



County Hall
Cardiff
CF10 4UW
Tel: (029) 2087 2000

Neuadd y Sir
Caerdydd
CF10 4UW
Ffôn: (029) 2087 2000

LATE REPRESENTATIONS

Committee PLANNING COMMITTEE

Date and Time of Meeting WEDNESDAY, 9 MARCH 2016, 2.30 PM

Please see attached Late Representation Schedule received in respect of applications to be determined at this Planning Committee

11 **Late Representation Schedule** (*Pages 1 - 20*)

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LATE REPRESENTATIONS SCHEDULE
PLANNING COMMITTEE – 9th MARCH 2016

PAGE NO. 1	APPLICATION NO. 15/03103/MNR
ADDRESS	41 LLYSWEN ROAD, CYNCOED, CARDIFF
FROM:	Welsh Water
SUMMARY:	Welsh Water advise that they are in discussions with the applicant and have agreed a reduction in regards to the requirements stated in Recommendation 2.
REMARKS:	That Recommendation 2 be removed

PAGE NO. 30	APPLICATION NO. 14/2918/MJR
ADDRESS :	THE GOWER HOTEL, 29 GWENNYTH STREET, CATHAYS, CARDIFF
FROM:	Cllr E Clark
SUMMARY:	Councillor Clark submits a petition of 52 signatures in objection to the proposed development. Grounds for the petition are cited as: <i>"The planning application design is out of keeping with the rest of the street, would increase parking problems and lead to over-crowding and development in the area".</i>
REMARKS:	The issues raised in the above mentioned grounds are addressed in the Committee Report. Councillor Clark has been advised that as the petition was submitted after the relevant deadline of 7 clear days before Committee, petitioners are not able to address Committee.

PAGE NO. 30	APPLICATION NO. 14/2918/MJR
ADDRESS :	THE GOWER HOTEL, 29 GWENNYTH STREET, CATHAYS, CARDIFF
FROM:	Cllr E Clark
SUMMARY:	Councillor Clark submits 6 emails dated 3 rd , 5 th & 7 th March 2016, with attached photographs of other development sites in the vicinity of the application site, including sites on Gwennyth Street, Monthermer Road and Pentyrch Street and requests that these photos be made available to Members of Committee. The photos are submitted in support of her objection to the

	proposals, and seek to demonstrate more appropriate infill developments.
REMARKS:	The photos are appended to this Late Representation, for Members information.









PAGE NO. 56	APPLICATION NO. 15/2820/MJR
ADDRESS:	LAND BOUND BY CUSTOM HOUSE STREET, BUTE STREET AND HOPE STREET, CARDIFF
FROM:	CADW
SUMMARY:	<p>CADW consultation response received 7th March 2016. CADW state that the application inadequately analyses the impact on Cardiff Castle and on the registered historic parks and gardens of Cardiff Castle and Bute Park and Thompson's Park.</p> <p>The CADW consultation response is reproduced in full below:</p> <p><i>Background</i> Our role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments or registered historic parks and gardens. It is a matter for the local planning authority to then weigh our assessment against all the other material considerations in determining whether to approve planning permission, including issues concerned with listed buildings and conservation areas.</p> <p><i>Assessment</i> Having carefully considered the information provided with the planning application, we consider that the documentation inadequately analyses the impact of the proposal on the scheduled monument known as Cardiff Castle and the registered historic parks and gardens of Cardiff Castle and Bute Park and Thompson's Park to enable us to fully assess the impact in their setting. In our opinion, the construction of a 42 storey building at the proposed location has the potential to have an adverse impact on the setting of the castle and the registered historic parks and gardens. Although it is unlikely that the proposed building will be visible from low lying locations, it will certainly be visible from elevated areas and we recommend that these issues should form part of the analysis in deciding the planning application.</p> <p><i>Policy</i> Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance. PPW explains that the desirability of preserving an ancient monument and</p>

	<p><i>its setting is a material consideration in determining a planning application whether that monument is scheduled or not. Furthermore, it explains that where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that this means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales.</i></p>
REMARKS:	<p>The question is whether or not the tower will have a significant impact on the setting of Cardiff Castle, Bute Park, or Thompson's Park.</p> <p>These impacts have not been formally assessed by the applicant, however the verified view from in front of the Cardiff Museum demonstrates that the tower will not be visible. It may however be visible from the Castle Keep and possibly from some elevated locations in Bute Park and Thompson's Park.</p> <p>The tower, although significantly higher than its neighbours, is 850m distant from the Castle Keep and will form part of a cluster of tall buildings which will (because of distance) be seen across the city centre as a component part of a skyline of tall buildings on the horizon.</p> <p>The impact on the castle and the registered parks and gardens is not therefore considered to be significant.</p>

