



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, 10 JANUARY 2018, 1.30 PM

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

**Late Reps 10.01.18 (Pages 1 - 22)**

*This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg*

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**LATE REPRESENTATIONS SCHEDULE**  
**PLANNING COMMITTEE – 10<sup>th</sup> JANUARY 2018**

<b>PAGE NO. 1</b>	<b>APPLICATION NO. 15/2960/MNR</b>
<b>ADDRESS:</b>	<b>30 SPRINGFIELD GARDENS, MORGANSTOWN, CARDIFF</b>
<b>FROM:</b>	Mark Drakeford AM and Kevin Brannan MP
<b>SUMMARY:</b>	<p>The AM and MP write on behalf of a number of local residents in relation to the planning application and refer to their previous correspondence on the matter.</p> <p>They refer to multiple issues with this application, including evidence of a potentially serious flood risk. They request a full site meeting prior to any determination. Having visited Springfield Gardens, they are convinced that it is only possible to understand the issues at stake in the application by being able to visualise the particular topography of the site. They comment that the site is overlooked by the Ravensbrook development and that residents in this part of Morganstown will also feel the direct impact of any development. It is their firm opinion that a site visit must be undertaken before any consideration of the planning application by the committee can take place. They also consider that it would be very important that any site visit is made known to residents in that area and that they are afforded an opportunity to contribute to the decision which will be made.</p>
<b>REMARKS:</b>	The request for a site visit is noted.

<b>PAGE NO. 1</b>	<b>APPLICATION NO. 15/2960/MNR</b>
<b>ADDRESS:</b>	<b>30 SPRINGFIELD GARDENS, MORGANSTOWN, CARDIFF</b>
<b>FROM:</b>	The Occupiers of 26 Springfield Gardens to the Chair of Planning
<b>SUMMARY:</b>	<p>The occupier, having viewed the Committee report, outline numerous issues and concerns which are summarised below:</p> <p>Concerns over the council seeming to be assisting the developer, there have been many times during the past two years where residents have contacted the council to inform them of works the developer was carrying out, yet no action has even been taken against him.</p> <p>Boundary lines, position of buildings, windows on pine ends and measurements in the application and report are inaccurate.</p> <p>Drainage assessments, easements and flood risk</p>

mitigations are essential for the developer to receive planning permission and only required for the development. The developer has already commenced an aggressive site clearance including cutting down of trees that were subject to TPOs. The Council took no action.

Trees and hedges were also cut down during nesting season; the South Wales Police nature officer and site ecologist were on site during cutting. The Council again took no action.

I contacted the Council ecology officer to state I had seen slow worms being destroyed. Again no action was taken.

A double garage and its subsequent demolition forms part of the application. The developer and his staff undertook part demolition of the garage some months ago. Tiles were removed and the roof left exposed, again damage and debris in our garden. Again no action taken by Council, stating it was only maintenance work.

There have been many occurrences of anti-social behaviour. The police recently attended number 30 to assist with a neighbour complaint of annoyance due to power tools being used at 3 am, again no action taken by Council.

Site maps, boundary lines and location of our house in plans are wrong. The double width road cannot be accommodated between the two houses. Despite correct measurements being provided and inaccuracies pointed out the Council have failed to take any action.

The bin store for the development will be sited directly next to our kitchen French doors. During warm weather we will be unable to open our doors or This bin store will also encourage rats and other pests. We have air vents at ground level, therefore our house will be polluted even with doors and windows shut.

The Developer has failed to note that we have a basement. Again the Council have been informed but no action taken. The line of sewage excavation will lead to undermining our property. If the road way is allowed to be built alongside our property it would make it impossible for us to maintain the side of our house or roof, for which the land owner has denied permission at this time.

There can be no restriction to vehicles using the road. A full size refuse wagon will need to access and egress, alongside our home. This will put our pine end and basement under immense pressure.

Emergency vehicles will not be able to access the site. There is also no space for a pavement meaning there would be no safe way to enter or leave the site on foot.

We will have a complete loss of privacy to the rear of our garden and home as the site slopes down.

Previous applications for this site have been refused primarily due to loss of privacy and especially if the

hedgerow dies back or is removed.

There is nothing to stop owners from altering windows and screening and removing hedgerows and fencing. Even with fences and hedges our property will be in direct view of all the properties and users of the driveway.

A Desk top flood assessment was commissioned by the developer, but no one has been out to assess. The Council have been provided with evidence to counter the flood risk assessment, by professors and doctors of geology, and a professor of hydrogeology, who are experts in the field. The Council have completely ignored this evidence.

