

COMMITTEE DATE: 2 February 2023

APPLICATION No. 22/02201/FUL APPLICATION DATE: 20 September 2022

ED: Butetown

APP: TYPE: FULL

APPLICANT: Cardiff Sixth Form College

LOCATION: Merchant Place and Corys Buildings, 3 Bute Place and 57 Bute Street, Butetown, Cardiff

PROPOSAL: Partial demolition of existing buildings and the redevelopment of the site to provide an educational facility, including the restoration of the existing buildings, internal and external alterations to the existing buildings, the erection of an 8-storey building, ancillary cycle parking, landscaping, public realm improvements and associated works.

RECOMMENDATION 1:

That planning permission be **GRANTED** subject to the relevant parties entering into a binding legal agreement under the provisions of **SECTION 106** of the Town and Country Planning Act 1990 within 6 months of the date of this Resolution, unless otherwise agreed by the Council in writing, in respect of matters detailed in section 9 of this report (para 9.63), and the conditions listed below in section 12.

RECOMMENDATION 2:

That delegated authority is given to the Head of Planning &/or Operational Manager: Strategic Development & Placemaking, to make changes to the conditions and/or Heads of Terms of the required legal agreement, subject to consultation with the Chair of Planning, up to the point where the legal agreement is signed and planning permission issued.

1. BACKGROUND INFORMATION

- 1.1 Cardiff Sixth Form College (CSFC), an internationally recognised institution which forms part of the Dukes Education Group, is currently located in leased accommodation at Trinity Court, 21 – 27 Newport Rd. The College aims to provide a permanent new home for the College's teaching space and boarding accommodation, and it has agreed terms to acquire two development sites in the Cardiff Bay area.
- 1.2 This application is submitted in respect of Site 1 – Merchant Place and Cory's Building - for the proposed teaching accommodation. The proposed boarding accommodation is proposed at Plot 5, Palmer Waterside (Site 2), a vacant undeveloped plot which fronts onto Pierhead Street. Whilst the development

strategy is to deliver both sites simultaneously, planning permission is sought for the two sites separately. A formal planning application for Site 2 is being prepared, but has not yet been submitted.

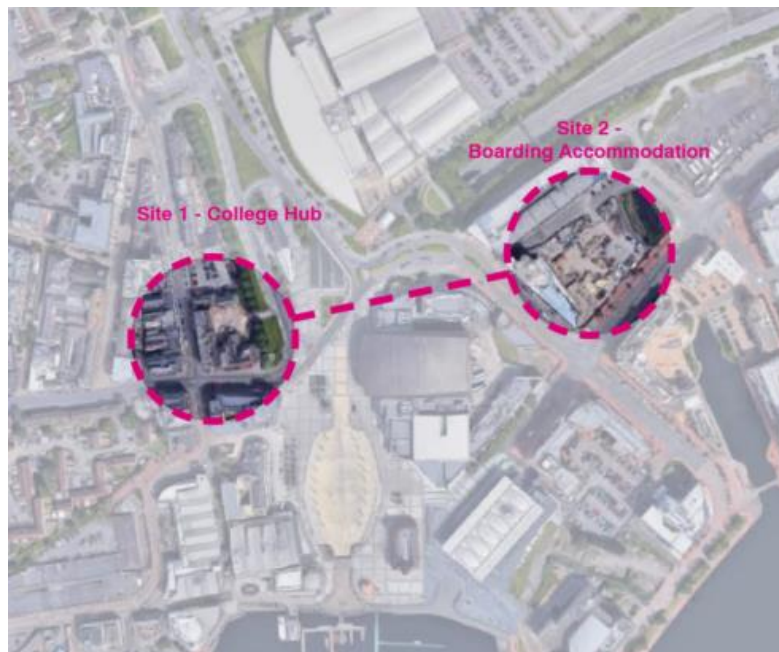


Figure 1: Site 1 and 2 Relationship

- 1.3 The teaching accommodation at site 1 will be for a total of 500 pupils (400 borders plus 100 day pupils). The land at site 2 will be developed to deliver new build accommodation for 400 boarders, ancillary parking, sport and other facilities to support the education use.
- 1.4 The scheme of Planning Committee Delegations reserves applications for determination by Planning Committee where the decision would conflict with an objection received from a statutory consultee and the objection has not been withdrawn or resolved. Whilst no objection has been received from a statutory consultee in relation to this full planning application, an objection has been received from the Victorian Society in relation to the corresponding Listed Building Consent application. Having regard to the objection, it has been decided to report the full application and Listed Building Consent applications concurrently to Planning Committee and to report the objection received against both applications, given that the full application addresses all the matters relevant to the determination of the listed building consent, but also provides a broader context for considering the matters raised in the statutory objection.
- 1.5 Whilst not a material planning consideration and in the interests of transparency, it is noted that Cardiff Council own the land.

2. DESCRIPTION OF THE SITE AND AREA

- 2.1 The 0.2ha rectangular application site comprises two Grade II listed buildings, Merchant Place and Cory's Buildings, located in a prominent location on Bute Place and Bute Street. Both Cory's Building and Merchant Place possess considerable significance, historically and architecturally, and are located in Cardiff Bay, within a wider area of considerable heritage significance.

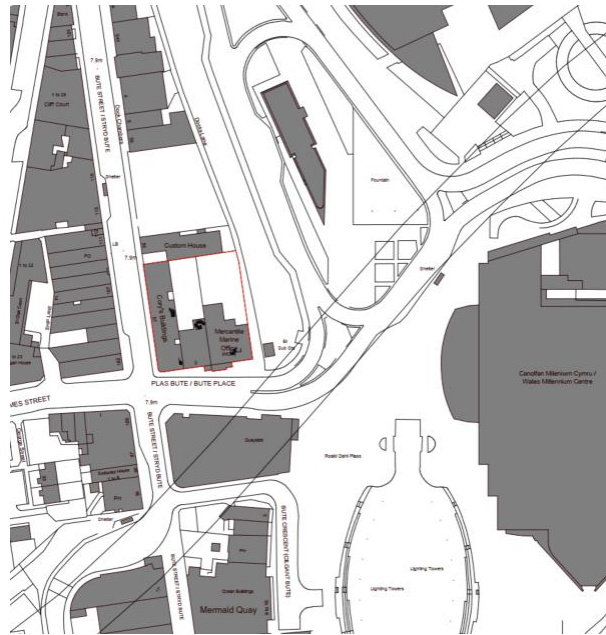


Figure 2: Site Location Plan

- 2.2 Both buildings are in a state of deterioration, are currently boarded up and vacant, and in need of urgent repair. It is understood that they have been vacant for the last 20 years, with much of the interior lost internally due to a strip-out undertaken in 2008.
- 2.3 Cory's Buildings (57 Bute Street) is an imposing and highly ornate 5-storey limestone building that fronts onto Bute Street and Bute Place, with the principal frontage facing Bute Street. Merchant Place (1 and 3 Bute Place) is a 3-storey building fronting onto Bute Place, and built in red brick with red sandstone dressings and grey granite columns. Whilst both buildings are built in the Italian Renaissance style, Merchants Place is more ordered and restrained.
- 2.4 Merchant Place was the first of the two buildings to be built - in 1881. Designed as two separate buildings behind one consistent façade, it was originally occupied by the Mercantile Marine Department of the Board of Trade (in no.1 Bute Place to the east) and the Docks Telegraph and Post Office (in no.3 to the west). Cadw state that its reasons for listing are for group value and as an "*excellent C19 commercial building with fine Italianate design and strong use of contrasting building materials*". Historic images suggest that the frontage of Merchant Place, on Bute Place, looks now very much as it did when it was built in 1881. Made up of 3 no. distinct storeys, its front facade presents a strong horizontal emphasis; and, with its 10no. regular bays, a strong and ordered vertical rhythm which overlays that horizontality.
- 2.5 Cory's Building was built in 1889 for Cory Brothers Ltd. Cadw state that its reasons for listing are for group value and as a "*prominently sited elaborate commercial building for important Cardiff family business*". The Heritage Assessment notes that it appears that Cory's building was originally built as a 3 no storey building, with the top 2 storeys not being original, having been built onto the original 3 storeys sometime between 1909 and 1929.

- 2.6 Both buildings have strong symmetry, with more prominent central sections, and follow simple geometric forms and feature repetitive, disciplined facades with a Hierarchy of Ornament. Corys Building is notable for its simple solid lower level, a richly ornamented middle section, formed by the first and second floors, and a simpler upper section. Both buildings display a series of layers and recesses, through the detail of pilasters, columns, reveals and lintels, which create richness and depth. The DAS notes that these arrangements present a design opportunity for the façade of the new building, to help ensure a harmonious connection of all three buildings on the site.
- 2.7 Both buildings are in need of repair, as shown in various photographs shown in the DAS (p. 17) and in the Heritage Assessment and Heritage Impact Statement – examples provided below.



Interior of Merchant Place



Interior of Cory's Building

- 2.8 The buildings form an L shape on the site and total circa 39,000 GIA of floorspace. To the rear of the buildings is vacant land. This area is mainly hard surfaced, strewn with rubble and fast colonising plants. Its run-down and neglected appearance is accentuated by the graffiti on the facing rear walls of the listed buildings, as shown in the photo below (DAS, p. 16).



- 2.9 This rear part of the site is enclosed by a tall, listed, red brick perimeter wall with sandstone coping to the east elevation. Part of the wall has been demolished and the opening to the courtyard obstructed by herras fencing. There is a 'dutch' shaped gable and tall brick chimney to the north end of the wall which the list description indicates related to a now-demolished outbuilding. There is an open-fronted, lean-to colonnade structure within the site and adjacent to the brick wall, with iron columns and arched heads, albeit with the roof covering lost. The wall is in a poor state of repair and has been partially demolished as shown in the image below (Heritage Assessment, p.24).



- 2.10 Whilst appearing as a sizeable courtyard area, the Heritage Assessment (p.12) shows that this rear portion of the site was always built upon, comprising single and two storey out buildings that formed part of the original Merchants Place. The majority of the buildings were subject to demolition in 2008, apart from a two-storey annexe which still extends into the courtyard area, as indicated by the images from the Heritage Assessment (p.13), reproduced below.



GoogleEarth image, dated 2001, with Cory's & Merchant shown in red box



GoogleEarth image, dated 2021, with Cory's & Merchant shown in red box

2.11 The drawing below shows the structures that were consented to be demolished from the rear of Merchant Place in green (under LBC/07/01894/C). As noted above, all were demolished apart from the two-storey annexe identified as B, which is now proposed for demolition under the subject application.

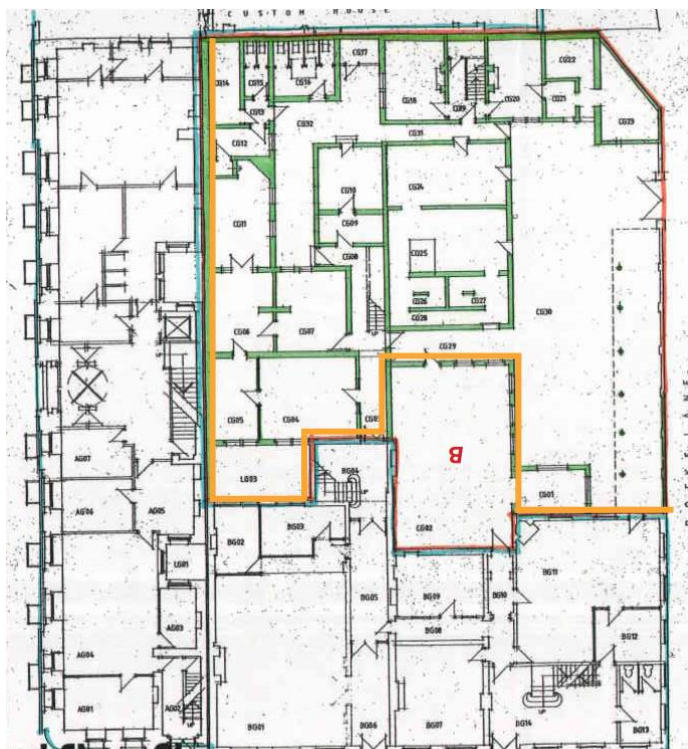


Figure 4: Demolition Gd Floor Plan, Heritage Assessment, p.22

2.12 The demolition of the buildings to the rear of Merchant Place exposed rear elevations on both buildings that were never meant to be exposed – being plain and utilitarian. The DAS observes that historic mapping and photos indicate that

this side of the plot was always more functional, with its connection to the rail lines and docks lying immediately to the east, such that the smart buildings turned their backs on them. The DAS notes that the opportunity now exists for the development to screen the functional facades and to connect this side of the plot to the improved public realm.

- 2.13 The site is bounded by Bute Place to the south, Bute Street to the west and Docks Lane and Lloyd George Avenue to the east. Docks Lane is surfaced in Pennant flagstones and enclosed by wrought iron railings. The railings are Grade II listed and originally formed the boundary of the Docks area. Immediately to the east of the railings is an area of open space that flanks Lloyd George Avenue and features an attractive avenue of mature lime trees. The imposing Wales Millennium Centre, with its landmark feature metal cladding, lies further to the east. The 3 storey Custom House or Immigration Building, also a Grade II listed building – abuts the site to the north at 56 Bute St, with car parking and buildings beyond. Custom House, last used as offices, is also vacant and has been in excess of 20 years (there is a current undetermined application for conversion to residential accommodation). The state of the south elevation of Custom House, that faces the courtyard area of the site, reveals that Custom House previously immediately adjoined some of the now-demolished buildings within the courtyard area. There are few openings except for 2 boarded up windows at first floor level and a boarded-up doorway at first and ground level. This is another functional façade, most of which was never intended to be exposed, with a mix of brickwork and graffiti giving it a neglected, run-down appearance (shown in the image below para 2.8 above).
- 2.14 The site is located within a sustainable location within the Cardiff Bay area, approx.. 1.5m south of the City Centre, approx.. 1.4km from Cardiff Central rail station and approx.. 250m Cardiff Bay rail station, and within walking distance of bus stops and local facilities. The Bute St / James Street District Centre, defined on the Local Development Plan Proposals Map, lies immediately to the west and south of the application site.
- 2.15 The site is located within the Mount Stuart Square Conservation Area. Both buildings are identified as ‘Landmark Buildings’ within the Mount Stuart Square Conservation Area Appraisal (2009) and are positioned on a prominent southern approach into the Conservation Area. The Mount Stuart Square Conservation Area was designated in recognition that the Square and surrounding area has special interest in the context of the history of the commercial growth of Cardiff and because of the unique character of scale and detailing of many of its buildings. The Pierhead Conservation Area lies immediately to its South and SE. There are numerous listed buildings in the vicinity of the site. As noted above, the Grade II listed Custom House lies immediately to the north of the site, the Grade II listed former ware house (known as the D shed and occupied by Craft in the Bay) approx. 43m to the NE, the Grade II listed Midland Bank building lies diagonally opposite approx. 22m to the SW. Beyond the Grade II listed Custom House building to the north, and the Grade II* National Westminster Bank building at 113 Bute St lies approx.. 28m to the NW. The site is located approx. 2.05km from Cardiff Castle and Roman Fort. There are a couple of locally listed buildings in the vicinity of the site, to the SW at 3 James St and 94 Bute Street.

- 2.16 The area is characterised by a significant variation in building heights, ranging from 3 – 9 storeys. Custom House to the north is 3 storeys, the Midland Bank building to the SW is 5 storeys, the National Westminster Bank building to the NW is 6 storeys and the commercial buildings to the south are 7 storeys. Cadogan House, 12 West Bute St, is 6 storeys and Cambrian Buildings, Mount Stuart Square is 7 storeys. Empire House, Mount Stuart Square is 9 storeys, following the addition of a two storey extension to the Grade II* listed building (10/02270/DCI).
- 2.17 The site falls within flood zone C1 (areas of floodplain served by significant infrastructure, including flood defences) as defined on the current TAN 15 (2004) Development Advice Map. The new TAN 15 Flood Map for Planning (suspended until 1 June 2023) identifies the application site to be at risk of flooding and falls into Flood Zone 3 Sea and Flood Zone 2 Rivers.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 This application seeks full planning permission for the partial demolition of existing buildings and the redevelopment of the site to provide an educational facility, including the restoration of the existing buildings, internal and external alterations to the existing buildings, the erection of an 8-storey building, ancillary cycle parking, landscaping, public realm improvements and associated works.
- 3.2 The proposed development comprises two core elements:
- Partial demolition, restoration and adaptation of Cory's Building and Merchants Place, including their change of use to an educational facility
 - Construction of a new 8-storey building to the rear of the site, including a new glazed link extension designed as a 'distribution block' to provide circulation space to connect the heritage assets with the new build element. The new building includes an auditorium on the roof to create a new landmark building within the Cardiff Bay area. (Whilst described and designed to appear as a new building, the new building works effectively form an extension to the existing buildings).
- 3.3 As noted in Section 1, the primary aim of the application is to provide CSFC with a permanent high-quality teaching environment with enhanced educational facilities, amenity space, exam hall and other ancillary features. The students will arrive at the new teaching site in the morning for breakfast (starting at 07:00) and would spend the majority of the day in this building until they return back to the boarding accommodation (or home if they are a day student) at 19:00, unless there are special events on. The college building would provide three meals a day to students.
- 3.4 Merchant Place is designed to be the main administrative hub of the college, whilst Cory's Building would form the student hub, housing social functions such as common rooms, a café and shop. Internally, the teaching accommodation would be split across 8 floors (Gd + 7)

- Ground – building entrances, garden courtyard, plant/service area
- First – classrooms, canteen, admin hub
- Second – main hall (double height), library, classrooms and staff facilities
- Third – classrooms and hall viewing area, staff terrace
- Fourth – classrooms, atrium and science department labs/classrooms
- Fifth – external plant, atrium and science department labs/classrooms
- Sixth – auditorium and exhibition space, servery, external terrace
- Seventh – auditorium and exhibition space, external plant and atrium / distribution block sky lights.

