

COMMITTEE DATE: 21/06/2017

APPLICATION No. **17/00159/MJR** APPLICATION DATE: 26/01/2017

ED: **BUTETOWN**

APP: TYPE: Full Planning Permission

APPLICANT: Rightacres Property Company Limited

LOCATION: LAND AT DUMBALLS ROAD, BUTETOWN, CARDIFF

PROPOSAL: PROPOSED MIXED USE DEVELOPMENT COMPRISING 109 NO. 1 AND 2 BEDROOM APARTMENTS (USE CLASS C3), GROUND FLOOR FLEXIBLE COMMERCIAL UNIT (A1/A2/A3/B1/D1 USE), WITH ACCESS, DRAINAGE WORKS, CAR PARKING, CYCLE STORAGE, REFUSE STORAGE, ELECTRICITY SUBSTATION AND ASSOCIATED WORKS

RECOMMENDATION 1 : That, subject to relevant parties entering into a binding planning obligation in agreement with the Council under **SECTION 106** of the Town and Country Planning Act 1990, within 6 months of the date of this resolution unless otherwise agreed by the Council in writing, in respect of matters detailed in paragraph 9.2 of this report, planning permission be **GRANTED** subject to the following conditions:

1. C01 Statutory Time Limit
2. The consent relates to the following approved plans:

<i>Dwg. No.</i>	<i>Title</i>
G1358-P100A	Site Location Plan
G1358-P01	Existing Site Plan
G1358-P02A	Site Plan
G1358-P03	Ground Floor Plan
G1358-P04	First Floor Plan
G1358-P05	Second Floor Plan
G1358-P06	Typical Upper Floor Plan (3 rd – 7 th)
G1358-P07	Typical Upper Floor Plan (8 th – 15 th)
G1358-P08	16 th & 17 th Floor Plans
G1358-P09	18 th Floor Plan
G1358-P10	19 th Floor Plan
G1358-P11	20 th Floor Plan
G1358-P12	21 st Floor Plan
G1358-P13	22 nd Floor Plan
G1358-P14	Roof Plan
G1358-P15	Elevation to Dumballs Road
G1358-P16	Elevation to Canal Industrial Park
G1358-P17	Elevation to Car Park & Canal Park

G1358-P18	Elevation to Anchor Industrial Estate
G1358-P19	Plan & Elevations of Car Park Building
C5006/ DR1	Drainage Scheme
2017/.34	Landscape Proposals

Reason: For the avoidance of doubt.

3. A3 (food & drink) ground floor uses fronting Dumballs Road (as indicated on Proposed Ground Floor dwg. no. G1358-P03) shall be restricted to café/restaurant A3 uses only.
Reason: To ensure that the amenities of existing neighbours and future occupiers are protected.
4. C7X No Takeaway Sales
5. No member of the public shall be admitted to or allowed to remain on any A3 premises between the hours of 23:00 and 08.00 hrs. on any day.
Reason: To ensure that the amenities of occupiers of existing neighbours and future occupiers are protected.
6. H7G Plant Noise
7. A scheme of sound insulation works to the floor/ceiling and party wall structures between the A1/A2/A3/B1/D1 premises and the residential accommodation shall be submitted to and agreed by the Local Planning Authority in writing and implemented prior to occupation.
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.
8. Prior to commencement of development an acoustic report shall be submitted to and approved in writing by the LPA. The report shall consider the existing day time and night time noise levels and details of any mitigation measures that may be required as a result of the impact assessment. The scheme shall be implemented in accordance with the approved details prior to beneficial occupation.
Reason: To ensure that the amenities of future occupiers are protected.
9. G7Q Future Kitchen Extraction
10. No above-ground development shall take place until samples of the external finishing materials have been submitted to and approved by the Local Planning Authority and the development shall not be brought into beneficial use until the approved scheme is implemented.
Reason: To ensure a satisfactory finished appearance to the development.
11. No above-ground development shall take place until a scheme showing the architectural detailing of the principal elevations has been submitted to and approved in writing by the LPA and the development shall not be brought into beneficial use until the approved scheme is implemented.

Reason: To ensure a satisfactory finished appearance to the building.

12. C3S Cycle Parking
13. No development shall take place until details of the junction between the proposed access road and the highway have been submitted to and approved in writing by the Local Planning Authority. Those details shall be implemented prior to the development being put into beneficial use.
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 abutting the site.
14. Notwithstanding the car parking provision and details indicated on Proposed Site Plan G1358-P02revA no above ground development shall take place until full details of parking provision on the site has been submitted to and approved in writing by the Local Planning Authority. These details shall take into account the detailed landscaping scheme required by condition. The scheme shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory parking arrangement that accommodates an enhanced landscaping scheme.
15. *Highway Works*: Prior to commencement of above-ground development a scheme of environmental highway improvements to Dumballs Road in the vicinity of the site is to have been submitted to and agreed in writing with the LPA. The scheme to be in accordance with indicative *Plan 1: Proposed Scheme of Public Realm Works* which forms part of the Land Use Policy and Public Realm consultation response dated 13th March 2017, comprising resurfacing of the footway including kerbs, edging, drainage, lining and signing, street lighting, and TROs as may be required as a consequence of the scheme. The agreed scheme to be implemented to the satisfaction of the LPA prior to beneficial occupation of the development.
Reason: To facilitate safe and efficient access to and egress from the proposed development by the incoming residents, and the improvement, and reinstatement of the adjacent public highway in the interests of highway and pedestrian safety.
16. *Visibility Splay*: Prior to the commencement of development a plan showing a visibility splay which shall facilitate uninterrupted vision of the carriageway from a distance of 2.4m back from the carriageway edge at the vehicular access to a distance of 45 metres to the north, shall be submitted to and approved in writing by the LPA. No obstruction to vision exceeding one metre in height, or vegetation that shall in future exceed one metre in height, shall be placed or allowed to remain within the approved visibility splay thereafter. Reason: To ensure that the use of the proposed access does not interfere with the safety and free flow of traffic passing along the highway abutting the site, in accordance with policies T5 and T6 of the Cardiff Local Development Plan.

