

PETITION, A.M. OBJECTION AND LOCAL MEMBER OBJECTION

COMMITTEE DATE: 18/11/2020

APPLICATION No. **18/00762/MNR** APPLICATION DATE: 04/04/2018

ED: **HEATH**

APP: TYPE: Full Planning Permission

APPLICANT: Mr RUSSELL

LOCATION: THANE & MEARS, 304A CAERPHILLY ROAD,
BIRCHGROVE, CARDIFF, CF14 4NS

PROPOSAL: PROPOSED DEMOLITION OF 304A CAERPHILLY RD &
ERECTION OF NEW DEVELOPMENT TO FORM A3
COMMERCIAL UNIT TO GROUND FLOOR WITH 5 NO
FLATS OVER

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

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

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

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

P551A L_001	Location Plan
P551A L_003 C	Site Plan as Proposed
P551A L_004 B	Ground Floor Site Plan
P551A L_200 A	Ground Floor Plan as Proposed
P551A L_201 A	First Floor Plans as Proposed
P551A L_202 A	Second Floor Plans as Proposed
P551A L_210 A	Elevations 1 of 3 as Proposed
P551A L_211 A	Elevations 2 of 3 as Proposed
P551A L_212 A	Elevations 3 of 3 as Proposed
P551A L_214 A	Street View as Proposed
P551A L_220 A	Perspective Views as Proposed

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

3. Notwithstanding the details shown on the approved plans, prior to the commencement of development details of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall show that a minimum of 6 no. secure and sheltered cycle parking spaces shall be provided for residents of the flats and at least 2 no. cycle parking spaces (1 no. long-stay for staff and 1 no. short-stay for customers) shall be provided for the commercial unit. The approved cycle parking/storage spaces shall be installed before the development hereby approved is brought into beneficial use and shall be maintained thereafter and shall not be used for any other purpose.

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

4. Prior to the commencement of development details of the highway access onto Caerphilly Road, including any changes to the existing parking bays, bollards and crossovers, shall be submitted to and approved in writing by the Local Planning Authority. The approved 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, in accordance with policies T5 and T6 of the Cardiff Local Development Plan.

5. Prior to the commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 63 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 57 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 40 dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be provided with acoustically treated active ventilation units. Each ventilation unit (with air filter in position), by itself or with an integral air supply duct and cowl (or grille), shall be capable of giving variable ventilation rates ranging from :

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

No habitable room shall be occupied until the approved sound insulation and ventilation measures have been installed in that room. Any private open space (excepting terraces or balconies to any apartment) shall be designed to provide an area which is at least 50% of the area for sitting out where the maximum day time noise level does not exceed 55 dBA Leq 16 hour [free field].

Reason: To ensure that the amenities of future occupiers are protected, in

accordance with policies KP5 and EN13 of the Cardiff Local Development Plan.

6. A scheme of sound insulation works to the floor/ceiling structure between the ground floor commercial premises and first floor residential units shall be submitted to and agreed in writing by the Local Planning Authority and implemented prior to occupation.
Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies KP5 and EN13 of the Cardiff Local Development Plan.
7. No member of the public shall be admitted to or allowed to remain on the ground floor commercial premises, and no preparation and/or cooking of hot food shall take place, between the hours of 18:00 and 08:00 Monday to Saturday or at any time on Sundays.
Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies KP5 and EN13 of the Cardiff Local Development Plan.
8. There shall be no arrival, departure, loading or unloading of delivery vehicles between the hours of 18:00hrs and 08:00hrs.
Reason: To ensure that the amenities of future occupiers are protected, in accordance with policies KP5 and EN13 of the Cardiff Local Development Plan.
9. Prior to the installation of any fixed, noise-emitting plant and equipment on the site, a noise assessment shall be carried out and submitted to the Local Planning Authority to ensure the noise emitted from the fixed plant and equipment achieves a rating noise level of background -10dB at the nearest noise sensitive premises when measured and corrected in accordance with BS 4142: 2014 (or any British Standard amending or superseding that standard).
Reason: To ensure that the amenities of occupiers of nearby properties are protected, in accordance with policies KP5 and EN13 of the Cardiff Local Development Plan.
10. If at any time the use of the ground floor premises is to involve the preparation and cooking of hot food, the extraction of all fumes from the food preparation areas shall be mechanically extracted to a point to be agreed with the Local Planning Authority, and the extraction system shall be provided with a de-odorising filter. Details of the above equipment shall be submitted to, and approved by, the Local Planning Authority in writing and the equipment installed prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the manufacturers' guidelines, such guidelines having previously been agreed by the Local Planning Authority in writing.
Reason: To ensure that the amenities of occupiers of nearby properties are protected, in accordance with policies KP5 and EN13 of the Cardiff Local Development Plan.

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

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.

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

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

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

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

13. Prior to the commencement of the development an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person * in accordance with BS10175 (2011) Code of Practice for the Investigation of Potentially Contaminated Sites and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- (i) A desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and

assesses all identified potential source, pathway, and receptor linkages;

- (ii) An intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (iii) An assessment of the potential risks to:
 - human health,
 - ground waters and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - ecological systems, archaeological sites and ancient monuments; and
 - any other receptors identified at (i)
- (iv) An appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (2012), unless the Local Planning Authority agrees to any variation.

* A 'suitably qualified competent person' would normally be expected to be a chartered member of an appropriate professional body (such as the Institution of Civil Engineers, Geological Society of London, Royal Institution of Chartered Surveyors, Institution of Environmental Management) and also have relevant experience of investigating contaminated sites.

Reason: To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment in accordance with policy EN13 of the Cardiff Local Development Plan.

14. Prior to the commencement of the development a detailed remediation scheme and verification plan to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (July 2006), unless the Local Planning Authority agrees to any variation.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN13 of the Cardiff Local Development Plan.

15. The remediation scheme approved by condition 14 must be fully undertaken in accordance with its terms prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (July 2006), unless the Local Planning Authority agrees to any variation.

Reason : To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN13 of the Cardiff Local Development Plan.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works 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.

17. Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

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

18. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

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

19. 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.

20. The means of site enclosure shall be constructed in accordance with the approved details prior to the development being put into beneficial use.
Reason: to ensure that the amenities of the area are protected, in accordance with policy KP5 of the Cardiff Local Development Plan.

RECOMMENDATION 2: To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. The applicant is also advised to seek approval for any proposed piling operations.

RECOMMENDATION 3: The developer is advised that, as mentioned in section 3.11 of the Waste Collection and Storage Facilities Supplementary Planning Guidance, it is considered best practice to have a Site Waste Management Plan for demolition projects. Materials should be reused and recycled as much as possible. Further information is available in the Supplementary Planning Guidance "Waste Collection and Storage Facilities", which can be found on the Council's website.

RECOMMENDATION 4: The applicant is advised that the owners/developers of new residential units are required to purchase the bins required for each unit. The bins have to meet the Council's specifications and individual bins can be purchased via Connect to Cardiff at (029) 2087 2087. Bulk supply of individual bins, or 660litre/1100 litre wheeled bins should be ordered via the bin order form located at www.cardiff.gov.uk/wasteplanning. Further information regarding waste/recycling and the types of bins required is available in the Supplementary Planning Guidance "Waste Collection and Storage Facilities", which can be found on the Council's website. If communal bins for the flats are preferred, the development will require 1 x 660 litre bin for general waste, 1 x 240 litre bin for food waste and 1 x 660 litre bin for mixed recycling. If communal bins are used the waste can be collected from the bin store providing the distance from the refuse vehicle to the bin store is less than 25 metres. Individual bins for each flat would need to be presented on Caerphilly Road.

RECOMMENDATION 5: The applicant is advised that a commercial contract is required for the collection and disposal of all commercial waste. By law (Environmental Protection Act, 1990, section 34) all commercial premises have a duty of care to ensure that their waste is transferred to and disposed of by a registered waste carrier. Owners or developers of commercial developments/properties who require Cardiff County Council to collect and dispose of their waste can contact the commercial services department on 029 20717500.

RECOMMENDATION 6: The applicant is advised that any required access junction and highway works relating to the adopted highway will be subject to an agreement under Section 278 of the Highways Act 1980 between the developer and the Local Highway Authority.