Proposed Demolition and Restoration

- 3.5 The Applicant's intent has been to retain as much of the existing fabric of the two Grade II listed buildings that remains as possible. No demolition is proposed to take place on the principal facades fronting Bute Place and Bute Street, as these have been deemed to have the highest significance. The largest area of demolition is the two-storey annexe to the rear of Merchant Place, proposed to facilitate the new build construction, as shown below. Whilst this section is original fabric, it is noted to be of low architectural value and that its demolition has been previously consented.



--- Areas of demolition

- 3.6 It is proposed to restore the listed buildings to a high standard. Many of the original features and internal layouts are retained, whilst ensuring the space complies with relevant standards and would be appropriate for a teaching facility. Where new openings are required to link the existing buildings to the new building, these have been designed to coincide with existing openings. This occurs on the inward-looking elevations, which the submission notes are considered to have a lower architectural significance. The new openings would be formed either through the reinstatement of historic openings that have been blocked up, or by replacing windows with door openings by lowering the cill level, allowing the original opening to be read in the historic fabric. The initial proposal for existing windows (beyond those to be converted to door openings) was to replace them like for like. Further to concerns raised, the proposal as confirmed under the LBC application, is now to review the windows on a case by case basis and to control the works by condition to be attached to the LBC (as confirmed in a recommended condition).

New 8 -storey Building

- 3.7 The new build element would accommodate larger spaces that cannot be retrofitted within the existing historical buildings, including a large hall, canteen and large rooftop auditorium space. The ground floor 'podium' level has limited opportunities for views out due to surrounding buildings on all three sides and the listed perimeter wall to the east elevation. As a result, this podium area has been designed to accommodate functional floorspace that requires no outlook including plant rooms, general storage, waste and cycle storage.
- 3.8 The 'skyview' element sits above the podium. The lower section is given over to large spaces, the dining room and sports hall, to make best use of a part of the building where views are limited to the front (east) and with high floor to ceiling levels to allow for tall windows to allow light to penetrate to the back of these spaces. The upper section benefits from views over Custom House as well as to the east, such that the internal space can be subdivided further due to the opportunities for windows on 2 sides. The rooftop level has the opportunity for 360 views and provides an auditorium and exhibition space, which will be set back to provide some outdoor terrace space and to assist with the overall massing and prevent the auditorium feature from dominating the scheme.
- 3.9 The glazed distribution block is an L-shaped block that sits between the two existing buildings and the new build, providing efficient horizontal and vertical circulation between the different buildings, as well as secondary functions including breakout study spaces and providing light to the lower levels via its 'cutaway floors' (DAS, p.72). Large skylights on the roof and the stepping back of the walkways at high level help bring light deep into the plan.
- 3.10 In terms of elevation design, the new building is designed as a landmark building and has been carefully designed to reflect the historic context of the site. To help ensure a harmonious connection between the old and new, the new building takes its cues from Cory's Building. The principal (east) elevation displays a simple, repetitive and disciplined facade with strong symmetry, a more prominent central section, a Hierarchy of Ornament and a richness of detail and depth of reveal. It features a simple palette of materials, comprising three shades of brick in various coursing styles, including traditional running bond, Flemish bond and soldier courses. The use of brick reflects the red brick faced of Merchants Place, as well as the rear elevations of Cory's Building and the adjacent Custom House, which are also finished in brick. The facade is multi-layered to provide depth and presents a hierarchy of window openings to respond to the historic building's façade design. There is a strong base course formed by darker bricks and arches, larger openings to the central section where the floor to floor levels are taller and then smaller regular openings at the upper levels. Stone edging to the arches, which reflect the arched windows on Merchant Place, as well as stone banding and sills, provide a reference to the finish of Cory's building. The uppermost level is a combination of glass and bronze cladding, chosen to complement the reddish-brown brickwork and reference the Wales Millennium Centre opposite.

- 3.11 In contrast, the distribution core element of the new building is designed as a simpler, recessive element to visually separate the existing Merchant Place building and new building. It is finished in two shades of dark grey brickwork, arranged more simply in either soldier course or running bond, and is also physically recessed with the building line set back from the main façade. The rooftop podium will be a landmark feature of the new building, whose material pallet is designed to reflect the bronze metal cladding found on the Wales Millennium Centre.
- 3.12 In terms of scale, the new building would be a max of c 29.5m, compared to an existing max building height of c22.37m on Cory's building.

Access, refuse, servicing and broadband infrastructure

- 3.13 A number of building entrances are proposed to accommodate the different user groups; staff, students and visitors. The restored Merchants House is proposed as the admin hub, forming the main entrance for staff and visitors. Cory's building is proposed as a student hub and will act as the student entrance, with access out of this space controlled via a key fob system. This allows Merchant Building and Cory's Building to be 'locked down', ensuring that members of the public don't have free access to the main college teaching areas. A new out of school hours public entrance off Dock Lane is proposed, providing a clear line of separation between public and private spaces. (A condition is proposed to ensure Dock Lane is appropriately lit.) In terms of equality of access, the Grade II listed buildings are not currently accessible for wheelchair users and two lifts are proposed within the new building extension to ensure access to all floor levels. A new ramp is also proposed to the front of Merchant Place, to be secured by condition as part of the public realm enhancements condition. The existing ground floor toilets in Merchant Place will be converted into an accessible toilet and there will be an accessible toilet on all 7 storeys.
- 3.14 No car parking is proposed, with 20 car parking spaces proposed at the boarding accommodation site at Pierhead Street and with staff expected to walk between the two sites, given the short distances involved. Thirty cycle parking spaces are proposed, with the expectation that only non-boarding pupils would cycle to the site. (Final numbers and details of cycle parking are to be controlled by condition).
- 3.15 Refuse storage is proposed to be located within the service core of the proposed new building to the rear of Merchants Place, with collection to be undertaken by private contractors. The refuse delivery vehicle was initially proposed to collect from Bute St but this was amended to Bute Place in the November 2022 submission, with tracking drawings provided to demonstrate that this worked. Servicing (food and college supplies) would be delivered and unloaded on Bute Street. Food deliveries would be unloaded into Cory's Building and college supplies and carried or wheeled to the main college reception on Bute Place. A condition is recommended to finalise waste, delivery and servicing details.
- 3.16 The Applicant has provided a Broadband Infrastructure Statement that confirms that Openreach are able to provide Gigabit capacity to both sites and that it is their intention to apply for Ethernet Access Direct (EAD) connection to ensure

the fastest broadband speeds are available.

Landscaping, Ecology and Public Realm Enhancements

- 3.17 A tree survey, landscape plans, ecology report and a Green Infrastructure Statement have been prepared in support of the application. It is noted that this site is predominantly used for teaching and more formal studying during school hours, with the students using Site 2 for recreational activities, where a large, landscaped podium and outdoor amenity space is proposed for students to use during their free time. On the Merchant Place/Corys Building site, a small internal courtyard is proposed, which would be soft landscaped, as well as some planting proposed along the eastern boundary wall. The landscaping includes biodiversity features such as bat boxes and native planting to enhance biodiversity on the site. The 7 category A lime trees located outside of the site and within the grassed area adjacent to Dock Lane are proposed for retention and tree protection, and a condition is also imposed to protect the trees from construction traffic.
- 3.18 Public realm enhancements are proposed to be secured through a Section 278/s38 Agreement and the proposed Grampian condition. This would include:
- Enhancement to Docks Lane along the eastern boundary, comprising the refurbishment and relaying of the historic pennant pavements and lighting
 - Bute Place would be resurfaced to match the existing materials along the site frontage and the new ramp to Merchant Place delivered
 - Improvements further east up to the existing crossing and comprising footway widening and a larger crossing waiting area
 - Enhancements to the frontage along Bute Street, comprising new natural stone paving and enhancements at the existing signalised crossing. (The condition requires re-paving both sides of the crossing.)

Sustainability

- 3.19 An energy strategy sets out the proposed services and renewable technologies that are being incorporated within the scheme. The building has been designed to potentially connect to the Cardiff District Heat Network, with a dedicated area within the plant room proposed for the required thermal substation to be sited. In addition to the re-use of vacant buildings to reduce embodied carbon and making effective use of brownfield land, other sustainability measures include a super insulated building fabric for the new build, an all-electric heating and cooling strategy, air source pumps for heating and cooling, and roof PVs and the promotion of cycling through the cycle parking provision. A condition is recommended to control the final details of the energy measures.
- 3.20 The application is supported by:
- Plans/Drawings
 - Planning Statement
 - Pre-application Consultation Statement
 - Transport Statement
 - Travel Plan

- Design and Access Statement
- Noise Assessment Report
- Drainage Statement and SAB Technical Note
- Flood Consequences Assessment
- Energy Strategy Review
- Broadband Infrastructure Statement
- Arboricultural Report
- Site Investigation Report
- Ecological Survey Report
- Archaeological Desk-based Assessment
- Heritage Assessment
- Heritage Impact Statement
- Heritage Repair Works Statement
- Daylight, Sunlight and Overshadowing Assessment
- Wind Microclimate Assessment
- Green Infrastructure Statement
- Fire Safety Strategy

3.21 Amended and additional information was submitted in November 2022 and comprised the following:

- Cover letter dated 28/11/22 setting out a response to the issues raised
- Designing Out Crime response schedule responding to each measure recommended by South Wales Police and confirming that the following measures would be provided – new school gates to the ‘Secured by Design New School’ standard with access control system, external lighting to be provided around gates, CCTV to cover school and all access points, access control system and security alarm and public address system to be in place.
- Technical Transport Note responding to queries raised by the Transport officer
- Updated Daylight, Sunlight and Overshadowing Study dated 27/10/22
- Updated Drainage Statement and SAB Technical note (Rev C) to align with the information submitted for SAB approval
- New drawing of a ramp proposed to Merchant’s Place, submitted for information only (with ramp to be secured by condition).

3.22 Additional information /clarification in respect of daylight / sunlight figures was submitted 19/12/22. Two new plans were submitted in January 2023 to clarify the extent of works proposed by 2 of the conditions (obscure glazing and the extent of public realm works).

3.23 All documentation relating to the application, including plans, can be viewed on the Council’s website using the following link [22/02201/FUL](#)

4. PLANNING HISTORY

4.1 The following planning history is particularly relevant: -

- 97/02169/C – Cory's Building - Planning permission issued 05/02/1998 for Retail Outlet With A Community Educational Studio And Small Coffee/Tea Area
- 03/01531/C – Planning permission deemed withdrawn for Refurbishment Of Cory's And Immigration Buildings Bute Street, Former Post Office Bute Place And Redevelopment Of Adjoining Courtyard And Surface Car Park, Bute Street For Sky View Estates Limited
- 03/01574/C – Listed Building Consent granted 04/05/2004 for Refurbishment Of Corys' And Immigration Buildings, Bute Street, Former Post Office Bute Place And Redevelopment Of Adjoining Courtyard And Car Park Bute Street. Refer To Elevations For Schedules Of Materials & External Finishes
- 06/02527/C – Cory's Building - Planning permission issued 09/12/2006 for Refurbishment, Conversion And Extension To Create 5th And 6th Floor Of Existing Building Providing Ground Floor Retail/A3 And 24 Self-Contained 1 And 2 Bedroomed Apartments. This application increased scale and massing to Cory's Building to an overall height of 24.35m and 7 storeys.



- 06/02531/C – Cory's Building - Listed building consent withdrawn for refurbishment, conversion and extension (5th and 6th floors) of existing building providing ground floor retail / A3 and 24 self contained 1 and 2 bedroom apartments
- 07/01894/C – Listed building consent granted 31/01/2008 for Demolition Of Existing Courtyard Outbuildings, Partial Temporary Demolition Of Existing Rear Wall For Construction Access And Subsequent Re-Instatement. This LBC established the principle of the acceptability of the demolition of structures to the rear including the 2 storey annex now proposed for demolition under 22/02201/FUL

- 07/01895/C – Listed building consent granted 16/01/2008 for Partial Demolition And Re-Modelling Of Existing Rear Wall Including New Ornamental Gates And Fencing, Opening Onto Docks Lane
- 07/01899/C – Merchant House, Bute Place - Listed Building Consent granted 06/11/2017 for Removal Of Certain Non-Loadbearing Internal Walls, Doors And Screens, Raised Access Floors And Non-Original Ceilings
- 07/01900/C – Planning permission issued 06/11/2007 for Partial Demolition And Remodelling Of Existing Wall To Docks Lane With Creation Of New Gated And Fenced Openings
- 07/01931/C – Planning permission issued 12/11/2007 for Rebuilding Of Boundary Wall Further To Temporary Demolition
- 07/02202/C – Listed building consent granted 16/01/2008 for Listed Building Consent For Conversion Of And Extension To Merchant House, Bute Place Into Open Plan Office And Associated Accommodation
- 07/02204/C – Planning permission issued 12/11/2007 for Conversion Of And Extension To Merchant House, Bute Place Into Open Plan Offices And Associated Accommodation
- 07/02353/C – Planning permission issued 09/12/2016 for Construction Of 8 Storey Office Block Above Decked Car Park In Existing Courtyard
This application establishes precedent for a taller eight-storey building (30.8m), set behind the two listed buildings within the existing courtyard area, captured in the DAS, p.25 and below.



- 07/02354/C – Construction Of 8 Storey Office Block Above Decked Car Park In Existing Courtyard And Link Through To Merchant House, Bute Place, Cardiff – LBC application withdrawn
- 07/02360/C - Construction Of Rooftop Extension And Construction Of Vehicular Access Through To Rear Surface Car Park – deemed withdrawn.
- 07/02362/C – Cory’s Building - Listed building consent granted 10/03/2008 for Internal Refurbishment, Construction Of Rooftop Extension, And Construction Of Vehicular Access Through Building To Rear Surface Car Park (Cory’s Building)
- 17/02070/MJR –Cory’s Building - Discharge of various conditions approved 22/02/2018 in respect of LBC 07/02362C
- 17/02071/MJR – Cory’s Building - Discharge of various conditions approved 25/08/2017 in respect of planning permission 06/02527/C

4.2 The following applications in the vicinity are particularly relevant:

22/01162/MNR – Custom House, 56 Bute Street - Change Of Use From Class B1 (Office) To Class C3 (Residential) Along With Refurbishment, Conversion And Roof Extension To Provide 9 Self-Contained Apartments, With Associated Works – not yet determined.

5. LEGISLATIVE AND POLICY FRAMEWORK

5.1 The **Well-being of Future Generations (Wales) Act 2015** (WFG) imposes a duty on public bodies to carry out ‘sustainable development’ in accordance with the ‘sustainable development principle’. ‘Sustainable development’ means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals. This principle requires LPAs to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

5.2 Well-being goals identified in the Act are:

- A Prosperous Wales
- A Resilient Wales
- A Healthier Wales
- A More Equal Wales
- A Wales of Cohesive Communities
- A Wales of Vibrant Culture and thriving Welsh Language
- A Globally Responsible Wales

- 5.3 The **Environment (Wales) Act 2016** imposes a duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.
- 5.4 The **Planning (Listed Buildings and Conservation Area) Act 1990** imposes the following key duties (my emphasis):
- Section 66(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have **special regard** to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
 - Section 72 (1) In the exercise, with respect to any buildings or other land in a conservation area... **special attention** shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 5.5 Whilst case law has established that the weight to be given to a material consideration is a question of planning judgement for the planning authority (*Tesco Stores v Secretary of State for the Environment & Ors*, 1995), case law has also established that the section 66(1) duty requires decision makers to give ‘considerable importance and weight’ to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses when carrying out the balancing exercise (*Barnwell Manor Wind Energy Ltd v E. Northants DC, English Heritage, National Trust & SSCLG*, para 29).

National Planning Policy

- 5.6 [Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with the publication of, and take into account the policies, themes and approaches set out in, [Future Wales - the National Plan 2040](#) (see below) and to deliver the vision for Wales that is set out therein.
- 5.7 The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.
- 5.8 PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan-making and the decision-making process.

