

COMMITTEE DATE: 09/11/2016

APPLICATION No. **16/00117/MNR** APPLICATION DATE: 21/03/2016

ED: **CANTON**

APP: TYPE: Full Planning Permission

APPLICANT: MYJM Ltd

LOCATION: 12 CLIVE ROAD, CANTON, CARDIFF, CF5 1HJ

PROPOSAL: PROPOSED DEMOLITION OF EXISTING BUILDING AND
CONSTRUCTION OF 9 SELF CONTAINED APARTMENTS
WITH ON SITE PARKING

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

1. The development shall begin not later than one year from the date of this decision.
Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, 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. 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: In the interests of the proper drainage of the site, in accordance with policy EN10 of the Cardiff Local Development Plan.
3. 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 DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (2012), 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: In accordance with policy EN13 of the Cardiff Local Development Plan.

- 4. 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 DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (July 2006), 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.

5. The remediation scheme approved by condition 4 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 DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (July 2006), 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. Prior to the commencement of development, details of the means of site enclosure shall be submitted to and approved in writing by the Local Planning Authority. The means of site enclosure shall be constructed in

accordance with the approved details prior to the development being put into beneficial use.

Reason: To ensure that the amenities of the area are protected and in the interests of security and the prevention of crime, in accordance with policy KP5 of the Cardiff Local Development Plan and paragraph 4.11.12 of Planning Policy Wales (January 2016).

11. The development shall not be occupied until facilities for the secure storage of cycles at a rate of one 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 and sheltered parking of cycles in accordance with policies KP5 and T5 of the Cardiff Local Development Plan.

12. No development shall commence, including any works of demolition, 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 shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding.
- v) wheel washing facilities.

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

13. The development shall be carried out in accordance with the following approved plans and documents:

AL(00)01 – location plan

AL(01)01 Rev A – proposed plans

AL(01)02 Rev A – proposed plans

AL(01)10 – proposed elevations

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

14. The car parking spaces shown on the approved plans shall be provided prior to the development being brought into beneficial use and thereafter shall be maintained and shall not be used for any purpose other than the parking of vehicles.

Reason: To ensure that the use of the proposed development does not interfere with the safety and free flow of traffic passing along the highway, in accordance with Policy T5 of the Cardiff Local Development Plan.

15. The proposed demolition works within the curtilage of the site shall be carried out in accordance with a Method Statement to be submitted to

and approved by the Local Planning Authority prior to any demolition commencing. The statement shall include for the removal of demolition materials from the site.

Reason: In the interests of public safety and amenity, in accordance with policies KP5 and T5 of the Cardiff Local Development Plan.

16. Prior to the construction of the building above foundation level, samples and/or details of the external finishing materials shall be submitted to and approved in writing by the local planning authority. This shall also include details showing how the main entrance door will be made more visually prominent. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the finished appearance of the development is in keeping with the area in accordance with policy KP5 of the Cardiff Local Development Plan.

17. The internal layout of the development shall be constructed strictly in accordance with the approved plans and no future alteration shall be made to the layout unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of future occupiers and the surrounding area and to ensure that parking facilities are adequate to serve the development, in accordance with policies KP5, H6 and T5 of the Cardiff Local Development Plan.

RECOMMENDATION 2: 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.

RECOMMENDATION 3: 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.

RECOMMENDATION 4: The applicant is advised that they 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. 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. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to Dwr Cymru/Welsh Water.

RECOMMENDATION 5: In the interests of crime prevention and site security, it is recommended that this development be built to Police specified "Secured by Design" standards as promoted by South Wales Police. Information on these standards is available on the website www.securedbydesign.com. It is recommended that a suitable audio /visual access control is fitted to the main entrances, ground floor windows and main entrance and exit doors comply with

PAS24: 2016, all individual apartments and private areas are lockable. Loft hatches located in communal areas such as over landings must be locked to prevent access into apartments through the loft, a secure individual mail delivery system should be included and adequate fire warning and prevention systems are in place.

RECOMMENDATION 6: The developer is advised that no part of the proposed development, including, but not exclusive to, ground floor windows and access doors/gates, is permitted to open out over or encroach on to the public highway.

1. DESCRIPTION OF PROPOSED DEVELOPMENT

- 1.1 Full planning permission is sought for the demolition of a 2 storey detached commercial property and erection of a building containing 9 self-contained apartments (8 x 1 bedroom and 1 x 2 bedroom) on 3 floors, with one off street parking space on the site frontage and an enclosed car park for 4 vehicles at the rear of the site. There would also be an area for bin storage and cycle parking at the rear.
- 1.2 The building would be three storeys on height with a flat/mansard roof which would, at its highest point, be slightly lower than the ridge height of the adjoining house. It would be of a contemporary design, with a vertical emphasis, finished in red brick, render and timber panel detailing. Window and door surrounds would be grey aluminium. Part of the building at the rear, adjacent to the boundary with no. 14 Clive Road, would be single storey with a monopitch roof.
- 1.3 The application was reported to the Planning Committee on 18th May 2016 and the Committee resolved to approve it 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 5.5 and 5.7 of this report. The applicant has refused to enter into the required S106 planning obligation and has submitted a viability report which sets out to demonstrate that the development is not financially viable at present if S106 contributions are paid. Therefore the application is reported back for the Planning Committee to make a decision as to whether the proposal is acceptable without the contributions but with a condition requiring development to commence within one year of approval, to ensure that if there is any delay in implementing the permission, the ability of the development to support financial contributions can be reviewed in the light of possible changes in economic circumstances.

2. DESCRIPTION OF SITE

- 2.1 The site measures approximately 13m wide x 31.5m long and is on the eastern side of Clive Road, around 40m from the junction with Cowbridge Road East. There is a lane on its southern side leading to a house at the rear of the site and which also serves garages at the rear of properties on Cowbridge Road East. Immediately to the north is a two storey house.

- 2.2 The surrounding area is largely residential in character, with commercial uses towards Cowbridge Road East, and contains a mixture of traditional terraced and semi-detached properties interspersed with modern infill development, including flats, in a mixture of materials.
- 2.3 The building to be demolished is two storeys in height, with a pitched roof, extensive glazing at first floor level and a large shop window in the front elevation. It has a small forecourt and a parking space on the frontage adjacent to no. 14 Clive Road, with a dropped kerb.