RECOMMENDATION 7: The applicant is advised that they may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com. 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 8 : 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 9: The applicant is advised to contact Western Power Distribution (WPD) with regard to the possible presence of underground services associated with the electricity substation in the vicinity of the application site.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks full planning permission for the demolition of a commercial garage and the construction in its place of a three storey building containing a 98 square metre class A3 (i.e. "food and drink") commercial unit at ground floor level with 5 no. flats above, comprising four 1 bedroom flats at the front of the building on the first and second floors and one 2 bedroom flat at the rear which would have its bedrooms at first floor level and living room/kitchen on the second floor.
- 1.2 Five car parking spaces would be provided, accessed via a new crossover and a drive passing between the new building and 304 Caerphilly Road. Two of the parking spaces would be in an undercroft below the rear flat. Cycle parking facilities would also be provided and there would be more than 70 square metres of shared outdoor amenity space at the rear of the site along with a 14 sq.m single storey pitched roofed storage building. To the front of the commercial premises, on Caerphilly Road, there would be a 3m deep area for outdoor seating enclosed by a low wall and railings.
- 1.3 The building will be three storeys in height, with the upper storey partly within the roof space. The roof will be pitched and finished in slate grey tiles and there will be two projecting flat-roofed gables to the front which will be finished in grey cladding. The main walls will be white render. Windows and doors will be grey and the front and rear facing windows will have glazed external balustrades.
- 1.4 The application was reported to the Planning Committee on 13th June 2018 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 5.5 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 is not viable 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 £69,426 (in lieu of 1 x 1 bedroom apartment) that would have been required by the planning obligation.

2. **DESCRIPTION OF SITE**

- 2.1 The application site measures approximately 460 square metres in area and lies on the eastern side of Caerphilly Road, between two end-of –terrace

properties (an estate agent's office to the south and a hot food takeaway to the north). There are detached dwellings to the rear of the site, located within a modern housing estate. A public footpath runs along the northern boundary, linking Caerphilly Road and Milestone Close and there is an electricity substation between the footpath and the north eastern section of the application site.

- 2.2 The site currently contains a commercial garage/workshop with detached office cabin to the side and associated forecourt which is used for the parking of customers' vehicles.
- 2.3 Directly opposite is a large site which formerly contained warehouse and depot buildings and has now been redeveloped as a 1254 sq.m retail unit with associated car park.

3. **SITE HISTORY**

- 3.1 14/00455/DCO – Construction of single storey extension to create additional service bay with relocation of office unit.
- 3.2 09/00805/E – Single storey side extension of existing garage /workshop.

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);
H6 (Change of Use or Redevelopment to Residential Use);
EC3 (Alternative Use of Employment Land and Premises);
EN10 (Water Sensitive Design);
EN13 (Air, Noise, Light Pollution and Land Contamination);
T5 (Managing Transport Impacts);
R8 (Food and Drink Uses);
C3 (Community Safety/Creating Safe Environments);
W2 (Provision for Waste Management Facilities in Development).

4.2 *Supplementary Planning Guidance:*

Waste Collection and Storage Facilities (October 2016);
Planning Obligations (January 2017);
Managing Transportation Impacts (Incorporating Parking Standards) (2018);
Cardiff Infill Sites (November 2017);
Food, Drink and Leisure Uses (November 2017).

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.

3.4 Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

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

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

3.9 The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations.

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

3.21 The planning system must consider the impacts of new development on existing communities and maximise health protection and well-being and safeguard amenity.

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.

4.1.37 Planning authorities must ensure the layout, density and mix of uses of new development support the use of public transport and maximise accessibility potential. In particular, higher densities and mixed-use development should be encouraged in areas highly accessible by public transport.

4.1.53 Parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places.

4.2.21 Where up-to-date development plan policies have set out the community benefits expected from development, planning applications which comply with them should be assumed to be viable and it should not be necessary for viability issues to be considered further. It is for either the applicant or the planning authority to demonstrate that particular exceptional circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision-maker, having regard to all the circumstances in the case, including whether the development plan and the viability evidence underpinning it are up-to-date, and any change in circumstances since the plan was adopted. Such circumstances could include, for example, where further information on infrastructure or site costs is required or where a recession or similar significant economic changes have occurred since the plan was adopted. Where negotiation is necessary, the planning authority and developer should operate in an open and transparent manner with all information provided on an 'open book' basis.

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. Development plan policies should also state what the authority would regard as affordable housing and the arrangements it would expect for ensuring that such housing remains reserved for those who need it in perpetuity.

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.

5.12.9 Adequate facilities and space for the collection, composting and recycling of waste materials should be incorporated into the design and, where appropriate, layout of any development as well as waste prevention measures at the design, construction and demolition stage.

6.6.17 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.

6.7.4 The planning system should consider the long-term effects of current and predicted levels of air and noise pollution on individuals, society and the environment and identify and pursue any opportunities to reduce, or at least, minimise population exposure to air and noise pollution, and improve soundscapes, where it is practical and feasible to do so.

4.4 *Building Better Places: The Planning System Delivering Resilient and Brighter Futures - Placemaking and the Covid-19 recovery* (July 2020).

4.5 *Technical Advice Note 11 – Noise (1997):*

10. Local planning authorities should consider whether proposals for new noise-sensitive development would be incompatible with existing activities, taking into account the likely level of noise exposure at the time of the application and any increase that may reasonably be expected in the foreseeable future. Such development should not normally be permitted in areas which are, or are expected to become, subject to unacceptably high levels of noise and should not normally be permitted where high levels of noise will continue throughout the night.

4.6 *Technical Advice Note 12 - Design (March 2016)*

4.7 *Technical Advice Note 18 – Transport (2007)*

5. **INTERNAL CONSULTEE RESPONSES**

5.1 *Transportation:* The revised car parking layout is generally acceptable, although the space furthest south does not have a full 6m space in front of it as stated, however there should be room for residents to access it by turning in the area marked on the plan as 'Tarmacadam'. There are still concerns with the proposed cycle storage. The facility needs to be covered, and it does not appear that a door is proposed. Also, semi-vertical systems can be more difficult for some cyclists to access. However, it would be acceptable if an appropriate cycle storage facility were provided within the rear garden/amenity area (but within close proximity to its entrance to ensure distance from the residential area is not too great), as there are less space issues there. On that basis cycle storage can be dealt with via condition. A minimum of 6 cycle spaces should be provided for the residents (1 per bedroom), as well as a long-stay space for the commercial unit. In addition, a short-stay space should be provided for customers, although there should be space for this in front of the unit. More details of the cycle parking should be provided, showing the locations of cycles and the type of building/access point.

5.2 The principle of highway access onto Caerphilly Road from the southern part of the site (adjacent to Hern & Crabtree) is likely to be acceptable, subject to the provision of further details, and a Section 278 agreement would be required, given that there are a number of highway issues, including TRO's. It appears that the proposed access road would cut across an existing parking bay, and this would need to be moved, although the existing crossover towards the north of the site would be closed. In addition, some of the bollards could be removed. The details of the access junction/works for the Aldi store opposite the site are currently at an advanced stage, and this residential application would need to tie in with those works.

5.3 *Pollution Control (Noise & Air):* Request conditions requiring the submission of

a road traffic noise assessment, a scheme of sound insulation between the ground floor commercial use and the flats, restriction of opening hours of the A3 use to 08:00 – 18:00, restrictions on delivery times, submission of an assessment of plant noise, insulation works for any room in which amplified music will be played, and details of kitchen extraction if the premises is to be used for the preparation of hot food.

