can only occur on the ebb tide to protect upstream migrating Atlantic salmon and sea trout; and no percussive piling within 30m above HAT is to be conducted during April and May.
		NRW considered these mitigation measure can be agreed as part of the final CEMP and adherence will be secured within conditions. Should percussive piling be required during the migration period outside of this timing, it will be necessary to agree mitigation measures with NRW prior to any such works taking place.
		A CEMP will provide details on the piling measures required to minimise disturbance impacts on shad and the migratory fish assemblage which will be conditioned (see section 5.4).
		Mobilisation/introduction of contaminants of synthetic and non-synthetic compounds during construction.
		The following pollution prevention measures will be employed on the site:

- All works will be carried out in accordance with the Pollution Prevention And Control Act 1999.
- Plant nappies will be in place at all times during the works.
- A spill response contractor on call at all times throughout the works.
- Any chemicals will be stored on impermeable surfaces within secure storage containers.
- All plant will be equipped with biodegradable hydraulic oil.
- Drip trays will be kept underneath standing machinery to prevent pollution events by oil/fuel leaks, with any refuelling of vehicles or machinery carried out on an impermeable surface well away from the river or any other drainage channels.
- Spill kits will be available on site at all times and staff trained in their use.
- Vehicles and machinery will be checked on a daily basis for any leakages, with any found reported immediately and the equipment removed from site.
- Regular checks will be made of all on-site equipment/machinery, with any faulty equipment removed from site/taken out of use immediately.

A **CEMP** will provide details on the pollution prevention measures required to minimise disturbance impacts on shad and the migratory fish assemblage which will be conditioned (see section 5.4).

JBA also submitted a proposed sediment sample plan 1.0 . JBA confirmed that they will undertake contamination sampling as requested by NRW Advisory as set out in the plan. To confirm the presence (or not) and levels of any contamination, JBA proposed sampling which will be undertaken where works are taking place below MHWS. The sample analysis will be assessed by NRW pre-construction. If sediment to be excavated is deemed contaminated as per Cefas action levels, it will be disposed to landfill. The sediment sample plan will be conditioned (see section 5.4).

Notwithstanding the above, other conditions (conditions 8-11 as recommended by NRW in their consultation response dated 12.11.2021) will be attached to any approval of the development to counteract other adverse effects upon the integrity of the Severn Estuary from the mobilisation of soil and silt.

 Estuaries; Mudflats and sandflats not covered by seawater at low tide; Atlantic salt meadow (Glauco-Puccinellietalia maritimae); 	Operational Phase	The amount of intertidal habitat losses predicted by both JBA and NRW varied. However, as stated in the Coastal Squeeze Numbers Clarification technical note prepared by JBA dated 10.12.21, it has been agreed that on a precautionary basis that the higher value of 24.59ha predicted for future intertidal habitat losses will be used (as obtained using the NRW modelling approach). This loss will require off-site compensation and therefore the integrity test for this factor is failed and this factor must proceed to Stage 3: Derogation. The total compensation required for both direct and indirect losses at the construction and operational phases will therefore be 25.76ha.
Dunlin, redshank, shelduck, gadwall and the waterfowl assemblage.	Operational Phase	Habitat Loss The amount of intertidal habitat losses predicted by both JBA and NRW varied. However, as stated in the Coastal Squeeze Numbers Clarification technical note prepared by JBA dated 10.12.21, it has been agreed that on a precautionary basis that the higher value of 24.59ha predicted for future intertidal habitat losses will be used (as obtained using the NRW modelling approach). This loss will require off-site compensation and therefore the integrity test for this factor is failed and this factor must proceed to Stage 3: Derogation. Disturbance No change to the route of the WCP is proposed and after completion of the scheme, the WCP will be along the toe of the embankment which will reduce the disturbance to birds from breaking the skyline.
5.2 - Appropriate Assessme	ent - River Usk SAC and I	River Wye SAC
Interest Features	Element of the Project	Mitigation Measure Required ((Is mitigation required?, type & method of securing)
Twaite ShadAllis shadMigratory Fish	Construction Phase	These species could be affected by disturbance through vibration of the water column during construction.
		Adverse effects as a result of piling on shad and migratory fish assemblage were predicted. Shad are particularly sensitive to noise and vibration.

No piling will take place below highest astronomical tide (HAT).

Vibration piling is the preferred methodology and percussive piling will only be used when this fails to break through ground.

In line with the applicant outline CEMP submitted "2019s0183 Cardiff Outline CEMP" the following mitigation is proposed: That if percussive piling is required, percussive piling within 30m above HAT conducted between October-March (inclusive) can occur without tidal restrictions; percussive piling within 30m above HAT conducted between June-September (inclusive) can only occur on the ebb tide to protect upstream migrating Atlantic salmon and sea trout; and no percussive piling within 30m above HAT is to be conducted during April and May.

NRW considered these mitigation measure can be agreed as part of the final CEMP and adherence will be secured within conditions. Should percussive piling be required during the migration period outside of this timing, it will be necessary to agree mitigation measures with NRW prior to any such works taking place.

A **CEMP** will provide details on the piling measures required to minimise disturbance impacts on shad and the migratory fish assemblage (see section 5.4).

Mobilisation/introduction of contaminants of synthetic and non-synthetic compounds during construction.

The following pollution prevention measures will be implemented during the works:

- All works will be carried out in accordance with the Pollution Prevention And Control Act 1999.
- Plant nappies will be in place at all times during the works.
- A spill response contractor on call at all times throughout the works.
- Any chemicals will be stored on impermeable surfaces within secure storage containers.
- All plant will be equipped with biodegradable hydraulic oil.

- Drip trays will be kept underneath standing machinery to prevent pollution events by oil/fuel leaks, with any refuelling of vehicles or machinery carried out on an impermeable surface well away from the river or any other drainage channels.
- Spill kits will be available on site at all times and staff trained in their use.
- Vehicles and machinery will be checked on a daily basis for any leakages, with any found reported immediately and the equipment removed from site.

The above measures will be included within a Construction Environmental Management Plan (CEMP) which will be conditioned (see section 5.4).

JBA also submitted a proposed sediment sample plan 1.0 . JBA confirmed that they will undertake contamination sampling as requested by NRW Advisory as set out in the plan. To confirm the presence (or not) and levels of any contamination, JBA proposed sampling which will be undertaken where works are taking place below MHWS. The sample analysis will be assessed by NRW pre-construction. If sediment to be excavated is deemed contaminated as per Cefas action levels, it will be disposed to landfill. The sediment sample plan will be conditioned (see section 5.4).

Notwithstanding the above, other conditions (conditions 8-11 as recommended by NRW in their consultation response dated 12.11.2021) will be attached to any approval of the development to counteract other adverse effects upon the integrity of the Severn Estuary from the mobilisation of soil and silt.