The Council states there must be a flood risk assessment submitted and agreed before commencement of development.

Loss of amenity: our son has additional needs and already the current situation has meant he cannot go into the garden due to the dangers presented by unscrupulous actions taken by the developer. Now he is too anxious and upset to want to go outside. If this development is passed the health and safety implications would mean he would no longer be safe in his own garden.

My partner is a police officer with South Wales Police and has daily to make critical and tactical decisions; how can he be able to do this with little or no sleep due to the noise from the development?

Parking is a huge issue in this street. Photographic evidence has been submitted to the Council to show road way saturation and bin trucks and emergency vehicles becoming stuck or prevented from accessing the whole road.

There will be increased pollution to the whole area, including noise and light pollution. A report was carried out on the noise impact. This was only a desktop survey.

The impact on the infrastructure and ecology is massive.

The developer states he increased the capacity of the brook by way of root cutting, this is incorrect. During the attempted survey of the culvert the exploratory tool became stuck and remains this way over a year on. The proposed development is to be serviced by a pumped sewage chamber. This chamber is to be sighted very near to the water course that traverses the site and many other properties down-stream. When this site floods, it will inundate the chamber resulting in raw sewage flooding into our and many other gardens. The Council have a duty to promote sustainable and safe housing for future generations. When the CEMEX quarry only 500 m away, cease their dewatering operations, this will increase the water table by 15 meters. To allow this development to proceed in an area that is already included in a flood risk area report would be fool hardy and dangerous Will Cardiff Council take responsibility for this damage and risk?

	<p>This development serves no other purpose other than financial gain for the developer. It provides no social housing, no affordable housing, no environmentally sustainable housing.</p> <p>.All the houses in the area have large gardens. The four new gardens are only minutely larger than the minimum requirement, and all of them are overlooked by other properties. Not only will this development have a negative impact on existing houses and households, it will also negatively affect any potential new buyers, not being afforded any private or amenity space of their own. We implore you to reject this proposal.</p>
<p><b>REMARKS:</b></p>	<p>The neighbouring occupiers, representations are noted.</p> <p>Attention is drawn to the following sections of the Officer report:</p> <p>5.1 in respect of the Operational; Manager's advice on parking/highway safety concerns;</p> <p>5.3 in respect of the Drainage Officer's advice on drainage/flood risk;</p> <p>5.6 in respect of the Ecologist's advice on ecology/nature conservation;</p> <p>Paragraphs 8.8, 8.7,8.9, 8.10, 8.11,8.12,8.13 in respect of the effect on living conditions/residential amenity of neighbouring occupiers and future occupiers;</p> <p>Paragraph 8.15 in respect of the accuracy of the submitted plans;</p> <p>Paragraph 8.16 in respect of the historical planning application;</p> <p>Paragraph 8.17 in respect of trees;</p> <p>Paragraph 8.31 in respect of affordable housing;</p>

<b>PAGE NO. 1</b>	<b>APPLICATION NO. 15/2960/MNR</b>
<b>ADDRESS:</b>	<b>30 SPRINGFIELD GARDENS, MORGANSTOWN, CARDIFF</b>
<b>FROM:</b>	Lead Petitioner Representing Local Residents
<b>SUMMARY:</b>	Please see letter attached
<b>REMARKS:</b>	Noted



6 Teamans Row  
Morganstown, Cardiff  
CF15 8LN

January 8<sup>th</sup> 2017

Dear Committee Member,

We write in respect of Planning Application 15/02960/MNR, which will be heard at committee on Wednesday January 10<sup>th</sup>. We have read the Planning Officer's Report and have several points to make, which we detail below.

We wish to request a Site Visit so that you may appreciate some of these points by visiting:

- a) The proposed development area to visualise the overcrowding of this tight development and loss of privacy and amenity to 30 Springfield Gardens (a reason for planning refusal in 1990).
- b) The back garden of 26 Springfield Gardens, to appreciate their loss of amenity, in particular noise and privacy (a reason for planning refusal in 1990).
- c) The properties on Teamans Row to appreciate their loss of amenity (noise, traffic-free outlook onto green space and wildlife habitat).
- d) The NW and SW boundaries of the proposed development area bordering Ravensbrook and Teamans Row, which comprise unstable soil banks.