5.9 Statements of particular relevance contained within PPW include:

- *The Welsh Government's specific objectives for the historic environment seek to ...safeguard the character of historic buildings and manage change so that their special architectural and historic interest is preserved; and...preserve or enhance the character or appearance of conservation areas, whilst the same time helping them remain vibrant and prosperous... (para 6.1.6)*
- *There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses (para 6.1.10).*
- *For listed buildings, the aim should be to find the best way to protect and enhance their special qualities, retaining them in sustainable use. The continuation or reinstatement of the original use should generally be the first option, but not all original uses will now be viable or appropriate. The application of planning and listed building controls should recognise the need for flexibility where new uses have to be considered in order to secure a building's survival or provide it with a sound economic future (6.1.11).*
- *The demolition of any listed building should be considered as exceptional and require the strongest justification (6.1.12).*
- *There is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level. In exceptional cases, the presumption may be overridden in favour of development considered desirable on public interest grounds (para 6.1.15)*
- *Preservation or enhancement of a conservation area can be achieved by a development which either makes a positive contribution to an area's character or appearance or leaves them unharmed. Mitigation measures can also be considered which could result in an overall neutral or positive impact of a proposed development in a conservation area (para 6.1.16).*

Technical Advice Notes

5.10 PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -

- TAN 5: Nature Conservation and Planning (2009);
Noting also the Chief Planning Officer letter dated 23/10/19:
securing bio-diversity enhancement;
- TAN 11: Noise (1997)
- TAN 12: Design (2016)
- TAN 15: Development and Flood Risk (2004)
- TAN 18: Transport (March 2007)
- TAN 20: Planning and the Welsh Language (2017)

- TAN 21: Waste (February 2017)
 - TAN 23: Economic development (2014)
 - TAN 24: The Historic Environment (May 2017)
- 5.11 On 16th July 2020 the Welsh Government published [Building Better Places: The Planning System Delivering Resilient and Brighter Futures](#) which provides planning policy guidance for local planning authorities and the development industry on priorities for the planning system to deliver post Covid-19. The guidance is to be read in conjunction with PPW, which contains the principles and policies needed for Wales to recover from Covid-19 in a positive manner, putting placemaking at the heart of future development.
- 5.12 It also emphasises that development management decisions should focus on creating healthy, thriving active places with a focus on a positive, sustainable future for our communities. The planning system has an important role in supporting healthier lifestyles and reducing inequalities. This includes both direct and indirect opportunities such as the allocation of land for health facilities, ensuring good design and barrier free development, jobs and skills, improving air quality, soundscapes and protecting and improving access to recreation and natural green spaces. These can provide both physical and mental health benefits, improve well-being and help to reduce inequality.

The Development Plan

- 5.13 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.14 [Future Wales - the National Plan 2040](#) now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate- resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.
- 5.15 Future Wales policies with relevant Development Management implications include:
- **Policy 2 (Shaping Urban Growth and Regeneration – Strategic Placemaking)** – sets out strategic placemaking principles of creating a mix of uses, providing a variety of housing types and tenures, building places at a walkable scale, increasing population density at densities that can support public transport and local facilities, establishing a permeable network of streets, promoting a plot-based approach to development and integrating green infrastructure. Supporting text notes that new developments in urban areas should aim to have a density of at least 50

dwellings per hectare, with higher densities in more central and accessible locations.

- **Policy 6 (Town Centre First)** states that significant new commercial, retail, education, health and leisure and public services must be located within town and city centres. The supporting text notes that the policy applies to facilities of a significant scale.
- **Policy 9 (Resilient Ecological Networks and Green Infrastructure)** - States that in all cases, action towards securing the maintenance and enhancement of **biodiversity** (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature-based approaches to site planning and the design of the built environment
- **Policy 12 (Regional Connectivity)** – States that **active travel** must be an essential and integral component of all new developments and that planning authorities must act to reduce levels of car parking in urban areas, including **supporting car-free developments in accessible locations**. Where car parking is provided for new non-residential developments, LPAs should seek a minimum of 10% of car parking spaces to have **electric charging points**
- **Policy 13 (Supporting Digital Communications)** - In relation to **digital infrastructure** new developments should include the provision of Gigabit capable broadband infrastructure from the outset
- **Policy 16 (Heat Networks)** - Large scale mixed-use development (100 or more dwellings or 10.000 sqm) should, where feasible, have a **heat network** with a renewable / low carbon or waste heat energy source. Planning applications for such development should prepare an **Energy Masterplan** to establish whether a heat network is the most effective energy supply option and, for feasible projects, a plan for its implementation.

5.16 The Local Development Plan is the [Cardiff Local Development Plan 2006-2026](#) which was adopted in January 2016, and within which the following policies are of relevance:

KEY POLICIES

- KP4 Master Planning Approach
- KP5 Good Quality and Sustainable Design
- KP6 New Infrastructure
- KP7 Planning Obligations
- KP8 Sustainable Transportation
- KP10 Central and Bay Business Area
- KP15 Climate Change
- KP16 Green Infrastructure
- KP17 Built Heritage
- KP 18 Natural Resources

DETAILED POLICIES

- EC4 Protecting Offices in the Central and Bay Business Area
- EN6 Ecological Networks and Features of Importance for Biodiversity
- EN7 Priority Habitats and Species
- EN8 Trees, Woodlands and Hedgerows
- EN9 Conservation of the Historic Environment
- EN10 Water Sensitive Design
- EN11 Protection of Water Resources
- EN12 Renewable Energy and Low Carbon Technologies
- EN13 Air, Noise, Light Pollution and Land Contamination
- EN14 Flood Risk
- T1 Walking and Cycling
- T5 Managing Transport Impacts
- T6 Impact on Transport Networks and Services
- T9 Cardiff City Region 'Metro' Network
- C3 Community Safety/Creating Safe Environments
- C5 Provision for Open space, outdoor recreation, Children's play and sport
- C6 Health
- C7 Planning for Schools
- W2 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance/Conservation Area Appraisals:

5.17 The following [Supplementary Planning Guidance](#) (SPG) and Conservation Area Appraisals are of relevance to this application: -

- Archaeology and Archaeology Sensitive Areas (July 2018)
- Green Infrastructure (including Technical Guidance Notes relating to: Ecology and Biodiversity; Trees and Development; Public Rights of Way and Development; River Corridors; Protection and Provision of Open Space in New Developments; Soils and Development) (November 2017)
- Managing Transportation Impacts (Incorporating Parking Standards) (July 2018)
- Planning for Health and Wellbeing (November 2017)
- Planning Obligations (January 2017)
- Tall Buildings Design Guide (January 2017)
- Infill Sites (November 2017)
- Waste Collection & Storage Facilities (October 2016)
- Mount Stuart Square Conservation Area Appraisal (2009)
- Pierhead Conservation Area Appraisal (2009)

6. INTERNAL CONSULTEE RESPONSES

- 6.1 **Shared Regulatory Services (Contaminated Land)** note the site has been identified as formerly commercial and vacant for several years, and that the application is supported by a site investigation report, including a ground gas assessment and contamination assessment. No objections are raised, subject to standard conditions to control ground gas, unforeseen contamination, imported aggregates and the use of site won materials, and an advisory in respect of contaminated and unstable land.
- 6.2 The **Council's Tree Officer** initially advised that their only concern from a tree protection perspective is the potential for harm when new service connections are made via Docks Lane. Whilst noting that it looks like the works will avoid Root Protection Areas (RPAs), they advise the AMS should reference the works that run close to RPAs and provide a method statement for installation that is based on the recommendations in BS 5837:2012. They subsequently requested confirmation that no construction access / compounds would be required on/through the verge containing the A category lime trees. They have no objection in principle to the proposed landscape scheme (subject to condition).
- 6.3 Further to confirmation in the November 2022 submission that construction access would be needed across the verge and between the trees, the Tree Officer raised concern that the construction access may result in serious damage to trees, notwithstanding whether this access has been used in the past, and note that there is no assessment as to what impact the access may have. Notes that precautionary measures such as load bearing, no dig construction may be required, followed by soil amelioration on completion. Advises that the project arboriculturist considers the issue and that appropriate tree protection measures are incorporated within an Arboricultural Method Statement and Tree Protection Plan. Note that if the impacts include significant branch pruning for clearance, this is likely to be objectionable, so assurance would be needed that this wouldn't be required. Also advise that the AMS and TPP should include precautionary measures for service installation based on the finalised utility design, noting that if utilities are designed in such a way that significant harm results to trees, this is likely to be objectionable.
- 6.4 **Wardell Armstrong**, acting as ecological advisors to the Council, confirm they have no objection, subject to conditions to require survey updates if the development doesn't commence within 2 years of the survey, to require a lighting plan (for the construction and operation phases), to protect nesting birds, to secure ecological/biodiversity enhancements and to require a CEMP.
- 6.5 The **Operational Manager (Traffic and Transportation)** requested further clarification and information in respect of the Transport Statement in their initial response, including the need for additional swept path analysis and information on numbers of deliveries and drop off/pick up, to assist consideration of the extent of No Loading restrictions that should be introduced on Bute St/ Bute Place and whether the refuse collection vehicle should collect from Bute Place or Bute St. Provide detailed cycle parking advice.

- 6.6 Further to the November 2022 submission and consideration of the submitted Transport Note, the OM Transportation raise no objection and recommend conditions to control cycle parking, and to require a Travel Plan and Highway/pedestrian/public realm works. A s106 contribution of £10,000 towards the delivery of an amended TRO to the loading restrictions is also requested. With regards the question as to whether refuse should be collected from Bute Place or Bute St, following further consideration, Transportation confirm the refuse collection vehicle should collect from Bute St (with full details to be agreed by condition).
- 6.7 The **Operational Manager (Waste Management)** advise that the area for the storage of waste and recycling is acceptable and that, as Council collection crews will not collect from a distance of more than 25m, an agreement must be made with a private contractor. Advise that refuse storage must be retained for future use. Waste Management had no objection to the Bute Street refuse vehicle collection point but also confirmed that the Bute Place collection is acceptable, subject to mitigation in the form of a condition to include any markings to make this work safely. They note that the swept path analysis provided demonstrates that there is sufficient area for vehicles to pass.
- 6.8 **Shared Regulatory Services (Noise and Air)** note that they have reviewed the noise assessment report which has been updated to include comments made during the pre-application consultation period and that they agree that there is sufficient evidence to demonstrate noise is not going to be disproportionate as a source or receptor and recommend conditions to control fixed plant, hours of deliveries, school 'break in' (level of noise transmitted through a façade from outside), noise from the 6th floor and external terrace, future kitchen extraction and to require a CEMP (to control hours of operation, methods of dealing with complaints, noise and vibration mitigation and the emission of dust and dirt).
- 6.9 The **Team Leader Flood and Coastal Risk Management advise** that further to DCWW's amended advice allowing a connection to the public sewerage network, they have no objection, noting the development now has an outlet. Notes that the development would require SAB approval, but advises that they believe this can be achieved with the current layout, such that they are happy to support approval of the application.
- 6.10 The Council's **Heritage Officer** provides the following comments in support of the application:

It is agreed that, insofar as the most significant and prominent aspects of the existing buildings' aesthetic value is concerned – namely views of the west (Bute Street) and south-west (Bute Street/Bute Place corner) elevations - impact of the proposed rear development will be minimal.

The view from the south (Bute Place) will be impacted by the proposed new structure rising slightly above its roofline. However, the width of Bute Place and available perspectives substantially limit this visual impact. Also, the use of dark grey bricks as the facing material to the south elevation of the new structure will lessen this visual impact against that of the red/brown bricked frontage of Merchant House.

From the east and north-east of the site (Docks Lane and Lloyd George Avenue), the new structure will be very much apparent, resulting in a significant change to the view and obscuring both the northern elevation of Merchant House the eastern elevation of Cory's Building. However, those elevations are demonstrably of lower significance – with the rear of Cory's building being particularly utilitarian: the portion of the site behind both buildings adjoining Docks Lane was, until 2008, always built upon – occupied by the original rear ranges of Merchant Place. Those elevations which have been exposed by the demolition were clearly never meant to be fully exposed – plain, utilitarian and unfenestrated. The most visually prominent of these – the upper C20 storeys of Cory's Building - is particularly underwhelming; being plain-rendered in grey cement.

The retained decorative 4m high brick wall on the eastern edge of the site will provide a physical (and visual) 'buffer' within the immediate context of Docks Lane. Though the row of closely set mature trees on the other side of Docks Lane will act as something of a buffer between the site and the wider setting, it is considered that this will be limited - particularly in winter. From the south-east (northern end of Roald Dahl Plass and beyond) the new is particularly prominent within views from the Pierhead Conservation Area, thus impacting upon con area Setting. Visual impact of the proposed new structure is also significant from the north-west (Bute Street) where the building sits partially behind Grade II Listed Custom House. However, form and materiality of the new are considered to mitigate well against these impacts (see below).

The proposed is considered to be a great improvement of that consented in 2007. It is set sufficiently within the site boundary. Immediately behind Merchant House, the new circulation core is finished in dark-grey brickwork, resulting in a reduced visual impact which successfully separates new from old. Detailed articulation of the facades within the principal portion of the new building respond very well to Merchant House and Cory's Building (and the large commercial buildings of the wider conservation area), with its 'Giant Order' focus on first and second storeys being particularly successful. The use of two greys and three browns to the brickwork provides additional depth to the elevations, resulting in well-considered and well-layered elevations which are visually very interesting and also serve to break down the mass of the new structure - and therefore its visual impact.

The curved form of the 'jewels' to the rooftop, if sufficiently high-quality in execution and finish, will successfully top-out the new structure with a visual interest beyond that of a plain, flat-roof profile. Indeed, architectural detailing and high-quality materials (secured by condition) will be key - to minimise impact of such a large development within the conservation area and to ensure that a high-quality building is delivered.

With regard to the proposed ramp to the front of Merchant's Place, provided it is not attached to the building, then we are happy to deal with it via condition with this planning application. Loss of the existing railings is not resisted and I understand that, as shown, the proposed is shown minimally designed to merge with the wider streetscape and not distract from the frontage. However, should the applicant wish to pursue an option whereby the railings are designed more as an attractive boundary treatment to both sides of the central stepped access (as per the advice from our Design colleagues), we would not be adverse to such an approach. This could help balance the finished appearance of this fine frontage with features that will inevitable be seen from the road.

It is acknowledged that there will be a minor negative impact upon the Setting of Merchant Place, most notably within views from the south-west where the building is prominently located upon the corner of Lloyd George Avenue and Bute Place, with no significant interruption to its silhouette (barring a small portion of the plain rear elevation of Corys Buildings). However, it is considered that the dark circulation core of the

proposed has been carefully designed to partially mitigate against this impact and that the significant heritage benefits of the scheme (in terms of restoration of its dilapidated and partially-lost interiors, and retaining of the assets in a sustainable and optimum viable use) can be weighed positively against this identifiable impact upon the Setting of the asset.

Our position has been made clear with regard to windows; we expect the starting position to be retention and repair across the site - and the use of secondary glazing where required. Of particular interest are: panes of original cylinder glass which, where present, will add great character to the elevations of an historic building; the finely crafted semi-circular-head sash windows to the ground floor of Merchant House; the stained-glass-decorated Oeil-de-boeuf window to the southern elevation of Cory's Building; and the early use of both double-glazed sash windows and secondary glazing to Cory's Building, which appear to be original to the asset (the latter being specifically identified within the listing). As a consequence, detailed conditions for a comprehensive Window Schedule and all proposed Window Details (to include any amendments to both joinery and glass) have been added to the LBC approval.

7. EXTERNAL CONSULTEE RESPONSES

- 7.1 The **Royal Commission on the Ancient and Historical Monuments of Wales** have expressed SUPPORT as part of their statutory consultation on the Listed Building Consent application, noting the scheme "*represents a commendable economic reuse of a group of buildings that are significant elements in the townscape; the attention to detail and the commitment to restore the historic fabric is to be welcomed and we have no objection to the proposed development. We would request that a copy of the Heritage Impact Statement be deposited with the National Monuments Record of Wales*". A condition is attached to the LBC to require a copy of the HIS to be deposited with the National Monuments Record of Wales.
- 7.2 The **Victorian Society** has OBJECTED to the scheme as part of their statutory consultation on the Listed Building Consent application 22/02204/LBC on grounds that the new extension would harm the significance of the historic buildings. Whilst noting that, in principle, the conversion to educational use is eminently suitable, that they welcome the spirit of conservation which characterises the approach to the listed buildings on the site and that some development on the site may be required for the proposed new use, they are concerned by the design and scale of the proposed extension. They consider that the proposed extension would overpower the listed buildings by its scale and severely overshadow 3 Bute Place and would be highly visible, especially from the north east and are disappointed by its quality. They advise that any acceptable proposal would see a more sensitively scaled extension that is no higher than Corys Building. They raise a concern that it is unclear if the scale of the extension can be fully justified, and ask that the expansion in student numbers of almost 25% can be clearly and convincingly explained. They also raise concerns regarding the treatment of the windows and the replacement of all existing glazing and that on Corys Building sashes would be replaced by side hung casements.

- 7.3 Further to the justification received from the Applicant in the November 2022 submission, the Victorian Society provided a more nuanced response which, nevertheless, maintains their objection:

It is clear that Cardiff Sixth Form College is a successful educational business and that there is scope for it to increase in size and therefore a development of some scale could be justified. Likewise, we recognise that the site proposed for the new building was occupied for a significant period of its history. However, our concerns about the visibility, scale and quality of the building remain.

