COMMITTEE DATE: 21/06/2017

APPLICATION No. 16/03049/MNR APPLICATION DATE: 28/03/2017

ED: **PENYLAN**

APP: TYPE: FULL PLANNING PERMISSION

LOCATION: 40 LADY MARY ROAD, PENYLAN, CARDIFF, CF23 5NT PROPOSAL: PROPOSED DEMOLITION OF EXISTING DWELLING AND

CONSTRUCTION OF A 4 STOREY RESIDENTIAL DEVELOPMENT COMPRISING FOUR 2 BED APARTMENTS AND A TWO STOREY 2 BED MAISONETTE WITH ON SITE PARKING, AMENITY, CYCLE AND REFUSE STORAGE

FACILITIES

RECOMMENDATION 1: That subject to the relevant parties entering into a binding planning obligation in agreement with the Council under **SECTION 106** of the Town & Country Planning Act 1990, in respect of matters detailed in sec. 8.6 of this report, planning permission be **GRANTED** subject to the following conditions:

- 1. C01 Statutory Time Limit
- 2. The development, other than as explicitly stated by Conditions 4, 5, 7 & 10, shall be carried out in accordance with the following approved plans:
 - AL(01)01 Rev. A Proposed Plans
 - AL(01)02 Proposed Elevations
 - AL(90)03 Rev. C Proposed External 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.

 The development hereby permitted shall be finished in accordance with a schedule of materials that shall be approved by the Local Planning Authority.

Reason: In the interests of the visual amenity of the Conservation Area in accordance with Policies KP5, KP17 and EN9 of the Cardiff Local Development Plan 2006-2026.

4. Prior to beneficial occupation of the development hereby permitted a means of enclosure to the site shall be erected in accordance with details which have been approved by the Local Planning Authority.

Reason: In the interests of the visual amenity of the Conservation Area and to secure an orderly form of development in accordance with Policies KP5, KP17 and EN9 of the Cardiff Local Development Plan 2006-2026.

5. Prior to beneficial occupation the north facing windows within the rear elevation, on the first and second floors, shall be obscurely glazed and non-opening below a height of 1.7m from internal floor level and thereafter so retained.

Reason: To protect the privacy of neighbouring occupiers in accordance with Policies KP5 of the Cardiff Local Development Plan 2006-2026.

6. The privacy screens, shown on the Roof Plan dwg. no. AL(01)01, shall be provided to a minimum height of 1.7m from the floor level of the terrace in materials to match the building.

Reason: To protect the privacy of neighbouring occupiers in accordance with Policies KP5 of the Cardiff Local Development Plan 2006-2026.

7. Notwithstanding the submitted details (dwg. no. AL(01)01, AL(01)01/A and AL(90)03/B) prior to beneficial use of the development hereby submitted a secure and undercover bicycle store, providing for 10 spaces, shall be provided in accordance with details which have been approved by the Local Planning Authority.

Reason: To promote sustainable modes of transport in accordance with Policies KP8 and T5 of the Cardiff Local Development Plan 2006-2026.

8. The development shall be undertaken in accordance with the 'Arboricultural Method Statements and Specifications', dated 20th March 2017, and the landscaping shall be completed in accordance with dwg. no. AL(90)03 Rev. C within the first planting season following beneficial occupation of the development hereby approved.

Reason: In the interests of the preservation and enhancement of natural heritage/green infrastructure and the visual amenity of the area in accordance with Policies KP5, KP16 and EN8 of the Cardiff Local Development Plan 2006-2026.

- 9. Prior to beneficial occupation of the development hereby permitted a Rain Water Harvesting System, which may allow for overflow at a low rate into the existing watercourse, shall be provided for the disposal of surface water in accordance with an appropriately qualified engineer's specification. Reason: To ensure a sustainable water sensitive development is achieved and to protect the public sewerage from hydraulic overload in accordance with TAN 15 and Policy EN10 of the Cardiff Local Development Plan 2006-2026.
- 10. Notwithstanding the submitted details (dwg. no. AL(01)01, AL(01)01/A and AL(90)03/B) prior to beneficial occupation of the development hereby permitted a refuse storage facility shall be provided in accordance with further details which shall have been approved by the Local Planning Authority.