Below we describe the material considerations of concern to the petitioners we represent:

### **1) Groundwater and surface water flooding and drainage**

Caroline Lear (Professor of Earth Sciences) and Trevor Bailey (PhD in Geology) have researched the local geology and consulted with expert hydrogeologist, Dr Mark Cuthbert. They have also been in contact with the hydrogeologist employed by CEMEX Ltd.

The proposed development area contains a groundwater fed spring (giving Springfield Gardens its name) and a biodiverse brook. The brook flows year round, even in dry weather and contains fish and amphibians. The proposed development area used to suffer severe flooding before the CEMEX Ltd Quarry (less than 500 m away) undertook large scale dewatering.

Lines of evidence for previous floods are:

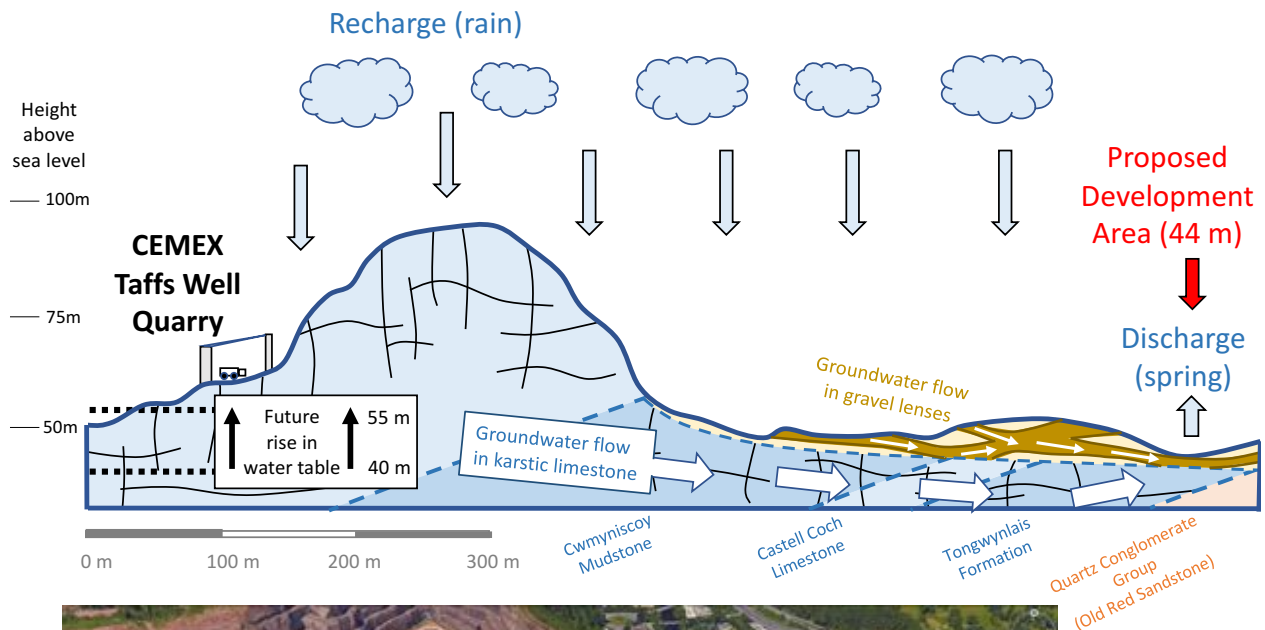
- 1) Residents remember the flooding – one resident recalls swimming in the proposed development area.
- 2) The proposed development area is labelled "Cae Pwll" (Pool Field) in old maps and property deeds.
- 3) The 1:10,000 British Geological Survey map shows that the proposed development area is underlain by peat, which forms in persistent boggy, water saturated conditions (see map excerpt below).



CEMEX Ltd are very clear that when the quarry closes (perhaps in 10-20 years) they will cease dewatering and the local water table will rise by ~15 metres. **The CEMEX Ltd hydrogeologist states that this would cause an increase in groundwater flow to the springs in the proposed development area.**

Groundwater in the proposed development area likely has two sources – the underlying bedrock (karstic Carboniferous Limestone) and the Pleistocene superficial deposits (see Figure below). Boreholes along the M4 provide evidence of groundwater flow in gravel lenses of the superficial deposits (see Groundwater Letter uploaded to the planning portal website on October 10<sup>th</sup> 2017 for technical details). These gravel lenses have not been mapped at high resolution, but the size of the catchment for the groundwater flow into the proposed development area is likely to be much larger than the rainfall catchment for surface water flows.