PAGE NO. 56	APPLICATION NO. 15/2820/MJR
ADDRESS:	LAND BOUND BY CUSTOM HOUSE STREET, BUTE STREET AND HOPE STREET, CARDIFF
FROM:	Knight Frank LLP
SUMMARY:	<p>Objection received 8th March 2016. On behalf of Imperial Property Company (Cardiff 2) Ltd., owners of the Radisson Blu Hotel, Knight Frank reiterates the objections raised in their original representation, and queries the Council's Rights to Speak at Committee procedure.</p>

The substantive parts of their representation are reproduced in full below:

“Daylight and Sunlight Assessment

Within our original objection letter we questioned the accuracy of the applicant’s Daylight and Sunlight Assessment, given it was based on an external observation. This point has not been addressed by either the applicant or the case officer in the officer’s report. This concern therefore remains unanswered.

Notwithstanding the above, our original objection letter picked up on the fact that the Daylight and Sunlight Assessment identifies that of the 167 windows that were tested, the impact of the proposed development on 83 windows does not meet the necessary BRE Report guidelines. The Daylight and Sunlight Assessment identifies that the daylight amenity on 83 windows of our client’s building is negatively impacted upon by the proposed development, to a point where the necessary guidance cannot be met.

The above is acknowledged within the officer’s Committee Report but then dismissed in one sentence, ‘...considering the hotel use and the urban context the degree of reduction in daylighting for these bedrooms is acceptable.’

This is not an acceptable response and we dispute the officer’s conclusion. The Council cannot dismiss this issue with a sentence which completely washes over the issue. The applicant’s Daylight and Sunlight Assessment clearly indicates that the proposed development will have such an impact that BRE Report guidelines cannot be met. BRE Report guidelines are in place to ensure that new development does not impact on existing development. The Council have completely dismissed this assessment by coming to the conclusions they have made.

We wish to reiterate our previous concern that the Daylight and Sunlight Assessment demonstrates the proposed development would result in a scheme which does not comply with guidance and would have a significant, negative impact on the amenity on my client’s building to the detriment of their clients.

Tall Buildings Supplementary Planning Guidance (SPG) (April 2009)

Within our original objection letter, we advised that although the applicant acknowledges the Tall Buildings SPG, its 28

pages are summarised in one paragraph within the Planning And Student Accommodation Statement. We would like to reiterate our original concern that, given the significance of the building's height, one would have thought that the guidance set out within the Tall Buildings SPG would be given far more attention by the applicant within their submission. We therefore questioned whether the Tall Building SPG has been properly considered.

Within the officer's Committee Report, our query has been acknowledged but the case officer simply states that, 'the assessment against planning policy and guidance falls to the LPA and not the applicant.'

Whilst we acknowledge that it is for the Council to assess proposals against policy and guidance, it is surely for the applicant to demonstrate how this criteria has been met, particularly for a proposal of this scale and significance. If we were the applicant, we would want to ensure that all of the issues are covered within the submission.

For example, the Tall Buildings SPG states, 'the proximity of two or more tall buildings can create significant issues of overlooking and overshadowing. Proposals adjacent to or in the vicinity of other tall buildings need to ensure that the privacy and amenity of existing and future residents and occupiers is not compromised, in addition to the implications of the proposal on existing views from neighbouring properties.'

Our client does not consider that justification to demonstrate that the above has been adequately addressed has been provided by the applicant. We are concerned that the Council have not come to the same conclusion. We do not believe that the applicant has adequately demonstrated that the necessary policy and guidance criteria has been met to justify the Council coming to the conclusions that it has.

Our original concern therefore still remains, that the applicant has failed to demonstrate how the policy and guidance criteria set out within the Tall Buildings SPG has been met.

Heritage

Within our original objection letter we questioned the assessment and conclusions which the Heritage Statement came to and stated that the document raised some serious concerns.