- 5.4 *Waste Strategy & Minimisation Officer:* The amended plans detailing waste storage are acceptable. These facilities must be retained for future use for waste storage. As mentioned in section 3.11 of the Waste Collection and Storage Facilities Supplementary Planning Guidance it is considered best practice to have a Site Waste Management Plan for demolition projects. Materials should be reused and recycled as much as possible.
- 5.5 *Housing Strategy:* In line with the Local Development Plan (LDP), an affordable housing contribution of 20% of the 5 units (1 unit) 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 and the type of units on the scheme, we would be prepared to accept a financial contribution in lieu of on-site affordable housing provision. On that basis of the above, we would seek a financial contribution of **£69,426** in lieu of 1 x 1 bedroom apartment) which is calculated in accordance with the formula in the Planning Obligations– Supplementary Planning Guidance (SPG)(2017).
- 5.6 Comments following receipt of the District Valuer’s report on viability:
As the financial viability of the proposed scheme has been independently assessed by the District Valuation Service (DVS), then we can accept the findings of the DVS report. However, the affordable housing request does need to be noted in the committee report and we would suggest that an appropriate timescale and/or review mechanism is included within the s106 agreement for future proofing, should the viability improve with any changes in market conditions.
- 5.7 *Pollution Control (Contaminated Land):* Not consulted on this application but provided detailed requirements at pre-application stage, including conditions relating to ground gas and remediation works.

6. **EXTERNAL CONSULTEES RESPONSES**

- 6.1 *Welsh Water:* Request conditions and advisory notes relating to surface water / land drainage and connection to the public sewer.
- 6.2 *Western Power Distribution:* No response to consultation.

7. **REPRESENTATIONS**

- 7.1 The application was advertised by site notice and neighbour notification. 3 individual representations have been received objecting to the development as follows:

1. The A3 use will lead to the same problems as caused by other A3 uses in the area, i.e. parking congestion in Milestone Close, litter and vermin.
2. Existing parking spaces will be lost and there will be limited parking places for the residents of the flats. Any additional residents' and visitors' cars are likely to be parked on Milestone close leading to increased congestion in a residential road.
3. Groups of teenagers congregate in the footpath between Caerphilly Road and Milestone close, drinking alcohol etc. The new building will cause the footpath to become more secluded, leading to an increase in anti-social behaviour.
4. Loss of sunlight to the house at the rear.
5. Loss of privacy.
6. The building is too tall and won't fit in with neighbouring 2 storey buildings.
7. The nature of the A3 use is uncertain and could lead to more parking problems.
8. Windows will open over the access lane.
9. Existing small businesses have already suffered due to loss of short-term parking following the creation of the bus lane. This development will result in the loss of another parking bay and the businesses may suffer further.

7.2 A petition of 75 signatures has been received, opposing the development on the grounds of further loss of parking provision (the removal of the northerly parking bay outside 304A Caerphilly Road) "in an area already under serious parking pressures by reason of the bus lane – 5 bays were lost on the Aldi side". The petitioners urge the local authority to require compensatory provision to replace the lost space and are also concerned about the lack of detail about the A3 use and the impact this could have on parking.

7.3 Two individual representations have also been received raising concerns that at least 5 parking spaces should be provided (one per flat) and stating that replacing the current garage with a new building would be a good thing, that they are pleased that the building will be further away from the house at the rear and that the building will not be too tall, but raising concerns that the developer has not contacted them regarding the shared boundary wall, that the opening times of the A3 use should be restricted, it should be prevented from serving alcohol and a former CCTV camera should be re-instated (due to existing problems of anti-social behaviour in the area), the parking spaces should be restricted to residents only, any increase in parking on Milestone Close should be monitored, construction traffic should not be allowed to use Milestone Close, all waste should be removed from the site and the developer should take care not to damage the underground cables associated with the adjacent substation.

7.4 Julie Morgan, Assembly Member for Cardiff North, has asked that the following points be taken into consideration:

1. The proposed building is too high and overbearing. It is out of character with other buildings.
2. There is a paucity of detail on the proposed A3 commercial unit. Within

the use class what activities will be carried out? This is important for determining the intensity of the proposed use. What will be the opening hours? There is concern that a takeaway with late hours will exacerbate existing anti-social behaviour in the vicinity of the nearby public footpath, putting community safety at risk. (Gating the lane has been suggested as well as restoring cctv to the street light pole, removed a few years ago).

3. Moreover, an A3 use will generate significant parking needs for the proposed 8 staff and customers for which there is no provision. There is concern that the proposed development will exacerbate parking and congestion in Milestone Close by visitors to this site who access it via the lane. I welcome the 10 cycle spaces but being realistic most customers are unlikely to be cyclists.
 4. Overall the parking provision is insufficient. Only 5 bays for 5 residential units and nothing proposed for the other site use.
 5. The position of the proposed entrance/exit results in the loss of a 1 hour restricted parking bay only designated as such in January 2018. There is no evidence of this factor being taken into account and provision to compensate proposed.
 6. The width of the new vehicular access to/from the main road is insufficient. Traffic needs to be able to enter whilst other traffic is exiting otherwise there is a danger of vehicles backing up on the main road, creating a traffic hazard – see point 7.
 7. This development should be considered in conjunction with the uncontrolled crossing being constructed across main road between the public footpath on the east side and the new entrance to Aldi's on the west side. There is no evidence of such consideration in the application.
 8. Windows of the proposed unit overhang the public footpath, projecting into the local authority's super-incumbent airspace. At a minimum a certificate B is surely required.
 9. There is an electricity substation in the corner of the plot on which the site is located and the cables which run to and fro are under the site. I also understand water mains run close by, if not under the site.
- It is therefore clear that there are a number of very unsatisfactory features to this development which requires complete rethinking. It is a pity that the applicant's agent did not undertake any consultation with the local community before submission. The creation of the bus lane and associated loss of parking in Caerphilly Road and the subsequent approval of the Aldi planning application, which includes the uncontrolled crossing over the main road, has aggravated a site already under pressure. Although the obligation to file a Design and Access Statement under the Town and Country Planning (Development management) Procedure Order 2012 as amended has not been triggered this is clearly a case where there is a need for more information and where the applicant should be encouraged to submit a voluntary statement in accordance with section 6 Design and Access Statements in Wales published by the Welsh Government in April 2017.

7.5 Having read the original committee report, Julie Morgan submitted the following additional comments – 'I have seen the officers' report to the Planning

Committee published last Friday and have the following further comments to make which please place before the Planning Committee. Whilst I am glad that the most significant of the issues raised appear to have been addressed and changes made in consequence I am concerned about three matters.

1. I note Recommendation 1, paragraph 4, proposes that the applicant must submit further details of the proposed highway access on to Caerphilly Road, including any changes to the existing parking bays, bollards and crossovers for consideration of the Council as LPA (vindicating my criticisms on the absence of sufficient detail on access which I note the Highways Department also says is needed - see paragraph 5.2) and that the LPA's approval must be obtained and the approved scheme implemented before the development can be put into beneficial use. The access arrangements and impact on the highway is not simply a private matter between the Council as Highway Authority and the developer for disposal under S278 Agreement. There is a public interest and one of the disadvantages of proceeding in the above way is that consultation on the final scheme for access in the normal course of events does not take place. In my opinion this is undesirable when there is significant public concern, as here, and I would ask that the objectors be sent a copy of the further details when they are submitted with an opportunity given to them to comment before final approval is given.

2. The observations at paragraph 7.9 are insensitive and unfortunate and I feel do not reflect the overall view of the Council. The observations indicate a lack of knowledge of the recent history of this part of Caerphilly Road where small traders have suffered significantly from poor management of highway alterations and careless traffic regulation resulting in a defective TRO. Nobody is suggesting that a local authority cannot alter highways by adding bus lanes or other measures in the interests of the wider community but the impact on small businesses, which are a driving force in expanding the local economy, must be considered and efforts made to mitigate adverse impact. I am sure that the Council would not want to convey otherwise.