5.3 In combination test: Are there any in combination effects with other plans and projects considering Additional Mitigation Measures. Current or approved planning applications that may contribute to potential adverse effects on the Severn Estuary SAC/SPA/RAMSAR. These are:

Land at Rover Way (21/02182/MJR)

Land at Rover Way

This development was for the removal of fill material and the construction of up to 50,000 sqm of industrial accommodation (B8 Use Class), new access roads and associated landscaping works. LSE from the proposed development were identified relating to disturbance to bird features arising from construction activities and from operation of the development, site drainage and release of any existing land contamination causing pollution of the Severn Estuary during construction, dust

	arising from construction causing contamination and smothering of Severn Estuary habitats and increased disturbance to birds caused by permanent changes to the WCP. An appropriate assessment was undertaken of these factors and mitigation proposed which was secured by planning conditions to ensure no effects on the Severn Estuary designations. Permission was granted.
Case Law, Planning advice	None required.
& relevant studies	
considerations	The fate of the decision of the decision follows from the decision of the deci
5.4 Conclusion of the	The integrity test has been failed for the following: Damage and loss of coastal habitats during construction (both
Appropriate Assessment: Integrity Test – Severn	permanent and temporary) and due to future coastal squeeze as these effects cannot be fully mitigated for.
Estuary SAC/SPA/Ramsar	The Habitats Regulations Assessment should therefore proceed to Stage 3: Derogation for these factors and adequate
Estuary SAC/SI A/Ramsar	compensation provided. It is proposed to compensate for direct and indirect losses through the Welsh Government's
	National Habitat Creation Programme.
	The integrity test is considered to be passed for the remaining factors with the imposition of the following conditions:
	Saltmarsh Management Plan
	No development or phase of development including site clearance shall be carried out until a detailed Saltmarsh Habitat Management Plan, has been submitted to and approved in writing by the Local Planning Authority. The Saltmarsh Habitat Management Plan shall be implemented in accordance with the approved details.
	Reason: To ensure the Annex 1 habitat Atlantic saltmarsh and other valuable saltmarsh habitats are protected, reinstated
	where necessary and enhanced to benefit this habitat and associated species.
	Detailed Sediment Sample Plan
	Condition X: No development or phase of development, including site clearance, shall commence until a detailed sediment
	sampling plan based on the "Proposed Sediment Sample Plan 1.0 28.01.2022" has been submitted to and approved in writing
	by the Local Planning Authority. Sampling must be undertaken in accordance with the sampling plan and analysed at an NRW
	approved laboratory. Written results of the sediment sampling should be submitted for approval by the Local Planning
	Authority prior to construction of the coastal defences along the coastline and along the riverbank of the River Rhymney. This must include an outline of an assessment of alternative uses for the sediment that is to be disposed.
	This must include an outline of all assessment of alternative uses for the sealment that is to be disposed.

Reason: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity.

Biodiversity Risk Assessment

No development or phase of development, including site clearance, with the potential to impact on invasive non-native species, shall commence until a site wide or phase Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive non-native species both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Reason: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site.

Construction Environmental Management Plan

Condition X: No development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, sediment management measures (including if contaminated sediment present); how waste generated will be managed; linked to Construction Method Statement and Contaminated Sediment Plan or Strategy (subject to separate conditions)
- The following must be demonstrated:
- a) That all piling works will be undertaken above HAT;
- b) That vibration piling is the preferred method of piling and that percussive piling
 - o will only be undertaken where it is evidenced that vibration piling is not possible
 - o due to e.g. ground conditions;
- c) That if percussive piling is required, percussive piling within 30m above HAT conducted between October-March (inclusive) can occur without tidal restrictions; percussive piling within 30m above HAT conducted between June-September (inclusive) can only occur on the ebb tide to protect upstream migrating Atlantic salmon and sea trout; and no percussive piling within 30m above HAT is to be conducted during April and May to protect upstream migrating shad from disturbance, and that this will also protect upstream migrating European eel glass eels, as well as downstream migrating Atlantic salmon and sea trout smolts.

- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain, piling type and timings; vehicle access routes over sensitive habitats e.g. saltmarsh and associated protection measures; contaminated sediment plan and strategy
- Biodiversity Management: details of saltmarsh habitat protection; measures to avoid disturbance to overwintering
 and ground nesting birds; invasive species management including link to biosecurity risk assessment and
 management plan; measures to protect otter and badger during construction and avoidance measures for foraging
 and commuting bats; Precautionary Working Method Statement for amphibians and reptiles; other species and
 habitats protection, avoidance and mitigation measures (to include breeding birds, bats, dormouse, water vole and
 invertebrates). To be informed by update and pre-construction surveys as necessary.
- Soil and Sediment Management: details of topsoil strip, sediment removal, storage and amelioration for re-use. Link to contaminated sediment plan and strategy.
- Measures to ensure new bunds will can naturally regenerate or if seeded, the use of locally sourced seeds;
- CEMP Masterplan: details of the extent and phasing of development;
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of sediment management; details of water consumption, wastewater and energy use
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities; dedicated vehicle access routes and habitat protection measures;
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan; details of how contaminated sediments will be dealt with.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;
- NVC maps to inform construction access routes and compound locations so to avoid sensitive places.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

NRW Conditions:

Condition 8: CONTAMINATION RISK SCHEME

No development shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.

- 1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
- 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken
- 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

Reason: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

Condition 9: VERIFICATION REPORT

Prior to the occupation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring

and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Reason: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 10: UNSUSPECTED CONTAMINATION

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Condition 11: PILING DETAILS

No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Reason: Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

6. CONSULTATION

NRW have been consulted on the planning application and responded as follows on 12/11/21:

BWRIAD / PROPOSAL: THE CONSTRUCTION OF A SERIES OF FLUVIAL AND COASTAL FLOOD DEFENCES ALONG THE SEVERN ESTUARY COASTLINE AND EAST AND WEST BANKS OF THE RIVER RHYMNEY, TO INCLUDE ROCK ARMOUR REVETMENTS, CONCRETE EROSION PROTECTION MATS, EARTH BUNDS, A DOUBLE FLOOD GATE (AT THE RHYMNEY RIVER MOTOR BOAT SAIL & ANGLING CLUB) AND SHEET PILING

LLEOLIAD / LOCATION: CARDIFF COASTAL FLOOD DEFENCES. THE SEVERN ESTUARY COASTLINE AND EAST AND WEST BANKS FO THE RIVER RHYMNEY

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 10/09/2021. We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding the Marine Environment, Protected Sites and Protected Species. If this information is not provided, we would object to this planning application. Further details are provided below. We also advise that based on the information submitted to date, conditions regarding the Marine Environment, the Terrestrial Water Environment and Land Contamination should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

Our advice is that overall, there is still insufficient information presented to demonstrate that the proposed scheme will be compliant with the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). Further information on this can be found in Appendix 1 following this letter.

We also advise inadequate ecological baseline data has been provided as part of the Application and Environmental Statement (ES). This baseline data and assessments are important as they will also form the basis of the habitat compensation sought as part of the National Habitat Creation Programme (NHCP); as well as providing the necessary information for the Habitats Regulations Assessment (HRA) process (including Imperative Reasons of Over-riding Public Interest (IROPI) stage). In summary, we consider the following issues need to be addressed prior to determination:

- HRA to be undertaken by Cardiff Council, as Competent Authority (further information can be found in Appendix 1 to this letter); we have concerns over the applicant's Report to Inform HRA;
- Clarification and justification of the coastal squeeze methodology followed, including submission of maps;
- Details of phase 1 intertidal habitat survey methodology and maps;
- Further information to demonstrate there is an acceptable solution to manage likely contaminated sediment resulting from the development;
- Submission of National Vegetation Classification (NVC) survey data to understand habitat loss and inform mitigation and compensation measures;

- Assessment and clarification of impacts on SSSI features;
- Further information on the impacts to European Protected Species (Bats and Dormice)

The Marine Environment

We have reviewed the following documents:

- JBA Consulting (September 2021) Cardiff Coastal Defences: Environmental Statement Final Report
- JBA Consulting (September 2021) Cardiff Coastal Defences: Report to Inform Habitats Regulations Assessment
- JBA Consulting (August 2021) Cardiff Coastal Defence Scheme: Water Framework Directive (WFD) Assessment
- • JBA Consulting (May 2021) Technical Note: Coastal Processes Impact Statement
- Coastal Squeeze Methodology and Calcs V2
- PAC APP 2 NRW COMMENTS TRACKER SEPTEMBER 2021 FINAL (referred to as 'PAC comments' from here on)

Coastal Physical Processes

· Further information: clarification and justification on coastal squeeze methodology

We require further clarification on the coastal squeeze methodology presented, in particular the assumptions made in terms of future potential habitat extent. There's a range of methodologies that can be applied to calculate potential coastal squeeze, as set out in the 'What is coastal squeeze?' report (as discussed with the applicant). Given our previous advice and discussions with the applicant showing a coastal squeeze loss around 25ha, we believe the figure of 1.75ha is optimistic rather than precautionary. We note that the applicant has disregarded our previous advice on the most relevant and consistent approach to the impact assessment, that accounts for the scientific assessment and evidence associated with the Severn Estuary Flood Risk Management Strategy Imperative Reasons of Over-riding Public Interest IROPI (based on this section of the Severn Estuary).