3. **SITE HISTORY**

- 3.1 97/1051W – Change of use of rear coach house to a dwelling.
- 3.2 98/1179W – single storey extension at rear – refused.
- 3.3 99/1005W –single storey rear extension – refused.
- 3.4 01/00433/W – Single storey rear extension.
- 3.5 03/00349/W - Change of use of rear coach house to a dwelling (renewal).
- 3.6 14/00136/DCO – Redevelop existing ground floor upholstery shop & workshop and existing first floor 3 bedroom apartment into 3 one bedroom apartments and one 2 bedroom apartment.
- 3.7 15/00173/MNR – Change of use of existing ground floor commercial premises and first floor flat to D1 nursery accommodating up to 50 children, and minor alterations – Refused (parking & noise).

4. **POLICY FRAMEWORK**

4.1 *Cardiff Local Development Plan 2006-2021:*

KP5 (Good Quality and Sustainable Design);
KP7 (Planning Obligations);
H3 (Affordable Housing);
H6 (Change of Use or Redevelopment to Residential Use);
EN13 (Air, Noise, Light Pollution and Land Contamination);
EC3 (Alternative Use of Employment Land and Premises);
T5 (Managing Transport Impacts);
C5 (Provision for Open Space, Outdoor Recreation, Children's Play and Sport)
W2 (Provision for Waste Management Facilities in Development).

4.2 *Supplementary Planning Guidance:*

Following the adoption of the Cardiff Local Development Plan, existing Supplementary Planning Guidance documents are no longer linked to adopted development plan policies. However, where existing SPG is considered consistent with the new LDP policy framework, it will continue to be material to the Development Management process. The following Supplementary

Planning Guidance is considered relevant to the determination of this application as it is considered consistent with LDP policies KP5, H3, T5 and W2 and can be used to help inform the assessment of relevant matters –

Access, Circulation and Parking Standards (January 2010);
Cardiff Residential Design Guide (March 2008);
Waste Collection and Storage Facilities (March 2007);
Infill Sites (April 2011);
Affordable Housing (March 2007)
Open Space (March 2008)

4.3 *Planning Policy Wales (January 2016):*

4.4.3: In contributing to the Well-being of Future Generations Act goals, planning policies, decisions and proposals should (inter alia):

- Promote resource-efficient and climate change resilient settlement patterns that minimise land-take (and especially extensions to the area of impermeable surfaces) and urban sprawl, especially through preference for the re-use of suitable previously developed land and buildings, wherever possible avoiding development on greenfield sites
- Play an appropriate role to facilitate sustainable building standards (including zero carbon) that seek to minimise the sustainability and environmental impacts of buildings
- Locate developments so as to minimise the demand for travel, especially by private car
- Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs, including affordable housing for local needs and for special needs where appropriate, in safe neighbourhoods
- Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides. This includes helping to ensure that development is accessible by means other than the private car.

4.7.4: Local planning authorities should assess the extent to which developments are consistent with minimising the need to travel and increasing accessibility by modes other than the private car. Higher density development, including residential development, should be encouraged near public transport nodes or near corridors well served by public transport (or with the potential to be so served).

4.11.9: Visual appearance, scale and relationship to surroundings and context are material planning considerations. Local planning Authorities should reject poor building and contextual designs.

4.11.11: Local planning authorities and developers should consider the issue of accessibility for all.

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

9.1.1 : The Assembly Government will seek to ensure that previously developed land is used in preference to Greenfield sites; new housing and residential environments are well designed, meeting national sustainability standards and making a significant contribution to promoting community regeneration and improving the quality of life; and that the overall result of new housing development in villages, towns or edge of settlement is a mix of

affordable and market housing that retains and, where practical, enhances important landscape and wildlife features in the development.

9.1.2 Local planning authorities should promote sustainable residential environments, avoid large housing areas of monotonous character and make appropriate provision for affordable housing. Local planning authorities should promote:

- mixed tenure communities;
- development that is easily accessible by public transport, cycling and walking, although in rural areas required development might not be able to achieve all accessibility criteria in all circumstances;
- mixed use development so communities have good access to employment, retail and other services;
- attractive landscapes around dwellings, with usable open space and regard for biodiversity, nature conservation and flood risk;
- greater emphasis on quality, good design and the creation of places to live that are safe and attractive;
- the most efficient use of land;
- well designed living environments, where appropriate at increased densities;
- construction of housing with low environmental impact, reducing the carbon emissions generated by maximising energy efficiency and minimising the use of energy from fossil fuel sources, using local renewable and low carbon energy sources where appropriate; and
- 'barrier free' housing developments, for example built to Lifetime Homes standards.

9.2.14 A community's need for affordable housing is a material planning consideration.

9.3.3 Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.

9.3.5 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. Applicants for planning permission should therefore demonstrate and justify how they have arrived at a particular mix of housing, having regard to development plan policies. If, having had regard to all material considerations, the local planning authority considers that the proposal for a site does not contribute sufficiently towards the objective of creating mixed communities, then the authority will need to negotiate a revision of the mix of housing or may refuse the application.

12.7.3: Adequate facilities and space for the collection, composting and recycling of waste materials should be incorporated into the design of any development and waste prevention efforts at the design, construction and demolition stage should be made by developers.

4.4 *Technical Advice Note 12 - Design (2014)*

4.5 *Welsh Office Circular 13/97, 'Planning Obligations'*

4.6 *Welsh Government Circular WGC 016/2014 – “The Use of Planning Conditions for Development Management”*

5. **INTERNAL CONSULTEE RESPONSES**

5.1 *Transportation*: No objections subject to conditions requiring retention of proposed parking facilities, cycle parking and approval of construction and demolition management schemes.

5.2 *Drainage*: No comments received.

5.3 *Pollution Control (Noise & Air)*: Standard recommendation on construction site noise.

5.4 *Pollution Control (Contaminated Land)*: Standard conditions and recommendations on contaminated land assessment, remediation and verification; unforeseen contamination; imported and recycled materials and contaminated/unstable land.

5.5 *Parks Development*: Based on the 2009 Cardiff Council Open Space Survey there is a deficiency in open space provision of 3.19ha in the Canton Ward, in which the development is situated (Measured by the Fields in Trust recommended standard of 2.43 hectares per 1000 population). The quality and facilities of existing open spaces also require improvement, with additional capacity to take into account the increased residential population resulting from the development. Demand for usage of the existing open spaces would increase in the locality as a result of the development and therefore it is appropriate that an off-site contribution is made, calculated in accordance with the guidelines set out in the Open Space SPG. The Public Open Space Contribution shall be used by the Council towards the design, improvement and/or maintenance of public open space within the locality of the development site. The closest areas of recreational open space are Victoria Park and Thompsons Park. As no public open space is being provided on-site, the developers will be required to make a financial contribution towards the provision of open space off-site, or the improvement (including design and maintenance) of existing open space in the locality. Based on the above assessment the contribution payable will be **£13, 973**, which includes the administration fee. Information on the open space projects reasonably related to the development, to which the contribution will be allocated, will be provided for inclusion within the Section 106 Agreement. This would involve local consultation and be subject to Member approval.

