

COMMITTEE DATE: 17/06/2020

APPLICATION No. **16/01839/MJR** APPLICATION DATE: 11/08/2016

ED: **ELY**

APP: TYPE: Outline Planning Permission

APPLICANT: Mr. B. Davies

LOCATION: 84-86 SEVENOAKS ROAD, ELY, CARDIFF

PROPOSAL: CONSTRUCTION OF 6 x1 BED AND 4 x 2 BED APARTMENTS

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

1. A. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

B. Any application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.

C. The development shall begin either before the expiration of three years from the date of this permission or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reasons: A. In accordance with the provisions of Article (3)1 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

B. and C. In accordance with Section 92 of the Town and Country Planning Act 1990, and to enable the Local Planning Authority to take into account any changes in economic conditions that affect the viability of the proposed development and its capacity for the provision of a financial contribution under the provisions of Section 106 of the Town and Country Planning Act 1990.

2. This approval shall not extend to the following plans and documents:

- DRW.129/1
- DRW.129/2
- DRW.129/3
- DRW.129/4
- DRW.129/5
- Design and Access Statement.

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

3. Prior to the commencement of development a scheme of construction management shall be submitted to and approved in writing by the Local Planning Authority, to include details of construction traffic routes, site hoardings, site access and wheel washing facilities. The construction shall be managed strictly in accordance with the approved scheme.

Reason: In the interests of highway safety and public amenity, in accordance with policies T5, T6 and EN13 of the Cardiff Local Development Plan.

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with policy EN10 of the Cardiff Local Development Plan.

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

Following completion of the approved monitoring scheme, the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing by the Local Planning Authority. If no protection measures are required then no further actions will be required.

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

* 'Gases' include landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas Monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 and or BS8485

year 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments.

Reason: To ensure that the safety of future occupiers is not prejudiced, 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 Local Planning Authority within 2 weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with 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 Local Planning Authority.

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 Local Planning Authority.

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. The details submitted in discharge of condition 1 of this permission shall relate to no more than 10 apartments (6 x one bed and 4 x two bed).
Reason: The ability of the development to provide affordable housing on site, or a financial contribution in lieu of such provision, in accordance with policy H3 of the Cardiff Local Development Plan, has been assessed on the basis of this number and type of unit.

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: The developer is advised that the proposed development site is crossed by a public sewer with the approximate position being marked on the Statutory Public Sewer Record. The position of the public sewer must be accurately located and marked out on site before works commence and no operational development should be carried out within 3 metres either side of the centreline of the public sewer.

RECOMMENDATION 4: The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com. The applicant is also advised that some public sewers and lateral drains may not be recorded on maps of public sewers because they were originally privately owned. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

RECOMMENDATION 5: 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 by Welsh Water of detailed site layout plans which should be sent to Welsh Water Developer Services, PO Box 3146, Cardiff CF30 0EH.

RECOMMENDATION 6: A 125mm distribution watermain crosses the application site, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access its apparatus at all times. The developer should refer to the attached Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

RECOMMENDATION 7: 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

1. DESCRIPTION OF PROPOSED DEVELOPMENT

- 1.1 This application seeks outline planning permission, with all detailed matters reserved, for the construction of a block of 10 apartments (6 x 1 bed and 4 x 2 bed).
- 1.2 The application was reported to the Planning Committee on 9th November 2016 and was approved subject to conditions and subject to those having an interest in the site entering into a binding planning obligation in agreement with the Council under Section 106 of the Town and Country Planning Act 1990 encompassing the matters referred to in paragraph 5.7 of this report. The applicant has since submitted evidence regarding the viability of the scheme, which has been reviewed by the District Valuer who has concluded that the scheme proposed does not produce a competitive rate of return if a planning obligation payment or provision of affordable housing is required. Therefore the application is reported back for the Planning Committee to make a decision as to whether the proposal is acceptable without the contribution to affordable housing of £140,070 (in lieu of 2 units) that was required by the planning obligation.

2. DESCRIPTION OF SITE

- 2.1 The site is a vacant corner plot of approximately 0.07 hectares at the junction of Sevenoaks Road and Snowden Road which was formerly occupied by two commercial properties with residential accommodation above. These were demolished in 2003.