The coastal squeeze methodology is not fully explained, and no maps are presented to show how the calculations have been made. We require further evidence to demonstrate that the predicted impacts are both realistic and suitably precautionary, given the inherent uncertainties in calculating coastal squeeze. It may be more appropriate to put forward a range of figures reflecting the different approaches to the calculations, and acknowledging that it is likely that erosion would occur in the absence of a defence, and therefore coastal squeeze would be higher than the 1.75ha put forward in the most recent assessment. The assessment seems to have disregarded the scale of low-lying land that is discontinuous when applying projected Mean High Water Springs (MHWS) levels but is continuous and extensive when considering Highest Astronomical Tidal (HAT) levels that represent the full extent of potential Annex 1 Intertidal features. This is relevant for the western section of the proposed Flood Risk Management assets.

Marine Benthic Ecology

Further information: Details of Phase 1 intertidal habitat survey.

 Condition: Submission and approval of a Biosecurity Risk Assessment & Management Plan for marine invasive non-native species (INNS).

ES Section 5.3 Ecology Baseline

As per our previous comments on the Draft ES (dated 6th August 2021), Appendix C indicates the phase 1 habitat survey area, but no reference has been included that outlines the results of the intertidal phase 1 habitat survey. We therefore assume that a discrete intertidal Phase 1 habitat survey has not been undertaken as part of the current application.

Therefore, the applicant should provide the methodology and maps relating to broad walkover phase 1 surveys, including the amount of intertidal mudflat and sandflat calculated. This should help inform the habitat type and extent of Annex 1 intertidal habitat being lost. Failure to do so will undermine the confidence in the information presented in the ES and Report to Inform the HRA, This information is required to determine figures for the loss of Annex 1 intertidal habitat features, as well as those being used to inform the coastal squeeze assessment calculations. The results of which will form the basis of the habitat compensation sought as part of the NHCP; as well as providing the necessary information for inclusion as part of the IROPI process.

It is our opinion that direct footprint losses for saltmarsh and intertidal mudflat and sandflat Annex 1 feature should be used to create the compensation habitat as part of the NHCP.

ES Section 5.3.46 Species – Invasive non-native species (INNS)

We welcome reference to several species of INNS known to be present in Cardiff Bay in the ES, however, the section has still failed to include information in relation to the risks potentially posed by spread of marine INNS and link to the Construction Environmental Management Plan (CEMP), including any reference to the intent to undertake a biosecurity risk assessment and management plan. Therefore, we request that a suitably worded pre-commencement condition is included on any permission you are minded to grant, which secures the submission and approval of a Biosecurity Risk Assessment & Management Plan for marine invasive non-native species (INNS). We have provided a suggested condition in Appendix 1.

We acknowledge information contained in the ES relating to the method of rock delivery and confirmation that this will be via road transport. As such, this significantly reduces the risk of introducing marine INNS to the area. However, and as stated in the previous 'Draft ES response', the highly invasive Chinese mitten crab *Eriocheir sinensis* (EU IAS Regulation species of concern/W&CA Schedule 9 Species/Marine Invasive Non-native Species Priority Monitoring and Surveillance List for Wales - High Risk) is known to be present in the Severn Estuary and it is highly plausible that individuals of various life history stages are present in the Rhymney River and associated intertidal mud habitats. The species has life stages that can survive in both fully marine and freshwater environments and is able to survive out of water for extended periods of time. Extreme diligence should be exercised around all aspects of plant, vehicle, vessel, and personnel movement on and off site with strict biosecurity measures in place to ensure that this species in not spread to other areas. Evidence of how the risks of spread are to be minimised/mitigated should be included in the biosecurity risk assessment and management plan. This should include how information on minimising the risk of spread of INNS will be disseminated to all relevant site personnel.

Marine Water and Sediment Quality

• Further information: to demonstrate there is an acceptable solution to manage likely contaminated sediment resulting from the development

We advise further information is needed to demonstrate how contamination from sediment will be managed. We previously provided comments which outlined our concerns of the potential for chemical release into the water environment from contaminated land. It is still not clear how contaminated sediment will be managed.

We note that contaminants will be tested in the sediment removed (bullet point 2 of section 3.2.1 page 11), before it is placed back in the works. There is no mention of what the reason for contaminant testing is or what will happen if contaminant concentrations are found to be high. We note also that the PAC comments state that further contaminant testing will take place as part of ground investigation works, but no detail is given in the WFD assessment. In general, more information is needed to ensure there is a viable contaminant strategy for this programme of works available to the applicant.

In reference to the comment in the PAC comments "contamination", we note that the applicant points us towards the Contaminated Land review (Appendix L) for the release of chemicals to surface waters. We note that the Environmental Quality Standards used in this document (Table 5-2, page 21) are those for freshwater, not marine waters as stated, and request comparisons are done with marine waters.

We agree the scheme is likely to reduce contamination in the long run by preventing deterioration of the land near Lamby Way Landfill. However, it is unclear whether there is erosion of the landfill site at present as several sections of the documentation suggest it could start deteriorating in the next 20 years (e.g. section 1.2.7, page V of the ES). As a result, if the landfill is not already eroding and contaminants already entering the system, then disturbing contaminated sediment in the intertidal would be an added burden on present levels of contaminants which must be considered.

We agree that sediment loading in the Severn is already very high and a relatively small amount of additional loading will not have much impact on water clarity and thus phytoplankton or on dissolved oxygen.

In summary, our advice is that the applicant provides further information (i.e. high-level strategy) which demonstrates how sediment will be managed. If acceptable, we consider the detail can be secured through a sediment plan which can be conditioned (Condition 2 in Appendix 1). This is likely to include full measures for sediment management and monitoring of the project post construction, and any adaptive management measures in place.

Further Advice to the Applicant

Due to the proximity of the site to watercourses, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which are available on the following website:

http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/

Saltmarsh

• Condition: Submission and approval of a saltmarsh habitat management plan to detail the mitigation and enhancement measures to be carried out during construction and post-construction.

Given the uncertainties with the habitat loss figures provided in the ES and Report to Inform HRA, we require a more robust evidence base detailing areas of saltmarsh to be affected during construction (both temporary and permanent losses).

As previously suggested, we would recommend that the Applicant produces a saltmarsh habitat management plan which sets out the mitigation and enhancement measures to be carried out during construction, and post-construction, to benefit this habitat and associated species. Therefore, we request that a suitably worded condition is included on any permission you are minded to grant, for submission and approval of a saltmarsh habitat management plan to detail the mitigation and enhancement measures to be carried out during construction, and post-construction. We have provided a suggested condition (3) in Appendix 1.

Marine and Diadromous Fish

• Condition: Compliance of percussive piling timing restrictions. Restricting all piling works to the dry above HAT. Seasonal and temporal piling restrictions should percussive piling be required, to avoid disturbance to migrating fish.

Following our comments made at the statutory pre-application stage, we welcome the text in Table 5-8 (was 5-6) of the ES which now states:

'All Piling works will be undertaken in the dry above HAT.

Vibration piling (using a variable moment vibrator and a 'soft start' approach) should be used wherever possible. It is proposed that this will be the preferred method of piling and percussive piling will only be used where this method has failed.