The drainage calculations submitted by the developer ignore the groundwater flow and consider only surface water flow. But even more critical is the impact on the water table in the proposed development area. The water table in the quarry will rise from ~40m above sea level to ~55m above sea level when the quarry ceases dewatering activities. The proposed floor levels sit at ~44m above sea level (see figure above). A rise in the water table in this area will very likely saturate the ground once more, meaning that water will not be able to infiltrate the ground. The drainage calculations submitted by the developer assume typical, constant infiltration rates, which are unlikely to be valid, and hence have underestimate the future flood risk.



**The planning report demonstrates that the Council’s Drainage Officer has misunderstood the groundwater issue, which has serious implications for the legal validity of this planning application process.**

In an email to us, CEMEX Ltd state “Cessation of quarry dewatering could result in increased groundwater flow to the spring given that the spring is down hydraulic gradient of the quarry and part of the spring catchment is occupied by the quarry.....In summary we would expect the housing developer to have considered the worst case scenario, when the quarry ceases to operate and dewatering stops, in their drainage designs.” This expectation was passed on by us to the Drainage Officer.

In contrast, the Council’s Drainage Officer states in the planning report “Should a third party, in this instance CEMEX, ultimately decide to cease dewatering operation then it would be implicit for their technical team to confirm such an action at that time would not have a detrimental impact on the surrounding area and environment.”

Dewatering activities are considered to be a necessary evil – they disrupt hydrological regimes and desiccate valuable wetland habitats, but they allow the economic extraction of aggregate material from quarries. CEMEX Ltd currently has a licence to conduct large scale dewatering activities in the quarry, but as soon as the quarry's lifespan is reached they will cease these dewatering activities. This is a categorical certainty, being required by government bodies on environmental grounds.

The Drainage Officer clearly misunderstands the impacts of major industrial dewatering operations, and the nature of dewatering licencing itself. Rather than making an effort to understand the groundwater issues specific to this planning application, the Drainage Officer instead writes in the report "*It is worth noting the application is classified as a 'minor' development and as such, the information submitted must be proportionate.*"

There is therefore evidence for historical severe flooding in the proposed development area, and we have presented a likely explanation of why the flooding has reduced in recent decades. This model implies that the area will flood again when CEMEX Ltd cease dewatering activities in the quarry. Consistent with the Sustainable Development Principle of Planning Policy Wales, Cardiff's LDP aims to reduce flood risk in the medium to long term, and this policy should be followed for this planning application. To counter the Drainage Officer's claim that this level of detail does not need to be investigated for a 'minor development' we point out that the historical floods occurred when the proposed development area comprised bog and allotment gardens. By replacing the green areas with hardstanding, the floods could in future impact up to 14 existing properties downstream of the proposed development area on Springfield Gardens.

The proposed development area lies in a bowl-shaped depression below existing sewers. The development therefore requires a sewage pumping station sited next to the brook, in a pluvial flood risk zone (as mapped by NRW). The issue of flooding becomes even more acute when the possibility of sewage entering neighbouring properties is considered, and demands a thorough investigation. Unfortunately, Condition 13 of the report is too vaguely worded to ensure a thorough investigation. Instead, Condition 13 should require a detailed, independent assessment of the flood risk once CEMEX Ltd cease dewatering activities and the water table in the region rebounds.

## **2. Overturning of Previous Planning Application Decision**

Consistency of decisions is itself an important material consideration. The previous planning application was for 2 houses in the garden of 30 Springfield Gardens. It was previously overturned on the grounds of loss of privacy and amenity to numbers 30 and 26 Springfield Gardens. The overturning of that decision is described in paragraph 8.16, which states "*That application proposed development on a smaller site comprising part of the rear garden to the south of the stream/ditch. On balance, the current application is considered acceptable in terms of its likely effect on the living conditions/residential amenity of the occupiers of neighbouring and nearby*

*houses, including the existing dwelling at the site, for the reasons outlined in this report.*” Neither this statement, nor the report itself, contains any solid reason as to why a different approach has been taken this time and the decision overturned. This is not adequate from a legal standpoint. Clearly, the current application will also affect the privacy and amenity of both numbers 30 and 26 Springfield Gardens. The proposed access in the current application must be the same as that proposed in 1990 due to the position of the houses. Levels of traffic in the current proposal would be at least double that of the rejected 1990 application, with a consequent increased impact on the loss of amenity to 30 and 26 Springfield Gardens.