Reason: In the interests of visual amenity and to secure an orderly form of development in accordance with Policies KP5 and W2 of the Cardiff Local Development Plan 2006-2026.

RECOMMENDATION 2: In the light of the low risk that bats may be present in the buildings to be demolished, the following precautionary mitigation measures are recommended to the applicant:

- Demolition works should be timed to avoid bats' maternity and hibernation seasons, so demolition in September/October or March/April is advisable;
- Site operatives should be advised to be aware that bats may be present;
- If bats are found during these works, they should stop immediately and Natural Resources Wales contacted for advice – to continue otherwise may result in a criminal offence;
- Features such as soffits, barge-boards, fascias etc, and any other features which bats may use to roost or to access a roost should be 'soft-stripped' in order to reduce the risk of harm to bats;
- A bat-licenced ecologist should be on call in case bats are found during demolition;
- Enhancement measures for bats, such as bat bricks, bat tiles or providing bat access to roof void may be incorporated into the new building;
- If works do not take place within one year of the most recent bat survey, the bat survey should be repeated as bats may colonise the building in this time.

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: Bulk containers must be provided by the developer/other appropriate agent, to the Councils' specification (steel containers are required where capacity exceeds 240 litres) as determined by S46 of the Environment Protection Act 1990 and can be purchased directly from the Council. Please contact the Waste Management's commercial department for further information on 02920 717504. The following capacity of containers shall be provided:

Dry Recyclables: 1 x 660 litre bulk bin
Compostable waste: 1 x 240 litre bin
General waste: 1 x 660 litre bulk bin
1 x 660 litre bulk bin
1 x 240 litre bin

RECOMMENDATION 5: Dwr Cymru / Welsh Water advise:

- That no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network;
- The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement

- to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com;
- The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru / Welsh Water has rights of access to its apparatus at all times.

1. DESCRIPTION OF THE SITE

- 1.1 The existing property comprises a 1960's detached two-storey dwelling with single-storey extensions and a landscaped rear garden with retaining walls to the north boundary where a watercourse runs towards the nearby lake.
- 1.2 The rear garden is approximately 2.8m above the rear gardens of 1 and 2 Scott Court, which adjoin the site to the north. A lime tree of significant height is located adjacent to the north site boundary.
- 1.3 The site is located within the Roath Park Lake and Gardens Conservation Area. The southeast boundary of the site forms the boundary of this part of the conservation area.
- 1.4 The plots either side of the application site accommodate three-storey apartment buildings.
- 1.5 Lady Mary Road ascends sharply to the south and descends to the west towards the lake. The southeast boundary of the site adjoins the entrance to allotments.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for the demolition of the existing dwelling and the re-development of the site to provide a building comprising four 2 bedroom apartments within a four storey block and a 2 bedroom maisonette within a two storey block.
- 2.2 The proposed building would be of a contemporary design utilising a mix of rendered walls and stonework detailing finished with flat roofs, providing terraces, for the first, second and third storey, and a mono-pitch roof for the fourth storey.
- 2.3 The proposed building would stand at a minimum of approximately 6m at a single storey in height (approx. 4m), 7m at three storey in height (approx. 8.5m) and 9m at four storey (approx. 12m) in height from the boundaries of neighbouring properties through the use of a stepped design as height increases.
- 2.4 The proposed development will provide 6 car parking spaces (including a tandem

- space) and a dedicated bicycle store with 5 spaces. Vehicular access arrangements will be via the existing access point.
- 2.5 The proposed development would be provided with terraced gardens providing amenity space and a dedicated refuse store is proposed close to the vehicular access point. A scheme of proposed landscaping has been submitted.
- 2.6 A drainage report has been submitted detailing that permeability tests have been undertaken at the site and the use of soakaways is not a suitable method for the disposal of surface water. It is proposed that surface water is collected for use in a rainwater harvesting system provided with an overflow to an attenuation tank that will discharge at a low rate into an existing stream on site is provided.