Percussive piling works within 30m of the HAT during the migration period will only be undertaken during the falling tide of the river (high tide plus one hour and low tide minus one hour). Should percussive piling be required during the migration period outside the time constraint identified, it will be necessary to agree mitigation measures with NRW prior to any such works taking place.' We welcome the confirmation that all works will be above HAT and that vibration piling is the preferred method of piling. We advise that there has been some misunderstanding of our previous comments in relation to the seasonal restrictions for percussive piling. We advise the following:

- o percussive piling works within 30m of HAT are conducted between October-March (inclusive).
- o percussive piling works within 30m of HAT required between April-September will need further restrictions to protect migrating fish from disturbance. This includes piling only on the ebb tide between June-September inclusive to protect upstream migrating Atlantic salmon and sea trout.
- o no percussive piling is conducted during April and May to protect upstream migrating shad from disturbance, and that this will also protect upstream migrating European eel glass eels, as well as downstream migrating Atlantic salmon and sea trout smolts

We would request that the above points are secured through a suitably worded condition on any permission you are minded to grant. We have provided a suggested condition (4) in Appendix 1.

WFD Assessment

Reiterating our previous advice, we do not agree with Table 6-1 for fish, where it is stated that the migratory season is "between October and February inclusive". Different diadromous species will be migrating through the Rhymney Estuary at various times of the year, and not just during October to February inclusive. We advise that the text of this table is amended.

Marine Mammals

Following our comments made at the statutory pre-application stage, we welcome the text in Table 5-8 (was 5-6) which now states: All Piling works will be undertaken in the dry above HAT. Therefore, it can be considered there is no pathway of direct impact to marine mammals from construction activities from underwater noise or vibration. Should any construction activities need to take place in water, then this pathway would need to be considered.

However, section 7.1.1 says all piling works will occur above HAT but Table 6.1 - fish - only states all piling works will be undertaken in the dry. Appendix 1 drawings suggest some piling will occur below MHW, but Section 2.5 of ES suggests that this may have changed. We therefore advise that consistency is needed between the ES and WFD Table 6-1 and Section 7.1.1.

Advice to the LPA on Water Framework Directive (WFD) Assessment

The WFD assessment acknowledges that the assessment cannot yet be finalised because the scheme design has not yet been finalised. For example, details of construction methods and mitigation are awaited. Section 1.2 states 'A further WFD assessment of the scheme may be required once the detailed design and construction methodologies are finalised'.

It is our opinion that there are significant uncertainties remaining around the detail of the works, the mitigation measures and the compensatory measures. For example, some of the proposed mitigation such as coir matting or promoting sediment accretion is poorly described and it is unclear whether such mitigation will be effective. We are satisfied, however, details can be a) provided through the request for further information above; b) provided post determination through conditions; or c) through the HRA process.

We will then review the information and any further WFD assessment and advise you at that time. For information, we provide further advice for you and the applicant on sections of the WFD assessment below.

The WFD assessment also references compensatory measures under the Welsh Government Habitat Creation Scheme (NHCP). It is unclear from the WFD assessment what these measures might be and whether the requirements of Habitats Regulations have been complied with. This will be addressed through the HRA process.

Section 3 – Project Description

We previously commented that a clearer description of the proposed works is needed to inform the assessment. However, the design remains unclear, particularly because some aspects of design are yet to be finalised. Elsewhere in the revised ES and Report to Inform HRA, it is now stated that "All Piling works will be undertaken in the dry above HAT." However, figures in Appendix A appear to show proposed piling in intertidal areas.

Section 6 – WFD Impact Assessment

Sections 6 and 7 notes that the assessment will need to be revisited once the design is finalised. As advised previously, further detail on the proposed habitat enhancement features associated with the revetments should be provided and the potential to mitigate/offset adverse effects should be assessed when further information is provided through planning conditions.

We previously commented that Table 6-3 in Section 6.4 (page 30) provides an assessment of whether the proposed works comply with the overarching objectives of the WFD. However, similarly to the information provided in Table 6-1, overall, there is a lack of evidence to reach the conclusion that the proposed works do not compromise the WFD objectives. Furthermore, these conclusions are subject to a condition that 'mitigation measures and compensation measures are adhered to'. It is unclear what measures will be adopted as part of the proposed scheme. Further evidence should be presented through planning conditions to inform the impact assessment.

Table 6-3 references both potential mitigation and compensation measures. Further clarity should have been provided concerning these measures to provide confidence that they will be effective. However, we are satisfied that the effectiveness of mitigation measures is controlled through planning condition and compensatory measures will be dealt with through the HRA process. As commented on previously, the impact assessment notes that direct loss of habitat will occur beneath the footprint of the proposed scheme. There is also potential for loss of habitat in the future operation of the scheme as a result of rises in sea level and coastal squeeze. This should be considered in the impact assessment.

The text in Section 7.1.5 does not follow the requirements of the Habitats Regulations. If compensatory measures are proposed, this means the project has been deemed to have an adverse effect on site integrity. Once the compensatory measures are in place and effective, it may be possible to conclude that the coherence of the site network has been maintained, and that features within the affected sites are at favourable conservation status. We are content that risks to other Protected Areas have been scoped out. Summary

As acknowledged by the Applicant in Section 7.3 (page 32), the assessment needs to be reviewed at a stage where the design of the scheme (or worst-case design) and mitigation measures that need to be considered to make the works compliant with the WFD are known.

Further detail on scheme design, mitigation and compensation measures are needed. These details can be provided through the further information requests, planning condition requests and, for compensatory measures, through the HRA process. We consider the assessment to be incomplete at this stage, however we will advise on the proposed scheme's compliance with WFD when those further details are provided.

Ornithology

We are satisfied that the Applicant has addressed previously recommended measures to reduce disturbance to overwintering birds during the construction phase.

Conditions for Marine Environment

- 1. Biosecurity Risk Assessment & Management Plan for marine invasive non-native species (INNS)
- 2. Submission and approval of a sediment plan/strategy
- 3. saltmarsh habitat management plan

- 4. Piling
- 5. Construction Environment Management Plan
- 6. Construction Method Statement

Please find suggested wording for conditions in Appendix 2 of this letter

Protected Sites (Special Area of Conservation and Sites of Special Scientific Interest)

- Further information: submission of National Vegetation Classification (NVC) report to understand whether the survey data is appropriate to inform impacts upon SAC habitat and losses of SAC habitat
- • Further information: assessment on impacts to SSSI (features not covered by SAC/EMS designations)

National Vegetation Classification (NVC) survey data

In the first instance, we require the full NVC report (including maps) to be submitted to understand the robustness and appropriateness of the survey which has informed the application, for example whether it identifies sensitive areas which should be avoided. This should include a full species list. We acknowledge the response in the PAC comments that states this list will be included with the planning application, however this has not yet been received.

Section 5.2.4 of the ES notes that an NVC survey was carried out in October 2019. We consider this is not the optimum time to carry out an NVC survey as the flowering annuals will have senesced, meaning the full botanical interest of the site is unlikely to have been captured. Subject to the review of the full NVC report, it may be necessary to carry our further NVC surveying.

We also previously required a map to be submitted showing the location of the works, access routes, site compounds and relevant NVC information in order to assess the direct loss, where damage to important features will occur and what NVC communities are likely to be impacted. With this information, potential for mitigation to protect more sensitive areas of the site can be considered, for example, directing access routes across less sensitive areas. We note comments in the PAC comments state that this will be submitted as part of the NVC report and will include saltmarsh communities. Again, this has not yet been received.

Areas determined to be Annex I priority and designated feature habitats within the Severn Estuary SSSI and along the Rhymney River should be clearly mapped and the area of predicted habitat losses at the construction and operational stages should be clearly stated. We note that table 5-6 has been included to show 'Total intertidal habitats impacted including construction impacts' but advise that the table does not match the figures given in the text. We would also ask that explanation is provided for how the figure stated in 5.5.38 has been arrived at as it is unclear given the numbers in table 5-6. This clarification would also help us to clarify direct habitat loss during the construction phase, which we raised as a concern in our previous response.