Whilst we acknowledged the conclusions we made were

based on our subjective view, we considered that the conclusions of the Heritage Statement are far too conservative and that the proposed views contained within the document clearly illustrated the overly dominant nature of the proposal, contrary to the applicant's conclusions. We concluded that the proposed development must be considered to have a significant impact of the surrounding heritage assets.

During the application consultation period, the Council consulted with statutory consultee CADW, the Welsh Government's historic environment service. The officer's Committee Report advises that 'no comments have been received' from CADW. The assessment of the impact of the proposed development on the surrounding heritage assets would therefore appear to have been undertaken by the case officer, rather than a heritage expert. We question whether it is appropriate to progress the application to Planning Committee without having received CADW's comments. Given the scale and significance of the building, surely the Council should have, at the very least, awaited CADW's comments before progressing the application to Planning Committee to ensure a comprehensive assessment of the proposed development's impact on nearby heritage assets has been undertaken.

Paragraph 8.35 of the officer's Committee Report provides a brief assessment of the proposed development's impact on the Golden Cross public house, a Grade II Listed Building, concluding that the proposal will not harm the setting of the building because it is already surrounded by high rise development, because the design makes a positive contribution, because the frontage and architectural treatment improve the character and appearance of the area and because the proposal is physically separated by the width of a street.

Paragraph 8.37, provides an even briefer assessment of the impact on Customhouse, a Grade II Listed Building, concluding that, by virtue of separation and intervening development, the proposed development does not harm the setting of the listed building.

These are all the subjective views of somebody who is not a heritage expert and ones which our client strongly disputes.

Despite Figure 1 of the Heritage Statement identifying at least 14 heritage assets in close proximity to the site, Golden Cross and Customhouse are the only listed buildings the officer's Committee Report acknowledges and provides

an assessment (albeit very brief) of. Neither the Heritage Statement, nor the officer's Committee Report provide an assessment of any of the other listed buildings within close proximity to the site. The Heritage Statement justifies this by stating that Golden Cross and Customhouse are the only listed buildings within the immediate vicinity, however, we would argue that, given the scale of the proposal, surely it has the potential to impact on other assets in the wider vicinity, none of which have been considered.

The Heritage Statement is clearly lacking in its assessment of the proposal's impact. Our client is very concerned that the Council have not picked up on this and would like to bring it to Member's attention. Perhaps if the Council had waited until CADW provided a formal response, rather than progressing the application without their comments, this would have been picked up on.

Paragraphs 8.38 to 8.40 of the officer's Committee Report provide three brief paragraphs on the impact on the setting of the St. Mary Street Conservation Area, concluding that the proposal will not have an impact on any of the significant views and therefore do not harm the setting of the Conservation Area. Again this is a subjective assessment of a non-heritage expert, lacking in substance with highly questionable conclusions. By way of a retort, Baseline View 4 of the Heritage Statement is taken from the southern end, albeit outside, of the Conservation Area and clearly shows the negative impact that the building will have on all of the surrounding views, completely dominating the skyline.

Our original objection letter stated that the Heritage Statement was far too conservative in its assessment and conclusions, a point which is acknowledged but not addressed by the officer's Committee Report. Furthermore, an assessment of the impact of the proposed development on the surrounding heritage assets has not been undertaken by a heritage expert. Whilst CADW were consulted, the planning application has been progressed without them having formally commented. This raises significant concerns, which our client feels should be addressed before the application is determined.

Overdevelopment

Within our original objection letter we argued that the proposal constitutes overdevelopment on what is a very small development plot. Whilst we acknowledged that there are a number of other tall buildings within the vicinity of the application site, none of these come close to the height of the proposed development. Our client's building, for