### **3. Loss of Amenity: noise and disturbance due to tandem development**

As described above, a proposal for only two houses on the same site was rejected in 1990 for the reason of loss of privacy and amenity to house no.30., and the loss of privacy to house no.26 Springfield Gardens, both material considerations. We argued the points below in our objections, and continue to argue that a new access road would cause unacceptable loss of privacy, and increased noise and disturbance to the current and future residents of No. 26, and also No. 30 Springfield Gardens. We encourage you to assess this in both gardens during a site visit.

- The proposed access road would be the same width as the downward sloping garden of No.26, and parallel to the entire length of it, meaning there would be nowhere to escape the noise and disturbance of traffic. This would severely reduce the amenity of the whole property which has rear windows facing towards the long garden. The only measure to prevent noise reaching the garden and house of No.26 is a 1.8m high wooden fence. House No.26 sits at ~45m A.O.D, and the road slopes up from the lowest point of the garden's boundary at 43m A.O.D., so a 1.8m fence would not stop noise travelling up to the rear of the house.
- The submitted “Noise impact assessment” is a desk based exercise using a 2-dimensional computer model, i.e. it only considers noise moving sideways. Sound obviously travels in 3-dimensions. The impact assessment fails to consider the impact of noise upon the neighbouring houses which are all above the topographic bowl of the development area, despite the fact that bowl shapes are natural amplifiers, having an amphitheatre effect. Currently conversations in these gardens can be heard from Teamans Row. The submitted “Noise Report” shows that the site’s garden is currently quiet apart from birdsong, which proves that the area would be strongly affected by the introduction of traffic noise to four new houses in the bowl of the 'amphitheatre'.
- Regarding house no.30, a new access road with cars driving past a window (up to 50 times a day according to the noise impact assessment) constitutes significant noise intrusion and a serious loss of amenity whether the window is 'of a secondary nature' or not. This side window should have been noticed by the council at the pre-application stage, but was not mentioned in their pre-application advice letter.

#### **4. Loss of Amenity and Green Space**

The spacious views of gardens and green space are major residential amenities of the neighbouring houses on Ravensbrook, Springfield Gardens and Teamans Row. In particular, as the latter has no vehicular access, the garden views (street scene) define the urban character of this area, and have done so for hundreds of years – **the seclusion and freedom from the sight and noise of traffic is the main reason that residents choose to live there.** This would be apparent on a site visit to the front of the properties on Teamans Row.

#### **5. Overdevelopment of the land**

The application is for a tight development, with garden spaces only just reaching the minimum required. This suggests that neighbouring residents' concerns about the accuracy of the submitted plans (including positions of boundaries, and distance available for the access road) should in this case be given due consideration. The width of the access road in particular is critical to the viability of the entire proposal. It also means that the area's boundary with neighbouring properties is important. The NW and SW facing boundaries comprise unstable soil banks, one of which suffered a partial collapse last year. Although this information was provided to Planning Officers it is not mentioned in the report. Residents are nervous about the potential impact of future flooding on the stability of these soil banks. We note that there is no reason for the development to be this tight. A smaller development would not entail building on boggy ground north of the stream, culverting the biodiverse brook, or building close to potentially unstable banks.

#### **6. Cardiff Council Policy on Culverts**

The planning report makes no mention of Cardiff Council's policy on culverts, which explicitly states that "In considering new development proposals...Culverting should not be considered **until other options have been thoroughly explored**". The planning application contains no evidence that any other options have been explored. The majority of the site's area lies to the south of the stream so culverting is not 'necessary' and 'unavoidable for access purposes'. The proposed culvert only results from the attempt to build on the boggy area underlain by peat that surrounds the stream. Given the approval of Cardiff's LDP, the increase in housing stock (of just the 2 houses which necessitate the culvert) cannot be used to justify the 'last resort' option of culverting a biodiverse brook.



## **7. Building on a Greenfield Site**

The Planning Officers are treating the entire site as previously developed (i.e. brownfield). However, having taken legal advice we instead argue that the area north of the brook is, in fact, not previously developed, and as such is greenfield in nature. This is based on Figure 4.4 Planning Policy Wales, which makes the important distinction of land ownership boundaries and the curtilage of a property. The area north of the brook is arguably outside the curtilage of the property. Until very recently this was a boggy, wooded area full of wildlife – see recent image from Google Earth below. The developer has razed the area to the ground prior to a potential site visit, but we believe the biodiversity in the area would recover if planning is refused.