Impacts to SSSI features

In our previous response, we raised concerns that certain features of the Severn Estuary Site of Special Scientific Interest (SSSI), which are not covered under the Severn Estuary SAC, SPA and Ramsar designations need full consideration in the assessment. For

example, damage/loss of notable plant species, such as the nationally scarce Bulbous Foxtail Alopecurus bulbosus and Slender Hare's-ear Bupleurum tenuissimum.

Table 2-9 of the ES still does not show the SSSI designations, namely the Severn Estuary SSSI and the Gwent levels - Rumney and Peterstone SSSI. Impacts from this on the SSSI have not been discussed. It is necessary to provide the NVC map with the location of the flood defence works, access routes and site compounds mapped, to fully show which SSSI habitats will be impacted; to what extent; and specify whether these habitats are likely to support plant or invertebrate interest. Appropriate mitigation for impacts on this site should be included.

We note in point 5.5.7 of the ES that, 'Section 11 of the proposed flood defence extends into the Rumney and Peterstone SSSI'. This must be clarified. We note the PAC comments that the potential impacts of the works adjacent to the SSSI are limited to construction phase impacts through bad construction practices.

If work will take place within the SSSI this should be clearly stated, and the potential impacts assessed in the ES. This should include proposed mitigation, for example track mats along specified access routes to prevent damage to the grassland. If the applicant demonstrates work will not take place in the SSSI, we advise that where works/access routes/site compounds are adjacent to the SSSI the buffer zone should be specified. We advise at least a 10m buffer between the works footprint and ancillary structures and the SSSI boundary delineated with heras temporary fencing or similar temporary barrier.

Condition - CEMP

We expect the CEMP to fully consider the SSSIs features and provide detail of the buffer zones during construction as described above. We advise that no vehicles, machinery or plant should track through the buffer zones and there should be no works within the buffer zone, including earthworks, and no materials should be stored within the buffer zone, temporarily or permanently. This is not an exhaustive list of activities and the Potentially Damaging Operations list for the Gwent levels – Rumney and Peterstone SSSI should be referred to when preparing the CEMP. If any works need to take place within the buffer zone or the SSSI this should be clearly stated, justified and mitigation proposed.

In summary, we request the full NVC report is provided to ensure its appropriateness and that further assessment or clarifications are made regarding the impacts on SSSI features.

Protected Species

We note that no further information has been submitted in relation to European Protected Species since we provided a response at Statutory Pre-Application stage. Therefore, our comments still stand. These have been included again for your convenience. We consider there are some areas where further information is needed to underpin the conclusions provided.

Bats

The draft ES sates: 'No buildings suitable for roosting bats were identified within the scheme area. Broadleaved woodland located adjacent to the scheme area was predominantly of a young age and is therefore unlikely to provide potential roosting features, such as cracks, knot holes, or lifted bark. However, given the large size of the study area, no specific surveys of trees for bat roost potential were carried out.'

Due to the transient nature of bat roosts in trees, we request that any trees requiring felling or management works to facilitate the development, or woodland management proposals, should be preceded by an assessment for their potential to support roosting bats. For any trees categorised as having moderate to high potential for supporting bats, further surveys (climbing inspections and/or activity surveys) will be required in accordance with best practice guidelines. The results of the surveys should be reported in full and a detailed plan included with the submission which outlines which trees require felling and pruning, and their potential to support roosting bats. Should bat roosts be confirmed, we advise that an assessment of the impacts of the scheme on these roost sites and proposals to mitigate or compensate for them is included with the submission.

Dormice

The draft ES concludes habitats within the scheme area provide limited potential for Dormice: Suitable habitat within the scheme area is limited to patches of bramble located along Lamby Way which provide some potential for hibernating Dormice. However, it is

www.naturalresourceswales.gov.uk www.cyfoethnaturiolcymru.gov.uk Page 12 of 25

considered that this habitat is isolated and not connected to areas suitable for foraging dormice. It is therefore considered that Dormice will not be present within the scheme areas.

Given the proximity of dormouse records, we request further information is provided in the ES to support the conclusion to scope dormouse out of the impact assessment. We advise that photographs of the relevant habitats and appropriate drawings showing the location of relevant habitats, their connectivity to the wider area and to the proposal are included.

Otters - CEMP Condition

The draft ES concludes otter habitat will not be affected by the proposals. We recommend a condition be attached to any planning permission which ensures measures to protect otter during construction are delivered, e.g. restricting working to between one hour before dusk and an hour after sunrise, covering or ensuring means of escape from trenches, appropriate fencing of compounds etc. This information can be included in the CEMP.

Further Advice

We consider it would be helpful if Phase 1 Maps of the proposed areas are included, overlaid by maps of the proposal. These will give context to the observations in the draft ES regarding habitats and species.

The Terrestrial Water Environment

We note that no further information has been submitted in relation to the Terrestrial Water Environment since we provided a response at Statutory Pre-Application stage. Therefore, our comments still stand. These have been included again for your convenience. Water Quality – CEMP and Construction Method Statement Conditions

We advise that despite the existing sediment budget in the estuary, prevention of plumes from suspended solids is key in pollution prevention and minimisation of impacts to fish and invertebrate populations. Similarly, considerations should include avoiding scouring of this sensitive habitat and careful storage of chemicals in line with pollution prevention guidance available on the NetRegs website. We would expect these to be highlighted in the CEMP as such.

We would also expect clarity to be provided on the exact nature of works, including planned excavations and site operation once up and running in respect of the above. We would expect this to be provided in the Construction Method Statement.

Fisheries – Condition 7 (Time restrictions)

We consider the construction work has the potential to disturb migrating fish in the River Rhymney. Salmonid fish (i.e. Atlantic salmon and sea trout) migrate through the lower River Rhymney in an upstream direction during May to September (inclusive) and in a downstream direction in April to June (inclusive). Therefore, in order not to disturb migrating salmonid

fish, we would a recommend a condition be attached to any planning permission ensuring construction takes place within the banks of the River Rhymney (i.e. the proposed work sections 21, 31 and 32) only from October to March (inclusive). Work outside this period can only take place with the written permission from us. For example, consideration would be given to in-channel work from July to September (inclusive) during the falling tide only.

We have provided a suggested condition (7) below under Appendix 2.

Land Contamination

We have reviewed the following newly submitted information:

 'Cardiff Coastal Defence Scheme- Contaminated Land Review' Prepared by JBA Consulting April 2021. REF: CCD-JBAU-ZZ-00-RP-GT-0002-S0-P01-Contaminated Land Review

However, as additional ground investigation and testing is proposed at the start of the project, we would advise that conditions are included in any permission your authority is minded to grant. We have provided a list of suggested conditions below under Appendix 2 (conditions 8-11). SuDS and groundwater impacts

We also wish to highlight that no infiltration of surface water drainage into the ground should be allowed unless it has been demonstrated that there will be no resultant unacceptable risk to controlled waters. Any new surface water drainage which employs infiltration methods could mobilise contaminants and has the potential to contribute to water pollution.

Further Advice to the Applicant

Reference is made to the CL:AIRE Definition of Waste:Code of Practice (DoWCoP) under Section 6.2.2 'Waste/Re-use of site won material'. It should be noted that the DoWCoP relates to soil/made ground only and does not extend to cover other historically deposited materials or wastes. The following informative is advised:

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterized both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

Flood Risk

Model Review

We have verified the hydraulic model that the FCA is based upon. The model submitted in support of the FCA represents an update to an earlier model used to inform the earlier stages of the project. The updates are considered acceptable to inform the FCA. There are several areas within the model that could be considered to give conservative results.

FCA Review

The planning application proposes flood defences and management infrastructure which is in Zone 3 of the Flood Map for Planning, as referred to in TAN 15 (Technical Advice Note 15: Development, Flooding and Coastal Erosion, December 2021). This type of development is defined as water compatible under Figure 3 of TAN15. We refer you to paragraph 10.3 in TAN15 which states water compatible development is acceptable, from a flooding perspective, in all flood zones. Our comments below consider the impact of the development on flood risk elsewhere.