3. I am particularly concerned at the comment in paragraph 7.9, viz. *"In this case, it should also be noted that this proposal will result in the loss of only one parking bay (which is likely to be replaced elsewhere as part of the future highway works) and that there will be a large new car park on the opposite side of the road."* The "large new car park on the opposite side of the road" referred to is, of course, the privately owned car park being constructed by Aldi for its customers. It seems that Planning and Highway officers have come to see this car park as a panacea for car parking difficulties in this area. This notion is quite misconceived and the car park is irrelevant in the formulation of public policy. It is true that Aldi have been flexible and helpful (not least in the information that they have provided directly to me in writing). Parking in their car park will be monitored by a "Parking Eye" but in their absolute discretion they have agreed to turn this off at 10 p.m. and not turn it back on till 8 a.m., permitting residential neighbours to use it between these hours without risk of being penalised. When the Parking Eye is on, those customers who park beyond a 2 hour limit will be subject to a penalty (£70). I have been informed categorically that it is not the policy of

Aldi to encourage use of its car park by non-customers between 8 a.m. and 10 p.m. Whilst Aldi may turn a blind eye to occasional use by a non-customer, widespread abuse is likely to lead to tighter controls being imposed. As I understand the position, there is no enforceable agreement between the local authority and Aldi on public use of the Aldi car park, merely an understanding limited to the 10 p.m. - 8 a.m. Parking Eye concession. It is therefore quite wrong for public policy on parking provision for this area to be formulated relying on the availability of a privately owned car park where a change in management policy could result in the imposition of restrictions without notice.

7.6 Councillor Graham Hinchey submitted the following objections:

Please refuse the A3 element as this will cause significant problems of noise, litter and parking issues for local families. It contravenes our own SPG Guidance on locating all A3 (takeaway and evening fast food outlets) to within the local shopping centre where there are currently a number of vacant units within the nearby Birchgrove Shopping Centre, where adequate bins and parking exist to support any A3 fast food proposal.

7.7 If A3 is not rejected it should have a limited range of daytime hours and usage – not open after 17.30 and not fast food take away. For example a coffee shop may be more appropriate

7.8 The height and scale of the this 3 Storey development is out of keeping with other building in the street scene. The height should be reduced in accord with two storey buildings.

7.9 The angled side windows overhang the public area of the through lane between Caerphilly Rd and Milestone Close estate and directly view the private neighbouring property of 314A Caerphilly Rd. These windows should be made flat to the building and opaquely glazed to ensure privacy is protected.

7.10 The side doorways on the same north elevation access directly onto the above public lane. This access should be redesigned or moved to a front facing Caerphilly Rd elevation.

7.11 I do not have any objection to the introduction of suitable housing / apartments to replace the existing garage business, providing all other conditions, as set out above and below, are accepted and introduced as conditions for granting this application.

7.12 The electrical substation is located alongside the development and served from Caerphilly Rd side. It and serves a wide community. In order to prevent potential access should be maintained but the development covers the line of power which serves the community.

7.13 Parking and right turn into the proposed development would be reduced by the extended / moved access crossover into the site. The narrow access to the parking bays at the rear would cause vehicles to reverse onto the busy

Caerphilly Rd. A wider passing passage is needed under the development to ensure safe access and egress to the off street parking bays.

8. **ANALYSIS**

- 8.1 The application site falls within the settlement boundary as defined by the LDP Proposals Map and has no specific designation or allocation. The existing commercial garage has no protection in land use policy terms. The application site is outside of a defined shopping centre and not located in an area where A3 uses are considered most appropriately located (Policy R8). However the site is already in commercial use as a garage/mot centre and car sales. In addition there are commercial premises adjacent (including an A3 use) and a retail unit is under construction opposite. Taking the above factors into account, the application raises no land use policy concerns.
- 8.2 The appearance of the proposed building is acceptable. A three storey development will not appear out of place on this site as the street is wide, there is a satisfactory gap between the new development and existing properties and there are buildings of a different heights and designs in the surrounding area. The development will respect the frontage building line and will include an enclosed space to the front of the A3 unit which, whilst differing from existing commercial units in the area, which have open frontages, will reflect the enclosed front gardens of the houses on Caerphilly Road and is considered to be appropriate. The proposed development will replace a less attractive commercial use and will add interest to the street scene. The finishing materials will be appropriate to the site's context.
- 8.3 With regard to impact on adjoining residents, the rear-facing bedroom windows will overlook only a blank side wall of the neighbouring house and the side-facing windows will not overlook habitable room windows. Those in the southern side elevation will be angled and partially obscure to provide a reasonable outlook whilst protecting the neighbours' privacy. A 2.1m high brick wall will be erected around the rear boundary to screen the outdoor amenity area.
- 8.4 The standard of accommodation for future residents will be satisfactory – the flats are of an acceptable size, each will have an off-street parking space and cycle storage facility and the outdoor amenity space accords with the requirements of the Residential Design Guidance SPG. This SPG states that there should be a minimum of 75 sq.m of communal outdoor amenity space for up to 5 flats. The plans show that there will be 73 sq.m of garden, which will be secure, private and accessible to all occupants, plus an outdoor storage building, separate bin storage space and car/cycle parking areas.
- 8.5 In response to the objections set out in section 7 above:
1. No concerns have been raised by highways or pollution control officers with regard to parking, congestion or public health. Litter is subject to separate control under the Environmental Protection Act 1990. A potential increase in litter in the vicinity of A3 premises is not usually considered adequate grounds in itself for refusal of a planning

application.

2. One existing on-street parking bay will be lost. However, the highway arrangements on this part of Caerphilly Road are to be altered as part of the Aldi development and Highways officers have indicated that the space could be moved elsewhere. This is an issue that will be resolved as part of the S278 process under the Highways Act. The number of parking spaces provided for residents of the flats complies with the relevant Supplementary Planning Guidance and Highways / Transportation officers have raised no concerns.
 3. The new building will have windows overlooking the footpath, which will provide better surveillance and a deterrent to anti-social behaviour.
 4. Houses at the rear of the site will be to the east of the new building and will still receive an acceptable amount of sunlight.
 5. Habitable room windows will not overlook adjoining properties at short distances and there will be a high wall around the new amenity space (see 8.3 above).
 6. The scale of the building is considered to be acceptable in this context (see 8.2 above).
 7. Neither Planning Policy Wales nor Cardiff Council's own Supplementary Planning Guidance on parking standards require a minimum number of parking spaces for any type of A3 development and Highways / Transportation officers have raised no concerns regarding parking. The site is in a sustainable location with good public transport links and there will be a 103-space car park (related to the Aldi development) on the opposite side of the road.
 8. The plans have been amended so that windows will not project over the lane.
 9. Businesses should not rely on customers always being able to park on the public highway directly outside their premises. Local Authorities often need to amend highways by adding bus lanes etc and it would be unreasonable to prevent such measures, which have city-wide public benefits, just to retain parking spaces close to private commercial premises. In this case, it should also be noted that this proposal will result in the loss of only one parking bay (which is likely to be replaced elsewhere as part of the future highway works) and that there will be a large new car park on the opposite side of the road.
- 8.6 The petition relates only to the loss of one on-street parking space and the lack of detail about the A3 use. These issues are discussed above.
- 8.7 The concerns raised by the two neighbours have also been addressed – there will be 5 parking spaces for residents of the development, the boundary wall will have to be erected before the flats are occupied, the opening times of the A3 use will be restricted so that it cannot open late at night or on Sundays, the serving of alcohol is controlled by other legislation (a licence would be needed), the footpath will be overlooked by new windows, highways officers have no concerns about increased parking problems, the disposal of waste is covered by other legislation and the developer can be advised to contact Western Power Distribution regarding the substation. With regard to construction traffic, it is unlikely that Milestone Close would be used to access the site as there is no

road link between the two. It would not be possible to prohibit vehicles associated with the development from parking on the public highway (including on Milestone Close) but this would be a temporary situation and any illegal, dangerous or obstructive parking would be controllable under other legislation.