17. *Construction Management Plan:* Prior to commencement of development a scheme of construction management shall be submitted to and approved by the Local Planning Authority, to include details of construction traffic routes, site hoardings, site access, contractor parking and wheel washing facilities. Construction of the development shall be managed strictly in accordance with the scheme so approved.
Reason: In the interests of highway safety and public amenity.
18. *Contaminated Land Measures – Assessment:* 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 shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include:
- 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.
 - An assessment of the potential risks to: human health; groundwater and surface waters; adjoining land, property (existing or proposed); archaeological sites and ancient monuments; and
 - An appraisal of remedial options, and justification for the preferred remedial option(s).
- Reason: To ensure that information provided for the assessment of the risks from land contamination is sufficient to enable a proper assessment in accordance with policy EN13 of the Cardiff Local Development Plan.
19. *Submission of Remediation Scheme and Verification Plan:* 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.
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.
20. *Undertaking of Remediation and Issue of Verification Report:* The remediation scheme as approved by the LPA 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.

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.

21. *Identification of Unsuspected Contamination:* 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.

22. *Imported soil:* Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation to 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, verification sampling of the material received at the development site is required to verify that the imported soil is free from contamination and shall be undertaken in accordance with a scheme agreed with in writing by the LPA.

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

23. *Imported aggregates:* Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation to 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, verification sampling of the material received at the development site is required to verify that the imported aggregate is free from contamination and shall be undertaken in accordance with a scheme agreed with in writing by the LPA.

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

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

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

25. C2N Drainage details

26. C7S Details of Refuse Storage

27. No above ground development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with dwg. no. 2017/.34 Landscape Proposals and shall include proposed finished levels, earthworks, hard surfacing materials, proposed and existing services above and below ground level, planting plans (including schedules of plant species, sizes, numbers or densities, and in the case of trees, planting, staking, mulching, protection, soil protection and after care methods) and an implementation programme. The scheme shall be carried out in accordance with the approved details.

Reason: To ensure adequate amenity for future occupiers.

28. C4R Landscaping Implementation

RECOMMENDATION 2: The applicant is advised that the highway works condition and any other works to existing or proposed adopted public highway are to be subject to an agreement under Section 38 and/or Section 278 Highways Act 1980 between the developer and Local Highway Authority.

RECOMMENDATION 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 licence. 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 4 : 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.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The detailed application proposes the construction of 109 apartments (34x1 bed; 75x2 bed) for the private rented sector (PRS) in a 23 storey residential tower block. A small scale retail/commercial/office use (94sqm A1/A2/A3/B1/D1) is proposed to the ground floor fronting Dumballs Road.
- 1.2 The tower is predominantly 20 storeys with a modelled top which varies in height from 18 to 22 storeys. The building plan form is irregular allowing the elevations to be expressed as a number of strongly articulated vertical planes. Materials are primarily facing brick (dark and buff), horizontal standing seam zinc cladding, and large format glazing.

- 1.3 A new vehicular access from Dumballs Road is proposed, located just to the north of the existing access. Surface parking for 30 cars is located at the rear of the site. Secure covered cycle parking for 115 bikes including 6 visitor spaces is also located to the rear.
- 1.4 During pre-application discussions concerns were raised over how the proposals might impact on the future redevelopment of adjacent industrial sites, and integration with redevelopment of the wider Dumballs Road area. Supporting information in the form of an illustrative masterplan to address these concerns has been provided as part of the DAS.
- 1.5 A screening opinion was issued on 11.1.17 confirming that an environmental statement is not required.
- 1.6 Statutory pre-application public consultation was carried out by the developer from 8.12.16 to 6.1.17. Site notices were posted by the applicant and the planning application documents were made available on line. Letters were sent to the adjoining owners and occupiers and to the Ward Councillor. An agent representing one of the occupiers of the Anchor Trading Estate raised concerns over noise from events held on the Trading Estate giving rise to potential objections from future occupiers of the flats. NRW, CADW, and the Local Highway Authority were consulted in accordance with statutory requirements. NRW and CADW did not raise any objections to the proposed development. No response was received from the Highway Authority.
- 1.7 The pre-application consultation undertaken by the applicant meets the requirements of the T&CP (Wales)(Amendment) Order 2016.
- 1.8 The application is supported by the following additional information:
 - Pre-Application Consultation Report
 - Design and Access Statement, including illustrative masterplan of the wider area.
 - Planning Statement
 - Flood Consequences Assessment Report
 - Geo-Technical and Geo-Environmental Report
 - Drainage Scheme
 - Dumballs Road Viability Statement (Savills on behalf of applicant, Feb 17)

2. **DESCRIPTION OF SITE**

- 2.1 A flat roughly rectangular vacant 0.23ha former industrial site fronting Dumballs Road and bounded by the Canal Park Industrial Estate (in use as an automotive training centre for CAVC) to the north and east, and the Anchor Industrial Estate to the south. The latter includes office and gym uses. Canal Park recreational open space is 25m to the east of the site but there is no direct access to the park from the site. There is an electrical substation located on the northern boundary towards the rear of the site.