While there would be some buffering via an existing wall and mature trees on Dock Lane the new building would remain visible above the height of the existing historic buildings and appear to overpower it, especially from the southeast, reducing their architectural potency and command of the area. We acknowledge that the proposed design and materiality is not strident nor attention seeking, however, considering its scale it is doubtful if the new building could ever have a low impact on the area. It remains that due to its scale the proposed building will negatively affect the setting of the listed buildings and cause some harm by reducing their architectural prominence.

We urge the applicant to explore options that would see a smaller new building on the site, more sensitively scaled in response to the existing historic buildings.

- 7.4 **South Wales Fire and Rescue** confirm they have no objection, and remind the developer to consider the need for the provision of adequate water supplies on the site for firefighting purposes and access for emergency firefighting appliances.
- 7.5 **Dŵr Cymru Welsh Water** raise no objection to the proposal, confirming that their initial advice (that no surface water and/or land drainage shall connect directly or indirectly with the public sewerage network) was an oversight and that there is no need for the condition. They support the recommended foul drainage and SAB condition and recommend an informative regarding connection to the public sewer.
- 7.6 **Natural Resources Wales** note that the bat report identifies common pipistrelle bats are present and that they have no objection subject to conditions requiring a lighting plan to control the impact of lighting on protected species and an informative advising that an EPS license is required for the development.
- 7.7 With regards flood risk, NRW advise that the proposal is for an educational facility (highly vulnerable development), such that there is a need to determine whether development at this location is justified, against the tests set out in section 6.2 of TAN 15. NRW advise they have no adverse comment on the application, noting the FCA shows:
- *The proposed development is not located within the 1% (1 in 100 year) plus climate change or the 0.1% (1 in 1000 year) annual probability fluvial flood outlines, including the scenario where the bay is tide locked and there is a*

1% (1 in 100 year) plus climate change event on the River Taff. This is compliant with A1.14 and A1.15 of TAN15;

- The site could be at risk from tidal flooding, however the site is afforded protection by Cardiff Bay Barrage. Cardiff Bay Barrage is a flood defence structure that provides protection to Cardiff from tidal flood risk. In consideration of the above, we have no adverse comments to make from a flood risk perspective.*

- 7.8 In respect of land contamination with regards protection of controlled waters, NRW note they have no additional advice further to their advice in respect of the statutory pre-application consultation. This confirmed that, based on the site history and as they consider the site not to be of the highest environmental setting, they would not be providing detailed site-specific advice or comments with regards to land contamination issues. They note that they have considered potential impact on groundwater but note the potential risk to other receptors (including human health) is not within the scope of their response.
- 7.9 In terms of surface water management, NRW note the submission of the drainage statement and plan, noting the revised details indicate proposed surface water would discharge to a different point but confirm the revised details do not alter their advice during the statutory pre-application consultation and refer the LPA to that letter. In this letter, they note that methods for infiltration of surface water to ground are not suitable within the site and advise the Applicant to discuss proposed methods of surface water disposal with Cardiff Council in their capacity as its Sustainable Drainage Approval Body (SAB). NRW note that the November 2022 submission, including the revised Drainage Statement and Drainage Plan, does not alter their previous advice.
- 7.10 **Glamorgan-Gwent Archaeological Trust** confirm that the proposed works will require archaeological mitigation. Two conditions are recommended; one to mitigate the impact of the proposal on any buried archaeological resource and a second to record the changes to the buildings. An advisory notice is also recommended to ensure the appropriate professional standards are met.
- 7.11 **South Wales Police** Designing Out Crime officer recommend that a number of principles are adopted to achieve a safe and secure environment and would welcome working with the design team to achieve Gold Secured by Design accreditation. This advice encompasses standard advice in respect to perimeter security, signage, parking, lighting, bicycles, pathways, planting, access control, electronic access control, doors/windows, CCTV, building shell, security alarm, public address system, fire, sports facilities. Concerns are raised that the public entrance is on Dock Lane which is very dark and screened by trees and that there is a generator building near the entrance which could create hiding space. Advise that a scheme of lighting should be prepared and agreed by the LPA. Further to the Applicant's response to the SWP consultation response in the November 2022 submission SWP confirm they have no further comments to make.

8. REPRESENTATIONS

- 8.1 The application was advertised on the Council Website and by way of neighbour notification letters, site notices (dated 13/10/2022) and advertisement (dated 13/10/ 2022) in the local press.
- 8.2 In total 2 letters of OBJECTION have been received from the same owner/occupier of a flat in 109 Bute St, on the following summarised grounds:
- the development is not a good idea
 - The development would exacerbate existing bad traffic and car parking problems
 - Having students on doorsteps on a daily basis is not good noting the area is for families or professional; it will destroy Cardiff Bay and ruin it for locals and visitors. There is already a college on Dumballs Rd.
 - The development will destroy Cardiff history and culture
 - The development would cause noise and disturbance
- 8.3 All public representations made on the application are available to view in full on the planning file on the Council's website at [22/02201/FUL](#)

9 ANALYSIS

- 9.1 The key material considerations in the determination of this application are:
- Land use/ principle of development
 - Impact on Heritage Assets and wider design matters
 - Impact on residential amenity
 - Transportation/ highway impacts, including refuse and servicing
 - Impact on green infrastructure, climate change, trees/landscaping and ecology
 - Drainage and flooding
 - S106 matters
 - Comment on third party representations received

Land Use / Principle of Development

- 9.2 The application proposes the partial demolition/ restoration of existing buildings at Merchant Place and Cory's Buildings, and the redevelopment and change of use of the site to provide a Class D1 (educational facility) use. The Application Form notes that the existing Grade II listed buildings have been vacant for over 20 years, with the last known use being for commercial purposes. It is understood that the buildings were last used as office accommodation.
- 9.3 The application site falls within the Bay Business Area, as defined by policy KP10 of the Cardiff Local Development Plan 2006 – 2026 and, beyond that, is not allocated for any specific use. Policy KP10 describes a range of uses considered appropriate within the Bay Business Area – new offices, residential and commercial leisure uses – but also includes at criterion iii, 'other uses most appropriately located in city centres'. The proposed education use is considered

to fall within this category, noting that the policy identifies those uses most appropriately located in centres accessible to large numbers of people and encourages a mix of complementary uses to maintain and enhance the vitality, attractiveness and viability of such centres.

- 9.4 Future Wales, The National Plan 2040 at Policy 6 sets out a 'Town Centre First' approach and specifically lists education facilities as one of a range of uses that should be located within town and city centres. The loss of the B1 use falls to be assessed under Policy EC4 (Protecting Offices in the Central and Bay Business Areas). Given the acknowledged need to repair and bring the listed buildings – which have been vacant for over 20 years - into beneficial re-use and that Cory's Building has been previously consented for residential use, it would be difficult to sustain a land use policy objection to any loss of office accommodation. The employment generating potential of the proposed education use is also material to this consideration. The existing 116 full time equivalent jobs would be transferred from the college's existing site in Newport Rd, with the wider development resulting in a total of 160 full time equivalent staff employed across both sites – a net increase of 44 jobs from the existing employment the college provides.
- 9.5 In this regard, it is considered that the proposed use as an education facility would be acceptable and welcomed from a local land use policy perspective, and would also accord with Future Wales policy 6.
- 9.6 The principle of the redevelopment of the site is also welcomed, as it would bring a long term vacant/ underused and derelict site and two Grade II listed buildings back into a beneficial and viable use in the interests of their long-term conservation, with wider benefits to the vitality and viability of the area. It is also considered that the proposed education use is one which is able to 'work with the buildings, not against them', allowing many of the spaces to be retained in their original and often glorious dimensions, without the subdivision that might arise from other uses. The proposed educational use is welcomed.

Impact on Heritage Assets and wider design matters

- 9.7 Section 2 identifies the heritage assets that are relevant to the consideration of the application. These include:
- The 2 Grade II listed buildings Merchant Place and Cory's Buildings that form part of the application site and respective curtilage listed structures, including the brick boundary wall
 - Numerous listed buildings in the vicinity of the site, the nearest being the 3 storey, Grade II listed Custom House building that abuts the site to the north, the Grade II listed set of railings and posts to the east that run along the eastern boundary of Docks Lane, the Grade II listed former ware house (known as the D shed and occupied by raft in the Bay) approx. 43m to the NE, the Grade II listed Midland Bank building approx. 22m to the SW and the Grade II* National Westminster Bank lies approx. 28m to the NW.
 - The locally listed buildings to the SW at 3 James St (approx. 42m SW) and 94 Bute St (approx. 47m SW).
 - The Mount Stuart Square Conservation Area and the Pierhead

- Conservation Area to its southwest
 - The scheduled monument Cardiff Castle and Roman Fort (approx. 2.05km N)
 - Any below ground archaeology.
- 9.8 Section 5 above sets out the legislative and national policy framework. In addition, LDP policies KP17 (Built Heritage) and policy EN9 (Conservation of the Historic Environment) provide protection for the full range of assets that make up Cardiff's historic environment. LDP policy EN9 (Conservation of the Historic Environment) requires any development relating to historic assets (including their settings) to demonstrate that it preserves or enhances that asset's architectural quality, historic and cultural significance, character, integrity and/or setting.
- 9.9 In terms of wider design considerations, policy KP5 (Good Quality and Sustainable Design), amongst other things, requires that all new development should be of a high quality, sustainable design and should satisfy various criteria, including criterion (i) of '*responding 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*'. The Council's Tall Buildings SPG and Infill Sites SPG are also relevant given the scale of the new 8 storey building and its position within the site.
- 9.10 To allow detailed consideration of the impact of the proposal on heritage assets, the application is accompanied by a comprehensive Heritage Assessment (HA), Heritage Impact Statement (HIS) and Heritage Repair Works Statement (HRWS), as well as a DAS.
- 9.11 As noted in Sections 2 both Cory's Building and Merchant Place possess considerable significance, historically and architecturally, and are located within a setting also of considerable heritage significance. Both buildings are protected by a grade II listing; and are identified as 'Landmark Buildings' within the Mount Stuart Square Conservation Area. The reason given for the listing of Merchant Place is for its form as an excellent C19 commercial building with fine Italianate design and strong use of contrasting building materials and for its group value. The reason given for the listing of Cory's Building is for being a prominently sited elaborate commercial building for important Cardiff family business and for its group value. It is against this context that the impact of the proposal on the significance of the building, including on its setting, is assessed and described below.

Impact on the interior of the Grade II listed buildings Merchant Place and Cory's Buildings and any features of special or architectural merit

- 9.12 The works proposed to the interior of the listed buildings are best placed to be considered under the terms of the parallel Listed Building Consent application (22/02204/LBC). The Applicant's intent has been to retain as much of the existing internal fabric, fixtures, features and aesthetic of the interiors of the two Grade II listed buildings as possible, to bring back the original character of the interiors and spaces and to allow the original layouts as far as possible to

influence the new layout. The works are generally considered sympathetic and to have had special regard to the architectural and historic interest, taking into consideration the HA, HIS and HRWS and subject to the recommended conditions (including those recommended under the LBC and not duplicated under this full planning application).

Impact on the exterior of the Grade II listed buildings Merchant Place and Cory's Buildings, their setting and any features of special or architectural merit and the setting of listed buildings in the vicinity of the site

- 9.13 Importantly, the proposals would result in no change, loss or addition to the fabric of the principal frontages of Merchant Place and Cory's Building, nor to the two side elevations of Cory's or the east elevation of Merchant Place, aside from like-for-like repairs and restorations. Changes to the main rear elevations of the building envelope would be minimal, comprising the dropping of some window cills to form doors to Cory's Buildings and the forming of a couple of new openings to Merchant Place rear elevation. Moreover, the proposals would not result in any change to the pitched roof of Merchant Place nor the flat roof of Cory's Building, with the exception of the removal of 5 no glazed rooflights. In these extremely important respects, the impact on the proposal on the exterior of the listed buildings is almost negligible, which is welcomed. Whilst it is noted that the Victorian Society objected to the treatment of windows in their objection to the LBC application, it is noted that the proposal under the LBC is now not to replace all the existing windows, but to review them on a case-by-case basis and control the required works by a condition attached to the LBC. A condition to this effect is also attached to the full application.
- 9.14 In addition, it is noted that the curtilage listed brick boundary wall (4m high), 'dutch' shaped gable and tall brick chimney to the north and the open-fronted iron colonnade lean-to structure to the south end would all be retained, repaired and restored. A new, gated opening is proposed to be formed in the wall and the original opening, which has been demolished, would be retained in its original position and gated, repaired and restored, all of which is welcomed. (Conditions to control the repair of the wall and details of the new gates are recommended as part of the LBC application.) These repair works are considered to represent an overall enhancement to the listed wall, as well as an enhancement to the immediate setting of Merchants Place/Cory's Building and Custom House.
- 9.15 The most significant loss to the existing fabric of the listed building is the demolition of the projecting two storey annexe at the rear of Merchant Place. Whilst noted as a loss, it is important to note that this structure has already been consented for demolition under application 07/02894/C, albeit that it wasn't demolished at the time the rest of the rear buildings were. Its loss is, therefore, considered acceptable.
- 9.16 The most significant change to the listed buildings on the site and to the setting of the listed buildings (including those adjacent to and in the vicinity of the site) would be the construction of the new 8 storey building (approx. 29.5m high) to the rear of Merchant Place and Cory's Building. As noted above, the Victorian Society have objected to the corresponding LBC, on grounds of the design and

scale of the new building, which they consider would overpower the listed buildings and be highly visible, especially from the north east and south east (see Section 8 for further detail). The impact on the various views is considered, in turn, below, and it is clear that the new building would affect the setting of the listed buildings from different view points, to varying degrees.

- 9.17 Insofar as the most significant and prominent aspects of the existing buildings' aesthetic value is concerned – namely views of the west (Bute Street) and south-west (Bute Street/Bute Place corner) elevations – the impact of the proposed new building/rear development would be minimal. Whilst the proposed western (Bute St) elevation drawing (showing Cory's Building Frontage) clearly shows the new 8 storey building rising above the roofline of Cory's, the reality is that the perspective means that the new structure would be unlikely to be visible from the other side of Bute St at pavement level, where the majority of views are experienced. Moreover, the position of the new structure behind Merchant Place also means that the structure would not be visible from longer views from the west down James Street, as shown in the view analysis below.



Views from west down James St (DAS, p. 87)

- 9.18 The view from the south west (Bute Place) would be impacted to some degree by the proposed new structure rising above its roofline and would be more visible than from Bute Street, due to the lower height of Merchant Place and greater width of Bute Place. However, here again, the available perspectives would substantially limit this visual impact at pavement level, where the majority of views would be experienced. The CGI below showing views of the proposal from the south at the Bute Street/ Bute Place corner show very minimal impact and the use of dark grey bricks as the facing material to the south elevation of the new structure would also lessen this visual impact against that of the red/brown brick frontage of Merchant House.



View from SW (DAS. 86)

9.19 From the east and north-east of the site (Docks Lane and Lloyd George Avenue) where the open part of the site – as it is now – is in the forefront, the new structure would be very much apparent, resulting in a significant change to the view and obscuring the northern elevation of Merchant House and the eastern elevation of Cory's Building. Notwithstanding its increased scale, massing and prominence, the new building would have some positive effect in concealing the existing 5 storey rear elevation of Cory's Building which is in a poor state and was never intended to be a principal frontage and was only viewed from the Dockland.



(Heritage Impact Assessment, p. 29)

9.20 The new building would be particularly prominent in views from the south-east (northern end of Roald Dahl Plass and beyond), being significantly taller than Merchant Place, as shown in the CGI below.



View from SE (DAS p.83)

- 9.21 There would also be a significant impact on the view from the north east where the structure would rise behind the adjacent 3 storey high Custom House, as shown below.



View from North down Lloyd George Avenue (DAS p. 89.)

- 9.22 The visual impact of the proposed new structure is also significant from the north (down Bute Street), albeit that the long views of the new building are partially obscured by the three storey Grade II listed Custom House building. However, the fact that Custom House is only three storeys high also means that a good 2 – 3 storeys of the new structure would be visible.



View down Bute St from N

- 9.23 Whilst the drawings of the proposed North elevation of the new building (showing Cory's Building's side elevation and Merchant Place rear elevation) suggests a material impact, this view would not be seen either from within the site or outside the site. The north elevation would be barely seen from Custom House adjacent, as its south elevation only comprises 2 no windows, resulting from the fact that the large extent of the land to its south was historically covered by buildings, now demolished.
- 9.24 There are several material matters to be considered in assessing the impact of the new building on the setting of the heritage assets.
- 9.25 It is acknowledged that there would be some harm to the setting of Merchant Place and Cory's Building, and other listed buildings in the vicinity when experienced from some views, and most notably on Merchant Place within views from the south east and on Custom House from the north east. However, it is considered that there are a number of material considerations (noted below)

that serve to limit this harm to a less than substantial harm overall, as a result of some positive impacts to setting also. Moreover, it is also considered that the harm to the setting of the listed buildings from some views should be balanced – not against wider planning matters – but against the other factors listed in Section 66(1) that combine to contribute to the significance of the listed buildings, namely, the impact on the listed buildings (apart from their setting) and on any features of special architectural or historic interest which they possess.

