



Date: 12<sup>th</sup> January 2021  
Our Ref: RJ/20.167

James Hansel  
Development Management  
Cardiff Council  
County Hall,  
Atlantic Wharf,  
Cardiff,  
CF10 4UW

Dear Mr Hansel,

**Town and Country Planning Act 1990 (as amended)  
S96a Application – Variation of condition 2 (approved plans) of 20/01511/MJR to allow for minor alterations to the previously approved development  
Adams Court and Bailey’s Court, North Luton Place, Adamsdown  
Planning Portal reference PP-09408039**

On behalf of the applicant, Cardiff Council and United Welsh Housing Association, please find enclosed a Non-Material Amendment application in respect of planning permission 20/01511/MJR. The fee of £115 associated with this submission, to be made by via the planning portal.

The proposed amendments concern the proposed boundary treatment around the entrance to Bailey Court to the south-west of the site, on the corner of Windsor Road and Moira Terrace. The approved boundary treatment is brick pillars between railings with dwarf brick wall below the railings. The applicant proposes 1.8m high fencing around the entrance to Bailey Court to match existing fencing, including a matching gate fitted with electronic lock to be connected to access control coupled with audio/visual facility. It will be fob operated.

The reason for the amendment is that upon starting groundwork for the brick wall, the contractor unearthed an array of services that crossed where the boundary treatment is proposed. Below ground services identified include fibre optics, phone lines and others (see appendix 1) rendering brick boundary treatment unviable. However, a boundary treatment is required to in order to increase security and safety at the site. Therefore, a railing is proposed instead of having to revert back to the existing situation which would prove inadequate to serve the proposed development. The low-level shrubs and paving proposed as part of the initial proposals are retained.

The application is submitted following email exchange between the Authority and the applicant, whereby it was agreed that the proposal is acceptable. Whilst relating to a material matter it seeks to overcome the issue by other means and, therefore, should be able to be deemed non-material.

The following drawings, prepared by Davies Llewelyn and Jones Architects, are submitted in support of the proposal:

Drawing name	Reference
Site location plan	(90)001-2
Proposed entrance gates	(92)104
Proposed external works	(92)107B
Proposed site layout	(SK)005-1F

### Justification for Determination Under S96a of The Town and Country Planning Act 1990

With regard to section 96A of the Town & Country Planning Act 1990, which allows non-material amendments to be made to an existing planning permission, the Welsh Government has produced a guidance note entitled 'Approving Non-Material Amendments to an Existing Planning Permission'. This sets out a series of tests to be considered in determining whether or not an application qualifies as a non-material amendment.

Paragraph 2.4 of this guidance states the following:

*"There is no statutory definition of a 'non-material amendment'. This is because it depends on a number of factors such as the context of the overall scheme, the amendments being sought to the original planning permission, the specific circumstances of the site and surrounding areas, which will vary from one application to another. What may be non-material in one context may be material in another."*

Paragraph 2.6 further states:

*"In deciding whether or not a proposed change is non-material consideration should be given to the effect of the change, together with any previous changes made to the original planning permission."*

When assessing and determining whether or not a proposed change would qualify as a non-material amendment the tests set out below apply. For clarity, I have outlined why the proposed amendments to planning permission 20/01511/MJR fail to meet each of the test, and therefore can be deemed non-material.

**Tests 1 & 2 - (a)(i) is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme; and (a)(ii) would the proposed change result in a detrimental impact either visually or in terms of local amenity?**

There are no proposed changes to the scale and therefore they do not result in any increase in impact different to that cause by the original approved scheme.

The change from brick pillars with dwarf brick wall and railing above to a railing boundary treatment are minor and will result in negligible additional impact upon the wider visual or residential amenity.

**Test 3 -(b) would the interests of any third party or body be disadvantaged in planning terms?**

The changes proposed will not fundamentally alter the parameters of the approved development and will therefore not have a detrimental impact on the interests of any third party or body in planning terms, over those matters previously considered.



**Test 4- (c) would the proposed change conflict with national or development plan policies?**

The original consented scheme was deemed to have been designed in accordance with the relevant national and development plan policies. The proposed amendments do not result in a scheme which is materially different from that already approved and therefore the amended scheme does not result in a conflict with national or development plan policies.

On this basis, it is considered that the proposed changes are non-material and thus the application can be determined under S96a of the Town and County Planning Act.

