

PETITION, COUNCILLOR, MP, MS OBJECTIONS

COMMITTEE DATE: 21/04/2021

APPLICATION No. **20/01580/MJR** APPLICATION DATE: 13/08/2020

ED: **RUMNEY**

APP: TYPE: Full Planning Permission

APPLICANT: Ghuman

LOCATION: RUMNEY CONSERVATIVE CLUB, 633 NEWPORT ROAD,
RUMNEY, CARDIFF, CF3 4FB

PROPOSAL: CONSTRUCTION OF A NEW PURPOSE-BUILT CLUB HOUSE
FACILITY, AND ON COMPLETION DEMOLISHING THE
EXISTING CLUB BUILDING BEFORE BUILDING 27
SELF-CONTAINED FLATS AT THE REAR OF THE SITE
BETWEEN THE NEW CLUB BUILDING AND THE RUMNEY
RIVER

RECOMMENDATION : That planning permission be **REFUSED** for the following reasons :

1. The proposal is an overdevelopment of the site that results in a siting and design that fails to respond positively to the context of the site or the wider area contrary to Policy 2 Future Wales: The National Plan 2040, Chapters 2 & 3 of Planning Policy Wales, Policy KP5 of the adopted Cardiff Local Development Plan (2006-2026) and advice contained in Chapter 2 and 3 of the council's approved 'Infill sites' SPG.
2. The proposal fails to provide a suitable environment for ground floor flats contrary to Planning Policy Wales, Policy KP 5 of the adopted Cardiff Local Development Plan (2006-2026) and advice contained in Chapter 3 the council's approved 'Infill sites' SPG.
3. The proposal fails to provide a safe and secure route to the proposed flats contrary Chapters 3 & 4 of Planning Policy Wales, Policy KP5 of the adopted Cardiff Local Development Plan (2006-2026) and advice contained in Chapter 2 and 3 of the council's approved 'Infill sites' SPG.
4. The development fails to demonstrate that there would not be unacceptable harm to the protected trees within the site, protected species or to the adjoining Rhymney River Section SSSI contrary to Policies 2 & 9 Future Wales: The National Plan 2040, Chapter 6 Planning Policy Wales, TAN5, Policies, KP15, KP16, KP18, EN6, EN7, EN8 of the adopted Cardiff Local Development Plan (2006-2026) and the council's approved Green Infrastructure SPG.

5. The proposal fails to demonstrate that surface water resulting from the development can be successfully resolved contrary to advice in paragraphs 6.6.3, 6.6.4, 6.6.16. 6.6.17-6.6.19 of Planning Policy Wales, Policies, TAN 15 (Development and Flood risk), KP5 and EN10 of the adopted Cardiff Local Development Plan (2006-2026).
6. The proposal by virtue of its siting and design results in the siting of the proposed amenity space, principal access to the flats and the upper floors of block 2 habitable windows overlooking in close proximity to the existing residents of Castle Crescent resulting in unacceptable loss of privacy and amenity due to noise and general disturbance contrary to Chapter 3 of Planning Policy Wales, Policy KP5 (x) of the adopted Cardiff Local Development Plan (2006-2026) and advice contained in Chapter 3 of the council's approved 'Infill sites' SPG.
7. The proposal would by virtue of its siting and design would result in loss of the privacy and amenity to 1 Castle Rise and the perceived loss of privacy to the properties at Castle Crescent contrary to Chapter 3 of Planning Policy Wales, Policy KP5 (x) of the adopted Cardiff Local Development Plan (2006-2026) and advice contained in Chapter 3 of the council's approved 'Infill sites' SPG.
8. The proposal fails to demonstrate that there would not be an unacceptable impact upon the archaeological remains from the former Rumney Castle contrary Chapter 6 of Planning Policy Wales, TAN 24, Policies KP17 and EN9 of the adopted Cardiff Local Development Plan (2006-2026) and advice with the approved Archaeology & Archaeologically Sensitive Areas SPG (2018).

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 Permission is sought to demolish the existing club house building and replace it with 3 blocks of 3-storey buildings in a tandem development. This would comprise a replacement 563 m² (over 2 floors) club house building (Use Class D2) and two blocks of apartments accommodating 27 units (C3). The buildings would be finished in a mixture of brick and white render and would have pitched roof forms.
- 1.2 The internal configurations of the blocks are detailed as follows.
 - The block positioned closest to Newport Road would accommodate the new club house building. This would feature some ancillary rooms at ground floor, a sports bar and lounge area at first floor and two event halls at second floor level.
 - Block 1 (closest to the clubhouse) would comprise 3 floors of apartments, with each floor containing 2x 1-bedroom flats and 2x 2-bedroom flats (12 in total).

- Block 2 (sited towards the rear of the site) would comprise 3 floors of apartments, with each floor containing 3x 2-bedroom flats and 2x 1-bedroom flats (15 in total).
 - None of the blocks would contain an internal lift to access the upper floors.
- 1.3 Officers are unable to determine whether balconies are being proposed to the proposed apartments, as the proposed plans are not consistent and contradict each other. Some of the floor plans show Juliet balconies, whilst others show projecting balconies. The agent has sought to clarify the proposal by the submission of plans in an email dated 8th April, 2021. These plans show external balconies (projecting 1.45 metres from the external wall x 2 metres wide (2.9m²)) and these are the plans that have been considered.
- 1.4 The application proposes 16 designated car parking spaces for the club house with 9 number Sheffield of cycle parking spaces. 27 car parking spaces for the flats with 11 Sheffield cycle parking stands (21 spaces).
- 1.5 The three TPO lime trees numbered 2 ('B' category), 3 ('A' category) and 4 ('A' category) are to be removed along with the 'B' category TPO horse chestnut tree 8 and 'A' category TPO lime 10.
- 1.6 The plans have been amended twice to take account of concerns raised. The number of units has dropped from 30 to 27 and the agent has made the following statement:
- 1.7 *"Design: The revised submission has justified the design in terms of the character of the area, overall compliance with LPD policies, etc this is set out within Hammond Architectural's design statement.*
- 1.8 *Prior to the recent comments, we had received feedback in December which confirmed that the LPA considered this was a significant improvements on the previous iterations. We do not consider that this is any basis on which the application can now been refused on design grounds having had the design received 'positively' before Christmas.*
- 1.9 *Overdevelopment: As you will be aware the recent Future Wales Publication now advocates much higher densities of development that most LDP require. This confirms that the WG's approach to development, particularly for brownfield sites such as this in highly sustainable locations, is now to maximise opportunities to deliver much needed housing. It is confirmed that "New developments in urban areas should aim to have a density of at least 50 dwellings per hectare (net), with higher densities in more central and accessible locations". The proposed number of flats, alongside a brand new club house, accords with this direction of travel.*
- 1.10 *The majority of the site is hardstanding / building. The existing residential development either side also extends further to the boundary with the river than the furthest proposed block of flats. The removal of the parking area in*

this location is also an improvement in terms of delivering more landscaping and providing a great buffer to the river.