9.26 When considered on this basis and subject to the recommended conditions, it is considered – on balance – that the impact of the proposal on the wider significance of the listed buildings and their special interest would be acceptable, as a consequence of the significant benefits arising from the preservation of the listed buildings and the features of special architectural or historic interest they possess. It is considered that these benefits would be substantial and would far outweigh any harm to the setting of the listed buildings on the site and in the vicinity, including Custom House, taking into consideration the above matters and the following considerations:

- (i) With regards the impact on the rear elevations of Merchants Place, Cory's building, it is important to recognise that those rear elevations are demonstrably of lower significance. The portion of the site behind both buildings adjoining Docks Lane was, until 2008, always built upon and occupied by the original rear ranges of Merchant Place. Those elevations which have been exposed by the demolition were clearly never meant to be fully exposed and are plain, utilitarian and unfenestrated. The most visually prominent of these – the upper C20 storeys of Cory's Building - is particularly underwhelming; being plain-rendered in grey cement. Over time and following the demolition of the buildings to the rear in 2008, the walls have been subjected to graffiti and the site piles of rubbish, building materials and fast colonising plants, giving the site a run-down and derelict appearance, and harming the existing setting of the listed buildings. Given this, it is considered that the new building and proposed landscaping would have some positive impact on the rear of Merchant Place and Cory's Building and settings of the listed buildings, including that of Custom House, adjacent.
- (ii) It is also important to note that that between 1880 and 2008 there had always been buildings on this part of the site and pretty much to the same extent that the proposals now occupy the site, such that it can be argued that the positioning of a new building in this location is consistent with the site history (considerations of scale aside). The part of the site proposed for the new building was never intended to form a 'gap' site. This is considered to reduce the significance of the impact of the new building in this location.
- (iii) Related to the above, the 'Mount Stuart Square Conservation Area Appraisal' document talks about the area being '*characterised by dense development with buildings forming a largely continuous frontage along the street, creating a strong feeling of enclosure. Plots are normally intensively developed with the converted houses and the purpose-built commercial buildings making full use of the available land*'. The proposals, in building once again on this plot and along the frontage, is

consistent with this characteristic of the Conservation Area. This is considered to reduce the significance of the impact of the new building in this location.

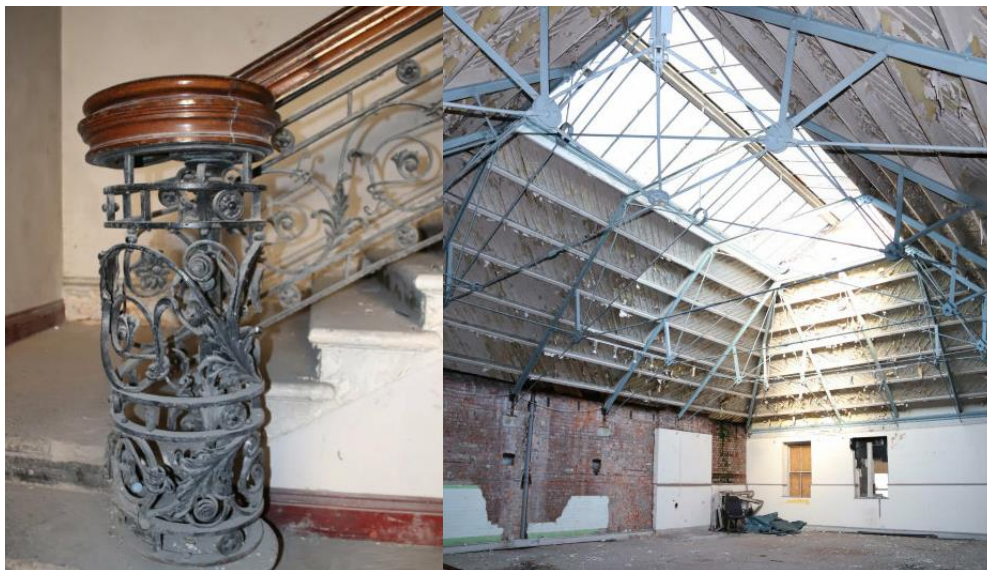
- (iv) It is also noted that the new building is set sufficiently within the site boundary, further helping to reduce its impact on the setting of adjacent listed buildings.
- (v) Consideration should also be given to the fact that the retained decorative 4m high brick wall on the eastern edge of the site will provide a physical (and visual) 'buffer' within the immediate context of Docks Lane. Moreover, the row of closely set mature trees on the other side of Docks Lane will act as something of a buffer between the site and the wider setting, albeit that this screening effect would be limited, particularly in winter and as one moves further away from the wall and trees towards Lloyd George Avenue and the Flourish.
- (vi) It is considered that a positive impact would also arise from the repair and restoration of the listed boundary wall that falls within the setting of the listed buildings, including Custom House, which is currently in a poor state and has been partially demolished and is considered to currently harm the existing setting of the adjacent listed buildings, including Custom House, and the listed railings adjoining Dock Lane.
- (vii) It is also considered that the setting of the listed buildings would be enhanced to some degree by the proposed public realm works, including: the enhancement of Docks Lane through the refurbishment and relaying of historic pennant pavements, the re-paving of Bute Place to match the existing materials along the site frontage and the provision of new natural stone paving along Bute Street.
- (viii) Whilst the new building is a tall building and significantly higher than the 3 storey Custom House adjacent, it has been noted in Section 2 that the wider area is characterised by a varied mix of building heights, ranging from 3 – 9 storeys. Moreover, a further 2 storeys was previously permitted on Cory's building under pp 06/02527/C , increasing its overall height to 24.35m and 7 storeys, and a yet taller 8 storey (30.8m high) building approved under 07/02353/C. The Mount Stuart Square Conservation Area Appraisal notes that the variation in scale between buildings is a 'distinctive feature of the Conservation Area, creating a varying roofline' (p.28). It is considered that this would serve to reduce the significance of the impact of the scale and massing of the new building on adjacent and nearby listed buildings.
- (ix) Moreover and as noted above, considerable care has been taken in the design of the new building, particularly with regards its form, detailing and materiality (as noted in Section 3), and this is considered to strongly mitigate against some of the more significant changes to viewpoints noted above. Immediately behind Merchant Place, the new circulation core element of the new building is designed to be recessive to visually separate the Merchant Place from the main part of the new building. This is done, in part, through its use of colour via the dark-grey brickwork, allowing the two adjacent red brick buildings to be more visually prominent. Additionally, the new circulation core is physically recessed, with the building line set back from the main façade. It is considered that this would combine to result in a reduced visual impact which would successfully separate new from old (appearing as a dark grey 'negative'

between the two 'positives') and helping the new building to read as a separate building, rather than an extension, further reducing its impact.

- (x) The detailed articulation of the facades within the principal eastern elevation of the new building is also considered to be positive, and to respond very well to the architectural detailing of Merchant House and Cory's Building (and the large commercial buildings of the wider conservation area), with its 'Giant Order' focus on first and second storeys being particularly successful. The use of two greys and three browns to the brickwork provides additional depth to the elevations, resulting in well-considered and well-layered elevations which are visually very interesting and also serve to break down the mass of the new structure - and therefore its visual impact. The curved form of the 'jewels' to the rooftop are set back from the brown brick frontages and, if sufficiently high-quality in execution and finish, will successfully top-out the new structure with a visual interest beyond that of a plain, flat-roof profile. In this regard, it is notable that the Mount Stuart Square Conservation Area appraisal notes that need for 'proposals for new development...to be considered as part of a wider ground to ensure that the proposal does not create an unvarying roofline'(p.28). It is considered that the new building, with its 'jewel' to the rooftop would provide a welcome addition to the historic environment and protect against an unvarying roofline, as required by the Appraisal document. Moreover, it is considered that the proposal would deliver an exceptional landmark building that would form another chapter in the evolution of these exceptional historic landmark buildings. The quality of the architectural detailing and materials will be key and conditions are recommended to ensure that a high-quality building is delivered.
- (xi) It is also important to consider proposed building against the previous planning history on the site and, in this respect, it is considered that the proposal is a great improvement on the design quality and sensitivity of the proposal consented in 2007 (07/02353/C), which included a taller 8 storey building above a decked car park (30.8m high).
- (xii) Substantial weight is also attached to the very significant benefits to the fabric of the listed buildings Merchant Place and Cory's Building, arising from the proposed restoration of the buildings dilapidated and partially-lost interiors, and the beneficial re-use of the buildings that have been vacant for over 20 years, helping to secure their survival in the interests of the buildings' long-term conservation and making a considerable contribution to the wider historic environment.
- (xiii) The proposals are particularly welcome for the way in which they retain almost all of the original, historic fabric which remains now, with very little of the existing fabric – and hence its evidential value – being lost as a result of the proposals. No loss of fabric is proposed to any of the highly significant front or side elevations, only from those to the rear. And of the few elements of the fabric proposed for removal, in all cases these are deemed by the Significance Plan in the Heritage Assessment to be of 'some significance' or 'no significance', but not 'considerable' nor 'highest significance'.
- (xiv) Furthermore, the particularly beneficial nature of the proposed educational use is also relevant and should be celebrated, for being – to some degree - communal and also more able to 'work with the building', allowing some of the most significant and beautiful room proportions and architectural

features to be respected, appreciated and enjoyed. This would not be possible without the introduction of the new building as proposed.

- (xv) The Council's Heritage Officer has raised no objection, subject to conditions.



- 9.27 Taking into consideration the above, the proposal is considered to be a clever, careful and sensitive proposal that protects the features of highest significance and preserves the listed buildings, and their significant architectural and historic interest. Whilst some harm to the setting of the listed buildings can be identified from some viewpoints, this is not considered to be substantial and would be far outweighed by the benefits arising to the setting from other viewpoints, the listed buildings themselves and their features of significant architectural and historic interest. In coming to this conclusion, it is considered that the LPA would have discharged its duties under Section 66(1) and that the scheme would also accord with national and local planning policies and guidance.

Impact on the Locally Listed Buildings

- 9.28 There would not be any harm to the locally listed buildings or their setting, conservation and continued use, taking into consideration their location, the separation distance involved and the intervening development.

Impact on the Conservation Areas

- 9.29 The viewpoint analysis and many of the material matters considered in the above analysis are also relevant to the consideration of the impact of the proposal on the character and appearance of the Mount Stuart Square and Pierhead Street Conservation Areas and are not repeated here. Notwithstanding the scale and massing of the proposed new building and its significant impact on some key views from within and into and affecting the setting of the Conservation Areas, the proposal is considered, overall, to preserve the character and appearance of the Conservation Areas and, beyond this, to also deliver some enhancements sufficient to meet the local planning authorities duty under section 72(1) and comply with the related requirements of policies KP17, EN9 and KP5 (i), taking into consideration:

- (i) The viewpoints and related impacts and considerations noted above
- (ii) the benefits arising from the repair and refurbishment and beneficial re-use of the long term vacant listed buildings which are prominent in the street scene and currently boarded up, harming the character of the area
- (iii) the proposed redevelopment of a derelict and overgrown and underused rear part of the site which currently has a negative impact on the Conservation Area to beneficial use
- (iv) the restoration and repair of the perimeter high brick wall to the east, which has been partly demolished and is in a poor state of repair, and currently has a negative impact on the Conservation Area
- (v) the proposed public realm enhancements to Bute Street, Bute Place and the Flourish
- (vi) the mitigation measures proposed through the careful and high quality design, detailing and materiality of the proposed new building, which is considered to combine to result in a landmark building of exceptional quality (subject to condition)
- (vii) It is also significant that the Mount Stuart Square Conservation Area appraisal notes that ‘the variation in scale between buildings is a distinctive feature of the Conservation Area, creating a varied roofline’. In this regard, it is considered that the proposal is successful in not creating an unvarying roofline, whilst also taking care - in its form, materiality and detailing - not to diminish or harm the significance of the taller historic buildings in the vicinity
- (viii) The ‘Appraisal’ also celebrates the fact that “1-3 Bute Place (Merchant Place) and Cory’s Buildings on the corner of Bute Street provide a strong frontage which helps to define the gateway into the southern end of the Conservation Area.” This would be unaffected by the proposals.
- (ix) The Mount Stuart Square Conservation Area Appraisal also identifies the development opportunity of ‘seek[ing] to enhance the connecting passageways’. The proposal would help deliver this through the re-paving of and introduction of lighting to Dock Lane, with the proposed new entrance and repair of the existing entrance serving to increase footfall along this underused route.

Consultee comments on LBC

- 9.30 The objection from the Victorian Society and letter of support from the Royal Commission on the Ancient and Historical Monuments of Wales, submitted in respect of the LBC are noted and have been considered in coming to the above conclusions. It is also noted that the trigger for consulting the Society on the LBC is the proposed demolition of the two storey annexe to the rear of Merchant Place and it is notable that the Victorian Society have not raised any objection to its demolition. The impact of the new building has been addressed in detail above and the scheme is considered to be acceptable and welcomed overall, and to make a considerable contribution to restoring the historic environment for the reasons noted above. Given this, it is not considered that such an objection could be sustained at appeal.

Impact on Scheduled Monuments

- 9.31 The proposal would not harm the scheduled monument Cardiff Castle and Roman Fort, taking into consideration the separation distances involved and intervening development. Cadw have confirmed they have no comments to make. (It should be noted that Cadw do not provide an assessment of the likely impact on listed buildings or conservation areas, which are matters for the Local Planning Authority.)

Impact on Archaeology

- 9.32 A desk based archaeological assessment has been submitted that concludes that there is potential for the development to encounter later post-Medieval/ Modern archaeological deposits, and for paleoenvironmental deposits to also be encountered. The report also concludes that the proposal would have an impact on the remains and significance of structures within the courtyard. GGAT raise no objection, confirming their agreement with the results and that the impact can be mitigated by 2 conditions; one to mitigate the impact on any buried archaeological resource (duly attached) and another to record the changes to the listed buildings (attached to the LBC, as requested by the Council's Heritage Officer).

Wider design matters

- 9.33 Many of the material matters considered above are also relevant to the consideration of wider design matters that fall to be assessed. Overall, it is considered that the scheme would satisfy LDP policy KP5, the Tall Buildings and Infill Sites SPG and is acceptable in wider design terms. Importantly, the proposal would bring a vacant and underused portion of the site back into beneficial use, would promote high density development and the efficient use of land as a scarce resource, would add vibrancy throughout the day and evening through the occupation of the long-term vacant buildings, would be sustainably located, and would provide a climate responsive design (see further details below).
- 9.34 The application also requires assessment against the Tall Buildings SPG, particularly given that the proposal is located within the SPG's 'area of very high sensitivity'. Section 6 of the SPG provides a framework of 'five major issues' for considering placemaking and design matters, against which the following assessment is offered:
- *A mix of land uses* – whilst the proposal is not a mixed-use development, this is considered appropriate in this instance, given the listed building designations and a concern that the subdivision of the ground floor to create a separate retail or other unit could result in visual or physical impacts that would harm the listed buildings, and would in any even offer little benefit, given the number of mixed uses in the immediate vicinity. Moreover, the college has a long day and would operate beyond normal shopping hours into the evening (normally from 7am breakfast to 19:00), potentially resulting in a more active use and frontage than some retail and other active uses might deliver.

- Form and silhouette of the building* - Taking into consideration the height of other buildings in the vicinity, as noted in section 2, and the design considerations noted above, it is considered that the scale, massing, form and silhouette of the proposal is appropriate and well considered. It is important to note that the building will not be read in isolation, but rather as part of a variety of building heights, which is noted above is a characteristic of the Conservation Area. The DAS notes that the existing prevailing max building height is c.25m (the buildings south of Bute Place), with the new building proposed at 29.5m, which is marginally lower than the previously consented 8 storey scheme (30.8m high). It is also notable that the massing of the building also aligns with the previously consented 8 storey scheme. It is also considered that the building meets the test of being of outstanding quality in architectural form and detailing (subject to conditions), developed from a strong understanding of the site context, as demonstrated in the Heritage Assessment and Heritage Impact Assessment. It is also considered that the building would have a positive effect on the skyline and will aid legibility of the townscape through the provision of the 'jewels' to the rooftop (with the quality of execution and finish and detailing to be controlled by condition). With regards adaptability, the high floor to ceiling heights and layout of the new building would lend it to subdivision, which is welcomed.
- Quality and appearance* – the proposed materials are considered to be acceptable and the proposed architectural detailing impressive and welcomed (subject to conditions). Both have been carefully chosen to complement and reflect the existing buildings in a sensitive way and to minimise the impact of the scale and massing of the new building.
- Impact and interface at street level* – the building would contribute positively to a high quality, safe, secure and legible public realm and urban design through the proposed public realm improvements to Bute St/Bute Place and Dock Lane, the provision of a ramp to Merchant Place (to be secured by condition), the proposal for lighting to Dock Lane (where there is currently none), the addition of a landmark feature/building to aid orientation and would generate additional footfall in the area and particularly along Dock Lane, and would help minimise crime and disorder, taking into consideration the proposed safeguarding and security measures for the college use.
- Sustainable building design* – The proposed re-use of historic buildings is a welcome sustainability benefit in its own right. Additionally, the building has been designed specifically to reduce the need for artificial lighting by bringing in natural light deep into the building plan through the proposed glazed distribution block, and the use of 'cutaway floors' and large sky lights on the roof, as described in Section 3. A number of additional sustainability measures are proposed as noted in the Green Infrastructure Statement, including a SuDS strategy including a 'blue roof', an area of permeable paving and biodiversity enhancements (in the form bat and bird boxes and through planting/soft landscaping with native and pollinating species). Low carbon design measures are proposed in the Energy Strategy Review report, including a fabric first approach, a super insulated building fabric, roof PVs and the provision of cycle parking to promote cycling. The building has also been designed

to connect to the District Heat Network and positive discussions have been held with Cardiff District Heat Network Ltd about a future connection to the Cardiff District Heat Network. These comments are not reported, being of a commercial nature, but a condition is recommended to control such a connection, where this is demonstrated to be feasible and viable. This is welcomed and is considered sufficient to demonstrate compliance with Future Wales policy 16 (Heat Networks). Additionally, the building has also demonstrated an acceptable level of impact in terms of microclimatic effects including wind tunnel effect, sunlight and day light in the submitted Daylight, Sunlight and Overshadowing Assessment and Wind Microclimate Assessment.