I look forward to receiving confirmation of the registration of this application. I trust the above is clear, but should you have any queries, please do not hesitate to contact me.

Yours sincerely,



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**Graduate Planner**  
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cc Client

Enc.



## Appendix 1

Sketch and photos of the services

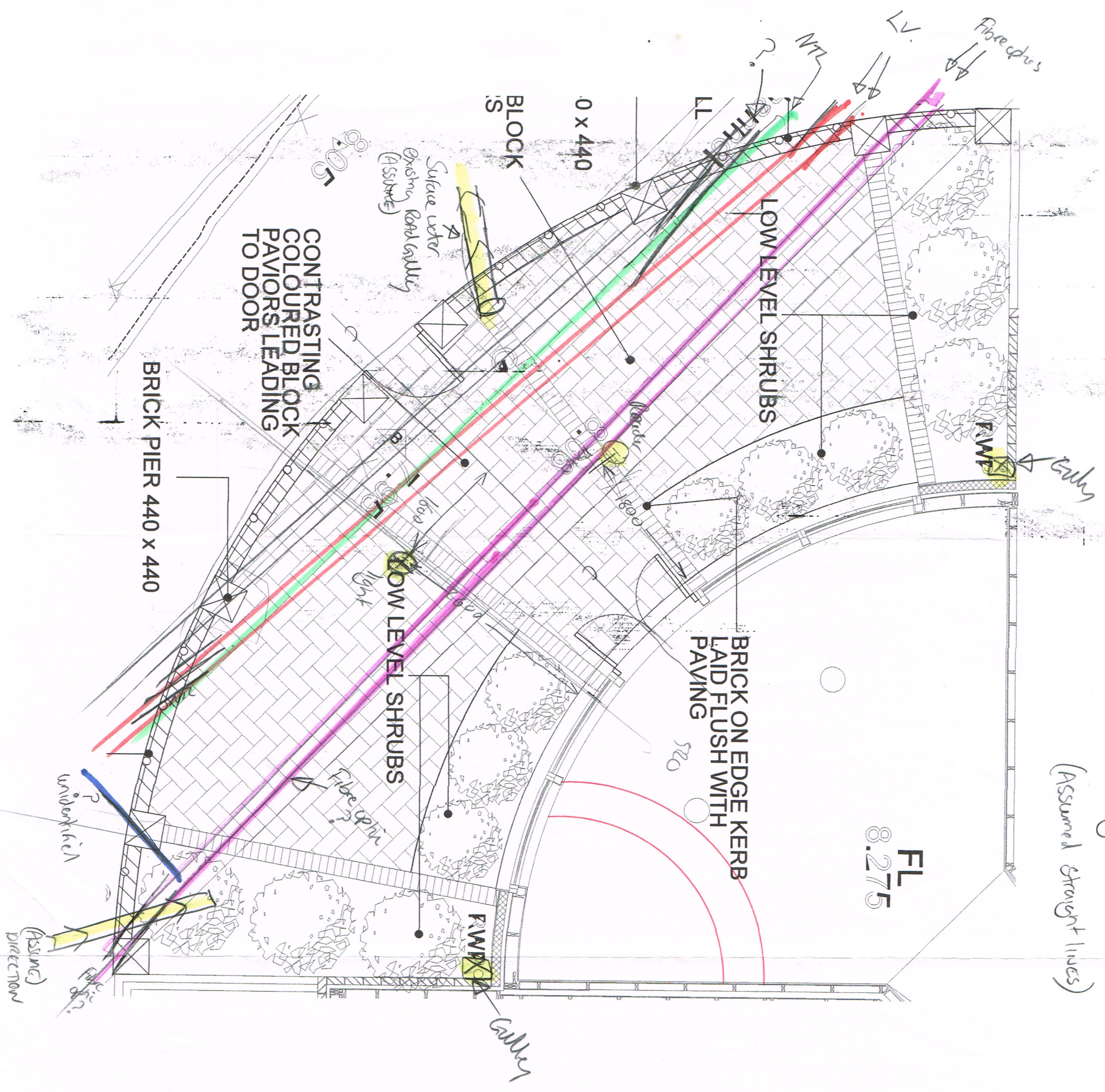


## Appendix 1

Sketch and photos of the services



Underground services  
(Assumed straight lines)  
9/12/20



160