	<p><i>example - the Radisson Blu Hotel on Bute Terrace - is 23 storeys high. We argued that the proposed development, at 42 storeys high, is close to double the number of storeys of the tallest existing building and is completely out of context with its surrounding environment.</i></p> <p><i>We continued that the context elevation plans (plan references AL10 and AL11) clearly demonstrate how large and over dominating the proposal will be on its surroundings, with the eastern elevation in particular, providing a clear indication that the proposal is overdevelopment of a small plot.</i></p> <p><i>The officer's Committee Report acknowledges this point but makes no attempt to address it. Whilst we appreciate that the officer is not obligated to respond to every concern raised by an objector, this is surely a very significant point which needs to be appropriately considered.</i></p> <p><i>We note that objections have also been raised by Councillor Clark, who states that the proposed development is excessively tall, by Howard Kennedy LLP on behalf of Unison House, who state that the excessive height is out of place in relation to its neighbours and by Gerald Eve LLP on behalf of the Marriott Hotel, who state that the building will dwarf those in the vicinity. The fact that the Council have received objections from three of the surrounding next tallest buildings must surely tell them that this is a major concern to existing properties, which our client believes has not been properly considered by the Council."</i></p>
<p>REMARKS:</p>	<p><i>Rights to Speak at Committee: The Rights to Speak at Committee protocol is not a consideration in assessing this application. Suffice to say that the correct procedure has been followed.</i></p> <p><i>Daylighting: The impact on the levels of daylighting received by the Radisson Blu Hotel has been assessed by the applicant using Building Research Establishment methodology.</i></p> <p><i>BRE guidance clearly states that their 'advice is not mandatory and the guide should not be seen as an instrument of planning policy.' It also states that 'in an area with modern high-rise buildings a high degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.'</i></p> <p><i>The Daylight and Sunlight Assessment report submitted in support of the application demonstrates that the level of</i></p>

	<p>daylighting received by the affected windows which falls below the minimum recommended by the BRE guidance is however within the typical range for residential buildings within high density urban areas.</p> <p>The conclusion reached in para 8.51 of the report takes the above factors into account. It also takes into account the transient nature of the hotel use. To repeat it is concluded that the proposals will not cause unacceptable harm to the amenity of the occupiers of the hotel.</p> <p><i>Tall Buildings SPG:</i> The applicant has provided sufficient information for the application to be properly assessed. It is not up to the applicant to demonstrate compliance with policy and guidance.</p> <p>See paragraphs 8.12 to 8.39 which assess the proposals in some detail in relation to the SPG and conclude that the application is in accordance with LDP policy and with the Tall Buildings SPG.</p> <p><i>Heritage:</i> The impact of the proposed tower on heritage assets has been fully assessed in paras 8.32 to 8.40 of the committee report. The case officer has liaised closely with the Council's conservation officer at both the pre-application and application stages.</p> <p>CADW's role in the planning process is to provide the LPA with an assessment of the impact on scheduled monuments or registered historic parks and gardens. It is not to advise on the likely impact on the setting of listed buildings or conservation areas.</p> <p>CADW's formal consultation response is the subject of a separate late representation.</p> <p><i>Overdevelopment:</i> The question of whether the building is too tall (and therefore constitutes overdevelopment of the site) is addressed in paras 8.11 to 8.18 of the report which assess the suitability of the location for a tall building, and its impact on the city's skyline and landscape setting.</p>
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PAGE NO. 91	APPLICATION NO. 15/2847/MJR
ADDRESS :	LAND TO THE WEST OF CLOS-Y-CWARRA, ST FAGANS, CARDIFF
FROM:	A local resident (No 43 Clos y Cwarra)
SUMMARY:	<p>The neighbour questions the ownership of the access to the site which he uses as part of his curtilage. He wants access to his property at all times and a wall erected to match.</p> <p>He has submitted a further letter stating that. I would also wish to object additionally on the following grounds loss of Privacy to myself and family with the suggested build now being closer to my property. The noise level of the build and traffic flow concerns myself and if permission were to be granted as previously explained about the differing shift patterns that my household work could result in a loss of income for the household due to sleep deprivation. I would require reimbursement for potential loss of income or my house's sound proofing be improved at the developer's expense.</p>
REMARKS:	<p>The issue of land ownership at the point of access has been addressed in section 8.8 (B) local Residents (xv) of the report.</p> <p>The agent has further responded to the neighbour's claim in respect of land ownership stating:-"I can confirm that the land required for construction of the access into the site is entirely within the ownership of those served notice under Certificate B. The owners of No. 43 Clos-y-Cwarra only have rights of access over the land for access, so whilst it may appear on-site that the access will be over their land, in reality, it is not the case. On that basis, we do not need to serve notice on them.</p> <p>I note that the objector does not seem to have provided any title documents which validate their claim to own any of the access. I would also comment that the outline application (ref 13/00444/DCO) which was recently approved was subject to a S106 in which all the landowners were signatories. During the processing of the legal agreement, at no point was it discovered by solicitors acting on either side that there was third party land affected.</p> <p>As you know, land ownership is not a planning matter and</p>