3. SITE HISTORY

- 3.1 03/01722/R – Demolition of 2 no. shops with residential accommodation.
- 3.2 05/02319/W – Residential development (outline).
- 3.3 07/01869/W – Construction of 6 x 1 bed and 4 x 2 bed apartments (Reserved matters).

4. POLICY FRAMEWORK

- 4.1 *Cardiff Local Development Plan 2006-2021:*
KP5 (Good Quality and Sustainable Design);
KP7 (Planning Obligations);
KP13 (Responding to Evidenced Social Needs);
H3 (Affordable Housing);
EN10 (Water Sensitive Design);
EN13 (Air, Noise, Light Pollution and Land Contamination);
T5 (Managing Transport Impacts);

T6 (Impact on Transport Networks and Services).

4.2 *Supplementary Planning Guidance:*

Cardiff Residential Design Guide (January 2017).

Planning Obligations (January 2017).

Cardiff Infill Sites (November 2017).

Managing Transportation Impacts (Incorporating Parking Standards) (2018).

4.3 *Planning Policy Wales (Edition 10 – December 2018):*

2.2 All development decisions, either through development plans policy choices or individual development management decisions should seek to contribute towards the making of sustainable places and improved well-being.

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

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

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

4.1.31 Planning authorities must ensure new housing, jobs, shopping, leisure and services are highly accessible by walking and cycling.

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

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

4.2.22 Planning authorities will need to ensure that in development plans and through the development management process they make the most efficient use of land and buildings in their areas. Higher densities must be encouraged on sites in town centres and other sites which have good walking, cycling and public transport links.

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

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

4.2.29 Where development plan policies make clear that an element of affordable housing or other developer contributions are required on specific sites, this will be a material consideration in determining relevant applications. 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 planning authority considers that the proposal 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.

4.2.31 Site specific targets are indicative affordable housing targets which should be established for each residential site and for each mixed-use site which includes a residential component. For sites which fall below the site threshold planning authorities may secure commuted sums using a Section 106 agreement. Commuted sums should be used by the planning authority solely for facilitating or providing affordable housing. When setting the affordable housing thresholds and/or site-specific targets planning authorities must consider their impact on site viability to ensure residential sites remain deliverable.

6.6.17 New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres also require approval from the SuDS Approval Body (SAB) before construction can commence. Adoption and management arrangements, including a funding mechanism for maintenance of SuDS infrastructure and all drainage elements are to be agreed by the SAB as part of this approval. This will ensure that SuDS infrastructure is properly maintained and functions effectively for its design life.

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

5. **INTERNAL CONSULTEE RESPONSES**

5.1 *Transportation:* No objections. There are no changes to the current parking arrangements and no impact on the public highway. Request conditions relating to construction management.

5.2 *Drainage:* No comments received.

5.3 *Pollution Control (Noise & Air):* No comments received.

5.4 *Pollution Control (Contaminated Land):* Former landfill/raise sites have been identified within 250m of the proposed development. Such sites are associated with the generation of landfill gases, within subsurface materials, which have the potential to migrate to other sites. This may give rise to potential risks to human health and the environment for the proposed end use. Standard conditions and recommendations on ground gas protection; unforeseen contamination; imported and recycled materials and contaminated/unstable land are recommended.

5.5 *Parks Development:* No comments received.

5.6 *Waste Strategy & Minimisation Officer:* The bin storage area indicated within current site plans is acceptable.

5.7 *Housing Strategy:*
Original comments:

In line with the Local Development Plan (LDP), an affordable housing contribution of 20% of the 10 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. However, 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, we would be prepared to accept financial contribution in lieu of on-site affordable housing provision. On the basis of the above, we would seek a financial contribution of **£140,070** (in lieu of 2 units) which is calculated in accordance with the formula in the Affordable Housing – Supplementary Planning Guidance (SPG) (2007).

- 5.8 Comments following receipt of the District Valuer's report on viability:
If the DVS has assessed that it is non-viable we can accept their findings. If it is approved at Planning Committee then I would suggest either a shorter time period for commencing the development, or a maximum period of 18 months to complete the development from the issue of the Planning Permission.