- 2.2 The immediate area is predominantly commercial/industrial with the recently completed CAVC building and final phase of the Fusion point development on Dumballs Road to the north of the site. In general industrial uses in the wider area are in decline, and the area between Dumballs Road and the River Taff has been identified for a large residential led (>500 dwellings) urban regeneration scheme.

3. **PLANNING HISTORY**

- 14/1912/MJR: Prior approval granted October 2014 for demolition of single and 2 storey industrial/storage units.

Related planning history on land to west of Dumballs Road

- 14/1171/MJR: Resolution to grant planning permission for modification of condition 1 of 07/01637/C to extend the period of time within which an application for approval of the reserved matters shall be made to the local planning authority.
- 14/430/DCI: Hybrid planning permission granted in August 2015 for full detail in respect of the demolition of existing industrial buildings and erection of up to 695 no. dwellings and 357sqm of A1/A2/A3/D1 floorspace, associated car parking and secure cycle storage, access, servicing and landscaping and outline with all matters reserved in respect of A1 retail, A2 financial and professional services, A3 food and drink, B1 office, C1 Hotel, C3 residential, D1 non-residential institution, D2 assembly and leisure uses, access, parking, servicing and landscaping.
- 07/1637/C: Planning permission granted in May 2011 for mixed use regeneration including residential, office, commercial, education, assembly and retail uses, open space and landscaping road, foot, cycle and water access.

4. **POLICY FRAMEWORK**

- 4.1 The following national planning policy and guidance is considered to be of particular relevance:

- 4.1 Planning Policy Wales (PPW) 2016: Ch. 4 Planning for Sustainability; Ch. 9 Housing.

- 4.2 The following Technical Advice Notes (TANs) are relevant:

- TAN 2: Affordable Housing
- TAN 12: Design
- TAN 18: Transport
- TAN 22: Sustainable Buildings

The following local planning policy and guidance is considered to be of particular relevance:

- 4.3 Cardiff Local Development Plan 2006-2026:

- KP2A Cardiff Central Enterprise Zone and Regional Transport Hub

- KP5 Good Quality and Sustainable Design
- KP7 Planning Obligations
- C1 Community Facilities
- C5 Provision for Open Spaces
- EN13 Air, Noise, Light Pollution & Land Contamination
- H3 Affordable Housing
- R8 Food & Drink Uses

4.4 Supplementary Planning Guidance

The following Supplementary Planning Guidance (SPG) is of relevance:

- Tall Buildings (2017)
- Access, Circulation and Parking Requirements (2010)
- Waste Collection and Storage Facilities (2016)
- Restaurants, Takeaways and other Food and Drink Uses (1996)
- Planning Obligations (2017)

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 Transportation: The Council's Transportation Officer confirms that the submission is considered to be acceptable in principle, subject to standard conditions and a condition requiring an adequate vision splay at the access road junction.
- 5.2 Parks Services: Under current policy the proposed development is subject to Policy 31 of the Local Plan (Provision of open space on new residential developments), which requires the provision of open space for recreational activity.
- 5.3 The Council's Supplementary Planning Guidance - Open Space requires provision of a satisfactory level and standard of open space on all new housing developments (2.43 hectares per 1000 projected population), or an off-site contribution towards existing open space for smaller scale developments where new on-site provision is not applicable.
- 5.4 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.
- 5.5 Based on the information given, allowing for an occupancy rate of 258.92, the contribution will be £254,210. Contributions towards open space provision are derived using a formula-based calculation which takes into account, amongst other things, the size of the residential development and the projected increase in population.
- 5.6 Demand for usage of the existing open spaces would increase in the locality as a result of the development and therefore the Council considers it appropriate that an off-site contribution is made, calculated in accordance with the guidelines set out in the SPG.