- 1.11 *The relationship with the property to the north and the rear block of flats is acceptable. There will be no overbearing / overshadowing impacts from the proposed block of flats.*
- 1.12 The following documents have been considered in the determination of this application:
- Tree report June 2019- Broadway Tree Consultancy,
 - Acer Ecology- Protected Species Report;
 - Email from Jon Hurley- planning consultant- dated 05/03/2021;
 - Hammond Architectural- Design Brochure- submitted by the planning agent in their email dated 15/01/2021;
 - Emails from Jon Hurley- planning consultant- Brakeout noise & air quality response- dated 05/03/2021.
 - Emails of the 8th April, 2021 showing plans for consideration
- 1.13 The revised planning application form dated 12/08/2020 (required certificate B to be signed as the site was not owned by the applicant as suggested in the original submitted application form).

2. DESCRIPTION OF SITE

- 2.1 The application site comprises a white rendered two storey dormer building that is currently used as the Rumney Conservative Social club (built circa 1930s). Formal parking spaces are sited to the front of the building with an informal overflow car park to the rear. The site measures 0.33ha in area and is rectangular in shape.
- 2.2 Along the Newport Road frontage (eastern boundary) is a 2 metre high red brick wall and there are a screen of cypress with sycamores trees (City of Cardiff (633/635 Newport Road) TPO 1979), beyond which are 5 lanes of car traffic. Also, directly outside the site is a permanent speed camera facing Newport Road.
- 2.3 Along the southern boundary are the properties of Castle Crescent, which are sited below the ground level of the application site. Also along this common boundary are a number of trees that benefit from Tree Preservation Orders; 1 horse chestnut (*aesculus hippocastanum*), 1 silver birch (*betula pendula*) 1 holm oak (*quercus ilex*) (TPO reference City of Cardiff (633/635 Newport Road) TPO 1979).
- 2.4 Along the northern boundary and abutting the newer development of Castle Rise, which is elevated above the application site, are protected mixed deciduous, chiefly lime, oak, and sycamore trees (City of Cardiff (633/635 Newport Road) TPO 1979).
- 2.5 The western (rear) boundary comprises more protected trees; mixed deciduous, chiefly lime, oak, and sycamore trees (City of Cardiff (633/635

Newport Road) and the Rumney River SSSI. Slightly further north is the known area of the former Rumney Castle.

- 2.6 The site is not located within a conservation area, nor are there any listed buildings in close proximity.

3. **SITE HISTORY**

99/00486/N - New boules piste in verge surrounding existing rear car park – Permitted 1999.

99/01450/N - 2 no. windows to rear wall of main hall – Permitted 2000;

07/00603/E - Proposed canopy cover to existing patio area to create designated smoking area – Permitted 2007;

A/07/00099/E - To erect an 11 foot x 3 foot sign advertising the club - Permitted 2007;

19/02269/MJR - Construction of a new purpose-built club house facility, and on completion demolishing the existing club building before building thirty self-contained flats at the rear of the site between the new club building and the Rumney River - Withdrawn 2019.

4. **POLICY FRAMEWORK**

National Planning Policy

- Future Wales: The National Plan 2040 (2021)
- Planning Policy Wales (11th Ed, 2021)
- Technical Advice Note 5 (Biodiversity)12: (Design),15: (Development and Flood Risk) 24 (Historic Environment)

Cardiff Local Development Plan 2006-2026 (2016)

- Policy KP5: Good Quality and Sustainable Design
- Policy KP6: New Infrastructure
- Policy KP7: Planning obligations
- Policy KP8: Sustainable Transport
- Policy KP14: Health Living
- Policy KP15: Climate Change
- Policy KP16: Green Infrastructure
- Policy KP17: Built Heritage
- Policy KP18: Natural Resources
- Policy EN6: Ecological Networks and Features of Importance for Biodiversity
- Policy EN7: Priority Habitats and Species
- Policy EN8: Trees, Woodlands and Hedgerows
- Policy EN9: Conservation of the Historic Environment
- Policy EN10: Water Sensitive Design
- Policy EN13: Air, Noise, Light Pollution and Contaminated Land
- Policy EN14: Flood Risk

- Policy T1: Walking and Cycling
- Policy T5: Managing Transport Impacts
- Policy T6: Impact on transport Networks and Services
- Policy C3: Community Safety/Creating Safe Environments
- Policy W2: Provision for Waste Management Facilities in Development

Supplementary Planning Guidance

- Green Infrastructure (2017)
- Planning Obligations (2017)
- Managing Transportation Impacts (Incorporating Parking Standards) SPG 2018
- Infill site (2017)
- Waste (2018)
- Archaeology & Archaeologically Sensitive Areas

5. INTERNAL CONSULTEE RESPONSES

- 5.1 **Tree Officer**: The Tree Officer objects to the proposed development as it is considered that it conflicts with LDP Policy EN8 by causing unacceptable harm to trees of amenity value. The three TPO lime trees numbered 2 ('B' category), 3 ('A' category) and 4 ('A' category) are to be removed along with the 'B' category TPO horse chestnut tree 8 and 'A' category TPO lime 10. This alone amounts to unacceptable harm and puts the development at odds with EN8, but it is compounded by encroachments within the RPAs of remaining trees. It is not clear that the tree assessment has been used to inform design.

There is no detailed, upfront landscaping scheme which is expected for a development of this scale. Landscaping should be designed at the same time as other elements of design and integral to it rather than being restricted to leftover space on the site peripheries as shown. Officers would therefore expect a scaled planting plan, plant schedule, topsoil, and subsoil specification (based on a soil assessment in accordance with the Soils and Development TGN), tree pit section, planting methodology, aftercare methodology, implementation programme and evidence to show that services, including drainage, will not conflict with planting.

The Tree Officer also notes that a foul drainage plan has been submitted showing a drain cutting through the heart of the RPA of a tree and a surface water drainage plan submitted showing a swale within the heart of the RPA of a tree. Such features may result in catastrophic damage to the root system of both trees. Beyond this there is an un-keyed site plan and club and flats tree survey plan upon which officers can offer no comments since they are un-keyed, and for which there appears to be no narrative or commentary amongst the submissions that explains their content.

- 5.2 **Ecology Officer**: The ecological evidence submitted in support of the application is deficient in that it relates purely to protected species, whereas designated sites, habitats and ecosystems should also have been included in

an ecological impact assessment. The Ecology Officer has made a series of comments below and any references to specific sections relate to the Protected Species Report by Acer Ecology dated August 2019:

Bats

With reference to the table in Appendix 5, which quotes the guidelines for assessing potential suitability of a proposed development site for bats, no justification is given in the protected species report as to why the clubhouse is assessed as moderate and not high suitability. One of the key differences is that high suitability buildings are suitable for use by larger numbers on a regular basis. No evidence is provided as to why this would not be the case in this instance. The building is large, old, has many potential access points and is in ideal habitat, surrounded by mature trees and adjacent to a vegetated river corridor.

Unless such evidence can be provided, from the details submitted it is reasonable to assume the building has high potential and should therefore be subject to three rather than the two emergence / re-entry surveys advised in section 5.1.1.