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 *Welsh Water:* Request a condition requiring the approval of a drainage scheme. No development will be permitted within 3m of the centreline of the sewer that crosses the site, the position of which shall be accurately located and marked out on site before works commence. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site. A water supply can be made available to serve this proposed development. The proposed development is crossed by a 125mm distribution watermain. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access its apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.
- 6.2 *Police Crime Prevention Design Advisor:* Information regarding incidents of crime and anti-social behaviour in the area is provided. Developers and local authorities are required to consider levels of crime and disorder in respect of any new developments and at the same time, promote the inclusion of architectural crime prevention measures into new developments. South Wales Police have no objection to this development but make a number of recommendations relating to: Secured by Design accreditation; boundary treatment; security lighting; access control; windows and doors; communal internal areas; smoke alarms; cycle storage; communal mail delivery facilities; dwelling Identification; external service meters; loft hatches and landscaping.

7. **REPRESENTATIONS**

- 7.1 The application has been advertised by neighbour notification. No comments have been received.

8. **ANALYSIS**

- 8.1 The application is for outline planning permission with all matters reserved therefore only the principle of the development of the site for 6 x 1 bed and 4 x 2 bed flats is to be considered.
- 8.2 The drawings submitted with the application are marked as “illustrative” and are not for consideration at this time. The drawings are also inconsistent with the description of the proposed development as they refer to 10 x 2 bedroom flats, and are inconsistent with the drawings in the Design and Access Statement. A condition clarifying that these drawings are not approved is therefore recommended if planning permission is to be granted.
- 8.3 As no details of scale, appearance, layout, access or landscaping are applied for at this stage, the only considerations are whether a) the principle of residential use is appropriate, b) the proposed number of residential units could fit successfully onto the site and c) any legal obligations are needed in order to make the development acceptable.
- 8.4 The principle of the proposal is considered acceptable - the site is within a residential area in a sustainable location close to shops, community facilities and public transport routes, and outline planning permission and reserved matters for 6 x 1 bed and 4 x 2 bed apartments have been approved in the past.
- 8.5 I consider that the site is large enough to accommodate a building of an appropriate size to provide 10 flats with acceptable amounts of internal living space, external amenity space and car parking. Details relating to these issues will be considered at the reserved matters stage.
- 8.6 The Cardiff Local Development Plan has been adopted since the previous approval of planning permission for development on this site, and there is now a policy (policy H3) which seeks to secure 20% affordable housing on brownfield sites such as this, where the proposed development relates to 5 or more dwellings. Affordable housing is sought to be delivered on-site in all instances unless there are exceptional circumstances. In this case, the proposed development does not include any affordable housing but the Housing Strategy officer has indicated that a financial contribution (£140,070) in lieu of on-site affordable housing provision would be appropriate. The applicant’s agent initially confirmed that this was acceptable, and on that basis the application was approved by the Planning Committee on 9th November 2016 subject to the signing of a S106 obligation requiring the financial contribution to be provided.
- 8.7 However, the S106 obligation was not signed and the applicant has since submitted a viability assessment claiming that this scheme will not be viable if the contribution is made and that the S106 requirement should therefore be removed. Members must therefore consider whether this proposal remains acceptable with no Section 106 contribution towards affordable housing.