3. PLANNING HISTORY

- 3.1 06/02261/E Conservation Area Consent granted, in April 2007, for demolition of existing dwelling and attached garage.
- 3.2 06/02181/E Permission granted by the Planning Inspectorate, in September 2007, for the demolition of existing 4 bed house and garage and the construction of 3 no. 3 bed apartments over 3 garages, having originally been refused permission by the local planning authority in April 2007
- 3.3 06/01151/E Permission sought, in May 2006, for demolition of detached dwelling and the construction of three 2/3 bedroom apartments. Withdrawn prior to determination.
- 3.4 11/00616/DCO Permission granted, in August 2011, for the demolition of existing dwelling and alterations, extension and construction of 3 storey residential development comprising 4 apartments with on-site car parking, cycle storage, refuse storage and amenity space.
- 3.5 11/00620/DCO Conservation Area Consent granted, in August 2011, for part demolition of existing dwelling.

4. PLANNING POLICY AND GUIDANCE OF PARTICULAR RELEVANCE

- 4.2 National Planning Policy & Guidance
 - Planning Policy Wales (9th Ed, 2016)
 - Technical Advice Note 2: Planning and Affordable Housing (2006)
 - Technical Advice Note 5: Nature Conservation and Planning (2009)
 - Technical Advice Note 12: Design (2016)
 - Technical Advice Note 15: Development and Flood Risk (2004)
- 4.3 Cardiff Local Development Plan 2006-2026 (2016)
 - Policy KP3B (Settlement Boundaries)
 - Policy KP5 (Good Quality & Sustainable Design)
 - Policy KP8 (Sustainable Transport)
 - Policy KP13 (Responding to Evidenced Social Needs)

- Policy KP15 (Climate Change)
- Policy KP16 (Green Infrastructure)
- Policy KP17 (Built Heritage)
- Policy KP18 (Natural Resources)
- Policy EN7 (Priority Habitats and Species)
- Policy EN8 (Trees, Woodlands and Hedgerows)
- Policy EN9 (Conservation of the Historic Environment)
- Policy EN10 (Water Sensitive Design)
- Policy EN11 (Protection of Water Resources)
- Policy EN13 (Air, Noise, Light Pollution and Contaminated Land)
- Policy H3 (Affordable Housing)
- Policy C3 (Community Safety/Creating Safe Environments)
- Policy T5 (Managing Transport Impacts)
- Policy W2 (Provision for Waste Management Facilities in Development)

4.4 Supplementary Planning Guidance

- Access, Circulation and Parking Standards (Jan 2010)
- Biodiversity (Jun 2011)
- Infill Sites Design Guide (Apr 2011)
- Trees and Development (Mar 2007)
- Waste Collection and Storage Facilities (Mar 2007)
- Roath Park Lakes & Gardens Conservation Area Appraisal (2008)

Some SPGs were approved as supplementary guidance to the City of Cardiff Local Plan (1996). Although the City of Cardiff Local Plan (1996) has recently been superseded by the Cardiff Local Development Plan (2016), the advice contained within the SPGs is pertinent to the assessment of the proposal and remains consistent with the aims of both LDP Policies and guidance in Planning Policy Wales and are afforded significant weight.

5. INTERNAL CONSULTEE RESPONSES

- 5.1 The Operational Manager (Shared Regulatory Services) has been consulted no objection is raised to the application, however, it is requested that an advisory note is included drawing attention to the provisions of Section 60 of the Control of Pollution Act 1974 regarding the control of noise from demolition and construction activities.
- 5.2 The Councils Ecologist has been consulted and no objection has been raised to the proposal.
- 5.3 The Operational Manager (Traffic and Transportation) has been consulted and details that the car parking and cycle parking provisions and arrangements are acceptable.
- 5.4 The Operational manager (Housing Development) has been consulted and advises that an affordable housing contribution of 20% (1 unit) should be sought on this brownfield site. Whilst priority is to deliver on-site affordable housing given the proposed design of the scheme, the unknown proposed future tenure of the

units, and the likely service charges for this type of residential development, all of which could affect the affordability as well as the practicality of managing and maintaining affordable housing on-site for a Registered Social Landlord, a financial contribution in lieu of on-site affordable housing provision of £77,430 should be sought.