We have reviewed the FCA submitted in support of this application, prepared by JBA Consulting, dated: July 2021, ref: CCD-JBAU-XX-XX-RP-HM-0001-S3-P01-FCA UPDATED.

The proposed scheme comprises repairs and improvements to existing structures alongside the construction of new defences and scour protection measures to provide increased standards of protection over a 100-year lifetime. The scheme has been designed to manage flood risk to 2,326 residential and 204 non-residential properties as well as protecting other areas of historic landfill, key infrastructure, and a traveller's site from coastal erosion.

Section 5.3 and Table 5.3 outline the post-development scenario with the scheme in place. This demonstrates the predicted significant reduction in the number of properties affected by flooding during the 0.5% (1 in 200 year) and 0.1% (1 in 100 year) tidal events in both 2019 and 2119 if the scheme is constructed. Whilst there is still predicted to be flooding within the scheme development site, particularly within the channel of the Rhymney River and existing flood plain on Llanrumney sports fields and Parc Tredelerch, other areas are predicted to benefit from reduced risk over the lifetime of the scheme.

Flood Risk in the 0.5% plus Climate Change event

In the predicted 0.5% (1 in 200 year) tidal event in the year 2119 the scheme is shown to provide significant benefits in terms of the numbers of properties at risk of flooding and depths of flooding over a wide area. It is also demonstrated that no properties experience detriment in terms of increased flooding.

In the predicted present day 0.5% (1 in 200 year) event the FCA states that flood depths inside the application site boundary increase but this is largely within the channel of the Rhymney River and therefore the FCA considers this to be acceptable. Outside of the site boundary some other areas of existing flood plain on public open space and greenfield land experience increased flood depths, predicted to increase by between 6mm to 9mm.

Table 5-5 outlines the significant overall reduction in numbers of properties at risk of flooding in each scenario as a result of the scheme. It is stated that in the 2119 0.5% (1 in 200 year) event flood risk will be mitigated for approximately 2326 residential and 204 commercial properties.

Flood Risk in the 0.1% plus Climate Change event

In the predicted 0.1% (1 in 1000 year) tidal event in 2119 the scheme is shown to provide significant benefits in terms of the numbers of properties at risk of flooding and depths of flooding over a wide area. It is also demonstrated that no properties experience detriment in terms of increased flooding.

In the present day 0.1% (1 in 1000 year) event the FCA confirms that whilst the overall flood extent is reduced in many areas there is again an increase in flood depths inside the site boundary which the FCA considers to be acceptable. There is also a larger increase in depths in the open spaces outside the site boundary of up to 62mm. It is however also stated that in the present day 0.1% (1 in 1000 year) event a number of existing residential and commercial properties will experience increased flood depths of up to 53mm. Table 5-6 confirms that in the present 0.1% (1 in 1000 year) event whilst there is an overall reduction in the number of properties at risk, 121 properties will experience detriment in terms of increased flooding

Flooding elsewhere and Detriment

Of the 121 properties experiencing detriment the FCA states that 4 of these did not previously flood but that the depth of flooding predicted means that only the curtilages will flood, floodwater is not anticipated to enter the buildings. The other 117 properties are already predicted to flood but will experience increased flood depths.

The FCA accepts that the construction of flood defences can result in some negative impacts due to disruption of flow paths and displacement which can increase flooding to some areas. It is also accepted that building flood defences in an urbanised area can make it very difficult to avoid all negative impacts and detriment to existing property in all scenarios. Increasing flooding elsewhere is not in line with TAN15 requirements, meaning that any scheme that results in such detriment cannot fully comply. However, the FCA argues that a risk-based approach should be adopted in such instances and that the overall betterment provided by the scheme, over its lifetime, outweighs any detriment. We can therefore advise that the FCA has considered and assessed the relevant requirements of TAN15 and provides sufficient information to inform a decision.

Summary

It is recognised that the scheme does cause detriment but there is also an overall betterment regarding the wider scheme. In particular, it was put forward as the best compromise on the basis that the significant benefits in the more frequent events outweighed the detriment in the extreme event.

Our advice is that the scheme cannot fully comply with the requirements of TAN15 with regards to its effect on flooding elsewhere. We have no objection to the proposals on flood risk grounds given the overall betterment. However, as it is for your Authority to determine the application, you should take into consideration the above advice.

Further Advice for Applicant

As previously discussed at the pre-application meeting, elements of the scheme will fall under the Marine Licensing regime.

A Flood Risk Activity Permit may be needed for the proposed works landward of the mean high-water tide (for example, locations 42 and 52). Further advice and guidance can be found on our website. You can also contact Development and Flood Risk Advisor Carl Llewellyn for further advice: Carl.Llewellyn@cyfoethnaturiolcymru.gov.uk

It is also essential that the previous commitment in the pre-application meeting to ensure that our access to maintain and/or improve our own defences in the area is upheld and this will need to be controlled through either the permitting or planning regimes.

We advise the eastern part of the proposed development is within the Caldicot and Wentlooge Levels Internal Drainage District (IDD), with Blanchmoor Reen to the north and Barcroft Reen further east. We advise the applicant we require continued access to undertake our annual works maintenance. Our IDD Team request to be kept up to date with the proposal to identify whether any adjustments are required in our annual works programme to assist in the planned works. If requested, our IDD Team can also assist in an advisory capacity with regards to water level management within the locality of the IDD boundary. You can contact IDD Engineer David Penny for further advice: David.Penny@cyfoethnaturiolcymru.gov.uk.

Furthermore, we advise the applicant that no watercourse/drainage alterations or run-off is to enter the IDD system without a Land Drainage Consent from us. Further advice and guidance is available on our website.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Advice for the Developer

Wales Coast Path

With regard to the interests of users of the Wales Coast Path (WCP) we advise it is important to maintain the current route (and proposed route over Lamby Way landfill site) of the Public Right of Way (PROW) over which the WCP route runs along, in regard to any of the intervening works. It is also important to ensure future path users have a good experience with views that are currently enjoyed.

We understand the PROW/WCP route on the west side of the Rhymney River will be temporarily diverted inland (using a Temporary Traffic Regulation Order) in order to accommodate the construction of the flood defence works, as advised by Jenn Griffiths (PROW Office) to Lowri Hughson-Smith (Planning) in Cardiff Council.

The PROW/WCP route continues past the DCWW site. We understand DCWW intend to install their own flood defence scheme at this location. We consider it is in the interests of path users to ensure there is continuity of the route, so would expect the proposed works to interlink with the DCWW works on the ground. Similarly, the proposed Biomass site (referred to as Rover Way) should be considered in connection with any flood defence works as they also include provision for the WCP route within the site boundaries.

Furthermore, it is important to note that there are extremely prolific and persistent areas of Japanese Knotweed (INNS) in this area. For information, a WCP grant has previously supported weed treatment along these sections on and adjacent to the WCP route. Also, fly tipping is prolific in this area, often around or near the Travellers site, on the saltmarsh and foreshore. We advise the contractor/s must have specific regard to these matters as they will be encountered on site when work is undertaken.

Waste on Site

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, we should be contacted for advice at an early stage to avoid any delays.

Waste Produced During Construction

Any waste removed from site will be subject to waste management controls. Waste must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. Should waste be removed from site it must be taken to an appropriate facility authorised to accept this waste. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- \(\square \text{ to identify the controls that apply to the movement of the waste} \)
- to complete waste documents and records
- identify suitably authorised waste management options
- to prevent harm to people and the environment

Further information on Duty of Care Regulations can be found on our website.

Further information on how to classify waste is available on our website.

Further information on how to register as a waste carrier is on our website.

Further information on how to register as a hazardous waste producer is on our website.

If you have any queries on the above, please do not hesitate to contact us.