Section 5.1.1 states that work should not commence on the Clubhouse until further bat surveys have been carried out. In fact, we should not determine the application until these surveys have taken place, in accordance with section 6.2.2 of TAN 5.

The trees on site which are to be felled are mature, and although no potential roost features were identified, the trees would have been in full leaf at the time of the assessment, so visibility may have been reduced. I do not advise that specific surveys of these trees for bats should be undertaken, but clearly if the buildings on site are to be surveyed then it would make sense to observe the trees as well.

In order to take account of any potential roosting feature that may have been missed, a strategy should be put forward to 'soft-felling' the trees under ecological supervision and contingency measures in case bats are discovered during operations.

Otters

Section 3.2.4 acknowledges that vegetation on the west of the site may be used by otters, but no survey of holts, couches or lying-up areas has been undertaken.

Section 5.1.4 states that such a survey should take place following vegetation clearance. However, by that stage any disturbance or loss of resting place will already have taken place, so a survey would be too late. The applicant's ecologist should therefore re-assess the feasibility of carrying out an up-front survey or put forward precautionary mitigation measures to avoid disturbance.

Designated Sites

Contrary to the statement in the summary section of the Protected Species Report, there are likely to be impacts upon designated sites resulting specifically from the amenity area which is immediately adjacent to the River Rhymney.

SSSI

The proposals seem to include works within the Rhymney River Section SSSI which is designated for its geological features. Therefore, as a s28G authority we should consult NRW on this application and have regard to their response. They are likely to require that any geological feature is not damaged, obscured or reduced in accessibility.

SINC

The site is adjacent to the River Rhymney SINC, which is designated for migratory fish, otters, wildfowl, and bankside vegetation, and because it acts as a major wildlife corridor. Therefore, we should attach our SINC condition:-

Nesting Birds

As there is some vegetation management and tree removal proposed, we should attach the following condition to protect nesting birds:-

Reptiles

No reptile survey was undertaken but it appears to me that the grassland and scrub to the west of the site could support widespread species, in particular Slow-worms. However, the area appears to be relatively small, so I would not say that a reptile survey is justified. Instead, a sensitive site clearance methodology should be put forward to avoid harm to reptiles during clearance and to encourage them to leave the site and find safety in adjacent land. We should use a condition to ensure this, based upon the measures put forward in section 5.2.2, for example:

Green Infrastructure

The applicant should consider how green infrastructure will be treated as part of this development such that it can comply with Policy KP16.

The culmination of analysis and conclusions of an impact assessment should be used to inform a Green Infrastructure Statement, which shows how all elements of the proposed green infrastructure (retained and new) and any associated uses and movement have a clear role and purpose in the new development. Conclusions drawn from analysis of this resource should be expressed in an illustrative way, in the form of a Green Infrastructure Masterplan or Landscape Masterplan or similar. The resulting approach should explain how this is achieving good design. The Green Infrastructure

Statement will include illustrations, plans and drawings that articulate how reports and technical data (e.g. tree and hedgerow assessments, landscape studies, environmental statements, hydrological reports) have been interpreted spatially. These need to communicate how conclusions have been drawn and how this has informed the design layout and landscape strategy.

An important benefit of green infrastructure is ecological connectivity, and the continuity of the River Rhymney vegetated corridor should be maintained. This is acknowledged in section 3.2.2 of the protected species report.

Climate change mitigation and adaptation.

A number of trees are proposed to be removed to allow this development. As set out in our approved Biodiversity and Resilience of Ecosystems Duty Forward Plan, trees have a valuable role in climate change mitigation and adaptation.

Therefore, any planning application should consider the loss of these trees in the context of LDP Policies KP15 Climate Change and KP16 Green Infrastructure. As a minimum, replacement planting should take place to compensate for the loss of these trees.

Enhancements

A statutory duty as set out in section 6 of the Environment (Wales) Act 2016 has been introduced which requires public bodies such as Cardiff Council to seek to maintain and enhance biodiversity, and in doing so to promote the resilience of ecosystems, in the exercise of their functions.

Furthermore, section 5.2.8 of Planning Policy Wales states that: 'The planning system has an important part to play in meeting biodiversity objectives by promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.'

In his letter to Heads of Planning of 23/10/19, the Chief Planner emphasised this point with the following:

'Planning Policy Wales (PPW) 10 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers).'

Any application should demonstrate how this will be the case.

In terms of specific enhancement features, nesting or roosting opportunities for birds and bats should be incorporated into new build in accordance with the advice given in 'Designing for Biodiversity: A Technical Guide for New and Existing Buildings, Second Edition. RIBA Publishing, London. Gunnell, K.

et al., 2013', or most recent subsequent edition thereof. More specific details of appropriate levels of provision of nesting/roosting opportunities are given in the TCPA's 'Biodiversity Positive: Eco-towns Biodiversity Worksheet 2009'. With these documents in mind, I would say that an appropriate level of enhancement provision across the whole of this development would be:

- 8 x bat boxes for crevice-dwelling bats, and
- 8 x Swift nest boxes, and
- 4 x double House Martin cup, and
- 4 x House Sparrow terrace

The applicant's ecologist can advise on the make and model and suitable positioning of these features. Bat / bird boxes such as these are readily available commercially, are inexpensive, and can be tailored to the style and colour of the finish of the buildings. Features which are integrated into the buildings rather than attached to the outside are preferable as they are more secure in the long-term and less prone to interference by the public.

Repeat Surveys

As a general principle, survey work which is more than 18 months old will be regarded with caution, as certain species may colonise or leave an area in the interim period. This is particularly the case with mobile species such as bats, and bat surveys greater than 18 months old will have to be repeated. A planning condition should be attached stating that surveys should be repeated if works which may affect the species concerned haven't taken place within two years of the date of the most recent survey:

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised, and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

- 5.3 **Affordable Housing Strategy unit:** Policy H3 requires an affordable housing contribution of 20% of the 30 units (6 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 practicality of managing and maintaining affordable housing on-site for a Registered Social Landlord may be unsustainable. On that basis we would be prepared to accept a financial contribution in lieu of on-site affordable housing provision. On the basis of the above, we would seek a financial contribution of £483,140 in lieu of 2 x 1 bedroom flats and 4 x 2 bedroom flats, which is calculated in accordance with the formula in the Planning Obligations – Supplementary Planning Guidance (SPG) (2017).

- 5.4 **Operational Manager Parks:** These comments relate to the current LDP (C5 Provision for Open Space, Outdoor Recreation, Children's Play and Sport; KP16 Green Infrastructure), and the 2017 Planning Obligations Supplementary Planning Guidance (SPG), supported by policies set out in the 2008 SPG for Open Space which set the Council's approach to open space provision.

The Council's LDP requires provision of a satisfactory level and standard of open space on all new housing/student developments, or an off-site contribution towards existing open space for smaller scale developments where new on-site provision is not applicable.