- 5.7 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. Further details will be provided.
- 5.8 The Parks Officer makes the following additional comments: Overall I have concerns about the intensity of development and large number of potential new residents given the already significant demands on quite limited amounts of open space in Butetown. Canal Park is the only large open space in this area, and given the projected development of the Bellerophon site which will generate a further large population increase, the amount of recreational space, particularly formal recreation, will be well below that required. Canal Park already serves a large population on the Bute Street side, plus other developments along Dumballs Road, with pitches being used by Butetown FC. Therefore consideration needs to be given through a masterplanning process as to how the open space in this area of Butetown can be increased.
- 5.9 The design is also very poor in terms of landscape provision, with a large building and very little landscape area around it, although I accept that roof terraces are being proposed. Given the importance of providing amenity for residents and the proven impact of landscape on improving health and wellbeing, I consider that this needs to be addressed.
- 5.10 Design of the development in relation to the streetscape along Dumballs Road is also critical in order to achieve an attractive tree lined street, with sufficient room for trees to grow without impacting on buildings. The concept masterplan doesn't seem to support this with buildings proposed close to the highway footpath, with very limited tree planting (or room to carry it out) being proposed.
- 5.11 The concept masterplan shows additional footpaths and access across Canal Park, along with a linear footpath in the park. Given the narrow nature of the park, and the presence of a full sized Welsh League Pitch, with barriers around serving Butetown FC I am unconvinced that these are workable, although happy to explore further. I enclose an image showing the current pitch, dugouts etc.
- 5.12 Open Space Provision: These comments relate to the current LDP (C5 Provision for Open Space, Outdoor Recreation, Children's Play and Sport; KP16 Green Infrastructure), and the 2017 Planning Obligations Supplementary Planning Guidance (SPG), supported by policies set out in the 2008 SPG for Open Space which set the Council's approach to open space provision.
- 5.13 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.
- 5.14 Based on the information provided on the number and type of units, I have calculated the additional population generated by the development to be 179.2. This generates an open space requirement of 0.435 ha of on-site open space

based on the criteria set for housing accommodation, or an off-site contribution of £185,929. I enclose a copy of the calculation.

- 5.15 As no public open space is being provided on-site, the developers will be required to make a financial contribution towards the provision of new open space, or the design, improvement and/or maintenance of existing open space in the locality, given that demand for usage of the existing open spaces would increase in the locality as a result of the development.
- 5.16 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.
- 5.17 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.
- 5.18 Consultation will take place with Ward Members to agree use of the contribution, and this will be confirmed at S106 stage. The closest area of recreational open space is Canal Park.
- 5.19 Neighbourhood Regeneration: Based on the number of bedrooms a financial contribution of £99,320 is requested for the improvement of community facilities in the vicinity of the development, in accordance with Section 8 (Community Facilities) of the Cardiff Planning Obligations 2017 Supplementary Planning Guidance.
- 5.20 Education: No consultation response received to date. In the event a response is received it will be reported to planning Committee as a late representation.
- 5.21 Housing Strategy: The Housing Strategy Officer makes the following comments:
 - 5.22 In line with the Local Development Plan (LDP), an affordable housing contribution of 20% of the 109 units (22 units) is sought on this brown-field site. Our priority is to deliver affordable housing on-site and we would require detailed discussion with the applicant to ascertain if the affordable housing can be delivered successfully and sustainably on the site via a RSL partner. All affordable housing units would need to meet Welsh Government DQR standards in terms of design requirements.
 - 5.23 We would be willing to discuss the delivery of the affordable housing on another site that the applicant may already own or be in the process of purchasing in the vicinity/area of the site.
 - 5.24 Given the proposed design of the scheme, the practicality of managing and maintaining affordable housing on-site for a Registered Social Landlord may be unsustainable. In exceptional cases if we cannot deliver the affordable housing

on-site or off-site on another site then we would consider accepting financial contribution.

- 5.25 For information, we would seek a financial contribution of **£1,599,930** (in lieu of 22 units) which is calculated in accordance with the formula in the Planning Obligations – Supplementary Planning Guidance (2017)._
- 5.26 Drainage Management: No consultation response received to date. In the event a response is received it will be reported to planning Committee as a late representation.
- 5.27 Waste Management: The Waste Strategy and Minimisation Officer has no objection to the proposal. Waste Management will not carry keys or access codes for bin storage areas; so waste must either be presented at the entrance to the development for collection, or the access gates to the site must be left open.
- 5.28 Pollution Control (Contaminated Land): The Contaminated Land Officer makes the following observations: The Site Investigation Report submitted by the applicant is based on site based investigation works undertaken during 2014, assessed using current guidelines.
- 5.29 At the time of the investigation, access for site works was restricted due to buildings and hard standings. The risks in relation to these structures (including an underground historic fuel storage tank) and the underlying materials is therefore unknown.
- 5.30 Although the report identifies contaminants within the accessible soils and groundwater and discusses in general terms the need for remediation and possible solutions, the findings remain inconclusive without further assessment. Contamination assessment (amended) and remediation conditions are recommended in relation to this. Based on the above report, ground gas protection measures will be required and an amended ground gas condition is recommended in relation to this. Standard unsuspected contamination, imported soils/ aggregates, and use of site-won materials conditions are also requested.
- 5.31 Pollution Control (Noise & Air): The Pollution Control Officer makes the following observations: Pollution Control have served three noise abatement notices on The Depot, Dumballs Road for the following reasons: loud amplified music, singing, shouting, screaming and banging, and amplified voices.
- 5.32 The Officer confirms that The Depot accepted and signed a caution for loud amplified music in January 2017. Investigations are continuing, regarding noise coming from the venue. The latest complaint that came from a local resident regarding loud amplified music was on Saturday 11th February 2017. Unfortunately, due to unforeseen circumstances the night time noise service was not operational that evening so Noise Officers were not able to visit the residents to see if the noise constituted a statutory noise nuisance. Therefore, noise investigations in relation to this unit are continuing.