- 5.5 The Operational Manager (Drainage) has been consulted, no objections have been raised.
- 5.6 The Operational Manager (Waste Management) has been consulted and advises that the proposals for the storage of waste are acceptable.
- 5.7 The Councils Planner (Trees) has been consulted and advises that the scheme of landscaping and tree protection submitted with the application is acceptable.

6. EXTERNAL CONSULTEE RESPONSES

6.1 Welsh Water raise no objection to the proposal, but, advise that surface water and land drainage should not connect to the public sewerage system to avoid hydraulic overload of the system.

7. REPRESENTATIONS

- 7.1 The owner/occupiers of neighbouring properties have been consulted and the application advertised by way of site and press notice. Several letters of representation objecting to the proposal have been received a summary of the objections are detailed below:
 - Proposal does not respect the character of the Conservation Area;
 - Neighbouring properties will suffer loss of sunlight/daylight and overshadowing;
 - Proposal represents overdevelopment of the site, particularly in relation to height;
 - Neighbouring occupiers will suffer overlooking and loss of privacy;
 - Inadequate parking provision will add to parking congestion and traffic problems;
 - The proposed drainage is to a stream of little capacity;
 - Proposal will have an adverse effect upon property values;
 - Proposal will intensify issues with foul sewer;
 - Issues regarding structural stability as a result of land movement from increased building size;
 - Query regarding the answer to Q.21 of the application form which states 'No' to whether the proposal involves the loss, gain or change of use of nonresidential floorspace;
 - Query as to whether the proposal would have an effect upon 'high quality satellite television reception'.

8. ANALYSIS

8.1 Introduction

- 8.1.1 The application site lies within the defined settlement boundary and within an existing residential area, therefore, the principal of the development is considered acceptable and to accord with Policy KP3(B) of the Cardiff Local Development Plan. It should be noted that planning permissions have previously been granted for the redevelopment of the site.
- 8.1.2 The principal matters for consideration are:
 - the effect of the proposal upon the character and appearance of the Conservation Area;
 - the effect of the proposal upon the amenity of neighbouring occupiers;
 - its transport impact;
 - the effect on green infrastructure and landscaping proposals;
 - affordable housing;
 - sustainable design:
 - the provision of waste management facilities.
- 8.1.3 The loss of the existing building are evaluated in detail in a separate application for Conservation Area Consent for demolition. In summary it is not considered that the existing building has any intrinsic quality that would merit its retention.

8.2 Impact Upon the Character of the Conservation Area

- 8.2.1 Policy KP5 requires all new development to be of a good quality that responds to local character and context and Policy EN9 details that development within Conservation Areas will only be permitted where it can be demonstrated that it preserves or enhances the areas architectural quality, historic significance, character, integrity and/or setting.
- 8.2.2 The proposed replacement building is of a broadly consistent scale and bulk as that of the previously approved scheme (11/00616/DCO), although the building would be one storey taller in part the overall height of the building would be only marginally higher than that which was approved at appeal (06/2181/DCO) and no taller than that of No. 39 Lady Mary Road. While the height of the building would be increased, it would be only marginally more prominent from within the conservation area given the reduced footprint of the upper floor.
- 8.2.3 The proposed design and materials would provide a contemporary building, broadly consistent with the previously approved scheme, and is considered to be of good design. The Conservation Area is not defined by any particular house type, the area having been developed on an incremental basis often to different house style and size although Render is a material characteristically utilised throughout the area. The proposed Render finish is complimentary of finishes throughout the area and overall the proposal is broadly consistent in terms of its design to a number of properties in the locality.