- 9.35 In order to satisfy Future Wales Policy 13 requirement of providing Gigabit capable broadband infrastructure from the outset, the Applicant has provided a Broadband Infrastructure Statement that confirms that Openreach are able to provide Gigabit capacity to both sites and that it is their intention to apply for Ethernet Access Direct (EAD) connection to ensure the fastest broadband speeds are available. (To control its delivery, details are required to be submitted as part of the landscaping details.)
- 9.36 The effect on the amenity of future and neighbouring occupiers is considered further below.

Impact on the amenity of neighbouring and future occupiers

- 9.37 Policy KP5 (Good Quality and Sustainable Design) seeks to ensure that '*no undue effect on the amenity of neighbouring occupiers*' results from development. LDP Policy EN13 'Air, Noise, Light Pollution and Land Contamination' states that development will not be permitted where it would cause or result in unacceptable harm to health, local amenity, the character and quality of the countryside, or interests of nature conservation, landscape or built heritage importance because of air, noise, light pollution or the presence of unacceptable levels of land contamination.
- 9.38 As noted above, the proposed development has also demonstrated an acceptable level of impact in terms of microclimatic effects including wind tunnel effect, sunlight and day light in the submitted Daylight, Sunlight and Overshadowing Assessment and Wind Microclimate Assessment. It is also considered that there would be no harm arising to the outlook of neighbouring occupiers, given the separation distances involved. It should be noted that there are 2 windows in the south elevation of Custom House that would face the new build element of the development from close proximity (albeit that the property was last used as offices, is currently vacant and the windows boarded up) and which are not assessed in the above studies. However, the potential impact on any future residential amenity as a result of overbearing impact, or loss of daylight or sunlight is not considered to be so unacceptable as to prejudice any future change of use or warrant refusal of the application, noting that the 'courtyard area' was never intended as a gap site and has always been built on prior to the demolition of the buildings in 2008, and given the massing similarities between the previously consented development at the site. Any harm to amenity from a loss of privacy to any future residential occupiers of

Custom House (as proposed under 22/01162/MNR) would be avoided by a recommended condition that requires obscure glazing to specified windows to prevent in looking from the proposed development and new use.

- 9.39 A noise impact assessment has been submitted with the application which assesses the existing noise levels in the surrounding area and predicts the noise levels on the proposed facades of the proposed development. Shared Regulatory Services have considered this and the existing and proposed residential uses in the vicinity (including the current application for residential use at Custom House – 22/01162/MNR) and have raised no objection, including to the potential noise impact on future or adjoining occupiers, subject to conditions. SRS Contaminated Land have considered the submitted site investigation report, including ground gas assessment and contamination assessment, and have raised no objection, subject to conditions. Conditions are recommended to require a Construction Environmental Management Plan to control construction noise, dust, dirt and pollution; to control land contamination, imported soil and aggregates, noise from fixed plant, internal noise standards, sound mitigation and to control hours of deliveries (to between 07:00 – 20:00).

Transportation / Highway Impacts, including refuse and servicing

- 9.40 Policy KP5 (Good Quality and Sustainable Design) seeks to achieve a 50:50 modal split between journeys by car and other more sustainable means, to reduce reliance on the private car as a means of transport in favour of more sustainable methods. Policy KP6 (New Infrastructure) states that '*development will not be permitted which could cause unacceptable harm to the safe and efficient operation of the highway, public transport and other movement networks*'. Policy T5 (Managing Transport Impacts) supports this key policy by seeking to ensure '*that all new developments properly address the demand for travel and its impacts, contributes to reducing reliance on the private car and avoids unacceptable harm to safe and efficient operation of the road, public transport and other movement networks and routes*'. Policy T1 (Walking and Cycling) supports development which creates walking and cycling connections to existing developments and the creation of Car-Free Zones. Policy W2 (Provision of Waste Management Facilities in Development) aims to ensure adequate provision is made for waste management facilities within new developments.
- 9.41 The site is located within a highly sustainable location, within the Cardiff Bay area, approx. 1.5m south of the City Centre, approx. 1.4km from Cardiff Central rail station and approx. 250m Cardiff Bay rail station, and within walking distance of bus stops and local facilities. The Bute St/ James Street District Centre, defined on the Local Development Plan Proposals Map, lies immediately to the west and south of the application site.
- 9.42 No car parking is proposed at the MPCB site, with 20 car parking spaces proposed at the boarding accommodation site at Pierhead Street and with staff expected to walk between the two sites, given the short distances involved. Students are also expected to walk to the site from the proposed boarding accommodation at Pierhead St. Thirty cycle parking spaces are proposed, with

the expectation that only non-boarding pupils would cycle to the site. (Final details are to be controlled by condition.) A ramp to the main entrance to Merchants Place will be secured as part of the public realm enhancements, with details to be agreed by condition.

- 9.43 Refuse storage is proposed to be located within the service core of the proposed new building to the rear of Merchants Place, with waste stored in the bin store awaiting collection by private contractors. Whilst a refuse vehicle waiting area was initially identified on Bute St, Transportation suggested a potential alternative location on Bute Place which was duly proposed in amended plans, supported by tracking drawings to demonstrate that there is sufficient space for vehicles to pass.
- 9.44 The OM Transportation has considered the Transport Statement, Transport Note and other details submitted and has raised no objection on any grounds, including the traffic impact and parking concerns raised by a local resident, subject to conditions to control the final number and quality of cycle parking, to require a Travel Plan, to require Highway / pedestrian and public realm works on Bute Street, Bute Place, Docks Lane and the Flourish (which are to be delivered under the Section 278 agreement process) and to control the detail of delivery/servicing/refuse collection. With regards the question as to whether refuse should be collected from Bute Place or Bute St, Transportation have now advised that collection should be taken from Bute St, with details to be determined by condition. A condition is also recommended to ensure that the area for the storage of waste and recycling is retained. A s106 contribution of £10,000 is requested for an amended Traffic Regulation Order for additional parking restrictions at Bute Street/Bute Place, which the Applicant has agreed to.
- 9.45 Given the above, it is considered that the proposal would have no adverse transport impact and would accord with national and local transport policy.

Impact on Green Infrastructure, Climate Change, Trees / Landscaping and Ecology

- 9.46 Future Wales Policy 9 Resilient Ecological Networks and Green Infrastructure requires developers to ensure the enhancement of biodiversity, the resilience of ecosystems and provision of green infrastructure. In all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net-benefit), the resilience of ecosystems and green infrastructure should be demonstrated as part of development proposals.
- 9.47 Policies KP15 (Climate Change), KP16 (Green Infrastructure), EN3 (Landscape Protection), EN6 (Ecological Networks and Features of Importance for Biodiversity), EN7 (Priority Species and Habitats) and EN8 (Trees Woodlands and Hedgerows) seek to ensure that green infrastructure is protected and that the effects of climate change associated with such loss are mitigated. (The benefits to climate change from sustainable building design have been considered in the design section above).

- 9.48 The application is supported by an Arboricultural Report, Ecological Survey Report and Green Infrastructure Statement, in addition to hard and soft landscaping proposals.
- 9.49 Whilst most of the site is proposed to be developed, hard and soft landscaping is proposed within the small internal courtyard and along the eastern edge of the site within the site boundary, providing ecology enhancements through the species and planting chosen. The submitted arboricultural report identifies that there are 7 no Category A lime trees located on the grassed area outside the site to the east adjacent to Dock Lane, which are all proposed for retention and tree protection measures. It is noted that the Council's Tree officer has no objection to the landscaping proposals, subject to a condition to control final details. They have raised some concern about the potential for harm to the lime trees from any service installation that may run close to root protection areas, such that a condition is recommend to ensure appropriate protection. Concerns are also raised about the potential harm to the trees from construction access, notwithstanding that a construction access point in this location has been previously used, and a condition is also recommended to ensure that appropriate mitigation is in place.
- 9.50 In terms of ecology, ecological surveys were conducted in spring/summer 2022 to consider the presence of protected species and the potential for impacts on legal protected species. Evidence for the presence of common pipistrelle bats was identified using the first floor windows of the NW corner of Merchants Place and it is concluded that it is used for summer day roosting and occasional night roosting given the low numbers detected, with no maternity colony being present. The surveys identified a high level of bat foraging activity over the courtyard area and rear elevations of the two buildings, and which arrive at the site via the line of tees to the east of the site. Only one other species of bat was noted during the survey, namely, a soprano pipistrelle, found foraging in the courtyard. Nesting herring gulls found on the roof of Cory's Building, and further potential nesting opportunities on the roof were identified. Overall the site was assessed as being a medium level of ecological value and recommendations are made to in the report to mitigate the ecological impact (including bat boxes on both buildings and the need for a sensitive lighting scheme) and to secure biodiversity benefits (through recommended native tree and shrub species, and flowering plants). The report acknowledges that an EPS license is required given the impacts on bats and that no work which has the potential to affect bat roost locations can commence until such time as a license has been secured.
- 9.51 Notwithstanding the presence of European Protected Species, NRW confirm they are satisfied that concerns can be overcome by a condition requiring full details of a lighting plan and an informative reminding the Applicant of the need for an EPS license. Wardell Armstrong, as ecological advisors to the Council, also confirm they have no objection, subject to conditions to require survey updates if the development doesn't commence within 2 years of the survey, to require a lighting plan (for the construction and operation phases), to protect nesting birds, to secure ecological/biodiversity enhancements and require a CEMP. It is noted that the recommended ecological enhancements – min 5 no nesting trays to be used by gull, 4 no swift boxes, 2 no starling boxes, a further 2 no bat boxes– are proposed to be additional to the mitigation measures set

out in the submitted ecology report in order to ensure a net biodiversity benefit is achieved, in line with Future Wales policy 9 and also to reflect the statutory duty imposed by the Environment (Wales) act 2016 for public bodies to both maintain and enhance biodiversity, and so further promote the resilience of ecosystems.

Drainage and Flooding

- 9.52 PPW states that the provision of SuDS must be considered as an integral part of the design of new development and considered at the earliest possible stage when formulating proposals for new development. Development should reduce, and must not increase, flood risk arising from river and/or coastal flooding on and off the development site itself. In addition, development should not cause additional run-off, which can be achieved by controlling surface water as near to the source as possible by the use of SuDS. Developers should also have regard to Technical Advice Note 15 which sets out technical guidance which supplements the policy set out in Planning Policy Wales in relation to development and flooding. It advises on development and flood risk as this relates to sustainability principles, and provides a framework within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.
- 9.53 Policies EN10 (Water Sensitive Design) and EN14 (Flood Risk) seek to ensure development would not increase the risk of flooding or additional run off through the use of water sensitive design and Sustainable Urban Drainage Systems (SuDS).

Flood Risk

- 9.54 As noted in Section 2, the site falls within flood zone C1 (areas of floodplain served by significant infrastructure, including flood defences) as defined on the current TAN 15 (2004) Development Advice Map. The proposal is for an educational facility which is classified as a highly vulnerable development in TAN 15 and, as such, the LPA is required to determine whether the development in this Zone C1 location is justified under Section 6 (para 6.2, TAN 15). The scheme is considered to satisfy the justification test for development in this location for the following reasons:
- (i) Its location in zone C is necessary to assist a local authority strategy required to sustain an existing settlement; the proposal would help deliver the Local Development Plan 2006 – 2026 strategy, with particular reference to policy KP10 (Central and Bay Business Areas) and the need to encourage a mix of complementary uses to maintain and enhance the vitality, attractiveness and viability of the Bay Area, as well as the need, under KP17 (Built Heritage) to protect a distinctive heritage asset that has been vacant for over 20 years.
 - (ii) It concurs with the aims of PPW and meets the definition of previously developed land
 - (iii) The potential consequences of a flooding event have been considered and found to be acceptable.

9.55 With regards (iii) above, NRW have reviewed the submitted FCA and confirm they have no adverse comment on the application as submitted, noting that the FCA shows:

- *The proposed development is not located within the 1% (1 in 100 year) plus climate change or the 0.1% (1 in 1000 year) annual probability fluvial flood outlines, including the scenario where the bay is tide locked and there is a 1% (1 in 100 year) plus climate change event on the River Taff. This is compliant with A1.14 and A1.15 of TAN15;*
- *The site could be at risk from tidal flooding, however the site is afforded protection by Cardiff Bay Barrage. Cardiff Bay Barrage is a flood defence structure that provides protection to Cardiff from tidal flood risk. In consideration of the above, we have no adverse comments to make from a flood risk perspective.*

Surface Water Management

9.56 With regards surface water management, the proposal is to discharge surface water to an existing surface water drain and it is noted that neither DCWW nor NRW have raised any objection. On the basis that the proposed development has an agreed outlet, Drainage Services as Lead Local Flood Authority have raised no objection at this planning stage. A condition is recommended to control construction drainage and to require that no surface water drainage shall be allowed to connect with the public sewerage network unless a connection has been approved by the Council acting as a SuDS approval body (SAB).

Foul Drainage

9.57 A condition is recommended to control foul drainage, as agreed by DCWW.

Section 106 Matters

9.58 Policy KP7 (Planning Obligations) states that “planning obligations will be sought to mitigate any impacts directly related to the development and will be assessed on a case by case basis in line with Planning Policy Guidance”.

9.59 The supporting text emphasises that new development often generates additional demands upon existing services, facilities, infrastructure and the environment, with planning obligations being a means of seeking contributions from developers towards these demands, as well as negotiating benefits that improve the standard of development proposals by providing necessary infrastructure and community benefits.

9.60 The Planning Obligations SPG sets out the Council’s approach to planning obligations when considering applications for development in Cardiff, providing further guidance on how the policies set out in the LDP are to be implemented.

9.61 The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers), and state that a planning obligation may

only legally constitute a reason for granting planning permission if it is: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

- 9.62 In view of the type and form of development proposed, having regard to local circumstances and needs arising from the development, the need for planning obligations which are considered necessary to make the development acceptable in planning terms and to meet the policy and legislative tests for planning obligations
- 9.63 The proposed broad Heads of Terms for the required section 106 agreement is as follows (in line with the Planning obligations SPG):
- A financial contribution of £10,000 is requested for an amended Traffic Regulation Order for additional parking restrictions at Bute Street/Bute Place.
- 9.64 Having regard to the legal and policy test outlined above, it is clear that the requested monies are necessary and reasonable to mitigate the impacts of the proposed development and, thus, ensure that the proposal accords with planning policy.

Representations received

- 9.65 As identified in section 8, 2 no objections were received from the same local resident in response to the publicity exercise and an objection was also received from the Victorian Society in respect of the associated LBC. The issues raised have been addressed within the above analysis.

10 CONCLUSION

- 10.1 The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Cardiff Local Development Plan (2011–2026) adopted January 2016.
- 10.2 It is considered that the proposed development would make a considerable contribution towards restoring the historic environment and the redevelopment of under used sites. The development is considered to accord with national and local planning policies and it is therefore recommended that, subject to the relevant parties entering into a section 106 agreement and subject to conditions, planning permission be granted for the proposed development.

11 OTHER MATTERS RELEVANT TO THE CONSIDERATION OF THIS APPLICATION

- 11.1 Environmental Impact Assessment – The works proposed on this site are not considered to be a Schedule 2 development for the purposes of assessment under the EIA Regulations 2017 (as amended) and are not considered to have any significant environmental effects warranting the submission of an Environmental Statement, noting that the site does not fall within a ‘sensitive area’ (as defined in Regulation 2(1)) and taking into consideration the criteria in Schedule 3 of the Regulations. The site is 0.2ha falls well below the applicable 1ha threshold for ‘urban development projects’, even when assessed in cumulation with the proposed development on Plot 5 (0.395ha).
- 11.2 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, with various measures proposed that would help reduce the potential for crime and disorder (as noted in the main body of this report). It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision and it is noted that SWP have raised no objection.
- 11.3 Equality Act 2010. The Act 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. The proposal to introduce accessible lifts into the buildings and to secure a ramped access is welcomed.
- 11.4 Well-Being of Future Generations Act 2015. Section 3 of this Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision. It is also noted that section 2(5) of the Planning (Wales) Act 2015 affords protection to decisions taken under Part 3 of the 1990 Act, in that the Well-being of Future Generations (Wales) Act 2015 does not alter whether regard is to be had to any particular consideration under section 70(2) of the 1990 Act or the weight to be given to any consideration to which regard is had under that subsection. This means the provisions of the development plan, so far as material to the application, and any other relevant other material considerations remain the primary considerations when determining planning applications.