Appendix 1: NRW consultation response on application reference 21/02138/MJR

Advice on Habitats Regulations Assessment for the Competent Authority

The advice in this response is offered to assist Cardiff Council, as the Competent Authority, in reaching a view on the possible significant effect of these proposals in the context of Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 for the Severn Estuary SAC and SPA. We agree that likely significant effect on the Severn Estuary SAC and SPA cannot be ruled out

and we therefore recommend an 'appropriate assessment' of the proposal in accordance with Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017.

If the appropriate assessment cannot establish that the plan or project will not adversely affect the integrity of any protected site, then it may only proceed if there are no alternative solutions and it satisfies the Imperative Reasons of Overriding Public Interest test (IROPI). If a project is to proceed on the basis of IROPI any compensatory habitat needed must be provided to secure the coherence of the new national site network. These are referred to as the 'derogation provisions' contained in Regulations 64 and 68 of Conservation of Habitats and Species Regulations 2017. Please note, as currently presented in the ES (e.g. paragraph 1.6.14) and the Report to Inform the HRA (e.g. table 7-1), there is confusion between mitigation and compensation measures. It is incorrect to state that the impacts will be 'mitigated' by compensation (i.e. off-site replacement compensatory habitat).

It cannot be stated that a permanent 'moderate' effect constituting loss of SAC designated habitat can be reduced to 'slight' by providing compensation. The HRA guidance states that loss of habitat will affect the integrity of a site, which would be a national or international scale impact.

We advise that Table 3-1: The HRA Process 'Stage 3: Assessment where no alternatives and adverse impacts remain' (page 12) should be referred to as Derogation as in Habitats regulations assessments: protecting a European site - GOV.UK (www.gov.uk). The Welsh Government will need to provide an Imperative Reasons for Overriding Public Interest (IROPI) assessment opinion for this project and then compensation is the next stage.

We advise that Table 7-1: Appropriate Assessment of hazards and mitigation on site integrity is incorrect. Compensation is separate to mitigation and therefore should not be considered at this stage. There is direct and indirect loss of habitat through this scheme. The UK Government advice on appropriate assessment states that:

'The integrity of the site will be adversely affected if a proposal could, for example:

- · Destroy, damage, or significantly change all or part of a designated site
- Significantly disturb the population of a designated species, for example, its breeding birds...'

The Report to Inform HRA concludes 'With the implementation of the mitigation proposed no adverse impacts on the integrity of the Severn Estuary EMS'. Given that with mitigation it is expected there will be both direct and indirect habitat loss because of this project, it is not appropriate to state that adverse effects on the site integrity can be ruled out. Therefore, we would not agree with this conclusion and advised your HRA proceeds to the stage 3 (derogation phase) and IROPI assessment.

Further Advice to Competent Authority on HRA preparation

We agree with the assessment of LSE in Table 5-2: Assessment of likely significant effects of hazards on interest features. We welcome the inclusion of INNS as a potential impact pathway and acknowledge the intention to undertake a management plan for INNS.

Table 7-1: Appropriate Assessment of hazards and mitigation on site integrity. Severn Estuary SAC – Construction activity SAC interest feature 3: Mudflats and sandflats not covered by seawater at low tide (mudflats and sandflats). We note that area figures have now been included in the table for loss of Annex 1 intertidal habitats as a result of construction activities. However, as noted in the previous comments, these may need to

be revised based on further information regarding intertidal habitat survey, so as to accurately assess the level of compensation delivered as part of the NHCP. See also physical processes comments in relation to calculation of the coastal squeeze assessments as the current intertidal habitat area figures may influence the calculations.

Coastal Squeeze

We refer you to Welsh Government policy clarification note: Use of the National Habitat Creation Programme in delivering Flood and Coastal Erosion Risk Management projects (gov.wales)

We have advised further clarification on the compensatory habitat calculations for coastal squeeze. At present we cannot agree to the conclusions of the HRA.

Table 7-1: Appropriate Assessment of hazards and mitigation on site integrity To mitigate the hard engineering approach, soft engineering will be used on the upper banks of the River Rhymney sections. This will involve replacing mud and using brushwood to keep it in place. We recommend the success of the proposed mitigation is monitored, as suggested in the ES, and adaptive management implemented if needed. No adaptive management is currently presented.

Apart from the permanent footprint offset requirements and coastal squeeze impacts we support the mitigation measures outlined, particularly regarding sediment management and monitoring of the project post construction. We question if there are any adaptive management measures in place, in the case the monitoring shows effects outwith that predicted, as described in the ES.

Marine Water and Sediment Quality

In the HRA, construction activities which cause "mobilisation of soil and silt" (e.g. page 25) may also include release of contaminated sediment. This pathway has been missed off the HRA for several receptors and should be updated.

Marine and Diadromous Fish

We previously advised that the impact pathways upon notable estuarine species assemblages need to be considered in the case of fish, as the fish assemblage is a sub-feature of the Estuaries feature of the Severn Estuary SAC. We note that this has not been addressed in the Report to Inform HRA. It appears that the migratory fish assemblage has been considered but not the whole fish assemblage which is the subject of the conservation objective for the SAC in the 2009 Regulation 33 advice for the Severn Estuary. We previously advised that the impact pathway from noise and vibration upon twaite shad is assessed in the HRA. We note that this comment has been only partially addressed. The River Usk SAC and River Wye SAC assessments do not consider the impact pathway from noise and vibration during construction.

We previously advised that impact pathways upon Ramsar Criterion 8 species should be considered. We note that this has not been addressed in the Report to Inform HRA and the table appears incomplete.

Appendix 2: NRW consultation response on application reference 21/02138/MJR

Suggested Planning Conditions

Condition 1: No development or phase of development, including site clearance, with the potential to impact on invasive non-native species, shall commence until a site wide or phase Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive

non-native species both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site.

Condition 2:

If acceptable information is submitted demonstrating there is an acceptable solution to manage likely contaminated sediment resulting from the development, then we would expect a detailed Plan to be conditioned as part of any permission granted.

Condition 3: No development or phase of development including site clearance shall be carried out until a Saltmarsh Habitat Management Plan, has been submitted to and approved in writing by the Local Planning Authority. The Saltmarsh Habitat Management Plan shall be implemented in accordance with the approved details.

Condition 4: Piling must be carried out as described in Table 5-8of the Environmental Statement (referenced xxx)

Condition 5: No development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, sediment management measures (including if contaminated sediment present); how waste generated will be managed; linked to Construction Method Statement and Contaminated Sediment Plan or Strategy (subject to separate conditions)
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain, piling type and timings; vehicle access routes over sensitive habitats e.g. saltmarsh and associated protection measures; contaminated sediment plan and strategy
- Biodiversity Management: details of saltmarsh habitat protection; measures to avoid disturbance to overwintering birds; invasive species management including link to
- biosecurity risk assessment and management plan; other species and habitats protection, avoidance and mitigation measures.
- Soil and Sediment Management: details of topsoil strip, sediment removal, storage and amelioration for re-use. Link to contaminated sediment plan and strategy.
- Measures to ensure new bunds will can naturally regenerate or if seeded, the use of locally sourced seeds
- CEMP Masterplan: details of the extent and phasing of development;
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.

- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of sediment management; details of water consumption, wastewater and energy use
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities; dedicated vehicle access routes and habitat protection measures;
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan; details of how contaminated sediments will be dealt with.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.
- NVC maps to inform construction access routes and compound locations so to avoid sensitive places
- Measures to protect otter during construction

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

Condition 6: No development, including site clearance, shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement should provide all details construction and/or engineering methods.

Note: the requested CEMP and Construction Method Statement could be presented/submitted as one document. The objective of the CEMP is to set out avoidance and mitigation measures to protect the environment, whereas the objective of the Method Statement is to explain how construction/engineering will take place.

Condition 7: No development, or phase of development shall be carried out on the banks of the River Rhymney, including proposed work sections 21,31 and 32 between the

months of April and September to protect migrating salmonid fish. Any works during this period shall only take place with the written permission of the planning authority.