Based on the information provided on the number and type of units, I have calculated the additional population generated by the development to be 60.9. This generates an open space requirement of 0.169 ha of on-site open space based on the criteria set for Housing accommodation, or an off-site contribution of £72,525. I enclose a copy of the calculation

As no public open space is being provided on-site, the developers will be required to make a financial contribution towards the provision of new open space, or the design, improvement and/or maintenance of existing open space in the locality, given that demand for usage of the existing open spaces would increase in the locality as a result of the development.

Although the scheme includes for some amenity space for residents on site, no functional public open space is being provided, and therefore the developers will be required to make a financial contribution towards the provision of new open space, or the design, improvement and/or maintenance of existing open space in the locality

- 5.5 **Operational Manager Transportation:** No objections subject to a condition requiring 42 cycle spaces to be provided on site and highway access/pedestrian improvement details to be submitted.
- 5.6 **Operational Manager Drainage:** No pre-application has been submitted to the SAB approval body, therefore I am unable to confirm if the proposal would meet the surface water requirements set within the regulations
- 5.7 **Shared Regulatory services (Noise):** Based upon the email from the agent I have no objections subject to upfront and post completion noise assessment
- 5.8 **Shared Regulatory services (Air Quality):** I note the comment in the email from the agent however and air quality assessment will be required to inform the development but this can be covered by an appropriately worded condition.

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 **Welsh Water:** No objections subject to a condition for foul water discharge.

6.2 **Natural Resources Wales:** We have significant concerns with the proposed development as submitted.

Protected Sites and Geological Conservation Review Sites

Depending on the application site boundary, part of the application site lies within or adjacent to the Rhymney River Section SSSI), also a Geological Conservation Review site (GCR). Generally, we note that our comments made in relation to application 19/02269/MJR have not been taken into account.

We seek clarity, in plan form drawn to a recognised scale, as to where the application site boundary sits in relation to the SSSI. Insufficient information is provided on the proposed development and landscaping to be able to assess the impact on the special interest of the SSSI.

To allow assessment further details will be necessary that are clear on the nature and spatial extent of the proposals within, near or potentially affecting the SSSI. This SSSI and GCR are designated for their special geological interest, namely the exposures of rocks found in the bank and bed of the River Rhymney.

The Rhymney River Section contains the most comprehensive sequence of strata in the Cardiff Silurian inlier, laid down approximately 430 million years ago. The river section provides the only opportunity of examining the whole of the local upper Wenlock succession and is of palaeontological significance.

Several gastropod and bivalve species were first described at this site and this river section continues to be used as the 'type locality' for these species, providing a standard against which other fossils from this period found elsewhere in the world are compared. To maintain the special interest, it is necessary to ensure that the exposures of rock can be viewed for scientific purposes and that they do not become obscured or inaccessible. The site is classed as an extensive river cliff. Sites of this type are vulnerable to:

- Development – erosion by the river keeps the cliff section fresh. Development above can cause conflict, between the need to protect the development against cliff instability and the need to maintain ongoing erosion for geological conservation. Developments should be sited away from geological features and away from cliff tops to avoid the need for cliff stabilization. Activities which interfere with the natural erosion regime are generally inappropriate.
- Build-up of sediment, debris, and vegetation – building work has the potential to create and move material onto the cliff face and obscure the feature, as well as alter the physical attributes of the slope permanently so that it erodes differently, allowing debris and vegetation to obscure the feature.

On this site, it may be appropriate to manage sediment/drainage during construction through a Construction Management Plan (or similar), but more

information would be needed first to explain how the applicant will avoid permanent change to the characteristics of the cliff face.

- Changes in drainage – drainage systems should not cut through or emerge from the geological section. There is a potential for changes in the drainage of the site to affect the physical characteristics of the SSSI/GCR and therefore the site condition. Allowing water to seep into and through the surrounding bedrock could affect both the relative stability of the slope and also the vegetational growth – larger plants and also algae.
- Encroachment of vegetation – trees and other potentially invasive plants should not be planted on or close to the geological section.
- Loss of access – this site appears to allow the only access to the western end of the SSSI (on foot access is needed for NRW monitoring staff and scientific researchers with the consent of the owner/occupier).

Having regard to the nature of the SSSI, we advise that when considering development proposals on this site, the following matters need to be taken into account:

1. The rock layers should remain exposed sufficiently for them to be seen, and to see how each layer relates to the layers above and below in the sequence.
2. The rocks should remain clean and accessible in key areas within the site, with no covering of vegetation, rubbish, structures, or buildings, and should remain so into the future.
3. Periodic cleaning of the rock faces may be required.
4. No building on or above the river bank/relict river bank should be permitted.
5. No stabilization of the river bank/relict river bank should be permitted.
6. Works (including engineering works) and development that would modify and /or obscure the qualifying features of the SSSI and recreational activities likely to damage the qualifying features should not occur. Having viewed the submitted Landscape Plan, Location Plan and Foul Drainage Plan, we note that details do not match with regard to the SSSI area as far as it can be approximated from those plans.

No clear spatial extent for the Amenity Area is shown and it is not clear to what extent and at what locations they may obscure and prevent access to rock exposures.

The landscape plan is difficult to relate to the SSSI boundary and a grassland finish appears to cover part of the SSSI. Both the structures and landscape finishes within the SSSI are potentially incompatible with maintaining the special interest. In consideration of the above, further information is required to demonstrate that the proposal will not cause significant detriment to qualifying features of the SSSI.

As a minimum, the following information will need to be submitted, prior to the determination of the planning application:

1. Clear information to demonstrate that the proposal will not modify, obscure the qualifying features of the SSSI, this should include: - Plans that show the spatial extent of all structures and landscape proposals, in relation to the SSSI boundary. - Sectional plans showing topography of the river bank and details of the proposed development. - A ground investigation report, carried out by a suitably qualified person, examining the ground conditions and stability (to determine if and where structures could be constructed).
2. Details of how access to the SSSI is to be maintained for monitoring purposes.
3. A CEMP and detailed surface water drainage plan, to demonstrate that there will be no surface water and/or other substances/silt being discharged into the River Rhymney via the SSSI on the surface or through the strata (to ensure the feature remains clean and visible). With regards to surface water drainage please be aware that the design of any outfall needs to be compliant with the objectives of the Water Framework Directive.

In addition NRW also state: As you are aware, under the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016, we should be consulted where the proposed development falls within one of the categories set out in Schedule 4 of the Order where the Natural Resources Body for Wales is an identified specialist consultee. With respect to this proposal, NRW are a specialist consultee under paragraph (m), (q) and (x) of Schedule 4 of the Order. However, we were not consulted as part of the statutory pre-application consultation process.

Flood Risk

If the boundary shown on the site plan omits all land within Zone C2 of the DAM and the flood outlines we have no flood risk comments. However, if the boundary is that shown on the majority of plans submitted, we advise as follows, including advice on a Flood Risk Activity Permit. The planning application proposes highly vulnerable development (residential). Our Flood Risk Map, which is updated on a quarterly basis, confirms part of the site to be within Zone C2 of the Development Advice Map (DAM) contained in TAN15 and the flood outlines. We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2.