8.8 Considering the initial points raised by Julie Morgan AM:

1. This issue is dealt with at 8.2 above.
2. Further detail of the A3 use is not required – the possibility that it may be used for any type of food and drink use (coffee shop, café, hot food takeaway etc.) has been considered. There is no difference in the parking requirements for different A3 uses and pollution control officers have considered the possibility that hot food may be cooked on the premises and have requested a suitable condition. Consideration has been given to opening hours and a condition is recommended preventing late night opening. These hours (08:00 to 18:00) are more restrictive than those imposed on the adjacent hot food takeaway, which can open from 9am to 10.30pm. The footpath alongside the site will be overlooked by windows and as a result will become a less attractive venue for anti-social behaviour. The proposed development will not make it a more dangerous place and it would therefore be unreasonable to require the developer to provide additional security arrangements. Gating the path would severely reduce permeability within the surrounding area and would discourage walking and cycling. Use of the path by local residents is likely to increase substantially once the Aldi supermarket is built.
3. Planning Policy Wales states that parking standards should be flexible to allow lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate. The Council's Supplementary Planning Guidance also indicates that there is no minimum requirement for parking for A3 uses and Highways/Transportation officers have not requested that any off-street parking be provided for the A3 unit. The site is in a sustainable location close to an existing residential area from which customers and staff will be drawn, and which is well served by public transport and accessible by bicycle. The Council wishes to encourage non-car modes of transport and therefore a condition can be used to ensure that cycle parking facilities are provided.
4. Five off-street parking spaces for 5 small flats is considered to be adequate and is in accordance with the Council's guidelines and with Welsh Government policies.
5. The issue of the parking bay is discussed above. As part of the highway works in the vicinity of this site, the parking bay can be relocated. This will be a matter between the developer and the Highway Authority. Such works are not shown on the plans as the public highway is not within the application site.
6. Highways officers have raised no concerns regarding the width of the access. This is a private drive serving a small number of private parking spaces and as such does not need to be wide enough for two vehicles to pass.
7. See point 5. This is a matter that will be resolved between the developer and the Highway Authority. Details do not need to be included in the

planning application. Highways officers have no objections to the proposals.

8. The plans were amended to remove the overhanging windows.
 9. Western Power Distribution have not responded to consultation but the developer can be advised to contact them before work commences to ensure that no equipment is disturbed. Welsh Water have not identified any water main in the area that could be affected.
- 8.9 In response to the additional points, it is not considered necessary to request any amendments to the scheme. The applicant was not obliged to consult the local community before submitting the application, and an adequate amount of information has been supplied by the applicant to enable a full assessment of the proposals. As this is not a case where further information is necessary to enable the application to be determined, it is not appropriate to request a Design and Access Statement.
- 8.10 With regard to the objections raised by Councillor Graham Hinchey: the issues of noise, litter etc. are addressed in the response given at paragraph 8.5 above. The guidance contained in the "Food, Drink and Leisure Uses" SPG has been taken into consideration but in this instance it is felt that as the site is already in commercial use and as there are commercial premises adjacent (including an A3 use) and opposite, the area is not purely residential but is mixed in character and the replacement of a garage use with a mixed residential and commercial use is acceptable in principle. Furthermore, the A3 use will not necessarily be a fast food takeaway and conditions will be used to restrict its opening and cooking hours and control the installation of kitchen extraction equipment.
- 8.11 Restricted opening hours are recommended to ensure that the commercial use does not cause disturbance to residents. A closing time of 18:00, and no opening on Sundays, is suggested as this will tie in with the hours that the adjacent A3 use is permitted to cook hot food. Requiring the proposed use to close at 17:30, which would be an hour earlier than the existing A3 premises has to stop cooking hot food, would be unreasonable. The adjacent A3 premises can be open to customers between 09:00 and 22:30 Monday to Saturday but can only sell hot food between 12 noon and 18:30.
- 8.12 The issue of the height and scale of the building is addressed at 8.2 above.
- 8.13 The plans have been amended so that windows will not project over the lane but will be flush with the building. They will not face towards habitable room windows or private garden areas of the adjacent properties therefore do not need to be obscurely glazed.
- 8.14 There are no doors directly into the building on the side elevation, only a doorway in the boundary wall leading to the rear of the site from the public path, from which the building is accessed. Pedestrian access to the building can also be gained via the access drive off Caerphilly Road on the southern side. There are no planning reasons in this instance to require access into the upper floors of the building to be from the front of the building only.

- 8.15 The issue of the electrical substation is addressed above. The proposed development will have no impact on access to the substation.
- 8.16 Highways and Transportation officers have raised no concerns regarding access or parking issues, which area addressed earlier in this report. There is space within the site to turn a vehicle so as to avoid reversing onto Caerphilly Road.
- 8.17 Policy H3 of the Cardiff Local Development Plan 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 indicated that a financial contribution (£69,426) in lieu of on-site affordable housing provision would be appropriate. The applicant's agent initially confirmed that the applicant was happy with the Section 106 contribution, and on that basis the application was approved by the Planning Committee on 13th June 2018 subject to the signing of a S106 obligation requiring the financial contribution to be provided.
- 8.18 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.
- 8.19 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 5 or more units.
- 8.20 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.

- 8.21 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.
- 8.22 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.
- 8.23 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 a mixed residential and commercial development on this site, which currently accommodates a garage use which is less compatible with nearby residential properties and is potentially capable of generating high parking demand and frequent vehicle movements.
- 8.24 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.
- 8.25 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 promptly 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 a re-appraisal will be required. The Housing Strategy officer also recommends either a shorter time period for commencing the development or some other review mechanism.
- 8.26 Applicants are normally given five years from the grant of full planning permission in which to commence the development. However, Section 91 of the Town and Country Planning Act 1990 states that:
"(1)..planning permission.....shall be granted.....subject to the condition that the development to which it relates must be begun not later than the expiration of—
(a) five years beginning with the date on which the permission is granted..; or
(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.
(2) The period mentioned in subsection (1)(b) shall be a period which the

authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.”

- 8.27 Given the recommendations that a shorter time period be allowed for the commencement of this development, a time limit of two 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."
- 8.28 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 2 years of planning permission being granted, rather than the standard 5 years, in order to ensure that should the development be delayed by more than 2 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.

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.

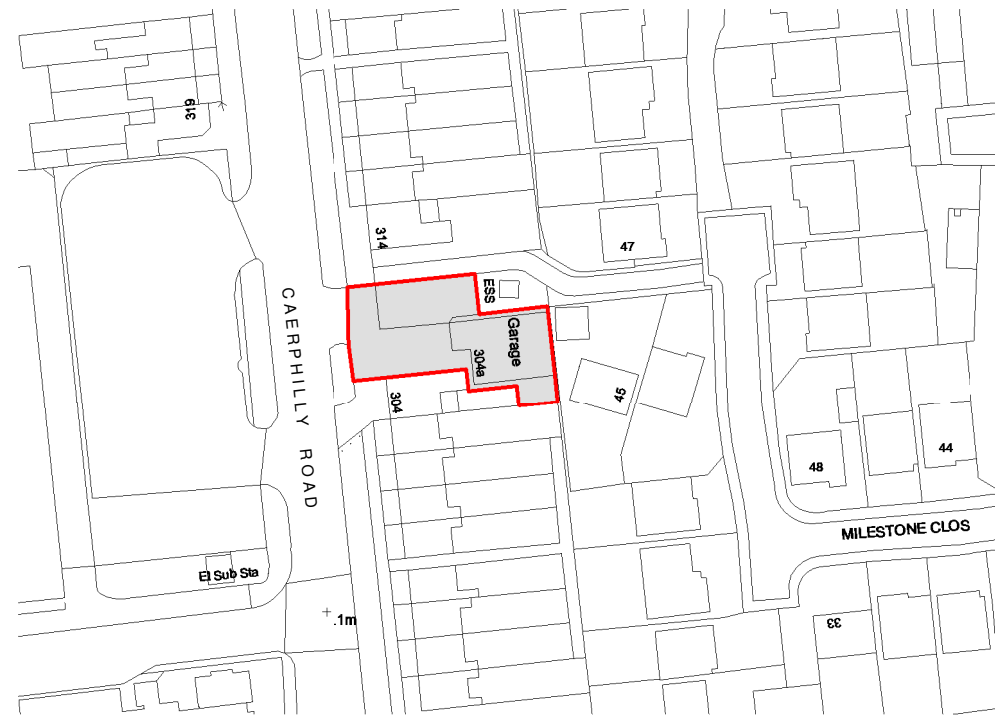
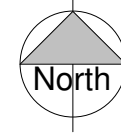
9.2 *Equality Act 2010*