- 8.2.4 Full detail in respect of the means of enclosure fronting Lady Mary Road, which has significant potential for impacting the Conservation Area, and the entire site has not been submitted, however, it is considered that an appropriate means of enclosure can be secured by condition.
- 8.2.5 Accordingly, given that the building would not be overly prominent within the Conservation Area is of good design which is complimentary to the context of the area and given the previous approval it is considered, on balance, that the proposal is acceptable, subject to conditions, and would preserve the character of the Conservation Area according with Policies KP5, KP17 and EN9.

8.3 Amenity of Neighbouring Occupiers

- 8.3.1 Policy KP5 seeks to ensure that 'no undue effect on the amenity of neighbouring occupiers' results from new development.
- 8.3.2 The footprint and siting of the proposed building would be largely consistent with that of the previously approved scheme barring a few minor alterations. These alterations would provide little additional bulk to the building and would, therefore, result in no greater overbearing or overshadowing impact upon neighbouring occupiers.
- 8.3.3 With regards to privacy it is recognised that north facing windows within the rear elevation are below the minimum level from both neighbouring boundaries and windows that is considered adequate to ensure privacy is retained, however, the means of glazing and opening to the north facing windows can be controlled by condition with west facing windows being unrestricted providing a view for occupiers of the proposed apartments over the application site at a distance from neighbours to the west that would be acceptable. The terrace to the fourth floor will be provided with privacy screens to restrict views to the north. With regards to windows and terraces to the side west facing elevation these are predominantly at a distance from the windows of the neighbouring properties considered adequate to protect privacy, whilst the first floor balcony falls marginally below this distance the privacy of neighbouring occupiers should not be unduly compromised. Whilst these west facing windows and terraces are within as little as 6m of the neighbouring boundary they directly overlook a parking area and, therefore, would not impact upon private amenity space.
- 8.3.4 Accordingly it is considered, on balance given the previous approvals, that the proposal would not be overbearing or generally un-neighbourly and would accord with the principles of Policy KP5.

8.4 Transport Impact

- 8.4.1 Policy T5 seeks to ensure that all new developments properly address the demand for travel and its impacts, contributes to reducing reliance on the private car and avoids unacceptable harm to safe and efficient operation of the road, public transport and other movement network and routes.
- 8.4.2 The parking standards for all residential development, contained within the

- Access, Circulation and Parking Standards SPG, requires that a minimum of 0.5 and maximum of 2 car parking spaces are provided for 2 bedroom flats (C3). A total of 6 car parking spaces are proposed.
- 8.4.3 The parking standards further detail that 1 cycle space should be provided per bedroom. The proposal provides for an undercover and secure cycle store providing 5 spaces. This provision fails to accord with the minimum requirement, however, sufficient space is available within the curtilage of the application site to provide additional space for the storage of cycles and this can be secured through condition.
- 8.4.4 The proposed vehicular access to the site, for all intents and purposes, remains unaltered. Whilst there is likely to be a marginal increase in vehicular movements as a result of the proposed development it is not considered that there would be any adverse impact upon highway safety.
- 8.4.5 Accordingly it is considered that the proposal accords with the principles of Policy T5 and guidance within the Access Circulation and Parking SPG.

8.5 Green Infrastructure and Landscaping

- 8.5.1 Policies KP5 & KP16 promotes the protection and enhancement of Cardiff's natural heritage and green infrastructure whilst Policy EN8 details that development will not be permitted that would cause unacceptable harm to trees, woodlands and hedgerows.
- 8.5.2 The proposal is supported by detailed reports in respect of trees, hedges and landscaping which are considered acceptable.
- 8.5.3 Accordingly it is considered that, subject to conditions, the proposal accords with the principles of Policies KP5, KP16 and EN8.