5.6 *Waste Strategy & Minimisation Officer*: The bin storage area indicated on the original site plans is not acceptable (the refuse collection vehicle (RCV) would not be permitted to use the access lane, due to its narrow nature and as the bin store is further than 25m away, the crews would be unable to empty the bins. The crews are not permitted to manoeuvre large 1100 litre bins further than 25m for health and safety reasons). The bin store must also be within 30m of the dwelling (front door).

5.7 *Housing Strategy:* Cardiff has a high housing need for affordable housing in this area of the City. In line with the adopted LDP, an affordable housing contribution of 20% of the 9 units (2 units) is sought on this brown-field site. Our priority is to deliver on-site affordable housing, in the form of affordable rented accommodation, built to Welsh Government Development Quality Requirements for purchase by a nominated Registered Social Landlord partner. However, given the proposed design of the residential scheme, overall scheme layout, including the proposed size/design of the units, and the potential service charges for this type of residential development, all of these factors could affect the affordability as well as the practicality of managing and maintaining affordable housing on-site for a Registered Social Landlord. In view of the above, we could accept the affordable housing to be wholly delivered as a financial contribution in lieu of on-site affordable housing provision. On that basis we would seek a financial contribution of **£125,280** (in lieu of the 2 units) which is calculated in accordance with the formula in the Affordable Housing – Supplementary Planning Guidance (SPG) (2007).

6. **EXTERNAL CONSULTEES RESPONSES**

- 6.1 *Welsh Water:* No objections subject to approval of a drainage scheme.
- 6.2 *South Wales Police:* Give recommendations on design and layout principles relating to security.

7. **REPRESENTATIONS**

- 7.1 The application has been advertised by neighbour notification. 7 objections have been received, which are summarised as follows -
1. The lane is used regularly by existing residents and is too narrow – vehicles would drive on the proposed pavement, which would be unsafe.
 2. Extra use of the unsurfaced lane would lead to damage and extra costs for residents.
 3. Increased anti-social and criminal behaviour caused by more people using the unlit lane.
 4. Loss of access along the lane during demolition and building works.
 5. Overdevelopment – there would be too many flats in a small area.
 6. Bins would have to be taken to Clive Road from the back of the site. Bins could be left permanently at the front, causing an obstruction.
 7. The building will be too tall and will shade other properties and the garden of the house at the rear.
 8. Noise and disturbance from residents. The area is currently quiet and undisturbed.
 9. Loss of privacy – windows will overlook the gardens of the neighbouring house and the house at the rear.
 10. Traffic congestion on Clive Road will increase.
 11. The development will dwarf neighbouring properties and the design will look out of place. The building would be far more prominent than any other as well as being completely different in shape and style to any neighbouring building.
 12. There will not be enough parking spaces. It is already difficult to park in

- this area.
13. Internal and external lighting could be left on constantly, which would affect the houses opposite, as would and the headlights of cars using the lane.
 14. Three storeys extending a metre or so beyond the front edge of the neighbouring house would block part of the view from the front bedroom and block light into the front lower room.
 15. A previous application for an extension was refused (1999) on the grounds that “the extension would be so large as to dominate the house and garden at No. 14 Clive Road to an extent which would result in a serious loss of amenity for neighbours.” The same reasoning should apply to this application.
 16. The drawings are misleading. There are illustrations of the front, rear and south facing elevations and a much smaller one of the north facing elevation, closest to 14 Clive Road. In section 4.11 of the design and access statement there is no illustration of the proposed new north elevation at all. There is no marking showing the line of the existing building on the drawing of the proposed north elevation and if there were, it would show that the proposed north wall is significantly longer than the current one.
 17. Loss of views from windows of 14, Clive Road.
 18. Loss of light to first floor bedroom windows and ground floor dining room window of 14 Clive Road.

8. **ANALYSIS**

- 8.1 The application raises no land use policy concerns as the application site is located within an existing residential area, inside the settlement boundary as shown on the Cardiff Local Development Plan Proposals Map. As such, the existing shop and workshop are offered no protection in land use policy terms in this location. The main considerations with regard to this proposal are the effect on the amenities of neighbouring occupiers and the impact on the street scene.
- 8.2 The existing building on the site is clearly a later addition within Clive Road. It spans the entire width of its plot, has a shallow pitched roof and has an inconsistent fenestration and design/finish from the other buildings within this part of the street. The building was previously a commercial premises (furniture upholsterers) and has a ground floor flat roofed front projection extending forward of the building toward the Clive Road. The building is not therefore considered to make a particularly positive contribution within the street scene. While the proposed building would depart from the mostly terraced, two storey dwelling built form which characterises this section of Clive Road, given that the existing building did not conform to this predominant local character, it would be unreasonable to require its replacement to follow a more traditional approach.
- 8.3 The maximum height of the proposed building would be lower than that of the ridge height of the neighbouring dwelling (No. 14 Clive Road) and its eaves height consistent with this property. The proposed building would span the entire width of the plot as the existing building did. As such, the scale and

massing of the front elevation of the proposed building would not be significantly greater than that existing and is therefore considered acceptable.

- 8.4 While the proposed building is of a contemporary design and finish there is some evident variety in the form of the buildings along the street and in their finishing materials. Taking this into account and given the limited contribution which the existing building makes to the street scene, it is considered that visually the proposal would represent an enhancement.
- 8.5 The front elevation of the proposed building, while contemporary, is vertically emphasised, which reflects other buildings in the area. However, it is considered that the front door of the proposed scheme ought to be more prominent and that consideration should also be given to reducing the palette of materials proposed in order to simplify the buildings overall aesthetic. These details can be controlled by planning conditions should the application be approved.
- 8.6 With regard to the impact on the amenities of neighbouring residents, the proposed building would not project any further back into the site than the existing building did at its furthest point but it would have a significantly greater bulk than the existing building and in closer proximity to the boundary of the plot with No. 14. In order to reduce the impact on no. 14, the building has been designed so that it will be only one storey in height adjacent to the boundary where it projects beyond the main rear wall of no. 14 and its upper floors are set back around 3.3m from the boundary. The building will not project beyond the end of the rear annex of no. 14. Although the development will result in loss of outlook from windows in the side of no. 14's rear annex, it is not considered that the impact will be so overbearing as to justify the refusal of planning permission. The impact on the rear facing bedroom window at first floor level in the main rear elevation of no. 14 has been taken into account in the design of the development by ensuring that it adheres to the Building Research Establishment Report 'Site Layout Planning for Daylight and Sunlight - A Guide To Good Practice' (1991), - this has been illustrated on the submitted drawings. It is not considered that the additional bulk of the building would have an unacceptable, overbearing impact on the neighbouring property and its garden.
- 8.7 The building will be far enough away from the house to the rear to cause no unacceptable loss of privacy. Windows will be more than 21m apart and there will be more than 10m between the new building and the rear boundary of the plot, which will prevent unacceptable overlooking of the garden of the house at the rear. The building will not project beyond the end of the rear annex of no. 14 and new windows will overlook the neighbouring garden only at an angle, which is an acceptable and common situation in urban areas such as this.
- 8.8 The development will provide a reasonable standard of accommodation for future residents. All the apartments will have a floor area of more than 40 square metres and although no private amenity space would be provided as part of the proposed scheme, it is noted that eight of the nine apartments are 1 bedroom properties and would not therefore represent family accommodation. Also, the site is within a short walk of both Thompsons Park and Victoria Park.