- 5.33 Having considered the documents provided to support the application 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. The acoustic report should consider the following:
- The existing daytime and night time noise levels from the nearby industrial units at each storey of the proposed building;
 - An assessment of the expected impact the noise upon the future occupiers of the proposed building;
 - Details of any mitigation measures that may be required.
- 5.34 Given that the proposal involves the placing of residential units close to commercial noise sources, I would expect the acoustic report to be submitted for consideration and approval by the Pollution Control team prior to the determining of the application.
- 5.35 No objection subject to the provision of an acoustic assessment report in advance of determination, and the following standard conditions: sound insulation between commercial and residential uses; opening hours restriction; delivery times restriction; plant noise; future kitchen extraction; and a construction noise recommendation.
- 5.36 Trees: No existing trees will be harmed by this development and it appears highly unlikely that there is a valuable, re-usable soil resource that could be harmed. The primary consideration therefore, is the provision made for new landscaping, appropriate to the scale and context of the development.
- 5.37 Given the scale of the development and the generally industrial nature of the surrounding street-scape, one would expect that a residential development here would be landscape-led, to improve not only visual amenity, but also the 'liveability' of the environment generally. Unfortunately the provision made for soft landscaping is extremely 'Spartan' and the DAS outlines the approach – 'The development is urban and the areas of landscaping created are small'. I'm not clear why the fact that a development is urban means that landscaping is necessarily small. In the context of climate change and improving air quality, surely the extent of landscaping needs to be maximised, and a Landscape Architect employed to ensure this element of design receives appropriate consideration? Three thin verges to car-parking bays are provided, suitable only for hedging, shrubs or herbaceous planting, though the widest might just accommodate a tree subject to provision of a secondary rooting zone (soil crates). There are three areas of 'leftover' space suitable for x1 medium-large tree, a medium tree and one small-medium upright tree, again subject to the provision of secondary rooting zones. A 'street' tree is depicted by the site entrance, though consideration of the drainage plan suggests this may not be viable and the DAS suggests this planting 'needs to be predicated on the basis of a street wide solution which is so far not decided'. I strongly support the provision of a street tree (or trees), but only on the basis of a detailed understanding of all the constraints, and provision of secondary rooting zones as necessary.

- 5.38 I would strongly support amendments to design that provide for substantially increased soft landscape provision. For example, if the development was set back into the site, there may be scope for a generous soft landscaped frontage or planter, incorporating 'street' trees. Whether or not such changes are to be forthcoming, I advise that a detailed, upfront, Landscape Architect prepared landscaping scheme is submitted, comprising a scaled planting plan, plant schedule, topsoil and subsoil specification, tree pit section and plan view, planting methodology and aftercare methodology.
- 5.39 The landscaping scheme must be informed by a detailed understanding of all service constraints, and site specific product manufacturer specifications should be provided for tree pits incorporating secondary rooting zones. Target, minimum root available soil volumes for trees should be 30m³ for large trees, 20m³ for medium/medium large trees and 15m³ for small trees, provided as pits with 600mm subsoil overlain by 300mm topsoil (topsoil and subsoil to be free draining sandy loams, certified in accordance with BS 3882:2015 & BS 8601:2013, and found to be fit for purpose following a soil scientists interpretive report). I have attached an annotated version of the submitted 'Proposed Site Plan' with some suggestions based on the as submitted drawings.

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 Glamorgan Gwent Archaeological Trust (GGAT): Having consulted their records GGAT has no objection to the proposals.
- 6.2 DCWW: No objection subject to a standard condition requiring provision of a detailed drainage scheme for approval by the LPA.
- 6.3 Natural Resources Wales (NRW): NRW has no objection to the development from a flood risk perspective. Based on the information NRW has identified significant concerns with regard to contamination and require further information in relation to this. Advice is also offered in relation to pollution prevention, European protected species, foul water disposal and historic landfill. The response has been forwarded to the applicant.
- 6.4 South Wales Police: No objection. Advice is offered on lighting, access control, windows and doors, CCTV, smoke/fire alarms, and cycle/bin stores. The response has been forwarded to the applicant.

7. **REPRESENTATIONS**

- 7.1 The application was advertised on site and in the press as a major application. Neighbours were notified. 1 representation has been received from a business (Cardiff Speaker Hire) on the neighbouring Anchor Industrial Estate concerned that there will be noise complaints from future residents and requesting a noise assessment be carried out on their premises.
- 7.2 Cardiff Speaker Hire test festival loud speakers and have people leaving the premises around midnight. They also provide pre-production services to film crews and theatres which makes noise during working hours. In the absence of

an upfront noise assessment they do not agree with the applicant's conclusion that there would be no conflict provided that adjoining businesses operate within the parameters of their permissions, and any events are operated in line with premises/temporary events licenses.