- 8.8 The proposal without the S106 contribution does not comply with Local Development Plan Policies KP6 and H3. Policy KP6 requires new development to make appropriate provision for, or contribute towards, all essential, enabling and necessary infrastructure required as a consequence of the development, and Policy H3 requires the provision of affordable housing in developments of more than 5 units.
- 8.9 However, paragraph 4.2.31 of Planning Policy Wales (Dec 2018) states that “When setting the affordable housing thresholds and/or site-specific targets planning authorities must consider their impact on site viability to ensure residential sites remain deliverable” and Circular 13/97 (Planning Obligations) requires S106 obligations to be “fairly and reasonably related in scale and kind to the development.” The Supplementary Planning Guidance “Cardiff Planning Obligations” (January 2017) states that “It is recognised that there may be occasions where development proposals are unable to meet all the relevant policy requirements whilst still remaining viable” and makes provision for applicants to submit a viability appraisal to the Council (which is then independently reviewed) setting out how they are not able to meet the full policy requirements deemed necessary to be secured through a Section 106 agreement. The application should then be considered against the potential under provision or delayed provision of infrastructure (including affordable housing). Based on independent financial viability findings and other evidence, planning obligations may potentially be deferred / phased, or discounted. Any reduction in contributions should be to the minimum necessary to make the scheme financially viable and the Council would need to determine whether a development is acceptable in planning terms with a reduced level of contributions.
- 8.10 In this case, the District Valuer has reviewed the application details and provided an independent appraisal of the scheme, concluding that the scheme would not produce a competitive rate of return if any planning obligation payment or provision of affordable housing were required. The Council’s Housing Strategy Officer has accepted this assessment and concludes that it is appropriate to remove the S106 requirement.
- 8.11 The District Valuer also suggests that Members may also wish to consider whether the proposed development would be deliverable, given that it would not provide the amount of profit normally expected. However, the question of whether a development is likely to be implemented is not normally a material planning consideration - the view is usually taken that if a proposal is acceptable in planning terms, an applicant has the right to a permission regardless of whether or not they have the finance or ability to carry the development through.
- 8.12 On balance, it is considered that the failure of the development to make a contribution towards meeting a local need for affordable housing is outweighed by the potential benefits of achieving residential development on this currently derelict site. The development itself is not necessarily made unacceptable by the developer’s inability to make the financial contribution and, given the advice of the District Valuer, it is recommended that the application be approved without the requirement for a S106 contribution.

- 8.13 Given that the District Valuer's appraisal is based on costs and revenues appropriate to the review date, it is therefore valid only if the building construction work commences within 6 months and proceeds at a rate consistent with achieving sales in the market. If commencement of the works were to be delayed and is then undertaken at some other time when market conditions may be different, then they believe a re-appraisal will be required. The Housing Strategy officer also recommends a shorter time period for commencing the development, or a maximum period of 18 months to complete the development from the issue of the Planning Permission.
- 8.14 As this is an outline application, a further application for reserved matters approval will have to be granted before development can commence. Applicants are normally given three years from the grant of outline permission in which to apply for approval of reserved matters and five years (or two years from the approval of the last of the reserved matters if later) in which to commence the development. However, Section 92 (4) of the Town and Country Planning Act 1990 states that *"The authority concerned with the terms of an outline planning permission may, in applying subsection (2), substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate."*
- 8.15 Given the recommendations that a shorter time period be allowed for the commencement of this development, a time limit of three years is considered appropriate. A time period of two years is advised in the Welsh Government's document "Delivering affordable housing using Section 106 agreements : a guidance update" (2009), which states (para. 5.7) that "reducing or otherwise altering planning obligations (including affordable housing requirements) should not be agreed without mechanisms in place (such as a reduced time limit permission) to encourage early development of the scheme and to guard against an advantageous permission being "pocketed" and not developed until market conditions improve" and (para.5.17) " A relatively simple mechanism that can be applied to a wide variety of site types is to ally a reduced requirement for planning obligations (especially affordable housing) with a time limited planning permission e.g. a two year permission. At the end of the specified period the local authority has to be assured that substantial progress in the development of the scheme has been achieved or the permission will lapse." Three years, rather than the two suggested by the Welsh Government, would be more appropriate in this case due to the viability issues that will make the site difficult to develop, along with current economic uncertainties around the global coronavirus pandemic, which are likely to affect the development industry for some time in the future.
- 8.16 The application is therefore recommended for approval 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 3 years of outline planning permission being granted, rather than the standard 5 years, in order to ensure that should the development be delayed by more than 3 years, 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.

- 8.17 As this is an outline application with all details reserved for future approval, I would also recommend an additional condition requiring the reserved matters application to relate to no more than 4 x 2 bedroom flats and 6 x 1 bedroom flats, this being the proposal that the District Valuer's assessment of viability was based upon.

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

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

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council's duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

9.3 *Environment (Wales) Act 2016*

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


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

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

its contribution towards one or more of the well-being objectives referred to in section 9 of the WBFG Act.