While the provision of some form of amenity space provision would generally be expected, it would on balance be difficult to sustain a strong objection to the proposal on this issue alone.

8.9 With regard to the objections received:

1. The new building will not encroach on the lane, which is not to be made any narrower. A planning condition can ensure that details of the access are submitted for approval.
2. This is not a material planning consideration.
3. It cannot be assumed that new residents would engage in such behaviour. An increased presence may deter criminal activity.
4. A construction management scheme can be required, which would minimise disruption caused by building works.
5. The site is large enough to provide flats of an acceptable size along with adequate parking provision and space for bin and cycle storage. There are other blocks of flats along Clive Road and this form of development is not unusual in this area.
6. Amended plans showing bin storage have been submitted, which show that the distance between the storage area and the collection point has been reduced. There would be no need for bins to be stored on the highway (which would not be permitted in any case).
7. Overall, the building will not be as tall as the adjacent house. The issue of overshadowing is discussed above. Any additional shading of the garden of the house at the rear will be minimal and would not constitute grounds for refusal.
8. The development will generate only domestic noise, which is to be expected in a residential area. The size of the development is not so great as to result in excessive vehicle movements etc. The previous, established, commercial use of the property could result in greater disturbance.
9. Privacy is discussed above.
10. The amount of traffic generated by the flats will be negligible. No objections on traffic grounds have been raised by Transportation officers.
11. The appearance of the building is discussed above.
12. The number of parking spaces accords with the Supplementary Planning Guidance "Access, Circulation and Parking Standards" which, whilst no longer attached to a policy of the LDP, remains a material consideration in the determination of planning applications.
13. This area is already lit by street lights therefore light from the building, and from car headlights, will have no noticeable impact on neighbouring properties. Cars already use the lane and the impact of the additional few vehicle movements at night will be negligible.
14. The building will project forward of no. 14 Clive Road but the front projection will be set around 4.5m away from the nearest window of that house and will have only a very marginal effect on views and light. Furthermore, there is no right to a view across someone else's land.
15. Each planning application has to be determined on its own merits. The 1999 application was for a commercial development of a different nature to the proposed flats and was also subject to different policies and

planning guidance, and it appears that the proposed extension at that time would have projected far beyond the existing rear of the building. The fact that a previous proposal was found unacceptable does not mean that the current application must also be refused.

16. The drawings clearly illustrate the proposals. Officers have had no difficulty in interpreting the submitted information.
 17. There is no right to a view across someone else's land.
 18. Overshadowing is discussed above.
- 8.10 Members previously resolved to grant planning permission for this development subject to the signing of a S106 obligation relating to financial contributions in lieu of on-site affordable housing and open space. However, the applicant has submitted a viability report which has been assessed by the Council's Valuer, who concludes that *"while the development of the scheme is possible the margin of viability using the standard assumptions falls short of the threshold funders seek to mitigate the risks to the loan. The developer may be able to access alternative sources of funding to progress the scheme. However, as the level of return is marginal the development cannot support the S.106 contributions requested."*
- 8.11 The Supplementary Planning Guidance "Affordable Housing" (March 2007) states that *"in exceptional cases excessive development costs may undermine the viability of a proposal. In such cases the Council will be prepared to take account of some unforeseen abnormal costs where robust evidence is provided of their existence. The evidence provided should contain costings and valuations that will need to be verified by the Council's nominated independent quantity surveyor. Where evidence is provided and agreed, consideration could be given to varying the level of on-site provision and/or identifying other forms of appropriate provision"* (paragraph 3.9).
- 8.12 Paragraph 3.7.1 of Planning Policy Wales (Jan 2016) states that *..."Contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. It is essential that arrangements are fair to both the developer and the community..."* and Circular 13/97 (Planning Obligations) requires S106 obligations to be *"fairly and reasonably related in scale and kind to the development."*
- 8.13 In conclusion, following appraisal of the applicant's viability report, it is accepted that in current market conditions the development cannot support the S.106 contributions that have been requested. However, market conditions may change in the future, therefore, it is recommended that this application be granted subject to the conditions that the Planning Committee previously resolved to approve, but with an amended condition 1 which will require the development to commence within 1 year of planning permission being granted, in order to ensure that should the development be delayed by more than 12 months planning permission will have to be renewed, at which time any changes in market conditions will be taken into account via an up to date viability assessment and financial contributions can be required via a S106 obligation as appropriate, bearing in mind that requests for planning

obligations must be “fairly and reasonably related in scale and kind to the development” and “fair to both the developer and the community”. This course of action is possible as Section 91 (1) (b) of the Town and Country Planning Act 1990 allows planning permission to be granted “subject to the condition that the development to which it relates must be begun not later than the expiration of—
(a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or
(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct”, this being “a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.” Policy C5 of the Local Development Plan requires provision to be made for open space in conjunction with all new residential developments of more than 8 units and Policy H3 of the Local Development Plan requires the provision of affordable housing in developments of more than 5 units. Planning Policy Wales (para.9.2.14) also states specifically that a community’s need for affordable housing is a material planning consideration.

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.