8.6 Affordable Housing

- 8.6.1 Policy H3 details that a 20% affordable housing contribution will be sought on all brownfield sites that contain five or more dwellings.
- 8.6.2 The proposal will result in the creation of a new planning unit, resulting in the loss of the existing unit, consisting of five new dwellings and, therefore, is considered to trigger the requirement for contribution. For the reasons detailed at para. 5.4 a financial contribution, secured by S.106 agreement, is considered the most suitable method of contribution.
- 8.6.3 Accordingly the proposal is considered acceptable subject to a financial contribution of £77,430 being paid to comply with Policy H3.

8.7 Sustainable Design

8.7.1 Policy KP5 requires all development to be of sustainable design which is supported by a number of other policies including Policies KP15 and EN10.

- 8.7.2 The proposal will result in the construction of a new building which will be required to comply with current regulations in respect of energy efficiency. This is likely to result in a more sustainable building that currently exists.
- 8.7.3 In addition it is detailed that the viability of using a range of renewable energy technologies will be explored and materials used from sustainable sources.
- 8.7.4 In respect to Policy EN10 which requires water sensitive design solutions to be incorporated in new development it is proposed that a Rainwater Harvesting System, with overflow discharged to an existing watercourse, will be utilised. Welsh Water have detailed that surface water discharge to the public sewer will not be permitted in order to protect the public sewerage system and, therefore, it is considered for this reason and to ensure that the proposal is of a water sensitive design that this proposed system should be required by condition.
- 8.7.5 Accordingly, given the proposal is of a sustainable design incorporating water sensitive solutions with prospect of further renewable energy technologies being utilised, it is considered that the proposal complies with Policies KP5, KP15 and EN10 and is of an acceptable sustainable design.

8.8 Waste Management

- 8.8.1 Policy W2 seeks to ensure that provision is made within all new development for the storage of waste and recycling.
- 8.8.2 The proposal originally included a dedicated communal waste storage area that would be easily accessible to residents and for presentation of waste to kerbside. However, this location has been altered to a position where access could be impeded by vehicles parked within the proposed car parking spaces. It is, however, evident that a refuse store could be adequately provided within the site and this can be secured by condition.
- 8.8.3 Accordingly it is considered that, subject to condition requiring implementation, the proposal accords with the principles of Policy W2.

8.9 Additional Matters

- 8.9.1 With regards to comments made by neighbours which are not addressed elsewhere the following should be noted:
 - It is only proposed to discharge excess water, at a low rate via an attenuation tank, which overflows from a Rain water Harvesting Sustainable Drainage System;
 - Property values are not a material planning consideration;
 - Discharge to the Foul Sewer is not a direct planning matter. Welsh Water have been consulted and have raised no objection upon this basis;
 - The structural stability of buildings is a matter for consideration under the Building Regulations and is not a material planning consideration;
 - Q.21 of the application form relates to 'non-residential floorspace', the existing

- floorspace is residential and the proposed floorspace is residential. There is no loss, gain or change of use of non-residential floorspace and the question appears to be answered correctly;
- The owner of 76 Lake Road East queries the impact the proposal may have upon his satellite reception. Advice published by Ofcom. 'Tall Structures and their Impact on Broadcast and other Wireless Services' (26/08/2009) details that LPAs should give consideration to such matters, however, the same advice details that satellite reception is not generally affected by new structures unless the development blocks 'line-of-sight' between the dish and satellite. Satellite signal can be received at a much higher elevation than other signals and the potential for signal being totally blocked is limited to tall buildings constructed 'very close' to an existing building and is a good option to be considered when other signals may be blocked. It is noted that the building of 76 Lake Road East is sited at a minimum of 15m from the boundary of the application site and it is considered unlikely that a satellite dish could not be sited on a part of the two storey building such that 'line-of-sight' to the satellite could not be established over a building of only four stories that is set a considerable distance away. On balance it is not considered that there would be substantial evidence to suggest satellite signal may be blocked to warrant control by the Local Planning Authority.

8.10 Conclusion

8.10.1 Having regard to the policy context above, the proposal is considered acceptable and it is recommended planning permission be granted subject to conditions.