European Protected Species

We have reviewed the following report:

- Rhymney Conservative Club Cardiff, Protected Species Report, August 2019, by Acer Ecology

It is indicated in this report that surveys are incomplete, and we note that the surveys and report do not cover the whole application area.

Policy and legislation

European protected species (EPS) and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017. Where EPS are present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. The development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any a European protected species on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Therefore, at this stage it is not possible to advise the LPA on the implications to European protected species. Surveys and assessment should be completed for the whole site in accordance with the relevant good practice guidance and a suitable report provided, including an assessment of the potential impacts on species and any necessary mitigation.

6.3 **Glamorgan–Gwent Archaeological Trust(GGAT):**

The information in the Historic Environment Record shows that part of Rumney Castle, a Medieval castle with at least six phases, is within the development area. The report (Historic Environment Record) on the work details the expansion and change of the nature and physical extent of the castle, and whilst the main focus of the work was at 635 and 637 Newport Road, the extent of the defences as a D shaped mound above the River Rumney with outworks to the south west is noted as “Documentary evidence exists for a triangular shaped outwork located immediately to the SW of the castle, and the greatly disturbed remnants of this feature lie in the rear of the car park of the Rumney Conservative Club, no. 633 Newport Road.” There is therefore a high potential for archaeological remains to be located within the

area, and these may be complex in nature and deeply stratified.

However, from the documentation submitted with this application the developers do not appear to have considered the impact of the development on the potential buried archaeological remains or the significant risk that the discovery of such remains could have on the viability of their proposed development. Consequently, as the impact of the development on the archaeological resource will be a material consideration in the determination of the current planning application this should be deferred until a report on the archaeological evaluation has been submitted to your Members.

7. **REPRESENTATIONS**

7.1 The application was subject to three 21-day consultation periods, being advertised by press and site notices as a major application and neighbours and local members were notified. 82 letters of representations have been received. 81 letters object, summarised as follows:

- The proposal is out of character with the area;
- The proposal has poor site access and insufficient parking which will result in additional on-street parking within the area and on to Rumney Hill;
- Given the planning permission for flats at the bottom of Rumney Hill, this development would create an unacceptable strain on the infrastructure of the area;
- The area requires affordable homes not flats;
- The siting of the club house would push antisocial behaviour into the nearby residential streets;
- The proposed siting of the bins, bike store, and the flats amenity area would have adverse effect upon the amenity of the adjoining neighbours;
- The developer has failed to engage with the community.

7.2 A petition of 342 signatures has been submitted objecting to this application. The number of signatures attached to the petition exceeds the 50 signatures required to speak at the planning committee and therefore the lead petitioner has the right to speak at committee.

7.3 Ward Councillors were notified and object on the following grounds:

- The flats are an overdevelopment, the scale of the development is far too big in size and height for the plot;
- Out of character.
- The development would lead to overlooking into residents' homes and gardens;

There is adjoining a SSSI which would be adversely affected by this proposal;

- The huge block would be visible to all as the trees that were insitu have been cut down'

- It would be detrimental for the residents and area as an extra 30 flats on this site would also cause mayhem to an already overloaded congested area

7.4 Stephen Doughty, Member of Parliament for Cardiff South and Penarth objects to this application on the following grounds:

- Inappropriateness of flats in an area characterised by single dwellings and bungalows;
- Likely problems with parking and access in an area that is already congested;
- The proposed siting of refuse areas next to existing residences;
- Overlooking neighbouring properties;
- Potential impact on a Site of Special Scientific Interest and a site protected by CADW immediately to the rear;
- Potential of subsidence and disturbance to neighbouring properties, being on a promontory of the river
- Blocking of light;
- Lack of consultation by the developer with local residents.

7.5 Vaughan Gething (Member of the Senedd for Cardiff South and Penarth) objects on the following grounds:

- The proposed development would have a detrimental impact on the surrounding area, which may result in a loss of privacy, with the proposed development directly overlooking these properties. There may also be an issue with loss of sunlight for those properties in close proximity.
- The scale and size of the development will have an impact on nearby residents with a possibility of all their gardens being overlooked and overshadowed by the development, including reduced light levels.
- Residents have concerns that the scale and design of the proposed development is out of keeping with the existing residential character of the area.
- must draw attention to the traffic issues already being experienced in Newport Road. Increased vehicle traffic associated with the development may also contribute to further congestion. Further, there is already a significant problem regarding traffic flow in the Rumney Hill area, with Newport Road already being used as the main artery road for Rumney and Llanrumney
- Residents currently experience substantial issues relating to parking and the proposed development and construction of additional 30 flats would further exacerbate the problems experienced in the area.

8. ANALYSIS

8.1 The key material considerations to be assessed are:

- a. Proposed land use
- b. Design and impact upon the character of the area
- c. Impact on residential amenity

- d. Impact upon future occupiers
- e. Impact upon highway safety/parking provision
- f. Environmental consideration
- g. Impact upon heritage asset
- h. Other

a. Proposed land use

- 8.2 The site lies within the settlement boundary as defined by the Cardiff Local Development Plan (LDP) Proposals Map and has no specific land use allocation or designation. The surrounding area is residential in nature.
- 8.3 The residential element of the application has been assessed against LDP Policy H6 (Change of Use or Redevelopment to Residential Use). Policy H6 provides a framework for the assessment of applications for the redevelopment of previously developed land for residential purposes within settlement boundaries where: *(i) There is no overriding need to retain the existing use of the land or premises and no overriding alternative local land use requirement; (ii) The resulting residential accommodation and amenity will be satisfactory; (iii) There will be no unacceptable impact on the operating conditions of existing businesses; (iv) Necessary community and transportation facilities are accessible or can be readily provided or improved; and (v) It can be demonstrated that the change of use to a more sensitive end use has been assessed in terms of land contamination risk and that there are no unacceptable risks to the end users.*
- 8.4 Given the context and setting of the surrounding area and that the social club is a replacement of the existing use, the proposal raises no land use policy concerns, subject to consideration of the wider elements of the scheme particularly in relation to criteria (ii) above regarding compatibility of neighbouring uses.

b. Design and impact upon the character of the area

- 8.5 Policy 2 (Placemaking) of the 'Future Wales-the national Plan 2040' seeks development to positively contribute towards sustainable places that support active and healthy lifestyles by incorporating a mixture of uses, variety of housing, walkable scale, density (should aim for a density of 50 dwellings per hectare in urban areas), street network, plot based development and Green Infrastructure. Planning Policy Wales and TAN 12 (design) seeks new development to create a sense of place and should respect the character of the surrounding area.
- 8.6 Cardiff Local Development Plan (LDP) Policy KP5 (Good Quality and Sustainable Design) contains criteria for assessment of new development proposals to ensure that high quality, sustainable designs occur which positively contribute to the creation of distinctive communities, places, and spaces. It also seeks to ensure that new development responds *'to the local character and context of the built and landscape setting so that layout, scale, form, massing, height, density. Colour, materials, detailing and impact on the built and natural heritage are all addressed within development proposals'*.