## **8. Sustainability**

Sustainability is another material consideration. Cardiff's LDP is designed to create an increase in sustainable housing stock. Sustainability should be considered for every Council decision, and was raised in several objections to this proposal. The planning report does not contain any reference to the sustainability of the proposed development. The houses do not contain any "green" features such as solar panels. The site is not close to convenience stores and public transport links are poor. The Highways Officer states that the access road will be used for overspill parking. This road is not wide enough for a pavement, meaning that it will not be safe for children to walk even the 100 yards to the local park.

## **9. Affordable Housing**

The District Valuer's assessment is that the scheme is "marginally unviable" (paragraph 5.7). We therefore ask the committee to investigate why a £0 contribution is being sought, rather than a suitable portion of the calculated £131,080?

Many thanks for your time and consideration of these matters,

Yours truly,

Professor Caroline Lear and Dr Trevor Bailey



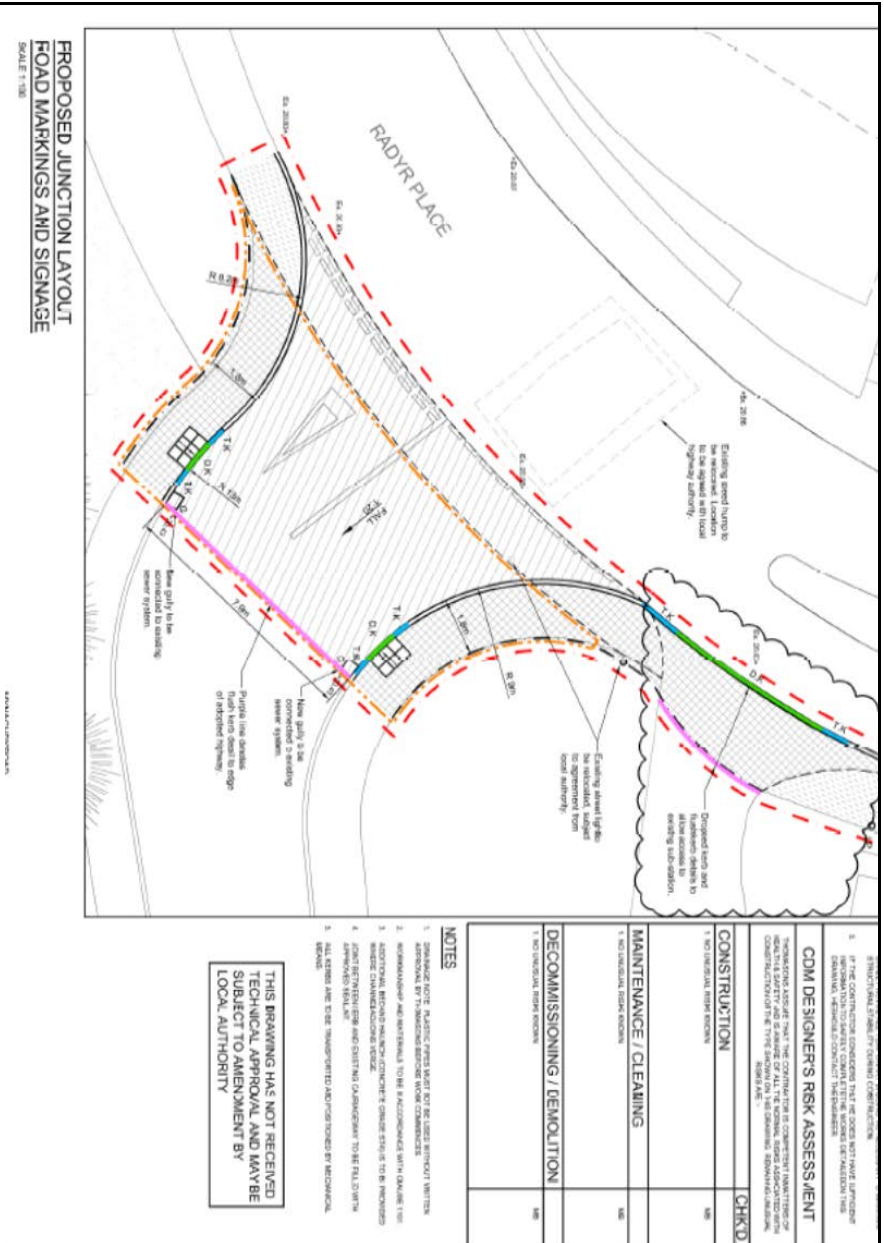
<b>PAGE NO. 111</b>	<b>APPLICATION NO. 17/01963/MJR</b>
<b>ADDRESS:</b>	<b>Land off Mynachdy Road, Gabalfa</b>
<b>FROM:</b>	The Residents of Gabalfa, Mynachdy and Llandaff North
<b>SUMMARY:</b>	<p>The submission of a petition of 372 signatures (submitted in two parts) in opposition to the application proposal on the following basis;</p> <ol style="list-style-type: none"> <li>1)The development would be out of character with the neighbourhood</li> <li>2) The development proposes a 45% increase in the density of student rooms on the site from that previously approved on the site.</li> <li>3) The development represents an overdevelopment of the site</li> <li>4) The development would have a detrimental impact on neighbouring residents in terms privacy, pedestrian and vehicular traffic, noise, parking and litter.</li> <li>5) The development will pose a traffic hazard at the planned new junction.</li> </ol>
<b>REMARKS:</b>	<p>The submission of the petition is noted and the lead petitioner has been informed of their right to speak at committee.</p> <p>The reasons provided for the opposition to the application proposal have been considered and are detailed in the analysis section of the Committee Report. Paragraphs 8.1 – 8.12</p>