11.5 Section 6 of Environment (Wales) Act 2016 subsection (1) imposes a duty that a public authority 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 subsection (1), a public authority must take account of the resilience of ecosystems, in particular the following aspects:

- (a) Diversity between and within ecosystems;
- (b) The connections between and within ecosystems;
- (c) The scale of ecosystems;
- (d) The condition of ecosystems (including their structure and functioning);
- (e) The adaptability of ecosystems.

It is considered that the LPA has considered its duty under this Act and has met its objectives for the reasons outlined above.

12 RECOMMENDATION

12.1 RECOMMENDATION 1:

That planning permission be **GRANTED** subject to the relevant parties entering into a binding legal agreement under the provisions of **SECTION 106** of the Town and Country Planning Act 1990 within 6 months of the date of this Resolution, unless otherwise agreed by the Council in writing, in respect of matters detailed in section 9 (para 9.63) of this report, and the conditions listed below.

12.2 RECOMMENDATION 2:

That delegated authority is given to the Head of Planning &/Or Operational Manager: Strategic Development & Placemaking, to make changes to the conditions and/or Heads of Terms of the required legal agreement, subject to consultation with the Chair of Planning, up to the point where the legal agreement is signed and planning permission issued.

CONDITIONS

TIME LIMIT FULL

1. The development permitted shall be begun before the expiration of five years from the date of this planning permission.

Reason: In accordance with the provisions of Section 91 the 1990 Town and Country Planning Act 1990.

APPROVED PLANS

2. The development, unless otherwise required by the ensuing conditions, shall be carried out in accordance with the following approved plans and details:
 - Location Plan (21.22-EDS-XX-ZZ-DR-A-(00)000-Rev 03)
 - Existing Site Plan (21.22-EDS-XX-ZZ-DR-A-(00)100-Rev 03)
 - Proposed Site Plan (21.22-EDS-XX-ZZ-DR-A-(00)201-Rev 03)
 - Proposed Servicing Strategy (21.22-EDS-XX-00-DR-A-(00)301-Rev 03)

- Existing Ground Floor Plan (21.22-EDS-XX-00-DR-A-(01)000-Rev 03)
- Existing First Floor Plan (21.22-EDS-XX-01-DR-A-(01)001-Rev 03)
- Existing Second Floor Plan (21.22-EDS-XX-02-DR-A-(01)002-Rev 03)
- Existing Third Floor Plan (21.22-EDS-XX-03-DR-A-(01)003-Rev 03)
- Existing Fourth Floor Plan (21.22-EDS-XX-04-DR-A-(01)004-Rev 03)
- Existing Fifth Floor Plan (21.22-EDS-XX-05-DR-A-(01)005-Rev 03)
- Existing Basement Floor Plan (21.22-EDS-XX-00-DR-A-(01)010-Rev 03)
- Demolition Ground Floor Plan (21.22-EDS-XX-00-DR-A-(01)100-Rev 03)
- Demolition First Floor Plan (21.22-EDS-XX-01-DR-A-(01)101-Rev 03)
- Demolition Second Floor Plan (21.22-EDS-XX-02-DR-A-(01)102-Rev 03)
- Demolition Third Floor Plan (21.22-EDS-XX-03-DR-A-(01)103-Rev 03)
- Demolition Fourth Floor Plan (21.22-EDS-XX-04-DR-A-(01)104-Rev 03)
- Demolition Fifth Floor Plan (21.22-EDS-XX-05-DR-A-(01)105-Rev 03)
- Demolition Basement Floor Plan (21.22-EDS-XX-00-DR-A-(01)110-Rev 03)
- Proposed Ground Floor Plan (21.22-EDS-XX-00-DR-A-(01)200-Rev 06)
- Proposed First Floor Plan (21.22-EDS-XX-01-DR-A-(01)201-Rev 05)
- Proposed Second Floor Plan (21.22-EDS-XX-02-DR-A-(01)202-Rev 05)
- Proposed Third Floor Plan (21.22-EDS-XX-03-DR-A-(01)203-Rev 05)
- Proposed Fourth Floor Plan (21.22-EDS-XX-04-DR-A-(01)204-Rev 05)
- Proposed Fifth Floor Plan (21.22-EDS-XX-05-DR-A-(01)205-Rev 05)
- Proposed Sixth Floor Plan (21.22-EDS-XX-06-DR-A-(01)206-Rev 05)
- Proposed Seventh Floor Plan (21.22-EDS-XX-07-DR-A-(01)207-Rev 05)
- Proposed Roof Plan (21.22-EDS-XX-08-DR-A-(01)208-Rev 03)
- Proposed Basement Floor Plan (21.22-EDS-XX-00-DR-A-(01)210-Rev 03)
- Existing North Elevation (21.22-EDS-XX-ZZ-DR-A-(02)001-Rev 03)
- Existing East Elevation (21.22-EDS-XX-ZZ-DR-A-(02)002-Rev 03)
- Existing South Elevation (21.22-EDS-XX-ZZ-DR-A-(02)003-Rev 03)
- Existing West Elevation (21.22-EDS-XX-ZZ-DR-A-(02)004-Rev 03)
- Demolition North Elevation (21.22-EDS-XX-ZZ-DR-A-(02)101-Rev 03)
- Demolition East Elevation (21.22-EDS-XX-ZZ-DR-A-(02)102-Rev 03)
- Demolition South Elevation (21.22-EDS-XX-ZZ-DR-A-(02)103-Rev 03)
- Demolition West Elevation (21.22-EDS-XX-ZZ-DR-A-(02)104-Rev 03)
- Proposed North Elevation (21.22-EDS-XX-ZZ-DR-A-(02)201-Rev 03)
- Proposed East Elevation (21.22-EDS-XX-ZZ-DR-A-(02)202-Rev 03)
- Proposed South Elevation (21.22-EDS-XX-ZZ-DR-A-(02)203-Rev 03)
- Proposed West Elevation (21.22-EDS-XX-ZZ-DR-A-(02)204-Rev 03)
- East Context Elevation (21.22-EDS-XX-ZZ-DR-A-(02)301-Rev 03)
- East Detail Elevation Lower (21.22-EDS-XX-ZZ-DR-A-(02)302-Rev 03)
- East Detail Elevation Upper (21.22-EDS-XX-ZZ-DR-A-(02)303-Rev 02)
- Existing NS Section 01 (21.22-EDS-XX-ZZ-DR-A-(03)000-Rev 03)
- Existing EW Section 01 (21.22-EDS-XX-ZZ-DR-A-(03)006-Rev 03)
- Proposed NS Section 01 (21.22-EDS-XX-ZZ-DR-A-(03)020-Rev 03)
- Proposed EW Section 01 (21.22-EDS-XX-ZZ-DR-A-(03)026-Rev 03)
- Proposed Ground Floor RCP (21.22-EDS-XX-00-DR-A-(35)200-Rev 03)
- Proposed First Floor RCP (21.22-EDS-XX-01-DR-A-(35)201-Rev 03)
- Proposed Second Floor RCP (21.22-EDS-XX-02-DR-A-(35)202-Rev 03)
- Proposed Third Floor RCP (21.22-EDS-XX-03-DR-A-(35)203-Rev 03)
- Proposed Fourth Floor RCP (21.22-EDS-XX-04-DR-A-(35)204-Rev 03)
- Proposed Fifth Floor RCP (21.22-EDS-XX-05-DR-A-(35)205-Rev 03)
- Proposed Sixth Floor RCP (21.22-EDS-XX-06-DR-A-(35)206-Rev 03)

- Proposed Ground Floor 3D Overview (21.22-EDS-XX-00-VS-A-(04)200-Rev 03)
- Proposed First Floor 3D Overview (21.22-EDS-XX-01-VS-A-(04)201-Rev 03)
- Proposed Second Floor 3D Overview (21.22-EDS-XX-02-VS-A-(04)202-Rev 03)
- Proposed Third Floor 3D Overview (21.22-EDS-XX-03-VS-A-(04)203-Rev 03)
- Proposed Fourth Floor 3D Overview (21.22-EDS-XX-04-VS-A-(04)204-Rev 03)
- Proposed Fifth Floor 3D Overview (21.22-EDS-XX-05-VS-A-(04)205-Rev 03)
- Proposed Sixth Floor 3D Overview (21.22-EDS-XX-06-VS-A-(04)206-Rev 03)
- Proposed Seventh Floor 3D Overview (21.22-EDS-XX-07-VS-A-(04)207-Rev 03)
- Proposed Roof Level 3D Overview (21.22-EDS-XX-08-VS-A-(04)208-Rev 03)
- Proposed Hardworks Plan (21.22-EDS-XX-00-DR-LA-(02) Rev 00)
- Proposed Softworks Plan (21.22-EDS-XX-00-DR-LA-(01) Rev 00)
- Drainage Plan (ES21.22-10.02-Rev P3)
- Condition 25 (Highways and Public Realm Works (21.22-EDS-XX-ZZ-DR-A-(00)202 Rev 1)
- Condition 32 (Obscure Glazing)' (21.22-EDS-XX-ZZ-DR-A(02)205) Rev 01),
- 'An Ecological Survey Report by Just Mammals Limited', September 2022 (Revision 1)
- Arboricultural Report prepared by ArbTS dated 23rd August 2022

Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.

PRE-COMMENCEMENT CONDITIONS

CEMP

3. No development (including demolition, ground works, site or vegetation clearance) shall take place until such time as a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include as a minimum the following details:
 - General Site Management: hours of work on site; hours for deliveries, loading and unloading; construction compounds, temporary facilities for construction / sales staff; site hoardings and means of enclosure to prevent unauthorised access
 - Access and Traffic Management: site access and manoeuvring; vehicle and cycle parking for site operatives and visitors, site deliveries, loading and unloading of plant and materials, wheel wash facilities, measures to ensure that pedestrian access past the site on public footpaths is safe and not obstructed during construction works or details of any safe temporary pedestrian routes; advisory access routes to the Site

- A construction Site Management and Access plan detailing construction compounds and storage, site hoardings and means of enclosure, site access, parking and materials storage.
- Tree Protection: an Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan in general accordance with the Arboricultural Report prepared by ArbTS dated 23rd August 2022 to control the impact of demolition and construction (including associated access, parking and storage) to retained trees (including in terms of root loss, root damage, root crushing and asphyxiation, soil compaction and soil contamination), tracking plans of the largest demolition and construction vehicles to show the impact on trees and RPAs. The details shall extend to any areas used outside the application site for construction access and storage.
- Service installation – the AMS and TPP (above) shall also incorporate site specific precautionary measures for service installation based on the finalised utility design (simply referencing NJUG guidelines on utility installation would not be sufficient)
- Biodiversity Management: risk assessment of potentially damaging construction/demolition activities; invasive species management; species and habitats protection, avoidance and mitigation measures; identification of 'biodiversity protection zones' (eg in respect of the bat roosts identified and breeding birds) and the use of protective fences, exclusion barriers and warning signs; details of the role and responsibilities and lines of communication of an on-site Ecological Clerk of Works or similarly competent person who should log their actions and provide this to the Council following completion of their involvement; responsible persons and lines of communication; the times when ecologists need to be on site to oversee works.
- A Construction Lighting Scheme showing areas /features on and adjacent to the site that are particularly sensitive for bats; details of the siting and type of external lighting (including task and security lighting) to be used considering bats, in accordance with the Institute of Lighting Professional Guidance Note 08/18 (or as amended); lighting contour plans setting out light spillage in key sensitive areas in particular bat access points and flightlines to and from roost locations; an assessment to demonstrate that light spill is unlikely to disturb or prevent bats using their territory or access to their breeding sites and resting places (and details of subsequent mitigation). Lighting details should consider lighting direction, hooding, using minimum height and passive infrared on timers. Where possible, all lighting should be below 2700K and therefore a wavelength above 550nm.
- Control of Nuisances: identification of construction and demolition noise and vibration sources; details of restrictions to be applied during construction and demolition to minimise noise and vibration emissions, for example timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust, dirt and air quality management measures (including dust suppression measures and methods to monitor emissions of dust)
- Resource Management: details of materials (including oil, fuel, cementitious materials and chemicals) storage, containment, bunding

- and/or appropriate buffer zones; details of waste generation and its management/recycling/disposal
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan
- Construction Drainage Scheme, indicating how surface water and land drainage flows will be controlled to prevent contamination reaching Cardiff Bay, during the construction period, this will include preventing surface water/contamination entering drains, any filtering/trapping and de-watering devices
- Methods of dealing with complaints
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- The location of a large notice board on the site that clearly identifies the name and contact details of the site manager
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation, demolition and construction phases of the development.

Reason: To ensure necessary management measures are agreed prior to commencement of the development and implemented for the protection of the environment and amenity of the area and adjoining neighbours during construction, in accordance with Policies T1, T5, EN6, EN7 & EN13 of the adopted Cardiff Local Development Plan (2006-2026).

BIODIVERSITY MITIGATION AND ENHANCEMENT (UNIQUE CONDITION)

4. Notwithstanding the provisions of condition 2, no development shall commence (except for demolition) until a Scheme of Biodiversity Enhancement Measures (comprising design specifications, location and maintenance proposals) and an implementation timetable has been submitted to and approved in writing by the Local Planning Authority, which shall include the recommendations within Section 10 of the Ecological Survey Report, September 2022, and as a minimum the following additional features:

- A minimum of five, 1m² shallow trays of sand/gravel for use by gulls, installed on the roof of the Cory's Building and other appropriate flat roof sections at the development. These shall be in sheltered positions such as those noted during the "Ecological Survey". This is to maintain the sites suitability for nesting gulls (any species)
- Four swift boxes in a conglomeration
- Two starling boxes
- A further two bat boxes (in addition to those boxes required as mitigation in Section 10 of the Ecological Survey Report, September 2022)

The scheme shall be implemented in accordance with the approved details and implementation timetable and shall be retained thereafter for the lifetime of the development.

Reason: To provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and Policy KP16 and EN6 of the adopted Cardiff Local Development Plan 2006-2026.

LANDSCAPING

5. Notwithstanding the provisions of condition 2, no development shall commence (except for demolition) until full details of hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority in partial discharge of this condition. These details shall include:
- Hard surfacing materials and specification
 - A soft landscaping implementation programme.
 - Scaled planting plans prepared by a qualified landscape architect.
 - Evidence to demonstrate that existing and proposed services, lighting, CCTV, drainage and visibility splays will not conflict with proposed planting.
 - Schedules of plant species, sizes, numbers and densities prepared by a qualified landscape architect.
 - Scaled tree pit sectional and plan drawings prepared by a qualified landscape architect that show the Root Available Soil Volume (RASV) for each tree (as appropriate).
 - evidence to demonstrate that existing and proposed services/ducting and any respective easements, lighting, CCTV, drainage and visibility splays will not conflict with proposed hard and soft landscaping
 - ducting for gigabit capable broadband infrastructure

Thereafter, the following details shall be submitted to and approved in writing by the Local Planning Authority in full discharge of the condition and prior to implementation of the landscaping:

- Topsoil and subsoil specification for all planting types, including full details of soil assessment (Soil Resource Survey and Soil Resource Plan) in accordance with the Cardiff Council Soils and Development Technical Guidance Note, soil protection, soil stripping, soil storage, soil handling, soil amelioration, soil remediation and soil placement to ensure it is fit for purpose. Where imported planting soils are proposed, full specification details shall be provided by a soil scientist, including the parameters for all imported planting soils demonstrating that the planting soil will be suitable for the specific landscape type(s) proposed as referenced from the landscape plans. The specification shall be supported by a methodology for storage, handling, amelioration and placement.
- any amendments to the details approved in partial discharge of this condition as a consequence of the soil specification
- Planting methodology and post-planting aftercare methodology prepared by a qualified landscape architect, including full details of how the landscape architect will oversee landscaping implementation and report to the LPA to confirm compliance with the approved plans and specifications.

The landscaping shall be carried out in accordance with the approved design and implementation programme.

Reason: In the interests of the visual amenity of the area, enhancing biodiversity and mitigating the effects of climate change in accordance with Policy KP5, KP15 and KP16 of the Cardiff Local Development Plan 2006-2026.

FOUL DRAINAGE

6. Notwithstanding the provisions of condition 2, no development shall commence (except for demolition) until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to beneficial use of the development, hereby approved.