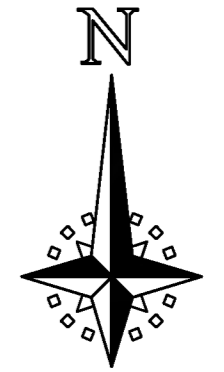



LOCATION PLAN
1:250

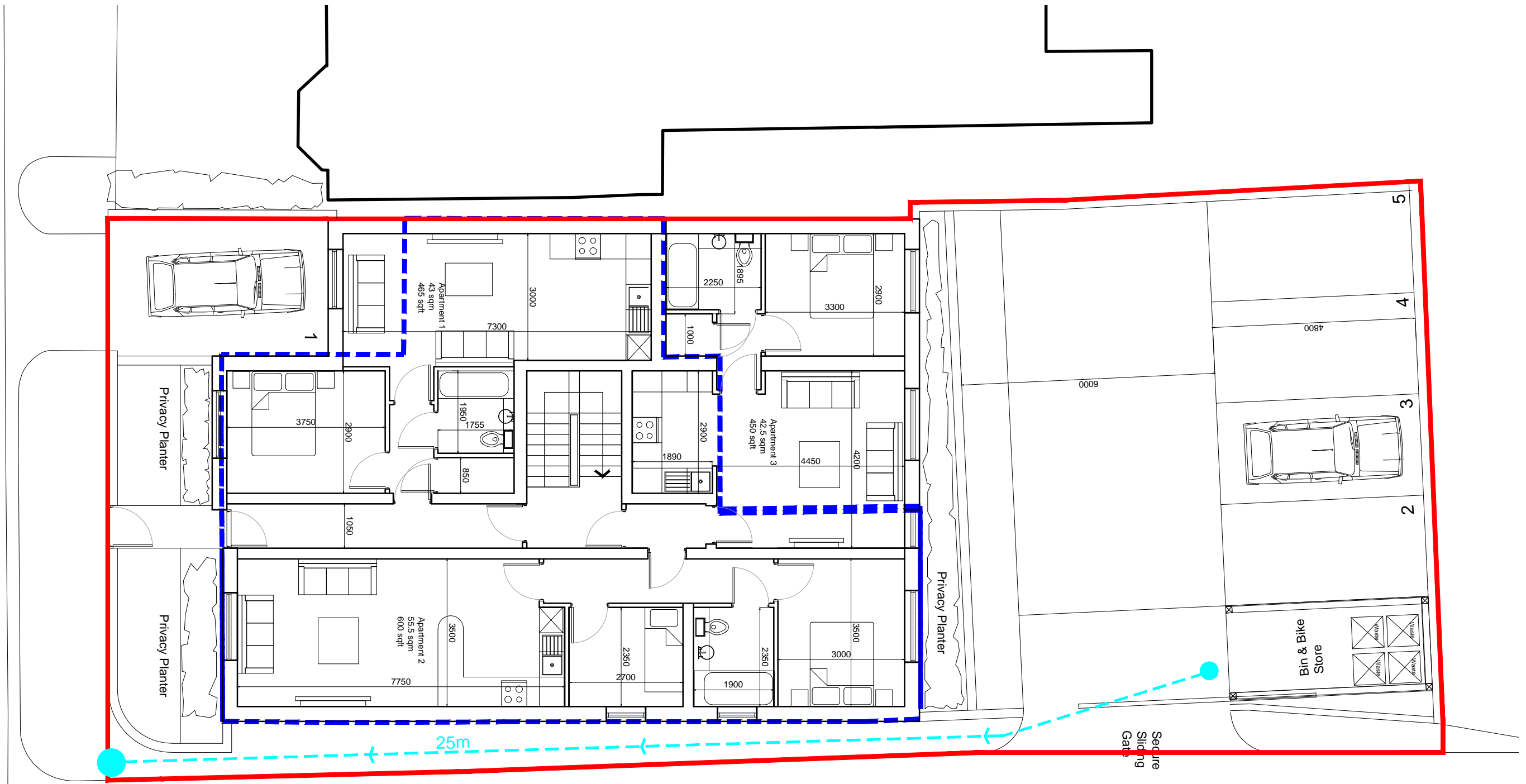
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29/10/15	BK		




LOCATION PLAN
1:1250



0	Job No.	15_082
12 Clive Road	Dwg No.	AL(00)01
Catdiffe	Rev.	
Title		
Location Plan		
Date	Drawn	Scale
29/10/15	BK	1:250/1250 @ A3
		
<small>Unit 1A, Compass Business Park, Pacific Road, Cardiff, CF24 5HL</small>		
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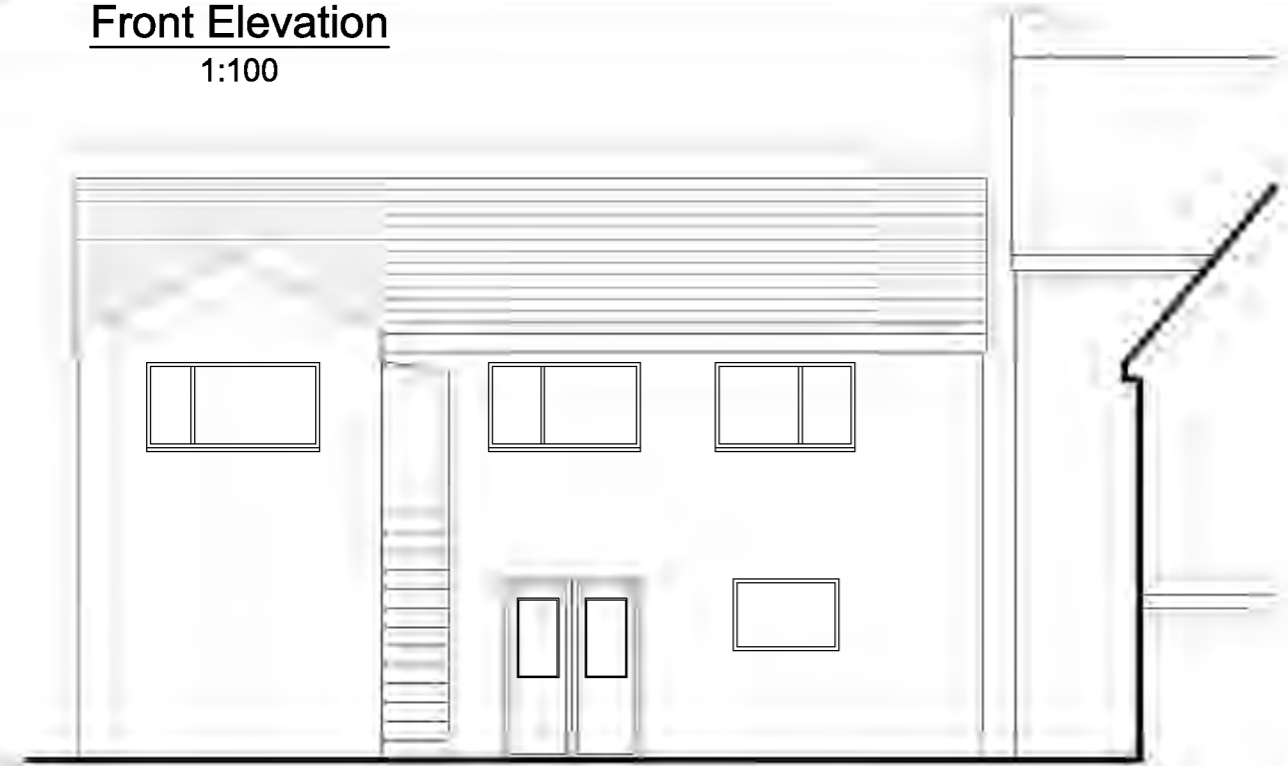