<b>PAGE NO. 111</b>	<b>APPLICATION NO. 17/01963/MNR</b>
<b>ADDRESS:</b>	<b>LAND OFF MYNACHDY ROAD, MYNACHDY</b>
<b>FROM:</b>	<b>Mr Iain Claridge</b>
<b>SUMMARY:</b>	<p><b>Ownership and Safety</b></p> <p>The only existing plan for the new access point to the proposed development is that submitted by the developer as 17/00985/MR in June 2017 in fulfilment of reserved matters from application 11/00863/DCI of 2011/2016.</p> <p>This junction plan shows the closure of the present access to the Institute and the building of a <b>new junction at the current speed bumps on the bend of Radyr Place.</b></p>



This is some way on from the **current access**, the white markings of which are in line with the bollard on the traffic island.





It is principally to consider the safety and suitability of this plan that you were petitioned to make a site visit before determining application 17/01963/MJR and it is due to the danger and confusion of this junction plan that you are asked to decline planning permission. The developers` agents **Geraint John** submitted to you **7 December** a letter refuting the petition and the objections of all elected representatives for Gabalfa and Llandaff North in the following terms with regard to the junction :

The AM states with regard to road layout: *'In the current context this plan is therefore confusing and is quite unsatisfactory. The LPA should call for a new plan reflecting the new proposals for the site and not allow the developer to piggy-back on a previous approved plan which is no longer analogous. ....It is plain that the developer has not done its homework properly on vehicular access.'*

In response to the above points we would advise that the applicant has considered the access into the development from Radyr Place very carefully over many months. The applicant has in fact obtained a Deed of Grant to create this access and it has been designed in this way in order to provide for a better development with an improved area of soft landscaping to the south west of the junction. The applicant does not need to use land under the control of the Institute to access the development site. The access has already been approved under the extant planning permission. The revised access represents an improvement in terms of soft landscaping and visual appearance and for no other reason.

Please see the following drawing extract for ease of reference:



Here is the junction shaped as in 17/00985/MJR but with its mid-point close to the tip of the traffic island. **This is not the same spot as access through the current speed bumps and street light on the Radyr Place bend.**

**The pictures below show the steepness of the bank from the railway to the carriage-way of Radyr Place and the sharpness of the blind corner where hundreds of cycles per day and 350 cars at term ends are "planned" to come and go.**







**The petitioners call for a thorough, detailed and safe junction plan, including but going beyond the current s106 arrangements on pp.22-22 of the Officer Report.**

#### **Ownership and Right.**

Geraint John`s statement p.4 in the 7 December letter also claims no land under the “control” of the Institute is needed to build this junction and the developer already has a “Deed of Grant” to allow it. The phrases about “soft landscaping” by-pass the hard reality that the incorporation of the Institute access and demolition of its wall is essential to this project. There is no safe manoeuvring for large vehicles without access to the Institute car park.