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

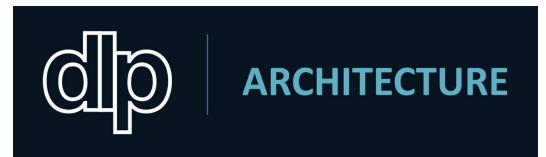
The Well-being of Future Generations (Wales) Act 2015 places a duty on the Welsh Ministers (and other public bodies) to produce well-being objectives and take reasonable steps to meet those objectives in the context of the principle of sustainable development. The duty to improve the economic, social, 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
1 : 1250

Planning Issue

date	rev	name	chk	note
------	-----	------	-----	------



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
Systems House 89 Heol Don Cardiff CF14 2AT
T 02920316857 M 07785582007 info@dlparchitecture.co.uk

PROJECT
Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE
Location Plan

SCALE	DATE	DRAWN BY	CHECKED BY
1 : 1250	21/02/18	PL	JR

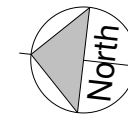
DRAWING NUMBER	REVISION
P551a L_001	







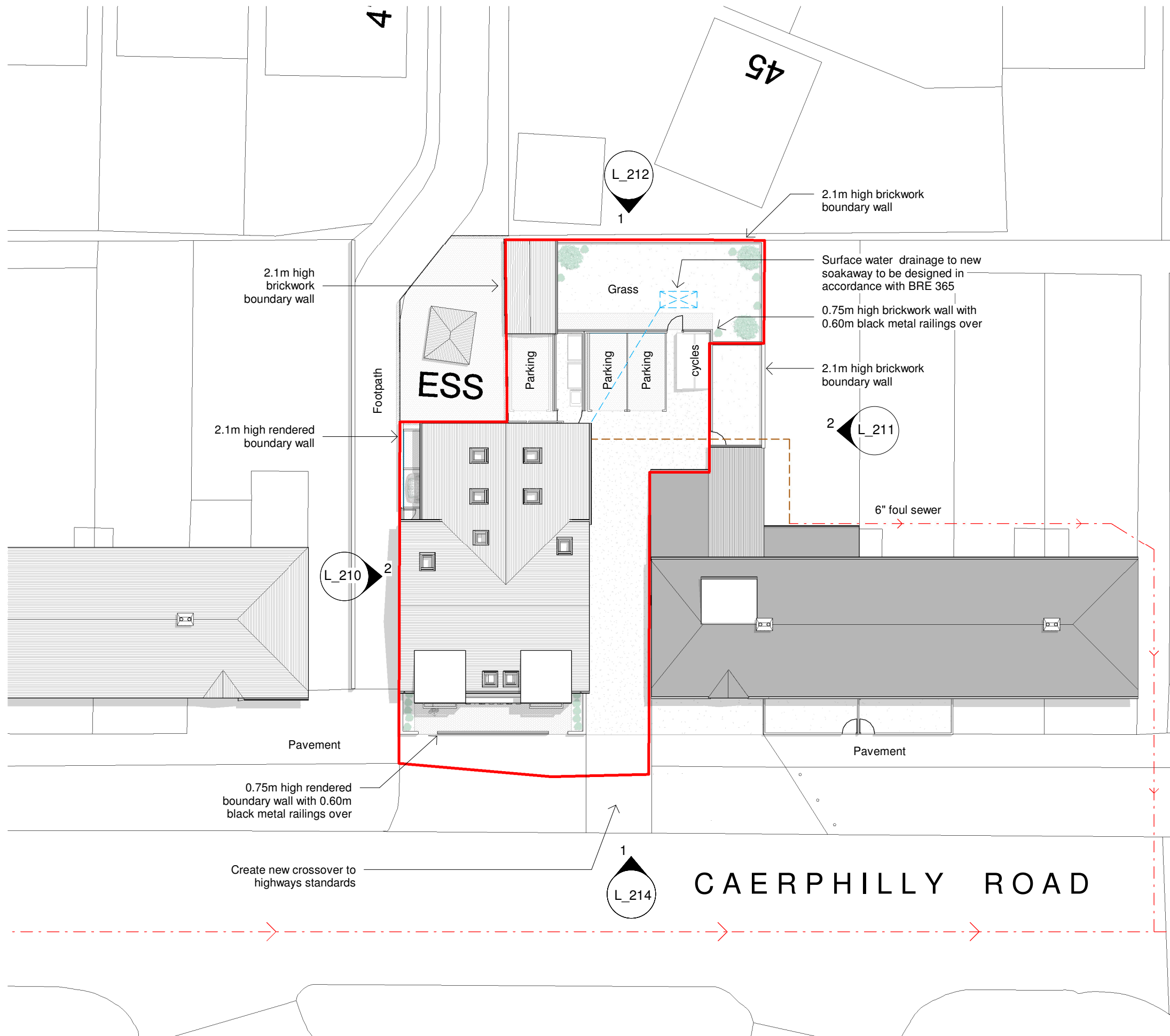




Responsibility is not accepted for errors made by others in scaling from this drawing. All construction information should be taken from figured dimensions only.

0mm 50mm

A3 Original Sheet Size



DRAINAGE NOTES:

Surface water drainage to new soakaway to be designed in accordance with BRE 365

HARDSTANDING FINISHES KEY:

- GRASS
- PERMEABLE PAVIOURS

DRAINAGE LEGEND:

- FOUL DRAINAGE RUN - EXISTING
- FOUL DRAINAGE RUN - PROPOSED
- SURFACE WATER DRAINAGE RUN

WASTE STORAGE

- Flats:
- Recycling: 1 x 660L bins
 - Composting: 1 x 240L bins
 - Waste: 1 x 660L bins
 - Commercial: 5 x 360L bins

Planning Issue

28/04/18	C	PL	Side windows amended	
26/04/18	B	PL	Parking & cycle storage amended	
24/04/18	A	PL	Refuse storage amended	
date	rev	name	chk	note



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
 Systems House 89 Heol Don Cardiff CF14 2AT
 T 02920316857 M 07785582007 info@dlparchitecture.co.uk

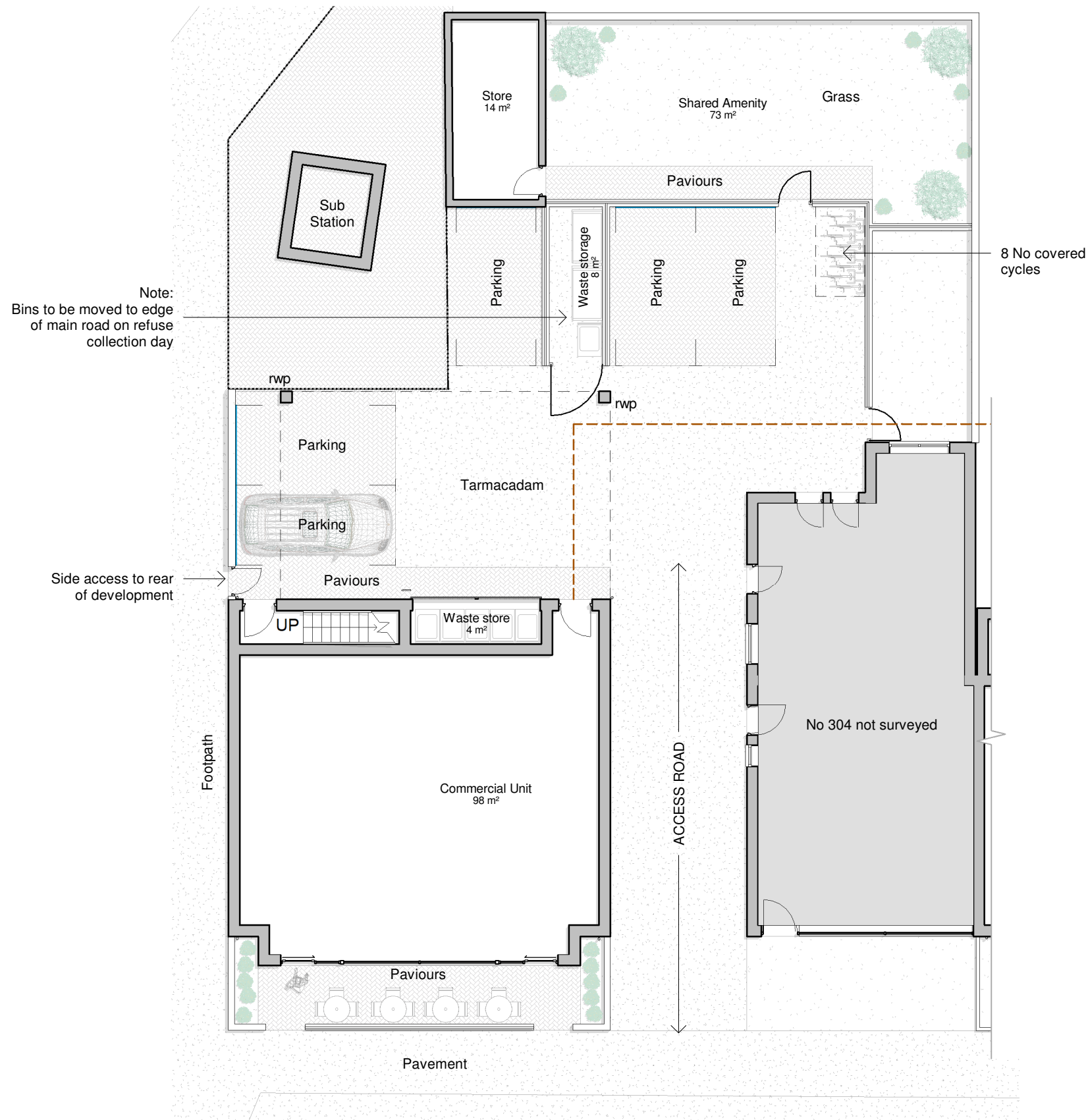
PROJECT
 Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE
 Site Plan as Proposed