8. **ANALYSIS**

- 8.1 The main issues to assess are the principle of residential use on the site, the location and design of the tall building, the amenity of the future occupiers, and the nature and extent of the planning obligations.
- 8.2 The site is located within the Central Business Area (CBA) and the Central Enterprise Zone (CEZ) of the adopted Cardiff Local Development Plan 2006-2026 (LDP). As such, the main land use planning policy issues relate to:
- 8.3 Class C3 (residential) use: The application site is located within the boundary of LDP Policy KP2A (Central Enterprise Zone and Regional Transport Hub - Strategic Site), which is allocated for major employment led initiatives, focussing on financial and business services, together with other mixed uses including residential development.
- 8.4 The schematic framework for LDP Policy KP2A identifies the site as a location for residential land uses within the CEZ and the applicant, in their Design and Access Statement, has provided a schematic masterplan for the area immediately surrounding their site, identifying how it is anticipated that the proposal will integrate with wider residential development within the Dumballs Road area. Taking the above factors into consideration, the proposed residential use of the site is considered acceptable from a land use policy perspective, subject to detailed design and amenity considerations.
- 8.5 Class A1/A2/A3/B1/D1 uses: Class A1 (Shop) use: As the site is located outside the Central Shopping Area (CSA) of the City Centre and also falls outside of any designated District / Local Centres as identified within the Local Development Plan, any proposal for a Class A1 (shop) use at this location would have to satisfy the three tests of out-of-centre retail policy. In this regard and given the relatively small scale of the proposed unit (at 94sqm), an element of convenience retail could be considered acceptable to serve the newly established population and the wider residential community within the surrounding area.
- 8.6 Class A2 (Financial and Professional Services), B1 (Office) and D1 (Non-residential institution) uses: The site is located within the Central Business Area and as such, the proposed A2, B1 and D1 uses are considered acceptable in this instance.
- 8.7 Class A3 (Food and Drink) use: Policy R8 (Food and Drink Uses) of the LDP identifies the Central Business Area as an appropriate location for food and drink uses, subject to amenity considerations. Given that the application proposes 109 flats to the upper floors, the applicant will be expected to demonstrate how their proposal can address concerns over the potential

impact of a ground floor A3 use upon the amenity of residential occupiers. This could be achieved through the applicant accepting a restricted use condition, limiting any use to a café / snack bar / restaurant where the primary function is the sale and consumption of food on the premises rather than alcohol or hot food takeaways, in order to safeguard residential amenity.

- 8.8 Public Realm: This is a large scale development, where the introduction of 109 apartments will place increased pressure on the surrounding pedestrian environment.
- 8.9 Planning Policy Wales, Paragraph 3.4.3 states that 'When a new building is proposed, an existing building is being extended or altered, or a change of use is proposed, developers should consider the need to make it accessible for all those who might use the building. The appropriate design and layout of spaces in, between and around buildings, including parking provision and movement routes, is particularly important in ensuring good accessibility'. Cardiff Local Development Plan Policy KP6 (New Infrastructure) seeks that new developments will make appropriate provision for, or contribute towards, necessary infrastructure required as a consequence of proposed development, including public realm improvements.
- 8.10 To help integrate the proposed development with the surrounding area and to improve pedestrian movements to, from and around the site, the following public realm works are sought as part of the development (as identified on Plan 1): The resurfacing of the footway along the sites frontage and to the north of the site with 200x100mm red clay pavers, linking the development to recently completed works along Dumballs Road; The replacement of all concrete kerbstones; The removal of three redundant vehicle crossovers; The provision of dropped kerbs and associated tactile paving at the road junction; The replacement of two lighting columns (to match those located outside the Cardiff and Vale College); The provision of concrete edging strips to the rear of the footways adjoining areas of soft landscaping.
- 8.11 To ensure that the proposed scheme of improvements immediately surrounding the site is provided in a timely manner, it is requested that the developer undertake the public realm works as part of their development.
- 8.12 For the above reasons, the proposal is, on balance, considered acceptable in land use policy terms, subject to detailed design and amenity considerations. As referred to above, it is requested that conditions be imposed restricting the Class A3 floor space to a restaurant / snack bar / café use to help protect the amenity of residential occupiers.
- 8.13 Location of tall building: The site is located in LDP strategic site KP2(A) Cardiff Central Enterprise Zone & Regional Transport Hub, allocated for a major employment-led initiative including a Regional Transport Hub together with other mixed uses. Immediately to the west of the application site, and forming part of the strategic site, is a large industrial site between Dumballs Road and the River Taff which has planning permission (14/430/DCI) for a high density predominantly residential development (c.695 dwellings). This includes a 16

storey courtyard residential scheme fronting Dumballs road and located directly opposite the application site. The principle of tall buildings in this location has therefore been established.

- 8.14 An indicative sketch submitted as part of the DAS illustrates how the proposals for a tall building at this location do not compromise the development of the triangle land to the south of the site, and how the development would relate to the consented Dumballs Road residential scheme in the event that this scheme, or something similar, is implemented.
- 8.15 In accordance with Tall Buildings SPG 2017 the tower is located in a highly sustainable location, 500m from the city centre. Because it is sited on the bend and directly fronting Dumballs Road it effectively acts as a visual stop in vistas from the north and south. Active uses are provided at ground floor and the footprint and height of the tower results in a slender form. Articulation and design provide vertical emphasis and visual interest and it is considered that the tower makes a positive contribution to Cardiff's skyline.
- 8.16 It is important to note in this context that the tower will in the future form part of a high density residential mixed use quarter, in accordance with the Local Development Plan Schematic Framework for Strategic Site KP2(A).
- 8.17 Subject to conditions controlling type and quality of cladding materials and architectural detailing the design meets the requirements of the Tall Buildings SPG and is considered acceptable.
- 8.18 Amenity of future occupiers: The Pollution Control (Noise & Air) consultation response notes that The Depot restaurant, located on Dumballs Road approximately 70m to the south east of the application site, is under investigation from noise abatement officers following a number of complaints about late night noise from local residents.
- 8.19 In the light of this ongoing issue, and the fact that the application is located next to an industrial estate, the PC officer has requested a noise assessment survey prior to determination of the application.
- 8.20 A representation has also been received from one of the businesses on the Anchor Industrial Estate (Cardiff speaker Hire) raising concerns over the potential impact on their business of possible noise complaints from future occupiers, and requesting that a noise assessment be carried out.
- 8.21 In general it should be noted that under the LDP the Dumballs Road area is no longer designated for Business, Industry and Warehouse uses. The change of designation reflects Council aspirations for the area to become part of the city centre, and to some extent this is reflected in the changing nature of the area which is becoming increasingly mixed use, with significant residential development to the south. This process is likely to accelerate as residential development comes forward on the large former industrial site to the west of Dumballs Road.