Whatever Geraint John says about the developers` lack of awareness of the need to formally notify the Institute, the

	<p>role of the Institute and Council was fundamental to the progress of this application right from 2011.</p> <p>Here 11/00863/DCI Email has a Senior Planning Officer to Developers` Planning Consultant 21 June 2011 on the need to notify the Institute</p> <p>3. Red line boundary/ access – I note the proposal to close the existing access to the Mynachdy Institute community building and provide a new shared access point, but that the application site does not include the Mynachdy Institute land. The red line boundary will need to be amended and an amended location plan submitted, as the application site must include all land necessary to carry out the proposed development. In addition, certificate B must be amended and the appropriate notice served on the Mynachdy Institute. (The Council own the land relating to the Mynachdy Institute, with a long lease to the Institute.) This amendment will need to be subject to a 21 day consultation period.</p> <p>4. Access – In relation to the proposal to close the existing access to the Mynachdy Institute, I note Transportation have recommended a positively worded condition to require this access to be permanently closed before the development is bought into beneficial use. I am concerned that, as the Applicant is not the landowner, he would not be in a position to comply with this condition himself or would only be able to comply with it with the consent or authorisation of a third party. Circular 35/95 makes it clear that it would be ultra vires to attach a condition worded in a positive form which developers would be unable to comply with themselves or which they could comply with only with the consent or authorisation of a third party. A Grampian condition would be more suitable, but I would still need some indication from the applicant that the Council/Mynachdy Institute would be happy, in principle, with these arrangements. I note that the DAS states that discussions are ongoing between the Council as landowner and the client’s surveyor. As noted previously, any such negotiations need to be resolved separately of the consideration of the application. However, they will need to be resolved prior to determination, in order that appropriate conditions can be attached.</p> <p>Developers` Planning Consultant response 7 July 2011 shows how the Deed of Grant, which is of easements/rights of way on Council/Institute land, was made.</p> <p><b>3 Red Line Boundary</b> – the boundary will be amended to include part but not all of the Mynachdy Institute land - the building itself and the majority of the car park are not necessary to carry out the development. Notice will be served on the Mynachdy Institute. We will wait until after our meeting to issue this, subject to any revisions to the proposals and agreement on the extent of the red line.</p> <p><b>4 Access</b> – the update I have been provided is that negotiations are still ongoing with the clients representative Gareth Carter (Savills) and John Jones (Cardiff Council Valuer) regarding appropriate compensation for the closure of the existing Institute access road.</p> <p>Petitioners can perhaps be forgiven for continuing to think “it was all stitched up” without proper consultation. It is unfortunate that no easement or right of way for the developer exists on the Land Registry title to the Institute WA47283. But <b><u>at least now it may be possible for residents to secure a clear and safe junction plan and some voice in this development.</u></b></p>
<p><b>REMARKS:</b></p>	<p>A condition controlling the design of the site access/junction is proposed, as was previously the case within the 11/00863/DCI application. The location of the proposed access point would now be in the approximate location of the existing access point, albeit being widened. The proposed access would form a single shared access serving the student development and community centre proposal.</p>

The ownership of the access is not a material planning consideration and it should be noted that the access arrangement falls within the red line boundary. Given that the redevelopment of the Mynachdy Institute is proposed as part of this application, a shared access point would represent a logical approach when considered against the potential provision of two separate access points serving the two aspects of the development separately.

The Operational Manager – Highways confirms that the access arrangement shown in the application would be acceptable (subject to detailed design and approval condition). The proposed access arrangement (17/01963 - L(01)021 Rev A) would facilitate access to the proposed student accommodation, institute and electricity substation. The provision of a single access point would be preferable in safety terms.

The previous access arrangement (17/00985 discharge application for 11/00863) included the provision of access to both the student accommodation and the reconstructed institute hall. An additional access would be retained purely to facilitate access to the electricity sub-station. There were a number of detailed amendments required to this application to discharge the condition which were not satisfied as a new application was submitted.

Both these proposals take account of the difference in levels between the existing carriageway and the land off Radyr Place. The plans show the topographical data.

The visibility splay from the proposed junctions provides adequate minimum stopping distance (50m) for a HGV in wet conditions for vehicles traveling at 30 mph (in accordance with Manual for Streets 2).

The Section 106 contribution (some £72k) for highways improvements would be used to design improved facilities (in terms of cycle & pedestrian paths/ways) outside the access and linking to existing facilities on Western Avenue and Mynachdy Road. It is anticipated that cyclists/pedestrians going toward town will also use the access onto Mynachdy Road during the open periods. The S106 would also review waiting restrictions and speed limit (20mph) in the surrounding roads.

The arrival of students at the beginning /leaving at the end of term will be managed by the conditioned student travel management plan. Student arrival/departures would be

	<p>managed by time and date to reduce the local traffic impact.</p> <p>Matters relating to access and transportation are considered in detail in paragraph 8.8 of the Committee Report.</p>
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