Justification: To avoid the potential for disturbance of Salmonid fish where this cannot be controlled through a licence or assent.

Condition 8: No development shall commence until the following components of a scheme to

deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.

- 1. A preliminary risk assessment which has identified: all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

- 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken
- 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details. Justification: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

Condition 9: Prior to the occupation of the development a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Justification: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 10: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Condition 11: No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Justification: Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

APPENDIX 1: European Site Conservation Objectives for Severn Estuary SAC/SPA/Ramsar:

Severn Estuary SAC/SPA/Ramsar

The Conservation Objectives of the Relevant Designated Sites are taken as set out in the following document: Natural England & CCW (2009) The Severn Estuary / Môr Hafren European Marine Site comprising: The Severn Estuary / Môr Hafren Special Area of Conservation (SAC), The Severn Estuary Special Protection Area (SPA), The Severn Estuary / Môr Hafren Ramsar Site. Natural England & the Countryside Council for Wales' advice given under Regulation 33(2)(a) of the Conservation (Natural Habitats, &c.) Regulations 1994, as amended June 2009. These Conservation Objectives have not changed since the 2017 application, therefore the advice provided by NRW (then as CCW) under Regulation 33(2)(a), now known as Regulation 37(3)(a), has not changed.

The Conservation Objectives of the Severn Estuary SAC are:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats;
- The structure and function of the habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
- The populations of qualifying species; and
- The distribution of qualifying species within the site.

Further information on the Severn Estuary SAC can be found at: http://www.jncc.gov.uk/ProtectedSites/SACselection/sac.asp?EUCode=UK0013030

The Conservation Objectives Severn Estuary SPA are:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;

- The supporting processes on which the habitats of the qualifying features rely;
- The population of each of the qualifying features; and
- The distribution of the qualifying features within the site.

Further information on the Severn Estuary SPA and Ramsar Site can be found at: http://www.jncc.gov.uk/default.aspx?page=2066.

The Conservation Objectives for the features of the Ramsar site are the same as those for the homologous features of the SAC and SPA.

Further information on the Severn Estuary Ramsar Site can be found at http://www.jncc.gov.uk/pdf/RIS/UK11081.pdf.

River Usk SAC

The Conservation Objectives of the Relevant Designated Sites are taken as set out in the following document: CCW (2008) Core Management Plan Including Conservation Objectives for River Usk Special Area of Conservation (SAC).

The Conservation Objectives of the River Usk SAC are:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats;
- The structure and function of the habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
- The populations of qualifying species; and
- The distribution of qualifying species within the site.

Further information on the River Usk SAC can be found at:

https://sac.jncc.gov.uk/site/UK0013007

River Wye SAC

4.1 Conservation Objective for the watercourse

The ecological status of the watercourse is a major determinant of FCS for all features. The required conservation objective for the watercourse is defined below.

- 4.1.1 The capacity of the habitats in the SAC to support each feature at near-natural population levels, as determined by predominantly unmodified ecological and hydromorphological processes and characteristics, should be maintained as far as possible, or restored where necessary.
- 4.1.2 The ecological status of the water environment should be sufficient to maintain a stable or increasing population of each feature. This will include elements of water quantity and quality, physical habitat and community composition and structure. It is anticipated that these limits will concur with the relevant standards included in Appendixes 1 and 2.
- 4.1.3 Flow regime, water quality and physical habitat should be maintained in, or restored as far as possible to, a near-natural state, in order to support the coherence of ecosystem structure and function across the whole area of the SAC.
- 4.1.4 All known breeding, spawning and nursery sites of species features should be maintained as suitable habitat as far as possible, except where natural processes cause them to change.
- 4.1.5 Flows, water quality, substrate quality and quantity at fish spawning sites and nursery areas will not be depleted by abstraction, discharges, engineering or gravel extraction activities or other impacts to the extent that these sites are damaged or destroyed.
- 4.1.6 The river planform and profile should be predominantly unmodified. Physical modifications having an adverse effect on the integrity of the SAC, including, but not limited to, revetments on active alluvial river banks using stone, concrete or waste materials, unsustainable extraction of gravel, addition or release of excessive quantities of fine sediment, will be avoided.
- 4.1.7 River habitat SSSI features should be in favourable condition. Where the SAC habitat is not underpinned by a river habitat SSSI feature, the target is to maintain the characteristic physical features of the river channel, banks and riparian zone. 4.1.8 Artificial factors impacting on the capability of each species feature to occupy the full extent of its natural range should be modified where necessary to allow passage, eg. weirs, bridge sills, acoustic barriers.
- 4.1.9 Natural factors such as waterfalls, which may limit, wholly or partially, the natural range of a species feature or dispersal between naturally isolated populations, should not be modified.
- 4.1.10 Flows during the normal migration periods of each migratory fish species feature will not be depleted by abstraction to the extent that passage upstream to spawning sites is hindered.
- 4.1.11 Flow objectives for assessment points in the Wye Catchment Abstraction Management Strategy will be agreed between EA and CCW as necessary. It is anticipated that these limits will concur with the standards used by the Review of Consents process given in Appendix 2 of this document.
- 4.1.12 Water Quality targets follow those in the revised Common Standards Monitoring Guidance for Rivers (JNCC 2016). These are detailed in Appendix 1 with targets for organic pollution (DO, BOD and ammonia), phosphate1, trophic diatom index and acidification.
- 4.1.13 Potential sources of pollution not addressed in the Review of Consents, such as contaminated land, will be considered in assessing plans and projects.
- 4.1.14 Levels of suspended solids will be agreed between EA and CCW for each Water Framework Directive water body in the Wye SAC. Measures including, but not limited to, the control of suspended sediment generated by agriculture, forestry and engineering works, will be taken to maintain suspended solids below these levels.
- 4.2 Conservation Objective for Features 1-5:

- Sea lamprey Petromyzon marinus (EU Species Code: 1095); Brook lamprey Lampetra planeri (EU Species Code: 1096); River lamprey Lampetra fluviatilis (EU Species Code: 1099); Twaite shad Alosa fallax (EU Species Code: 1103); Allis shad Alosa alosa (EU Species Code: 1102); Atlantic salmon Salmo salar (EU Species Code: 1106); Bullhead Cottus gobio (EU Species Code: 1163)
- 4.2.1 The conservation objective for the water course as defined in 4.1 above must be met
- 4.2.2 The population of the feature in the SAC is stable or increasing over the long term.
- 4.2.3 The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms eg. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions eg. food supply (as described in sections 2.2 and 5). Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4
- 4.2.4 There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.
- 4.3 Conservation Objective for Feature 6: European otter Lutra lutra (EU Species Code: 1355) 4.3.1 The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour.
- 4.3.2 The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole area of the Wye SAC is considered to form potentially suitable breeding habitat for otters. The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.
- 4.3.3 The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc at road bridges and other artificial barriers.

- 4.4 Conservation Objective for Feature 7: Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation (EU Habitat Code: 3260)
- 4.4.1 The conservation objective for the water course as defined in 4.1 above must be met
- 4.4.2 The natural range of the plant communities represented within this feature should be stable or increasing in the SAC. The natural range is taken to mean those reaches where predominantly suitable habitat exists over the long term. Suitable habitat and associated plant communities may vary from reach to reach. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms eg. depth and stability of flow, stability of bed substrate, and ecosystem structure and functions eg. nutrient levels, shade (as described in section 2.2). Suitable habitat for the feature need not be present throughout the SAC but where present must be secured for the foreseeable future, except where natural processes cause it to decline in extent.
- 4.4.3 The area covered by the feature within its natural range in the SAC should be stable or increasing.
- 4.4.4 The conservation status of the feature's typical species should be favourable. The typical species are defined with reference to the species composition of the appropriate JNCC river vegetation type for the particular river reach, unless differing from this type due to natural variability when other typical species may be defined as appropriate.