Residential Development at 12 Clive Road Cardiff		Job No. 15_082	Rev. A
Title Proposed Plans		Dwg No. AL(01)01	
Date 29/10/15	Drawn BK	Scale 1:100 @ A3	
 c architects Architects · Town planners Environmental & Urban design		www.c-architects.co.uk tel: 029 20452100	
<small>Unit 1A, Compass Business Park, Pacific Road, Cardiff, CF24 5HL</small>		<small>www.c-architects.co.uk tel: 029 20452100</small>	

Date: 29/10/15
 Drawn: BK
 Check: BK
 Description: Existing Elevations



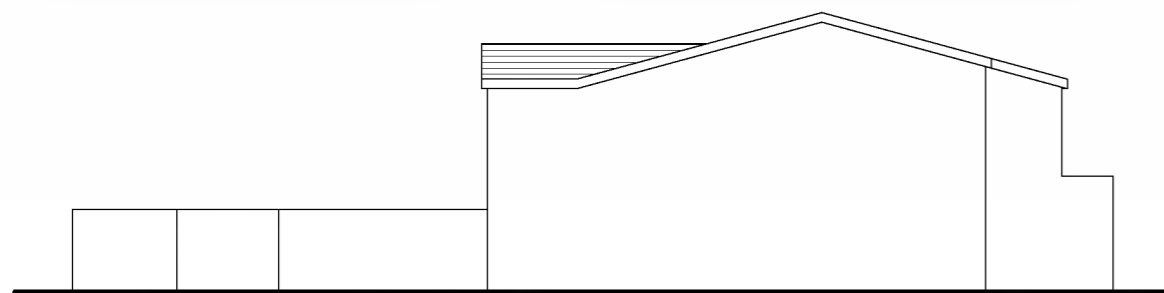
Front Elevation
1:100



Rear Elevation
1:100




Side Elevation
1:100



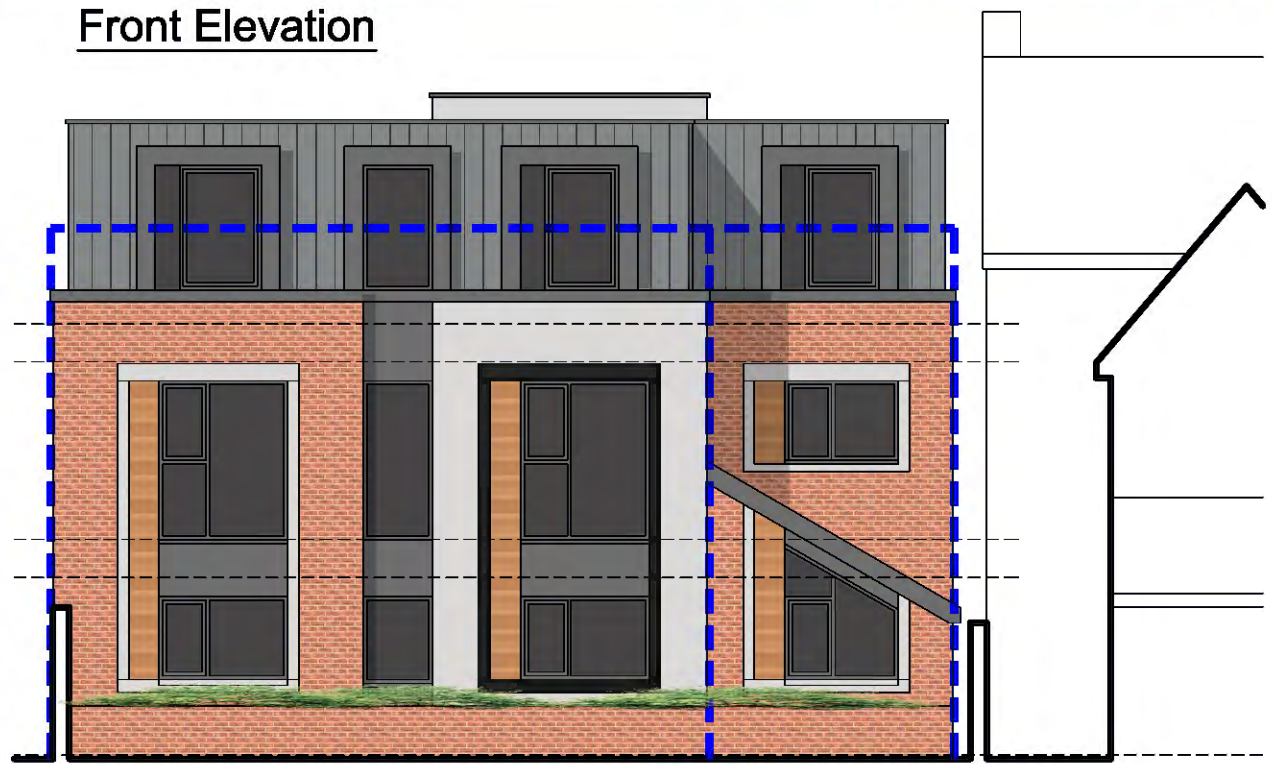
Side Elevation
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EXISTING ELEVATIONS

Residential Development at 12 Clive Road Cardiff		Job No. 15_082	Rev.
Title Existing Elevations		Dwg No. AL(00)03	
Date 29/10/15	Drawn BK	Scale 1:100 & 200 @ A3	
 Architects Environmental & Urban design		Town planners www.e-architects.co.uk Unit 1A, Compass Business Park, Pacific Road, Cardiff, CF24 5HL, tel: 029 20452100	