- 8.22 However the fact remains that the proposal is for 109 dwellings and the site is sandwiched between 2 industrial estates which are home to several businesses. The potential impact of noise complaints from future occupiers of the development on existing businesses is therefore a material planning consideration.
- 8.23 In relation to The Depot it should be noted that planning permission 15/1076/MNR is for a 3 year temporary change of use to restaurant use, that opening hours are restricted to 10.00 am to 11.30 pm, and that a hot food takeaway use is not permitted. Should The Depot apply to extend its temporary permission the onus would be on the applicant to demonstrate that it can effectively mitigate the noise its operation causes so that nearby residential amenity is not disturbed, especially given that further housing development is likely to emerge as part of the strategic allocation. Furthermore it is not considered reasonable to expect the proposed development to mitigate against an existing development that is causing a statutory noise nuisance.
- 8.24 Given the above the submission of a noise assessment prior to determination of the application is not considered necessary. However the impact of the development on adjacent businesses is a material planning consideration and a condition is therefore attached requiring a noise assessment to be carried out prior to commencement of development, and the necessary mitigation measures to be put in place prior to beneficial occupation. The applicant is advised to liaise closely with Pollution Control (Noise & Air) over the scope and methodology of the assessment.
- 8.25 Access and Parking provision: The proposal makes use of the existing access and is acceptable subject to a condition requiring a visibility splay to the north. Parking provision is policy compliant.
- 8.26 Representations: The concerns raised in the representation from Cardiff Speaker Hire are addressed above in the section entitled 'Amenity of Future Occupiers'.
- 8.27 Section 106 obligations: The total s106 financial contribution requested to date is £1,885,180. The breakdown is as follows:
- Affordable housing £1,599,930 (in lieu of 22 units)
 - Public open space £185,930
 - Community facilities £99,320
- The above sums are calculated in accordance with Council policy and guidance.
- 8.28 The applicant provided a viability appraisal, prepared by Savills and dated January 2015, which concludes that any 106 requirements to provide affordable housing or other 106 contributions will render the scheme unviable.
- 8.29 In accordance with the established practice of obtaining an independent assessment of viability appraisals presented in support of planning applications, the Council commissioned the District Valuer (DV) to prepare an assessment of Savill's viability appraisal. The DV's draft report (Review of

Development Viability in Respect of Eveleigh Site, 14 Dumballs Road (DVS, 4th April 2017) concluded that the level of Section 106 obligations sought by the Council rendered the scheme unviable.