- 8.7 Whilst officers note that the design has improved since the initial submission, it is clear that the overarching aim of the amendments have been to accommodate the club house and to maximise residential unit numbers rather than focus on good design. The form of development fails to positively respond to its context by introducing a three storey development within a primarily two storey area. The three blocks are sited to accommodate the residential units rather than reflect the character of the area, which results in conflict with existing trees and pushes amenity space in areas that are not suitable for such uses.
- 8.8 The use of materials and colour palette are, on balance, acceptable. Chapters 2 and 3 of the Council's 'Infill sites' SPG requires new development to respond to local character and context and to ensure that a proposal would add value to an area. This proposal has failed to consider these key considerations and results in a proposal that is unacceptable in terms of siting, scale and mass that fails to adequately respond to the site area. Consequently, this results in a poor design that fails to achieve national and local expectations of good design (forming the reasoning for refusal reason 1).
- 8.9 Whilst residents raise concern that the proposal is flats rather than houses, it is considered that flats can be accommodated on the site and would add to the housing mix without adversely affecting the character of the surrounding area.

c. Impact upon neighbouring properties

- 8.10 Considerable concern has been raised by residents in relation to the potential impact on their amenity. Planning Policy Wales and TAN 12 expect new developments to have regard to existing properties. These considerations are also highlighted in LDP policy K5 (x) with further detailed guidance in the approved 'Infill Sites' SPG. To ensure new development does not result in an unacceptable impact on occupiers living conditions, separation distances and the orientation of buildings for privacy and overbearing/unneighbourly development has been considered.
- 8.11 Castle Crescent bounds the southern boundary of the application site and the dwellings sit on a significantly lower ground level. Concern has been raised by these residents that their privacy and amenity would be affected by this proposal. No's 2-10 Castle Crescent benefit from rear gardens that are approximately 13 metres in depth and having screening along their rear boundaries from the development site by tall leylandii. The proposed 3 storey block 1 would be sited approximately 10.98 metres from this common boundary, with the first and second floor balconies sited approximately 9.10 metres away. Whilst it is acknowledged that block 1 would be sited in accordance with the council's privacy distance, the proposed balconies are below the suggest privacy distance outlined in the council's 'Infill Sites' SPG. However, given the difference in levels and the screening along the rear boundaries, it is considered sufficient to ensure the privacy of the dwellings along Castle Crescent is not unreasonably affected by the proposal.

- 8.12 No's 14 and 16 Castle Crescent, lie at an angle to the application site. No. 14's rear garden extends to the side of the house and runs parallel to the shared boundary. The garden is also tiered downwards in terms of the topography. The three storey of block 2 would be sited approximately 6 metres away from No. 14's rear/side garden. Whilst the vegetation along the common boundary would obscure overlooking from the ground and first floor levels of block 2, it is considered that the habitable room windows on the second floor of block 2 would overlook No. 14's rear/side garden, leading to a loss of privacy to the occupiers of No. 14's living conditions. As such, this forms the reasoning to refusal reason number 6.
- 8.13 Concern has also been raised by the residents of Castle Rise, in terms of loss of privacy and an overbearing development. The most affected property is number 1, which is elevated above the site and forms the northern common boundary of the application site. 1 Castle Rise benefits from a side and rear garden that makes good use of the arc of the sun. Drawing 19 Rev D 'block 2 relationship with 1 Castle Rise' indicates that the second floor would be in line with 1 Castle Rise's ground level at a separation of 3.86 metres. The floor plans indicate that habitable room windows would overlook this property. It is noted that these windows could be conditioned to be obscurely glazed and the proposed balconies could also be conditioned to ensure 1.8 metre high privacy screens to protect the privacy of this property. Notwithstanding even with such conditions, given the close proximity to the neighbouring property it is considered that the proposal would appear intrusive upon the side garden and would undermine the amenity of this property in terms of perceived overlooking and an unneighbourly form of development. This forms the reasoning for refusal number 7.
- 8.14 Officers note that the proposed plans introduce a decked area along the southern common boundary that would form part of the amenity space for the flats (the amended plans have relocated the proposed bins and cycle provision away from this area). This also introduces the principal access to the flats along this boundary. The proposed decking would be alien to the properties along Castle Crescent and would result in noise and general activity that would be elevated above their gardens. This would undermine the amenity that these properties could reasonably expect, forming the reasoning for refusal reason number 6.

d. Impact upon future occupiers

- 8.15 The residential element of the proposal would accommodate a mixture of 1 and 2 bedroom flats. The minimum internal space for the flats would be of 36m², which accords with the council's minimum standard. The proposed balconies would have an area of approximately 3m², which is below the minimum standard of 5m² for a meaningful balcony to fulfil amenity requirements, as outlined within the council's approved 'Infill sites' SPG. Concern is raised in relation to flat 1-1-2 in block 1 which has its outlook onto a wooden fence sited 1.45 metre away (easterly direction) and its main access/outlook the embankment and mature trees, sited 5 metres away (north facing). This combined with the proposed balcony structure above the

principal window/door would represent an oppressive feel that would be compounded by the size of the flat and fails to achieve good design. In addition, flat 1-1-4 of block 1 has a window serving the living room that would be next to a car parking that would not be under the control of the flat owner. It is considered that this relationship would undermine the amenity that this occupier could reasonably expect by the loss of privacy and noise. These concerns forms the reasoning for refusal number 2.

- 8.16 It is noted that the amenity space for the development is sited to the rear of block 2. This amenity space would be overlooked by the property known as number 1 Castle Rise. However, given the proposed overlooking from the flats themselves, it is considered that this is not grounds for refusing the proposal.
- 8.17 Drawing number 5 Rev E- 'club and flats ground floor' indicates that the access to the flats would be under the existing tree canopy with no proposed lighting. Such a route tucked under the existing trees is not considered to be a safe, secure, and inviting environment. This would also fail to promote active travel and during the autumn and winter months with leaves falling, could become problematic to navigate. This forms reasons of refusal 3.

e. Impact upon highway safety/parking provision

- 8.18 Officers note the objections raised regarding the proposed level of off-street car parking, which the objectors suggest will create additional pressures on local parking. Policy T5 of the adopted LDP requires development to accord with the council parking standards, as outlined in the approved SPG. Paragraph 6.1 of the approved 'Managing Transportation Impacts' SPG states that *'the availability of parking spaces and their location can influence travel choices. Excessive provision can serve to stimulate demand for car travel and perpetuate reliance on the car. The application of parking standards to new developments is therefore an important tool in managing demand for travel by car and encouraging a shift to sustainable transport modes'*. The aforementioned SPG uses maximum parking standards (as required by Planning Policy Wales), and there is no minimum amount of car parking that has to be provided. The proposed level of off-street parking would therefore accord with the council's approved parking standards. The Council's Highways Officer raises no objections to this proposal on highways safety grounds. The submitted plan reference 18 Rev D, indicates that larger vehicles can safety turn within the site. It is considered that the proposal accords with highway policy and guidance.

f. Impact upon environmental consideration.