SCALE	DATE	DRAWN BY	CHECKED BY
As indicated	21/02/18	PL	JR
DRAWING NUMBER	REVISION		
P551a	L_003	C	

Site Plan as Proposed
 1 : 250



DRAINAGE NOTES:

Surface water drainage to new soakaway to be designed in accordance with BRE 365

HARDSTANDING FINISHES KEY:

- GRASS
- PERMEABLE PAVIOURS

DRAINAGE LEGEND:

- FOUL DRAINAGE RUN - EXISTING
- FOUL DRAINAGE RUN - PROPOSED
- SURFACE WATER DRAINAGE RUN

WASTE STORAGE

- Flats:
- Recycling: 1 x 660L bins
 - Composting: 1 x 240L bins
 - Waste: 1 x 660L bins
 - Commercial: 5 x 360L bins

Planning Issue

26/04/18	B	PL		Parking & cycle storage amended
24/04/18	A	PL		Refuse storage amended
date	rev	name	chk	note



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
Systems House 89 Heol Don Cardiff CF14 2AT
T 02920316857 M 07785582007 info@dlparchitecture.co.uk

PROJECT
Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE

Ground Floor Site Plan

SCALE	DATE	DRAWN BY	CHECKED BY
As indicated	21/02/18	PL	JR

DRAWING NUMBER	REVISION
P551a L_004	B

Ground Floor Site Plan
1 : 150

FINISHES KEY:

- A : SLATE GREY ROOFING TILES
- B : GREY WINDOWS & DOORS
- C : BLACK UPVC RAINWATER GOODS
- D : WHITE SMOOTH FACED RENDERED EXTERNAL WALLS
- E : BROWN / RED BRICKWORK EXTERNAL WALLS
- F : ANTHRACITE GREY CLADDING
- G : GLAZED BALUSTRADE



West (Front) Elevation
1 : 100

Planning Issue

28/04/18 A PL Side windows amended

date	rev	name	chk	note



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
Systems House 89 Heol Don Cardiff CF14 2AT
T 02920316857 M 07785582007 info@dlparchitecture.co.uk

PROJECT
Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE
Elevations 1 of 3 as Proposed

SCALE	DATE	DRAWN BY	CHECKED BY
1 : 100	21/02/18	PL	JR

DRAWING NUMBER	REVISION
P551a L_210	A



North (Side) Elevation
1 : 100



FINISHES KEY:

- A : SLATE GREY ROOFING TILES
- B : GREY WINDOWS & DOORS
- C : BLACK UPVC RAINWATER GOODS
- D : WHITE SMOOTH FACED RENDERED EXTERNAL WALLS
- E : BROWN / RED BRICKWORK EXTERNAL WALLS
- F : ANTHRACITE GREY CLADDING
- G : GLAZED BALUSTRADE

South (Side) Elevation
1 : 100



East (Rear) Elevation
1 : 100

Planning Issue

28/04/18 A PL Side windows amended

date	rev	name	chk	note
28/04/18	A	PL		Side windows amended



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
Systems House 89 Heol Don Cardiff CF14 2AT
T 02920316857 M 07785582007 info@dlparchitecture.co.uk

PROJECT
Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE
Elevations 2 of 3 as Proposed

SCALE	DATE	DRAWN BY	CHECKED BY
1 : 100	21/02/18	PL	JR

DRAWING NUMBER	REVISION
P551a L_211	A

FINISHES KEY:

- A : SLATE GREY ROOFING TILES
- B : GREY WINDOWS & DOORS
- C : BLACK UPVC RAINWATER GOODS
- D : WHITE SMOOTH FACED RENDERED EXTERNAL WALLS
- E : BROWN / RED BRICKWORK EXTERNAL WALLS
- F : ANTHRACITE GREY CLADDING
- G : GLAZED BALUSTRADE

Responsibility is not accepted for errors made by others in scaling from this drawing. All construction information should be taken from figured dimensions only.

0mm 50mm

A3 Original Sheet Size

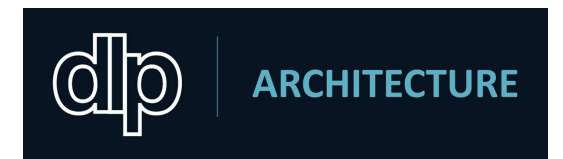
Planning Issue



Street View - Caerphilly Road
1 : 100

28/04/18 A PL Side windows amended

date	rev	name	chk	note



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
Systems House 89 Heol Don Cardiff CF14 2AT
T 02920316857 M 07785582007 info@dlparchitecture.co.uk