Location Plan - 84 / 86 Sevenoaks Road, Ely



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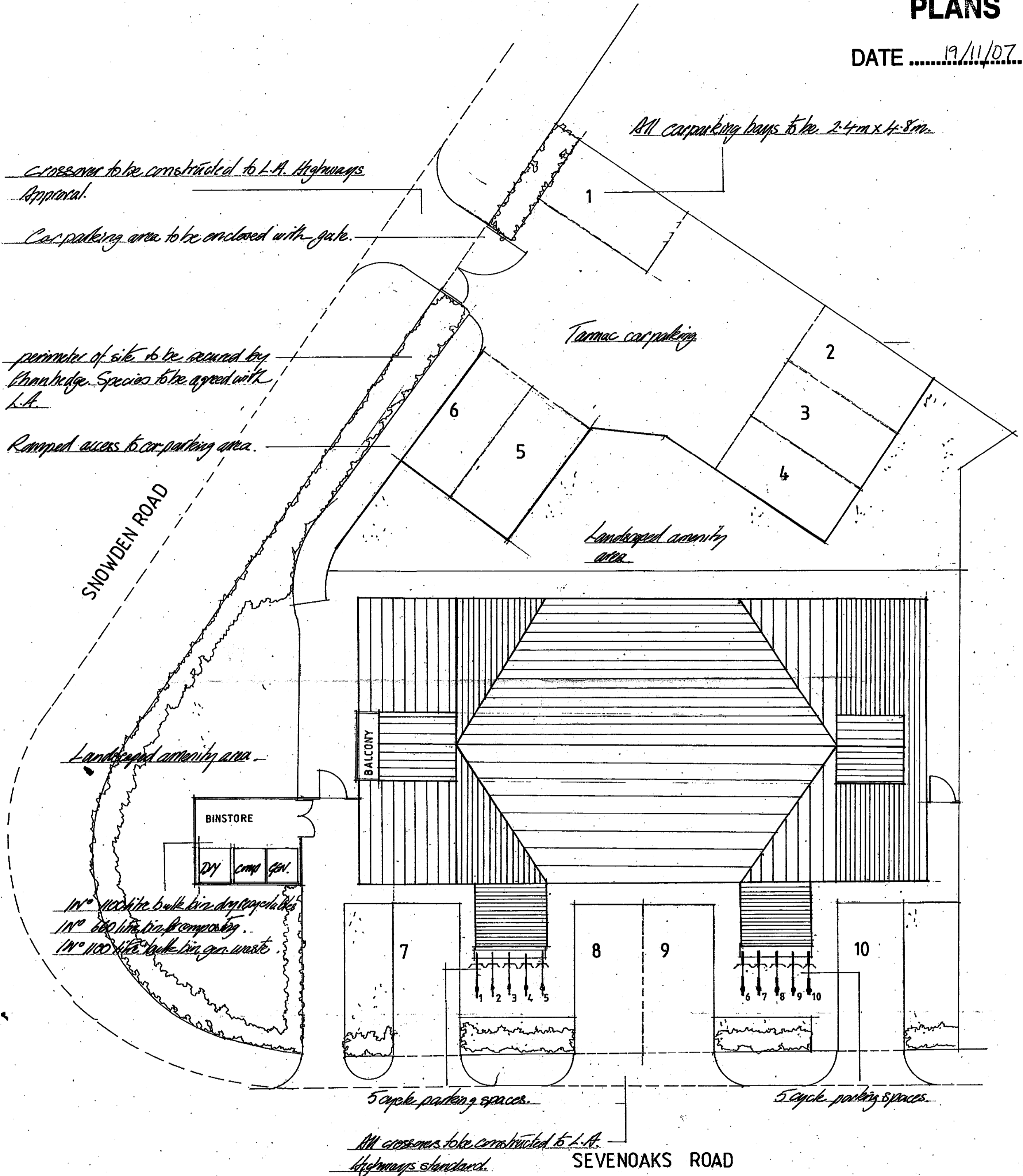




07/01869/W

AMENDED PLANS

DATE 19/11/07



PROPOSED APARTMENTS SEVENOAKS ROAD.
 PLOT 84/86 SEVENOAKS ROAD CARDIFF.
 FOR DAVIES PROPERTIES PENARTH.
 NOV 2007 DRW.129/1 Scale 1:100.
 KIRTON SURVEYS Tel.01446730434.