- 8.19 National policy and Planning Policy Wales places great emphasis on enhancing bio-diversity features and these principles are supported in LDP policies KP15, KP16, EN6, EN7 and EN8. Significant concern has been expressed by the council's Tree and Ecologist officers that insufficient evidence has been submitted to demonstrate that there will be no harm to the protected tree or to protected species (see paragraphs 5.1 and 5.2). The

proposed landscaping plan reference 20123.101 Rev A conflicts with the 'Design brochure' submitted by the agent on 15/1/2021 and plans.

- 8.20 In addition NRW have raised concerns upon the impact of the designated SSSI. It is clear from NRW's comments that the SSSI is sensitive to change and that this proposal has failed to demonstrate that the proposal would not have a detrimental effect upon the SSSI (see paragraph 6.2). Whilst the parking has been removed from the SSSI, the principal amenity space is still located within this area and as such the concerns raised by NRW apply. The surface water drainage may require access within the 10 metre easement area and may or may not require a discharge pipe to be located over the face to allow surface water into the Rhymney River. Given the lack of surface water strategy or how the proposed rear amenity space would function it is not clear what the full impact would be on the SSSI. This forms the reasoning for refusal numbers 4 and 5.

g. Impact upon heritage assets

- 8.21 The building to be demolished is neither Listed nor sited within a conservation area and can be removed under permitted developments rights regardless of the outcome of this application.
- 8.22 To the north of the site is the former Rumney Castle, which is recorded within the Historic Environment records. The advice from the Council's Archaeological advisors (GGAT) is that there is highly likely to be remains of the castle within the application site. Planning Policy Wales (paragraph 6.1.26) and Sections 4.7 and 4.8 are clear that a desk based assessment should be submitted to inform the impact of the development upon the remains and where insufficient information has been submitted are grounds for refusal. No assessment has been made and therefore the impact upon the Rumney Castle is unknown and forms part of grounds of refusal 7.

9. SECTION 106 REQUIREMENTS AND VIABILITY

- 9.1 Requests have been received from Affordable housing and Parks and these are outlined below:
- Affordable housing: £483,140 in lieu of 2 x 1 bedroom flats and 4 x 2 bedroom flats, which is calculated in accordance with the formula in the Planning Obligations – Supplementary Planning Guidance (SPG)(2017).
 - Public open space: £72,525 in lieu of on-site public open space in accordance with Policy C5.
- 9.2 The requests are considered to accord with national policy advice outlined in W/O circular 13/97 and the legal test set within regulation 122 of The Community Infrastructure Levy Regulations 2010. The requests also accord with LDP policies KP7.
- 9.3 The agent has confirmed in their email of the 31/3/2021 that their client is in

agreement with the suggested S106 requirements and is noted.

10. **CONCLUSION**

- 10.1 For the reasons outlined above the proposal fails to achieve good design that would enhance the character or biodiversity of the area and fails to protect the privacy and amenity of existing residential properties.

11. **RECOMMENDATION**

- 11.1 The application is recommended for refusal for the reasons outlined above.

12. **LEGAL CONSIDERATIONS**

12.1 **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 given due consideration in the determination of this application.

12.2 **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. Having due regard to advancing equality involves:

Removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

This duty has been given due consideration in the determination of this application.

12.3 **Planning (Wales) Act 2015 (Welsh language)**

Section 31 of the Act clarifies that impacts on the Welsh Language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application.

This duty has been given due consideration in the assessment of this application.

12.4 **Wellbeing of Future Generations (Wales) Act 2015**

In reaching this recommendation officers have taken into account the requirements of Sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. This recommendation is in accordance with the Act's

sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of the WBFG Act.

12.5 Biodiversity and Resilience of Ecosystems Duty

Section 6 of the Environment (Wales) Act 2016 requires that the LPA must seek to maintain and enhance biodiversity in the exercise of its functions, and in so doing promote the resilience of ecosystems, so far as is consistent with the proper exercise of those functions. In complying with this duty, the LPA will have to take account of the resilience of ecosystems, in particular the diversity between and within ecosystems; the connections between and within ecosystems; the scale of ecosystems; the condition of ecosystems and the adaptability of ecosystems.

This duty has been given due consideration in the assessment of this application.

12.6 Environmental Impact Assessment) (Wales) Regulations 2016

As required by Part 2 (screening) and schedule 2 & 3 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2019 that the proposal would not have a significant impact upon the environment to require an environmental statement.

Flood and Water Management Act 2010

Section 12 (3) of the Flood and Water Management Act 2010 places a duty on Risk Management Authorities (e.g. a county council for the area) to have regard to the national and local strategies and guidance when exercising any other function in a manner which may affect a flood risk or coastal erosion risk.

The relevant strategies and guidance have been taken into consideration in the assessment of this application.



Proposed Block Plans



Proposed Roof Plans





Street Scene
Sketch Elevations in context



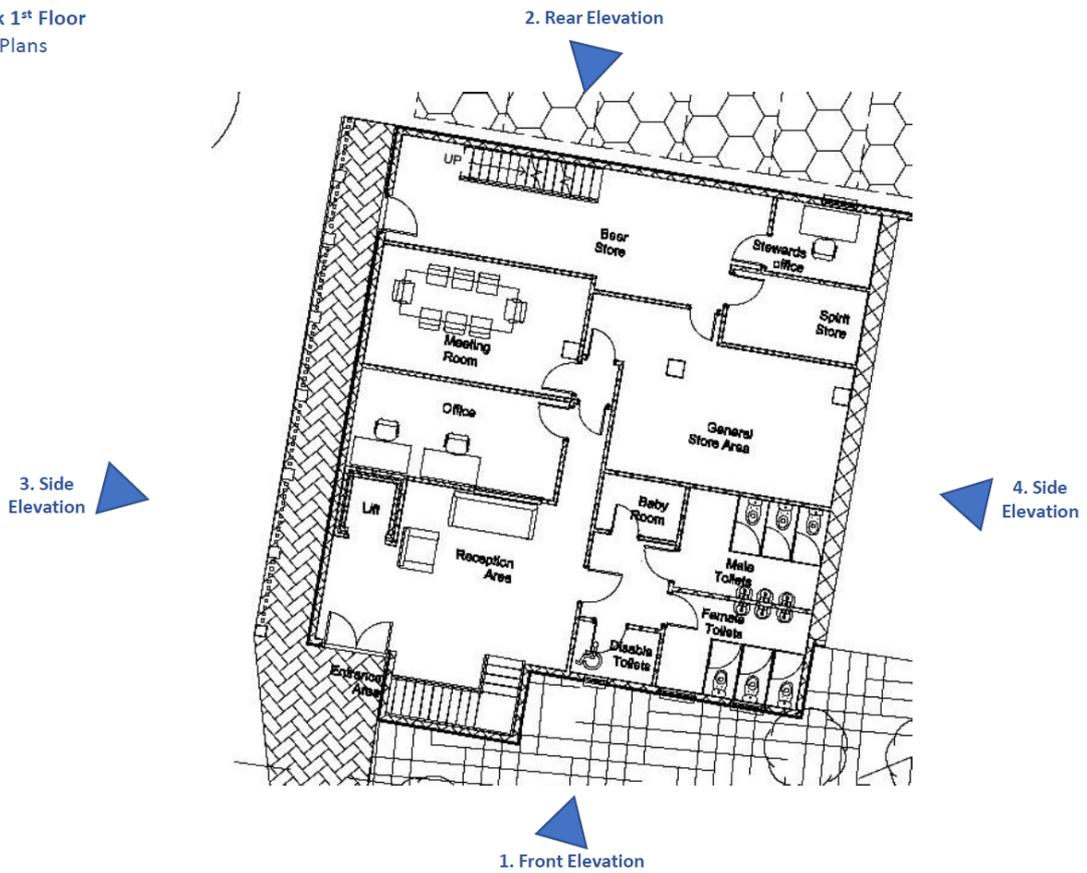
East Elevation
(from New port Road)