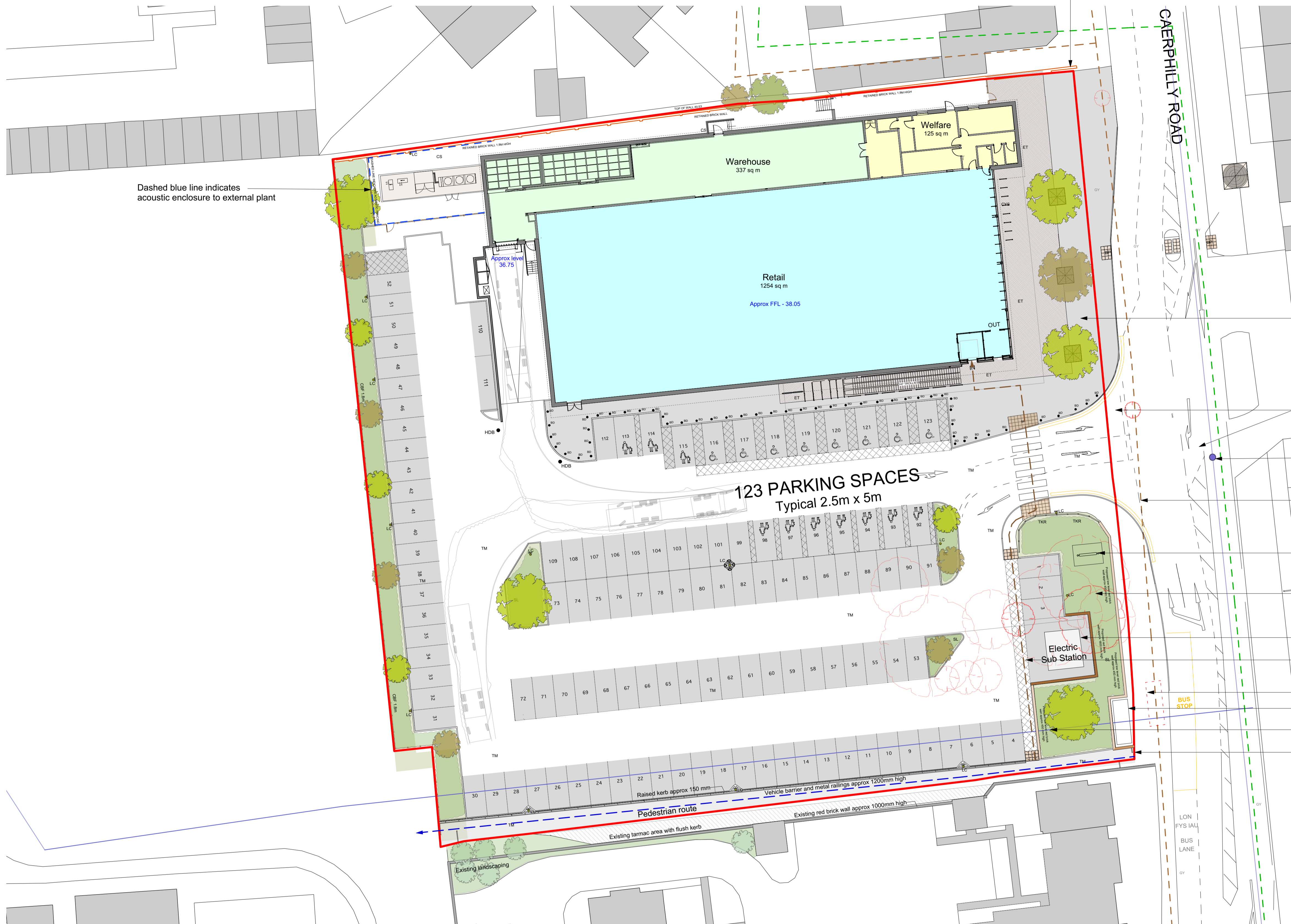
PROJECT
Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE
Street View as Proposed

SCALE	DATE	DRAWN BY	CHECKED BY
1 : 100	21/02/18	PL	JR

DRAWING NUMBER	REVISION
P551a L_214	A



KEY:

- Application Area
- TM Tarmac Surfacing to Car Park
- TM Parking Bays Tarmac Surface
- ET 200sq ARGELITH FEINSTEINZEUG R12 External Tiles under canopy. Colour Dark Grey
- CS Concrete Slabs
- BP Tactile / blister paving
- SL Surface finish with soft landscaping
- C/C Concrete Surface
- BD Stainless steel bollard
- HDB Heavy duty bollard
- LC Lighting Column
- Proposed/Retained Tree / green
- Removed Trees
- TR Trolley Rails
- CYS Cycle Spaces
- TM Tarmac
- CBF Close Boarded Fence (1.8m high)
- TKR Timber Knee Rail Fence
- Existing Brick Wall
- Proposed red brick wall approx 1.8m high 400mm high
- Proposed low level red brick wall approx 400mm high

SERVICES KEY

- Existing surface water sewer
- Existing water mains
- Existing foul water sewer, with 3M easement
- Existing fire hydrants

Dashed blue line indicates acoustic enclosure to external plant

Existing wall

CAERPHILLY ROAD

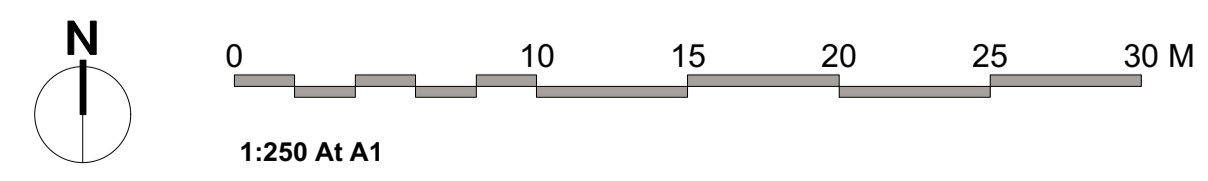
123 PARKING SPACES
Typical 2.5m x 5m

Electric Sub Station

- New paved public realm area
- Site access and right turn lane
- Fire hydrant location (approximate)
- Existing foul water sewer
- Aldi 6M double pole sign
- Landscaping to street frontage
- Retained sub station
- Proposed pedestrian access
- Existing bus shelter repositioned
- Proposed repositioning of bus shelter
- Blue line indicates water main - Easement required
- Proposed pedestrian footpath

- G 10/10/17 BH NR Pedestrian crossing widened
- F 24/8/17 HB NR Pedestrian crossing to site entrance moved further within the site
- E 18/8/17 BH NR Removal of the low brick wall and the low level soft landscaping to the east of the proposed store. Existing bus shelter repositioned to be included within the Aldi demise.
- D 28/7/17 MWBH Revision based on planners comments received 26/07/17. Alterations to the southern boundary to include a metal fence and a crash barrier. The pedestrian footpath to the west of the site has been relocated to the eastern side of the car park. minor alterat
- C 22/6/17 BH NR Addition of lighting columns
- B 20/6/17 BH NR Various amendments following Public Consultation: Highways amended, soft landscaping amended, site parking amended, notes added.
- A 13/6/17 BH NR Addition of a red brick boundary wall around the eastern boundary. Addition of bollards along the southern boundary. Alterations to the trolley bay and other minor alterations and notes amended.

Rev Date By Ap Note



Kendall Kingscott

Chartered Architects
Chartered Building Surveyors
Interior Designers
CDM Services

Glentworth Court, Lime Kiln Close
Stoke Gifford, Bristol BS34 6SR
+44 (0)117 931 2062
www.kendallkingscott.co.uk

Project: Aldi Stores, Caerphilly Road, Cardiff
Client: ALDI Stores Ltd
Scale: 1:250
Paper Size: A1
Filename: 120334 SITE MASTER.vwx
Date: 11/5/17
Drawn: HB
Checked: NR
Status: PLANNING

Drawing Title: Proposed Site Plan
Project Number: 120334
Drawing Number - Revision: P(1)103 G

Do not scale this drawing. Check all dimensions and levels on site. Only to be used on the site for which designed. The electronic transmission of design information contained in this drawing is carried out entirely at the User's risk and Kendall Kingscott Ltd. will have no liability for any errors or inaccuracies arising therefrom. The production of amended or updated information from the said design information by the User is entirely the responsibility of the User and Kendall Kingscott Ltd. shall have no responsibility in respect thereof whatsoever.

Responsibility is not accepted for errors made by others in scaling from this drawing. All construction information should be taken from figured dimensions only.

0mm 50mm

A3 Original Sheet Size

FINISHES KEY:

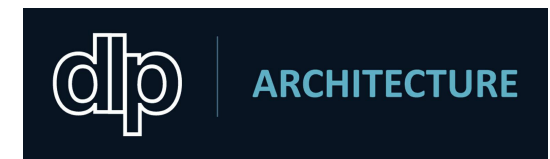
- A : SLATE GREY ROOFING TILES
- B : GREY WINDOWS & DOORS
- C : BLACK UPVC RAINWATER GOODS
- D : WHITE SMOOTH FACED RENDERED EXTERNAL WALLS
- E : BROWN / RED BRICKWORK EXTERNAL WALLS
- F : ANTHRACITE GREY CLADDING
- G : GLAZED BALUSTRADE



Planning Issue

28/04/18 A PL Side windows amended

date	rev	name	chk	note



Architectural Design - Feasibility - Planning - Building Control - Construction Details - Sustainable Design
 Systems House 89 Heol Don Cardiff CF14 2AT
 T 02920316857 M 07785582007 info@dlparchitecture.co.uk

PROJECT
 Proposed demolition of 304a Caerphilly Rd & erection of new development to form A3 commercial unit to GF with 5 No flats over

304A Caerphilly Rd, Cardiff CF14 4NS

DRAWING TITLE
 Perspective Views as Proposed

SCALE	DATE	DRAWN BY	CHECKED BY
1 : 100	21/02/18	Pete Legg	JR

DRAWING NUMBER	REVISION
P551a L_220	A



West Perspective Views