Reason: To protect the integrity of the public sewerage system, to ensure effective water cycle management, avert flood risk and protect the environment in accordance with Policy KP5, KP15, EN10 and EN14 of the Cardiff Local Development Plan 2006-2026

ARCHAEOLOGICAL INVESTIGATION (UNIQUE)

7. No development shall take place until a written scheme of historic environment mitigation has been approved by the Local Planning Authority. Thereafter, the programme of work shall be fully carried out in accordance with the requirements of the approved scheme.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource in accordance with policy EN9 of the Cardiff Local Development Plan 2006-2026.

GROUND GAS PROTECTION SCHEME (UNIQUE CONDITION)

8. No development shall commence (except for demolition up to and not including slab level) until such time as a scheme of 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 has been submitted to and approved in writing by the Local Planning Authority in partial discharge of this condition. All required gas protection measures shall be installed and a verification report that demonstrates the effectiveness of the measures carried out shall be submitted to and approved in writing by the Local Planning Authority in full discharge of this condition before occupation of any part of the development. 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 BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

Reason: To ensure the safety of future occupiers is not prejudiced in accordance with Policy KP5, KP18 & EN13 of the Cardiff Local Development Plan 2006-2026.

ENERGY STRATEGY

9. Notwithstanding the provisions of condition 2, no development shall commence (except for demolition) until such time as an **Energy Strategy** has been submitted to and approved in writing by the Local Planning Authority. The Strategic Energy Strategy shall outline how the development will incorporate renewable and low carbon technology and reduce electric and heat consumption, and shall as a minimum include the following as part of a feasibility study which plans positively for a connection to the Cardiff District Heat Network:
- an evidence-based assessment of the feasibility and financial viability of providing a phased site wide heat network compared to other potential centralised hot water energy supply options for all space heating and domestic hot water requirements from low carbon heat generation equipment located on the development site – serving the same site-wide heat network
 - A comparison of the carbon content of each solution, clearly identifying the lowest carbon option
 - suitable point(s) of connection to the wider Cardiff Heat Network
 - any improvement works or reinforcement works required to the district heat network in order to serve the development
 - an implementation plan and programme
 - layout plans that shall identify the location of a central Heat Exchanger to allow a single connection point to the Cardiff Heat Network and any site-specific heat network infrastructure (eg site-specific heat sub-stations and/or energy centre)

Thereafter, the development shall accord with the approved details or any modifications as may be approved through subsequent discharge of condition applications.

Reason: to promote energy efficient and sustainable development in accordance with Future Wales, Planning Policy Wales and Policy EN12 of the adopted Cardiff Local Development Plan (2006-2026).

ACTION CONDITIONS

ARCHITECTURAL DETAILING

10. Notwithstanding the approved plans/details, construction work on the new build element/ extension to the existing buildings, hereby approved, shall not commence until such time as a scheme of architectural detailing has been submitted to and approved in writing by the Local Planning Authority. The scheme shall as a minimum include the following details:
- Construction details of the proposed brickwork elevations, including min 1m x 1m trial panels (the latter which shall be made available for on-site inspection by the Local Planning Authority)
 - Construction details for the 'jewels'
 - Window details and samples (the latter which shall be made available for on-site inspection by the Local Planning Authority)

The development shall be undertaken in full accordance with the approved details.

Reason: To ensure a satisfactory finished appearance to the development in the interests of the visual amenity of the area in accordance with Policy KP5, KP17 and EN9 of the Cardiff Local Development Plan 2006-2026.

MATERIALS AND SAMPLES

11. Notwithstanding the approved plans/details, the proposed development shall only be undertaken in accordance with a scheme of external materials – to include samples of the external materials and sample panels of the bricks showing their mortar colour and pointing of a min dimension of 1m x 1m - which shall have been submitted to and approved in writing by the Local Planning Authority prior to their use in the development.

Reason: To ensure a satisfactory finished appearance to the development in the interests of the visual amenity of the area in accordance with Policy KP5, KP17 and EN9 of the Cardiff Local Development Plan 2006-2026.

CONTAMINATED LAND MEASURES

12. 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 specific agreement has been made 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 KP5, KP18 & EN13 of the Cardiff Local Development Plan 2006-2026.

IMPORTED SOIL

13. 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 2006-2026.

IMPORTED AGREGATES

14. 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 2006-2026.

USE OF SITE WON MATERIALS

15. 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.

OPERATIONAL LIGHTING SCHEME

16. Notwithstanding the provisions of condition 2, no part of the development hereby permitted shall be occupied until an external lighting scheme for the operational phase has been submitted to and approved in writing by the Local Planning Authority, and implemented in accordance with the approved details. The lighting scheme shall include proposals for external lighting within the application site and along Docks Lane adjacent to the site, and shall include the following details:
- Areas /features on and adjacent to the site that are particularly sensitive for bats (eg breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging). These details shall include but not be limited to the proposed bat boxes approved in discharge of condition 4 (BIODIVERSITY ENHANCMENT)
 - Details of the siting and specification of external lighting which shall be designed to consider bats, in accordance with the Institute of Lighting Professional Guidance Note 08/18 (or as amended). The scheme shall detail lighting direction, hooding, using minimum height and passive infrared on timers. Where possible, all lighting should be below 2700K and therefore a wavelength above 550nm.
 - Lighting contour plans showing light spillage in key sensitive areas, in particular bat access points and flightlines to and from the proposed roost locations.
 - Measures to monitor light spillage once development is operational.

No other external lighting shall be used without prior consent from the Local Planning Authority which shall be obtained through the re-discharge of this condition.

Reason: To ensure that the access to the site and the site is appropriately lit whilst managing the impact on protected species in accordance with policies T1, T5, KP16, EN6 and EN7 of the Cardiff Local Development Plan (2006-2026).

ECOLOGICAL SURVEY UPDATE

17. If site clearance in respect of the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the most recent survey (Preliminary Ecological Appraisal and Preliminary Roost Assessment, including emergence/re-entry surveys for bats), the approved ecological measures secured through other planning conditions shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of habitats and species and ii) identify any likely new ecological impacts that might arise from any changes. 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 shall be revised, and new or amended measures, and a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works shall then be carried out in accordance with the new approved ecological measures and timetable.

Reason: To ensure that the assessment of the impacts of the development upon the site, habitats or species concerned, and any measures to mitigate those impacts, are informed by up-to-date information in accordance with Local Development Plan Policy EN7 (Priority Habitats and Species).

NESTING BIRDS

18. If work to the roof tops (or immediate voids/rooms below) or other areas of the building where birds could nest (gulls to feral pigeon) is required between March to August inclusive a suitably qualified ecologist shall inspect the roof tops or any other suitable areas of the building to determine if nesting birds are present, as stated in "Section 10.11" of the approved Ecological Report. If nesting birds are found or suspected during the works, the works shall cease in that area until the ecologist is satisfied that the nest site has become inactive. The actions must be logged, providing the date(s) of such inspections, actions taken and any remedial actions required. This log shall be provided to the Local Planning Authority within 7 days of a written request being made in writing, and no later than one month after the building(s) becomes operational.

Reason: To comply with EN7 of the City of Cardiff Council Local Development Plan and The Wildlife and Countryside Act 1981 (as amended).

FUME EXTRACTION

19. Prior to the cooking of any hot food, mechanical extraction equipment to remove all fumes from food preparation areas shall be installed in accordance with details which shall first be approved by the Local Planning Authority. The details shall

include a point and route of extraction, measures to prevent unacceptable pollution of the locality and maintenance guidelines.

Reason: To ensure that the amenities of the area and occupiers of other premises in the vicinity are protected, in accordance with Policy KP5 and EN13 of the Cardiff Local Development Plan 2006-2026.

FIXED PLANT

20. The use hereby approved shall not commence until such time as an acoustic report has been submitted to and approved in writing by the Local Planning Authority demonstrating that the cumulative sound rating from fixed plant and equipment shall not exceed levels in Table 5 'Plant Noise Limits' of the Acoustics Noise Assessment Report, Revision 2, dated 09 September 2022 when measured and corrected using BS4142:2014+A1:2019

Reason: To ensure that the amenities of the area and occupiers of other premises in the vicinity are protected, in accordance with Policy KP5 and EN13 of the Cardiff Local Development Plan 2006-2026.

INTERNAL NOISE STANDARDS

21. The use hereby approved shall not commence until such time as a pre-occupation noise survey and report of survey findings, and a certificate of compliance by an approved acoustic assessor has been submitted to and approved in writing by the Local Planning Authority to demonstrate that noise mitigation measures are effectual in reducing external noise to an acceptable level and achieve the standards required in Building Bulletin 93. The report shall include any noise from mechanical ventilation that may be installed.

Reason: To ensure that the amenities of future occupiers of the proposed development are protected in accordance with Policies KP5 and EN13 of the Cardiff Local Development Plan 2006-2026.

SOUND MITIGATION

22. The use hereby approved shall not commence until such time as a scheme of sound mitigation measures to the 6th Floor auditorium and exhibition space, server, and external terrace has been implemented in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the amenities of neighbouring occupiers are protected in accordance with policies KP5 and EN13 of the Cardiff Local Development Plan 2006-2026.

CYCLE PARKING

23. Notwithstanding the provisions of condition 2, accessible, sheltered and secure cycle parking spaces and any associated access arrangements shall be implemented prior to beneficial use of the development in accordance with details which shall first be approved by the Local Planning Authority. Thereafter the approved spaces shall be retained for the sole purpose of cycle parking.

Reason: In the interests of promoting and providing facilities for sustainable modes of transport in accordance with Policy KP5, KP8, T1 and T5 of the Cardiff Local Development Plan 2006-2026.

DELIVERY / SERVICING / REFUSE STRATEGY

24. Notwithstanding the provisions of condition 2, the use hereby approved shall not commence until such time as details of a delivery /servicing /refuse strategy for the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details on the proposed loading/ delivery areas and frequency of use, and management of bin movements on days of collection, and shall ensure that the refuse vehicle collection vehicle collection point shall be on located on Bute St and not Bute Place, unless otherwise agreed in discharge of this condition. The approved details shall be implemented and remain in operation whilst the development is in beneficial occupation.
Reason: To ensure that deliveries, servicing and refuse collection are suitably controlled and managed, in accordance with policies T6 and KP12 of the adopted Cardiff Local Development Plan (2006-2026).

HIGHWAY AND PEDESTRIAN WORKS AND RAMP

25. Notwithstanding the provisions of condition 2, no development shall commence (except for demolition), until details of the proposed highway and pedestrian works have been submitted to and approved in writing by the Local Planning Authority, the extent of which shall be in general accordance with the areas shown on 'Condition 25 (Highways and Public Realm Works)' drawing no 21.22-EDS-XX-ZZ-DR-A-(00)202 Rev 1 and which shall include details of the public realm improvements, a ramped access to Merchant Place, re-surfaced footways and tactile kerbing on Bute Street (both sides of the pedestrian crossing) / Bute Place/ Docks lane, any parking restrictions, new lighting to Docks Lane, and pedestrian improvements at The Flourish pedestrian crossing. The details shall take into account and be consistent with the lighting details required to be submitted and approved under condition 16 (OPERATIONAL LIGHTING SCHEME). The approved details shall be implemented in full prior to beneficial occupation of the site.
Reason: To ensure that the use of the proposed development does not interfere with the safety of traffic or pedestrian accessibility, in accordance with policies T1, T5 and T6 of the adopted Cardiff Local Development Plan (2006-2026).

TRAVEL PLAN

26. Prior to beneficial use of the development, a Travel Plan in general accordance with the Framework Travel Plan (13 September 2022) shall be submitted to and approved in writing Local Planning Authority. The Travel Plan shall set out proposals and targets, together with a timetable, to limit or reduce the number of single occupancy car journeys to and from the site, and to promote travel by sustainable modes. The Travel Plan shall set out proposals to implement and manage the Travel Plan, through a designated Travel Plan Coordinator. The Travel Plan shall be implemented in accordance with the timetable which shall be set out in the plan. Reports demonstrating progress in promoting the sustainable transport measures detailed in the Residential Travel Plan shall be submitted annually for a period 5 years beyond first occupation to the Local Planning Authority for approval in writing, commencing from the first anniversary of beneficial occupation.

Reason: To encourage sustainable transport and effect modal shift to non-car modes in accordance with policies KP8, T1 and T5 of the adopted Cardiff Local Development Plan (2006-2026).

REGULATORY CONDITIONS NOT REQUIRING DISCHARGE

LANDSCAPE RETENTION

27. Any trees, plants or hedgerows, which within a period of 5 years from the completion of the development die, are removed, become seriously damaged or diseased, or in the opinion of the Local Planning Authority (LPA) otherwise defective, shall be replaced. Replacement planting shall take place during the first available planting season, to the same specification approved in discharge of condition 5 (LANDSCAPING), unless the Local Planning Authority gives written consent to any variation in re-discharge of that condition.

Reason: In the interests of the visual amenity of the area, enhancing biodiversity and mitigating the effects of climate change in accordance with Policy KP5, KP15 and KP16 of the Cardiff Local Development Plan 2006-2026.

CONNECTION WITH THE PUBLIC SEWER

28. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network unless the connection has been first approved by Cardiff Council as the SuDS Approval Body (SAB) under the SAB application process.

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.

IMPLEMENTATION WASTE STORAGE

29. Prior to beneficial use of the development hereby approved, the refuse and recycling storage facilities shown on the approved plans shall be provided, with such facilities thereafter retained to serve the development.

Reason: In the interests of an orderly form of development providing facilities which would have no adverse impact upon the amenities of the area in accordance with Policy KP5 and W2 of the Cardiff Local Development Plan 2006-2026.

DELIVERIES

30. Deliveries shall only be taken at or dispatched from the premises, hereby approved, during the hours of 07:00 – 20:00.

Reason: To protect the amenity of the area and neighbouring occupiers in accordance with Policy KP5 and EN13 of the Cardiff Local Development Plan 2006-2026.

WASTE COLLECTION TIMES (addition agreed by agent 10/1)

31. There shall be no commercial collection of refuse/recycling/waste between the hours of 19:00 hrs and 08:00hrs on any day.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected, in accordance with Policy KP5 of the adopted City of Cardiff Local Development Plan (2006-2026).

OBSCURE GLAZING

32. Prior to beneficial use of the development, hereby approved, and subject to the provisions of the details agreed in discharge of the window condition in the corresponding listed building consent, the following windows, as identified below and on the 'Condition 32 (Obscure Glazing)' drawing (21.22-EDS-XX-ZZ-DR-A(02)205) Rev 01), shall be obscurely glazed below a height of 1.7 metres above internal floor level-and shall be thereafter so maintained:
- The 2 no ground floor classroom windows in the proposed north elevation
 - The central first floor class room window in the proposed north elevation
 - The first floor office window in the proposed north elevation
 - The rear 2 no second floor classroom windows in the proposed north elevation

Reason: In the interests of the privacy of neighbouring occupiers / to ensure that the future development and beneficial re-use of the listed building to the north is not compromised in accordance with Policy KP5, KP17 and EN9 of the Cardiff Local Development Plan 2006-2026.

EXISTING WINDOWS

33. This planning permission does not extend to drawing note G 'Existing windows to be reviewed and replaced like for like' attached to the proposed elevation drawings:
- Proposed North Elevation (21.22-EDS-XX-ZZ-DR-A-(02)201-Rev 03)
 - Proposed East Elevation (21.22-EDS-XX-ZZ-DR-A-(02)202-Rev 03)
 - Proposed South Elevation (21.22-EDS-XX-ZZ-DR-A-(02)203-Rev 03)
 - Proposed West Elevation (21.22-EDS-XX-ZZ-DR-A-(02)204-Rev 03)

Subject to the provisions of the OBSCURE GLAZING condition above, the existing windows proposed for retention shall be repaired/upgraded in accordance with details which shall have been first approved in discharge of the window condition in the corresponding listed building consent.

Reason: To safeguard the character and appearance of the listed buildings, in accordance with Policies KP5, KP17 and EN9 of the adopted City of Cardiff Local Development Plan (2006-2026).

INFORMATIVES

1. CONTAMINATED LAND

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;
- (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

2. Warning: A European Protected Species (EPS) licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/ or receive an unlimited fine. Development should not be commenced until the Applicant has been granted a licence by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations (2017) authorising the specified activity/development to go ahead. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000, or at <https://naturalresources.wales/permits-andpermissions/species-licensing/list-of-protected-species/bat-licences-for-development-infrastructureor-maintenance-work/?lang=en>

3. CONSTRUCTION WORKING HOURS

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.

4. INTERNAL BIN STORAGE

The applicant be advised the provision of an internal waste storage area is required to comply with the requirements of the Building Regulations 2010.

5. REFUSE – COMMERCIAL

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.

6. LAND CONTAMINATION ADVICE FROM NRW

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit. Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

7. WELSH WATER/DWR CYMRU

The planning permission, herby granted, does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991.

Application 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 our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Please contact 0800 917 2652 or developer.services@dwrcymru.com for further [guidance](#).

SOUTH WALES POLICE DESIGN ADVICE

8. That the developer be advised of the advice from South Wales Police Designing Out Crime Officer, dated 07/10/22.

GGAT ADVICE

9. The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), CIfA regulations, standards and guidance | Chartered Institute for Archaeologists and it is recommended that it is carried out either by a CIfA Registered Organisation or a MCIfA level accredited Member.