	<p>as long as you are satisfied that we have served the requisite notices, then it should not be a reason for deferral of the application.”</p> <p>Proposed condition 23 is designed to ensure satisfactory vehicle access to no43.</p> <p>The side rear and rear of no 43 is enclosed by a high fence and in part by the side wall of a garage which is considered to provide a satisfactory means of securing privacy. Unit 9 has been repositioned closer to No 43 than originally proposed and its gable wall will at its nearest point be 16m from the rear wall of no 43. The dwellings are angled away from each other. The properties would be separated by an existing fence, trees and a new 1.8m high fence. This arrangement does not significantly affect reasonably expected levels of residential amenities nor contravene guidance within the Cardiff Residential Design Guide SPG.</p> <p>Any new build development will cause some disturbance to adjoining residents during the construction phase and from vehicle movements. In this case Recommendation 8 acknowledges this issue. Furthermore planning permission has already been granted for the development of this site which adjoins no 43.</p>
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PAGE NO. 91	APPLICATION NO. 15/2847/MJR
ADDRESS :	LAND TO THE WEST OF CLOS-Y-CWARRA, ST FAGANS, CARDIFF
FROM:	The applicant's agent and Tree Officer
SUMMARY:	<p>The applicant's agent has submitted a number of amended plans and documents providing landscaping and soils information; bin and cycle storage; and the position of side facing ground floor windows to overlook car parking spaces for secured by design purposes.</p> <p>Following the submission of additional landscaping details the Tree Officer has identified a number of technical issues, which are already covered by conditions 24 and 25, and considers the submissions fine, and enables an amendment to conditions 2 and 25 and the deletion of condition 26.</p>
REMARKS:	Amend condition 2 to read. This approval shall be carried out in accordance with drawing numbers 2066-101 Rev E, 102 Rev A, 103 Rev A, 104 Rev A, 201B, 202B, 203B and 204; 205-01 and 205-02; 300-90-01, 02 and

	<p>03;12012/43020; TDA.2067.01 B (excluding the layout); 2066/5000A; and documents Preliminary Ecological Appraisal February 2013 and Preliminary Ecological Appraisal addendum September 2015; Transport Note October 2015; Geo-Environmental and Geotechnical Assessment November 2015; Environmental Noise Survey 12 October 2015, Arboricultural Method Statement RevA, Landscape Specification and Management Plan February 2016 (RevB), and Pre Development Tree Survey and Tree Constraints Plan (all by TDA dated February 2016); Soil Resources report 1180/4 dated 8 March 2016 by Land Research Associates.</p> <p>Reason: To avoid doubt and confusion as to the approved plans and documents</p> <p>Amend condition 25 to read. Notwithstanding the submitted Soil Resources Report all soil handling for landscaping purposes (stripping, storage, remediation, and placement) shall be supervised by a qualified soil scientist who shall from the commencement of development provide regular monitoring reports during periods of soil handling for landscaping purposes to the Local Planning Authority to confirm compliance with the Soil Resources Report. The revised Soil Resources Report shall be implemented as approved.</p> <p>Reason: To ensure the soils used will facilitate the landscaping scheme required to maintain and improve the appearance of the area in the interests of visual amenity.</p> <p>Delete Condition 26.</p>
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PAGE NO. 91	APPLICATION NO. 15/2847/MJR
ADDRESS :	LAND TO THE WEST OF CLOS-Y-CWARRA, ST FAGANS, CARDIFF
FROM:	Head of Planning
SUMMARY:	There are a couple of errors in the wording of the report that should be updated.
REMARKS:	<p>Amend RECOMMENDATION 1 by deleting “paragraphs 5.9 and 5.11” and inserting “Section 9”.</p> <p>Para 5.8 should read “The planning application contains 32 <u>houses</u> eligible....”</p> <p>In the last line of para 9.4 “to include” be replaced by “be included”</p>

PAGE NO. 91	APPLICATION NO. 15/2847/MJR
ADDRESS :	LAND TO THE WEST OF CLOS-Y-CWARRA, ST FAGANS, CARDIFF
FROM:	Waste Management Officer
SUMMARY:	<p>The Waste Strategy and Minimisation Office says that the bin stores look acceptable. She also asks for details of who will be responsible for presenting the communal bins at the collection point for flats 1-6.</p> <p>The applicant's agent has confirmed that the Housing Association will determine responsibility for presenting the bins from the proposed flats.</p>
REMARKS:	Delete Condition 21 and renumber remaining conditions accordingly.

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