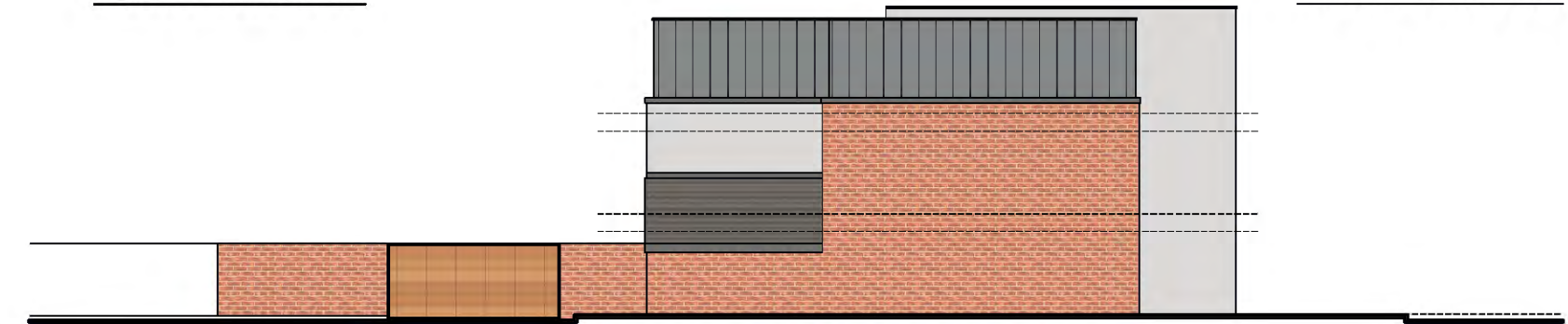
Front Elevation




Rear Elevation

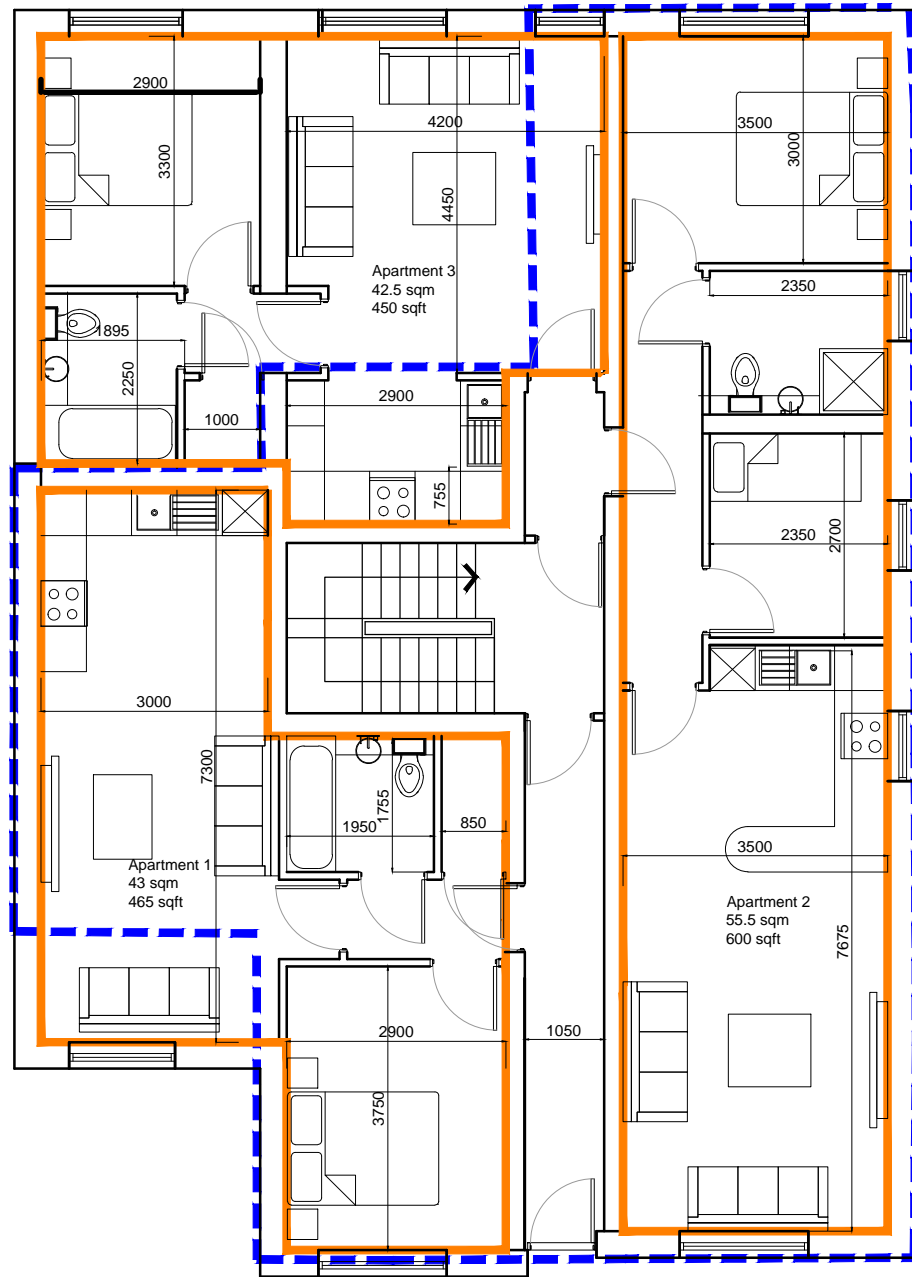


Side Elevation

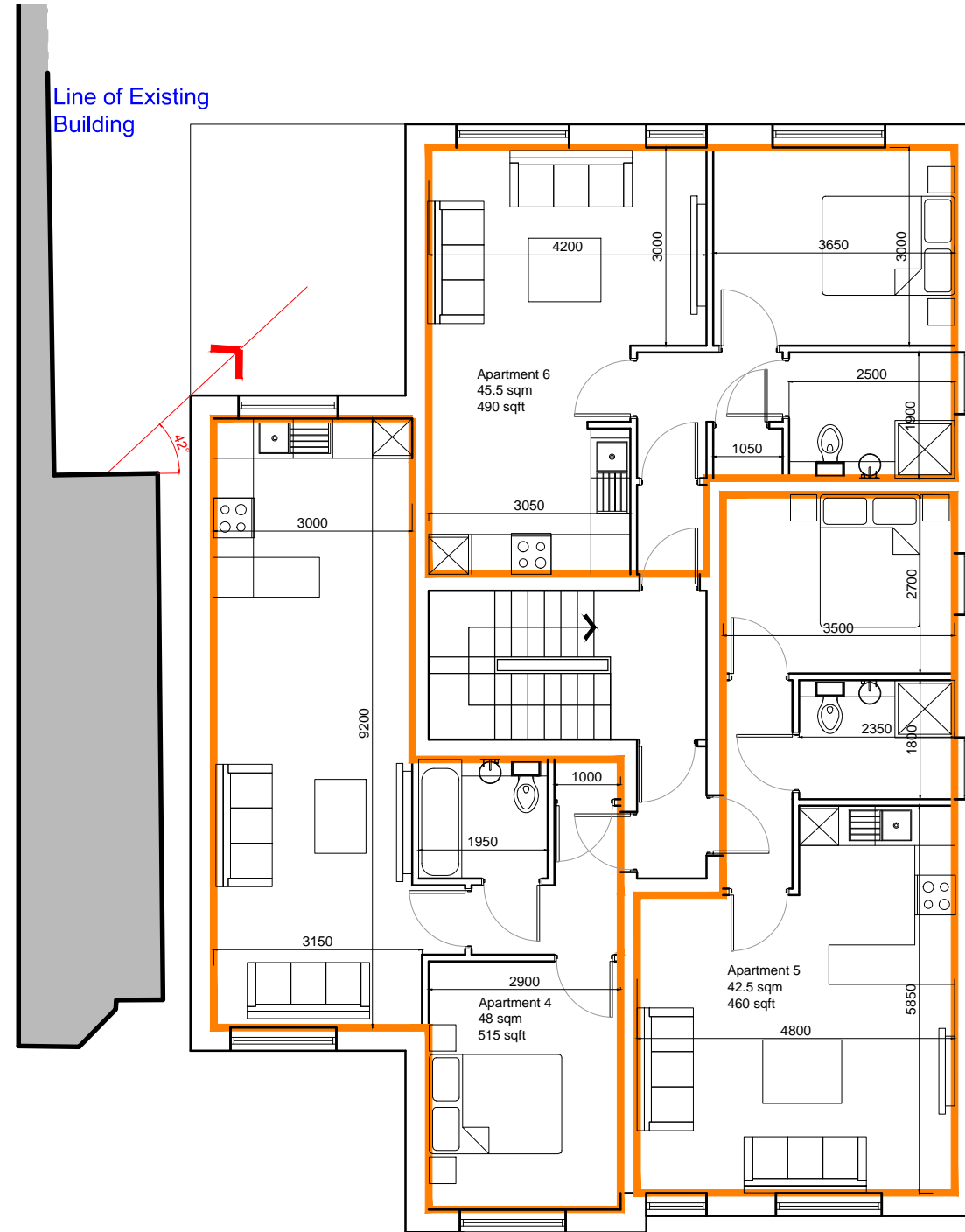


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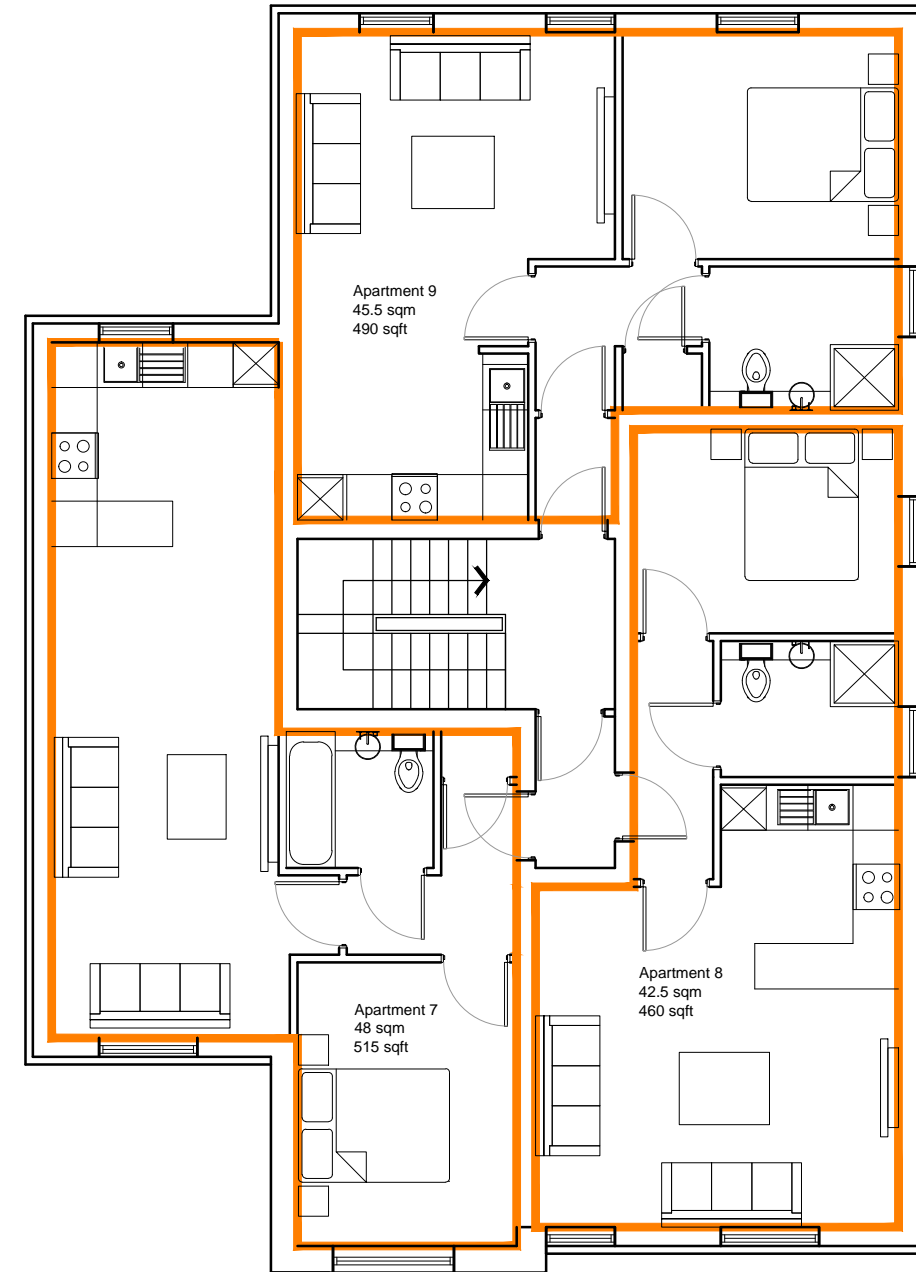
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	Dwg No. AL(01)10	
Title Proposed Elevations		
Date 29/10/15	Drawn BK	Scale 1:100 & 200 @ A3
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Ground Floor Plan



1st Floor Plan



2nd Floor Plan

Residential Development at 12 Clive Road Cardiff		Job No. 15_082
Title Proposed Plans		Dwg No. Rev. AL(01)02 A
Date 29/10/15	Drawn BK	Scale 1:100 @ A3
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