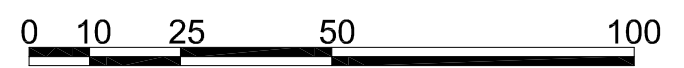
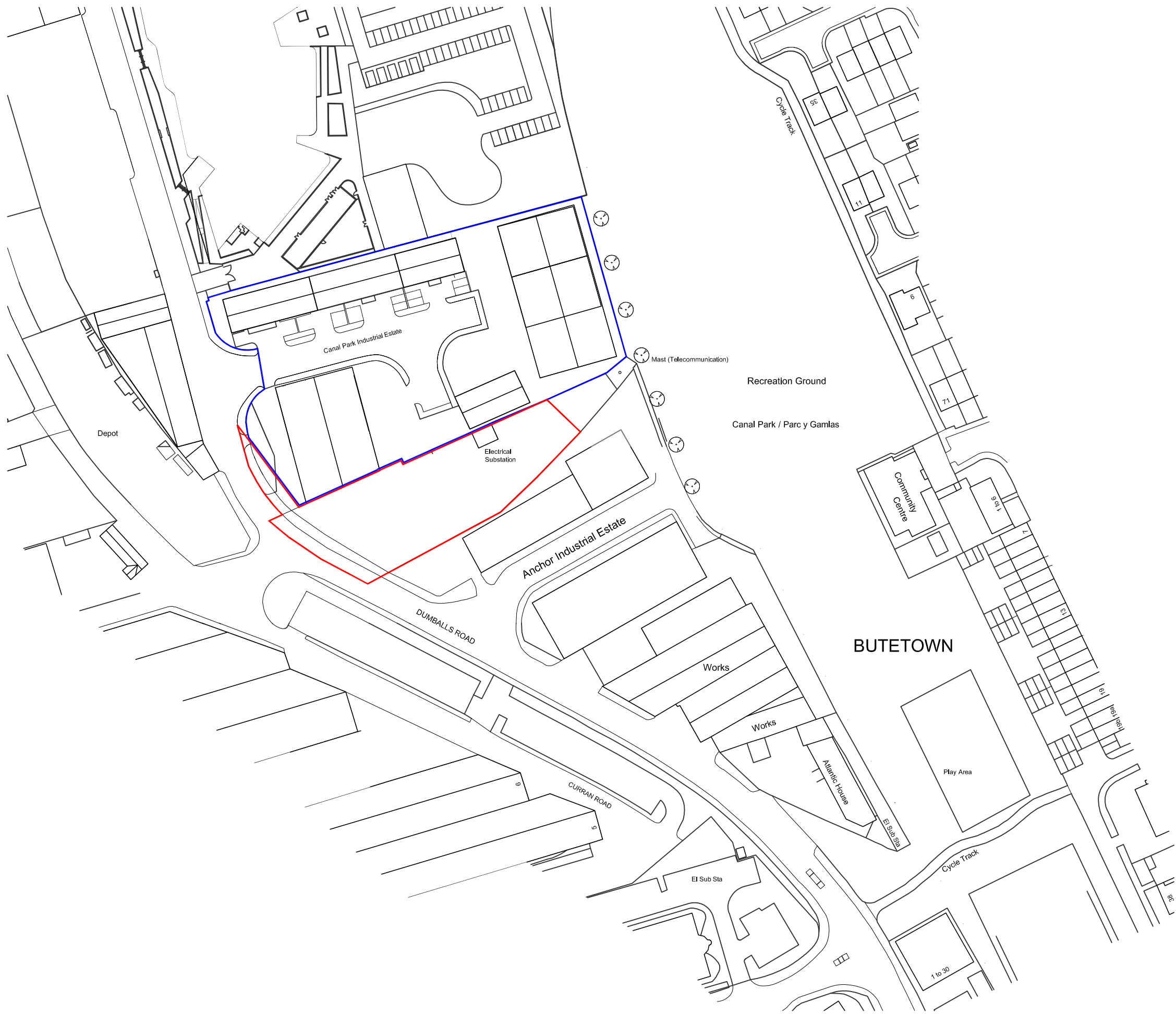
- 8.30 Section 106 obligations are required to meet planning policy and guidance, and national planning obligations tests, and are also subject to viability. Notwithstanding the viability exercise carried out by the applicant and verified by the District Valuer the view of the LPA is that a significant market housing scheme on a site close to the city centre, that does not offer anything towards the improvement of local community facilities or open space is not in general policy compliant, and cannot therefore be recommended for approval.
- 8.31 In light of this the developer has offered the sum of £100,000 towards community facilities and open space, to be payable on beneficial occupation of the scheme.
- 8.32 Having considered the contents and conclusion of the DV's report, and in the interests of enabling appropriate development on Dumballs Road, it is considered that the sum offered and the terms are acceptable. To protect the Council's position the agreement shall include a provision enabling the viability of the scheme to be reviewed in the event that the scheme is not progressed within an agreed time period, such period to be 12 months commencing on the date of the planning permission.
- 8.33 It is proposed that the sum of £100,000 be allocated to the service areas on a pro-rata basis, as follows:
- £65,000 for improvements to public open space in the vicinity, namely Canal Park.
 - £35,000 for improvements to community facilities in the vicinity.

9. **CONCLUSION**

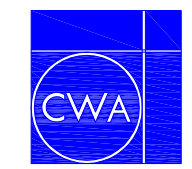
- 9.1 In conclusion the proposals redevelop a vacant plot and provide 109 new dwellings in a highly sustainable location. The proposed use, location and design of the tall building, access and parking provision, and amenity of future occupiers are all acceptable.
- 9.2 The granting of planning permission is recommended subject to conditions being imposed and a legal agreement (Section 106) being signed to secure the following:
- £65,000 towards the design, improvement and/or maintenance of public open space within the vicinity of the development site. The closest area of recreational open space is Canal Park;
 - £35,000 towards the improvement of community facilities in the vicinity eg. Butetown Community Centre, Butetown Youth Pavilion, Channel View Leisure Centre, local shops on Bute Street and James Street, and local community venues run by the voluntary sector in the ward;
 - Improvement works to the adjacent footway under a Section 278 agreement, as indicated on Plan 1: Proposed Scheme of Public Realm

Works which forms part of the Land Use Policy and Public Realm consultation response dated 13th March 2017. To include:

- The resurfacing of the footway along the sites frontage the site with 200x100mm red clay pavers, linking the development to recently completed works along Dumballs Road;
- The replacement of all concrete kerbstones;
- The provision of dropped kerbs and associated tactile paving at the access road junction;
- The replacement of two lighting columns (to match those located outside the Cardiff and Vale College);
- The provision of concrete edging strips to the rear of the footways adjoining areas of soft landscaping.
- The 106 legal agreement shall include a provision enabling the viability of the scheme to be reviewed in the event that the scheme is not progressed within an agreed time period, such period to be 12 months commencing on the date of the planning permission.



Rev A 04.04.17 - Red line amended. Blue line added



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Project Name :	Eveleigh Site, Dumballs Road, Cardiff	
Project Ref :	G1358	
Drawing Title :	Site Location Plan	Scale :
Drawing Number :	G1358 - P100	1:1250 @ A3
Revision:	A	Drawn by: rb Date: AUG '16