Club Block
Perspective sketches



Front Left Perspective

Club Block 1st Floor
Proposed Plans



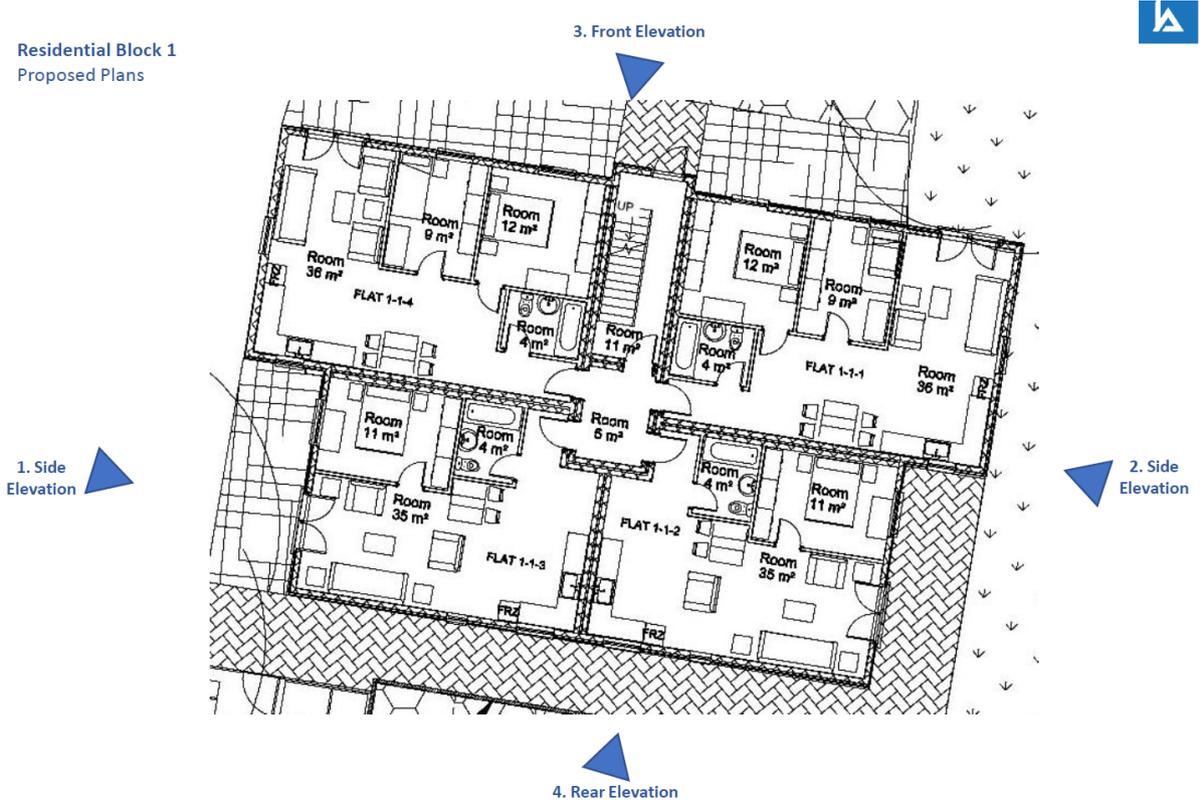
1. Front Elevation

Residential Block 1
Perspective sketches



Front Right Perspective

Residential Block 1
Proposed Plans



1. Side Elevation

3. Front Elevation

2. Side Elevation

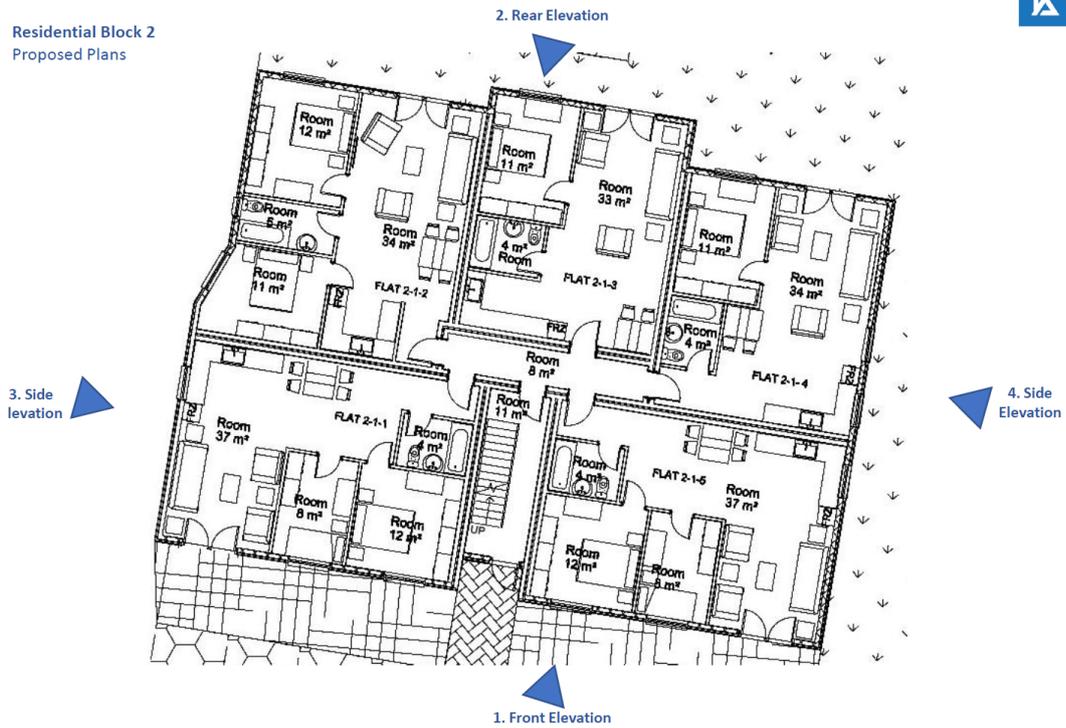
4. Rear Elevation

Residential Block 2
Perspective sketches



Front Right Perspective

Residential Block 2
Proposed Plans



2. Rear Elevation

3. Side elevation

4. Side Elevation

1. Front Elevation